



## PP418 RESPONDING TO CLAIMS OF CHILD ABUSE POLICY AND PROCEDURE

*“Woe to the world because of scandals. For it must needs be that scandals come: but nevertheless woe to that man by whom the scandal cometh. And if thy hand, or thy foot scandalize thee, cut it off, and cast it from thee. It is better for thee to go into life maimed or lame, than having two hands or two feet, to be cast into everlasting fire.”*

Matthew 18:7-9

### PURPOSE

The purpose of this policy is to:

- provide a direct personal response for survivors of child sexual abuse
- provide equal access and equal treatment for survivors
- offer, assess and provide redress with appropriate regard to what is known about the nature and impact of child sexual abuse and to the cultural needs of survivors and of particularly vulnerable survivors.

### SCOPE

Everyone working at or volunteering at St Thomas Aquinas College is responsible for the care and protection of children and reporting information about child abuse.

### POLICY STATEMENT

1. This policy offers a direct personal response to those who are survivors of child sexual abuse that occurred while they were attending St Thomas Aquinas College or were under its care.
2. St Thomas Aquinas College seeks to provide a direct personal response to survivors and facilitate as best as it can such form of response that is desired by a survivor in accordance with the following guiding principles:
  - 2.1. re-engagement between St Thomas Aquinas College and the survivor if and to the extent that the survivor desires it
  - 2.2. survivors should have a clear understanding of what St Thomas Aquinas College is willing to offer and provide to them by way of its direct personal response
3. St Thomas Aquinas College will accept and acknowledge the survivor's choice of representative or support person to engage with the College
4. Applications will be handled confidentially and as promptly as the circumstances permit
5. St Thomas Aquinas College will seek to avoid unnecessarily adversarial responses to claims.
6. The protection of children and young persons is the responsibility of everyone who works at St Thomas Aquinas College. We all share responsibility for promoting the wellbeing and safety of children.
7. St Thomas Aquinas College has zero tolerance for child abuse and is committed to acting in the best interests of children and to keep them safe at all times.
8. St Thomas Aquinas College wishes to provide a process for responding to persons who are survivors of child abuse that occurred while they were attending St Thomas Aquinas College or were under its care. This Policy will only apply once we have students who have moved on from the College.

<b>DEFINITIONS (Cont...)</b>	
Child	A person below the age of 18 years unless, under the law applicable to the child, majority is attained earlier
Child abuse	All forms of physical abuse, emotional ill-treatment, sexual abuse and exploitation, neglect or negligent treatment, commercial (e.g. for financial gain) or other exploitation of a child and includes any actions that results in actual or potential harm to a child
Child connected work	Work that is authorised by St Thomas Aquinas College that is performed by an adult in the College environment while children are present or reasonably expected to be present
Child protection	Any responsibility, measure or activity undertaken to safeguard children from harm.
Child sexual assault	Any act which exposes a child to, or involves a child in, sexual processes beyond his or her understanding or contrary to accepted community standards. This includes all sexually abusive behaviours and pornography of any kind. It includes child grooming, which refers to actions deliberately undertaken with the aim of befriending and establishing an emotional connection with a child to lower the child's inhibitions in preparation for sexual activity with the child.
Institutional context	Child abuse may have occurred in an institutional context in the following circumstances: (a) it happens in the College environment or in connection with the activities of the College (b) the abuse was perpetrated by an official of St Thomas Aquinas College in circumstances where the College has, or its activities have, created, facilitated, increased or in any way contributed to the risk of abuse or the circumstances or conditions giving rise to that risk.

### DEFINITIONS (Cont...)

<p>Reasonable grounds for belief</p>	<p>Belief based on reasonable grounds that child abuse has occurred when all known considerations or facts relevant to the formation of a belief are taken into account and these are objectively assessed. Circumstances or considerations may include the source of the allegation and how it was communicated, the nature of and details of the allegation, and whether there are any other related matters known regarding the alleged perpetrator.</p> <p>A reasonable belief is formed if a reasonable person believes that:</p> <ul style="list-style-type: none"> <li>(a) The child is in need of protection,</li> <li>(b) The child has suffered or is likely to suffer “significant harm as a result of physical injury”,</li> <li>(c) The parents are unable or unwilling to protect the child.</li> </ul> <p>A ‘reasonable belief’ or a ‘belief on reasonable grounds’ is not the same as having proof, but is more than mere rumour or speculation.</p> <p>A ‘reasonable belief’ is formed if a reasonable person in the same position would have formed the belief on the same grounds. For example, a ‘reasonable belief’ might be formed if:</p> <ul style="list-style-type: none"> <li>a) A child states that they have been physically or sexually abused;</li> <li>b) A child states that they know someone who has been physically or sexually abused (sometimes the child may be talking about themselves);</li> <li>c) Someone who knows a child states that the child has been physically or sexually abused;</li> <li>d) Professional observations of the child’s behaviour or development leads a professional to form a belief that the child has been physically or sexually abused or is likely to be abused; and/or</li> <li>e) Signs of abuse lead to a belief that the child has been physically or sexually abused.</li> </ul>
<p>Student</p>	<p>An individual person who is formally enrolled to study at the St Thomas Aquinas College. The individual person is that who appears on the enrolment documents and who is assigned a student ID by the College.</p>

## PROCEDURES

1. Responding to allegations or disclosures of child abuse
  - 1.1. A person will be eligible to apply to St Thomas Aquinas College for redress if he or she suffered child sexual abuse within the St Thomas Aquinas College environment:
    - 1.1.1. while the person was a student of the College
    - 1.1.2. in an institutional context; or
    - 1.1.3. in circumstances where St Thomas Aquinas College is, or should be treated as, being responsible for the adult abuser having contact with the person
2. Claims against the College
  - 2.1. Claims against the College may be made by writing confidentially to the Principal or by initiating contact with the Principal by telephone or in person.
  - 2.2. St Thomas Aquinas College will require an applicant to verify their account of abuse by statutory declaration. The College will then determine whether it requires additional material or evidence and additional procedures to investigate the allegations and determine the validity of an application. In considering the application for redress, the College will apply the standard of proof of "reasonable likelihood".
  - 2.3. The College will make a decision on a claim based on the application as soon as it is reasonably able. The College may need to seek its own legal advice and medical reports and may request the applicant to undertake an assessment with an independent medical practitioner. However, any response of the College will be subject to the approval of the Board of the College and may also be subject to and conditional upon the consent or direction of the College's insurer and other third parties who may have an interest in the outcome of an application.
  - 2.4. The College will also be open to attending in good faith a confidential settlement conference with the applicant and his or her support person or adviser for the purpose of attempting to resolve the claim. The College will also give favourable consideration to the appointment of a conference convenor as nominated by the applicant.
  - 2.5. In appropriate cases St Thomas Aquinas College will make an offer of redress to the applicant. If an offer of redress is made the College will keep the offer open for acceptance for a reasonable period of time to enable the applicant to fully consider the offer, to seek his or her own advice and to appreciate the consequences of accepting an offer.
  - 2.6. An offer of redress may include any of the following:
    - 2.6.1. an apology
    - 2.6.2. a monetary payment
    - 2.6.3. the opportunity to meet with College representatives and receive an acknowledgment of the impact of abuse on them
    - 2.6.4. assurance that St Thomas Aquinas College is committed to preventing further abuse of children who are currently attending our College
    - 2.6.5. funding for counselling and psychological care services as needed by the applicant for his or her future care needs.
  - 2.7. If the offer of redress includes a monetary payment, it will be for such amount as the College reasonably believes gives tangible recognition of the seriousness of the hurt and injury suffered by the applicant.

## PROCEDURES (Cont...)

### 2. Claims against the College (Cont...)

- 2.1. As a condition of making any monetary payment to the applicant, St Thomas Aquinas College will require the applicant to release the College from any further liability for child sexual abuse by executing a deed of release. If the applicant is not represented by a lawyer, St Thomas Aquinas College will fund, at a fixed price, a legal consultation for the applicant before he or she decides whether or not to accept the offer of redress and to execute the required releases.
- 2.2. In any offer of redress, St Thomas Aquinas College will not require the applicant to agree to confidentiality obligations as a condition of resolving any claim, but the College will nevertheless maintain confidentiality of any settlement reached with the applicant.

### 3. Interactions with other parties

- 3.1. St Thomas Aquinas College may be required to have interaction with others, such as the alleged abuser, the Victoria Police and other regulatory organisations such as the Department of Health and Human Services Victoria and the Victorian Institute of Teaching.
- 3.2. The College's role will not be to make any "finding" that any alleged abuser was involved in any abuse. However, the College will have to investigate and consider the merits of any application for redress.
- 3.3. St Thomas Aquinas College may not be able to finalise its consideration of an application until and unless it has advised the alleged abuser of the allegations and given him or her an opportunity to respond. The College will inform the applicant if it considers it necessary for the alleged abuser to be contacted for this purpose and will seek the applicant's consent for this to be done.
- 3.4. The College may not be able to resolve an application if consent is not given for the alleged abuser to be contacted.
- 3.5. Further, St Thomas Aquinas College may defer considering an application for redress if:
  - 3.5.1. it is undertaking internal disciplinary processes in respect of the abuse that it considers necessary to complete before considering the application
  - 3.5.2. to permit it to comply with any legal requirements, including to report or disclose the abuse, including to mandatory reporting agencies
  - 3.5.3. it is requested by Victoria police to defer its investigation or, if not to do so would compromise any investigation or inquiry of the Victoria Police or other law enforcement agency.
- 3.6. St Thomas Aquinas College will co-operate with any reasonable requirements of the Victoria Police in terms of information sharing, subject to satisfying any privacy and consent requirements of the applicant.
- 3.7. St Thomas Aquinas College will also report any allegations to the Victoria Police if it has reason to believe that there may be a current risk to children.
- 3.8. The applicant will also be encouraged to seek advice about reporting his or her allegations directly to the Victoria police or to discuss their options directly with the police. St Thomas Aquinas College will provide such assistance to the applicant as he or she may request in relation to making such a report. However, if the applicant does not consent to the allegations being reported to the police then St Thomas Aquinas College may decide to make a "blind report", which is a report to the police that names the alleged abuser but does not disclose the identity of the applicant.

## PROCEDURES (Cont...)

4. Keeping records of the incident
  - 4.1. Staff members should make a clear and sequential record of any disclosure or allegation of child abuse made to them. These records are to be retained and provided to the Principal.
  - 4.2. All documentation and evidence received and collated by St Thomas Aquinas College in relation to an allegation of child abuse, sexual assault or mandatory report will be securely stored in files under the supervision of the Principal.
  - 4.3. The Principal will also make a confidential record of the following information:
    - 4.3.1. the date of disclosure or when the College is first advised of the allegation of child abuse or sexual assault
    - 4.3.2. the name of the person making the allegation or to whom the disclosure was made
    - 4.3.3. details of the allegations of child abuse including the identity of the alleged abuser/s and other persons involved (such as witnesses)
    - 4.3.4. details of the mandatory report to Child Protection
    - 4.3.5. the procedures followed by the College in responding to the disclosure or allegations and its response.
  - 4.4. In certain cases the College's records and communications may be subject to legal professional privilege and therefore not subject to disclosure to others.
  - 4.5. All personal information collected, held and stored by St Thomas Aquinas College will be managed in accordance with the Privacy Act 1988 (Cth) and the Australian Privacy Principles (APPs).
  - 4.6. Data on issues relating to Child Abuse are to be held in file for 25 years. The Principal may wish to keep these records on file permanently however.

### **RELATED DOCUMENTS**

There are a variety of Policies to which this Policy relates.

- Child Safety and Wellbeing Policy and Procedures
- Child Safety and Wellbeing Response and Reporting Policy and Procedures
- Incident Policy and Procedure
- Student Handbook
- Duty of Care Policy and Procedures

### **LEGISLATIVE CONTEXT**

- Education, Training and Reform Act (2006)
- Betrayal of Trust report
- Ministerial Order 870
- Children, Youth and Families Act (2005)
- Crimes Act (1958)
- Victorian Institute of Teaching Act (2001)

### **ROLES AND RESPONSIBILITIES**

The Principal will be responsible for receiving applications under this policy and for ensuring that the applicant is treated respectfully and in a way that minimises potential repetition of past trauma.

The contact details of the Principal are:

Fr Andrew Cranshaw	Principal	St Thomas Aquinas College 1Tynong Road Tynong VIC 3813
Telephone	+613 5629 2500	
Email	principal@stac.vic.edu.au	

The College Board will be advised of allegations of child sexual abuse that are received by the Principal and of any claims against the College.

Fulfilling the roles and responsibilities contained in this policy does not displace or discharge any other obligations that arise if a person reasonably believes that a child is at risk of child abuse. The Principal has ultimate responsibility for managing the response of St Thomas Aquinas College to any allegations or disclosures of child abuse and for monitoring overall College compliance with this procedure.

### **MONITORING AND EVALUATION**

The Principal will be responsible for ensuring that this policy and procedure is monitored and evaluated throughout the College.

### **VERSION**

Authorised by	St Thomas Aquinas College Board
Effective date	May 2021
Version	2.2
Review date	May 2023