



# Organisational Duty of Care

## Introduction

St Joseph the Worker Primary School is committed to providing a safe environment for all students and young people and takes active steps to protect them against neglect and abuse. The school acknowledges it has a statutory 'duty of care' to take appropriate measures to minimise the risk of injury, harm or abuse to its students and young people that may result from foreseeable risk, inadequate supervision, contact or interaction with staff members (teaching & non-teaching) clergy, casual relief staff, contractors, volunteers or other members of the school community.

In accordance with the Victorian Government's 'Wrongs Amendment (Organisational Child Abuse) Act' 2017, Ministerial Order 870 – The Risk of Management Child Abuse in Schools 2015, Child Safety Standards 2016, Children, Youth & Families Act 2005, Child Wellbeing & Safety Act 2005, Education & Training Reform Act 2006 and the Crimes Act 1958 and the Education Department Guidelines, St Joseph the Worker Primary School takes all 'reasonable precautions' to protect students and young people under their care.

'Reasonable precautions' enforced by the school to prevent injury, harm or abuse are embedded into the school's Risk Management policies and procedures, including its Child Safety Strategies and are actively enforced by the school's Governing Authority and Leadership Team.

## Purpose

The purpose of this document is to outline measures taken by St Joseph the Worker Primary School and its staff to ensure the safety and welfare of all students and young people under their care, supervision or authority.

It is intended to also define the school's statutory 'duty of care' to take all 'reasonable precautions' to prevent abuse in accordance with recommendations from the Victorian Government's Parliamentary Inquiry into the Handling of Child Abuse by Religious and Other Non-Government Organisations.

## Scope

The 'duty of care' applies to any individual associated with the organisation including, but not limited to; the school's governing authority, staff members (teaching & non-teaching) clergy, casual relief staff, contractors, volunteers or any individual who exercises care, supervision or authority over students or young people.

## Key Definitions:

**Child:** Any child or young person enrolled as a student at the school who may have incidental involvement with the school.

**Child Abuse:** Includes:

- a. Any Act committed against a child involving:
  - i. A sexual offence
  - ii. An offence under section 49B (2) of the Crimes Act 1958 (grooming)
- b. The infliction, on a child of:
  - i. Physical violence
  - ii. Serious emotional or psychological harm



c. Serious Neglect of a child.

**Duty of Care:** is an element of the tort of negligence. In broad terms, the law of negligence provides that if a person suffers injury as a result of a negligent act or omission of another, the injured person should be compensated for the loss or damage resulting from the negligence.

**Liability:** Responsible by law for an action / inaction resulting in damage or harm.

**Organisational Duty of Care:** The school's statutory 'duty of care' to take all 'reasonable precautions' to prevent child abuse.

**Reasonable Precautions:** have not been defined under the new 'duty of care' so as to enable the school flexibility in applying necessary steps applicable to prevent foreseeable events of abuse.

**School Environment:** Any physical or virtual place made available or authorised by the school for use by a child during or outside of school hours including:

- a. A campus of the school
- b. Online school environments, including email & intranet systems
- c. Other locations provided by the school for a child's use including school camps, sporting events, excursions, competitions, school community and other events.

**School's Governing Authority:** the School's Proprietor (Parish Priest), including any person authorised to act for or on behalf of the proprietor; or the principal, as authorised by the proprietor of a school or the school's governing body.

**Tort:** a wrongful act or an infringement of a right (other than under contract) leading to legal liability.

### **St Joseph the Worker Primary School Duty of Care**

St Joseph the Worker Primary School acknowledges the legal and moral 'duty of care' owed by the school and its staff members to ensure the safety and welfare of students and young people under their care and to take all reasonable precautions to prevent abuse.

To achieve this the school implements rigorous processes and Child Safety Strategies to ensure that all 'reasonable precautions' are identified and applied to ensure the safety and welfare of all students and young people under their care, supervision or authority.

#### **'Organisational Duty of Care'**

St Joseph the Worker Primary School and its staff members owe a statutory 'duty of care' to prevent the abuse of students and young people under their care, supervision or authority. In accordance with the Victorian Government's 'Wrongs Amendment (Organisational Child Abuse) Act' 2017, the school takes all 'reasonable precautions' to prevent abuse of students or young people from any individual associated with the school whilst under their care, supervision or authority.

Regular risk assessments are undertaken for all school related activities and events to identify potential opportunities for abuse and the precautions to be implemented to prevent occurrence. All identified precautions are listed in the school's *Risk Register* located within the *Master Compliance Register* and have been developed in consultation with staff.



To further support the school commitment to ensuring the safety and wellbeing of its students and young people it actively implements Child Safety Strategies that incorporate all 'reasonable precautions' to prevent abuse. These include, but are not limited to the following;

- a. Employment screening & reference checks;
- b. Volunteer & contractor screening & reference checks;
- c. Supervision & training of any individual who participates in 'Child Connected Works';
- d. Systems and training to provide early warnings of possible offences;
- e. Random & unannounced observations and inspections to deter misconduct;
- f. Processes for encouraging children, young people & adults to notify the relevant authorities or parents of abnormal or unusual behaviours.

The school acknowledges that this statutory 'duty of care' will establish a presumption of liability requiring the school to prove that they took all 'reasonable precautions' to prevent the abuse. The school maintains comprehensive records to support all activities undertaken to prevent any form of abuse.

This duty is non-delegable, meaning that it cannot be assigned to another party.

### **'General Duty of Care'**

St Joseph the Worker Primary School and its Staff Members owe a duty to take 'reasonable care' for the safety and welfare of students and young people whilst under its care, supervision or authority.

The 'duty of care' is to take such measures as are reasonable in all circumstances to protect students and young people from risks of injury, harm or abuse that are realistically foreseeable. This requires not only protection from known hazards, but also protection from harm or abuse that could foreseeably occur where preventative measures can be taken.

When determining what is reasonably foreseeable the following factors must be considered:

- » The probability that harm will occur if care were not taken;
- » The likely seriousness of the harm;
- » The burden of taking precautions to avoid the risk of harm;
- » The social utility of the activity that creates the risk of harm.

The 'duty of care' may, in some circumstances, extend to outside school hours and outside the school premises. This will depend on whether the relationship between school, staff member/s and students or young people extends to whether the risk was known or foreseeable, and whether all reasonable precautions were taken to prevent the injury from occurring.

The school's Leadership Team is responsible for:

- » Ensuring that there is an adequate system of supervision in place during school hours, before and after school, on school excursions and at school events;
- » Arranging adequate supervision for students and young people, relevant to the needs and complexity of the activity or event;
- » Ensuring all staff members are aware of their responsibilities to supervise students & young people during school times, as well as before and after school.



Staff Members including non-teaching staff are responsible for following reasonable and lawful instructions from the Leadership Team, including direction to provide supervision to students and young people at a specific date, time and place.

In discharging their responsibilities, St Joseph the Worker Primary School and its staff members must exercise professional judgement to achieve a balance between ensuring that students and young people do not face an 'unreasonable risk of harm', whilst encouraging students' independence and maximising learning opportunities.

This duty is non-delegable, meaning that it cannot be assigned to another party.

### **'General Duty of Care' – Before & After School**

St Joseph the Worker Primary School will ensure that adequate supervision is provided for students and young people from 8.30am before school and until 3.30pm, after school has concluded. Students and young people are not permitted to be on the school premises prior to or after these times.

This supervision will include the following:

- » Monitoring of entry & exit points and/or designated drop off and pick up points;
- » Yard Supervision
- » Areas where students are permitted to enter and occupy buildings or classrooms prior to the commencement of school.

***Where a staff member suspects the safety or wellbeing of the students is at risk from an 'unknown' person or abnormal or unusual behaviours from a member of the school community, the attending staff member will take immediate action to ensure their safety.***

***This may include:***

- » ***Approaching the individual, only if it is safe to do so, and requesting that they leave the site immediately;***
- » ***Removing all students and young people from the area immediately;***
- » ***Making contact with the office to request support;***
- » ***Contacting Victoria Police (000).***

Where a parent, guardian, carer or other authorised person drops off or otherwise arranges for a student to be on the premises before supervision commences, a member of the Leadership Team will, as soon as is practical contact the parents, guardian or carer to:

- » Advise them of the school's supervision arrangements;
- » Request that alternative arrangements be made for the student or young person that will ensure they do not attend the school site prior to supervision commencing.

Where a parent, guardian, carer or other authorised person has failed to collect the student at the conclusion of the supervised time, staff members will undertake the following:

- » Attempt to contact the student's parents, guardian or carer;
- » Attempt to contact the student's emergency contacts;
- » Place the student in afterschool care (where appropriate);
- » Contact Victoria Police or the Department of Health and Human Services (DHHS) to arrange for their supervision, care and protection where all attempts to contact the parents or guardian fail.



These arrangements will be regularly communicated to parents and guardians at enrolment, via the school handbook and newsletter.

### **'General Duty of Care' – Classrooms & Specialist Activities**

Classroom and specialist teachers are ultimately responsible for the safety and welfare of students under their supervision, care or authority at all times.

This duty cannot be delegated to an external educational provider, pre service teacher, volunteer or parent.

No student should be left unsupervised in a classroom at any time. In accordance with the school's Child Safety Strategies, staff members must also ensure that they too are never alone in a classroom or school building with a student. This has been identified as a 'reasonable precaution' by the school to ensure the safety of students and to prevent the potential for abuse.

Where a staff member considers the withdrawal of a student as a consequence for misbehaviour, they must not leave the student in question or their fellow classmates unsupervised at any time. Contact must be made with the Administration Office to request support. The school's Behaviour Policy or equivalent must be adhered to at all times.

Where a student's behaviour places themselves and others at immediate risk of harm the staff member or specialist may remove the other students from danger or restrain the student in accordance with *Regulation 25 of the Victorian Education and Training Reform Regulations 2017*.

- » The Regulation states 'A member of staff of a Government school may take any **reasonable action** that is immediately required **to restrain a student** of the school from **acts or behaviour that is dangerous** to the member of staff, the student, or any other person.

Where intervention of this magnitude is required the students' parents, guardian or carer will be notified with a request made for them to collect the student. A meeting will then be arranged to discuss the incident and subsequent actions with the student, parent or guardian in accordance with the school's Behaviour Policy or equivalent.

If a teacher needs to leave the classroom unattended at any time during a lesson, he or she should contact the school's Administration for assistance. The teacher should then wait until alternative supervision is provided prior to leaving the classroom.

### **'General Duty of Care' – Recess and Lunchtime**

St Joseph the Worker Primary School's Leadership Team is responsible for ensuring the safety and wellbeing of all students during recess and lunchtime. This includes ensuring that sufficient supervision is provided in designated areas across the school grounds during these times.

Where recess or lunchtime duties are conducted by a Casual Relief Teacher (CRT), a member of the Leadership Team will provide a comprehensive briefing to the CRT outlining expectations and emergency response requirements.



When conducting duties, staff members and CRTs must ensure the following:

- » They remain visible at all times by wearing a high visibility vest or jacket;
- » They remain vigilant at all times and actively patrol the designated area;
- » Not to participate or become involved in games or student lead activities;
- » They respond immediately when students place themselves or others at harm;
- » They respond immediately when unauthorised individuals are identified on the school site.
- » They ensure that students who require first aid assistance are provided with this as soon as is practicable;
- » They ensure playground rules are observed including:
  - Play is occurring in the correct areas (ovals, quiet areas);
  - Students are not playing in toilets or other areas deemed to be 'out of bounds';
  - Students are not in classrooms or other buildings unless supervised;
  - Play equipment is being used in the correct manner;
  - Students are behaving in an acceptable manner.

Where a designated staff member or CRT is unable to attend their assigned duty it is their responsibility to make alternative arrangements to ensure the supervision of the students is not compromised. It is preferred that these arrangements are confirmed with a member of the Leadership Team.

Where a supervising teacher needs to leave their duty during the allocated time, or the relieving teacher does not arrive, they must make immediate contact with the Administration Office and must not leave the designated area until a replacement staff member arrives.

This 'duty of care' is non-delegable, meaning that it cannot be assigned to another party.

### **'General Duty of Care' – Playground Equipment**

St Joseph the Worker Primary School will ensure the safety of all playground equipment by conducting regular visual and operational inspections, supported by a comprehensive inspection annually. The comprehensive inspections will be conducted by a suitably qualified individual who maintains current *AHCPGD505A Accreditation*.

Where damage, deficiencies or faults have been identified, the school will take immediate action to repair or replace the equipment. Where it is not deemed safe to continue to use the equipment, the school's Leadership Team will ensure that appropriate measures are taken to prevent the use of the equipment by students or young people. This may include cordoning off the equipment and displaying Danger Do Not Use signs. These control measures will be communicated to all staff members, students and parents as required.

Students and young people are not permitted to use the school's play equipment where supervision is not provided. Parents, guardians and carers are responsible for ensuring that their children do not use the play equipment before and after school hours where supervision arrangements have not been agreed. The school will communicate these arrangements at enrolment, via the school newsletter and as required. Signage defining playground rules will be displayed in close proximity to all play equipment.



### **'General Duty of Care' – Excursion, Incursions & Camps**

The school's Leadership Team is responsible for ensuring that students participating in excursions, incursions and camps are adequately supervised to ensure their safety, wellbeing and to prevent potential forms of abuse.

Processes have been established to ensure that all aspects of the excursion, incursion or camp have been adequately planned and assessed to identify potential harm. To achieve this the school maintains a comprehensive *Excursion, Incursion & Camp Planner* that must be completed by the supervising teachers and discussed with the Principal or a member of the Leadership Team prior to the event being authorised to proceed.

St Joseph the Worker Primary School's *Excursion, Incursion & Camp Planner* ask for attending staff members to consider the following:

- » The overall educational aims of the Excursion, Incursion or Camp;
- » The suitability of the service provided (Accreditation / Insurances);
- » The staff-student ratios required for the activity/ies;
- » Screening and reference checks of staff members and volunteers (WWCC) attending;
- » A formal risk assessment for all relevant activities to identify 'reasonable precautions' to be taken to prevent abuse;
- » First Aid provisions;
- » Consideration for Students with special needs;
- » Emergency response considerations.

Staff members are required to supervise their students even whilst under the direction of a preservice teacher, work experience student, visitor, volunteer, guest speaker, performer, swimming, camping or other instructor. These individuals are not responsible for the 'overall' supervision of students under the care or authority of St Joseph the Worker Primary School.

### **'General Duty of Care' – Volunteers**

The school's Leadership Team will ensure that procedures are in place to monitor the presence of all visitors and volunteers that attend St Joseph the Worker Primary School. The school maintains a comprehensive Volunteer Procedure that clearly defines the process for screening, authorising, instructing and working with volunteers.

Prior to being authorised to participate as a volunteer the school will ensure the following:

- » They maintain a current (within 5 years of issue) Working With Children Check;
- » They have been provided with and have signed a copy of the school's 'Child Safety Code of Conduct';
- » They have received a briefing on the location of restricted areas. (Eg..student toilets & the staffroom);

To ensure the safety and welfare of all students and to prevent the potential of abuse, all volunteers when participating in 'Child Related Activities' must:

- » Sign in and out at the Administration building;
- » Wear a Visitors / Volunteer lanyard at all times;
- » Promptly report to the supervising staff member;
- » Follow all instructions provided by the supervising staff member;
- » Never work in isolation with a student;
- » Not speak aggressively or discipline students;



- » Take photos or videos.

Staff members responsible for engaging volunteers are responsible for their direct supervision and for ensuring that they adhere to the school's site entry requirements and its 'Child Safety Standard Code of Conduct' at all times.

This 'duty of care' is non-delegable, meaning that it cannot be assigned to another party.

### **'General Duty of Care' – Visitors**

The school's Leadership Team ensures that procedures are in place to monitor the presence of all visitors attending St Joseph the Worker Primary School. The school maintains a comprehensive Visitor Procedure that outlines the requirements for all attendees to the school site.

As a minimum Administrative Staff are responsible for the following instruction and supervision of visitors to the school:

- » Ensuring that all visitors acknowledge their presence by signing in via the Visitor Book or ipad;
- » They provide a copy of their current (within 5 years of issue) Working With Children Check;
- » Be provided with a visitor lanyard to be worn at all times;
- » They have received a briefing on the location of restricted areas. (Eg..student toilets & the staffroom);
- » Remain in the foyer or the Administration building until the person who they are visiting attends to greet them;
- » Return the visitor lanyard and sign out upon the completion of their visit;
- » Exit the school via the school's main entrance.

Members of the Leadership Team or staff members who have invited the visitor to attend the school site are responsible for their supervision at all times. They must ensure that the visitor:

- » Is accompanied at all times;
- » Is never left alone with a student/s;
- » Wears their visitor lanyard identification prominently at all times;
- » Observes restricted areas (Eg..student toilets & the staffroom);
- » Is escorted back to the Administration Building when leaving the school site.

Staff members are encouraged, only if it is safe to do so, to approach any person on site, during school hours, who is not wearing visitor, volunteer or contractor identification and to accompany them back to the Administration building.

### **'General Duty of Care' – Contractors**

The school's Leadership Team will ensure that procedures are in place to manage and monitor the presence of all contractors and their employees to ensure the quality of their work and the safety and wellbeing of staff and students at St Joseph the Worker Primary School.

Prior to being authorised to commence work all trade contractors and their employees will be required to undergo a formal induction, via the school's Contractor Management Induction Booklet and provide copies of the following:

- » Copies of current Public Liability & WorkCover Insurances



- » Any relevant licence or accreditation
- » Risk Assessments for the work to be completed
- » Current Working With Children's Check (WWCC)
- » Signed copy of the school's Child Safety Code of Conduct

Contractors and their employees are required to conduct works in accordance with agreed service provision requirements and at no time are permitted to approach students or be in the presence of students without adequate supervision. It is the responsibility of the school's Leadership Team to monitor all aspects of a Contractor and their employees work.

### References:

Victorian Government 2005, *Children, Youth & Families Act*,

Victorian Government 2005, *Child Wellbeing & Safety Act*,

Victorian Government 1958, *Crimes Act*,

Victorian Government 2006, *Education & Training Reform Act*,

Victorian Government 2005, Education and Training *Child Protection Reporting Obligations*

Victorian Government Ministerial Order 870 2015, *The Risk of Management Child Abuse in Schools* 2015,

Victorian Government 2005, *Working with Children Act*,

Victorian Government 2017 'Wrongs Amendment (Organisational Child Abuse) Act'

Child Safety Standards 2016,

Victorian Registration & Qualifications Authority 2016, *Child Safety Standards 1-7*