



VICTORIA POLICE

# Guidelines

## Criminal Abuse of Children and Vulnerable People in Organisations: Reporting to Victoria Police

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These Guidelines are not a substitute for reading the relevant legislation. It may also be necessary to seek your own legal advice or advice from your own organisation about how to deal with reports of criminal abuse.

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## 1. About the Guidelines

These Guidelines are:

- for people in manager roles in organisations that look after children and/or vulnerable people; and
- about when and how to report allegations or incidents of criminal abuse within those organisations to Victoria Police.

The abuse of children and other vulnerable people may amount to a serious criminal offence that can have a long-term negative impact upon victims.

As a manager of a government or non-government organisation that has care and supervision of children and/or vulnerable people, you should make yourself familiar with these Guidelines to ensure that you know how and when to report to police about actual or potential abuse occurring within your organisation.

You have specific obligations to report certain matters to police, but you also have a responsibility to ensure that those in your care are not criminally abused by those people with whom they have contact, including employees, volunteers, contractors, other clients, or other residents or visitors to your organisation.

These Guidelines will help you:

- identify types of criminal abuse of children and/or vulnerable people
- understand when and how criminal abuse might happen
- identify potential victims and perpetrators
- know how to make a report to Victoria Police
- know what Victoria Police will do
- know how your organisation should respond

These Guidelines and your policies and procedures (where relevant) must operate in conjunction and be consistent with:

- relevant laws for preventing, reporting and responding to abuse of children and vulnerable people;
- policies and procedures for dealing with abuse of children and/or vulnerable people stipulated by funding and regulatory bodies, such as government departments and agencies;
- fact sheets about the 'failure to disclose' and 'failure to protect' offences.

## 2. Identifying criminal abuse in your organisation

### 2.1. What is criminal abuse of children and vulnerable people?

People criminally abusing children and vulnerable people may be involved in any of the following criminal activities by themselves or with others. Harm may be constituted by a single act, omission or circumstance, or accumulate through a series of continuing acts, omissions or circumstances. Critical client incidents as defined in DHHS's *Critical client incident management instruction 2014*<sup>1</sup>, in particular, a Category One incident, being an incident that has resulted in a serious outcome, such as a client death or severe trauma, would also be included.

#### Physical abuse:

- any non-accidental form of injury or serious harm inflicted by any person;
- may include beating, shaking, burning and assault with weapons;
- physical injury and significant harm may also result from neglect by a caregiver;
- any form of 'restrictive intervention'<sup>2</sup> not used to prevent a person hurting themselves or others, or not conducted in accordance with an approved Behaviour Support Plan<sup>3</sup>; or
- failure of a caregiver to adequately ensure the safety of a child or vulnerable person, which may expose such a person to extremely dangerous or life-threatening situations, resulting in physical injury and significant harm.

#### Emotional abuse:

- occurs when a child or vulnerable person is repeatedly rejected, isolated or frightened by threats of violence or exposure to violence; and/or
- includes hostility, derogatory name calling, put downs or continual coldness from the parent or caregiver, to the extent that it significantly damages the child's physical, social, intellectual or emotional development,<sup>4</sup> or the vulnerable person's emotional development or well-being is at serious risk of being impaired.

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<sup>1</sup> Human Services, Critical client incident management instruction, technical update 2014

<sup>2</sup> any intervention used to restrict the rights and freedom of movement of a person with disability and can include the use of chemical, physical or mechanical restraint or seclusion

<sup>3</sup> Human Services, Critical client incident management instruction, technical update 2014; 'A plan that specifies a range of strategies to be used in managing the behaviour of a person with a disability and reduce the risk of harm associated with the behaviour. It includes proactive strategies to build on the person's strengths and increase their life skills.'

<sup>4</sup> DHHS website, <http://www.dhs.vic.gov.au/for-individuals/children,-families-and-young-people/child-protection/about-child-abuse/what-is-child-abuse>

**Criminal neglect:**

- failure to provide the basic necessities of life such as nutrition, clothing, shelter, medical attention or supervision, to the extent that the child or vulnerable person's health and development is, or is likely to be, significantly harmed;
- Leaving a child or vulnerable person uncared for over long periods of time or abandoning them; or
- neglect of medical care may happen where a caregiver's refusal to agree to a certain medical procedure may be determined to be an unacceptable deprivation of the child or vulnerable person's basic rights to life or health

**Sexual offences:**

- rape, sexual assault<sup>5</sup>, or engaging in grooming behaviour under the Crimes Act 1958 (Vic)
- a broad range of sexual behaviours that makes a person feel uncomfortable, frightened or threatened. It is any sexual activity a person has not consented to, whether another person uses physical or emotional force against them. People are not able to give consent if they are drug affected, drunk, unable to understand the sexual nature of what is happening, are cognitively impaired or suffering from dementia, or are submitting because they are being held against their will, or are children;
- involve a wide range of sexual activities and may include fondling of genitals, masturbation, oral sex, vaginal or anal penetration by finger, penis or any other object, voyeurism and exhibitionism. It can also include exposure to pornographic imagery and exploitation through pornography or prostitution;
- can occur when any person uses their authority or power over the child or vulnerable person to engage in sexual activity, or tricks them into it;
- may involve administering drugs to make a person incapable of resistance against sexual penetration or an indecent act;
- specific sexual offences against persons with disabilities, such as sexual offences against persons with a cognitive impairment by medical or therapeutic service providers or providers of, or workers in, facilities providing special programmes; or
- helping or inducing another person to commit sexual offences against children.

This is not an exhaustive list. You should make a report to Victoria Police about all possible criminal activities of which you become aware. See section 4 below about making a report to Victoria Police.

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<sup>5</sup> S 40 *Crimes Act 1958* (Vic)

## 2.2. Who may be a victim?

Both adults and children can become victims of the offences listed in section 2.1. However, these guidelines focus on the reporting of criminal abuse in relation to children and vulnerable people.

A child is defined as a person who is under the age of 18 years<sup>6</sup>.

Vulnerable people are defined broadly for the purpose of these guidelines to include:

- people needing services, or accommodation and services, because the person's physical, mental or social functioning is affected to such a degree that the person cannot maintain himself or herself independently<sup>7</sup>; or
- adults of any age with any of the following disabilities:<sup>8</sup>
  - (a) a sensory, physical or neurological impairment or acquired brain injury or any combination thereof, which—
    - (i) is, or is likely to be, permanent; and
    - (ii) causes a substantially reduced capacity in at least one of the areas of self-care, self-management, mobility or communication; and
    - (iii) requires significant ongoing or long term episodic support;
  - (b) an intellectual disability;
  - (c) a mental illness; or
  - (e) a cognitive impairment because of dementia.

## 2.3. Who may be a perpetrator?

For the purposes of these Guidelines, the term 'perpetrator' refers to the person directly engaged in committing the criminal abuse, as well as those people who may induce or assist others to engage in the abuse.

For most sexual offences and any criminal abuse offences, any person may be a perpetrator. In the context of an organisation with care, supervision or authority over children or other vulnerable people, perpetrators may include:

- employees
- contractors providing services
- persons providing voluntary services, e.g. a foster carer, a Community Visitor under the *Disability Act 2006* (Vic), or a board member of an organisation
- other clients or residents of the service

<sup>6</sup> s 15 *Crimes Act 1958* (Vic)

<sup>7</sup> This definition is informed by the definition of 'care' in the Dictionary Schedule 1, *Aged Care Act 1997* (Cwth)

<sup>8</sup> This definition is informed by s 3 of the *Disability Act 2006* (Vic).

- any visitors to the service, not just those visiting clients or residents.

## 2.4. In what types of organisations might abuse happen?

These guidelines are only about reporting criminal abuse which occurs in organisations that have care, supervision or authority over children or vulnerable people.

These organisations include educational services and residential facilities for children and educational, non-residential and residential care services for vulnerable people, as well as organisations that provide services for all types of people, including children and vulnerable people. Types of organisations are listed in **Appendix 1**.

These guidelines do not cover criminal abuse that happens outside an organisation. However, you may be under an obligation to report non-institutional abuse of children or vulnerable people under your care if you become aware of it in the course of your work.<sup>9</sup>

## 3. Reporting Criminal Abuse

This section is about your reporting obligations for reporting criminal abuse to Victoria Police or other government agencies, and what happens if you fail to meet those obligations.

### 3.1. When must a report be made to Victoria Police or another government department or agency about criminal abuse?

As soon as you become aware, or have a reasonable suspicion, that criminal abuse has been committed against a child or a vulnerable person, you must report it to Victoria Police. Depending on what you do and where you work, you may also be under a legal obligation to report certain types of conduct to Victoria Police and /or other government departments or agencies.

You may become aware of criminal abuse in a number of ways:

- You observe the abuse happening;
- The victim tells you about it;
- Someone else tells you that they have seen or been told about criminal abuse occurring. This person could be an employee or contractor, a victim's family, a visitor, another client of your service, or another manager.

You do not have to personally observe a person's potential criminal behaviour; someone else may have told you about it, or reported it to you. While there may be reasons that the person does not want to report, you should encourage or support that person to make a report themselves.

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<sup>9</sup> For example, see s 184 *Children, Youth and Families Act 2005* (Vic) re mandatory reporting re children, or S 63-1AA of the *Aged Care Act 1997* (Cwth) re mandatory reporting of abuse of persons in residential care.

If you are under a particular statutory obligation to make a report, or to look after children or other vulnerable people and you fail to do so, then there may be criminal or disciplinary consequences. This is further explained in **Appendix 2** and there are links to additional information about these matters.

You can get information about reporting to other government departments or agencies from those organisations directly, including:

- Department of Justice & Regulation
- Department of Health and Human Services
- Department of Education and Training
- Commonwealth Department of Social Services.

## 3.2. Reporting about children

### Reporting a sexual offence against a child

Any adult who forms a reasonable belief that a sexual offence has been committed by an adult against a child under 16 must disclose that information to Victoria Police<sup>10</sup>. The obligation to disclose child sexual abuse applies to any adult, not just managers or those in authority in an organisation, and you must do so, unless you have a reasonable excuse not to do so.<sup>11</sup>

### Reporting allegations about carers

If you are in charge of a registered out of home care service, you must report within 24 hours to the Secretary of DHHS any allegations that a Category 1 offence<sup>12</sup> has occurred involving:

- a foster carer who has sexually or physically abused a child that you placed in his or her care; or
- a registered out of home carer who has sexually or physically abused a child in the course of working as an out of home carer<sup>13</sup>.

DHHS will forward all reports to Victoria Police, as required to do so.<sup>14</sup>

### Reporting that a child is in need of protection

Any person who believes on reasonable grounds that a child is in need of protection may report this to Victoria Police or DHHS.<sup>15</sup>

<sup>10</sup> S 327(2) *Crimes Act 1958*

<sup>11</sup> For further information about this offence, you can go to the following fact sheet

[http://www.dhs.vic.gov.au/\\_data/assets/word\\_doc/0003/902244/Failure-to-disclose-offence-fact-sheet-for-DHS-staff-and-funded-organisations.doc](http://www.dhs.vic.gov.au/_data/assets/word_doc/0003/902244/Failure-to-disclose-offence-fact-sheet-for-DHS-staff-and-funded-organisations.doc)

<sup>12</sup> Critical client incident management summary guide and categorisation table 2011; Category One incidents are the most serious; and such incidents occurring at the service or during service delivery must be reported. A Category One incident is an incident that has resulted in a serious outcome, such as a client death or severe trauma, if a client is admitted to hospital as an inpatient as a result of a physical or sexual assault, accident, sudden illness, injury, self-harm or possible overdose.

<sup>13</sup> S 81 *Children, Youth and Families Act 2005*

<sup>14</sup> S 83 *Children, Youth and Families Act 2005*

<sup>15</sup> S 162(1)(c) [physical abuse] or (d) [sexual abuse] and s 183 [reporting] *Children, Youth and Families Act 2005*



### 3.3. Reporting about vulnerable people

#### Reporting abuse in residential aged care facilities

Approved providers of Australian Government subsidised residential aged care have an obligation under the *Aged Care Act 1997* (Cwth) to provide a safe and secure environment for residents of these facilities. Part of this obligation requires a provider to report to police and to the Commonwealth Department of Social Services (DSS) any incident involving alleged or suspected reportable assaults on a person in their facility<sup>16</sup>.

You must make the report as soon as practicable, or in any case, within 24 hours, or when you begin to suspect a reportable assault.<sup>17</sup> You should not wait until an allegation is substantiated; an allegation of assault is enough to trigger the reporting requirements.

A reportable assault means:

- Unlawful sexual contact with a resident of an aged care home; or
- Unreasonable use of force on a resident of an aged care home<sup>18</sup>

Unlawful sexual contact is any unlawful, or unwanted, sexual behaviour with residents for which there has been no consent. Residents who have assessed cognitive or mental impairment may not have the ability to provide informed consent.

Unreasonable use of force encompasses a range of types of assaults from deliberate physical attacks to the use of unwarranted physical force on a resident.

#### Educating and protecting your staff

You, as a residential aged care provider, must also take reasonable steps to ensure your staff members report any suspicions or allegations of reportable assault to you (or any other authorised person), the police or the Secretary of the DSS<sup>19</sup>. You need to give them information about how to report assault and actively require them to make reports if they see, or suspect, an assault on a resident.

You must also protect such a staff member from victimisation by others for having made a report<sup>20</sup> and their identity as the report maker.<sup>21</sup>

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<sup>16</sup> There is only an obligation to report to the Commonwealth Department of Social Services, not to the Victorian Department of Health and Human Services (see DHHS *Hospital Circular 05/14*)

<http://health.vic.gov.au/hospitalcirculares/circ14/circ0514.htm>

<http://health.vic.gov.au/hospitalcirculares/circ14/circ0514.htm>

<sup>17</sup> S 63-1AA of the *Aged Care Act 1997* (Cwth)

<sup>18</sup> S 63-1AA(9) of the *Aged Care Act 1997*

<sup>19</sup> S 63-1AA(5) *Aged Care Act 1997*

<sup>20</sup> S 63-1AA(6) *Aged Care Act 1997*

<sup>21</sup> S 63-1AA(7) *Aged Care Act 1997*

### **Reporting abuse in independent living units and retirement villages**

If you run an independent living unit or a retirement village, then you are not obliged to report, however you should still report any incidents of abuse to Victoria Police.

### **Reporting abuse in supported residential services**

If you run a supported residential service, you are legally required to protect the safety and wellbeing of residents in your care. You are required to report prescribed reportable incidents to the DHHS, including an unexpected death of a resident; serious injury of a resident; allegation of sexual or physical assault. You should also report allegations of sexual or physical assault to Victoria Police.

### **Reporting abuse of people with disabilities**

If you work in an organisation that looks after people with disabilities, then you must report any criminal abuse that you become aware of in the course of your work.

If you are working in residential services that fall under the responsibility of the DHHS Disability Services, or DHHS directly delivered services or DHHS funded community serviced organisations, you must report potentially criminal matters such as physical or sexual assault (of residents or staff) to Victoria Police immediately.<sup>22</sup>

## **4. How to report to Victoria Police**

### **4.1. Taking urgent action**

If any person, particularly a child or a vulnerable person, is in immediate danger of physical or sexual abuse you must call Triple Zero '000' and request police attendance and intervention.

You and your colleagues also need to take whatever action you consider necessary to remove or reduce the risk of harm to the child or vulnerable person and remove the immediate danger. However, at the same time you need to maintain the integrity of a potential crime scene, by preserving the scene and any evidence of offending. You should limit any conversation with any person involved to collecting only essential information about their immediate needs.

### **4.2. Less urgent matters**

If the matter is less urgent, for example, there is no immediate threat to a person's safety, you must report to a police station by phone or attending in person, as soon as possible.

<sup>22</sup> Section 1.2.1 *Reporting Concerns* in the DHHS Residential Services Practice Manual 3<sup>rd</sup> Edition <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/reports-publications/residential-services-practice-manual> . Other minimum standards for supporting victims and reporting allegations of physical and sexual assaults to Victoria Police are to be found at [www.dhs.vic.gov.au/.../assets/.../responding-to-allegations-of-physical-or-sexual-assault-tech-update-2014.doc](http://www.dhs.vic.gov.au/.../assets/.../responding-to-allegations-of-physical-or-sexual-assault-tech-update-2014.doc) and [www.dhs.vic.gov.au/.../critical-client-incident-management-instruction-tech-update-2014.doc](http://www.dhs.vic.gov.au/.../critical-client-incident-management-instruction-tech-update-2014.doc)

You can find a list of police stations on the Victoria Police website [www.police.vic.gov.au](http://www.police.vic.gov.au). Details of how to contact a local police can be found in the [Your Local Police](#) section of that website. You can also find information about reporting particular types of criminal conduct to Victoria Police on that website.

Please be aware you cannot make a formal report to police via the Victoria Police website or by contacting Crime Stoppers. Also, using social media to provide information about criminal abuse (whether to police or others) is not considered to be a report to police.

### **4.3. What information should you give Police?**

You should be prepared to provide police with as much information as you are aware of about the incident, which could include information such as:

- Who is involved – victim, perpetrator, witnesses?
- What has happened?
- When and where did it happen?
- Has it happened only once or more often?
- Did you observe it happening? Who else might be aware of the abuse?
- If not, how did you find out about it? (For example, did you view CCTV footage, read a letter of complaint, or have a conversation with others?)

You should not attempt to speak to or interview any of the people involved in the alleged incident in order to collect any of the above pieces of information. It will be up to Victoria Police to make those inquiries.

Make sure you keep a record of your report to police, and get contact details from the police officers you contact so that you can maintain contact with them. You may be able to assist Victoria Police in identifying a suitable manager or supervisor in your organisation with whom they can maintain contact about the matter.

Following consideration of your report by Victoria Police, you may be asked to provide a statement and any other information you might have about the matter.

## **5. What will Victoria Police do?**

There are several possible outcomes of a report to Victoria Police about criminal conduct, including:

- Victoria Police may conduct a criminal investigation and may, or may not, prosecute the person; and/or
- Victoria Police may provide information to your organisation so that the organisation can take appropriate action in relation to the person.

Victoria Police are responsible for undertaking all investigations into a report about criminal abuse of children or vulnerable people, no matter where they occur.

Victoria Police have four main functions in relation to investigations into criminal abuse:

1. To support and protect victims
2. To thoroughly investigate all reported incidents
3. To establish whether a crime has been committed and to gather any evidence that may exist
4. To identify, apprehend and prosecute the offender/s.

If an investigation into sexual assault or sexual abuse is initiated, your report and any other information collected by Victoria Police will be referred internally to specialist investigators who have been trained to investigate complex crimes of sexual assault and child abuse (the Sexual Offences and Child Abuse Investigation Team).

The Victoria Police investigation may involve visiting the location in which the criminal abuse is alleged to have occurred (this may be your workplace), and interviewing and taking statements from witnesses and the victim.

Victoria Police are also likely to request the organisation responsible for the care of the child or vulnerable person to provide files and other relevant documentation to assist with a criminal investigation. The *Privacy and Data Protection Act 2014* and the *Health Records Act 2001* provides that an organisation can disclose personal information to Victoria Police for the purposes of prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of a law imposing a penalty or sanction<sup>23</sup>.

In some cases, even with a report, there will not be enough information to enable police to effectively investigate the matter, for example, where it is not possible to identify the alleged perpetrator. However, under the *Victims' Charter Act 2006* (Vic), Victoria Police are required to provide certain information to victims of crime, including the progress of an investigation and the reason why no decision has been made to prosecute.

## 5.1. Who can you tell about the Victoria Police investigation?

If you have been nominated as your organisation's contact person with Victoria Police about the criminal investigation, then you may get requests for information from victims' parents or carers, your organisation's senior management, or even the media.

In most cases, it will not be appropriate to make any form of public comment during the course of a criminal investigation<sup>24</sup>, but Victoria Police may permit you to make reports to

<sup>23</sup> Information Privacy Principle 2.1(g)(i) in Schedule 1 to the *Privacy and Data Protection Act 2014* and Health Privacy Principle 2.2(j) in Schedule 1 of the *Health Records Act 2001*

<sup>24</sup> There are even restrictions on the publication of information about proceedings, see s 534(1) of the *Children, Youth and Families Act 2005*, that prohibits the publication of information such as identification information about accused persons, victims and witnesses.

your senior management. This is to make sure that the police criminal investigation is not compromised.

## **5.2. What can you do while the Victoria Police investigation is taking place?**

Your organisation can and should take action to ensure that a child or vulnerable person is safe and that any future risk to children or vulnerable persons is managed. However, you should not take any action that might compromise a civil (for example family violence proceedings) and/or criminal investigation into the same matter being conducted by police.

Any investigation by your organisation into the professional misconduct of an employee and any subsequent disciplinary or management action you might want to take, prior to the conclusion of a criminal investigation may have an adverse impact on the criminal investigation and/or judicial proceedings. However, this does not preclude you removing an employee where there is a risk of further offending. For example, if an internal disciplinary process involves requiring the alleged perpetrator to provide information relating to the subject matter of possible criminal charges, such processes should not occur until after any police prosecution is finalised.

### **NOTE:**

Before you or your organisation takes any action you should communicate with the Victoria Police investigator or his/her supervisor:

- for guidance to ensure that your action will not compromise any criminal investigations or civil matters; and/or
  - to raise any concerns in relation to the impact of a criminal investigation on any proposed disciplinary action by the organisation.
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## Appendix 1

### Educational services for children

Educational services for children include:

- education and care services including long day care, kindergartens and out of school hours care programs
- government and non-government schools
- alternative education settings, for example, youth justice education facilities, the Royal Children's Hospital Education Institute
- child care services
- other educational organisations such as instrumental music schools, tutoring services, homework programs

### Non-residential care and/or education facilities or services for vulnerable people

These facilities include:

- day services, including drug and alcohol day treatment programs
- day services for elder people
- registered disability service providers, see this URL link to the register <http://www.dhs.vic.gov.au/for-service-providers/disability/service-quality-and-improvement/registration-requirements-for-disability-service-providers>

### Residential services or facilities for children or vulnerable people

Residential services or facilities include:

- remand centres, youth residential centres, youth justice centres and some prisons
- secure welfare services for children
- out of home care and other services for children funded by the Department of Health & Human Services (**DHHS**), such as:
  - a registered out of home care service or community service, providing care of a child by a person other than a parent of the child or
  - kinship care arrangements

- accommodation for people with disabilities in a group home or other residential service<sup>25</sup>
- supported residential services run by private proprietors and regulated by the Victorian Government for:
  - people with disabilities; and/or
  - older people who can no longer live independently at home,<sup>26</sup>
- residential aged care facilities approved by the Australian Government to provide residential services<sup>27</sup>
- independent living units and retirement villages, regulated by the Victorian Government<sup>28</sup>
- designated mental health services that provide compulsory assessment and treatment to people in accordance with the *Mental Health Act 2014*<sup>29</sup>
- educational accommodation facilities such as boarding schools facilities, student hostels and homestay services
- crisis accommodation
- emergency care for children
- family violence refuges and homelessness accommodation services
- drug and alcohol treatment programs

## Other organisations

These organisations provide services for all types of people, including children or vulnerable people, such as health services, churches, sport and recreation clubs and associations.

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<sup>25</sup> *Disability Act 2006*

<sup>26</sup> *Supported Residential Services (Private Proprietors) Act 2010* (Vic)

[http://docs.health.vic.gov.au/docs/doc/Supported-Residential-Services-register-\(pdf-format\)](http://docs.health.vic.gov.au/docs/doc/Supported-Residential-Services-register-(pdf-format))

[http://docs.health.vic.gov.au/docs/doc/Supported-Residential-Services-register-\(pdf-format\)](http://docs.health.vic.gov.au/docs/doc/Supported-Residential-Services-register-(pdf-format))

<sup>27</sup> Aged care homes are owned and operated by individuals and organisations that have Australian Government approval to provide residential care. They provide specialist facilities that cater for people care needs and provide accommodation, personal and nursing care and social activities for residents. They are particularly for older people who can no longer live at home due to frailty, disability, illness, the death of a partner, or because they cannot rely on the help of a carer, family or friend.

<sup>28</sup> *Retirement Villages Act 1986* (Vic). Independent living units or retirement villages, and supported residential services offer a range of services for older people, who require less care than in an aged care home.

<sup>29</sup> As prescribed in the *Mental Health Regulations 2014* (Vic),

<http://www.health.vic.gov.au/mentalhealth/mhact2014/treatment/designated-mental-health-services.htm>

<http://www.health.vic.gov.au/mentalhealth/mhact2014/treatment/designated-mental-health-services.htm>

## Appendix 2

### Consequences of not reporting criminal abuse

#### Failure to disclose a sexual offence against a child

Failure to disclose the information to police is a criminal offence<sup>30</sup>, unless you have a reasonable excuse for not doing so.

A reasonable excuse may include one or more of the following:

- reasonable fear for the safety of any person (other than the person who is alleged to have committed the offence) and the failure to disclose is a reasonable response in the particular circumstances,
- the information has already been disclosed to Victoria Police and you have nothing more to add to that original report<sup>31</sup>.

For further information, see Department of Justice & Regulation *'Failure to disclose' fact sheet*<sup>32</sup>

#### Failure to protect

Any person working in an organisation that cares, supervises or has authority over children has a responsibility to protect them. However, if you have a position in your organisation which gives you the power or responsibility to reduce or remove a substantial risk of sexual abuse, you have additional obligations under the 'failure to protect' offence.

For further information, see Department of Justice & Regulation *'Failure to protect' factsheet*.<sup>33</sup>

#### Reporting about people with disabilities

If you work in residential services that fall under the responsibility of the DHHS Disability Services, then you should report any criminal abuse that you become aware of in the course of your work.

Failing to report potentially criminal matters such as physical or sexual assault (of residents or staff) to Victoria Police immediately that you know or reasonably suspect are occurring, could result in disciplinary action being taken against you.<sup>34</sup>

<sup>30</sup> S 327 Crimes Act 1958

<sup>31</sup> S 327(3) Crimes Act 1958.

<sup>32</sup> <http://www.justice.vic.gov.au/home/safer-communities/protecting-children-and-families/failure-to-disclose-offence>

<sup>33</sup> <http://www.justice.vic.gov.au/home/safer-communities/protecting-children-and-families/failure-to-protect-offence>

<sup>34</sup> Section 1.2.1 *Reporting Concerns* in the DHHS Residential Services Practice Manual 3<sup>rd</sup> Edition

<http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/reports-publications/residential-services-practice-manual>