# Child Safety and Wellbeing Policy

**Department:** People and Workplace Services

**Responsible Officer:** Director, People and Workplace Services

**Accountable Director:** Director, People and Workplace Services

**Effective date:** September 2024

**Date of next review:** September 2026

**Version:** 2.0

## Purpose and scope

The Victorian Government introduced the Child Safe Standards (**the Standards**) under the *Child Wellbeing and Safety Act 2005* (Vic), which are compulsory minimum standards for organisations that provide services for children and young people (or that are used by children and young people), to help protect them from harm.

The purpose of this policy is to ensure that all staff, consultants, contractors, students, or volunteers engaged by Victoria Legal Aid (**VLA**) are aware of its commitment and obligation to comply with the Standards to be a child safe organisation.

Staff should read this policy together with the [Child Safety Code of Conduct.](https://viclegalaid.sharepoint.com/sites/intranet/policiesandprocedures/working-with-clients/Pages/child-safe-standards.aspx)

### Who this policy applies to?

This policy applies to all staff and workplace participants (including students, volunteers and consultants, but excluding private lawyers we fund) engaged by VLA.It also applies to a broad range of locations where direct or incidental interaction with children and young people may occur. For example:

* VLA premises;
* child protection, family law and family violence systems;
* youth justice systems;
* family dispute resolution services;
* school and educational settings through community legal education services;
* adult corrections systems through their parents, carer or other means;
* mental health, hospital, residential care systems;
* courts and tribunals; and
* Justice Service Centres.

### Child abuse may constitute staff misconduct

It is important that all staff are aware of their obligations. Suspected abuse of children or young people may constitute staff misconduct, even if occurring outside of work hours and not on VLA premises, if it occurs in the course of work and/or they are acting in a work capacity.

### Interaction with VLA Practice Standards, relevant legislation, and Australian Solicitors’ Conduct Rules

This Child Safety and Wellbeing Policy and Child Safety Code of Conduct apply to all staff. Legal staff at VLA are also bound by their professional practice obligations in [VLA’s Practice Standards](https://viclegalaid.sharepoint.com/sites/intranet/policiesandprocedures/working-with-clients/professional-practice-standards) and the [Australian Solicitors' Conduct Rules](https://www.lsbc.vic.gov.au/lawyers/practising-law/professional-obligations/rules-and-compliance). A lawyer has a duty of client confidentiality and the lawyer-client relationship is protected by legal professional privilege which can only be waived by a child or young person.

If a child discloses information about child abuse to a VLA lawyer, the VLA lawyer may seek consent from the child to disclose the information. If the child does not consent, the VLA lawyer may disclose the information to relevant authorities under certain circumstances set out in the Australian Solicitors’ Conduct Rules, such as where the law permits or compels disclosure or for the purpose of preventing *imminent serious physical harm* to the client or to another person.

While lawyers are not subject to mandatory reporting obligations under the *Children, Youth and Families Act* *2005* (Vic), they may report a reasonable belief that a child is in need of protection to a protective intervener and, if made in good faith, it will not constitute unprofessional conduct or a breach of professional ethics..

Where a VLA staff member is unsure of their obligations around breaching confidentiality, they must consult with their manager and Internal Legal Services if they intend to report abuse as this should be determined on a case by case basis.

## Definitions

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| Definition | Meaning |
| Staff | Includes employees, consultants, volunteers, students and any individuals or groups undertaking activity for or on behalf of VLA excluding (for the avoidance of doubt) private legal practitioners undertaking legally aided and duty lawyer work. |
| Child | Means a child or young person under the age of 18 years. |
| Child Abuse | Any act or omission that endangers a child's physical or emotional health or development.  |
| Child Safe Standards | As made under section 17(1) of the *Child Wellbeing and Safety Act* *2005* (Vic) |

## Objectives

The objectives of this policy are:

* to communicate VLA’s commitment to child safety, in a way that can be understood by all, including children and young people;
* to ensure all staff understand and comply with the Standards in their work, and are aware of the Child Safety Code of Conduct; and
* to explain key features of VLA’s approach to meeting the Standards including the interaction with legal staff’s existing obligations pursuant to the Australian Solicitors’ Conduct Rules.

## Statement of Commitment

VLA is committed to the safety and wellbeing and rights of children and young people and:

* will uphold the rights of children and young people who have contact with the organisation so that they feel heard on matters that are important to them, and relevant to their safety so that they feel safe and protected;
* has zero tolerance for child abuse and will take all allegations of suspected child abuse and child safety concerns very seriously, ensuring such conduct is dealt with in accordance with VLA policies, procedures, and the law;
* is committed to preventing child abuse and identifying risk early, and removing and reducing these risks;
* will actively work to listen to and empower children and young people who come into contact with the organisation;
* has zero tolerance for racism and has a Cultural Diversity and Anti-Racism Plan in place to address racism and a complaints process to respond, including consequences;
* will provide a culturally safe environment for Aboriginal and/or Torres Strait Islander children and young people and those from culturally and/or linguistically diverse backgrounds, by responding to their needs and consider their requests for what is required for them to feel they are in a safe environment;
* will provide a safe environment for, and consider the needs of, children and young people with a disability, and consider their requests for what is required for them to feel they are in a safe environment;
* will provide a safe environment for, and consider the needs, of children and young people who have suffered trauma, and consider their needs in providing that environment
* will provide a safe environment for, and consider the needs of, LGBTIQA+ and gender diverse children and young people;
* will provide a safe environment for, and consider the needs of, children and young people experiencing compounding disadvantage due to intersectional characteristics, for example, where there are traumatic experiences, such as being remanded in custody or placed in out of home care;
* has legal obligations to contact authorities when there are concerns about a child or young person’s safety, except where legal staff representing a child may have professional obligations around confidentiality and disclosures made in the course of their work;
* has robust human resources and recruitment practices for all staff and volunteers; and
* will provide training and education to staff and volunteers on the Standards to create a child safe organisation.

VLA requires all staff to uphold these commitments. VLA has specific policies, procedures, and training in place to achieve these commitments.

## VLA’s approach to child safety

This section provides an overview of the measures in place to support child safety across VLA.

### Building a child safe culture

All staff have a responsibility to support VLA’s commitment and obligation to creating a child safe environment.

### VLA Child Safety Code of Conduct

## All staff must make sure that they display appropriate standards of behaviour towards children and young people, ensuring their rights are respected, they feel safe and protected and their concerns are taken seriously.

## VLA’s [Child Safety Code of Conduct](https://viclegalaid.sharepoint.com/sites/intranet/policiesandprocedures/working-with-clients/Pages/child-safe-standards.aspx) outlines appropriate standards of behaviour by adults towards children and young people. It aims to protect children and young people and reduce opportunities for abuse or harm to occur. It also helps staff by providing them with guidance on how to best support children and young people and how to avoid or better manage difficult situations.

### Training and Supervision

## VLA is committed to ensuring that staff have access to appropriate professional learning and training opportunities to develop and maintain an understanding of child safety and prevention of harm. To support staff, relevant training programs, including VLA’s induction program, will include appropriate content which outlines VLA’s expectations and commitment to child safety.

## In addition to position specific training requirements, training will be made available to staff who are likely to come into regular contact with children and young people. This training will include how to identify, and report suspected child abuse.

### Recruitment

The recruitment and selection of staff aims to support VLA’s commitment to promoting an organisational culture of child safety. VLA has robust recruitment and selection processes. VLA carries out reference checks and police record checks to ensure that the right people are recruited.

For positions that involve contact with children and young people, recruitment is based on selection criteria which clearly demonstrate commitment to child safety to assist VLA in ensuring that the most appropriate staff are employed. Selection policies and guidelines, including pre-screening activities reflect a commitment to a child safe environment.

### Criminal record and Working with Children Check policies

VLA’s [Pre-employment screening and employment disclosure procedure](https://viclegalaid.sharepoint.com/sites/intranet/policiesandprocedures/employment/recruitment-and-selection/Pages/Pre-employment-Screening.aspx) details the requirement for all prospective/ new staff members to undertake a National Criminal History Record Check prior to commencement of employment at VLA.

Staff engaged in work which involves direct contact (not incidental or occasional direct contact) with children as defined in the *Worker Screening Act 2020* (Vic)(including students and volunteers) are required to hold a Working with Children Check (**WWCC**) and to provide evidence that the WWCC is valid at all times whilst employed by VLA. The obligations for people engaged in work directly with children around obtaining and maintaining a WWCC are set out in VLA’s [Working with Children Check Policy](https://viclegalaid.sharepoint.com/sites/intranet/policiesandprocedures/working-with-clients/Pages/working-with-children-check-policy.aspx).

## Reporting a child safety concern or complaint

VLA works to ensure that:

* all children and young people know who to tell if they observe or are a victim of abuse;
* families, staff, students, and volunteers understand their obligations and know how to report suspected abuse; and
* all allegations of child abuse are taken seriously and addressed in accordance with VLA processes for responding to and reporting suspected child abuse.

### Staff reporting suspected child abuse

Section 327 of the *Crimes Act 1958* (Vic) requires all adults to report to police any reasonable belief that a sexual offence has been committed by an adult against a child aged under 16, unless an exemption applies (see below).

Section 49O of the *Crimes Act 1958* (Vic) requires people in positions of authority at VLA to protect a child under the age of 16 from sexual abuse. They will commit an offence under this section if they know of the risk of abuse and have the power or responsibility to reduce or remove the risk but negligently fail to do so.

If a staff member has a reasonable belief that suspected child abuse has occurred, they should first report it to their manager or Internal Legal Services and to the Child Safety Officer (**CSO**). The action to be taken will need to be determined on a case by case basis.

There are three exceptions to reporting any suspected abuse as follows:

* where it is a known allegation (e.g. where a staff member is working on a child protection case);
* where confidentiality and privilege apply (e.g. see the specific exception under section 327(7)(b) of the *Crimes Act 1958* (Vic)); and
* where the allegation is unconnected to VLA or the staff member’s role (e.g. clients or people unrelated to VLA or where it occurs outside the course of a staff member’s work).

### Child Safety Officer

The CSO is the Director, People and Workplace Services. The CSO can be contacted by email at childsafe@vla.vic.gov.au or by phone on (03) 9269 0621.

If the child is in *imminent* harm, and the incident may be a criminal offence, it may also be reported to Child Protection in the Department of Families, Fairness and Housing or to the police by calling 000.

### A child or young person making a complaint of suspected child abuse

Please refer to VLA’s [Complaints Policy](https://viclegalaid.sharepoint.com/sites/intranet/policiesandprocedures/working-with-clients/Pages/our-complaint-policy-and-procedure.aspx) for further information on the process for reporting and responding to allegations of suspected child abuse.

For VLA to perform its functions under the Standards, we may be required to collect personal information about VLA staff and disclose that information to a third party where required for a formal investigation. Where appropriate, we will advise VLA staff that we are doing this unless this places the child or young person or staff member at risk.

Personal information which is collected and/or disclosed about an individual will be managed in accordance with the *Privacy and Data Protection Act 2014* (Vic), *Health Records Act 2001* (Vic) and the *Child Wellbeing and Safety Act 2005* (Vic).

## Approval

This policy was approved by the Executive Management Group on 24 May 2022 and minor updates were approved by the Director, People and Workplace Services on 30 August 2024.

## Contact

The following people may be contacted in relation to the matters arising under this policy:

* Child Safety Officer, Director, People and Workplace Services - (03) 9269 0284 or childsafe@vla.vic.gov.au
* People and Workplace Services – advisoryservices@vla.vic.gov.au
* Commission for Children and Young People – <https://ccyp.vic.gov.au>

## Related documents

* VLA Child Safety Code of Conduct
* Code of Conduct for Victorian Public Sector Employees 2015
* *Public Administration Act 2004*(Vic)
* *Child Wellbeing and Safety Act 2005*(Vic)
* Victoria Legal Aid Enterprise Agreement 2020 – 2024
* *Privacy and Data Protection Act 2014*(Vic)
* *Health Records Act 2001*(Vic)
* *Worker Screening Act 2020* (Vic)
* [VLA Complaints Procedure](https://viclegalaid.sharepoint.com/sites/intranet/policiesandprocedures/working-with-clients/Pages/our-complaint-policy-and-procedure.aspx)
* [VLA Working with Children Check Policy](https://viclegalaid.sharepoint.com/sites/intranet/policiesandprocedures/working-with-clients/Pages/working-with-children-check-policy.aspx)
* [VLA Recruitment and Selection Policy](https://viclegalaid.sharepoint.com/sites/intranet/policiesandprocedures/employment/recruitment-and-selection/Pages/staff-resourcing-and-recruitment.aspx)
* [VLA Practice Standards](https://viclegalaid.sharepoint.com/sites/intranet/policiesandprocedures/working-with-clients/professional-practice-standards)
* [Guidance note: Managing misconduct](https://viclegalaid.sharepoint.com/sites/intranet/policiesandprocedures/employment/Pages/unsatisfactory-work-performance-and-misconduct.aspx)
* [Pre-employment screening and employment disclosure procedure](https://viclegalaid.sharepoint.com/sites/intranet/policiesandprocedures/employment/recruitment-and-selection/Pages/Pre-employment-Screening.aspx)

## Keywords

[Child Safe Standards](https://ccyp.vic.gov.au/child-safe-standards/)

Child Safety and Wellbeing Policy

Child Safety Code of Conduct

*Child Wellbeing and Safety Act* *2005*(Vic)

## Version control

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| Version number  | Details  | Author  | Date  |
| 1.0  | Child Safety and Wellbeing Policy  |  Emma Hunt | June 2022 |
| 2.0 | Minor updates made |  Daniella Calkoen | August 2024 |
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