Work Safe Policies

School Community Safety Orders Policy and Procedures

Introduction

We are committed to complying with our Work Safe requirements.

Purpose

The purpose of this Policy is to support the College's use of the school community safety order scheme (Scheme) established under Part 2.1A of the Education and Training Reform Act 2006 (Vic) (ETR Act) to manage the risks to staff, students and the broader school community from a small minority of parents, carers and other adults who engage in harmful, threatening or abusive behaviour.

Key Information

This Policy must be read in conjunction with the Victorian Department of Education's School Community Safety Order Scheme Ministerial Guidelines (Ministerial Guidelines).

The Scheme enables an Authorised Person to issue a school community safety order (Order) to a parent, carer and another person who engages in harmful, threatening or abusive behaviour.

These Orders take the form of either immediate school community safety orders or ongoing school community safety orders and prohibit or restrain certain behaviours from occurring on the College's premises and a School-related Place, or in relation to College staff.

Scope

This Policy and its Procedures apply to all staff, volunteers, contractors, parents/carers, students and any other College community members.

Roles and Responsibilities

Aitken College is responsible for identifying and managing reasonably foreseeable risks to staff and students arising from harmful, threatening or abusive behaviour in the workplace. Aitken College must eliminate those risks, or if that is not reasonably practicable, minimise the risk of harm so far as is reasonably practicable.

Policy Statement

Aitken College is committed to providing a safe environment for all our workers, students, visitors and volunteers.

Who is an Authorised Person?

An Authorised Person at the School is the Principal/Headmaster/Headmistress and the proprietor of the School, where that person is an individual, or, if the proprietor is not an individual, a person authorised by the Secretary.

For the purpose of this Policy, the proprietor is Aitken College Limited.

When someone is acting in the role of the Principal/Headmaster/Headmistress, they are automatically an Authorised Person for the period during which they are acting Principal/Headmaster/Headmistress.

The Secretary of the Victorian Department of Education (Secretary) may authorise another person at the School to be an Authorised Person for the purpose of the Scheme by their own initiative, or on application by the School.

An Authorised Person must complete any training required by the Secretary before making an Order or using the Scheme.

For more information, refer the Ministerial Guidelines.

Person That May Be Subject to an Order

An Order can only be made in relation to a person who is:

- an adult (i.e. 18 years old or over); and
- not a student or Staff Member of the School.

If there is doubt as to whether a person is under the age of 18, an Authorised Person must take reasonable steps to ascertain the age of the person, which may include making enquiries directly

with the person or with other people who may know the person.

If, however, the person is in fact under 18 years old, then any Order made will have no force despite any reasonable belief of the Authorised Person that the person is an adult.

Procedures

Immediate School Community Safety Orders

Immediate School Community Safety Orders (Immediate Orders) prohibit a person from entering or remaining on any School-related Place of the School, have effect as soon as they are given to the subject person, and remain in effect for a maximum of 14 days.

Grounds for Making an Immediate Order

Immediate orders may be made orally (Oral Order) or in writing (Written Order) by an Authorised Person if they **Reasonably Believe** that the person who is subject to the Order poses an unacceptable and imminent risk of:

- **harm** to another person on School premises or to a **Member of the School Community** at a **School-related Place**;
- causing significant disruption to School activities; or
- interfering with the wellbeing, safety or educational opportunities of students at the School.

Immediate Orders are to be used in circumstances where the risk needs to be dealt with swiftly due to the imminent nature of the risk and there is no or limited time to undertake the normal processes and procedures for making an Ongoing School Community Safety Order, for example, where there is a risk of an imminent assault on a staff member of the School.

For more information about the grounds for making an Order, refer to the Ministerial Guidelines and the additional guidance on grounds for making an Immediate Order on page 29 of the Ministerial Guidelines.

Mandatory Considerations Before Making an Immediate Order

The Authorised Person must consider the following before making an Immediate Order:

- any vulnerability of the person that the Authorised Person is aware of

- whether the Order is the least restrictive means available to address the grounds on which the Order is proposed to be made.

For more information on these mandatory considerations and how to address them, refer to the Ministerial Guidelines.

Procedures for Making an Immediate Order

If an Authorised Person makes an Immediate Order orally, they must give written notice to the person to whom it applies as soon as practicable after making the Oral Order.

A written notice is effective if it is personally handed to the person or sent to the postal or email address of the person.

If the Authorised Person is unable to give the written notice as required, they must keep a written record of the Order that was made, the reason why they were unable to give the person the written notice and the description of the person to whom the Order applies.

An Authorised Person must, as soon as is practicable, but no later than 14 days after an Immediate Order has been made, review the Immediate Order and consider whether grounds for an Ongoing Order exist. Where grounds do not exist, the Immediate Order must be revoked.

When reviewing an Immediate Order the Authorised Person must consider any submissions made by the person to whom an Immediate Order applies.

For procedures for making Immediate Orders, refer to the Ministerial Guidelines.

See also Administrative Law Requirements for Both Immediate Orders and Ongoing Orders.

Ongoing School Community Safety Orders

An Ongoing School Community Safety Order (Ongoing Order) may be made for any period up to a maximum of 12 months and can prohibit or limit a person from:

- entering or remaining on any **School-related Place** of the School
- approaching, or causing another person to approach, within 25 metres of any staff member or class of staff members within or outside of any **School-related Place** of the School
- contacting any staff member or class of staff members
- using or communicating on a communication platform owned, controlled by, or established in relation to the School.

An Ongoing Order can be made in respect of a person, whether or not an Immediate Order has been made in respect of that person.

For more information about the content and effect of an Ongoing Order, refer to the Ministerial Guidelines.

Grounds for Making an Ongoing Order

To make an Ongoing Order, an Authorised Person must reasonably believe that one or more of the following grounds exist with respect to the person who is proposed to be subject to the Ongoing Order:

- the person poses an unacceptable risk of harm to:
- any person (regardless of whether they are a member of the School community) at any premises of the School or an area that is within 25 metres of the boundary of the School's premises; or
- a member of the School community at any other place or premises on which there is an activity conducted by or in connection with the School or an area that is within 25 metres of the boundary of that place or those premises, if the member of the School community is at that place for a reason that is connected with the School; or
- the person poses an unacceptable risk of causing significant disruption to the School or the School's activities; or
- the person poses an unacceptable risk of interfering with the wellbeing, safety or educational opportunities of students enrolled at the School; or
- the person has behaved and is likely to behave in a disorderly, offensive, intimidating or threatening manner to a member of the School community, either:
    - at any premises of the School or an area that is within 25 metres of the boundary of those premises; or
    - at any other place or premises on which there is an activity conducted by or in connection with the School or an area that is within 25 metres of the boundary of that place or those premises; or
- the person has engaged in and is likely to engage in **vexatious communications** with, or regarding, a staff member at the School.

For more information about the grounds for making an Ongoing Order, refer to the Ministerial Guidelines.

Mandatory Considerations Before Making an Ongoing Order

The Authorised Person must consider the following before making an Ongoing Order:

- any vulnerability of the person that the Authorised Person is aware of; and
- whether the order is the least restrictive means available to address the grounds on which the Order is proposed to be made.

An Authorised Person must not make an Ongoing Order unless it is reasonably necessary to address the grounds on which the Order is proposed to be made.

For more information on these mandatory considerations and how to address them, refer to the Ministerial Guidelines.

Procedures For Making an Ongoing Order

Before making an Ongoing Order, an authorised person must:

- give notice of the proposal to make the Order to the person to whom the Order is to apply; and
- attach a copy of the proposed Ongoing Order and a statement that the person to whom the Order applies is entitled to make written submissions on the proposal to make the Ongoing Order within seven days from the giving of the notice (Show Cause Process).

The copy of the proposed Order must include all the information required to be included in the final Ongoing Order. Refer to Information that Must Be Included in an Immediate Order or Ongoing Order.

The person to whom the proposal to make an Ongoing Order applies may request to make oral submissions or nominate another person to make a submission on their behalf. The person may only do so if written permission is granted by the Authorised Person.

A request for an extension of time to make submissions can be made any time before the Ongoing Order is made, and the Authorised Person may extend the time in response. If an extension is granted, it should be given by written notice setting out the new time within which submissions must be made.

The Authorised Person must consider any written submissions made by the person to whom the Order applies before making the Ongoing Order.

For more information about procedures for making an Ongoing Order, refer to the Ministerial Guidelines.

The School uses a Notice of Proposal to Issue An Ongoing School Community Safety Order to give notice of the proposal to issue an Ongoing Orders.

Administrative Law Requirements for Both Immediate Orders and Ongoing Orders

Issuing an Immediate Order or an Ongoing Order is an administration decision that is a discretionary power which must be made in good faith, not unreasonably or irrationally, and for a proper purpose under the Scheme.

Authorised Persons must not act outside of their powers and must act reasonably and impartially.

An Authorised Person must afford procedural fairness (the right to be heard) to the person affected by the proposed decision to make an Order before the Order is made. The Authorised Person must also act without bias.

This may be more difficult in situations which trigger the need to make an Immediate Order, for example, there may be some circumstances where the Authorised Person may be the subject, or potential subject, of the harm or conduct that the Order is seeking to address, for example, where the Authorised Person with the power to make an Immediate Order is the only person present or at risk of harm.

For more information about administrative law requirements, refer the Ministerial Guidelines.

Information to Be Included in Orders

Information that Must Be Included in an Oral Immediate Order

The Authorised Person must include the following information in an Oral Order:

- the name of the School
- the grounds for making the order
- the period for which the order remains in force.

Information that Must Be Included in a Written Immediate Order or Ongoing Order

Information that must be included in a Written Order, includes:

- the name of the person to whom the Order applies
- the name of the School

- the terms of the Order, including that the person is prohibited from entering or remaining on any School-related Place of the relevant school specified in the Order
- the School-related Places of the School
- the grounds on which the Order is made, which includes:
    - the applicable grounds as described in the legislation
    - a plain English description of the behaviour that satisfies the grounds, including dates, times, location the behaviour occurred, and the people involved (de-identified) wherever possible)
- the period for which the Order remains in force
- any conditions attached to the Order
- any actions that are specified that the person to whom the Order applies may take to have the order revoked
- that contravention of an Immediate Order can result in enforcement action at the Magistrate's Court and may result in a civil penalty or other court orders
- that the Magistrate's Court may make orders requiring payment of a civil penalty up to 60 penalty units, an order compelling the person to comply with the Order, an order compelling the person to take specified action to comply with the Order or any other order that the Court considers appropriate
- in relation to an Immediate Order, that the authorised person must review the Immediate Order within 14 days and decide whether to revoke the Immediate Order or issue an Ongoing Order
- that they have the right to make written submissions and to request to make oral submissions and have an advocate or translator present.

The School uses an Immediate School Community Safety Order or Issue of an Ongoing School Community Safety Order to issue Immediate Orders and Ongoing Orders.

When issuing Orders, an Authorised Person may also need to consider whether any inclusion and access arrangements are needed, for example, making alternate arrangements for people with low literacy or from linguistically diverse backgrounds to understand the effect of the Order. For more information on inclusion and access measures, refer to the Ministerial Guidelines.

Communication and Access Arrangements

If an Immediate Order or an Ongoing Order is made in respect of a parent/guardian of a child at the School, the Authorised Person must prepare a communication and access protocol which sets out:

- the measures to be taken to ensure that the parent may continue to communicate with the School and be informed about the child's education (for example, where a parent is unable to attend a parent and teacher meeting, exploring alternative options such as video conferencing)
- arrangements to ensure the child's continued attendance at and safe access to the School and School's activities, if the parent cannot escort the child to or from school or school activities as a result of the Order; and
- any other matters as set out in the Ministerial Guidelines.

The School uses the Communcation and Access Protocol template to issue a communication and access protocol.

Disclosure of Orders

It is the School's policy that Orders will be treated confidentially, and disclosure will be on a "need to know" basis.

The number and identity of the School's staff who must be made aware of an Order and the terms of the Order will depend on the nature and effect of the Order.

For example:

- where an Order prohibits a parent of a student from entering or remaining on any School-related Place of the School, the following staff members should be aware of the Order to monitor the parent's compliance with the Order:
- the Principal and Deputy/Assistant Principal/s
- the student's classroom teacher
- front of house administrative staff who greet visitors who enter School grounds
- any teachers who are scheduled to be on yard duty (particularly during drop-off and pick-up periods) during the period of the Order; and
- any teacher who is in charge or supervising students at the School or a School-related Place off school grounds where an activity is being conducted by or in connection with the School
- where an Ongoing Order prohibits a person from approaching, or communicating with, a staff member, or a class of staff members, the relevant staff member or staff members should be made aware of the existence of the Order and be instructed to inform the Principal/Headmaster/Headmistress if the person fails to comply with the Order
- where an Ongoing Order prohibits a person from approaching or communicating with all staff members of the School, all staff members should be made aware of the existence of the Order

and be instructed to inform the Principal/Headmaster/Headmistress if the person fails to comply with the Order.

Staff members who are aware of an Order must not disclose that information to other staff members or members of the School community unless it is related to the monitoring or enforcing the Order.

Monitoring Orders

The Principal/Headmaster/Headmistress will make arrangements to monitor compliance with Orders.

Staff of the School who are made aware of an Order must also notify the Principal/Headmaster/Headmistress if they observe any positive behaviours that may for the basis of revoking or amending the Order.

For more information about actions for monitoring compliance, refer to the Ministerial Guidelines.

Variation of Ongoing Orders

An Authorised Person who made an Ongoing Order may vary the Order, either on their own motion or on request of the person to whom the Ongoing Order applies. A variation to an Ongoing Order may:

- vary or revoke existing conditions on or exceptions to the Order
- impose new conditions on the Order
- provide for new exceptions to the Order.

For more circumstances in which Ongoing Orders may be varied, refer to the Ministerial Guidelines.

The following types of variations to Ongoing Orders are not permitted by the Scheme:

- a **variation to reflect a change of enrolment**. If a parent subject to an Ongoing Order withdraws their child from the School (i.e. to which the Ongoing Order applies) and re-enrols the child in a different school, the Ongoing Order cannot be amended to name that new school.
- a **variation to add names of other people to whom the order applies.** Each Ongoing Order may only apply to one person. An Order must not be varied to apply to other people, even if those people may be from the same family or involved with the conduct or behaviour that led to the making of the Order.
- a **variation to the duration of an Ongoing Order beyond 12 months**. If an Ongoing Order is needed for a longer period than 12 months, a fresh Order must be made, following the

processes and requirements for making an Ongoing Order.

For more information, refer to the Ministerial Guidelines.

Procedure for Varying Ongoing Orders

If an Authorised Person varies an Ongoing Order in a way that disadvantages or is unfavourable to the person to whom the Order applies, or declines a request by the subject of an Ongoing Order to vary the Order, the Authorised Person must comply with the requirements and processes that apply to the making of an Ongoing Order under sections 2.1A.15 to 2.1A.24 of the ETR Act and follow the steps in Ongoing School Community Safety Orders, Information to Be Included in Orders and Communication and Access Arrangements.

For more information about procedures for varying an Ongoing Order, refer to the Ministerial Guidelines.

Revocation of Ongoing Orders

An Authorised Person can revoke an Ongoing Order, at any time, if the person who is the subject of the Order undertakes any of the actions to address their behaviour, as specified in the Order, or for any other reason that is acceptable to the Authorised Person in the circumstances.

The revocation of an Order must be communicated to the person subject to the Order either verbally or in writing.

For more information about revoking an Ongoing Order, refer to the Ministerial Guidelines.

Review of Ongoing Orders

A person to whom an Ongoing Order applies may apply in writing to the School for an internal review of the decision to:

- make the Ongoing Order
- vary the Ongoing Order on the Authorised Person’s own motion
- refuse an application for variation to the Ongoing Order
- refuse to revoke an Ongoing Order.

The School must refer the application to a Reviewer as soon as is practicable after receiving the application.

A Reviewer in the School context is the Principal/Headmaster/Headmistress or the proprietor of the School.

The Reviewer conducts the review in accordance with the School's public-facing Complaint Handling Policy, specifically step 5 of the policy.

A person who is unsatisfied with the outcome of an internal review may apply to the Victorian Civil and Administrative Tribunal (VCAT) for an external review of the decision.

The Ongoing Order remains in place while an internal or external review is being completed.

For more information about the review process, refer to the Ministerial Guidelines.

Enforcement

A person who is subject to an Order must comply with the Order. A failure to do so may result in the School taking enforcement action.

It is our policy that:

- the Deputy Principal or Assistant Principal makes a written record of the non-compliance
- the Deputy Principal or Assistant Principal considers the circumstances of the breach of the Order, including:
    - whether to make an application to the Magistrate's Court for an order is proportionate to the non-compliance; and
    - whether there are other, more appropriate steps or actions available to the School to deal with the non-compliance
- the Deputy Principal or Assistant Principal must provide a report to the School's Principal about the circumstances of the breach and provide a recommendation about what steps should be taken to deal with the non-compliance and whether an application to the Magistrate's Court for an order is warranted
- the Principal may:
    - issue a verbal or written warning to the relevant person that their behaviour is a contravention of the Order
    - provide the person who is subject to the Order an opportunity to respond or explain their behaviour
    - if the non-compliance is considered serious, apply to the Magistrate's Court for an order under section 2.1A.40 of the ETR Act.

For more information about enforcement action, refer to the Ministerial Guidelines.

Record Keeping and Reporting

The School must comply with the record keeping requirements under the Guidelines.

Records to Be Kept

The Authorised Person will:

- cause a copy of the written notice of an Immediate or Ongoing Order to be created and stored securely at or within the possession of the School
- where it is unable to be given to the person affected, create a written record of the Order that includes the reason why it couldn't be given to the person affected and a description of the person to whom the Order applies.

An Authorised Person must also create a record of any documents or recordings associated with:

- submissions received by the Authorised Person about the Order or proposed Order
- requests for and consideration of variations to or revocations of an Order
- Immediate Orders overturned on automatic review
- a proposal to make an Ongoing Order but where, during the Show Cause Process, the Authorised Person decided not to make the Ongoing Order
- internal reviews lodged, including the outcome of internal review processes and related documents such as formal correspondence, submissions and the decision letter
- external reviews lodged with the Victorian Civil and Administrative Tribunal (VCAT), including documents associated with the outcome or resolution of the VCAT application
- compliance or non-compliance with an Order, including documents associated with any enforcement proceedings lodged in the Magistrates' Court in respect of non-compliance with Ongoing Orders
- the outcome of the review process or a legal proceeding.

The Authorised Person must keep records, in an accessible form which is easily transformed into an electronic form, of the number of:

- Orders made
- Immediate Orders made but not followed up with an Ongoing Order
- Ongoing Orders revoked

- internal reviews lodged
- external reviews lodged with VCAT
- Ongoing Orders subject to enforcement action in the Magistrates' Court,

collectively referred to as **Order Numbers**.

Reporting Requirements

The Authorised Person must provide or cause to be provided to the Secretary a de-identified report of Order Numbers for the preceding financial year, not more than 28 days following the conclusion of the preceding financial year (Order Number Report).

Record Keeping Responsibilities

The Principal is responsible for:

- storing and securing the records required under the Ministerial Guidelines in a safe and secure location which ensures their integrity, authenticity, security and accessibility
- retaining the records permanently (until further notice is given otherwise by the Public Record Office Victoria)
- being able to report data on Orders, in electronic form, in accordance with the Ministerial Guidelines, on behalf of the Authorised Person
- preparing the Order Number Report on behalf of the Authorised Person.

For more information about reporting record keeping requirements, refer to the Ministerial Guidelines.

Interaction with Other Schemes

The Scheme is intended to operate side by side with, and in some circumstances be an available option for the School to consider using in addition to or instead of, the following laws and schemes:

- the personal safety intervention order (PSIO) scheme under the Personal Safety Intervention Order Act 2010 (Vic)
- the trespass warning notice (TWN) scheme under section 9 of the Summary Offences Act 1966 (Vic)
- any other applicable laws.

The School must also continue to comply with obligations under the Reportable Conduct Scheme and the Child Safe Standards.

For more information about the interaction with other schemes, refer to the Ministerial Guidelines.

Police Involvement

Police or other emergency services should always be contacted in the case of an emergency, immediate threat, or suspected criminal behaviour.

Police do not have the power to make or enforce an Order as the Scheme has been deliberately designed to be a civil penalty scheme that does not impose any criminal liability for a failure to comply with an order.

For examples of when police should or should not be contacted, refer to the Ministerial Guidelines.

Considerations and Actions After Issuing an Order

All efforts must be made to ensure that there are minimal impacts on a child due to an Order made against their parent/carer, including avoiding any disruption to the student's educational opportunities and negative impacts to their wellbeing.

It is also important for the School to:

- support the re-engagement of a parent into the school community following the expiration of an Order; and
- minimise the impacts of an Order on staff.

For more information about considerations and actions after issuing and Order, refer the Ministerial Guidelines.

Implementation

This Policy is implemented through a combination of:

- staff training
- effective incident notification procedures.

Breach

Breach of this Policy and its Procedures may result in disciplinary action.

Definitions

Term	Definition
Harm	For the purposes of the Scheme, harm may be caused by: • physical conduct towards a student, **Staff Member**, or parent, such as hitting, kicking, shoving, physical restraint of, and using weapons or objects to injure, a person • verbal abuse towards a student, staff member, parent or carer, for instance, using obscene or derogatory language to communicate • threats of harm, where they have the potential to cause fear or distress • **Vexatious Communications** that cause unreasonable stress or anxiety in the workplace and the staff member's personal life. Harm can be experienced differently from person to person depending on their individual circumstances and vulnerabilities, which should be factored into the Authorised Person's assessment of harm directed at staff or other **Members of the School Community**. Mental harm may be experienced by an individual immediately following the incident or may manifest sometime in the future. For example, trauma can often unexpectedly affect individuals some time after the incident that caused the trauma occurred.
Member of the School Community	A member of the school community is: 1. a student enrolled at the School 2. a parent of a student enrolled at the School 3. a Staff Member of the School 4. a person other than a person referred to in paragraphs (a), (b) or (c) who is present at a **School-related Place** of the School for a reason connected with the School.

Reasonably Believe	A reasonable belief is an objective test which requires the existence of facts which are sufficient to induce the belief in a reasonable person standing in the shoes of the decision-maker.
School-related Place	In the School context, this means: 1. any premises of the School and an area that is within 25 metres of the boundary of those premises 2. any premises (other than those in a)) on which there is an activity conducted by or in connection with the School and an area that is within 25 metres of the boundary of those premises (for example, a school camp) 3. for an activity conducted by or in connection with the School, if the activity or part of the activity is not conducted at a place described in paragraph (a) or (b), any place where the activity is conducted and an area that is within 25 metres of the boundary of that place.
Staff Member	A Staff Member of the School means any person employed by the School to perform work for or at the School.
Vexatious Communications	In relation to a staff member of the School, means a communication that a reasonable person would consider unreasonable, having regard to the circumstances, in one or more of the following forms: 1. a person approaching, telephoning, sending messages to or otherwise contacting (whether by electronic means or otherwise) the Staff Member 2. a person publishing (whether on the internet, by email or by any other form of written communication) material about the staff member 3. a person causing someone else to engage in a behaviour set out in paragraph (a) or (b) on the person's behalf.

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Source of Obligation

- Education and Training Reform Act 2006 (Vic)
- School Community Safety Order Scheme Ministerial Guidelines
- Personal Safety Intervention Order Act 2010 (Vic)

- Summary Offences Act 1966 (Vic)
- Reportable Conduct Scheme
- Child Safe Standards

References

- **School Community Safety Order Scheme Ministerial Guidelines**
- **Department of Education, School Community Safety Orders, Resources** (including fact sheets for parents, templates, eLearn module for Authorised Person, communications toolkits, posters).