

Organisational Duty of Care – Wrongs Act 1958 (Vic)

The involvement of children and young people in the Catholic Archdiocese of Melbourne exemplifies the central mission of our Church, which is to facilitate connection with the teaching and mission of Jesus Christ and communion with God. With this mission comes a fundamental moral and legal responsibility to safeguard children and young people.

Duty of care is a legal principle which encapsulates this responsibility and requires those who work with children and young people to take reasonable care not to cause harm or to engage in any behaviour which could be reasonably foreseen to cause harm.

All forms of child abuse are a breach of our duty of care.

The Catholic Archdiocese of Melbourne must apply a reasonable standard of care to our work with children and young people. It is important to understand that a breach of our duty of care may comprise behaviour such as:

- acting in a manner that places children and young people at risk (e.g. providing a child with alcohol during a parish celebration)
- failing to act to protect children and young people (e.g. not supervising children and young people attending a youth social activity).

ORGANISATIONAL DUTY OF CARE

In response to the Betrayal of Trust report, the Victorian government amended the *Wrongs Act 1958* (Vic) to include an additional duty of care for organisations in Victoria to prevent child abuse within organisations. The new law came into effect on 1 July 2017.

Part XIII of the Act now reinforces the need for organisations to take reasonable steps to prevent sexual and/or physical abuse committed by an individual associated with the organisation, and clarifies the liability of organisations when they fail to do so. The person making a civil claim is required to prove that abuse has occurred. However, once this has been established, the onus of proof then shifts to the organisation to demonstrate that it had taken reasonable steps to prevent the abuse.

USEFUL RESOURCES

Department of Justice and Regulation 2017, *Betrayal of Trust INFORMATION SHEET: The new organisational duty of care to prevent child abuse*.

www.justice.vic.gov.au/safer-communities/protecting-children-and-families/betrayal-of-trust-fact-sheet-the-new

Family and Community Development Committee 2013, *Betrayal of trust: Inquiry into the handling of child abuse by religious and other non-government organisations*, report (G Crozier, chair), 2 vols.

<http://www.parliament.vic.gov.au/fcdc/inquiries/article/1788>

Wrongs Act 1958 (Vic) pt XIII ('Organisational liability for child abuse').

www6.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol_act/wa1958111



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*The Archdiocese is committed to the safety, wellbeing and dignity
of all children, young people and vulnerable adults.*