

## School Guidelines 2.19a

# Police and DHHS Interview Protocols

*These Guidelines are to be read in conjunction with Policy 2.19 PROTECT: Identifying and responding to abuse – Reporting obligations (updated March 2019).*

Catholic Education Melbourne is committed to supporting schools to take a proactive role in the care, wellbeing and protection of children and young people.

## Purpose

These Guidelines are designed to assist principals to:

- understand and comply with their legal requirements when a request is made by Victoria Police or Department of Health and Human Services (DHHS) Child Protection workers to interview students regarding child protection incidents
- cope with what are often stressful and delicate situations.

## Background

As law enforcement officers, Victoria Police has broad powers to investigate, question, search and detain. For the most part, Victoria Police will conduct interviews of witnesses and suspects at the police station. However, there will be rare urgent circumstances in which Victoria Police may wish to interview a student under the age of 18 at school. How this should be approached will depend upon whether the student concerned is:

- a victim
- a witness
- a suspect.

Victoria Police should only interview children at school as a matter of urgency or necessity. DHHS Child Protection workers also have wide powers to investigate and obtain information that is relevant to the protection or development of a child.

Interviews by DHHS Child Protection workers would normally be carried out in the home with parents/carers present but, as for Victoria Police, there will be occasions when DHHS Child Protection workers need to interview a child at school as a matter of urgency or necessity.

## General Protocols

**Principals must:**

- facilitate interviews requested by Victoria Police or DHHS Child Protection workers
- advise children or young people of their right to have an independent supportive adult, parent or carer present at such an interview.

**Note:** An independent supportive adult may be the principal or a teacher as long as a conflict of interest does not exist. From a practical perspective, this might include a situation where the principal or teacher is related to the perpetrator of the child protection incident, the child is a family member, or the principal or teacher may be the perpetrator

- arrange for the child to choose an independent supportive adult to be present
- balance their obligation to protect the rights of students with their obligation to assist Victoria Police and DHHS Child Protection in their exercise of duty
- ensure there is someone acting as an independent supportive adult for students interviewed at school by Victoria Police or DHHS Child Protection workers
- observe confidentiality at all times in the management of a mandatory reporting or criminal case.

If legal assistance is required, contact Catholic Education Melbourne's Legal Services unit in the first instance.

**Important: Neither Victoria Police nor DHHS Child Protection are permitted to interview a student at school unless someone is acting as an independent supportive adult for that student.**

## Contacting parents/carers prior to Victoria Police or DHHS Child Protection interviews

**Before contacting parents/carers,** principals must seek advice from Victoria Police or DHHS Child Protection (depending on who the report was made to) to determine if parents/carers should be present at an interview.

In many cases where it is suspected that a child has been or is at risk of being abused, **it is extremely important that parents/carers are notified as soon as practicable.** This enables parents/carers to take steps to:

- prevent or limit their child's exposure to further abuse
- ensure that their child receives the support they require.

However, there are some circumstances where contacting parents/carers may place a child at greater risk.

This is why, before contacting parents/carers, the **principal (or delegate) must contact Victoria Police or DHHS Child Protection** (depending on who the report was made to). They will advise the principal (or delegate) about whether it is appropriate to contact parents/carers at this stage.

## Student as a victim or witness

When principals allow interviews to take place involving students who may be victims or witnesses, they should:

- support and encourage the student to provide as much information as possible
- inform the student that a note of the circumstances and the content of the interview will be made and communicated to their parents/carers as soon as possible, unless doing so causes a risk of abuse (including family violence).

If Victoria Police asks to speak with a student who has allegedly been abused by another child, this should preferably be done in the presence of the student's parents/carers or another independent supportive adult who is not a school staff member.

By 'independent adult', this means a person aged 18 or over who is not directly connected to the school or to the case being investigated by Victoria Police. For example, a social worker, doctor or nurse, volunteer from the local community (e.g. a youth leader) or legal representative.

If the matter is urgent and the school is unable to find an independent adult, or if the school is unsure about who an independent adult may be in a particular context, the school should call Catholic Education Melbourne's **Student Wellbeing Information Line (9 am – 5 pm weekdays)** on **9267 0228**.

The following table describes how principals should determine when to grant an interview request with a student who may be a victim or witness.

When the principal:	Then the principal should:
<ul style="list-style-type: none"><li>• is asked to allow a child or young person to be interviewed at school</li></ul>	<ul style="list-style-type: none"><li>• ensure that the child's parents/carers are present where it is practical and appropriate to make these arrangements. If a parent/carer cannot be present, an independent supportive adult must be present during the interview</li></ul>

When the principal:	Then the principal should:
<ul style="list-style-type: none"> <li>is asked to allow a child or young person to be interviewed at school without the parents/carers present</li> </ul>	<ul style="list-style-type: none"> <li>allow the interview if there are reasonable grounds to exclude the parents/carers from the interview.</li> </ul> <p><b>Example:</b> The interview relates to an allegation of abuse involving parents, carers, siblings or other members of the student's family, or a person with some relationship to the family, and the student is supported by an independent adult</p>
<ul style="list-style-type: none"> <li>is satisfied that immediate action is necessary and cannot contact the parents/carers or the parents/carers do not agree</li> </ul>	<ul style="list-style-type: none"> <li>allow the interview, with the principal or suitable delegate representing the parents/carers, so long as a conflict of interest does not exist.</li> </ul> <p>If a conflict exists, an independent supportive adult must be present – this may be a senior staff member at the school</p>
<ul style="list-style-type: none"> <li>is not satisfied that immediate action is required</li> </ul>	<ul style="list-style-type: none"> <li>only allow the interview when a parent/carer or their nominee is present, or the parents/carers authorise the principal to act as their representative</li> </ul>
<ul style="list-style-type: none"> <li>is informed that a number of students need to be interviewed in order to identify potential witnesses</li> </ul>	<ul style="list-style-type: none"> <li>only allow the interview: <ul style="list-style-type: none"> <li>to identify witnesses for further interviews</li> <li>to take place with a parent/carer or suitable delegate authorised by the parents/carers (such as the principal) to act as their representative.</li> </ul> </li> </ul>

## Student as a suspect

If a student under 18 years of age is suspected of having committed a crime, Victoria Police cannot question the student unless a parent or carer is present. If a parent or carer is not available and the principal is satisfied the matter is urgent, an independent supportive adult must be present.

If Victoria Police asks to speak with a student under the age of 18 who has allegedly abused another child, this should be done in the presence of the student's parents/carers or another independent supportive adult who is not a school staff member.

By 'independent adult', this means a person aged 18 or over who is not directly connected to the school or to the case being investigated by Victoria Police. For example, a social worker, doctor or nurse, volunteer from the local community (e.g. a youth leader) or legal representative.

If the matter is urgent and the school is unable to find an independent adult, or if the school is unsure about who an independent adult may be in a particular context, the school should call Catholic Education Melbourne's **Student Wellbeing Information Line (9 am – 5 pm weekdays)** on **9267 0228**.

A student suspect must be given the chance to talk to their parent/carer or an independent adult in a place where they won't be overheard (section 464E of the *Crimes Act 1958* (Vic.)).

**However, Victoria Police does not have to wait until the parent, carer or independent adult is present where:**

- communication would result in the escape of an accomplice or the destruction of evidence
- the safety of other people means that questioning should not be delayed.

A student suspected of perpetrating abuse will only be interviewed by Victoria Police at school without a parent or carer present in very urgent and extreme situations.

When approached by Victoria Police and advised that a student suspect is to be interviewed, the principal must:

- try to advise the parents/carers of the situation
- inform the student that a note of the circumstances and the content of the interview will be made and communicated to their parents/carers as soon as possible
- ensure that an independent supportive adult is present at the interview if the student's parents/carers are unavailable.

In cooperating with a legitimate request from Victoria Police, the principal should always consider:

- their duty of care to the student
- their duty of care to all other students at the school
- the rights of the parents/carers.

## Acting in the absence of parents/carers

This table provides guidance on how the principal should act in the absence of parents/carers.

When the parents/carers:	Then the principal should allow the interview if the questioning or investigation:
<ul style="list-style-type: none"><li>• cannot be present because they:<ul style="list-style-type: none"><li>○ cannot be contacted</li><li>○ have not authorised the principal or their delegate to act as their representative</li></ul></li><li>• do not agree to the interview</li></ul>	<ul style="list-style-type: none"><li>• is urgently necessary to avert injury to others or a miscarriage of justice</li></ul>
	<ul style="list-style-type: none"><li>• is so urgent for the safety of other people that it should not be delayed.</li></ul>

## Duties of employees as parent/carer representatives

The table below provides guidance on how employees should conduct themselves when acting as a support person for students during interviews.

When	The employee should:
At all times	<ul style="list-style-type: none"><li>• support the student</li><li>• ensure the student understands what is happening</li><li>• ensure the student understands their rights</li></ul>
Before the interview	<ul style="list-style-type: none"><li>• be aware that:<ul style="list-style-type: none"><li>○ in more serious cases, the most appropriate advice may be that there is no compulsion to answer police questions and the student should seek legal advice</li><li>○ in less serious cases, the most appropriate advice may be to cooperate fully with Victoria Police</li></ul></li><li>• inform the student that, although it is advisable to do so, they are not legally obliged to provide their name and address to Victoria Police unless:<ul style="list-style-type: none"><li>○ they are driving a motor vehicle</li><li>○ Victoria Police has reasonable grounds to believe that the student has committed or is about to commit an offence, or the student can assist in the investigation of an indictable offence</li></ul></li></ul>

When	The employee should:
	<ul style="list-style-type: none"> <li>○ Victoria Police or an officer authorised under the <i>Transport (Compliance and Miscellaneous) Act 1983</i> (Vic.) has reasonable grounds to believe that the student has committed or is about to commit an offence against the Transport Act or its Regulations, such as travelling on a train without a valid ticket</li> </ul>
During the interview	<ul style="list-style-type: none"> <li>● focus on supporting the student</li> <li>● refrain from providing their own opinions or account of events</li> <li>● refrain from asking the student questions about the offence or their guilt, or acting as an authority figure</li> <li>● ensure that they will be in a position to give an accurate account of the interview in any court proceedings, either by taking notes during the interview or making a note immediately afterwards.</li> </ul>

## Complying with subpoenas or court attendance

A subpoena or witness summons is a court order that compels an individual to either produce documents or attend court and give evidence, or both.

The principal or another school staff member will usually be issued with a subpoena or witness summons because a party to legal proceedings believes that the school, the principal or a staff member has information or documents that are relevant to the proceedings.

For advice and support in relation to complying with subpoenas or witness summons, the school can contact Catholic Education Melbourne's **Legal Services unit** on **9267 0228**.

## Further Information

Catholic Education Melbourne's **Student Wellbeing Information Line** can be contacted between **9 am and 5 pm weekdays on 9267 0228**.

The Student Wellbeing Information Line seeks to:

- address matters that impact the wellbeing and educational outcomes of young people arising in Catholic school communities across the Archdiocese of Melbourne using a solution-focused framework
- act as a conduit between the school and family to promote effective communication and resolution of enquiries
- empower and enhance the capacity, competence and confidence of stakeholders to address matters related to the wellbeing of young people.

Approval date	March 2019
Date of next review	December 2020

POLICY DATABASE INFORMATION	
Related documents	<ul style="list-style-type: none"> <li>● Policy 2.19 – PROTECT: Identifying and responding to abuse – Reporting obligations</li> <li>● School Template – PROTECT: Identifying and responding to abuse – Reporting obligations</li> </ul>