

School Guidelines 2.19a

Police and DHHS Interview Protocols

These Guidelines are to be read in conjunction with [Policy 2.19 Child Protection – Reporting Obligations](#)

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

This protocol is designed to assist principals:

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

Background

As law enforcement officers, the Police have broad powers to investigate, question, search and detain. For the most part, the Police will conduct interviews of witnesses and suspects at the Police station. However, there will be rare urgent circumstances in which the 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.

The 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 the Police, there will be occasions when 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 the 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:
 - 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 the 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 the 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 Unit in the first instance.

Important: A student being interviewed at school by the Police or DHHS Child Protection is not permitted unless someone is acting as an independent supportive adult for that student.

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

Before contacting parents/carers, principals must seek advice from the 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 that 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 the 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 witness or victim

When principals allow interviews 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.

If the Police request 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 staff member.

By 'independent adult' it means a person aged 18 or over who is not directly connected to the school or to the case being investigated by the 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**.

If the parents/carers of a student are uncontactable or do not agree to an interview, and there is an urgent need to conduct an interview to avoid injury to others or a miscarriage of justice, the principal should allow the interview – subject to ensuring an independent adult is present.

This 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"> is asked to allow a child or young person to be interviewed at school; 	<ul style="list-style-type: none"> ensure that the child's parents/carers are present where it is practical and appropriate to make these arrangements. <ul style="list-style-type: none"> If a parent/carer cannot be present, an independent, supportive adult must be present during the interview.
<ul style="list-style-type: none"> is asked to allow a child or young person to be interviewed at school without the parents/carers present; 	<ul style="list-style-type: none"> allow the interview if: <ul style="list-style-type: none"> there are reasonable grounds to exclude the parents/carers from the interview. <p>Example: The interview involves 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 adult.</p>
<ul style="list-style-type: none"> is satisfied that immediate action is necessary and cannot contact the parents/carers; 	<ul style="list-style-type: none"> allow the interview, with the principal or suitable delegate representing the parents/carers, so long as a conflict of interest does not exist. <ul style="list-style-type: none"> If a conflict exists, an independent, supportive adult must be present – this may be a senior staff member at the school.
<ul style="list-style-type: none"> is not satisfied that immediate action is required; 	<ul style="list-style-type: none"> 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.
<ul style="list-style-type: none"> is informed that a number of students need to be interviewed in order to identify potential witnesses; 	<ul style="list-style-type: none"> only allow the interview: <ul style="list-style-type: none"> to identify witnesses for further interviews with a parent/carer or suitable delegate authorised by the parents/carers (such as the principal), to act as their representative.

Student as suspect

If a student under 18 years of age is a suspect to a crime, the Police cannot question the suspect 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 adult must be present.

If the Police need to speak to a student under the age of 18 who has allegedly abused another child, this should be done in the presence of a parent/carer, or another independent adult who is not a staff member. By 'independent adult' it means a person aged 18 or over who is not directly connected to the school or to the case being investigated by the 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 (9am – 5pm weekdays) 9267 0228**.

The suspect must be given the chance to talk to the parent/carer or independent adult in a place where

they won't be overheard (Section 464E of the *Crimes Act 1958* (Vic.)).

However, the Police do 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 the Police at school without a parent or carer present in very urgent and extreme situations.

When approached by the 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
- if the parents/carers are unavailable, ensure that the student has an independent support person at the interview
- in cooperating with a legitimate request from the Police, the principal must always consider:
 - their duty of care to the student
 - their duty of care to all other students at school
 - the rights of the parents/carers.

Acting in the absence of parents/carers

This table provides guidance for how employees 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"> • cannot be present because they: <ul style="list-style-type: none"> ○ cannot be contacted; or ○ have not authorised the principal or their delegate to act as their representative; 	<ul style="list-style-type: none"> • is urgently necessary to avert injury to others or a miscarriage of justice.
<ul style="list-style-type: none"> • do not agree to the interview; 	<ul style="list-style-type: none"> • is so urgent for the safety of other people that it should not be delayed.

Duties of employees as parent/carers representatives

This table provides guidance for 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"> • support the student • ensure the student understands what is happening • ensure the student understands their rights.

When:	The employee should:
Before the interview	<ul style="list-style-type: none"> • be aware that: <ul style="list-style-type: none"> ○ 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; and ○ in less serious cases, the most appropriate advice may be to cooperate fully with the police. • Inform the student that, although it is advisable to do so, they are not legally obliged to provide their name and address to the Police unless: <ul style="list-style-type: none"> ○ they are driving a motor vehicle ○ the Police have reasonable grounds to believe that the student has or is about to commit an offence, or the student can assist in the investigation of an indictable offence ○ the Police or an officer authorised under the <i>Transport Act 1983</i> (Cth) have reasonable grounds to believe that the student has or is about to commit an offence against the <i>Transport Act</i> or its regulations, such as travelling on a train without a valid ticket.
During the interview	<ul style="list-style-type: none"> • focus on supporting the child • refrain from providing their own opinions or account of events • refrain from asking the child questions about the offence or their guilt or acting as an authority figure • 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.

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 a 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 proceeding.

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

Further information

Catholic Education Melbourne's **Student Wellbeing Information Line (9am – 5pm daily) 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 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.

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