



**MARIAN  
COLLEGE**

## **PROTECT Procedures – Police or DFFH Child Protection interviews at School**

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.

Victorian Department of Families, Fairness and Housing (DFFH) 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 DFFH Child Protection workers would normally be carried out in the home with Parents & Guardians present but, like Victoria Police, there will be occasions when DFFH Child Protection workers need to interview a child at school as a matter of urgency or necessity.

When considering whether to facilitate police or DFFH Child Protection conducting an interview with a student at school, Principals and staff must consider the human rights set out in the [Charter of Human Rights and Responsibilities Act 2006 \(Vic.\)](#). This includes considering:

- How the decision will assist the protection of families as the fundamental group unit of society and the child's rights to protection as is in their best interests and needed by them by reason of being a child.
- Whether or not there is any less restrictive arrangement that would not unreasonably compromise the child's safety and wellbeing in making sure the law is upheld, and also engaging with their family..

There may be other specific circumstances that may require additional considerations of human rights, including the right to protection against discrimination and to enjoy human rights without discrimination; the right to enjoy cultural, religious, racial or linguistic background in community with other persons of that background; and an Aboriginal person's right to hold, enjoy and maintain their distinct cultural rights with other members of their community

### **Purpose**

The purpose of these procedures to assist Principal to:

- Respond to a request by Victoria Police or DFFH Child Protection workers to interview a student(s) at school.
- Understand and comply with their legal requirements when a request is made by Victoria Police or DFFH Child Protection workers to interview students regarding child protection incidents.
- Manage situations which can be stressful and sensitive.

### **Procedure**

## Principal responsibilities

Principals (or delegates) must:

- Facilitate interviews requested by Victoria Police or DFFH Child Protection workers at school only if the following circumstances apply:
  - It is a matter of urgency or necessity.
  - The school is the only appropriate location for the interview.
  - The only time the interview can occur is during school hours.
  - There are reasonable grounds for seeking to exclude the Parents & Guardians from the interview and have the interview conducted at school with a school staff member supporting the student during the interview.

- 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 if a conflict of interest does not exist. A conflict of interest might arise 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 the teacher may be the perpetrator.

- Arrange for the child to choose an independent supportive adult to be present. If the student is not mature enough to make this decision, a Principal or school staff member can support the student during the interview process balance their obligation to protect the rights of students with their obligation to assist Victoria Police and DFFH 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 DFFH Child Protection workers.
- Ensure official identification of Victoria Police or DFFH Child Protection is checked before allowing access to any child.
- Seek to have Victoria Police or DFFH Child Protection put their request for the interview in writing.
- Observe confidentiality at all times in the management of a mandatory reporting or criminal case.
- Create a record of the interview, including key information.
- Store and manage records of the interview as per the Public Records Act 1973 (Vic.).

Important: Neither Victoria Police nor DFFH Child Protection are permitted to interview a student (under 18 years of age) at school unless someone is acting as an independent supportive adult for that student. In the event Victoria Police, DFFH Child Protection or an Independent Children's Lawyer insists on no adult being present in an interview, please contact the Kildare Legal and Professional Standards Unit for advice.

## Contacting Parents & Guardians prior to Victoria Police or DFFH Child Protection interviews

There are some circumstances where contacting Parents & Guardians may place a child at greater risk. Before contacting Parents & Guardians, Principals must seek advice from Victoria Police or DFFH Child Protection (depending on who made the interview request) to determine if Parents & Guardians should be present at an interview. The school must record details of this consultation and subsequent decision.

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 & Guardians are notified as soon as practicable. This enables Parents & Guardians to take steps to:

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

## 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 & Guardians 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 student, this should preferably be done in the presence of the student's Parents & Guardians or another independent supportive adult who is not a school staff member.

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 contact the Kildare Legal and Professional Standards Unit for advice.

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:	The Principal should:
Is asked to allow a child or young person to be interviewed at school.	<ul style="list-style-type: none"> <li>Request the reason for the interview and why it must be conducted at school.</li> <li>Ensure that the child's Parents &amp; Guardians are present where it is practical and appropriate to make these arrangements.</li> <li>Ensure that if a parent/guardian/carer cannot be present, an independent supportive adult is present during the interview.</li> <li>Ensure appropriate records are kept. The template provided may assist.</li> </ul>
Is asked to allow a child or young person to be interviewed at school without the Parents & Guardians present.	<ul style="list-style-type: none"> <li>Grounds to exclude the parents/guardians/ carers from the interview.</li> </ul> <p>Example: 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>Ensure appropriate records are kept. The template provided may assist.</li> </ul>
Is satisfied that immediate action is necessary and cannot contact the Parents & Guardians or the Parents & Guardians do not Agree.	<ul style="list-style-type: none"> <li>Allow the interview, with the Principal or suitable delegate representing the Parents &amp; Guardians, so long as a conflict of interest does not exist.</li> <li>Ensure that if a conflict exists, an independent supportive adult is present – this may be a senior staff member at the school.</li> <li>Ensure appropriate records are kept.</li> </ul>
Is not satisfied that immediate action is required.	<ul style="list-style-type: none"> <li>Only allow the interview when a parent/guardian/carer or their nominee is present, or the Parents &amp; Guardians authorise the Principal to act as their representative.</li> <li>Ensure appropriate records are kept. The template provided may assist.</li> </ul>
Is informed that a number of students need to be interviewed in order to identify potential witnesses.	<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/guardian/carer or suitable delegate authorised by the Parents &amp; Guardians (such as the Principal) to act as their representative.</li> <li>Ensure appropriate records are kept.</li> </ul> </li> </ul>

### **Student as a suspect (including incidents of alleged student sexual offending)**

If a student under 18 years of age is suspected of having committed a crime, Victoria Police cannot question the student unless a parent/guardian/carer is present. If a parent/guardian/carer is not available and the Principal is satisfied that 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 & Guardians or another independent supportive adult who is not a school staff member. 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.

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 contact the Kildare Legal and Professional Standards Unit for advice.

A student suspect must be given the chance to talk to their parent/guardian/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 do not have to wait until the parent/guardian/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.

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

- Try to advise the Parents & Guardians 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 & Guardians as soon as possible.
- Ensure that an independent supportive adult is present at the interview if the student's.
- Parents & Guardians 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 & Guardians.

### Acting in the absence of Parents & Guardians

This table provides guidance on how the Principal (or delegate) should act in the absence of Parents & Guardians.

When the Parents & Guardians:	The Principal should allow the interview if questioning or investigation:
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>	Is urgently necessary to avert injury to others or a miscarriage of justice.
Do not agree to the interview.	Is so urgent for the safety of other people that it should not be delayed.

### Duties of employees as parent/guardian/carer/representative.

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's wellbeing.</li> <li>• Ensure the student understands what is happening and the information being provided to them.</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</li> </ul> </li> </ul>



	<p>no compulsion to answer police questions and the student should seek legal advice</p> <ul style="list-style-type: none"> <li>- In less serious cases, the most appropriate advice may be to cooperate fully with Victoria Police.</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>
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 immediately afterwards.</li> </ul>

### Complying with subpoenas or court attendance

A subpoena or witness summons is a document issued by the Court that compels an individual to produce documents and/or attend court and give evidence.

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 have information or documents that are relevant to the proceedings.

For advice and support in relation to complying with subpoenas or witness summons, the school should contact the Kildare Legal and Professional Standards Unit for advice.

### Definitions

For the purpose of this policy the following terms are defined as follows:

<b>Child:</b>	A child or young person under the age of 18 years.
<b>Independent adult:</b>	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

### Legislation and Standards:

Child Wellbeing and Safety Act 2005 (Vic.)

Children, Youth and Families Act 2005 (Vic.)

Crimes Act 1958 (Vic.)

Education and Training Reform Act 2006 (Vic.)

Education and Training Reform Regulations 2017 (Vic.)

Family Violence Protection Act 2008 (Vic.)

Information Privacy Act 2000 (Vic.)

Ministerial Order 1359: Implementing the Child Safe Standards – Managing the Risk of Child Abuse in Schools and School Boarding Premises

Victorian Institute of Teaching Act 2001 (Vic.)

Working with Children Act 2006 (Vic.)

Wrongs Act 1958 (Vic.).

### Document History

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