

## FORM 7: Police and DFFH Interview Protocol



# POLICE AND DFFH INTERVIEW PROTOCOL

## 1. Vision

The vision for Catholic Education Sandhurst Limited (CES) is to provide, in partnership with our families, stimulating, enriching, liberating and nurturing learning environments in each of the Catholic school communities within the Diocese. At the heart of this vision is our commitment to the ongoing duty of care that we have for the safety, wellbeing, and inclusion of all children and young people.

We believe:

- that the values of the Gospel are central to who we are, what we do, and how we act
- in leadership encompassing vision, innovation and empowerment.

## 2. Background

Both Victoria Police and DFFH Child Protections have a role in investigating allegations of child abuse. Refer to *PROTECT: Responding and Reporting Obligations Policy* in this document for more information. When investigating allegations of child abuse, Victoria Police will endeavour to conduct interviews at the police station. Nevertheless, urgent circumstances sometimes arise where Victoria Police may wish to interview a student under the age of 18 at school. When considering how to deal with these requests the principal should be aware of different considerations depending on whether the student is:

- a victim
- a witness
- a suspect

DFFH Child Protection workers normally conduct interviews with students at home with parents or carers present. Nevertheless, as with Victoria Police, situations sometimes arise where Child Protection workers need to interview the child at school.

Insert date

### 3. Purpose

These protocols were written to assist principals or relevant school staff to understand and comply with legal requirements when a request is made by Victoria Police or DFFH Child Protection workers to interview students at school with regard to child safety incidents.

### 4. General Protocols

Principals must:

- facilitate interviews requested by Victoria Police when deemed a matter of urgency or necessity
- facilitate interviews requested by DFFH Child Protection workers when deemed a matter of urgency or necessity
- 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 safety 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 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
- observe confidentiality at all times in the management of a mandatory reporting or criminal case.

If legal assistance is required, contact the relevant member of the CES Ltd Executive Leadership Team in the first instance.

**Important: Neither Victoria Police nor DFFH 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 Child Protection Interviews

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.

Nevertheless, 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 DFFH 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 facilitate 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 (including family violence).

If Victoria Police request an interview 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.

If Victoria Police request an interview 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.

An ‘independent adult’ is defined as a person aged 18 years 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 seek advice from the relevant of the CES Ltd Executive Leadership Team.

The table (next page) advises 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:
receives a request for a student to be interviewed at school	ensure the child’s parents/carers are present where it is practical and appropriate. If a parent/carer cannot be present, an independent supportive adult must be present during the interview
receives a request for a student	allow the interview, if there are reasonable grounds to exclude

to be interviewed at school without parents/carers present	the parents/carers from the interview. E.g., The interview relates to an allegation of abuse involving members of the student's family or a person with some relationship to the family, and the student is supported by an independent adult
Is satisfied that urgent action is necessary and cannot contact the parents/carers or the parents/carers do not agree	allow the interview, with the principal (or suitable delegate) representing the parents/carers, so long as a conflict of interest does not exist.  If a conflict exists, an independent supportive adult must be present. This may be a senior staff member at the school.
Is not satisfied that immediate action is required	only allow the interview when a parent/carer or their nominee is present, or the parent/carer authorise the principal to act as their representative
Is informed that a number of students need to be interviewed in order to identify potential witnesses	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 parents/carers to act as their representative</li> </ul>

### Student as a Suspect

Victoria Police cannot question a student under 18 years of age who is suspected of committing a crime, 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 18 years of age 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.

An 'independent adult' is defined as a person aged 18 years 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 the relevant member of the CES Ltd Executive Leadership Team.

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 (sections 464E of the *Crimes Act 1958* (Vic)).

**Nevertheless, 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.

Victoria Police will not interview a student who has allegedly abused another child at school, without a parent or carer present unless the situation is very urgent or extreme.

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

- try to advise the parents/carers of the situation unless otherwise advised by Victoria Police
- 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 and Carers

The table next page advises how principals should act in the absence of parents/carers

When the parents/carers:	Then the principal should allow the interview if the questioning of 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 with the interview	Is so urgent for the safety of other people that it should not be delayed

### Duties of Employees as Parent/Carer Representatives

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

When	The employee should:
At all times	support the student ensure the student understands what is happening ensure the student understands their rights
Before the interview	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> 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>• 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>
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> </ul>

## 5. Revisions made to this document

October 2020	New document created for CES Ltd Board
[Date of 1 <sup>st</sup> approval]	New Document approved by CES Ltd Board

## 6. Further Assistance

### Related policies

- *PROTECT Responding and Reporting Obligations Policy*
- *PROTECT Responding and Reporting Obligations Procedures*
- *Mandatory Reporting Policy*

### Other Resources

- *CEVN - Child Safety*
- *DET - PROTECT*