

PROTECT Procedure

Police or DFFH Child Protection interviews at school

Melbourne Archdiocese Catholic Schools Ltd (MACS) is committed to supporting schools to take a proactive role in the care, wellbeing and protection of children and young people.

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/carers 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.

Following this procedure will support schools to consider these issues, noting that 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 principals 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.

Scope

These procedures apply to all MACS schools.

Procedures

MACS school communities demonstrate effective pastoral care through the following strategies.

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/carers 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 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. The Interview Template may be used to assist record keeping
- 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 MACS Legal and Professional Standards Unit for advice.*

Contacting parents/guardians/carers prior to Victoria Police or DFFH Child Protection interviews

There are some circumstances where contacting parents/guardians/carers may place a child at greater risk. Before contacting parents/guardians/carers, principals must seek advice from Victoria Police or DFFH Child Protection (depending on who made the interview request) to determine if parents/guardians/carers 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/carers are notified as soon as practicable. This enables parents/guardians/carers 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/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 student, this should preferably be done in the presence of the student's parents/guardians/carers 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 MACS 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"> • request the reason for the interview and why it must be conducted at school • ensure that the child's parents/guardians/carers are present where it is practical and appropriate to make these arrangements • ensure that if a parent/guardian/carer cannot be present, an independent supportive adult is present during the interview • ensure appropriate records are kept. The template provided may assist.
is asked to allow a child or young person to be interviewed at school without the parents/guardians/carers present	<ul style="list-style-type: none"> • allow the interview if there are reasonable grounds to exclude the parents/guardians/carers from the interview <p><i>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, <u>and the student is supported by an independent adult</u></i></p> <ul style="list-style-type: none"> • ensure appropriate records are kept. The template provided may assist.
is satisfied that immediate action is necessary and cannot contact the parents/guardians/carers or the parents/guardians/carers do not agree	<ul style="list-style-type: none"> • allow the interview, with the principal or suitable delegate representing the parents/guardians/carers, so long as a conflict of interest does not exist • ensure that if a conflict exists, an independent supportive adult is present – this may be a senior staff member at the school • ensure appropriate records are kept. The template provided may assist.

When the principal:	The principal should:
is not satisfied that immediate action is required	<ul style="list-style-type: none"> only allow the interview when a parent/guardian/carer or their nominee is present, or the parents/guardians/carers authorise the principal to act as their representative ensure appropriate records are kept. The template provided may assist.
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 to take place with a parent/guardian/carer or suitable delegate authorised by the parents/guardians/carers (such as the principal) to act as their representative ensure appropriate records are kept. The template provided may assist.

If the principal or delegate has any questions, concerns or doubts about allowing an interview on school grounds, they should contact the MACS Legal and Professional Standards Unit for advice.

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/carers 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 MACS 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 does 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/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/guardians/carers as soon as possible. This template may assist.

- ensure that an independent supportive adult is present at the interview if the student's parents/guardians/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/guardians/carers.

Acting in the absence of parents/guardians/carers

This table provides guidance on how the principal (or delegate) should act in the absence of parents/guardians/carers.

When the parents/guardians/carers:	Then the principal should allow the interview if the questioning or investigation:
cannot be present because they: <ul style="list-style-type: none"> cannot be contacted 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.
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.

If the principal or delegate has any questions, concerns or doubts about allowing an interview on school grounds, they should contact the MACS Legal and Professional Standards Unit for advice.

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"> support the student's wellbeing ensure the student understands what is happening and the information being provided to them ensure the student understands their rights.
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 in less serious cases, the most appropriate advice may be to cooperate fully with Victoria Police. 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"> they are driving a motor vehicle 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.
During the interview	<ul style="list-style-type: none"> focus on supporting the student refrain from providing their own opinions or account of events refrain from asking the student questions about the offence or their guilt, or acting as an authority figure

When:	The employee should:
	<ul style="list-style-type: none"> 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. This template may assist in appropriate note taking.

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 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 should contact the MACS Legal and Professional Standards Unit for advice.

Definitions

Child

Child means a child or young person who is under the age of 18 years.

Source: [Child Wellbeing and Safety Act 2005 \(Vic.\)](#) and [Ministerial Order No. 1359](#).

Child abuse

Child abuse includes:

- (a) any act committed against a Child involving:
 - (i) a sexual offence
 - (ii) an offence under section 49B(2) of the Crimes Act 1958 (grooming)
- (b) the infliction, on a Child, of:
 - (i) physical violence
 - (ii) serious emotional or psychological harm
- (c) serious neglect of a Child.

Family Violence

Family violence is defined under the *Family Violence Protection Act 2008* (Vic.) to include behaviour that causes a child to hear, witness or be exposed to the effects of family violence such as abusive, threatening, controlling or coercive behaviour. While family violence does not form part of the official definition of 'child abuse' in the *Child Wellbeing and Safety Act 2005* (Vic.), the impact of family violence on a child can be a form of child abuse, for example, where it causes serious emotional or psychological harm to a child. A child can also be a direct victim of family violence.

Grooming

Grooming refers to predatory conduct undertaken by an adult (18 years or over) to prepare a child for sexual activity at a later time. It is a sexual offence under section 49M of the *Crimes Act 1958* (Vic.) carrying a maximum 10-year term of imprisonment. Under section 49M, the adult's words or conduct must be intended to facilitate the child engaging or being involved in the commission of, or attempt to commit, a sexual offence by the adult or another adult.

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.

Indictable offence

Indictable offences are serious criminal offences, many of which are set out in the [Crimes Act 1958](#). Indictable offences include murder, rape, assault, manslaughter, making threats to kill, and theft.

Melbourne Catholic Archdiocese Schools Ltd (MACS)

MACS is a reference to Melbourne Archdiocese Catholic Schools Ltd, and / or its subsidiaries, MACSS and/or MACSEYE (as the context requires).

MACS school or school

A school which operates with the consent of the Catholic Archbishop of Melbourne and is owned, operated and governed by MACS, directly or through MACSS (as the context requires). References to schools or MACS schools also includes boarding premises of schools operated by MACS and specialist schools operated by MACSS.

Melbourne Archdiocese Catholic Schools Early Years Education Ltd (MACSEYE)

Melbourne Archdiocese Catholic Early Years Education Ltd, a subsidiary of MACS established to conduct early childhood education and care services.

MACSEYE service

An early childhood education and care service which is owned, operated and governed by MACSEYE.

Melbourne Archdiocese Catholic Specialist Schools Ltd (MACSS)

Melbourne Archdiocese Catholic Specialist Schools Ltd, a wholly owned subsidiary of MACS established to conduct and operate specialist schools.

Mandatory reporters

Mandatory reporters listed under the *Children, Youth and Families Act 2005* (Vic.) include:

- Victorian Institute of Teaching (VIT) registered teachers (including principals and early childhood teachers)
- school staff who have been granted permission to teach by VIT
- registered medical practitioners, nurses and midwives
- people in religious ministry
- youth justice workers
- out-of-home care workers (excluding voluntary and kinship carers)
- school counsellors, including staff who provide direct support to students for mental, emotional and psychological wellbeing, including (but not limited to) school health and wellbeing staff, primary welfare officers, student wellbeing coordinators, mental health practitioners, and chaplains.

Mandatory reporting

Mandatory reporting is the legal requirement under the *Children, Youth and Families Act 2005* (Vic.) to protect children from harm relating to physical and sexual abuse. A child, for the purposes of the relevant parts of this Act, is any person under the age of 17 years ([PROTECT: Identifying and responding to all forms of abuse in Victorian schools](#)).

Mature minor

A mature minor is an individual in a MACS school who is assessed by the principal of that school to be a mature minor.

Physical violence

Physical violence occurs when a child suffers or is likely to suffer significant harm from a non-accidental injury or injuries inflicted by another person. Physical violence can be inflicted in many ways, including beating, shaking, burning or using weapons (such as belts and paddles). Physical harm may also be caused during student fights.

Policy

A high-level, principles-based directive that must be complied with across MACS, MACSS and MACSEYE.

Principal/director

Individual appointed by MACS as principal in a MACS school or director in a MACSEYE service.

Procedure

A step-by-step or detailed instruction for the implementation of MACS policy that is mandatory across MACS, MACS schools and MACSEYE.

Reasonable belief

A reasonable belief or a belief on reasonable grounds is not the same as having proof but is more than rumour or speculation. A reasonable belief is formed if a reasonable person in the same position would have formed the belief on the same grounds.

A reasonable belief might be formed if:

- a child states that they have been physically or sexually abused
- any person tells you that they believe someone has been abused; this may include a child who is talking about themselves
- you observe physical or behavioural indicators of abuse, as described in [PROTECT: Identifying and Responding to All Forms of Abuse in Victorian Schools](#)
- a child or young person exhibits sexually abusive or age-inappropriate behaviour(s)
- professional observations of the child's behaviour or development cause you to form a belief that the child has been physically or sexually abused or is likely to be abused.

While any indicators of possible child abuse or neglect are concerning, it is important to understand that the presence of a number of indicators that suggest either physical or sexual abuse of a child may be sufficient to form a reasonable belief in a mandatory reporter's mind which must be reported.

Risk

Risk is defined as the effect of uncertainty on objectives. An effect is a deviation from the expected – positive and/or negative. Risk is often expressed in terms of a combination of the consequences of an event (including changes in circumstances or knowledge) and the associated likelihood of occurrence.

Risk management

The coordinated activities to direct and control an organisation regarding risk.

School/service environment

Means any of the following physical, online or virtual places used during or outside school/service hours:

- a campus of the school
- a campus of a MACSEYE service
- online or virtual school/service environments made available or authorised by MACS or a MACS school or MACSEYE service for use by a child or student (including email, intranet systems, software, applications, collaboration tools and online services)
- other locations provided by the school/service or through a third-party provider for a child or student to use including, but not limited to, locations used for camps, approved homestay accommodation, delivery of education and training, sporting events, excursions, competitions and other events) ([Ministerial Order No. 1359](#)).

School/service staff

Means an individual working in a school/service environment who is:

- directly engaged or employed by a school/service governing authority
- a contracted service provider engaged by MACS or MACSEYE (whether or not a body corporate and whether or not any other person is an intermediary) engaged to perform child-related work for a MACS school or MACSEYE service
- a minister of religion, a religious leader or an employee or officer of a religious body associated with MACS ([Ministerial Order No. 1359](#)).

Serious emotional or psychological harm

Serious emotional or psychological abuse may occur when a child is repeatedly rejected, isolated or frightened by threats or the witnessing of family violence. It also includes hostility, derogatory name-calling and put-downs, or persistent coldness from a person, to the extent where the behaviour of the child is disturbed, or their emotional development is at serious risk of being impaired. Serious emotional or psychological harm could also result from conduct that exploits a child without necessarily being criminal, such as encouraging a child to engage in inappropriate or risky behaviours.

Serious neglect

Neglect includes a failure to provide a child with an adequate standard of nutrition, medical care, clothing, shelter or supervision. Significant neglect causes harm to a child that is more than trivial or temporary. Serious neglect is when the child is exposed to an extremely dangerous or life-threatening situation and there is a continued failure to provide a child with the basic necessities of life.

Sexual offences

For the purposes of this policy, a sexual offence occurs when a person involves a child in sexual activity, or deliberately puts the child in the presence of sexual behaviours that are exploitative or inappropriate to the child's age and development. Sexual offences are governed by the *Crimes Act 1958* (Vic.). Sexual abuse can involve a wide range of sexual activity and may include fondling, masturbation, oral sex, penetration, voyeurism and exhibitionism. It can also include exploitation through pornography or prostitution.

Student

Student means a person who is enrolled at or attends a MACS school.

Volunteer

A person who performs work without remuneration or reward for MACS, a MACS school or MACSEYE service in the school/service environment.

Support

MACS Legal and Professional Standards Unit seeks to provide schools with support and advice on legal matters.

- Phone: 9267 0228
- Email: legal@macs.vic.edu.au

MACS Student Wellbeing Information and Support Service (SWISS) seeks to address matters that impact the wellbeing and educational outcomes of young people arising using a solution-focused framework, and empower and enhance the capacity, competence and confidence of staff to address matters related to the wellbeing of young people.

- Phone: 9267 0228
- Email: swb@macs.vic.edu.au

Related policies and documents

Supporting documents

PROTECT: Identifying and Responding to Abuse – Reporting Obligations Policy

PROTECT Procedure: Informing staff of reporting obligations

PROTECT Procedure: Responding to all forms of child abuse

PROTECT Procedure: Responding to offences under the *Crimes Act 1958* (Vic.)

PROTECT Procedure: Responding to police and Child Protection requests for further information

PROTECT Procedure: Responding to student sexual offending

Student Interview Template: Police or DFFH Child Protection interviews at school

Related MACS policies and documents

Child Safety Code of Conduct
Child Safety and Wellbeing Policy
Child Safety and Wellbeing Record Keeping Policy
Complaints Handling Policy
Duty of Care Policy for MACS Schools
Pastoral Care Policy for MACS Schools
Supervision Policy

Resources

[Charter of Human Rights and Responsibilities Act 2006 \(Vic\)](#)
[Child Information Sharing Scheme](#)
[Child Information Sharing and Family Violence Reforms on the CEVN website](#)
[DET Mature Minors and Decision Making \(2020\)](#)
[Family Violence Information Sharing Scheme](#)
[Four Critical Actions for Schools: Responding to Incidents, Disclosures and Suspicions of Child Abuse](#)
[Four Critical Actions for Schools: Responding to Student Sexual Offending](#)
[National Framework for Protecting Australia's Children 2021–2031](#)
[Policy and Advisory Library \(PAL\): Police and Child Protection Interviews](#)
[PROTECT on the CEVN Website](#)
[PROTECT: Identifying and Responding to All Forms of Abuse in Victorian Schools](#)
[PROTECT: Identifying and Responding to Student Sexual Offending](#)
[PROTECT: Responding to Suspected Child Abuse: A Template for all Victorian Schools](#)
[PROTECT: Responding to Student Sexual Offending: Principal Checklist](#)
[PROTECT: Responding to Student Sexual Offending: A Template for all Victorian Schools](#)

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.).

Policy information table

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