XAVIER COLLEGE

Policy Name: Child Protection – Reporting obligations
Mandatory Reporting of Child Physical and Sexual Abuse.

<table>
<thead>
<tr>
<th>Replaces Policy:</th>
<th>Mandatory Reporting of Child Physical and Sexual Abuse</th>
<th>Date: 30 March 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Draft Developed by:</td>
<td>CEOM (Adapted by Assistant to the Principal)</td>
<td>Date: 9 July 2015</td>
</tr>
<tr>
<td>Authorised By:</td>
<td>Principal</td>
<td>Date: 9 July 2015</td>
</tr>
<tr>
<td>Updated</td>
<td>Date:</td>
<td></td>
</tr>
</tbody>
</table>

Purpose of this policy

Xavier College is committed to ensuring the safety and wellbeing of all students. This is of paramount importance. All students attending Xavier College have a right to protection from harm.

Mandatory reporting arises from the requirements of the Children, Youth and Families Act 2005 (Vic.) for the protection of children from harm due to physical injury and sexual abuse. School personnel mandated under this Act who, in the course of carrying out their duties, form a reasonable belief that a child is in need of protection from physical or sexual abuse, must report that belief and the grounds for it as soon as possible.

Policy

All teachers, other staff and volunteers (staff) within Xavier College are bound by legal and professional obligations to implement child protection and child safety policies, protocols and practices and to ensure the requirements of the duty of care are satisfied.

This policy defines the roles and responsibilities of staff in protecting the safety and wellbeing of children and young people at risk. It complements the guidelines Protecting the safety and wellbeing of children and young people which is a joint protocol of the Department of Health Human Services (DHHS) Child Protection, the Department of Education and Training (DET), Licensed Children’s Services and Victorian schools (the Protocols).

This policy is designed to assist staff to:
- identify the indicators of a child or young person who may be in need of protection
- make a report of a child or young person who may be in need of protection
- comply with mandatory reporting obligations under child protection law and criminal law.

It is important that all staff at Xavier College read this policy so they understand the professional, moral and legal obligations to be considered when determining what action is appropriate when there is a reasonable belief that a child is in need of protection.
**Reporting Criminal Child Abuse**

Any staff member who forms a reasonable belief that a sexual offence has been committed in Victoria by an adult against a child under 16 must disclose that information to police. Failure to disclose the information to police is a criminal offence, except in limited circumstances such as where the information has already been reported to DHHS Child Protection.

The offence applies to all adults in Victoria, not just professionals who work with children. To read more information about the ‘failure to disclose’ offence, see: [Department of Justice and Regulations – Failure to disclose offence](#).

**Protecting children from the risk of abuse**

Any staff member in a position of authority, who becomes aware that an adult associated with their organisation (such as an employee, contractor, volunteer or visitor) poses a risk of sexual abuse to a child under the care, authority or supervision of the organisation, must take all reasonable steps to remove or reduce that risk such as removing the adult from child-related work pending investigation.

Failure to take reasonable steps to protect a child in the organisation from the risk of sexual abuse from an adult associated with the organisation is a criminal offence. The offence applies only to adults in a position of authority within an organisation, including Principals, senior school staff, regional directors and other senior managers.

Read more information about the ‘failure to protect offence’, see: [Department of Justice and Regulations – Failure to protect offence](#).

For more information about managing and responding to the risk of abuse see: [Duty of care, Responding to Student Sexual Assault and Risk management](#) refer to [Department of Education and Training resources](#).

**Forming a ‘reasonable belief’**

A ‘reasonable belief’ or a ‘belief on reasonable grounds’ is not the same as having proof but is more than mere 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.

For example, a ‘reasonable belief’ might be formed if:
- a child states that they have been physically or sexually abused
- a child states that they know someone who has been physically or sexually abused (sometimes the child may be talking about themselves)
- someone who knows a child states that the child has been physically or sexually abused
- professional observations of the child’s behaviour or development leads a professional to form a belief that the child has been physically or sexually abused or is likely to be abused
- signs of abuse lead to a belief that the child has been physically or sexually abused.

*If there is a belief that a sexual offence has been committed in Victoria against a child under 16 it is an offence if it is not disclosed to police, except in limited circumstances.* Refer [Department of Justice and Regulations – Failure to disclose offence](#).
**Duty of care**

Staff members at Xavier College, whether mandated or not, have a duty of care to protect the safety, health and wellbeing of children in their care. If a staff member has concerns about the safety, health and wellbeing of children in their care it is important to take immediate action. A child, for the purpose of the relevant parts of the *Children, Youth and Families Act 2005 (Vic.)*, is any person 17 years of age or younger.

In the case of a child who may be in need of protection or therapeutic treatment, or where there are significant concerns about the wellbeing of a child, staff can discharge this duty of care by taking action which includes the following:

- report their concerns to the DHHS Child Protection or another appropriate agency, such as the Police or Child First.
- Child Protection is the Victorian Government Agency, provided by the DHHS that protects children at risk of significant harm. Child Protection has statutory powers and can use these to protect children.
- Child First is the Family Information Referral Support Team run by a registered community service in a local area that can receive confidential referrals about a child of concern. It does not have any statutory powers to protect a child but can refer matters to family services.
- notify the principal or a member of the school leadership team of their concerns and the reasons for those concerns. The individual staff member should make their own assessment about whether they should make a report about the child or young person and to whom the report should be made.

**Types of child abuse and indicators of harm**

Child abuse can have a significant effect on a child’s physical or emotional health, development and wellbeing. The younger a child the more vulnerable he/she is and the more serious the consequences are likely to be.

Types of child abuse include:

- physical abuse
- sexual abuse
- emotional abuse
- neglect
- medical neglect
- family violence
- human trafficking (including forced marriage)
- sexual exploitation (including pornography and prostitution).

Making a report to DHHS Child Protection may also be needed for:

- risk-taking behaviour
- female genital mutilation
- risk to unborn child
- child or young person exhibiting sexually-abusive behaviours
- there are indications that a child is being groomed. For information see: *Department of Justice and Regulation – Grooming offence.*
There are many indicators of child abuse and neglect. The presence of a single indicator, or even several indicators, does not prove that abuse or neglect has occurred. However, the repeated occurrence of an indicator, or the occurrence of several indicators together, should alert staff to the possibility of child abuse and neglect.

A requirement of the *Children, Youth and Families Act (2005)* and detailed further in the *Protocols* is that when a mandatory reporter forms a reasonable belief that a child is in need of protection and that the child’s parents are unwilling or unable to protect the child a report must be made to Child Protection as soon as practicable after forming the belief and on each occasion on which the mandatory reporter becomes aware of further reasonable grounds for the belief.

**Note:** For full definitions for all of the types of child abuse and a comprehensive list of the indicators of harm refer to *Appendix 2: Protecting the safety and wellbeing of children and young people*

**Reporting child protection concerns**

If staff have significant concern for the wellbeing of a child or young person they are encouraged to report their concerns to DHHS Child Protection or Child FIRST.

Although it is not mandatory to report suspected incidents of emotional abuse or neglect, mandatory reporters who have a significant concern for a child’s wellbeing should contact Child FIRST or make a report to Child Protection if a reasonable belief has been formed that a child is in need of protection.

Mandatory reporters must report their concern to DHHS Child Protection if there is a reasonable belief that a child or young person is in need of protection from physical injury or sexual abuse. It is essential to document the concerns and observations which contributed to the suspicion that a child is in need of protection. This information may be gathered over a period of time and should be treated confidentially and held securely.

It is recommended that concerns and observations regarding suspected physical injury or sexual abuse of a child are discussed with the Principal or senior school staff member in accordance with school processes to support all involved in matters of this nature. The confidentiality of these discussions must be maintained.

If more than one mandated reporter has formed a belief about the same child on the same occasion it is sufficient for one professional to make a report. The other is obliged to ensure the report has been made and that all grounds for their own belief were included in the report made by the other staff member (Section 184(2)).

The mandatory reporter may continue to suspect that a child is at risk and in need of protection. Any further observations should continue to be recorded and to make a report on each separate occasion where a belief has been formed, on reasonable grounds, that a child is likely to be at risk and in need of protection. If there is any suspicion that this relates to a sexual offence involving an adult and a child under 16 then it must be reported to the police. Refer to *Department of Justice and Regulations – Failure to disclose offence*.

All school staff, whether mandated or not, need to report their belief when it is formed in the course of undertaking their professional duties.
If one mandated reporter directs another mandated reporter not to make a report, and the one professional continues to hold the belief that a child is in need of protection, then that professional is legally obliged to make a report to Child Protection.

All other school staff who believe on reasonable grounds that a child or young person is in need of:
- protection, are encouraged to report their concerns to DHHS Child Protection or Victoria Police.
- therapeutic treatment are encouraged to report their concerns to DHHS Child Protection.

**When to Report**

This table sets out when to report a concern that a child or a young person has been abused, or is in need of protection.

<table>
<thead>
<tr>
<th>Type of Reporting</th>
<th>By Whom</th>
<th>To Whom</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Mandatory Reporting - DHHS Child Protection</strong></td>
<td>Mandatory reporters&lt;br&gt;Teachers registered to teach or who have permission to teach pursuant to the <em>Education and Training Reform Act</em> 2006 (Vic)&lt;br&gt;Principals of government and non-government schools&lt;br&gt;Registered medical practitioners&lt;br&gt;Nurses&lt;br&gt;All members of the police force</td>
<td>DHHS Child Protection</td>
</tr>
<tr>
<td><em>Mandatory Reporting - DHHS Child Protection</em></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mandatory reporters must make a report as soon as practicable if, in the course of practising their profession or carrying out their duties, they form a belief on reasonable grounds that a child or young person is in need of protection, as a result of physical injury or sexual abuse, and the child’s parents are unable or unwilling to protect the child.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Child in need of protection</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Any person must make a report if they believe on reasonable grounds that a child is in need of protection for any of the following reasons:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- The child has been abandoned and there is no other suitable person who is willing and able to care for the child.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- The child’s parents are dead or incapacitated and there is no other suitable person who is willing and able to care for the child.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- The child has suffered or is likely to suffer significant harm as a result of physical injury and the parents are unable or unwilling to protect the child.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- The child has suffered or is likely to suffer significant harm as a result of sexual abuse and their parents are unable or unwilling to protect the child.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- The child has suffered or is likely to suffer emotional or psychological harm and the parents are unable or unwilling to protect the child.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- The child’s physical development or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Type of Reporting</td>
<td>By Whom</td>
<td>To Whom</td>
</tr>
<tr>
<td>----------------------------------------------------------------------------------</td>
<td>--------------------------</td>
<td>------------------------------</td>
</tr>
<tr>
<td>health has been, or is likely to be significantly harmed and the parents are unable or unwilling to provide basic care, or effective medical or other remedial care.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Child in need of therapeutic treatment</strong></td>
<td>Any person</td>
<td>DHHS Child Protection</td>
</tr>
<tr>
<td>Any person may make a report if they believe on reasonable grounds that a child who is 10 years of age or over, but under 15 years of age, is in need of therapeutic treatment because he or she has exhibited sexually-abusive behaviours.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Significant concerns about wellbeing of a child</strong></td>
<td>Any person</td>
<td>DHHS Child Protection</td>
</tr>
<tr>
<td>School staff can seek advice from or make referral to DHHS Child Protection or Child FIRST if they have a significant concern for the wellbeing of a child and where the immediate safety of the child is not compromised.</td>
<td></td>
<td>Child FIRST</td>
</tr>
<tr>
<td>The staff member should share relevant information with Child FIRST to help them complete their assessment of the referral.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Reasonable belief that a sexual offence has been committed by an adult against a child under 16.</strong></td>
<td>Any person aged 18 or over</td>
<td>Victoria Police</td>
</tr>
<tr>
<td>Any adult who forms a reasonable belief that a sexual offence has been committed in Victoria by an adult against a child under 16 must report that information to police. You will not be guilty of an offence if you do not report in the following circumstances:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• The victim is 16 years of age or older and does not have an intellectual disability that limits his/her capacity to make an informed decision; and he/she does not want the information reported to the police.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• The victim has disclosed the information in confidence in the course of a therapeutic relationship with you as a registered medical practitioner or counsellor.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• The victim turned 16 years of age before 27 October 2014.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Reasonable excuses for failing to comply with the requirement include:
- A reasonable belief that the information has already been reported to police or DHHS Child Protection disclosing all of the information
- A reasonable fear that the disclosure will place someone (other than the alleged perpetrator) at risk of harm

### Making a report

This table describes the information to include when making a mandatory report about child abuse or child protection concerns.

**In case of emergency or if a child is in immediate danger contact Triple Zero (000) or the local police station.**

Alternatively, to report concerns about the immediate safety of a child within their family unit to DHHS Child Protection, call the Child Protection Crisis Line on 13 12 78 (24 hours 7 days, toll free).

<table>
<thead>
<tr>
<th>Step</th>
<th>Description</th>
</tr>
</thead>
</table>
| 1.   | Keep comprehensive notes that are dated and include the following information:  
- A description of the concerns (e.g. physical injuries, student behaviour)  
- The source of those concerns (e.g. observation, report from child or another person)  
- The actions taken as a result of the concerns (e.g. consultation with principal, report to DHHS Child Protection etc.). |
| 2    | Discuss any concerns about the safety and wellbeing of students with the principal or a member of the school leadership team. The individual staff member should then make their own assessment about whether they should make a report about the child or young person and to whom the report should be made. |
| 3    | Gather the relevant information necessary to make the report. This should include the following information:  
- Full name, date of birth, and residential address of the child or young person  
- The details of the concerns and the reasons for those concerns  
- The individual staff member’s involvement with the child and young person  
- Details of any other agencies who may be involved with the child or young person. |
<table>
<thead>
<tr>
<th>Step</th>
<th>Description</th>
</tr>
</thead>
</table>
| 4    | Make a report to the relevant agency:  
To report concerns that are life threatening phone 000 or the local police station.  
To find the nearest Victoria Police Sexual Offences and Child Abuse Investigation Team contact your local police station or [click here](#).  
To report concerns about the immediate safety of a child within their family unit to DHHS Child Protection, call the Child Protection Crisis Line on 13 12 78 (24 hrs 7 days, toll free).  
To report concerns to DHHS Child Protection, contact your local child protection office. |
| 5    | Make a written record of the report which includes the following information:  
the date and time of the report and a summary of what was reported,  
the name and position of the person who made the report and the person who received the report. |
| 6    | Notify relevant school staff and/or Department staff of a report to DHHS Child Protection or Child FIRST.  
School staff should advise the principal or a member of the leadership team if they have made a report. |
| 7    | In the case of international students, the principal must notify the Department’s International Education Division on (03) 9637 2990 to ensure that appropriate support is arranged for the student.  
In the case of Koorie students, the principal must notify the Diocese or Regional Office (as appropriate) to ensure the regional Koorie support officer can arrange appropriate support for the student. |

**Potential consequences of making a report**

This table describes the potential consequences of making a report.

<table>
<thead>
<tr>
<th>Potential consequence</th>
<th>Description</th>
</tr>
</thead>
</table>
| Confidentiality       | The identity of a reporter must remain confidential unless:  
- the reporter chooses to inform the child, young person or parent of the report.  
- the reporter consents in writing to their identity being disclosed.  
- a Court or Tribunal decides that it necessary for the identity of |
<table>
<thead>
<tr>
<th>Potential consequence</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>the reporter to be disclosed to ensure the safety and wellbeing of the child.</td>
</tr>
<tr>
<td></td>
<td>- a Court or Tribunal decides that, in the interests of justice, the reporter is required to provide evidence.</td>
</tr>
<tr>
<td>Professional Protection</td>
<td>If a report is made in good faith:</td>
</tr>
<tr>
<td></td>
<td>- it does not constitute unprofessional conduct or a breach of professional ethics on the part of the reporter.</td>
</tr>
<tr>
<td></td>
<td>- the reporter cannot be held legally liable in respect of the report.</td>
</tr>
<tr>
<td>Interviews</td>
<td>DHHS Child Protection and/or Victoria Police may conduct interviews of children and young people at the school without the parent’s knowledge or consent.</td>
</tr>
<tr>
<td></td>
<td>- Interviewing children and young people at school should only occur in exceptional circumstances and if it is in the best interests of the child to proceed in this manner.</td>
</tr>
<tr>
<td></td>
<td>- DHHS Child Protection and/or Victoria Police will notify the principal or a member of the leadership team of their intention to interview the child or young person on the school premises.</td>
</tr>
<tr>
<td></td>
<td>- When DHHS Child Protection practitioners/Victoria Police officers come to the school premises, the principal or a member of the leadership team should request to see identification before permitting them to have access to the child or young person.</td>
</tr>
<tr>
<td></td>
<td>- When a child or young person is being interviewed by DHHS Child Protection and/or Victoria Police, school staff must arrange to have a supportive adult present with the child or young person.</td>
</tr>
<tr>
<td></td>
<td>For more information on these requests and school responsibilities, see: <a href="#">Police and DHHS Interviews</a></td>
</tr>
<tr>
<td>Support for the child or young person</td>
<td>The roles and responsibilities of staff members in supporting children who are involved with DHHS Child Protection may include the following:</td>
</tr>
<tr>
<td></td>
<td>- acting as a support person for the child or young person</td>
</tr>
<tr>
<td></td>
<td>- attending DHHS Child Protection case planning meetings</td>
</tr>
<tr>
<td></td>
<td>- observing and monitoring the child’s behaviour</td>
</tr>
<tr>
<td></td>
<td>- liaising with professionals.</td>
</tr>
<tr>
<td>Requests for Information</td>
<td>DHHS Child Protection and/or Child FIRST and/or Victoria Police may request information about the child or family for the purpose of investigating a report and assessing the risk to the child or young person.</td>
</tr>
<tr>
<td></td>
<td>In certain circumstances, DHHS Child Protection can also direct school staff and Department staff to provide information or documents about the protection or development of the child. Such directions should be in</td>
</tr>
</tbody>
</table>
Potential consequence | Description
---|---
writing and only be made by authorised persons within DHHS Child Protection, see: [Requests for Information About Students](#)

| Witness Summons |
If DHHS Child Protection makes a Protection Application in the Children’s Court of Victoria, any party to the application may issue a Witness Summons to produce documents and/or to give evidence in the proceedings, see: [Subpoenas and Witness Summons](#)

Related resources
- Catholic Schools Operational Guide (CEVN site)
- Duty of care
- [Police and DHHS Interviews](#)
- [Responding to Student Sexual Assault](#)
- [Requests for Information about Students](#)
- [Subpoenas and Witness Summons](#)

Related legislation
- [Children, Youth and Families Act 2005](#)
- [Crimes Act 1958](#)
- [Education and Training Reform Act 2006](#)
- [Victorian Institute of Teaching Act 2001](#)

Department of Education and Training resource
- Flowchart: [A step-by-step guide to making a report to Child Protection or Child FIRST (PDF - 270Kb)](#)
- [Protecting the safety and wellbeing of children and young people](#)
- [Mandatory Reporting eLearning Module](#)

Department of Health and Human Services
- [Child Protection](#)
- [Child FIRST](#)
- [Victoria Police Sexual Offences and Child Abuse Investigation Teams (SOCIT)](#)

Department of Justice and Regulations
- [Failure to disclose offence](#)
- [Failure to protect offence](#)
- [Grooming offence](#)

Other resources
- Daniel Morcombe Child Safety Curriculum: - Scootle link
- Parents, see: [Daniel Morcombe Child Safety Curriculum Parent Guides - Queensland Department of Education, Training and Employment](#)
  - Victoria Police Sexual Offences and Child Abuse Investigation Teams (SOCIT)
Police and DHHS Interview Protocols

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 a student without parental consent.

This information is designed to assist principals to cope with what are often stressful and delicate situations.

**Background**

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

- a victim,
- a witness; or
- a suspect.

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

**Protocols**

The Principal must:

- facilitate interviews requested by police or DHHS Child Protection Workers
- advise children or young people of their right to have a supportive adult present at such an interview. This may be the principal or a teacher.
- arrange for the child to choose a supportive adult to be present
- balance their obligation to protect the rights of students with their obligation to assist the police/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 Child Protection workers.
- observe confidentiality at all times in the management of a mandatory reporting or criminal case.

**Important:** The interview of a student at school by Victoria Police or DHHS child protection is not permitted unless someone is acting as an independent supportive adult for that student.

**Student as victim or witness**

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/guardians as soon as possible, unless doing so causes risk of abuse.

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

<table>
<thead>
<tr>
<th>When the principal</th>
<th>then the principal should</th>
</tr>
</thead>
</table>
| is requested to allow a child or young person to be interviewed at school without the parents/guardians present | allow the interview if:  
• there are reasonable grounds to exclude the parents/guardians from the interview.  
**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.  
• the student is supported by an adult. |
| is satisfied that immediate action is necessary and cannot contact the parents/guardians | allow the interview with the principal or suitable delegate representing the parents/guardians. |
| is not satisfied that immediate action is required | only allow the interview when:  
• a parent/guardian or their nominee is present  
• parents/guardians 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:  
• to identify witnesses for further interviews  
• with the principal or suitable delegate present. |

**Student as suspect**

A suspect to a crime under the age of 18 may not be questioned by police unless the suspect’s parent or guardian is present.

If a parent or guardian is not available, and the principal is satisfied the matter is urgent, an independent person must be present.

The suspect must be given the chance to talk to the parent, guardian or independent person in a place where they won’t be overheard (s.464E *Crimes Act* (Vic.)).

However, police do not have to wait until the parent, guardian or independent person is present where:  
• communication would result in the escape of an accomplice or the destruction of evidence; or  
• the safety of other people means that questioning should not be delayed.
A child suspect will only be interviewed by police at school without a parent present in very urgent and extreme situations. When approached by 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
- if the parent/guardian is unavailable, ensure that the student has an independent support person at the interview
- In co-operating with a legitimate request from 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/guardians.

**Acting in the absence of parents/guardians**

<table>
<thead>
<tr>
<th>When the parents/guardians</th>
<th>then the principal should allow the interview if the questioning or investigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>cannot be present because they:</td>
<td>is urgently necessary to avert:</td>
</tr>
<tr>
<td>• cannot be contacted, or</td>
<td>• injury to others</td>
</tr>
<tr>
<td>• have not authorised the principal or their delegate to act as their representative</td>
<td>• miscarriage of justice.</td>
</tr>
<tr>
<td>do not agree to the interview</td>
<td>is so urgent for the safety of other people that it should not be delayed.</td>
</tr>
</tbody>
</table>

**Duties of employees as parent/guardian representatives**

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

<table>
<thead>
<tr>
<th>When</th>
<th>employee should</th>
</tr>
</thead>
</table>
| 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:  
• 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 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 police unless:  
• they are driving a motor vehicle |
<table>
<thead>
<tr>
<th>When</th>
<th>employee should</th>
</tr>
</thead>
</table>
|      | • 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 a indictable offence  
• police or an officer authorised under the *Transport Act 1983* have reasonable grounds to believe that the student has or is about to commit an offence against the Transport Act or its regulations, such as travelling on a train without a valid ticket. |
| During the interview | • 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. |

**Related policies**
- *Child Protection - Mandatory Reporting Obligations*
- *Responding to Student Sexual Assault*

**Related legislation**
- *Crimes Act 1958*
- *Education and Training Reform Act 2006*
- *Transport Act 1983*