

THE YOUTH WORKER AS A SUPPORT PERSON: CHECKLIST



This sheet is intended to provide general information only, not advice. If you have a particular legal problem you should contact a solicitor. Each section ends with a list of agencies who might be able to assist you, including legal agencies. The Youth Advocacy Centre does not accept responsibility for any action arising out of reliance on this information. This section was last updated June 2009. This legal information is relevant to Queensland, Australia.

A support person is only legally required if the offence the police may charge you with is an indictable offence. Even if the offence is not indictable, the police may still allow a support person.

If you are unable to be impartial and objective, do not take part in the interview.

People in a relationship of authority with the young person are unacceptable as support persons (for example, the young person's schoolteacher, employer, person in charge of an establishment where the young person lives). If parents are involved in the matter the young person is being questioned about, or are not able to support the young person in the interview, they should not act as support persons.

Make notes if you wish on any aspects of the interview process.

Remember, if you unnecessarily interfere with the police interview (eg. obstruct, answer questions for the young person) you can be excluded from the interview. If you get excluded from the police interview the young person is entitled to another support person.

STEP ONE

Talking to the Police

- Confirm the young person asked for you to be their support person. If they did not, whom did they ask for? Have they been called?
- Check if the young person's parents have been told about the interview and if so, ask why they are not present.
- Ask about the young person's identity.
- Ask what offence/s the young person is being interviewed about
- Ask if the young person is under arrest. If they are then:
 - what are they under arrest for; and
 - what time was the young person placed under arrest.
- Ask what the outcome will be if the young person does not participate in the interview. Will the police:
 - take no action;
 - request a Youth Justice Conference;
 - give the young person a caution;
 - ask them to attend a Drug Diversion Assessment Program;
 - arrest and charge the young person;
 - issue the young person with a notice to appear
- Ask who will be at the interview and when and how it will take place;
- Ask to speak to the young person in private.

STEP TWO

Talking to the young person

***Ensure that you are speaking privately.
Be sure that you can act impartially.***

- Check with the young person that they want you to be present at the interview, or whether they would prefer another suitable adult.
- Ensure the young person understands the support person role:
 - that you are present to help them understand the process;
 - if they tell you anything about the offence you may be called to give evidence in court;
 - that you cannot advise them whether to answer questions or help them answer questions before, or during the interview.

Explain to the young person their legal rights about:

Speaking to a solicitor

- Explain that you are not there as a solicitor but as a support person;
- Explain that they can speak to a solicitor if they want legal advice and that you can make this request to police and ask for the interview to be rescheduled.

Arrest

- Inform the young person about what the police are charging them with, and whether they are under arrest;
 - if under arrest, ask the young person whether they understand what they are under arrest for, and what time they say they were arrested.
 - if not under arrest, make sure the young person knows they have the right to leave the police station.
- Check whether the young person thinks that this information is correct. If they do not agree, take detailed notes.

The interview

- Explain that they cannot be pressured into taking part in the interview by being threatened, intimidated or being promised something.
- Remind the young person that they have a right to silence and do not have to answer any questions except for their name, age and address.
- Explain that it will not go against them in court if they do not give an interview.

- ❑ Check the young person's ability to understand the procedures and questions (eg. can they read and write).
- ❑ Check that they understand the interview process:
 - usually the interview will be video-recorded;
 - two police officers will be present;
 - usually only one police officer will ask the questions;
 - explain any terms that are likely to be used;
- ❑ Tell the police if you think the young person is unfit and request another time for the interview to take place.
- ❑ Explain that when the interview starts, they have the right to answer questions, or to remain silent.

STEP THREE

The interview

- ❑ The Support Person should continue to check:
 - body language;
 - time of day; (tiredness, meal breaks)
 - length of interview;
 - language;
 - anything else which may prevent the young person's participation being voluntary or may affect their ability to understand what is happening.
- ❑ Ask the police to explain any questions or words you think the young person does not understand.
- ❑ Ensure the questions are clear (eg. that two questions are not asked at once).
- ❑ When a young person is warned that they do not have to answer any questions unless they want to, make sure they understand they can:
 - refuse to answer all questions;
 - refuse to answer some questions; or
 - take part in the interview without answering questions.
- ❑ Ensure the young person is not pressured into taking part in the interview.
- ❑ Remind the young person during the interview, if they think it is necessary that he/she doesn't have to answer questions.
- ❑ If a young person becomes tired, agitated, or too distressed, advise the police of your concern and suggest the interview be stopped.
- ❑ Ask the police to clarify with the young person any non-verbal gestures or activity to ensure they are properly understood.

Remember to:

- speak clearly;
- keep calm; and
- voice any objections to the police while the video recorder is running.

STEP FOUR

After the Interview

- ❑ Ask the police about what they intend to do (eg. take no action, caution etc).
- ❑ Advocate for bail if the police arrest the young person (such as assisting with accommodation options and providing solutions to other concerns the police may have for not releasing the young person).
- ❑ Ask whether you can stay with the young person at the police station while they are being processed.
- ❑ If the young person is leaving the police station, make sure they have a way to get home.