

Framework to
reduce criminalisation
of young people
in residential care

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The Victorian Government proudly acknowledges Victoria's Aboriginal communities and their rich culture and pays respect to their Elders past and present. We acknowledge Aboriginal people as Australia's first peoples and as the Traditional Owners and custodians of the land and water on which we live and work.

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This publication may contain images of deceased Aboriginal and Torres Strait Islander peoples.

Where the term 'Aboriginal' is used it refers to both Aboriginal and Torres Strait Islander people. Indigenous is retained when it is part of the title of a report, program or quotation.

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Position statement

The safety and wellbeing of young people and staff is paramount in providing residential care in Victoria. Attention needs to be directed at ensuring young people placed in residential care receive the necessary support to enable them to achieve the same outcomes as their peers in the broader community.

A significant proportion of young people in residential care have experienced extensive abuse and neglect. The impact of this trauma may lead to behaviours of concern that present as challenging, complex or offending behaviour.

Children and young people in care services experience a higher incidence of mental health, disability, emotional and behavioural difficulties than other children and are at greater risk of contact with services such as police and the youth justice system. Furthermore, young people in residential care are more likely to present with risk-taking behaviours such as self-harm, aggressive or sexualised behaviours, substance abuse and other activities that place them, or others, at high risk as a manifestation of the trauma they have experienced.

For Aboriginal young people there is the added impact of discrimination, intergenerational trauma and disconnection from culture that concurrently adds to the complexity of supporting them in residential care.

Recent reports and inquiries have highlighted the criminalisation and over-representation of young people from a care services background in the criminal justice system. This presents an opportunity to develop a proactive policy approach to disrupt this trajectory.



This document, *Framework to reduce criminalisation of young people in residential care* (the framework), aims to reduce the unnecessary and inappropriate contact of young people in residential care with the criminal justice system. The framework establishes a commitment across government departments, Victoria Police and residential care service providers by:



Establishing guiding principles that reinforces trauma informed responses, connection to culture and a positive behaviour approach to inform local practices and procedures to support young people in residential care



Providing a decision-making guide for residential care workers to consider whether police involvement is required



Articulating key roles and responsibilities, ensuring a more coordinated, consistent and collaborative response across Victoria



Supporting an agreed approach for responding to non-crisis events in a residential care home



Emphasising the importance of flexibility and proportionality when residential care workers, support workers or local police respond to a young person's behaviour

This document must be read in conjunction with relevant organisational policies, procedures and guidelines.

Signatories

This framework has been endorsed by the following signatories:



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- CREATE Foundation, including CREATE Youth Consultants
- Berry Street Victoria
- MacKillop Family Services
- Commission for Children and Young People
- Victoria Legal Aid
- Victorian Aboriginal Legal Services
- Victorian Aboriginal Children and Young People's Alliance.



Explanatory notes

Behaviours of concern

For the purposes of the framework, complex, challenging or offending behaviours will be referred to as 'behaviours of concern'.

A behaviour of concern is behaviour of such an intensity, frequency or duration as to threaten the quality of life and/or the physical safety of the individual or others and is likely to lead to responses that are restrictive, aversive or result in exclusion.¹

These behaviours often arise from adverse or traumatic childhood experiences. It is important that these behaviours do not come to define young people in residential care. To counteract this, it is vital that a positive approach to address behaviours of concern is trauma-informed, proactive and promotes skill development, positive connections with carers and significant others and healing for the child or young person in care.

Young people

For the purposes of the framework, children and young people in residential care will be referred to as 'young people'.

Residential care provides temporary, short-term and long-term care and support to children and young people who have been removed from their family and are unable to be cared for in a home-based care setting.

Aboriginal young people

For the purposes of the framework, Aboriginal and Torres Strait children and young people in residential care will be referred to as 'Aboriginal young people'.

Criminalisation

Criminalisation is the process by which behaviours and individuals are transformed into crime and criminals.

¹ Royal College of Psychiatrists, *Challenging behaviour: a unified update* (April 2016).

The case for change

For a variety of reasons, young people in residential care are at increased risk of being criminalised and coming into contact with police and the criminal justice system. The following reports outline the link between childhood maltreatment/trauma, subsequent manifestation of behaviours, and the criminalisation and over-representation of young people within the criminal justice system.

Care not custody: a new approach to keep kids in residential care out of the criminal justice system (VICTORIA LEGAL AID)

Victoria Legal Aid's *Care not custody: a new approach to keep kids in residential care out of the criminal justice system* report highlights the need for targeted action, recommending an interagency approach to reduce criminalisation of young people living in care.

The *Care not custody* report identified that with the current reform agenda across residential care, there is an opportunity for a whole-of-government, proactive policy response to address this problem. Such a response would provide a shared understanding of how best to respond to behaviours of concern and distinguish behaviours that are disruptive or confrontational and that can be reasonably dealt with by residential care staff from those that present a risk to either staff or young people and require a Victoria Police intervention. To be effective the overarching policy and practice approach must recognise the nexus between adverse childhood experiences and challenging behaviour among adolescents and young adults.

Youth justice report: Consultation with young people in out-of-home care about their experiences with police, courts and detention (CREATE FOUNDATION)

As reported in the CREATE Foundation's *Youth justice report*, young people placed in care services are 19 times more likely to have contact with the criminal justice system. It was reported that young people had contact with police and courts for many reasons, including as victims of crime, for offending behaviour and being reported as a missing person.

The *Youth justice report* advocated for services to increase their understanding of how experiences of trauma can influence behaviour and the importance of a trauma-informed (rather than punitive) responses to behaviour.

Youth Justice review and strategy: Meeting needs and reducing offending (DEPARTMENT OF JUSTICE AND COMMUNITY SAFETY)

In August 2017 the Department of Justice and Community Safety released the *Youth Justice review and strategy: Meeting needs and reducing offending* report, which provides an independent review of youth justice services and programs to inform an evidence-based response to youth offending and youth crime.

Recommendation 7.5 of the report recommended action to address the specific challenges presented by young people in care services who are offending, including decriminalising behaviours of concern among young people in care services, and designing an early intervention approach with stakeholders including police, the Commission for Children and Young People and service providers.

**'Crossover kids':
Vulnerable children in
the youth justice system
(SENTENCING ADVISORY
COUNCIL – VICTORIA)**

As described in the Sentencing Advisory Council's report *'Crossover kids': vulnerable children in the youth justice system*, young people known to child protection services are over-represented in the youth justice system. The report highlighted that on any given day young people who are known to child protection are likely to be sentenced in the Criminal Division of the Children's Court due to their behaviour linked to their past experience of trauma, abuse, harm, neglect, parental death or incapacitation or the risk of harm.

**Ngaga-dji (hear me):
Young voices creating
a change for justice
(KOORIE YOUTH COUNCIL)**

Ngaga-dji (hear me): Young voices creating a change for justice captures the voices and experiences of Aboriginal young people in Victoria's youth justice system. It is a call to action to motivate change to support Aboriginal young people who have been involved with the criminal justice system. Ngaga-dji recommends four solutions to support Aboriginal young people, one of which is 'community-designed and led youth support systems'. This describes the need to reduce the criminalisation of Aboriginal young people and develop community-based systems that support young people by diverting them from the youth justice system and into culturally safe programs, services and conferencing, if required.

The framework

This framework provides a shared commitment between the Department of Health and Human Services, the Department of Justice and Community Safety, Victoria Police, residential care service providers and frontline staff to reduce the unnecessary and inappropriate contact of young people in residential care arising from behaviours manifesting from childhood traumatic experiences and resultant involvement with the criminal justice system.



The framework comprises:

- guiding principles that reinforce trauma-informed responses, connection to culture and a positive behaviour approach to inform local practices and procedures to support young people in residential care
- a decision-making guide for residential care workers to determine whether police involvement is required
- an agreed approach for police when responding to non-crisis events in residential care homes
- agreed roles and responsibilities across the Department of Health and Human Services, Department of Justice and Community Safety, Victoria Police and residential care service providers to ensure a more coordinated, consistent and collaborative response to young people in residential care.

While the fundamental purpose of the framework is to reduce unnecessary and inappropriate police contact with young people in residential care, it is recognised that police involvement may be necessary, and required, where the safety of the young person, another resident, staff or any other person is at risk.

The intent of the framework is not to preclude professionals from exercising their mandatory obligations including mandatory reporting and requirements to report crimes, particularly those against young people to police. There are also community and public expectations for police involvement that must be maintained, such as in circumstances to ensure community safety.

Guiding principles to reduce criminalisation of young people in residential care

1

Guiding principle 1:

The safety and wellbeing of all young people and staff must be prioritised.

Young people have a right to feel safe, secure and connected to their community, their family and their culture. This applies to all young people in residential care from all backgrounds. Providing safe environments for vulnerable young people has positive, lifelong impacts and cannot be underestimated.

The Child Safe Standards, which are in place for all residential care homes, are underpinned by the understanding that all young people are vulnerable. However, three cohorts are particularly vulnerable:

- Aboriginal young people
- young people from culturally diverse backgrounds
- young people with disabilities.

The Child Safe Standards also encourage considering the needs of same-sex-attracted and intersex young people and recognising gender diversity in providing a safe environment.

These cohorts of young people may be particularly vulnerable to being victimised and may face challenges in reporting an incident of abuse.

For more information, refer to the Commission for Children and Young People's

Child Safe Standards

<https://ccyp.vic.gov.au/child-safety/being-a-child-safe-organisation/the-child-safe-standards/>.

Residential care workers also have the right to feel safe and free from harm in their workplace. Residential care service providers must develop and implement safe systems of work that will help mitigate and reduce adverse events and promote a safe working environment for all residential care workers.

2

Guiding principle 2:

Understanding the underlying causes of a young person's behaviour is critical to promote healing from trauma, and to effect positive behaviour change.

Trauma refers to experiencing incidents that are overwhelmingly threatening or frightening to a young person. Everyday situations can trigger memories of trauma and a young person's 'fight, flight or freeze' responses. This results in a response where the brain enters a highly sensitive state and can respond to everyday stressors in an exaggerated way.² A young person in this state may cope with stress through displaying indifference, running away, substance abuse, defiance of rules or aggression as a self-protective response or manifesting a behaviour of concern.

Trauma-informed approaches are underpinned by key principles such as safety, trust, choice, collaboration and empowerment. As such, understanding trauma-informed approaches is a key step in developing a response to reduce criminalisation of young people in residential care.

A trauma-informed positive behaviour support approach can be used when responding to behaviours of concern. Positive behaviour support is based on an assumption that all behaviour happens for a reason. Each behaviour serves a purpose (or function) for the young person and communicates a message. This approach focuses on, first, understanding the behaviour of the young person in the context of trauma, attachment and child development theories, and then providing supports in key areas including:

- developing an environment that supports the young person
- teaching new skills to reduce the need for behaviours of concern – teaching the young person more adaptive behaviours in a safe and appropriate way
- promoting recovery from the impact of trauma
- providing positive responses to minimise the impact for the young person and others when a behaviour of concern occurs.

A positive behaviour approach acknowledges the positive aspects of the young person and looks for exceptions to problem-centric descriptions. A positive behaviour approach looks for what young people do despite problems, how they have tried to overcome their problems, what they do well, their aspirations and hopes, and alleviates any further stigmatisation. For more information about behaviour support planning, refer to the '*A decision-making guide for when to call police in residential care*' section of the Framework.

It is also important to acknowledge the positive short and longer term benefits of young people in residential care being engaged in education.

² Mendes P, Baidawi S, Snow P 2014, *Good practice in reducing the over-representation of care leavers in the youth justice system*, Monash University.

3

Guiding principle 3:

Workforce training, support and resources must recognise the impact of trauma on a young person's behaviour and provide a proactive approach to managing risk and responding to incidents.

There is a need to implement effective practices that reduce the need for police involvement in response to behaviours of concern in residential care. This requires not only training and support for residential care workers but also for the frontline workers (for example, police officers) supporting the young person.

In line with the *Minimum qualification requirements for residential care workers in Victoria*, all residential care workers must complete three mandatory units of competency covering: managing behaviour, trauma-informed care and providing care in a residential care home. This is an integral component of supporting a consistent approach in managing behaviour for young people in residential care.

Victoria Police will pursue opportunities to build the capacity of its workforce with training relevant to trauma and vulnerable young people. Police will also work with residential care providers to consider implementing joint-agency training to support the delivery of improved responses to young people's behaviours of concern and greater consistency in approaches to engaging with young people in residential care.

Workforce training, support and resources must focus on the impact of trauma on behaviour and the protective factor of connection to culture and community for Aboriginal young people.



4

Guiding principle 4:

For Aboriginal young people, strengthening connection to culture and community is a key consideration in providing services, in addition to providing a healing and sensitive trauma-informed approach to care.

Aboriginal cultures are sophisticated and holistic linking spirituality with politics, education, economics, land care, and the law. Aboriginal culture must be respected, and the perspectives and strengths of Aboriginal young people must be valued, heard and influential.

Historically, legislation, policy and practice have created great distrust between Aboriginal people and the government. Acknowledgement of these fears and distrust and good listening skills will enable better outcomes with Aboriginal young people and families.

Addressing disadvantage and promoting healing will take time and requires culturally appropriate responses and services. It also demands an understanding of how this trauma is lived out in the daily lives of Aboriginal young people who are involved in the child protection and criminal justice service systems.

A greater understanding of and commitment to practice approaches that take account of Aboriginal culture, family relationships and parenting arrangements will better meet the best interests of Aboriginal young people.

Responses to support Aboriginal young people in residential care must consider a strong emphasis on prevention and early intervention and have a particular focus on building partnerships between local agencies and service providers that plan, deliver and monitor evidence-based strategies to improve outcomes for Aboriginal young people.

Aboriginal communities, government and the community services sector must collaborate to develop, celebrate and share what works well to keep Aboriginal young people safe and strong. Specific consideration must be given to self-determination and Aboriginal decision-making principles.

Services delivered to Aboriginal young people by Aboriginal organisations benefit from the inherent cultural safety and knowledge of community support networks. Aboriginal young people who are supported by Aboriginal community-controlled organisations have a greater connection to culture and community, which can lead to better health and wellbeing outcomes.

In Victoria the importance of self-determination, and young people being supported by Aboriginal Community Controlled Organisations, are enshrined in s18 of the *Children, Youth and Families Act 2005*, which enables an Aboriginal organisation to undertake child protection functions and powers for children that would normally be undertaken by the Department of Health and Human Services. This is realised through the Aboriginal Children in Aboriginal Care program.

Additionally, in line with the United Nations *Declaration of the Rights of Indigenous Peoples*, Aboriginal young people are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination in the exercise of their rights, particularly discrimination based on their indigenous origin or identity.

5

Guiding principle 5:

A joint-agency commitment is necessary to divert young people in residential care from unnecessary contact with the criminal justice system.

A proactive response to reducing criminalisation of young people in residential care must recognise the importance of community and local involvement. An opportunity exists to improve local responses, policies, processes and connections to reduce the unnecessary and inappropriate contact of young people in residential care with the criminal justice system.

Effective strategies to support young people in residential care at risk of contact with the criminal justice system should include:

- establishing a positive relationship between residential care staff, local police and young people in residential care that promotes the voice of the young person and their lived experience (such relationships will foster an improved understanding of the young person's current circumstances and how professionals might best prevent and disrupt adverse events that affect young people and build trusting relationships that enhance safety; this may include establishing liaison officers between local police and the residential care home, and youth resource officers may be used as a point of expertise to assist this response)
- engaging with education programs and community-based social inclusion activities
- implementing a training or agreed practice approach for residential care workers and local police that fosters local responses, prioritises restorative approaches and promotes consistent responses to behaviours of concern
- embedding an expectation that residential care workers and local police pursue evidence-based processes and strategies to respond to behaviours of concern of young people in residential care
- sharing best practice and information to support relationships and positive progress where circumstances change for a young person – for example, changes in residential care staff or local police officers, or when young people move to a different placement.

Practice advice – Information sharing

Information sharing is critical for enabling a multi-agency commitment and for providing effective support to young people in residential care.

The Child Information Sharing (CIS) scheme allows authorised organisations and professionals who work with young people to share information with each other to promote wellbeing and safety. While many organisations already work together to do this, the CIS scheme makes it easier for organisations and professionals to support young people as early as possible and to prevent harm occurring. In addition to residential care service providers and Victoria Police, the CIS scheme includes mental health practitioners, alcohol and other drug practitioners and family services. It is expected that education and general health services will be included in 2020.

The CIS scheme enables broader, child-centred and comprehensive responses to support the wellbeing and safety of young people in residential care. For example, residential care workers, case managers, and Victoria Police can share information to develop an integrated and collaborative approach to better understand the needs of young people in residential care. This may include proactively sharing information about emerging risks, successful support strategies, wellbeing issues that may be affecting a young person's behaviour, or appropriate longer term approaches to support young people in residential care.

Given the increased vulnerability of this cohort, consideration needs to be given to the purpose and intent of information shared (a young person's health and wellbeing or community safety) so it does not inadvertently lead to further criminalisation of the young person or their peers.

6

Guiding principle 6:

Young people in residential care must be empowered to be heard and raise their concerns, including reporting an incident or abuse.

Young people in residential care must be listened to and their voices and opinions valued and used to inform responses and interventions. Young people in residential care are particularly vulnerable to being victimised and may face challenges reporting abuse.

Voices of children or young people

The CREATE Foundation's Youth justice report¹ and the Commission for Children and Young People's *Residential care matters: a resource for residential care workers, supervisors and managers caring for young people*² capture young people's views about residential care workers, police and the broader children and families system.

The views and opinions of young people reflect their varied experiences and the need for a collaborative, child-centred, strengths-based response to reduce criminalisation of young people in residential care.

*'There are a lot of things frustrating about being in care like feeling restricted and being told what to do all the time, but I always feel like I can get help when I need and know that there are people that care about me.'*²

*'I don't think they get trauma or behaviours expressed by children and young people in care so there isn't a lot of understanding towards them. It's a lot about punishment rather than rehabilitation. It's more "you did the wrong thing" regardless of the reasons behind it.'*¹

*'The police were always very supportive, they didn't treat me like a criminal, they saw that there was something deeper there. Not about the robbery but rather risk taking. They spoke to me about the risks about continuing this behaviour could lead to prison.'*¹

*'Police showed up and told me I had absconded and I should be ashamed of myself ... said that I was lucky that they were not going to put handcuffs on me because normally that is what they have to do for people like me. I was made to feel quite small and inferior; I felt like a criminal.'*¹

*'The unit I live in have great staff and kids and although it hurts very much that I am not able to live at home with my family, at least I live in a unit that cares for me so much and guides me in the right direction.'*¹

*'A worker in a residential care unit escalated my behaviours by not letting me smoke on the balcony and made me go down the end of the driveway to smoke in the cold, and I got very angry and upset and trashed my room. The worker called the police.'*¹

*'[The department] should have explained to the judge that I had PTSD ... I wasn't given a fair opportunity ... I was chucked in with the defence lawyer. Of course, a 15-year-old is going to lose their temper when you keep asking them the same questions again and again and accuse them of lying.'*¹

*'[They] found my Aboriginal connection. Came and shared time with me. Came to my school meetings ... Asked me what I cared about.'*²

Listening is the first step in developing trust and a good relationship; how people respond to situations and information is equally as important to create a productive and positive relationship.

Empowering young people must always guide those involved in the young person's care. Empowerment focuses on supporting young people to have their say and acknowledging their individual strengths. Empowerment and participation **are not** a one-off event but an approach that needs to be a part of a collaborative partnership.

Empowering young people and facilitating their participation enhances their agency, safety and engagement with their care team. Enabling young people's participation includes:

- supporting young people to understand their rights
- promoting and encouraging young people's participation in decision making
- valuing and respecting young people's opinions and strengths
- seeking young people's views about what makes them feel safe and unsafe
- establishing an environment of trust and inclusion that enables young people to ask questions and speak up if they are worried or feeling unsafe.

Young people are more likely to speak up regarding their concerns about feeling unsafe, or to make a complaint, if they feel their views are valued and welcomed. Acknowledgement of strengths and participation is also important for young people because it gives them an opportunity to have a say about issues and decisions that affect them. This does not mean that conflict can be entirely avoided, but a strong relationship will support de-escalation and resolution when there is conflict.



7

Guiding principle 7:

A young person in residential care has the same rights and liberties as young people in the community. Human rights must be upheld, and resources must be provided to help seek support or legal advice.

The *Charter of Human Rights and Responsibilities* requires the Victorian Government, public servants, local councils, Victoria Police and other public authorities to act compatibly with human rights, and to consider human rights when developing policies, making laws, delivering services and making decisions.

Young people have the same general human rights as adults, but they also have specific rights that recognise their needs and vulnerability.

The UN *Convention on the Rights of the Child* has four guiding principles, which are core requirements for any and all rights to be realised.

The principles are:

- *Non-discrimination*: Children must not be discriminated against, no matter their religion, race, capabilities; whatever they think or say; or what their culture and gender identify is.
- *The best interests of the child*: Any decision that is made, or any action that is taken, that may affect children or young people must prioritise the best interests of the child.
- *Ensuring the child's survival and development*: Every young person has the inherent right to life, and it is the responsibility of decision-makers to ensure they are provided every opportunity to develop and reach their potential.
- *Participation*: Young people are experts in their own lives and experiences and should be consulted on decisions that affect them. Every young person has the right

to express their opinion and can provide advice into how their rights can best be protected and fulfilled.

Moreover, young people in care services should expect they will be kept safe and well by all the people who provide them with care. The *Charter for children in out-of-home care* has been especially prepared for young people who can't live with their parents and are in care services and must be considered for guiding the framework.

Despite joint-agency best efforts, there will be instances where police must attend a residential care home. Subsequently, there may be occasions when young people in residential care will be charged with an offence and will require legal support and advice.

Young people in residential care must be provided with resources and avenues to seek legal advice and any other supports required. It is important to ensure that Aboriginal young people are able to access culturally safe legal services where required. A victim of harm has the right to involve police following any incident without fear of reprisal, stigma or re-traumatisation.

8

Guiding principle 8:

Criminal charges will not be pursued if there's a viable alternative. Discretion will be exercised when police intervention is required.

The most effective interventions for young people displaying behaviours of concern are therapeutic; this includes when responding to incidents. An intervention, including police involvement, must never be used to punish, degrade, intimidate or coerce, nor should it be used to exert personal power or control.

Diversion and alternative approaches must underpin any response when police are called to attend to a residential care home. Cautioning or diversionary options must consider the specific needs of young people in residential care, including:

- the likelihood the young person will experience and demonstrate difficulty engaging with authority figures
- the possibility the young person may have intellectual, language or other communication difficulties
- specific needs associated with age, gender and culture
- the seriousness of the offence and the degree of harm caused to alleged victim(s)
- the views of the alleged victim(s)
- information provided by the residential care service about the child's personal circumstances.

Police involvement must focus on harm minimisation. An indicator of whether a police response is appropriate is **when the behaviour will lead to immediate and substantial risk of harm to the young person or others.**

The appropriate and considered use of discretion is integral to effectively implementing the framework. When police are responding to incidents in residential care homes, police will consider using discretionary powers as an alternative to criminal charges. This includes consideration of issuing a warning, a Child Caution or supporting an application for diversion.

Police may also determine that no further action is required in response to an incident after discussing the incident with the relevant residential care staff, young people involved, and any victim(s), noting that a victim of a harm has the right to involve police following any incident. An approach that first considers exercising discretion to respond informally to a young person in residential care is likely to leave police with more diversionary options in the future.

The Victorian youth justice system has a strong focus on diversion and restorative justice including through the use of group conferencing.

Conferencing, one of the more common forms of restorative justice, should be considered and is thought to be more effective than sentencing in reducing reoffending due to the different stigmatising effects of each.

A decision-making guide for when to call police in residential care

In the event of an emergency or immediate risk to safety, please call triple zero (000).

This section of the framework provides a decision-making guide for responding to incidents in residential care that aims to reduce unnecessary police involvement in matters that would normally be dealt with by parents in a traditional home environment, and consequently, reduce the risk of criminalising young people in residential care.

The decision-making guide is based on the guiding principles of the framework and that **a police response should be the last resort to a non-crisis situation** and must only ever be considered after other de-escalation strategies have been attempted without success. It is also based on the principle that **criminal charges should only be pursued by police where alternative approaches are not appropriate**.

This framework must be read in conjunction with existing policies and practices including *Program requirements for residential care in Victoria* and the Victoria Police manual.

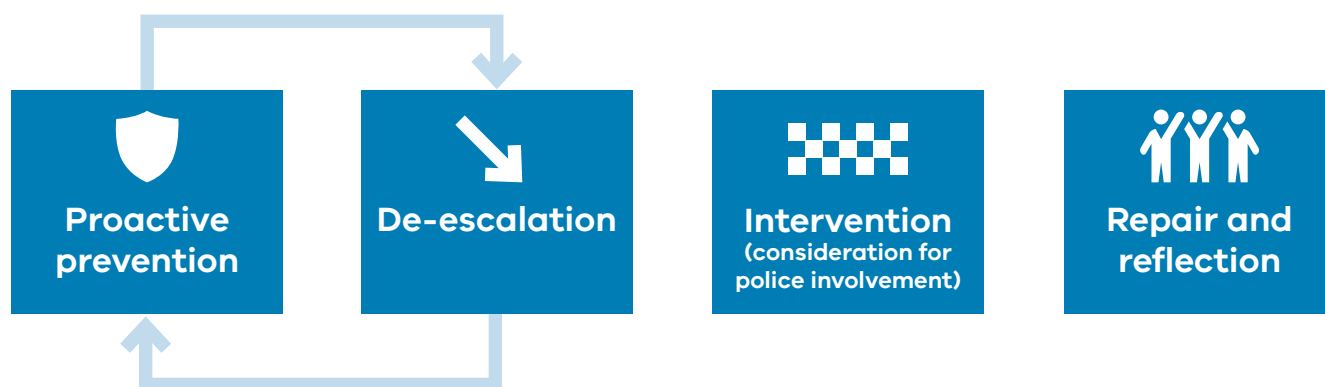
All elements of the framework should also be incorporated into standard operating procedures for both residential care service providers and Victoria Police.

Stages of responding to behaviours of concern

Responding to behaviours of concern forms part of a consistent, respectful approach to a young person's overall care. Responding to behaviours does not just occur at the point the behaviour manifests. It is something residential care staff and police can proactively prepare for – to either prevent it occurring or to reduce its severity. It is essential that residential care workers be guided by a continuum of responses to the young person's behaviours. This continuum must always begin with anticipation, planning and proactive prevention.

The framework provides four stages for response, as shown in Figure 1.

Figure 1: The four stages for response



The continuum of response may move back and forth between prevention and de-escalation strategies.

If the de-escalation strategies do not succeed, the response may move to appropriate intervention and consideration for police involvement, after which reflection and repairing of the relationship with those involved must be addressed.



1. Proactive prevention

The most effective way to respond to behaviours or concern, or harm between young people or with staff, is to be able to prevent it in the first place.

Supporting and managing the behaviour of young people can be complex. Behaviour may be developmentally appropriate (seen in young people of similar age) or may be as a result of, or impacted by, factors such as previously experienced trauma, disability, mental health, alcohol and other drugs and a young person's environment.

Providing sensitive and responsive care is critical to improving positive outcomes for a young person. A range of tailored and planned supports are needed to keep young people safe and to effect positive behaviour change. Positive behaviour support is based on an assumption that all behaviour happens for a reason. Each behaviour serves a purpose (or function) for the young person and communicates a message. A young person's behaviour support plan anticipates how the young person may respond and specifies a range of strategies to be used in supporting the person's behaviour including proactive strategies to build on their strengths and increase their life skills.

All young people in residential care must have a behaviour support plan.

Behaviour support plans should align with an individual's *Looking after children care and placement plan* and be consistent with a positive behaviour support framework.

For Aboriginal young people, behaviour support plans should align with the young person's cultural plan and must consider Aboriginal decision-making principles. Aboriginal people should be involved in developing their behaviour support plan. Consideration should be given to consulting with an Aboriginal community-controlled organisation as part of developing the behaviour support plan.

A behaviour support plan template <<https://providers.dhhs.vic.gov.au/behaviour-support-plan-template-out-home-care-services>> can be found on the Department of Health and Human Services website.

A positive behaviour support plan may include a range of strategies or actions such as those listed in Table 1.

Table 1: Positive behaviour support plan strategies

Changes to the environment / environmental supports	Teaching skills for young people	Short-term strategies that promote rapid change
<p>Making changes to the environment based on information about the young person to provide:</p> <ul style="list-style-type: none"> • increased opportunities for access to a variety of activities • a focus on tasks and opportunities that build on strengths • increased positive interactions with the young person • sensitive and responsive caring • a 'balanced lifestyle' • a predictable environment • consistent routines • improved interactions and realistic expectations. 	<p>Problem solving and decision-making skills – helping a young person put a problem into words, brainstorming solutions and making plans.</p> <p>General skills development – teaching a person to do more things for themselves.</p> <p>Effective communication – teaching a young person how to seek help or attention from others if needed.</p> <p>Managing unhelpful thoughts – to address the way a young person thinks about themselves, others or the world around them.</p> <p>Coping skills – teaching the young person what to do when feeling angry, how to put words to feelings and emotions, and calming skills such as controlled breathing.</p>	<p>Building the skills of workers to use strategies that readily support learning new skills or positive behaviour responses such as:</p> <ul style="list-style-type: none"> • reinforcing specific 'positive' behaviours – this includes an understanding of reinforcement, identifying resources and how to use reinforcement to promote behaviour change • avoiding things that upset the young person (triggers) and increasing things that promote positive responses • responding to behaviour early and quickly • consistency in residential care worker responses • strategies to increase engagement with young people.

The benefits of this approach include:

- improving the young person's quality of life, strengths and safety skills
- promoting positive connections and building trust with residential care workers to improve the young person's experience and to minimise the possibility of re-traumatisation
- preventing further challenging behaviours by helping young people to develop skills to communicate, engage in activities and understand their feelings
- providing an environment that best supports a young person's needs and development
- breaking down barriers to talking about difficult topics and advocating for the young person's needs.

Care teams should actively work with young people to develop a person-centred behaviour support plan.

Practice advice – missing from care

Young people may engage in behaviours of concern such as running away or going missing. These behaviours, along with their personal histories of trauma, can place young people at increased risk of further harm.

It is unsafe to assume that a young person who has repeated episodes of missing but always returns to placement decreases the risk; in fact, at times this is evidence of increasing risk.

Every episode of missing should be assessed, considered independently and cumulatively, and treated as a serious event. Understanding and assessing every missing episode is important. Critical reflection following each missing episode helps build an understanding of the behaviour and the potential responses to it.

A return to care conversation is an important part of addressing this behaviour and reinforcing to young people that someone cares about them. It is an opportunity to speak and listen to them about missing episodes – highlighting their serious and dangerous nature – and if unknown, to determine their recent whereabouts and the people they may have been in contact with.

The focus of a return to care conversation is to hear from the young person about any reasons for leaving and emphasising care and concern. It should not be an opportunity to reprimand or reinforce rules that the young person may have broken. The return to care conversation should also address any immediate health, emotional and safety needs. A return to care conversation should be completed by a worker the young person trusts. This can also inform planning to prevent future episodes of the young person missing from care.

If there was a missing persons report or a Children's Court warrant, consideration should be given to completing the return to care conversation jointly with police. Police require information about the person's absence to help when investigating future missing persons reports. This should be used as an opportunity to engage with the young person and to build relationships with local police.



2. De-escalation

De-escalation of emerging behaviours of concern, which could lead to harm, can encompass a range of responses by those engaging with the young person. It may simply involve hearing and responding to their issues while remaining calm. This can either distract the young person from the situation or enable the young person to feel they have been heard and understood.

Even if it is unclear why a young person is responding in a certain way, residential care workers must be able and willing to acknowledge how the young person may be feeling at the time. Residential care workers may aid the young person to calm down, express frustration or emotion in a safer way or ultimately cease their behaviour. Risky or disrespectful behaviour is not acceptable, and it is reasonable and appropriate that residential care workers advise young people when their behaviour is inappropriate or harmful. Residential care workers should also seek strategies from team leaders, supervisors and senior staff to support de-escalation strategies.

The aim of de-escalation strategies is to **reduce harm**.

The following strategies are examples that can aid in minimising risk to the young person and others by attempting to de-escalate or manage a serious episode of behaviour:

- responding to early signs of the behaviour – identifying warning signs or triggers of behaviour and intervening early (for example, using clear language, a calm demeanour, active listening and humour)
- redirection (for example, 'distracting' the person by offering another activity)
- talking to the young person to find out what the problem is – this includes hearing and responding to the child's issues while remaining calm
- considering what the young person's behaviour is trying to communicate – then responding accordingly (meeting the need)
- providing praise and encouragement when it is clear they are trying to calm themselves.

De-escalation strategies should recognise that behaviour often escalates through stages prior to crisis, providing an opportunity to intervene early to prevent behaviour from progressing.



3. Intervention – consideration for police involvement

If the residential care worker has progressed through initial stages of prevention and de-escalation strategies, and a young person's behaviour continues to place themselves or others at serious risk of harm, it may be necessary to escalate to an intervention such as the need for police involvement.

This does not exclude revisiting de-escalation at any point when the immediate risk of harm is diminished.

The most effective interventions for young people displaying behaviours of concern are therapeutic and must be considered within any response or intervention. An intervention, including police involvement, must never be used to punish, degrade, intimidate or coerce, nor should it be used to exert personal power or control.

Police involvement must focus on harm minimisation. An indicator of whether a police response is appropriate is when the behaviour will most likely lead to immediate and substantial risk of harm to the young person or others. Police officers responding or attending a residential care home are likely to be uniformed officers. It should be acknowledged that police contact can trigger memories of trauma for some young people.

The key consideration for police officers will be to ensure the physical safety of all those present, and to determine whether a criminal offence has occurred. For more information regarding responses by police, refer to the 'Victoria Police responses to non-crisis incidents in residential care homes' section of the framework.

When it comes to using force, everyone must lead by example, treating all involved with dignity and respect while having regard to the safety of all concerned.

If police involvement is required, residential care workers must provide information to the attending police officer relevant to:

- the nature and context of the incident (for example, severity, injury/damage caused, triggers, timeline)
- the individual (for example, history of behaviour, mental health including trauma, physical health, disability)
- the victim(s) (for example, their relationship to the individual, harm caused, their wishes)
- their approaches to de-escalate or respond to the behaviour
- strategies for engagement or addressing behaviours of concern that have proved effective in the past
- the nature of police assistance sought.

This information must be considered before phoning police to ensure that information is conveyed in a way that is comprehensive and concise.

Refer to the 'Flowchart for residential care workers – When do I contact police?' section of the framework for a flowchart outlining the steps that residential care workers should consider when police involvement may be required.



4. Repair and reflection

After an incident of challenging behaviour, particularly where the young person's behaviour escalated and a police response was required, it is important to make efforts to repair the relationship between the residential care workers, local police and the young person.

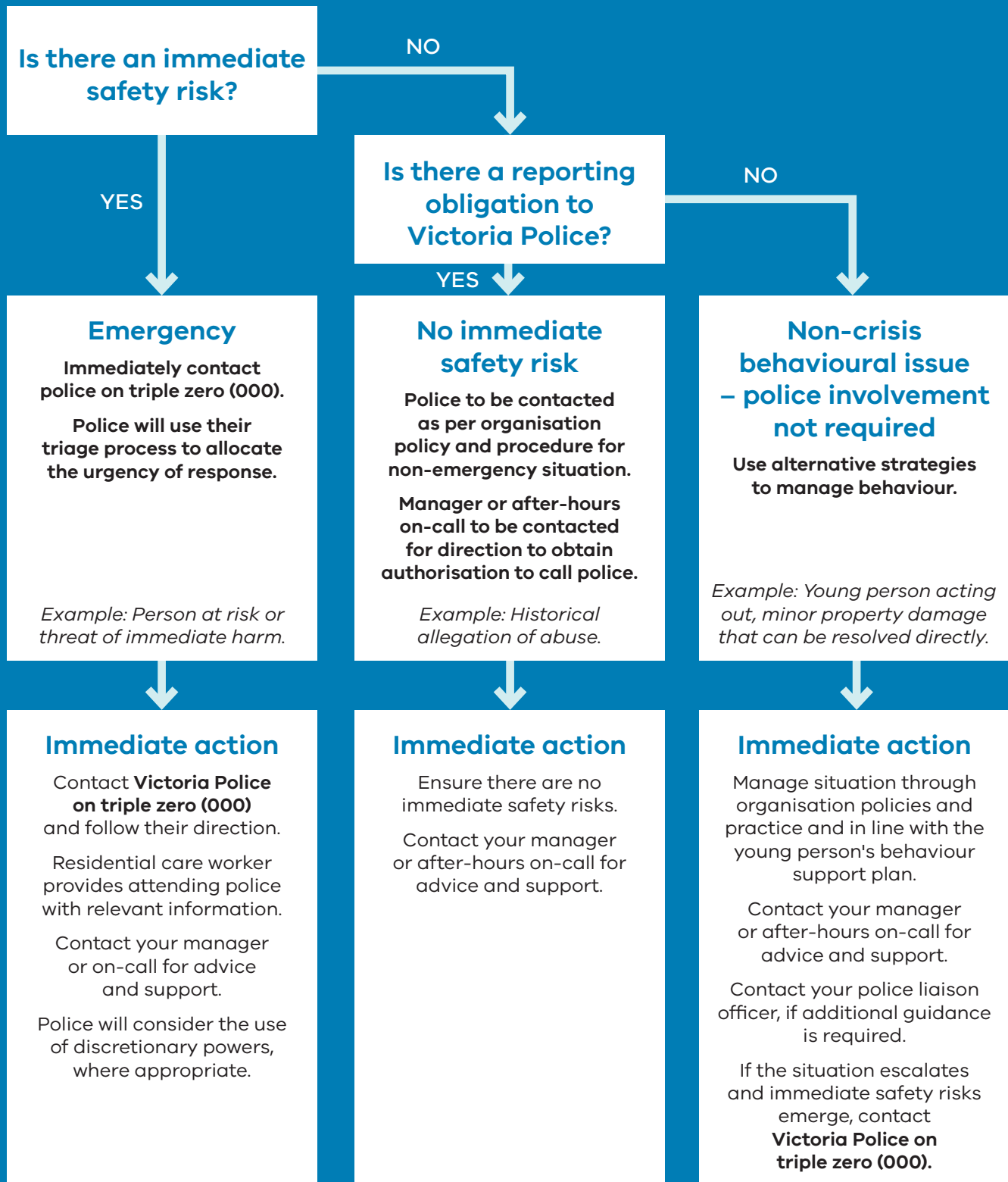
As part of repair and reflection, and at the appropriate time, both the young person and residential care worker need the opportunity to discuss what has occurred and the impact of the action undertaken. The purpose of this is to help all involved understand the causes and consequences of the event/response, to support the young person to consider the cause, impact and consequences of the behaviour, and to look at how to avoid similar situations arising in the future.

It is also important to repair relationships between the young person, residential care workers and other residents involved in the event/response. This is an important process because it mirrors healthy and functional relationships. This process has a restorative function rather than one where blame and shame are facilitated.

Where police have attended a residential care home in response to a call for assistance, residential care workers must complete incident reports in line with local reporting requirements and organisational processes and review the young person's behaviour support plan and other relevant plans for the young person or the residential care home.

When do I contact police?

Flowchart for residential care workers



Post-event action:

- Complete reporting requirements (as appropriate) in line with organisation processes.
- Review the young person's behaviour support plan and other relevant plans for the residential care home.
- All events should provide an opportunity to work with young people on restorative practices and alternative response strategies.
- All calls to police must be reviewed and a de-brief conducted with relevant parties (Victoria Police as appropriate) to identify opportunities to strengthen future responses.
- Where there is an impact on the child or young person, complete Critical Incident Management System (CIMS) processes.

Victoria Police responses to non-crisis incidents in residential care homes

There are times when police need to be called. To reduce the likelihood of unnecessary criminalisation of young people living in care services, Victoria Police will promote the use of discretionary powers as an alternative to criminal charges, whenever appropriate.

When responding to a call for assistance, Victoria Police will consult with residential care workers, victim(s) and the young person and will consider the following when determining the most suitable response:

- the nature and context of the incident (for example, severity, injury/damage caused, triggers, timeline)
- the possibility of intellectual, language or other communication difficulties
- specific needs associated with age, gender and culture
- the seriousness of the offence
- the degree of harm caused to the alleged victim(s)
- the views of the victim(s)
- information provided by the residential care service about the young person's personal circumstances.

When a police response is initiated, police officers must communicate to young people and any other individual involved about their rights and facilitate their access to legal representation.

The appropriate and considered use of discretion is integral to effectively implementing the framework. When police are responding to incidents in residential care homes, police will consider using discretionary powers as an alternative to criminal charges. This includes consideration of issuing a warning, a Child Caution or supporting an application for diversion.

Police may also determine that no further action is required in response to an incident after discussing the incident with the relevant residential care staff, young people involved and any victim(s).

Although police have the power to exercise discretion, in some circumstances police may be required to charge a young person in residential care. Criminal charges should only be pursued by police where alternative approaches are not appropriate and should consider the least punitive course of action.

Where a decision for criminal proceedings is initiated, police are encouraged to continue to liaise with the residential care service provider to provide ongoing advice for residential care workers, such as linking the young person with programs and services to divert them away from criminal activity.

It is important to note that when it comes to using force, police must lead by example, treating everyone with dignity and respect while having regard for the safety of themselves, other police, members of the public and any offenders.

Practice advice – Obligations for police involvement

There are obligations on residential care services to contact police when a young person is missing and in response to critical incidents such as allegations or instances of abuse. These obligations **must** continue to be met, with specific consideration given to a trauma-informed approach and on not further stigmatising the young person or those involved in the police response.

Roles and responsibilities

In collaboration with the signatories to this framework, organisations have both a shared and individual responsibility to help achieve its objectives and to honour its guiding principles.

Joint responsibilities

- Acknowledge the vulnerability of young people placed in care services.
- Acknowledge and uphold the rights of young people in residential care.
- Ensure the welfare, cultural safety, health and wellbeing of young people in residential care are in accordance with the relevant legislation and policy frameworks.
- Commit to continuous improvement and implement review mechanisms to improve policies, processes and connections within the spirit and intent of the framework to reduce the unnecessary and inappropriate contact of young people in residential care with the criminal justice system.
- Commit to review and monitor the implementation of the framework through an 18-month action plan.
- Work with young people in residential care to identify reasons behind offending behaviours, and how to support positive behaviours/factors that would help mitigate offending.
- Share information and work collaboratively so each signatory and supporting organisation can perform its responsibilities to support the framework.
- Develop, deliver, embed and promote appropriate training to support implementation of the framework.
- Consider findings and learnings from programs or initiatives that have a specific focus on reducing criminalisation of young people in residential care.
- Support collaborative and local arrangements with services and organisations that focus on local resolution while promoting consistency and shared responsibility.
- Investigate avenues to promote prosocial community connectedness.
- Ensure young people in residential care are aware of their options for legal representation and, when required, provide guidance on how to seek legal services.

Department of Health and Human Services

- Establish statewide governance arrangements to help implement, monitor and review the framework.
- Promote effective implementation of the objectives of the framework through existing governance arrangements and stakeholder relationships at the local level.
- Strengthen existing practice advice and training to support the capacity building of residential care service providers and residential care workers to provide positive behaviour support in the context of trauma-informed care to manage behaviours of concern among young people in residential care.
- Promote learning and best practice within the broader reform agenda to improve early intervention and prevention and to transform the children and families service system.
- Strengthen the capacity of the care team to develop and implement behaviour support plans to address the specific needs of young people who exhibit behaviours of concern and reduce the incidence of behaviours that may contribute to contact with police.

- Collate and analyse available data sources to identify systemic issues that may affect managing non-crisis behaviours and contribute to police callouts.
- Work with the Department of Justice and Community Safety to finalise and implement a memorandum of understanding to improve collaboration, accountability and information sharing for common clients, including agreeing arrangements for sharing cultural support plans for Aboriginal young people.
- Work in partnership with the Department of Justice and Community Safety on justice and social service delivery reform to improve outcomes for common clients, including young people in residential care who are at risk of contact with the justice system. This includes more integrated service responses tailored to the needs of this cohort to reduce the over-representation of young people in the criminal justice system who have a history of residential care placement.

Residential care service providers

- Promote local partnerships to build relationships and support communication and information sharing with the Department of Health and Human Services and Victoria Police regarding the needs of young people in residential care, including strategies or plans identified through the young person's care team to enable a more effective police response.
- Lead the development of behaviour support plans for young people in residential care in accordance with the Looking after children care and placement plan. For Aboriginal young people, behaviour support plans must align with the young person's cultural plan.
- Review local policies and procedures to strengthen consistency with the objectives, values and principles of the framework, including clear guidance about involving police in response to crisis situations that minimises police involvement where possible.
- Provide local police with information in line with the framework when police are required to respond to an individual circumstance.
- Document and monitor incidents where police involvement was required.

- Identify opportunities for training and resources to build staff skills and confidence to respond to behaviours of concern through trauma-informed care and positive behaviour support.
- Promote opportunities for restorative practices to strengthen or repair relationships. Identify follow-up supports for young people and staff following behaviours of concern.
- Actively promote young people's engagement in planning and support processes that respond to their specific care and cultural needs. Continue to prioritise strengthening family relationships for young people.
- Provide information to young people about raising complaints or issues. This could include providing details for accessing legal services or about existing complaints/feedback processes.
- Designate a senior staff member within the residential care home as a liaison point between local police.

Department of Justice and Community Safety

- Strengthen existing practice advice and training to support the diversion and early intervention of young people from residential care including through the Children's Court Youth Diversion Program and the Youth Justice Group Conference Program.
- Review bail guidelines and strengthen training to promote the use of supervised and intensive bail (and to ensure remand is considered as a last resort).
- Work in partnership with the Department of Health and Human Services to finalise and implement a memorandum of understanding to improve collaboration, accountability and information sharing for common clients, including agreeing arrangements for sharing cultural plans.
- Work in partnership with the Department of Health and Human Services on justice and social service delivery reform to improve outcomes for common clients, including young people in residential care who are at risk of contact with the justice system. This includes more integrated service responses, tailored to the needs of this cohort to reduce the over-representation of young people in the criminal justice system who have a history of residential care placement.

Victoria Police

- Acknowledge the importance of reducing unnecessary contact with police and proactively strengthen relationships between young people in care and police, where appropriate.
- Promote local partnerships to build relationships and support communication and information sharing with the Department of Health and Human Services and residential care service providers regarding the needs of young people in residential care to enable a more effective police response.
- Convey to local police members any information about a young person's case that might help them to exercise discretion based on individual circumstances.

- Consider opportunities for processes and procedures to promote a trauma-informed response to incidents for young people in care services, considering the young person's individual circumstances and history of trauma wherever possible.
- Identify opportunities for training and resources that will help deliver trauma-informed services across the workforce, particularly where such information may not be generally available.
- Support a senior staff member within residential care homes to act a liaison point with local police.
- When police become involved, consider using discretionary powers, where appropriate, subject to legislative limitations relevant to exercising discretion.



Supporting implementation of the framework

The framework aims to drive a coordinated and trauma-informed approach to reducing unnecessary contact with the criminal justice system for young people living in residential care. Implementation will be driven by key outcomes and measures, which will be monitored and reviewed through establishing specific governance arrangements and developing an 18-month action plan.

Governance arrangements

The framework's successful implementation is contingent upon cooperation and a respectful understanding of the outcomes for reducing the criminalisation of young people in residential care.

Statewide implementation group

The Department of Health and Human Services will engage with signatories, supporting agencies and relevant stakeholders to establish a statewide implementation group.

Membership of the statewide implementation group will include the Department of Health and Human Services, Department of Justice and Community Safety, Victoria Police, Centre for Excellence in Child and Family Welfare, Victorian Aboriginal Child Care Agency, residential care service providers, the Commission for Children and Young People, the Aboriginal Children and Young People Alliance, CREATE Foundation, Victoria Legal Aid and Aboriginal Victorian Legal Services. Membership will also be extended to other issues-based invitees.

The statewide implementation group will work to:

- develop an 18-month action plan to help meet the objectives and measures of the framework
- identify the type of data, and subsequent methodology, required to inform the monitoring and implementation of the framework
- identify and provide areas of focus and baseline expectations for local governance arrangements
- develop a communication and promotion strategy to support the framework's implementation
- develop an evaluation program logic and scope options for an evaluation framework
- develop a risk mitigation strategy that considers identified and emerging risks and issues including implementation at the operational/worker level
- support development of sector-specific or joint-agency training and resources
- monitor implementation of the framework and related procedures and identify the need for any other processes or related tools

to be developed to support this process

- identify and promote good practice in implementing the framework
- refer to or seek advice from other bodies or groups to support identifying and addressing any systemic issues associated with implementing the framework
- consider findings and learnings from programs or initiatives that have a specific focus on reducing criminalisation of young people in residential care.

The statewide governance arrangements will aim not to hinder local responses and agreements but to provide an avenue for transparency and oversight with implementing the framework in Victoria.

Local governance arrangements

It is acknowledged that there are existing local governance arrangements or local initiatives and activities. These local governance arrangements are encouraged to continue, and consideration should be given to whether activities to support the framework's implementation and monitoring is included in scope of the localised arrangements.

Where a local governance arrangement does not exist, local police, residential care service providers and local department representatives should consider forming an arrangement that can support implementation of the framework. Consideration should be given to involving local government to identify the role the local community can have in supporting implementation.

It is envisaged that local governance arrangements will include membership from operational divisions/areas of the Department of Health and Human Services, Department of Justice and Community Safety, Victoria Police and residential care providers. Local governance arrangements will need to establish mechanisms to encourage information sharing with other local areas and the statewide implementation group.

Residential care service providers vary according to size and geographic location. Accordingly, each residential care service provider will determine the best way to ensure arrangements are in place to provide consistent framework implementation across local areas.

Developing an action plan

Developing an action plan will identify specific and measurable strategies to support the implementation and review of the framework. The purpose of the action plan is to turn the objectives of the framework into practice.

The statewide implementation group will develop the action plan, which will focus on:

- key actions signatories will undertake to support implementation of joint and individual responsibilities under the framework including updating relevant policies and procedures
- training and resources to support implementation of the framework
- promoting access to appropriate resources and avenues to seek legal advice for young people in residential care when required
- opportunities to build on learnings from programs or initiatives that have a specific focus on reducing criminalisation of young people in residential care
- communication activities to promote embedding the framework to ensure our vision of reducing criminalisation of young people in residential care is applied consistently across Victoria.

Objectives

Successfully implementing the framework over the next 18 months will aim to:

- highlight the importance of a trauma-informed approach in determining the most appropriate response to a young person's behaviour on a case-by-case basis
- promote a therapeutic response to behaviours that are trauma-related to reduce the likelihood and frequency of behaviours of concern that may result in a police response
- promote strategies that hold young people to account without the need for police involvement, being mindful of the long-term impacts for young people once police intervention is requested
- promote a rights-based approach through strengthening the importance of learning and listening to young people's voices/views and using this to inform practice
- ensure a coordinated approach of information sharing between child protection and youth justice for common clients
- ensure residential care workers contact Victoria Police in response to incidents arising in residential care homes only when necessary and in accordance with the decision-making framework for when to call police in residential care

- promote and focus on services that reduce the risk of reoffending and prevent further progression into the criminal justice system for those young people in contact with Victoria Police or youth justice services, such as cautioning, diversion, alternative approaches and restorative justice
- support the appropriate use of legal advocates and representatives whenever a young person has contact with police
- respond to the underlying causes of a young person's behaviour to promote healing and recognise the importance of trauma-informed practice to elicit effective positive behaviour change
- improve local relationships, communication and information sharing between Victoria Police, the Department of Health and Human Services, Department of Justice and Community Safety and residential care service providers to promoting the safety, welfare and wellbeing of young people living in residential care
- develop and deliver training and resources in trauma-informed practice that support vulnerable young people
- promote a shared focus on intervening early to prevent contact with, and progression into, the criminal justice system – this includes an increased understanding of 'touch points' on the continuum of services (care services and youth justice services) and exercising discretionary powers and alternative responses, where possible.

Key activities and outcomes

To achieve these objectives, the following key activities, with corresponding expected outcomes, will guide the initial actions as part of the 18-month action plan developed by the statewide implementation group (see Table 2). These measures and activities are not exhaustive, and additional measures and activities may be identified throughout the implementation of the action plan.

Table 2: Key activities and outcomes

Description of activity	Expected result
Implementation of the decision-making framework for when to call police in residential care	Reduction of unnecessary contact with the criminal justice system and reduced criminalisation of behaviours of concern or for minor breaches of house rules
Development of behaviour support plans for all young people in residential care	Reduced frequency and/or severity of incidents arising from behaviour and improved relationships between staff and young people in residential care
Completion of a data linkage exercise using common client data and analytics to build the evidence base about the circumstances and needs of common clients of child protection and youth justice	Increased data and evidence used to develop targeted measures to improve collaborative practice with common clients
Development of trauma-informed care training/resources to support residential care workers, local police and support workers	Improved responses to young people's behaviour and consistent approaches when engaging with young people in residential care

Review of the framework and action plan

The statewide implementation group will lead a review of the framework and 18-month action plan.

Gathering data and information sharing is a critical part of monitoring the impact of implementing the framework.

Improved data collection across multiple agencies and organisations will also contribute to developing strengthened policies, procedures and responses to promote positive outcomes for young people in residential care. This includes police involvement in residential care.

Wherever possible, existing data and reporting systems will be used and shared to help monitor implementation of the framework. Consideration will be given to establishing processes to improve data collection (and information sharing) to better understand the criminalisation of young people in residential care.

The framework will be reviewed on completion of the 18-month action plan, with a particular focus on whether:

- the objectives and expected outcomes are achieved
- the four key activities and measures of the framework have been completed and embedded into practice
- signatories and frontline workers have adhered to and adopted the framework.



