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| Client incident management system (CIMS)Self-paced learning moduleModule 3: Investigating client incidentsJune 2020 |
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Department of Health

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# Module 3: Investigating client incidents

## Learning objectives

Module 3: Investigating client incidents focuses on incident investigations as required under the Department of Health and Human Services (the department) client incident management system (CIMS). It will explain what types of incidents need to be screened for investigation and the process for conducting an investigation.

This module will provide an overview of good practice in investigative methods; however, conducting an incident investigation requires a high level of skill, which comes from both training and experience. Only those with appropriate training and experience should conduct incident investigations. This module is not intended as a stand-alone training resource to equip learners to be investigation managers or to conduct an investigation. It is intended as a foundational overview of the minimum requirements for conducting an incident investigation under the CIMS.

When participants complete this module they will have an understanding of:

* what an incident investigation is and how it differs from other types of investigations
* what to do if a Victoria Police investigation is underway
* what needs to be included in an incident investigation plan
* the incident investigation process, including
	+ - when and how an investigation manager is appointed
		- the investigation process
		- joint incident investigations and when they may be necessary
		- key components of undertaking an incident investigation, including determining who should be involved and what documentation and evidence is required
* the key principles of an incident investigation, including the principles of procedural fairness
* preparing for and conducting interviews
* assessing evidence
* investigation findings, and preparing and submitting an incident investigation response plan.

This is the third of four self-paced learning modules to support participants’ understanding of the CIMS, as outlined in detail in the CIMS policy document, the Client incident management guide. It is not necessary for participants to read the Client incident management guide in order to complete the learning modules. The first two self-paced learning modules are relevant to any staff member working for an in‑scope service provider to gain an overview of the CIMS and the requirements for responding to and reporting client incidents.

This self-paced learning module, Investigating client incidents, is also relevant to any staff member wanting to get a broad overview of the CIMS requirements. However, it is more relevant for and targeted towards managers who will have to undertake incident investigations in their organisations.

Table 3.1 outlines the four self-paced learning modules and what they cover.

Table 3.1: CIMS self-paced modules

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| Self-paced learning Module 1**The CIMS end-to-end model** | Module 1 is a self-paced module that introduces the aims, objectives and principles of the CIMS, along with the five stages of the CIMS as outlined in the *Client incident management guide*. |
| Self-paced learning Module 2**Responding to and reporting client incidents** | Module 2 is a self-paced module that focuses in more detail on CIMS stages 1 and 2, responding to and reporting client incidents. This module describes how to respond to a client incident and what information is required to complete an incident report. |
| Self-paced learning Module 3**Investigating client incidents** | Module 3 is a self-paced module on CIMS incident investigations. It describes what incident types require an investigation to be undertaken and the requirements for conducting an incident investigation. |
| Self-paced learning Module 4**Reviewing client incidents** | Module 4 is a self-paced module on CIMS incident reviews. It provides an overall picture of what incident reviews are and how they are undertaken. |
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The four CIMS self-paced learning modules are available at [client incident management system](https://providers.dhhs.vic.gov.au/cims) <https://providers.dhhs.vic.gov.au/cims>

Participants will have a better understanding of the requirements of the CIMS once the four self-paced learning modules are completed.

Each of the self-paced modules (1–4) will take one to two hours to complete. It is recommended, but not mandatory, that they are completed in order.

## Introduction to the client incident management system

Welcome to the Department of Health and Human Services (the department) client incident management system (CIMS) self-paced learning module.

The CIMS has clear requirements for responding to, reporting and managing client incidents. The main aim of the CIMS is to support the safety and wellbeing of clients. The objectives of the CIMS are to ensure:

* timely and effective responses to client incidents
* effective and appropriate investigations of client incidents
* effective and appropriate review of client incidents
* learnings are used to reduce the risk of harm to clients and improve the quality of the service system
* accountability of service providers to clients.

The CIMS includes the five stages outlined in Figure 3.1.

Figure 3.1: The five stages of the CIMS



## Learning 3.1: What is a client incident investigation?

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| **What is an incident investigation and what kinds of major impact incidents are subject to an investigation?**An incident investigation, as defined in the CIMS, is a formal process of collecting information to ascertain the facts, which may inform any subsequent criminal, civil, disciplinary or administrative sanctions.Under the CIMS, the purpose of an incident investigation by a service provider is to determine whether there has been abuse or neglect of a client by a staff member (including a volunteer) or another client, following an allegation in an incident.Any major impact incident involving the alleged abuse of a client by a staff member or another client, sexual exploitation, poor quality of care, or unexplained injury must be subject to an investigation. |

As discussed in Module 2, every major impact incident must be reviewed or investigated. This module will describe the activities involved in an incident investigation.

This can be distinguished from an incident review, which is for the purpose of determining whether an incident was managed appropriately and identifying learnings to apply in practice.

### Client incident investigations and other types of investigations

An incident investigation under the CIMS has a specific purpose that is different from other investigation types. In some cases, it may be necessary to refer the client incident to another party to conduct a different type of investigation, in addition to conducting an investigation under the CIMS.

For example:

* Victoria Police determines whether to conduct police investigations of alleged crimes.
* Breaches of professional standards may be investigated by professional standards bodies.
* Service providers might investigate allegations of staff misconduct that do not constitute client incidents.
* Allegations of abuse or neglect by carers (for children, youth and families only) providing out-of-home care (foster care and residential care only) may be subject to an independent investigation and referral to the Suitability Panel as required under the Children, Youth and Families Act 2005. The Suitability Panel determines whether a person is suitable to continue providing care in the out-of-home care system.
	+ Under the reportable conduct scheme, reportable conduct includes allegations against workers or volunteers of child abuse and misconduct involving children. Notifications of reportable conduct must be made to the Commission for Children and Young People.

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| **What if a Victoria Police investigation is underway?**As far as possible, investigations should avoid unnecessary overlap and duplication. If Victoria Police has decided to investigate an allegation related to a client incident, the service provider should not commence a client incident investigation until the police investigation is completed.Service providers can consult with the divisional office for further advice if required. |

### Task 3.1.1: What is an incident investigation?

For each statement below, indicate whether it is correct with a ‘Yes’ or incorrect with a ‘No’. Responses can be reviewed against the [self-check](#_Self-check_1) guide at the end of the module.

| Statement | Yes/No |
| --- | --- |
| 1. The purpose of an incident investigation conducted under the CIMS is to determine whether there has been abuse of a client by a staff member (including a volunteer) or another client.
 |  |
| 1. A client incident investigation in the CIMS is a criminal investigation that requires input from Victoria Police.
 |  |
| 1. An incident investigation is completed to determine whether an incident was managed appropriately. The aim is to learn from the whole event to reduce the risk of future harm to clients, staff and others.
 |  |
| 1. Incident investigations are required when major impact incidents involve matters such as poor quality of care or unexplained injury.
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### The incident investigation process

Once a client incident occurs or is disclosed, the service provider must first respond appropriately to the incident and ensure the safety, health and wellbeing of any clients and others involved (as discussed in Module 2). Then, the service provider must assess whether the incident has had a major impact or non‑major impact on the clients involved, and report accordingly. If it is assessed as a major impact incident, then it must be reported to the divisional office within three business days. The incident type, impact and client involvement will determine whether the incident is to be investigated (discussed further in this module) or reviewed (as per Module 4).

If the major impact incident is one of the following:

* alleged abuse of a client by a staff member or another client
* sexual exploitation
* poor quality of care
	+ unexplained injury

then it must be subject to an investigation.

A summary of the process for an incident investigation (taken from the Client incident management guide) is provided in Figure 3.1.1.

Figure 3.1.1: The incident investigation process\*



\*This diagram is from the Client incident management guide and the chapters referred to are within that guide.

## Learning 3.2: Appointing an investigation manager to oversee the investigation process

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| **Who takes on the role of the investigation manager?**The service provider must nominate and appoint one of its internal staff as the investigation manager, to oversee the investigation process. However, the service provider might engage an external expert to conduct the investigation itself (this person will be referred to as the ‘investigator’). |

### Investigation manager

The investigation manager must have the appropriate decision-making authority and responsibility for coordinating and directing any investigation undertaken.

The investigation manager should be:

* independent of staff working with the client or involved in the incident
	+ experienced in managing serious allegations and complex investigations.

The investigator (who might be the investigation manager or someone from outside the organisation) needs to be experienced in working with the client group, and communicating with the client group (for example, experienced communicating with children, youth or individuals with disability).

### Maintaining independence

To maintain independence, the investigator should have had no involvement in the incident and could come from one of the following:

* another part of the service provider organisation (if they are internal to the service provider)
* another similar service provider
	+ an independent investigative office or body.

It is very important to manage any actual or perceived conflict of interest in relation to the incident investigation.

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| **What is a conflict of interest for an investigation manager or investigator?**A conflict of interest refers to a situation where the personal or professional interests of an investigation manager or investigator could influence the performance of their official duties or responsibilities in the investigation. |

A conflict of interest can be **actual** or **perceived**. An actual conflict of interest arises in a situation where personal, professional or financial considerations may compromise the investigation manager’s or investigator’s objectivity and impartiality. A perceived conflict of interest occurs where it could reasonably be perceived, or appears, that a competing interest could influence an investigation manager’s or investigator's decisions.

### Determining investigative action

The service provider must determine the type of investigation to be undertaken and appoint an investigation manager to be responsible for coordinating and directing the investigative action.

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To ensure the safety and wellbeing of a client and to maintain a safe and professional workforce, an incident investigation process is conducted for any major impact incident that is categorised as:

* physical abuse
* sexual abuse
* financial abuse
* psychological/emotional abuse
* sexual exploitation
* poor quality of care
	+ injury – unexplained (in order to determine whether there has been any abuse or neglect that caused the injury).

The investigation manager makes sure that there is an in-depth understanding of the incident. They also determine whether they need to involve others or obtain expert opinion.

If the alleged victim is a client of the child protection program, the investigation manager **must** consult with child protection during the screening process. Similarly, should the alleged victim be an Aboriginal child or young person, the service provider **must** consult with the Aboriginal Child Specialist Advice and Support Service (ACSASS).

#### What are the investigation options?

The investigation manager will consider the incident and recommend one of the following:

* + internal investigation
	+ external investigation
	+ short form investigation and review (refer to section 4.2.2 of the CIMS guide)

Within three business days of the service provider witnessing or becoming aware of the incident, the service provider must submit the incident report and associated follow-up action to the divisional office for endorsement. The service provider is required to clearly outline the rationale for the recommended course of action, including providing sufficient details to assure the divisional office that the proposed investigator has appropriate skills and experience to undertake this role.

The divisional office will review the incident report and follow-up action recommendation within 3 business days and, in consultation with the service provider, either endorse it or ask the service provider to reassess and resubmit.

### Joint investigations

The service provider is responsible for managing the investigation and implementing any recommended actions. However, it is possible that the service provider, or the department, might recommend a joint investigation.

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| **When is a joint investigation required?**A joint investigation occurs when the department partners with the service provider to carry out the investigation.The divisional office will only become involved and carry out a joint investigation in exceptional circumstances, where one or more of the criteria below have been met:* The current incident is similar to a series of previous incidents for the client or subject of allegation.
* It is not possible for the service provider to undertake an independent investigation because of the seniority of staff involved.
* There has been a demonstrated lack of capability by the service provider to conduct or commission an investigation that meets the investigation standards defined by the CIMS policy.
 |

In the event of a joint investigation, the following process is likely to occur:

* The service provider and the divisional office will establish an investigation coordination process. The role the department takes in the process will be determined by the nature of the allegations that have resulted in the decision to conduct a joint investigation. For example, the department is likely to take a more directive role if it has deemed that the service provider is unable to undertake an independent investigation because of the seniority of the staff involved.
* The department will nominate a joint investigation manager.
* The parties will jointly choose an investigator.
* Timelines will be agreed by the parties, with key milestones determined (for example, the date by which the interviews will be conducted and the date the draft report is due), all the while bearing in mind that the incident investigation must be finalised within 28 working days of receiving confirmation of incident endorsement from the divisional office.
	+ Roles and responsibilities will be agreed (for example, who will access documents, who will gather information, the process for collecting evidence and the process for analysing data).

### Task 3.2.1: Appointment of an investigation manager to oversee the investigation process

For each statement below, indicate whether it is correct with a ‘Yes’ or incorrect with a ‘No’. Responses can be reviewed against the [self-check](#_Self-check_1) section at the end of the module.

| Statement | Yes/No |
| --- | --- |
| 1. As a rule, the service provider is responsible for managing the investigation as well as implementing any recommended actions.
 |  |
| 1. Anyone in the organisation can conduct an incident investigation as long as they are a senior staff member.
 |  |
| 1. The divisional office is responsible for conducting all incident investigations.
 |  |
| 1. The investigation manager is responsible for coordinating and directing the investigation but they are never involved in conducting the investigation.
 |  |
| 1. The investigation manager is not involved in the investigation process..
 |  |
| 1. The investigation manager is responsible for coordinating and directing the investigation and can also undertake the investigative activities. They may also appoint someone else to undertake the investigative activities while being responsible for oversight.
 |  |

### Task 3.2.2: Understanding the role of the investigation manager

By now you should have a good understanding of the role of the investigation manager in a CIMS investigation.

Imagine that you are a manager for a service provider and you have been asked to find a person within your organisation, who has suitable decision-making authority, to manage an investigation of a major impact incident that has just happened.

The person who would normally be appointed as the investigation manager cannot in this instance because they were involved in the incident, so you need to find someone else who can carry out this role.

Complete the investigation manager position description in the following template so that you are able to ensure you appoint someone who clearly understands the role of the investigation manager in an incident investigation and what they are expected to achieve. What are the key activities an investigation manager will need to undertake? This will help you think about the skills and experience they require.

#### Investigation manager position description template:

| Eligibility requirements* Level of seniority
* Decision-making authority
* Anything that makes them ineligible
* When they must be available to conduct the investigation to ensure that the CIMS requirements are met
 |
| --- |
| Position briefWhat kinds of incidents will they be actioning, and why? |
| Position descriptionDescribe the tasks and responsibilities of the investigation manager (the first one has been completed for you):* Determine and coordinate the appropriate investigative action for major impact incidents
 |

Refer to [self-check](#_Self-check_1) at the back of the module for answers.

## Learning 3.3: Conducting the incident investigation

### What does an incident investigation involve?

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| An incident investigation involves the planned and systematic gathering of all relevant facts. The investigation will build on the incident report completed at the time the incident occurred or was disclosed. |

The incident investigation is likely to involve:

* **reviewing documentation** – for example, incident reports, client case notes and support plans, medication charts and staff rosters
* **interviewing clients, staff and other witnesses** – people who were there at the time of the incident or when the information was disclosed
* **gathering additional information** – for example, to clarify earlier conversations or obtain further evidence from the same or extra sources, such as clients, staff and family members
* **observing the setting** in which the incident occurred – for example, the house, the community centre, the street or shopping centre
	+ **seeking expert opinion** – for example, a psychologist, speech pathologist, social worker or medical practitioner might provide insight or evidence regarding physical, emotional or psychological abuse, while a lawyer or accountant might be consulted over allegations of financial abuse. Seeking an expert is not always required but should be considered if necessary.

### Investigation principles

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| **What are the key principles of an incident investigation?**When undertaking an incident investigation, some of the key principles that need to be kept in mind are that incident investigations must:* adopt a person-centred and rights-based approach
* always remain impartial and independent
* be procedurally fair and demonstrate natural justice.
 |

‘Natural justice’ and ‘procedural fairness’mean that even though those overseeing, and possibly conducting, the investigation are internal staff of the service provider, they should be independent of those subject to the investigation, and be free of bias (or perceived bias).

Those required to participate in the investigation should, where appropriate, be given prior notice of their likely involvement and the purpose of that involvement. People should be given an opportunity to be heard, and provided with the support necessary to have their say.

People should be given the option to obtain independent advice and legal representation. Evidence should be open to challenge. The process should be free from any bias or preconceived outcomes. The outcomes of the incident investigation and the reasons for those outcomes should be made available to all affected by the decision, and such decisions should be open to review.

Table 3.3.1 lists the principles of procedural fairness.

Table 3.3.1: Principles of procedural fairness

|  |
| --- |
| Principles of procedural fairness |
| * The investigator is independent and without preconceived ideas or bias, or any perceived bias.
* People know whether they are involved in the incident investigation and know about their involvement in any interviews ahead of time where possible. They have the opportunity to seek independent advice or involve an advocate.
* Everyone involved in the incident is listened to.
* All relevant submissions are considered.
* The investigation is conducted without undue delay.
* Interviews are documented and statements are obtained from witnesses.
* Before conducting or recording an interview, consent is obtained from the person being interviewed or their guardian.
* People are provided with the opportunity to check their statements are accurate.
* Appropriate interview techniques are used to obtain objective and reliable evidence.
* Interviews are planned and the interviewees are treated professionally and sensitively.
* Any person who is accused of wrongdoing is made aware of their right to examine and question or challenge the evidence brought against them.
* All the evidence is weighed according to how persuasive it is and whether it can prove the incident occurred (that is, whether it is probative).
* The findings are subject to review.
 |

### The incident investigation plan

Once an investigation approach has been determined, and endorsement has been given by the divisional office to undertake an investigation, detailed planning for the incident investigation gets underway. Each investigation should start with an overall planning process, including preparing a written investigation plan.

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| **What needs to be included in the investigation plan?**The investigation plan must include: * the scope and purpose of the incident investigation, timeframes and resources required
* the processes to ensure maximum feasible involvement of the client. For example, arrangements for an interview with the client, including consideration of how best to support the client to provide their account of the incident; the involvement of a support person if required; and arrangements for communicating progress on the investigation with the client and their key support person
* the witnesses to be interviewed and the order of interviews
* arrangements to provide the subject of allegation (if any) with the details of the allegation(s) made against them; and arrangements to interview the subject of allegation (if any)
* documentary evidence to be reviewed by the investigator
* arrangements for site visits as required
* arrangements to obtain expert evidence (for example, a forensic medical assessment)
* a plan for communicating with other clients, families and staff, both through the process as required, and communicating outcomes as required
* reporting timeframes.
 |

### The value of clear communication in the investigation plan

There will be times when the investigation manager needs to communicate with others about the investigation (for example, with clients or any subject of allegation). To ensure that all parties involved in the investigation have a shared understanding of the purpose and process of the investigation, communication should include:

* a clearly stated purpose (that is, terms of reference) for the incident investigation
* clarification around the allegations the investigation will address
	+ a clearly defined scope for the investigation and any limitations (things that might have been identified but are not within the scope).

As part of the investigation plan, the investigation manager should determine how the investigation plan is going to be communicated to both those involved and third parties when required, and what forms of communication will be used. For example:

* Who will notify the client involved in the incident and who will keep them informed?
* Who will notify all the people being interviewed, what method of contact will be used and to what extent will they be informed about the incident?

This should be determined before any communication (written or verbal) takes place. It is also good practice to determine what will be said in meetings and to staff who might be affected by the investigation, even if they are not part of the investigation.

A timeline of the key activities, including completion of the final report, will need to be set.

### Determine who should be involved in the investigation

Investigation managers need to consider carefully who should be involved in the investigation, balancing the need to gather appropriate information and evidence with requirements to maintain confidentiality and provide procedural fairness. For example, if there are allegations of abuse, the subject of allegation should be provided with an opportunity to respond. There will need to be some flexibility where new evidence becomes known during the investigation.

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| **Who should be involved in the incident investigation?**The initial investigation plan should identify those to be interviewed: the alleged victim(s); staff member(s); and other witnesses, including other clients and staff. Managers might also need to be interviewed, to clarify matters of policy and procedure, and to gain access to records and other relevant documents. |

The investigation plan should outline the support required to ensure the full and fair participation of everyone involved. This will include consideration of communication and emotional support needs, and possibly access to follow-up debriefing or counselling. People might also need advocacy or legal representation. A consent procedure for each participant should be identified, considering their communication support needs and decision-making capacity. Good practice would suggest that the client’s case manager (as appropriate) should be notified of any plan to interview the client to ensure that appropriate support can be provided before, during and after the interview.

### Determine what documentation and evidence is required

The investigation plan should identify all the documentation and other evidence that will be required, and identify the authorising processes necessary to access that evidence. Processes for how and where documents will be accessed, if they can be copied, and where records will be stored must be determined.

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| **What sorts of evidence might be gathered?**Evidence can include a range of information and take many different forms. For example: * oral evidence from clients, staff and witnesses
* document evidence (case notes, incident reports)
* file notes that may indicate behavioural changes during the period of alleged client incident(s)
* site inspections (to become familiar with locations, and place the allegation in context)
* sketches or descriptions of the location of the incident, including where people and objects were situated
* audio-visual evidence, possibly including CCTV (where available), and any other relevant audio or visual recordings
* phone records
* physical evidence if applicable
* medical reports
* expert opinion/analysis (technical advice) if required
* communications between the worker and employer
* relevant policies, procedures or guidelines that govern or dictate duties.
 |

The investigator should consider the potential legal implications of obtaining and using different forms of evidence. In some instances, the consent of the client or staff members might be needed. When in doubt, the investigator should seek further advice as appropriate (for example, from the department, relevant bodies or legal advice).

### Interviews

Interviews are a mechanism for the investigator to gather facts and information about the incident and any associated allegations. The investigator aims to assemble as much credible and reliable information and evidence as possible from which to decide the circumstances of the incident. Interviews provide the investigator with an opportunity to explore aspects of the incident that might be unclear, to gather additional information, and to seek clarity where one or more views or accounts of the incident might contain points of difference. Interviews also provide an opportunity for investigators to explore elements of practice or policy.

#### Preparing for the interviews

Interviews should be carefully planned, with the appropriate consent procedures undertaken in advance. Where possible, this should include signed consent from the client and staff member/carer involved to a clearly articulated statement about the scope of the investigation and subsequent interviews. Clear processes need to be defined and implemented where interviewees are not able to give consent (for example, due to age, cognitive impairment or personal issues). Such processes might include getting signed consent from a parent, guardian or advocate.

Where possible, those being interviewed should know in advance that the interview will be taking place, and where and when it will be held. They should be informed about what they will be asked, the implications of agreeing to the interview, and their rights to support during the interview. They should also be told how the interview will be documented (for example, notes taken, audio or video recording). Those being interviewed should be encouraged to have a support person present during the interview where possible. Staff members should also be made aware of implications for declining to participate including that the investigation will continue even if they decline to participate and any employment conditions linked to their participation in the investigation. If the investigator is unclear of any implications, it is a good idea to discuss this with the service provider’s human resources area.

Interviews need to be conducted and documented formally. However, consideration should be given to the environment best suited to the person who is being interviewed, especially if they are a child or vulnerable adult. In all interviews, the environment should provide for privacy and comfort.

Investigators should not be aggressive or accusatory in tone. It is not the role of the investigator to ‘cross-examine’ a client. Where a person appears to be deliberately blocking questions or not answering, it might be best to terminate the interview and seek further legal advice.

When constructing questions, start by keeping them open-ended, and then encourage the person to expand on the specific details they choose to raise. A useful guide is to apply TEDS:

**T** – ‘Tell me about that…’

**E** – ‘Explain that to me…’

**D** – ‘Describe that…’

**S** – ‘Show me…’.

It is important to listen carefully and accurately document what people say. A good investigator questions everything and seeks advice as they go.

People should have the opportunity to hear back or read their interview record to confirm that what has been documented is correct, or to recommend changes. For children and those with cognitive impairments, it would be appropriate to involve a guardian, family member, advocate or support person.

### Task 3.3.1: Conducting the incident investigation

For each statement below, indicate whether it is correct with a ‘Yes’ or incorrect with a ‘No’. Responses can be reviewed against the [self-check](#_Self-check_1) section at the end of the module.

| Statement | Yes/No |
| --- | --- |
| 1. An incident investigation must be conducted in a way that demonstrates the principles of natural justice and procedural fairness.
 |  |
| 1. When undertaking an incident investigation, some of the key principles that need to be kept in mind are that incident investigations must:
	* + - * adopt a person-centred and rights-based approach
				* remain impartial and independent at all times
				* be procedurally fair.
 |  |
| 1. Anyone who is senior in an organisation can conduct an incident investigation.
 |  |
| 1. Managing a client incident is ultimately a divisional office responsibility.
 |  |
| 1. The incident investigation plan should detail the purpose of the investigation, communication protocols and a timeline.
 |  |
| 1. The investigator should interview as many people as possible, and give them minimal time to prepare so they can’t make up information. Surprise is the best strategy to get the best evidence.
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| 1. An incident investigation can involve: reviewing documentation; interviewing witnesses; talking to clients, staff and family members; conducting observations where the incident is thought to have occurred; and seeking expert opinion.
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### Assessing the evidence

Having conducted the investigation in accordance with the investigation plan, the investigation manager will need to analyse the information gathered to determine whether or not abuse of a client can be substantiated.

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| **On what basis is evidence and data assessed in the incident investigation?**It is important to remember that an incident investigation is **not** a criminal investigation. Instead, the incident investigation is seeking to determine the extent to which, on the balance of probabilities, it would appear that the incident involves sexual exploitation, poor quality of care, unexplained injury, or physical, sexual, financial or psychological/emotional abuse by a staff member or another client, and that the abuse of a client can be substantiated. |

As previously indicated, major impact client incidents of abuse, sexual exploitation or poor quality of care are recorded as allegations.

The investigator, using their professional judgement, will weigh up the evidence to what extent it supports or negates the allegations being made. For example:

* Is there hard evidence to support that events occurred in a particular way (for example, CCTV footage or documented evidence of fraud)?
* Is the person making the allegations reliable? Is their story consistent with other facts?
* Are there other independent means of verifying claims, allegations or the views of particular organisations?
	+ Have there been other similar issues or concerns? Is there a pattern of behaviour by parties involved (individuals or organisations) that supports or negates the allegations?

The investigator will need to decide whether there is enough evidence (documents, statements, other information, and expert opinion) to conclude that the allegation of abuse of a client is substantiated. If not, is there some evidence that suggests further action needs to be taken, or more evidence gathered? If there is no evidence: should the investigation be closed? These are the types of matters that will need to be addressed in conducting the investigation, and producing the investigation report.

### Findings

A finding needs to be made for each specific allegation that has been made for each client in relation to the incident being investigated.

|  |
| --- |
| **What findings should be made from an incident investigation?**One of the following findings must be made for each allegation. That the allegation is:* **substantiated**
* substantiated – physical abuse
* substantiated – sexual abuse
* substantiated – emotional/psychological abuse
* substantiated – neglect
* substantiated – financial abuse
* **not substantiated – no further action** – where there is no evidence that the incident took place
* **not substantiated – further action** – where there is insufficient evidence to substantiate abuse but there is a need for further actions to be taken to address any ongoing concerns.

It should be noted that a finding is required for each client subject to the investigation. |

### Response plan

In addition to the formal findings indicated above, there may be one or more recommendations to follow up after the incident. These recommendations will be addressed in a response plan and included in the investigation report. Service providers would be expected to indicate what their internal process will be for monitoring the responses to such recommendations, and implementing any internal process, system or practice changes that result. The divisional office will also monitor the response plans via ongoing monitoring and oversight mechanisms.

|  |
| --- |
| **What information about the recommendations should be included in the response plan?**Specific actions need to be taken, and stated, in response to each recommendation. For each action, there needs to be:* a person nominated as responsible for the action
* a date by which the action is expected to be implemented
* a date for when the action should be reviewed.
 |

## Learning 3.4: Reporting the outcomes of the incident investigation

As discussed, the incident investigation includes:

* analysis of the evidence and any related facts and data
* development of the findings
	+ compiling the recommendations and response plan.

Following the investigation, the investigation manager must complete and submit a formal written investigation report to the chief executive officer or senior delegate of their organisation for endorsement. Once endorsed, the formal investigation report must then be submitted to the divisional office for quality assurance and endorsement.

### What information must be contained in the written investigation report?

* Details of the allegation(s) / unexplained injury
* The scope of the incident investigation
* The list of procedures performed in the incident investigation, including any procedures that could not be performed and the reasons why
* Details of the interviewees
* Documents detailing any evidence considered
* A summary of the key evidence
* Conclusions and findings based on the evidence and an assessment as to whether or not abuse can be substantiated based on the civil standard of proof (the balance of probabilities)
* A clearly articulated rationale for the decision
* A response (action) plan, including actions to ensure client safety in the future and recommended practice improvements.

### Reporting timeframes

The incident investigation must be completed and the investigation report finalised **within 28 working days** of receiving confirmation of incident endorsement from the divisional office.

This excludes any time that the incident investigation is put on hold due to an investigation being undertaken by Victoria Police.

### Quality assurance

The investigation report must be provided to the divisional office for review and quality assurance. The divisional office will **assess whether the incident investigation has been completed to the required standards** before endorsing the investigation report.

The service provider must then be **responsive to any recommendations** from the divisional office. This could include evaluating the effectiveness of any changes to policy, practice or procedures arising from the recommendations. There could be staff disciplinary action to pursue, and additional matters may need to be referred to Victoria Police for follow-up.

### Task 3.4.1: Methods of investigation and collecting and weighing evidence

For each statement below, indicate whether it is correct with a ‘Yes’ or incorrect with a ‘No’. Responses can be reviewed against the [self-check](#_Self-check_1) section at the end of the module.

| Statement | Yes/No |
| --- | --- |
| 1. The incident investigation will result in the completion of a formal written investigation report with recommendations for action.
 |  |
| 1. An incident investigation report must be submitted to the divisional office within seven days of the service provider receiving confirmation from the department that it is appropriate to proceed.
 |  |
| 1. The divisional office endorses all reports without question.
 |  |
| 1. Following an incident investigation and the submission of the investigation report to the divisional office, service providers need take no further action.
 |  |
| 1. The investigation report must be provided to the divisional office for review and quality assurance.
 |  |

### Task 3.4.2: Storyboard the incident investigation process

You’ve now read about incident investigations in the CIMS as they relate to incidents involving the alleged abuse of a client by a staff member or another client, sexual exploitation, poor quality of care, or unexplained injury.

For this activity, imagine you are required to brief a group of senior managers in your organisation about the CIMS incident investigation process, what is required and who is responsible for what. You will need to step them through the process, starting from when the service provider becomes aware of the incident through to the completion of the incident investigation. Be prepared to answer any questions they have along the way.

| What happens? | Then what? | … and then? | … and then? |
| --- | --- | --- | --- |
| A major impact incident occurs and it falls under one of the following categories:* physical abuse
* sexual abuse
* financial abuse
* psychological or emotional abuse
* sexual exploitation
* poor quality of care
* unexplained injury.

The incident is reported within the mandatory three business day period and an investigation manager is appointed by the service provider. |  |  |  |
| Who is responsible? | Who is responsible? | Who is responsible? | Who is responsible? |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

Refer to [self-check](#_Self-check_1) at the back of the module for answers.

# Sector application

The aim of this section is to apply learnings to the relevant sectors. A selection of case studies is provided. Choose one or two examples to work through. It may be helpful to discuss these case studies with a colleague or your line manager.

Responses may be reviewed against the [self-check](#_Self-check_1) section at the end of this module.

## Case study 1: Homeless sector

### Introducing Chi

Chi Nguyen is currently residing at Dempsta Manor, a large crisis accommodation service in Melbourne. The majority of the residents have high-level support needs and have access to case management support. Facilities include single rooms, shared bathrooms, shared lounge areas and a communal dining room.

Chi is a 35-year-old man who arrived in Australia with his family from Vietnam when he was five years old. He is estranged from his family due to behaviour related to mental health issues. Chi has had some ongoing issues with other residents in the facility due to his erratic behaviour.

### The incident

Just before a meal time, Manny Zerosky, one of the support staff, hears Chi screaming from one of the shared bathrooms. When Manny arrives at the bathroom, he sees another client, Tom Jackson, leaving the bathroom. Manny also notices a bleeding cut above Chi’s right eye. Chi is visibly distressed. Manny calls on the two-way radio for the on-site nurse to come in and attend to Chi’s injuries.

While the nurse is providing first aid to the cuts, Manny asks Chi how he got the cut to his eye. Chi tells him that Tom Jackson punched him in the face for no reason and threatened to kill Chi if he told any of the other staff. Chi says that Tom doesn't like him because he is Vietnamese and that Tom always gives him a hard time when other staff are not around. Chi says he is frightened of Tom.

Once Chi has settled and his injury is attended to, Manny notifies his line manager, Joanna Black, and completes an incident report. Manny assesses that this incident has had a major impact on Chi due to the alleged physical assault, the cut to Chi’s eye and the level of distress Chi displayed after the incident. Manny reports the incident as a major impact incident, and the incident type as alleged physical abuse (client-to-client).

Due to the incident being assessed as major impact, client to client physical abuse it will be subject to an investigation. The incident report and follow-up recommendation to conduct an internal investigation is endorsed by Joanna’s senior delegate and the departments divisional office. Joanne is allocated the role of investigation manager.

### Questions

Read through the statements below, which refer to Case study 1. Using your knowledge of the CIMS, indicate whether each statement is correct with a ‘Yes’ or incorrect with a ‘No’.

Responses can be reviewed against the [self-check](#_Self-check_1) section at the end of the module.

| 1. Which of the following statements are correct in relation to an investigation being conducted in response to this incident? | Yes/No |
| --- | --- |
| 1. The incident involved a vulnerable client who was physically and psychologically harmed in the incident so it must be subject to an investigation.
 |  |
| 1. This is a major impact incident, so it needs to be investigated.
 |  |
| 1. Joanna believes that every alleged physical assault must be investigated.
 |  |
| 1. The incident occurred during service delivery.
 |  |
| 2. Which of the following statements are correct in relation to the investigation manager?  | Yes/No |
| 1. The person should have the appropriate decision-making authority to have overall responsibility for coordinating the investigation.
 |  |
| 1. The person reporting the incident can also be the investigation manager.
 |  |
| 1. The person can determine what investigative action is appropriate.
 |  |
| 1. The person will always be appointed by the divisional office.
 |  |
| 1. The person must determine whether there should be: internal investigation, external investigation or short form investigation and review
 |  |

| 3. Which of the following statements are correct in relation to the roles and responsibilities of the service provider? The service provider will: | Yes/No |
| --- | --- |
| 1. Maintain documented investigation processes.
 |  |
| 1. Identify incidents that require investigation.
 |  |
| 1. Review the investigation report and prepare a response plan.
 |  |
| 1. Ensure any response actions are implemented and monitored.
 |  |

## Case study 2: Child protection sector

### Introducing Jack

Jack is 12 years old and lives with his maternal grandfather, Donald, in a kinship care arrangement. Jack is case-managed by a department-funded organisation. Jack has displayed some very challenging behaviour, including stealing cars, and hangs around with a group of young boys known to the police. Jack has been placed in multiple residential care placements without success. Jack’s grandfather wants to care for Jack but has been struggling with Jack’s disrespectful behaviour and verbal aggression over the past few weeks.

### The incident

On Wednesday night, the police arrive at the family home and ask to speak with Jack, who is not home. They explain to Donald that Jack is suspected of being involved in a recent car theft from a local shopping centre.

When Jack returns home later that evening, Donald approaches him about the alleged car theft. The situation escalates quickly, with Jack becoming verbally aggressive to his grandfather. Donald snaps and slaps Jack hard across the face, leaving a clearly visible handprint. Jack responds by punching a hole in the wall and immediately leaves the property.

Donald contacts the department-funded organisation’s after-hours service and demands that Jack is removed from his home that night as he cannot continue to manage Jack’s behaviour. Donald tells the after-hours worker that he has slapped Jack and does not know where he currently is.

The after-hours service manages the situation throughout the evening, locating Jack and placing him with his maternal aunt for the night. As Donald has admitted to hitting Jack, the department-funded organisation notifies the police.

A major impact incident report is submitted to the divisional office (within 3 business days), alleging physical abuse of Jack perpetrated by Donald. The incident meets the mandatory CIMS investigation requirements which will commence upon incident endorsement by the divisional office.

### Questions

Read through the statements below, which refer to Case study 2. Using your knowledge of the CIMS, indicate whether each statement is correct with a ‘Yes’ or incorrect with a ‘No’.

Responses can be reviewed against the [self-check](#_Self-check_1) section at the end of the module.

| 1. Which of the following statements are correct in relation to an investigation being conducted in response to this incident? | Yes/No |
| --- | --- |
| 1. The incident involved a vulnerable client who was physically and psychologically harmed in the incident so it must be investigated.
 |  |
| 1. This is a major impact incident as there is an allegation of physical abuse.
 |  |
| 1. All incidents with children or young people are major impact and all require investigations.
 |  |

|  |  |
| --- | --- |
| 2. Which of the following statements are correct in relation to the incident investigation process? | Yes/No |
| 1. As the police have been notified, the incident investigation should be put on hold until the police investigation has been completed.
 |  |
| 1. The department must always jointly investigate an allegation of physical abuse.
 |  |
| 1. If the client is involved with child protection, the service provider must not investigate the incident.
 |  |
| 1. The client should always be encouraged to participate in any incident investigation.
 |  |

| 3. Which of the following statements are correct in relation to the appointment of the investigation manager for this incident? | Yes/No |
| --- | --- |
| 1. The investigation manager must have the appropriate decision-making authority to have the overall responsibility for coordinating and directing the screening.
 |  |
| 1. The investigation manager must have been involved in the incident from the beginning.
 |  |
| 1. This investigation manager must be separate from staff working with the client or involved in the incident.
 |  |
| 1. The investigation manager will have had responsibility for screening the incident to determine what investigative action is appropriate.
 |  |

| 4. Which of the following statements are correct in relation to the roles and responsibilities of the service provider? The service provider will: | Yes/No |
| --- | --- |
| 1. Pass the investigation process to the divisional office to complete.
 |  |
| 1. Carry out or commission the incident investigation.
 |  |
| 1. Provide assurance that the incident investigation has adequately explored the incident and all relevant information.
 |  |
| 1. Review the investigation report and prepare a response plan.
 |  |
| 1. Pass back the response actions to the divisional office to implement and monitor.
 |  |

## Case study 3: Community mental health

### Introducing Krystal

Krystal is a 19-year-old woman with a history of anorexia, self-harm and attempted suicide. Krystal lives at home with her parents and two siblings. She left school last year, not completing her VCE, and she wants to return there to finish this. Krystal has been attending counselling sessions for the last three months within a local community mental health service. She has been allocated to a counsellor called Terry Matthews.

### The incident

Krystal’s mother, Jessica, drops her daughter off at counselling every Wednesday evening to ensure that Krystal attends the session. Jessica has noticed that Krystal has become increasing reluctant to attend counselling sessions over the past six weeks and that she has become quite withdrawn. Jessica has spoken with Terry about this reluctance but was reassured by him that this was not an unusual occurrence, as counselling can be very confronting for some people.

Jessica is running 10 minutes late to pick up Krystal from counselling this Wednesday evening. When she arrives, she finds Krystal crying uncontrollably. Krystal tells her that Terry touched her breast and tried to kiss her in the counselling session, saying it was part of counselling to make her feel better about herself.

Jessica takes Krystal straight to the police station to report what happened. Jessica also contacts the community mental health service provider and advises the General Manager, Jackie Kelly, of what happened. Jackie is the senior staff member on duty during the evening shift and provides an immediate response to these allegations, with Terry being stood down at once.

Jackie reports the incident as a major impact incident, with alleged sexual abuse (staff-to-client) perpetrated by Terry. The chief executive officer of the service provider and the department endorse this report. Jackie screens the incident for investigation and determines that it would be appropriate to engage an external investigator to conduct the investigation as there is no-one within the organisation who has experience in conducting investigations of this nature. Jackie will maintain the role of investigation manager. This proposed course of action is also endorsed by the department.

### Questions

Read through the statements below, which refer to Case study 3. Using your knowledge of the CIMS, indicate whether each statement is correct with a ‘Yes’ or incorrect with a ‘No’.

Responses can be reviewed against the [self-check](#_Self-check_1) section at the end of the module.

|  |  |
| --- | --- |
| 1. Which of the following statements are correct in relation to an investigation being conducted in response to this incident? | Yes/No |
| 1. The incident involved a vulnerable client who was sexually and psychologically harmed in the incident, so it must be investigated.
 |  |
| 1. This is a major impact incident as there is an allegation of sexual abuse.
 |  |
| 1. All major impact incidents require investigations.
 |  |

| 2. Which of the following statements are correct in relation to the incident investigation process? | Yes/No |
| --- | --- |
| 1. As the police have been notified, the incident investigation should be put on hold until the police investigation has been completed.
 |  |
| 1. The divisional office must always jointly investigate an allegation of sexual abuse.
 |  |
| 1. As this allegation is likely to result in a staff misconduct investigation, a CIMS investigation is not required.
 |  |
| 1. The client should always be encouraged to participate in any incident investigation.
 |  |

| 3. Which of the following statements are correct in relation to the appointment of the investigation manager for this client incident? | Yes/No |
| --- | --- |
| 1. The investigation manager must have the appropriate decision-making authority to have the overall responsibility for coordinating and directing the screening.
 |  |
| 1. The investigation manager must have been involved in the incident from the beginning.
 |  |
| 1. This investigation manager must be separate from staff working with the client or involved in the incident.
 |  |
| 1. Given that this incident is being managed by an external investigator, the service provider did not need to identify an investigation manager.
 |  |

| 4. Which of the following statements are correct in relation to the roles and responsibilities of the service provider? The service provider will: | Yes/No |
| --- | --- |
| 1. Pass the investigation process to the divisional office to complete.
 |  |
| 1. Carry out or commission the incident investigation.
 |  |
| 1. Provide assurance that the incident investigation has adequately explored the incident and all relevant information.
 |  |
| 1. Review the investigation report and prepare a response plan.
 |  |
| 1. Pass back the response actions to the divisional office to implement and monitor.
 |  |

## Case study 4: Disability sector

### Introducing Mary

Mary is a 38-year-old woman who has cerebral palsy and limited communication. Mary lives with three other people in a four-bedroom group home.

### The incident

On Friday evening, when support staff member, Jackson, starts his shift at the group home, he notes that Mary is grimacing and looks extremely uncomfortable. Mary is holding her arm which appears to be swollen. Jackson asks Mary if she is OK, and Mary nods.

Jackson reads through the day-book to get across the events of the day and notes nothing listed in the book about Mary. Over the course of the next hour, Jackson continues to monitor her, as she continues to appear to be in discomfort. Mary’s wrist has become more swollen and has started to bruise.

Jackson takes Mary to the doctor to check her wrist. The doctor examines Mary, sends her for an x-ray and advises that Mary has broken her wrist. Mary is provided with medical attention and returns to the group home with Jackson. Jackson gently asks Mary several times what happened to her wrist but she does not answer.

As there is no explanation of how Mary hurt her wrist and noting the severity of the injury, Jackson reports it as a major impact incident, with injury, noting in the description of the incident that the injury is unexplained. This report is endorsed by the senior delegate of the organisation and the divisional office.

This incident is referred for investigation.

### Questions

Read through the statements below, which refer to Case study 4. Using your knowledge of the CIMS, indicate whether each statement is correct with a ‘Yes’ or incorrect with a ‘No’.

Responses can be reviewed against the [self-check](#_Self-check_1) section at the end of the module.

| 1. Which of the following statements are correct in relation to an investigation being conducted in response to this incident? | Yes/No |
| --- | --- |
| 1. This is a major impact incident as there is no explanation for how Mary hurt her wrist.
 |  |
| 1. This incident has to be investigated as there is no staff member identified.
 |  |
| 1. All incidents involving an injury to a client are major impact and all require investigations.
 |  |

| 2. Which of the following statements are correct in relation to an incident investigation process? | Yes/No |
| --- | --- |
| 1. As there is no allegation of abuse, this matter cannot be investigated.
 |  |
| 1. All unexplained injuries to clients must be investigated.
 |  |
| 1. There is no staff member identified as causing harm to Mary so this incident cannot be investigated.
 |  |
| 1. The department must always jointly investigate any unexplained injury to a client.
 |  |

|  |  |
| --- | --- |
| 3. Which of the following statements are correct in relation to the appointment of the investigation manager for this client incident? | Yes/No |
| 1. The investigation manager must have the appropriate decision-making authority to have overall responsibility for coordinating and directing the investigation.
 |  |
| 1. The investigation manager must have been involved in the incident from the beginning.
 |  |
| 1. This investigation manager must be separate from staff working with the client or involved in the incident.
 |  |
| 1. The investigation manager will have had responsibility for determining what investigative action is appropriate.
 |  |

|  |  |
| --- | --- |
| 4. Which of the following statements are correct in relation to the roles and responsibilities of the service provider? The service provider will: | Yes/No |
| 1. Pass the investigation process to the divisional office to complete.
 |  |
| 1. Carry out or commission the incident investigation.
 |  |
| 1. Provide assurance that the incident investigation has adequately explored the incident and all relevant information.
 |  |
| 1. Review the investigation report and prepare a response plan.
 |  |
| 1. Pass back the response actions to the divisional office to implement and monitor.
 |  |

Summary

## Module 3: Investigating client incidents

1. **What is a client incident investigation?**

An incident investigation, as defined in the CIMS, is a **formal process of collecting information to ascertain the facts**, which may inform any subsequent criminal, civil, disciplinary or administrative sanctions.

* 1. Which client incidents must be investigated?

Any major impact incident involving the alleged abuse of a client by a staff member or another client, sexual exploitation, poor quality of care, or unexplained injury must be investigated.

Under the CIMS, the purpose of an incident investigation by a service provider is to determine **whether there has been abuse or neglect of a client** by a staff member (including a volunteer) or another client, following an allegation in an incident report.

* 1. What if a Victoria Police investigation is underway?

As far as possible, investigations should **avoid unnecessary overlap and duplication**. If police have decided to investigate an allegation related to a client incident, the service provider should not commence a client incident investigation until the police investigation is completed. Service providers can consult with the divisional office for further advice if required.

1. **Appointing an investigation manager**
	1. Who is the investigation manager?

The service provider must nominate and appoint one of its **internal staff** as the investigation manager, to **oversee the investigation process**. However, the service provider might engage an external expert to conduct the investigation itself.

* 1. What is a conflict of interest?

A conflict of interest refers to a situation where the **personal or professional interests of an investigation manager or investigator could, or could be seen to, influence the performance of their official duties** or responsibilities in the investigation.

1. **What is a joint investigation and when might one occur?**

A joint investigation occurs when the department partners with the service provider to carry out the investigation.

The divisional office will only become involved and carry out a joint investigation in exceptional circumstances, where one or more of the criteria below have been met:

* The current incident is similar to a series of previous incidents for the client.
* It is not possible for the service provider to undertake an independent investigation because of the seniority of staff involved.
	+ There has been a demonstrated lack of capability by the service provider to conduct or commission an investigation that meets the investigation standards defined by the CIMS policy.
1. **Conducting** the incident investigation
	1. What does an incident investigation involve?

An incident investigation involves the **planned and systematic gathering of all relevant**. The investigation will build on the incident report completed at the time the incident occurred or was disclosed.

* 1. What are the key principles of a client incident investigation?

When undertaking an incident investigation, some of the key principles that need to be kept in mind are that incident investigations must:

* adopt a person-centred and rights-based approach
* always remain impartial and independent
	+ be procedurally fair and demonstrate natural justice.
	1. What needs to be included in the investigation plan?

The investigation plan must include:

* the scope and purpose of the incident investigation, timeframes and resources required
* the processes to ensure maximum feasible involvement of the client. For example, arrangements for an interview with the client, including consideration of how best to support the client to provide their account of the incident; the involvement of a support person if required; and arrangements for communicating progress on the incident investigation with the client and their key support person
* the witnesses to be interviewed and the order of interviews
* arrangements to provide the subject of allegation (if any) with the details of the allegation(s) made against them; and arrangements to interview the subject of allegation (if any)
* documentary evidence to be reviewed by the investigator
* arrangements for site visits as required
* arrangements to obtain expert evidence (for example, a forensic medical assessment)
* a plan for communicating with other clients, families and staff, both through the process as required, and communicating outcomes as required
	+ reporting timeframes.
	1. Who should be involved in the incident investigation?

The initial investigation plan should identify those to be interviewed: the alleged victim(s); staff member(s); and other witnesses, including other clients and staff. Managers might also need to be interviewed, to clarify matters of policy and procedure, and to gain access to records and other relevant documents.

* 1. What sorts of evidence might be gathered?

Evidence can include a range of information and take many different forms. For example:

* **oral evidence** from clients, staff and witnesses
* **document** evidence (case notes, incident reports)
* **file notes** that may indicate behavioural changes during the period of alleged client incident(s)
* **site inspections** (to become familiar with locations, and place the allegation in context)
* **sketches or descriptions** of the location of the incident, including where people and objects were situated
* **audio-visual** evidence, possibly including CCTV (where available), and any other relevant audio or visual recordings
* **phone records**
* **physical evidence** if applicable
* **medical reports**
* **expert** opinion/analysis (technical advice) if required
* **communications** between the worker and employer
	+ relevant **policies, procedures or guidelines** that govern or dictate duties.
	1. On what basis is the evidence and data assessed in the incident investigation?

It is important to remember that an incident investigation is **not** a criminal investigation. Instead, the investigation is seeking to determine the extent to which, on the balance of probabilities, it would appear that the incident involves sexual exploitation, poor quality of care, unexplained injury, or physical, sexual, financial or psychological/emotional abuse by a staff member or another client, and that the abuse of a client can be substantiated.

* 1. What findings should be made from an incident investigation?

One of the following findings must be made for each allegation. That the allegation is:

* **substantiated**
	+ - substantiated – physical abuse
		- substantiated – sexual abuse
		- substantiated – emotional/psychological abuse
		- substantiated – neglect
		- substantiated – financial abuse
* **not substantiated – no further action** – where there is **no evidence** that the incident took place
* **not substantiated – further action** – where there is insufficient evidence to substantiate abuse but there is a need for further actions to be taken to address the situation.

It should be noted that a finding is required for each client subject to the investigation.

* 1. What information about the recommendations should be included in the response plan?

**Specific actions** need to be taken, and stated, in response to each recommendation. For each action, there needs to be:

* a **person nominated** as responsible for the action
* a **date** by which the action is expected to be **implemented**
* a **date** for when the action should be **reviewed**.

# Self-check

## Tasks – expected responses

Check your understanding of the tasks given during the module against the expected responses below. Refer back to the Client incident management guide and review the relevant sections.

### Task 3.1.1: What is an incident investigation?

| Statement | Yes/No |
| --- | --- |
| 1. The purpose of an incident investigation conducted under the CIMS is to determine whether there has been abuse of a client by a staff member (including a volunteer) or another client.

**Correct**.  | **Yes** |
| 1. A client incident investigation in the CIMS is a criminal investigation that requires input from Victoria Police.

**Incorrect. All client incident investigations are conducted by service providers (including the department in cases where it is a provider of client services) or by external investigators engaged by service providers. Victoria Police will not conduct a ‘client incident investigation’. They will conduct their own criminal police investigation if they decide this is warranted.** | **No** |
| 1. An incident investigation is completed to determine whether an incident was managed appropriately. The aim is to learn from the whole event to reduce the risk of future harm to clients, staff and others.

**Correct**.  | **Yes** |
| 1. Incident investigations are required when major impact incidents involve matters such as poor quality of care or unexplained injury.

**Correct**.  | **Yes** |

### Task 3.2.1: Appointment of an investigation manager

| Statement | Yes/No |
| --- | --- |
| 1. As a rule, the service provider is responsible for managing the investigation, as well as implementing any recommended actions.

**Correct**.  | **Yes** |
| 1. Anyone in the organisation can conduct an incident investigation as long as they are a senior staff member.

**Incorrect. The person conducting the incident investigation should have an appropriate level of training to undertake the investigation, and they must also be sufficiently independent of the incident.**  | **No** |
| 1. The divisional office is responsible for conducting all incident investigations.

**Incorrect. Generally, the service provider is responsible for managing the investigation and implementing any recommended actions. A service provider may engage an independent, external provider with appropriate skills and experience to conduct an investigation where the capability does not exist in the organisation.****The divisional office will only become involved and carry out a joint investigation if one or more of the following apply:*** **The allegation relates to a pattern of similar serious allegations.**
* **It is not possible for the service provider to undertake an independent investigation due to the seniority of staff involved.**
* **There has been a demonstrated lack of capability by the service provider to conduct or commission an investigation that meets the required standards.**
 | **No** |
| 1. The investigation manager is responsible for coordinating and directing the investigation but they are never involved in conducting the investigation.

**Incorrect. The investigation manager is responsible for coordinating and directing the investigation. They may also conduct the investigation itself providing they have the appropriate skills and experience, and a sufficient level of independence from those involved in the incident.** | **No** |
| 1. The investigation manager is not involved in Investigation activity.

**Incorrect. The investigation manager has responsibility for decision making authority to manage an investigation.**  | **No** |
| 1. The investigation manager is responsible for coordinating and directing the investigation and can also undertake the investigative activities. They may also appoint someone else to undertake the investigative activities while being responsible for oversight.

**Correct**.  | **Yes** |

### Task 3.2.2: Understanding the role of the investigation manager

In Task 3.2.2 you were asked to imagine that you were a manager for a service provider tasked with finding a person within your organisation to manage the investigation of a major impact incident that just happened, and to complete an investigation manager position description.

There is no one right answer and each person will have their own unique way of describing this position. However, the following completed table may be a good reference point to check against your own understanding of the requirements for the role of an investigation manager.

| Eligibility requirements* **Must currently be employed in a senior role within the organisation**
* **Must be independent of staff working with the client or involved in the incident**
* **Must be available to commence urgently**
* **Has experience in managing serious allegations and complex investigations and/or has undertaken training in investigations – completion of the CIMS classroom-based training program in Investigating client incidents is highly desirable**
* **Experience in working and communicating with the affected client group**
* **Passionate about client safety and quality of care, and the importance of thorough, independent investigations to get to the bottom of an incident**
* **Must be a highly ethical person with a professional approach, and advanced interpersonal skills.**
 |
| --- |
| Position brief* **Coordinate and direct investigations associated with major impact incidents involving allegations of physical, sexual, financial and psychological/emotional abuse, sexual exploitation, poor quality of care and unexplained injury.**
* **Manage and oversee incident investigations, and in some instances undertake the investigation itself.**
 |
| Position description* **Coordinate and direct investigations associated with major impact incidents involving allegations of physical, sexual, financial and psychological/emotional abuse, sexual exploitation, poor quality of care and unexplained injury.**
* **Gather information and conduct a thorough analysis of the reported incident to determine one of the following investigative actions:**
* **Full investigation (internal or external)**
* **short form investigation outcome and case review**
* **short form investigation outcome and root cause analysis**
* **Determine and source the most appropriate person to conduct the investigation. If the investigation manager has expertise in conducting investigations, they may carry out the investigation themselves or they may engage external expertise to do so.**
* **Manage and oversee the investigative process, regularly updating and checking in with relevant parties, and/or the investigator (if externally appointed), ensuring the integrity of the investigation is maintained at all times.**
* **Ensure the investigation runs according to the timelines required under the CIMS.**
* **Quality assure the investigation plan, report and response plan, ensuring that they meet CIMS requirements.**
 |

### Task 3.3.1: Conducting the incident investigation

| Statement | Yes/No |
| --- | --- |
| 1. An incident investigation must be conducted in a way that demonstrates the principles of natural justice and procedural fairness.

**Correct**.  | **Yes** |
| 1. When undertaking an incident investigation, some of the key principles that need to be kept in mind are that incident investigations must:
	* + - * adopt a person-centred and rights-based approach
				* remain impartial and independent at all times
				* be procedurally fair.

**Correct**.  | **Yes** |
| 1. Anyone who is senior in an organisation can conduct an incident investigation.

**Incorrect. The investigation manager should have the appropriate decision-making authority to have overall responsibility for coordinating and directing the screening and any subsequent investigation. This person must be separate from staff working with the client or involved in the incident.**  | **No** |
| 1. Managing a client incident is ultimately a divisional office responsibility.

**Incorrect. It is the primary responsibility of the service provider to report and manage a client incident. The division of roles and responsibilities in the *Client incident management guide* recognises that reporting and managing a client incident is ultimately the service provider’s responsibility, but that the divisional office may support service providers in discharging this responsibility at times.**  | **No** |
| 1. The incident investigation plan should detail the purpose of the investigation, communication protocols and a timeline.

**Correct. However, you are still correct if you marked this incorrect as long as you were thinking that it should also include:** * **the resources required**
* **any requirements or conditions to ensure maximum feasible involvement of the client**
* **arrangements for an interview with the client, including consideration of how best to support the client to provide their account of the incident, and the involvement of a support person if required**
* **arrangements for communicating progress on the investigation with the client and their key support person.**
 | **Yes** |
| 1. The investigator should interview as many people as possible, and give them minimal time to prepare so they can’t make up information. Surprise is the best strategy to get the best evidence.

**Incorrect. The investigation should abide by the standard principles of good investigations:*** **Confidentiality and privacy – keep information provided by a witness confidential (unless it is required to be disclosed by law, in which case the witness should be informed of the potential need to disclose).**
* **Obtain consent from the person being interviewed to record the interview, provide people with the opportunity to review their statements, and check to make sure their statements are accurate.**
* **Use appropriate interview techniques to obtain objective and reliable evidence. Interviews should be professional, planned and sensitive to the interviewee.**
 | **No** |
| 1. An incident investigation can involve: reviewing documentation; interviewing witnesses; talking to clients, staff and family members; conducting observations where the incident is thought to have occurred; and seeking expert opinion.

**Correct**.  | **Yes** |

### Task 3.4.1: Methods of investigation and collecting and weighing evidence

| Statement | Yes/No |
| --- | --- |
| 1. The incident investigation will result in the completion of a formal written investigation report with recommendations for action.

**Correct**.  | **Yes** |
| 1. An incident investigation report must be submitted to the divisional office within seven days of the service provider receiving confirmation from the department that it is appropriate to proceed.

**Incorrect. If an incident investigation is to be undertaken, the investigation must be completed and the investigation report finalised within 28 working days of receiving confirmation from the divisional office regarding the appropriate investigative action, or within such other amount of time as is required by the divisional office, having regard to the seriousness of the incident.** | **No** |
| 1. The divisional office endorses all reports without question.

**Incorrect. The divisional office will only endorse a report that has been completed in accordance with the agreed standards.**  | **No** |
| 1. Following an incident investigation and the submission of the investigation report to the divisional office, service providers need take no further action.

**Incorrect. Based on the investigation report, the investigation manager should prepare a response plan, including outcomes for staff or clients who were involved, any actions to ensure the safety of clients in the future, and any practice improvements that may have been identified. The response plan needs to be developed and submitted with the investigation report.**  | **No** |
| 1. The investigation report must be provided to the divisional office for review and quality assurance.

**Correct**.  | **Yes** |

### Task 3.4.2: Storyboard the incident investigation process

| What happens? | Then what? | … and then? | … and then? |
| --- | --- | --- | --- |
| A major impact incident occurs and it falls under one of the following categories:* physical abuse
* sexual abuse
* financial abuse
* psychological or emotional abuse
* sexual exploitation
* poor quality of care
* unexplained injury.

The incident is reported within the mandatory three business day reporting period and an investigation manager is appointed by the service provider. | * **The investigation manager makes recommendation for investigative action, which is either to conduct a full investigation or undertake an investigation outcome and case review/root cause analysis review**
* **The investigation manager may conduct investigation if they have the appropriate skills or they may engage someone external to do so.**
 | * **The investigator (sometimes also the investigation manager) completes an investigation plan to be submitted to the department for endorsement through the service provider CEO or senior delegate**
* **The investigator conducts the investigation, gathering and documenting relevant evidence, conducting interviews, etc.**
* **The investigator and the investigation manager keep in regular contact throughout the investigation to monitor progress.**
 | * **The investigator submits an investigation report and response plan for initial review and approval by the investigation manager**
* **The investigation manager reviews and quality assures the investigation report and response plan, and then progresses it to the CEO or senior delegate to endorse and submit to the department**
* **The CEO or senior delegate endorses report and submits to the department**
* **The divisional office reviews and endorses the report or requests further information or follow-up.**
 |
| Who is responsible? | Who is responsible? | Who is responsible? | Who is responsible? |
| **Service provider CEO or senior delegate** | **Investigation manager** | **Investigation manager** | **Investigation manager** |
|  |  | **Investigator (if external)** | **Investigator (if external)** |
|  |  | **Service provider CEO or senior delegate** | **Service provider CEO or senior delegate** |
|  |  |  | **Divisional office** |

**RESPONSIBILITIES**

* **Investigation manager**
* **Investigator (if external)**
* **Service provider CEO  / senior delegate**
* **Divisional office**

**RESPONSIBILITIES**

* **Investigation manager**
* **Investigator (if external)**
* **Service provider CEO / senior delegate**

## Case studies – expected responses

Check your understanding of the case study you selected against the expected responses below.

### Case study 1: Homeless sector

### Answers

| 1. Which of the following statements are correct in relation to an investigation being conducted in response to this incident? | Yes/No |
| --- | --- |
| 1. The incident involved a vulnerable client who was physically and psychologically harmed in the incident so it must be subject to an investigation.
 | **Yes** |
| 1. This is a major impact incident so it needs to be investigated.
 | **No** |
| 1. Joanna believes that every alleged physical assault must be investigated.
 | **No** |
| 1. The incident occurred during service delivery.
 | **Yes** |
| 2. Which of the following statements are correct in relation to the investigation manager? | Yes/No |
| 1. The person should have the appropriate decision-making authority to have overall responsibility for coordinating the investigation.
 | **Yes** |
| 1. The person reporting the incident can also be the investigation manager.
 | **No** |
| 1. The person can determine what investigative action is appropriate.
 | **Yes** |
| 1. The person will always be appointed by the divisional office.
 | **No** |
| 1. The person must determine whether there should be: internal investigation, external investigation or short form investigation and review
 | **Yes** |

| 3. Which of the following statements are correct in relation to the roles and responsibilities of the service provider? The service provider will: | Yes/No |
| --- | --- |
| 1. Maintain documented investigation processes.
 | **Yes** |
| 1. Determine the appropriate investigative action.
 | **Yes** |
| 1. Review the investigation report and prepare a response plan.
 | **Yes** |
| 1. Ensure any response actions are implemented and monitored.
 | **Yes** |

### Case study 2: Child protection sector

### Answers

| 1. Which of the following statements are correct in relation to an investigation being conducted in response to this incident? | Yes/No |
| --- | --- |
| 1. The incident involved a vulnerable client who was physically and psychologically harmed in the incident so it must be investigated.
 | **No** |
| 1. This is a major impact incident as there is an allegation of physical abuse.
 | **Yes** |
| 1. All incidents with children or young people are major impact and all require investigations.
 | **No** |

| 2. Which of the following statements are correct in relation to the incident investigation process? | Yes/No |
| --- | --- |
| 1. As the police have been notified, the incident investigation should be put on hold until the police investigation has been completed.
 | **Yes** |
| 1. The department must always jointly investigate an allegation of physical abuse.
 | **No** |
| 1. If the client is involved with child protection, the service provider must not investigate the incident.
 | **No** |
| 1. The client should always be encouraged to participate in any incident investigation.
 | **Yes** |

| 3. Which of the following statements are correct in relation to the appointment of the investigation manager for this incident? | Yes/No |
| --- | --- |
| 1. The investigation manager must have the appropriate decision-making authority to have overall responsibility for coordinating and directing the screening.
 | **Yes** |
| 1. The investigation manager must have been involved in the incident from the beginning.
 | **No** |
| 1. This investigation manager must be separate from staff working with the client or involved in the incident.
 | **Yes** |
| 1. The investigation manager will have had responsibility to determine what investigative action is appropriate.
 | **Yes** |

| 4. Which of the following statements are correct in relation to the roles and responsibilities of the service provider? The service provider will: | Yes/No |
| --- | --- |
| 1. Pass the investigation process to the divisional office to complete.
 | **No** |
| 1. Carry out or commission the incident investigation.
 | **Yes** |
| 1. Provide assurance that the incident investigation has adequately explored the incident and all relevant information.
 | **Yes** |
| 1. Review the investigation report and prepare a response plan.
 | **Yes** |
| 1. Pass back the response actions to the divisional office to implement and monitor.
 | **No** |

### Case study 3: Community mental health

### Answers

| 1. Which of the following statements are correct in relation to an investigation being conducted in response to this incident? | Yes/No |
| --- | --- |
| 1. The incident involved a vulnerable client who was sexually and psychologically harmed in the incident, so it must be investigated.
 | **No** |
| 1. This is a major impact incident as there is an allegation of sexual abuse.
 | **Yes** |
| 1. All major impact incidents require investigations.
 | **No** |

| 2. Which of the following statements are correct in relation to the incident investigation process? | Yes/No |
| --- | --- |
| 1. As the police have been notified, the incident investigation should be put on hold until the police investigation has been completed.
 | **Yes** |
| 1. The divisional office must always jointly investigate an allegation of sexual abuse.
 | **No** |
| 1. As this allegation is likely to result in a staff misconduct investigation, a CIMS investigation is not required.
 | **No** |
| 1. The client should always be encouraged to participate in any incident investigation.
 | **Yes** |

| 3. Which of the following statements are correct in relation to the appointment of the investigation manager for this client incident? | Yes/No |
| --- | --- |
| 1. The investigation manager must have the appropriate decision-making authority to have the overall responsibility for coordinating and directing the investigation.
 | **Yes** |
| 1. The investigation manager must have been involved in the incident from the beginning.
 | **No** |
| 1. This investigation manager must be separate from staff working with the client or involved in the incident.
 | **Yes** |
| 1. Given that this incident is being managed by an external investigator, the service provider did not need to identify an investigation manager.
 | **No** |

| 4. Which of the following statements are correct in relation to the roles and responsibilities of the service provider? The service provider will: | Yes/No |
| --- | --- |
| 1. Pass the investigation process to the divisional office to complete.
 | **No** |
| 1. Carry out or commission the incident investigation.
 | **Yes** |
| 1. Provide assurance that the incident investigation has adequately explored the incident and all relevant information.
 | **Yes** |
| 1. Review the investigation report and prepare a response plan.
 | **Yes** |
| 1. Pass back the response actions to the divisional office to implement and monitor.
 | **No** |

### Case study 4: Disability sector

### Answers

| 1. Which of the following statements are correct in relation to an investigation being conducted in response to this incident? | Yes/No |
| --- | --- |
| 1. This is a major impact incident as there is no explanation for how Mary hurt her wrist.
 | **No** |
| 1. This incident has to be investigated as there is no staff member identified.
 | **No** |
| 1. All incidents involving an injury to a client are major impact and all require investigations.
 | **No** |

| 2. Which of the following statements are correct in relation to an incident investigation process? | Yes/No |
| --- | --- |
| 1. As there is no allegation of abuse, this matter cannot be investigated.
 | **No** |
| 1. All unexplained injuries to clients must be investigated
 | **Yes** |
| 1. There is no staff member identified as causing harm to Mary so this incident cannot be investigated.
 | **No** |
| 1. The department must always jointly investigate any unexplained injury to a client.
 | **No** |

| 3. Which of the following statements are correct in relation to the appointment of the investigation manager for this client incident? | Yes/No |
| --- | --- |
| 1. The investigation manager must have the appropriate decision-making authority to have overall responsibility for coordinating and directing the investigation.
 | **Yes** |
| 1. The investigation manager must have been involved in the incident from the beginning.
 | **No** |
| 1. This investigation manager must be separate from staff working with the client or involved in the incident.
 | **Yes** |
| 1. The investigation manager will have had responsibility to determine what investigative action is appropriate.
 | **Yes** |

| 4. Which of the following statements are correct in relation to the roles and responsibilities of the service provider? The service provider will: | Yes/No |
| --- | --- |
| 1. Pass the investigation process to the divisional office to complete.
 | **No** |
| 1. Carry out or commission the incident investigation.
 | **Yes** |
| 1. Provide assurance that the incident investigation has adequately explored the incident and all relevant information.
 | **Yes** |
| 1. Review the investigation report and prepare a response plan.
 | **Yes** |
| 1. Pass back the response actions to the divisional office to implement and monitor.
 | **No** |

# Evaluation form

**Module 3: Investigating client incidents**

Please help us improve this self-paced learning module by responding candidly to the following statements, using a five‑point scale where:

1 = Strongly disagree; 2 = Disagree; 3 = Neither agree nor disagree; 4 = Agree; 5 = Strongly agree

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| By the end of this self-paced learning module I had a good foundational knowledge of the requirements for investigations under the CIMS  | 1 | 2 | 3 | 4 | 5 |
| The content was easy to understand, and the activities useful and easy to follow | 1 | 2 | 3 | 4 | 5 |
| There was enough information about where I could find out more about the CIMS | 1 | 2 | 3 | 4 | 5 |
| Overall, the self-paced learning module was informative and provided a sufficient introduction and overview to CIMS client incident investigations | 1 | 2 | 3 | 4 | 5 |

What did you like most about this self-paced learning module?

|  |
| --- |
|  |

How can we improve this self-paced learning module?

|  |
| --- |
|  |

Any other comments:

|  |
| --- |
|  |

Please provide your contact details if you would like to discuss your response:

|  |  |  |
| --- | --- | --- |
| Name | Email | Telephone number |
|  |  |  |

Please send this form to CIMS Learning <CIMS.Learning@dhhs.vic.gov.au>.