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| Client Incident Management System (CIMS)  Investigative framework  December 2017 |
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# Introduction to the client incident management system investigative framework

The guidance set out in this document has been developed to assist in conducting client incident management system (CIMS) investigations, as set out in the *Client incident management guide*. It has been tailored to guide those tasked with undertaking investigations with a step-by-step process to plan, gather evidence and complete investigations, noting the broad nature of potential allegations that may be made under the CIMS.

## Using the investigative framework

While the investigative framework has been developed for use by any person tasked with conducting an investigation (investigation manager), it has been written to assist those with limited prior investigation experience. By following the investigative framework across all CIMS investigations, it is intended that consistency of investigative processes will be achieved by service providers, who are responsible for leading investigations.

The investigative framework includes the:

1. CIMS investigative framework guide
2. CIMS investigation plan template
3. CIMS investigation report and response plan template

### 1.1.1 The investigative framework and the *Client incident management guide*

The investigative framework is targeted toward the investigation of major impact incidents, where the decision has been made during the screening process to proceed to an investigation. The investigative framework supports the investigatory process only, as set out in Section 4.3 of the *Client incident management guide*. It does not consider protocols or steps required to respond to or report an incident or lead initial case management actions prior to the investigation commencing. For further information about these processes, refer to Chapters 2 and 3 (respectively) of the *Client incident management guide*.

For further information on determining the investigation manager, or the lead investigator in cases where there are multiple service providers involved, please see *Client incident management guide,* sections 3.7 and 4.2.2 respectively.

Note that it is anticipated that any incidents screened to investigation, by definition, are likely to have met the threshold for referral to Victoria Police. Incidents are to be reported to Victoria Police (as required) prior to investigations commencing, with any additional relevant information disclosed during the investigation to be provided to Victoria Police at the time of disclosure. This is in line with *Client incident management guide* Section 2.2.2. If, at any point during the investigation, the investigation manager reaches the conclusion that additional information on the incident and any subsequent allegations should be reported to Victoria Police, this is to occur immediately. The policy and procedure for this is set out in *Client incident management guide* Section 2.2.2. If advised by Victoria Police, investigations should be put on hold, in line with *Client incident management guide* 4.1.2.

Investigations where the alleged victim is a person with an intellectual disability or cognitive impairment should reference the Disability Services Commissioner’s *Investigations: Guidance for Good Practice (2014)*. Consideration for the immediate safety of clients is part of the incident reporting process, but should also be considered an ongoing responsibility of the investigation manager throughout the investigative process. Investigation managers should report any new information on risks to client safety to service providers, and to Victoria Police if necessary. Note that considerations around client safety in certain sectors may include case planning decisions to remove a client.

Concerns about the ongoing safety of any client are to be reported immediately to the service provider manager alongside a recommendation for further action.

## Structure of this guide framework

The investigative framework guide has been divided into the following sections:

* Practice considerations
* Review and assess allegations
* Investigation planning
* Evidence gathering
  + Reporting and closure

A quick reference guide for investigation managers using this framework is supplied overleaf, followed by more detailed guidance on each section.

| Section | What is covered |
| --- | --- |
| Practice considerations | The purpose of an incident investigation  Principles of good investigations  The civil standard of proof ‘the balance of probabilities’ applies to CIMS investigations. |
| Review and assess allegation | Critical initial steps to undertake an investigation, including:  determining and documenting the nature of the allegation  confirming the ongoing safety of all clients who may be in contact with the alleged perpetrator  ongoing considerations of the need to report any new disclosures to Victoria Police  reminding all parties of the need to maintain an appropriate degree of discretion around information relevant to the investigation. |
| Investigation planning | Prepare an investigation plan, which includes:  identifying all appropriate sources of information  defining and assigning tasks to appropriately skilled staff members  setting timeframes to ensure investigation completion within working 28 days  determining witnesses to be interviewed and the order of interviews  consideration of conflicts of interest for any involved parties. |
| Evidence gathering | Gathering evidence (including physical and electronic / digital evidence)  Chain of custody considerations  Interviewing techniques. |
| Reporting and closure | Expected contents of the investigation report, including conclusions and findings based on salient evidence and an assessment about whether or not abuse can be substantiated based on the civil standard of proof (balance of probabilities)  Notification of outcomes of the investigation to relevant parties. |

# Investigative framework

## Practice considerations

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| The purpose of an incident investigation under the CIMS is to determine whether there has been abuse or neglect of a client by a staff member (including a volunteer) or another client, pursuant to an allegation in a client incident report (see *Client incident management guide*, section 4.1.1).  The investigation should abide by standard principles of good investigations including :  A person centred approach is essential.  Establish the investigative framework of the investigation.  Provide procedural fairness.  Ensure that appropriate matters are referred to police.  Use an independent third person where appropriate.  Appropriately determine investigation outcomes.  The civil standard of proof ‘the balance of probabilities’ applies to CIMS investigations. |

### Investigation guidance

#### Purpose of a CIMS investigation

#### The purpose of an incident investigation by a service provider under the CIMS is to determine whether there has been abuse or neglect of a client by a staff member (including a volunteer) or another client, pursuant to an allegation in a client incident report (see *Client incident management guide*, section 4.1.1).

#### Guiding principles

* The investigation should adopt a person-centred and rights-based approach, taking into account what is important to the client. Clients should be invited to participate in the investigation process and obtain the support they need to do so. The investigation must, however, remain impartial and independent at all times.
* The investigation should abide by the standard principles of good investigations including:
  + - principles of procedural fairness – hear all parties involved in the incident, consider all relevant submissions, act fairly and without bias, and conduct the investigation without undue delay
    - confidentiality and privacy – keep information provided by a witness confidential (unless 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
    - appropriate interview techniques to obtain objective and reliable evidence. Interviews should be professional, planned and sensitive to the interviewee
    - weighing the evidence according to how persuasive and probative it is
      * recording interviews and obtaining witness statements.

#### Standard of proof for CIMS investigations[[1]](#footnote-1)

The civil standard of proof ‘the balance of probabilities’ applies to CIMS investigations. This means that the investigation manager must be satisfied that it is more likely than not that abuse or neglect has occurred in order to substantiate alleged abuse. In civil matters it has been held that the civil standard should, in some instances (for example, where applies to proof of serious allegations of abuse or neglect of children), be modified to take into account the severity of the allegations and consequences for the person the allegation has been made against.

According to the ‘Briginshaw principle’[[2]](#footnote-2), the state of being reasonably satisfied on the balance of probabilities that an allegation is substantiated will vary depending on the nature and consequences of the facts in issue.

For example, the more serious the likely consequences for the alleged perpetrator if the allegation is substantiated, the more closely the investigation manager may consider the reliability of the evidence before it, and accordingly attach more or less weight to its importance in its decision making. Under this principle, where an alleged perpetrator is likely to receive a caution if the allegation is substantiated then it might be reasonable for the investigation manager to choose to take one person’s word against another where this appears to be justified. Where the allegation is so serious that the alleged perpetrator may potentially be dismissed from their role, there would need to be more evidence of alleged abuse or neglect to enable the investigation manager to be reasonably satisfied.

The strict rules of evidence that apply in court do not apply to CIMS investigations. The investigation manager must assess the strength or weight of evidence when making a finding. There are some general considerations that can assist in determining how much weight to place on information and to determine a finding. These considerations are not independent from one another, so evidence that satisfies one consideration may very well also satisfy others. These considerations include:

* **Reliability**

Some evidence will be stronger than other evidence because it may be more reliable. The account of a person who actually saw or heard an event will be more reliable, and therefore stronger, than the account of a person who has only been told about the event.

* **Relevancy**

Evidence must also be relevant to the allegations being investigated. This means that it should relate to events, observations and material regarding the allegation. Other evidence such as evidence of the alleged perpetrator’s previous conduct and reputation may only be peripherally relevant as to whether a particular event or allegation may be true. In some cases, evidence of prior conduct may be relevant provided it is very similar to the conduct being decided.

It is noted that there is a general preference not to consider evidence or prior misconduct given its potential prejudicial effect. Generally speaking the investigation manager should be satisfied that the probative value of the evidence outweighs any prejudicial effect on the consideration of the allegations currently before it. Probative value may be measured by factors such as similarity and recurrence of, and motivation for, the past misconduct in light of the current allegations under consideration.

* **Consistency**

The investigation manager should examine the account given by each person. A minor variation in accounts between witnesses is normal and does not mean the witness is not telling the truth or is not credible. However, major inconsistencies will tend to point towards a serious flaw in the evidence. The more consistent the evidence, the more weight it should be given.

**Caution:** In investigations involving clients that are children or young people, it is important to avoid the assumption that because children give differing accounts, this indicates their evidence is inconsistent. Children’s accounts may vary from child to child in the peripheral details provided, whilst remaining consistent regarding the core or central event. This is especially true of children who may be frightened, over-awed or fail to understand the importance of answering questions in particular ways. Just because a child cannot answer a question in the same way that an adult would does not mean the information provided by the child should not be taken seriously.

* **Corroboration**

Is there corroboration of the account of the event given by the alleged perpetrator, the client, a witness or by other information? Corroboration can include: the presence or absence of injuries; evidence from witnesses about matters such as the condition, conduct or complaints made by the client following the time of the alleged incident; and any information or disclosures made by the alleged perpetrator. Whilst corroboration will generally give more weight to evidence, lack of corroboration does not, of itself, mean an event did not occur as reported. If the investigation manager is satisfied by the account given by the person reporting the concern or by the client it can be given more weight than any evidence to the contrary, then the allegation may be substantiated.

* **Time elapsed between the event and providing information**

The more recent an event, the more likely that the evidence of that event will be more detailed. A person’s memory may fade with time. Therefore, the more recently a witness saw or heard an event the more likely that details will be accurately recalled that may be corroborated from other sources. When the account of a witness has been recorded at, or near, the time of the event, either by the witness in the form of notes or an incident report or by someone recording the witness’ account, there is a greater chance that important details will be accurately recorded.

**Caution:** In investigations involving clients that are children or young people, the investigation manager should be cautious when there is a delay in children or young people providing information or making a complaint of conduct by an alleged perpetrator. It can be difficult for a child or young person to provide information about the conduct to a person in authority. The investigation manager should take care not to place less weight on a child or young person’s information due to the child’s delay in providing that information, without taking into account their age, level of development, the nature of the reported quality of care concern and other environmental factors that may provide reasons for the delay in the child or young person discussing the event.

* **Opinions of witnesses and bias or conflict of interests**

Evidence from a witness should focus on what the witness has actually perceived (that is, what they saw, heard, etc). A witness’ opinion should be treated with care unless it is about a subject in which they are a qualified expert. However, an investigation manager should also consider whether any opinion expressed by a witness indicates that the witness has basic beliefs or opinions that may weaken the objectivity of their evidence. A witness’ evidence should not be influenced by strongly-held bias such as personal opinion or conflict with the alleged perpetrator who is the subject of the concern.

* **The alleged perpetrator’s account**

An important point to remember is that every effort must be made to give the alleged perpetrator an opportunity to respond to the concerns before a finding is made, including offering alternative interview times if the original time is not possible for the alleged perpetrator and encouraging the alleged perpetrator to have a support person present. Any such response should be part of the evidence considered in making any decision. The alleged perpetrator is often the only person, beside the alleged victim, who can provide a first-hand account of the alleged event. The alleged perpetrator’s account of events must be considered and tested in the same way as the account of any other witness. If an alleged perpetrator refuses to participate in the interview or resigns during the course of the investigation, all possible efforts should be made to obtain the alleged perpetrator’s response to the evidence obtained.

* **Weighing the evidence**

When the investigation manager assesses the weight that should be placed on the first-hand evidence provided by the accounts from the alleged victim, the alleged perpetrator and witnesses, the following matters may impact on this decision:

* + - How did the person present when giving their account of events? For example, did he/she recall what you would expect a person of the age, intelligence and other pertinent personal characteristics to recall, and was it in the detail you would expect the person to recall (having regard to the length of time since the alleged event)?
    - Are there any discrepancies in the person’s account? (Compare all accounts given by the person including in any written material, accounts to colleagues or other people.)
    - Are there any inconsistencies that can’t be explained?
    - Does the person’s account agree with or conflict with other reliable information (such as injuries, rosters, evidence of other reliable witnesses)?
    - Does the persons account or version make sense?
    - Is there something unlikely or unusual about it?
* **Conflicts of interest**

It is important throughout the investigation process to identify actual or perceived conflicts of interests. Many conflicts may be addressed at the outset of the investigation through careful selection of the investigation manager. Where conflicts of interest are identified during conduct of an investigation, these need to be immediately raised with the service providers’ senior delegate and appropriately addressed to ensure the investigation is conducted fairly and impartially.

## Review and assess allegation

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| Despite allegation/s being reviewed and assessed during screening, it is critical for the investigation manager to ensure they have a robust appraisal of the concerns and key parties, and ensure the ongoing safety of all clients. |

### Investigation guidance

The critical first step of any investigation is confirming the nature of the incident that is alleged to have occurred. This may involve allegations of abuse, poor quality of care or unexplained injury.

As part of this step, the investigation manager should:

* confirm the identity of the client involved in the alleged incident, and the source of the allegation, along with the identity of any alleged perpetrators, plus any witnesses
* confirm when and where the alleged incident occurred
* document a description of the known acts which constitute the incident or form the basis of the allegation (if relevant)
* clarify the estimate of physical force or harm on the client if there is an allegation involving physical abuse.

It is important to establish who is aware of the allegation and what information is appropriate to disclose to them throughout the investigation. All parties to an investigation should be advised that they should only discuss details of the allegation or investigation on a strict need to know basis, noting sensitivity, privacy and confidentiality obligations.

## Planning and coordinating investigations

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| Irrespective of the size, complexity or nature of the allegations, it is essential to plan and prepare for investigation. |

### Investigation guidance

Once the nature of the allegation has been clarified and is clearly understood, the investigation manager is responsible for preparing the investigation plan. This may occur in consultation with other individuals, as determined by the investigation manager; for example, those with case planning responsibility for the client/s.

It is critical to consider the actions to be taken and to document decisions / key points in an investigation plan prior to commencement. The more time that is spent planning and accounting for all possible avenues of enquiry, sources of evidence and decision-making processes, the more likely the investigation will be completed effectively.

This planning process should involve:

* identifying all appropriate sources of information and evidence (e.g. witnesses, available records maintained by the service provider or other source, etc.)
* defining and assigning tasks to appropriately skilled staff as required (see *Client incident management guide* section 4.2.3 for additional guidance)
  + setting and managing timeframes for completion of key tasks, acknowledging the 28 working day timeframe for completion of investigations, as set out in *Client incident management guide* section 4.3.

The investigation plan should be a living document that evolves as the investigation is undertaken. It should be a record of the:

* scope and purpose of the investigation
* timeframes
* resources required (consider physical resources and staff)
* requirements or conditions to ensure least possible impact on the client (i.e. try to ensure that the client is only interviewed once), while ensuring that the client is given every opportunity to participate
* arrangements for interviewing client/s, including consideration of how best to support the client/s to provide their account of the incident, and the involvement of a support person if required
* arrangements for communicating progress of the investigation with the client/s, with the client guardian and / or their key support person, in writing or otherwise (further information on determining whether or not an individual requires additional support from a parent or guardian can be found in *Client incident management guide,* section 2.2.3 or Appendix B, section B.2)
* the witnesses to be interviewed (if any) and order of interviews
* arrangements to provide the person against whom allegations have been made (if any) with the substance of the allegation/s made against them, in writing, at the earliest possible opportunity
* arrangements to interview the person against whom the allegations are made (if any)
* documentary evidence to be reviewed by the investigator)
* arrangements for site visits
* arrangements to obtain expert evidence; for example, a forensic medical assessment
* determining the approach for timely contact with client/s, families and staff
* outlining plan for ongoing communication with the person subject to the allegation
  + reporting and review arrangements, especially in the case of more complex investigations.

The more clearly this information is outlined, the easier it is for parties involved in the investigation to understand their tasks and roles. In addition, a clear investigation plan will assist any future independent party or review body in determining whether the investigation was conducted in a thorough, considered fashion.

Throughout the investigation, consider any actual, potential or perceived conflicts of interest that may be held by the investigation manager or other involved parties as they arise, and consider steps to manage identified risks. This may involve consideration about whether or not a new investigation manager needs to be appointed.

If the investigation manager determines that there are elements of the investigation which may require specialist skillsets (e.g. interviewing children or vulnerable people, forensic examination), they should raise this with their supervisors immediately.

The CIMS investigation plan template can be found at the [CIMS webpage](https://providers.dhhs.vic.gov.au/cims) <https://providers.dhhs.vic.gov.au/cims> (see related resources).

## Gathering and managing evidence and relevant information

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| Having prepared and documented an investigation plan, the next step is for the investigation manager to commence gathering information.  Direct evidence is likely to be obtained from interviews, including the client/s, witnesses and the person against whom allegations have been made. The evidence is considered direct if they were involved in the alleged incident or heard or saw the alleged incident.  In certain circumstances, it may be necessary to obtain indirect evidence from people who may have relevant information about the allegation. |

### Investigation guidance

#### Gathering physical information

There may be a range of physical evidence which can assist in providing context or specific details about the incident or resulting allegation. The collection of physical evidence may include taking photos of locations or equipment or creating diagrams of the location of the alleged incident. Other physical evidence may also include:

* case notes / day books
* mobile phone/s (for example, photos or video)
* computers
* rosters
* emails
  + a range of other notes, receipts, financial records etc.

In each instance, the investigation manager should consider their right to obtain the evidence. In circumstances where the service provider owns the property in question, they are entitled to examine it. If, however, the source of evidence is not owned by the service provider, it will require consent from the owner for it to be examined.

Note that some evidence may be sensitive or required to support day-to-day operations (for example, day books). Investigation managers need to be mindful of operational requirements. They should take copies of documents rather than removing originals, wherever possible. Where there is doubt about the private, confidential or sensitive nature of evidence, further advice should be sought from the service provider manager.

Where it is possible to obtain evidence, the investigation manager must consider how the evidence is captured and retained to preserve the evidence in a secure fashion (refer to the chain of custody guidance below).

#### Chain of custody considerations

Documents which might constitute evidence will be gathered by the investigation manager. It is imperative that the investigation manager collects any physical evidence in such a way that the integrity of the evidence is maintained.

Electronic or digital materials which might constitute evidence may also be gathered by the investigation manager. It is imperative that the investigator collects any digital evidence in such a way that the integrity of the evidence is maintained and chain of custody can be retained, through following the steps below.

In the event that physical evidence is gathered as part of the investigation, it is critical to demonstrate that the integrity and chain of custody of the evidence has been maintained. This means avoiding alteration, substitution or change of condition of evidence sources. This may include:

* ensuring that the investigation manager has the right to take the original materials (for example, is the relevant physical or electronic evidence owned by the organisation for whom the investigator acts? Does the investigator have authority from the organisation to take that physical or electronic evidence?)
* ensuring that an evidence log is maintained to record:
  + - what evidence was collected
    - from whom it was obtained
    - where was it secured from
    - what condition it was in when it was collected
    - when it was collected
    - any instances whereby other persons took the evidence and for what purpose
* the evidence should be maintained in a separate, secure location to ensure it is not damaged or removed (including storage of electronic evidence in a secure location, whether for example, in separate, confidential areas on a system, or on a secured USB)
* the evidence should be maintained in its original condition at all times (unless copies can be made) to support the absence of alteration, substitution or change of condition. This means that evidence should not:
  + - be marked
    - stapled
    - have staples removed
      * be torn or otherwise damaged.

#### Interviewing techniques

Direct information is gathered through interviewing client/s, the alleged perpetrator and witnesses. It is critical that the alleged perpetrator is informed, in writing, of the nature of the allegations made against them, prior to interviews commencing. The client, witness and alleged perpetrator may wish to bring a support person to interview, and should be offered appropriate ongoing support and counselling. That person should be advised to observe, but not unnecessarily interrupt the interview. The appropriateness of a support person must be considered; for example, they must not be a witness in the investigation.

In the event that an alleged perpetrator refuses to be interviewed, the investigator may consider giving the person an opportunity to respond to the allegations in writing. In these circumstances, the investigator should consider putting the allegations in writing to the person.

If applicable, specialists may also provide sources of advice. This information is generally of a type that the general public may not have access to, or be aware of. For example, if a doctor has examined a child, they have specialist knowledge that may be relevant to the child or young person.

Planning of interviews should include:

* preparation of questions specific to the individual being interviewed
* collating copies of any evidence that needs to be discussed with interviewees (note original documents should not be used in interviews)
  + interviewee should be given reasonable advanced notice in writing of the purpose of the interview and who is available to support them (if relevant).

Where possible, interviewees should sign a record of interview. The record of interview should note when the interview occurred, where it was held, what time is started and finished, who was present at interview and the role of participants in the interview. The document should be page numbered, dated, and signed by interviewer and interviewee.

Note that interviewees are entitled to request a copy of notes taken during their interview, but are not entitled to copies of notes from other interviews, except with the consent of the person interviewed. The investigation manager should make interviewees aware that in some circumstances, notes of interviews may be released, including by court order or under relevant freedom of information legislation.

When conducting the interview, interviewers should:

* ask open questions; for example, questions which do not prompt a single word answer
* allow interviewees to fully express their understanding of the events or evidence put to them
* avoid the temptation to prompt for possible answers where the interviewee is uncertain
* provide adequate opportunities for interviewees to raise additional issues and / or provide suggestions about other sources of evidence
* confirm an understanding of issues discussed and the relationships between evidence by paraphrasing the information provided by the interviewee and checking for accurate understanding
* maintain notes of the interview for record-keeping purposes
  + notify the interviewee that they may be required to be interviewed again, especially if additional information comes to light.

Generally, CIMS investigations proceed with interviewers taking handwritten or typed notes, however, the investigation manager may take an audio recording of the interview with the consent of the interviewee or guardian (if appropriate). If this occurs, the audio recording should be transcribed and included as an attachment to any outcome report.

Often, the investigator will only interview the alleged perpetrator once. Any interview of the alleged perpetrator is most prudently carried out after all other interviews and evidence reviews have been conducted. This will allow the investigator to conduct the interview with as much knowledge of the allegations as possible and allow the alleged perpetrator the right of reply.

The investigation manager may wish to consider whether it is appropriate to have a second person present for interviews to support the interviewer in taking notes.

#### Interviewing techniques for vulnerable people, or children[[3]](#footnote-3)

There may be additional challenges that need to be considered when interviewing vulnerable people or children.

The investigation manager should ensure that any interviewee under the age of 18 be accompanied by a parent or guardian or other support person. Similarly, if the interviewee has a limited understanding of English, the services of an accredited translator must be secured.

The following developmental domains may need to be taken into account, both in preparing for interviews and in gathering and analysing evidence from interviews:

* physical (body size and mass)
* social (social skills)
* sensory (visual, auditory, olfactory etc.)
* motor skills (strength and improved fine motor skills)
* emotional (maturity in understanding and managing emotional states)
* gender (development of a gender identity)
* cognitive abilities
  + moral (understanding of an adherence to social norms).

While these domains are, in many cases, interrelated, individual variations are diverse.

When interviewing vulnerable people or children, it is therefore critical to consider the developmental levels of interviewees, and adjust the style and the interpretation of your findings accordingly. Considering the developmental domains will help you make decisions around what questions to ask, how to ask them, and what questions to avoid. Further, this approach will help you conduct an interview in such a way that will give the interviewee the opportunity to provide the best possible evidence.

Interviews with vulnerable people and children may take a longer period of time than other interviews, by virtue of the fact that it may take longer to uncover relevant information. It is critical that the interviewee not be placed under stress to reveal information. Interviews with vulnerable people or children may largely rely on memory. The goal of the interviewer should be to elicit from the interviewee all the details, which often means supporting them to recall those details from memory.

When planning an interview with a vulnerable person or child, the interviewer may find it helpful to reconsider previous interviews that have had good outcomes. As a general (though not exhaustive) guide, some key characteristics that researchers consider helpful in conducting these kinds of interviews have been provided below:

* keeping an open mind
* ability to set expectations
* active listening
  + ability to apply the right questions at the right time.

There are a number of different frameworks that can be used to guide interviews with vulnerable people and children. Victoria Police utilises the PEACE model, which is an acronym for:

* preparation and planning
* engage and explain
  + - introduction
    - rapport
    - set expectations
* account
  + - introduction of the topic of concern
    - free recall / free narrative
    - clarification, specific questions
* closure
  + evaluation.

The investigative framework has been successful, and is easy to use. Interviewers are not required to follow these steps in each interview, however, PEACE may help assist in structuring interviews with vulnerable people or children to make the best use of interview time. It is also possible to make adjustments to the PEACE framework to guide interviews with other interviewees over the course of the investigation, if desired. Note that as interviewers become more skilled, they will tend to move more fluidly through the PEACE steps.

Conducting interviews with vulnerable people or children is complex. Interviewers should be experienced in interviewing children and draw on the information provided throughout this document and the CIMS investigation training provided in planning their approach.

#### Confidentiality and storage of information

All information that is collected should be kept in a safe and secure place, with only approved persons able to gain access. The investigation manager may approve selected persons to access or examine the evidence, on a strict need to know basis, with due consideration to privacy and confidentiality.

Any recorded information relating to an employee should be kept in a location separate from their personnel file, with relevant information only to be copied to the personnel file at the conclusion of the investigation.

## Reporting and closure

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| The investigation report should record details of the procedures followed, a record of the nature and sources of information relied on and actual findings including analysis and reasoning from the investigation. |

### Investigation guidance

In order for any reader of the report to understand the purpose, context, process and findings of the investigation, the investigation report should include all relevant information collated during the investigation. Note that the report may be subject to review by a number of people, depending on the findings and allegations. The background of the report should provide the reader with the context and rationale for the investigation.

An investigation report and response plan template can be found at the [CIMS webpage](https://providers.dhhs.vic.gov.au/cims) <https://providers.dhhs.vic.gov.au/cims> (see related resources).

Background information in the report should include:

* details of the original incident/s and / or allegation/s and any additional allegations that may have arisen during the course of the investigation
* the scope and objectives of the investigation as originally defined
* the investigation plan and any changes that were made over the course of the investigation
* a list of the evidence gathered and how it was managed securely
  + a list of the interviews conducted.

Other information that must be included in the investigation report includes:

* evidence reviewed, including physical and electronic evidence, with copies of main evidentiary documents attached in an appendix
* summary of interviews conducted
* summary of evidence that supports the allegation (if any)
* summary of evidence that suggests the allegation has no merit (if any)
  + conclusions and findings based on the salient evidence and an assessment and recommendation as to whether or not the allegations can be substantiated based on the civil standard of proof (balance of probabilities).

It is important that the investigator does not include any language or information which was embellished or is taken out of context. It remains the investigator’s role to be impartial and provide the facts determined through a thorough and complete investigation.

Should an investigation be hampered by a lack of evidence or unwilling interviewees, it is recommended that additional lines of enquiry are undertaken prior to concluding the investigation.

Based on the investigation report, the investigation manager should prepare a response plan, including determined 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 service provider must log any determined actions against the incident and record when they have been carried out. Actions relevant to the client’s ongoing service provision should also be recorded on a client file.

The investigation report must be completed (meeting the requirements of the *Client incident management guide*) within 28 working days of receiving confirmation from the divisional office regarding the need for an investigation. This excludes the time period in which the investigation is put on hold while Victoria Police considers further action. Further information on conducting the investigation is available in *Client incident management guide*, section 4.3.

Once the investigation report and response plan has been endorsed by the divisional office, the outcome of the investigation is to be communicated in writing to all relevant parties. This must include:

* the alleged perpetrator
* client/s alleged to be victims of the incident and / or allegations
* parents, carers or guardians of any client/s who are under the age of 18, or considered vulnerable
  + any additional service providers involved with clients or alleged perpetrator (that is, disability carers who may work across multiple providers).

Additional parties may be made aware of the outcome of the investigation at the discretion of the investigation manager, with due consideration for privacy and confidentiality.

Following the completion of the investigation, endorsement of the final report and communication of the outcome to all parties, the investigation manager should consider the most appropriate next step. This may include:

* possible disciplinary action in relation to the perpetrator, where allegations have been substantiated
* possible action to be taken against the person who made the allegation, where the allegation was found to be vexatious and false
* all information relating to the investigation to be appropriately catalogued and stored
* consideration as to whether the findings or outcome of the investigation require further reporting to an oversight body, such as the Disability Services Commissioner, Commissioner for Children and Young People or the Independent Investigator / Suitability Panel.

1. Content of this section sourced from New South Wales Ombudsman 2004, *Child protection in the workplace – Responding to allegations against employees,* 3rd edition, Sydney, p.92–95. The content in this section is general and can be applied to the Victorian context [↑](#footnote-ref-1)
2. The principle was first set out in the High Court case Briginshaw v Briginshaw (1938) 60 CLR 336 – ‘reasonable satisfaction is not a state of mind that is attained or established independently of the nature and consequence of the fact or facts to be proved. The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding are considerations which must affect the answer to the question whether the issues has been proved to the “reasonable satisfaction” of the tribunal’ [↑](#footnote-ref-2)
3. NSW Ombudsman Guide to Planning and Conducting an Investigation [available at: http://www.ombo.nsw.gov.au/\_\_data/assets/pdf\_file/0020/3674/Planning-Conducting-an-investigation-CP04.pdf]; Victoria Police, Participant Notes – Interviewing Children and other vulnerable witnesses; ACT Government – Care and protection appraisal actions – interviewing children and undertaking a visual examination. [↑](#footnote-ref-3)