

Feeling supported, **not stuck**

* Rethinking intervention orders for children and young people





Acknowledgements

This submission was written on the lands of the Wurundjeri and Bunurong peoples of the Kulin Nation. We acknowledge and pay our respects to Aboriginal and Torres Strait Islander peoples and Traditional Custodians throughout Victoria, including Elders past and present. We also acknowledge the strength and resilience of all First Nations people who today are still arrested and imprisoned at rates far higher than other Australians.

We would also like to express our sincere thanks to the children and young people and families who we spoke to as part of this research. We acknowledge their generosity in working with us to share their stories and how their words and perspectives have enriched this research.

Contents

Acronyms and abbreviations	6
Executive Summary	7
About this report	10
Existing research and context	11
Current legal responses	13
Overall trends for child respondents	14
Finding 1: Intervention orders are used instead of supports for families in crisis	17
Finding 2: Intervention orders are increasingly arising in schools and can lead to school disengagement	23
Finding 3: The intervention order system is not helping children or their families	29
Finding 4: Children are left out of court processes	37
Conclusions	42
Appendix 1: About Victoria Legal Aid	46
Appendix 2: About this report	47
Appendix 3: Current legal responses	48
Appendix 4: Disability descriptors	49
Appendix 5: Human rights	50

© 2025 Victoria Legal Aid. Reproduction without express written permission is prohibited.

Written requests should be directed to Victoria Legal Aid, Community Legal Information and Corporate Services,
GPO Box 4380, Melbourne VIC 3001.

www.legalaid.vic.gov.au

Connect with Victoria Legal Aid



Feeling supported, not stuck

Rethinking intervention orders for children and young people

* Key statistics and findings

The number of **children responding to intervention orders** is growing



34% increase in respondent intervention order legal services by Victoria Legal Aid **since 2018**

Clients **responding to PSIOs*** almost doubled from 243 in 2018-19 to 472 in 2023-24

Gap in access to legal representation

We estimate that **over 50% of young respondents were not legally represented** by Community Legal Centre, Victoria Legal Aid or private lawyers doing legally aided work.



Of VLA's clients:

* **5%** were 10-12

* **28%** were 13-14

* **72%** were 15-17

* **25%** had a disability

* **29%** had Child Protection involved

* **9%** were First Nations

Young people **responding to IVOs** are **victim survivors** in their own right


Crime Statistics Agency found that **53%** of young respondents to a FVIO* **were previously an applicant in a FVIO**





IVOs are being used **instead of supports for families** in crisis

Victoria Police guidance **does not explain how police should tailor their response** to family violence incidents at home **involving children**



39% of families in our file review **did not support a FVIO** being made against their child




PSIOs are being used in schools, **causing some young people to miss out on education**



81% of PSIO files we reviewed **involved disputes between children in school**

36% of young people on PSIOs reported they were **missing school**



Children are left out of court processes

70% of children in our file review with an interim order **were not at court when the order was made**

only 2% of our clients' responding to IVO applications **were resolved through mediation** in the Children's Court

over 50% of intervention order applications **did not result in a final order in court**



NB: Percentages may not add up to 100 due to rounding

* FVIO = Family Violence Intervention Order

* PSIO = Personal Safety Intervention Order



Acronyms and abbreviations

- ACCOs** Aboriginal Community Controlled Organisations
- AFM** Affected family member
- AIFS** Australian Institute of Family Studies
- AVITH** Adolescent violence in the home
- DFFH** Department of Families, Fairness and Housing
- DSV** Dispute Settlement Centre of Victoria
- FVIO** Family Violence Intervention Order
- FVPA 2008** *Family Violence Protection Act 2008* (Vic)
- LEAP** Data Victoria Police Law Enforcement Assistance Program Data
- MARAM** Multi-Agency Risk Assessment and Management Framework
- NDIS** National Disability Insurance Scheme
- PSIO** Personal Safety Intervention Order
- PSIOA 2010** *Personal Safety Intervention Order Act 2010* (Vic)
- PIPA** Positive Interventions for Perpetrators of Adolescent violence in the home
- RCFV** Royal Commission into Family Violence
- VALS** Victorian Aboriginal Legal Service
- VLA** Victoria Legal Aid
- VLRC** Victorian Law Reform Commission
- VPeR** Victoria Police e-Referral program

Executive Summary

This report examines the experiences of children and young people aged between 10 and 17 years who are respondents to family violence intervention orders (FVIOs) and personal safety intervention orders (PSIOs).

Civil intervention order schemes were primarily designed to respond to problems between adults, but we are increasingly seeing them applied to children and young people across Victoria. Our research has confirmed that since 2018 there has been a 34 per cent increase in Victoria Legal Aid's (VLA) child clients with FVIO and PSIO applications against them.

Intervention orders can be useful in situations involving family violence or personal safety concerns, offering a way to legally enforce boundaries and to help protect individuals from violence or serious stalking and harassment. However, by analysing our own court files and case management system data (system data), as well as publicly available data from courts and Victoria Police, we have confirmed that intervention order applications are becoming a common response to a wide spectrum of children's behavioural issues, ranging from emotional dysregulation to violence and self-harm.

As this report shows, when they are used for behaviours and scenarios they were not designed to address, intervention orders can end up making things worse for children and their families.

“ It's totally counterproductive because what we really needed was some intervention at the time for a stressful domestic situation.

Luke, father

Findings

Intervention orders are used instead of supports for families in crisis

Far too many children with disabilities, notably neurodiversity and mental health issues, are being put through the intervention order process, when their reactive behaviours are assessed through a framework designed for adults using intimate partner violence. VLA system data shows the proportion of clients responding to intervention orders with a disability has almost doubled since 2019, increasing from 19 per cent to 35 per cent in 2024.

Growing evidence about adolescent violence in the home (AVITH), shows that experiences of child maltreatment, including past or ongoing experiences of family violence from an adult, as well as support needs arising from complex behaviours associated with disability, neurodiversity or mental health issues, are key risk factors for children's use of violence.¹

We heard from families who reached out to services and government agencies for help with their child's behaviours and could not get the support they needed. Often in a moment of crisis, they felt they had no other choice but to call police. These families said they were seeking de-escalation and support but, after going through the intervention order process, many said 'I wouldn't call the police again'.

“ I felt hopeless. I didn't want the charges, but the police went ahead, just doing their own thing.

Maggie, mother

While Victoria's family violence laws recognise the harms to a child due to exposure to family violence, we are seeing a concerning number of these same children go through the justice system as respondents to intervention orders. Statewide, over half (53%) of all the young people aged between 10 and 24 who had a FVIO made against them in the last five years were previously victim-survivors of family violence.² This suggests that the recommendations and aspirations of Victoria's Royal Commission into Family Violence (RCFV) in relation to children are yet to be realised. The RCFV explored how child victims of family violence may later mirror the behaviours or violence they have experienced. It recommended that child victim survivors receive specialist child-focussed services and that, if their behaviour was concerning, these children should be diverted away from the legal system, with therapeutic supports. Nine years later there are still calls for children to be recognised and responded to, as victims in their own right.³

¹ Campbell, E., Wall, L., & Respect Victoria. (2023). *Adolescent violence in the home*. Melbourne: Respect Victoria, p.3.

² Unpublished Crime Statistics Agency data provided to VLA.

³ 'We fail to recognise and adequately respond to children's unique safety, support and recovery needs'. Fitz-Gibbon, K. (2024). *Our National Crisis: Violence Against Women & Children*. Monash University Publishing, p. 39.

Intervention orders are increasingly arising in schools and can lead to school disengagement

This report contributes new evidence about how disputes related to schools – including verbal and physical fights or online incidents between classmates – are attracting a legal response. In the aftermath of the COVID-19 pandemic, school disputes are a major contributor to rising PSIOs between young people. We found that intervention orders can have serious impacts on a young person, including disrupting or severing their education. With the known links between school exclusion and criminal justice involvement, this issue deserves comprehensive attention.⁴

“Going to court was ‘life-changing’. Depending on how the day went, it could make life ‘good or bad.’

ISAAC, 14

Children are left out of court processes

Children and young people are still developing and often do not have the capacity to understand the meaning of an order against them. One young person we spoke with had no recollection of the order or the conditions stated in it. This is perhaps not surprising, because our clients tell their lawyers, that the ramifications of intervention orders are often downplayed by police, when they are told they don't have to attend court because ‘it's just civil’.⁵ We have seen many orders being made against children and young people before they have a chance to get legal advice and when they are not present at court. This puts them at risk of breaching an order they may not understand and means their voices and perspectives on the incident aren't heard when important decisions are made.

“I felt like I didn't deserve it to be on me. I felt like it was kinda shit. It was like, just another add-on and it just didn't feel right. It made me pretty anxious and pretty angry as well...like, in the middle of angry and anxious when I heard about it.

Spencer, 15

The intervention order system is not helping children or their families

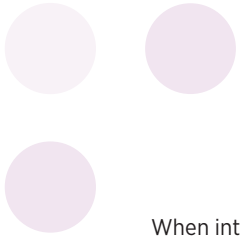
This research reinforces previous studies⁶ that have found intervention orders are ineffective in responding to children's behaviour. Children's ability to understand the consequences of their actions is limited. This is crucial when considering that the safety of the affected person relies on the respondent's ability to understand and follow the terms of an intervention order. A large proportion of children responding to intervention order applications also have intersecting needs including trauma, disability, mental health issues and/or neurodiversity. There is no requirement under our family violence laws for children to be able to understand the meaning of an order. While a provision exists in the law for PSIOs, it is not a required consideration. This underscores the difficulties with using the intervention order process to manage challenging behaviours in children.

We found that in most cases, the intervention order process does not lead to tailored supports for children and families. While there are impactful specialist services working to assist families grappling with AVITH, there are gaps in early intervention services for children with disabilities and for children who have experienced trauma. In the cases we reviewed, most young people had a support service involved, but this legal process did not lead to increased engagement or link them back to those supports. Once a child is labelled a respondent or ‘perpetrator’ their eligibility for some services is restricted. Statewide, court-based services for child respondents are also minimal, meaning the underlying issues are often unresolved.⁷

Our analysis shows that increasingly, FVIO and PSIO applications do not result in a final order. This seems to suggest that many applications for orders are unnecessary and that a final order does not address the needs of the people involved. Going through the legal process is still a burden on young people, and our clients told us dealing with intervention orders made them feel ‘stuck’ and ‘scared’.

- 4 Baidawi S, Ball R, Sheehan R & Papalia N 2024. *Police and Children's Court outcomes for children aged 10 to 13. Trends & issues in crime and criminal justice* no. 679. Canberra: Australian Institute of Criminology, p. 50.
- Hemphill S, Broderick D & Heerde J 2017. *Positive associations between school suspension and student problem behaviour: Recent Australian findings. Trends & issues in crime and criminal justice* no. 531. Canberra: Australian Institute of Criminology, p.1.
- 5 Noting that intervention order proceedings in the Children's Court of Victoria are heard in the Family Division.
- 6 Importantly, the PIPA project, found that using a civil legal response designed for adults is unhelpful for children and does not address the causes of violence or behaviours of concern. Campbell, E., Richter, J., Howard, J., & Cockburn, H. (2020). *The PIPA project: Positive interventions for perpetrators of adolescent violence in the home* (AVITH) (Research report, 04/2020). Sydney, NSW: ANROWS.
- 7 Centre for Innovative Justice (2022), *Evaluation of the Pre-court Support for Adolescents using violence in the home (AVITH) Pilot: Final Report*, RMIT University, Melbourne.





When intervention orders are made, they can act as a fast-track into the criminal justice system as breaches attract criminal penalties. This is particularly concerning for First Nations children, who are overrepresented as respondents. It is well established that children who become enmeshed in the youth justice system experience what has been called a 'criminalisation of social needs'.⁸ The evidence in this report shows that using a blunt legal response to address the diverse needs of children and families also results in penalisation of their social needs.

We question whether intervention orders are an appropriate mechanism to respond to children's behaviours and needs. There is a pressing need for interventions that support children and their families at an earlier stage and help them get 'unstuck' from the legal process.

Summary of recommendations

1. Legislative changes

We recommend the Victorian Government should raise the minimum age for respondents to intervention orders to at least 14 and introduce other legislative protections to ensure the use of intervention orders against children is a last resort.

2. Reorient from a legal response towards prevention and early intervention for families

The Victorian Government should invest in more preventative and early supports for children who have experienced family violence and for children living with disability and neurodiversity. This should include resourcing Aboriginal-community-controlled organisations (ACCOS) with long term funding to continue and expand programs that work with First Nations children and families on violence prevention and recovery.

3. A call for help should result in support

We recommend a suite of changes, including alternative first responders for children experiencing mental health crises and substantial changes to Victoria Police policy and practice, to enable child-appropriate risk assessments and referrals to support services, diverting from a family violence legal response where it is not required.

4. Equipping schools to respond to disputes

The Department of Education should provide greater support to schools to resolve disputes and to further invest in programs to support children to stay in school or transition back to school.

5. Tailored court responses for children and young people

More children should be diverted away from legal processes and into therapeutic support services to tackle their underlying needs. We recommend the Victorian Government provide greater resourcing for the Children's Court of Victoria for applicant and respondent workers and that youth specific mediation services be made available for child respondents. Opportunities for police and Courts to refer young people for legal advice at the earliest opportunity should be maximised to reduce the number of child respondents who do not attend at Court.

6. Further research and evidence about the appropriateness of intervention orders against children

The Victorian government fund further research into the effectiveness of intervention orders against children.

⁸ Barry Goldson, 2013, as quoted in Standing Council of Attorneys-General, Age of Criminal Responsibility Working Group, Principles-Based Framework (2023). The report states 'there is robust and expansive evidence demonstrating that [children engaged in the criminal justice system in Australia] are among the most vulnerable and disadvantaged in our society'.



About this report

This report examines the experiences of children and young people aged between 10 and 17 years who are respondents to family violence intervention orders (FVIOs) and personal safety intervention orders (PSIOs).

Over six years, from 1 July 2018 to 30 June 2024, Victoria Legal Aid (VLA) assisted a total of 4,511 young people responding to intervention orders. This included 3,347 people responding to FVIO applications and 1,582 responding to PSIO applications.

Further information about VLA's services is outlined in Appendix 1.

Methods used for research

To inform our research, we spoke to children and families affected by intervention orders, lawyers, youth support workers, court staff, specialist family violence organisations and peak bodies, Aboriginal Community Controlled Organisations (ACCOs), Aboriginal Legal Services and Victoria Police.

We also conducted a review of 101 closed VLA files, 54 related to FVIOs and 47 related to PSIOs.

We analysed VLA system data and publicly available data from 2018 to 2024 of all PSIO and FVIO applications finalised in the Children's Court of Victoria (Children's Court).⁹

The Crime Statistics Agency also shared its analysis of Victoria Police Law Enforcement Assistance Program (LEAP) data for the period 1 July 2018 to 30 December 2023.

More information about our research and methodology can be found in Appendix 2.

A note on the data analysis

Children's Court Annual Report data on finalised FVIO and PSIO applications. Because the Children's Court hears all intervention order matters involving children, this data includes intervention orders involving children against both adult and child respondents.

Timeframe: 1 July 2018 to 30 June 2024.

Community Legal Centre (CLC) case file data, including the number of clients CLCs assisted either as an applicant or a respondent to a PSIO or FVIO application.

Timeframe: 1 July 2018 to 30 June 2024.

Crime Statistics Agency (CSA) data includes PSIO and FVIO applications made by Police. This does not include intervention order applications made by members of the public. We looked at two separate analyses of CSA data, including children and young people aged 10 to 24 and aged 10 to 17. We have noted which age group is used throughout the report. For consistency when comparing with VLA data, wherever possible we have used the CSA's analysis of young people under the age of 18.

Timeframe: 1 January 2018 to 31 December 2023

Family Violence Dashboard Collated by the Crime Statistics Agency, this includes data on the number of FVIOs finalised in the Children's Court.

Timeframe: 1 July 2019 to 30 June 2024.

VLA system data includes the number of unique clients assisted as a respondent to a PSIO or FVIO application by a VLA lawyer or private practitioner on a grant of legal aid. This only counts respondents who we assisted with multiple applications once.

Timeframe: 1 July 2018 to 30 June 2024.

⁹ We note that this data is not broken down by age of respondents. As such, because the Children's Court hears all intervention order matters involving children, this data includes intervention orders involving children against both adult and child respondents.

Existing research and context

Royal Commission into Family Violence

Following the 2016 Royal Commission into Family Violence (RCFV), Victoria has seen the implementation of a strengthened legal response to family violence.

The RCFV highlighted the intergenerational nature of family violence. It found AVITH was a distinct form of family violence, noting that young people who use violence against their families are often victim-survivors in their own right.¹⁰ It recommended that young people who use violence receive a therapeutic response and called for greater research to assist in developing this response.

Since the RCFV, the volume of overall family violence call outs and intervention orders has increased significantly. In 2023, the Victorian Government stated call outs had increased by 23 per cent since 2017.¹¹ Children are present at a high proportion of family violence incidents. In 2022 – 2023 over half of all the family violence related referrals to The Orange Door network included children.¹²

In 2023, the government announced that it had acquitted all 227 recommendations from the RCFV. However, specialist services and ACCOs, working both with victim-survivors and people who use violence, warn that resourcing constraints are a barrier to ensuring that the vision of the Royal Commission is realised.

The Victorian peak body for services to victim-survivors, Safe and Equal, states 'The family violence system is currently operating almost exclusively in crisis response due to limited funding compared to demand... there is currently no dedicated funding for long-term recovery supports, increasing the risk of intergenerational trauma and the likelihood of children and young people who have experienced violence growing up without the opportunity to heal'.¹³ No to Violence,¹⁴ echoes this sentiment, saying AVITH specialist services are 'usually working in crisis capacity'.¹⁵

The unresolved service needs of children as 'victim survivors in their own right' is currently in focus across the child and family violence sectors.¹⁶ The evidence in this report suggests these unmet needs are leading to children being funnelled into the justice system.

The PIPA Report

In March 2020, *Positive Interventions for Perpetrators of Adolescent Violence in the Home* (the PIPA report) examined legal and service interventions for AVITH across three jurisdictions: Victoria, Western Australia and Tasmania. The report found that young people using violence required a response tailored to their needs.¹⁷ It noted the Victorian legal response to AVITH 'missed the mark' because of its failure to consider young people's experiences of trauma or their developmental capacity. While intervention orders are intended to prevent violence by stopping respondents from engaging in certain behaviours, or by excluding them from certain locations, including the family home, the report found that intervention orders used against children do not achieve this.¹⁸

The PIPA report recommended 'further research to produce evidence regarding the lived experiences of children in the court system in general, and adolescents receiving a legal response to their use of violence in particular'.¹⁹ This research responds, in part, to that recommendation.

Following the Royal Commission and PIPA report, there has been growing recognition of the complexity of families experiencing AVITH and investment in support services for children and young people. The child and family services sector has worked tirelessly to build safer, more responsive systems for families experiencing AVITH, driving important reforms and expanding tailored support for young people and their families.

10 State of Victoria, *Royal Commission into Family Violence: Report and recommendations*, Vol IV, Parl Paper No 132 (2014–16), p.156.

11 State Government of Victoria 2023, *A future where all Victorians are safe, thriving and live free from family violence*.

12 Ibid, 66,309 individuals or families were referred for support through The Orange Door network with 34,437 including at least one child.

13 Safe and Equal 2024, *Developing a client centred family violence system - advocacy summary* p.5.

14 *No to Violence* is Australia's peak body for organisations and individuals working with people using violence to end family violence.

15 No To Violence 2024, *Feedback: AVITH stream of the Victim Centred Restorative Justice Program*, NTV, Victoria p.5.

16 The 2025 ANROWS Conference focussed on centring children and young people to end violence and included a *Statement from young advocates on domestic, family and sexual violence*.

17 Campbell, E., Richter, J., Howard, J., & Cockburn, H. (2020). *The PIPA project: Positive interventions for perpetrators of adolescent violence in the home (AVITH)* (Research report, 04/2020). Sydney, NSW: ANROWS, p.168.

18 Ibid p.17.

19 Ibid p.182.





Impacts of COVID-19

While the overall number of PSIOs and FVIOs in the Children's Court decreased during the pandemic, higher rates of family violence were reported during the pandemic, and we know the flow-on effects for children and young people were significant.²⁰ The Victorian government acknowledged the increased risk during lockdowns and provided additional funding for support services for young people using AVITH during COVID-19.²¹

Victoria's response to COVID-19 saw children and young people enduring some of the longest lockdowns in the world. Successive lockdowns prevented young people from attending their usual day-to-day routines, such as school, sports and social activities.

For children with disabilities or other support needs, experiences of lockdown were compounded by a loss of access to crucial supports, including therapeutic supports and respite for families.²²

Most Victorian school students also moved to flexible and remote learning in 2020. Studies link this with an increase in young people's daily average screen-time, which increased by one hour and twenty minutes.²³

The return to school post-pandemic was overwhelming for a majority of students, with many reporting a loss of connection with their school community.²⁴ Victoria saw increased rates of school refusal, from 1.2 per cent in 2018 to 1.8 per cent in 2021.²⁵ School refusal was more prevalent in secondary and specialist schools, as well as in disadvantaged and regional areas.²⁶

20 McKibbin, G., Humphreys, C., Gallois, E., Robinson, M., Sijnja, J., Yeung, J., & Goodbourn, R. (2021). *"Never waste a crisis": Domestic and family violence policy and practice initiatives in response to COVID-19*. ANROWS, p.2, 9.

21 State of Victoria (2020) *'Keeping Family Violence In Sight During Coronavirus'*.

22 Marella M, Smith F, Kiefel-Johnson F, Smith C, Harrison M, Devine A and Gibbs L (2022). *The impact of remote learning on students with disability during the COVID-19 pandemic in Victoria*. Melbourne Disability Institute, Melbourne, p.16.

23 Madigan, S., Eirich, R., Pador, P., McArthur, B. A., & Neville, R. D. (2022). *Assessment of Changes in Child and Adolescent Screen Time During the COVID-19 Pandemic: A Systematic Review and Meta-analysis*. JAMA Paediatrics, 176(12), 1188-1198.

24 Parliament of Victoria 2024, *Inquiry into the State Education System in Victoria*, p.209.

25 Government of Victoria 2023, *Submission 25 – Senate Education and Employment Committee School Refusal Inquiry*, p.2.

26 Ibid.

Current legal responses

Family members²⁷ and intimate partners

The current justice response to AVITH, and to young people who use violence towards their partners, mirrors the adult family violence system outlined in the *Family Violence Protection Act 2008* (Vic) (*FVPA 2008*).

The *FVPA 2008* uses FVIOs to protect people from family violence. A FVIO is a court order that aims to protect people from family violence by imposing rules or conditions the person accused of family violence (the respondent) must follow. These rules can include not contacting certain family members and not using family violence. If the respondent breaks these rules, they can face criminal charges.

FVIOs have no minimum age, but children cannot be charged with breaching a FVIO if they are under the minimum age of criminal responsibility, currently 10 years old. There is no requirement for the court to consider whether the child or young person has the ability to understand the order or follow the rules stated in it.

Police response

In addition to the *FVPA 2008*, Victoria Police's response to family violence is guided by the Victoria Police Manual (VPM) and the Code of Practice for the Investigation of Family Violence (2022) (Code of Practice).

Guidance states that when police are called to a family violence incident, they must conduct a risk assessment. This is called a family violence report (also known as an L17 report). If police think someone in the family needs protection, they will decide to do one or all of the following:

- Take criminal action (such as a charge of assault)
- Take civil action in the form of a FVIO application.

If the respondent is a child, police should also make referrals, including to a specialist family violence service, The Orange Door or to child protection.

The VPM and Code of Practice acknowledge that 'adolescents who use family violence require a different police response to family violence perpetrated by adults because of their age and the possibility that the adolescent is also a victim survivor of family violence'.²⁸ The VPM and Code of Practice do not provide guidance as to how Victoria Police members should differentiate their response to family violence incidents involving child respondents.²⁹

Non-family members

The civil legal response to incidents with non-family members comes from the *Personal Safety Intervention Order Act 2010* (*PSIOA 2010*). It uses PSIOs to protect the safety of victims of assault, sexual assault, harassment, property damage or interference, stalking and serious threats.³⁰

A PSIO is a court order that helps protect a person (the affected person), their children, and their property from someone else's harmful behaviour. Police or the affected person can apply for a PSIO.³¹ PSIOs can include rules or conditions, like stopping contact, staying away from certain places, and not damaging property. If the respondent breaks these rules, they can face criminal charges.

PSIOs cannot be made against children under the age of 10.³² When a court is deciding whether to make a PSIO against a child, the law says the court may consider their ability to understand the order and follow its rules.³³

More information about the current legal responses can be found in Appendix 3.

27 Under family violence law, 'family member' can mean:

- people who share an intimate personal relationship, even if it was short-term or there was no sexual relationship – for example, married, de facto or domestic partners, boyfriend, girlfriend or people who dated
- parents and children, including step-children
- relatives by birth, marriage or adoption
- people we treat like a family member – for example, a carer, support worker, guardian or people related within the family structure of our culture.

The law also protects a person from anyone who was a family member in the past, such as an ex-partner. Victoria Legal Aid 2024, *Family violence and FVIOs*.

28 Victoria Police Manual 2022, *Victoria Police Manual Family Violence* p.4. Victoria Police 2022, *The Code of Practice for the Investigation of Family Violence* – Edition 4 Version 2, p.10.

29 Other than specifying that Police should liaise with DFFH Child Protection prior to applying for the order. Ibid p.22.

30 Victorian Legislative Assembly, *Parliamentary Debates*, 9 June 2010: 3696, 2219.

31 *PSIOA 2010* (Vic) ss 15(e), 63. A child may make a direct application with the leave of the court if they are aged 14 or over; otherwise applications in respect of people aged under 18 are made on their behalf by a parent or any other person with leave of the court or a parent's written consent: *PSIOA 2010* (Vic) s 15(c).

32 Ibid s 18.

33 Ibid s 61(2).

Overall trends for child respondents

The number of children responding to intervention orders is growing

Publicly available data does not provide a complete picture of the number of intervention orders made against children and young people.

Public data on the number of intervention orders (including FVIOs and PSIOs) finalised in the Children's Court includes applications against adult respondents involving children that were heard in the Children's Court.

CSA provided us with an unpublished extract of its analysis of Police LEAP data. Figure 1 shows intervention orders against child respondents aged 10-17 between 1 January 2018 and 31 December 2023, with the total number of FVIOs and PSIOs increasing by 8% from 2,798 in 2018 to 3,022 in 2023. This data shows a significant increase in PSIOs, which increased by 28% from 906 in 2018 to 1,163 in 2023.

VLA represented 4,511 unique child respondents to intervention orders over a six-year period, from 1 July 2018 to 30 June 2024.³⁴ Figure 2 data indicates that the number of children we assisted with intervention order applications increased at a rate of 34 per cent from 824 in 2018-19 to 1,103 in 2023-24. This growth rate is particularly steep for children responding to PSIO applications, which almost doubled, from 243 in 2018-19 to 472 in 2023-24.

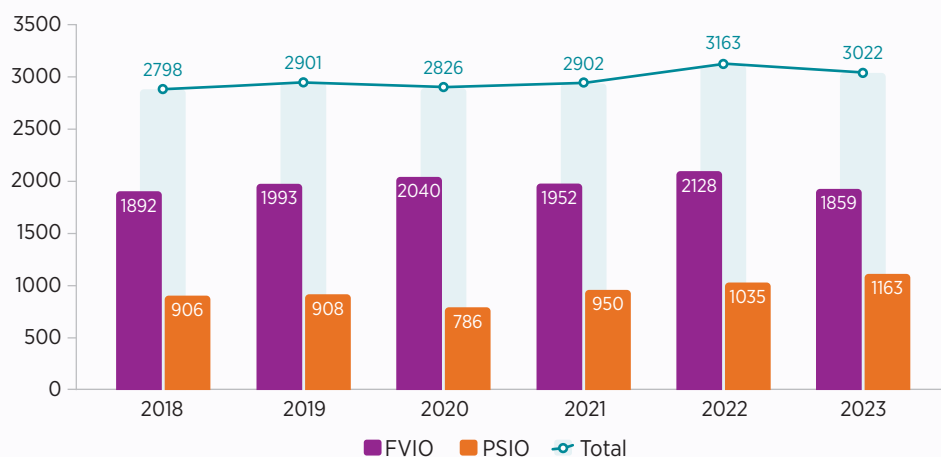


Figure 1: Number of FVIO and PSIO recorded on LEAP against a child respondent 10-17 years, 1 January 2018 to 31 December 2023

Source: Unpublished Crime Statistics Agency data provided to VLA

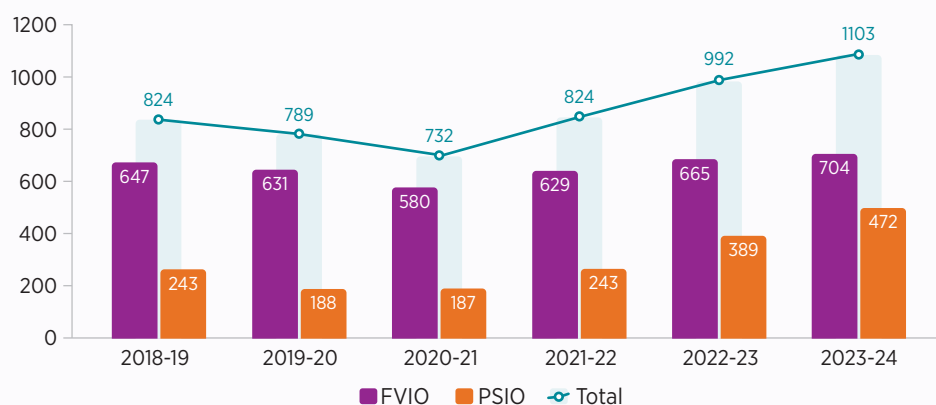


Figure 2: Number of child respondents to intervention order applications from 1 July 2018 to 30 June 2024, by order type, VLA client data

Source: VLA system data

³⁴ This figure represents the total number of child respondents we assisted with an intervention order matter including on a duty lawyer basis and a grant of aid. The number of VLA services we have provided is higher as some respondents have more than one intervention order.

Many children and young people are missing out on legal representation

While we are representing more child respondents, troublingly, our comparison of VLA system data, data provided to us by Community Legal Centres and Children's Court data over the last five years highlights a significant gap in the number of young people who received legally aided representation for their intervention order matter. As we discuss later in this report, our lawyers often hear many children are told not to come to court.

As Figure 3 shows, more than half (n=10,150, 56%) of intervention order matters between 2018 and 2024 were finalised in the Children's Court without receiving legal advice from CLCs, VLA or private lawyers doing legally aided work. As CLC data does not identify which parties are being represented, we expect the gap for child respondents to be much larger. These numbers include all intervention order matters, including where CLCs helped applicants and affected family members (AFMs).

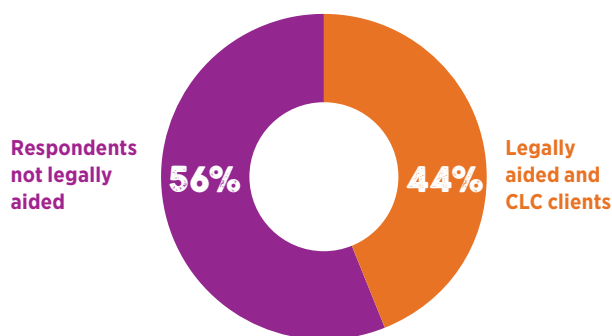


Figure 3: Proportion of intervention order matters finalised in the Children's Court of Victoria where respondents were legally aided, from 1 July 2018 to 30 June 2024

Source: VLA, CLC and Children's Court data

Disadvantaged children more likely to receive intervention orders

VLA system data indicates that young people who have experienced trauma, disability (including cognitive impairments), neurodiversity, mental health issues and/or past engagement with child protection, are significantly more likely to be respondents to intervention orders. These are factors that also increase the risk of contact with the criminal justice system.

Our analysis of VLA system and publicly available data showed that of respondents to intervention orders aged 10–17:

Twenty-nine percent were involved with child protection, much higher than the three per cent of the national population of children under 18 who have contact with child protection.³⁵

Twenty-five per cent have a disability, which is higher than the 14 per cent of the national population of children.³⁶

Nine per cent are First Nations, which is disproportionately higher than their five per cent share of the national population.³⁷

Nine per cent are born overseas.³⁸

Fifty-three per cent of respondents to Family Violence Intervention Orders were previous victim-survivors, compared to 41 per cent of the national population who have experienced physical and / or sexual violence since the age of 15.³⁹

In our review of 101 closed PSIO and FVIO VLA files, at least **24 children (24%) were not attending school at all** and eight were recorded by lawyers as attending part-time.

³⁵ VLA system data compared with AIHW, *Child Protection Overview*, 2022–23, number of children under 18 who came into contact with Child Protection.

³⁶ VLA system data compared with ABS 2019, *Microdata: Disability, Ageing and Carers, Australia, 2018*. AIHW, Prevalence of disability groups in children aged 0–14, Australia's children. When we use the term 'disability', we intend it to have a broad and inclusive meaning encompassing all forms of sensory, physical, cognitive, neurological, developmental and psychosocial disabilities (including mental health issues). We recognise and respect that individuals with these experiences may not identify with or use the term 'disability' in relation to themselves. Further information about VLA's disability descriptors is outlined in Appendix 4.

³⁷ VLA system data compared with *ABS Census data* 2021.

³⁸ VLA system data, compared with *Australia's children*, AIHW, ABS census 2021. VLA's current method for recording cultural diversity of children is limited. We ask our young clients whether they were born overseas, but not whether their parent was born overseas. Our lawyers observe that children of colour are disproportionately affected by justice responses and children of colour are over-represented in the youth justice system. Our current intervention order related data does not reflect this.

³⁹ Crime Statistics Agency, 1 January 2018 to 30 December 2023, respondents aged between 10 and 17, recorded by Victoria Police. Australian Bureau of Statistics, 2021–22,



Overrepresentation of young people with neurodiversity and mental health issues

The PIPA research highlighted the overrepresentation of young people with disabilities as respondents to intervention orders.⁴⁰ This was confirmed by our analysis of VLA system data which showed the proportion of clients with disabilities responding to intervention orders has almost doubled since 2019, increasing from 19 per cent to 35 per cent in 2024.

Our qualitative review of closed VLA files, showed that the proportion of young people with disabilities, including cognitive disability, neurodiversity and mental health issues, was much higher, with 58 per cent. This discrepancy is due to inconsistencies in accurately recording disability on our case management system. Client demographics are captured by staff at initial contact, often at court, while also juggling a busy duty lawyer list. Lawyers may become aware of a young person's disability after this initial interview, but do not always update the demographic information in the case management system. We were able to draw a more accurate picture of young people with disability by reading lawyers' file notes and other documents that showed evidence of disability.

The number of young people with disability responding to intervention order applications may still be underreported. Unless requests for reports or other medical evidence are made, a lawyer's file may not provide the full picture. The busy court environment and long duty lists also provide limited time to build rapport and create a comfortable environment for a young person to discuss their experiences of disability. Others may feel unable to share their experiences due to concern about perceived stigma or misperception, while high fees and long public waitlists leave others struggling to receive a diagnosis at all.⁴¹

In the files we reviewed, young people were reported to be living with neurodiversity (including autism spectrum disorder, attention deficit hyperactivity disorder) (n=17), mental health issues (n=16) or other disability including Acquired Brain Injury, cognitive impairments or learning disability (n=6). At least 20 young people had a combination of mental health issues and neurodiversity or cognitive impairment.

Children in regional and remote areas

Research by the Sentencing Advisory Council found that PSIO applications against young people are disproportionately made in regional areas.⁴² In VLA system data, we found that while just 26 per cent of Victorian children live in rural and regional areas, they account for 37 per cent of all young clients we assisted with PSIO and FVIO applications.⁴³

The impacts of intervention orders for young people living in regional areas are compounded as they often have less access to support services than young people living in metropolitan areas.

40 The report acknowledged the lack of a causal link between living with disability and using violence, but that 'failures of our criminal justice system to respond fairly and appropriately to the alleged crimes of children and adults with disabilities—whether in relation to truly harmful behaviour such as serious violence, or more disruptive, survival-driven and over-criminalised behaviour—remain a feature of contemporary legal systems'. Campbell, E., Richter, J., Howard, J., & Cockburn, H. (2020). *The PIPA project: Positive interventions for perpetrators of adolescent violence in the home* (AVITH) (Research report, 04/2020). Sydney, NSW: ANROWS, p.93, p.4.

41 Ibid, p.98.

42 Sentencing Advisory Council, 2022, *Sentencing Breaches of Personal Safety Intervention Orders in Victoria*, p.21.

43 VLA system data compared with National, state and territory population data, Quarterly Population Estimates (ERP), by State/Territory, Sex and Age, Australian Bureau of Statistics, 2023.

Finding 1:

Intervention orders are used instead of supports for families in crisis

Support for children as victim survivors does not carry through to child respondents

The *Family Violence Protection Act 2008 (FVPA 2008)* is primarily designed to ensure safety for children and adults who have experienced family violence. Family violence is defined in the *FVPA 2008* as including a range of threatening or coercive behaviours, including physical, sexual, economic, and emotional abuse.

The *FVPA 2008* acknowledges that children who are exposed to the effects of family violence are particularly vulnerable and that this exposure may have a serious impact on their current and future physical, psychological and emotional wellbeing. The Family Violence Bench Book promotes best practice and consistency for judicial officers making decisions about family violence matters. It includes research that 'childhood exposure to family violence causes similar behavioural and developmental problems as growing up in a war zone'.⁴⁴

There is a disconnect between this recognition of children's experiences as victim survivors of family violence – with the impacts of trauma often leading to use of violence or dysregulated behaviour at home – and the legal response to young respondents.

The law recognises that, wherever possible, children should be protected from exposure to the court system because of the harm that can occur to a child and their family relationships.⁴⁵ For this reason, it largely excludes child AFMs from court processes for their protection.⁴⁶ It says that in order to 'protect the best interests of the child', children under the age of 14 cannot apply for an intervention order or give evidence in legal proceedings.⁴⁷ The same principle is not applied to child respondents, some who are as young as ten years old.

This disconnect is leading to applications for intervention orders for children who are in need of support, not court intervention.

Charlie's story: 'We called the police out of desperation for his safety'

Charlie is 15 years old and the proud uncle of two nieces. He says being an uncle is 'pretty cool' and was excited to meet his sister's new baby recently. He likes playing the drums and is 'mainly learning jazz at the moment'.

When Charlie was just 10, during the Covid-19 lockdowns, he developed mental health issues and was self-harming. His dad, Luke, says Charlie felt like he didn't fit in: 'He was bullied at school'. His parents were also concerned about the online forums Charlie was on, which they believe contributed to his declining mental health.

When Charlie finished Year 7, the family moved from Melbourne to a regional town for a fresh start. A couple of years on, Charlie began sneaking out at night and vaping, taking money from his parents' wallets. Charlie reflected on those times: 'There was drama in our household, me doing things that I shouldn't, being in trouble all the time. And then doing stuff again because I was ticked off about the fact I was in trouble. I was just in a cycle'.

After discovering the missing money, Charlie's parents told him they would be moving back to Melbourne. Luke said Charlie 'let loose and started to get pretty upset...smashing a window so he could jump out'. There was a big drop from the window to the ground so Luke restrained Charlie while his wife Claire called for help. 'We called the police out of desperation for his safety'.

While the police were able to calm Charlie down, Charlie's parents say they weren't listened to when they told officers they didn't want an intervention order, or for Charlie to be charged for the property damage. Charlie's parents didn't think the order would stop another incident from happening, and didn't think it was fair to be put in the position of reporting a breach.

Luke said, '**Our 15-year-old is not going to abide by it anyway... he's a good kid, but if something like that happened again, he wouldn't be thinking about the intervention order. He'd be thinking about his anger in that moment. What am I supposed to do then? I'm supposed to call the police and have him charged with a crime?**'. The police did apply for an intervention order against Charlie with his dad, Luke, as the affected family member.

Charlie understood that 'if I did certain things I would get into more trouble immediately and there was nothing anyone could do about it'. Police told Charlie's parents they would be contacted by a support service after the incident, but this never happened. An interim FVIO was made without Charlie or Luke at court. The police brought a copy of the order to the house and told the family to go to court in three months' time. Luke and Claire didn't know what to expect at court.

44 Berman, H 2000, quoted in Judicial College of Victoria (2024) *Family Violence Bench Book*.

45 Family Violence Protection Bill 2008, *Explanatory Memorandum*, p. 2642.

46 The role and rights of children as applicants, AFMs and protected persons is currently the subject of an *inquiry by the Victorian Law Reform Commission*.

47 Ibid, p. 2642.



'We tried to talk to the police about whether or not the order needed to stand, but the person we were supposed to deal with never rang us', said Claire. Claire and Luke also asked police to transfer their case to a regional court closer to their home. When this didn't happen, they contacted the court themselves to arrange attending online.

The matter was withdrawn, but for Charlie the worst part was the actual court date. 'It was six hours waiting for something to happen, being stressed about what I'd have to do... and then it took them (the magistrate) about 30 seconds to call me up, tell me what was going on and dismiss me'. When asked what he would have liked done differently, Charlie had a few ideas. At the time of the incident he said he appreciated police listening to his side of the story. He thought certain family members instead of the police may have made him feel safe, but he wasn't sure what other help was available to him. He said the time between the police coming to his house and the court date should be faster. And if the police had already made a decision not to pursue an intervention order, he would have liked to know this earlier to avoid an anxious wait at court. 'If they've already decided the intervention order is over, why can't that be conveyed in like some way that's not a court date, like an e-mail, text message, a letter. Surely there's some other way', said Charlie.

Charlie was also open to alternatives, such as counselling or mediation for him and his dad to avoid the court process.

Luke said the family needed a circuit breaker, not an intervention order, and it had little impact. 'We noticed a change in him but the interim order, quite frankly, had nothing to do with it'. Claire said the police arriving at their house had the bigger impact. **They agreed working together as a family on the issues, including allowing Charlie more freedom to go out with friends at night, is what changed his behaviour.**

'Even though he did subsequently do things he wasn't supposed to do when he went out, I don't think the interim or the intervention order had carried a skerrick of weight for him. He's a 15-year-old boy'.

Today, Charlie is doing well and the future looks good. Luke and Claire are hopeful Charlie will find ways to manage his emotions safely and grow up happy, healthy and have a job he enjoys.

'Although there's been this incident, and he's had a past history of hurting himself, he's a lovely young man. He'll grow up into a fine adult', said Luke.

Claire added, 'We're sure of that. We've become surer of it as times goes on'.

As illustrated in Charlie's story, parents are calling police in moments of crisis. The parents we spoke to said what they were looking for was de-escalation and support. Instead, police responding to these callouts followed the adult intervention order process, even where no pattern of family violence or coercion is present. As we show below, police guidance for these types of callouts is not adequately tailored to children and young people.

In our review of closed VLA files where at least 39 per cent (n=21) of families were not supportive of the FVIO being made against their child.⁴⁸ This can lead to poorer safety outcomes in the future. For example, in Charlie's story, his parents said they would not contact police in the future due to fear of their child being criminalised.

The police response for adult family violence is being applied to children

Current policy guidance, including the Victoria Police Manual, Family Violence Code of Practice and the Multi-Agency Risk Assessment and Management framework (the MARAM), acknowledges AVITH as a distinct form of family violence. Yet it does not provide specific guidance on how police should differentiate their response from adults.⁴⁹ This means that when officers attend callouts, in practice, they apply an adult family violence risk assessment⁵⁰ to children and young people, propelling many children who are not using family violence into the legal system.

In a 2020 submission, Victoria Police recognised that 'criminal justice responses [that were intended for intimate partner violence], are being utilised when adolescents use family violence, when the focus should be on therapeutic and diversionary approaches. Victoria Police's response to adolescents who use family violence is focussed on ensuring the safety of victims and the adolescents and, making referrals to appropriate support services. However, often the only tool available to police is to seek FVIOs, and there are limited support services for adolescents...'⁵¹

48 This figure represents those parents who have indicated to a VLA lawyer that they do not support an intervention order against their child and this has been recorded by the lawyer on the file. As this information is not always clear from the file, we expect the actual number of parents who do not support an intervention order against their child to be higher.

49 Victoria Police Manual - Family Violence, p. 4. and Victoria Police 2022, *The Code of Practice for the Investigation of Family Violence* - Edition 4 Version 2, p.20. Family Safety Victoria 2018, *Family Violence Multi-Agency Risk Assessment and Management Framework*, p.11.

50 In a submission to the FVRIM, Victoria Police explain that the Family Violence Report (FVR) was developed in partnership with Swinburne University and Forensicare. "The completed FVR produces a score that is indicative of the likelihood of future family violence reported to police and the severity of that violence...The FVR has also operationalised the Multi-Agency Risk Assessment and Management (MARAM) Framework for Victoria Police."

Victoria Police. 2023, *Submission to the Monitoring the Family Violence Reforms review by the Family Violence Reform Implementation Monitor* p. 2.

51 Ibid, p.16.

Our analysis of the Family Violence Dashboard confirmed that police are typically the applicant in FVIO applications against a child. From 1 July 2019 to 30 June 2024, 86 per cent (n=8,720) of FVIO applications made in the Children's Court were made by police.⁵² In comparison, 75 per cent (n=140,782) of adult FVIOs applications were made by police.

The PIPA report recommended the Victorian Government develop police frameworks that set out distinct considerations in relation to AVITH, as compared with adult-perpetrated intimate partner violence.⁵³

A child and young person MARAM tool is in development, which includes guidance on assessing family violence risk for children and young people, including for those who are identified as using violence. These changes will have limited impact on police responses, unless the Victoria Police Manual and Family Violence Code of Practice are also updated to align with the child and young person MARAM.

Most FVIO applications involving child respondents arise in child to parent disputes

CSA analysis shows that parents were the highest affected family member group for FVIOs against children.

Affected family member relationship to respondent	Number	%
Parent	3,878	36%
Other familial (e.g. sibling, aunt)	1,872	17%
Current or former partner	1,355	12%
Other (e.g. child, non-family member)	150	1%
Unknown	3,498	33%
Total	10,753	100%

Table 1: Number of FVIOs by affected family member relationship to child respondent 10-17 years, 1 January 2018 to 31 December 2023

Source: Unpublished Crime Statistics Agency data provided to VLA

As Figure 4 shows, mothers were three times more likely to be named as the AFM in FVIO applications over the last five years.

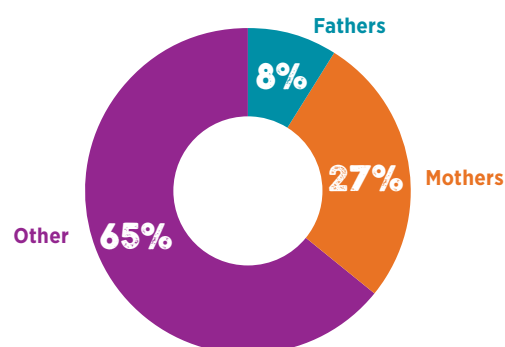


Figure 4: Affected family members named on FVIOs finalised in the Children's Court, 1 July 2019 to 30 June 2024

Source: VLA analysis of Family Violence Dashboard

In our review of closed VLA files, 18 per cent (n=18) of young people who we helped respond to a FVIO were living with their mother in a single parent household. This echoes research that shows that adolescent violence often involves single mothers who have left violent partners.⁵⁴

Our practice experience suggests that earlier intervention and support should be provided to adult *and* child victim-survivors of intimate partner violence, to enable recovery and positive child development.⁵⁵ The Australian Government's recent *Rapid Review of Prevention Approaches* recommended 'youth-specific and informed responses for young people who have experienced harm and may also go on to use harm'.⁵⁶

Young respondents are often victims of family violence

Data analysis provided by the Crime Statistics Agency shows that over half (n=12,866, 53%) of all young people aged 10 to 24 who had a FVIO made against them in Victoria were previously a victim-survivor of family violence.⁵⁷

Not all children and young people who have experienced family violence or child abuse will go on to use violence. However, a common finding in AVITH research is that young people (often boys) use violence as learned behaviour after experiences of adult-perpetrated violence from their parents (usually fathers towards mothers).⁵⁸

52 Crime Statistics Agency, *Family Violence Dashboard*, 2023-24.

53 Campbell, E., Richter, J., Howard, J., & Cockburn, H. (2020). *The PIPA project: Positive interventions for perpetrators of adolescent violence in the home* (AVITH) (Research report, 04/2020). Sydney, NSW: ANROWS, p.176.

54 Campbell et al. found "the impacts of past and current experiences of adult-perpetrated domestic and family violence were the 'single greatest contributing factor' to the support needs of mothers seeking help for their child's behaviour and the needs of the children themselves." Campbell, E., Ellard, R., Hew, E., Simpson, S., McCann, B. & Meyer, S. (2023). *WRAP around families experiencing AVITH: Towards a collaborative service response* (Research report, 04/2023). ANROWS, p.7-8.

55 Ross, S. 2024, *'A mother's journey for support after domestic violence'*, ABC News, 10 October.

56 Campbell, E., Fernando, T., Gassner, L., Hill, J., Seidler, Z & Summers, A. (2024). *Unlocking the prevention potential: Accelerating action to end domestic, family, and sexual violence*. Rapid Review Expert Panel. Commonwealth of Australia, Department of the Prime Minister and Cabinet, p.7.

57 Unpublished Crime Statistics Agency data provided to VLA.

58 Campbell, E., Richter, J., Howard, J., & Cockburn, H. (2020). *The PIPA project: Positive interventions for perpetrators of adolescent violence in the home* (AVITH) (Research report, 04/2020). Sydney, NSW: ANROWS, p. 147, p. 103.

Fitz-Gibbon, K., Meyer, S., Boxall, H., Maher, J., & Roberts, S. (2022). Adolescent family violence in Australia: A national study of prevalence, history of childhood victimisation and impacts (Research report, 15/2022). ANROWS, p.38.

Childhood experience of family violence is now recognised as a distinct form of child maltreatment which intersects with other experiences of abuse, including AVITH.⁵⁹

For some young people, the first time they are recognised as victim-survivors of family violence in their own right is *after* they come into contact with the justice system as a respondent. Once a child is labelled a 'perpetrator' of family violence, it can restrict their access to supports and services. This is more pronounced for young people with a disability and their families, many who may rely on services for crucial activities, such as respite support.⁶⁰

Misidentification of the predominant aggressor

The failure to recognise the underlying dynamics of the family and needs of a child can lead to inappropriate responses, including misidentification. Misidentification occurs when police wrongly identify the child as the predominant aggressor in a family violence report. In our VLA file review, we identified at least 13 cases where police wrongly identified the child in an intervention order application. The PIPA report highlighted concerns that in some cases, intervention orders were being used by a parent using family violence to perpetuate systems abuse against the child victim-survivor.⁶¹

One file we reviewed involved a 16-year-old boy, Ben, who lives with multiple disabilities including autism spectrum disorder and mental health issues. Ben currently lives with his mum, because of concerns about his dad's use of family violence.

Ben has been named as the affected family member on a number of previous intervention orders, with both of his parents named as respondents at different times.

In the file we reviewed, Ben's mum called the police after she and Ben had a fight about getting him to clean his bedroom. Because of Ben's disabilities, he struggles to regulate his emotions. Ben told police that he pushed his mum, after she pushed him first, and he hit her in self-defence. Despite this, Police charged Ben with unlawful assault. Police also applied for an intervention order against Ben on behalf of his mum.

The court made an interim FVIO, but Ben struggled to understand the terms of the order. Police charged Ben with breaching the order on three separate occasions. Sometimes Ben himself called the Police for help, but he would end up being charged with a breach.

Our lawyers helped Ben fight the criminal charge and breaches of the intervention order. Ben's lawyer told police that Ben had been mistakenly identified as the primary aggressor in this matter. After negotiations by Ben's lawyer, police agreed to withdraw the criminal charges and intervention order. Ben was still required to give an undertaking to the court that he would not use family violence in the future.

Police are applying family violence response to children's reactive behaviours arising from disabilities or neurodiversity

In our review of closed VLA files we commonly saw FVIO applications arising from incidents where children and young people experienced various forms of emotional dysregulation. Supported by existing research⁶² and through our file review and interviews with children and their families, we have concluded that many police callouts are not suited to a family violence response.

Our file review showed that almost half (n=25, 47%) of the FVIO applications we looked at started as a behavioural outburst manifesting from a child's neurodiversity or mental health issues.⁶³

Our review of closed VLA files also highlighted that over a third of family disputes (n=18, 36%) arose because parents removed the young person's access to their phone or iPad or disconnected the internet, which led to a verbal or physical fight.

These young people require a specialised response rather than the current family violence response by police. The Royal Commission into Victoria's Mental Health System (the Mental Health Royal Commission) recommended that wherever possible, emergency services' responses to people experiencing mental health crises are led by health professionals rather than police.⁶⁴ We understand that while these reforms are underway, they have been significantly delayed.⁶⁵ Our research aligns with growing advocacy around the need for alternatives to police as first-responders to address social and health needs.⁶⁶

59 Meyer, S., Atienzar-Prieto, M., & Fitz-Gibbon, K. (2024). *Young people's experiences and use of violence in the home: examining four types of child maltreatment, their intersections and self-reported use of violence in the home*. *Child Protection and Practice*, 2, Article 100051.

60 Campbell, E., Richter, J., Howard, J., & Cockburn, H. (2020). *The PIPA project: Positive interventions for perpetrators of adolescent violence in the home* (AVITH) (Research report, 04/2020). Sydney, NSW: ANROWS, p. 23

61 Campbell, E., Richter, J., Howard, J., & Cockburn, H. (2020). *The PIPA project: Positive interventions for perpetrators of adolescent violence in the home* (AVITH) (Research report, 04/2020). Sydney, NSW: ANROWS, p. 14.

62 Ibid, p.13.

63 Twenty one of the 25 young people were recorded as having a neurodiversity or mental health issues.

64 Royal Commission into Victoria's Mental Health System, *Final report*, Summary and recommendations, Recommendation 10, p.46.

65 Sadler, D. *Inside the Footscray police shooting*, The Saturday Paper, May 3-9, 2025, No.548,

66 National Justice Project, 2025, *Alternative First Responders Position Paper*.

Police applied for a FVIO for our 16-year-old neurodiverse client following a dispute between our client and his sibling about their PlayStation. The police application for the intervention order states that it is an attempt to 'educate the respondent on the gravity of his actions'. Our client's parents did not support the application for the order, and they advised VLA that they contacted police to get support. It was not clear from our review that police made any referrals to supports for this young person and their family.⁶⁷

While some families might require a circuit breaker to manage incidents which can become heightened and unsafe, as we show later in this report, intervention orders do not lead to families being linked in with therapeutic or restorative programs to change a young person's behaviour.

Other studies also show linkages between criminalisation of young people with disabilities and their experiences of childhood trauma.⁶⁸ People with disabilities are overrepresented in the criminal justice system, with breaches of orders they do not understand reported to be one of the most common pathways into that system.⁶⁹ While the links between children with disability and AVITH are broadly recognised, there is limited guidance for practitioners working with families in this space.⁷⁰

As highlighted below, the Embedded Youth Outreach Program shows that early, collaborative responses to young people in contact with police can work.

The **Embedded Youth Outreach Program**

(EYOP) is a partnership initiative with Victoria Police and Youth Support and Advocacy Service (YSAS) designed to support young people at risk of antisocial or criminal behaviour.

By pairing police officers with youth workers, the program provides an after-hours secondary response to young people coming into contact with police. The program provides young people with support and referrals to services tailored to their individual needs.

EYOP was first established in 2018 in Werribee and Dandenong and expanded to Brimbank, Melton and Shepparton in 2023 following a positive evaluation.

The evaluation team found that EYOP had demonstrated benefits, including improved communication with 'hard to engage youth' and most young people who were referred to support services attended at least one appointment.⁷¹

Intersections with Child Protection

Our file review showed that 32 per cent of the young people whose files we looked at had either current or previous Child Protection involvement. In our review of closed files, we also found that at times Child Protection will get involved as a result of the initial incident that resulted in the intervention order. VLA lawyers have observed Child Protection requiring parents to use intervention orders against children as a tool to manage safety concerns. For example, Child Protection advise adult clients that if they do not apply for an intervention order against one child, they will take action to remove a sibling they believe is at risk.

The high rate of child protection involvement highlights the complex dynamics at play in families we assist, where it is common that the state has previously intervened to protect a child's safety, but does not provide longer-term engagement to support recovery and ensure the effects of trauma do not manifest in challenging behaviours.

67 If police made referrals they would be via VP eR (Victoria Police e-Referral program) so there would not be evidence of a police referral on an IVO app or a VLA file, it would only be if client or family mentioned it.

68 Boiteux, S., & Poynton, S. (2023). *Offending by young people with disability: A NSW linkage study* (Crime and Justice Bulletin No. 254). Sydney: NSW Bureau of Crime Statistics and Research.

69 Dowse, L., Rowe, S., Baldry, E., and Baker, M., (2021). *Research Report: Police Responses to People with Disability*, Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, p.74.

70 Sutherland, G., Rangi, M., King, T., Llewellyn, G., Kavanagh, A., & Vaughan, C. (2022). A socio-ecological exploration of adolescent violence in the home and young people with disability: The perceptions of mothers and practitioners (Research report, 19/2022). ANROWS, p. 4.

71 Luebbers, S., Pichler, A.S., Fullam, R. & Ogloff, J. R. P. (2019). *Embedded Youth Outreach Program Evaluation*, Final Report. p. 4.



Intervention orders can lead to children becoming homeless

Excluding young people from their home can have particularly harmful consequences for those in need of therapeutic support. In our VLA file review, we found seven young people had been excluded from their home because of an intervention order. One stayed in crisis accommodation, while others lived with other family members (including siblings) or a friend.

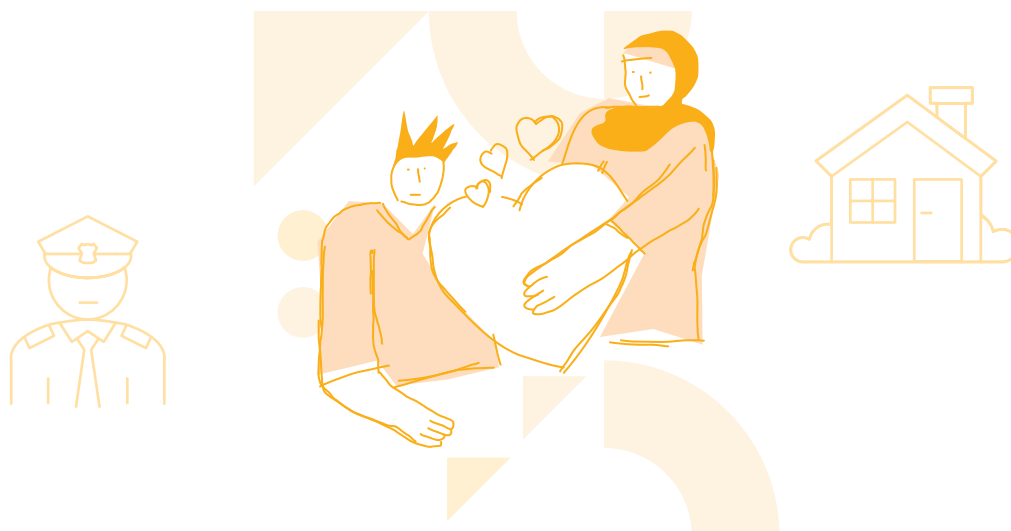
The law says that the court must tell Child Protection when an order has been made with a condition to exclude a young person from their home.⁷² Our practice experience shows Child Protection has been reluctant to intervene with teenagers aged 16 and over, unless they are already on child protection orders. This forces them into general homelessness services which have been found to be over capacity and inappropriate for young people.⁷³

With more than 6,000 young people in Victoria experiencing homelessness each night, crisis support services are overwhelmed.⁷⁴ Previous research has called for supported accommodation options for children and young people alleged to be using violence, where it is not possible for them to remain in the family home.⁷⁵

Intimate partner violence in young people's relationships

AVITH does not include 'dating violence' or intimate partner violence between young people.⁷⁶ Ten per cent of FVIO applications against child respondents finalised in the Children's Court over the last five years involved intimate partner violence,⁷⁷ and just six of the 54 closed FVIO files (11%) we reviewed involved intimate partner violence.

While intimate partner violence is not a focus of this report due to its uncommon nature in our practice with children, research indicates this is a growing area of concern for older teenagers. A report from the Australian Institute of Family Studies (AIFS) and the Longitudinal Study of Australian Children highlighted the need for primary prevention and investment in early intervention.⁷⁸ The Rapid Review report highlighted a link between childhood exposure to adult-perpetrated family violence and the use of violence by young people in intimate relationships.⁷⁹ Research is forthcoming to increase understanding of how young people's use of intimate partner violence is distinct from adult-perpetrated violence and the current service landscape.⁸⁰



⁷² *FVPA 2008 (Vic) s 83.*

⁷³ Corrie, T. and Moore, S., (2023), *Amplify: Turning up the Volume on Young People and Family Violence*, Melbourne City Mission 2023, p. 9.

⁷⁴ Melbourne City Mission 2025, *Ending Youth Homelessness*.

⁷⁵ Research highlighted the need for integrated, youth-informed, and trauma-responsive supports that prioritise housing stability, safety, and early intervention. Campbell, E., Fernando, T., Gassner, L., Hill, J., Seidler, Z & Summers, A. (2024). *Unlocking the prevention potential: Accelerating action to end domestic, family, and sexual violence*. Rapid Review Expert Panel. Commonwealth of Australia, Department of the Prime Minister and Cabinet, p.43. Corrie, T. and Moore, S., 2023, *Amplify: Turning up the Volume on Young People and Family Violence*, Melbourne City Mission 2023, *Amplify: Turning up the Volume on Young People and Family Violence*, p. 9.

⁷⁶ Campbell, E., Richter, J., Howard, J., & Cockburn, H. (2020). *The PIPA project: Positive interventions for perpetrators of adolescent violence in the home (AVITH)* (Research report, 04/2020). Sydney, NSW: ANROWS, p. 27.

⁷⁷ Crime Statistics Agency, 2024, Justice System Data Tables 2024, Table 16. Number of victims on original FVIO applications by relationship to respondent, victim gender, and court, 1 July 2019 to 30 June 2024.

⁷⁸ Growing Up In Australia 2023 *The Longitudinal Study of Australian Children: Intimate partner violence among Australian 18-19 year olds* p.8.

⁷⁹ Campbell, E., Fernando, T., Gassner, L., Hill, J., Seidler, Z & Summers, A. (2024). *Unlocking the prevention potential: Accelerating action to end domestic, family, and sexual violence*. Rapid Review Expert Panel. Commonwealth of Australia, Department of the Prime Minister and Cabinet, p.34.

⁸⁰ Campbell, E., et al. (2024). *The IVY Study: Towards an Australian response to the use of Intimate partner Violence by Young people*. RMIT Centre for Innovative Justice.

Finding 2:

Intervention orders are increasingly arising in schools and can lead to school disengagement

The PSIO legal response was designed to protect the safety of victims of assault, sexual assault, harassment, property damage or interference, stalking and serious threats.⁸¹ While these behaviours warrant protection, our practice experience suggests these orders are becoming a 'catch-all' for disputes arising between children.

Intervention orders are being used in response to school disputes

PSIOs are increasingly being used to manage disputes between young people, particularly within a school setting, but there is limited research into why this is occurring.

There also seems to be a lack of services that can work with young people and schools, to mediate situations and teach conflict resolution that might avoid the need to escalate to a justice system response.

This report includes the experiences of students attending government and non-government schools. While the majority of students in Victoria are enrolled in government schools,⁸² it was not clear from our review of closed files, whether the school our clients attended was a government, or non-government (Catholic or Independent) school.

As noted earlier, there was a rise in PSIOs after the COVID-19 lockdowns as many students reported difficulty returning to in-person schooling. In the aftermath of the pandemic there has been much public commentary and some research into violence and aggression in schools nationally and internationally.⁸³ A parliamentary inquiry into the Victorian education system highlighted that the wellbeing of students and teachers has been significantly affected by the pandemic.⁸⁴ Schools are also struggling with teacher workforce shortages.⁸⁵

Schools have an obligation to address bullying behaviour as part of their duty of care.⁸⁶ Schools must also provide reasonable adjustments for students with disability to ensure inclusive participation.⁸⁷

The Department of Education provides schools with a framework to encourage positive behaviour through the School-wide Positive Behaviour Support (SWPBS).⁸⁸ Since 2018 the department has supported a common approach to SWPBS based on international best practice through 17 region-based SWPBS coaches. Coaches work with school teams to clarify a school's needs and provide the necessary professional learning, supported by coaching, for teams to embed essential SWPBS features. A 2023 evaluation found that SWPBS was operating in 26 per cent of government schools and evidence showed that the program led to better student outcomes on a range of measures.⁸⁹

As Isaac's story shows, even when schools have restorative practice approaches in place, teachers do not consistently use them in response to schoolyard incidents.

Isaac's Story: 'It would have been better if the person let the teachers handle it'

Isaac is 14 years old and lives with his mum, two sisters and a brother in the western suburbs of Melbourne. Isaac was born in Australia and his parents migrated from an African country. Isaac is in year 8 at a government school. He likes school and enjoys PE the most – his favourite sports are soccer and basketball.

In 2024, Isaac was at school when an older boy in a different year level approached him and his friends and started calling them names. This made Isaac and his friends angry, and they ended up fighting with the older boy. The older boy had a swollen eye as a result of one of the punches thrown and Isaac's arm was injured in the fight.

The teachers broke up the fight and took the older boy to the front office where he received first aid. Isaac said nothing else happened after that. Usually, he explained, the teacher 'puts the students into two different rooms and then comes and talks to them privately. After this, the teacher gets everyone in a big room to talk about it together'. Isaac doesn't know why the school didn't follow this approach this time.

Isaac said after the fight he and his friends didn't have anything more to do with the older boy.

81 Victorian Legislative Assembly (2010) *Parliamentary Debates*, 9 June 2010: 2219.

82 In 2025, 63% of students were enrolled in government schools, 21% in Catholic schools and 17% in Independent schools. Source: Summary Statistics Victorian Schools, February 2025, Table 2: Number of Enrolments by Region, Sector, School Type, and Enrolment Type (2016-2025).

83 In March 2024 the Australian Catholic University's (ACU) annual principals survey showed the highest levels of violence against school leaders since the study began in 2011. ACU 2024, *Violence escalates and mental health suffers but principals remain resilient*. Research published by the American Psychological Association (APA) found that threats and violence against teachers rose after the pandemic, leading to an increase in teachers expressing a desire to transfer or resign. APA 2024, *Violence, aggression against educators grew post-pandemic*.

84 Parliament of Victoria 2024, *Inquiry into the State Education System in Victoria*.

85 Ibid p. 127.

86 Department of Education, 2021, *School Operations: Bullying Prevention and Response*.

87 *Equal Opportunity Act 2010* (Vic), *Disability Discrimination Act 1992* (Cth) and the *Disability Standards for Education 2005* (Cth).

88 Department of Education, 2025, *School-wide Positive Behaviour Support*.

89 Dandolo Partners, 2023, *Evaluation of the School-wide Positive Behaviour Support initiative in Victoria*, Evaluation report by dandolo for the Department of Education.

Shortly after the fight at school, the police visited Isaac at home. At first, he was a bit scared. 'It gave me mixed feelings. I didn't know what they came for. But when they started to explain stuff like responsibilities, I just felt more calm'.

Police gave Isaac a formal caution instead of charging him with unlawful assault.⁹⁰ VLA lawyers said that had Isaac had an opportunity to speak to a lawyer before this, they would have advised him not to accept a formal caution, as he was only 13 years old at the time.⁹¹

Five months after the fight, Isaac received a letter in the mail saying he needed to go to court to respond to a PSIO application by police. Isaac was confused. 'Like, five months passed and then I came home to randomly find the court letter'.

Isaac went to court with his mum who had to take the day off work. It was the first time he'd ever been to court and he said it was 'a whole different world' and 'a little bit scary'. Isaac had to wait at court for the whole day which he says was 'stressful'.

At court, Isaac spoke to a VLA duty lawyer. The lawyer asked the magistrate to adjourn the application without an interim order so police could do a safety risk assessment of all parties. The magistrate agreed an interim order was not appropriate.

At the next court date, three weeks later, Isaac's VLA lawyer negotiated with police to withdraw the intervention order application. Police agreed the intervention order was not necessary as they confirmed there had not been any further issues with Isaac and the other young person.

Isaac said going to court was 'life-changing'. Depending on how the day went, it could make his life good or bad. For Isaac, it was 'good because the intervention order was dropped'.

When it was all over, Isaac said he felt relieved. Since going to court, Isaac said he has become more worried and restricted: 'I've been more careful with what I do'.

We asked Isaac if he had any suggestions about what else could have been done. He said, 'I think the situation would have been better if the person let the teachers handle it', instead of going through police and court processes.

Steep rise in PSIO applications against children

As figure 5 shows, the number of VLA clients responding to PSIO applications against them has nearly doubled from 243 in 2018-19 to 472 in 2023-24. VLA lawyers particularly noticed an upturn in PSIOs against children since the end of the Victorian lockdowns.

In addition, our file review revealed that most PSIO applications against children relate to school disputes between classmates (n=38, 81%).

This aligns with previous analysis conducted by the Sentencing Advisory Council which found that PSIOs involving young people most commonly involved school-related relationships (including students and teachers) as well as friends, former friends and acquaintances.⁹²

The Victorian government's Protective Schools Ministerial Taskforce found that children who use violence in school often have a history of trauma including experiences of family violence.⁹³ This aligns with our review of PSIO files relating to school disputes where we saw a handful of young people with current or previous involvement with Child Protection, young people who were living in out-of-home care, and young people who were victim-survivors of family violence. Half the files where we found the young person's access to school was impacted involved young people who were neurodiverse or experiencing challenges with their mental health.

Parents apply for most school-related intervention orders

VLA lawyers regularly see parents applying for PSIOs on behalf of their child. Our file review showed that the parents of the other child were the applicant in almost half (n=18, 47%) of school related applications. This can be problematic for several reasons. Our lawyers and other legal service providers observe that these applicants are usually not legally represented, are often in distress and may not understand these orders and the consequences for the other child. Well-resourced parents are also often better positioned to access legal processes in response to conflict.

Our review of closed VLA files suggests that many incidents at school or online giving rise to PSIO applications were the result of retaliation to bullying experienced by our client. However, as we discuss in Finding 4, interim orders are often made without hearing from the respondent child and the PSIO process does not always help to uncover or address the root causes of the dispute.

90 While a formal caution is not able to be viewed by future employers via criminal record check, a formal caution is recorded in a police document indefinitely. Police will see the caution every time they are called to respond to an incident involving the person named in the caution.

91 Under this principle, called *doli incapax*, a child under 14 should not be held criminally responsible unless it is proven that they knew their actions were very morally wrong. Victoria Legal Aid 2024, *Raise the age of criminal responsibility to 14*.

92 Sentencing Advisory Council, 2022, *Sentencing Breaches of Personal Safety Intervention Orders in Victoria*, p. 33.

93 Department of Education and Training Victoria 2023, *Protective Schools Statement*, p. 13.

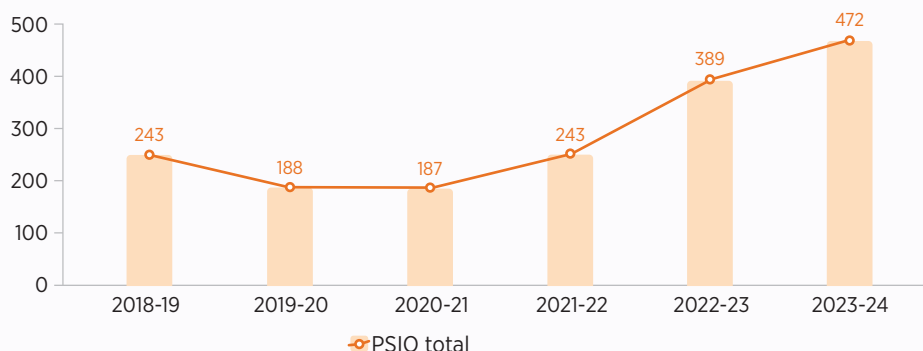


Figure 5: Number of unique VLA child respondents to PSIO applications, 1 July 2018 to 30 June 2024

Source: VLA system data

Parents may decide to bring an application on behalf of their child for various reasons. Our lawyers have heard that parents make an application for an intervention order because they are dissatisfied with the way the school has responded to a dispute.⁹⁴ If police assess that the dispute does not require a police response, they may refer parents directly to the court to apply for an intervention order. One legal service provider told us:

“Very often we see intervention order applications made by parents of young people who may be victim to an isolated incident, who feel they need to apply for a full intervention order as a way of vindicating their child. The impact of this is that an incident/issue between two young people that is small and could be dealt with quite quickly, is now being ventilated in court which creates further tension between the two young people, only making the situation worse and harder to resolve because now there is increased resentment towards each other.

As the following example from the Victorian Aboriginal Legal Service (VALS) demonstrates, we often see disputes which could have been handled by the school through a safety plan, to manage the contact between the two parties.

VALS experience with school-based intervention orders

VALS assisted a young person who was the respondent to a Victoria Police PSIO application. The protected person attended the same school as the respondent. The application was sparked by an isolated incident between the applicant and respondent that occurred outside of the school setting.

An interim order was made in the respondent's absence, and the respondent sought legal advice and support from VALS. VALS attempted to resolve the application at an early stage by way of an undertaking, as it was clearly an isolated incident, and the school should have implemented a safety plan to keep the parties away from each other, where possible.

The Police made enquiries with the school, who confirmed they had not put a safety plan in place. Rather than negotiating with the school to add a safety plan, the Police pursued their application for another three months, before ultimately agreeing to a short undertaking as there had been no breaches of the interim order by the young respondent.

Recently expanded powers granted to Victorian school principals allow them to suspend or expel students for harmful behaviour that occurs outside school grounds or online.⁹⁵ This may reduce the number of parents applying for PSIOs, however, VLA is concerned that these powers focus solely on expanding the grounds in which principals may *suspend or expel* students.

⁹⁴ Twyford, L. (2024, November 4). *As parents hunt for solutions to bullying, this dad decided to take out a personal protection order through the courts*. ABC News.

⁹⁵ Premier of Victoria, (2025), *New Powers To Help Keep Students Safe*.

The Department of Education's policy states that the powers only apply in exceptional circumstances and that expulsion and suspension remains a last resort.⁹⁶

As Parents Victoria, the peak body for parents of students in government schools, notes, punitive responses alone will not resolve behavioural or systemic issues between students.⁹⁷

A parliamentary inquiry into the Victorian education system highlighted that schools are struggling with teacher workload capacity issues and workforce shortages.⁹⁸

Without providing accompanying guidance and resourcing for schools to manage incidents before taking disciplinary action, there is a risk that students who are suspended or expelled will disengage from school altogether and will be more likely to come into contact with the criminal justice system.

Managing schooling and PSIOs

Schools have a responsibility to make sure students can comply with the conditions of a PSIO. Principals are expected to manage risks to safety or wellbeing between students in accordance with school mandatory policies about student engagement and wellbeing. This includes putting in place individual safety plans for students and staff affected by intervention applications and orders.

In PSIO applications involving school disputes, the court may issue an order asking the Department of Education to provide information about options for alternative education or training for the respondent student, to assist the Court in deciding whether to include a condition that may prevent the student from being able to attend the school they are enrolled in.⁹⁹ VLA lawyers report that, in practice, the usefulness of this process is limited due to the scope of these section 75 reports. Our clients usually want to remain at their current school, however, the section 75 report does not necessarily include information about safety plans to support our client to remain in school. Our lawyers report that information about safety plans can be obtained directly from the school in less time.

Limited data on school-related PSIOs

It is not clear whether police or the Department of Education records the number of young people who are on PSIOs or whose schooling is affected by the intervention order legal process. While the Children's Court collects information about the relationship between the parties to PSIO applications (including whether the relationship is school related), this data is not available publicly.

Intervention orders are disrupting school attendance

The consequences of a school-related intervention order are significant, including a child being excluded from their school. This is concerning because education is understood to be a protective factor in a child's life. School exclusion is also highly correlated with contact with the criminal justice system.¹⁰⁰ Excluding these young people from school does not address the underlying issues driving their behaviours and, in many cases, exacerbates them.

The Victorian Ombudsman's *Investigation into Victorian government school expulsions* found that:

“...in many cases, schools do not appear to be equipped with the resources, expertise and assistance, within the school and from the department more broadly, to provide the necessary support to students with higher needs. The behaviour of these children may be extremely challenging, but it must be within the power of our education sector to support these children rather than simply shifting the challenge of the student's behaviour from one school to another.”¹⁰¹

The law says that the court must consider whether a PSIO may prevent the respondent from attending school.¹⁰² As Figure 6 below shows, we saw significant disruptions to young people's schooling in our file review. This included 17 young people (59%) who we assisted with PSIO application who reported to be missing school, due to stress and anxiety or the conditions on the intervention order, which restricted their contact with another student.

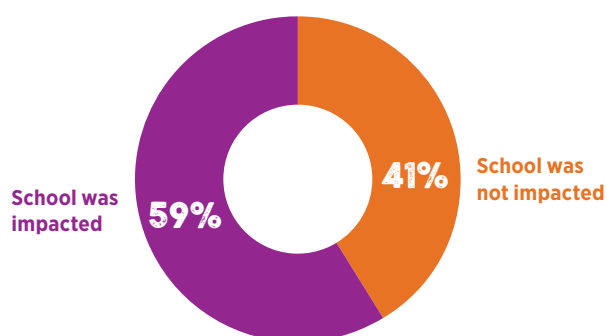


Figure 6: Proportion of young people whose schooling was impacted by intervention order process

Source: VLA file review

96 Department of Education (2025) School Operations – Expulsions.

97 Parents Victoria, (2025) *New Expulsion powers for principals – PV media comment*, 4 June 2025.

98 Ibid p. 127.

99 These are known as section 75 reports. *PSIOA 2010* (Vic) s 75.

100 Rudolph, S., Isbester, S., Payne, A. L., & Delany, T. (2025). *Understanding school discipline and exclusion in Australia: Key issues*. The Australian Educational Researcher, 52, 1509–1527.

101 Victorian Ombudsman, 17 August 2017, *Investigation into Victorian government school expulsions*, p.4.

102 *PSIOA 2010* (Vic), s 74(1).

In some cases, we heard of young people moving to a different school or leaving school altogether because of an intervention order.

In one case we reviewed, a young person was self-funding an Uber home from school each day as they were worried about breaching the order by catching the bus home, despite conditions on the order allowing them to do so.

Students with disabilities

Despite making inclusive education a priority,¹⁰³ studies show that children with disability face multiple barriers to fully participating in schools. The Commission for Children and Young People's recent inquiry *Let Us Learn* shared children and young people with disability's views about the low expectations placed on them and being held back from fully participating in their education.¹⁰⁴ The Victorian Ombudsman's report revealed that of the 278 formal expulsions in Victorian schools, 33 per cent involved students identified as having a disability or mental health issues.¹⁰⁵

Our research supports this trend. We found children with disability were more likely to have their schooling disrupted by PSIOs. Of the 17 students whose schooling we recorded as being impacted by PSIOs, almost half (n=8) were reported to live with neurodiversity and/or mental health issues.¹⁰⁶

Students living regionally

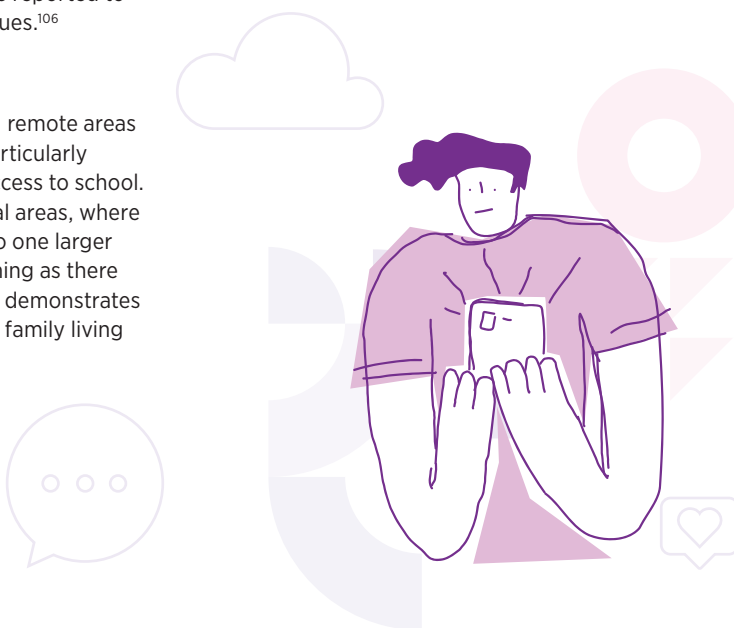
Children and young people living in regional and remote areas where there are limited schooling options are particularly disadvantaged by an order that restricts their access to school. Anecdotally, we have heard that in some regional areas, where government high schools have been merged into one larger school, the issuing of PSIOs is especially concerning as there are no alternative schools nearby. Serena's story demonstrates the intersectional issues faced by a First Nations family living regionally.

Intervention orders are being used to respond to cyberbullying

Social media has opened up a new landscape for bullying behaviours.¹⁰⁷ We found that a quarter of PSIO applications involved allegations of online bullying (n=12, 26%). Concerns about the impact of social media on children and teenagers is growing internationally, with various legislative and regulatory responses being proposed.¹⁰⁸ The Australian Government has passed legislation outlining the world's first social media ban for children under the age of 16 in response to this issue.¹⁰⁹

There are programs available to help parents and educators teach children about online safety, including how to navigate the internet responsibly, recognise potential dangers, and protect their personal information.¹¹⁰

However, the increasing number of intervention order applications seemingly reflects dissatisfaction with, or lack of knowledge about, the current options to navigate disputes that may arise online.



103 State of Victoria, Department of Education and Training, 2023, *Inclusive Education for all students with disabilities and additional needs, the Government's response to the review of the program for students with disabilities*.

104 Commission for Children and Young People, *Let us learn: Systemic inquiry into the educational experiences of children and young people living in out-of-home care* (Melbourne: Commission for Children and Young People, 2023), p. 68.

105 Victorian Ombudsman, 17 August 2017, *Investigation into Victorian government school expulsions*, p.24.

106 The exact number of students whose schooling was impacted by an intervention order made against them, either by another student or a teacher, was not able to be determined through our file review. This is because VLA files may not necessarily record whether the young person is engaged in school. We are reviewing a legal file, typically containing a copy of the intervention order application and the lawyers file notes of instructions and court appearances.

107 Research by the eSafety Commissioner found that 44% of Australian young people reported having a negative online experience in the last six months, this includes 15% who received threats or abuse online. eSafety Commissioner 2021, *The digital lives of Aussie teens*.

108 ABC News. (18 June 2024). '*US surgeon general seeks tobacco-like warning labels for social media platforms*'. European Commission. (2024). '*Commission opens formal proceedings to assess Meta's compliance with the Digital Services Act*'.

109 Online Safety Amendment (Social Media Minimum Age) Bill 2024 (Cth).

110 For example, the e-Safety Commissioner provides a number of [classroom resources](#) to prompt discussion about safe, respectful and inclusive use of technology. [Information for parents and carers](#) is available on the Department of Education about different forms of bullying, including cyberbullying. Serious online abuse can also be reported to the [eSafety Commissioner](#).



Serena's story: 'I want my kids to be able to go to school and not be tarnished'

Serena is a proud First Nations woman who has lived in regional Victoria all her life. Serena has two children who live at home with her, Lydia (14) and Blake (16).

Last year after school, Lydia and Blake had a fight with another girl in Lydia's year. 'This girl has been bullying my daughter for a year, sticking her fingers up at her and name calling. I had reported it to the school, but nothing really changed. That day they got into a punch on, but the police didn't come and talk to us about what happened'.

No one was injured in the fight, but police applied for a PSIO on behalf of the other young person and the court made an interim order against Lydia and Blake without them being present.

Serena says she was only told about the application and order by police officers afterwards. 'They came to the house and said the kids had an order against them, but that we didn't have to come to court for the next part. I was like, really? Because I knew for a fact that if my kids didn't go to court, they would have got a 12-month order placed straight onto them without them having a say so'.

'I'm not being rude, but they must think because we're black we don't understand this system, or we won't want to go to court. The police down here are not really good. The communication isn't good and it all depends on who you are and who your last name is', she said.

The school's response to the order also disappointed Serena. 'They called me in to tell me they did a safety plan. But it was just that all the kids had different areas of the school they were allowed to go in. My daughter wasn't allowed to go to the canteen on some days because that girl sits near there at lunch. But I didn't know whose safety it was for, my kids or the other persons'.

The school also made Lydia change classes to a higher grade because of the order. Serena said this compromised her learning, 'They put her in a higher class because of this order even though she has a disability and she couldn't do the work and then she failed. They just don't understand Aboriginal kids and plus with a disability'.

Serena says her children have experienced racism at school for years. Both Lydia and Blake have learning disabilities and Serena says when she's advocated for more supports, her children have ended up being unfairly penalised. 'I've sent in letters from the paediatrician or other doctors telling the school that we're trying new medication and to have patience. They say they're talking to this one and that one but nothing changes. I get called up because the teachers can't support my kids. It just seems like they really don't care or worry'.

'I just want my kids to be able to go to school and not be tarnished. Because school is supposed to be a place where kids can be safe and they're not'.

While she's been urged to move her kids from the school, in Serena's regional area there is only one other school. 'I had a bad experience with my eldest son at that school...and I want to make this school better for other Aboriginal kids to go through too'.

Serena says it's been hard to watch her kids go from liking school, to not knowing where they stand. 'It's affected them a lot. The school said that Lydia couldn't go to school camp, she had to be stuck in this area, she couldn't go to the canteen on these days. For my son I tell him 'You're not a bad person. You can stand up for what you believe in'.

Serena has also seen what happens when her kids are not supported at school. 'I'm worried about how the school treats my kids because I saw what they did to one of my eldest. They kicked him out and sent him to another school which never supported him at anything at all. Now he's just doing nothing'.

With assistance from a VLA lawyer the intervention order was withdrawn after four months. But Serena says it should never have been made. 'This intervention order process is just another unfair thing my kids have to deal with on top of a lot of other things'. She says that she has hope that things will change for the better for her kids and others who come after them. 'I said to the school I'm not laying down. I'm here to make a change. It might take me a while but if you keep picking on my kids and tarnishing them well, I'm not going away I'm going to fight and I'm not laying down'.



Finding 3:

The intervention order system is not helping children or their families

Article 40 of the Convention on the Rights of the Child recognises that, regardless of behaviour including harming others, children and young people are considered in need of support, treatment and protection instead of punishment.

Intervention orders are not keeping the community safer

Applying adult legal frameworks to children does not address the root causes of their behaviour and does not improve safety.

Numerous studies and inquiries have questioned the efficacy of intervention orders against children.¹¹¹ Because children's brains are still developing, they have less ability to make appropriate decisions and their ability to understand the consequences of their actions is also limited. This is crucial when considering that the safety of the affected person relies on the respondent's ability to understand and follow the terms of an intervention order.

As this report has shown, a large proportion of children responding to intervention order applications were recorded as having intersecting needs including disability, mental health issues and/or neurodiversity. This underscores the difficulties with using the intervention order process to manage challenging behaviours in children. As the Victorian Law Reform Commission states, it is 'inappropriate to sanction children for actions they are unable to fully understand'.¹¹²

The intervention order process does not link children and young people to supports

Anecdotally, we have heard that some police officers see intervention orders as a necessary first step to getting supports in place for young people and their families. However, referrals are not consistently made by police, and not all support services are accessible or available to this cohort of young people.

Our review of VLA files showed over forty per cent (n=42) of all closed VLA files we reviewed did not include evidence of the young person receiving referrals to a new or existing support service.

A small number (n=16, 16%) of young people were referred to support services through the course of the intervention order process. In many cases, we found young people already had existing supports in place (n=43, 43%), including services like Headspace, Child and Family services and The Orange Door. The intervention order process did not link the family back in with those existing services, unless the lawyer sought a letter of support (to oppose the intervention order being made).

One file we reviewed noted that supports for the young person were needed but there was a long waitlist. This meant the young person was kept on an intervention order while another service could be found.

Ideally, supports for children using violence are provided early and without the need for police or court intervention. As highlighted below in Youthlaw's pre-court support for AVITH program, better outcomes for children and young people are achieved when police and services are connected at the local level.

¹¹¹ Victorian Law Reform Commission 2022, *Stalking: Final Report*, p.96. Campbell, E., Richter, J., Howard, J., & Cockburn, H. (2020). *The PIPA project: Positive interventions for perpetrators of adolescent violence in the home* (AVITH) (Research report, 04/2020). Sydney, NSW: ANROWS, p. 93.

¹¹² Victorian Law Reform Commission 2022, *Stalking: Final Report*, p.125.

Here we spotlight two programs that show the benefits of early referrals that occur automatically after an application for an intervention order is made.

1. Youthlaw's pre-court support for AVITH program results in safety and support

Community legal centre Youthlaw works with young people, responding to a FVIO through their pre-court support for AVITH program at the Melbourne and Broadmeadows Children's Courts. The program identifies and responds to a young person's legal and other needs, with lawyers and non-legal support roles working with young people (and their families where required), with the aim of increasing safety and reducing contact with the justice system. This includes working with services already engaged with a young person and their family, to increase the effectiveness of support and intervention.

Evaluation of the pilot program found:

- delivery of both legal and non-legal supports improved young people's engagement and understanding of the legal process
- early referral meant young people could receive support prior to court and outside of a chaotic and stressful court environment
- the integrated practice team linked young people in with relevant supports, mitigating the risk of violence within the family, and creating space for young people to disclose their own (historical and current) experiences of violence. More than two thirds of the young people in the pilot had experienced family violence
- most participants left the program without any kind of order in place, but with alternative arrangements for safety and support.

The evaluation also highlighted the unique nature of the pilot program, with the majority of referrals coming from police, through key roles such as the Youth Referral Officer. Youthlaw staff noted that these referrals often came from police members who had previously worked with young people using violence in specialised roles.

Both Victoria Police and Youthlaw staff felt a more systemic approach for referrals is required. For example, an automated referral in the Victoria Police eReferral system.¹¹³

2. Family violence applicant and respondent workers

Family violence applicant and respondent worker positions were established at the Melbourne Children's Court following a RCFV recommendation to assist young people and families where adolescents are using violence in the home.¹¹⁴

The role provides at-court support and case management for applicants and respondents, including referrals to counselling, behavioural change and/or AVITH programs.

When our clients have had the opportunity to use this service, we have seen how this role can be very effective in linking young people and their families to support services that provide an alternate pathway to court intervention for AVITH issues.

Despite its efforts, with only one worker available currently for both applicants and respondents in only one location (Melbourne), the program is not resourced to reach most children with intervention order matters.



113 Centre for Innovative Justice (2022), *Evaluation of the Pre-court Support for Adolescents using violence in the home (AVITH) Pilot: Final Report*, RMIT University, Melbourne, p.36.

114 Victorian Government 2016, *Royal Commission into Family Violence: Summary and Recommendations*, recommendation 126 p. 79.

Specialist services that work with children and young people using violence at home

There are community-based services across Victoria for families grappling with young people using violence or concerning behaviour at home. These programs work flexibly to meet the needs of children and families, including by using a range of therapeutic modalities, brokerage to help families access necessary services or resources to address the violence, risk assessments and safety planning.¹¹⁵ As noted above, referrals to these services are rarely necessitated through the intervention order process.

Eligibility requirements can also restrict access. These generally have varying eligibility requirements, including age or location. We conducted a desk review of 22 services across 19 providers including group and one-on-one therapeutic programs. All were aimed at assisting children, young people and their families to respond to adolescent violence and other family issues. We found that many of these services require young people to be living at home, which may exclude those in out-of-home care, experiencing homelessness, or temporarily excluded from their home by intervention orders, from engaging in these services.

Children and parents can also struggle to access therapeutic supports, particularly if the child is older or for children who have complex and intersecting needs, including First Nations children.¹¹⁶ Depending on the family's location, there are often no suitable referral options close by or waiting periods may be extensive. Specialist adolescent violence programs appear to be concentrated in the northeast and west of Melbourne or in regional hubs.¹¹⁷

Gap in specialist services working with children responding to personal safety intervention orders

While it is well established that the earlier a child can access therapeutic supports, the more effective these will be, studies continue to find limitations in the availability and consistency of support services for children and young people with 'early offending behaviour'.¹¹⁸

The Victorian Government has not provided a formal response to the VLRC's recommendations,¹¹⁹ however, in 2022, the Victorian Law Reform Commission (VLRC) conducted a review into the legal response to stalking. It found that the 'response to children needs to recognise evidence about their development and emphasise alternative pathways to prevent long-term contact with the justice system'.¹²⁰ It recommended that the Victorian Government should establish and fund an evidence-informed therapeutic program to respond to children engaging in non-family violence stalking behaviour.¹²¹

Our research has confirmed that there remains a substantial gap in therapeutic services for children and young people engaged in behaviour that may give rise to an application for a PSIO.

Some court-based support services are available for young people in the criminal justice system but not available for young people responding to intervention order applications.¹²² For example, the Education Justice Initiative (EJI), run by the Department of Education, provides an information, referral and advocacy service to young people involved with the criminal justice system to re-engage with education. Unfortunately, the service is not available to children and young people responding to PSIOs or FVIOs as these matters are heard in the civil jurisdiction. This is concerning given our findings regarding the impact on young people's school attendance due to PSIOs.

A new program, funded by the Australian Government may be helpful, though we note it is accessible only in metropolitan Melbourne and only to young males.¹²³

¹¹⁵ *AVITH Good Practice examples* showcase the breadth and complexity of practice approaches and case management undertaken by these programs.

¹¹⁶ Campbell, E., Ellard, R., Hew, E., Simpson, S., McCann, B. & Meyer, S. (2023). *WRAP around families experiencing AVITH: Towards a collaborative service response* (Research report, 04/2023). ANROWS, p.112, 36.

¹¹⁷ Outcomes Practice Evidence Network 2024, *Child and Family Services: Specialist AVITH Programs*.

¹¹⁸ Baidawi S, Ball R, Sheehan R & Papalia N 2024. *Police and Children's Court outcomes for children aged 10 to 13. Trends & issues in crime and criminal justice* no. 679. Canberra: Australian Institute of Criminology, p. xi.

¹¹⁹ Victorian Legislative Assembly (2024) *Parliamentary Debates*, 30 May 2024:1913.

¹²⁰ Victorian Law Reform Commission 2022, *Stalking: Final Report*, p.96.

¹²¹ Ibid. p.xxxv.

¹²² For example, *Melbourne City Mission's Disability Advice Response team* and the *Education Justice Initiatives* are programs operating in the children's court that are only available for children and young people who are at court for a criminal matter.

¹²³ Our review of VLA system data showed the sex of young respondents to PSIOs across the sample between 1 July 2018 to 30 June 2024 was evenly distributed (Females: n=743, 47%; Males: n=829, 52%, Other: n=8, 1%).



New national program targeting boys and young men at risk of, or using violence

In October 2024 the Australian Government announced a three-year trial to support boys and young men to avoid using family and sexual violence at 12 sites across the country.

In Victoria, Berry Street will work with partner organisations to deliver services to boys and young men living in Melbourne's Hume-Merri-bek area.

Dr Allison Cox, Director of Berry Street Take Two, said the funding addresses a key service gap: 'This service is desperately needed, because unlike existing AVITH programs, we will also be funded to address violence outside the home including sexual violence and intimate partner violence. This has been a missing piece in the government-funded jigsaw puzzle of services'.

The program will facilitate referrals, catering to diverse needs. It will link the young person and their family to a variety of support services such as housing, education, drug and alcohol, family support, and disability services.¹²⁴

Over half of young people with intervention orders are missing out on legal representation

As noted earlier, we found a large proportion (56%) of children whose matters were finalised in the Children's Court may be missing out on legal representation. This is linked to low court attendance by many children. Children and young people and their parents regularly tell their lawyers that police did not explain the consequences of intervention orders and said they did not have to attend court hearings because 'it's just civil'. While the intention may be to reduce children's exposure to the court system, the effect is that many children miss out on the chance for early legal advice.

Research shows that access to early legal help can lead to better outcomes (such as applications being withdrawn) and warm referrals to services.¹²⁵ Our quantitative analysis showed that where VLA had represented the respondent the application was less likely to result in a final order. In cases where VLA represented the respondent, 70 per cent of applications (n=3,958) did not result in an order, compared with 48 per cent of applications (n= 8,787) finalised in the Children's Court of Victoria overall.¹²⁶

A pathway to criminalising young people

Despite intervention orders being heard in the family division of the Children's Court, they can act as a fast-track into the criminal justice system. In particular, this cohort of children is more likely to have complex needs related to living with disabilities and mental health issues and may not understand the orders against them and because the factors giving rise to the intervention order application are often not addressed.

Research has found children who become enmeshed in the youth justice system experience what has been called a 'criminalisation of social needs'.¹²⁷ The intervention order system can act as the starting point for that trajectory. Maggie and Amy's story demonstrates how parents, who need support for behaviours arising from their child's disabilities, may end up with an unwanted legal action that places their child at risk of entanglement in the criminal justice system.

¹²⁴ Berry Street, 22 October 2024, '[Young men better supported to avoid using violence](#)'

¹²⁵ Centre for Innovative Justice (2022), *Evaluation of the Pre-court Support for Adolescents using violence in the home (AVITH) Pilot: Final Report*, RMIT University, Melbourne, p.54.

¹²⁶ VLA client data, 1 July 2018 to 30 June 2024 and VLA analysis of Children's Court of Victoria Annual Report data, 1 July 2018 to 30 June 2024.

¹²⁷ Goldson, B. (2013). '*Unsafe, Unjust and Harmful to Wider Society*': *Grounds for Raising the Minimum Age of Criminal Responsibility in England and Wales*. *Youth Justice*, 13(2), 111-130, p.123.

Amy and Maggie's story: 'I felt hopeless'

Amy is an Aboriginal young person living in regional Victoria. She has multiple cognitive and behavioural diagnoses. She lives with her mum, Maggie, her stepfather and her sisters and brother. Maggie describes Amy as outgoing and very social with a lot of friends.

Maggie says that when Amy turned 13, she started to struggle with regulating her emotions and behaviours, 'she was just out of control'.

Maggie tried to get services in to support her and Amy. She called the worker from the local Aboriginal co-operative and rang Child Protection who were supposed to be helping Maggie with her children at the time, but they said they couldn't help. 'She was just out of control and they couldn't help... they were never in, they were useless'.

Just before Christmas in 2022, Amy's behaviour started to get worse. Maggie knew she needed help. Again, she called the worker from the Aboriginal cooperative and Child Protection: 'I said, 'she's out of control. Can someone come and collect her or take her for a while? I don't know. Just for half an hour so she cools down'. And yeah, they couldn't do nothing.

Maggie felt that she had no option but to call the police. Police came and put a FVIO application against Amy with both parents and her siblings as the protected persons. At the same time, police arrested Amy for kicking a police officer and took her to the station in the back of the police van. Maggie felt helpless, 'I had to turn my back and walk back inside. I said, 'I can't watch this'.

Over the next few months, police charged Amy with at least six breaches of the FVIO for minor outbursts. Some of the breaches included verbal arguments and some were for property damage within the home, including items Amy thought belonged to her. For example, police charged Amy with a breach for throwing a hammer at the family car and lying on the driveway so her stepfather couldn't drive away, because she wasn't allowed to play on the iPad.

Police attended the family home on many occasions to arrest Amy for these breaches, including one occasion where police woke her up, handled her roughly and scolded her for 'acting like a child'. They then handcuffed Amy and left her in the back of a police van while they went back to the house to take statements and photos.

'I felt hopeless. I didn't want the charges, but the police went ahead just doing their own thing', said Maggie. At court she asked police to withdraw the FVIO and the breach charges.

While the order and charges were ultimately withdrawn, it took more than six months.

Amy and Maggie's family have moved to a new part of regional Victoria.

Maggie said Amy is back in school and enjoying it. 'I want her to get a job and do something when she gets older. I just want her to go all the way and do good in life'.

Our system data analysis shows that 15 per cent (n=673) of all child respondents assisted by VLA or private practitioners on a legal aid grant with an intervention order between 1 July 2018 to 30 June 2024 were aged between 10 and 13 years. The likelihood of a child progressing from the Children's Court to the adult criminal jurisdiction is associated with their age at entry into the criminal courts. The younger a child is at their first sentence, the more likely they are to reoffend generally, reoffend more frequently, reoffend violently and be sentenced to an adult sentence of imprisonment before their twenty-second birthday.¹²⁸

With no minimum age for FVIOs, we are particularly concerned about these orders having a lifelong impact on children experiencing disadvantage.

128 The Victorian Sentencing Advisory Council found that, after accounting for the effect of other factors, each additional year in age at entry into the criminal courts was associated with an 18 per cent decline in the likelihood of reoffending: Sentencing Advisory Council, *Reoffending by Children and Young People in Victoria* (Report, December 2016).



Being charged with an offence at the same time

VLA system data confirms it is common practice for police to bring a criminal charge against young people alongside their intervention order application, with nearly half (2,029, 45%) of child respondents to intervention order applications facing other criminal charges. These charges mostly related to assault and property damage.

Our file review found many young respondents to intervention orders, who would not have had contact with the legal system if not for the intervention order proceedings. The below summary underscores the serious consequences children face when they become 'known' to Police through an intervention order and entrenched in the criminal justice system.

VLA assisted John, a 15-year-old boy with autism, with a police application for a FVIO and other criminal charges.

John's father, Brett, called police after an incident at their home when John was asked to turn the volume down on the phone speaker and he refused. When Brett tried to take the phone off John, John threw the phone at the wall damaging the screen. Brett asked John to leave the house, but he refused, which led to a physical fight.

Police attended the scene and applied for a FVIO to protect Brett. The court made an interim order against John.

Shortly after the first incident at home VLA helped John with four additional criminal charges:

- Theft – police allege that they found John in the driveway of a neighbouring property with a bicycle taken from their garage.
- Burglary – Police allege John took a can of soft drink from the fridge of the house next door.
- Trespass and burglary – Police allege John broke into a shop and stole items.
- Breach of the intervention order – Police allege John hit Brett after a verbal dispute.

Due to his lack of capacity, John received a diversion and all charges were withdrawn. By this time, John had been on the interim FVIO for 18 months.

Our lawyers tell us that, in some cases where criminal charges are withdrawn by police or managed by a caution or diversion,¹²⁹ police continue to pursue the intervention order. This leads to a common scenario for young people where they are pulled back into the court system for an intervention order matter relating to an incident that happened months ago.

Being charged with a breach of the order

If a young person does not follow the rules on the intervention order they may be charged by police with a breach of the order. This is a serious criminal matter with a range of penalties, including a fine or detention.

CSA analysis found 17 per cent of FVIO orders against children aged 10 to 17 were breached over the last five years.¹³⁰

In contrast, our quantitative analysis of VLA system data shows that just four per cent of clients aged 10 to 17 who we assisted with an intervention order application, we also assisted with a charge of breaching an order over the last six years. This lower proportion supports earlier research by VLA which showed that when respondents to FVIOs receive legal representation, they are less likely to be charged with a breach of the order because they have had help to understand the terms of the order.¹³¹

In our review of closed VLA files, we found that children with a disability, neurodiversity and/or mental health issues were significantly more likely to be charged with a breach of their order. Nine out of ten young people who were charged with a breach were recorded as having a disability.

¹²⁹ Matters might be withdrawn for various reasons, for example, because Police do not have sufficient evidence to make out the charge or because our client is able to argue the presumption of *doli-incapax*.

¹³⁰ Unpublished Crime Statistics Agency data provided to VLA.

¹³¹ Victoria Legal Aid, 2015, Research Brief, *Does providing legal advice to respondents reduce the likelihood of breaching a family violence order?*

Most intervention order applications do not result in a final order

As Figure 7 shows, there has been a decline in the proportion of PSIO and FVIO applications that resulted in a final order. However, the proportion of applications that were withdrawn has more than doubled from 19 per cent in 2018-19 to 47 per cent in 2023-24.

This decline in final orders suggests that police are making applications that may not be necessary, or that Magistrates are acknowledging that a final order will not address the needs of the parties. Our analysis showed this occurred in cases where there is no further contact or violence between the parties since the initial application, or the application was inappropriate because the young person could not comply with the conditions on the order or the family did not support it.

Intervention orders are particularly harmful for First Nations children

Over the last six years, First Nations young people were overrepresented in the number of respondents to intervention orders assisted by VLA and private practitioners. First Nations people make up three per cent of the Australian population, but VLA system data shows nine per cent of total child respondents to an intervention order were First Nations.

The use of intervention orders against First Nations children carries great risks, given contact with the justice system has been found to have devastating consequences for communities. Victoria's first truth-telling process into historical and ongoing injustices experienced by First People, the Yoorrook Justice Commission, found First Nations people are overrepresented at all stages of the criminal justice system and are disproportionately impacted in a way that entrenches criminalisation, disconnection, intergenerational trauma and social disadvantage.¹³² It found that various forms of systemic racism – including discriminatory police practices – were a core reason driving overrepresentation of First Nations children in the criminal justice system.

The Yoorrook Justice Commission also heard evidence that First Nations children experience racism at school¹³³ and higher rates of school exclusion.¹³⁴ VALS notes that 'racism and discrimination create a hostile environment that hinders Aboriginal children and young people's educational experience' and 'when children are subjected to discriminatory behaviour, it not only affects their self-esteem but also creates a barrier to engaging fully in the learning process'.¹³⁵ To address racism in schools, VALS recommended that:

- the Victorian Government should adopt measures to increase awareness of racism, including reforms to the primary, secondary and tertiary education systems and public awareness campaigns
- the Department of Education to mandate all schools report on actions taken to address racism and for this reporting to be incorporated into the Marrung 10-year Education Plan (2016-2026) and the Victorian Aboriginal Affairs Framework.¹³⁶

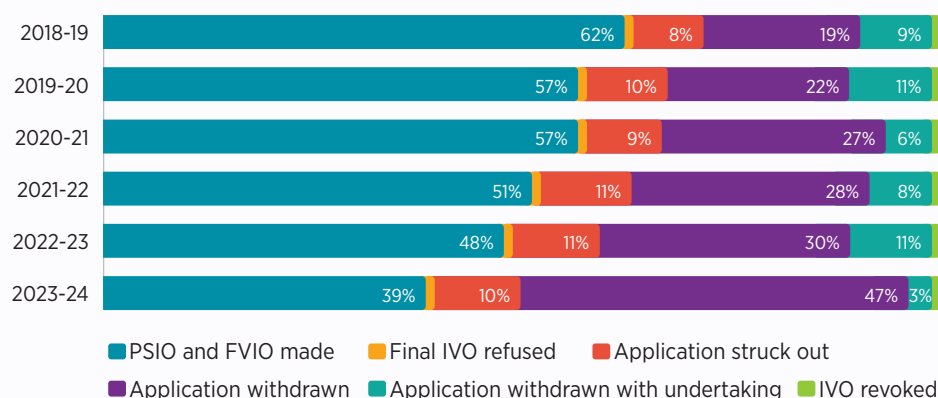


Figure 7: Proportion of FVIO and PSIO applications finalised in the Children's Court of Victoria, by outcomes, from 1 July 2018 to 30 June 2024

Source: Children's Court Annual Report data

¹³² Yoorrook Justice Commission 2023, *Yoorrook for Justice recommendations*, recommendation 37.

¹³³ Commission for Children and Young People, drew on findings from *Let us Learn: Systemic inquiry into the educational experiences of children and young people in out-of-home care* report. This research found that racism continues to occur in schools and that schools are often not culturally safe places for Aboriginal children and young people. (February 8 2024). *Submission to the Yoorrook Justice Commission*. The Education Minister Hon. Ben Carroll also gave evidence that systemic racism in schools and the education system has played a significant part in reinforcing racist perceptions and stereotypes about First Peoples.

¹³⁴ National Indigenous Youth Education Coalition (NIYEC), *Submission to the Yoorrook Justice Commission* (18 February 2024).

¹³⁵ Victorian Aboriginal Legal Service (2024), Victorian Aboriginal Legal Service nuther-mooyoop to the Yoorrook Commission in response to educational inequalities p. 32. <https://www.vals.org.au/wp-content/uploads/2024/02/Nuther-mooyoop-to-the-Yoorrook-Justice-Commission-Education-February-2024.pdf>

¹³⁶ Victorian Aboriginal Legal Service (2024) *ibid*, at p. 33.

Earlier, First Nations mother Serena shared her concerns about the long-term impacts of intervention orders and school exclusion on her children's wellbeing and future opportunities. With our evidence showing school disputes are closely connected to rising PSIOs, the impact of school related intervention orders on First Nations students, requires a specialist and differentiated response.

The need for greater community led supports to support families

First Nations children in Victoria are 22 times more likely to be placed in out-of-home-care.¹³⁷ Many First Nations families have resistance to contacting mainstream support services and police due to the increased likelihood of child protection involvement, with Aboriginal women describing child removal as 'the most significant injury to their health and social and emotional wellbeing'.¹³⁸ Aboriginal legal services have shared that reports of family and sexual violence made by Aboriginal women are not taken seriously or properly investigated by police, and Aboriginal women are more likely to be misidentified as perpetrators.¹³⁹

It is crucial that First Nations communities have accessible, culturally safe options for whole-of-family support. The Victorian Aboriginal Childcare Agency (VACCA) states:

“...there remains a lack of understanding of and respect for the complexity and level of need ACCOs are facing in responding to family violence and supporting children, young people and adults at risk of or being affected by family violence to seek necessary supports, without children being removed. In addition, investment upstream in prevention programs across the lifespan from early childhood right through to adulthood is key to preventing family violence before it starts. This includes ongoing, flexible funding for ACCOs to design, deliver and evaluate family violence prevention and early help programs across both the child and family, and family violence sectors.”¹⁴⁰

First Nations children with behaviours of concern or who are using violence, must be linked in with culturally specific programs tailored to their needs, to build resilience, connection and opportunities for healing.

Victorian Aboriginal Child Care Agencies Deadly Choices program: Adam's story¹⁴¹

Adam is a 16-year-old who was referred to the Deadly Choices program due to his use of violence with his stepfather. When first coming to the program, Adam was couch surfing and had minimal knowledge of his culture and mob. He also had multiple recent interactions with police, including criminal charges around weapons possession and assault. Adam had a positive relationship with his mother, but due to incidents with his stepfather, he could only see his mum when the stepdad wasn't home.

After consistent engagement with Deadly Choices, Adam identified several goals with his youth worker and was motivated to take the steps to make positive changes. He was supported by program brokerage to complete a number of different training courses, including first aid, construction and a traffic management course. His youth worker transported him to a town 90 minutes away for a meeting with an Aboriginal owned business that offered him a job working in traffic management.

Adam was also referred to a counsellor to address his trauma and has now attended six sessions, with plans to continue. The youth worker also supported Adam to sign up to a local gym which he now attends regularly. Through the gym, Adam connected with a new friend who encouraged him to join a local football club.

Adam has completed safety planning with his youth worker around setting boundaries with his stepfather, so he can spend quality time with his mother without feeling unsafe.

Adam is also now in a romantic relationship and, with the healthy and respectful relationship education provided through Deadly Choices, he can recognise behaviours or beliefs within the relationship that aren't healthy. He has shown a strong ability to challenge himself and reflect on how to change where necessary.

¹³⁷ Victorian Government Aboriginal Affairs Report 2023, p.36.

¹³⁸ Ibid. p.17.

¹³⁹ 'Misidentification is one of the biggest issues for our women dealing with family violence. In a recent sample of our legal clients, at least 24% of Aboriginal women we assisted had been misidentified as the primary aggressor by police'. Djirra 2024, *National Aboriginal and Torres Strait Islander Family Safety Plan*, p.24.

¹⁴⁰ Victorian Aboriginal Child and Community Agency (VACCA), 2024, *Nuther-mooyoop on Family Violence*. Yoorrook Justice Commission, p.19.

¹⁴¹ Victorian Aboriginal Child and Community Agency (VACCA) 2024, *Submission to the National Aboriginal and Torres Strait Islander Family Safety Plan consultation* p.18.

Finding 4:

Children are left out of court processes

The current law says that, for a FVIO or PSIO application against a young person, the young person does not have to be present when the court makes a decision about whether to grant an application for an interim or final order. The court can make an interim or final order even if the affected person doesn't agree with the application.¹⁴² However, the order does not become legally binding until after the respondent has received a copy of it.

VLA guidelines state that all children and young people responding to intervention order applications are eligible for legal representation at all stages of proceedings.

A guiding principle of the Convention on the Rights of the Child is that courts ensure children are supported to participate in the court process in all matters affecting them, with due regard to their age and maturity. However, we often see that children are not adequately informed about their rights and options when it comes to intervention orders.

As Spencer's story highlights, intervention orders can have a significant impact on young people's lives, and put them under a lot of stress, so there should be an opportunity for young people to have a say in court.

Spencer's story: 'It just felt like I was stuck somewhere'

Spencer is 15 years old and lives with his mum and brother. Spencer goes to school part time and his favourite subject is maths. He has dreams of working as a tradie.

When Spencer was two, his family was forced to leave their regional town after their house was destroyed by bushfires. It was a stressful time and Child Protection got involved due to family violence. Spencer was later diagnosed with post-traumatic stress disorder.

His parents are no longer together, and Spencer doesn't see his Dad much. 'I'd rather have a father figure in my life, but it's gotten to the point that I'm already pretty old, so I can't really have that childhood with him anymore'.

Last year, Spencer got into a fight with another boy, Chris, on the train. Spencer says he only met Chris two weeks earlier, when Chris and his friends tried to steal Spencer's bike. During the fight, Chris tried to hurt Spencer with a machete. After the fight, Chris went to the police station and police charged Spencer with assault even though Chris was the one with a weapon.

At court, a VLA duty lawyer helped Spencer with the assault charges. The magistrate agreed to place Spencer on diversion. His lawyer also found out that the court had made a final one-year PSIO against Spencer.

Spencer hadn't gone to the intervention order hearing because he didn't know it was on. That meant Spencer also didn't get any legal advice about the hearing.

When Spencer's lawyer told him about the PSIO, he felt shocked. 'I felt like I didn't deserve it to be on me. I felt like it was kinda shit. It was like, just another add-on and it just didn't feel right. It made me pretty anxious and pretty angry as well'.

The PSIO order said Spencer couldn't have any contact with Chris. Spencer was worried that he could get in trouble by accident. 'I don't really know him that well... I don't know what he looks like'. This added to his anxiety, 'I just felt confused everywhere I went', he said.

Spencer says the order made him uncomfortable about leaving his house to do things he would normally have done, in case he ran into Chris. Spencer said 'it just felt like I was stuck somewhere, so I didn't like it at all'.

While Spencer didn't have any more to do with Chris, he was at risk of breaching the order for six months.

'I could have been arrested or like he could have just saw me and called the police on me and then police would be after me. I did not feel comfortable going anywhere because it just felt like I was just going to get cops run up behind me'.

Spencer thinks it would be better if the court heard from both sides before making a decision to make an intervention order against a young person: 'Maybe have a call with them first or with both in the courtroom... and give both of them a chance to tell their side of the story', he said.

Spencer's lawyer helped him apply for a rehearing of the application and police agreed to withdraw the order in full.

Since the intervention order, Spencer keeps to himself. On the weekends, he likes to play video games and take his two dogs for walks. 'They're real friendly. They look scary but as soon as you go up and pat them, they just want to hug and kiss you', he said.

¹⁴² Parliament introduced this section as 'necessary to ensure the safety of an affected family member (often an adult woman) from family violence (or to preserve property or protect a child in those circumstances) as swiftly as possible'. Victorian Legislative Assembly (2008) *Parliamentary Debates*, 9:2644.



Inconsistencies in the way the law applies to children

Current laws have different minimum age and capacity provisions:

- There is no minimum age for children to be named as respondents to an FVIO under the FVPA.
- The minimum age for children to be named as respondents to a PSIO is currently 10. As part of youth justice reforms in Victoria, the minimum age for respondents to PSIOs against children will be raised to 12. At present, these reforms do not include a minimum age for respondents to FVIOs.
- The minimum age for criminal responsibility will be raised from 10 to 12 under the *Youth Justice Act 2024* (Vic).
- Cases heard in the criminal jurisdiction also have the common law principle of *doli incapax* which means children under the age of 14 should not be held criminally responsible unless it is proven that they knew their actions were morally wrong.¹⁴³

Raising the minimum age of criminal responsibility without raising the minimum age for respondents to FVIOs will have illogical consequences. For example, a child under 12 years may be a respondent to a FVIO, but they could not be charged with a breach of the order.

Before a PSIO can be made against a child, the court may consider their ability to understand the nature and effect of an interim or final order and comply with the conditions of the order.¹⁴⁴ However, there is no equivalent consideration in the FVPA for a young person to understand the order.

The FVPA and PSIOA set out factors to consider if the intervention order includes a condition that stops the young person from living in their home. The court must make sure the child has continuing access to school and health services and their culture and tell DFFH that the order has been made.¹⁴⁵

The *Children, Youth and Families Act 2005* provides guidance to magistrates when they decide on a sentence to impose on a child who has committed a crime. This ensures magistrates take certain things into account, such as the need to strengthen and preserve the relationship between the child and their family.¹⁴⁶ There is no equivalent guidance for magistrates who must decide whether to make an interim or final intervention order against a child under the FVPA 2008 or PSIOA 2010.

Children need problem solving, collaborative and multidisciplinary practices to resolve disputes

A comparative review of specialist children's courts found that 'problem solving, collaborative and multidisciplinary practices have proven to be an effective way to deal with youth justice and child protection matters by children's courts'.¹⁴⁷

In Victoria, restorative justice practices such as group conferencing are a key component for children and young people in the criminal justice system. Studies have shown that children who participate in Youth Justice Group Conferencing are less likely to reoffend. However, this approach has not flowed through to children involved in intervention order proceedings in any concerted way.

Jesuit Social Services RESTORE pilot fills a service gap

RESTORE was a pilot program at the Melbourne Magistrates' Court between September 2018 and November 2022. It worked with children and young people under 18 who had a FVIO matter as well as a subsequent criminal breach matter.

Participants worked to repair harm and rebuild relationships, growing the family's capacity to deal with and resolve conflict, and reduce the likelihood of future conflict. Restorative conferencing was a key part of the model. The flexibility of the RESTORE team's approach was a strength identified by families.

Low referral numbers and COVID-19 disruptions meant a small number of families were engaged over the life of the pilot. An evaluation by the University of Melbourne, found that overall, families experienced their participation in RESTORE positively.¹⁴⁸

Court staff and other key stakeholders said the program filled a significant service gap, with one stakeholder saying, 'there are few services addressing adolescents using violence in the home'. For families experiencing adolescent family violence, the Children's Court was perceived as having limited capacity to address the problem in a positive way, as one mother expressed: '[The Court] just identifies there's a problem...it doesn't rebuild'.

143 Victoria Legal Aid, 2024, *Raise the age of criminal responsibility to 14*.

144 PSIOA 2010 (Vic) ss 35(4) and 61(2).

145 FVPA 2008 (Vic) s 83; PSIOA 2010 (Vic) s 71.

146 *Children, Youth and Families Act 2005* (Vic) s 362(1)(a-c).

147 RMIT Centre for Innovative Justice 2020, *Specialist Children's Court Approaches*, p. 4.

148 Unpublished, Jesuit Social Services (n.d.), *RESTORE Executive Summary* p.ii.

For participants who took part, the restorative conference was found to be a helpful component. Active participation by children and families was identified by RESTORE participants as a benefit of the conference, as it meant they had a chance to share their experiences and greater empathy and understanding of each other's experiences and points of view was facilitated. 'In the context of family members having lost their sense of voice and autonomy, due to their experience of violence, this aspect of the conference is invaluable'. The evaluation made recommendations, including continued investment in pre-court, court-based and early intervention for families.¹⁴⁹

Resolving disputes in schools

The Department of Education's Intervention Order policy states that if a principal becomes aware that a student or staff member is intending to apply for an intervention order, the principal must take appropriate steps to try and resolve the concerns. This may include using mediation or restorative practices, or developing an individual safety plan.¹⁵⁰

The Department of Education's School Operations – Complaint Resolution policy provides guidance to schools to 'manage and resolve complaints raised by parents/carers, students, their representatives, and school community members in a fair and transparent manner, with a focus on student wellbeing, student engagement in learning, and a continual improvement mindset'.¹⁵¹ This includes a framework which supports schools to consider various complaints resolution options such as mediation and conciliation to achieve early resolution of complaints.¹⁵² If a resolution cannot be reached at a school level, the complainant can escalate to the regional office where early resolution interventions will be considered, such as mediation, conciliation, or referral to the Independent Office for School Dispute Resolution¹⁵³ for possible restorative interventions.

While mediation, conciliation or restorative practice approaches may not be suitable in every case, they are often a useful starting point. However, in the closed VLA files we reviewed relating to school disputes, we did not see any evidence of schools using these approaches.¹⁵⁴

At court our lawyers have also heard that some safety plans put in place by schools fall short of parents' expectations of what is required to keep their child safe.

A recent Inquiry into the State Education System in Victoria highlighted that growing societal expectations of what teachers are responsible for, without accompanying resources, are challenging the education system.¹⁵⁵ In addition, schools are struggling with teacher workforce shortages.¹⁵⁶ We understand these issues might impact a school's ability to provide appropriate support to students and teachers to resolve disputes in schools.

The growing number of PSIO applications and, in our file review, lack of evidence of earlier attempts to resolve disputes in schools or develop safety plans, suggests that these disputes are being shoehorned into the justice system. We are aware of only a handful of restorative practice programs available in government schools across Victoria, such as the example below.

Jesuit Social Services restorative practice as early intervention

Jesuit Social Services is experienced in delivering effective restorative justice programs to young people in Victoria through the Youth Justice Group Conferencing Program.

Jesuit Social Services recently received a grant from the Legal Services Board and Commissioner to use restorative justice practice in education as an early intervention tool. The project aims to facilitate systemic change to stem the flow of young people into the justice system through early intervention in the education setting.¹⁵⁷

149 Ibid, p.ii.

150 Department of Education 2020, *School operations: Intervention orders*.

151 Department of Education, 2025, *School operations: Complaint resolution*.

152 Ibid.

153 The Independent Office for School Dispute Resolution is an independent body. It helps to resolve disagreements between parents and government schools in Victoria, Victorian Government, 2025, How the Independent Office for School Dispute Resolution can help parents and carers.

154 We reviewed closed VLA legal files relating to the person responding to a PSIO. As such, information relating to how schools attempted to resolve a dispute prior to the making of an intervention order application may not have been visible on the file.

155 Legislative Council Legal and Social Issues Committee. (2024). *Inquiry into the state education system in Victoria*. Parliament of Victoria. p.1.

156 Ibid, p. 127.

157 Victorian Legal Services Board and Commissioner 2024, *Change Grants recipients*.



Mediation is not being used to resolve PSIO disputes

A key purpose of the *PSIOA 2010* is to 'promote and assist in the resolution of disputes where appropriate' through mediation.¹⁵⁸ Parliament identified a role for mediation to resolve 'schoolyard matters';¹⁵⁹ envisaging that this function would be carried out by the Dispute Settlement Centre Victoria (DSCV).

After changes to DSCV's operations during the pandemic, our lawyers observe that mediation is almost never used to resolve PSIO disputes between children.¹⁶⁰ We saw just two matters withdrawn following mediation between the parties through our review of VLA closed files.

Mediation helps people to focus on solutions that work for everyone involved. Like restorative justice, mediation gives both sides a chance to tell their story and understand the underlying drivers of the dispute. For disputes between children, mediation can have ongoing benefits such as learning conflict resolution skills. Mediation for young people with lower-level disputes can have additional benefits by relieving pressure on the justice system and allowing courts more time to focus on serious matters.

In the past, when the DSCV mediation service was more readily available for Children's Court PSIO matters, our lawyers saw a practical alternative pathway for parties to resolve their disputes. Being well understood by the court, the processes and suggested outcomes were a helpful tool to resolve PSIO matters already at court in a tailored and therapeutic way.

Making interim intervention orders at the first mention, often without the respondent present

The first time an intervention order goes to court, it is usually heard without the AFM, protected person or respondent being there. These early hearings often result in the court making an interim order against the respondent.

As highlighted in Spencer's case study, young people are often not at court when the intervention order gets made against them. In our review of VLA files, an interim order was made in the majority of cases (n=84, 84%). Seventy per cent (n=59) of these were made without the young person being present at court. A common reason young people tell our lawyers why they were not present, is that police told them they didn't need to go to court.

A court can make an interim or final intervention order without the respondent being present. The laws say that interim orders may be made when it is appropriate or justified to ensure the safety of, and protect the property of, the person

named in the application.¹⁶¹ The order does not come into effect until a copy is given to the respondent.

While there may be circumstances where it is appropriate for police or an applicant to ask for an interim order to be made, when this is done without the opportunity for AFMs or respondents to appear, judicial officers have incomplete information to base their decision on.

Available data is not clear on the stage of proceedings where the respondent is not present. Data analysis by the CSA on the Family Violence Dashboard shows that more than half (n=3,134, 63%) of FVIO applications heard in the Children's Court of Victoria were heard without the respondent present at the hearing between 1 July 2019 and 30 June 2024.¹⁶² Our review of VLA closed PSIO and FVIO files also showed that over half of young people were not at court for some, or all, of the court hearing (n=63, 63%).

The term 'interim' suggests that this type of order might only be in place for a short period of time, however, in practice this does not always occur.

In 18 per cent of cases we looked at (n=18) it took six to 12 months for the matter to be finalised, and we saw three young people who were on an interim order for over a year.¹⁶³

This is problematic as interim orders carry the same legal consequences for the respondent as final orders, placing young people at risk of being charged with a criminal offence if they breach the order.

Outcomes when children are legally represented

As discussed above, we have seen in our research that a large proportion of children have interim or final orders made in their absence and without legal representation.

Our analysis of Children's Court and VLA system data highlighted that more than half of young respondents to an intervention order application did not receive legal help through VLA or private lawyers on a grant of legal aid, despite the general entitlement that young people have to get legal assistance. Research shows that early access to legal help can lead to better outcomes, such as inappropriate applications being withdrawn and warm referrals made to support services.¹⁶⁴ As figure 8 below shows, VLA system data confirmed that where VLA had represented a respondent, the order was not made, and the matter revoked, refused, struck out or withdrawn at a higher rate (n=3,958, 70%) when compared to the overall number of matters finalised in the Children's Court (n=8,787, 48%).¹⁶⁵

¹⁵⁸ *PSIOA 2010* (Vic), s 1.

¹⁵⁹ Victorian Legislative Assembly (2008) *Parliamentary Debates*, 9:2644.

¹⁶⁰ Dispute Settlement Centre of Victoria 2024, *PSIO program*.

¹⁶¹ *FVPA 2008* (Vic), s 53(1) and *PSIOA 2010* (Vic), s35(1).

¹⁶² *Number of FVIO Applications by respondent presence at hearing* (Children's Court). The equivalent dataset is not publicly available for PSIO Applications.

¹⁶³ This is despite the listing protocols issued by the President of the Children's Court aiming to finalise 97 per cent of all applications within six months of initiation: Children's Court of Victoria 2016, *Listing Protocols*, p.13.

¹⁶⁴ Centre for Innovative Justice (2022), *Evaluation of the Pre-court Support for Adolescents using violence in the home (AVITH) Pilot: Final Report*, RMIT University, Melbourne, p.54.

¹⁶⁵ VLA analysis of VLA client data, 1 July 2018 to 30 June 2024, and Children's Court of Victoria Annual Report data 1 July 2018 to 30 June 2024.

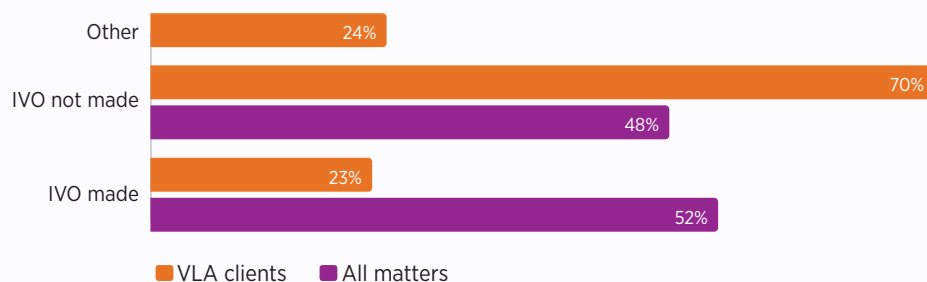


Figure 8: Proportion of VLA clients and matters finalised in the Children's Court that resulted in an intervention order, between 1 July 2018 and 30 June 2024

Source: VLA data and Children's Court Annual Report

Postcode injustice for children and young people in regional areas

Our research has confirmed previous findings by the Sentencing Advisory Council of Victoria that children in regional areas are disproportionately impacted by intervention order applications and charges relating to breaches of orders.¹⁶⁶ We found that while 26 per cent of Victorian children live in rural and regional Victoria, they account for 37 per cent of all young clients we assisted with PSIO and FVIO applications.

Intervention order applications involving children are typically heard in the Children's Court of Victoria. This includes:

- four specialist children's courts located in Melbourne CBD, Broadmeadows, Dandenong and Moorabbin
- the Children's Court of Victoria sitting at the Magistrate's Court at various other metropolitan locations before the changes to the listing practices (outlined below)
- the Children's Court of Victoria sitting at the Magistrate's Court of Victoria throughout regional Victoria.

Specially trained magistrates hear matters in the four specialist courts. Court support coordinators are also available to provide in-person support and warm referrals to local services for young people.

These services are not consistently provided to children whose matters are listed in other areas. Intervention order proceedings in these courts are typically heard by a magistrate who usually sits in the adult jurisdiction. While some services operate at these sites on Children's Court sitting days, they are not consistently provided. In addition, intervention order proceedings involving children and young people are often listed in the Magistrate's Court on non-Children's Court sitting days. This means young people might have their matters heard in the adult list, alongside adults appearing in court proceedings.

The high number of intervention orders made against children living in regional and remote Victoria may reflect the challenges of hearing children's proceedings in a court with insufficient services, training and support available. Young people should have access to the same level of support in all intervention order matters, regardless of where they are living.

Recent changes to intervention order matters in Melbourne

In early 2025 the Children's Court changed the way intervention order applications are listed to be heard in court. All Melbourne-based applications are now heard at the specialist Children's Court in Melbourne CBD, Broadmeadows, Dandenong and Moorabbin. This provides an opportunity for children and young people to access supports and have their case heard before a specialist magistrate. To date, our lawyers have observed that low rates of parties attending court or independently seeking legal assistance is resulting in many intervention orders being made on an *ex parte* basis.

The full potential of this change will not be realised for children and young people and their families unless they are supported to participate in the court process.

¹⁶⁶ VLA analysis of VLA client data and population data provided by the Australian Bureau of Statistics. Populations of children were derived from estimates of the population aged under 20 as at 30 June 2020: Australian Bureau of Statistics, *Regional Population by Age and Sex* (abs.gov.au, 2020) at 1 December 2021.

Conclusions

In the absence of statewide accessible and coordinated services that can work with the diverse needs of children and their families and respond to disputes between students, this report shows a legal response is occurring, that doesn't serve children's best interests. The impacts of rising intervention order applications against children are being felt across the family violence, education and justice systems. There is a need for coordination and strategy at a government level, to ensure we respond to issues early and holistically.

In our recommendations, we aim to shift the paradigm away from a policing and legal response, towards preventative programs that would address children and families' fundamental needs.

We also acknowledge that currently, in moments of crisis, police are generally the first responders. We therefore recommend changes to police practice, so that a call for help results in support rather than an intervention order.

Recommendation 1

Change the law to ensure intervention orders are not made against younger children and are a last resort

There is significant evidence that children under the age of 14 do not have the maturity to fully understand the impact of their actions.

We recommend the Victorian Government:

- a) amend the *FVPA 2008* and the *PSIOA 2010* to create a minimum age for respondents to intervention orders to at least 14 years of age.
- b) include a provision in the *FVPA 2008* and strengthen the current provision in the *PSIOA 2010* to ensure that the court must take into account a respondent's age and cognitive ability when making an interim and final order against a child.
- c) include a presumption in the law against making an interim or final order against an unrepresented child respondent unless there are exceptional circumstances.
- d) amend the *PSIOA 2010* to include a positive duty on the Court to consider whether the Department of Education has facilitated genuine support and attempts to resolve the dispute before an intervention order is made.

Recommendation 2

Appropriately resource the service system to provide timely, holistic and trauma informed support to strengthen family functioning and respond to the family's needs

Children and families need earlier support and intervention to address the issues they face and prevent recourse to police call outs.

We recommend that:

- a) the Victorian Government resource child and family services to be able to respond early to young people using violence. It should also increase support for families of children with disabilities, including resourcing programs that assess and assist with neurodiversity and respite care.
- b) the Victorian Government to create a multi-agency response to child and adolescent violence including policy objectives, oversight of implementation of the child MARAM, and creating a meaningful framework to measure and track the extent of child and adolescent violence.¹⁶⁷
- c) resource ACCOs and Aboriginal Legal Services with long term funding to continue and expand programs that work with First Nations children and families on violence prevention and recovery.
- d) for organisations and programs that work with children and young people with challenging behaviours, review eligibility to ensure it is not contingent on parent or guardian permission, or on the young person living with their parents.
- e) the Victorian Government implement recommendation 29 of the VLRC's Stalking inquiry report, to establish and fund an evidence-informed therapeutic program to respond to children engaging in non-family violence stalking behaviour. The purpose should be to avoid the need for a PSIO being made against a child.

Recommendation 3

A call for help should result in support

To prevent children from being issued with intervention orders, our analysis shows a need for immediate changes to police practice.

We recommend that:

- a) the Victorian Government ensure that, when implementing the Mental Health Royal Commission recommendations, consideration is given to children and young people. Where possible, responses to young people experiencing mental health and other behavioural crises associated with their disability, should be led by health professionals (including allied health) rather than police.
- b) with guidance from family violence and disability organisations, Victoria Police develop processes and procedures that align with the Child MARAM. This should provide a more accurate risk assessment for children, improve identification of disability or mental health related issues and enable alternative referrals which effectively divert away from a family violence response.
- c) the Victorian Government should better resource co-responder models, for example, the Embedded Youth Outreach Program, to expand their reach across Victoria.
- d) Victoria Police update accompanying guidance to provide a specialist response to children, including the Police Manual, Code of Practice, and Victoria Police Risk Assessment and Risk Management Report (L17 Family Violence Report).
- e) Victoria Police receive updated training:
 - on the ways AVITH can present and links with young people's experiences of past and current adult perpetrated violence
 - on de-escalation and recognising signs of cognitive impairment, neurodiversity, mental health issues or disability which might contribute to AVITH, or to incidents in education settings
 - to improve their capabilities to connect or refer families to support services. For example, contacting services already involved with a family to find out if there is a safety plan in place.
 - when serving an intervention order application in relation to a child respondent, Victoria Police must advise the child to get legal advice and provide contact details of legal services including VLA, or an Aboriginal legal service or family service ACCO, where appropriate.

¹⁶⁷ In its February 2024 *Submission to the Third Family Violence Rolling Action Plan*, Safe and Equal also recommended 'a policy mechanism involving all relevant government agencies, peak bodies, subject matter experts, and lived experience advisory groups across specialist family violence services, child and family services, sexual assault services, youth services, child protection, out of home care and youth justice to align expectations and requirements for an effective response to children and young people experiencing family violence'. Safe and Equal 2024, *Submission to the Third Family Violence Rolling Action Plan*, p.14.

Recommendation 4

Equipping schools to respond to disputes

Intervention orders arising from school-related disputes are having serious impacts on children, including disrupting or stopping school attendance.

We recommend that:

- a) the Department of Education provide greater support to schools to resolve disputes at the school level.
- b) the Department of Education implement measures to record or track the number of intervention orders against children in schools and outcomes for these children, including the number of requests by the Court for a report under s. 75 of the *PSIO Act 2010* (a section 75 report)¹⁶⁸
- c) the Victorian Government further invest in programs to support children affected by intervention order matters to stay in school or transition back to school (for example, by extending the Education Justice Initiative to intervention order matters).

Recommendation 5

Tailored court responses for children and young people

Greater efforts should be made to ensure that children are diverted away from court and into therapeutic support services which can help address children's needs.

We recommend that:

- a) the Children's Court of Victoria be resourced to expand the scope of and resource more applicant and respondent practitioners in intervention order applications with a child applicant or respondent.
- b) the Victorian government allocate funding for youth specific mediation services including a state-wide mediation service provided by the DSCV for disputes between children, integrating restorative justice approaches where appropriate.
- c) the Children's Court update the Children's Court Bench Book¹⁶⁹ and the Listing Protocols¹⁷⁰ to ensure referrals to legal services are made at the time an application for an interim order is listed, unless serious safety concerns necessitate an ex parte hearing.
- d) the Victorian government expand the specialist Children's Court of Victoria across the state to ensure children receive a specialist court response.
- e) the Victorian government implement recommendation 32 of the VLRC's Stalking inquiry for greater funding to community legal centres, Aboriginal-controlled legal services, community legal centres and Victoria Legal Aid. This is to expand access to legal advice and representation for child applicants and respondents in relation to non-family violence stalking PSIO matters.
- f) appropriate bodies be funded to develop and provide training to police, lawyers, and the judiciary about considerations under s. 61(2) of the *PSIO Act 2010*. This requires the court to consider a child's ability to understand the nature and effect of a final order, as well as their ability to comply with its conditions, taking into account age and maturity.


¹⁶⁸ Section 75 of the *PSIOA (Vic) 2010*, allows the court to request a report from the Secretary to the Department of Education and Early Childhood Development. This report should contain options for alternative education or training for the respondent when the court is deciding whether to include certain conditions in a PSIO.

¹⁶⁹ Judicial College of Victoria 2024, *Children's Court Bench Book, Listings and Case Management*, 22.1.4.1.

¹⁷⁰ Children's Court of Victoria 2016, *Listing Protocols*, p.13.



Recommendation 6



Further research and evidence about the appropriateness of intervention orders against children

To monitor trends and the impacts of interventions to reduce child respondents to intervention orders, we recommend that:

- the Victorian government fund further research into the effectiveness of intervention orders against children.
- the Children's Court of Victoria publish disaggregated data including by age, region and relationship to applicant, for all children and young people responding to FVIOs and PSIOs.



Appendix 1: About Victoria Legal Aid

Who are we?

Victoria Legal Aid (VLA) is a statutory authority established under the *Legal Aid Act 1978* (Vic). We are responsible for providing information, advice, and assistance in response to a broad range of legal problems. We provide statewide assistance to people every day and night in courts and tribunals in Victoria across both federal and state jurisdictions. VLA is funded by both state and federal governments. As a statutory agency, we are part of government.

What do we do?

We assist people with legal problems in a range of areas including criminal law, family breakdown, child protection, family violence, mental health, discrimination, disability, tenancy, fines, social security, immigration, guardianship and administration, debt, and assistance for victims of crime. We do this through our specialist legal teams and allied professionals, working with our legal assistance sector partners in the private profession, community legal centres, and Aboriginal community-controlled organisations.

In 2023-24, VLA assisted 82,606 unique clients, provided 79,147 in-house duty lawyer services, and responded to 136,507 requests for assistance through Legal Help. Twelve per cent of our clients are under 19 years of age.

Why do we do it?

In line with our values – fairness, care, courage and inclusion – VLA provides services and coordinates the provision of legal information to improve access to justice, support people to develop stronger legal capability and have a voice in the legal problems they face. We also pursue systemic change to address injustices by advocating to reform laws and systems to improve equality for clients and the community. The *Legal Aid Act* requires us to pursue innovative means of providing legal aid to reduce the need for individual legal services.

How do we do it?

We provide information and advice, prevention, early intervention, dispute resolution, and ongoing assistance and representation. The range of services we offer include:

- Legal Help phone and webchat service for information and advice
- Community legal education and information
- Family dispute resolution mediation service
- Help before court for criminal charges
- Early resolution service for family violence matters
- Help at courts and tribunals through duty lawyer services and grants of legal assistance
- Family advocacy and support services
- Independent mental health advocacy and family advocacy support services
- Legal representation in a range of civil, family and criminal law matters.

We also use our practice and evidence base to address systemic injustices and inequality for clients and communities through strategic litigation and advocacy as well as policy and law reform. We aim to promote the voices of clients and address the impacts of discrimination by advocating for fairer laws and systems.

Appendix 2: About this report

Aim

The aim of this report is to better understand how Family violence intervention orders (FVIO) and Personal Safety Intervention Orders (PSIO) are being applied to children and young people across Victoria. The report will spotlight case studies from our legal practice of young respondents' experiences of the legal response to allegations of adolescent violence.

Using client stories, a review of closed VLA files and system data this research aims to bring to light the lived experiences of the police, court and service system responses. Through this report, we aim to explore the limitations and challenges of the current legal response to young people.

Methodology

Speaking to young people and their families

We spoke to young people and their families who had experience of the intervention order legal process and we documented their narratives, insights, and challenges with the justice response. We also heard their suggestions for improvement. We spoke to them about our draft findings and asked their advice on potential recommendations.

These interviews form the basis of the case studies presented in the report. These conversations consistently validated our findings and integrated lived experience perspectives with other data sources.

Client consent has been obtained to include each client story. Given this, client stories featured throughout this submission may not reflect all clients that VLA provides services to. The material procedural aspects have been retained for the client story however to protect clients' anonymity, names have been changed and other identifying details including age, gender or location may have been changed.

Stakeholder consultation

VLA spoke to multiple stakeholders involved in the intervention order process and issues related to children and young people in the justice system. Stakeholders included Victoria Police, government agencies, family violence support services, child and family support services, adolescent violence in the home researchers and other legal service providers.

We also consulted internally with VLA staff including Regional Managing Lawyers (RMLs), VLA duty lawyers, VLA's Youth Crime and Child Protection teams to gather further insights into FVIO and PSIO legal service delivery.

We also conducted observations at court to obtain 'on the ground' information about court practices, service referral pathways for court users, the scope of the legal services provided and the relationships between court stakeholders.

The data obtained from these observations and interviews was provided to RMLs and Program Managers for further feedback and commentary before completion of the report.

Quantitative data analysis

VLA conducted analysis of internal and external data relating to young respondents to intervention orders.

Internal data analysis

VLA's system data was sourced from our case file management systems. This includes both in-house and external legal services provided under a grant of legal aid. We analysed data where our client was a respondent to a FVIO or PSIO over six years, from 1 July 2018 to 30 June 2024.

Our analysis includes data relating to children and young people under the age of 18.

The data used in this report has been deidentified and cannot be used to determine the outcomes of individual legal matters. Unless otherwise specified, all data is presented by financial year.

Limitations to our data:

- our data reflects file outcomes recorded at the close of a grant of aid file or duty lawyer record. This may not always reflect the final order or outcome of the matter. It reflects the order that was in place when a legal aid lawyer closed the grant file.¹⁷¹
- our data on client demographics is dependent on a client disclosing this information, therefore it is likely to be underreported.

External data analysis

VLA reviewed public data available on the Family Violence Dashboard developed by the Crime Statistics Agency and data published in the Children's Court of Victoria Annual Reports.

The Crime Statistics Agency provided VLA with two sets of analysis of Police LEAP data of young people on intervention orders from 1 January 2018 to 31 December 2023, relating to children and young people:

- aged between 10 and 25
- aged between 10 and 17.

For consistency when comparing with VLA system data, wherever possible, we have used the Crime Statistics Agency's analysis of young people aged between 10 and 17.

¹⁷¹ Victoria Legal Aid prioritises legal services for children and young people. A lawyer may close a grants file for several reasons for example, on request from the young person, after repeated attempts to make contact or where assistance is no longer required.



Review of closed Victoria Legal Aid files

To enrich our quantitative data analysis, we conducted an in-depth review of 101 VLA legal files. The selected files included a representative mix of files from metro and regional areas, and client characteristics (e.g. First Nations status, disability, age and gender). Files related to children and young people (under the age of 18) we assisted with a grant of assistance where the primary legal matter was a respondent to an intervention order application, including 54 relating to FVIOs and 47 relating to PSIOs.

We reviewed the practice file which included duty lawyer record notes, file notes, email correspondence and copies of application/orders. Using Excel, we developed a structured data review tool to capture consistent information across cases, including case characteristics (e.g. client age, matter type, living circumstances, education), legal outcomes, and any indicators of systemic issues or practice challenges. Data was coded thematically and analysed to identify recurring issues.

We handled data in accordance with privacy and confidentiality requirements, and no identifying information was retained in the analysis.

Appendix 3: Current legal responses

Intervention orders

Language used in intervention orders

Applicant: This is the person who asks for the intervention order. This could be the police or the person seeking protection.

Affected family member: This is the person the order is protecting in FVIOs.

Affected person: This is the person the order is protecting in PSIOs.

Respondent: This is the person who the intervention order is sought against.

The purpose of an intervention order is to ensure the safety of the protected person. It does this by putting specific rules (conditions) on the person who the order is against (the respondent). These can include conditions such as a direction to not use violence towards the protected person or to stop contacting the protected person.¹⁷² Intervention orders can also include conditions that the young person cannot live at home.¹⁷³ If the respondent breaks any of the rules stated in the order, the affected family member can call the police who can charge the respondent with a criminal offence.

Interim intervention order

The purpose of an interim (temporary) order is to ensure the immediate safety of the protected person. Following an application for an intervention order, the court can make an interim intervention order:

- to ensure the safety of the affected person(s)
- protect their property, or
- if it is appropriate in the circumstances.

If the respondent does not follow the rules stated on the interim intervention order, they can be charged with breaching the order.

Final intervention order

To make a final intervention order, the court must be satisfied that the young person has:

- engaged in family violence,¹⁷⁴ stalking, or prohibited behaviour¹⁷⁵
- the behaviour is likely to happen again
- the person named in the PSIO application fears for their safety.¹⁷⁶

Breach of an intervention order

Intervention orders are heard in the civil jurisdiction. However, if the respondent does not follow the conditions of the intervention order, police can charge them with a breach of the order. This is a criminal offence and if found guilty, the respondent could face up to two years imprisonment or a large fine.

¹⁷² *FVPA 2008* (Vic) ss 80-81.

¹⁷³ *FVPA 2008* (Vic) s 83(3); *PSIOA 2010* (Vic) s 71 enables the court to include an exclusion condition in an order against a child respondent only if it is satisfied that the child will have appropriate alternative accommodation and appropriate care and supervision.

¹⁷⁴ Family violence is defined as: 'behaviour by a person towards a family member of that person is that behaviour: is physically or sexually abusive, or is emotionally or psychologically abusive, or is economically abusive, or is threatening, or is coercive or in any other way controls or dominates the family member and causes that family member to feel fear for the safety of that family member or another person or behaviour that causes a child to hear or witness any of the above behaviours'. *FVPA 2008* (Vic) s 5.

¹⁷⁵ Prohibited behaviour is defined as: 'assault, sexual assault, harassment, property damage or interference or making a serious threat'. *PSIOA 2010* (Vic) s 5.

¹⁷⁶ *PSIOA 2010* (Vic) s 61(1)(B) 'the respondent's behaviour would cause a reasonable person to fear for his or her safety'. There is no equivalent provision in the *FVPA 2008* (Vic).

Appendix 4: Disability descriptors

VLA uses disability descriptors derived from the *Australian Bureau of Statistics*, the *Australian Institute of Health and Welfare* and the *National Disability Insurance Agency*.

Acquired brain injury (ABI)

ABI refers to any type of brain damage that happens after birth from disease (like meningitis), blows to the head, alcohol or drug abuse, a stroke, tumour, aneurysm or oxygen deprivation.

Blind or vision-impaired

Vision impairment is the partial or full loss of sight. It may be the result of disease or injury and it may progress over time. It may be permanent or corrected with visual aids such as glasses or surgery.

Chronic illness (e.g. cancer, chronic fatigue, diabetes)

This relates to conditions that last a year or more and require ongoing medical attention or limit activities and affect daily living, or both. It includes illnesses like heart (cardiovascular) disease, cancer, diabetes, chronic fatigue, arthritis, kidney disease, osteoporosis and rheumatoid arthritis. Some people have multiple chronic illnesses.

Cognitive (including intellectual disability)

Cognitive impairment is not an illness but describes someone's condition when they have trouble with memory, thinking or paying attention.

Deafblind

This is a combination of sight and hearing loss that affects a person's ability to communicate, access information and get around. They may not be totally deaf or totally blind, but both senses may be reduced. Someone who is profoundly deaf may be unable to articulate language or speak.

Deaf or hearing-impaired

A person who is hard of hearing may experience the partial or full loss of hearing. Deaf people have profound hearing loss with little or no hearing. Some people have mild or moderate hearing loss, which also means they may have difficulty understanding speech. Some people use sign language or lip-read, or a combination of both.

Developmental delay (in children)

Developmental delay means a delay in the development of a child younger than 6 that meets all the criteria described in Access to the NDIS – Early intervention requirements.

Learning difficulty (e.g. dyslexia)

A learning disability is different from an intellectual disability. Learning difficulties affect only a specific area of learning and can be due to medical, physical or neurological (brain) conditions that make it hard to process information.

Mental health issues (psychosocial)

This describes disabilities that may arise from someone experiencing mental health issues. Not everyone experiencing a mental health issue experiences psychosocial disability. It includes schizoid disorders (schizophrenia, schizoaffective disorder), anxiety disorders (anxiety, obsessive-compulsive disorder, agoraphobia, post-traumatic stress) and mood disorders (depression, bi-polar, post-traumatic stress), personality disorders and eating disorders.

Neurodiversity (including autism spectrum disorder, attention deficit hyperactivity disorder)

This applies to a community of people whose members are neurodivergent. Neurodiversity is an approach to education and ability that supports the fact that various neurological conditions are the effect of healthy changes in the human genome.

Neurological disability (including Alzheimer's, Parkinson's, multiple sclerosis)

This results from damage to the central and peripheral nervous systems, affecting mental or bodily function. It can be caused by infections, disease, heart attacks or lack of oxygen.

Physical

A physical disability affects a person's mobility, physical capacity, stamina and dexterity. It could be hereditary or congenital and includes brain or spinal cord injuries, respiratory disorders, cystic fibrosis, epilepsy, cerebral palsy and spina bifida.

Speech and sensory

In adults, speech and language impairments often result from illnesses such as stroke, dementia and other degenerative diseases. In children, they can be related to other disabilities, such as intellectual disability, cerebral palsy and brain tumours, and include stuttering, aphasia and voice disorders. They can severely impact a person's ability to converse.



Appendix 5: Human rights

Victorian Charter of Human Rights and Responsibilities Act 2006 (the Charter)

The *Victorian Charter of Human Rights and Responsibilities Act 2006* (the Charter) emphasizes the rights of children and families, including:

- **right to protection:** Special measures should safeguard children.¹⁷⁷
- **best interests of the child:** Decisions should consider the child's best interests.¹⁷⁸
- **family unity:** Families should receive necessary protection and assistance.¹⁷⁹
- **equality before the law:** The law must recognise that all people have legal rights.¹⁸⁰

Convention on the Rights of the Child (the CRC)

The CRC outlines fundamental rights for children. Key provisions include:

- **best interests of the child:** Decisions affecting children should prioritize their best interests.¹⁸¹
- **non-discrimination:** Children should be treated equally, without distinction based on race, colour, sex, religion, etc.¹⁸²
- **right to life, survival, and development:** Ensures children's well-being and development.¹⁸³
- **protection from harm:** Children have the right to protection from abuse, neglect, and exploitation.¹⁸⁴
- **family unity:** The family environment is crucial for a child's growth.¹⁸⁵
- **participation:** Children have the right to express their views in matters affecting them.¹⁸⁶

¹⁷⁷ *Victorian Charter of Human Rights and Responsibilities Act 2006* s 17(2).

¹⁷⁸ *Ibid.* s 24 (3).

¹⁷⁹ *Ibid.* s 17.

¹⁸⁰ *Ibid.* s 8.

¹⁸¹ *Convention on the Rights of the Child*, November 20, 1989, Article 3(1).

¹⁸² *Ibid.* Article 2.

¹⁸³ *Ibid.* Article 6.

¹⁸⁴ *Ibid.* Article 19.

¹⁸⁵ *Ibid.* Preamble.

¹⁸⁶ *Ibid.* Article 12.



