



Communities
& Justice



Escalation Pathway for the Joint Protocol

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Purpose of the Joint Protocol

The [Joint Protocol to Reduce the Contact of Young People in Residential Out of Home Care with the Criminal Justice System](#) encourages information sharing, collaboration and relationships between the Department of Communities and Justice (DCJ), NSW Police Force (NSWPF) and out-of-home care (OOHC) service providers of residential and Intensive Therapeutic Care (ITC) at the local level to reduce the involvement of children and young people in the criminal justice system and promote their safety, welfare and wellbeing.

The Joint Protocol recognises the over-representation of children in residential care and ITC in the criminal justice system and the impacts of complex trauma and developmental and health conditions on their everyday functioning. The Joint Protocol emphasises the importance of flexibility and proportionality in determining the most appropriate response to a child or young person's behaviour on a case-by-case basis.

Role of the Escalation Pathway

The Escalation Pathway provides an avenue for timely escalation and resolution of issues involving individual children and young people where the Joint Protocol may not have been applied or where its application could be strengthened. It also enables reflection and collaboration to consider any changes needed in practices at the local operational level to support the implementation of the Joint Protocol.

The contact positions listed at each step of the Escalation Pathway reflect levels of seniority at the operational multi-agency level that is conducive to focus on the needs of the individual child or young person and to enact change at the local level to support the implementation of the Joint Protocol. The level of seniority also aligns with existing policies and procedures such as [Resolving Disputes under the Permanency Case Management Policy](#) which applies to DCJ and OOHC Service Providers.

Legislation that Supports Information Sharing

Chapter 16A of the *Children and Young Persons (Care and Protection Act) NSW 1998* facilitates the sharing of information between prescribed bodies for a specific purpose that relates to the safety, welfare or wellbeing of children and young people. This permits relevant information being shared between parties to the Joint Protocol.

Contact List

A Contact List has been developed to support the Escalation Pathway. It is available at <https://dcj.nsw.gov.au/children-and-families/joint-protocol.html>.

Step 1: How to Escalate Matters at the Local Level

Purposes

- To consider if the application of the Joint Protocol could be strengthened to reduce criminalisation for the child or young person. This includes reviewing the incident, considering what could be done differently in future, and putting plans in place for the child or young person. Also, considering lessons that could apply to similar incidents involving other children and young people in future.
- To determine how the child or young person central to this incident can participate in developing the resolution and providing feedback following the incident, in a child-centred and culturally safe manner. Depending on the circumstances, consideration should be given to including the child's family in resolution design and implementation.

Contact

- Director, Commissioning and Planning, Department of Communities and Justice
- Crime Coordinator or nominated delegate from Police Area Command or District (PAC/PD), NSW Police Force
- Area or Regional Manager, OOHC service provider.

Guiding Questions

- Is there additional information the service provider or DCJ can share to inform police discretion?
 - What is known about the child or young person's disabilities, physical health and mental wellbeing?
 - What are their strengths including availability of cultural or family or kin supports?
 - Responsivity guidance – how do they respond and engage best?
- How can additional strategies be put in place to provide a more de-escalating and therapeutic response for the child or young person from the:
 - service provider to prevent contact with police?
 - police when they attend in emergency situations or accompany ambulance?
- How can the cultural safety of the child or young person be strengthened, and cultural support be made central to resolving this situation?
- What are the underlying issues driving criminalisation for the child or young person? How can additional strategies or support from other stakeholders be put in place to address these issues?
- Is the child or young person involved with Youth Justice NSW? How can this partnership support and strengthen positive outcomes for the child or young person?
- Does the relationship between police and service provider staff need to be improved?
- Can any decisions made at the time be revisited in light of information-sharing or the strategies that will be put in place to assist the child or young person?
- Does this matter reflect a wider theme to discuss at the next Local Planning Meeting?

Timeframe

Two weeks to agree actions. If an agreement cannot be reached or the agreed actions are not implemented, escalate to Step 2.

Step 2: How to Escalate Matters to Local Senior Leadership

Purpose

To collaboratively discuss and agree joint actions to reduce criminalisation for the child or young person and to support implementation of the Joint Protocol at the local level. For example, actions may relate to awareness raising, education and changes in practices and procedures at the local level.

Contact

- Executive District Director, Department of Communities and Justice
- Youth Portfolio Holder or nominated delegate from PAC/PD, NSW Police Force
- Director or Senior Manager or equivalent, OOHC service provider.

Timeframe

Two weeks to agree joint actions. If an agreement cannot be reached or the agreed actions are not implemented, escalate to Step 3.

Step 3: How to Escalate Matters to Senior Leadership

Purpose

This is an interim solution to facilitate issues resolution as full implementation of the Joint Protocol is being achieved. It is anticipated the need for Step 3 will cease after the Joint Protocol becomes part of routine operations for the Department of Communities and Justice, NSW Police Force and OOHC service providers.

Contact

- Deputy Secretary, Child Protection and Permanency, Department of Communities and Justice
- Police Commander or nominated delegate from PAC/PD, NSW Police Force
- Deputy Chief Executive Officer or equivalent, OOHC service provider.

Timeframe

Two weeks to agree joint actions.

Streamlined Pathway for Criminal Lawyers

Purpose: Criminal lawyers have traditionally been the key persons escalating concerns related to insufficient application of the Joint Protocol. Given criminal lawyers have limited capacity to engage in advocacy work, they require a streamlined way to escalate issues on behalf of their clients.

Contact: Email JointProtocol@dcj.nsw.gov.au and outline the Joint Protocol issues seen for a particular client, any relevant factsheets, and what may have been explored locally and is not working. The secretariat for the Joint Protocol will forward the matter to the contacts as per Step 2.

Timeframe: As per Step 2, two weeks. The contacts will jointly provide a written response to the lawyer.

Note: Where a matter is escalated to Step 2 or Step 3, parties should consider any broad themes or learnings from the matters present for reporting back to the Joint Protocol Implementation Committee.