

Report of the **Protecting Victoria's Vulnerable Children Inquiry** Volume 1

January 2012

The Honourable Philip Cummins (Chair) Emeritus Professor Dorothy Scott OAM Mr Bill Scales AO



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Report of the Protecting Victoria's Vulnerable Children Inquiry Volume 1

Terms of Reference

To inquire into and develop recommendations to reduce the incidence and negative impact of child neglect and abuse in Victoria, with specific reference to:

- The factors that increase the risk of abuse or neglect occurring, and effective prevention strategies.
- Strategies to enhance early identification of, and intervention targeted at, children and families at risk including the role of adult, universal and primary services. This should include consideration of ways to strengthen the capability of those organisations involved.
- The quality, structure, role and functioning of:
 - family services;
 - statutory child protection services, including reporting, assessment, investigation procedures and responses; and
 - out-of-home care, including permanency planning and transitions; and what improvements may be made to better protect the best interests of children and support better outcomes for children and families.
- The interaction of departments and agencies, the courts and service providers and how they can better work together to support at-risk families and children.
- The appropriate roles and responsibilities of government and non-government organisations in relation to Victoria's child protection policy and systems.
- Possible changes to the processes of the courts referencing the recent work of and options put forward by the Victorian Law Reform Commission.
- Measures to enhance the government's ability to:
 - plan for future demand for family services, statutory child protection services and out-of-home care; and
 - ensure a workforce that delivers services of a high quality to children and families.
- The oversight and transparency of the child protection, care and support system and whether changes are necessary in oversight, transparency, and/or regulation to achieve an increase in public confidence and improved outcomes for children.

The Inquiry will consider the above in the context of differences amongst Victorian children and families, such as metropolitan and regional location.

The Inquiry process

The Inquiry Panel will make recommendations and provide advice to the government regarding the immediate, medium and longer term priorities to strengthen Victoria's family, child protection and associated service systems, and improve outcomes for Victorian children at risk.

The Inquiry will focus on policy and the service system that supports government policy and the Panel will not consider or make recommendations regarding the circumstances of individual cases, nor review individual organisations.

The Inquiry Panel may request input from an inquiry Reference Group on any matter it deems fit.

The Inquiry Panel will also utilise and reference previous reports and reviews, available literature, interstate and international experience and seek submissions from and consult with:

- Relevant experts;
- Service providers (universal, adult, family and child protection);
- Front line workers and managers;
- Families and children who have personally experienced child protection and out-of-home care services;
- Foster and kinship carers;
- Police and courts; and
- A broad range of government services (including early childhood, education, health and mental health, family violence and housing services).

The Inquiry Panel will provide a Report to the Minister for Community Services by 4 November 2011. The Report will be tabled in Parliament.

(The Inquiry was granted an extension of the reporting date to 27 January 2012).

Report of the Protecting Victoria's Vulnerable Children Inquiry Volume 1

Foreword

The purpose of this Inquiry has been to meet the needs, improve the lives and secure the rights of Victoria's vulnerable children and young people, now and in the future. The Inquiry understood it was given a task of profound significance.

The Inquiry considered Victoria's system for protecting its vulnerable children and young people as a whole. The Inquiry aimed to produce a report that was forward-looking and solutions focused.

Consistent with its Terms of Reference, the Inquiry did not consider or make recommendations regarding the circumstances of individual cases or review individual organisations. This enabled the Inquiry to concentrate on its task of systemic review of all that constitutes Victoria's approach and performance in relation to protecting its vulnerable children and young people.

The Inquiry was broad and far-reaching. It inquired into, and makes recommendations to reduce, the incidence and impact of child abuse and neglect in Victoria.

The Inquiry was provided with complete freedom by the Victorian Government to conduct its own investigations and to reach its own conclusions. It has been a fully independent Inquiry.

The Inquiry has been fully supported by the Victorian government. It has had open access to government, government departments and agencies and government personnel.

A vast number of individuals and organisations have contributed to the Inquiry's deliberations. The Inquiry acknowledges that contribution with gratitude.

The Inquiry's Report contains substantial analytical material. However the needs, experiences and rights of vulnerable children and young people imbue every page.

The Inquiry commends its Report to government and to the Victorian community.

The Honourable P. D. Cummins (Chair) Emeritus Professor Dorothy Scott OAM Mr Bill Scales AO



The Inquiry Panel, from left: Emeritus Professor Dorothy Scott OAM, The Honourable P. D. Cummins (Chair) and Mr Bill Scales AO

Acknowledgements

The Inquiry acknowledges the contributions of the many individuals and organisations that provided advice and assistance to support the huge task of investigating Victoria's system for protecting vulnerable children.

In particular, the Inquiry is grateful to the children and young people who participated in the various consultation activities either through direct meetings or via the online survey. Their participation has helped the Inquiry develop its views on the requirements of a system focused on a child's needs.

The Inquiry greatly appreciates the efforts of those who have written about their thoughts and views on the task of protecting Victoria's vulnerable children. Many individuals and organisations also presented information at Public Sittings, sharing their experiences for the benefit of informing the Inquiry.

The Inquiry also acknowledges the contribution of the Reference Group, which provided valuable advice on issues and priorities.

Many specialists and practice experts gave generously of their time to assist the Inquiry and these have been listed in full at Appendix 2, along with all those who prepared written submissions.

The departments of Human Services, Education and Early Childhood Development, Health, Justice and Planning and Community Development assisted the Inquiry by providing information and data to inform analysis. The Department of Human Services also provided support for the Inquiry's Public Sittings, including providing counselling staff where appropriate.

The Inquiry was hosted by the Department of Premier and Cabinet and ably supported by a Secretariat comprising staff from the departments of Education and Early Childhood Development, Human Services, Justice and Premier and Cabinet, consultants and administrative support staff. Support was also provided by the Department of Treasury and Finance and research assistance by the State Services Authority.

Three pieces of external analysis were commissioned and these were carried out by the CREATE Foundation, Deloitte Access Economics and the Statistical Consulting Centre, The University of Melbourne.



Executive summary

Executive Summary

1. Introduction

The vast majority of Victoria's children and young people live in families where they are loved, cared for and encouraged by their families. These children will be supported by their families through the highs and lows of childhood and adolescence and will grow up with the personal resources and capabilities to live independent, well-adjusted and productive lives.

However, a significant number of Victoria's children and young people are not as fortunate. Every week, nearly 60 children and young people from across Victoria are removed from their parents by the State and placed in the care of another person or organisation because there are sound reasons to believe they are at risk of significant harm.

During 2010-11, about 3,000 children and young people were placed in accommodation away from their family home. While many will return home quickly, on average, these children stay in the care of the State for about 18 months and some will move between three or more separate placements in a single year. Over the past decade, the number of Victorian children and young people in out-of-home care has increased by 44 per cent – an annual growth of around 4 per cent a year – bringing the total number of children and young people in care to 5,700 at June 2011. Some children are never able to return to their parents' care.

People across Victoria felt so concerned about the welfare of children that they made about 55,000 reports to the Victorian Department of Human Services in 2010–11. Of these 55,000 reports, nearly 14,000 were considered sufficiently serious by the Department of Human Services that they were formally investigated. These investigations found that for 7,600 of these cases, the concerns about the safety or welfare of these children were well founded. If current rates continue, one in four children born in Victoria in 2011 will be reported to the Department of Human Services by their 18th birthday.

Of great concern is that Aboriginal children and young people are significantly over-represented in Victoria's system for protecting children. While Aboriginal children and young people make up 1.2 per cent of the Victorian population, they constitute around 16 per cent of children and young people on care and protection orders and are nine times more likely to be in State care than others in the general population.

Even though in 2010–11 Victoria will spend \$533 million on Victoria's statutory child protection, specialist support services and placement services and 1,200 child protection practitioners are employed in Victoria to keep children safe, young people known to the Department of Human Services still suffer significant harm or die. Over the past decade, this expenditure has increased at a faster rate than government expenditure generally. There have also been substantial investments in child and family welfare services (around \$170 million in 2010–11).

The Inquiry heard many distressing experiences from and about individuals who have had personal experience with Victoria's statutory child protection services. The Inquiry was deeply moved by individual accounts that demonstrated how child abuse and neglect, and involvement with statutory child protection, can have devastating long term effects on people, even many years after they have left the system. These experiences have influenced many of the recommendations in this Report and moved the Inquiry to make explicit and reiterate what the Inquiry believes should be a fundamental truth – that Victoria has a responsibility to protect vulnerable children and young people. The Inquiry also believes that where child abuse or neglect has occurred, the government should provide a response that ameliorates the effects of such trauma and do all in its power to ensure it does not cause further harm.

Estimates prepared by Deloitte Access Economics for the Inquiry indicate that the total lifetime financial costs of child abuse and neglect that occurred in Victoria for the first time in 2009-10 is between \$1.6 and \$1.9 billion. Each individual case of child abuse and neglect continues to create costs for the community long after the abuse stops, or the neglect is addressed. This is because child abuse and neglect increases the costs of health care and education, housing and supported accommodation assistance, court-related matters and crime, and leads to significant productivity losses.

The Inquiry consulted widely and sought input across the whole of Victoria through 18 Public Sittings covering 16 different locations, hearing verbal submissions from around 130 organisations and individuals. More than 220 written submissions were made to the Inquiry from a diverse range of individuals and organisations. Consultation sessions were conducted with children and young people, Aboriginal communities, culturally and linguistically diverse community service workers and people working in Victoria's system for protecting children. A Reference Group advised the Inquiry on policy issues and stakeholder engagement.

The Inquiry heard many positive accounts from child protection practitioners and carers that demonstrate how a well-functioning child protection system can support vulnerable children and give them a chance at leading a normal life. The Inquiry has tried to learn from all these accounts and experiences in recommending extensive reforms to the nature and structure of Victoria's response to child abuse and neglect.

An analysis of child protection reports in 2009-10

Child protection reports 2009-10:

- There were 37,500 children who were the subject of just over 48,000 reports to the Department of Human Services in 2009-10, a rate of 32.7 per 1,000 Victorian children aged 0-17 years or over 3 per cent;
- By single year, the rate of reports was relatively similar across all ages at around 30 per 1,000 children, with the exception of infants where that rate was 43.4 per 1,000 or over 4 per cent, and 16 year olds where the rate declined to 20 per 1,000;
- There was considerable variation in likelihood of reports across Victorian regions, with the report rates for the Gippsland Region and Loddon Mallee Region being 66 per 1,000 children and 61 per 1,000 children;
- The most common types of alleged child abuse and neglect were: psychological harm (46.5 per cent), physical harm (33.6 per cent) and sexual harm (11.0 per cent). Reports for sexual harm increased with age, particularly for females; and
- 21 per cent of children were the subject of multiple reports during 2009-10.

Child protection response 2009-10:

- One in five reports were investigated, with reports of alleged physical harm or sexual harm more likely to be investigated than reports of psychological harm;
- There were 5,516 substantiations of child abuse and neglect in 2009-10, which represented 11.5 per cent of all reports and 54.5 per cent of investigations;
- Investigated cases of alleged psychological harm were almost twice as likely to be substantiated as sexual harm; and
- Protective applications were made in relation to 3,331 children who were the subject of a substantiated report in 2009-10, and 1,385 children who were the subject of a report in 2009-10 experienced some form of out-of-home care (overwhelmingly home-based care).

Interactions with the child protection system 2009-10:

- Over their lives to date, there had been a total of 134,000 reports to DHS in relation to the around 37,500 children who were the subject of a report in 2009-10 or the equivalent of 3.6 reports per child (including the reports in 2009-10);
- 70 per cent of children who were the subject of a report in 2009-10 had either been the subject of a report previously or were the subject of a further report in the subsequent period between July 2010 and May 2011;
- 2,000 children reported to DHS in 2009-10 have been the subject of more than 10 reports to date; and
- Of the around 37,500 children who were the subject of a report on 2009-10, 14,597 or just fewer than 40 per cent have been the subject of a substantiated case of child abuse or neglect arising from the 2009-10 report or earlier reports.

2. Background to this Inquiry

Child protection services in Australia and overseas have been the subject of periodic major reviews. Since 2000, every jurisdiction in Australia has embarked on at least one substantial review of the way in which child protection services are delivered. More detailed policy and program directions have also been continually reviewed and modified over time. A range of common factors have been the catalysts for these reviews, demonstrated in Victoria over the past few years in reviews conducted by the Victorian Ombudsman, the Victorian Law Reform Commission and the Victorian Auditor-General. These reviews all raised issues about the quality and performance of Victoria's services for protecting children.

Despite these reviews, and despite increased investment and increased scrutiny over time, the Inquiry has not been able to discern any marked change in Victoria in the incidence and impact of child abuse or neglect or overall outcomes for vulnerable children taken into out-of-home care. The Inquiry is also concerned about the continued high levels of re-reporting and re-substantiations of harm over the lifetime of some Victorian children and young people.

For example, Figure 1 illustrates a lack of marked improvement in the levels of re-reporting, which in 2011, were largely the same as they were in 2004-05, at around 64 per cent of total reports.



Figure 1 Child protection reports: re-reporting rate, Victoria, 2004-05 to 2010-11

Source: Information provided by the Department of Human Services

In order to drive sustained, systemic improvements to government's response to child abuse and neglect, the Inquiry considers that a broad transformational shift in the role of statutory child protection services is required. This shift will need to recognise and respond to the realities of the challenges faced by families involved with the Department of Human Services. These challenges are both complex and enduring, such as family violence, mental health problems or drug and alcohol abuse. These challenges are significant causes of vulnerability of many of Victoria's children. Statutory child protection services will be far more effective if they are positioned and viewed as part of a broader service response to vulnerability in the Victorian community.

The significant point of difference for this Inquiry has been the very broad Terms of Reference provided by the Victorian Government. In contrast to more recent reviews that have examined the performance of discrete aspects of Victoria's system for protecting children, such as statutory child protection intake or the provision of out-of-home care services, this Inquiry has considered government's overall response to child abuse and neglect. This scope has included family support services in addition to statutory child protection services, but has also considered the effectiveness of the roles and responsibilities of the government and the community sector in working together to meet the needs of vulnerable children. The scope of the Terms of Reference has required the Inquiry to adopt a systems approach in order to consider all of the issues arising from the incidence of child abuse and neglect and to make recommendations for effective, systemic change.

Victoria's system for protecting children and young people consists of all the functions, organisations, and interrelationships that together act to prevent and respond to child abuse and neglect.

As reflected in the Inquiry's Terms of Reference, the key objective of Victoria's system for protecting children and young people is to reduce the incidence and negative impact of child abuse and neglect. An overview of Victoria's system is in Figure 2.

Figure 2 An overview of the functions, organisations and interrelationships that constitute Victoria's system for protecting children



Economic, social, political and cultural setting

The Inquiry has sought to understand and analyse the level of vulnerability of Victorian children and young people and how to meet their needs once they find themselves within the statutory child protection system. Importantly, the Inquiry believes that the needs of children and young people should cover, not only their immediate but also their long-term needs, including safety, health, personal development, education and the need to be heard and respected in decisions that affect them.

The Inquiry's recommendations have been informed by a number of policy principles for building a more effective system for protecting vulnerable children. The Inquiry's policy principles are a contemporary re-statement of the roles and responsibilities of children, families, government and the community. They cover the role of government and non-government organisations and address the role of children and young people in providing input about their care and the communities in which they are raised.

3. Key issues

The Inquiry has identified a number of key issues central to the problem of child abuse and neglect in Victoria.

3.1 The nature and incidence of child vulnerability across Victoria

The number of children who were the subject of a report of concern each year has increased by 49 per cent between 2000 and 2011 and the report rate per 1,000 children aged 0 to 17 years has increased from 25.5 to 33.5 children per 1,000 per annum.

The rise in reporting levels is not evenly spread across the past 20 years, as illustrated in Figure 3. Some of the more dramatic increases have coincided with major reviews and associated increased media focus.



Figure 3 Child protection reports and significant events, Victoria, 1989 to 2011

---- Child protection reports

Source: Information provided to the Inquiry by the Department of Human Services

There is also increasing evidence that interactions with statutory child protection services are recurring events for many vulnerable children and their families. Around half of the children for whom abuse or neglect had been substantiated in 2009-10 had been involved in multiple substantiations, often with many years between incidents. A substantiation refers to when, after an investigation by the Department of Human Services, statutory child protection practitioners find that a child or young person has suffered, or is at risk of suffering, significant harm.

A significant proportion of children are also the subject of repeated reports to the Department of Human Services over a sustained period of time. Figure 4 shows the reporting history of children at a point in time, for whom reports were made in 2009-10. Two-thirds of these children have been the subject of multiple reports and a significant number of children have been the subject of a very large number of reports. In excess of 2,000 of these children have been the subject of more than 10 reports to the Department of Human Services over their lifetime.



Figure 4 Children in child protection reports in 2009-10, by number of reports to date, Victoria

Source: Inquiry analysis of information provided by the Department of Human Services

Regardless of the age of the child in 2009-10, there was a significant proportion of children for whom substantiated abuse or neglect was first found when they were very young children, many years before abuse was again substantiated in 2009-10. This is illustrated in Figure 5 for 10 year olds, showing that for 48 per cent of these children, previous substantiations of harm had been found over the course of their life to date.

Figure 5 Ten year old children with child protection substantiations in 2009–10 and prior substantiations, by age of first substantiation, Victoria



Source: Inquiry analysis of information provided by DHS. Note: There are four broad categories of types of abuse: emotional abuse, neglect, physical abuse and sexual abuse.

In order to respond more effectively to the incidence of child abuse and neglect, the community and the government need to better understand the underlying drivers of the increasing levels of child protection reports and the reasons why these children continue to require statutory intervention to address their safety and wellbeing.

Analysis of the nature of child abuse and neglect shows that the underlying causes of vulnerability comprise a complex interaction of different risk factors. Government's policy and service delivery response must grapple with this complexity to recognise that a cumulative array of factors is likely to contribute to poor outcomes for children, rather than a single risk factor that can be addressed with a single service response. Significant risk factors for child abuse and neglect include parent, family or caregiver characteristics involving:

- A history of family violence;
- Alcohol and other substance misuse;
- Mental health problems;
- Intellectual disability;
- Parental history of abuse; and
- Situational stress.

3.2 The need for an area focus

There are significant variations in the geographical patterns of reports, reflecting a range of socioeconomic, demographic and location-specific factors. Families involved with statutory child protection services are commonly living within a broad context of social disadvantage. The presence or absence of support networks and access to local services and amenities influences the outcomes of vulnerable children and young people.

Analysis of the geographic distribution of child protection reports has shown that, overall, the rate of reports is generally higher in regional Victoria than in metropolitan Melbourne, although there are variations to this. When the Inquiry analysed the number of reports against other key measures of children's wellbeing, a strong correlation was also found between higher rates of reports, children commencing school identified as vulnerable (by the Australian Early Development Index) and areas of high socioeconomic disadvantage.

Regional variation occurs right throughout the chain of statutory child protection services. While the rate of reports in a single year across Victoria is just over 30 per 1,000 Victorian children across all ages, in the Gippsland and Loddon Mallee regions, this rate is more than doubled, at 66 per 1,000 children and 61 per 1,000 children respectively (see Figure 6). There is also a significant difference in the substantiation rates across Victorian regions.

Figure 6 Child protection reports and substantiations per 1,000 children, by Department of Human Services region, 2009-10*



Source: Inquiry analysis of information provided by the Department of Human Services and unpublished population data from the Department of Planning and Community Development

* Excludes reports and substantiations where the region was not stated

These regional variations persist right through to out-of-home care services. In 2009-10, in the Gippsland and Hume regions, around 10 children aged 0 to 17 years per 1,000 children in the region were in out-of-home care. This is more than three times the proportionate rate for the Eastern Metropolitan and Southern Metropolitan regions.

These marked geographic variations in reporting and substantiation levels and out-of-home care placements raise major challenges for Victoria's system for protecting children to maintain appropriate planning and priority setting. Changes and improvements to service delivery must be of practical relevance to the challenges faced in individual communities and, for this to occur, service and policy planning needs to take account of regional variations. Significant increases in effort are required, in certain locations, to address the needs of vulnerable children and young people.

3.3 Aboriginal children and young people

The history of Aboriginal communities in Victoria directly affects Aboriginal children and families today. Past actions by government and non-government agencies have adversely affected and damaged Aboriginal families and the result is a continuing experience of trauma in Aboriginal communities.

Outcomes for vulnerable Aboriginal children and their families are generally poor and significant improvement is required in the performance of systems intended to support them.

Aboriginal children and young people are significantly over-represented in Victoria's statutory child protection system and are around seven to eight times more likely to be the subject of a report to the Department of Human Services than non-Aboriginal children. Aboriginal children or young people also now represent one in six Victorian children or young people being placed in care. Indeed the increase in the numbers of Aboriginal children and young people in out-of-home care in recent years accounts for most of the overall increase in the number of children in out-of-home care each year.



Figure 7 Children entering out-of-home care, by Aboriginal status and proportion of Aboriginal children, Victoria, 1994-95 to 2009-10

Source: Analysis of data provided by the Department of Human Services

3.4 The importance of preventing child abuse and neglect

Recurring reports and multiple substantiations of child abuse and neglect underscore the fact that a statutory child protection service of itself cannot redress the multiple and chronic issues associated with child abuse and neglect. Tackling the enduring nature of vulnerability requires a broader framework and the design of effective preventative and targeted interventions for vulnerable children and families, particularly in disadvantaged areas. So while the Inquiry accepts the reality that it is necessary for Victoria to have an efficient and effective statutory child protection service, the overall goal should be to prevent children from entering the system in the first place.

Whenever possible, society should do all that is practicable to support families of vulnerable children so that vulnerability is significantly reduced and it is safe for children and young people to remain in their family home. Therefore the Inquiry has devoted a significant amount of time and consideration to prevention and early intervention policies, practices and programs.

Approximately 65 per cent of families accessing Victorian government-funded early parenting assessment and skills development services are identified as having four or more risk factors for child abuse and neglect, including mental illness, family violence, substance misuse, teenage motherhood, financial stress and parental disability (Department of Education and Early Childhood Development 2011d). There are strong grounds for government to act swiftly to address child vulnerability as part of a more integrated and collaborative framework for the protection and care of Victoria's children.

Once a child or young person has become involved with statutory child protection services, the goal should be to avoid repeated statutory interventions over the course of the child's life. The problems that have caused the need for statutory intervention for that child should be addressed so that the child's family is equipped to care for them safely until they transition to adulthood and independence.

Victoria's antenatal and maternal and child health services are a cornerstone of its universal, early intervention and prevention program covering all children and are particularly important in the early care of vulnerable children. These services must be better resourced to meet the specific and demanding needs of Victoria's vulnerable children and their parents.

It is also important that Victoria makes the most of other support and protective programs that can act to reduce harm to vulnerable children. For example, early childhood education and care and community-based supported playgroups can play an important part in supporting and to some extent protecting vulnerable families and their children. The Inquiry has made a number of recommendations about strengthening these programs and how they might contribute to meeting the needs of Victoria's vulnerable children and young people.

3.5 Services for vulnerable children and young people and their families

Early intervention programs, when well designed and resourced, are an effective method of improving outcomes for vulnerable children and young people, including reducing the risk of child abuse and neglect. Studies have also shown that early intervention can be a more cost-effective investment in the long term than later interventions.

Although Victoria has a substantial range of early intervention programs with the potential to support vulnerable children, young people and their families, they do not come together to form a comprehensive, coherent and coordinated system of early interventions that address the needs of vulnerable children and their families. Within the Victorian Government, the departments of Human Services, Health and Education and Early Childhood Development each delivers or funds a set of early intervention programs to target groups, consistent with their particular policy goals. There is an absence of holistic service planning and coordinated provision that meets the diverse needs of a child or young person across early childhood, school, health, community-based family services and specialist adult services.
Children are most vulnerable when parents or carers suffer from mental illness or drug or alcohol problems or are subject to or are perpetrators of family violence. Specialist adult service providers are not sufficiently attuned and resourced to identify vulnerability in children when they are providing certain services to their parents. These services need to recognise and take action regarding the needs of their clients as parents and respond to the needs of their children. Victoria's system for protecting vulnerable children requires a unified policy and service delivery framework that includes adult services and that sets out integrated and defined policy objectives and indicators for evaluating progress in reducing vulnerability for children and young people.

Victoria's early intervention efforts are also hampered by a lack of evidence on what interventions work to reduce vulnerability for children and young people. Agencies have largely relied on the evidence of effectiveness of overseas programs when designing interventions for vulnerable Victorian children and young people. There is a range of factors that could inhibit the successful replication of a program in another economic and social context.

It is concerning that many of Victoria's early intervention programs have not been rigorously evaluated. Where local evaluations do exist, the results are generally promising, but the findings are far less conclusive than the extensive, longitudinal evaluations of international programs. Rigorous evaluations should be an essential feature of any future early intervention initiatives.

3.6 Government agencies are responsible for working together effectively

It is critical that relevant government departments are required to accept their existing responsibilities to vulnerable children and their families and are held accountable for doing so. The Department of Human Services, acting alone, cannot adequately reduce the level of vulnerability for Victoria's children and young people. The Inquiry has found that some government departments, particularly Education and Early Childhood Development and Health, have given insufficient regard to the needs of Victoria's vulnerable children and young people.

The information management systems supporting programs and services for vulnerable children are separate and disparate. Data quality is variable and in some cases systems have not kept up with modern business processes or government requirements.

The shortcomings of existing data systems and practices mean agencies may not identify all vulnerable children and young people who could benefit from early intervention or statutory services. In 2011 the Victorian Auditor-General found that the Department of Education and Early Childhood Development was unable to reliably identify all vulnerable children and families and, in 2007, that there was a need for a common statewide database system for early childhood services. This may mean that government is failing to provide all vulnerable children, young people and their families with the support that they need to decrease the risk of abuse and neglect.

Agencies are often not held accountable for the support they provide, with performance measures tending to focus on outputs rather than child outcomes. For example, by Year 9 in Victoria's secondary school system, around 50 per cent of children in out-of-home care have below or well below acceptable levels of education. By Year 10, these children have, on average, very poor educational outcomes. The government departments in question should immediately address this matter.

However, there are other government departments implementing very promising initiatives. For example, in two sites, Victoria Police, child protection workers and sexual assault counsellors are co-located to better work together to address child sexual abuse. Very positive results have been identified in relation to this initiative.

3.7 The efficiency and effectiveness of Victoria's statutory child protection services

The growth in child protection reports has not been matched by an increase in investigations, substantiations and court orders, which have either generally declined over the same period (for investigations and substantiations) or risen at a slower rate (for court orders) (see Figure 8).

Figure 8 Child protection reports, investigations, substantiations and children admitted to care and protection orders, rate per 1,000 children, Victoria, 2000–01 to 2010–11



Source: Steering Committee for the Review of Government Service Provision 2011, *Report on Government Services 2011*, Table 15A.53

* Provided to the Inquiry by the Department of Human Services

There is an urgent need to reform the way that reports of possible harm to children are reported and handled. Managing such a large and increasing number of reports creates very significant challenges for statutory child protection services that can have damaging consequences for some children and their families. One consequence is that some children will be misdiagnosed as being in danger when they are not, while other children in serious and sometimes immediate danger of harm will not be identified early enough, or at all.

Once a child has been brought into the statutory system, the Department of Human Services needs to improve the effectiveness of its services to improve outcomes for vulnerable children and their families. As noted above, a critical goal should be to reduce the number of times a child returns to the statutory system. This requires a service response that addresses the underlying causes of vulnerability for children and their families.

A greater understanding of the characteristics of children and their families is needed so that the Department of Human Services can tailor statutory interventions to the particular vulnerability problems and issues faced by the families it deals with.

3.8 The experience of children in out-of-home care

When children are removed from their families the Victorian community must do all in its power to ensure those children have a safe and secure place to live, they are kept healthy, they are provided with the opportunity to obtain a quality education, they have the opportunity to take their place in the community and they experience the benefit that being part of a well-functioning community offers. Reunification is intended to be a planned and timely process for safely returning a child to his or her home and facilitating their future safety and wellbeing in that home.





Source: Adapted from information provided by DHS

Stability of care

For those children for whom reunification fails or is not possible, it is often many years, if ever, before some children and young people in the care of the State will be given the certainty of knowing who will be their permanent carer. During this time, some children move between many out-of-home care placements. This is the case even when it is recognised that there is little probability that the child will ever be able to return to the family home. The Inquiry considers it takes far too long for a child to achieve placement stability and this exposes too many children to additional trauma. Barriers to applying Victoria's existing legal provisions for adoption and permanent care arrangements must be identified and removed. Greater certainty should be provided to these children and young people as soon as possible. The number of placements should be significantly reduced.

The Department of Human Services should be structured and organised to focus on one of its key responsibilities of identifying risk of abuse and neglect, and ensuring that Victoria's vulnerable children are placed in appropriate care as quickly as possible. It also needs to strengthen and better focus on regulating and managing the contracting system with community service organisations who provide services to vulnerable families and out-of-home care services to those children who are removed from their families.

Carers have a very important role in Victoria's system for protecting children. Kinship care, foster care and residential care all play an important part in addressing care and housing needs for these vulnerable children and young people at critical times in their lives. Volunteers who are recruited and supported by a range of community service organisations provide kinship care and foster care. Residential care is provided by paid staff, who are mostly employed by community service organisations.

All these forms of care for children and young people are under stress. Community service organisations reported increased difficulty in recruiting kinship and foster carers, and residential care in its current form needs significant reform. The Inquiry recommends a number of reforms in this important area. Further, when young people leave the care of the State, they need to be given the resources to make this sometimes difficult transition with dignity and appropriate support.

It should be noted that significant costs arise from administering statutory child protection and out-of-home care services. Based on a conservative estimate of child abuse and neglect that occurred for the first time in 2009-10, the average financial cost for a child or young person is in the order of \$293,000 per person over the course of their life. The largest proportion of these costs is for out-of-home care. For each child or young person experiencing out-of-home care in Victoria, the average cost is around \$100,000 for their placement. On average a child will stay in some form of out-of-home care for over 18 months. The costs associated with young people placed in residential care are more than twice this amount.

3.9 The experience of children leaving out-of-home care

In Victoria during 2010-11, some 1,730 children and young people who were in care for one month or longer exited care. Around 70 per cent of these were aged under 15 years and the majority were reunited with their family. The remainder, or more than 550 young people returned to the family home, while others exited care into independent living.

Around 400 young people leave out-of-home care annually following the expiry of their guardianship or custody order. The limited research available suggests a significant proportion experience major issues in the transition to independent living and have long-term negative outcomes.

Contemporary and comprehensive research and information on the experiences of Victorian young people leaving care, their access to, and impact of, leaving care and post-care services, are not available. Therefore there is an urgent need to gather information on current post-care experiences and the access to and impact of current arrangements.

3.10 The role and capacity of community service organisations

The community sector has a long tradition of providing care and support for Victoria's vulnerable children, young people and their families. In Victoria this tradition goes back to the mid-1850s. Currently, more than 100 community service organisations provide – on a contract basis – the majority of the government's support services for Victoria's vulnerable children, young people and their families. More than 90 community service organisations provide the government's intake and community-based child and family services in the 24 catchment areas of the Child FIRST initiative, and 13 Aboriginal agencies form part of this and other government service responses.

However, the needs of these children, young people and families are becoming increasingly more complex. This increased complexity is placing significant demands on the ability of Victoria's community service organisations to provide these government funded services.

The capacity and structure of community service organisations can impact on or impede the overall quality of service provision being purchased by government, particularly in complex human services areas. These limitations include:

- Inadequate capacity among some community service organisations, due to a lack of resources, skills and knowledge and inadequate governance arrangements;
- An absence or scarcity of community service organisations in key geographical areas; and
- Limited capacity or willingness of some community service organisations, due to size and other factors, to explore and adopt innovative or new approaches.

The Inquiry considers that these limitations can be exacerbated by an inappropriate or under-developed regulatory framework that governs the relationship between the Department of Human Services and community service organisations, and that does not establish the appropriate standards or expectations for community service organisations or promote a quality improvement approach to service delivery.

3.11 The role of the Children's Court

There is a central role for a specialist Children's Court to determine the lawfulness of any action taken by the State when it proposes to take the very serious step of removing a child or young person from his or her home. However, the current statutory child protection system leans heavily towards court-based solutions for managing the life of a child in need of protection. Further, the current range of protection orders under the *Children, Youth and Families Act 2005* is unnecessarily complex and in some instances serves overlapping purposes. There is considerable scope to simplify the current legislative scheme and legal processes for resolving protection applications.

The current environment of the Melbourne Children's Court adds to the trauma and harm experienced by vulnerable children and young people. This is due to several factors:

- The high proportion of protection applications brought to the Melbourne Children's Court because it hears applications for a large part of metropolitan Melbourne;
- The Melbourne Children's Court being one of only two venues in Victoria at which the Children's Court sits on a full-time basis;
- The current physical and administrative constraints in the Melbourne court building; and
- A culture of mistrust, combativeness and disrespect between parents, child protection practitioners and lawyers during a highly stressful time in a child and family's life. Protection concerns are often only properly discussed between parties for the first time in court.

The provision of clinical services to the Children's Court is an important part of the process for determining what is in the best interests of many of the children and young people coming before the Children's Court. The current model for providing these services needs substantial and immediate reform. Children and young people are often required to travel long distances to Melbourne for clinical assessments and spend up to a day in the Children's Court building. There is little transparency around the structure, governance and provision of clinical services, and clinical staff and sessional providers are less well remunerated than in other jurisdictions. All these and other matters have led to an undermining of the credibility of the Children's Court Clinic from the perspective of many within Victoria's system for protecting children.

3.12 Regulation and transparency

The regulation and oversight of Victoria's system for protecting vulnerable children needs to be strengthened. The Department of Human Services' current approach to regulating community service organisations does not do enough to identify, address and prevent shortcomings in the quality of out-of-home care services. In particular, the monitoring and review of community service organisations is not informed by a systematic analysis of risk and, as a result, is not targeted to where it is needed most.

While the Child Safety Commissioner is often regarded as the independent scrutineer of Victoria's statutory child protection system, the commissioner's independence and oversight powers and functions are limited compared with what is required and with commissioners and guardians in other states and territories. Statutory child protection services are not subject to systematic monitoring and review, and the commissioner does not have the ability to initiate inquiries. While the Department of Human Services is subject to investigation and audit by the Victorian Ombudsman and the Victorian Auditor-General, these investigations do not provide the regular independent scrutiny and public reporting that is required. In addition, the current two-stage arrangements for reviewing of child deaths are unwieldy and time-consuming.

Child FIRST, Victoria's key organisational framework for the referral and delivery of preventative and early intervention programs for families in stress or who are vulnerable, needs substantial and urgent reform. The Inquiry has found that the role of Child FIRST is ill-defined and its governance structure inadequate. Currently some Child FIRST networks are significantly under-resourced, while others are unable to meet their required service quotas. However, the current structure makes it difficult to transfer available resources to areas of greatest need.

4. A way forward

The Inquiry has reached three types of conclusions:

- Recommendations: the most formal of the Inquiry's conclusions. These are the areas where the Inquiry has specified action that should be taken by government to address an issue;
- Findings: significant conclusions resulting from the Inquiry's analysis; and
- Matters for attention: these cover areas the Inquiry was unable to consider or that may not reside within the Inquiry's scope or Terms of Reference, however are significant and require further attention by government.

The Inquiry proposes a set of recommendations to deliver policy and system changes to improve the government's response to child abuse and neglect and to focus on the needs of children and young people. These recommendations contribute to 10 major system reforms designed to achieve the system goals identified in Figure 10.

Figure 10 Major system reforms for protecting children through a system that prevents and responds to child abuse and neglect



4.1 A Vulnerable Children and Families Strategy

Many factors contribute to a child's vulnerability relating to health, development and wellbeing. Establishing a whole-of-government Vulnerable Children and Families Strategy is essential for managing the heavy interdependencies between the health, social and economic drivers of vulnerability and, ultimately, child abuse and neglect. It will also link the myriad plans, programs and services identified throughout this Report into a cohesive approach focused on protecting vulnerable children.

A proposed Vulnerable Children and Families Strategy will include a performance framework that will identify and list the accountabilities, performance measures or indicators to be used by government to measure progress against the objectives contained in the strategy. Performance against these objectives should be reported on regularly through *The state of Victoria's children* report.

4.2 Clearer departmental and agency accountability

Some government departments and agencies are failing to meet their responsibilities to Victoria's children and young people. Individual departments and agencies need to be more accountable for the specific delivery of services in relation to vulnerable children and families within their traditional portfolio responsibility. Stronger accountability and scrutiny of agencies' performance will drive a clearer focus within these government departments and agencies on achieving outcomes for vulnerable children.

The proposed Commission for Children and Young People would report publicly on all elements of government performance in relation to addressing vulnerability and the performance of Victoria's system for protecting children. Government should establish a Children's Services Committee of Cabinet comprising the responsible Ministers who would oversee the development and implementation of the Vulnerable Children and Families Strategy.

Under the Inquiry's proposed Vulnerable Children and Families Strategy, the Children's Services Coordination Board would be given greater operational responsibility for coordinating policy, programs and services that affect children and young people. A rejuvenated Board would oversee development and implementation of the Vulnerable Children and Families Strategy and report on this to the proposed Children's Services Committee of Cabinet.

The role of the Victorian Children's Council should be clarified and strengthened and it should be required to submit an annual work plan to government for endorsement.

4.3 Expanded Vulnerable Child and Family Service Networks

An effective system of early intervention must both identify vulnerable children and their families and deliver services that meet their needs. This requires all relevant services across sectors to put the considerations of the best interests of children at the heart of their practice. Universal services and specialist adult services have an essential role to play in the early identification of children and young people who are at risk, and providing support based on a holistic assessment of the family's needs. Targeted services need to be coordinated at the local level to support an integrated, multidisciplinary response to individual families. A more coordinated approach to providing early intervention support for vulnerable children requires better collection and coordination of data about vulnerable children.

Child FIRST and the local Alliances of family services provide a basis for developing an accessible entry point to an integrated network of targeted services to meet the full range of needs of vulnerable children and their families. Child FIRST should be replaced by a more appropriate organisational structure that implements consistent governance arrangements across catchments to strengthen the Alliances' accountability for their performance (Stage 1 of Figure 11). Area Reference Committees should be established in each catchment to oversee the monitoring, planning and coordination of services and management of operational issues.

Child and family support services need to be expanded to develop a broader, more coherent Vulnerable Child and Family Service Networks, encompassing specialist adult services, health services and targeted programs linked to universal services (Stage 2 of Figure 11). The resulting Vulnerable Child and Family Service Networks would support the provision of an integrated package of services that comprehensively meet the needs of vulnerable children and their families. The networks should be expanded in stages, with the first priority to include other services within the Department of Human Services portfolio, plus specialist adult services that address key risk factors of child vulnerability such as drug and alcohol services and mental health services.





Source: Inquiry analysis

4.4 An area-based approach to co-located intake

Statutory child protection intake does not function as an effective gateway to the wide range of family and other services required to address vulnerability and the underlying causes of child abuse and neglect. In order to improve the response to reports about vulnerable children, over time, a major system reform is required to the intake arrangements that more clearly specifies the respective roles and responsibilities of the available services.

Intake arrangements can be better calibrated to ensure that vulnerable children and their families receive priority assistance from prevention and early intervention initiatives, in particular, alcohol and drug misuse, family violence, mental health and disability services. Changes are required to intake arrangements that align statutory services as part of a broadened cross-government service response for protecting vulnerable children and their families.

Improving the efficacy of referrals from statutory child protection to child and family support services is expected to increase demand for voluntary community-based services for assistance and support for families. The Inquiry's recommendations on funding requirements for these reforms to succeed are set out and considered in detail below.

Over time and following the phased implementation and evaluation of the Vulnerable Child and Family Service Networks, the Inquiry envisages that statutory child protection services will begin to operate within the context of a broader service response that will better recognise the interconnections between families experiencing chronic vulnerability and the families that require statutory intervention.

The Inquiry considers that co-locating intake processes so that statutory child protection practitioners sit physically alongside their community service organisation Child FIRST intake counterparts would drive greater collaboration and knowledge-sharing about protective risk assessment. Such a change would, over time, evolve the current community-based child protection practitioner function to area-based, co-located intake teams. The Inquiry recommends that a pilot approach be adopted for co-locating intake as a foundation reform.

A future vision for intake would involve a consolidated approach that would combine decision making about reports concerning individual children and young people. A consolidated intake approach would have as its goal the establishment, over time, of a well-respected, area-based, single entry point for a broad range of services for vulnerable children and their families (Stage 3 of Figure 11). A number of serious risks and challenges are presented by this vision, however, including demand pressures, the need to maintain the option for self-referrals and avoiding increased complexity or duplication of services. These challenges must be considered carefully and addressed in order for any future reforms to succeed.

4.5 Strengthening the law and its institutions

A child has the right to be protected by the State from harm, not just through specific child protection laws but also through the criminal law and other laws. This requires the various institutions and agencies that play a role in upholding the laws to communicate with each other and to investigate and enforce breaches of the law. This includes expanding the utilisation of multidisciplinary centres that bring together Victoria Police, Department of Human Services and support personnel, and counsellors from Centres Against Sexual Assault, and full utilisation of Victoria Police Sexual Abuse and Child Abuse Investigation teams, and Victoria Police Family Violence Response Units.

Some of the key ways in which the laws protecting children can be strengthened are by: recognising that child physical and sexual abuse is a crime in the *Children, Youth and Families Act 2005*; full and effective utilisation of the *Protecting Children Protocol* between Victoria Police and the Department of Human Services to ensure that allegations or suspicions of child criminal abuse are investigated by police and where appropriate prosecuted; upgraded interview methodology for elicitation of evidence of criminal child abuse; gazetting those occupational groups that are listed as mandated reporters in the *Children, Youth and Families Act 2005*, but are not yet obliged to make reports and ensuring they are properly trained; creating a separate reporting duty; and creating a failure to report offence for ministers of religion and members of religious or spiritual organisations in relation to suspected physical and sexual abuse of children by other members of that organisation. Another proposed reform is to repeal the provisions enabling a court to issue a suppression order under the *Serious Sex Offenders (Detention and Supervision) Act 2009*. This is a majority recommendation of the Inquiry.

Changes are also required to some elements of the operation of the Children's Court to reduce the adversarial nature of court processes. These reforms should allow for increased opportunities for collaborative problem solving that would promote the ongoing safety of the child while, at the same time, maintain the critically important link between the child and family. These reforms include: the introduction of a new statutory Child Safety Conference to resolve protection concerns where appropriate without requiring a court determination; improved professional education and accreditation for lawyers and child protection practitioners; new specialist listing and docketing processes in court; the introduction of a Less Adversarial Trial model for hearings; and strengthening the Children's Court's New Model Conferences.

The incidence and complexity of orders made in the Children's Court needs to be reduced. In particular, the Court's jurisdiction should be limited to matters that fundamentally alter the relationship between children and their parents or other significant people in the child's life, or matters that intrude upon fundamental individual rights. The Court should not exercise jurisdiction in the day-to-day management of the life of a child in need of protection. That role is within the administrative responsibility of the Department of Human Services and, where appropriate, subject to review by a specialist children and young person's list within the Victorian Civil and Administrative Tribunal. As part of the realignment of the role and processes of the court, the Children's Court should operate under separate, new legislation, the *Children's Court of Victoria Act*.

Most of the legal considerations about the safety and future of vulnerable children and young people can be conducted without children being present at the Court. Children should attend the Court and its precinct only if they wish to do so and when it is necessary and our laws and court processes should be changed to make this possible. The services of the Court should be decentralised so that traumatised children and families do not have to travel long distances in order to attend. A child's voice can be better represented in court by amending the *Children, Youth and Families Act 2005* to: formally recognise a child as a party to a protection proceeding; presume a child over the age of 10 years is capable of giving instructions; and allow for the child's voice to be heard through a properly trained and accredited independent children's lawyer on either a direct representation or on a best interests representation basis, depending on the child's capacity to give instructions.

The Children's Court Clinic, the current provider of clinical services to the Court, should be abolished and replaced by a statutory entity that has a clear structure for providing clinical services. This model would include: an independent board that engages and oversees a panel of expert clinical service providers; clinical services that are easily available to children and families in rural and regional Victoria; and clinical services that provide high quality assessments and services to the Children's Court, the Victorian Civil and Administrative Tribunal and to the parties to the proceedings.

4.6 Out-of-home care funding and services aligned to a child's needs

A comprehensive, five year plan is required for Victoria's out-of-home care system, that is based on reducing the growth of the number of Victorian children and young people in care in line with the overall growth of Victoria's population children and young people. The plan's objective should focus on improving the stability, quality and outcomes of out-of-home care placements. An area focus should be used for the planning, delivery and monitoring of out-of-home care services.

A major supporting feature of the plan should include the progressive adoption of client-based funding to facilitate the development of individual and innovative responses to the needs of the child or young person who has been the subject of abuse and neglect. All children and young people entering out-of-home care should receive comprehensive health, wellbeing and educational assessments and service responses to meet their needs. Significant investment in funding and support arrangements is also required for home-based care and residential care.

As part of improving stability outcomes for children, the Department of Human Services should identify and remove barriers to achieving the most appropriate form of permanent placements for children where this is required to best meet a child's needs. Barriers can be addressed by seeking parental consent to adoption or pursuing legal action to seek the dispensation of parental consent to adoption to enable placing the child in a suitable adoptive family. More timely applications for permanent care orders need to be initiated. Further, the lack of financial and other support measures that make carers reluctant to apply for permanent care for a child must be addressed. A careful assessment of the circumstances of each child should determine whether adoption or a permanent care order is the better option.

The Secretary of the Department of Human Services should have the capacity to extend out-of-home care placements on a voluntary and needs basis to young people beyond 18 years. Current leaving care arrangements should be enhanced, including stable initial accommodation arrangements and the level, range and integration of leaving and post-care assistance. In the medium term, consideration should also be given to extending post-care assistance on a needs basis to young people up to the age of 25 years.

4.7 Improved community sector capacity

As the sole purchaser and funder of services for vulnerable children and their families, the government has a broad set of public interest objectives and accountability requirements to meet. It also holds a capacity, through the tools of service specifications and funding arrangements, to lead and encourage community service organisations to achieve better outcomes and more effective and efficient service delivery.

Community service organisations provide critical services outside the traditional structures of public administration governance. However, the Department of Human Services remains accountable for both the performance and ethical conduct of the community service organisations concerned. The relationship between community service organisations and the Victorian Government should be viewed as a long-term collaboration, not from a joint partnership or joint responsibility perspective. This long-term relationship should be based on a model that recognises that the Victorian Government is ultimately responsible to the Victorian people for the overall policy leadership and accountability for the structure and performance of the child, youth and family support and service system.

The Victorian Government's practical acknowledgement of the capacities and service delivery roles of community service organisations in relation to addressing the needs of vulnerable children and their families should be reflected in collaborative service system planning, coordination and performance monitoring at a regional and area level. For example, the Area Reference Committees proposed as part of the Vulnerable Child and Family Service Networks should include a representative of each community service organisation and be co-chaired by the chief executive officer (or area manager) of the lead community service organisation and the Department of Human Services area manager.

There is a strong case for the Victorian Government to take a more proactive role than it has to date to improve the overall structure and capacity of the community sector. The focus for these activities should be the governance, quality, financial viability and the number and capacities of smaller service providers.

The Department of Human Services should retain responsibility for regulating and monitoring community service organisations, provided this function is independent and subject to oversight. The Department of Human Services should adopt a risk-based approach to regulating community service organisation performance. Complementing the regular program of performance reviews, the Department of Human Services should also undertake unannounced inspections.

4.8 Improving the broader regulatory and oversight framework

Victoria should immediately begin the task of establishing a more appropriate regulatory framework and a specialist regulator for the whole of Victoria's system for protecting children. External scrutiny of service delivery can provide independent assurance that services are well managed, safe and fit for purpose, and that public money is being used properly. Regular, external oversight and reporting also supports continuous improvement in individual services and across the sector.

The proposed new Commission for Children and Young People would oversee and report to Ministers and Parliament on all laws, policies, programs and services that affect the wellbeing of vulnerable children and young people. The Commission would replace the existing Child Safety Commissioner but retain the Commissioner's current roles and functions. It would also include a Commissioner or Deputy Commissioner with specific responsibility for matters related to vulnerable Aboriginal children and young people. The Commission's functions would also include consolidating and streamlining the current two-stage review process carried out by the Child Safety Commissioner and the Victorian Child Death Review Committee. The Commission would also assume the specific powers currently granted to the Ombudsman under section 20 of the *Children, Youth and Families Act 2005*.

In line with the Vulnerable Children and Families Strategy which will provide indicators and performance measures to be monitored and reported on by the Commission, the Department of Human Services should produce a complementary comprehensive annual report on its regulation and monitoring of community service organisations. Such reporting will drive greater transparency and scrutiny of the Department of Human Services' regulatory decisions and will play an important role in rebuilding public confidence and trust in Victoria's system for protecting children.

4.9 Addressing the needs of Aboriginal children and young people

Achieving change in the outcomes for vulnerable Aboriginal children and families is a whole-of-government task, with responsibility crossing over many areas of Victorian Government activity in addition to a significant Commonwealth government role.

Within the systems of education, family services and statutory child protection services (including out-of-home care), Aboriginal children are experiencing very poor outcomes. This suggests the need for the development of specific responses to identify different ways to assist vulnerable Aboriginal children and improve outcomes. The numbers of Aboriginal children involved with statutory child protection services and involved in out-of-home care continues to be unacceptably high. However, the ability of statutory child protection services to address entrenched disadvantage is limited. Therefore, renewed efforts to create improved service responses are needed for the large numbers of Aboriginal children within statutory child protection and out-of-home care. The creation of a dedicated Aboriginal Children's Commissioner or Deputy Commissioner, within the proposed Commission for Children and Young People, would bring an increased focus to improving outcomes for vulnerable Aboriginal children in Victoria across all service systems. The Aboriginal community should be given a substantially larger role in determining how to reduce the overrepresentation of Aboriginal children and young people in statutory child protection and be provided with greater authority and responsibility for addressing this important issue. The process of transferring the authority and responsibility for the welfare of Aboriginal children and young people to appropriately structured Aboriginal organisations should begin immediately. For the reasons outlined in this Report, this will take time; it will need to be managed sensitively and it will need to be appropriately resourced. The Inquiry recommends a 10 year plan to achieve this goal.

4.10 A sector-wide approach to professional education with greater development and application of knowledge to inform policy and service delivery

Professional education

The child protection and family services workforce deals with some of the most difficult and confronting cases of serious child abuse and neglect. They work with families with complex and often multiple problems. By its nature, the work they undertake can be disturbing, stressful and at times threatening and it is in these circumstances that workers are expected to exercise a high degree of expertise, skill and judgment. The work undertaken by the child protection and family services workforce is important, and when done effectively, it can have a significant effect on the lives of the children and families they work with, as well as the general health of the community.

Different components of the sector-wide workforce contribute to protecting vulnerable children. They include:

- A government workforce that is primarily focused on statutory child protection;
- A community sector workforce, that delivers a range of out-of-home care and family services;
- Volunteers and households that support the family services activities and provide the vital foster and kinship care segments of the out-of-home care system; and
- A wide range of other professions that interact with vulnerable children including those in the health, education, legal and other sectors, who, in the course of their work, are likely to come into contact with vulnerable children and families.

While there are very different issues affecting all these important components of the child protection and family services workforce, there is a set of key common issues including: the need for increased skills and professional development; the need to address issues with recruitment and retention; and the need for clear pay structure and career pathways.

A number of workforce issues can be addressed by improving the professionalisation of the child protection and community sector workforce through a process that is qualification-led. A child and family welfare sector training body should be established to oversee an industry-wide workforce education and development strategy. Among other components, the strategy should focus on consolidating the number of separate training budgets and strategies relating to child protection and family services.

The needs of vulnerable children from culturally and linguistically diverse communities

Victoria's multicultural society consists of people from more than 230 countries. Some migrant families experience challenges in parenting and in adapting to Australian norms and laws. When children from culturally and linguistically diverse communities find themselves within the statutory child protection system, the workforce and support programs engaging with these children and their families will need to be able to meet their cultural and religious needs.

In addition, the lack of data about culturally and linguistically diverse children and young people and their interaction with Victoria's system for protecting children needs to be urgently addressed.

The importance of culturally competent service delivery for Aboriginal and culturally and linguistically diverse communities, and the need to improve the cultural competence of the child and family services workforce is clear. The Department of Human Services should improve the cultural competence of child and family services through a number of means.

The application of knowledge

Good public policy and planning must be grounded in high-quality information and data, particularly in complex service delivery environments. The Inquiry found a lack of data across several areas relating to Victoria's system for protecting children. There is a lack of ongoing data on major demographic characteristics and presenting issues of vulnerable children and their families, as well as data on the impact of statutory child protection services and other interventions. These constraints need to be addressed. Part of the role of the Commission for Children and Young People will include identifying and focusing attention on the need for research programs that are anchored in improving service responses addressing the needs of children and young people.

5. Funding

There is evidence of increasing demand for services in all areas of child protection and family services. Funding for these services needs to be more explicitly linked to past trends and projected demand, and additional investment will be required. The significant regional variations in service delivery and outcomes needs to be addressed through a consistent approach to the regional distribution of child protection and family services funding. The flexibility of service funding and a fair and appropriate basis for this is critical for the future development of more innovative and robust services that improve the outcomes of vulnerable children and their families.

The Department of Human Services should review the list of child protection and family services it funds that are delivered through community service organisations, with a view to consolidating the number of these services and funding arrangements and adopting a broader, more client-focused approach. An explicit policy of fully funding child protection and family services delivered through community service organisations should be adopted, including provision for infrastructure and other relevant costs. The Essential Services Commission should be given an ongoing role to periodically determine appropriate prices for these services delivered through community service organisations. This will provide a greater level of independent oversight of the Victorian Government's role as the sole purchaser of services delivered through community service organisations.

6. Reform and change over time

The Inquiry recommends extensive and far-reaching changes to Victoria's current system for protecting children. However, it has decided to be circumspect in the extent to which it recommends such a volume of reform that might of itself put the lives, safety or welfare of vulnerable children at risk, both now and in the future.

Change and reforms take time, particularly within a system as complex and as fragile as Victoria's system for protecting children. The Inquiry has been careful only to recommend changes that it believes are necessary, can be successfully implemented and within a reasonable period of time, and would not put the current system at unnecessary or unwarranted risk. The progress of these reforms should be evaluated regularly, and used to inform future planning and implementation of initiatives through the proposed Vulnerable Children and Families Strategy.

The Inquiry believes that Victoria should build on its current system for protecting children and implement reforms that will reduce the level of vulnerability in our society.

When the State of Victoria becomes the guardian of children and young people, it has a responsibility to address their complex needs. At birth, these children have the same potential as other Victorian children. Victoria's system for protecting children and young people must be capable of giving these children the very best chance to grow and develop into independent and successful adults who are valued and productive members of our society.

Our vulnerable children and young people deserve nothing less.

Report of the Protecting Victoria's Vulnerable Children Inquiry Volume 1



List of recommendations

Chapter 4: The performance of the system protecting children and young people

- 1. The Government should consider, as a matter of priority, investing resources in:
 - The information management systems spanning vulnerable families and children including the statutory child protection system to incorporate information on the major demographic characteristics (including culturally and linguistically diverse and Aboriginal status) and the presenting issues of vulnerable families and children;
 - The regular publication of information on the characteristics of families, children and young people who have multiple interactions with the statutory child protection system to facilitate research and transparency about the performance of the system; and
 - Conducting cost-benefit and feasibility assessments, including the possible governance arrangements of:
 - instituting cohort or longitudinal surveys of families and children following their involvement with statutory child protection services and, over time, related services for vulnerable children and families; and
 - the approach developed in Western Australia of linking de-identified health data to de-identified data from the departments of Child Protection, Education, Disability Services and Corrective Services and Housing and Community, as a means of identifying for policy and program development purposes, the factors linked with child protection reports and the nature and dimensions of the subsequent experiences and issues.

Chapter 6: A policy framework for a system to protect vulnerable children and young people

- 2. The Government should develop and adopt a whole-of-government Vulnerable Children and Families Strategy. The objective of the strategy will be to establish a comprehensive government and community approach for improving Victoria's performance in responding to Victoria's vulnerable children and families at risk. The key elements are:
 - A definition of vulnerable children and young people;
 - Identified whole-of-government objectives, including specific roles and responsibilities for departments, both individually and collectively, in addressing vulnerability in children and young people;
 - A performance framework, or list of the accountabilities, performance measures or indicators to be used by government to measure the efficiency and effectiveness of the strategy; and
 - Accountability structures that set out appropriate oversight for monitoring the implementation of the strategy by departments and agencies, including reporting on such implementation to government and the public.
- 3. Performance against the objectives set out in a Vulnerable Children and Families Strategy, including information on the performance of government departments and statutory child protection services should be published regularly through *The state of Victoria's children* report.
- 4. Area-based policy and program design and delivery should be used to address vulnerability and protect Victoria's vulnerable children and young people. In particular, an area-based approach should be adopted for assessing outcomes specified in a Vulnerable Children and Families Strategy and for reporting on progress against performance indicators.

Chapter 7: Preventing child abuse and neglect

- 5. In preparing the whole-of-government Victorian Alcohol and Drug Strategy, the Department of Health should consider the impact of alcohol and drug abuse on the safety and wellbeing of children in families where parents misuse substances.
- 6. The Department of Education and Early Childhood Development should implement strategies designed to encourage greater participation by the families of vulnerable children in universal services.

- 7. The Government, through the Department of Education and Early Childhood Development, should:
 - Examine the capacity of local governments in low socioeconomic status areas to provide appropriate Maternal and Child Health and Enhanced Maternal and Child Health services, consistent with the concentration of vulnerable children and families, particularly as the current funding formula for Maternal and Child Health is based on a 50 per cent contribution by local government; and
 - Increase investment and appropriate infrastructure in universal services including maternal and child health, kindergarten and community playgroups, to communities that have the highest concentration of vulnerable children and families to increase the participation of vulnerable children in these services.

The increased investment in maternal and child health and enhanced maternal and child health should focus on:

- Enhanced support to families whose unborn babies are assessed as vulnerable to abuse or neglect, especially
 as a result of pre-birth reports; and
- A more intensive program of outreach to families of vulnerable children who do not attend maternal and child health checks, particularly in the first 12 months of life.
- 8. The Department of Health should develop and lead a consistent statewide approach for antenatal psychosocial assessment so that problems such as family violence, parental mental illness and substance misuse in pregnancy can be more effectively addressed.
- 9. The Department of Education and Early Childhood Development, in partnership with the Department of Human Services, should develop a universal, evidence based parenting information and support program to be delivered in communities with high concentrations of vulnerable children and families, at key ages and stages across the 0 to 17 age bracket.
- The Department of Education and Early Childhood Development should develop a wide-ranging education and information campaign for parents and caregivers of all school-aged children on the prevention of child sexual abuse.

Chapter 8: Early intervention

- 11. The Department of Education and Early Childhood Development should implement the recommendations from the Auditor-General's report on early childhood services by the end of 2012.
- 12. The Government should fund the expansion of early parenting centres to provide services to a greater range of vulnerable families and to improve access to families living in outer Melbourne, regional and rural areas.
- 13. The Department of Education and Early Childhood Development should improve its capacity to respond to the needs of vulnerable children and young people by:
 - Undertaking a comprehensive evaluation of whether existing school-based programs are meeting the needs of vulnerable children and young people; and
 - Introducing a population health and wellbeing questionnaire of students as they make the transition from childhood to adolescence, and publishing the outcomes in *The state of Victoria's children* report.
- 14. The Department of Health should amend the framework for monitoring the performance of health services to hold services accountable for support they provide to vulnerable children and families, consistent with their responsibilities under the recommended whole-of-government Vulnerable Children and Families Strategy.
- 15. The Government should enhance its capacity to identify and respond to vulnerable children and young people by:
 - Evaluating the outcomes of pre-birth reports to statutory child protection and pre-birth responses to support pregnant women;
 - Providing funding to support universal early childhood services, schools, health services (including General Practitioners) and specialist adult services to identify and respond to the full range of risk factors for child abuse and neglect. This should include increased investment in the Department of Health's Vulnerable Children's Program; and
 - Providing funding to support specialist adult services to develop family-sensitive practices, commencing
 with an audit of practices by specialist adult services that identify and respond to the needs of any children
 of parents being treated, prioritising drug and alcohol services.

- 16. As part of a strategy to improve services for vulnerable children and families in need, the Department of Human Services should strengthen area-based planning and coordination of family services and accountability arrangements under Child FIRST by:
 - Establishing Area Reference Committees to oversee the monitoring, planning and coordination of services and management of operational issues within each catchment. The Committees would be co-chaired by the Department of Human Services area manager and the chief executive officer or area manager of the lead community service organisation, and comprise a representative of each community service organisation in the local Alliance; and
 - Ensuring the funding arrangements for Alliance lead agencies clearly specify the agencies' responsibilities for receiving referrals, undertaking an initial assessment of clients' needs, and facilitating an appropriate service response, with appropriate performance indicators.
- 17. The Government should expand upon the existing local Alliances of family services and statutory child protection services to develop broader Vulnerable Child and Family Service Networks catchment-based networks of services for vulnerable children and families, including statutory child protection, family services, specialist adult services, health services and enhanced universal services.
- 18. The Government should ensure the legislation governing relevant services establishes the responsibilities of services to act in the best interests of children and young people, and to prioritise service delivery to vulnerable children, young people and their families. In addition, health services and specialist adult services should be required to adopt family-sensitive practice quidelines.

Chapter 9: Meeting the needs of children and young people in the statutory system

19. Following adoption of the Child FIRST governance changes and using a piloted approach, intake functions carried out by the Department of Human Services and by Child FIRST should be physically co-located on an area basis throughout Victoria. Statutory child protection intake should remain a separate process to child and family support services intake, but there should be an increased focus, particularly with common clients, on improving collaboration between statutory child protection and family support services and greater joint decision making about risks presenting to vulnerable children and young people.

Following implementation and evaluation of co-located intake throughout Victoria, and provided the key challenges and risks have been addressed appropriately, the Department of Human Services should aim to move towards a consolidated intake model where Child FIRST and statutory child protection intake processes are combined.

20. The Department of Human Services should introduce differentiated pathways as part of the statutory child protection response, with some increased case management by community service organisations.

The two pathways that should be adopted immediately should involve first-time contact families and the use of multidisciplinary centres to respond to suspected child sexual abuse victims. Following collaboration between the Department of Human Services and key stakeholders, two additional pathways should be adopted to address the needs of families that have repeated contact with the Department of Human Services and families experiencing chronic and entrenched vulnerability.

21. The Department of Human Services should simplify case planning processes and improve collaboration and pathways between statutory child protection services and other services, particularly family violence and disability services.

The Department of Human Services should increase case conferencing with other disciplines and services related to child protection issues including housing, health, education, drug and alcohol services and particularly for family violence and disability services.

In relation to family violence, consideration should be given to the evidence base for establishing differentiated pathways that lead to improved outcomes along the lines of those pathways discussed in Recommendation 20.

The protocol between statutory child protection and disability services should be strengthened, with more explicit statements around the roles and responsibilities of the different service agencies.

22. The Department of Human Services should simplify practice guidance and instructions for child protection practitioners.

The Department of Human Services should reduce practice complexity by consolidating and simplifying the number of standards, guidelines, rules and instructions that child protection practitioners must follow. This process should investigate and apply learnings from comparatively high-risk sectors such as health or aviation in the approach taken to risk management and adverse events.

- 23. The Department of Human Services should identify and remove barriers to achieving the most appropriate and timely form of permanent placements for children unable to be reunited with their biological family or to be permanently placed with suitable members of the extended family by:
 - Seeking parental consent to adoption, and where given, placing the child in a suitable adoptive family;
 - Pursuing legal action to seek the dispensation of parental consent to adoption for children whose circumstances make them eligible under section 43 of the *Adoption Act 1984*;
 - Resolving the inconsistency between practical requirements for child protection practitioners to simultaneously plan for reunification while contemplating permanent care arrangements; and
 - Reviewing the situation of every child in care who is approaching the stability timeframes as outlined in the *Children, Youth and Families Act 2005*, to determine whether an application for a permanent care order should be made. Where it is deemed not appropriate to do so (for example, where a child's stable foster placement would be disrupted), the decision not to make application for a permanent care order should be endorsed at a senior level.

Chapter 10: Meeting the needs of children and young people in out-of-home care

- 24. The Department of Human Services and community service organisations should continue to support the Who Am I Project on out-of-home care record-keeping to enable children and young people to access all records of relevance and, as appropriate, be provided with a personal record when leaving care.
- 25. The Government should, as a matter of priority, establish a comprehensive five year plan for Victoria's out-ofhome care system based on the goal, over time, of the growth in the number of Victorian children and young people in care being in line with the overall growth in Victorian children and young people and the objective of improving the stability, quality and outcomes of out-of-home care placements.

The key elements of the plan should include:

- Significant expansion in placement prevention initiatives to divert children from out-of-home care. In particular, increased investment in placement diversion and re-unification initiatives, when the safety of the child has been professionally assessed, involving intensive and in-home family support and other services for key groups such as families of first-time infants and young children;
- More timely permanent care where reunification is not viable;
- All children and young people entering out-of-home care undergo comprehensive health, wellbeing and education assessments;
- All children in out-of-home care receive appropriate therapeutic care, education and other services;
- Progressive adoption of client-based funding to facilitate the development of individual and innovative responses to the needs of child and young people who have been the subject of abuse and neglect;
- The introduction over time of a professional carer model to provide improved and sustained support for children and young people with a focus on lowering the use of residential care;
- Significant investment in the funding and support arrangements for:
 - home-based care including a common service and funding approach across foster care, kinship and permanent care and improved carer training, support and advocacy arrangements;
 - residential care including mandating training and skill requirements for residential and other salaried care workers (i.e. the proposed professional care model); and
- The adoption of an area-based approach to the planning, delivery and monitoring of out-of-home care services and outcomes involving the Department of Human Services, community service organisations and other relevant agencies.

Given the underlying trends and quality issues, implementation of this plan will require significant investment.

- 26. To provide for the clear and transparent development of a client-based funding, the Government should request the Essential Services Commission to advise on:
 - The design of a client-based funding approach for out-of-home care in Victoria; and
 - The unit funding of services for children and young people placed in care.
- 27. The Victorian Government should, as a matter of priority, give further detailed consideration to the professional carer model and associated arrangements and request that the Commonwealth Government address and resolve, as a matter of priority, significant national barriers associated with establishing this new category of worker including industrial relations and taxation arrangements.

Chapter 11: The experiences of children and young people when leaving out-of-home care

- 28. The Department of Human Services should collect regular information on the experiences of young people leaving care and their access to leaving care and post-care services and report the initial findings to the Minister in 2012 and thereafter on an annual basis to the proposed Commission for Children and Young People.
- 29. The Department of Human Services should have the capacity, including funding capacity, to extend the current home-based care and residential care out-of-home placement and support arrangements, on a voluntary and needs basis, for individual young people beyond 18 years of age.
- 30. The Department of Human Services should:
 - Ensure all leaving care plans identify stable initial accommodation options and that a 'no discharge to temporary and inappropriate accommodation policy' is adopted;
 - Review the levels and range of leaving and post-care financial assistance provided to care leavers as part of the development and implementation of the proposed Leaving Care Employment and Education Access Program, including appropriate representations to the Commonwealth Government on their current employment and education assistance programs; and
 - Assess the impact of the current leaving care services and programs, as a matter of priority, to determine whether the necessary access to, and integration of, post-care support across the full range of health, housing and other services is being achieved.
- 31. The Government should consider, in the medium term, the availability of post-care support and periodic followup being extended, on a needs basis, until a young person reaches the age of 25 years.

Chapter 12: Meeting the needs of Aboriginal children and young people

- 32. More detailed monitoring should be developed for the *Victorian Indigenous Affairs Framework* that provides reports on outcomes at the operational level regarding key areas of disadvantage (such as education attainment or family violence) and in specific localities with high prevalence rates of risk factors for abuse and neglect.
- 33. Aboriginal cultural competence should be a feature of the Department of Human Services standards for community service organisations. Further, the performance of agencies in relation to cultural competence should be an area of specific focus in the next cycle of community service organisation.
- 34. The Government should expand the use and effectiveness of culturally competent approaches within integrated family services and statutory child protection services through the Department of Human Services by:
 - Establishing funding arrangements with the Aboriginal Child Specialist Advice and Support Service that enable cultural advice to be provided across the full range of statutory child protection activities;
 - Using the Aboriginal Family Decision Making program as the preferred decision making process if an Aboriginal child in statutory child protection services is substantiated as having suffered abuse or neglect;
 - Expanding family preservation and restoration programs so they are available to Aboriginal families in rural and regional areas with significant Aboriginal populations;
 - Expanding Aboriginal kinship care support to provide support to all Aboriginal kinship carers; and
 - Expanding Aboriginal family support programs so they are available to Aboriginal families in areas with significant Aboriginal populations.

- 35. As part of the creation of a Commission for Children and Young People, an Aboriginal Children's Commissioner or Deputy Commissioner should be created to monitor, measure and report publicly on progress against objectives for vulnerable Aboriginal children and young people across all areas of government activity, including where government provides resources for non-government activities.
- 36. The Department of Human Services should develop a comprehensive 10 year plan to delegate the care and control of Aboriginal children removed from their families to Aboriginal communities. This would include:
 - Amending section 18 of the *Children, Youth and Families Act 2005* to reflect Aboriginal community decision making processes and address current legislative limitations regarding implementation;
 - Developing a sustainable funding model to support transfer of guardianship to Aboriginal communities that recognises the cost of establishing an alternative guardianship pathway. These arrangements would initially be on a small scale and require access to significant legal advice, legal representation, practice advice, specialist assessments and therapeutic treatment;
 - Developing a statewide plan to transfer existing out-of-home care placements for Aboriginal children and young people from mainstream agencies to Aboriginal community controlled organisations and guide future resource allocation (with performance/registration caveats and on an area basis);
 - Providing incentive funds for Aboriginal community controlled organisations to develop innovative partnership arrangements with mainstream providers delivering out-of-home care services to Aboriginal children to connect them to their culture;
 - Targeting Aboriginal community controlled organisations capacity building to these activities, that is, guardianship, cultural connection and provision of out-of-home care services; and
 - Providing increased training opportunities for Aboriginal community controlled organisation staff to improve skills in child and family welfare.

The proposed Aboriginal Commissioner or Deputy Commissioner for children and young people should report on performance against this plan.

Chapter 13: Meeting the needs of children and young people from culturally and linguistically diverse communities

- 37. To improve knowledge and data on vulnerable children of culturally and linguistically diverse backgrounds so that the appropriateness of current service provision can be considered:
 - The Department of Human Services should collect data to record and track children and young people of culturally and linguistically diverse backgrounds who are involved with the child protection system, and the family services sector; and
 - The Department of Education and Early Childhood Development should include data on the experiences of vulnerable children and young people of culturally and linguistically diverse backgrounds (including in Victoria's system for protection children) in *The State of Victoria's Children* report.
- 38. The Victorian Government, through the Council of Australian Governments, should seek inclusion of the needs of recently arrived children and families of culturally and linguistically diverse backgrounds in the *National Framework for Protecting Australia's Children 2009-2020*, in particular:
 - The need to provide advice and information about Australian laws and norms regarding the rights and responsibilities of children and parents; and
 - Appropriate resettlement services for refugees to prevent abuse and neglect of refugee children.

Chapter 14: Strengthening the law protecting children and young people

- 39. Victoria Police should change the brief authorisation process for allegations of child physical assault so that authorisation is conducted by a specialist senior officer.
- 40. The Department of Justice should lead the development of a new body of data in relation to criminal investigation of allegations of child physical and sexual abuse, and in particular the flow of reports from the Department of Human Services to Victoria Police. Victoria Police, the Office of Public Prosecutions, the Department of Human Services and the courts should work with the Department of Justice to identify areas where data collection practices could be improved.
- 41. The best interests principles set out in section 10 of the *Children, Youth and Families Act 2005* should be amended to include, as section 10(3)(a), 'the need to protect the child from the crimes of physical abuse and sexual abuse'.
- 42. The following Acts should be amended to ensure that service providers assisting adults also have a clear responsibility to the children of their clients:
 - Disability Act 2006;
 - Education and Training Reform Act 2006;
 - Health Services Act 1988;
 - Housing Act 1983;
 - Mental Health Act 1986; and
 - Severe Substance Dependence Treatment Act 2010.
- 43. The Children, Youth and Families Act 2005 should be amended to address the following issues:
 - Section 215(1)(c) that requires the Family Division of the Children's Court to consider evidence on the 'balance of probabilities' should be amended to expressly override the considerations in section 140(2) of the *Evidence Act 2008* and to disapply the *Briginshaw* qualification that requires a court to take into account the nature of the subject matter of the proceeding and the gravity of the facts alleged;
 - The definition of 'child' in section 3 should be amended to make it possible for protection applications in respect of any child under the age of 18 years; and
 - Out dated terms in the *Children, Youth and Families Act 2005* associating child protection with criminal law should be modernised and consideration should also be given to using terms consistent with the *Family Law Act 1975*. This includes: substituting the term 'emergency removal order' for 'warrants'; the term 'protection application by emergency removal' for 'protection application by safe custody'; and the word 'contact' for 'access' when describing contact between a child and a parent or other person significant in the child's life.
- 44. The Victorian Government should progressively gazette those professions listed in sections 182(1)(f) (k) of the *Children, Youth and Families Act 2005* that are not yet mandated, beginning with child care workers. In gazetting these groups, amendments will be required to the *Children, Youth and Families Act 2005* and to the *Children's Services Act 1996* to ensure that only licensed proprietors of, and qualified employees who are managers or supervisors of, a children's service facility that is a long day care centre, are the subject of the reporting duty.
- 45. The Department of Human Services should develop and implement a training program and an evaluation strategy for mandatory reporting to enable a body of data to be established for future reference. This should be developed and implemented in consultation with the representative bodies or associations for each mandated occupational group.
- 46. The Victorian Government should obtain the agreement of all jurisdictions, through the Council of Australian Governments or the Community and Disability Services Ministers' Conference, to undertake a national evaluation of mandatory reporting schemes with a view to identifying opportunities to harmonise the various statutory regimes.

- 47. The *Crimes Act 1958* (Vic) should be amended to create a separate reporting duty where there is a reasonable suspicion a child or young person who is under 18 is being, or has been, physically or sexually abused by an individual within a religious or spiritual organisation. The duty should extend to:
 - A minister of religion; and
 - A person who holds an office within, is employed by, is a member of, or a volunteer of a religious or spiritual organisation that provides services to, or has regular contact with, children and young people.

An exemption for information received during the rite of confession should be made.

A failure to report should attract a suitable penalty having regard to section 326 of the *Crimes Act 1958* and section 493 of the *Children, Youth and Families Act 2005*.

- 48. A formal investigation should be conducted into the processes by which religious organisations respond to the criminal abuse of children by religious personnel within their organisations. Such an investigation should possess the powers to compel the elicitation of witness evidence and of documentary and electronic evidence.
- 49. Section 146 of the *Family Violence Protection Act 2008* should be extended to permit the Children's Court to exercise jurisdiction under that Act when a child who is the subject of a child protection application is a child of 'the affected family member' or 'the protected person'.
- 50. Sections 182-186 of the *Serious Sex Offenders (Detention and Supervision) Act 2009*, which provide for the making of supression orders, should be repealed (Recommended by majority).
- 51. The Victorian Government should, consistent with other Australian jurisdictions, enact an internet grooming offence.
- 52. A national study should be undertaken to improve current knowledge and understanding of the causes of filicide and the behavioural signs preceding filicide. Such a study could be undertaken by a research body such as the Australian Institute of Criminology.

Chapter 15: Realigning court processes to meet the needs of children and young people

53. The *Children, Youth and Families Act 2005* should be amended to provide that:

- A child named on a protection application should have the formal status of a party to the proceedings;
- A child who is under 10 years of age is presumed not to be capable of providing instructions unless shown otherwise and a child who is 10 years and over is presumed capable of providing instructions unless shown otherwise;
- A child who is not capable of providing instructions should be represented by an independent lawyer on a 'best interests' basis; and
- Other than in exceptional circumstances, a child is not required to attend at any stage of the court process in protection proceedings unless the child has expressed a wish to be present in court and has the capacity to understand the process.
- 54. The Victorian Government should develop guidelines to assist the court, tribunal, or the independent children's lawyer to determine whether the child is capable of giving direct instructions and to provide criteria by which the presumption of capacity can be rebutted.
- 55. The Children's Court should be resourced to decentralise the Family Division by offering more sitting days at Magistrates' Courts or in other customised facilities in those Department of Human Services regions with high demand. Existing court facilities should be adapted as appropriate to meet the needs of children and their families.

- 56. The Children's Court should develop a case docketing system that will assign one judicial officer to oversee one protection matter from commencement to end. In order to evaluate the effectiveness of the system, the system should be piloted at an appropriate court location. The Department of Justice should support the Children's Court to establish the system.
- 57. The Children's Court should be empowered under the *Children, Youth and Families Act 2005* to conduct hearings similar to the Less Adversarial Trial model used by the Family Court under Division 12A of the Commonwealth *Family Law Act 1975*.
- 58. Appropriate training in infant and child development, child abuse and neglect, trauma, and child interviewing techniques should be developed and provided to lawyers practising in the Children's Court jurisdiction and in the Victorian Civil and Administrative Tribunal, having regard to the training offered to independent children's lawyers in the family law jurisdiction. This training should be a prerequisite for any lawyer seeking to represent a child on a direct representation or best-interests basis in proceedings before the Children's Court and should be an accredited course.

Appropriate education should be provided to judicial officers exercising the jurisdiction of the Children's Court and members exercising the jurisdiction of the Victorian Civil and Administrative Tribunal. The Victorian Government should consult with the relevant professional organisations and also seek the assistance of the Judicial College of Victoria in developing an appropriate professional education program.

- 59. The Victorian Government Solicitor's Office should represent the Department of Human Services in all child protection proceedings in the Melbourne Children's Court and other metropolitan and regional Children's Court sittings and at the Victorian Civil and Administrative Tribunal. Department of Human Services lawyers should represent the department at the pre-court conferencing stage.
- 60. Protection concerns should be resolved as early as possible using a collaborative problem-solving approach with a child-centred focus and minimising where possible, the need for parties to go to Court. This means that:
 - The Department of Human Services should, where appropriate, use voluntary Family Group Conferencing as a matter of practice to prevent matters from reaching the protection application stage;
 - Where a matter has reached the protection application stage, parties must try to resolve the protective concern, where appropriate, through a statutorily mandated Child Safety Conference set out in the *Children*, *Youth and Families Act 2005*; and
 - Where a matter is before the Children's Court, parties should, where appropriate, go through a New Model Conference and the Children's Court should be supported to implement this model of conferencing across the state.
- 61. Victoria Legal Aid should implement fee penalties for lawyers who fail to take adequate steps to ensure their clients' attendance at a New Model Conference and lawyers who repeatedly fail to do so should not be engaged by Victoria Legal Aid. This should also be addressed in the code of conduct being proposed for practitioners in 2012.
- 62. The Children's Court should establish specialist Sexual Abuse and Koori lists in the Family Division. The Children's Court should be resourced to create and implement these lists as a matter of priority. To ensure these lists are suitable for implementation across the state, a pilot could be run in the Melbourne Children's Court or another suitable court location.
- 63. The current scheme of protective orders under the *Children, Youth and Families Act 2005* should be simplified. This can be achieved by reviewing the scope and objectives of each order and their current utility. Consideration should be given to:
 - Removing Custody to Third Party Orders as a category of order from the Children, Youth and Families Act 2005;
 - Removing Temporary Assessment Orders as a category of order from the *Children, Youth and Families Act 2005*;
 - Creating a general 'Interim Order' which could incorporate the current functions of an Interim Accommodation Order and a Temporary Assessment Order;
 - Renaming 'Interim Protection Order' as either a 'Temporary Supervision Order' or 'Temporary Care Order'; and
 - Consolidating the current range of protection orders into categories of 'Interim' and 'Final' orders and into categories of 'Care' and 'Supervision' orders while maintaining the range of purposes that the various orders currently serve.

- 64. A specialist Child Protection List should be created in the Victorian Civil and Administrative Tribunal in order to hear any reviews of decisions by the Department of Human Services on conditions. The Victorian Civil and Administrative Tribunal should be resourced to ensure that the members who would determine disputes within that specialist list have appropriate qualifications and expertise in child abuse and neglect and child health and wellbeing. The current legal aid guidelines should be amended to enable parties who seek a review of decisions by the Department of Human Services at the Victorian Civil and Administrative Tribunal to be eligible to obtain legal aid representation without requiring special consideration.
- 65. The *Children, Youth and Families Act 2005* should be amended to confirm the status of the Children's Court as a court of record. The Children's Court should be appropriately resourced to enable decisions to be published on the Children's Court's website in de-identified form. Transcripts should also be made available to the public in de-identified form.
- 66. A new Children's Court of Victoria Act should be created and that Act should contain the current provisions in the *Children, Youth and Families Act 2005* relating to the Children's Court, appropriately modified. The Children, Youth and Families Act 2005 should be revised consequent upon removal of the provisions relating to the Children's Court.

Chapter 16: A workforce that delivers quality services

67. The Government should establish a child and family welfare sector training body to oversee development of an industry-wide workforce education and development strategy. This strategy should focus on consolidating the number of separate training budgets and strategies relating to child protection and family services.

This body should focus on:

- Developing the professionalism of the sector;
- Providing opportunities for continuing professional education including training and career path opportunities for workers entering at the Child Protection Worker-1 level;
- Addressing the education and training needs of the out-of-home care sector including carers;
- Overseeing and evaluating current training and development efforts, with an initial emphasis on assessing the adequacy of the Beginning Practice training offered to new child protection workers;
- Ensuring relevant training is consistent with national training frameworks and appropriately accredited;
- Identifying opportunities for providing combined training to government child protection workers, the community sector workforce and other professions;
- Coordinating the delivery of internal Department of Human Services courses;
- Procurement of other courses from external providers; and
- Collaborating with professional bodies and universities in disciplines that interact with vulnerable children to develop curriculum content relevant to the prevention of and response to child abuse and neglect.

The training body should be established as a public entity, with dedicated funding and staffing resources, and governed by a board drawn from the government and non-government sector. It should be led by an independent chair with expertise related to the professional education and training needs of the sector.

- 68. The Department of Human Services should improve the cultural competence of integrated family services and statutory child protection services, including through:
 - Applying leadership accountability for culturally competent services and client satisfaction at regional service delivery level through performance agreements;
 - Requiring cultural competence to be a component of all training;
 - Providing culturally appropriate training, assistance and support to carers of children and young people from culturally and linguistically diverse backgrounds in the out-of-home care system;
 - Encouraging local child and family services to draw links with relevant culturally and linguistically diverse communities as part of area-based planning reforms;
 - Recruitment strategies to attract suitable candidates from Aboriginal and culturally and linguistically diverse backgrounds into child protection including through the use of scholarship schemes to undertake relevant tertiary-level training; and
 - Exploring staff exchange and other joint learning programs on an area basis to build knowledge and respect for Aboriginal culture.

Chapter 17: Community sector capacity

- 69. The future relationship between the Department of Human Services and community service organisations should be based on a model where:
 - The Victorian Government is responsible for the overall policy leadership and accountability for the structure and performance of the child, youth and family support and service system; and
 - The capacities and service delivery roles of community service organisations for the provision of vulnerable children and families are reflected in collaborative service system planning and performance monitoring at a regional and area level.
- 70. The Department of Human Services should review and strengthen over time the governance and performance requirements of community service organisations providing key services to vulnerable children and their families, while also playing a proactive facilitation and support role in community services sector organisational development.
- 71. The Department of Human Services should:
 - Consult with the community services sector on the implications of the future system and service directions
 outlined in this Report for the future structure of service provision and requirements of community service
 organisations; and
 - Establish one-off funding and other arrangements to facilitate the enhancement and adjustment of community service organisations.

Chapter 18: Court clinical services

- 72. Section 562(4)(a) of the *Children, Youth and Families Act 2005*, which confers a discretion on the Children's Court to not release all or part of a clinical report to the Department of Human Services if satisfied that the release of the report could cause significant psychological harm to a child, should be repealed.
- 73. The Children, Youth and Families Act 2005 should be amended to:
 - Empower the clinical service provider to provide a report at the request of the Children's Court, or at the request of the Victorian Civil and Administrative Tribunal, or at the request of the parties to the proceedings;
 - Prohibit the clinical service provider from making any disposition recommendations in its report;
 - Enable the Department of Human Services to release clinic reports to carers or case managers who have a direct involvement with the child or young person subject to appropriate safeguards around the use and dissemination of those reports; and
 - Require a clinical assessment to take into account information provided to the clinical assessor by the parties, particularly where the clinical assessor is unable to assess the child, young person or the family within their home environment.

- 74. The scope, governance and oversight of the provision of clinical services in the statutory child protection system should be reformed:
 - As an immediate priority, the current Children's Court Clinic should be abolished and re-established as an administrative unit within the Department of Health; and
 - In the medium to long term, the administrative unit should be replaced by a statutory clinical services board that will oversee service provision by a panel of providers. The parties to protection applications, or the Children's Court or the Victorian Civil and Administrative Tribunal, should be able to use a panel clinical service provider to provide a clinic report.
- 75. The Government should implement the following legislative and administrative changes to support the recommended reform of clinical services.

Scope and governance

The Children, Youth and Families Act 2005 should be amended to:

- Set out the new statutory board's and clinical service provider's objectives and tying these objectives, where appropriate, to the best interest principles in the Act;
- Define the type of clinical services to be provided within the statutory child protection system and the services to be provided within the criminal justice system; and
- Require the statutory board to publish an annual report.

Clinic access and environment in the immediate term

- The administrative unit should be relocated from the Children's Court, but the Government should ensure the Court still has access to on-site counselling and support services to deal with children, youth, and families who may be experiencing acute stress in the court environment; and
- Clinical services should be decentralised as a priority to ensure the needs of children, young people and their families are met across Victoria, as outlined in the 2011 report on the Children's Court Clinic prepared for the Department of Justice.

Resourcing of the Clinic in the immediate term

- The administrative unit should be resourced to: expand the current pool of assessors available to the Clinic; provide the proper level of remuneration to both permanent and sessional clinicians commensurate with their professional expertise; implement the process and quality assurance reforms as recommended in the 2011 report on the Children's Court Clinic prepared for the Department of Justice; and provide therapeutic treatment services, where appropriate, for children, young people and their families by agreement of the parties, or at the request of the Court, or the Victorian Civil and Administrative Tribunal; and
- The Government should, in consultation with the new statutory board, ensure the new administrative unit is properly funded and resourced to provide the necessary services to meet its statutory objectives with a view to establishing a panel of clinical service providers in the medium to long term.

Chapter 19: Funding arrangements

- 76. Future funding of child protection and family services should recognise and anticipate the underlying growth in demand in future budget processes for statutory child protection, out-of-home care and family services.
- 77. Funding for child protection and family services should be distributed in accordance with an area-based approach and according to a common methodology.

The Department of Human Services should develop this methodology so that funding is distributed on an equitable basis to the areas that need it most. The methodology should take into account:

- The population of children in a region;
- The level of vulnerability of these children, including the Aboriginal population; and
- Factors that increase the cost of service delivery in regions, such as remoteness and the geographic size of the area.

The method should be able to be regularly updated and should be incorporated into future system planning.

- 78. The Department of Human Services should review the list of individual placement and support, and community and family services activities provided by community service organisations. The number of these activities and their funding arrangements should be consolidated as part of adopting a more client-focused approach based on broader service types.
- 79. The Government should adopt an explicit policy of fully funding child protection and family services delivered through community service organisations, including provision for infrastructure and other relevant indirect costs.

On an ongoing basis, there should also be a greater level of independent oversight of the Government's role as the sole purchaser of services delivered through community service organisations. The Essential Services Commission should be given an ongoing role to periodically determine the appropriate prices for child protection and family services that are delivered through community service organisations.

Chapter 20: The role of government agencies

- 80. The Government should establish a Children's Services Committee of Cabinet comprising the minsters responsible for community services, children, education, health, community development and justice to oversee:
 - The development and implementation of the whole-of-government Vulnerable Children and Families Strategy;
 - The coordination of the service delivery by government agencies, particularly to vulnerable children and their families; and
 - Holding government agencies accountable for their delivery of services with regard to vulnerable children.
- 81. The Government should amend relevant legislation to provide that the Secretaries of the Department of Education and Early Childhood Development and the Department of Health are responsible for the education and health outcomes, respectively, of children and young people in State care, with responsibility for these services under the *Children Youth and Families Act 2005* being removed from the Secretary of the Department of Human Services.
- 82. Government performance against the whole-of-government Vulnerable Children and Families Strategy should be reported on by the Commission for Children and Young People.

- 83. The *Child Wellbeing and Safety Act 2005* should be amended to give the Children's Services Coordination Board greater operational responsibility for coordinating policy, programs and services that affect children and young people. Activities would include:
 - Overseeing implementation by government agencies of the Vulnerable Children and Families Strategy and reporting on this to the Children's Services Committee of Cabinet;
 - Proactively fostering the development of local area partnerships, through the regions and Regional Management Forums, to assist in the coordination and delivery of area-based policies and services to address the needs of vulnerable children, including structuring and reporting on area-based performance indicators;
 - Proposing an annual work program for approval the Cabinet Committee;
 - Reporting annually on activities and achievement; and
 - Functioning as a source of advice on budgetary matters regarding vulnerable children.
- 84. The Government should strengthen and clarify the role of the Victorian Children's Council by:
 - Requiring the development of an annual work plan to be signed off by the Premier;
 - Providing for the Premier and Ministers for Children, Early Childhood Development and Community Services to refer matters to the Victorian Children's Council for consideration;
 - Allowing it to also provide advice to the proposed Commission for Children and Young People, if requested by the Commission; and
 - Appointing a person with expertise in the needs of children of culturally and linguistically diverse backgrounds.

Further, the Children Youth and Families Act 2005 should be amended to remove the Child Safety Commissioner, or the successor commission, from the membership of the Victorian Children's Council.

The Victorian Children's Council should be reviewed after two years.

Chapter 21: Regulation and oversight

- 85. The Department of Human Services should adopt a risk-based approach to monitoring and reviewing community service organisation performance, involving greater use of unannounced inspections and reviewing the performance of higher risk agencies more frequently than lower risk agencies.
- 86. The Department of Human Services should retain responsibility for regulating out-of-home care services and family services. This function should be independent and structurally separated from those parts of the department responsible for child protection and family services policy and funding of community service organisations. The director of the unit should report directly to the Secretary.
- 87. The Department of Human Services should take lead responsibility for formal care reviews.
- 88. The Department of Human Services should produce a comprehensive annual report on its regulation and monitoring of community service organisations. This report should include information on:
 - The registration of community service organisations and their performance against the standards;
 - The registration and disqualification of out-of-home carers;
 - Category one critical incidents;
 - Quality of care concerns, investigations of abuse in care and formal care reviews; and
 - Actions taken against community service organisations.

In addition to this annual reporting, the Department of Human Services should immediately publish any decisions to take regulatory action against community service organisations, such as the placement of conditions on a community service organisation's registration, the appointment of an administrator, or the revocation of registration.

89. The Government should amend the *Child Wellbeing and Safety Act 2005* to establish a Commission for Children and Young People, comprising one commissioner appointed as the chairperson and such number of full-time and part-time additional commissioners as the Premier considers necessary to enable the Commission to perform its functions. Commissioners would be appointed by the Governor-in-Council.

The Commission should have responsibility for overseeing and reporting to Ministers and Parliament on all laws, policies, programs and services that affect the wellbeing of vulnerable children and young people. The Commission would hold agencies to account for meeting their responsibilities as articulated in the Vulnerable Children and Families Strategy and related policy documents. The Commission would also retain the current roles and functions of the Child Safety Commissioner. The Commission would be required by legislation to give priority to the interests and needs of vulnerable children.

The Commission should have authority to undertake own-motion inquiries into systemic reforms necessary to improve the wellbeing of vulnerable children and young people.

The specific powers granted to the Ombudsman under section 20 of the *Children, Youth and Families Act 2005* should be transferred to the Commission.

90. The Commission for Children and Young People should convene a multidisciplinary committee such as the Victorian Child Death Review Committee to provide advice to the Commission during the course of the Commission's inquiries into child deaths. This committee should replace the Victorian Child Death Review Committee.

List of findings and matters for attention

List of findings and matters for attention

Chapter 2: Vulnerability and the impact of abuse and neglect

Findings

1. There are significant regional variations in the number reports of suspected child abuse and neglect per capita across the state to child protection.

There is a strong correlation between higher rates of child protection reports and children who are vulnerable in one or more Australian Early Development Index domains and in areas of high socioeconomic disadvantage.

2. At the current rate of reporting of suspected child abuse and neglect, almost one in four children born in 2011 will be the subject of at least one child protection report before they turn 18.

Chapter 7: Preventing child abuse and neglect

Matter for attention

1. The Inquiry draws attention to the opportunity in broader government-sponsored community awareness campaigns to include child-focused dimensions, for example, family violence campaigns. These campaigns could include the impact of family violence on the children and young people in the family.

Finding

3. Parental alcohol misuse is a significant risk factor for child abuse and neglect. The Inquiry considers that further investigation of the potential preventative benefits of public education and mechanisms such as minimum pricing of alcohol and volumetric taxing has merit.

Matter for attention

2. The Inquiry draws attention to the community building activities of the Department of Planning and Community Development and considers they represent a significant opportunity to directly link with and support efforts to reduce the incidence and impact of child abuse and neglect on an area basis.

Chapter 8: Early intervention

Matters for attention

- 3. The Inquiry draws attention to the fact that an evaluation of the new mother and baby units and the transition of discharged mothers back into the community is needed to inform further investment in this field.
- 4. The Inquiry draws the Government's attention to the fact that the development of assessment tools, planning for services and resource allocations in relation to services for vulnerable children, young people and their families, is occurring independently of other government initiatives to support vulnerable families. The early intervention potential of community health services to reduce the vulnerability of children and young people needs further consideration.
- 5. The Families where a Parent has a Mental Illness strategy is a promising initiative that should be extended to operate in all adult mental services. This warrants further consideration by the Department of Health.

Chapter 9: Meeting the needs of children and young people in the statutory system

Matters for attention

- 6. The Inquiry draws attention to the need for any future reforms towards consolidated intake arrangements to avoid establishing secondary intake decision-making, including at both the second investigation phase of statutory child protection services or by community service organisations delivering child, family and specialist adult support services, except in the most exceptional of circumstances.
- 7. The Inquiry draws attention to the significance of disability as a risk factor among vulnerable families in Victoria affecting the prevalence of child abuse and neglect. This is a matter that should be further considered.

Finding

4. The Inquiry finds that the current average time taken for permanent care orders to be granted, when this is necessary to ensure a child's safety and wellbeing, is too long. On average, it is five years between a child's first report and a permanent care order.

Chapter 10: Meeting the needs of children and young people in out-of-home care

Findings

- 5. The available data indicates the stability of placements has declined significantly over the past decade.
 - In 2001-02, 78.2 per cent of children who exited care during the year and were on care and protection orders had experienced two or fewer placements. For those exiting care after two years the proportion who experienced two or less placements was 73.9 per cent;
 - In 2005-06, 72.0 per cent of children who exited care during the year and were on care and protection orders had experienced two or fewer placements. For those exiting care after two years the proportion had fallen to 48.7 per cent; and
 - In 2010-11, the proportions had fallen to 60 per cent and 44.1 per cent.
- 6. There has been a sustained net decline in the number of foster carers in Victoria and, over the past two years, the number of households exiting foster care totalled 806 compared with 517 households commencing foster care.

Chapter 12: Meeting the needs of Aboriginal children and young people

Finding

7. The Inquiry affirms the *Victorian Indigenous Affairs Framework* and associated structures as the primary mechanism to drive action across government on the broad range of risk factors associated with Aboriginal children being at greater risk of abuse and neglect.

Chapter 13: Meeting the needs of children and young people from culturally and linguistically diverse communities

Finding

8. The Inquiry finds that compliance with Standards 2 and 3 relating to the provision of culturally competent services by community service organisations cannot be assessed reliably because of the lack of data and information on children of culturally and linguistically diverse background within Victoria's system for protecting the children.

Matter for attention

8. The Inquiry draws the Government's attention to the need to continue discussions with groups such as the Ethnic Community Council of Victoria's community workers concerning the need to ensure services to protect children from abuse and neglect meet the needs of the culturally and linguistically diverse communities and are delivered in a culturally competent manner.

Chapter 14: Strengthening the law protecting children and young people

Matter for attention

9. The Inquiry draws attention to the completion of the review of the *Protecting Children Protocol* between Victoria Police and the Department of Human Services, incorporating updated practices such as the roll out of the Sexual Offence and Child Abuse Investigation Teams and multidisciplinary centres. The completion of the review, and the subsequent updating of the protocol, is a priority.

Findings

- 9. The Inquiry considers there is likely to be benefit in extending forensic interviewing training of the type delivered to Victoria Police Sexual Offences and Child Abuse Investigation Team interviewers to Department of Human Services child protection practitioners and to provide prosecutors with relevant study in it.
- 10. The Inquiry finds that there are critical gaps in data in relation to the prosecution of suspected child physical and sexual abuse in the criminal justice system. While suspected child physical abuse is under-reported, under-investigated and under-prosecuted, the Inquiry considers that a full understanding of the reasons behind this require further investigation.

Matter for attention

10. The Inquiry draws attention to the need for further research into the way in which the concept of cumulative harm is understood and applied by child protection practitioners when bringing protection applications to the Children's Court.

Findings

- 11. The Inquiry finds that the current mandatory reporting scheme for physical and sexual abuse should be retained in Victoria, and that the current grounds for reporting are appropriate.
- 12. The Inquiry considers that in the absence of:
 - research into: the diversity of religious faiths and practices; the number of ordained or appointed ministers; and expertise and capacity of ministers of religion to report suspected cases of child physical and sexual abuse; and
 - input from all religious and spiritual faiths across Victoria,

any proposal to extend the mandatory reporting duty under the *Children, Youth and Families Act 2005* to ministers of religion may not achieve the desired aim of facilitating an effective systemic statewide practice of reporting accurate protective concerns to the Department of Human Services.

13. The *Working with Children Act 2005* clearly applies to persons in religious organisations who work or volunteer with children and young people. The collection and publication of data on the number of investigations and prosecutions for breaches of the *Working with Children Act 2005* could be a valuable indicator of the effectiveness of this Act as part of the legal framework protecting vulnerable children.

Matters for attention

- 11. The Inquiry notes the substantial benefits that have arisen for vulnerable children and families that are exposed to family violence through the use of specialist Victoria Police Family Violence Response Units. This model warrants further consideration by government as a way of more effectively reducing the harm to children exposed to family violence.
- 12. In considering whether a new 'failure to protect' law should be enacted, it is necessary that the current operation of section 493 of the *Children, Youth and Families Act 2005* be reviewed and consideration given to whether this section is sufficient to meet the policy objectives that the proposed new offence is being designed to address.

If a new 'failure to protect' law is enacted, it should provide that the prosecution is required to prove, as an element of the offence and beyond reasonable doubt, that the accused was not the subject of, or exposed to, relevant family violence.

Chapter 15: Realigning court processes to meet the needs of children and young people

Finding

14. On balance, the Inquiry finds that a specialist Children's Court should continue to have the primary role in determining the lawfulness of a proposed intervention by the State in a child's life. This requires a careful weighing of the rights and interests of the children, as viewed by the State, against the rights and interests of their parents or caregivers. The Inquiry considers that a judicial officer is best qualified to make this determination. However, this does not mean the Court should be involved in administering orders or case-managing care plans.

Matter for attention

13. It is desirable that there be an increase in the current pool of legal practitioners sitting on the Victoria Legal Aid Children's Court Panel while consideration is given to improving the current levels of remuneration offered to lawyers practising in the Children's Court jurisdiction.

Findings

- 15. The Inquiry notes an evaluation of the Children's Court New Model Conference is being undertaken. The Inquiry generally supports the structure and process of the New Model Conference but is concerned with the current levels of cancellation due to non-attendance at these conferences.
- 16. The role of the Children's Court is to determine the lawfulness of the statutory intervention by the State and the appropriate order if a child is found to be in need of protection. Accordingly, the role of the Children's Court is to determine:
 - Whether a child is in need of protection;
 - The appropriate remedy or order to enable the State to intervene in the child's best interests;
 - The length of the order (if appropriate to the type of order sought); and
 - Conditions relating to child-parent contact or contact with siblings and other persons who are significant in the child's life (if appropriate to the type of order sought) and conditions that intrude on individual rights namely the exclusion of individuals from a child's life and drug and alcohol screening.

Chapter 16: A workforce that delivers quality services

Matter for attention

14. The Inquiry brings to the Government's attention the need to monitor the integration of previously specialist roles into more generic senior practice roles to ensure that specialist skills are not diminished over time.

Finding

17. The Inquiry notes the potential implications for all governments of the outcome of the Equal Remuneration Case currently being finalised by Fair Work Australia.

Nonetheless, the issues being addressed by Fair Work Australia are largely separate from those that are the focus of the Inquiry's report and recommendations, namely, reforming, enhancing and expanding Victoria's policy and service response to the needs of vulnerable children and families.

Chapter 20: The role of government agencies

Findings

18. At present there is no evidence that the Children's Services Coordination Board is effective in its role of coordinating and driving government action to address the needs of vulnerable children.

The Inquiry finds that amendments to the role and accountabilities of the Children's Services Coordination Board may achieve the cultural changes required to improve collaboration and coordination at an agency level. This will be particularly important if the proposed Vulnerable Children and Families Strategy is to be successful.

19. Legislative changes in 2005 addressed the legal impediments to sharing of information, due to privacy, regarding child protection cases. However, some organisational barriers to the appropriate sharing of information between and within government agencies still exist. The Inquiry finds that matters such as this should be addressed and resolved by the Children's Services Coordination Board.

In addition, a cultural change by some health and other service providers, led by government, is required to facilitate better information sharing to improve the outcomes of vulnerable children and young people.

Chapter 21: Regulation and oversight

Finding

20. The Department of Human Services' current approach to monitoring and reviewing community service organisation performance does not do enough to identify, address and prevent the major and unacceptable shortcomings in the quality of out-of-home care.


Vulnerable Children and Families Strategy - A whole-of-government policy framework

- 80. The Government should establish a Children's Services Committee of Cabinet comprising the ministers responsible for community services, children, education, health, community development and justice to oversee:
 - The development and implementation of the whole-of-government Vulnerable Children and Families Strategy;
 - The coordination of the service delivery by government agencies, particularly to vulnerable children and their families; and
 - Holding government agencies accountable for their delivery of services with regard to vulnerable children.
- 2. The Government should develop and adopt a whole-of-government Vulnerable Children and Families Strategy. The objective of the strategy will be to establish a comprehensive government and community approach for improving Victoria's performance in responding to Victoria's vulnerable children and families at risk. The key elements are:
 - A definition of vulnerable children and young people;
 - Identified whole-of-government objectives, including specific roles and responsibilities for departments, both individually and collectively, in addressing vulnerability in children and young people;
 - A performance framework, or list of the accountabilities, performance measures or indicators to be used by government to measure the efficiency and effectiveness of the strategy; and
 - Accountability structures that set out appropriate oversight for monitoring the implementation of the strategy by departments and agencies, including reporting on such implementation to government and the public.
- 83. The *Child Wellbeing and Safety Act 2005* should be amended to give the Children's Services Coordination Board greater operational responsibility for coordinating policy, programs and services that affect children and young people. Activities would include:
 - Overseeing implementation by government agencies of the Vulnerable Children and Families Strategy and reporting on this to the Children's Services Committee of Cabinet;
 - Proactively fostering the development of local area partnerships, through the regions and Regional Management Forums, to assist in the coordination and delivery of area-based policies and services to address the needs of vulnerable children, including structuring and reporting on area-based performance indicators;
 - Proposing an annual work program for approval the Cabinet Committee;
 - Reporting annually on activities and achievement; and
 - Functioning as a source of advice on budgetary matters regarding vulnerable children.
- 3. Performance against the objectives set out in a Vulnerable Children and Families Strategy, including information on the performance of government departments and statutory child protection services should be published regularly through *The state of Victoria's children* report.



Government decision required



Government decision - requires legislation
Policy
Development
Implementation



- 82. Government performance against the whole-of-government Vulnerable Children and Families Strategy should be reported on by the Commission for Children and Young People.
- 4. Area-based policy and program design and delivery should be used to address vulnerability and protect Victoria's vulnerable children and young people. In particular, an area-based approach should be adopted for assessing outcomes specified in a Vulnerable Children and Families Strategy and for reporting on progress against performance indicators.
- 5. In preparing the whole-of-government Victorian Alcohol and Drug Strategy, the Department of Health should consider the impact of alcohol and drug abuse on the safety and wellbeing of children in families where parents misuse substances.

Clearer departmental and agency accountability for addressing the needs of vulnerable children, in particular, health and education

- 18. The Government should ensure the legislation governing relevant services establishes the responsibilities of services to act in the best interests of children and young people, and to prioritise service delivery to vulnerable children, young people and their families. In addition, health services and specialist adult services should be required to adopt family-sensitive practice guidelines.
- 81. The Government should amend relevant legislation to provide that the Secretaries of the Department of Education and Early Childhood Development and the Department of Health are responsible for the education and health outcomes, respectively, of children and young people in State care, with responsibility for these services under the *Children Youth and Families Act 2005* being removed from the Secretary of the Department of Human Services.
- 42. The following Acts should be amended to ensure that service providers assisting adults also have a clear responsibility to the children of their clients:
 - Disability Act 2006;
 - Education and Training Reform Act 2006;
 - Health Services Act 1988;
 - Housing Act 1983;
 - Mental Health Act 1986; and
 - Severe Substance Dependence Treatment Act 2010.

Immediate 0–12 months	Medium 1–3 years	Long 3+ years	Funding	Lead agency	Related agencies
		Performance report by commission	Policy reform	ССҮР	WoG
Policy designed			Policy reform	DPC	DEECD DHS DOJ DPCD
	Impacts on strategy considered		Policy reform	DoH	DEECD DHS DOJ DPCD
Guidelines Respon adapted clarifier	sibilities		Moderate investment	DoH	DHS DEECD CSOs
Department responsibilit clarified	al		Legislative reform	DPC	DEECD DHS DOH
Acts amende	d		Legislative reform	DEECD DHS DoH	







84. The Government should strengthen and clarify the role of the Victorian Children's Council by:

- Requiring the development of an annual work plan to be signed off by the Premier;
- Providing for the Premier and Ministers for Children, Early Childhood Development and Community Services to refer matters to the Victorian Children's Council for consideration;
- Allowing it to also provide advice to the proposed Commission for Children and Young People, if requested by the Commission; and
- Appointing of a person with expertise in the needs of children of culturally and linguistically diverse backgrounds.

Further, the *Children Youth and Families Act 2005* should be amended to remove the Child Safety Commissioner, or the successor commission, from the membership of the Victorian Children's Council.

The Victorian Children's Council should be reviewed after two years.

- 13. The Department of Education and Early Childhood Development should improve its capacity to respond to the needs of vulnerable children and young people by:
 - Undertaking a comprehensive evaluation of whether existing school-based programs are meeting the needs of vulnerable children and young people; and
 - Introducing a population health and wellbeing questionnaire of students as they make the transition from childhood to adolescence, and publishing the outcomes in *The state of Victoria's children* report.
- 14. The Department of Health should amend the framework for monitoring the performance of health services to hold services accountable for support they provide to vulnerable children and families, consistent with their responsibilities under the recommended whole-of-government Vulnerable Children and Families Strategy.
- 38. The Victorian Government, through the Council of Australian Governments, should seek inclusion of the needs of recently arrived children and families of culturally and linguistically diverse backgrounds in the *National Framework for Protecting Australia's Children 2009-2020*, in particular:
 - The need to provide advice and information about Australian laws and norms regarding the rights and responsibilities of children and parents; and
 - Appropriate resettlement services for refugees to prevent abuse and neglect of refugee children.

An expanded Vulnerable Children and Families Services Network

- 17. The Government should expand upon the existing local Alliances of family services and statutory child protection services to develop broader Vulnerable Child and Family Service Networks catchment-based networks of services for vulnerable children and families, including statutory child protection, family services, specialist adult services, health services and enhanced universal services.
- 6. The Department of Education and Early Childhood Development should implement strategies designed to encourage greater participation by the families of vulnerable children in universal services.
- 11. The Department of Education and Early Childhood Development should implement the recommendations from the Auditor-General's report on early childhood services by the end of 2012.





Policy

Implementation Development

(i.e. Commonwealth Government or CSOs)



- 7. The Government, through the Department of Education and Early Childhood Development, should:
 - Examine the capacity of local governments in low socioeconomic status areas to provide appropriate Maternal and Child Health and Enhanced Maternal and Child Health services, consistent with the concentration of vulnerable children and families, particularly as the current funding formula for Maternal and Child Health is based on a 50 per cent contribution by local government; and
 - Increase investment and appropriate infrastructure in universal services including maternal and child health, kindergarten and community playgroups, to communities that have the highest concentration of vulnerable children and families to increase the participation of vulnerable children in these services.

The increased investment in maternal and child health and enhanced maternal and child health should focus on:

- Enhanced support to families whose unborn babies are assessed as vulnerable to abuse or neglect, especially as a result of pre-birth reports; and
- A more intensive program of outreach to families of vulnerable children who do not attend maternal and child health checks, particularly in the first 12 months of life.
- 16. As part of a strategy to improve services for vulnerable children and families in need, the Department of Human Services should strengthen area-based planning and coordination of family services and accountability arrangements under Child FIRST by:
 - Establishing Area Reference Committees to oversee the monitoring, planning and coordination of services and management of operational issues within each catchment. The Committees would be co-chaired by the Department of Human Services area manager and the chief executive officer or area manager of the lead community service organisation, and comprise a representative of each community service organisation in the local Alliance; and
 - Ensuring the funding arrangements for Alliance lead agencies clearly specify the agencies' responsibilities for receiving referrals, undertaking an initial assessment of clients' needs, and facilitating an appropriate service response, with appropriate performance indicators.
- 8. The Department of Health should develop and lead a consistent statewide approach for antenatal psychosocial assessment so that problems such as family violence, parental mental illness and substance misuse in pregnancy can be more effectively addressed.
- 12. The Government should fund the expansion of early parenting centres to provide services to a greater range of vulnerable families and to improve access to families living in outer Melbourne, regional and rural areas.
- 9. The Department of Education and Early Childhood Development, in partnership with the Department of Human Services, should develop a universal, evidence based parenting information and support program to be delivered in communities with high concentrations of vulnerable children and families, at key ages and stages across the 0 to 17 age bracket.

10. The Department of Education and Early Childhood Development should develop a wide-ranging education and information campaign for parents and caregivers of all school-aged children on the prevention of child sexual abuse.





Policy Implementation

Development



An area-based approach to co-located intake with clear accountability for decision making on statutory intervention

19. Following adoption of the Child FIRST governance changes and using a piloted approach, intake functions carried out by the Department of Human Services and by Child FIRST should be physically co-located on an area basis throughout Victoria. Statutory child protection intake should remain a separate process to child and family support services intake, but there should be an increased focus, particularly with common clients, on improving collaboration between statutory child protection and family support services and greater joint decision making about risks presenting to vulnerable children and young people.

Following implementation and evaluation of co-located intake throughout Victoria, and provided the key challenges and risks have been addressed appropriately, the Department of Human Services should aim to move towards a consolidated intake model where Child FIRST and statutory child protection intake processes are combined.

20. The Department of Human Services should introduce differentiated pathways as part of the statutory child protection response, with some increased case management by community service organisations.

The two pathways that should be adopted immediately should involve first-time contact families and the use of multidisciplinary centres to respond to suspected child sexual abuse victims. Following collaboration between the Department of Human Services and key stakeholders, two additional pathways should be adopted to address the needs of families that have repeated contact with the Department of Human Services and families experiencing chronic and entrenched vulnerability.

21. The Department of Human Services should simplify case planning processes and improve collaboration and pathways between statutory child protection services and other services, particularly family violence and disability services.

The Department of Human Services should increase case conferencing with other disciplines and services related to child protection issues including housing, health, education, drug and alcohol services and particularly for family violence and disability services.

In relation to family violence, consideration should be given to the evidence base for establishing differentiated pathways that lead to improved outcomes along the lines of those pathways discussed in Recommendation 20.

The protocol between statutory child protection and disability services should be strengthened, with more explicit statements around the roles and responsibilities of the different service agencies.

22. The Department of Human Services should simplify practice guidance and instructions for child protection practitioners. The Department of Human Services should reduce practice complexity by consolidating and simplifying the number of standards, guidelines, rules and instructions that child protection practitioners must follow. This process should investigate and apply learnings from comparatively high-risk sectors such as health or aviation in the approach taken to risk management and adverse events.

Strengthening the law and its institutions

A more accessible and less adversarial Children's Court

55. The Children's Court should be resourced to decentralise the Family Division by offering more sitting days at Magistrates' Courts or in other customised facilities in those Department of Human Services regions with high demand. Existing court facilities should be adapted as appropriate to meet the needs of children and their families.





Government decision - requires legislation

Policy Development Implementation



- 65. The *Children, Youth and Families Act 2005* should be amended to confirm the status of the Children's Court as a court of record. The Children's Court should be appropriately resourced to enable decisions to be published on the Children's Court's website in de-identified form. Transcripts should also be made available to the public in de-identified form.
- 57. The Children's Court should be empowered under the *Children, Youth and Families Act 2005* to conduct hearings similar to the Less Adversarial Trial model used by the Family Court under Division 12A of the Commonwealth *Family Law Act 1975*.
- 53. The *Children, Youth and Families Act 2005* should be amended to provide that:
 - A child named on a protection application should have the formal status of a party to the proceedings;
 - A child who is under 10 years of age is presumed not to be capable of providing instructions unless shown otherwise and a child who is 10 years and over is presumed capable of providing instructions unless shown otherwise;
 - A child who is not capable of providing instructions should be represented by an independent lawyer on a 'best interests' basis; and
 - Other than in exceptional circumstances, a child is not required to attend at any stage of the court process in protection proceedings unless the child has expressed a wish to be present in court and has the capacity to understand the process.
- 54. The Government should develop guidelines to assist the court, tribunal, or the independent children's lawyer to determine whether the child is capable of giving direct instructions and to provide criteria by which the presumption of capacity can be rebutted.
- 56. The Children's Court should develop a case docketing system that will assign one judicial officer to oversee one protection matter from commencement to end. In order to evaluate the effectiveness of the system, the system should be piloted at an appropriate court location. The Department of Justice should support the Children's Court to establish the system.
- 62. The Children's Court should establish specialist Sexual Abuse and Koori lists in the Family Division. The Children's Court should be resourced to create and implement these lists as a matter of priority. To ensure these lists are suitable for implementation across the state, a pilot could be run in the Melbourne Children's Court or another suitable court location.
- 59. The Victorian Government Solicitor's Office should represent the Department of Human Services in all child protection proceedings in the Melbourne Children's Court and other metropolitan and regional Children's Court sittings and at the Victorian Civil and Administrative Tribunal. Department of Human Services lawyers should represent the department at the pre-court conferencing stage.









58. Appropriate training in infant and child development, child abuse and neglect, trauma, and child interviewing techniques should be developed and provided to lawyers practising in the Children's Court jurisdiction and in the Victorian Civil and Administrative Tribunal, having regard to the training offered to independent children's lawyers in the family law jurisdiction. This training should be a prerequisite for any lawyer seeking to represent a child on a direct representation or best-interests basis in proceedings before the Children's Court and should be an accredited course.

Appropriate education should be provided to judicial officers exercising the jurisdiction of the Children's Court and members exercising the jurisdiction of the Victorian Civil and Administrative Tribunal. The Victorian Government should consult with the relevant professional organisations and also seek the assistance of the Judicial College of Victoria in developing an appropriate professional education program.

- 61. Victoria Legal Aid should implement fee penalties for lawyers who fail to take adequate steps to ensure their clients' attendance at a New Model Conference and lawyers who repeatedly fail to do so should not be engaged by Victoria Legal Aid. This should also be addressed in the code of conduct being proposed for practitioners in 2012.
- 66. A new Children's Court of Victoria Act should be created and that Act should contain the current provisions in the *Children, Youth and Families Act 2005* relating to the Children's Court, appropriately modified. The *Children, Youth and Families Act 2005* should be revised consequent upon removal of the provisions relating to the Children's Court.

A stronger, more child-focused statutory child protection legal scheme

- 43. The Children, Youth and Families Act 2005 should be amended to address the following issues:
 - Section 215(1)(c) that requires the Family Division of the Children's Court to consider evidence on the balance of probabilities' should be amended to expressly override the considerations in section 140(2) of the *Evidence Act 2008* and to disapply the Briginshaw qualification that requires a court to take into account the nature of the subject matter of the proceeding and the gravity of the facts alleged;
 - The definition of 'child' in section 3 should be amended to make it possible for protection applications in respect of any child under the age of 18 years; and
 - Out dated terms in the *Children, Youth and Families Act 2005* associating child protection with criminal law should be modernised and consideration should also be given to using terms consistent with the *Family Law Act 1975*. This includes: substituting the term 'emergency removal order' for 'warrants'; the term 'protection application by emergency removal' for 'protection application by safe custody'; and the word 'contact' for 'access' when describing contact between a child and a parent or other person significant in the child's life.
- 41. The best interests principles set out in section 10 of the *Children, Youth and Families Act 2005* should be amended to include, as section 10(3)(a), 'the need to protect the child from the crimes of physical abuse and sexual abuse'.



Government decision required	
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- 60. Protection concerns should be resolved as early as possible using a collaborative problem solving approach with a child-centred focus and minimising where possible, the need for parties to go to court. This means that:
 - The Department of Human Services should, where appropriate, use voluntary Family Group Conferencing as a matter of practice to prevent matters from reaching the protection application stage;
 - Where a matter has reached the protection application stage, parties must try to resolve the protective concern, where appropriate, through a statutorily mandated Child Safety Conference set out in the *Children, Youth and Families Act 2005*; and
 - Where a matter is before the Children's Court, parties should, where appropriate, go through a New Model Conference and the Children's Court should be supported to implement this model of conferencing across the state.
- 63. The current scheme of protective orders under the *Children, Youth and Families Act 2005* should be simplified. This can be achieved by reviewing the scope and objectives of each order and their current utility. Consideration should be given to:
 - Removing Custody to Third Party Orders as a category of order from the *Children, Youth and Families Act 2005;*
 - Removing Temporary Assessment Orders as a category of order from the *Children, Youth and Families Act 2005*;
 - Creating a general 'Interim Order' which could incorporate the current functions of an Interim Accommodation Order and a Temporary Assessment Order;
 - Renaming 'Interim Protection Order' as either a 'Temporary Supervision Order' or 'Temporary Care Order'; and
 - Consolidating the current range of protection orders into categories of 'Interim' and 'Final' orders and into categories of 'Care' and 'Supervision' orders while maintaining the range of purposes that the various orders currently serve.
- 44. The Victorian Government should progressively gazette those professions listed in sections 182(1)(f) (k) of the *Children, Youth and Families Act 2005* that are not yet mandated, beginning with child care workers. In gazetting these groups, amendments will be required to the *Children, Youth and Families Act 2005* and to the *Children's Services Act 1996* to ensure that only licensed proprietors of, and qualified employees who are managers or supervisors of, a children's service facility that is a long day care centre, are the subject of the reporting duty.
- 45. The Department of Human Services should develop and implement a training program and an evaluation strategy for mandatory reporting to enable a body of data to be established for future reference. This should be developed and implemented in consultation with the representative bodies or associations for each mandated occupational group.
- 64. A specialist Child Protection List should be created in the Victorian Civil and Administrative Tribunal in order to hear any reviews of decisions by the Department of Human Services on conditions. The Victorian Civil and Administrative Tribunal should be resourced to ensure that the members who would determine disputes within that specialist list have appropriate qualifications and expertise in child abuse and neglect and child health and wellbeing. The current legal aid guidelines should be amended to enable parties who seek a review of decisions by the Department of Human Services at the Victorian Civil and Administrative Tribunal to be eligible to obtain legal aid representation without requiring special consideration.



46. The Victorian Government should obtain the agreement of all jurisdictions, through the Council of Australian Governments or the Community and Disability Services Ministers' Conference, to undertake a national evaluation of mandatory reporting schemes with a view to identifying opportunities to harmonise the various statutory regimes.

A new model for clinical services to support child protection proceedings

- 74. The scope, governance and oversight of the provision of clinical services in the statutory child protection system should be reformed:
 - As an immediate priority, the current Children's Court Clinic should be abolished and re-established as an administrative unit within the Department of Health; and
 - In the medium to long term, the administrative unit should be replaced by a statutory clinical services board that will oversee service provision by a panel of providers. The parties to protection applications, or the Children's Court or the Victorian Civil and Administrative Tribunal, should be able to use a panel clinical service provider to provide a clinic report.
- 73. The Children, Youth and Families Act 2005 should be amended to:
 - Empower the clinical service provider to provide a report at the request of the Children's Court, or at the request of the Victorian Civil and Administrative Tribunal, or at the request of the parties to the proceedings;
 - Prohibit the clinical service provider from making any disposition recommendations in its report;
 - Enable the Department of Human Services to release clinic reports to carers or case managers who have a direct involvement with the child or young person subject to appropriate safeguards around the use and dissemination of those reports; and
 - Require a clinical assessment to take into account information provided to the clinical assessor by the parties particularly where the clinical assessor is unable to assess the child, young person or the family within their home environment.

Immediate 0–12 months	Medium 1–3 years	Long 3+ years	Funding	Lead agency	Related agencies
agi	tional reement gotiated		Policy reform	DHS	DPC
	Clinic reforms imp	lemented	Moderate investment	DHS & DOJ	
	CYF Act amended		Legislative reform	DHS & DOJ	



Government decision - requires legislation

 Policy
 Implementation

 Development
 Implementation



75. The Government should implement the following legislative and administrative changes to support the recommended reform of clinical services.

Scope and governance

The Children, Youth and Families Act 2005 should be amended to:

- Set out the new statutory board's and clinical service provider's objectives and tying these objectives, where appropriate, to the best interest principles in the Act;
- Define the type of clinical services to be provided within the statutory child protection system and the services to be provided within the criminal justice system; and
- Require the statutory board to publish an annual report.

Clinic access and environment in the immediate term

- The administrative unit should be relocated from the Children's Court but the Government should ensure the Court still has access to on-site counselling and support services to deal with children, youth, and families who may be experiencing acute stress in the court environment; and
- Clinical services should be decentralised as a priority to ensure the needs of children, young people and their families are met across Victoria, as outlined in the 2011 report on the Children's Court Clinic prepared for the Department of Justice.

Resourcing of the Clinic in the immediate term

- The administrative unit should be resourced to: expand the current pool of assessors available to the Clinic; provide the proper level of remuneration to both permanent and sessional clinicians commensurate with their professional expertise; implement the process and quality assurance reforms as recommended in the 2011 report on the Children's Court Clinic prepared for the Department of Justice; and provide therapeutic treatment services, where appropriate, for children, young people and their families by agreement of the parties, or at the request of the Court, or the Victorian Civil and Administrative Tribunal; and
- The Government should, in consultation with the new statutory board, ensure the new administrative unit is properly funded and resourced to provide the necessary services to meet its statutory objectives with a view to establishing a panel of clinical service providers in the medium to long term.
- 72. Section 562(4)(a) of the *Children, Youth and Families Act 2005,* which confers a discretion on the Children's Court to not release all or part of a clinical report to the Department of Human Services if satisfied that the release of the report could cause significant psychological harm to a child, should be repealed.

Improving criminal justice responses to child safety

- 39. Victoria Police should change the brief authorisation process for allegations of child physical assault so that authorisation is conducted by a specialist senior officer.
- 40. The Department of Justice should lead the development of a new body of data in relation to criminal investigation of allegations of child physical and sexual abuse, and in particular the flow of reports from the Department of Human Services to Victoria Police. Victoria Police, the Office of Public Prosecutions, the Department of Human Services and the courts should work with the Department of Justice to identify areas where data collection practices could be improved.
- 49. Section 146 of the *Family Violence Protection Act 2008* should be extended to permit the Children's Court to exercise jurisdiction under that Act when a child who is the subject of a child protection application is a child of 'the affected family member' or 'the protected person'.









- 47. *The Crimes Act 1958* (Vic) should be amended to create a separate reporting duty where there is a reasonable suspicion a child or young person who is under 18 is being, or has been, physically or sexually abused by an individual within a religious or spiritual organisation. The duty should extend to:
 - A minister of religion; and
 - A person who holds an office within, is employed by, is a member of, or a volunteer of a religious or spiritual organisation that provides services to, or has regular contact with, children and young people.

An exemption for information received during the rite of confession should be made. A failure to report should attract a suitable penalty having regard to section 326 of the *Crimes Act 1958* and section 493 of the *Children, Youth and Families Act 2005*.

- 50. Sections 182-186 of the *Serious Sex Offenders (Detention and Supervision) Act 2009*, which provide for the making of supression orders, should be repealed (Recommende by majority).
- 51. The Victorian Government should, consistent with other Australian jurisdictions, enact an internet grooming offence.
- 48. A formal investigation should be conducted into the processes by which religious organisations respond to the criminal abuse of children by religious personnel within their organisations. Such an investigation should possess the powers to compel the elicitation of witness evidence and of documentary and electronic evidence.

Immediate 0–12 months	Medium 1–3 years	Long 3+ years	Funding	Lead agency	Related agencies
	Crimes Act amended	`	Legislative reform	DOJ	DPC
	SSO Act amended	>	Legislative reform	DOJ	
	, Legislative reform implemented)	Legislative reform	DOJ	
	, Investigation completed		Legislative reform	DOJ	DPC



Government decision - requires legislation

Policy Development Implementation



Align out-of-home care funding and response to a child's needs

- 25. The Government should, as a matter of priority, establish a comprehensive five year plan for Victoria's outof-home care system based on the goal, over time, of the growth in the number of Victorian children and young people in care being in line with the overall growth in Victorian children and young people and the objective of improving the stability, quality and outcomes of out-of-home care placements. The key elements of the plan should include:
 - Significant expansion in placement prevention initiatives to divert children from out-of-home care. In particular, increased investment in placement diversion and re-unification initiatives, when the safety of the child has been professionally assessed, involving intensive and in-home family support and other services for key groups such as families of first-time infants and young children;
 - More timely permanent care where reunification is not viable;
 - All children and young people entering out-of-home care undergo comprehensive health, wellbeing and education assessments;
 - All children in out-of-home care receive appropriate therapeutic care, education and other services;
 - Progressive adoption of client-based funding to facilitate the development of individual and innovative responses to the needs of child and young people who have been the subject of abuse and neglect;
 - The introduction over time of a professional carer model to provide improved and sustained support for children and young people with a focus on lowering the use of residential care;
 - Significant investment in the funding and support arrangements for:
 - home-based care including a common service and funding approach across foster care, kinship and permanent care and improved carer training, support and advocacy arrangements;
 - residential care including mandating training and skill requirements for residential and other salaried care workers (i.e. the proposed professional care model); and
 - The adoption of an area-based approach to the planning, delivery and monitoring of out-of-home care services and outcomes involving the Department of Human Services, community service organisations and other relevant agencies.

Given the underlying trends and quality issues, implementation of this plan will require significant investment.

- 23. The Department of Human Services should identify and remove barriers to achieving the most appropriate and timely form of permanent placements for children unable to be reunited with their biological family or to be permanently placed with suitable members of the extended family by:
 - Seeking parental consent to adoption, and where given, placing the child in a suitable adoptive family;
 - Pursuing legal action to seek the dispensation of parental consent to adoption for children whose circumstances make them eligible under section 43 of the *Adoption Act 1984*;
 - Resolving the inconsistency between practical requirements for child protection practitioners to simultaneously plan for reunification while contemplating permanent care arrangements; and
 - Reviewing the situation of every child in care who is approaching the stability timeframes as outlined in the *Children, Youth and Families Act 2005*, to determine whether an application for a permanent care order should be made. Where it is deemed not appropriate to do so (for example, where a child's stable foster placement would be disrupted), the decision not to make application for a permanent care order should be endorsed at a senior level.

 Immediate 0–12 months	Medium 1–3 years	Long 3+ years	Funding	Lead agency	Related agencies
	5 Year plan	implemented	Significant investment	DHS	DEECD DOH DTF CSOs
Pern care imp	nanent reforms Lemented		Minor investment	DHS	DEECD DOH DTF CSOs



Government decision - requires legislation

Policy Development Implementation



- 26. To provide for the clear and transparent development of a client-based funding, the Government should request the Essential Services Commission to advise on:
 - The design of a client-based funding approach for out-of-home care in Victoria; and
 - The unit funding of services for children and young people placed in care.
- 27. The Victorian Government should, as a matter of priority, give further detailed consideration to the professional carer model and associated arrangements and request that the Commonwealth Government address and resolve, as a matter of priority, significant national barriers associated with establishing this new category of worker including industrial relations and taxation arrangements.
- 29. The Department of Human Services should have the capacity, including funding capacity, to extend the current home-based care and residential care out-of-home placement and support arrangements, on a voluntary and needs basis, for individual young people beyond 18 years of age.
- 30. The Department of Human Services should:
 - Ensure all leaving care plans identify stable initial accommodation options and that a 'no discharge to temporary and inappropriate accommodation policy' is adopted;
 - Review the levels and range of leaving and post-care financial assistance provided to care leavers as part of the development and implementation of the proposed Leaving Care Employment and Education Access Program, including appropriate representations to the Commonwealth Government on their current employment and education assistance programs; and
 - Assess the impact of the current leaving care services and programs, as a matter of priority, to determine whether the necessary access to, and integration of, post-care support across the full range of health, housing and other services is being achieved.
- 31. The Government should consider, in the medium term, the availability of post-care support and periodic follow-up being extended, on a needs basis, until a young person reaches the age of 25 years.
- 24. The Department of Human Services and community service organisations should continue to support the Who Am I Project on out-of-home care record keeping to enable children and young people to access all records of relevance and, as appropriate, be provided with a personal record when leaving care.
- 28. The Department of Human Services should collect regular information on the experiences of young people leaving care and their access to leaving care and post-care services and report the initial findings to the Minister in 2012 and thereafter on an annual basis to the proposed Commission for Children and Young People.
- 87. The Department of Human Services should take lead responsibility for formal care reviews.









Improved community sector capacity with clearer governance and regulatory framework

- 69. The future relationship between the Department of Human Services and community service organisations should be based on a model where:
 - The Victorian Government is responsible for the overall policy leadership and accountability for the structure and performance of the child, youth and family support and service system; and
 - The capacities and service delivery roles of community service organisations for the provision of vulnerable children and families are reflected in collaborative service system planning and performance monitoring at a regional and area level.
- 70. The Department of Human Services should review and strengthen over time the governance and performance requirements of community service organisations providing key services to vulnerable children and their families, while also playing a proactive facilitation and support role in community services sector organisational development.
- 71. The Department of Human Services should:
 - Consult with the community services sector on the implications of the future system and service directions outlined in this Report for the future structure of service provision and requirements of community service organisations; and
 - Establish one-off funding and other arrangements to facilitate the enhancement and adjustment of community service organisations.
- 78. The Department of Human Services should review the list of individual placement and support, and community and family services activities provided by community service organisations. The number of these activities and their funding arrangements should be consolidated as part of adopting a more client-focused approach based on broader service types.
- 79. The Government should adopt an explicit policy of fully funding child protection and family services delivered through community service organisations, including provision for infrastructure and other relevant indirect costs.

On an ongoing basis, there should also be a greater level of independent oversight of the Government's role as the sole purchaser of services delivered through community service organisations. The Essential Services Commission should be given an ongoing role to periodically determine the appropriate prices for child protection and family services that are delivered through community service organisations.

- 85. The Department of Human Services should adopt a risk-based approach to monitoring and reviewing community service organisation performance, involving greater use of unannounced inspections and reviewing the performance of higher risk agencies more frequently than lower risk agencies.
- 86. The Department of Human Services should retain responsibility for regulating out-of-home care services and family services. This function should be independent and structurally separated from those parts of the department responsible for child protection and family services policy and funding of community service organisations. The director of the unit should report directly to the Secretary.





Government decision - requires legislation

 Policy
 Implementation

 Development
 Implementation



- 88. The Department of Human Services should produce a comprehensive annual report on its regulation and monitoring of community service organisations. This report should include information on:
 - The registration of community service organisations and their performance against the standards;
 - The registration and disqualification of out-of-home carers;
 - Category one critical incidents;
 - Quality of care concerns, investigations of abuse in care and formal care reviews; and
 - Actions taken against community service organisations.

In addition to this annual reporting, the Department of Human Services should immediately publish any decisions to take regulatory action against community service organisations, such as the placement of conditions on a community service organisation's registration, the appointment of an administrator, or the revocation of registration.

A strengthened regulatory and oversight framework

89. The Government should amend the *Child Wellbeing and Safety Act 2005* to establish a Commission for Children and Young People, comprising one commissioner appointed as the chairperson and such number of full-time and part-time additional commissioners as the Premier considers necessary to enable the Commission to perform its functions. Commissioners would be appointed by the Governor-in-Council.

The Commission should have responsibility for overseeing and reporting to Ministers and Parliament on all laws, policies, programs and services that affect the wellbeing of vulnerable children and young people. The Commission would hold agencies to account for meeting their responsibilities as articulated in the Vulnerable Children and Families Strategy and related policy documents. The Commission would also retain the current roles and functions of the Child Safety Commissioner. The Commission would be required by legislation to give priority to the interests and needs of vulnerable children.

The Commission should have authority to undertake own-motion inquiries into systemic reforms necessary to improve the wellbeing of vulnerable children and young people.

The specific powers granted to the Ombudsman under section 20 of the *Children, Youth and Families Act 2005* should be transferred to the Commission.

90. The Commission for Children and Young People should convene a multidisciplinary committee such as the Victorian Child Death Review Committee to provide advice to the Commission during the course of the Commission's inquiries into child deaths. This committee should replace the Victorian Child Death Review Committee.

Immediate 0–12 months	Medium 1–3 years	Long 3+ years	Funding	Lead agency	Related agencies
Regulation report published			Policy reform	DHS	CSOs
CYF Act amended Commiss establis	sion hed		Significant investment	DPC	WoG CSOs
		Process streamlined	Policy reform	ССҮРС	DHS CSOs







A plan for practical self-determination for guardianship of Aboriginal children in out-of-home care and culturally competent service delivery

- 36. The Department of Human Services should develop a comprehensive 10 year plan to delegate the care and control of Aboriginal children removed from their families to Aboriginal communities. This would include:
 - Amending section 18 of the *Children, Youth and Families Act 2005* to reflect Aboriginal community decision making processes and address current legislative limitations regarding implementation;
 - Developing a sustainable funding model to support transfer of guardianship to Aboriginal communities that recognises the cost of establishing an alternative guardianship pathway. These arrangements would initially be on a small scale and require access to significant legal advice, legal representation, practice advice, specialist assessments and therapeutic treatment;
 - Developing a statewide plan to transfer existing out-of-home care placements for Aboriginal children and young people from mainstream agencies to Aboriginal community controlled organisations and guide future resource allocation (with performance/registration caveats and on an area basis);
 - Providing incentive funds for Aboriginal community controlled organisations to develop innovative partnership arrangements with mainstream providers delivering out-of-home care services to Aboriginal children to connect them to their culture;
 - Targeting Aboriginal community controlled organisations capacity building to these activities, that is, guardianship, cultural connection and provision of out-of-home care services; and
 - Providing increased training opportunities for Aboriginal community controlled organisation staff to improve skills in child and family welfare. The proposed Aboriginal Commissioner or Deputy Commissioner for children and young people should report on performance against this plan.
- 35. As part of the creation of a Commission for Children and Young People, an Aboriginal Children's Commissioner or Deputy Commissioner should be created to monitor, measure and report publicly on progress against objectives for vulnerable Aboriginal children and young people across all areas of government activity, including where government provides resources for non-government activities.
- 32. More detailed monitoring should be developed for the *Victorian Indigenous Affairs Framework* that provides reports on outcomes at the operational level regarding key areas of disadvantage (such as education attainment or family violence) and in specific localities with high prevalence rates of risk factors for abuse and neglect.
- 33. Aboriginal cultural competence should be a feature of the Department of Human Services standards for community service organisations. Further, the performance of agencies in relation to cultural competence should be an area of specific focus in the next cycle of community service organisation registration.

Immediate 0–12 months	Medium 1–3 years	Long 3+ years	Funding	Lead agency	Related agencies
	10 Year pla	in implemented	Significant investment	DHS	DEECD DOH DPCD
Aborigina Commissi establish	al ioner ed		(See recommendation 89)	DPC	DHS
Detaile monito framew develo	oring		Policy reform	DPCD	DHS CSOs ACCOs DTF
Detaile monito framew develo	ed vring vork ped		Policy reform	DHS	CSOs







- 34. The Government should expand the use and effectiveness of culturally competent approaches within integrated family services and statutory child protection services through the Department of Human Services by:
 - Establishing funding arrangements with the Aboriginal Child Specialist Advice and Support Service that enable cultural advice to be provided across the full range of statutory child protection activities;
 - Using the Aboriginal Family Decision Making program as the preferred decision making process if an Aboriginal child in statutory child protection services is substantiated as having suffered abuse or neglect;
 - Expanding family preservation and restoration programs so they are available to Aboriginal families in rural and regional areas with significant Aboriginal populations;
 - Expanding Aboriginal kinship care support to provide support to all Aboriginal kinship carers; and
 - Expanding Aboriginal family support programs so they are available to Aboriginal families in areas with significant Aboriginal populations.

A sector-wide approach to training with greater development and application of knowledge to inform policy and service delivery

- 1. The Government should consider, as a matter of priority, investing resources in:
 - The information management systems spanning vulnerable families and children including the statutory child protection system to incorporate information on the major demographic characteristics (including culturally and linguistically diverse and Aboriginal status) and the presenting issues of vulnerable families and children;
 - The regular publication of information on the characteristics of families, children and young people who have multiple interactions with the statutory child protection system to facilitate research and transparency about the performance of the system; and
 - Conducting cost-benefit and feasibility assessments, including the possible governance arrangements of:
 - instituting cohort or longitudinal surveys of families and children following their involvement with statutory child protection services and, over time, related services for vulnerable children and families; and
 - the approach developed in Western Australia of linking de-identified health data to de-identified data from the departments of Child Protection, Education, Disability Services and Corrective Services and Housing and Community, as a means of identifying for policy and program development purposes, the factors linked with child protection reports and the nature and dimensions of the subsequent experiences and issues.
- 37. To improve knowledge and data on vulnerable children of culturally and linguistically diverse backgrounds so that the appropriateness of current service provision can be considered:
 - The Department of Human Services should collect data to record and track children and young people of culturally and linguistically diverse backgrounds who are involved with the child protection system, and the family services sector; and
 - The Department of Education and Early Childhood Development should include data on the experiences of vulnerable children and young people of culturally and linguistically diverse backgrounds (including in Victoria's system for protection children) in *The state of Victoria's children* report.









67. The Government should establish a child and family welfare sector training body to oversee development of an industry-wide workforce education and development strategy. This strategy should focus on consolidating the number of separate training budgets and strategies relating to child protection and family services. This body should focus on:

Developing the professionalism of the sector;

- Providing opportunities for continuing professional education including training and career path opportunities for workers entering at the Child Protection Worker-1 level;
- Addressing the education and training needs of the out-of-home care sector including carers;
- Overseeing and evaluating current training and development efforts, with an initial emphasis on assessing the adequacy of the Beginning Practice training offered to new child protection workers;
- Ensuring relevant training is consistent with national training frameworks and appropriately accredited;
- Identifying opportunities for providing combined training to government child protection workers, the community sector workforce and other professions;
- Coordinating the delivery of internal Department of Human Services courses;
- Procurement of other courses from external providers; and
- Collaborating with professional bodies and universities in disciplines that interact with vulnerable children to develop curriculum content relevant to the prevention of and response to child abuse and neglect.

The training body should be established as a public entity, with dedicated funding and staffing resources, and governed by a board drawn from the government and non-government sector. It should be led by an independent chair with expertise related to the professional education and training needs of the sector.

52. A national study should be undertaken to improve current knowledge and understanding of the causes of filicide and the behavioural signs preceding filicide. Such a study could be undertaken by a research body such as the Australian Institute of Criminology.

Immediate 0–12 months	Medium 1–3 years	Long 3+ years	Funding	Lead agency	Related agencies
Trainin establi	g body shed		Moderate investment	DHS	DOJ DTF CSOs
Study	eted		Policy reform	DOJ	Commonwealth Government







- 68. The Department of Human Services should improve the cultural competence of integrated family services and statutory child protection services, including through:
 - Applying leadership accountability for culturally competent services and client satisfaction at regional service delivery level through performance agreements;
 - Requiring cultural competence to be a component of all training;
 - Providing culturally appropriate training, assistance and support to carers of children and young people from culturally and linguistically diverse backgrounds in the out-of-home care system;
 - Encouraging local child and family services to draw links with relevant culturally and linguistically diverse communities as part of area-based planning reforms;
 - Recruitment strategies to attract suitable candidates from Aboriginal and culturally and linguistically diverse backgrounds into child protection including through the use of scholarship schemes to undertake relevant tertiary-level training; and
 - Exploring staff exchange and other joint learning programs on an area basis to build knowledge and respect for Aboriginal culture.

Investment

- 76. Future funding of child protection and family services should recognise and anticipate the underlying growth in demand in future budget processes for statutory child protection, out-of-home care and family services.
- 77. Funding for child protection and family services should be distributed in accordance with an area-based approach and according to a common methodology. The Department of Human Services should develop this methodology so that funding is distributed on an equitable basis to the areas that need it most. The methodology should take into account:
 - The population of children in a region;
 - The level of vulnerability of these children, including the Aboriginal population; and
 - Factors that increase the cost of service delivery in regions, such as remoteness and the geographic size of the area. The method should be able to be regularly updated and should be incorporated into future system planning.
- 15. The Government should enhance its capacity to identify and respond to vulnerable children and young people by:
 - Evaluating the outcomes of pre-birth reports to statutory child protection and pre-birth responses to support pregnant women;
 - Providing funding to support universal early childhood services, schools, health services (including General Practitioners) and specialist adult services to identify and respond to the full range of risk factors for child abuse and neglect. This should include increased investment in the Department of Health's Vulnerable Children's Program; and
 - Providing funding to support specialist adult services to develop family-sensitive practices, commencing with an audit of practices by specialist adult services that identify and respond to the needs of any children of parents being treated, prioritising drug and alcohol services.



