

Part 1: The impact of abuse and neglect

Chapter 1:

The Inquiry's task

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Key points

- The Inquiry was given broad Terms of Reference, making it critical to consult widely throughout Victoria to elicit a diversity of views for improving Victoria's system for protecting vulnerable children.
- The Inquiry's consultation processes were designed to maximise the opportunities for individuals and organisations to provide input. Over the course of some 10 months, 225 written submissions were received, 18 Public Sitings across Victoria were convened along with some 126 meetings, site visits and direct consultations, five focus groups and an online survey.
- The Inquiry recognised that consultation with vulnerable children and young people needed to be most carefully conducted. To ensure consultation was carried out in an appropriate manner, the Inquiry took specific actions to hear from children and young people and direct consultations were also conducted with parents and carers. Focus groups and an online survey were used to consult with children and young people who were in care or who had left care.
- A Reference Group for the Inquiry was established to provide advice on key issues, policy options and stakeholder engagement. The Reference Group met three times and greatly assisted the Inquiry to develop an understanding of the service system and the options for improvement.
- Another critical input was the specific consultations held with the child protection workforce, Aboriginal communities and workers representing culturally and linguistically diverse community organisations.
- The views and experiences of those living in rural and regional areas was an important consideration, and the Inquiry also took particular care to hear from those communities.

1.1 Introduction

On 31 January 2011 the Victorian Government announced the Protecting Victoria's Vulnerable Children Inquiry. The Inquiry Panel comprised the Honourable Philip Cummins, Emeritus Professor Dorothy Scott OAM and Mr Bill Scales AO. Biographical details on the Inquiry Panel are provided in Appendix 1.

The Inquiry was established to investigate systemic problems in Victoria's child protection and related services system, and recommend changes to improve the protection and care of Victorian children who are at risk of, or who have experienced, abuse or neglect.

The Inquiry considered the system as a whole, as well as its parts. Individual cases or individual organisations were not investigated. Past events were considered only to inform future changes. The Inquiry's deliberations focused on solutions.

The principles of fairness, independence and openness were essential to the procedures adopted by the Inquiry. The Inquiry sought to be fair to all people and organisations. Substantial assistance from government and government departments was received but the Inquiry remained independent of these bodies. An open process was applied as far as possible through publishing written submissions, Reference Group meeting summaries and transcripts from the Inquiry's extensive Public Sitings schedule. All of these consultations formed a significant input to this Report and they have been made publicly available, through the Inquiry's website, in line with the principles of openness and transparency.

The Inquiry sought to be inclusive and informal and did not adopt adversarial methods. Ethical issues were specifically considered to inform consultation with children and young people.

The Inquiry actively sought input across the whole of Victoria through 18 Public Sitings covering 16 different locations. As illustrated in the map in Figure 1.1, Public Sitings took place respectively in Geelong, Ballarat, Bendigo, Morwell, Mildura, Melbourne, Shepparton, Broadmeadows, Werribee, Dandenong, Warrnambool, Horsham, Bairnsdale, Wodonga, Echuca and Swan Hill.

The Inquiry was encouraged by the volume and quality of submissions made to it, both through Public Sitings and in written form. As a consequence of the volume of the material received, the Inquiry sought and was granted an extension of the reporting date originally set by the government, from 4 November 2011 to 27 January 2012, just on a year from its establishment.

The Inquiry is grateful to all of those who provided input on Victoria's system for protecting vulnerable children. The Inquiry appreciates the courage and efforts to which individuals and organisations have gone in presenting information at Public Sitings, sharing their experiences for the benefit of informing the Inquiry and the broader public, even though at times, this may have been difficult and distressing for them.

1.2 Inquiry processes

In establishing the processes for the Inquiry, the Inquiry was guided by the requirements of its Terms of Reference. The Inquiry sought input from many different sources through a wide range of methods: written submissions, verbal submissions through Public Sitings across Victoria, meetings, site visits, direct consultations, focus groups and an online survey. The Inquiry Panel met 48 times to consider the conduct of the Inquiry, inputs received and to write and develop this Report and its recommendations.

The Inquiry did not have the investigative powers of a Royal Commission or the Victorian Ombudsman. Material to assist the Inquiry's examination and consideration of the issues raised by the Terms of Reference was provided by the willing cooperation of government departments, officials and agencies as well as by community service organisations (CSOs).

This chapter outlines the consultation and other processes adopted by the Inquiry. A more detailed examination of the issues raised by submissions, including input from Public Sitings, Reference Group meetings and received through the Inquiry's consultation with children and young people, is outlined in Chapter 5.

1.2.1 Consulting with children and young people

An essential part of the Inquiry's consultation process was listening to children and young people about their experiences with out-of-home care and related services. The Inquiry is very grateful to the approximately 70 young people who were involved in various consultation activities, either in direct consultations and meetings or through an online survey. Their participation has helped the Inquiry develop its views on the requirements of a system focused on children's needs.

The Inquiry was conscious that consultation with children and young people needed to be conducted with care and sensitivity to avoid the risk of further traumatising individuals who had experienced abuse or neglect. Consulting with children and young people raised ethical, privacy and emotional issues. Accordingly, and on the advice of a group of experts

in dealing with children and young people, the Inquiry engaged CREATE Foundation Victoria (CREATE) to assist with the consultations. CREATE is the peak body representing the voices of all children and young people in out-of-home care and so is relevantly qualified to provide advice on appropriate mechanisms for engaging with children and young people.

CREATE developed an ethical framework, endorsed by the Inquiry, that considered any risks or likelihood of harm that children or young people could experience in the course of the consultation process. Using this framework, CREATE arranged consultations with children and young people through focus groups and an online survey.

Focus groups with children and young people

CREATE convened a series of focus groups following a process of informed consent by the children and young people participating. A consent form was signed by a young person if they were over the age of 18, or by a parent, guardian or carer if they were aged under 18 years. Children and young people could also ask questions or withdraw their participation at any point during the process.

Four focus groups were held in metropolitan and regional locations: Shepparton, Dandenong, North Melbourne and East Brunswick. In total, 29 children and young people aged between 8 and 24 years participated in the focus groups, including an Aboriginal client in care.

Online survey for children and young people

CREATE customised its 'Be.Heard' tool, a child-friendly online survey to gather the views of as many children and young people as possible about their experiences in out-of-home care for the Inquiry. The online survey was made available on the CREATE website from 8 July to 12 August 2011 and 27 children and young people responded.

CREATE promoted these consultation processes throughout its network of out-of-home care providers and the Inquiry also promoted these opportunities. The survey was also promoted broadly through various CSOs. However, as noted by CREATE, given the low numbers of respondents, the survey results could not be considered representative of the views of children in the care system. The Inquiry was conscious of this limitation in considering the issues before it.

The CREATE report summarising the results of the consultations is publicly available on the Inquiry's website. The Inquiry's experience indicates the challenges of hearing the voice of vulnerable children and young people.

The Inquiry drew upon additional sources to ascertain the views of children and young people, such as reports released by the Victorian Child Safety Commissioner. The Inquiry visited or met with a number of groups that provided access to children and young people in settings that were familiar and informal. Members of the Inquiry Panel met with: a youth advisory council of a large CSO; young mothers involved in a peer-based mentoring service; young people being assisted by a regional CSO; and also attended a theatrical performance by a group of young people in care or care leavers. The Inquiry met with young people in secure welfare facilities and a young person met with the Inquiry Panel in private at one of the Public Sittings. While these verbal submissions were not transcribed or published (to protect the young people concerned), they formed part of the input considered by the Inquiry in its deliberations. Consultations with children and young people have informed the Inquiry's considerations particularly regarding:

- The out-of-home care system and the circumstances of young people leaving care (Chapters 10 and 11);
- Children's Court processes (Chapter 15);
- Workforce matters, particularly relating to out-of-home care (Chapter 16);
- The capacity of the community sector (Chapter 17); and
- The regulation and oversight of the system for protecting children and young people (Chapter 21).

1.2.2 Written submissions

Submissions were a central input to the Inquiry's consideration of issues raised by the Terms of Reference. The Inquiry encouraged and welcomed written submissions from organisations and individuals addressing one, multiple or all the Terms of Reference. A *Guide to making submissions* was publicly released that outlined the Terms of Reference, posed questions for submitters to consider and set out some instructions to assist with preparing written submissions. The guide also provided information on legal issues for submitters to consider.

The formal deadline for written submissions was first announced as 15 April 2011. This date was extended to 29 April 2011 following feedback at the first Public Sitting, and the Inquiry continued to accept submissions after this date and up until 9 December 2011. The Inquiry received 225 written submissions from a wide range of individuals and organisations including academics, advocacy groups, CSOs, government bodies, courts, unions, carers and Aboriginal organisations.

Consistent with its commitment to openness, the Inquiry published written submissions on its website from 1 July 2011. In some cases, publication was not appropriate if details in a submission could potentially identify those under a court order under the *Children, Youth and Families Act 2005*. Information such as private phone numbers and home addresses was redacted to protect the privacy of individuals. The Inquiry also received submissions requesting confidentiality. Appendix 2 provides a full list of the submissions published and sets out the Inquiry's approach to publication in more detail, including where publication of a submission was not appropriate due to the need for confidentiality.

More than 80 supplementary submissions were also provided to the Inquiry at Public Sitings or shortly thereafter by individuals and organisations making verbal submissions. The majority of these were not published on the website as many were hard copies of the verbal statements that had been recorded on

the Public Sitings transcript. Some supplementary submissions were secondary materials provided in response to questions by the Inquiry at Public Sitings. Four supplementary submissions received by the Inquiry have been relied on within this Report. These are listed in Appendix 2 and have been published on the Inquiry's website.

1.2.3 Public Sitings

From February to July 2011, the Inquiry held 18 Public Sitings across Victoria in order to hear from a broad range of individuals or organisations. The Terms of Reference required that the Inquiry consider differences among Victorian children in families across Melbourne and regional locations, and Figure 1.1 shows how the Inquiry's 18 Public Sitings covered a mix of regional and rural communities as well as metropolitan Melbourne. The metropolitan locations were Melbourne, Broadmeadows, Werribee and Dandenong.

Figure 1.1 Location of the Inquiry's Public Sitings



Public Sittings provided an opportunity for organisations and local community members to provide verbal submissions to the Inquiry. Those who had made written submissions were able to address the Inquiry and to raise new points in relation to their submissions. The *Guidelines for making verbal submissions* was developed to explain the process on the day and to remind people about legal considerations when making their verbal presentations to the Inquiry.

The first Public Sitting took place in Melbourne on 28 February 2011. The Chair explained the Inquiry's processes, outlined each of the Terms of Reference and announced that written submissions were sought. Public Sittings were promoted through advertisements in the local media and daily newspapers relevant to each location. The Inquiry also encouraged organisations such as the Department of Human Services (DHS) and CSOs to distribute information about the Public Sittings to their clients, contacts and networks.

Around 80 organisations and 50 individuals appeared at the Public Sittings. Some verbal submissions involved multiple speakers, with more than 200 people coming forward to address the Inquiry.

Organisations represented included advocacy groups, CSOs, hospitals and health providers, local councils, and academics. Individuals included foster and kinship carers, parents and relatives of victims of abuse or neglect, Forgotten Australians and professionals including doctors, psychologists and former child protection workers. A wide range of people made verbal submissions at the Public Sittings including representatives of CSOs; family and children's services; legal and domestic violence organisations; alcohol and drug and mental health services; and Aboriginal organisations and culturally and linguistically diverse organisations. The Inquiry also heard from many individuals directly affected by child abuse and neglect and who were involved in the child protection system, kinship, foster and permanent carers and parents. Transcripts from all of the Public Sittings are published on the Inquiry's website.

The Inquiry covered more than 3,800 kilometres over the course of the Public Sittings and in doing so heard from local people and communities about what they believed should be improved in Victoria's approach for protecting vulnerable children. Some Public Sittings were conducted by the Chair only or the Chair and one other member of the Inquiry Panel.

In pursuit of its commitment to openness, the Inquiry recorded and transcribed all of the Public Sittings, resulting in close to 1,000 pages of transcript which are published on the Inquiry's website. In addition, the Inquiry heard 12 verbal submissions in private, at the

request of the individuals, and these were not recorded or published. These included verbal submissions from a young person, parents and carers. A complete list of those who provided verbal submissions publicly to the Inquiry is in Appendix 2.

1.2.4 Site visits and meetings

The Inquiry conducted 104 site visits and meetings with stakeholders. Site visits were made to DHS and CSO facilities in metropolitan and regional areas. At the site visits, the Inquiry was able to observe the facilities and sometimes services being delivered and also meet with staff, particularly frontline workers where possible. These visits gave the Inquiry a first-hand look at the work of DHS and CSOs in providing services for vulnerable children and young people and insight into the experiences of staff.

The Inquiry consulted with relevant heads of Victorian government departments and other officials of the Departments of Education and Early Childhood Development, Human Services, Justice and Health, and the Children's Services Coordination Board. The Inquiry also met with the (then) Chief Commissioner and senior officers of Victoria Police. The Inquiry visited the Children's Court five times, covering the Melbourne and Geelong courts. The Inquiry also met with the Office of the Child Safety Commissioner, the Victorian Ombudsman, the State Coroner, the Chair of the Victorian Child Death Review Committee, the Youth Parole Board and the Victorian Children's Council. Information requests were made to Victorian government departments to provide assistance and data to inform the Inquiry's analysis.

In addition, the Inquiry met with the Domestic Violence Resource Centre Victoria and The Royal Children's Hospital, and visited the Queen Elizabeth Centre, Multidisciplinary Centres in Frankston and Mildura, and the Darebin Family Violence Response Unit.

The Terms of Reference directed the Inquiry to consider interstate and international experience. The Inquiry met with government agencies and other authorities in Western Australia and Queensland. One member of the Inquiry Panel attended the Australasian Institute of Judicial Administration Conference in Brisbane. To gather insights from overseas, the Inquiry met with Canadian and British experts visiting Melbourne. The Inquiry also held a teleconference with Professor Eileen Munro, who completed a review of the child protection system in the United Kingdom in 2011.

A full list of the Inquiry's meetings and site visits is set out in Appendix 2.

1.2.5 *Engagement with Aboriginal communities and organisations*

Aboriginal children and young people are significantly over-represented in the statutory child protection system. Consultations occurred with Aboriginal communities and visits were made to Aboriginal service providers to inform the Inquiry.

The Inquiry convened five consultations with Aboriginal communities in four regional locations: Mildura, Shepparton, Warrnambool and Bairnsdale. Metropolitan consultation sessions were held in Thornbury at the Aborigines Advancement League and at Dandenong. Approximately 50 participants attended the consultation sessions. In some instances, the groups were small which allowed for more in-depth discussions about personal experiences.

Visits were made to Aboriginal organisations in metropolitan Melbourne to the Victorian Aboriginal Child Care Agency, Yappera Multifunctional Aboriginal Children's Centre, Victorian Aboriginal Health Service, and in the regions to Rumbalara Centre in Shepparton, Njernda Aboriginal Family Services in Echuca and the Swan Hill Aboriginal Family Service.

Aboriginal Affairs Victoria (AAV) assisted the Inquiry in planning and organising the consultation sessions. Assistance was also provided by the Department of Justice in Mildura. Local brokers, who are AAV staff based in the local community, helped promote the consultations to the Local Indigenous Networks and other contacts. The Local Indigenous Networks are made up of Aboriginal people who regularly meet and work together to address community issues.

AAV established contacts to help raise awareness among the local community about the Inquiry, and tapped into existing relationships to recruit participants.

The Inquiry's consultations and visits with Aboriginal communities and organisations have informed the Inquiry's consideration of opportunities to improve the system's capacity to meet the needs of Aboriginal children and young people, discussed extensively in Chapter 12.

1.2.6 *Consulting with culturally and linguistically diverse community workers*

The Inquiry sought the advice of the Ethnic Communities' Council of Victoria about how best to consult with culturally and linguistically diverse communities. The Council recommended that the Inquiry meet with workers from organisations serving these communities. The Inquiry held a consultation session with the help of the Victorian Cooperative on Children's Services for Ethnic Groups (which was also represented in the Inquiry Reference Group discussed

below in section 1.3) and the Council which was attended by 10 participants.

In addition, several individuals from culturally and linguistically diverse communities contributed to the Inquiry through written and verbal submissions. Many of the participants were referred to the Inquiry by Care with Me, a foster care support service that aims to improve outcomes for children from culturally and linguistically diverse backgrounds in out-of-home care. The organisation also made written and verbal submissions.

Chapter 13 discusses meeting the needs of children and young people from culturally and linguistically diverse backgrounds and draws on the input received through this consultation.

1.3 The Inquiry Reference Group

The Inquiry established a Reference Group to provide advice on key issues, issues analysis, policy options and stakeholder engagement.

The 20 members of the Reference Group were drawn from the wider service system and from the client groups, that is, from: peak bodies; family services; child protection and out-of-home care services; Aboriginal organisations; maternal and child health; local government; schools; doctors; mental health and drug and alcohol services; carers; domestic violence services; multicultural groups; academics; police; court administration and legal services. While the members came from these organisations, they were participating as individuals rather than as representatives of their organisations. Full details of the Reference Group's membership along with meeting dates are set out in Appendix 2.

The Reference Group met three times to discuss views and issues arising from the Terms of Reference. The discussions with the Reference Group provided an important input to the Inquiry's deliberations and summary notes of the Reference Group meetings are published on the Inquiry's website.

1.4 Consulting with the workforce

An important aspect of the Inquiry consultations arising from the Terms of Reference was hearing from frontline workers from CSOs and DHS who work daily with vulnerable children and young people. The Inquiry was similarly concerned to meet with foster and kinship carers through visits to organisations and through verbal and written submissions.

When visiting organisations, particularly those involved with Child FIRST and family support services, the Inquiry spoke informally with those who had the most direct contact with children and families.

The Inquiry conducted seven formal consultation sessions specifically for staff from DHS and CSOs. These were held in the Southern, Gippsland and Barwon-South Western regions, and in Melbourne. A consultation session was held in Melbourne with managers from the Department of Human Services. The consultation sessions were different from the visits and meetings with organisations in that attendees addressed specific questions posed by the Inquiry.

A number of meetings were held with the Secretary of DHS and senior child protection staff. The Inquiry visited 13 offices of DHS and consultations were held with more than 100 child protection staff and managers who freely provided feedback and views to inform the Inquiry's analysis. The Inquiry held three consultation sessions with staff from CSOs in Melbourne and in the Gippsland and Southern regions, which involved approximately 50 participants.

The Inquiry also met with and received a submission from the Community and Public Sector Union, which represents child protection workers. The Australian Services Union, which represents workers in CSOs, appeared at a Public Sitting and provided a written submission.

The Inquiry's consultations with the workforce have informed its consideration of:

- Early intervention to support vulnerable children in families (Chapter 8);
- Statutory child protection services (Chapter 9);
- Children's Court processes (Chapter 15);
- The requirements for a workforce that provides quality services (Chapter 16); and
- The provision of clinical psychological services to the Children's Court (Chapter 18).

1.5 Previous reports and reviews

The Inquiry has drawn on previous reports and investigations on similar or related subject matters in Victoria and elsewhere. Among these were the:

- Reports by Mr Justice Fogarty and Ms Delys Sargeant (Fogarty & Sargeant 1989; Fogarty 1993) on *Protective Services for Children in Victoria*;
- Victorian Auditor-General's 2005 report, *Our children are our future: Improving outcomes for children and young people in Out-of-Home Care*;
- Victorian Law Reform Commission's 2010 report on *Protection applications in the Children's Court*;
- Victorian Ombudsman's reports *Own motion investigation into ICT-enabled projects* released in November 2011 and *Investigation regarding the Department of Human Services Child Protection Program (Loddon Mallee Region)* released in October 2011; *Own motion investigation into child*

protection – out-of-home care released in 2010; and the 2009 *Own motion investigation into the Department of Human Services Child Protection Program*.

The Inquiry also looked at national, interstate and overseas sources, including the:

- *Report of the Special Commission of Inquiry into Child Protection Services in New South Wales* by the Hon. James Wood AO QC (Special Commission of Inquiry into Child Protection Services in NSW 2008); and
- *Review of child protection* in England concluded by Professor Eileen Munro in 2011.

1.6 Structure and approach adopted for the Report

The broad scope of the Inquiry and complex and interconnected nature of the issues have dictated the form of this Report, which is divided into three volumes. The first volume of the Report, the overview volume, contains the executive summary, a list of all recommendations and findings and the Inquiry's implementation plan. The second volume is the substantive body of the Report and contains parts one to eight listed in Figure 1.2. The third volume contains all of the appendices to the Report.

In line with the principles of openness and inclusiveness, the Inquiry has sought to write the Report in language that is as accessible as possible. This has meant avoiding the use of technical jargon where possible. In some sections, the language is more formal, reflecting the need for precision when considering detailed legal points.

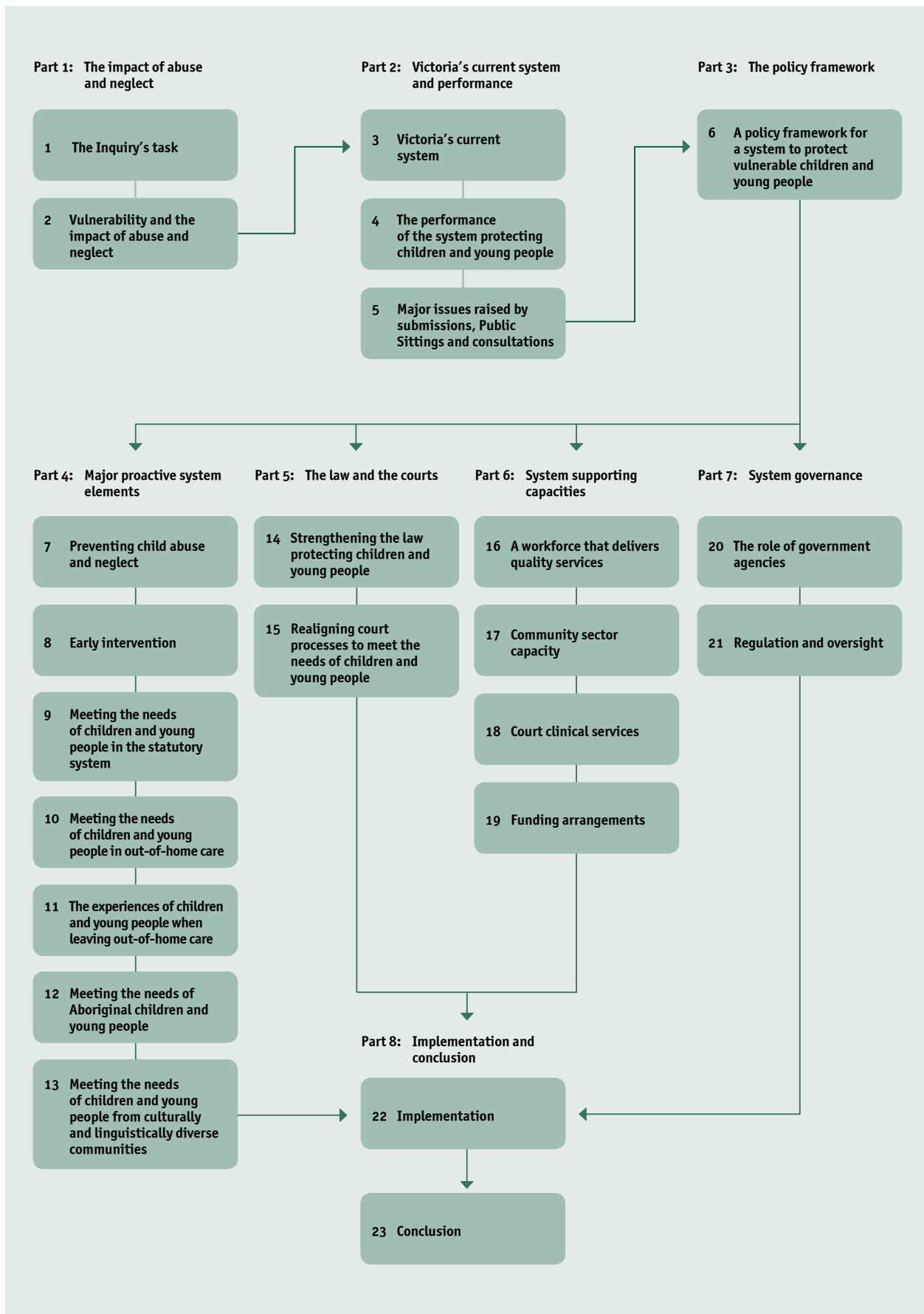
There are three types of conclusions formed by the Inquiry in this Report:

- **Recommendations:** the most formal of the Inquiry's conclusions. These are areas where the Inquiry has specified the action that should be taken by government to address an issue;
- **Findings:** significant conclusions resulting from the Inquiry's analysis; and
- **Matters for attention:** 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 has made 90 recommendations, 20 findings and identified 14 matters for attention. Ten areas of major system reform have been proposed to address four system goals.

Figure 1.2 sets out the structure of Volume 2 of the Report.

Figure 1.2 Report structure: Volume 2



Summary of Volume 2

- Part 1 examines the Inquiry's task, the nature of vulnerability and the problem of child abuse and neglect.
- Part 2 describes the current approach in Victoria and broadly assesses the performance of Victoria's system for protecting vulnerable children from abuse and neglect. It highlights major issues raised by submissions, Public Sitings and recent Reports including, by the Victorian Ombudsman.
- Part 3 examines the policy framework applying to the protection of children. It considers:
 - the rationale for government's involvement in protecting children;
 - overarching principles to support the Inquiry's analysis of the major issues;
 - themes arising from the Inquiry's consultation process;
 - the most suitable frameworks for understanding the complex interactions between different organisations and participants in the system for protecting children; and
 - how a system for protecting vulnerable children should be focused on a child's needs. These principles, themes and frameworks in turn shape the recommendations for the policies that government should consider.
- Part 4 examines the major elements of the systems to protect children and young people. In particular, it examines the issues relating to:
 - preventing abuse and neglect;
 - intervening early with vulnerable families and children;
 - the needs of children in the statutory system;
 - meeting the needs of children in out-of-home care;
 - leaving out-of-home care;
 - meeting the needs of Aboriginal children; and
 - meeting the needs of children from culturally and linguistically diverse communities.
- Part 5 examines the law and the courts including strengthening the law to protect children and realigning court processes to address the needs of children and young people.
- Part 6 examines factors which have an important impact on the capacity of the system, that is, workforce issues, community sector capacity, clinical services, and funding arrangements.
- Part 7 examines broader system governance and examines the role of government agencies and system governance and regulation.
- Part 8 examines the Inquiry's reform proposals and provides advice as to which recommendations should be implemented in the immediate, medium and long term. Concluding comments are also made.