Chapter 5:
Major issues raised in submissions, Public Sittings and consultations

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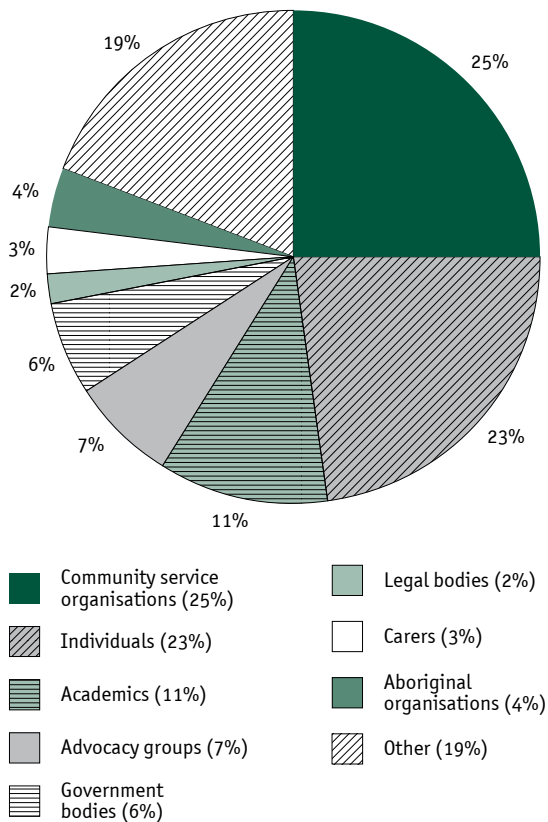
Key points

- The Inquiry received submissions from a wide range of individuals and organisations involved in different aspects of Victoria's system for protecting children.

- Hearing from children and young people who have experienced Victoria's system for protecting children was important to the Inquiry. The Inquiry also heard from the child protection workforce, people living in regional communities and people from Aboriginal communities and culturally and linguistically diverse backgrounds.

- The major issues raised in submissions, Public Sittings and consultations covered the following themes:

    - prevention and early intervention;

    - the role the Department of Human Services plays in the system for protecting children;

    - multidisciplinary approaches to serving the needs of vulnerable children and families;

    - out-of-home care and leaving care;

    - poor educational outcomes for children in the system, particularly those in residential care;

    - Aboriginal-informed programs and delivery of services;

    - culturally and linguistically diverse community issues;

    - child sexual abuse;

    - the adversarial nature of the Children's Court of Victoria;

    - an industry-wide, professional children protection workforce with greater workforce development;

    - the community sector's role in case management;

    - the adequacy of funding levels;

    - problems arising from current regulatory and governance arrangements;

    - service capacity and demand;

    - the use of research, data and systems in child protection practice; and

    - regional and remote challenges to service delivery.

- Detailed analysis of specific issues, along with discussion of the major reforms proposed by different submissions are located in subsequent chapters covering the different components of Victoria's system for protecting children.

5.1 Introduction

The Inquiry's consultation process generated a large volume of submissions from a diverse range of individuals and organisations on a broad set of important issues. This variety and depth reflects the breadth of the Terms of Reference and the importance of the subject matter.

The Inquiry received 225 written submissions. Submissions came from academics (25), advocacy groups (16), community service organisations (CSOs) delivering child, family and out-of-home care organisations (46), government bodies (12), legal bodies (5), courts (4), unions (3) and individuals (52). There were nine submissions from Aboriginal organisations, seven from carers, seven from religious organisations, five from sexual assault services, six from health and treatment providers and one from a member of the Victorian Parliament. 39 submissions were from regional Victoria, nine were from interstate and the majority (155) were received from metropolitan Melbourne. The geographical origin of 22 submissions was unknown.

Figure 5.1: Submissions received by the Inquiry, by main groups

Community service organisations (25%)

Individuals (23%)

Academics (11%)

Advocacy groups (7%)

Government bodies (6%)

Legal bodies (2%)

Carers (3%)

Aboriginal organisations (4%)

Other (19%)

Some stakeholders worked together to produce co-authored submissions to the Inquiry, for example the joint CSO submission of Anglicare Victoria, Berry Street, MacKillop Family Services, The Salvation Army, the Victorian Aboriginal Child Care Agency and the Centre for Excellence in Child and Family Welfare (Joint CSO submission). Some of these organisations also provided separate submissions in addition to their joint submission. Some of the academic submissions reflected joint effort, with The University of Melbourne contributing to 13 submissions authored by different academics and practitioners, with nine overseen by Professor Cathy Humphreys.

The issues raised in written and verbal submissions covered many aspects of Victoria's system for protecting vulnerable children. The top five matters raised, with at least a hundred submissions commenting on each were, in order:

• Statutory children protection services;

• Out-of-home care (including respite, foster, kinship, permanent and residential care);

• Targeted or secondary child and family services;

• Early intervention; and

• Child protection workforce issues.

5.2 Feedback from consultations

The Inquiry has read all submissions and benefited from learning the views of a wide range of individuals and organisations involved with different aspects of Victoria's system for protecting children. The views of children and young people were sought through particular methods outlined in section 1.2.1 in Chapter 1.

This chapter provides a high-level overview of the range of submissions received from the community, comments from Public Sittings and views provided during consultations by summarising the broad issues that were raised. Identifying high-level issues has assisted the Inquiry to prioritise areas of concern to the community and to determine how widely these views are held and to gauge whether there is agreement for a particular direction for policy or service delivery. Submissions often addressed contentious areas of the policy and service delivery framework but also, importantly, successful areas of current practice.

Generally submissions tended to comment on the areas in Victoria's system for protecting children that are not functioning well. Some CSOs seemed to find it difficult to draw upon their particular organisation's evidence base as a source of information to advise the Inquiry's understanding of the nature of their client population, and client outcomes in relation to vulnerability and child abuse or neglect.

Although some submissions from CSOs addressed solutions in detail, the Inquiry found there was not a great deal of evidence and argument supporting the proposed changes to be implemented that could be tested. It would have greatly assisted the Inquiry if submissions from CSOs had provided research and evidence with reliable data, for example, indicating their size, the number of children and young people provided with services, along with patterns or trends such as case complexity and client age and length of time services were provided to clients. As noted elsewhere in this Report, there is an absence of data to guide evidenced-based policy and service delivery, and CSOs would appear to hold important data sets. The reasons why a number of CSOs did not provide this information is unclear.

It has not been possible to summarise the detail of each and every submission made to the Inquiry. In recognition of these constraints and to facilitate public awareness, all the written submissions to the Inquiry have been published and are available at the Inquiry's website, alongside the transcripts from the Public Sittings. Appendix 2 sets out the Inquiry's approach to publishing submissions, including where full publication of a submission was not appropriate due to the need for confidentiality.

The following sections synthesise the extensive material received through submissions and consultations to draw out some common themes. These themes have been ordered, as far as possible, to align with the chapter structure of this Report.

Detailed comments and specific reform ideas about particular components of the system are discussed and examined in the chapters to which they relate. For example submissions that propose specific changes to out-of-home care are discussed in further detail in Chapters 10 and 11.

Submissions that are referenced in this chapter are illustrative examples only and are not exhaustive of the numbers of people and organisations that may have also made that point. For some matters, many submissions may have made comment on that issue and it was not practical to list all of these in full.

5.3 Feedback received from children and young people

The Inquiry considered that hearing from children and young people about their experiences with out-of-home care and related services was very important. As outlined in Chapter 1, such consultation had to be conducted carefully, bearing in mind the need to use appropriate mechanisms that respected the children and young people concerned.

Some of the feedback from children and young people concerned issues such as their need to be listened to and to be involved in their case planning. Many felt that, as young people, they were not consulted when decisions were made about their care and they did not have a say in what was happening to them. They also raised the importance of a good case worker who made time to get to know them and connect with them. The Inquiry heard about the negative impact caused to them by a good case worker moving on, after a trusting relationship had been formed.

Most young people in residential care who spoke with the Inquiry expressed with considerable anguish their concern about conditions in some residential units. Most spoke of how deeply unsettling it was to have new residents and staff continually come and go. Some spoke of their fears for their personal safety, having witnessed and in some instances experienced, intimidation, physical assault and unwelcome sexual behaviour from other residents. Some young people described serious bullying at a time when they were psychologically fragile and preoccupied with suicidal thoughts. Others spoke of how hard it was to maintain a commitment to their education and to study in the evening when there was strong peer pressure not to attend school. The mental health and substance abuse problems of many young people in residential units was mentioned as posing enormous difficulty, as was the frequent attendance of police at the units as a result of property damage and assaults within the residential units. Some young people had numerous convictions for offences committed in their unit. While some young people remarked on positive relationships with a few residential care staff, negative attitudes were expressed towards those staff who withdrew from interaction with them, by 'retreating to the office'.

The Berry Street written submission echoed these experiences, noting a case study where three young people in residential care were moved around residential care units in different country towns with very little notice or connections to the places to which they were moved (p. 47).

The Inquiry also heard from adults in respect of their past experiences as children in care and heard from Forgotten Australians at the Public Sittings.

5.4 Themes raised in submissions, Public Sittings and consultations

The key themes raised in submissions were:

- Prevention and early intervention, including

  - the importance of the maternal and child health nursing service;

  - the endorsement of Child FIRST as an early intervention initiative, but identification of a lack of clarity of function in relation to Child FIRST and the statutory child protection system;

  - issues in relation to demand and resourcing of Child FIRST; and

  - the significant role of family violence in causing vulnerability in children;

- The role the Department of Human Services (DHS) plays in the system for protecting children, including

  - the lack of comprehensive assessment of needs, for example for health or education, when a child enters the system;

  - difficulties experienced by those dealing with DHS; and

  - the complexity of cases, the difficulty of meeting the requirements of children with multiple needs and the effect of cumulative harm on children;

- Multidisciplinary approaches to serving the complex needs of vulnerable children and families;

- Out-of-home care and leaving care;

- Poor educational outcomes for children in the system, particularly those in residential care;

- Aboriginal-informed programs and delivery of services;

- Culturally and linguistically diverse community issues;

- Child sexual abuse;

- The adversarial nature of the Children's Court of Victoria;

- An industry-wide, professional child protection workforce with greater workforce development;

- The community sector's role in case management;

- The adequacy of funding levels;

- Problems arising from current regulatory and governance arrangements;

- Service capacity and demand issues, including:

  - that family services are increasingly dealing with only the most severe or acute cases; and

  - the effects of significant caseloads for child protection workers;

- The use of research, data and systems in child protection practice, including

  - poor data systems; and

  - collecting, maintaining and archiving a child's history;

- Regional and remote challenges to service delivery.

It is important to note that these were not the only matters raised in submissions. Further more detailed points are discussed in relevant chapters.

5.4.1 Prevention and early intervention

The prevention of child abuse is critical and possible if parents, the community and early childhood professionals can identify the signs of risks to ensure intervention before the abuse and identify signs of abuse to increase early intervention which would lessen the long term effects on the child (Child Wise submission, p. 3).

Many submissions argued that Victoria has a comparatively strong universal platform for children's services. Victorian maternal and child health services and early childhood programs such as playgroups and kindergartens all offer an excellent starting point for identifying those in need of more focused care (submissions from Australian Nursing Federation (ANF) (Victorian Branch), p. 6; Playgroup Victoria, p. 2; Victorian Council of Social Services (VCOSS), pp. 22, 26).

Submissions argued that these services had untapped potential to intervene earlier, but that opportunities to intervene early were considered to be limited in the existing service system due to skills and capacity constraints (ANF (Victorian Branch), pp. 6-9; CatholicCare, p. 9; Playgroup Victoria, pp. 2-3; Victorian Association of Maternal and Child Health Nurses, pp. 3, 5-7).

Submissions also commented on the significant role that family violence plays in harming children (Aboriginal Family Violence Prevention and Legal Service Victoria (AFVPLSV), pp. 1, 6; Domestic Violence Victoria, pp. 2-3; Humphreys (a), p. 4; VCOSS, pp. 32-33;).

The Joint CSO submission commented that:

In Victoria, family violence is associated with half the child protection cases and occurs disproportionately in our Indigenous communities (p. 46).

The Child FIRST Alliance approach to service provision was generally regarded as a positive addition to the policy and service system for protecting vulnerable children; however, submissions raised a number of issues with Child FIRST's scope, capacity, funding and governance:

> We believe that Child FIRST has been largely successful in diverting families from child protection and providing a mechanism for child protection in supporting families ... Child FIRST is not perfect however. It is experiencing difficulties in managing demand, and is often unable to implement obvious solutions (Joint CSO submission, p. 31).

One dilemma observed by submissions was the increase in cases being referred for family support services that would have in the past been considered statutory child protection matters (FamilyCare, p. 9).

Others argued that a conflict existed between the role of Child FIRST in case managing family support services and also acting as an intake point for reports of concern about children or young people (submissions from CatholicCare, p. 12; The Royal Children's Hospital (RCH), p. 6).

Submissions argued that a range of structural and resourcing reforms would be required if Child FIRST were to be expanded and developed into a local integrated response system for vulnerable families covering universal child and specialist adult services (Centre for Excellence in Child and Family Welfare, pp. 38-39; Joint CSO, pp. 31-35; North East Metro Child and Family Services Alliance, pp. 2-4, 12-13; St Luke's Anglicare, p. 11).

5.4.2 The role the Department of Human Services plays in the system for protecting children

Berry Street acknowledges that the Department, and in particular its Child Protection staff, are working on complex issues and under great pressure. We know from experience that the people working in DHS do so because of their commitment to achieve better outcomes for children and young people. Regardless of this, bad decisions are bad decisions and poor practice is poor practice (Berry Street submission, p. 14).

A range of submissions commented that the statutory child protection system was stretched beyond capacity, reflected in the heavy demands placed on child protection workers and the inability to carry out adequate case assessments (Berry Street, p. 30; Community and Public Sector Union (CPSU), pp. 52-65; RCH, p. 5).

Submissions noted that the consistency of responses from different regions in Victoria in terms of risk assessment varied enormously depending on which region and office is involved (RCH, p. 2; Take Two Partnership, pp. 2-3). This message was reinforced in numerous consultations conducted by the Inquiry.

Some submissions argued that the DHS statutory child protection services are closed and inward-looking (Domestic Violence Victoria, p. 5). Submissions argued that not enough collaboration occurs with service systems that are closely related to protecting vulnerable children, such as family violence, disability services or mental health (Disability Services Commissioner Victoria, pp. 3-5; Domestic Violence Victoria, pp. 3-4; The Royal Australian and New Zealand College of Psychiatrists - Victorian Branch Faculty of Child and Adolescent Psychiatry and The Royal Australian and New Zealand College of Psychiatrists (Victorian Branch), p. 3; Victorian Forensic Paediatric Medical Service (VFPMS), pp. 8-9).

Similarly, submissions argued that DHS services are not structurally established to manage high levels of case complexity in an integrative and comprehensive fashion (The Royal Australian and New Zealand College of Psychiatrists - Victorian Branch Faculty of Child and Adolescent Psychiatry and The Royal Australian and New Zealand College of Psychiatrists (Victorian Branch), p. 5).

There is a perception that communication and information provision by DHS can be disrespectful, inconsistent or one-way (submissions from Gippsland Centre Against Sexual Assault (CASA), p. 6; Victorian Aboriginal Health Service Co-operative, pp. 3, 7-8).

> Whilst there are case examples of things working well, all too often, due to inadequate support within the system, and also a lack of resources external to the system, workers are feeling defensive in their dealings with one another, communication is very poor or sporadic or does not occur at all, and informed systemic discussions are not occurring regarding the case management of a child or young person (Gippsland CASA submission, p. 6).

Odyssey House Victoria's submission reported that focus groups had found parents with a substance abuse problem reporting mutual distrust with statutory child protection and difficulties working with the service, but nevertheless wanted more, not less, home visits to facilitate improved assessment not based on hearsay, out-dated or irrelevant information. One parent was quoted: '[w]ith Child Protection you are presumed guilty and have to prove you are innocent but honesty can get you into trouble' (Odyssey House Victoria submission, p. 4).

The high turnover of child protection staff and the resultant impact on case worker continuity for vulnerable children was commented on in submissions (CPSU, pp. 51, 66, 69, 82; Disability Services Commissioner Victoria, p. 4).

Submissions argued that the Children's Court of Victoria (Children's Court) and DHS have not properly incorporated the concept of cumulative harm into its processes and practices, which may in part be due to a perception that evidence of such harm will not be accepted by the Children's Court (CatholicCare, pp. 18-19; Grandparent Group, pp. 8-9; Humphreys & Campbell (b), p. 6; Take Two Partnership, p. 4).

> Anecdotal evidence provided to the OCSC [Office of the Child Safety Commissioner] suggests that there is a reluctance among some child protection practitioners to pursue cumulative harm in child protection cases because they will not be accepted by courts. Further research should be undertaken to determine if such a reluctance does exist and if it does how it can best be addressed (OCSC submission, p. 7).

The Victorian Child Death Review Committee (VCDRC) submission (p. 23) argued that assessment and response to cumulative harm has not to date been fully realised.

The Children's Court argued that a sound approach to cumulative harm is undermined by DHS' focus on event or crisis-based interventions rather than early intervention to support a child's family (Children's Court submission no. 2, pp. 5, 22-26).

The Child Protection Society noted that there was little guidance from legislative, judicial and policy sources as to what constitutes sufficient evidence for sustaining allegations of emotional abuse and cumulative harm and that the child protection system 'remains event and crisis focused'. The impact on practice means that children suffering the corrosive effects of constant low-level insults to their dignity, health and wellbeing are overlooked (Children's Protection Society submission, p. 34).

5.4.3 Multidisciplinary approaches to serving the needs of vulnerable children and families

Many submissions discussed the need for a multidisciplinary approach where a case worker is responsible for working with the family, commencing with an assessment of risk and need and ensuring the right suite of therapeutic services and supports are in place (CatholicCare, p. 17; Joint CSO, p. 40; RCH Gatehouse visit, 23 May 2011; St Luke's Anglicare, p. 16).

Submissions argued that vulnerable families need comprehensive, integrated responses capable of addressing a span of issues, including protective concerns for vulnerable children and young people, mental health, welfare, education, alcohol, drug and other needs (Take Two Partnership, p. 1).

The Jesuit Social Services' submission argued for the adoption of a 'whole of life' approach. This involves understanding and appreciating the totality of each individual '[r]ather than thinking about support from the perspective of separate silos (e.g. mental health, disability, drug and alcohol misuse, employment, housing, health, criminal justice)' (Jesuit Social Services, p. 3).

5.4.4 Out-of-home care and leaving care

Jesuit Social Services is of the strong view that out-of-home care for children and young people is not working adequately and is, indeed, at crisis point. Children being removed from their families have a right to be in safe, stable and secure placements with consistent carer relationships (Jesuit Social Services submission, p. 18).

The ability to assess a vulnerable child's needs comprehensively was raised in many of the submissions addressing out-of-home care (Joint CSO, pp. 60-61; MacKillop Family Services, p. 21; Two Partnership, p. 7; VCDRC, pp. 23-24; Webster, pp. 6, 12-13, 15). Submissions also mentioned the need to have better case plans developed to address a child's needs.

Many submissions argued for broader availability of a deeper range of therapeutic and support services and placement types (OCSC, p. 9; RCH, p. 8; Take Two Partnership, p. 8). CSOs commented that there are not enough placements available to appropriately match children and young people to placements and provide a quality, tailored response to meet a child's needs (Berry Street, pp. 38, 41-42; MacKillop Family Services, p. 8; The Salvation Army, pp. 8-12, 17).

Significant concerns were raised about the accountability and quality of residential care facilities:

> Some residential units are environments conducive to the development of criminal behaviour. A tolerance of drug-taking, truancy, pro-criminal and antisocial behaviour seems to foster delinquency. The oversight and management of residential units requires urgent review (VFPMS submission, p. 15).

Submissions argued that residential care placements are used as a last resort for placing children and young people in out-of-home care (Brophy Family and Youth Services, Ballarat Public Sitting; The Salvation Army, p. 17).

The roles and responsibilities of DHS and CSOs were mentioned in submissions including the future governance, service system and funding arrangements for out-of-home care (Joint CSO submission, p. 59).

Other submissions argued that children repeatedly moving from home to care and back again are suffering damage to their development and stronger criteria need to be applied for greater stability (Berry Street, p. 30; Centre for Excellence in Child and Family Welfare, p. 33; Disability Services Commissioner Victoria, p. 4; Take Two Partnership, p. 5).

Many submissions commented on the need to consider the role of carers, carer reimbursements and access to benefits (Grandparents Group, pp. 2-3, 11; Grandparents Victoria and Kinship Carers Victoria, pp. 7-8; OCSC, p. 10; The Salvation Army, p. 18-19; VFPMS, p. 14).

Submissions emphasised the important role of kinship care holding many advantages over other forms of alternative care (Humphreys & Kiraly (a), p. 2; Ms Smith, p. 6). Another submission argued:

> This method [kith or kin placements] of intervention is most stable for a young person, holds less social stigma for a child, is most manageable from a professional perspective and most conducive to achieving outcomes for the child (Good Beginnings Australia, p. 2).

The Grandparent Group submission, however, argued that grandparent carers face extreme and exceptionally difficult circumstances as carers and acknowledgment of their key role and commitment is presently inadequate (p. 2).

Submissions also commented on the strength of Victoria's foster care system with dedicated carers who look after children in difficult circumstances and who are 'extremely overworked and under-valued' (Ms Edyvane, p. 1). Ms Edyvane argued that counselling and support services are extremely limited for both carers and children in care and that there is a significant turnover of good people (Ms Edyvane, p. 1). The UnitingCare Gippsland submission (p. 23) argued that volunteer foster carers need to be recognised as professionals in the field and paid accordingly.

The Centre for Excellence in Child and Family Welfare argued that respite care can play a key role in strengthening families, improving child and family wellbeing and preventing abuse, neglect and family breakdown. Their Issues Paper Two argued however, that availability of respite care for kinship carers and long-term foster carers is becoming a major problem, and that 'rates of placement breakdown and carer retention will continue to suffer accordingly' (Centre for Excellence in Child and Family Welfare 2011a, no. 2, p. 15).

Some considered that many children would benefit from a permanent care order but these are not being sought because carers who become permanent carers will be left without adequate financial support. Some reasons for why a carer would not seeking a permanent care order included where this would mean the child would lose access to therapeutic or other support services (Take Two Partnership submission, p. 5). Another reason noted was that high levels of access conditions stipulated by the Children's Court made prospective carers reluctant to take on the role of carers (Ms Smith submission, pp. 1-5).

Leaving care

One measure of success is the broader achievements of those who have exited the system – leaving care. Submissions commented that too many young people leave the child protection system with multiple and complex problems (Jesuit Social Services, p. 18; MacKillop Family Services, p. 13).

The Salvation Army submission (p. 21) argued that it is not reasonable to expect a child or young person who has experienced significant trauma and has lived in out-of-home care to transition to live independently by the age of 18 years. Submissions argued that young people in care should be fully supported until the age of 21, with more targeted supports continuing to the age of 25 in key areas such as housing, health, education, workplace and other specialist services (Berry Street, p. 45; MacKillop Family Services, p. 13; The Salvation Army, pp. 21-22; VCOSS, p. 46).

DHS and CSO front line workers have noted that it is a struggle to determine where a child or young person will live after they leave care and often they will return to the home from where they had been removed. Young people reported similar concerns.

5.4.5 Poor educational outcomes for children in the system, particularly those in residential care

Educational outcomes for children in care are substantially lower than those of the broader student population (VCOSS submission, p. 35).

Submissions raised concerns that children who experience out-of-home care have poorer educational outcomes (Berry Street, pp. 39-40; OCSC, p. 10). VCOSS and others argued that Victoria needs a more diverse and flexible education system that can support vulnerable young people to remain engaged, or re-engage, in their learning (submissions from MacKillop Family Services, pp. 27-28; VCOSS, pp. 35-37).

VCOSS pointed to the Berry Street and MacKillop Family Services independent schools designed for young people in out-of-home care who have had difficulty engaging in mainstream education (VCOSS submission, pp. 35-37).

Brophy Family and Youth Services argued that young people from disadvantaged backgrounds with abuse or neglect struggle in the education system, especially when transitioning from primary to high school. If a young person is ill-equipped to cope academically and socially at school, they can be further isolated from their community (Ms Allen, Brophy Family and Youth Services, Ballarat Public Sitting).

Grandparents Victoria and Kinship Carers Victoria argued that ensuring access to education was crucial for children in out-of-home care (Grandparents Victoria and Kinship Carers Victoria submission, p. 7). The Grandparent Group submission (p. 10) observed that a vulnerable child's educational needs can be of 'low visibility' to teachers and principals. Initiatives suggested included educational aides in the classroom and child care to build social and cognitive skills and school readiness for those from especially difficult backgrounds.

5.4.6   Programs and services for Aboriginal children

For Aboriginal children, the State has not been a good enough parent. We need better outcomes for Aboriginal children … services for Aboriginal children and families should be delivered by Aboriginal organisations; decisions about Aboriginal children should be made by Aboriginal organisations (Victorian Aboriginal Child Care Agency (VACCA) submission, pp. 1-2).

Many submissions commented that a key issue arising from the over-representation of Aboriginal children in Victoria's system for protecting children is the need to promote and respect the general principles of Aboriginal self-determination when it comes to meeting the needs of Aboriginal children and young people in the system.

VACCA argued that when services cannot be delivered by Aboriginal organisations then services need to be culturally competent and best-practice-based (VACCA submission, pp. 1-2). Submissions argued that cultural competence needs to be valued as a skill and knowledge base so that it can be reflected in policy, funding and service delivery (VCOSS, p. 16). Many submissions agreed there is a need for cultural competence standards and greater cultural awareness training (AFVPLSV, p. 8; VACCA, pp. 5-6; Victorian Aboriginal Health Service Co-operative, p. 4; Take Two Partnership, p. 3; Victorian Aboriginal Legal Service Co-operative, p. 5).

… it requires considering how the system as a whole can be more inclusive of Indigenous and CALD cultures and values. This proactive approach goes to ensuring the most effective and rights enabling service system by making the service fit the person, rather than the person fit the service (Victorian Equal Opportunity and Human Rights Commission (VEOHRC) submission, p. 15).

Enabling Aboriginal governance and a sustainable Aboriginal workforce were suggested areas for reform (submissions from Joint CSO, pp. 39-40; Take Two Partnership, p. 4; VACCA, pp. 4-7).

5.4.7   Culturally and linguistically diverse community issues

CALD communities encounter many of the same experiences as those of the Aboriginal and Torres Strait Islander communities in terms of wanting to retain and practice certain aspects of their specific cultural identify and some generalist services not being fully understanding or sensitive to their cultural needs (Ms Katar, Dandenong Public Sitting).

A major issue commented on by submissions representing culturally and linguistically diverse backgrounds was the lack of record-keeping and therefore available data on the cultural and religious background of children in the out-of-home care system (Care with Me, pp. 2, 6; Ms Marantelli, Centre for Multicultural Youth, Melbourne Public Sitting).

Submissions also reported that there is no policy or practice framework to facilitate the observation of cultural rights for culturally and linguistically diverse children and families within the system for protecting children (VEOHRC, p. 16). As Ms Katar noted: '[i]n the case of child protection, there is no clear protocol regarding the placement of culturally and linguistically diverse children in the same sense that there is regarding Aboriginal or Torres Strait Islander communities' (Ms Katar, Dandenong Public Sitting).

Inadequate access to cultural awareness training was highlighted as a cause of culturally insensitive practices (submissions from Care with Me, p. 6; VEOHRC, p. 16).

5.4.8   Child sexual abuse

> But why is there never a word spoken about the problem of child sexual abuse? (Ms L, Bendigo Public Sitting).

The Inquiry heard from parents of victims of sexual abuse that preventative information and guidance about sexual abuse is not readily available in the Victorian community. Submissions argued that greater education for children, parents, youth groups and other groups and professionals working with children is needed to build community capacity and knowledge of sexual abuse and the practices of paedophiles (Gippsland CASA, p. 1; Ms L, Bendigo Public Sitting; Ms Wilson, Warrnambool Public Sitting).

DHS and the broader system's ability to respond to sexual abuse was called into question, with submissions pointing to low levels of substantiation and prosecution (Powell & Snow, p. 3). The RCH submission (p. 14) argued that the legal system has taken away the sexually abused child's voice.

The Australian Childhood Foundation submission argued that a child-rights paradigm should be adopted that more clearly treats physical and sexual abuse and chronic neglect as a crime and, in doing so, holds parents who commit these crimes accountable for their behaviour with prosecution and effective sentencing integrated into the child protection response (Australian Childhood Foundation, pp. 3-4; Goddard et al. Child Abuse Prevention Research Australia, pp. 7, 10).

The importance of a multidisciplinary approach was raised by submissions on sexual abuse. Several submissions argued that multidisciplinary centres should be rolled out further across Victoria and emphasised that co-location of child protection workers, counsellors and advocates and Victoria Police investigation teams had been found to be effective at: coordinating effort, increasing disclosure of abuse, successful convictions of offenders and better linking children and families to therapeutic supports to promote recovery from trauma (Barwon CASA, p. 2; CASA Forum, p. 9; Gippsland CASA, p. 1; RCH, p.12; Ms Wilson, Warrnambool Public Sitting).

5.4.9   The adversarial nature of the Children's Court of Victoria

> Creating a coherent response to protecting vulnerable children requires the professions of welfare and the law to better understand the other as a foundation for building mutual respect regarding the role that each plays (Mr Fanning submission, p. 3).

A large number of submissions raised concerns with the way the Children's Court currently operates. The Children's Court contributed two detailed submissions to the Inquiry, containing trends data on applications and reports and a number of reform proposals.

The Children's Court submission outlined the increase in workload that has been experienced by the court, with growth of child protection applications to the court at the rate of 9 per cent per year since 2002-03. The Children's Court submission also noted that not only are the numbers of applications increasing, the numbers requiring an urgent court ruling on placement are also increasing (Children's Court no. 1, p. 16).

Concerns raised by submissions included a perception that adversarial court processes prevent effective collaboration occurring between court staff, a child's parents and DHS child protection practitioners to address a child's needs (Berry Street, p. 48; CASA Forum, p. 11; CatholicCare, p. 19; Humphreys & Campbell (b), p. 2-3; Inquiry workforce consultations).

Many submissions commented that court officers and child protection workers do not speak a common language and this is a barrier to achieving good outcomes for children (Mr Fanning, p. 4). Joint training for members of the legal profession and child protection workers was suggested to support a more collaborative model (Victoria Legal Aid (VLA) submission no. 1, pp. 5-6, 26).

There were criticisms of the current mechanisms for determining how a child's views are represented in court, including whether a child is considered capable of giving instructions (submissions from CASA Forum, p. 12; CatholicCare, pp. 20-21; OCSC, attachment c, pp. 1, 8-9). Submissions advocated for new ways to represent a child and young person's voice in court (CREATE Foundation, p. 19; Foster Care Association of Victoria, p. 15; VEOHRC, pp. 6-7; Youth Affairs Council of Victoria, p. 18).

Some submissions argued that the Court appears to favour parents over children or other permanent carers (CatholicCare, p. 15; Northern CASA, p. 3).

Other submissions said that kinship carers voices are not being adequately heard in the Court (Grandparents Victoria and Kinship Carers Victoria, p. 7; Loddon Campaspe Community Legal Centre, Bendigo Public Sitting; VLA no. 1, p. 17).

Child protection workers reported feeling that their professional experience and judgment is not respected by court processes and that there are lost opportunities to draw on their expertise to inform decision making about a child.

Child protection workers and others involved commented on the inefficient use of time and resources arising from court processes, with lengthy delays experienced waiting for matters to be dealt with and time spent preparing detailed statements. These processes are made even more frustrating when those involved feel their opinions and evidence are not valued and ultimately are not used by the Court.

Submissions conveyed a perception that the Court places an undue reliance on reports from the Children's Court Clinic, without giving equal weight to external expert assessments (Berry Street, p. 117; VFPMS, p. 19). Overall, submissions argued that current adversarial processes promote a lack of mutual trust and respect between welfare professionals, legal practitioners and court officers when they come together to make decisions about a vulnerable child.

A number of medical practitioners have advised the Inquiry that they will no longer attend the Court to provide evidence and advice because of inefficient, time-consuming and inconsistent court processes.

There was acknowledgement by some submissions that a need remains for judicial oversight of decisions that affect parents and children's rights and interests (submissions from AFVPLSV, p. 9; Mr Fanning, p. 4; VFPMS, p. 19; VLA no. 1, p. 4). However there was also strong criticism of the operation and adversarial nature of the Children's Court, with some submissions recommending replacing the role of the Court with a panel or specialist tribunal approach for decision making (CatholicCare, pp. 2, 4; Joint SCO, pp. 52-54; OCSC, p. 11; Victorian Aboriginal Child Care Agency (VACCA), p. 7).

Almost all submissions, including the Children's Court, sought a greater focus on alternative dispute resolution processes by agreement (submissions from Children's Court no.1, p. 10; Law Institute of Victoria, p. 3; VFPMS, p. 19; Youth Affairs Council of Victoria, p. 23; Youthlaw, p. 2).

The Children's Court argued a number of system reforms were required to improve the operation of the Victoria's system for protecting children including:

- Strong investment in prevention and early intervention;
- Enhanced family care conferences;
- New ways of commencing protection applications; and
- Investment in court resources and infrastructure to strengthen the court's capacity to conduct new model conferences throughout Victoria and a less adversarial trial model (Children's Court submission no. 2, p. 46).

5.4.10 An industry-wide, professional child protection workforce with greater workforce development

The structure of the child protection service means that the least experienced and trained staff do the most difficult front line work (RCH submission, p. 3).

The Inquiry's workforce consultations revealed a number of important issues and insights. These assisted the Inquiry's knowledge of not only workforce issues but also covered insight into how the overall system could be improved to better protect vulnerable children. Chapter 16 deals with the views of frontline workers in more detail.

Child protection workers and a number of submissions argued that there is a need for an industry-wide approach for joint training and skills development (Grandparents Victoria and Kinship Carers Victoria, p. 7; VLA submission no. 1, p. 1).

A number of submissions argued for measures to improve the professionalisation of the child protection workforce, with some arguing that this process should be qualification-led (Humphreys & Campbell (a), pp. 2-3; Ms Johns, p. 1; Take Two Partnership, p. 4).

The St Luke's Anglicare submission argued that workforce development was a key issue facing the non-government sector and this requires serious resourcing and planning:

> We need a practitioner stream that staff can advance through, incentives and encouragement for staff to remain as practitioners and ensure staff are well remunerated for this professional decision (p. 26).

One of the CPSU's key reform proposals was to improve the pay and conditions of the DHS workforce through a new classification structure and improved entitlements, and setting maximum caseload levels (CPSU submission, pp. 12-19).

5.4.11 The community sector's role in case management

Several community sector submissions argued there should be increased outsourcing of case management functions currently performed by DHS (Berry Street, pp. 32, 49-52; Children's Protection Society, pp. 32-33; Joint CSO, p. 51).

> Berry Street is proposing that the Department of Human Services be released from the provision of direct services including case management, a role better performed by community sector agencies, and supported to focus on core statutory responsibilities (Berry Street submission, p. 13).

CSOs advocated for a public-private partnership approach, whereby CSOs share equally with government responsibility for securing opportunities for vulnerable children and youth to grow up in a safe and stable environment where they can achieve the levels of health, wellbeing and education appropriate for their age and be proud of their culture (Anglicare Victoria, MacKillop Family Services, VACCA, Berry Street, The Salvation Army and Mr Wyles, Melbourne Public Sitting).

The Centre for Excellence in Child and Family Welfare argued that case management functions should be placed within an independent 'Office of Children and Young Persons Guardian' (Centre for Excellence in Child and Family Welfare submission, p. 27).

The CASA Forum submission (p. 9) cautioned against the transfer of statutory functions however, arguing that '[n]on statutory agencies should not deal with the legal responsibilities of mandated notifying' because they are not subject to the same scrutiny.

5.4.12   The adequacy of funding levels

The current crisis at the tertiary end of the system will continue unless the funding model is refined (VCOSS submission, p. 42).

Funding and resourcing issues in some form were raised by nearly every submission. Many submissions from those organisations currently responsible for delivering services to vulnerable children argued that current resources are inadequate to meet the demands and needs in the community (Centre for Excellence in Child and Family Welfare, p. 32; Take Two Partnership, p. 7; VCOSS, pp. 16, 40).

Submissions argued that the Geelong-based multidisciplinary centre has not been funded sufficiently to allow the full co-location of the Barwon CASA, the Victoria Police Sexual Offences and Child Abuse Investigation Team and three child protection workers, resulting in a confused service response (Barwon CASA, p. 2; CASA Forum, p. 8).

As discussed in section 5.4.4, many submissions argued for greater use of therapeutic care approaches, however, funding for these models covers only a fraction of care placements. Submissions argued that funding for therapeutic care needs to be increased because all children in out-of-home care have experienced trauma and the objective of the system should be more than just housing individuals, rather, it should be treating and rehabilitating them (Berry Street, pp. 38, 46; MacKillop Family Services, p. 8).

5.4.13   Problems arising from current regulatory and governance arrangements

We need to build a strong governance framework that establishes a strong and more effective interface between the child protection and community services sectors, and works more effectively with those sectors, such as health and education, whose services we have identified as being essential for the achievement of better outcomes for vulnerable children and young people (Joint CSO submission, p. 76).

Submissions have argued that there is a gap in oversight of child protection practitioners within DHS and there should be an independent body with requisite regulatory powers that is focused on the child protection statutory services (Berry Street, pp. 45-46; Centre for Excellence in Child and Family Welfare, pp. 24-25; Joint CSO, pp. 80-81; OCSC, pp. 9, 12-15; VFPMS, p. 20).

In particular, the Aboriginal Family Violence Prevention and Legal Service Victoria (AFVPLSV) argued that there is inadequate oversight of the situation of Aboriginal and Torres Strait Islander children in Victoria's system for protecting children, or independent systemic advocacy (AFVPLSV submission, p. 9).

Other submissions argued that a significant conflict of interest exists in DHS' role as funder and purchaser of community sector services while at the same time being the regulator of these services (Berry Street, p. 32; Centre for Excellence in Child and Family Welfare, p. 24; VCOSS, p. 51).

The CASA Forum submission (p. 9) commented that non-government agencies need to be overseen by government. Other submissions argued that governance-related activities had not been reflected in the provision of Child FIRST funding and had to date been supported at the expense of participating community organisations (Centre for Excellence in Child and Family Welfare, p. 39; North East Metro Child and Family Services Alliance, p. 18).

The RCH argued that Child FIRST represented 'semi legal responsibility without adequate funding and resourcing', going on to note that agencies funded by government need to be highly accountable to government not only for the funding but just as importantly for the services they are providing to vulnerable families (RCH submission, p. 13).

Submissions expressed concerns about where responsibility for managing different cases rests. The RCH and other submissions noted that, in some regions, Child FIRST is dealing with cases that should be managed by DHS statutory child protection services (RCH submission, p. 6). The VFPMS argued that there is no criteria that determines which cases are better managed by statutory child protection and which cases are better managed by Child FIRST (VFPMS submission, p. 10).

Other submissions noted that a lack of public performance measures for service delivery about statutory child protection services impedes public trust and confidence in the system for protecting children (Australian Childhood Foundation, p. 2).

5.4.14   Service capacity and demand

Demand and capacity challenges pose a real constraint to Child FIRST and Integrated Family Services maximising the potential they offer to provide allocated casework or information and referral services to vulnerable families (North East Metro Child and Family Services Alliance submission, p. 3).

Demand pressures apply throughout the system for protecting children and submissions particularly noted the pressure points occurring at the Child FIRST intake, the front end of statutory child protection services, and finally the intake point into out-of-home care (submissions from Berry Street, pp. 41-42; Joint CSO, p. 41; OCSC, p. 7; The Salvation Army, p. 17).

Many submissions argued that the system is currently filled to capacity, with no flexibility to deal with contingencies or to cope with increased demand forecast (MacKillop Family Services, p. 8; VCOSS, p. 40). The Inquiry heard that some child and family services have been forced to close admissions for periods of time to manage demand.

One example of demand issues was provided by the South Western CASA Sexually Abusive Behaviour Treatment Service, which noted in its submission that as of March 2011, six clients had been allocated to their service, 11 clients were on a waiting list and four referrals were pending. The service is funded to deliver services to five clients (South Western CASA submission, p. 2).

It was argued that the thresholds applied at the pressure points throughout the system have the effect of operating as mechanisms to manage capacity. Capacity constraints have had the effect of raising the threshold of risk of harm required for intervention (submissions from Australian Childhood Foundation, pp. 1, 3; North East Metro Child and Family Services Alliance, p. 16; OCSC, p. 5).

Many submissions said that resource pressures at all levels throughout the system have meant there is less capacity for secondary services to focus on earlier intervention for those who have not yet come into contact with Child FIRST or statutory child protection (CatholicCare, p. 9; North East Metro Child and Family Services Alliance, pp. 16-17).

Submissions commented on the effects of significant caseloads for child protection workers; protective workers were said to be unable to do their work properly if caseloads are too high and too much is spent on preparing for and attending court and supervising access (Gippsland CASA, p. 6; CASA Forum, pp. 4, 8; RCH, p. 5; VLA no. 1, p. 6).

The pressures of demand for other basic needs were also noted in submissions, for example housing, health care, education and adequate income (Jesuit Social Services, p. 9; CatholicCare, p. 21; The Salvation Army, p. 7).

5.4.15   The use of research, data and systems in child protection practice

All agencies need to participate in statewide, collaborative and critical evaluation and research in order to understand the nature of the services they provide and to have the capacity to improve those services (CASA Forum submission, p. 10).

Many submissions commented on the need for greater research evidence that is focused on practical outcomes, that is, assessing which programs and services make a difference to the outcomes of a child or family (CASA Forum, p. 10; Jesuit Social Services, p. 24; RCH, p. 15).

The Children's Court submission argued that collaborative and systematic information exchange would be helpful, for example, data to support forecasting, modelling and strategic planning for child protection workloads (Children's Court submission no. 1, p. 12).

The Take Two Partnership submission (p. 2) argued for the integrated funding of research and training to achieve several benefits including:

• Building a local evidence base upon which to embed clinical work;

• Attracting staff with post graduate qualifications in practice positions who may otherwise have focused on private practice;

• Providing infrastructure for attracting other research grants;

- Providing training throughout a number of sectors (statutory child protection, out of-home care, family services, mental health, education, youth justice, etc.) that is directly informed by current research; and

- Practice, training and research actively involve Aboriginal staff in planning and delivery, thereby increasing its cultural validity and utility.

The Jesuit Social Services submission (p. 24) argued that there is very little research about young people leaving care, how many pursue study, how many enter employment how many become parents and what the prevalence of negative life experiences is.

The need to collect, maintain and archive a child or young person's history was raised (MacKillop Family Services submission, pp. 16-17). The Humphreys et al. submission (b) argued that records are resources that young people draw upon to build their own sense of self, particularly when they cannot obtain this from family or friends.

Creating records or 'storybooks' of a young person's childhood in care so as to facilitate later access was suggested as one way of providing greater continuity and a sense of connection (Humphreys et al. submission (b), p. 11; Northern CASA submission, p. 5).

Child protection workers and submissions commented on the powerful influence of Information, Communication and Technology (ICT) systems on work practices, driving behaviours that are more concerned with compliance with rules and procedures rather than on improving the outcomes of the child (CPSU submission, pp. 81-82).

Submissions argued that the current systems are time-consuming and require simplification (Humphreys & Campbell (a), p. 2). The Berry Street submission argued that the Client Relationship Information System (CRIS)/Client Relationship Information System for Service Providers (CRISSP) lacks basic reporting functions and there is no return on effort to input data to support monitoring, evaluation and quality improvement (Berry Street, p. 33).

Child protection workers suggested to the Inquiry that greater training in the CRIS and other ICT systems across the board was required to improve capability and efficiency.

5.4.16 Regional and remote challenges to service delivery

The difficulties in providing adequate coverage of services in rural areas continue to be a feature of the service system … (Take Two Partnership submission, p. 8)

Submissions observed a range of challenges arising from rural service delivery supporting vulnerable children and young people (Ms O'Reilly, Upper Murray FamilyCare, Wodonga Public Sitting; Ms Nagle, Glastonbury Child and Family Services, Geelong Public Sitting; Mr Tennant & Ms Armstrong-Wright, FamilyCare, Shepparton Public Sitting; VCOSS, pp. 28-29). These included problems in recruitment and underestimation of the additional demands placed on rural staff due to reduced access to infrastructure, greater distances for travelling and fewer services with which to refer or collaborate (submissions from Gippsland CASA, p. 2; Take Two Partnership, p. 8).

The Gippsland CASA argued that rural and regional areas require greater attention and additional resources for engaging specific groups with multiple barriers to accessing services to 'outreach and build trust and relationships' (Gippsland CASA submission, p. 2).

The Jesuit Social Services submission noted the presence of a high spatial or geographic concentration of child maltreatment. The Jesuit Social Services submission argued that targeted geographic or place-based interventions in line with these findings about the concentration of disadvantage would be cost-effective (pp. 9, 17).

Regional DHS child protection practitioners advised the Inquiry of some of the difficulties involved with covering large regional or rural areas where specialist and other services are scarce. This can have an impact on attempts to keep a child connected with their community when assessments or treatments are required that are not readily available in particular areas.

Child protection practitioners in a rural or regional setting must manage the demands of driving long distances to carry out their work, for example, when attending Court, carrying out home visits or to access training. The after-hours on-call system was described as particularly burdensome and potentially dangerous by staff in those rural areas where there is no dedicated after-hours service.

The Inquiry heard that opportunities for out-of-home care placements, in particular the availability of carers, is a significant issue in regional locations. Further, the impact of the unavailability of placements close to a child's home is magnified when considering rural and regional distances (Dr Emerson, Shepparton Public Sitting). A child might be shifted 300 kilometres away from their networks and friends because of a lack of placements.

The Children's Court submission noted that work was underway to build court capacity for sittings in venues outside the central business district of Melbourne. The submission argued however, that funding assistance was required to better support country courts and to expand new model conferencing throughout the state (Children's Court submission no. 2, pp. 13-14, 18).

5.5   Reference Group input

As noted above, the Inquiry's Reference Group provided advice on key issues, policy options and service delivery considerations. The Reference Group consisted of members of peak bodies, experts, representatives of the service system and client groups. The full list of members and meetings held is at Appendix 2.

While Reference Group members were drawn from organisations, they participated as individuals rather than as representatives of their respective organisations. The points raised by the members at the meetings reflect the views of the individual participants and not of the entire Reference Group.

The priority issues discussed at the meetings included the importance of, and strategies for, improving early intervention and creating a system around the needs and rights of the child. Members discussed the need to improve services for children in care and for those leaving care. Enhancing the capacity of Child FIRST and systemic improvements to the structure and funding of services were also considered, as well as enhancing inter-service collaboration, training and retention of skilled staff, oversight and transparency.

The Reference Group discussed the need for greater local flexibility for funding models that could better respond to demand pressures. Changes to funding could enable more flexibility to meet local needs and discretionary funds to allow services to bridge the secondary-tertiary spectrum.

The Reference Group also discussed the need to promote and respect the general principles of Aboriginal self-determination when it comes to meeting the needs of Aboriginal children and young people in the statutory child protection system. The need for cultural competency was also raised and the importance of improving service responses for Aboriginal children and young people, and similarly, improving support for culturally and linguistically diverse communities.

Regarding the Children's Court and related processes, Reference Group members discussed how it was important to train lawyers and other professionals in the Court system about the needs of children and of sharing knowledge and information about the child's case. The Reference Group discussed the need for dispute resolution to begin earlier with methods of resolution being more case-sensitive and involving people with the right set of skills. Members also discussed the benefits of lawyer-assisted mediation earlier in the process and that judicial intervention should be seen as a last resort.

The Reference Group discussed how Victoria's approach to kinship care provides a strong platform for caring for vulnerable children but the involvement of grandparents should not be taken for granted. Foster care payments were discussed and considered to be out of alignment with actual costs.

5.6   Conclusion

Participation in the Inquiry's consultation processes through attendance at Public Sittings and submissions received from across Victoria demonstrates significant interest in and a broad range of views about how best to improve Victoria's system for protecting vulnerable children.

The Inquiry has used these inputs to inform its understanding of issues arising from the prevalence of child abuse and neglect in Victoria and the most appropriate policy and service responses that should be provided by government including the role of the significant community sector in this field.

It is clear from submissions that there is a strong desire for change to the current policy and service delivery setting. Stakeholders believe that Victoria can do better to protect its vulnerable children and young people and the Inquiry heard a range of proposals for change to achieve this goal. More detailed points from submissions, including proposed changes or solutions are examined in the following chapters tackling the specific components of Victoria's system for protecting children.