

# In our own words

Systemic inquiry into the lived experience of children and young people in the Victorian out-of-home care system



The Commission respectfully acknowledges and celebrates the Traditional Owners of the lands throughout Victoria and pays its respects to their Elders, children and young people of past, current and future generations.

Cover: The quotes used on the cover of this report are taken from the Commission's consultations with children and young people across Victoria.

Pages 18, 38, 50, 58, 64, 104, 130, 182, 206, 218, 244, 260: Artwork completed by children and young people as part of the CREATE celebration day for children and young people in care on 8 September, 2018.

Pages 78, 170, 278: Painted memory boxes, completed by children and young people as part of a cultural day held at Njernda Aboriginal Corporation on 25 September 2018. The memory boxes included children and young people's cultural support plans as well as other items of cultural significance.

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#### **Commission for Children and Young People**

Level 18, 570 Bourke Street  
Melbourne Victoria 3000

DX210229

Phone: 1300 78 29 78

Email: [contact@ccyp.vic.gov.au](mailto:contact@ccyp.vic.gov.au)

**Web: [ccyp.vic.gov.au](http://ccyp.vic.gov.au)**



COMMISSION FOR CHILDREN  
AND YOUNG PEOPLE

Mr Andrew Young  
Clerk of the Legislative Council  
Parliament House  
Spring Street  
EAST MELBOURNE VIC 3000

Ms Bridget Noonan  
Clerk of the Legislative Assembly  
Parliament House  
Spring Street  
EAST MELBOURNE VIC 3000

Dear Mr Young and Ms Noonan

**'In our own words': Systemic inquiry into the lived experience of children and young people in the Victorian out-of-home care system**

I hereby request that 'In our own words': Systemic inquiry into the lived experience of children and young people in the Victorian out-of-home care system be tabled in accordance with section 50 of the *Commission for Children and Young People Act 2012* (the Act).

I would be grateful if you could arrange for the report to be tabled in the Legislative Council and the Legislative Assembly on 27 November 2019.

Yours sincerely

Liana Buchanan  
**Principal Commissioner**

12 November 2019

## Acknowledgements

The Commission would like to thank the many people who have assisted with the preparation of this inquiry report.

First and foremost, we thank the 204 children and young people who spoke to us – we hope we have done justice to the stories you shared and that your voices are listened to and acted upon by decision-makers.

We want to also thank the people who work daily with children and young people in the out-of-home care system interviewed for this inquiry – Child Protection, funded agency, and residential care unit staff. Your commitment to children and young people was evident and the perspective you provided was invaluable.

To the many kinship and foster carers who supported young people to participate in consultations and who also participated in consultations with the Commission, thank you for your support and for sharing your insights in relation to your experiences navigating the out-of-home care system.

To the Y-Change consultants and Lauren Oliver, Senior Advisor in Youth Engagement at Berry Street, who advised us, challenged us, disagreed with us, encouraged us to embrace ‘the messiness’ of youth engagement and assisted us with consultations, we thank you for your wisdom, good humour, sound advice and reassurance.

Special thanks goes to Crystal Moon, from Berry Street, who made critical contributions to our engagement planning, and whose passion for and commitment to change strengthened our resolve to deliver an inquiry focused on and informed by young people’s voices and experiences.

# Message from the commissioners

## Principal Commissioner

When the State intervenes to remove children from their parents' care, it is bound to protect them, to act in their best interests, to keep them safe and to support them to heal.

Unfortunately, during my time as Commissioner for Children and Young People, I have had many young people tell me they experienced something quite different.

We initiated this inquiry because we want these voices to be heard.

Through this inquiry, the Commission had the privilege of speaking to over 200 children and young people with an experience of care. It was encouraging to hear that some flourished in safe, stable and loving placements, with supportive and skilled carers and workers.

However, far too many of the children and young people told us they felt lost in an overstretched and chaotic care system. Many experienced the stress and upheaval of constantly shifting placements. Many cycled through so many case workers, they gave up on the idea of having someone who knew their story and could support them. Others, particularly those in residential care, described feeling unsafe and alone in bleak and run down accommodation.

Some children and young people commented on the irony of a system that removed them from their family to keep them safe, yet continued to harm them.

Many told us they felt powerless to influence decisions about key aspects of their lives, such as where they lived or who cared for them. An out-of-home care system that does not listen to children and young people risks re-traumatising them by reinforcing the notion that their voices, rights and aspirations do not matter.

The serious problems in the out-of-home care system are not new; they have been detailed in successive inquiries and investigations. Over the past decade,



however, the number of children in the care system has doubled. The negative impacts of a pressured, flawed system are growing.

The Victorian Government has already acknowledged many of the problems outlined in this report in its Roadmap to Reform policy. The outcomes of some piloted programs are encouraging, offering critical insights into how our care system can better support children and young people. Investment in some areas, especially in kinship care, is also promising. But the findings in this report show that we must move faster if we are to prevent further harm to children and young people.

We must continue to prioritise prevention and early intervention programs to support families to remain together safely, wherever possible. Where removal is necessary, children and young people should experience care as a dramatic improvement in their safety and wellbeing.

## Message from the commissioners

Through this report, children and young people – the true experts in the system – have told us what is required to make it better. But listening is not enough. We can only do justice to their stories by urgently addressing the critical shortage of safe and stable placements, increasing access to specialised services, and creating a sustainable pool of skilled practitioners and carers who can work therapeutically with children and young people in care.

I am incredibly grateful to the children and young people who made this inquiry possible through their participation. I am humbled by their willingness to disclose some of the most painful and traumatic parts of their lives in service of others. We intend to honour their voices by continuing to advocate for the reforms and investment required to ensure every child in our care system can be safe, supported and happy. They deserve nothing less.



**Liana Buchanan**  
Principal Commissioner

## Aboriginal Commissioner for Children and Young People

This report contains the voices of over 80 Aboriginal children and young people. They have spoken up for the almost two and a half thousand Aboriginal children and young people in care in Victoria. Their lived experiences are reflected in what children and young people in care told us about: their participation in decision-making about them, their placements, safety and connection to family and friends, workers and carers.

Aboriginal children and young people also told us about what being Aboriginal meant to them and their experiences of culture while in care. Some told us they could continue to live and learn about their culture, often with the support of Aboriginal carers or services. However, for too many, being in care meant disconnection from culture and community.

We know that Aboriginal children and young people who are immersed in their culture are more likely to be physically and emotionally well and safe from harm.

Yet successive government interventions have done damage to Aboriginal families and communities. Such interventions have stood in the way of Aboriginal children and young people's rights to maintain culture, their kinship ties, and their connection to country.

Presently, Aboriginal children and young people continue to face significant barriers to securing their rights in Victoria's out-of-home care system. Only 25 per cent of Aboriginal children and young people in care are recorded as having an Aboriginal carer. Compared to their non-Aboriginal peers, they are more likely to go into care at a younger age and more likely to live separately from their siblings in care. While there has been some improvement in the number of Aboriginal children and young people in care with a cultural support plan, the majority still do not have one.

While I wish to raise concerns about ongoing challenges on behalf of all Aboriginal children and young people in care in Victoria, I also wish to take this opportunity to commend the Victorian Government on its significant efforts to bring the principles of self-determination to Victoria's out-of-home care system, including through handing back decision-making responsibility for Aboriginal children and young people in care to Aboriginal communities.

More Aboriginal children and young people than ever before are case managed by an Aboriginal Community-Controlled Organisation and the number of children and young people in the Aboriginal children in Aboriginal care program is growing.

True self-determination in Victoria would mean that Aboriginal children and young people are no longer over-represented in care. Much more needs to be done – in partnership with Aboriginal organisations and communities – to reverse the trend of more Aboriginal children and young people going into care year after year. Only then will Aboriginal families and communities be in a position to once again take control of their own destinies.



**Justin Mohamed**  
Commissioner for Aboriginal Children and Young People

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# Abbreviations and acronyms

ACCO	Aboriginal Community Controlled Organisation
ACAC	Aboriginal Children in Aboriginal Care
ACPP	Aboriginal Child Placement Principle
ACSASS	Aboriginal Child Specialist Advice and Support Service
AFLDM	Aboriginal family-led decision making
BDAC	Bendigo and District Aboriginal Cooperative
CALD	culturally and linguistically diverse
CCYP Act 2012	<i>Commission for Children and Young People Act 2012 (Vic)</i>
CEO	chief executive officer
Child FIRST	Child Family Information and Referral Support Team
Commission	Commission for Children and Young People
CPP	Child Protection practitioner
CRIS <sup>1</sup>	Client Relationship Information System
CRISSP <sup>2</sup>	Client Relationship Information System for Service Providers
CSO	community sector organisation (non-Aboriginal)
CYFA 2005	<i>Children, Youth and Families Act 2005 (Vic)</i>
the department	Department of Health and Human Services
DET	Department of Education and Training
DJR	Department of Justice and Regulation (now the Department of Justice and Community Safety)
Inquiry	Commission for Children and Young People, <i>'In our own words': Systemic inquiry into the lived experience of children and young people in the Victorian out-of-home care system</i> (Melbourne: Commission for Children and Young People, 2019)
LAC	Looking after children framework
LGBTIQ+	lesbian, gay, bisexual, trans and gender diverse intersex and queer/questioning
NDIS	National Disability Insurance Scheme
PCU	Placement Coordination Unit
TAFE	Technical and Further Education
TCP	Targeted Care Package
VACCA	Victorian Aboriginal Child Care Agency
VACCHO	Victorian Aboriginal Community Controlled Health Organisation
VAHS	Victorian Aboriginal Health Service

<sup>1</sup> The department operates three integrated web-based client and case management systems. CRIS is the client information and case management system used by Child Protection, youth justice, disability services, early childhood intervention services and the refugee minor program.

<sup>2</sup> CRISSP is based on CRIS and uses similar functionality. It is a system provided to funded agencies that are funded to provide services in Child Protection placement and support, disability services, youth justice, early childhood intervention services and/or family services.

# Definitions

## Aboriginal people

The term Aboriginal people in this report refers to Aboriginal and Torres Strait Islander peoples. Indigenous is retained when it is part of the title of a program, report or quotation. The term Koori refers to Aboriginal people from south-east Australia.

## Aboriginal Child Placement Principle

The purpose of the Aboriginal Child Placement Principle is to enhance and preserve Aboriginal children's sense of identity as Aboriginal, by ensuring that Aboriginal children are maintained within their own biological family, extended family, local Aboriginal community, wider Aboriginal community and their Aboriginal culture.

## Aboriginal kinship care

Aboriginal kinship care is provided by relatives or friends for an Aboriginal child who cannot live with their parents, where Aboriginal family, community and Aboriginal culture are valued as central to the child's safety, stability and development.

## Aboriginal Child Specialist Advice and Support Service

Aboriginal Child Specialist Advice and Support Service (ACSASS) is specifically funded by the department to provide an Aboriginal perspective on risk and good care for all Aboriginal children who have been notified to Child Protection.

## Best interests case practice model

The department's *Best interests case practice model* provides a foundation for working with children, including unborn children, and families. It reflects the best interests principles and is designed to inform and support professional practice in family services, Child Protection and placement and support services.

## Best interests principles

The best interests principles, described in s. 10 of the CYFA 2005, provide a unifying framework for practice. The Children's Court, Child Protection and family services sector must comply with them in taking any action or making a decision about a child.

## Care and placement plan

A care and placement plan (or care plan) records the detailed day-to-day arrangements for the care of the child. It identifies how their long and short-term needs will be met and sets out the strategies in place for who must do what and by when in order for the child's needs to be met while in placement.

The purpose of a care plan is to ensure all children in out-of-home care have a clearly developed plan that addresses their needs, and all parties concerned with the care of the child are clear about what they are expected to do to achieve the plan.

## Care and transition plan

The *Looking after children* care and transition plan is used instead of a care plan for children aged 15–18 years and is developed and updated by the care team.

This plan aims to:

- capture the aspirations, individual needs and supports required for children as they transition into adulthood
- prepare children to the best of their abilities for leaving care and for the expiry of a Children's Court order.

### Care team

The purpose of a care team is to manage the day-to-day care and best interests of the child in accordance with the overall case plan. The composition of a care team will vary depending on the specific issues and needs of the child and family. It may include the placement agency worker, the case manager (the Child Protection worker or a funded agency worker if the case is case managed by a funded agency), and the child's carer and parents (as appropriate). Children and young people are not regular members of the care team, given the purpose of the care team is to make decisions about the care of the child that a parent would ordinarily make.<sup>3</sup>

### Case contracting

A case contract is a formal arrangement in the form of a written agreement, between Child Protection and another agency for the provision of case management for a child subject to a protection order. Contracting arrangements are designed to enable the most appropriate agency to support implementation of the case plan.

Child Protection may contract a community service to undertake total case management or specified functions only.

### Case plan

The case plan is the formal plan endorsed during a statutory case plan meeting, which sets out general and specific goals to be worked towards for the child. The requirements for case plans are contained in s. 166 of the CYFA 2005. Child Protection guidelines state that case planning meetings should usually include the child, the parents, the carer (kinship or foster care), the funded agency worker and the Child Protection worker. The meeting is always chaired by a Child Protection case planner.

### Charter for children in out-of-home care

The *Charter for children in out-of-home care* was developed in accordance with s. 16(f) of the CYFA 2005. It provides a framework of principles to promote the wellbeing of children in care.

### Child FIRST/Orange Door

Child FIRST provides a community-based referral point to integrated family services in a geographical area. Children and families are referred to Child FIRST where there are concerns about a child's wellbeing. Child FIRST assesses the risk to and needs of the child and family, prioritises accepted referrals on the basis of need and then allocates cases to family services. Child FIRST is being incorporated into the Orange Door.

### Child Protection

The Victorian statutory Child Protection service is delivered by the department and is specifically targeted to those children at risk of harm where their parents are unable or unwilling to protect them.

### Children

The term children in this report refers to children and young people under 18 years of age.

### Contingency placement

A contingency placement is when an operational division opens a placement without a funded target. Contingency placements sit outside the agreed and budgeted targets and are financed via sources other than the divisional placement service's budget. Contingency placements include those that exist for less than 48 hours. These placements may result in a divisional budget deficit. Factors contributing to these placements include client complexity, location, sibling groups, demand, planning or a crisis requiring an immediate response. Contingency placements may be hotel rooms, serviced apartments, rental properties, residential units or short-term housing available through the Office of Housing.

### Cultural safety

An environment that is welcoming, safe and respectful of a child's culture and identity.

<sup>3</sup> DHHS 2016c, 'Care teams – advice', *Child Protection Manual*, 1 March 2016, <<http://www.cpmanual.vic.gov.au/policies-and-procedures/out-home-care/care-teams>>, accessed 25 February 2019.

## Cultural support plan

The CYFA 2005 requires a cultural support plan to be developed and reviewed for all Aboriginal children placed in out-of-home care, whether placed with Aboriginal carers or non-Aboriginal carers, to ensure the maintenance of the child's connection to their family, community and culture.

## Cumulative harm

Cumulative harm refers to the effects of multiple adverse or harmful circumstances and events in a child's life. It may be caused by an accumulation of a single or recurring adverse circumstance or event or by multiple circumstances or events.

## Development

In accordance with s. 162 of the CYFA 2005, development means physical, emotional, intellectual, cultural and spiritual development.

## Developmental delay

In accordance with s. 3 of the *Disability Act 2006 (Vic)*, developmental delay means:

a delay in the development of a child under the age of 6 years, which:

- a) is attributable to a mental or physical impairment or a combination of mental and physical impairments; and
- b) is manifested before the child attains the age of 6 years; and
- c) results in substantial functional limitations in one or more of the following areas of major life activity:
  - (i) self-care;
  - (ii) receptive and expressive language;
  - (iii) cognitive development;
  - (iv) motor development; and
- d) reflects the child's need for a combination and sequence of special interdisciplinary, or generic care, treatment or other services which are of extended duration and are individually planned and coordinated.

## Disability

In accordance with s. 3 of the *Disability Act 2006 (Vic)*, disability means:

a sensory, physical or neurological impairment or acquired brain injury or any combination thereof which:

- (i) is, or is likely to be, permanent; and
- (ii) causes substantially reduced capacity in at least one of the areas of self-care, self-management, mobility or communication; and
- (iii) requires significant ongoing or long-term episodic support; and
- (iv) is not related to ageing; or
  - a) an intellectual disability; or
  - b) a developmental delay.

## Family violence

Section 5 of the *Family Violence Protection Act 2008 (Vic)* defines family violence as behaviour by a person towards a family member that is physically, sexually, emotionally, psychologically or economically abusive. It also includes behaviour that is threatening, coercive or in any way controls or dominates the family member and causes them to feel fear for their safety or the wellbeing of another person, and behaviour that causes a child to hear or witness, or otherwise be exposed to, the effects of these behaviours.

## Funded agencies

A registered non-government organisation funded by the department to deliver kinship or foster care services (s. 23(1) CYFA 2005). This term is collectively referred to throughout the report to include community sector organisations (funded agencies) and Aboriginal Community Controlled Organisations (ACCOs).

## Harm

In accordance with s. 162 of the CYFA 2005, harm encompasses physical abuse, sexual abuse, and damage to emotional or psychological development, physical development or health. It may result from a single act, omission or circumstance, or accumulate through a series of acts, omissions or circumstances.

### Intellectual disability

In accordance with s. 3 of the *Disability Act 2006 (Vic)*, intellectual disability, in relation to a person over the age of five years, means

the concurrent existence of:

- a) significant sub-average general intellectual functioning; and
- b) significant deficits in adaptive behaviour each of which become manifest before the age of 18 years.

### Intensive Case Management Service

The Intensive Case Management Service is designed to meet the needs of young people who fit the criteria of high-risk youth: young people who are Child Protection clients and have multiple and complex behavioural and emotional difficulties requiring long-term and substantial support.

### Looking after children framework

In Victoria, *Looking after children (LAC)* provides the practice framework for considering how each child's needs will be met while that child is in out-of-home care. It is used for managing out-of-home care in accordance with the *Best interests case practice model* cycle of information gathering, assessment, planning, implementation and review.

### Mental illness

In accordance with s. 4 of the *Mental Health Act 2014 (Vic)*, mental illness refers to a medical condition that is characterised by a significant disturbance of thought, mood, perception or memory.

### Out-of-home care

Out-of-home care is a temporary, medium or long-term living arrangement for children and young people who cannot live in their family home. This most commonly refers to statutory out-of-home care, where a child or young person cannot live with their family at home and a legal order is in place to support the arrangement. Statutory out-of-home care includes kinship care, foster care, residential care and lead tenant arrangements. In Victoria, the department has oversight of these arrangements.

### Unallocated case

Due to high workloads, team leaders will often assign certain tasks such as visiting children in out-of-home care to other members in the team. The Commission refers to cases 'allocated to a team leader' as 'unallocated', throughout this report as they are unallocated in effect.

### Permanent care orders

Under the CYFA 2005, the Children's Court may make a permanent care order in respect of a child if the child's parent has not had care of the child for at least six months of the last 12 months, and it is satisfied that:

- a) the parent is unable or unwilling to resume parental responsibility for the child or
- b) it would not be in the best interests of the child for the parent to resume parental responsibility, and that
- c) the person to assume parental responsibility for the child is a suitable person.

A permanent care order grants parental responsibility for a child to a person other than the child's parent or the department.

## Protection orders

The Children's Court may make a protection order in respect of a child if it finds that the child is in need of protection, or there is a substantial and irreconcilable difference between the person who has parental responsibility for the child and the child to such an extent that the care and control of the child are likely to be seriously disrupted.

Upon finding that a child is in need of protection, the court may make one of the following protection orders:

- an interim accommodation order
- a family preservation order
- a family reunification order
- a care by Secretary order
- a long-term care order.

A protection order may continue in force after the child turns 17 years of age but ceases to be in force when the child turns 18.

## Report to Secretary to the department about a child

Part 3.2 of the CYFA 2005 enables a person to make a confidential report or referral to the Secretary about a child if the person has a significant concern for the wellbeing of the child. The legislation also allows a person to make a report to the Secretary before the birth of a child, if a person has a significant concern for the wellbeing of the child after his or her birth.

## Respite care

Respite care is the time-limited, overnight placement of a child away from their primary carer. Foster care agencies arrange respite for foster carers, and the department or funded agencies arrange respite for kinship carers (in consultation with the department). Respite carers are formally assessed and approved carers and are eligible for carer reimbursement.

## Significant harm

The accepted definition of 'significant harm' within the child protection system is:

- more than trivial or insignificant, but need not be as high as serious
- important or of consequence to the child's development.

It is irrelevant that the evidence may not prove some lasting permanent effect, or that the condition could not be treated.<sup>4</sup>

## Stability plan

A stability plan is a component of a formal case plan that outlines how a child will receive continuous, stable care away from home. A stability plan for an Aboriginal child must demonstrate compliance with the Aboriginal Child Placement Principle.

## Targeted care package

An allocation of funding that is tailored specifically to meet individual needs of a particular child or young person and is aimed at providing an alternative to residential care.

<sup>4</sup> These elements are based on the decision in *Director-General of Community Services Victoria v Buckley & Others* [Supreme Court of Victoria, unreported, 11/12/1992], per O'Bryan J.

# Executive summary



*It feels like I have been waiting my whole life for this inquiry  
(Crystal Moon, Y-Change Consultant – Berry Street).*

The Commission for Children and Young People's systemic inquiry into the lived experiences of children and young people in out-of-home care was established in April 2018, pursuant to section 39 of the *Commission for Children and Young People Act 2012*. As part of the inquiry, the Commission spoke with a total of 204 young people from rural, regional and metropolitan Victoria who were currently living in or had recently left out-of-home care, inviting them to tell us their stories of what it is like to live and grow up in the out-of-home care system, what works well and what needs to change.

### How we conducted this inquiry

Our consultation methodology was designed with young people with experience of the care system. We partnered with Y-Change consultants from Berry Street to develop the consultation methodology, including the framing of questions and measures to ensure that participants felt safe to share their experiences.

Consultations were recorded verbatim by Commission staff, and quotes from those records are used throughout the report. We have sought as much as possible to honour and to accurately reflect the views of the children and young people we spoke to and the words they used to express those views. The Commission's consultations with children and young people served as our guide for further examination of the system.

Using key themes emerging from our consultations, we reviewed active Child Protection files and whole of out-of-home care population data as well as other key system data provided by the Department of Health and Human Services (the department). We also spoke with staff from Child Protection, funded agencies (including from Aboriginal Community-Controlled Organisations), and residential care facilities, as well as kinship and foster carers.

The Commission's findings are grouped under the key themes identified through our consultations:

- voice
- home
- safety
- family
- friends and community
- carers
- workers

We spoke to 82 Aboriginal children and young people with experience of the care system; their input is featured throughout the report and we also discuss the particular issues facing Aboriginal children and young people in a separate section of the report.

### The Victorian out-of-home-care system

Data provided to the Commission by the department reveals a system required to manage an ever-increasing number of children without the commensurate human resources or funding support.

### Number and key characteristics of children in care

The total number of children in care in Victoria on 31 December 2018 was 10,553. Of these:

- 5,842 were in kinship care
- 1,605 were in foster care
- 433 were in residential care
- eight were in lead tenant arrangements
- 2,665 were in permanent care, noting these children are no longer in the formal care of the State.

## Trends and pressures in the out-of-home care system

Between the years of 2008–2009 and 2017–2018 the Victorian out-of-home care system has come under increasing strain due to escalating demand:

- The number of reports<sup>5</sup> to Child Protection has almost tripled from 42,851 to 115,600.
- The number of children in care has more than doubled from 3,767 to 7,863.<sup>6</sup>
- The number of Aboriginal children removed from their parents and living in the care system has tripled from 687 to 2,027.
- There has been a net loss in the number of foster carers according to available published data sources.
- There are more children and young people with complex health and behavioural and developmental needs entering care.
- At the same time the system has seen:
  - a level of placement instability that has remained unaddressed
  - an increasing reliance on kinship carers
  - government expenditure on out-of-home care services that has consistently exceeded spending on family support services intended to prevent children and young people from going into care.

While residential care numbers have remained stable in recent years, which is positive, it appears that some of the young people who may otherwise have been housed in residential care have instead been placed in ‘contingency’ placements, including hotels, serviced apartments, rental properties or short-term housing.

The funding of the child protection system has not kept pace with demand. Although notifications, investigations and substantiations have tripled between 2008–2009 and 2017–2018, there has only been a 73 per cent increase in funding.

<sup>5</sup> The term ‘notification’ is used by the *Report on Government Services*. The Commission has used the term ‘report’ throughout this inquiry as that is the equivalent term under the Victorian legislation.

<sup>6</sup> There are two key system data sources cited in this report: a system snapshot as at 31 December 2018 and 10-year trend data. The total numbers of children and young people in care vary slightly between these two sources, due to the different dates upon which the data was captured.

The Victorian Government has substantially increased investment in child protection services since 2015–2016, funding an extra 650 workers. However, this increased investment has not been matched by recruitment, meaning that funded recruitment targets have not been met, particularly at the more senior levels.

Over the same period, across the out-of-home care system, Victoria has consistently invested less than the Australian average in out-of-home care (at a rate of about 25 per cent less than the Australian average per child).

In addition, a disproportionate percentage of the out-of-home care budget is spent on young people in residential care, costing an annual dollar figure of \$666,100 per child.

Caseloads remain high for Child Protection staff and as at 31 December 2018, 27 per cent of all cases in out-of-home care were allocated to a team leader, therefore effectively unallocated. In addition, departmental data shows an alarmingly low retention rate of new Child Protection staff. Forty-eight per cent of all staff leaving the Child Protection workforce between 1 July 2018 and 15 May 2019 left within their first year of employment. The attrition rate for Child Protection staff is also high, at an average of around 12 to 13 per cent in the past two years.

## Aboriginal children in out-of-home care

*A lot of kids come in [to care] not knowing where they are from, their group or clan. I know mine and my clan names. I can say them. I can't speak language. I know where I am from and who I am (Brandon, post-care – previously residential care, 18, Aboriginal).*

More Aboriginal children are being placed in care than ever before. Despite Aboriginal people representing less than one per cent of Victoria’s population, about one in four children currently in out-of-home care in Victoria is Aboriginal. In 2017–2018, approximately nine in every 100 Aboriginal children and young people in Victoria were in care, according to the Report on Government Services.

Since 2008–2009, the number of Aboriginal children and young people in care has almost tripled. Because Aboriginal children and young people are so over-represented in care, the issues raised throughout this report have a disproportionate effect on their lives.

The 82 Aboriginal children and young people we spoke to for this inquiry had diverse experiences in care in respect of their connection to family, culture and community. Some told us they had been able to maintain a connection, while a significant number said they felt disconnected from culture, family and community and that being in care had made this worse. Others told us frankly that they were not interested in learning about their culture or could not see the point in it.

*Some kids want to know [about their culture] or they don't. I personally don't know much about my Aboriginal side — my family has not looked in it. It's all a bit confused.*

**Q: What should be done about that?**

*It's not best to ask me. Personally, there is either a really good name about being Aboriginal or the racist one. Like they get pity because of the Stolen Generation. Some Aboriginal people don't want to know because they don't want people to see them as a victim who gets all this special stuff. At my school there was a scholarship that was for Aboriginal people and I got it. And a lot of people were like 'Why did you get the scholarship?' The other thing is what does it mean to be Aboriginal? What is special about it because you don't get told about it a lot? (Leila, foster care, 16, Aboriginal).*

The inquiry found that:

- Aboriginal children and young people often enter the out-of-care system at an earlier age and are more likely to spend more time in care than non-Aboriginal children and young people.

- Only one quarter of Aboriginal children and young people in care were recorded as being placed with an Aboriginal carer.
- When surveyed by the department, only 54 per cent of Aboriginal children and young people in Victoria said they knew about their family background, while 63 per cent said they could follow their culture where they lived.
- As at 31 December 2018, 61 per cent of Aboriginal children and young people who should have had a cultural support plan did not.
- Forty-seven per cent of Aboriginal children and young people who had been in care for over 12 months had not had an Aboriginal family-led decision-making conference.
- Twenty-nine per cent of Aboriginal children and young people in care who had one or more siblings in care were living separately from all of them.
- Aboriginal children and young people are more likely than non-Aboriginal young people to be on out-of-home care orders which involve less court oversight of their right to connection with culture and kin.

Since the Commission's *Always was, always will be Koori children* inquiry in 2016, there have been significant efforts by government, community service organisations and Aboriginal Community Controlled Organisations (under the oversight of the Aboriginal Children's Forum) to:

- improve the implementation of cultural safeguards for Aboriginal children and young people in care
- move towards returning decision-making responsibility over Aboriginal children and young people in care to Aboriginal organisations and communities in order to improve outcomes for Aboriginal children and young people.

These new approaches offer a potential means of reducing government intervention into the lives of Aboriginal children. However, the Commission is concerned that the numbers of Aboriginal children and young people continue to rise. While this occurs, it will be difficult to make self-determination a reality for Aboriginal people in Victoria.

### My voice

*Kids just get left in the dark a lot, like they just need to be kept informed.... if they just communicated more it would make everything a little bit easier (Kylie, residential care, 16).*

Children and young people told us that they desperately wanted to be heard and that participation in decision planning and decision making was crucial to their sense of control over the direction of their lives. They also told us it was rare for them to have a say in decisions that matter to them, or even warning or explanation of the decisions with the greatest impact on their lives.

*I remember coming home from my first day at school and celebrating with a cake. Then I was told I had to move placement and leave school (Evelina, residential care, 17).*

*One time I had ten minutes notice [that my placement was changing]. They just came to school and told me you are moving .... I had been there for four and a half months... [Child Protection] did not say why I was moving. I always thought I was doing something wrong. No one told me, so I blamed myself (Phoebe, returned home, 16, Aboriginal).*

The Commission found that, while Child Protection's policies and procedures advise including children and young people's voices in decision making, there are a number of practical and systemic barriers which prevent this from happening.

### Contact with workers

Participation is dependent on the level of contact as well as the quality of the relationship between children and young people and their worker. And yet, the Commission found that:

- almost one third of all children in out-of-home care whose cases were managed by Child Protection did not have an allocated case worker
- the majority of the CRIS files reviewed by the Commission did not meet the minimum requirement of fortnightly visits to the child
- in a concerning number of cases reviewed, the children had received no contact from their Child Protection worker for six months.

The Commission also heard directly from Child Protection workers that high caseloads prevented them from being able to spend time with children and young people – a necessary part of forming a trusting relationship.

### Consistency in workers

Another crucial precondition for effective participation is having one consistent worker, and yet the Commission found that children and young people case managed by Child Protection often had a high number of allocated workers. Concerningly, Aboriginal children and young people experienced an especially high number of allocated workers, with an average of 13.3 workers over a two year period, compared with an average of 11.9 workers for non-Aboriginal children and young people over the same period. By comparison, children and young people case managed by a funded agency experienced significantly fewer allocated workers – 2.3 over the same two-year period. The highest number of allocated workers found by the Commission over a 12-month period was 44 workers.

*Honestly, I've had like so many workers, like I could have had 70 different workers in a month and some of them I would never even know them at all (Kate, foster care, 15).*

*He just left my case, and then I got another person put on my case. People changed my case like 10 times [...] I never knew what the fuck was going on (Robert, residential care, 19).*

### **The ability to have private conversations**

While departmental policy encourages workers to speak to children and young people away from their carers, in part to make it easier for them to raise any concerns about their safety or wellbeing, the Commission found that in most cases this did not occur.

### **Opportunities for incidental contact with allocated workers**

Children and young people are more likely to speak openly in child friendly spaces, where they feel more comfortable and can have less structured, less formal conversations. Transportation to and from school, activities and contact visits with families provide opportunities for this kind of interaction. However, the Commission found that contact visits were typically facilitated by case practice support workers, rather than the child or young person's allocated worker. Child Protection and funded agency staff confirmed this was common practice. The Commission found that having different workers undertaking transportation of children and young people was a missed opportunity for meaningful informal engagement. In addition, case practice support workers generally lack the experience and the decision-making authority to help the young person.

### **Participation in care team and case planning meetings**

Another way that children and young people can participate in decisions affecting them is by attending care team meetings and case planning meetings. While some of the children we spoke to said that they have opportunities to participate in these meetings, in a majority of cases, children and young people said the meetings were not accessible or child friendly or that they were just not invited to attend.

*Care team meetings would happen when I was at school. I never went. I may have gone to like a few 'cos I saw the whiteboard at the resi office and saw that it was on. For some reason they didn't want me a part of it which I found strange. Like I know sometimes I was a shit, but surely they would want you to be part of stuff that they are planning for you (Adam, post-care, 24).*

*I usually don't go [to care team meetings] 'cos I don't really care. I don't know any of these people – there are so many people and they're all making decisions about me. [Worker] made the care team meeting on a day when mum has to be at work (Jennifer, residential care, 16).*

Child Protection workers and funded agency staff confirmed the importance of pre-meeting preparation to ensure that the wishes of children and young people could be expressed. The Commission's file reviews revealed varied practice in relation to care team meetings, with little evidence of children and young people being informed about upcoming meetings or prepared in relation to what was going to be discussed.

### **Involving children and young people in case planning**

The *Children, Youth and Families Act 2005* requires a case plan to be prepared for all children where protective concerns have been substantiated. A case plan records significant decisions which informs action that needs to be taken in relation to a child or young person. Children and young people consistently told the Commission that they did not know whether they had a case plan or that they did not know what one was.

*I don't know what a case plan meeting is. There has been no planning. I want to be part of decision making. I get told this and told that and I can't cope with it and it makes me angry (Landon, foster care, 16).*

Nineteen per cent of cases reviewed by the Commission did not have a case plan. In 79 per cent of these cases, there was no evidence of the young person being involved in the preparation of the case plan.

### **Participation in decisions about placement changes**

Changes in placement are among the most significant and often stressful decisions that will be made concerning children and young people during their time in care. While there is no requirement that children and young people be consulted about placement changes, the department strongly encourages carers and case managers to explain what is happening and why, and to provide children and young people with opportunities to express their feelings about their current or future placement. More than half of the cases reviewed by the Commission contained no evidence that children and young people had been consulted about their placement change.

### **Complaints**

In consultations with the Commission, it was clear that many children and young people did not know how to make a complaint.

*I had no idea about the capacity to make a complaint. There was no communication about this (Georgia, post-care – previously foster care, 18).*

Others did not trust that their complaint would be taken seriously or that there would be negative repercussions for speaking up.

*Most of the houses I've been at, we've just ripped those [complaint] forms up. Pointless. Don't think anyone will listen to us... I think it's just 'cos in the past with other stuff nothing had been done... I don't think it will go anywhere. Personally, I wouldn't want to [make a complaint] (Tabitha, residential care, 16).*

*Like at times I have wanted to make a complaint when I was with that carer, I wouldn't have probably called a hotline because you worry what might happen to you. If someone came to me it would be different though (Quinn, residential care, 14).*

Some children and young people told the Commission there should be somewhere for them to go to talk to about their concerns, with a particular understanding of the issues affecting children and young people in care, but independent of their case worker and the department.

The Commission has previously argued children and young people in care need an independent and accessible complaints mechanism in its 2015 inquiry '*...as a good parent would...*'. However, based on information gained through this inquiry, there is still no specialised independent complaints body where children and young people feel confident to speak about their experiences in care.

Since 30 September 2018, the department has registered 3,400 feedback matters. Of these, 1,359 related to 'child and family services'. Only 10 (0.7 per cent) were made by a person under the age of 18, suggesting that this mechanism is under-utilised by and/or inaccessible to children and young people. Children and young people are also able to complain to the Victorian Ombudsman. However, as the Victorian Ombudsman does not record the age of complainants, it is impossible to know whether children and young people in care are using this avenue to address their concerns.

Children and young people indicated that they would consider using a complaints body if it was accessible, if they were told about it and could trust that their complaints would be taken seriously and their experiences in care understood.

*... I would speak to an independent body if that was an option for me and I knew about it (Christopher, foster care, 16).*

*There should be an independent body to make complaints to for children and young people... Just have someone, have it clear that they are there to just hear from kids and young people. Rather than expecting kids to make the phone calls and then worrying about the impacts that would have, have a proactive service going out all the time to the kids and proactively asking how kids are going, are there any complaints (Lincoln, kinship care, 17).*

### **Measures by the department to improve participation**

The department has taken recent measures to improve participation by children and young people in care, including the development of a client voice framework to empower children to contribute to decisions on policies and services that affect them and through the Minister's establishment of a Ministerial Youth Advisory Group. However, while welcome, these reforms are not intended to apply to day-to-day decisions and, on their own, have limited potential to improve the participation of children and young people in care in decision making about them.

### **My home**

*I haven't felt like there is an emphasis on 'home' in any place I have lived in the past (Sofia, foster care, 16, Aboriginal).*

Every child or young person who is removed from their parents has the right to live somewhere that feels like home. For many of the children and young people the Commission spoke to in foster and kinship care, being in care felt safe, stable and homely. For the majority of those living in residential care, however, being in care felt unsafe, unstable and not at all like home.

Across care types, children and young people told us that constant placement changes made being in care feel less like home.

### **Placement instability**

Data provided by the department suggests that the problem of placement instability in out-of-home care in Victoria has remained unresolved over the last decade.

File reviews conducted by the Commission revealed that in Victoria's current out-of-home care system, placement instability is worst for children and young people with complex trauma, behavioural issues and/or intellectual disability, due to the lack of appropriate placements for them.

As at 31 December 2018, there were 403 children and young people in care who had experienced 10 or more placements over the duration of their time in care. Of these, a disproportionate number were Aboriginal (33 per cent). The Commission reviewed the files of 32 of these children and young people and found that 81 per cent presented with complex trauma and challenging behaviours.

Of the group who exhibited challenging behaviours:

- more than one third had been assessed with an intellectual disability
- one quarter had exhibited sexualised behaviours
- half had run away from placement repeatedly.

Most of these children and young people had experienced high levels of placement instability when they first entered care (more than six moves in their first year).

The Commission found that placement instability is also driven by:

- rising numbers of children and young people in care
- a lack of suitable carers and placements, especially for children and young people living with complex trauma, challenging behaviours and/or intellectual disabilities, which limits the system's capacity to match the carer and placement to the child or young person
- a lack of tailored supports for:
  - carers to maintain placements
  - children and young people in care to recover from traumatic experiences they have often endured prior to their entry into care.

### **The flow on effects of the lack of appropriate placements**

The lack of suitable placements in home-based care drives low vacancy rates in residential care, which, in turn, has driven a steady rise in the number of contingency placements. Contingency placements are very expensive and cost the department \$43.05 million last financial year, almost \$2,077 per child per day.

### **Peer influences**

The young people who spoke to the Commission also told us that living in residential care led to:

- criminal behaviour
- drug use
- violent behaviour.

Young people said this was because of peer pressure, particularly in relation to younger children.

*That's kinda what made me like this, being in resi. Got my first bongs and that when I came here, mixed with older kids, then I went to crime. Happens to all the kids that come here. Everyone ends up in trouble with the cops and that. No one can stop you going out late and stuff (Walker, residential care, 16).*

### **Living with the trauma of others**

Many young people spoke of the difficulty of maintaining their own mental wellbeing in an environment where others were acting out due to trauma and/or poor mental health.

*[One resident] has issues and I acknowledge that, but what she does affects me. The first day I was here [she] tried to kill herself, and the following day I tried to take an overdose. I thought it was my fault I had a lot of stress at the time with other stuff (Bethany, residential care, 15, Aboriginal).*

### **Having a say about placement mix**

Young people, as well as Child Protection and residential care staff, often attributed conflict and negative peer-to-peer influences in residential care to the placement mix. Research confirms that the co-location of high risk young people raises their exposure to behaviours and attitudes which increase the likelihood of offending behaviour and drug use.

Many young people we spoke to expressed frustrations at having no say about where they lived and with whom they lived. Consequently, young people's suggestions for how to improve peer relationships in residential care primarily focused on improving the compatibility of residents, including through involving them in decision making about this.

*I want matchmaking. Kids that makes things hard in the house should not be in the house with other people (Owen, residential care, 15).*

### **Drivers of inappropriate placement mix in residential care**

While policy makes it clear that there should be a process of matching children and young people with appropriate placements, Child Protection and Placement Coordination Unit staff confirmed that a lack of placements contributed to 'poor placement mix' in residential care.

Additionally, while the overall population of children and young people in care has increased year-on-year, the number of children and young people in residential care has remained relatively stable. This appears to have led to a concentration of children and young people in residential care who are considered to be 'more difficult to place'.

### **Placement of young children in residential care**

Many of the young people spoken to as part of this inquiry expressed their concerns about the placement of younger children with older teenagers. As at 31 December 2018, there were 36 children aged between six and 11 years old in residential care in Victoria and 126 aged between 12 and 14. Eleven of the 36 aged 11 and under were placed with at least one other sibling, which may reflect attempts by the department to keep a sibling group together within a residential care setting due to a lack of other options.

The department has identified the most common reasons for children under 12 entering residential care to include complexity, such as physical or intellectual disability, behaviour, the capacity of carers and the lack of alternative placements.

### **Initiatives to address placement matching**

The department has advised the Commission that it is currently undertaking work to strengthen placement matching, including changes to the entry and exit check lists and assessments, and that identification of risks and risk management will be enhanced through this work with the use of behaviour support plans. The Commission welcomes this work, but is concerned this will not address the underlying drivers of poor placement mix outlined above.

### **Rules, structure and resolving conflict**

Children and young people across all care types expressed a clear preference for home environments that had rules and structure, and where conflicts and disagreements could be resolved. While many in foster and kinship care placements found that they had been provided with this structure, those in residential care generally described their living environment as chaotic and lacking in rules.

*Everyone didn't have rules, we all did what we wanted and that's why we all always got into so much trouble, youth justice and everything (Robert, post-care – previously residential care, 19).*

*In resi, you can do what you like and they can't do anything about it. It's what they do. So then you can't go home because you've been in resi (Xavier, residential care, 14).*

### **Police involvement with residential care units**

Some young people with an experience of residential care reported that workers regularly called police to the unit due to conflict between children and young people and/or their workers. In some circumstances, young people told us that police involvement was unnecessary and disproportionate to the incident.

*If you go out for a bit, they will call the cops on you in resi. If you tell them to fuck off, they would call the cops (Roger, residential care, 15).*

Young people also expressed a strong dislike of residential workers reporting residents as missing and relying on police to return them to placement when they had not come home on time.

*In resi ya can't do much. I don't know why, but they seem to report you missing as soon as you leave, but in foster they say as long as ya home by this time then that's good, as long as ya not breaking the law (Evan, foster care, 16, Aboriginal).*

### **Current initiatives to limit police involvement in residential care**

The Commission notes that the department, together with the Department of Justice and Community Safety, Victoria Police, VACCA, the Aboriginal Children and Young People's Alliance and the Centre for Excellence in Child and Family Welfare, is developing *An agreed plan: working together to reduce the criminalisation of young people in residential care*. The intention of the agreed plan is to reduce the high rates of contact between young people in residential care and the police.

The department is also trialing a new approach to improve interactions between police and children and young people in residential care through the *Building Resilience in Children and Young People Living in Residential Out of Home Care* pilot in East Division.

### My safety

*DHHS take us out of our parents' care for whatever reason and put us in a resi which is just as bad. [...] If someone's being taken out of someone's care because there's been violence, you don't put them somewhere where there's more violence – it causes more trauma (Evelina, residential care, 17).*

Children and young people are often taken into out-of-home care because they have experienced violence, abuse and/or neglect in their homes. To heal from these experiences, it is critical that they are safe in care.

While children and young people in foster and kinship care often told us they felt safe, a significant number told us that they had been unsafe in prior kinship and foster placements, either because they had been hit, bullied or otherwise abused.

*[My foster carer] would hold me down and stuff. That just made it worse. I was only six years old. I had an anger problem. It was a really big family... And I always felt like I was on the outside (Eileen, post-care – previously foster care, 18).*

*I was in foster care when I was two years old and I remember being hit with a belt (Ambrose, foster care, 16).*

Almost half of those with an experience of residential care told us that it was often violent and dangerous.

*In my last resi care placement I lived with one other young person, two to three years younger than me, for about one and a half years. I didn't get along with him because he kept stealing things and would turn to violence. He broke one of the worker's ribs (Cole, post-care – previously residential care, 21).*

*I have not felt safe in any of my placements. I got bashed by another resident [in this placement] (Abigail, residential care, 13, Aboriginal).*

Young people told us, and departmental data on incidents in care confirms, that children and young people in residential care are at most risk of harm.

- During 2018–2019, the department's Client Incident Management System (CIMS) recorded 6,583 incidents for children and young people in care. Three quarters related to residential care (n = 4,908) despite only six per cent of children and young people in care being in residential care.
- In 2018–2019, CIMS data recorded 246 incidents of children and young people in residential care being subject to alleged sexual abuse or exploitation.

Some told us that this harm went unseen because their allocated worker did not visit regularly and they were unsure how else they could raise their concerns.

Children and young people in kinship care during 2018–2019 were five times less likely than children and young people in foster care to be the subject of an incident report. While the reason for the difference in the rate of reported incidents is not clear, there is some basis to consider it may be due to an under-reporting of incidents in kinship care. Children and young people in kinship care are least likely to benefit from funded case management. The majority, who are case managed by Child Protection, are less likely to have face-to-face contact with their primary worker, due to high case loads. Children and young people in kinship care may also be less likely to tell an adult professional they feel unsafe, due to the fear of repercussions.

What children and young people told us about their poor safety in care points to the need for:

- a substantial increase in the availability of appropriate placements for children and young people (including those with challenging behaviours and/or high needs) outside of current models of residential care
- improved monitoring of children and young people in care – including ensuring all children and young people in care have regular one-on-one contact with their workers
- robust and efficient incident reporting and response systems.

## My family

*Family to me is someone I can dislike a lot, and still chill out with at the same time. I can walk in and eat food out of the cupboard and they won't blink an eyelid. 'In your bones you belong together at that time' is what I see family as (Iris, foster care, 15).*

The children and young people we spoke to for this inquiry told us they deeply value connections with parents, siblings, extended family and friends, but sometimes struggle to maintain valued connections through the upheaval of constantly changing placements, separated siblings, living far from home and complex, and sometimes fraught, family relationships.

### Support for reunification

File reviews conducted by the Commission for this inquiry confirmed that children and young people in care often do not benefit from intensive service supports to reunify with parents, even when they are on orders which contemplate reunification. Since the introduction of the permanency amendments, while the number of children and young people on permanent care orders has risen significantly, the rate of children and young people reunifying with their parents has not.

*Mum and I are really close, but when outside people get involved that's when we have trouble. I talk to mum all the time – we talk all the time on the phone. We communicate very well. I'm meant to go back to her, but I can only see her once a week – how can you start living with someone when you only see them once a week? (Evelina, residential care, 17).*

### Living separate from siblings

The children and young people we consulted who lived in a placement with their siblings often told us that this made them happy and helped being in care feel more like home.

*It was always us three looking after each other and not having parents. We basically grew up looking after one another so that's why we have a bond (Kayla, post-care, 18).*

### Q: What makes it feel like a home?

*Because it's like staying with my brothers, so I've got at least got one family member near (Patrick, kinship care, 11, Aboriginal).*

Being separated from siblings was often a source of distress. Departmental data suggests about two out of five (41 per cent) of all children and young people in care who have a sibling in care, live separately from one or more of them.

The Commission found that a key driver of sibling groups being split up in care is a lack of appropriate placements for sibling groups, especially larger ones, coupled with a lack of planning and supports to keep or bring sibling groups together in care.

### Contact with family

Most of the children and young people we spoke to had regular contact with their parents and siblings. Many told us that this contact happened on their own terms – this was also reflected in the files we reviewed. A smaller number of children and young people spoke about being given no choice about contact with their parents and found forced contact deeply upsetting. The Commission is also concerned that children and young people living with developmental delays or intellectual disabilities appear to be less likely to have regular contact with their parents.

Our file reviews and interviews with Child Protection staff members also revealed that the out-of-home care system is not doing enough to prioritise or plan for contact between children and young people in care and their extended family members.

### My friends and community

Many children and young people spoke positively to us about their friends and stressed their importance as critical support figures in their lives. Many also told us they needed more support from workers and services to stay connected with friends.

*We lost connection with most people when we moved in with my uncle. I was going through a lot of stuff and when ya like 10 years old, no one wants to hear that. It was hard to keep in touch 'cos it was hard to act the same after all the stuff that happened. I got supported by my friend and her mum through that time (Nona, kinship care, 14, Aboriginal).*

### Bureaucratic processes are a barrier to contact with friends and activities

Some children and young people expressed frustration about the administrative barriers to doing things with friends that ‘normal kids’ do, like going swimming, sleeping over at a friend’s house or playing sport. File reviews conducted by the Commission confirmed that connection to family, friends and social activities are generally not prioritised in the care plans of children and young people in care.

*I can only go to one friend’s house. You need to have your friends searched by DHHS. It just takes so long. And you just feel so different to other kids. I just want it [to be] quicker – it takes a few months (Ezra, residential care, 15, Aboriginal).*

*I’m not allowed to swim in places without a lifeguard. Up to the knee policy (Hayden, residential care, 13, Aboriginal).*

*If you want to hang out or sleep over you have to have your friends’ parents get a police check (Evelina, residential care, 17).*

### My carers

*Love is huge. You have to feel loved growing up (Audrey, post-care – previously foster care, 18).*

Strong relationships with carers contribute to positive outcomes for children and young people in all care types. Children and young people told us that having a carer who can provide a stable, safe and loving environment is essential. Children and young people in care require carers who are trained to understand and manage their trauma and the support of a care team to enable them to provide the best possible care.

## **Kinship care**

Kinship care is the fastest growing placement type. The number of children and young people in kinship care tripled from 1,931 in 2009 to 5,812 in 2018. The majority of children and young people in kinship care we spoke to felt supported and loved in their kinship care placements.

*Living there feels like a family (Shane, kinship care, 15, Aboriginal).*

However, some reported that kinship care placements came with their own problems, such as overcrowding and financial disadvantage.

*[We] lived with nine other people in a house – no room. Just lived in the lounge room in the bunk bed. Big sister got the top bunk. There were too many people for the house. After that we moved into our own place, so we had an actual bedroom (Phillipa, kinship care, 12).*

Kinship carers are often older family members, usually grandparents, although there is a growing cohort of younger kinship carers who are siblings. They are often propelled into the role of kinship carer at times of crisis, without planning or preparation. As noted in the Victorian Ombudsman's *Investigation into the Financial Support provided to Kinship Carers* in 2017, kinship carers often have low incomes and experience great financial hardship. Many may be required to stop working in order to look after the child or children in their care, adding to this financial strain.

Kinship carers consulted by the Commission said they found financial support to be lacking, a concern shared by Child Protection and funded agency staff. In the files reviewed by the Commission, key assessment processes used as the basis for requesting and accessing additional care allowances were not being completed in a timely manner, if at all.

## **Supervision and support for kinship carers**

Child Protection is responsible for managing almost three quarters of cases in kinship care. It is responsible for the assessment, case management, support and monitoring of children and young people in placement and their carers. During consultations with kinship carers, the Commission heard that in general they felt they did not receive enough support from their Child Protection and, where relevant, funded agency staff.

The Commission's file review confirmed that in general Child Protection did not meet with kinship carers as often as required. Of the 37 cases in kinship care reviewed by the Commission, only 13 demonstrated evidence of fortnightly contact between the worker and the carer. The Commission's file review also revealed that the supports provided to kinship carers were not commensurate with the level of risk of placement breakdown evident on the file.

Both Child Protection and funded agency staff commented on the difficulties experienced by kinship carers trying to access respite care for the children they are looking after.

## **New kinship care model**

In March 2018, the department introduced a new model of kinship care which aims to increase stability of kinship placements and support for kinship carers. The model aims to identify kinship networks early and promote placement quality and stability.

The Victorian Government's investment in the new kinship care model is significant and much needed. It initially announced a \$33.5 million investment for a new state-wide model for kinship care. This investment was from 1 March 2018 to 30 June 2019. In the 2019–2020 budget, the Victorian Government continued this investment, investing \$116.1 million to continue the kinship care model. In addition, the department has advised that the new kinship care model will include \$5 million per year of funding available to support existing placements through kinship care engagement workers.

## Executive summary

Since the introduction of the new model, kinship carers have reported improved access to support through kinship care workers. A recent evaluation of the new kinship care model found that it had positive outcomes, particularly in the identification and recruitment of kinship networks.

While the new model has enabled more case management by funded agencies, there are still significant numbers of children and young people case managed by Child Protection without an allocated worker. In addition, the First Supports program, with its additional flexible funding and support delivered through funded agencies, ends after the first 12 months of a placement. The Commission's file review shows that placement breakdowns continue to occur beyond the first year, when these supports will have ceased.

The new model provides much needed support to those kinship carers benefitting from it. However, further investment over a longer period is needed in light of growing demand and information available through the Commission's file review.

### *Training and development*

Since April 2017, the department has funded ongoing training to both foster and kinship carers through Carer KaFÉ training hosted by the Foster Care Association of Victoria. The training is voluntary for kinship carers and a recent survey conducted by the Australian Institute of Family Studies found that only 16 per cent of kinship carers said they had received training. While assessments of kinship carers should identify training needs, these assessments are frequently being done by Child Protection and there is also a lack of follow up and monitoring by Child Protection of training uptake by kinship carers.

### *Foster care*

Positive relationships with foster carers can help improve outcomes for children and young people in care. Children and young people told the Commission that a good foster carer is someone who listens and is caring, loving and supportive.

*The foster parents I stayed with for the longest period are pretty much responsible for me getting to where I am. Without them I would have been stuffed (Toby, post-care – previously foster care, 27).*

As at 31 December 2018, there were 1,610 children and young people living in foster care placements across Victoria. It is clear from available data that the number of foster carers is not keeping up with demand. In 2017–2018, there were a total of 998 foster carers in Victoria. During 2017–2018, 606 foster carers withdrew from foster care programs while only 375 foster carers commenced.

### *Support and supervision for foster carers*

In addition to supporting the needs of children and young people in their placements, foster care agencies are required to visit carers regularly, supervise and support carers effectively, monitor the quality of care provided, and ensure carers are receiving the appropriate level of financial assistance for which they are eligible while caring for a child.

Foster carers told the Commission that the provision of good support is dependent on the case worker's availability, personality and stability.

*The support is tied in with the personality of the worker at the CSO. You get a good worker and things will run fairly smoothly, you'll get support, requests for excursions when going to school etc.... you get a bad one and the wheels don't turn. In our experience, we have had probably two really good ones (Foster carer).*

Carers also said that case workers were overloaded with cases and so not always available to provide them with advice and support.

### ***Access to therapeutic support***

The department provides different levels of support to foster care placements. However, data provided by the department suggests that requisite levels of support for the most complex foster care placements are not keeping up with demand. Currently, only six per cent of all foster care placements are 'therapeutic'. Therapeutic foster care entails support from a care team with a therapeutic specialist who provides focused training and support to children and young people and their foster carer aimed at helping carers to support the child to recover from the effects of abuse-related trauma.

This number is insufficient to respond to the increasing number of children and young people who are entering care with complex needs.

### ***Difficulty navigating the system***

The Commission consistently heard in our consultations with carers, workers and young people about difficulties navigating the out-of-home care system. This task can be particularly complex for foster carers who are often left negotiating decisions with multiple parties.

### ***Some carers are not equipped to recognise or respond to trauma***

Some of the children and young people we spoke to for this inquiry informed the Commission that they felt that their carers were not equipped to recognise or respond to their trauma. This concern was shared by a number of Child Protection staff interviewed by the Commission. A number of carers and Child Protection staff we spoke to also recognised a need for more training and development specifically in relation to trauma-informed care.

In Victoria, funded agencies are responsible for providing the mandatory initial training to carers, *Shared lives Victoria*. In March 2019, the department released an updated revision of this training and induction package for carers. This training has been updated to include 'appropriate care and behaviour management of children affected by developmental trauma'.

As mentioned, the Carer KaFÉ provides learning and development opportunities for both foster and kinship carers throughout Victoria. The carers, Child Protection and funded agency staff consulted for the inquiry all spoke positively about the increased access to quality of training provided by Carer KaFÉ. However, as there is no tracking and monitoring of training there is no way of knowing how broadly it is being implemented across Victoria.

### ***Residential care***

The Commission spoke to 72 children and young people who were living in or had lived in residential care. Some children and young people reported having a good relationship with the residential care unit staff. In these instances, what made the relationship a good one was being heard and feeling respected and cared for.

Children and young people said that some residential care unit staff did not spend enough time getting to know them. Some also found that the transient nature of the workforce meant that they were not able to build rapport with those workers.

*You will never build a relationship when the workers change all the time. You won't help people when you have new faces all the time. And you are like, I want to build this, and then the worker is gone (Brandon, post-care – previously residential care, 18, Aboriginal).*

Children and young people said that many residential care unit staff were not properly trained to support them and help them manage their trauma.

*My resi workers were not trained enough. It should not be an entry level position – you are dealing with young people at the most stressful time of their lives, all with different issues and then they start sharing their issues with each other. To deal with the aggression, a lot of the staff needed more training. They could not deal with incidents until they had the chance to deal with a few – but by that time, the harm had been done by the prior conflict and crisis (Harriet, residential care, 18).*

Children and young people told us that for them to trust residential care unit staff, workers need to demonstrate empathy, be willing to understand the young person's perspective, keep promises and respect confidentiality. Children and young people we spoke to also said that they valued residential care unit staff who listened to their needs and acted on them.

#### ***Impacts of staffing structures on workers' ability to engage young people in residential care***

High staff turnover, the casualised nature of the residential care workforce and reliance on agency staff impedes strong relationships between children and their carers. Some of the residential care unit staff we interviewed spoke about the difficulties maintaining a skilled and consistent team in residential care settings, which they attributed to the use of casual staff, administrative burden and the particular difficulties in managing children and young people with complex needs and, at times, challenging behaviours.

*Staffing is a massive issue. Houses without [a] full well functioning team have trouble caring for kids, in houses where you have a good staffing team – you can have the most difficult kids in Victoria, but they will be turned around by skilled staff (Residential care unit staff member).*

#### ***Residential care is not therapeutic***

The majority of children and young people placed in residential care in Victoria have experienced the trauma of multiple failed foster and/or kinship care placements in addition to the experiences that led them to being placed in the care of the State. For this reason, children and young people in residential care need workers who are caring and therapeutically trained to identify and respond to complex behaviours.

The *Program requirements for residential care in Victoria* require residential care providers to have written policies that outline trauma-informed intervention and support in response to challenging behaviour by children and young people in residential care.

Almost all of the residential care staff we consulted said that they had been provided training in trauma-informed care. While some staff felt that they were provided with very good training, many commented that they were left with an understanding of trauma and its impact, but without the practical tools to respond to trauma-related behaviour. Residential care staff interviewed for this inquiry informed the Commission that they struggled to provide relationship based, child-centred therapeutic care to children and young people in their units.

#### ***Attempts to improve the quality of residential care***

Since 1 January 2018, all residential care workers have been required to hold mandatory minimum qualifications. This strategy is a positive development, however improving formal staff qualifications alone will not address the broader concerns about residential care being unable to deliver care that is therapeutic.

### ***‘Therapeutic residential care’***

‘Therapeutic residential care’ is a form of residential care which involves:

- a part-time therapeutic specialist per residential unit
- two additional residential staff as part of the therapeutic residential care team
- the provision of stand-up night staff.

There are 40 community services and one government-run service funded to provide ‘therapeutic residential care’ for 172 children and young people in Victoria. As at 31 December 2018, only 71 children young people were placed in a therapeutic residential care setting.

During consultations with workers and young people, the Commission heard that there was very little difference between ‘therapeutic residential care’ and other residential care in terms of the standard of care provided. Workers agreed that trauma-informed practice was important, but that it did not always happen.

*We wish it was therapeutic, but in practice therapeutic doesn’t seem to mean much (Residential care unit staff member).*

### **My workers**

*The amount of DHS workers that get changed, I reckon I’ve had maybe eight or nine in total and they don’t even know me. It would be good if they could keep the same worker and build a relationship and you can tell them how you are feeling and be honest about how things are going. The workers don’t know you. How can they help do the best things for you if you don’t have the chance to get to know them? (Christopher, foster care, 16).*

Children and young people in out-of-home care rely on their workers to help them understand the care system, keep in contact with their family, prepare for the future, express their views and seek to influence decisions impacting them. As such, the relationship they have with their worker is critical.

Children and young people told us that a good worker was someone who showed they cared. They also valued a worker who visited regularly and got to know them personally. When they trusted their worker, they could share things that they could not share with anyone else, and they felt they could navigate the child protection system more easily.

### **Workforce capacity**

Many of the young people we spoke to said that limited contact with workers prevented them from developing a trusting relationship with their worker. Young people we spoke to were conscious that their workers were very busy; this made some feel like they were a burden. When children and young people had negative relationships with their workers, they did not have faith in their workers’ ability to support them. This made them feel powerless.

The Commission found that case workers’ ability to visit regularly was affected by increasing pressures on the child protection system, including:

- almost a third of all children and young people in out-of-home care whose cases were managed by Child Protection did not have an allocated worker
- high turnover in staff and system-wide challenges in recruiting and retaining Child Protection staff
- workers managing high caseloads of 15 cases of varying complexity and juggling competing priorities.

This impacts on the ability of children and young people to build a relationship with their workers or to get the practical support they need.

### **Large numbers of professionals involved**

It is common for children and young people in out-of-home care to have a large number of professionals working with them at any given time. This is confusing for children and young people and also impedes their ability to build rapport with any one worker.

### ***Lack of authority to make decisions***

The current structure of Child Protection also indirectly reduces the scope of decision-making power of those who work directly with children and young people. In cases managed by funded agencies, those agencies are responsible for most decisions about the needs of the children and young people and carers, however Child Protection retains responsibility for ‘significant decisions’. These can include, for example, decisions about activities that may require additional funding. The fragmentation of decision-making power causes confusion and frustration for children and young people.

### ***Lack of training and development***

Working with children and young people, particularly those who have experienced trauma, requires skill, training and experience. The Child Protection practitioners interviewed for the inquiry had mixed views about training and development opportunities. Most workers said that they had received some form of training related to trauma. None had received any training on communicating or engaging with children and young people.

While Child Protection practitioners are provided with induction training and come to their roles with relevant tertiary qualifications, there are limited ongoing or refresher development opportunities for Child Protection practitioners, particularly for lower-level case practice support workers. The department does not currently monitor or track participation in training and development, nor the impact of training and development on practice.

### ***Distance***

Finally, workers interviewed by the Commission in rural areas reported spending a significant proportion of their time driving to and from visits with children and young people, reducing their ability to split their time evenly between the children and young people whose cases they were managing.

### **Reforming the out-of-home care system**

Children and young people across Victoria have told us they want their opinion to be heard in decisions made about them and to feel that they matter. They want great stability, safety and a place that feels like home. They told us they want kind, supportive and consistent workers and carers. Those who have experienced trauma through abuse and neglect told us they want those around them to understand how that trauma affects them and to help them to heal and recover. Too many said this was not happening.

This inquiry is not the first to raise grave concerns about the capacity of the out-of-home care system to help children and young people to heal and to reach their full potential. Many of the issues highlighted in this report have been raised in past inquiries.

The Commission acknowledges the significant work and investment which has already occurred under the *Roadmap for reform: strong families, safe children* (Roadmap) strategy, including efforts to:

- transfer case management of Aboriginal children in care to ACCOs, support the recruitment of Aboriginal foster and kinship carers and improve cultural support planning
- improve residential care environments
- allocate additional funding to foster carers
- fund additional Child Protection staff
- introduce a new kinship care model with additional supports.

There have also been a number of pilots in South Division (the South initiative) aimed at testing, refining and evaluating innovative models of care and work has also begun on the development of an outcomes framework for out-of-home care.

This work is promising and welcome. However, despite these efforts, children and young people's experience of care remains impacted by critical unresolved systemic issues. For Roadmap to deliver its goal to improve outcomes for children and young people in care, the Victorian Government must urgently develop the next stages of the strategy and dedicate the resources, focus and effort required to uphold the best interests, rights and safety of all children and young people in care.

The Commission has developed recommendations, listed in the next section and incorporated in Chapter 12 of the report. These recommendations are informed by the following principles:

- the need to stem the flow of children and young people coming into care
- the need for adequate and effectively used investment in the out-of-home care system
- the need to address the over-representation of Aboriginal children and young people in out-of-home care
- the need to build an out-of-home care system that provides care 'as a good parent would' and:
  - listens to the voice of children and young people and enables their effective participation
  - fosters connections to important people in the lives of children and young people
  - is stable
  - is safe
  - supports children and young people to recover from their previous experiences of trauma
  - ensures that there are effective pathways from residential care into home-based care.
- the importance of tracking and oversight of the system and, in particular, of how children and young people are faring within that system.

# Findings and recommendations



## Findings

### **Finding 1: The child protection and out-of-home care systems are under strain**

The child protection and out-of-home care systems are under significant stress, with:

- reports to Child Protection, investigations and substantiated cases of risk to children, all approximately tripling between 2008–2009 and 2017–2018
- double the numbers of children and young people entering the out-of-home care system over the same period
- a disproportionately high and growing number of Aboriginal children and young people entering out-of-home care
- resourcing for out-of-home care services that has increased significantly over time, but remains consistently less than the national average
- expenditure on child protection services that, despite significant recent investment by the Victorian Government, has not kept pace with demand
- a consistently high attrition rate for Child Protection staff.

### **Finding 2: Connection to culture**

Connection to culture is a protective factor in the lives of Aboriginal children and young people that enhances their health, wellbeing and identity. However, while some Aboriginal children and young people told us they felt connected to community and culture, a significant number told us they feel disconnected and need more support to build this connection – including understanding the relevance of culture to them.

### **Finding 3: Compliance with processes and principles to support connection to culture**

Despite significant effort and investment in recent years, poor compliance with legislated processes and principles to support Aboriginal children and young people in care – such as cultural support planning, Aboriginal family-led decision making and the Aboriginal Child Placement Principle – continues to undermine their right to culture. The Commission also

notes that there is considerable variation between departmental divisions and areas regarding compliance with these requirements.

### **Finding 4: Funded agency case management by ACCOs**

Victorian Government policy commits to the transfer of responsibility, funding and services for Aboriginal children to Aboriginal organisations. ACCOs and the Commission's prior inquiries have found that where a child's case was managed by an ACCO, they are more likely to have contact with Aboriginal extended family members, be provided with opportunities to participate in cultural activities and be engaged socially with an Aboriginal person. However, while there has been significant effort, investment and improvement, less than half of eligible Aboriginal children and young people in care benefit from contracted case management by an ACCO.

### **Finding 5: The over-representation of Aboriginal children and young people in care and self-determination**

Aboriginal children and young people continue to be significantly over-represented in Victoria's out-of-home care system and this situation is getting worse. The number of Aboriginal children and young people in care has tripled between 2008–2009 and 2017–2018.

Initiatives such as Aboriginal Children in Aboriginal Care – based on the principle of self-determination – offer a potential means of reducing government intervention into the lives of Aboriginal children and young people who are in care. However, self-determination can never be a reality for Aboriginal people in Victoria until Aboriginal children and young people are no longer over-represented in care.

### **Finding 6: Lack of participation in significant decisions**

Through our consultations, children and young people informed the Commission that they wanted to participate in decisions affecting their lives in care. While some children and young people were able to influence certain decisions about food and activities, they did not have opportunities to have a say about the most significant issues, like where they would live or who they could have contact with.

### Finding 7: Limited opportunities to participate

Based on the data provided to the Commission and the Commission's review of CRIS files, the Commission found that children and young people's opportunities to participate in significant decisions were limited by:

- the high number of children and young people who did not have an allocated case worker
- a lack of direct, face-to-face contact between children and young people and their allocated worker
- workers' high caseloads
- high turnover in workers
- workers often engaging with children and young people in the presence of carers.

### Finding 8: Lack of face-to-face contact with a known (allocated) worker

In the files reviewed by the Commission, a significant proportion of the face-to-face contact between children and young people and workers occurred during their transport to and from placement, school and other appointments or when supervising access visits with family. A significant proportion of these visits were conducted by workers other than the child or young person's allocated case worker. This approach to allocating certain tasks involving contact with children and young people limits their opportunities to build a trusting relationship and speak with their allocated case worker about their experience in care.

### Finding 9: Participation in meetings

While some children and young people informed the Commission that they had positive experiences with care team and case planning meetings, the majority of children and young people didn't know about these meetings or said that meetings were tokenistic. This was confirmed in the files reviewed by the Commission, which suggested that:

- Meetings were not child-centred.
- Children and young people were rarely informed in advance about meetings.

### Finding 10: No case plan

In the files reviewed by the Commission, one in five children and young people in out-of-home care did not have a case plan prepared in the last 12 months.

### Finding 11: Involvement in case planning

The files reviewed by the Commission indicated that children and young people's views and wishes were rarely sought or recorded in their case plan.

### Finding 12: Decisions about placement changes

In the files reviewed by the Commission, the views of children and young people were generally not sought and therefore did not contribute to decisions about placement changes by Child Protection. Children and young people told the Commission that having no chance to express a view about where, and with whom, they live contributes to feelings of powerlessness and anxiety. Children and young people told us that they were often given no explanation for the decisions, making them feel not only powerless but responsible or to blame.

### Finding 13: Existing complaints processes

Based on the available data recording complaints made to the department, an extremely low number of children and young people raise complaints using the department's complaints mechanism. The Victorian Ombudsman is the only independent body children and young people in care can complain to and there is no data to indicate whether children and young people are using that mechanism. This, combined with feedback from children and young people, suggests that existing complaints processes are underutilised by children and young people in care.

Children and young people told the Commission that existing complaints mechanisms were inaccessible to them because they were:

- not child friendly or well informed about issues affecting children in care
- not known by children or young people
- not trusted, in that children and young people expressed concern that people would not understand their issues, be dismissive of their concerns or that there would be repercussions.

### **Finding 14: Attempts to include the voice of the child**

Further and more specific work, building on the department's 'Voice of the Child' project, is needed to improve children and young people's participation in day-to-day decisions in care.

### **Finding 15: Placement stability in care in Victoria**

Children and young people in care in Victoria experience an unacceptably high level of placement instability. Placement instability impairs the safety, wellbeing and life outcomes of these children and young people.

Placement instability in Victoria is largely attributable to a combination of:

- rising numbers of children and young people going into care
- a lack of suitable placements and carers, especially for children and young people living with complex trauma, challenging behaviours and/or intellectual disabilities, which limits the system's capacity to match the carer and placement to the child or young person
- inadequate planning when children enter care
- a lack of tailored supports for carers to maintain placements (as noted in Chapter 10) and for children and young people in care to recover from trauma.

Our review of the CRIS files of children and young people who have experienced multiple placement moves suggests that children and young people with complex trauma, challenging behaviours and/or intellectual disabilities are at higher risk of placement instability in the out-of-home care system.

### **Finding 16: Placement mix in residential care**

Children and young people with an experience of residential care told us they were often heavily impacted by the behaviour of other children and young people in their units, and that their safety and wellbeing is compromised by the:

- children and young people with serious behaviour and/or mental health issues being placed together in non-therapeutic residential care units
- younger children being placed with adolescents in residential care, and being negatively influenced by exposure to drug use, violence and criminal offending.

This poor placement mix appears to be contributing to:

- the criminalisation of children in care
- the likelihood that children and young people in care will be exposed to re-traumatising behaviours
- poor recovery outcomes for children and young people.

The problem of poor placement mix in residential care is largely attributable to:

- a lack of suitable and supported placements in the care system, particularly for children and young people with challenging behaviours
- the current, inflexible model of residential care
- the increasingly complex needs of children and young people in residential care.

### **Finding 17: Rules and consequences in residential care**

In spite of recent training requirements introduced for residential care workers, children and young people in residential care, and some workers, told the Commission that many units lack clear and consistently applied rules and approaches. This suggests further training and support is needed for residential care workers in how to implement the principles of trauma-informed care through evidence-based behavioural interventions.

### **Finding 18: Involvement of police in residential care**

Many of the children and young people in residential care told the Commission that residential care providers rely too much on police to resolve incidents of challenging behaviour by young people. Prior Victorian-based research suggests that unnecessary police involvement is a significant contributing factor to the criminalisation of children and young people in care.

### **Finding 19: Physical living environment in residential care**

While the Commission is aware of residential units where efforts have been made to create a welcoming and home-like environment, many children and young people we consulted for this inquiry told us they had experienced the physical living environment in residential care as sterile, institutional and even prison-like. These observations were often confirmed by Commission staff and the department's own Quality and Compliance Audits.

This problem is exacerbated by children and young people being given limited opportunities to influence their personal and shared spaces.

### **Finding 20: Placement location**

The location of some children and young people's placement has had a negative impact on their capacity to maintain a connection with their friends, community and education.

### **Finding 21: Pets**

Pets or companion animals can positively contribute to children and young people's social and emotional development in care. Current departmental guidelines and policies do not address the potential benefit of children and young people in care having pets or companion animals, even for situations where this does not pose an undue risk to animal welfare.

### **Finding 22: Safety in kinship and foster care**

Reflecting recent surveys of children and young people in care, most children and young people we spoke to who were currently in kinship or foster care told us they felt safe in their current placement.

However, a significant number of children and young people told us that they had been unsafe in prior kinship and foster placements, either because they had been hit, bullied or otherwise abused.

### **Finding 23: Monitoring and identification of safety concerns in care**

The following factors act as barriers to safety issues for children and young people in care being identified and addressed:

- insufficient monitoring of the safety of children and young people by Child Protection and, to a lesser degree, CSO workers, particularly in kinship care
- inconsistent practice among CSO and Child Protection workers regarding face-to-face contact with children and young people in care separate from their carers.

### **Finding 24: Safety in residential care**

Based on available data and advice from children and young people, residential care in its current form is often unsafe for children and young people and places them at an unacceptable risk of harm.

### **Finding 25: Family reunification supports**

Successful and sustainable reunification of children and young people with their family is impeded by:

- children and young people on family reunification orders not having an allocated case worker
- case planning that does not always provide children and young people in care and their parents with a clear pathway towards reunification
- limited access to some of the services required to meet the parents' and family's needs
- a lack of intensive reunification supports to assist children and young people to reunify with their parents.

There is no evidence that these systemic barriers, identified in the Commission's 2017 inquiry, '*...safe and wanted...*', have been addressed by the department.

### **Finding 26: Separation of siblings in care**

A significant number of children and young people in care still live in placements separate from their siblings, which often has a detrimental impact on their development and wellbeing. The inappropriate separation of siblings can – at least in part – be attributed to a lack of:

- appropriate placements for sibling groups, particularly for those with younger children or adolescents
- case planning and dedicated service supports to help sibling groups stay together or to help them reunify while in still in care.

Sibling groups are most likely to remain intact in kinship care, which points to the need for distinct service supports to help support and maintain kinship care placements of multiple siblings.

The department does not currently track or report on how many children and young people in care live separately from another sibling in care. This understates the significance of this issue and prevents activity to address it.

### **Finding 27: Contact between children and young people in care and their family**

At present, the department does not consistently record in the case plan or systematically collect data on the frequency of contact between children and young people in care and their family members. This means it is impossible to track the frequency of contact across the system.

However, consultations with children and young people and file reviews conducted by the Commission suggest that:

- Most children and young people in care have frequent contact with their parents and siblings.
- Many children and young people said they wanted more contact with parents and siblings.
- Children and young people in care are less likely to have frequent contact with extended family members. This is partly due to case planning practices which do not appear to prioritise extended family relationships.
- Concerningly, based on our file reviews, children and young people with developmental delays or intellectual disabilities appear less likely to have consistent contact with their parents.

### **Finding 28: Decision making about contact with family**

Children and young people in care are often able to participate in or influence decision making about contact with parents, siblings or extended family. However, the Commission was also concerned to come across several instances of children and young people being forced to have contact with parents or otherwise being unable to influence decision making about contact. There is currently a lack of departmental guidance about how those working with these children and young people can best support them to participate in such decision making.

### **Finding 29: Connection with friends**

Children and young people in care told us – and the Commission’s file reviews confirmed – that they do not receive enough support to maintain positive friendships in care, particularly in residential care.

Current case planning guidelines and practice do not emphasise the needs of children and young people in care to develop and sustain positive friendships.

### **Finding 30: Activities in care**

#### ***Children and young people in residential care***

A significant number of children and young people in residential care are unable to engage in activities in the community due to resource and staffing constraints. The Commission is concerned that this is a contributing factor to behavioural problems, drug use and criminal conduct among children and young people living in residential care.

#### ***Children and young people in kinship and foster care***

Children and young people in kinship and foster care are more likely to be engaged in voluntary extracurricular activities and sports, however still face significant barriers to participating.

### **Finding 31: Support for kinship carers**

Despite significant improvements since the introduction of the new kinship care model, many carers still receive inadequate levels of support, including:

- timely access to financial supports
- ongoing placement support, supervision and monitoring and respite.

There is also ongoing concern about the adequacy of training on trauma-informed care provided to kinship carers.

### **Finding 32: New kinship care model**

Under the new kinship care model, the government has allocated much needed flexible funding and additional workers to support children and young people’s kinship care placements. However, given that kinship care is the fastest growing type of care, the Commission remains concerned that the new model will not meet demand.

### **Finding 33: What children and young people said they need from their foster carers**

Children and young people in care told us they need foster carers who are caring and supportive, and can understand their experiences, behaviours and what they need.

### **Finding 34: Foster carers’ access to support**

While foster carers’ experiences of accessing support were mixed, a number of foster carers expressed frustration that support provided to them is generally inconsistent, inflexible and non-collaborative. This was confirmed in the Commission’s file reviews, which found that foster carers had limited access to:

- placement supervision and monitoring through direct, face-to-face contact with their agency worker
- therapeutic supports.

### **Finding 35: Carer KaFÉ**

Foster carers and workers informed the Commission that Carer KaFÉ is an accessible provider of useful and practical development opportunities for carers across Victoria.

### **Finding 36: Training provided to foster carers**

The department does not currently track or monitor ongoing training provided to foster carers. Consequently, Child Protection and in particular, the Placement Coordination Unit, has limited information about the availability of foster carers who have undertaken specific training to care for children and young people with particular needs.

### **Finding 37: Trusting relationships with residential care workers**

Many children and young people said that they did not feel like they always had someone to talk to or connect with in residential care. Children and young people told us that they would like to be able to spend more time with their workers in order for them to get to know and trust their workers.

### **Finding 38: Residential care workers' capacity to respond to trauma**

Children and young people had mixed feedback on their residential care workers' capacity to respond to their trauma. Despite inroads made by the Victorian Government to improve residential care services, including the introduction of the minimum qualifications requirement, workers' capacity to care effectively for children and young people is impacted by:

- ongoing use of casual and agency staff by many providers
- inconsistent training provided to staff across funded agencies
- placement mix and associated pressures in the residential care environment.

### **Finding 39: Therapeutic residential care**

Despite therapeutic residential care program requirements and the availability of additional funding (consisting of a 0.5 FTE therapeutic specialist per home, and two additional residential staff as part of the team), the Commission did not otherwise identify:

- evidence of 'therapeutic residential care' meeting the therapeutic standards required by the program requirements
- a noticeable difference in the quality of care provided by 'therapeutic residential care' compared with standard residential care settings.

### **Finding 40: Trusting relationships with workers**

Some children and young people informed the Commission that they had a positive experience with at least one or two workers while they were in care. However, the majority of children and young people said that their experiences with workers were limited because:

- Their worker was not available to provide support.
- They did not know who their worker was.
- Their worker was too impersonal or busy to get to know them.

### **Finding 41: Workforce capacity**

High numbers of changes in workers impacts the quality of services delivered to children and young people in out-of-home care.

### **Finding 42: Information about funded agency workforce**

The department relies on services provided by funded agencies, particularly for children and young people in out-of-home care. The information known to the department about the workforce of funded agencies providing these services is relatively limited. The department does not currently track or monitor the workforce capacity or training of these agencies.

### **Finding 43: Workers' ability to provide support**

Interactions between workers and children and young people were most effective when they were regular, relationship-based and trauma-informed. Children and young people informed the Commission that their workers were, at times, ineffective and unhelpful because they:

- did not have sufficient decision-making authority
- were not focused on their needs, but rather, the needs of their carers
- did not have the ability to recognise or respond to their trauma
- were affected by practical factors, such as distance and competing priorities.

## Recommendations

### Recommendation 1: A new investment approach

That, in line with *Roadmap for reform: strong families, safe children*, the Victorian Government develop, resource and implement an integrated, whole-of-system investment model and strategy for the child and family system.

The investment model should identify the resourcing levels needed for a safe and quality out-of-home care system by taking into account:

- drivers of demand
- key data and analysis relating to children and young people in the out-of-home care system
- the need to reverse the increasing numbers of Aboriginal children and young people entering out-of-home care.

The investment strategy should focus on maintaining safe and quality services in line with demand while also investing to reduce the number of children and young people entering care and improve outcomes.

Strategies to reduce demand should include:

- targeted earlier intervention and prevention, prioritising the most vulnerable cohorts, including those with chronic and complex issues and children exposed to cumulative harm
- a focus on Aboriginal children and young people
- resources to work with children and young people in care and their families where reunification is in the child's best interests.

Strategies to improve outcomes for children and young people in out-of-home care should include:

- more suitable care placement options that are tailored to meet the needs of children and young people in care
- more focused placement planning to minimise placement changes
- additional service supports to assist sibling groups to stay together or help them reunify while still in care, especially for larger groups of siblings in kinship care
- supports to help carers maintain placements, including during times of crisis or difficulty

- measures to ensure children and young people are provided with appropriate and supported opportunities to participate in decision-making processes that impact on them
- funding for ACCOs to provide case management as part of the transition process to Aboriginal Children in Aboriginal Care
- significant ongoing training and development for Child Protection staff including in therapeutic and trauma-informed approaches to children and young people.

### Recommendation 2: Ensure compliance with processes and principles to support connection to culture

That the department explore how accountability and governance measures can be strengthened at a regional and local level to lift the quality and implementation of legislated processes to support connection to culture for Aboriginal children and young people in care.

### Recommendation 3: Address the over-representation of Aboriginal children and young people in care

That the Victorian Government continue to support Aboriginal people's right to self-determination, including through the increased investment in community-led early intervention services and gradual transfer of responsibility for the case management and case planning of Aboriginal children and young people in care to ACCOs.

### Recommendation 4: Listening and responding to the voice of children and young people

That the department review and revise all foundational guidance, training and tools to embed children's participation in decision making. This review should apply to existing guidance relating to all staff working with children and young people in care, including contracted agency staff.

The development of tools should:

- include paper-based and digital resources that can be used by practitioners during home visits to promote the inclusion of children and young people's views in decision making

- include ways to record views effectively and include them in practitioners' assessment of planning decisions.

That the department establish mechanisms to ensure that workers are allocated case loads which allow them regular face-to-face contact with children and young people in order to build trust and rapport and to facilitate genuine opportunities for children and young people to participate in decision making about them.

That the department amend relevant program requirements and guidelines relating to the placement of children and young people in care to ensure that, unless exceptional circumstances exist, children and young people are:

- informed about the proposed placement prior to the placement
- where possible, provided with the reason for any decision made by Child Protection or contracted agencies to place them in or remove them from a placement against their expressed wishes.

### **Recommendation 5: Provide a single point of contact/key worker for all children and young people in care**

That the department ensure that there is a single point of contact or 'key worker' for all children and young people in care, with authority and access to resources to make day-to-day decisions related to implementing the child or young person's case plan and helping to navigate the system.

That the department consider whether funding packages can be administered to 'follow' the child or young person as they move through different placements and be available regardless of where they live.

### **Recommendation 6: Establish a child and young person-centred complaints function**

That the Victorian Government establish an independent, specialised child and young person-centred complaints function to receive complaints from children and young people in care, including concerns about their immediate safety or ongoing concerns about their wellbeing while in care.

### **Recommendation 7: Improving connections to family, friends and community**

That the department:

- in consultation with children and young people with a lived experience of care, design good practice guidelines and training on how to support children and young people to participate in decision making about contact with parents, siblings, extended family and friends. Guidance should include how best to incorporate children and young people's views about contact into their case plan
- revise the case planning template and advice to include the requirement for planned activity towards reuniting separated sibling groups in care or clearly state the rationale as to why this should not occur
- review the adequacy of contact supports for children and young people in care with a disability, including a developmental delay or intellectual disability
- amend current case planning guidelines to improve planning and support for children and young people in care to develop and sustain safe, appropriate and positive friendships
- review the effectiveness of the current carer authorisation policy to maximise the participation of children and young people in care in activities in their community
- review the adequacy of the current budget allocation to support children and young people in all forms of care to engage in activities both inside and outside of their homes.

### **Recommendation 8: Ensure carers can access respite and other supports**

Consistent with the *Strong carers, stronger children* strategy, that the department ensure that foster and kinship carers can readily access respite and other supports when required, with a particular focus on supports required to maintain placement stability.

### **Recommendation 9: Continue to improve support for kinship carers**

That, in addition to First Supports, provided to families in the first 12 months of the placement, the department develop measures as part of the *Strong carers, stronger children* strategy to ensure that:

- all kinship placements continue to receive supports after the first 12 months where required
- the risk of placement breakdown is identified early so that resources can be allocated appropriately.

### **Recommendation 10: Improve face-to-face contact between workers and children and young people in care**

That the department provide clear guidance to Child Protection, CSO and ACCO workers with case management responsibility that when they have face-to-face contact with children and young people in care, they:

- ask about their safety not in the presence of their carers
- provide them with a clear way of contacting their worker if they do have concerns about their safety.

### **Recommendation 11: Improve peer influences and relationships in care**

That the department, as part of its work to improve placement matching, develop and implement guidelines which:

- prohibit the placement of children under 12 years with older children or young people unless the older child is a sibling and it is in the best interests of the child
- provide guidance to improve decisions about the co-placement of children and young people with complex needs.

### **Recommendation 12: Reduce involvement of police in residential care**

That the department ensure that any inter-agency protocol to reduce the contact of children and young people in residential care with police and the criminal justice system is developed and monitored in consultation with:

- children and young people with an experience of residential care
- a representative Aboriginal Community-Controlled Organisation
- the Commission.

The implementation of this protocol should be supported by additional training and support for residential care workers in responding to and working with children and young people affected by trauma. This training and support should emphasise the need for consistency and predictability.

### **Recommendation 13: Improve the physical living environment of residential care**

That the department, in consultation with children and young people with an experience of residential care:

- develop guidelines about what a home-like residential care environment looks and feels like
- conduct rigorous assessments of residential care drawing on these guidelines
- ensure these assessments include speaking to children and young people within these units about their views on the extent to which the physical living environment feels like a 'home'.

### **Recommendation 14: Improve access to pets in residential care settings**

That the department:

- develop guidelines for contracted agencies to help them determine when it is in the best interests of a child or young person in care to have access to a companion animal
- support programs or initiatives which utilise companion or therapy animals.

### **Recommendation 15: Provide staff and carers with appropriate supports to respond to trauma**

That the Victorian Government ensure that appropriate supports are provided to deal with trauma, including:

- Kinship and foster carers should be supported and encouraged to learn about effective responses to trauma.
- All contracted agency staff should be required to undertake training in regard to trauma-informed care.
- Learning and development for Child Protection staff that provides regular updates on evidence-based approaches to children and young people living with trauma.

### **Recommendation 16: Create therapeutic pathways to a stable home**

That the Victorian Government create and fund a suite of therapeutic options for children and young people in care which support children and young people with complex trauma and challenging behaviours to transition over time to more family-like care environments including:

- a model of care, support and accommodation tailored to the child or young person's individual needs with continued transition support to facilitate them moving into home-based care
- more flexible placement options, including two bed or single bed placements with tailored and appropriately skilled staff (not through current contingency arrangements)
- a form of professionalised foster care.

That the Victorian Government increase funding and availability of therapeutic placement prevention and reunification supports for children and young people in or at risk of entering out-of-home care.

That the department develop the expertise, focus and capacity of Child Protection workers to assist families to achieve reunification, including through case planning.

### **Recommendation 17: Improve government monitoring of out-of-home care**

That the Victorian Government develop mechanisms to track and report on outcomes for children in out-of-home care to ensure that care services, policy and programs are focused on improved outcomes for children and young people in care. This should include the development of key indicators, including but not limited to:

- number of placement changes children and young people experience
- drivers and characteristics of placement breakdown
- frequency of contact with siblings and family members
- number of siblings living separately from one or more of their siblings in care
- successful reunification of children with their family
- timeliness of kinship care assessments
- funded agency workforce capacity and training
- contact between children and young people and their workers
- number of complaints received from children and young people in care disaggregated by age and care type.

An appropriate internal governance body should be established to monitor and track these indicators and ensure that the data collected can inform implementation and sequencing of reform initiatives.

The internal governance body should provide regular updates to the Commission on these indicators and on the impact of reform initiatives on the indicators.

Chapter 1  
**About this inquiry**



Rainbows Make every one



HAPPY



## Why this inquiry?

Since its establishment, the Commission's role has included monitoring services for children and young people in the out-of-home care system and providing advice to the Victorian Government on necessary improvements. This oversight activity has consistently raised concerns about the safety, wellbeing and development of children and young people in the out-of-home care system.

Through its inquiry and monitoring functions, the Commission has observed that children and young people in out-of-home care – who are typically survivors of trauma and abuse – often find it more difficult than other children and young people to be safe, or stay connected to their extended family, community and culture. This is particularly the case for Aboriginal children and young people, who continue to be significantly over-represented and too often unable to maintain a meaningful connection with culture in the out-of-home care system.

Despite growing domestic and international consensus on the critical value of lived experience and human-centred design for reform to human services, attempts at reforming the out-of-home care system have rarely been based on a full understanding of how children experience the system.

Consequently, the Commission initiated this inquiry to:

- develop a deeper understanding of what it is like to be a child or young person in the out-of-home care system in Victoria through hearing directly from them
- draw on these diverse experiences, as well as current system data and detailed Child Protection file reviews, to make recommendations about how to improve the capacity of this system to uphold the rights, needs and aspirations of children and young people in care
- capture a baseline against which the effectiveness of current and future reforms can be measured.

## Terms of reference

The Commission established the following terms of reference for the inquiry:

- to determine the common experiences of children and young people in out-of-home care, including those of Aboriginal children and young people
- to determine the extent to which children and young people in out-of-home care participate in formal and informal decision-making processes which have an impact on their rights to health, safety and development in out-of-home care
- to recommend any changes to policy, practice, legislation or the delivery of services to:
  - improve children and young people's experience in out-of-home care
  - protect and promote their rights to health, safety and education
  - maximise their right to participation in decision making that impacts upon them.

In this report we focus on what children and young people have told us about the experience of out-of-home care, their safety and their opportunities to participate in decision making. We will table our findings in relation to health and education separately.

## Methodology

This inquiry's methodology has four key components:

1. consultation with children and young people
2. consultation with key out-of-home care stakeholders
3. review of active files of children and young people currently in care
4. quantitative analysis of whole-of-population out-of-home care data.

## Methodology 1: Consultation with children and young people

The Commission consulted with children and young people with an experience of care through:

- consultations and phone interviews with 204 children and young people, including those currently living in care and who had left care
- surveys of 51 children and young people in care
- two report validation workshops and follow up conversations with 11 children and young people who were involved in the initial consultations to seek their advice about our draft findings and recommendations.

### **Co-design of consultations and surveys with children and young people with an experience of care**

The Commission partnered with Y-Change consultants (young people with a lived experience of care, trained and supported by Berry Street) to develop our consultation methodologies with children and young people.

The Y-Change consultants advised us on:

- the most effective consultation methodologies suited to children and young people with an experience of care
- what questions we should and should not ask and how to ask them
- how to create safe spaces in which participants could share their experience and expertise, while also ensuring they remain in control of what they decide to share about their experiences (the Y-Change team assisted in the development of a Safe Spaces framework document that informed all consultation with children and young people)
- how to obtain participants' informed consent, including how best to communicate the role and functions of the Commission, the purpose of this inquiry and what we would do with the information children and young people gave to us.

### **Informed consent to participate in consultations and survey**

All children and young people who participated in our consultations and survey provided their consent. The consent process followed the requirements of the National Statement on Ethical Conduct in Human Research.<sup>7</sup> Interviewers also made their own determination on a case-by-case basis whether the child or young person was able to provide informed consent to participate in our consultations.

### **Overview of face-to-face consultations**

We conducted semi-structured individual and group interviews against the following key domains:

- family, community and culture
- health<sup>8</sup>
- education<sup>9</sup>
- voice (participation in decision making)
- court
- workers and carers
- leaving care.<sup>10</sup>

One-on-one conversations were the preferred consultation methodology for the vast majority of children and young people who spoke to us and most were conducted in person. A small number were conducted by phone where it was not possible to organise a meeting.

<sup>7</sup> See chapter 4.2 of National Health and Medical Research Council (NHMRC), Australian Research Council and Universities Australia 2018, *National Statement on Ethical Conduct in Human Research 2007*, updated 2018, NHMRC, Canberra, made in accordance with the National Health and Medical Research Council Act 1992.

<sup>8</sup> Content related to health will be incorporated into a separate report.

<sup>9</sup> Content related to education will be incorporated into a separate report.

<sup>10</sup> Content related to leaving care will be incorporated into the Commission's systemic inquiry on leaving care.

Where young children expressed interest in participating, Commission staff assessed their capacity to consent to participate in the consultations on a case-by-case basis. Children assessed as unable to consent to participate in consultations were invited to participate in other ways, such as by drawing or by having an abbreviated consultation where they were invited to give the Commission some advice about what needs to change in out-of-home care.

Quotes from our consultations are used throughout the report. To protect the identity of children and young people we spoke to, the Commission has used a pseudonym and removed any identifiable information in the quote.

#### Face-to-face consultation demographics

We consulted with 204 children and young people across the following placement types:

- residential care
- foster care
- kinship care
- lead tenant
- secure welfare
- post care.

**Table 1: Consultation participants by placement type (including post-care) at time of consultation (n = 204)**

Placement type of children and young people we consulted	#	%
Residential care	72	35%
Foster care	66	32%
Kinship care	34	17%
Post care	26	13%
Secure welfare	4	2%
Lead tenant	2	1%
<b>Total</b>	<b>204</b>	<b>100%</b>

We consulted with children and young people ranging in age from five to 27. Eighty-six per cent of the children and young people we spoke to were under 18 and still in care.

**Table 2: Consultation participants by age at time of consultation (n = 204)**

Age group	#	%
5-7	2	1%
8-12	58	28%
13-17	117	57%
> 18	27	13%
<b>Total</b>	<b>204</b>	<b>100%<sup>11</sup></b>

Source: DHHS data extraction from CRIS database, population and case details in out-of-home care as at 31 December 2018. Data provided to the Commission on 31 July 2019.

<sup>11</sup> Percentages may not add up to 100 due to rounding.

**Table 3: Consultation participants by Aboriginal status and placement type at time of consultation (n = 204)**

Placement type	#			%			Total #	Total %
	Aboriginal	non-Aboriginal	Unknown	Aboriginal	non-Aboriginal	Unknown		
Residential care	22	47	3	27%	44%	21%	72	35%
Foster care	29	34	3	35%	31%	21%	66	32%
Kinship care	23	8	3	28%	7%	21%	34	17%
Post care	7	14	5	9%	13%	36%	26	13%
Secure welfare	1	3		1%	3%	0%	4	2%
Lead tenant		2		0%	2%	0%	2	1%
<b>Total</b>	<b>82</b>	<b>108</b>	<b>14</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>204</b>	<b>100%</b>

Eighty-two (40 per cent) of the children and young people we spoke to were Aboriginal. Sixty-eight (33 per cent) lived in metropolitan Melbourne and 136 (67 per cent) lived in regional locations. One hundred and seven (52 per cent) identified as male, and 97 (48 per cent) identified as female. Ten were living with a disability (including an intellectual disability or development delay).<sup>12</sup>

All consultation participants were provided with a \$50 retail voucher in recognition of their contribution.

**Overview of report validation workshop and follow up conversations with young people**

The Commission presented draft findings and recommendations to a smaller group of 11 young people and sought advice on the validity of these findings and adequacy of the recommendations that resulted from them.

**Limitations in consultation data**

The Commission acknowledges the following limitations in the information provided through the consultations with children and young people:

- Participants did not always answer questions across all domains – this was due to children and young people being invited to:
  - discuss issues of importance to them that they felt comfortable discussing
  - end the interview at their discretion.
- Sometimes Commission staff exercised discretion to cut back on or end a consultation based on non-verbal cues.
- While the Commission endeavoured to talk to a representative spread of children and young people across the care system, ultimately consultations occurred with a disproportionately high number of children and young people in residential care and a disproportionately low number of children and young people in kinship care relative to their overall numbers in Victoria’s out-of-home care system. This was because it was easier for the department and funded agencies to facilitate access to children and young people in residential care, as the child or young person’s participation was not dependent on making contact with individual carers and getting their support for the child’s participation.

<sup>12</sup> Information obtained about disability was self-identified by the young person or through the child or young person’s carer at the time of the consultation.

- Children and young people in kinship and foster care typically depended on their carers' support in order to attend and take part in the consultations. As such, these children and young people's experiences may be skewed towards care experiences where carers were actively in favour of the children or young people in their care speaking to a body like the Commission about their experiences.

## Methodology 2: Surveys

Our surveys, available on the Commission's website, asked children and young people a variety of questions in relation to our key domains of inquiry (referred to above). The Commission distributed the survey via email to funded agencies, through its website and at out-of-home care related events.

### Survey participant demographics

Fifty-one children and young people completed the online survey:

**Table 4: Online survey participants by placement type (n = 51)**

Placement types	#	%
Not provided	18	35%
Kinship care	13	25%
Foster care	11	22%
Residential care	4	8%
Lead tenant	3	6%
Post care	2	4%
<b>Total</b>	<b>51</b>	<b>100%</b>

Eight of the children and young people who responded were Aboriginal. Forty-four lived in metropolitan Melbourne and seven lived in rural and remote locations.

### Limitations in survey data

The Commission notes the following limitations in the information provided through the survey:

- Survey responses were fewer than anticipated<sup>13</sup> and were insufficient to provide a representative sample of children and young people in care in Victoria.
- Participants did not always answer questions across all domains or within domains.
- The Commission could not control the environment in which the child or young person responded to the survey – including the presence of workers or carers who may have influenced how the child or young person answered the survey.

### Stakeholder consultations

Between March and August 2019, the Commission conducted consultations with stakeholders to test our draft findings and recommendations and to seek further information about current policy and service responses:

- residential care unit staff
- Department of Education and Training staff
- LOOKOUT Principals
- designated teachers (LOOKOUT program)
- funded agency staff (including CSO and ACCOs)
- Child Protection staff
- Placement Coordination Unit staff
- secure welfare staff
- foster carers
- kinship carers.

<sup>13</sup> This may have been due to the department's Viewpoint survey 2018 running at the same time as the Commission's, or the survey being too long.

### Methodology 3: review of active files of children and young people currently in care

The Commission conducted detailed file reviews of 147 cases on the department’s Client Relationship Information System (CRIS). This involved a quantitative analysis of relevant documentation kept on file as well as a qualitative review, which assessed a range of factors as indicators of the quality of the engagement with children and young people.

There was a slightly higher proportion of cases from regional Victoria (59 per cent) than metropolitan Melbourne (41 per cent). Thirty-nine per cent of the files involved Aboriginal children and there was an uneven split between male (56 per cent) and female (44 per cent) children and young people.

**Table 5: CRIS files reviewed by the Commission by placement type (n = 147)**

Placement type	#	%
Foster care	58	39%
Kinship care	64	44%
Residential care	25	17%
<b>Total</b>	<b>147</b>	<b>100%</b>

### Methodology 4: Whole-of-population quantitative data from DHHS

The department also provided quantitative data from CRIS for the whole population of children and young people in out-of-home care as at 31 December 2018. This is referred to throughout the report. Key demographic information is provided in Chapter 3.

### Limitations on quantitative and qualitative data from CRIS

The department advised the Commission that, as the CRIS database is a live system, it is updated continuously and updates may occur retrospectively. Consequently, the data presented in this report is only representative of the CRIS database at one point in time. The relevant data for that time period may be subject to future revisions within CRIS.

Additionally, the Commission notes that CRIS files may not be a complete representation of the extent to which a child or young person’s needs are being met through services and support or their individual circumstance, given that what is on file only reflects information workers enter into the system.

### Structure of this report

*Chapter 2: My rights* outlines the international and domestic human rights framework as it applies to children and young people in care.

*Chapter 3: The Victorian out-of-home care system* describes the current Victorian out-of-home care system, and key trends in the system over the past decade.

Chapters 4 to 11 record the views of children and young people through our consultations on key aspects of their out-of-home care experience, as well as what the systemic data and the Commission’s Child Protection file reviews and incident analyses tell us about those experiences. Each of these chapters includes findings.

- *Chapter 4: My culture – Aboriginal children and young people in care* examines the distinct issues affecting Aboriginal children and young people in out-of-home care.
- *Chapter 5: My voice* examines what children and young people told us about their ability to participate in key decisions that affect them.
- *Chapter 6: My home* examines what we heard and what the data tells us about the extent to which the system provides a place to live that feels like home for children and young people.
- *Chapter 7: My safety* examines children and young people’s feelings of safety while in care.

- *Chapter 8: My family* examines what children and young people told us about contact with parents, siblings and extended family.
- *Chapter 9: My friends and community* considers the extent to which children and young people in care are able to build and maintain friendships and connections in their community.
- *Chapter 10: My carers* examines children and young people's views about what makes good carers.
- *Chapter 11: My workers* examines what matters to children and young people about their workers.

*Chapter 12: Reforming the out-of-home care system* acknowledges the significant work that has already been done by the Victorian Government towards reform, and sets out recommendations that flow from the Commission's findings throughout this inquiry.

# Chapter 2

## My rights

### Chapter at a glance

- This inquiry uses the universal standards and language of children’s and human rights to assess the extent to which Victoria’s out-of-home care system upholds the safety, wellbeing, development and dignity of the children and young people in its care.
- Children and young people in out-of-home care share the same rights as all children and young people to be safe, well and reach their potential.
- Under international law, these rights are contained in the United Nations Convention on the Rights of the Child and in the United Nations Guidelines for alternative care.
- At the national level, these international standards are recognised in the *National standards for out-of-home care*.
- In Victoria the rights of children and young people are recognised in legislation, through the *Children, Youth and Families Act 2005*; the *Charter of Human Rights and Responsibilities Act 2006* and a range of regulatory standards, policies and program requirements relevant to the delivery of out-of-home care services.

## Introduction

This inquiry uses the universal standards and language of children’s human rights to assess the extent to which Victoria’s out-of-home care system upholds the safety, wellbeing, development and dignity of the children and young people in its care. These rights are also reflected in current legislation, guidelines and policies that apply to children and young people in care in Victoria.

This chapter presents the international human rights framework in relation to children and young people in out-of-home care, as well as Victorian and Australian laws, standards and policies.

## International human rights law

Children and young people in out-of-home care share the same rights as all children and young people to be safe, well and reach their full potential. These rights are contained in the Convention on the Rights of the Child. The member states of the United Nations, including Australia, further defined the specific rights of children and young people in out-of-home care through the *Guidelines for alternative care* (the UN guidelines). These guidelines were adopted by the United Nations General Assembly in 2010. These rights are discussed below.

### Right to family, friends, community and culture

Children and young people who are separated from their parents have the right ‘to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child’s best interests’.<sup>14</sup>

The UN guidelines provide that when a child or young person is placed in out-of-home care:

*contact with his/her family, as well as with other persons close to him or her, such as friends, neighbours and previous carers, should be encouraged and facilitated, in keeping with the child’s protection and best interests.*

<sup>14</sup> *Convention on the Rights of the Child* (CRC) 1989, Article 9(3).

*The child should have access to information on the situation of his/her family members in the absence of contact with them.*<sup>15</sup>

Additionally, all children and young people in out-of-home care have the right ‘to develop through play and leisure activities ... within and outside the care setting’ and ‘[c]ontact with the children and others in the local community should be encouraged and facilitated’.<sup>16</sup>

The UN guidelines also recognise the right of children and young people to form meaningful relationships with workers in residential care:

*States should ensure that there are sufficient carers in residential care settings to allow individualized attention and to give the child, where appropriate, the opportunity to bond with a specific carer.*<sup>17</sup>

### Right to a suitable, stable, safe and caring home

#### ***Suitability: matching placements and carers to the child or young person***

The UN guidelines mandate that out-of-home care providers should train their staff and establish systems ‘to assess and match the needs of the child with the abilities and resources of potential foster carers and to prepare all concerned for the placement’.<sup>18</sup>

Decisions about the best care arrangements for a child or young person should also take into account, among other things:

*the desirability of the child remaining within his/her community and country, the child’s cultural, linguistic and religious background, and the child’s relationships with siblings, with a view to avoiding their separation.*<sup>19</sup>

Residential care should also be tailored to the needs of the individual child or young person. The UN guidelines state:

<sup>15</sup> UN General Assembly 2010, *Guidelines for the alternative care of children*, [81].

<sup>16</sup> *Ibid.*, [10].

<sup>17</sup> *Ibid.*, [123].

<sup>18</sup> *Ibid.*, [17].

<sup>19</sup> *Ibid.*, [62].

*Facilities providing residential care should be small and be organized around the rights and needs of the child, in a setting as close as possible to a family or small group situation. Their objective should generally be to provide temporary care and to contribute actively to the child's family reintegration or, if this is not possible, to secure his/her stable care in [out-of-home care].<sup>20</sup>*

### **Transitions into care**

The UN guidelines state '[t]he transfer of a child into alternative care should be carried out with the utmost sensitivity and in a child-friendly manner, in particular involving specially trained and, in principle, non-uniformed personnel'.<sup>21</sup>

### **The right to stability and to be cared for**

Children and young people have a right to stability in their living arrangements in out-of-home care. The UN guidelines recognise that '[f]requent changes in care setting are detrimental to the [children and young people's] development and ability to form attachments, and should be avoided'.<sup>22</sup> Consequently, 'short-term placements should aim at enabling an appropriate permanent solution to be arranged'.<sup>23</sup>

Children and young people in out-of-home care also have a right to carers who 'understand the importance of their role in developing positive, safe and nurturing relationships with children, and should be able to do so'.<sup>24</sup> To carry out this role, carers should have access to counselling services at regular intervals, before, during and after the placement.<sup>25</sup>

### **Safety**

Children and young people in out-of-home care have the right to be safe and cared for by competent staff and carers. The Convention on the Rights of the Child requires that governments ensure:

*institutions, services and facilities responsible for the care or protection of children ... conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.<sup>26</sup>*

### **The right to privacy**

International children's rights law mandates that '[n]o child shall be subjected to arbitrary or unlawful interference with his or her privacy'.<sup>27</sup> In out-of-home care, children and young people have a 'right to privacy, including appropriate facilities for hygiene and sanitary needs, respecting gender differences and interaction, and adequate, secure and accessible storage space for personal possessions'.<sup>28</sup>

### **Right to health**

The Convention on the Rights of the Child recognises children's right to 'the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health'.<sup>29</sup> With regards to the health of children and young people in care, the UN guidelines mandate that '[c]arers should promote the health of the children for whom they are responsible and make arrangements to ensure that medical care, counselling and support are made available as required'.<sup>30</sup> The UN guidelines also provide that '[a]ccommodation in all alternative care settings should meet the requirements of health and safety'.<sup>31</sup>

### **Right to education**

All children and young people have a right to education.<sup>32</sup> The UN guidelines also recognise that:

*[c]hildren [and young people in out-of-home care] should have access to formal, non-formal and vocational education in accordance with their rights, to the maximum extent possible in educational facilities in the local community.<sup>33</sup>*

<sup>20</sup> Ibid., [123].

<sup>21</sup> Ibid., [80].

<sup>22</sup> Ibid., [60].

<sup>23</sup> Ibid., [60].

<sup>24</sup> Ibid., [90].

<sup>25</sup> Ibid., [118].

<sup>26</sup> CRC Article 3(3).

<sup>27</sup> CRC Article 1(1).

<sup>28</sup> UN General Assembly 2010, op. cit., [89].

<sup>29</sup> CRC Article 24(1).

<sup>30</sup> UN General Assembly 2010, op. cit., [84].

<sup>31</sup> Ibid., [91].

<sup>32</sup> CRC Article 28.

<sup>33</sup> UN General Assembly 2010, op. cit., [85].

## Right to good workers

The UN guidelines state that ‘staff in direct contact with children [should] undergo an appropriate and comprehensive assessment of their suitability to work with children’.<sup>34</sup> They also state that:

*[t]raining in dealing appropriately with challenging behaviour, including conflict resolution techniques and means to prevent acts of harm or self-harm, should be provided to all care staff employed by agencies and facilities.*<sup>35</sup>

## Right to be heard and to participate in decisions that affect us

Under international children’s rights law, children and young people capable of expressing their own views have ‘the right to express those views freely’, and those views must be given weight ‘in accordance with the[ir] age and maturity’.<sup>36</sup> The Committee on the Rights of the Child has also identified the right to participation as one of the guiding principles of the Convention.<sup>37</sup>

The UN guidelines envisage carers playing a role in fulfilling this right to participation, stating that:

*[a]ll carers should promote and encourage children and young people to develop and exercise informed choices, taking account of acceptable risks and the child’s age, and according to his/her evolving capacities.*<sup>38</sup>

Children and young people also have the right:

*to be heard in any judicial and administrative proceedings affecting [them], either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.*<sup>39</sup>

The UN guidelines provide that decision-making processes about the most appropriate form of care placement for a child or young person should:

*involve full consultation at all stages with the child, according to his/her evolving capacities, and with his/her parents or legal guardians*<sup>40</sup>  
*ensure children and young people – amongst others involved in this decision-making – are armed with information ‘necessary’ for them to participate.*<sup>41</sup>

Where a court or tribunal has decided to place a child or young person in out-of-home care, they should be:

*given the opportunity to make representations on the placement decision before a court, ... informed of their rights to make such representations and [be] assisted in doing so.*<sup>42</sup>

## Right to culture

All children and young people have the right to learn about and enjoy their culture. Article 30 of the Convention on the Rights of the Child provides that:

*[i]n those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.*

*States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.*<sup>43</sup>

<sup>34</sup> Ibid., [113].

<sup>35</sup> Ibid., [116].

<sup>36</sup> CRC Article 12(1).

<sup>37</sup> Committee on the Rights of the Child 2003, ‘General comment no.5 on general measures of implementation of the Convention on the Rights of the Child (Articles 4, 42 and 44)’, UN Doc CRC/C/GC/2003/5, [12].

<sup>38</sup> UN General Assembly 2010, op. cit., [94].

<sup>39</sup> CRC Article 12(2).

<sup>40</sup> UN General Assembly 2010, op. cit., [57].

<sup>41</sup> Ibid., [57].

<sup>42</sup> Ibid., [66].

<sup>43</sup> United Nations Declaration of the Rights of Indigenous Peoples, Article 14(3).

Services can help promote the right to culture of Aboriginal children and young people by providing culturally safe services and spaces. Cultural safety is:

*an environment that is safe for people: where there is no assault, challenge or denial of their identity, of who they are and what they need. It is about shared respect, shared meaning, shared knowledge and experience, of learning, living and working together with dignity and truly listening.*<sup>44</sup>

For Aboriginal people, cultural safety and security requires the creation of:

*[e]nvironments of cultural resilience within Aboriginal and Torres Strait Islander communities [and c]ultural competency by those who engage with Aboriginal and Torres Strait Islander communities.*<sup>45</sup>

### Domestic recognition of the rights of children and young people in out-of-home care

#### National standards for out-of-home care

Commonwealth, state and territory governments and the non-government sector have developed national standards for consistent, best-practice care of children in out-of-home care. These standards recognise the United Nations Convention on the Rights of the Child.<sup>46</sup>

#### National standards for out-of-home care

##### Standard 1

Children and young people will be provided with stability and security during their time in care.

##### Standard 2

Children and young people participate in decisions that have an impact on their lives.

##### Standard 3

Aboriginal and Torres Strait Islander communities participate in decisions concerning the care and placement of their children and young people.

##### Standard 4

Each child and young person has an individualised plan that details their health, education and other needs.

##### Standard 5

Children and young people have their physical, developmental, psychosocial and mental health needs assessed and attended to in a timely way.

##### Standard 6

Children and young people in care access and participate in education and early childhood services to maximise their educational outcomes.

##### Standard 7

Children and young people up to at least 18 years are supported to be engaged in appropriate education, training and/or employment.

##### Standard 8

Children and young people in care are supported to participate in social and/or recreational activities of their choice, such as sporting, cultural or community activity.

##### Standard 9

Children and young people are supported to safely and appropriately maintain connection with family, be they birth parents, siblings or other family members.

##### Standard 10

Children and young people in care are supported to develop their identity, safely and appropriately, through contact with their families, friends, culture, spiritual sources and communities and have their life history recorded as they grow up.

<sup>44</sup> Williams R 1999, 'Cultural safety: what does it mean for our work practice?', *Australian New Zealand Journal of Public Health*, vol. 23, no. 2, pp. 213–14.

<sup>45</sup> Aboriginal and Torres Strait Islander Social Justice Commissioner 2011, *Social justice report*, Australian Human Rights Commission, Canberra, p. 123.

<sup>46</sup> Department of Families, Housing, Community Services, and Indigenous Affairs 2011, *An outline of national standards for out-of-home care: a priority project under the National Framework for Protecting Australia's Children 2009–2020*, Commonwealth of Australia, Canberra, p. 6.

### **Standard 11**

Children and young people in care are supported to safely and appropriately identify and stay in touch with at least one other person who cares about their future, whom they can turn to for support and advice.

### **Standard 12**

Carers are assessed and receive relevant ongoing training, development and support, in order to provide quality care.

### **Standard 13**

Children and young people have a transition from care plan commencing at 15 years old which details support to be provided after leaving care.<sup>47</sup>

## **Victorian Charter for children in out-of-home care**

This charter, developed by Child Protection in 2007, lists the expectations children and young people can have of the people who care for them.<sup>48</sup>

### **Charter for children in out-of-home care**

As a child or young person in care I need:

- to be safe and feel safe
- to stay healthy and well and go to a doctor, dentist or other professional for help when I need to
- to be allowed to be a child and be treated with respect
- if I am an Aboriginal child, to feel proud and strong in my own culture
- to have a say and be heard
- to be provided with information
- to tell someone if I am unhappy
- to know information about me will only be shared in order to help people look after me
- to have a worker who is there for me
- to keep in contact with my family, friends and people and places that matter to me
- careful thought being given to where I will live so I will have a home that feels like a home

- to have fun and do activities that I enjoy
- to be able to take part in family traditions and be able to learn about and be involved with cultural and religious groups that are important to me
- to be provided with the best possible education and training
- to be able to develop life skills and grow up to become the best person I can
- help in preparing myself to leave care and support after I leave care.<sup>49</sup>

## **Victorian legislation, policies and frameworks**

The specific rights of children and young people are enshrined in Victorian legislation, policy and frameworks that are referred to throughout this inquiry.

These include:

- *Children, Youth and Families Act 2005* (CYFA 2005)
- *Charter of Human Rights and Responsibilities Act 2006*
- *Child-Safe Standards*
- *Human Services Standards*
- *Looking after children outcomes framework*
- *Child Protection Manual*
- *Program requirements for home-based care in Victoria*
- *Program requirements for residential care in Victoria and the Program requirements for lead tenant services in Victoria*
- *Out-of-home care education commitment* (the Partnering Agreement)
- *Early childhood agreement for children and young people in out-of-home care.*

<sup>47</sup> Ibid., p. 7.

<sup>48</sup> DHS 2007, *Charter for children in out-of-home care*, State of Victoria, Melbourne.

<sup>49</sup> Ibid.

# Chapter 3

## The Victorian out-of-home care system

### Chapter at a glance

- Aboriginal people make up less than one per cent of Victoria's overall population, and yet more than 26 per cent of children and young people in care are Aboriginal.
- Between 2008–2009 and 2017–2018 the Victorian out-of-home care system has come under increasing strain due to escalating demand:
  - The number of reports Child Protection received increased from 42,851 to 115,600.
  - The number of children in care has more than doubled from 3,767 to 7,863.
  - The number of Aboriginal children in care tripled from 687 to 2,027.
- There are also more children and young people entering care 'with complex health, behavioural and developmental needs' who spend longer in out-of-home care as a consequence of late intervention by child and family services.
- There has been a net loss in the number of foster carers according to available published data sources.
- Expenditure across the system has not kept pace with the growth in demand while a disproportionate percentage of the out-of-home care budget is spent on young people in residential care.
- Significant investment in the Child Protection workforce over the last four years has not been matched by recruitment.
- Case loads for Child Protection staff have remained high.
- Retention rates for Child Protection staff are low and attrition rates are high.

## Introduction

This chapter describes the way the Victorian out-of-home care system operates, and looks at the current numbers of children and young people in the system and some of the key indicators of the system's capacity to meet demand. Overall, the data shows a system that is required to assess and investigate risk to, and then support, an ever-increasing number of children. Despite significant investment in the Child Protection workforce by the Victorian Government since 2014–2015, expenditure has not kept pace with this increasing demand.

### When do children and young people go into care?

Where a child or young person (under 18 years of age) faces a significant risk of harm or abuse in the family home, Child Protection may take steps to remove them and place them in out-of-home care. Once a child or young person is in care, the Victorian Government has a duty to foster the 'physical, intellectual, emotional and spiritual development of the child in the same way as a good parent would'<sup>50</sup> (the rights of children and young people in out-of-home care in Victoria are discussed in more detail in Chapter 2).

### Placement types in out-of-home care

There are five placement models in the out-of-home care system:

- kinship care
- foster care
- residential care
- lead tenant
- permanent care.

These care types are outlined briefly in turn below.

### *Kinship care*

Kinship care is provided by a child's relatives or members of a child's social network (also called 'kith' placements) who have been approved to provide accommodation and care. The placement may be supported by funded, non-government agencies. Kinship placements are generally identified by Child Protection workers, but may also be identified through VACCA in relation to Aboriginal children and young people and may also be identified by the department's kinship workers.

### *Foster care*

Foster care is provided by volunteer carers. Foster carers provide care in their own home and are usually not known to the child or young person before the placement. Funded agencies are responsible for recruiting, training and supporting caregivers.

### *Residential care*

Residential care is an out-of-home care placement option providing accommodation and support to children. Up to four children, usually 12 years of age and older,<sup>51</sup> are placed in a residential building, usually purpose built, and cared for by paid staff. Residential care accommodation is managed by funded agencies.

### *Lead tenant*

Lead tenant arrangements involve the provision of semi-independent accommodation and support for young people 16-18 years of age who are in transition to independent living. A volunteer lead tenant lives in a house with a small group of young people and provides them with support and guidance in developing their independent living skills.

<sup>50</sup> CYFA 2005, s. 174(1).

<sup>51</sup> Children may be younger if they are part of a larger sibling group or in circumstances where foster or kinship care arrangements are not available.

### Permanent care

Permanent care occurs when a child is placed with approved permanent carers. This often happens when an existing foster care or kinship care placement is converted to permanent care by a court order.<sup>52</sup>

Permanent care is intended to provide ‘long term security and certainty about the future care for children who have entered the child protection system and for whom a decision has been made that they are unable to live safely with their birth parents on a long term basis’.<sup>53</sup> If an Aboriginal child is to be placed with non-Aboriginal carers, the court must not make a permanent care order unless the disposition report states that:

- *no suitable placement can be found with an Aboriginal person or persons; and*
- *the decision to seek the order has been made in consultation with the child, where appropriate; and*
- *the Secretary is satisfied that the order will accord with the Aboriginal Child Placement Principle.*<sup>54</sup>

The court cannot make a permanent care order about an Aboriginal child unless it has received a report from an Aboriginal agency that recommends the making of the order and a cultural plan has been prepared for them.

### How many children and young people are in care?

As at 31 December 2018, there were a total of 10,553 children in care in Victoria. Of these, 2,665 were in permanent care, and were therefore not in the formal care of the state. Of the remaining 7,888 children and young people in care, almost three-quarters were in kinship care.<sup>55</sup>

52 DHHS 2017b, ‘Permanent care’, *Child Protection manual*, <<https://www.cpmanual.vic.gov.au/advice-and-protocols/service-descriptions/out-home-care/permanent-care>> accessed 2 September 2019.

53 Ibid.

54 CYFA 2005, s. 323(1).

55 In this report, children and young people in permanent care are excluded from the analysis of data unless expressly stated otherwise. This is because:

- they are no longer in the care of state and have no further interaction with Child Protection
- this group has an experience of stability which is very different to the majority of the out-of-home care system.

Where we have included children and young people in permanent care, we have done so to provide information about the entire system, or because it is otherwise relevant to aspects of their experience in care.

**Table 6: Out-of-home care population by placement type as at 31 December 2018<sup>56</sup> (including permanent care) (n = 10,553)**

Placement type	#
Kinship care	5,842
Permanent care	2,665
Foster care	1,605
Residential care	433
Other	8
<b>Total</b>	<b>10,553</b>

Source: DHHS data extraction from CRIS database, population and case details in out-of-home care as at 31 December 2018. Data provided to the Commission on 31 July 2019.

**Table 7: Out-of-home care population by placement type as at 31 December 2018 (excluding permanent care) (n = 7,888)**

Placement type	#	%
Kinship care	5,842	74%
Foster care	1,605	20%
Residential care	433	5%
Other	8	<1%
<b>Total</b>	<b>7,888</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, population and case details in out-of-home care as at 31 December 2018. Data provided to the Commission on 31 July 2019.

56 There are two key system data sources cited in this report – a system snapshot as at 31 December 2018 and 10 year trend data. The total numbers of children and young people in care vary slightly between these two numbers, due to the different dates upon which the data was captured.

## Characteristics of children and young people in care

### Age

Children and young people in care are less likely to be in kinship or foster care as they grow older and more likely to be in residential care.

**Table 8: Children and young people in out-of-home care by placement type and age group as at 31 December 2018 (n = 7,888)**

Age groups	Placement types								Total #	Total %
	Kinship care		Foster care		Residential care		Other			
	#	%	#	%	#	%	#	%		
0-2	1,005	17%	294	18%		0%	3	38%	1,302	17%
3-5	1,183	20%	259	16%		0%	1	13%	1,443	18%
6-8	1,003	17%	267	17%	8	2%	1	13%	1,279	16%
9-11	992	17%	278	17%	28	6%		0%	1,298	16%
12-14	891	15%	264	16%	126	29%	1	13%	1,282	16%
15-17	768	13%	243	15%	271	63%	2	25%	1,284	16%
<b>Total</b>	<b>5,842</b>	<b>100%</b>	<b>1,605</b>	<b>100%</b>	<b>433</b>	<b>100%</b>	<b>8</b>	<b>100%</b>	<b>7,888</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, population and case details in out-of-home care as at 31 December 2018. Data provided to the Commission on 31 July 2019.

### Aboriginal children and young people

Aboriginal children and young people make up more than 26 per cent of children and young people in care in Victoria. This is despite Aboriginal people making up less than one per cent of Victoria's population.<sup>57</sup>

**Table 9: Children and young people in out-of-home care by Aboriginal status and placement type as at 31 December 2018 (n = 7,888)**

Placement type	Aboriginal status				Total #	Total %
	#		%			
	Non-Aboriginal	Aboriginal	Non-Aboriginal	Aboriginal		
Kinship care	4,300	1,542	74%	26%	5,842	100%
Foster care	1,223	382	76%	24%	1,605	100%
Residential care	333	100	77%	23%	433	100%
Other	5	3	63%	38%	8	100%
<b>Total</b>	<b>5,861</b>	<b>2,027</b>	<b>74%</b>	<b>26%</b>	<b>7,888</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, population and case details in out-of-home care as at 31 December 2018. Data provided to the Commission on 31 July 2019.

<sup>57</sup> ABS 2017, 'Victoria records highest population rise of all states and territories', *2016 Census: Victoria*, ABS, Canberra.

### How does the service system plan for and support children and young people in out-of-home care?

#### Case planning for children and young people in the care of the department

Under the CYFA, all children and young people in statutory care must have a case plan.<sup>58</sup> A case plan must contain all decisions made on behalf of the Secretary concerning the child, including placement decisions and contact with family members.<sup>59</sup>

Case plans must also include a permanency objective from a list of five options from family preservation through to long-term out-of-home care, as determined to be in the best interests of the child.<sup>60</sup> For Aboriginal children and young people in care, the case plan must also include planning for cultural supports to maintain their Aboriginal identity and encourage their connection to culture.<sup>61</sup>

#### Development of care plans and case management

Child Protection and out-of-home care services – provided by funded agencies – are the key providers of placement support, case planning and case management for children and young people in care in Victoria.

Depending on whether Child Protection allocates or contracts out these responsibilities, either Child Protection or funded agencies take the lead role in developing care plans<sup>62</sup> and their ongoing case management and implementation.<sup>63</sup>

Case management includes:

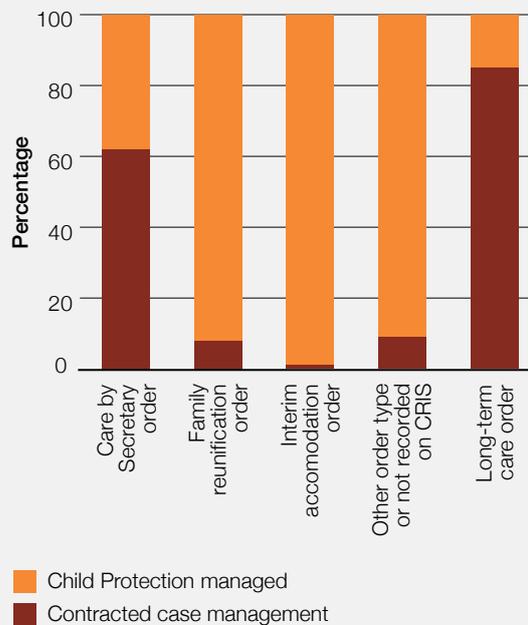
- engagement and direct casework with children and families
- initial and ongoing safety and needs assessments and planning

- identification, coordination and monitoring of appropriate support or therapeutic services for both the child or young person and their family.<sup>64</sup>

#### Case management by Child Protection or funded agencies

As at 31 December 2018, the majority (n = 5,387 or 68 per cent) of children and young people in out-of-home care were case managed by Child Protection.<sup>65</sup> Funded agencies typically manage children who are on Care by Secretary or long-term care orders.<sup>66</sup>

**Figure 1: Percentage of case management categories for order types, as at 31 December 2018<sup>67</sup>**



n = 7,835

Source: DHHS data extraction from CRIS database, population and case details in out-of-home care as at 31 December 2018. Data provided to the Commission on 31 July 2019.

58 CYFA 2005, s. 166.

59 CYFA 2005, s. 166(1).

60 CYFA 2005, s. 166(3)(a).

61 CYFA 2005, ss. 166(3)(b) and 176(3).

62 This plan is intended to outline the detailed day-to-day arrangements for the care of the child or young person: DHHS 2019f, 'Principles, roles and responsibilities for placement – advice', *Child Protection Manual*, <<https://www.cpmanual.vic.gov.au/advice-and-protocols/advice/out-of-home-care/principles-roles-and-responsibilities-placement>>, accessed 2 September 2019.

63 Ibid.

64 Ibid.

65 Appendix: Table 27.

66 Ibid.

67 Excluding the orders types with less than 100 cases (family preservation order and undertaking) and permanent care orders. Also excluding the case management categories ACAC, and Community partnership and Permanent care.

Child Protection workers or funded agencies with case management responsibility are responsible for:

- implementing the case plan and day-to-day decisions about the child or young person in care
- leading the care team and attending case planning meetings
- working with and supporting the child, their family and the caregivers.<sup>68</sup>

### **Additional responsibilities of Child Protection**

At the time a child or young person is placed in care, it is the role of the Child Protection practitioner to gather information from the parents about their child and share information, where appropriate, about the placement with the child or young person's family.<sup>69</sup>

When a child or young person is being placed in kinship care, the Child Protection practitioner must assess the proposed kinship carers before the placement is made. Where Child Protection determines that a new kinship placement is likely to last longer than 12 weeks, the Child Protection practitioner may also refer the child or young person to a funded agency providing First Supports kinship service for up to six months.<sup>70</sup> In the majority of cases, Child Protection continues to hold case management responsibility of children and young people in kinship care.<sup>71</sup>

Whether the case is case managed by a funded agency or not, the allocated Child Protection practitioner, is responsible for:

- investigating and assessing any subsequent reports of child abuse and neglect
- reviewing and endorsing the case plan, including reviewing the operation of statutory orders, and preparation of court reports
- significant decisions which require action outside the parameters of the case plan.<sup>72</sup>

<sup>68</sup> DHHS 2019f, op. cit.

<sup>69</sup> Ibid.

<sup>70</sup> Ibid.

<sup>71</sup> See Chapter 10.

<sup>72</sup> DHHS 2019f, op. cit.

## **How does the out-of-home care system identify and secure placements for children and young people in care?**

Placement of a child or young person into foster care and residential care occurs through department Placement Coordination Units (PCUs).<sup>73</sup> PCUs receive referrals from Child Protection staff members and identify available placements through contact with funded agencies. Once identified, the placement must be endorsed by the Child Protection area manager before being referred to the funded agency. The funded agency then accepts the referral to create the placement.<sup>74</sup>

The *Placement coordination and planning manual*, which the PCUs use to guide their decision making about placements, establishes principles to inform decision making about placements, including considering:

- the child or young person's unique needs
- the safety of the child or young person
- continuity of relationships with family and opportunity for safe family contact
- connection to community and culture
- placement stability and appropriate matching.<sup>75</sup>

Kinship placements are generally identified by Child Protection workers, but as discussed in Chapter 4, may also be identified through VACCA in relation to Aboriginal children and young people and may also be found by the department's kinship workers.

<sup>73</sup> The *Placement coordination and placement planning framework* (the framework) outlines the role and function of PCUs and provides a congruent set of principles for placement planning. The framework is used in conjunction with the *Placement coordination and placement planning manual* (the manual), which outlines relevant processes and procedures. The framework includes information on placement planning principles (section 5) and placement matching (section 6.1.2).

<sup>74</sup> DHHS 2019r, *Placement coordination and placement planning manual* (unpublished internal document), State of Victoria, Melbourne, p. 4.

<sup>75</sup> Ibid., p. 15.

## Trends in the out-of-home care system

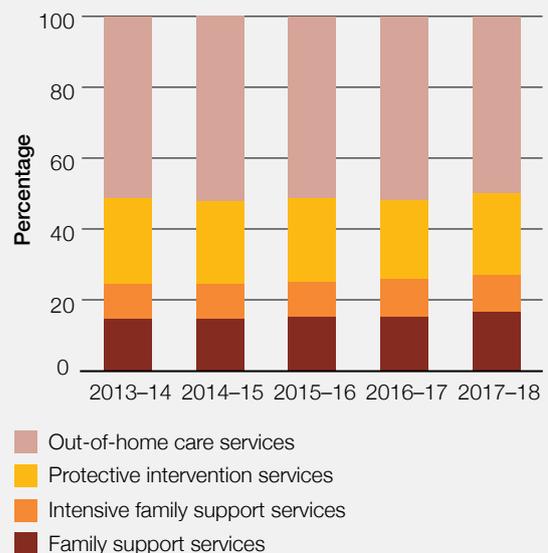
Between the years 2008–2009 to 2017–2018, the Victorian out-of-home care system has seen escalating demand:

- The number of reports<sup>76</sup> Child Protection received increased from 42,851 to 115,600.<sup>77</sup>
- The number of children in care has more than doubled from 3,767 to 7,863.<sup>78</sup>
- The number of Aboriginal children in care has tripled from 687 to 2,027.<sup>79</sup>
- There are more children and young people entering care ‘with complex health, behavioural and developmental needs’ who spend longer in out-of-home care as a consequence of late intervention by child and family services.<sup>80</sup>
- There has been a net loss in the number of foster carers according to available published data sources.<sup>81</sup>

At the same time, the system has seen:

- unresolved issues of placement instability experienced by children and young people in out-of-home care<sup>82</sup>
- an increasing reliance on kinship carers<sup>83</sup>
- disproportionate government expenditure on out-of-home care services, compared with child protection and family support services, intended to prevent children and young people going into care (for every dollar spent on out-of-home care services, 55 cents is spent on intensive family support and family support services combined).<sup>84</sup>

**Figure 2: Victorian Government expenditure on out-of-home care by service area category, 2013–2014 to 2017–2018**



Source: Productivity Commission 2019, *Report on government services 2018*, Table 16A.7, Commonwealth of Australia, Canberra.

<sup>76</sup> The term ‘notification’ is used by the *Report on Government Services*. The Commission has used the term ‘report’ throughout this inquiry as that is the equivalent term under the Victorian legislation.

<sup>77</sup> Appendix: Table 28. As noted above, the term ‘notification’ is used by the *Report on Government Services*. The equivalent term in Victoria is ‘report’.

<sup>78</sup> Appendix: Table 29. Note 10 year data records a different total to data extracted on 31 December 2018.

<sup>79</sup> Appendix: Table 30.

<sup>80</sup> DHHS 2016h, *Roadmap for reform: strong families, safe children – the first steps*, State of Victoria, Melbourne, p. 7.

<sup>81</sup> Australian Institute of Health and Welfare 2019, *Child protection Australia 2017-18*, child welfare series no. 68, AIHW, Canberra, p. 66. The department advises that the AIHW counting rules mean that carers who take a break from caring during the year would be erroneously counted as ceasing care. The department has advised that its data shows a relatively stable number of foster carers, however at the time of finalising this report, the alternative counting rules for the departmental data had not been provided.

<sup>82</sup> Analysis of CRIS placement data between 2009 and 2018 shows that overall, placement instability is not improving. See Figure 12, Chapter 6, where placement instability is discussed in more detail.

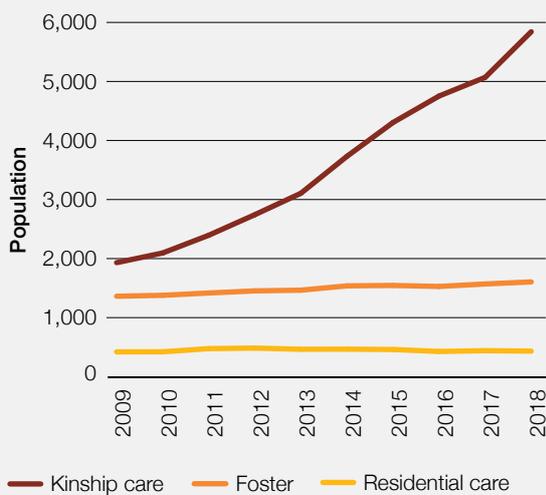
<sup>83</sup> Australian Institute of Health and Welfare 2018, op. cit. This is in line with permanency principles and the *Children Youth and Families Act* and is recognised as the preferred care model for children not able to safely live in parental care.

<sup>84</sup> Productivity Commission 2018, ‘Chapter 16: Child protection services’, *Report on government services*, Commonwealth Government of Australia, Canberra, Table 16A.7.

## Number of children and young people in care

The number of children and young people in care in Victoria has more than doubled between 2009 and 2018, from 3,767 in 2009 to 7,863.<sup>85</sup>

**Figure 3: Growth in out-of-home care population, 2009–2018<sup>86</sup>**

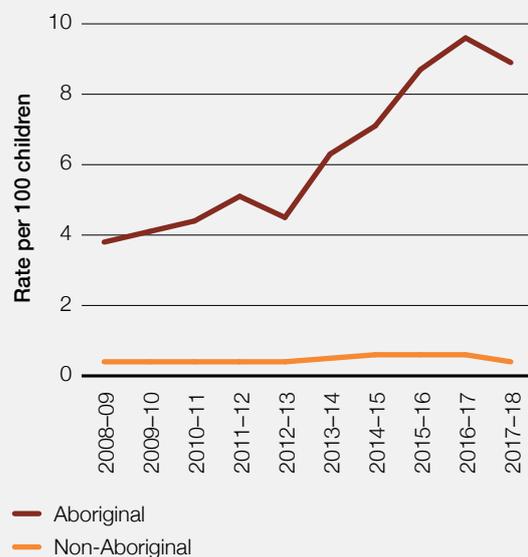


Source: DHHS data extraction from CRIS database, 10-year out-of-home care population trend. Data provided to the Commission on 10 March 2019.

## A disproportionate increase in Aboriginal children and young people in care

Over this period, the number of Aboriginal children and young people in care has nearly tripled from 687 in 2009 to 2,027 in 2018.<sup>87</sup> This increase is not only alarmingly large, it is also disproportionate when seen in comparison with the growth of non-Aboriginal children over the same period, as shown in Figure 4, below.

**Figure 4: Rate of children in out-of-home care per 100 children in Victoria, 2008–2009 to 2017–2018**



Source: Productivity Commission 2019, *Report on government services 2018*, Table 16A.2, Commonwealth of Australia, Canberra.

Over the past four years, the number of children and young people in residential care has stabilised. Concerningly, however, during that time the proportion of Aboriginal children and young people in residential care has risen steadily.

<sup>85</sup> Appendix: Table 29.

<sup>86</sup> This figure excludes both permanent and other care types including lead tenant.

<sup>87</sup> Appendix: Table 30.

**Table 10: Children and young people in residential care by Aboriginal status and year, 2009–2018**

Residential care population as at 31 December	Neither Aboriginal	Aboriginal	Total residential care
2009	367	53	420
2010	370	51	421
2011	405	70	475
2012	410	74	484
2013	390	74	464
2014	383	83	466
2015	368	92	460
2016	338	89	427
2017	355	85	440
2018	333	100	433

Source: DHHS data extraction from CRIS database, 10-year out of home care population trend, provided to the Commission on 10 March 2019

Targeted care packages (TCPs), which provide targeted funding aimed at providing an alternative to a residential care placement, have contributed to keeping the numbers of children and young people in residential care stable despite an overall growth in the care system.

However, in recent years the number of contingency placements has increased steadily, from 21 in 2016–2017 to 57 in 2018–2019.<sup>88</sup> Contingency placements sit outside the agreed and budgeted targets and are financed via sources other than the divisional placement services’ budgets. Contingency placements involve children and young people being accommodated in hotel rooms, serviced apartments, rental properties, residential units or short-term housing available through the Office of Housing.

While some of these placements are classified as ‘demand-driven’ placements, the majority were established due to ‘client complexity’.<sup>89</sup>

### Reports,<sup>90</sup> investigations and substantiations

The substantial increase in children and young people entering out-of-home care has occurred over a period in which the child protection system been subject to increasing demand. As noted above, reports to Child Protection have almost tripled between 2008–2009 and 2017–2018; this is a 170 per cent increase.

During the same period, the number of:

- Child Protection investigations – in response to these reports – increased from 11,217 to 33,883<sup>91</sup>
- Child Protection determinations that a child or young person was in need of protection (known as ‘substantiations’) almost tripled from 6,344 to 18,333.<sup>92</sup>

<sup>88</sup> See Figure 14, in Chapter 6.

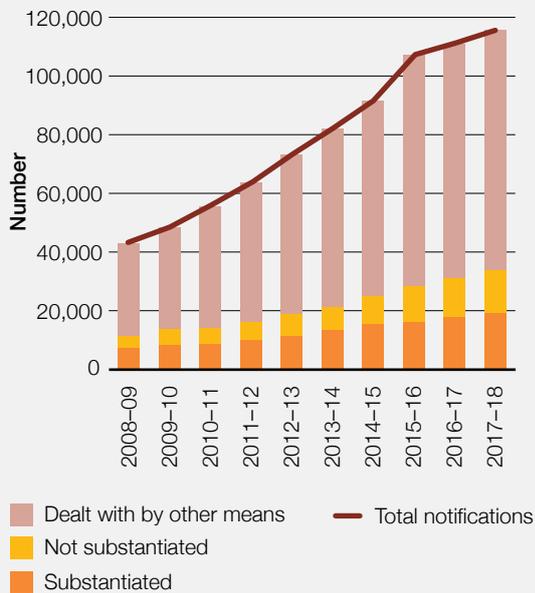
<sup>89</sup> See definition of contingency in the ‘Definitions’ section.

<sup>90</sup> The word ‘notification’ is used by ROGS. The Commission notes that in Victoria the term used is reports.

<sup>91</sup> Productivity Commission 2018, op. cit., Table 16A.4.

<sup>92</sup> Ibid.

**Figure 5: Total notifications<sup>93</sup> and notification outcome types, 2008–2009 to 2017–2018<sup>94</sup>**



Source: Productivity Commission 2019, *Report on government services 2018*, Table 16A.4, Commonwealth of Australia, Canberra.

Over the same period, the number of reports for Aboriginal children has more than tripled, from 3,120 in 2008–2009 to 9,638 in 2017–2018.<sup>95</sup>

The rate of children in Victoria on care and protection orders has also increased.<sup>96</sup> The increase has been particularly high for Aboriginal children, from 3.8 per 100 children in 2008–2009 to 8.9 per 100 children in 2017–2018.<sup>97</sup>

### **Victoria's investment in Child Protection and out-of-home care**

The funding of the child protection system has not kept pace with demand. Despite the 170 per cent increase in notifications, more than tripling in investigations and 189 per cent increase in substantiations outlined in Figure 5, between 2008–2009 and 2017–2018, there has only been a 73 per cent increase in funding. Most of this increase (\$91 million) has been invested since 2014–2015.

**Table 11: Expenditure on all protection-related services 2008–2009 to 2017–2018 (\$ million)**

Total real expenditure	2008–09	2009–10	2010–11	2011–12	2012–13	2013–14	2014–15	2015–16	2016–17	2017–18
Protective intervention services	172	178	188	199	197	198	206	232	244	297
Out-of-home care services	318	339	367	379	397	421	459	502	572	646
Intensive family support services	65	67	67	68	77	83	87	97	116	137
Family support services	na	na	na	102	113	118	128	147	167	213
<b>Total Victoria</b>	<b>555</b>	<b>584</b>	<b>622</b>	<b>748</b>	<b>784</b>	<b>820</b>	<b>880</b>	<b>978</b>	<b>1,099</b>	<b>1,293</b>

Source: Productivity Commission 2019, *Report on government services 2018*, Table 16A.7 Commonwealth of Australia, Canberra.

<sup>93</sup> The word 'notification' is used by ROGS and so is included in this figure. The Commission has used the term 'report' in the text of this inquiry as that is the term used in Victoria.

<sup>94</sup> Appendix: Table 28.

<sup>95</sup> Productivity Commission 2019, *Report on government services 2018*, Table 16A.4.

<sup>96</sup> In response to the draft report, the department noted that not all children on care and protection orders enter out-of-home care, most notably, those on Family Preservation Orders.

<sup>97</sup> See Figure 4.

Across the out-of-home care system, Victoria has consistently invested less than the Australian average in out-of-home care (at a rate of about 25 per cent less than the Australian average per child).

**Table 12: Average daily expenditure per child for out-of-home care services by year comparing Victoria with Australia 2008–2009 to 2017–2018**

Year	Victoria \$	Australia \$
2008–2009	265	353
2009–2010	280	380
2010–2011	301	406
2011–2012	309	411
2012–2013	318	425
2013–2014	332	436
2014–2015	357	473
2015–2016	385	527
2016–2017	418	575
2017–2018	464	617

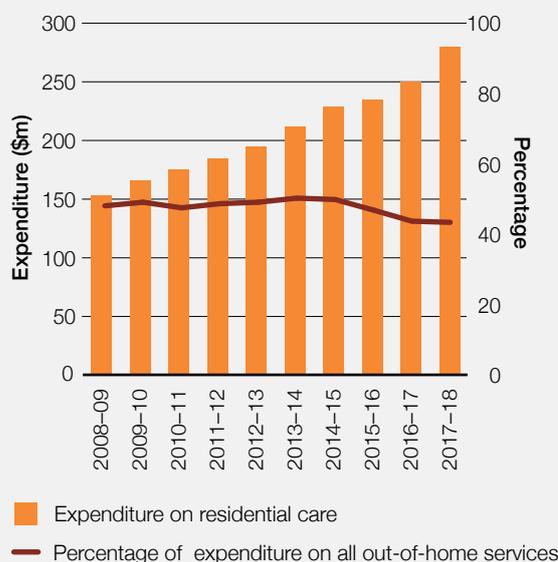
Source: Productivity Commission 2019, *Report on government services 2018*, Table 16A.7, Commonwealth of Australia, Canberra.

The total out-of-home care budget is spent on residential care.<sup>98</sup> As shown above in Table 7, five per cent of children in care were in residential care as at 31 December 2018, but as illustrated below in Figure 6, over 40 per cent of the out-of-home care budget was spent on residential care services in 2017–2018.

The total number of children and young people in residential care as at 31 December 2018 was 433. While the overall proportion has dropped over the past decade, the current percentage translates into an annual dollar figure per child of approximately \$666,100 — extremely high relative to the figures for children and young people in foster and kinship care.

<sup>98</sup> In response to the draft report, the department noted that the high cost of residential care is due to having a ‘staffed model of residential care’ which relies on paying staff to care for children and young people. By contrast, foster and kinship carers are unpaid.

**Figure 6: Real expenditure on residential care and as a percentage of expenditure on all out-of-home care services, 2008–2009 to 2017–2018**



Source: Productivity Commission 2019, *Report on government services 2018*, Table 16A.7, Commonwealth of Australia, Canberra.

**Table 13: Average cost per child of residential and non-residential out-of-home care services by year, 2008–2009 to 2017–2018**

Per child, per year	Residential care \$	Non-residential OoHC services \$
2008–2009	319,582	34,564
2009–2010	366,392	34,518
2010–2011	351,896	37,413
2011–2012	386,607	34,201
2012–2013	406,767	34,224
2013–2014	411,132	29,299
2014–2015	522,831	28,461
2015–2016	537,527	28,917
2016–2017	567,051	32,750
2017–2018	666,100	48,880

Source: Productivity Commission 2019, *Report on government services 2018*, Table 16A.34, Commonwealth of Australia, Canberra.

## Child Protection demand and workforce capacity

Since 2008–2009, the Victorian Government has invested \$125 million into building the Child Protection workforce; \$91 million of that investment has occurred since 2014–2015.

While numbers of children and young people entering the system continue to grow, the Child Protection workforce has not grown proportionately or sustainably to meet the increased demand.

In July 2017, the Victorian Government increased the number of full-time positions by an additional 453 across all divisions (Table 14).

As at 30 June 2018, there were 1,887 full-time Child Protection practitioners employed across the state.<sup>99</sup> This increased investment in Child Protection practitioner positions since 2017 represents a welcome and much needed boost to this workforce. Since June 2015, the Victorian Government has funded more than 650 new Full Time Equivalent (FTE) Child Protection workers. Of these positions, 453 were funded after 1 July 2017.

**Table 14: Child Protection practitioner targets by DHHS division, pre and post July 2017**

Division	No. of effective full-time positions pre-30 June 2017	No. of effective full-time positions from 1 July 2017
Central After Hours Service	93	93
East Division	266.4	322.4
North Division	340	434
South Division	411.1	564.1
West Division	369.5	519.5
<b>Total</b>	<b>1,480</b>	<b>1,933</b>

Source: DHHS email provided to the Commission on 24 October 2019.

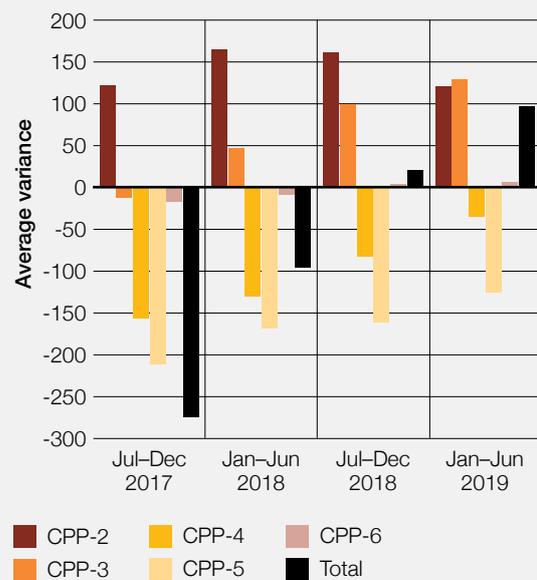
## Increase in targets has not been matched by recruitment

Unfortunately, recruitment challenges mean the increased investment has not completely translated to increased capacity. The department provided vacancy data for the same time periods, which reveals that these targets have not been met. During July 2017 to June 2019, Child Protection was short by an average of:

- 101 staff at the CPP4 level
- 166 staff at the CPP5 level.<sup>100</sup>

Notably, the variance is highest at the more senior levels (CPP4-5), leaving a workforce that has limited experience and is lacking in supervision, see below.

**Figure 7: Child Protection practitioner positions above or below target, July 2017–July 2019, by CPP level**



Source: DHHS data extraction, CPP targets and actual. Excludes 'other case management categories'. Data provided to the Commission on 31 July 2019.

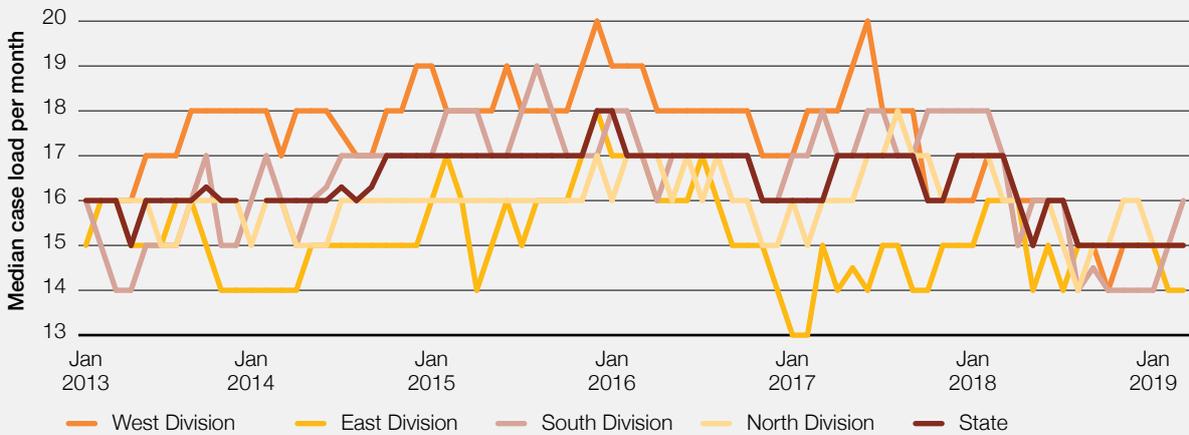
## High caseloads

High caseloads for Child Protection staff remain a concern. While the median caseload for Child Protection staff has decreased slightly over the last six years, it remains high at 15. As at 31 December 2018,

<sup>99</sup> DHHS 2018, *Annual report 2017-18*, State of Victoria, Melbourne, p. 47.

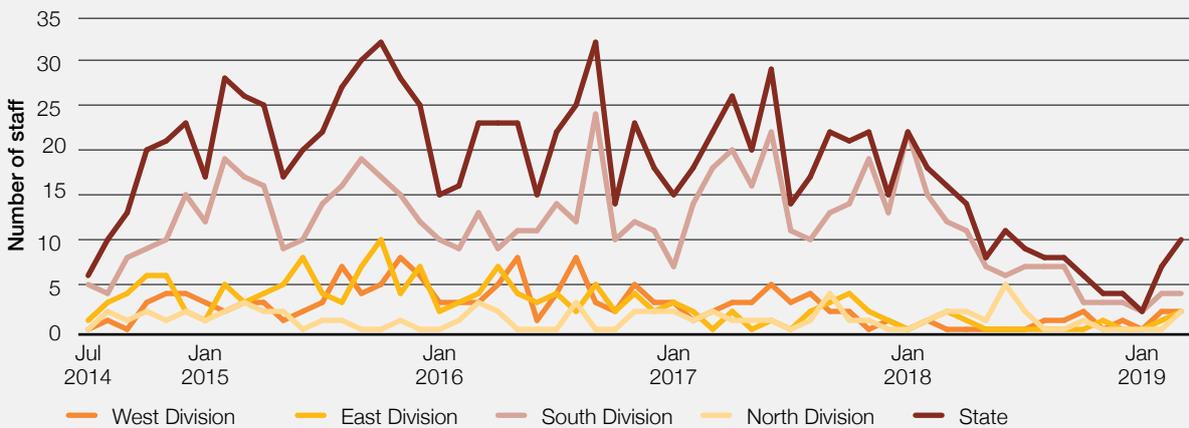
<sup>100</sup> Appendix: Table 31.

**Figure 8: Child Protection median case load by DHHS division, January 2013 – January 2019**



Source: DHHS CP workforce database extraction, median CP practitioner allocated caseload. Data provided to the Commission on 28 July 2019.

**Figure 9: Response and case management case allocation, staff with more than 25 cases, by DHHS division, July 2014 – January 2019**



Source: DHHS Child Protection workforce database extraction, number of Child Protection staff with allocated caseload of 25 or greater. Data provided to the Commission on 28 July 2019.

27 per cent of all cases in out-of-home care were unallocated.<sup>101</sup>

The issue of high caseloads was highlighted recently in the Victorian Auditor-General’s Report, *Maintaining the Mental Health of Child Protection Practitioners* which found that there was a 42 per cent increase in Child Protection workers’ average allocated caseloads (from 12 in 2009 to 17 in 2016).<sup>102</sup> The Victorian

Auditor-General found that although one of the strongest indicators of a successful intervention is the relationship between the child, family and the Child Protection worker, this activity is limited, primarily due to high worker caseloads.<sup>103</sup> Some Child Protection workers were found to be managing more than 25 cases (including work on unallocated cases) at any one time, preventing them from forming effective relationships with clients and their families.<sup>104</sup>

<sup>101</sup> These are cases allocated to a team leader – unallocated in effect. See Appendix: Table 39.

<sup>102</sup> VAGO 2018, op. cit., p. 9.

<sup>103</sup> Ibid. p. 28.

<sup>104</sup> Ibid.

The department also provided data on the number of Child Protection staff with more than 25 cases. In ‘...safe and wanted...’, the Commission found that Child Protection workers in the South Division were more likely to have caseloads of 25 or greater. This trend has continued, as the table below demonstrates.<sup>105</sup> However, the median number of staff with more than 25 cases has decreased from 25 to 11, between July 2014 and January 2019, which is an encouraging development.

### Child Protection staff exits

Data provided by the department also shows the low retention rate of new Child Protection staff. Almost half (n = 142, 48 per cent) of all staff who exited the Child Protection workforce between 1 July 2018 to 15 May 2019 left within their first year of employment.

**Table 15: Child Protection staff exiting by length of service in 2018–2019**

Length of service	#	%
1 year	142	48%
2-3 years	88	30%
4-5 years	18	6%
6-8 years	14	5%
9-10 years	11	4%
10+	23	8%
<b>Total</b>	<b>296</b>	<b>100%</b>

Source: DHHS Data provided to the Commission on 21 May 2019.

### Staff attrition rate

In 2016–2017, the Child Protection workforce experienced an attrition rate of 16.5 per cent, 6.4 per cent higher than the broader department (10.1 per cent).<sup>106</sup> Data provided by the department confirms that the attrition rate for Child Protection practitioners remains high, with an average of 12 to 13 per cent in the past two years (see Table 16).

<sup>105</sup> CCYP 2017, ‘...safe and wanted...’: Inquiry into the implementation of the Children, Youth and Families Amendment (Permanent Care and Other Matters) Act 2014, CCYP, Melbourne, p. 56.

<sup>106</sup> DHHS 2018k, *Child Protection workforce strategy 2017–2020*, State of Victoria, Melbourne.

The attrition rate for the CPP3 position was higher at 19 per cent.

**Table 16: Comparison of attrition rates by Child Protection practitioner level, 2017–2018 to 2018–2019**

	2017–2018	2018–2019
CPP-3	18%	19%
CPP-4	13%	12%
CPP-5	6%	8%
CPP-6	8%	8%
<b>Average</b>	<b>12%</b>	<b>13%</b>

Source: Data provided to the Commission on 24 October 2019.

## Finding 1: The child protection and out-of-home care systems are under strain

The child protection and out-of-home care systems are under significant stress, with:

- reports to Child Protection, investigations and substantiated cases of risk to children, all approximately tripling between 2008–2009 and 2017–2018
- double the numbers of children and young people entering the out-of-home care system over the same period
- a disproportionately high and growing number of Aboriginal children and young people entering out-of-home care
- resourcing for out-of-home care services that has increased significantly over time, but remains consistently less than the national average
- expenditure on child protection services that, despite significant recent investment by the Victorian Government, has not kept pace with demand
- a consistently high attrition rate for Child Protection staff.

## Chapter 4

# My culture – Aboriginal children and young people in care

### Chapter at a glance

- Aboriginal children and young people continue to be over-represented in out-of-home care and this situation is getting worse.
- Many Aboriginal children and young people in care told us their culture was very important to their life and identity while others had struggled to maintain a connection to culture.
- New approaches which share decision making power with Aboriginal organisations and communities offer a potential means of redressing the cultural dislocation of Aboriginal children and young people in care.

### Key data

- One in four children and young people in care is Aboriginal.
- In 2017–2018, nine in every 100 Aboriginal children and young people in Victoria were in care.
- The number of Aboriginal children and young people in care has almost tripled between 2008–2009 and 2017–2018.
- In the 2018 Viewpoint survey, only 54 per cent of Aboriginal children and young people in Victoria said they knew about their family background, while 63 per cent said they could follow their culture where they lived.
- As at 31 December 2018, only 25 per cent of Aboriginal children and young people in care were recorded in CRIS as having an Aboriginal carer.
- As at 31 December 2018, 61 per cent of Aboriginal children and young people who should have had a cultural support plan did not.
- As at 31 December 2018, 47 per cent of Aboriginal children and young people who had been in care for over 12 months had not had an Aboriginal family-led decision-making conference.

*A lot of kids come in [to care] not knowing where they are from, their group or clan. I know mine and my clan names. I can say them. I can't speak language. I know where I am from and who I am. I meet these kids and I would not know where to begin (Brandon, post-care – previously residential care, 18, Aboriginal).*

## Introduction

Victoria's child protection system is placing more Aboriginal children in care than ever before. Despite Aboriginal people representing less than one per cent of Victoria's population, about one in four children currently in out-of-home care in Victoria is Aboriginal. In 2017–2018, 8.9 per cent of Aboriginal children and young people in Victoria were in care.<sup>107</sup> Since 2009, this number has almost tripled from 687 to 2,027.<sup>108</sup> A 2018 report by SNAICC projects that the already disproportionate number of Aboriginal children and young people in care nationally will likely triple by 2037<sup>109</sup> unless significant reform is undertaken. Because Aboriginal children and young people are so over-represented in care, the issues raised throughout this report have a disproportionate effect on Aboriginal children and young people. This chapter focuses on how being in care impacts on Aboriginal children and young people's connection to culture and kin in addition to the other issues discussed in this report.

The Aboriginal children and young people we spoke to for this inquiry had diverse experiences in care related to their connection to family, culture and community. Some told us they had been able to maintain a connection while a significant number said they felt disconnected from culture, family and community and that being in care had made this worse. Others told us frankly that they were not interested in learning about their culture or could not see the point in it.

These feelings of cultural disconnection in the present can in part be traced back to the effects of successive laws, policies and interventions which justified the removal of Aboriginal children from their families. These interventions have caused immeasurable spiritual, emotional and physical harm to Aboriginal children and their families and their legacy is felt in the present. The out-of-home care system risks perpetuating this legacy by further undermining Aboriginal children and young people's right to culture and their connectedness to Aboriginal family and community.

The inquiry found that a concerning number of Aboriginal children and young people in care:

- enter the out-of-care system at an earlier age and are more likely to spend more time in care than non-Aboriginal children and young people
- are not living with an Aboriginal carer
- are living separately from some or all of their siblings
- are more likely to be on out-of-home care orders which do not contemplate reunification.

Prior inquiries and reports in Victoria have 'noted significant challenges adhering to statutory obligations around cultural support planning for Aboriginal children and young people'.<sup>110</sup> File reviews conducted for the Commission's 2015 inquiry *In the child's best interests: Inquiry into compliance with the intent of the Aboriginal Child Placement Principle in Victoria (In the child's best interests Inquiry)*, 'showed that not one Aboriginal child experienced complete compliance

<sup>107</sup> Productivity Commission, *Report on government services 2018*, Table 16A.1, Canberra: Commonwealth of Australia, 2018.

<sup>108</sup> See Table 9 in Chapter 3.

<sup>109</sup> SNAICC 2018, *The family matters report*, SNAICC, Melbourne, p. 9.

<sup>110</sup> Baidawi Susan et al. 2017, 'The complexities of cultural support planning for indigenous children in and leaving out-of-home care: the views of service providers in Victoria, Australia', *Child & Family Social Work*, vol. 22, no. 2, p. 732.

with all ACP requirements'.<sup>111</sup> The same year, the Commission's *Always was, always will be Koori children* inquiry identified, in the face of a significant increase in the number of Aboriginal children and young people entering out-of-home care, 'practice deficits that have led to the degradation of Aboriginal culture for Aboriginal children who are placed in out-of-home care'.<sup>112</sup>

This chapter highlights significant efforts by the Victorian Government and Aboriginal Community-Controlled Organisations (ACCOs) (under the oversight of the Aboriginal Children's Forum<sup>113</sup>) to improve the implementation of cultural safeguards for Aboriginal children and young people in care since *Always was, always will be Koori children*, but shows there are continuing challenges. The Commission is concerned that ongoing problems with cultural support planning and connection for Aboriginal children and young people will be difficult to resolve in the face of rising numbers of Aboriginal children and young people in care.

This chapter also considers early progress towards returning power and decision-making responsibility over Aboriginal children and young people in care to Aboriginal organisations and communities to improve outcomes. Since *Always was, always will be Koori children*, the Victorian Government has led Australia in its commitment to upholding the right of Aboriginal people to self-determination in partnership with ACCOs and Aboriginal communities under the oversight of the Aboriginal Children's Forum. These commitments have resulted in, among other things, the government incrementally funding the transfer of responsibility for the case contracting, care and case management for Aboriginal children and young people in care to ACCOs.

These new approaches offer a potential means of reducing government intervention into the lives of Aboriginal children. However, this chapter concludes that self-determination can never be a reality for Aboriginal people in Victoria while Aboriginal children and young people continue to be over-represented in care.

## Why culture matters: the past and its impact on the present

Aboriginal children and young people have 'been forcibly separated from their families and communities since the very first days of the European occupation of Australia'.<sup>114</sup> These successive waves of government interventions – and their devastating impacts on the lives of Aboriginal children and their families – are outlined in detail in the Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families, *Bringing them home*.<sup>115</sup> This history is critical to making sense of the present, as this legacy of harmful intervention has a direct connection to the current over-representation and experiences of Aboriginal children and young people in care.

## The relationship between the past and the present

The recent joint Australian Institute of Health and Welfare and Aboriginal and Torres Strait Islander Healing Foundation report (2018) on members of the Stolen Generations and their descendants illustrates that trauma and structural disadvantage associated with child removal is intergenerational. The report found that descendants of the Stolen Generations – who made up one third (33 per cent) of the Aboriginal and Torres Strait Islander adult population in 2014–2015 – 'experienced a range of adverse health, cultural and socioeconomic outcomes at a rate higher than the Indigenous population that had not been removed'.<sup>116</sup>

<sup>111</sup> CCYP 2016a, *In the child's best interests: Inquiry into compliance with the intent of the Aboriginal Child Placement Principle in Victoria*, State of Victoria, Melbourne, p. 24.

<sup>112</sup> CCYP 2016, *'Always was, always will be Koori children': Systemic inquiry into services provided to Aboriginal children and young people in out-of-home care in Victoria*, State of Victoria, Melbourne, p. 11. Prior to March 2016, s. 176 of the CYFA 2005 specified that every child subject to a guardianship or long-term guardianship order be provided by the Secretary of the department with a cultural plan.

<sup>113</sup> The ACF is a quarterly event co-chaired by the Minister for Child Protection and the Chief Executive Officer from the hosting ACCO.

<sup>114</sup> Wilkie M 1997, 'Chapter 2', *Bringing them home: report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families*, Human Rights and Equal Opportunity Commission, Canberra.

<sup>115</sup> Ibid.

<sup>116</sup> Australian Institute of Health and Welfare and Aboriginal and Torres Strait Islander Healing Foundation report 2018, *Aboriginal and Torres Strait Islander Stolen Generations and descendants: Numbers, demographic characteristics, and selected outcomes*, p. vii.

These descendants faced a higher likelihood of:

- experiencing actual or threatened physical violence (1.9 times)
- having poor mental health (1.6 times)
- experiencing homelessness (2.5 times)
- using substances (1.2 times).<sup>117</sup>

All these factors are determinants of families coming into contact with the child protection system. As such, these factors reinforce the intergenerational harm wrought by the removal of Aboriginal children from their families and the necessity of eliminating 'over-representation to ensure that future generations of children do not experience the long-term impacts of removal'.<sup>118</sup>

## Aboriginal children and young people's experiences of connection to culture

Eighteen of the 82 Aboriginal children and young people who spoke to us said they felt connected to their culture or were strengthening this connection.

*I love my culture and am involved in all aspects of my culture, paintings, rock designs. I have a lot of creativity in here [referring to his youth justice facility] (Theodore, post-care – previously residential care, 19, Aboriginal).*

For those who felt a strong sense of connection, it was usually due to their feeling of close connection with Aboriginal family.

### Q: How do you stay in touch with your culture in out-of-home care?

*My nan, my dad and my aunty. They just listen to whatever we have to say and they just make stuff better by hearing us up (Caitlyn, foster care, 13, Aboriginal).*

*My great aunties talk to me about it and stuff, show me all the artwork and everything. I like that because they are within my family. It feels real (Noemi, foster care, 17, Aboriginal).*

*I love my community and love my culture. I had a tough time growing up. 'Cos I was a half caste, most of my cousins grew up around the Aboriginal family. I grew up with the white side of my family. Sometimes you're too white to be part of the black community, sometimes you're too black to be in the white community. When I was younger, I grew up with my dad's family who are white and had no connection to my culture, and the culture in [their town] isn't out there. It's dying. Not until I'm now with my Aboriginal family, I have been able to study my culture and learn about it. There's not many opportunities around here to practise and learn your culture. You have to do it yasef, and link up with different community members and stuff. My nan is a pretty big part of the community, so I had no problem finding family, but it wasn't til a couple of years ago that we realised that we were from another mob as well. She's learning stuff herself (Caroline, post-care, 19, Aboriginal).*

Several young Aboriginal people told us that they had strengthened their connection to culture through their own efforts.

*I feel connected to my culture. I only recently found out that I was Indigenous. I am somewhat connected. I was pretty excited to hear it, before I moved up here, I did my research and I knew everyone was from big families (Sofia, foster care, 16, Aboriginal).*

<sup>117</sup> Ibid., p. viii.

<sup>118</sup> Ibid., p. 54.

*For so many years I asked workers to find out stuff about my Aboriginal culture, I ended up finding out for myself... When I did the [Aboriginal] aged care I met heaps of Aboriginal people and talked to heaps of elders and it made me feel connected (Leila, foster care, 16, Aboriginal).*

For many of the children and young people we spoke to, being involved in cultural activities helped them learn more about their culture and build connection with community.

*We were given boxes with pencils, textas and information about our family (Julian, foster care, 12).*

*On [our local] cultural day, we got memory boxes from [our ACCO]. They give you a book and then let you read it [they showed us the book – a cultural plan prepared by an ACCO]. I danced at the three rivers festival.*

*Every dance has a story, we dance when elders pass away and at smoking ceremony (Wyatt, foster care, 10, Aboriginal).*

*I haven't had much to do with my culture to be honest. Most of my life my dad has been out of it, I'm only just starting to get to know him a bit more recently. I recently had my first Aboriginal camp and [an Aboriginal worker] took me on that and I got to learn about my culture and that. [...] I've even got an Aboriginal cultural worker working with me, he comes to see me every week. We are gonna go to the Aboriginal museum in Melbourne and we are gonna do stuff like that to keep me involved.*

*I am part Aboriginal (mum's side) and I go to the Aboriginal co-op in [my community]. I do Koori programs and they 'talk to me' about all sorts of things. They give me food vouchers. I like them (Carter, residential care, 16, Aboriginal).*

*I go sometimes to this group, I have been going through this family [...] I've met the family and the tribe and it's all really cool, you get to go out in the bush area where they have been. I learnt so much about the rainbow serpent, how they survived, how they make food and all that. We went up to the [mountains], and you dress up as what they used to wear and I did a camp. I did it with my dad. There was some food I didn't want to eat. They were like cutting up blue tongue lizard. I ate snake it tasted like chicken.*

**Q: Have they done a family tree or anything like that for you?**

*Not yet, I have been learning it. I have a lot of learning and things. I did an ancestry DNA testing. I don't go [to do cultural activities] much now I'm getting older, but if I had kids, I'd take them. When I was in not the best headspace, I would go for six months with this Aboriginal camping thing like we went [interstate] and that. Ya just learn so much things, people don't really tell you about this. I found out my dad's dad was in the war. I didn't know it until my nan told me about it (Rosalyn, residential care, 16, Aboriginal).*

A significant number of the Aboriginal children and young people we spoke to (n = 13) told us they felt disconnected from their culture or uncertain or ambivalent about their Aboriginal identity.

*I don't know if I'm Aboriginal or not (Karina, residential care, 14).*

*My grandma knows most about [my Aboriginal culture.] I'm kinda interested but don't know about it (Jorja, kinship care, 15, Aboriginal).*

*I don't feel connected yet. I just know I'm Aboriginal. They have to ask my aunties and everything and my grandparent. One of my aunties speaks about it but that's it. She's doing research on it and like who we are and that (Bethany, residential care, 15, Aboriginal).*

**Q: What do you know about your culture?**

*Not a hell of a lot. Being Aboriginal, these days it's a bit easier but back in my dad's time it wasn't easy. He was brought up in a time when it wasn't good to be Aboriginal. Which he sort of sees that today, so he never says, 'Oh you know I came from here and our family comes from here' (Evan, foster care, 15, Aboriginal).*

*I feel like I am sorta Aboriginal but mostly white but I'm actually half-half. My dad is Aboriginal (Stephanie, foster care, 9, Aboriginal).*

*Both my good foster carers were Aboriginal. They weren't that into their culture. They were both adopted into white families (Dominic, foster care, 18, Aboriginal).*

*There are cultural posters in the house and Koori workers and kids, but not really cultural events at the house (Ellie, residential care, 16, Aboriginal).*

Several children and young people told us that the system had been unable to answer their individual questions about how being Aboriginal was relevant to who they were.

*Some kids want to know [about their culture] or they don't. I personally don't know much about my Aboriginal side – my family has not looked in it. It's all a bit confused.*

*It's not best to ask me. Personally, [I think] there is either a really good name about being Aboriginal or the racist one. Like they get pity because of the Stolen Generation. Some Aboriginal people don't want to know because they don't want people to see them as a victim who gets all this special stuff. At my school there was a scholarship that was for Aboriginal people and I got it. And a lot of people were like 'Why did you get the scholarship?' The other thing is what does it mean to be Aboriginal? What is special about it because you don't get told about it a lot?*

*My choice has been respected. I say it's not my biggest priority but it's hard because of the agency I am in supports Aboriginal kids (Leila, foster care, 16, Aboriginal).*

*My dad has explained a bit that we are from a tribe and from the stolen generation but there is no information about and I am really frustrated because I don't know where I am from. I gave up at one point because I had nothing to start off with and no sources or leads. It's been really difficult to find out about it. I have always asked services for help but they have never been able to help much (Phoebe, returned home, 16, Aboriginal).*

Others expressed a strong view that young people should be free to decide how they engage with their culture.

*Culture shouldn't be forced upon the young people, it needs to be always an option to engage in for them (Stephanie, 14, kinship care, Aboriginal).*

For some Aboriginal children and young people, their connection with culture was undermined by the dislocation of their family.

*Few months ago I asked [DHHS] if I could find my dad. Haven't seen him since I was one. Part of my life I've never met, so not good. My dad is the only actual family I know (Evan, foster care, 15, Aboriginal).*

*I want to find my half siblings. [DHHS] found out where and who my dad is. They also said that I have brothers and sisters. They said that they are going to help get in touch but they don't do anything (Stephanie, foster care, 9, Aboriginal).*

Several children and young people (n = 8) told us they had struggled to access programs, activities or supports to help them learn more about their culture.

*I am Aboriginal but staff here don't believe me because I didn't tick it on the form when I came in. I need to tick Aboriginal to be accepted in programs (Byron, residential care, 15, Aboriginal).*

**Q: Your worker said you identify as Aboriginal. Do you have much connection with your culture?**

*No, not really. My information isn't clear. I'd like to know what tribe I come from and that, what my totem is I guess but it's gone nowhere. [I] had a meeting with [my agency] and its gone nowhere.*

**Q: Did Child Protection help with this in any way?**

*No. One of them even said that I wasn't Aboriginal because they said there's no proof. I said, 'What about my grandmother. She is black. That is proof'. I think Child Protection did nothing for me in that.*

**Q: Will this be something you continue to look into?**

*No, probably not. I know my nanna's name and that but I need more stuff to get proof that this is the case. Mum just lied to us all the time so I wouldn't know if my grandma was born in Perth like she said or elsewhere (Caden, post-care, 19, Aboriginal).*

*[My non-Aboriginal worker] has talked about it and stuff, but I feel like I get really annoyed about it 'cos I don't have a strong connection to my culture but I feel like weird because – dunno can't explain it. It's like people who aren't part of my culture try to bring me into it. I'd prefer my family bring me into my culture rather than workers (Noemi, foster care, 17, Aboriginal).*

*It's not enough to say you recognise Indigenous kids. They have to be able to see their culture and set up so they can see their families more often and they can be taken to the [NAIDOC] march or something.*

**Q: Did you get any support about connecting with culture?**

*I'm already in with that. It took [my worker] a while to come around. I would have to tell them the NAIDOC march was coming up, will you drive me? They never came to me with that stuff (Brandon, post-care – previously residential care, 18, Aboriginal).*

**Q: Do you get cultural support in resi?**

*Nah. Nothing at all, no one came to see me. It was fucked. A lawyer or that came but that was it, ya know. As I have got older my culture means a lot to me. If I had of had cultural support it woulda help me so much more down the track. It was only Aussie blokes, I was the only Koori fella there in resi. I didn't start to get to know that sort of stuff till I got to be back with mum and that. As I got older found out my totems and that, learnt songs and dances, paintings and history – that stuff (Isaiah, post-care, 21, Aboriginal).*

**Q: Do you guys feel connected to your culture?**

*Not very often – I want to go camping like because I'm an Aboriginal (Thomas, foster care, 11, Aboriginal).*

*Culture is about family networks, Elders and ancestors. It's about relationships, languages, dance, ceremony and heritage. Culture is about spiritual connection to our lands and waters. It is about the way we pass on stories and knowledge to our babies and children; it is how we greet each other and look for connection. It is about all the parts that bind us together (Andrew Jackomos, PSM).<sup>120</sup>*

Connection to culture is also a protective factor in the lives of Aboriginal children and young people. Research suggests that Aboriginal children and young people who are connected to their culture:

- have improved physical and mental health outcomes<sup>121</sup>
- are less likely to experience abuse because 'children who become isolated from cultural and community networks when in out-of-home care are more vulnerable to being abused, and less able to seek help'.<sup>122</sup>

## Research and analysis about Aboriginal children and young people's connection to culture in care

### Culture matters

For Aboriginal children and young people – especially those in care – strengthening connection to culture represents an important means of redressing past and present interventions which have undermined their right to culture and disrupted family and community bonds. Aboriginal perspectives rightly 'view culture as a source of strength and resilience: culture is a holistic entity that permeates all aspects of a child's life'.<sup>119</sup>

### What culture means to children and young people in care

Children and young people in care often describe connection to culture as a fundamental need; in prior consultations with Aboriginal children and young people, they have consistently 'expressed a desire to be back in their home communities, and to be reunited with their parents'.<sup>123</sup> However, 'three [recent] Australian reports have found that approximately 30% of Indigenous children and young people leaving care state that they have a poor knowledge of, and connection to, their cultural heritage'.<sup>124</sup>

<sup>119</sup> Krakouer J et al. 2018, "We live and breathe through culture": conceptualising cultural connection for Indigenous Australian children in out-of-home care', *Australian Social Work*, pp. 1–12, citing Bamblett M and Lewis P 2007, 'Detoxifying the child and family welfare system for Australian Indigenous peoples: self-determination, rights and culture as the critical tools', *First Peoples Child & Family Review*, vol. 3, no. 3, pp. 43–56.

<sup>120</sup> CCYP 2016, op. cit., p. 9.

<sup>121</sup> Colquhoun S and Dockery AM 2012, *The link between Indigenous culture and wellbeing: qualitative evidence for Australian Aboriginal peoples*, Curtin University, Perth.

<sup>122</sup> Lewis N and Burton J 2012, 'Keeping kids safe at home is key to preventing institutional abuse', *Indigenous Law Bulletin*, vol. 8, p. 11.

<sup>123</sup> McDowall JJ 2016, 'Connection to culture by Indigenous children and young people in out-of-home care in Australia', *Communities, Children and Families Australia*, vol. 10, no. 1, p. 5, citing Higgins DJ et al. 2006, 'Protecting Indigenous children: views of carers and young people in out-of-home care', *Family Matters*, no. 75, p. 42.

<sup>124</sup> Baidawi Susan et al. 2017, op. cit.

More recently, in the Viewpoint survey 2018, only 54 per cent of Aboriginal children and young people in Victoria said they knew about their family background (this number fell to 48 per cent for children and young people in residential care), while 63 per cent said they could follow their culture where they lived.<sup>125</sup>

## Finding 2: Connection to culture

Connection to culture is a protective factor in the lives of Aboriginal children and young people that enhances their health, wellbeing and identity. However, while some Aboriginal children and young people told us they felt connected to community and culture, a significant number told us they feel disconnected and need more support to build this connection – including understanding the relevance of culture to them.

## Recent initiatives to improve connection to culture

In recent years, the Victorian Government has funded and supported a variety of new programs to help improve Aboriginal children and young people's connection to culture in care.

### Family finding

*Always was, always will be Koori children* recommended that the department, in partnership with ACCOs, 'facilitate the establishment of a state-wide program for Aboriginal children in out-of-home care to search their family history and create family genograms to help them identify and connect to their family and community'.<sup>126</sup> In 2018, the department engaged VACCA to provide a family finding service for Aboriginal children in out-of-home care. The service is now fully operational.<sup>127</sup> The 2019–2020 State Budget allocated recurrent funds for this program.

### Return to country program

Commencing in 2017, the South Initiative Return to Country program was developed to provide opportunities for Aboriginal children and young people living in out-of-home care to learn about and practise their culture.

The program has three key program components:

- development of tools and resources to develop and implement a return to country
- a Return to Country support worker – to support care teams in planning and preparing for returns to country
- flexible funding to implement approved Return to Country Reunion proposals.<sup>128</sup>

<sup>125</sup> Viewpoint 2018, *The views of children and young people in out of home care in Victoria*, Viewpoint, p. 24.

<sup>126</sup> CCYP 2016, op. cit., p. 15.

<sup>127</sup> Email from the department to the Commission dated 29 May 2019.

<sup>128</sup> Centre for Evaluation and Research 2018b, *South Division Out-of-home Care Initiative: Return to Country outcome evaluation report, unpublished internal document*, State of Victoria, Melbourne, p. 1.

There have been a number of barriers to the full implementation of this project. An early evaluation of the pilot found that by June 2018 only one young person had been able to complete a return to country, and only one other proposal for a return to country completed.

The evaluation suggested that the shortfall in reunions over the evaluation period was largely attributable to:

- capacity challenges (high workload of one full-time equivalent Return to Country support worker)
- very low rates of complete cultural support plans (only five out of the 14 young people referred to the program had a completed cultural support plan)
- the availability, cultural competence and confidence of Child Protection and agency case managers to undertake the required planning and documentation of Return to Country proposals.<sup>129</sup>

The evaluation noted that progressing children and young people through the program had been almost entirely impeded by these implementation challenges. To improve the trajectory of the program, the evaluation concluded that there needs to be an increase in Return to Country worker resourcing, a focus on young people who already have cultural plans in place, and improved communications between the Return to Country worker and Child Protection case managers in inner and outer Gippsland, as well as changes to operational and governance structures.<sup>130</sup>

### **Deadly Story**

The Commission's *Always was, always will be Koori children* inquiry recommended that the department:

*develop and maintain a web-based portal for Aboriginal children and young people in out-of-home care, and their carers, to access information about Aboriginal community activities, Aboriginal services, cultural identity and history services, cultural events in the community where they live, and events, cultural celebrations and services across Victoria.*<sup>131</sup>

In response, the department funded VACCA to develop a cultural portal, named *Deadly Story*, in partnership with VACCA, SNAICC, the Koorie Heritage Trust, the Federation of Victorian Traditional Owners Corporation and Brightlabs in conjunction with the department. The portal was launched in November 2017.

## **How Aboriginal children and young people travel through the system**

As outlined above, the removal of Aboriginal children and young people risks perpetuating past harmful government intervention into the lives of Aboriginal families. This section examines how Aboriginal children and young people 'travel' through the system and its impact on their wellbeing and connection to culture and family.

The inquiry found that a concerning number of Aboriginal children and young people in care:

- enter the out-of-care system at a very early age and stay in care for longer than their non-Aboriginal peers
- are not living with an Aboriginal carer
- are living separately from some or all of their siblings
- are more likely to be on out-of-home care orders which do not envisage reunification.

The Commission notes the ongoing role of the Aboriginal Children's Forum (ACF) in addressing the over-representation and circumstances of Aboriginal children in care through delivering on the priorities identified in *Wungurilwil Gapgapduir: Aboriginal Children and Families Agreement* (*Wungurilwil Gapgapduir*), which is outlined below. The ACF is monitoring the progress towards the implementation of this agreement.

<sup>129</sup> Ibid., p. 15.

<sup>130</sup> Ibid., p. 16.

<sup>131</sup> CCYP 2016, op. cit., p. 15.

### About Wungurilwil Gaggapduir

Wungurilwil Gaggapduir, which means ‘strong families’ in Latji Latji, represents Australia’s first tri-partite agreement between the Aboriginal community, government and community services organisations committing to better outcomes for Aboriginal children and young people.<sup>132</sup> The plan has five central objectives which seek to reduce the number of Aboriginal children in out-of-home care by building their connection to culture, country and community:

1. Encourage Aboriginal children and families to be strong in culture and proud of their unique identity.
2. Resource and support Aboriginal organisations to care for Aboriginal children, families and communities.
3. Commit to culturally competent and culturally safe services for staff, children and families.
4. Capture, build and share Aboriginal knowledge, learning and evidence to inform practice.
5. Prioritise Aboriginal workforce capability.

Wungurilwil Gaggapduir’s action plan outlines specific actions to address over-representation and the cultural connection of Aboriginal children and young people in care, with the Victorian Government investing \$53 million in 2018–2019 to implement these actions, under the oversight of the ACF.

### Age of entry and time in care

Aboriginal children are more likely to enter care at an earlier age. Infant and preschool Aboriginal children (aged under six years) make up 38 per cent of all Aboriginal children and young people in care compared with 33 per cent of non-Aboriginal children and young people (see Table 17).

**Table 17: Children and young people in out-of-home care by Aboriginal status and age group as at 31 December 2018 (n = 7,888)**

Age groups	#		%		Total #	Total %
	Non-Aboriginal	Aboriginal	Non-Aboriginal	Aboriginal		
0-2	965	337	16%	17%	1,302	17%
3-5	1,015	428	17%	21%	1,443	18%
6-8	946	333	16%	16%	1,279	16%
9-11	961	337	16%	17%	1,298	16%
12-14	975	307	17%	15%	1,282	16%
15-17	999	285	17%	14%	1,284	16%
<b>Total</b>	<b>5,861</b>	<b>2,027</b>	<b>100%</b>	<b>100%</b>	<b>7,888</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database as at 31 December 2018. Data provided to the Commission on 31 July 2019.

<sup>132</sup> Victorian Government 2018b, *Wungurilwil Gaggapduir: Aboriginal Children and Families Agreement – a partnership between the Victorian Government, Victorian Aboriginal communities and the child and family services sector*, State of Victoria, Melbourne.

Aboriginal children and young people are also more likely to spend more time in out-of-home care than their non-Aboriginal peers. The average length of stay in care for Aboriginal children and young people in March 2019 was six months longer than non-Aboriginal children and young people (three years versus two years and six months). Additionally, the difference between Aboriginal and non-Aboriginal median length of stay has increased between March 2017 to March 2019 from five months to seven months.<sup>133</sup>

### Aboriginality of carers

As recognised by the Aboriginal Child Placement Principle (discussed below), Aboriginal children and young people in care are generally best placed to develop and grow in their culture within an Aboriginal family. As at 31 December 2018, only 25 per cent of Aboriginal children and young people in care were recorded on CRIS as having an Aboriginal carer in their current placement.<sup>134</sup> This situation has deteriorated since Taskforce 1000 which reported 38 per cent of Aboriginal children and young people then in care had an Aboriginal primary carer.<sup>135</sup>

### Kinship care

As at 31 December 2018, 27 per cent of Aboriginal children and young people in kinship care (n = 418) had an Aboriginal carer in their current placement.<sup>136</sup> The continuing low numbers of Aboriginal kinship carers, for what is the most common care type for Aboriginal children, point to the need for ongoing concerted effort to identify and support appropriate Aboriginal kinship carers.

In December 2017, the Victorian Government announced a \$33.5 million investment for a new statewide model for kinship care. The new model includes specific supports for Aboriginal children and young people in care:

- Aboriginal placement identification and support, including genealogical information and specialised searching expertise

- First Supports: delivered by ACCOs to support new kinship placements
- reunification support: Two ACCOs delivering 39 targets of 200 hours of intensive family services for Aboriginal children and young people, in a pilot program.<sup>137</sup>

The 2018–2019 budget allocated funding for two years to ACCOs for case management of Aboriginal children in kinship care, providing for 425 kinship care placements in 2018–2019 increasing to 433 placements in 2019–2020.

### Foster care

As at 31 December 2018, only four per cent of Aboriginal children and young people in foster care were recorded on CRIS as being placed with an Aboriginal carer.<sup>138</sup> When interviewed by the department, several Placement Coordination Unit staff expressed concerns about the lack of Aboriginal foster carers in their areas. ACCO staff said this was particularly a concern in regional Victoria.

Non-Aboriginal carers may struggle to support Aboriginal children and young people to remain connected with culture and community. *Always was, always will be Koori children* found that half of all Victorian non-Aboriginal carers had not undergone cultural awareness training.<sup>139</sup> This is still an issue; the Commission reviewed eight departmental quality and compliance audits of foster care placements of Aboriginal children completed in 2018 and in half, carers of Aboriginal children and young people had not received appropriate training. When interviewed by the Commission, non-Aboriginal carers of Aboriginal children often expressed a strong desire to support Aboriginal children and young people in their care to connect to their culture but told us they struggled to do this without support or practical training. Most of the carers we spoke to who had Aboriginal children and young people in their care had sought out cultural supports – including Aboriginal family members – independently of their foster care agency or the department.

<sup>133</sup> DHHS 2019a, op. cit., p. 27.

<sup>134</sup> Appendix: Table 32.

<sup>135</sup> CCYP 2016, op. cit., p. 56.

<sup>136</sup> Appendix: Table 33.

<sup>137</sup> Centre for Evaluation and Research 2018a, *The new model of kinship care: evaluation report (lapsing program)*, unpublished internal document, State of Victoria, Melbourne, p. 4.

<sup>138</sup> Appendix: Table 33.

<sup>139</sup> Baidawi S et al. 2017, op. cit., p. 732.

In 2016, the department, CSOs and ACCOs partnered to develop a carer recruitment and retention strategy to be delivered throughout Victoria. The aim of the strategy was to increase the number of Aboriginal carers as well as retain current carers.

The overarching strategy included:

- funding for ACCOs to develop and strengthen their carer recruitment opportunities
- statewide and localised marketing campaigns targeting potential Aboriginal carers
- support for existing carers through a statewide training and development program
- funding contracted cases to ACCOs
- resources to enable ACCOs to develop and recruit staff.<sup>140</sup>

Since the commencement of this strategy:

- Fostering Connections received a total of 108 enquiries from potential Aboriginal foster carers – the department was unable to provide details of how many went on to become foster carers<sup>141</sup>
- targeted care packages have been allocated to 211 Aboriginal children and young people, 49 per cent of which were managed by ACCOs<sup>142</sup>
- the Carer KaFÉ program has trained approximately 258 Aboriginal carers.<sup>143</sup>

ACCO staff members interviewed for this inquiry noted cultural barriers to the recruitment of Aboriginal carers, which may be overcome by the gradual transfer of Aboriginal children and young people in accordance with the Aboriginal Children in Aboriginal Care program.

*It's so important [to have Aboriginal carers]. Anything that's going to give the children more of a connection to culture. Even if it's not their own mob's culture. Just being within an Aboriginal family is giving that consistency and healing even though it's not the same but it's so important (ACCO staff member).*

*There are some carers that do a magnificent job of bringing culture into their home but it's not the same. That drive around how do you get Aboriginal carers – I feel maybe the ripple effect of what we're doing [the Aboriginal Children in Aboriginal Care program] and [the understanding] that ACCOs are holding the decision making so it's not so scary with the families and in time it might be able to change to get more carers (ACCO staff member).*

### Residential care

As noted above, *Always was, always will be Koori children* recognised that all carers needed greater support to develop the cultural competencies required to care for and support Aboriginal children and young people. In response, the department has funded cultural competence training, delivered by VACCA, for the residential care workforce. Cultural training is now also recognised as part of the capability framework for residential care workers.<sup>144</sup>

The Commission analysed seven departmental Quality and Compliance Audits – conducted in 2018 – of residential units housing Aboriginal children and young people. In the majority of cases (n = 6), the audits recognised genuine attempts by the units to:

- link the child or young person to an ACCO to assist with cultural planning, supports and activities
- employ other strategies to support the young person from an Aboriginal background to connect with their culture including organising visits to country
- acknowledge Aboriginal culture in the unit through the prominent display of Aboriginal art.

<sup>140</sup> DHHS 2019l, Update provided to Aboriginal Children's Forum, January 2019 on progress of implementation of recommendations of *Always was, always will be Koori children*, unpublished internal document, State of Victoria, Melbourne.

<sup>141</sup> Ibid.

<sup>142</sup> DHHS 2019k, *TCP monthly report April 2019*, unpublished internal document, State of Victoria, Melbourne.

<sup>143</sup> Email from the department to the Commission dated 10 June 2019.

<sup>144</sup> DHHS 2016e, *Program requirements for residential care in Victoria*, State of Victoria, Melbourne, p. 9.

In conducting our consultations, the Commission came across some additional examples of improved practice. The Commission visited two groups of siblings living together in residential care placements who were supported to connect with their culture through cultural support plans.

These children and young people benefited from a dedicated worker from an ACCO who helped them learn about their cultural and family history and put together a 'memory box' for them, which included different things from their culture (a boomerang, artwork and other items) and a book within it including their cultural support plan. Each had a detailed family tree and information about their mob.

### Connection to siblings

The co-placement of Aboriginal siblings contributes to their right to culture through strengthening 'continuity of family connections but also [...] linkage to community and culture'.<sup>145</sup> Conversely, when Aboriginal children and young people are placed away from their families and communities in non-Aboriginal households, 'their ability to remain connected to their culture is compromised'.<sup>146</sup> The Commission's *Always was, always will be Koori children* inquiry found '[h]igh numbers of Aboriginal children in out-of-home care are separated from their siblings and are not provided with adequate opportunity to have contact with them'<sup>147</sup> and that 'over 40 per cent of children with siblings were separated from their brothers and sisters'.<sup>148</sup>

A significant number of Aboriginal children and young people in care are placed apart from their other sibling(s) in care. As at 31 December 2018:

- 29 per cent of Aboriginal children and young people in care who had one or more sibling in care were living separately from all of them
- 20 per cent were living with some but separated from other siblings in care
- 51 per cent were living together with all of their siblings in care.<sup>149</sup>

<sup>145</sup> McDowall J 2015, *Sibling placement and contact in out-of-home care*, Policy and Advocacy Unit, CREATE Foundation, p. 18.

<sup>146</sup> *Ibid.*, p. 18.

<sup>147</sup> CCYP 2016, *op. cit.*, p. 76.

<sup>148</sup> *Ibid.*, p. 10.

<sup>149</sup> Source: Appendix: Table 36.

There is a high degree of variation across the state as to whether or not Aboriginal children and young people are placed with their siblings.<sup>150</sup>

Aboriginal children and young people in care were least likely to be placed with their siblings when on a care by Secretary order (42 per cent).<sup>151</sup> Almost three-quarters of Aboriginal children and young people in residential care (73 per cent) had been placed separately from all of their siblings.<sup>152</sup>

When interviewed by the Commission, Child Protection staff members (n = 3) noted the difficulties in keeping Aboriginal sibling groups together, especially for large sibling groups or sibling groups with adolescents. One worker informed the Commission:

*It can be harder [to place Aboriginal siblings together], but we have more luck with placing in kinship options within community and they can get a bit of support if not together. In terms of foster care yes, it is definitely harder. Placement in community you can do a bit of wrap around support. Sometimes that has been the kinship carer coming into the kids home to care for them, the parents have moved out... it has worked well for the kids (Child Protection staff member).*

### Impact of different out-of-home care orders

Aboriginal children and young people are more likely to transition to care by Secretary orders or long-term care orders than their non-Aboriginal peers.<sup>153</sup> As at 31 December 2018, a higher proportion of Aboriginal children were the subject of care by Secretary orders (36 per cent) and long-term care orders (10 per cent)

<sup>150</sup> Appendix: Table 34.

<sup>151</sup> Appendix: Table 35.

<sup>152</sup> Appendix: Table 36.

<sup>153</sup> The Permanency Amendments impose a 12-month limit on the timeframe for achieving reunification for children and young people in out-of-home care (which may be extended by a further 12 months in certain circumstances) (s. 321(1)(d) of the CYFA 2005).

than non-Aboriginal children (34 per cent and seven per cent respectively).<sup>154</sup>

Under care by Secretary orders and long-term care orders, decisions relating to contact or reunification with family are made via case planning processes.<sup>155</sup> Aboriginal children and young people in care are less likely than their non-Aboriginal counterparts to have a case plan which has the permanency objective of family reunification (29 per cent versus 36 per cent) and more likely to have a permanency objective of 'long-term out-of-home care' (42 per cent versus 34 per cent).<sup>156</sup> The Commission notes the limitations in service supports available to children and young people in care and their families to achieve reunification outlined in Chapter 8. ACCO workers also expressed concerns that the department does not prioritise reunification for Aboriginal children and young people.

*Child Protection don't work with the families because they don't think people can make that change. Our reunification workers are only working with the kids' case managers. That's the only link we've got (ACCO staff member).*

Finally, care by Secretary orders and long-term care orders do not contain court-ordered conditions related to contact. As a consequence, the court's role in reviewing the suitability of an Aboriginal child or young person's contact with Aboriginal family is significantly limited.<sup>157</sup>

## Mechanisms to improve connection to culture

Victoria, like other jurisdictions in Australia, has adopted legislative and policy responses attempting to uphold the right of Aboriginal children and young people in care to know about and be connected to their culture.<sup>158</sup> Many of these processes – such as cultural support plans, Aboriginal family-led decision making conferences or the application of the Aboriginal Child Placement Principle – are intended to involve members of the child's Aboriginal family and community, as well as ACCOs, in decision making about what is in the best interests of the child or young person. The out-of-home care system's compliance with these processes was a key focus of the Commission's inquiry *Always was, always will be Koori children* and has been the subject of considerable effort and investment since that inquiry.

### Cultural support plans

In Victoria, the primary policy and legislative mechanism to promote the right to culture of Aboriginal children and young people in care is cultural support planning. The *National standards for out-of-home care* stipulate that all Aboriginal children and young people within the system must have a cultural support plan to guide their connection to culture.<sup>159</sup>

Prior to 1 March 2016, s. 176 of the CYFA 2005 provided that all children subject to a guardianship or long-term guardianship order must be provided with a cultural plan. Taskforce 1000 revealed, on the basis of 2014–2015 survey data, that almost one-quarter of children and young people on these orders had no cultural support plan.<sup>160</sup> Amendments to the CYFA 2005 from 1 March 2016 'saw requirements for cultural planning expanded to include all Aboriginal children in out-of-home care.'<sup>161</sup> The *Child Protection Manual* provides that '[w]ithin sixteen weeks of the child entering out-of-home care, the cultural plan [must be] given to the Senior Advisor – Aboriginal

<sup>154</sup> Source: DHHS data extraction from CRIS database, population and case details in out of home care as at 31 December 2018. Data provided to the Commission on 31 July 2019.

<sup>155</sup> The CYFA 2005 restricts the Children's Court from making permanency orders that direct efforts towards reunification where a child has been away from their parents for a period exceeding 24 months.

<sup>156</sup> Appendix: Table 37.

<sup>157</sup> The Commission notes that, while rare in practice, these children and young people's case plan may be the subject of internal review.

<sup>158</sup> Baidawi S et al. 2017, op. cit.

<sup>159</sup> Department of Families, Housing, Community Services, and Indigenous Affairs 2011, op. cit., p. 12.

<sup>160</sup> CCYP 2016, op. cit., p. 10.

<sup>161</sup> Ibid., p. 39.

Cultural Planning, who will present the plan to their chief executive officer (CEO) for approval'.<sup>162</sup>

### **Children and young people's experiences of cultural support plans**

Many Aboriginal children and young people have a limited awareness of cultural support plans. The Viewpoint survey 2018 found that 44 per cent of Aboriginal children and young people in Victoria surveyed did not know what a cultural plan was, 44 per cent said they had participated in the preparation of one of these plans, and another 13 per cent said they had not been able to participate.<sup>163</sup>

When asked for this inquiry, four Aboriginal children and young people said they had a cultural support plan, while five others either said they did not, or that they did not know what one was.

*I did a cultural plan – with a family tree with who you're connected to and a family tree (Bernadette, foster care, 11, Aboriginal).*

*I don't think we are being connected to my Aboriginal culture (Thomas, foster care, 11, Aboriginal).*

*We are trying to figure out the history and stuff but it is hard to get because we aren't sure about it (Evan, foster care, 15, Aboriginal).*

#### **Q: What does culture mean to you?**

*Connections with your family, and I guess your elders and stuff from your family how it goes from generation to generation and stuff.*

*The case managers would pass down a case plan with extended family information and if you wanted to call you would ask them. I would initiate the contact, and they would have the details. With Indigenous kids, they have an Indigenous case plan. I had one of those. I had one for two years. When I came in, they did not have it. I'm a [performer] and I have been doing community festivals and helping out young kids. I know my people and my culture and I do a lot of things that helps me with that. When they knew I was doing that, they built around that, but it took me to do something. I reckon they should have more personal skills development if you don't know what you want to do. Trying to get them into different courses and ask them what they want to do to build around that (Brandon, post-care – previously residential care, 18, Aboriginal).*

### **Compliance with cultural support planning requirements**

Prior inquiries and reports in Victoria have 'noted significant challenges adhering to statutory obligations around cultural support planning for Aboriginal children and young people'.<sup>164</sup> The Commission's inquiry *Always was, always will be Koori children* found that 'widespread non-compliance with cultural planning [was] exacerbating upheaval and distress for Aboriginal children in the child protection system'<sup>165</sup> and that '25% of the children on Guardianship orders had no cultural support plan'.<sup>166</sup> The Commission's inquiry, '*...safe and wanted...*', found that on average, between March to August 2016, only 18.8 per cent of Aboriginal children and young people in care had a cultural support plan.<sup>167</sup>

<sup>162</sup> DHHS 2019c, 'Cultural plans – advice', *Child Protection Manual*, 11 April 2017 <<http://www.cpmanual.vic.gov.au/advice-and-protocols/advice/aboriginal-children/cultural-plans>>, viewed 22 August 2019.

<sup>163</sup> Viewpoint 2018, op. cit., p. 26.

<sup>164</sup> Baidawi S et al. 2017, op. cit., p. 732.

<sup>165</sup> CCYP 2016, op. cit., p. 3.

<sup>166</sup> *Ibid.*, p. 3.

<sup>167</sup> CCYP 2017, op. cit., p. 190.

## Chapter 4: My culture – Aboriginal children and young people in care

In 2016, the department introduced a new model of Aboriginal cultural planning, with a Statewide Coordinator for Aboriginal Cultural Planning appointed in 2017<sup>168</sup> as well as the appointment of a Senior Advisor – Aboriginal Cultural Planning position to assist care teams to develop and implement cultural plans. The introduction of the new model has also included ‘training on cultural planning for Child Protection practitioners and sector partners’.<sup>169</sup> The department reports that under the new model, ‘[t]here has been an increase in referrals to VACCA Aboriginal Kinship Finding Program and this program has proven to be a consistent resource leading to positive outcomes in finding connections and expanding on genograms for children’.<sup>170</sup>

Since these inquiries and reforms, there has been a significant increase in the number of Aboriginal children and young people in care with cultural

support plans. However, despite the legal requirements, as at 31 December 2018, 61 per cent of Aboriginal children and young people who should have had a cultural support plan did not.<sup>171</sup>

Aboriginal children and young people in West Division were the most likely to have received a cultural support plan.

Child Protection staff members noted several perceived barriers to the timely completion of cultural support plans:

- difficulties accessing detailed information about a child or young person’s family
- delay in the endorsement of cultural support plans by the CEOs of ACCOs
- workers feeling ill-equipped to complete the plans and uncomfortable working with Aboriginal family and community members to prepare them.

**Table 18: Aboriginal children and young people in out-of-home care for more than 19 weeks by cultural support plan provision and order types, as at 31 December 2018 including permanent care (n = 2,159)**

Order types	Cultural support plan on file				Total #	Total %
	#		%			
	Not recorded	Cultural support plan	Not recorded	Cultural support plan		
Care by Secretary order	367	457	45%	55%	824	100%
Family reunification order	297	120	71%	29%	417	100%
Permanent care order	229	68	77%	23%	297	100%
Not stated and other	187	31	86%	14%	218	100%
Long-term care order	64	147	30%	70%	211	100%
Interim accommodation order	172	20	90%	10%	192	100%
<b>Total</b>	<b>1,316</b>	<b>843</b>	<b>61%</b>	<b>39%</b>	<b>2,159</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, population and case details in out-of-home care as at 31 December 2018. Data provided to the Commission on 31 July 2019.

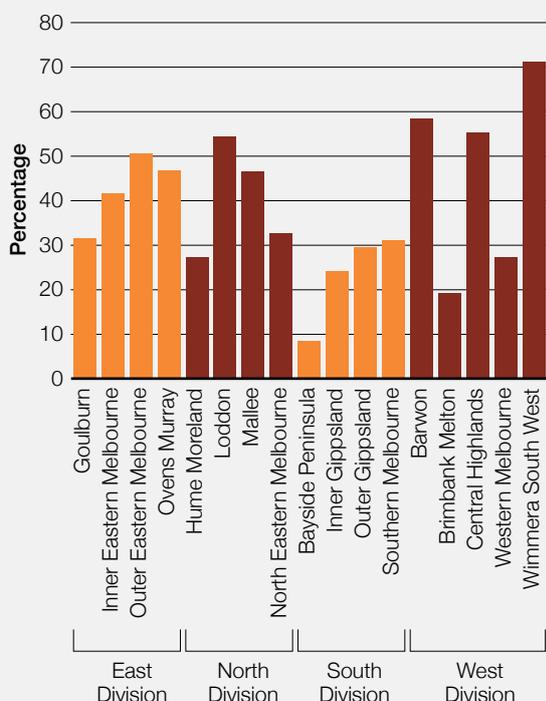
<sup>168</sup> SNAICC 2018, op. cit. p. 21.

<sup>169</sup> Ibid., p. 45.

<sup>170</sup> DHHS 2019j, *Pre-reading paper: Aboriginal cultural planning June 2019*, unpublished internal document, State of Victoria, Melbourne, p. 1.

<sup>171</sup> The Commission is also concerned that the department’s data on compliance with cultural support plans – upon which the ACF and this report relies – may not be entirely reliable. In a review of the CRIS files of 16 Aboriginal children and young people who had a cultural support plan on file, five were incomplete and unsigned by the CEO of an ACCO.

**Figure 10: Percentage of Aboriginal children and young people with a cultural support plan by area and DHHS division, in care for 19 weeks or more as at 31 December 2018**



n = 843

Source: DHHS data extraction from CRIS database as at 31 December 2018. Data provided to the Commission on 31 July 2019.

### Quality and effectiveness of cultural support planning

*Always was, always will be Koori children* found ‘through reviewing a sample of cultural plans ... that the quality of the plans was overwhelmingly poor. Many plans were rudimentary and could be considered tokenistic’.<sup>172</sup> However, it appears that the introduction of the new cultural planning model may be having a positive impact on the quality of these plans; SNAICC observed in its 2018 *Family matters report* that early feedback from ACCOs ‘has been that they have seen an improvement in the quality of the plans, with a much greater focus on the child’s voice’.<sup>173</sup>

<sup>172</sup> CCYP 2016, op. cit., p. 76.

<sup>173</sup> SNAICC 2018, op. cit., p. 22.

Many Child Protection staff members and one ACCO staff member interviewed for this inquiry also noted improvements to cultural support plans due to increased collaboration between ACCOs and Child Protection (due to the appointment of cultural advisors or support workers within Child Protection to assist with cultural planning), Aboriginal children and young people’s participation in their development, and the involvement of ACCOs in their development.

However, some Child Protection and ACCO staff members interviewed by the Commission also expressed ongoing concerns about the quality of case plans. One ACCO staff member informed the Commission:

*We had a cultural support plan that had a genogram which identified the grandparents of the child as ‘white man’ and ‘black lady’, lived on mission. The ones we are using are pitiful in terms of what’s in them, so we’re in the process of creating a new one with a whole lot more information in it.... Imagine this is you! Imagine you come in to [our ACCO] one day and asked about your culture and I give you two pieces of paper which says your totem is a bird. No one cared enough to sit down and do this. This is people’s lives (Senior ACCO staff member).*

Some ACCO staff members also said that when drafted outside ACCOs, cultural support plans tend to have a compliance focus instead of ensuring that culture is ingrained in all aspects of the child or young person’s life. Similarly, several Child Protection staff members commented that the quality of cultural support plans was impacted by some workers’ perception that cultural support plans are unimportant and just a ‘box-ticking exercise’. One Child Protection staff member informed the Commission:

*I think there is a strong vein of discrimination within the organisation and there is a thought that there isn’t any use in it for some staff (Child Protection staff member).*

Other ACCO staff members identified Aboriginal perceptions of Child Protection as a critical barrier to the completion of high-quality cultural support plans and noted ACCOs were better placed to complete them:

*Cultural planning can be so sensitive, especially in a disconnected family and the pain it can bring up – if you're trying to have mainstream welfare bringing up the pain, they are not going to have those conversations (ACCO staff member).*

The Commission notes under *Wungurilwil Gappagduir*, it holds responsibility for progressing work to evaluate and audit cultural support plans to determine the extent to which plans support Aboriginal children and young people to connect with Aboriginal community and culture.

### Aboriginal family-led decision-making

The Aboriginal family-led decision-making (AFLDM) conferences are intended to be the primary case planning process for all Aboriginal children and young people on protection orders.<sup>174</sup> AFLDM conferences involve Aboriginal Elders, the child, extended family and relevant community members in making decisions about how to respond to protective concerns, develop cultural support plans and keep the child safe in the future.<sup>175</sup> Department policy states that an AFLDM conference must be held where 'protective concerns have been substantiated' or where an Aboriginal child or young person is subject to a protection order.<sup>176</sup>

### Adherence to AFLDM processes

Taskforce 1000 survey data revealed that the 'AFLDM process is poorly observed and utilised, and has limited DHHS and funded agency oversight.'<sup>177</sup>

Less than half of the children it reviewed had benefited from an AFLDM.

Adherence to AFLDM processes continues to be problematic. As at 31 December 2018, 47 per cent of Aboriginal children and young people who had been in out-of-home care for more than 12 months had not had an AFLDM. The Commission is concerned that this significant shortfall is impacting on the quality of case planning and cultural planning for Aboriginal children and young people in care, including the identification of appropriate Aboriginal kinship carers.

AFLDMs are also intended to involve children and young people in their decision-making processes. Where AFLDMs do not occur, this amounts to a clear breach of the right of Aboriginal children and young people in care to participate in decisions affecting them.

### Compliance across divisions

Aboriginal children and young people in care were least likely to have been subject to an AFLDM in Southern Division and most likely to have been the subject of an AFLDM in West Division.

### Reform of AFLDM processes

Due to the concerns raised by the *Always was, always will be Koori children* (outlined above), in January 2017, the department commenced a review of AFLDM processes. The review included consideration of the program model and guidelines, existing policy, data and reporting requirements, training needs and identifying barriers to meetings occurring in a timely manner.<sup>178</sup> In June 2019, the department advised the Commission that it had finalised the review of the AFLDM process and that the 'program guidelines had been revised (pending endorsement)' which 'strengthens the requirement to hold an AFLDM post substantiation' which will be supported by amendments to CRIS.<sup>179</sup>

<sup>174</sup> DHHS 2019o, *Aboriginal family-led decision-making: initiating an AFLDM meeting – practitioner's responsibilities*, State of Victoria, Melbourne.

<sup>175</sup> Ibid.

<sup>176</sup> Ibid.

<sup>177</sup> DHHS 2018m, *Residential care performance audit program*, unpublished internal document, State of Victoria, Melbourne.

<sup>178</sup> Ibid.

<sup>179</sup> DHHS 2019i, *Overview of the progress of the CCYP recommendations June 2019*, unpublished internal document, State of Victoria, Melbourne.

**Table 19: Aboriginal children in out-of-home care for more than one year by number of AFLDMs and division, as at 31 December 2018 (n = 1,445)**

Division	AFLDM recorded on CRIS				Total #	Total %
	#		%			
	No AFLDM	1 or more AFLDM	No AFLDM	1 or more AFLDM		
East Division	113	166	41%	59%	279	100%
North Division	170	236	42%	58%	406	100%
South Division	250	130	66%	34%	380	100%
West Division	145	235	38%	62%	380	100%
<b>Total</b>	<b>678</b>	<b>767</b>	<b>47%</b>	<b>53%</b>	<b>1,445</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database as at 31 December 2018. Data provided to the Commission on 31 July 2019.

### Measuring adherence to the Aboriginal Child Placement Principle

The CYFA 2005 introduced a hierarchy of placement options for Aboriginal children and young people in care with an express preference for placement with the 'child's Aboriginal extended family or relatives and, where this is not possible, other extended family or relatives.'<sup>180</sup>

Data sourced from the department suggests the department is complying with the Aboriginal Child Placement Principle in about two-thirds of all placements (66 per cent).<sup>181</sup> Relevantly, the department informed the Commission:

*The ACPP field in the data that was provided to the CCYP [the Commission] is a proxy for measuring the Aboriginal Child Placement Principle. It is reported as affirmative if any of the following conditions apply to the child's placement:*

- the child's carer is an Aboriginal person
- the carer is a relative or
- the child's placement is at a residential care house that is operated by an ACCO.<sup>182</sup>

However, in 2016, the Commission's *In the child's best interests* inquiry noted that the proxy measure:

- does not consider the other essential requirements (other than placement) necessary to comply with the ACPP, such as involvement of an Aboriginal agency
- does not differentiate among the levels of the legislated ACPP placement hierarchy. For example, placements with the following are all grouped together as 'placed in accordance with the ACPP' (Aboriginal extended family, non-Aboriginal extended family, another Aboriginal carer and Aboriginal-operated residential care facilities)
- does not indicate whether placement at higher levels of the ACPP placement hierarchy was considered.

*The inadequacies in this reporting could be seen to legitimise placements with a non-Aboriginal carer or in an Aboriginal operated residential care facility as compliant with the intent of the ACPP.*<sup>183</sup>

The Commission is concerned that, despite the findings and recommendations of *In the child's best interests*, the department has not developed or implemented a mechanism to accurately measure 'regular reporting or external review of the system's compliance with the intent of the ACPP'.<sup>184</sup>

<sup>180</sup> S. 13(2) of the CYFA 2005.

<sup>181</sup> Appendix: Table 38.

<sup>182</sup> Email from the Commission to the department dated 27 June 2019.

<sup>183</sup> CCYP 2015b, op. cit., p. 86.

<sup>184</sup> Ibid., p. 90.

## Contracted case management

Contracted case management occurs when Child Protection and an agency enter into a formal arrangement for the provision of case management for a child subject to a protection order.<sup>185</sup> *Always was, always will be Koori children* found that ‘where a child’s case was managed by an ACCO, they were more likely to have contact with Aboriginal extended family members, be provided with opportunities to participate in cultural activities and more likely to be engaged socially with an Aboriginal person’.<sup>186</sup> This was confirmed in conversations with ACCOs convened for this inquiry – who also said ACCOs were more likely to successfully work towards reunification (n = 2) than Child Protection. Several ACCO staff members (n = 3) stressed that contracted case management should be viewed as a step towards all Aboriginal children and young people being eventually transferred to the Aboriginal Children in Aboriginal Care program (outlined below) given its benefits to Aboriginal children and young people in care.

As at 31 December 2018, 41 per cent of all Aboriginal children and young people were case managed by ACCOs. This is a significant improvement on the rate reported by *Always was, always will be Koori children*. At that time, 14 per cent of Aboriginal children and young people in care were case managed by an Aboriginal agency.<sup>187</sup>

The ACF has set a key performance indicator of ‘100% of all new placements of Aboriginal children and young people in care with an ACCO by 2021’ but reported in February 2019 that:

*Funding has been provided for 50% of Aboriginal children in care on contractible orders to be case managed by ACCOs; however, it is not possible for 100% of new placements to be with ACCOs without a policy position being developed and further funding.*<sup>188</sup>

<sup>185</sup> DHHS 2015b, ‘Case contracting – advice’, *Child Protection Manual*, 1 December 2015, <<http://www.cpmanual.vic.gov.au/advice-and-protocols/advice/protection-order/case-contracting>>, accessed 4 April 2019.

<sup>186</sup> CCYP 2016, op. cit., p. 56.

<sup>187</sup> Ibid., p. 10.

<sup>188</sup> Rapid Impact 2019, *Aboriginal Children’s Forum report*, February 2019, unpublished internal document, State of Victoria, Melbourne, p. 11.

**Table 20: Aboriginal children and young people by contracted agency type as at 31 December 2018 (n=1,461)<sup>189</sup>**

Case management agency type	#	%
CP Managed	620	42%
ACCO	595	41%
ACAC	22	2%
ACCO	573	39%
CSO	246	17%
<b>Total</b>	<b>1,461</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database as at 31 December 2018. Data provided to the Commission on 31 July 2019.

## The implications of rising numbers of Aboriginal children and young people in out-of-home care

While the Commission notes progress towards the improvement of cultural planning for Aboriginal children and young people in care, the Commission is concerned about the increasing and disproportionate number of Aboriginal children and young people entering care. This increase will put mounting pressure on the system’s capacity to uphold these children and young people’s right to culture. The Commission notes the critical role of the ACF in ensuring that sufficient culturally safe resources and services are targeted at early intervention to prevent the removal of Aboriginal children and young people from their families.

<sup>189</sup> Including the order types: long term care, care by Secretary and Family reunification

### **Finding 3: Compliance with processes and principles to support connection to culture**

Despite significant effort and investment in recent years, poor compliance with legislated processes and principles to support Aboriginal children and young people in care – such as cultural support planning, Aboriginal family-led decision making and the Aboriginal Child Placement Principle – continues to undermine their right to culture. The Commission also notes that there is considerable variation between departmental divisions and areas regarding compliance with these requirements.

### **Finding 4: Funded agency case management by ACCOs**

Victorian Government policy commits to the transfer of responsibility, funding and services for Aboriginal children to Aboriginal organisations. ACCOs and the Commission's prior inquiries have found that where a child's case was managed by an ACCO, they are more likely to have contact with Aboriginal extended family members, be provided with opportunities to participate in cultural activities and be engaged socially with an Aboriginal person. However, while there has been significant effort, investment and improvement, less than half of eligible Aboriginal children and young people in care benefit from contracted case management by an ACCO.

## **The promise of self-determination**

Despite significant government effort to strengthen the right to culture of Aboriginal children and young people in care, as outlined in this chapter, there continues to be:

- high numbers of Aboriginal children and young people who, when asked, express feelings of disconnection from their culture
- a high number of Aboriginal children and young people in the care of non-Aboriginal carers
- a significant shortfall in compliance with mandatory cultural planning obligations or processes to involve Aboriginal people in decision making about the Aboriginal children and young people in care.

This section considers new approaches which seek to give life to the right of Aboriginal people to self-determination and to empower Aboriginal people and communities to plan for and meet the distinct needs of Aboriginal children and young people in care. While it is still early in their implementation, these approaches offer a means of improving these children and young people's connection to culture by restoring decision-making power to Aboriginal communities and organisations in Victoria. Through shifting power back to Aboriginal people, these new approaches offer one means of addressing the negative impacts of prior harmful government interventions which have historically denied Aboriginal communities agency over their own affairs.

### **What is self-determination?**

The right of self-determination of Indigenous peoples is an emerging concept under international human rights law. In 2007, the UN General Assembly's adoption of *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) represented a significant step forward for Indigenous peoples' long sought for international recognition of their right to self-determination.<sup>190</sup>

Article 3 of UNDRIP maintains that:

*Indigenous peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.*

<sup>190</sup> Davis M 2008, Indigenous struggles in standard-setting: the United Nations Declaration on the Rights of Indigenous Peoples', *Melbourne Journal of International Law*, vol. 9, p. 439.

UNDRIP conceives this right chiefly as one of internal self-determination – that is, a power-sharing relationship or nation-building exercise between Indigenous peoples and the state within the bounds of the state's authority.<sup>191</sup> Article 4 provides that in the exercise of the right of self-determination Indigenous peoples have the 'right to autonomy or self-government in matters relating to their internal affairs'; however, article 46 prohibits Indigenous people from engaging in any activity which might undermine the 'territorial integrity' or 'political unity' of States. The final form of UNDRIP represents a significant compromise on many Indigenous leaders' calls for UNDRIP to include an unqualified right to full self-determination<sup>192</sup> including their right to 'determine their form and extent of self-government, including the right to choose independence'.<sup>193</sup>

### **Self-determination as sovereignty – some Australian Aboriginal perspectives**

Reflecting the diversity of Aboriginal people in Australia, there is no one Aboriginal understanding or view of self-determination.<sup>194</sup> However, many Aboriginal people in Australia have consistently articulated the existence of this right irrespective

of its recognition under international law.<sup>195</sup> Aboriginal people often use the terms 'self-determination' or 'sovereignty' interchangeably when framing a right to 'socio-economic improvement and increased autonomy'.<sup>196</sup> Professor Larissa Behrendt, linking these two terms, proposes an expansive definition of self-determination as sovereignty which calls for:

*[e]verything from the right not to be discriminated against, to the rights to enjoy language, culture and heritage, our rights to land, seas, waters and natural resources, the right to be educated and to work, the right to be economically self sufficient, the right to be involved in decision-making processes that impact upon our lives and the right to govern and manage our own affairs and our own communities.*<sup>197</sup>

For many Aboriginal people, Australian Government policy, historically founded on the denial of self-determination, has been an overwhelmingly destructive force in their lives. Mr Mick Dodson AM, former Human Rights and Equal Opportunity Commissioner, maintains that 'self-determination [as] a right ... has operated since time immemorial amongst our peoples, but it is a right which is at the centre of the abuses we have suffered in the face of invasion and colonisation'.<sup>198</sup> Accordingly, as observed by Professor Irene Watson, without recognition of this right, 'Indigenous peoples will continue to be vulnerable to the genocidal policies of the various states in which they live'.<sup>199</sup> So for some Aboriginal people, the right to practise self-determination is linked to surviving the harmful impacts of colonisation.

**191** In general see: Koivurova T 2008, 'From high hopes to disillusionment: Indigenous peoples' struggle to (re)gain their right to self-determination', *International Journal on Minority and Group Rights*, vol. 15, no. 1, pp. 10–11.

**192** Iorns C 1992, 'Indigenous peoples and self determination: challenging state sovereignty,' *Western Reserve Journal of International Law*, vol. 24, p. 199.

**193** *Ibid.*, p. 203. Several settler states, including Australia, Canada, New Zealand and the US, vehemently opposed the inclusion of the principle of the self-determination of Indigenous peoples in any form in UNDRIP on the basis that it would give rise to a right to secession on the part of Indigenous minorities and therefore represented an existential threat to the territorial sovereignty of the State (Davis M 2008, *op. cit.*, p. 458). Such opposition was key to Australia's decision to vote against the adoption of UNDRIP within the General Assembly (Commonwealth of Australia, *Parliamentary debates*, Senate 10 September 2007, 54–55, Senator Marise Payne). However, it is noted that Australia belatedly endorsed the Declaration in 2009 after a change in Government (ABC News 2009, 'Australia to support UN Indigenous rights declaration', 1 April 2009, <<http://www.abc.net.au/news/2009-03-26/australia-to-support-un-indigenous-rights/1632784>> accessed 16 October 2011).

**194** Behrendt L and Vivian A 2009, *Occasional paper: Indigenous self-determination and the Charter of Human Rights and Responsibilities – a framework for discussion*, Victorian Equal Opportunity and Human Rights Commission, Melbourne, p. 22.

**195** It is noted however that Australian Aboriginal people have had a direct impact on the understanding of self-determination under international law through their extensive involvement in the drafting of UNDRIP (Davis M 2009, 'Federal Government to adopt UN DRIP', 26 March 2009, <<http://www.antar.org.au/blog/federal-government-to-endorse-un-drip/>>).

**196** Behrendt L 2003, *Achieving social justice*, 1st ed., Federation Press, Sydney, p. 105.

**197** Behrendt L 2005, 'The relevance of the rights agenda in the age of practical reconciliation', in Hunter R and Keyes M (eds) 2005, *Changing law: rights, regulation and reconciliation*, 1st ed., Ashgate, UK, p. 138.

**198** Dodson M 1995, *Indigenous social justice: strategies and recommendations*, ATSI submission to the Parliament of the Commonwealth of Australia on the Social Justice Package, p. 54.

**199** Watson I 2005, 'Settled and unsettled spaces: are we free to roam?', *Australian Critical Race and Whiteness Studies Association Journal*, vol. 1, p. 24.

## Recognition of the right to self-determination in Victoria

The Victorian Government is 'committed to self-determination as the guiding principle in Aboriginal Affairs and is working closely with the Aboriginal community to tackle some of the most important issues for Aboriginal Victorians'.<sup>200</sup> Self-determination is the stated overarching principle of *Wungurilwil Gaggapduir* which recognises that 'Self-determination works to create the conditions for Aboriginal families to be safe, strong and together'.<sup>201</sup>

This strategy – the first of its kind in Australia – seeks to promote the principle of self-determination through:

- creating a partnership between the Victorian Aboriginal community and ACCOs to oversee its proposed reforms
- embracing strategies and programs which hand back power to Aboriginal communities to improve outcomes for Aboriginal children, young people and their families (such as Aboriginal Children in Aboriginal Care which is outlined below).

Additionally, the *Victorian Aboriginal Affairs Framework 2018–2023* (the VAAF) recognises self-determination as an enabler of improved outcomes for Aboriginal people in Victoria.<sup>202</sup> In this spirit, the VAAF adopts the goal 'Aboriginal children are raised by Aboriginal families'<sup>203</sup> and the objective to 'increase Aboriginal care, guardianship and management of Aboriginal children and young people in care'.<sup>204</sup>

The right to self-determination of Indigenous peoples was introduced into the CYFA 2005 through s. 18, which empowers ACCOs to have responsibility for the care and protection of Aboriginal children subject to protection orders. This section means once the Children's Court has made a protection order (with the exception of a permanent care order), an approved ACCO 'may be authorised to take on responsibility for the child's case management and case plan'.<sup>205</sup> Section 18 is intended to provide ACCOs with the

opportunity to 'actively work with the child's family, community and other professionals to develop and implement the child's case plan and achieve their permanency objective in a way that is culturally safe and in the best interests of the child'.<sup>206</sup>

Initially, there were significant delays in the implementation of s. 18. *Always was, always will be Koori children* noted that impediments to the roll out of s. 18 included:

*a lack of clarity around definitions of the term 'principal officer', limitations in the ability to share information between DHHS and the Aboriginal agency, inability to delegate functions to other suitable employees within the Aboriginal agency and no provision for internal review or external review through the Victorian Civil and Administrative Tribunal relating to any decisions made under section 18. Associated with these impediments were funding and resource issues in progressing work plans.*<sup>207</sup>

In November 2015, the Victorian Government passed legislation to amend s. 18 of the CYFA 2005 to address these issues.<sup>208</sup>

### Aboriginal Children in Aboriginal Care

The Aboriginal Children in Aboriginal Care (ACAC) program was established to bring about the gradual transfer of Aboriginal children involved with Child Protection to the care and case management of ACCOs pursuant to s. 18 of the CYFA 2005.<sup>209</sup>

ACAC aims to:

- improve the support and decision making for Aboriginal children who have been placed on Children's Court protection orders
- maintain Aboriginal children's cultural identity and promote connection to family, community and culture
- support Aboriginal children to return home to their parents or extended families where it is safe to do so, or support the identification of culturally safe alternative care

<sup>200</sup> Victorian Government nd, 'Self-determination', <<https://www.vic.gov.au/aboriginalvictoria/policy/self-determination.html>>, accessed 22 August 2019.

<sup>201</sup> Victorian Government 2018b, op. cit., p. 15.

<sup>202</sup> Ibid., p. 13.

<sup>203</sup> Ibid., p. 34.

<sup>204</sup> Ibid.

<sup>205</sup> DHHS 2018a, *Aboriginal Children in Aboriginal Care information sheet*, State of Victoria, Melbourne.

<sup>206</sup> Ibid.

<sup>207</sup> CCYP 2016, op. cit., p. 36.

<sup>208</sup> Ibid.

<sup>209</sup> Section 18 of the CYFA permits the Secretary to authorise ACCOs to undertake specified functions and powers for Aboriginal children and young people subject to a Children's Court protection order.

- maintain connection to country for Aboriginal children.<sup>210</sup>

ACAC 'recognises the needs of Aboriginal children are best met by Aboriginal community services that are culturally attuned' and that 'ACCOs are also best placed to reconnect Aboriginal children and families to culture where there has been a disconnection'.<sup>211</sup>

The Victorian Aboriginal Child Care Agency (VACCA) first piloted ACAC in 2013. Under the pilot, VACCA case managed 'a small group of Aboriginal children and young people in out-of-home care on protection orders 'as if' they were subject to an authorisation under s. 18.<sup>212</sup> An evaluation of the pilot reported positive outcomes for the children and young people involved.<sup>213</sup>

Bendigo and District Aboriginal Cooperative (BDAC) conducted its own ACAC pilot beginning in July 2016 involving a small number of Aboriginal children on protection orders living both at home and in care. The pilot resulted in a number of family reunifications and return to country for Aboriginal children in care.<sup>214</sup>

Following these pilots, the gradual transfer of eligible Aboriginal children in care to s. 18 began in November 2017 when the first full authorisations were made to VACCA<sup>215</sup> and then to BDAC in November 2018.<sup>216</sup>

As at May 2019, 68 Aboriginal children were subject to authorisation with VACCA and BDAC. The 2018–2019 State Budget provided \$13.7 million to continue, and expand, ACAC. This funding is intended to enable the continuation and growth of ACAC at VACCA and BDAC and its expansion to two additional ACCOs, enabling 216 Aboriginal children to benefit from the program by 2020.<sup>217</sup>

When consulted by the Commission, staff members from Nugel (VACCA's ACAC program) and Mutjang bupuwingarrak mukman (BDAC's ACAC program) informed the Commission that ACAC opened up new ways of working with Aboriginal children and young people in care and their families.

Staff members from both Nugel and Mutjang bupuwingarrak mukman informed the Commission that, empowered by holding responsibility over the case plan:

- They have worked successfully with children and young people and their families towards a case plan objective of reunification, sometimes in circumstances where this would not have been contemplated in the mainstream out-of-home care system.
- They have far more scope to ensure the child or young person in care maintains or builds enduring and meaningful connections with Aboriginal family members. This includes: provision for regular contact in the case plan with parents irrespective of whether the case plan anticipates reunification; or bringing family and community together to identify appropriate Aboriginal kinship carers. In a case study provided to the Commission, BDAC also noted that it had 'found that an ACCO may have more success in finding family for kinship care due to the barrier of historical child removals and trauma caused by colonisation'.<sup>218</sup>
- Children and young people are less likely to experience case drift and the programs are responsive to opportunities to connect with Aboriginal family and culture (Nugel gave the example of where a father came back into contact with VACCA, the program could quickly assist the child to reconnect with him). VACCA and BDAC attributed these practices to their organisations bringing a different set of cultural values to their work than the mainstream system.
- They can work in a joined up and coordinated way with other family support, health and cultural services within the ACCO to support a child or young person in care, as well as their family.

<sup>210</sup> DHHS 2018a, op. cit.

<sup>211</sup> DHHS 2018b, *Aboriginal Children in Aboriginal Care, frequently asked questions for Aboriginal community controlled organisations*, State of Victoria, Melbourne.

<sup>212</sup> DHHS 2018a, op. cit.

<sup>213</sup> Ibid.

<sup>214</sup> Ibid.

<sup>215</sup> DHHS 2018b, op. cit.

<sup>216</sup> D'Agostino E 2018, 'BDAC takes on a leading role in Child Protection system,' *Bendigo Advertiser*, <<https://www.bendigoadvertiser.com.au/story/5755727/bdac-takes-on-a-leading-role-in-child-protection-system>>.

<sup>217</sup> DHHS 2019m, *Wungurilwil Gagapduir year one analysis*, unpublished internal document, State of Victoria, Melbourne, p. 2.

<sup>218</sup> Case study provided to the Commission by BDAC by email on 7 September 2019.

- Aboriginal families are more likely to work with them because they offer a culturally safe service and are not the department, which is commonly associated with intergenerational trauma and negative interventions in Aboriginal families.

In a case study provided to the Commission, BDAC noted Mutjang bupuwingarrak mukman’s culturally safe way of working includes:

*BDAC ensures family meetings are held at BDAC and the family is always acknowledged in a cultural manner. The family is also acknowledged at the beginning of every meeting in a cultural manner. A strong focus is placed on the relationship with the children, [parents] and family with respect, care and understanding for their journey. “truth telling” in a strength base manner [enabling] a culturally safe approach [including supporting parents] and family to work closely with BDAC to address the concerns and move towards healing together.<sup>219</sup>*

Nugel staff members also informed the Commission about ongoing challenges to the effectiveness of the program including:

- Child Protection exercising ongoing responsibility for unborn reports and subsequent investigations and action upon birth, in a manner which is sometimes not aligned with Nugel’s work with the family.
- Nugel experiencing systemic barriers encountered throughout the out-of-home care system include a lack of appropriate placements for Aboriginal children and young people, including in Aboriginal families.

### **Self-determination in face of increasing numbers of Aboriginal children and young people in care**

The government’s agenda of self-determination in out-of-home care – and the gradual transfer of responsibility for the care and management of Aboriginal children and young people in care to ACCOs and Aboriginal carers – is a positive step towards upholding these children and young people’s right to culture. However, true self-determination can never be a reality for Aboriginal people in Victoria until

Aboriginal children and young people are no longer over-represented in care. Redoubled efforts are necessary to reverse the alarming rise in numbers of Aboriginal children and young people being removed from their families and culture.

One ACCO staff member commented that:

*I see it as one little drop in a massive river and you’ve got to start somewhere. The difference we’re making is a little drop in the river and the ripples we are making, we are a bit of the tail end, once we can really start focusing on early intervention that’s where we will make a difference. There needs to be that focus on the early years and stopping things escalating by strengthening families (ACCO staff member).*

### **Finding 5: The over-representation of Aboriginal children and young people in care and self-determination**

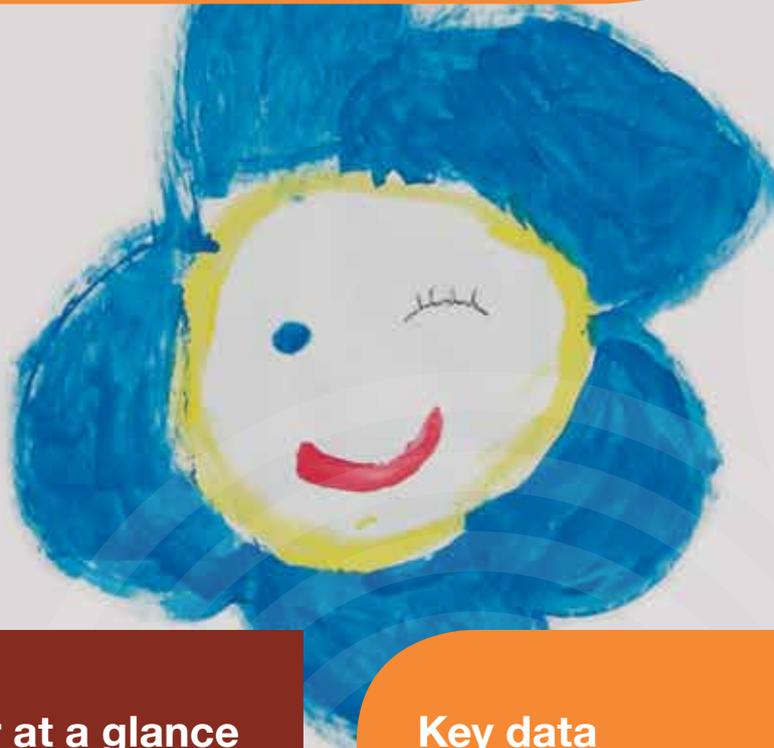
Aboriginal children and young people continue to be significantly over-represented in Victoria’s out-of-home care system and this situation is getting worse. The number of Aboriginal children and young people in care has tripled between 2008–2009 and 2017–2018.

Initiatives such as Aboriginal Children in Aboriginal Care – based on the principle of self-determination – offer a potential means of reducing government intervention into the lives of Aboriginal children and young people who are in care. However, self-determination can never be a reality for Aboriginal people in Victoria until Aboriginal children and young people are no longer over-represented in care.

<sup>219</sup> Ibid.

# Chapter 5

## My voice



### Chapter at a glance

- Although children's right to participation is enshrined in the CYFA and Child Protection policy, children and young people told us they often have no voice and no say, especially over decisions with a significant impact over their lives.
- Factors affecting this include lack of face-to-face contact with case workers, high worker caseloads, high turnover in workers, the presence of carers when speaking to their workers and incidental contact with workers other than the allocated worker.

### Key data

- Almost a third of all children and young people in out-of-home care whose cases were managed by Child Protection did not have an allocated worker.
- 92 per cent of the Child Protection managed cases and 79 per cent of cases managed by funded agencies reviewed by the Commission did not meet the minimum 14 day direct contact requirement over a six month period.
- One child had 44 different primary assigned Child Protection workers allocated to their case over a 12 month period.
- Almost one-fifth of cases reviewed by the Commission did not have a case plan. Of those that did, 79 per cent did not contain evidence of the young person being involved in the preparation of the case plan.

*Kids just get left in the dark a lot, like they just need to be kept informed what's going on with their life and that, it basically feels like you're a puppet and they're just pulling the strings. If they just communicated more it would make everything a little bit easier (Kylie, residential care, 16).*

## Introduction

All children and young people have the right to participate in decisions affecting their lives.<sup>220</sup>

This right is particularly important for children and young people in out-of-home care whose living circumstances are frequently determined by case workers from Child Protection, funded agencies, and residential care unit staff or foster and kinship carers. Participation is not only a human right, it can also play an important part in children and young people's healing from the circumstances that led them to be in care.<sup>221</sup>

Fulfilling children and young people's right to participation requires more than just a one-off consultation.<sup>222</sup> Participation means being listened to, being taken seriously and treated with respect.<sup>223</sup> Effective participation requires that children and young people receive information about the content of the decision making, that they be provided with an opportunity to express their own wishes and views, that they have their opinions considered and that they have an impact on the decision being made.<sup>224</sup>

<sup>220</sup> CRC, Article 12.

<sup>221</sup> McDowall J 2016, 'Are we listening?: the need to facilitate participation in decision-making by children and young people in out-of-home care', *Developing Practice: The Child, Youth and Family Work Journal*, no. 44, p. 77.

<sup>222</sup> Hart RA 1992, *Children's participation: from tokenism to citizenship*, International Child Development Centre, Florence.

<sup>223</sup> Cashmore J 2002, 'Promoting the participation of children and young people in care', *Child Abuse & Neglect*, vol. 26, no. 8, p. 838.

<sup>224</sup> Vis SA and Thomas N 2009, 'Beyond talking: children's participation in Norwegian care and protection cases: Ikke Bare Snakk-Barns Deltakelse I Norske Barnevernssaker', *European Journal of Social Work*, vol. 12, no. 2, p. 156.

This chapter examines:

- what children and young people in care told us about their common experience of not being given a voice in formal and informal decision-making processes and how they wanted to experience participation
- current Child Protection practice to support children and young people to inform decision making about them
- what helps and hinders children and young people's participation in out-of-home care.

During our consultations, children and young people told us that they desperately wanted to be heard. They stated that participation in planning and decision making was crucial to having a sense of control over the direction of their lives. When children and young people were involved in decision-making processes, they felt valued; participation was central to their self-worth. Children and young people were clear that they rarely had a say, or even any warning, about the decisions with the greatest impact on their lives, such as where they live.

Child Protection policy notes that participation with children and young people in care should occur organically, during regular face-to-face visits with their case worker.<sup>225</sup> We heard varied responses about young people's experiences of contact with workers throughout our consultations. We heard children and young people's participation benefits from regular direct face-to-face contact with their allocated case worker which is activity based, planned in advance and takes place away from carers. However, through the Commission's review of Child Protection and funded agency case files, the Commission found that

<sup>225</sup> DHHS 2018h, *Child Protection Manual: Child Protection best interests case practice*, <<https://www.cpmanual.vic.gov.au/>>, accessed 29 July 2019.

most engagement with children and young people occurred incidentally, for example, while driving the young person to and from their placement or family contact visit. Much of this engagement occurred with a worker other than the child's allocated worker.

Children and young people we spoke to often told us that their involvement in formal decision-making processes – such as case plans and care team meetings – either did not occur or felt like a waste of their time. The Commission's review of a selection of Child Protection files confirmed that children and young people's involvement in these processes often appeared tokenistic and, in practice, children and young people rarely informed or influenced decisions made about them. The Commission found that children and young people's participation through formal avenues was limited because meetings were often conducted at inappropriate times and places (such as during school hours at the Child Protection office), children and young people were rarely provided with information about the meeting in advance, and they were often outnumbered by a large number of professionals.

All children and young people should be able to make complaints about decisions they do not agree with. This is particularly important if they have not been involved, directly or indirectly, in the decision-making process. Through our consultations with children and young people, we heard that complaints processes should be accessible, respectful, trustworthy and understanding of their needs. However, children and young people informed the Commission that they did not, or would not, use existing complaints mechanisms to make complaints about their experiences in care. This chapter examines existing avenues for children and young people to raise concerns in out-of-home care and considers what may be preventing these avenues from being used.

## How children and young people currently experience participation in out-of-home care

### Decisions children and young people said they can influence

Young people told the Commission about instances where they had been able to influence decisions about them. These included where they went to school and who they wanted to have contact with.

*Usually you just change schools and they don't give a fuck. But this year I was my own advocate and I wasn't going to be moving, so I travelled from the carer's house to the school [located in another suburb] (Wendy, kinship care, 15).*

*I chose to move schools in grade three. I went to my case worker at the time that said maybe it would be a good time to move now and then I asked my carer – I moved primary schools (Connor, foster care, 12, Aboriginal).*

*I still see my mother, every two months, maximum three months. I see my sister every three months. I don't consider mum like family, more like friends. I still see my brother, usually every few months. I feel like I have been listened to about contact and in general (Mariah, residential care, 15).*

More often, however, the Commission heard that children and young people felt they were only able to influence less critical decisions, like what food residential care unit staff or carers prepared for them.

*I ask to cook but we don't go shopping with them so ... I get to write what I want on the shopping list (Diana, residential care, 14).*

*We get asked if we should have grass in the back or what we should have for dinner (Wyatt, foster care, 10, Aboriginal).*

*Sometimes they ask me what sport I want to do. I can choose what I'm going to have for dinner (Penny, kinship care, 12, Aboriginal).*

*I get to choose food, I do what I want (Adelaide, residential care, 16).*

### **How children and young people want to experience participation**

Many of the children and young people we spoke to said they wanted to be provided with more information about themselves and kept informed about their birth family and decisions affecting them.

*[I] would like to be involved in my life decisions. Like, I know it is hectic sometimes, but fuck at least try (Derek, residential care, 15).*

*Actually talk to [young people] about why things are happening (Rhys, foster care, 17).*

*Information that concerns me to be given to me (Simon, foster care, 14).*

*Inform the kid that something will be happening, what is happening and why. It was like they don't even care to discuss it. They communicated nothing to me (Quinn, kinship care, 14).*

*Let us have our say. About everything. Instead of having other people, like your parents or grandparents or workers, say what they think is right. You should get to say what you think is right for you (Samantha, kinship care, 11).*

*Please listen to each and every child individually, I'm very different so it should be like that (Stewart, kinship care, 14).*

*Care team meetings and case plans are crucial for involvement for the kids. Just because a young person says something doesn't mean it should automatically happen either. But it is about playing a role, like as a young person... Case workers should sit with the kids actually before any meetings, go through all things that will be discussed in the meeting that way the kid wouldn't have to go and the case worker is like a representative (Lucas, foster care, 13).*

### **Opportunities for children and young people in care to participate**

The right to participate is enshrined in the legislation governing Child Protection. Child Protection workers are required to include and give due consideration to a child's wishes and ensure that children and young people have adequate opportunity to participate fully in the decision-making process.<sup>226</sup>

<sup>226</sup> CYFA 2005 ss. 10(3)(d) and 11(f).

The importance of children and young people's ability to participate in decisions affecting them has been highlighted in previous inquiries. In the Commission's prior inquiries '*...as a good parent would...*' and '*Neither seen nor heard*', the Commission noted a common theme about the lack of involvement of children.<sup>227</sup>

Research points to the need for children and young people to have both direct and indirect opportunities to express their views on decisions about their experience in care.<sup>228</sup> In 2018, CREATE Foundation (CREATE) prepared a report based on the views of 1,069 children and young people aged from eight to 25 years in out-of-home care. This study found that chief among their concerns (n = 65) was the lack of supportive, responsive caseworkers and the second most important feature (n = 53) was the opportunity to have a say about decisions affecting their lives and to feel that they have been listened to by decision-makers.<sup>229</sup> In 2013, CREATE found that only 63 per cent of respondents said that they were heard about issues which concerned them 'reasonably often'.<sup>230</sup> In 2018, this figure had improved only slightly, with 67.5 per cent of children and young people reporting that they were able to have a say 'reasonably often'.<sup>231</sup>

The Child Protection Manual states that children and young people should be 'encouraged to participate directly in case planning and assisted to understand the importance of their role in the process'.<sup>232</sup> If children and young people choose not to be included in the case planning meeting, the Child Protection Manual maintains that the case worker should explore ways for the child's voice to be heard.<sup>233</sup> Case workers should engage children and young people in discussions about the development, progress and review of the case plan, including discussions about day-to-day care issues and more serious issues, such as the permanency objective.<sup>234</sup> Children and young people in care's views should also be obtained and represented by the care team in planning decisions.<sup>235</sup> Children and young people can either participate directly at these meetings or rely on their workers or carers to represent their views. To do this effectively, children and young people require a worker or carer they trust. The ability for children and young people in care to develop trusting relationships with their carers and workers is discussed in more detail in Chapters 10 and 11.

### What children and young people said about relying on their worker to participate

Some children and young people told the Commission they felt that their voices were heard. This was usually attributed to having a carer or worker they trusted to advocate on their behalf.

*My foster parents have helped me decide on what to do. They asked me what I wanted to do. My foster care worker also helps me (Brian, foster care, 15).*

<sup>227</sup> Commission for Children and Young People 2015a, '*...as a good parent would...*: Inquiry into the adequacy of the provision of residential care services to Victorian children and young people who have been subject to sexual abuse or sexual exploitation whilst residing in residential care', CCYP, Melbourne, p. 218.

<sup>228</sup> Winkworth G and McArthur M 2006, 'Being "child centred" in Child Protection: what does it mean?' *Children Australia*, vol. 31, no. 4, p. 17.

<sup>229</sup> McDowall J 2018, *Out-of-home care in Australia: children and young people's views after 5 years of National Standards*, CREATE Foundation, Sydney, p. 24.

<sup>230</sup> McDowall J 2013, *Experiencing out-of-home care in Australia: the views of children and young people*, CREATE Foundation, Sydney, p. 94.

<sup>231</sup> McDowall J 2018, op. cit., p. 57.

<sup>232</sup> DHHS 2018g, 'Case planning – advice', *Child Protection Manual* <<http://www.cpmanual.vic.gov.au/advice-and-protocols/advice/case-planning/case-planning>>, accessed 25 February 2019.

<sup>233</sup> Ibid.

<sup>234</sup> Ibid.

<sup>235</sup> DHHS 2014, *Requirements for home-based care in Victoria: interim revised edition*, State of Victoria, Melbourne, [2.1.6].

*Sometimes I go [to care team meetings]. My foster carer will ask if there's anything I want (Felicity, foster care, 15).*

*I was involved when [care team meetings] were [at the residential care unit]. I would talk to the worker about what I wanted (Marlon, kinship care, 15).*

*With [carer] I get a say in a lot of things – [carer] gives me a chance to choose and pick to make choices (Carson, foster care, 12).*

*When you get to the age of nine or 10 and you want to have a say... but they're only listening to the carer. I was lucky because [carer] was listening to me. [Carer] would tell the worker. You don't get a lot of say until they think you're old enough. There are times when I was not quite 13 and I wanted to have a say and they just would not listen (Agnes, foster care, 17).*

*[Current DHHS worker] was the one, I was telling her I wanted to get off drugs and that. She didn't judge me and say you shouldn't be doing drugs. She said I can help you with that. She helped me with my anger management as well... My [carer], she's been so good she knows that I have anger issues. She sits me down and talks to me never raises her voice. I think I have been heard overall but mostly because of these two people (Quinn, residential care, 14).*

*The lawyer I spoke to on the phone, asked me what I wanted and then also told me what might happen after it. After court he rang me again. What I wanted and what mum and everyone wanted was what we got. I wanted a six month order and that is what happened. I asked for the overnight access and that and it happened so clearly it was heard (Seth, residential care, 16).*

Some children and young people in care told the Commission that they could not rely on their worker as their worker only spoke to them in front of their carers.

*I moved around foster a lot from 11. I would be in resi and then bounced up to [an outer Melbourne suburb] and then resi and then [another outer Melbourne suburb] – all the places I had been in had never felt safe. I had no phone until I was 13 and then I had no credit and mum and dad could not afford it. When [the workers] came once in a blue moon, they came to check up on me in front of my carers, so I could not say if they were hurting me (Phoebe, returned home, 16, Aboriginal).*

*Sometimes with me the workers would come over a bit depending on where I was. They would be, 'How was your placement?', and the person would be right next to you. They never took you aside [without the carer] to ask [the question] (Leila, foster care, 16, Aboriginal).*

## **What helps and hinders children and young people's ability to participate**

Children and young people in care can only hope to influence decisions about them if they have regular, direct contact with their case worker. Child Protection policy provides that regular fortnightly contact should be sought with children and young people in out-of-home care.<sup>236</sup> Guidance is also provided to workers as to how they can best engage children and young people in the child protection system. This provides direction to workers regarding the method, location and frequency of contact.<sup>237</sup> It also states that all contact should be purposeful and directed towards change.<sup>238</sup>

<sup>236</sup> DHHS 2018h, op. cit.

<sup>237</sup> Ibid.

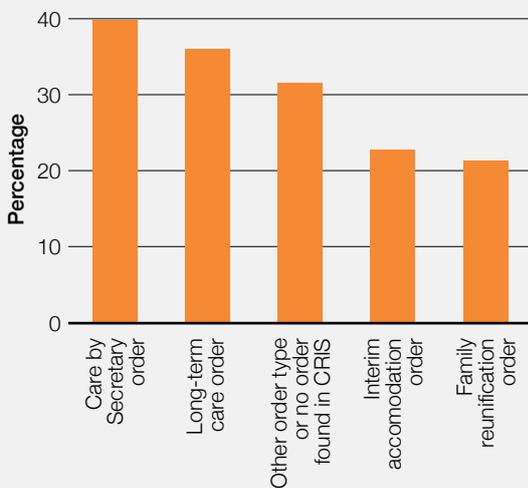
<sup>238</sup> Ibid.

**High number of children and young people who do not have an allocated worker**

The Charter for children in out-of-home care provides that all children and young people must have an allocated worker to speak to about their needs.<sup>239</sup>

In ‘...safe and wanted...’, the Commission found that in August 2016, 1,239 children on a protection order did not have an allocated worker.<sup>240</sup> Data provided by the department for this inquiry, shows that, as at 31 December 2018, 1,445 children and young people in out-of-home care whose cases were managed by Child Protection did not have an allocated case worker (that is, the child or young person did not have an allocated Child Protection practitioner and instead was allocated to a team leader while awaiting allocation).<sup>241</sup> As Figure 11 below shows, the majority of these children and young people were on a care by Secretary order.

**Figure 11: Percentage of unallocated Child Protection cases per order type (Child Protection managed cases only) as at 31 December 2018<sup>242</sup>**



n = 1,445

Source: DHHS data extraction from CRIS database, population and case details in out-of-home care as at 31 December 2018. Data provided to the Commission on 31 July 2019.

<sup>239</sup> DHS 2007, op. cit.

<sup>240</sup> CCYP 2017, op. cit., p. 57. This figure included all children and young people on a protection order (499 of whom were on a Family Preservation Order).

<sup>241</sup> Appendix: Table 39.

<sup>242</sup> Excluding order types: family preservation order and undertaking.

Child Protection team leaders are responsible for managing cases which are awaiting allocation to a Child Protection worker<sup>243</sup>, as well as formal supervision of up to three CPP4 (Child Protection advanced practitioners) and the senior Child Protection practitioner, case allocation, formal HR processes and general team management.<sup>244</sup> Due to high workloads, team leaders will often assign certain tasks such as visiting children in out-of-home care to other members in the team.<sup>245</sup> Throughout this report, cases which fall into the category of ‘allocated to a team leader’ are referred to as ‘unallocated’.<sup>246</sup>

Given the ad hoc nature of managing and allocating tasks on cases awaiting to be allocated to a case worker, it is likely that visits with children and young people are rarely undertaken by the same worker. In addition, work on unallocated cases impacts the already stretched workload capacity of the team and may contribute to worker burnout.<sup>247</sup> The high number of cases allocated to a team leader in out-of-home care significantly reduces children and young people’s ability to have meaningful and regular engagement with a consistent worker.

<sup>243</sup> DHHS 2018i, ‘Monitoring and managing cases awaiting allocation’, *Child Protection Manual*, <<https://www.cpmanual.vic.gov.au/policies-and-procedures/case-allocation-and-transfers/monitoring-and-managing-cases-awaiting>>, accessed 28 August 2019.

<sup>244</sup> DHHS 2015c, op. cit.

<sup>245</sup> DHHS 2018i, op. cit.

<sup>246</sup> In response to the draft inquiry report, the department advised that these cases were ‘not unallocated, the case is allocated to a team leader.’

<sup>247</sup> VAGO 2018, *Maintaining the mental health of Child Protection practitioners*, State of Victoria, Melbourne, p. 27.

### **Lack of face-to-face contact with case workers**

Building trusting relationships takes time, particularly for children in out-of-home care who may have experienced significant instability in their lives.<sup>248</sup>

CREATE's 2018 national survey of children and young people in out-of-home care found that 37.5 per cent of respondents in Victoria were not aware of having a dedicated case worker at present.<sup>249</sup> CREATE also asked whether children and young people in out-of-home care were able to contact their worker as often as they wanted. CREATE found that fewer than 50 per cent of Victorian respondents said they could easily contact their main case worker.<sup>250</sup>

In the Commission's review of 48 cases managed by Child Protection over a six-month period, 92 per cent (n = 44) of all cases did not meet the minimum requirement of fortnightly visits.<sup>251</sup> Concerningly, the Commission found that 19 per cent (n = 9) of children received no contact with their Child Protection worker, including case practice support workers, for the duration of the six-month period.

The Commission's review of cases managed by funded agencies found that 79 per cent (n = 41) of these children did not receive the minimum fortnightly contact visits.<sup>252</sup> Five children received no contact with their funded agency case manager during the six-month period.<sup>253</sup>

### **Worker caseloads**

Chapter 3 sets out the workload pressures on the child protection system, including high caseloads. While Child Protection caseloads have decreased slightly, from 16 in 2013 to 15 in 2019, they are still high.

Child Protection workers informed the Commission that high caseloads prevented them from being able to spend time meaningfully engaging with children and young people.

*The reality is that the kids don't get the time with workers due to the resource issues, high work load ... there is only one way to fix that is more staffing and reduce the caseloads (Child Protection staff member).*

*I've got a caseload of around 20 children at the moment. Majority of them are individual kids with no siblings, there is one sibling group of three. So that is a fairly high caseload and huge amount of work. Comes down to the fact that in the team we don't have many staff at the moment. We have two new staff doing their BP training (beginning practice) so when they are on board I'll likely get a more manageable caseload (Child Protection staff member).*

*Work load is the biggest issue but also understanding that the value in this area [time with kids] is so much higher than doing the good court report or whatever (Child Protection staff member).*

Funded agency workers experience slightly more manageable workloads. Caseloads of funded agency staff are effectively set by the department in the service agreement through the number of placements that are funded. The Commission's analysis of data relating to service delivery tracking found that funded agencies providing case management services across Victoria did not exceed their case-load targets during the 2018–2019 reporting period.<sup>254</sup>

<sup>254</sup> Appendix: Table 42.

<sup>248</sup> Ibid., p. 843.

<sup>249</sup> McDowall J 2018, op. cit., p. 48.

<sup>250</sup> Ibid., p. 48.

<sup>251</sup> Appendix: Table 40.

<sup>252</sup> Appendix: Table 41.

<sup>253</sup> These figures and the Commission's findings about the importance of regular contact visits between children and young people in out-of-home care and their workers are discussed in more detail in Chapter 10.

**Table 21: Average number of primary assigned Child Protection workers for Child Protection managed cases by duration in care and order type, as at 31 December 2018 (n = 5,450)**

Order type	Duration in care			Total
	< 1 year	1–2 years	> 2 years	
Long-term care order	9.7	14.8	23.3	21.4
Care by Secretary order	13.4	13.7	20.7	18.6
Family reunification order	8.9	11.5	15.2	11.1
Interim accommodation order	7.8	11.1	15.9	8.4
Not stated and other order types	5.9	7.2	9.8	7.8
<b>Total</b>	<b>7.9</b>	<b>11.3</b>	<b>16.7</b>	<b>11.3</b>

Source: Data extracted from CRIS database, Population and case details in out-of-home care as at 31 December 2018. Data provided to the Commission on 31 July 2019.

In 2018, the department engaged the Centre for Excellence in Child and Family Welfare Inc and the Victorian Aboriginal Children and Young People's Alliance to undertake a survey of all staff in funded agencies involved with case management of children and young people in care. The survey attracted 115 responses from funded agencies across Victoria.<sup>255</sup> Of these 115, 35 respondents (30 per cent) said that they work more hours a week on average than they are employed to work.<sup>256</sup>

At interview, funded agency workers informed the Commission that they managed 10-12 cases on average. Two funded agency workers advised that they were currently managing five cases.

*We could do a much better service if [we did not have such] a high caseload. The work involves a high level of compliance and admin matters to be a case manager. One hour per month or fortnight client sighting equals ten hours of admin work (Funded agency staff member).*

### High turnover in workers

Children and young people in out-of-home care need to talk to their worker about personal matters, which requires a high degree of trust. This trust needs to be rebuilt each time a new worker is appointed. This often involves retelling traumatic personal histories.<sup>257</sup>

<sup>255</sup> DHHS 2019q, *Workforce data for contracted case managers*, unpublished internal document, State of Victoria, Melbourne, p. 1. The department stressed that the survey results were limited by the different services' interpretations of a 'case worker'. However, of the total number of responses received, 115 were from workers for whom at least part of their role involves undertaking statutory case management.

<sup>256</sup> *Ibid.*, 2.

<sup>257</sup> Bessell S 2011, 'Participation in decision-making in out-of-home care in Australia: what do young people say?', *Children and Youth Services Review*, vol. 33, no. 4, pp. 496–501.

**Table 22: Average number of primary contracted case workers for funded agencies by duration in care and case management type as at 31 December 2018 (n = 2,621)<sup>258</sup>**

Case management type	Duration in care			Total
	< 1 year	1–2 years	> 2 years	
Aboriginal Community Controlled Organisation	2.3	2.0	3.8	3.4
Community Service Organisation	3.4	2.4	4.4	4.2
<b>Total</b>	<b>3.0</b>	<b>2.3</b>	<b>4.3</b>	<b>4.0</b>

Source: Data extracted from CRIS database, population and case details in out-of-home care as at 31 December 2018. Data provided to the Commission on 31 July 2019.

The Commission found that children and young people case managed by Child Protection experienced a significant number of allocated Child Protection workers. The average number of workers for children in care less than 12 months was 7.9. The highest number of workers allocated to work with a child or young person in a 12 month period was 44.<sup>259</sup>

By comparison, children and young people who were case managed by a funded agency experienced significantly fewer allocated workers during the same period. The average number of workers for a child or young person who was case managed by a funded agency and had been in care between one and two years was 2.3, compared with 11.3 for cases managed by Child Protection.<sup>260</sup>

### **The presence of carers**

All workers should attempt to speak to children and young people away from their carers, when it is appropriate to their age and stage of development.<sup>261</sup> This is crucial to ensure that young people have an opportunity to talk about any concerns they may have about the placement privately.

Using Child Protection guidance as a framework to assess engagement with children and young people,<sup>262</sup> the Commission analysed communication

between children and young people and their workers in a subset of 100 Child Protection files.<sup>263</sup>

While not every case note reviewed by the Commission provided details of the location of the conversation or who else was there, for those that did, the Commission found contact between workers and young people frequently took place in the presence of their carers (n = 43).

In a small number of cases, workers (n = 11) demonstrated good practice by having conversations with children and young people outside of their home, usually combining home visits with an activity, like shopping or going to the park, away from their carers.

Evidence of private, monthly meetings between children and young people in foster care and their funded agency worker is monitored by the department via the Compliance and Quality Audit report. The Commission's analysis of the department's 2018 quality and compliance audits of funded agencies against the *Program requirements for home-based care* found 29 instances where the funded agency was unable to demonstrate that it had met with the child or young person one-on-one (this was not noted in all audits).<sup>264</sup> This figure mirrors what we heard from children and young people: that they did not always speak to their case worker alone or in private.

<sup>258</sup> Including case management categories: funded case management and ACAC.

<sup>259</sup> Appendix: Table 43.

<sup>260</sup> See above: Table 22. An analysis of the Commission's review of files showing the number of allocated workers over a six month period can be found at Appendix: Tables 44, 45 and 46.

<sup>261</sup> DHHS 2014, op. cit., [2.5.3].

<sup>262</sup> DHHS 2018h, op. cit.

<sup>263</sup> The Commission considered the young people's experience of participation with case workers by analysing the three most recent case notes on 100 CRIS cases (a subset of the 122 files) involving any communication between the child or young person and their worker during a six-month review period. This included up to 300 case notes and meeting minutes recording direct contact to and from children and young people.

<sup>264</sup> These audits related to 61 individual carers.

When interviewed, Child Protection staff members agreed that there is inconsistent practice in relation to whether children and young people are interviewed alone when workers visit a placement. Additionally, Child Protection staff noted that there was no standard practice for providing children and young people with a means of contacting them – including about concerns for their safety – such as, for example, giving them a mobile phone number. For some, it was standard practice but for others it appeared to only happen on an ad hoc basis.

*I don't think it is written anywhere that Child Protection workers have to meet with kids independent of carers but it is a practice that I promote. It is so important to know the kids you are working with, each person is an individual. It is just bloody critical that these kids are seen, known and not just a number. This is the work I am so passionate about. As the team manager whenever I get the chance now I go out with my workers to see the kids as well (Child Protection staff member).*

*Meeting with a kid with no one else present is case-to-case. Sometimes the case manager changes so often that the kid doesn't know the worker that well so it is sometimes relevant that they have someone they know with them to support them (Child Protection staff member).*

### ***Incidental contact with workers other than the allocated worker***

Under the department's Child Protection operating model, tasks such as facilitating contact visits and transporting children to services are allocated to junior, less experienced Child Protection workers, known as case practice support workers, rather than the child's allocated worker.<sup>265</sup> This was confirmed in the Commission's review of case files.

The Commission found a large number (n = 62) of conversations that took place between children and young people and a worker during transport or during supervision of contact visits. At times, children and young people were transported to a new placement by a worker they had never met before.

Children and young people are more likely to speak openly in child friendly spaces where they feel comfortable: conversations are less formal and structured, and they are not necessarily sitting face-to-face with the interviewer. In addition, children are more likely to engage with a worker they know and trust.<sup>266</sup> The high number of instances where transport and contact visits took place with a different worker suggests missed opportunities for meaningful engagement between children and young people and their worker.

As can be seen by the case study on the next page, when children and young people have infrequent contact with their allocated Child Protection worker, they must rely on the worker who they have the most contact with to have a say in decision-making processes. However, this worker usually lacks the authority to help the young person.

<sup>265</sup> DHHS 2015c, 'Workforce structure and roles – advice', *Child Protection Manual*, <<https://www.cpmanual.vic.gov.au/our-workforce/operating-model/workforce-structure-and-roles>>, accessed 27 August 2019.

<sup>266</sup> Augsberger A and Swenson E 2015, "“My worker was there when it really mattered”: foster care youths' perceptions and experiences of their relationships with child welfare workers', *Families in Society*, vol. 96, no. 4, p. 235.

## Case study about Alison – lack of regular contact with her regular worker<sup>267</sup>

Alison, 14 years, was living in kinship care. Alison's permanency objective was for family reunification with her mother. Alison and her brother attended supervised visits with their mother regularly, twice a week.

The most regular contact Alison had with Child Protection was during her supervised visits with her mother and her younger brother. Alison was picked up from her school by a different Child Protection worker most weeks, as these visits were not conducted by her allocated Child Protection worker. There was no record of Alison's Child Protection worker asking her where she would like the contact visits to take place.

On one occasion, Alison refused to attend her access visit. Alison said that she didn't want to attend as she was bored of going to the same room at the department or the same park. The Child Protection worker encouraged Alison to speak to her allocated Child Protection worker about this. Alison replied, commenting that her allocated Child Protection worker was always away or sick.

Following this conversation, the location of Alison's contact visits did not significantly change. Twenty-seven subsequent contact visits took place at the (same) park, library or fast food venue and 17 visits took place at the Child Protection office.

Child Protection and funded agency staff interviewed for this inquiry advised that while face-to-face contact is the preferred form of contact, it often took place during transport or meetings.

*Ideally you would see a child or young person every fortnight. However, the reality is it may be a home visit once every six weeks and a lot of these are done at the care teams. Probably by phone and largely done in space of a care team meeting. This is not how it would best be done (Child Protection staff member).*

*The primary form of contact [with children and young people in out-of-home care] is in person. Usually it will be a transport visit, or meeting at a mutual place, or going to the placement (Funded agency staff member).*

Child Protection and funded agency staff also commented on the common, yet concerning, practice of using different workers to conduct the work of the allocated worker.

*At the moment, workers are taking them to school every day, and home, and appointments so we are organising different workers to do these things that are all part of caring for a kid ... and the unfortunate thing is this is completely inappropriate but we don't have any other options... (Child Protection staff member).*

Despite a number of Child Protection policies which reinforce the importance of children and young people's participation in decision making, the Commission's review of Child Protection CRIS files and feedback from children and young people suggest this is not always happening in practice.

<sup>267</sup> This case study is based on a review of a live CRIS case file. The case study has been deidentified to protect the confidentiality of the child.

### **Finding 6: Lack of participation in significant decisions**

Through our consultations, children and young people informed the Commission that they wanted to participate in decisions affecting their lives in care. While some children and young people were able to influence certain decisions about food and activities, they did not have opportunities to have a say about the most significant issues, like where they would live or who they could have contact with.

### **Finding 7: Limited opportunities to participate**

Based on the data provided to the Commission and the Commission's review of CRIS files, the Commission found that children and young people's opportunities to participate in significant decisions were limited by:

- the high number of children and young people who did not have an allocated case worker
- a lack of direct, face-to-face contact between children and young people and their allocated worker
- workers' high caseloads
- high turnover in workers
- workers often engaging with children and young people in the presence of carers.<sup>268</sup>

### **Finding 8: Lack of face-to-face contact with a known (allocated) worker**

In the files reviewed by the Commission, a significant proportion of the face-to-face contact between children and young people and workers occurred during their transport to and from placement, school and other appointments or when supervising access visits with family. A significant proportion of these visits were conducted by workers other than the child or young person's allocated case worker. This approach to allocating certain tasks involving contact with children and young people limits their opportunities to build a trusting relationship and speak with their allocated case worker about their experience in care.

## **Participation through meetings**

### **What children and young people said about their participation in care team and case planning meetings**

A small number of children and young people said that they were able to participate in decision making by attending meetings.

*At care team meetings, the only person talking was me. I was talking, and everyone was listening, and they were just helping me out. They were understanding and trusting me. I keep on saying over and over and trust is so important. Everyone was so trusting (Vanessa, foster care, 17).*

<sup>268</sup> The Commission's discussion and findings about the factors impacting workers is discussed further in Chapter 11. The importance of contact occurring in private; away from their carers to ensure that children and young people can report concerns about their immediate or ongoing safety, is discussed in more detail in Chapter 7.

*I generally participated in care team meetings rather than case planning meetings. I felt heard and a lot of stuff is written down (Carter, residential care, 16).*

*I have care team meetings. I go to every second one for the first part. It is professional, and they ask my opinion and if they don't ask, I tell them and I will pull them up on things they don't get right (Stacey, residential care, 17).*

*My voice has been heard many, many times. I have a say in the weekly meetings and I take notes, but it takes up too much of my time (Laura, residential care, 15).*

However, for the majority of children and young people we spoke to, meetings were often not accessible or 'child friendly'.

*I got invited to case planning but was not always heard. They always spoke like they knew best (Emerson, post-care – previously residential care, 24).*

*No. Was invited [to care team meetings] but chose not to go. I didn't want to hear their side of shit (Eileen, post-care – previously residential care, 18).*

*I don't go to case planning meetings. They are boring (Liam, residential care, 17).*

*Talked about things, with grandma and mum. It was boring but don't remember what happened after it (Jorja, kinship care, 15, Aboriginal).*

*Yeah I don't go to them by choice. They offer me to come but they make me anxious, so I don't go (Seth, residential care, 16).*

*I can go to care team meetings, but they talk shit and put things over me (Sean, residential care, 16, Aboriginal).*

*I get forced to go them. I don't go into them, but I just sit outside 'cos they just talk shit anyway (Leo, foster care, 16).*

Some children and young people could not participate in meetings because they were inaccessible. Others were not invited.

*What the heck is a case plan meeting? (Tara, foster care, 12).*

*I only went to one [care team meeting]. The rest they had them without telling me and they asked why I wasn't there and I tell them I didn't even know it was on (Kayla, post-care, 18).*

*I'm not allowed to go to them. They tell me it's for professionals. You have a key worker at the house and that but it's just whoever is on shift emails an update from the house (Kylie, residential care, 16).*

*I have only ever been to two [care team meetings]. They don't let me come to them bro. They just do them without me. I have no idea what they talk about (Derek, residential care, 15).*

*I've never been to a case meeting in five years. They don't let me know what's going on. They ask me if I want to go, then don't tell me it's on. What's the point of asking me to go then not taking me (Logan, residential care, 15).*

*Care team meetings would happen when I was at school. I never went. I may have gone to like a few 'cos I saw the whiteboard at the resi office and saw that it was on. For some reason they didn't want me a part of it which I found strange. Like I know sometimes I was a shit but surely they would want you to be part of stuff that they are planning for you (Adam, post-care, 24).*

*I think it's like ya get dropped out of the loop... But basically we all are feeling so left out of things, these things are happening, we might be young but some sort of explanation would just go a mile and to have a say (Caroline, post-care, 19, Aboriginal).*

*I usually don't go [to care team meetings] 'cause I don't really care. I don't know any of these people – there are so many people and they're all making decisions about me (Jennifer, residential care, 16).*

## Research and analysis about participation in meetings

Child Protection relies on meetings to inform day-to-day structure as well as to plan for more significant long-term decisions.<sup>269</sup> Child Protection guidance suggests that if a child chooses not to attend a case or care planning meeting, the practitioner should explore creative ways for the child or young person's voice to be heard.<sup>270</sup>

Children and young people we spoke to reported having mostly negative experience with meetings. Most did not differentiate between a 'care team meeting' or a 'case plan meeting' and did not understand why Child Protection would be at some meetings and not others.

When interviewed by the Commission, Child Protection and funded agency staff confirmed that children and young people's attendance at meetings is impacted by when they are held and at what location.

*[Care team meetings aren't] useful when the young people aren't involved. The most effective case plans I've been involved in is where the young people are present and their voices are central and at the forefront. Same with care teams. It makes it so much clearer and more transparent about what everyone's roles are and what they are doing. Sometimes [it's] as simple as the location. I don't think the Child Protection building is the best environment to bring young people to – particularly if they have past trauma about the removal from family etc. We need to be more flexible about the location of the meeting ... not just at the Child Protection building because that's who we are and we are time poor. That's what it kind of comes down to is time and resources (Child Protection staff member).*

*They are invited to the meeting. They have a voice and we certainly ask them. We are flexible with the teenagers obviously. They often don't want to come to the formal meeting. We will go out and have a case plan meeting at the placement or in the community [to] make it less formal for them, have a discussion about what they want and explain what is happening with this discussion. Some of the kids will tell you to fuck off but most are happy. Some kids just can't handle that formal sit-down meeting and that is totally fine (Child Protection staff member).*

<sup>269</sup> DHHS 2018g, op. cit.

<sup>270</sup> Ibid.

*The older young people all usually attend the meetings. We always invite them and make sure they are at times that suit the kids, not us. It is case-by-case as to whether they come and it's what they want to do (Child Protection staff member).*

The majority of Child Protection and funded agency staff consulted by the Commission reported that children and young people's participation at meetings relied on their case worker to talk to the young person prior to the meeting and represent their wishes.

*The child is provided with the opportunity to talk to their case manager. They have a say but [this is] not always common practice. It depends on the ability of case managers to give a young person a voice [at the care team meeting] (Funded agency staff member).*

*Often the agency workers will have the discussions with the young person before the meeting. The work should already be done before the meeting. The case plan should be evolving with the actions. There should have already been a discussion with the family and child before the meeting. Sometimes the child comes for part of it. I don't know if the workers would use the words case planning when discussing with kids though so I can understand if some haven't heard of it or understand it (Child Protection staff member).*

*I always have a meeting with the young people first, before a case plan meeting. So we can be one-on-one and have a good chat about everything. I talk through what a case plan is and discuss topics that might emerge. Ask them what they want to talk about and things that they were keen to be part of. That way it ensures they have a say in the process regardless if they wish to attend or not (Child Protection staff member).*

## Meetings are often not child-centred

To be child and young person-centred, services must put the needs of children and young people at the centre of everything they do.<sup>271</sup> Research about children and young people's participation in practice reflects 'a consistent message from children and young people that participation seems designed for adults' benefit'.<sup>272</sup> Much of the research claims that for children and young people in out-of-home care, 'the organisational cultures ... are not conducive to listening to children and taking account of their views'.<sup>273</sup>

When children consistently see their attempts to participate disregarded, they may become disillusioned or believe that their involvement is pointless or tokenistic.<sup>274</sup> If young people do not feel like their time is being respected, they may withdraw from engagement altogether.<sup>275</sup> Having a choice as to how participation will occur is an important way to demonstrate this.<sup>276</sup> This includes where and when the meeting will occur, if at all.

Through the Commission's file review of case notes and meeting minutes, the Commission observed practices associated with arranging of care team meetings varied widely. Children and young people's attendance was either unclear or unknown from most of the minutes recorded at meetings. In addition, there was little evidence of children and young people being informed about the existence of an upcoming meeting or what would be discussed, contrary to the decision-making principles.<sup>277</sup>

<sup>271</sup> Hunter C and Price-Robertson R 2014, *The good practice guide to child aware approaches: keeping children safe and well*, Child Family Community Australia, Melbourne.

<sup>272</sup> Office of the Guardian for Children and Young People 2008, *Participation of children and young people in decisions made about their care: a literature review*, State of South Australia, Adelaide, p. 7.

<sup>273</sup> Bessant J and Broadley K 2014, 'Saying and doing: child protective service and participation in decision-making', *The International Journal of Children's Rights*, vol. 22, no. 4, p. 713.

<sup>274</sup> Cashmore J 2002, op. cit., p. 841.

<sup>275</sup> McDowall J 2016, op. cit., p. 86.

<sup>276</sup> Cashmore J 2002, op. cit., 842.

<sup>277</sup> CYFA 2005, s. 11(f).

## Participation through case planning

### What children and young people said about case plans

Children and young people consistently told the Commission that they did not know whether they had a case plan or what a case plan was.

*I don't know what a case plan meeting is. There has been no planning. I want to be part of decision making. I get told this and told that and I can't cope with it and it makes me angry (Landon, foster care, 16).*

*I haven't had a case plan. I have told Child Protection what I want, and they said they will do their best, but I am still here (Simon, foster care, 14).*

*I was an angry teenager, I hated workers, they were always saying 'this is being done, that's being done' and the kids are sitting there in the dark not knowing (Caroline, post-care, 19, Aboriginal).*

### Research and analysis about case plans

A case plan must be prepared for all children in care where protective concerns have been substantiated.<sup>278</sup> Child Protection is required to record all significant decisions about a child or young person in care in a case plan. Case plans are crucial for children and young people in care as they record significant decisions about their experience of being in care, including where they are living, who they can have contact with, and, for Aboriginal children and young people, how their cultural needs will be met.<sup>279</sup>

The lack of engagement with children and young people in Child Protection's case planning process

was highlighted in the Commission's 2017 '*...safe and wanted...*' inquiry.<sup>280</sup>

CREATE's 2013 report card into out-of-home care found that just one-third of participants were aware of a case plan and showed considerable variability in their engagement with the process.<sup>281</sup> By 2018, the overall percentage of children and young people aware of their case plan had risen to 44 per cent.<sup>282</sup> However, of those children and young people aware of their case plan, almost half (43 per cent) felt that their case plan had been prepared without their input.<sup>283</sup> CREATE found that overall, 38 per cent of children and young people who participated in their survey said they had participated in departmental meetings.<sup>284</sup>

Child Protection staff advised the Commission that children and young people's participation in the case planning process could be improved.

*I don't think [case planning] is great at the moment. It is very admin heavy, focused on the protective concerns ... Then when we flip [case plans] to be about the kids it's very focused on medical appointments etc. It just isn't child-friendly at any age level (Child Protection staff member).*

*Case planning needs to be more user friendly, child-led, accessible to kids and families. Every case needs to be so it's clear what we are working towards and the process of doing so (Child Protection staff member).*

*Most of the case plans get done for court report purposes.... Often there isn't much opportunity to talk thoroughly with the young people around this. I think on the ground I don't think it happens as it should (Child Protection staff member).*

<sup>278</sup> CYFA 2005, s. 168.

<sup>279</sup> CYFA 2005, s. 166.

<sup>280</sup> CCYP 2017, op. cit.

<sup>281</sup> McDowall J 2013, op. cit., p. 43.

<sup>282</sup> McDowall J 2018, op. cit., p. 107.

<sup>283</sup> Ibid., 107.

<sup>284</sup> Ibid., 60.

## No case plan

Despite Child Protection's policy stating that a case plan is mandatory for all children in care,<sup>285</sup> of the 122 files reviewed by the Commission, almost one-fifth had not had a case plan prepared in the past 12 months.<sup>286</sup> Without a current case plan, children and young people will not have a record of significant decisions which informs action that needs to be taken to care for them, or a record of progress made against these actions. In addition, without a case plan, children and young people in care are effectively prevented from exercising their right to seek a review of decisions recorded in the case plan.

The Commission found that children and young people in the North and West Divisions were less likely to have a case plan.<sup>287</sup> Children and young people in foster care were slightly less likely to have a case plan, in comparison to those in kinship and residential care.<sup>288</sup>

## Children and young people's involvement in the preparation of the case plan

The Commission reviewed the 99 cases which had a case plan to see whether there was any evidence of children and young people's involvement in the preparation of the case plan.<sup>289</sup> There was no record of children and young people being consulted in 79 per cent of the files.<sup>290</sup> There was less evidence of children and young people's participation in case planning in the East and South Divisions.

The Commission found that the files of children and young people in foster care were significantly less likely to demonstrate participation in the preparation of the case plan. Only 17 per cent of cases in foster care

demonstrated evidence of any consultation with the child or young person about the case plan.<sup>291</sup>

The Commission also considered whether the case plan reflected the young person's wishes.<sup>292</sup> Of the cases reviewed, 66 per cent (n = 65) did not contain evidence that the young person's wishes had been sought or referred to in the case plan.<sup>293</sup>

During 2018, the department amended its case plan template to include the wishes of the child or young person involved under the section 'child's views and wishes'. The Commission acknowledges this amendment as positive. However, in the Commission's review of a small sample of 13 cases with case plans updated to include the section 'child's views and wishes', only five reflected the wishes of children and young people.

## Finding 9: Participation in meetings

While some children and young people informed the Commission that they had positive experiences with care team and case planning meetings, the majority of children and young people didn't know about these meetings or said that meetings were tokenistic. This was confirmed in the files reviewed by the Commission, which suggested that:

- Meetings were not child-centred.
- Children and young people were rarely informed in advance about meetings.

## Finding 10: No case plan

In the files reviewed by the Commission, one in five children and young people in out-of-home care did not have a case plan prepared in the last 12 months.

<sup>285</sup> Where protective concerns have been substantiated.

<sup>286</sup> Appendix: Table 48.

<sup>287</sup> Appendix: Table 48.

<sup>288</sup> Appendix: Table 49.

<sup>289</sup> In the Commission's assessment of Child Protection's consultation with children and young people about their case plans, we looked for evidence of a record of a discussion between the young person and the worker in a case note or minutes of a case plan meeting where the child or young person was in attendance and contributed to the discussion or case notes recording conversations between the case worker and the child or young person prior to the development of the case plan.

<sup>290</sup> Appendix: Table 50.

<sup>291</sup> Appendix: Table 51.

<sup>292</sup> For example, the case plan might state: 'Young person has expressed a strong desire to re-engage with x.' While there is no evidence (from a case note) that the young person did actually express this, we counted these case plans as reflecting the young person's views.

<sup>293</sup> Appendix: Table 52.

## Finding 11: Involvement in case planning

The files reviewed by the Commission indicated that children and young people's views and wishes were rarely sought or recorded in their case plan.

### Participation in decisions about placement changes

#### What children and young people said about decisions about placement changes

Children and young people told us that they were often not given any say in the decision to change their placement, and no notice that it was going to happen. Children and young people often described a system that treated them 'like a number', where the needs of the system trumped their rights, needs and aspirations.

*I remember coming home from my first day at school and celebrating with a cake. Then I was told I had to move placement and leave school (Evelina, residential care, 17).*

*I was with mum at the DHHS office, and they said, 'You are going to resi today'. They told me I was gonna be here for a week and obviously I'm still here [nine months later] (Kerry, residential care, 15).*

*They just said pack ya bags you're moving, and I didn't know about it (Odelia, residential care, 16).*

*An explanation of why your last placement ended is also important so you don't blame yourself (Phoebe, returned home, 16, Aboriginal).*

*One time I had ten minutes notice [that my placement was changing]. They just came to school and told me you are moving all the way from [my current suburb] to [another]. I had been there for four and a half months. [...] [Child Protection] did not say why I was moving. I always thought I was doing something wrong. No one told me, so I blamed myself (Phoebe, returned home, 16, Aboriginal).*

*I've never had my preferences heard. A lot of placement decisions get made without my input. They can ring the house and tell them I'm moving and I have no say in that (Brooke, residential care, 16).*

*Didn't know anything about resi ... [Child Protection] didn't talk to me about it at all. [Child Protection] just wanna find you a placement and then that's their job done. [Child Protection] come in, drop you in a [residential care] unit where you know nobody and then they piss off and think things will be fine. It doesn't work like that [...] Imagine plucking a kid and putting him in with randoms and then walkin away (Derek, residential care, 15).*

*The only time I had any say was to smash up their car or place and then I would be moved (Owen, residential care, 15).*

*I had a psych appointment and Child Protection picked me up from school and that is when they told me about the placement. They said you will like her and we think you will suit her. [...] It's a very big issue – there are a lot of things you leave behind [when you change placements]. I had a lot of best friends when I was little and you move schools and never see them again. Being able to say goodbye to friends is really important. You need time to say goodbye (Leila, foster care, 16, Aboriginal).*

*They should change the system to prepare the kids to enable them to prepare for moving placement. I was moved without knowing. It was like nearly midnight the night before when I was told. The children have a right to know what is happening and where they are going to go. I felt like I lost everything and I thought I was loved and then all of a sudden it felt like I am just a number on the spreadsheet kind of thing (Christopher, foster care, 16).*

## Research and analysis about participation in decisions about placement changes

Where and with whom a child or young person lives is one of the most significant decisions to impact their lives. The Child Protection Manual states that it is essential for children and young people to have opportunities to express their feelings about their placements and for carers and case managers to explain to children and young people what is happening and why.<sup>294</sup> The *Program requirements for home-based care in Victoria* state that when placing a child, funded agencies must 'take into account information from all relevant professionals, the child and their family, potential carers and their families and other children in the placement'.<sup>295</sup>

The Commission reviewed 122 Child Protection cases to determine the number of cases in which children and young people were consulted on decisions about a recent placement change.<sup>296</sup> Of the 122 cases reviewed, 57 per cent did not contain evidence that children and young people had been consulted about their placement change.<sup>297</sup>

The Commission found that Aboriginal children and young people were less likely to be consulted about placement change. Aboriginal children and young people were not consulted in decisions about

placement change in 64 per cent of files, compared with 50 per cent for non-Aboriginal children and young people.<sup>298</sup>

Children and young people in kinship care were most likely to be consulted by Child Protection about placement decisions (n = 20 or 53 per cent).<sup>299</sup> A concerning low number of children in foster care (n = 16 or 29 per cent) were consulted about placement decisions by Child Protection.<sup>300</sup>

As outlined in Chapter 6, when a new placement for a child or young person is required, the placement referral form is prepared by the child or young person's Child Protection case worker and provided to the Placement Coordination Unit. The referral form addresses a number of issues relevant to placement including case planning and placement purpose, and the child and young person's routines, education, family relationships and current contact arrangements. That referral form does not provide any space or prompts for the Child Protection practitioner to include information about the child's wishes.

## Finding 12: Decisions about placement changes

**In the files reviewed by the Commission, the views of children and young people were generally not sought and therefore did not contribute to decisions about placement changes by Child Protection. Children and young people told the Commission that having no chance to express a view about where, and with whom, they live contributes to feelings of powerlessness and anxiety. Children and young people told us that they were often given no explanation for the decisions, making them feel not only powerless but responsible or to blame.**

<sup>294</sup> DHHS 2016a, 'Placement changes – advice', *Child Protection Manual*, <<https://www.cpmanual.vic.gov.au/advice-and-protocols/advice/out-home-care/placement-changes>> accessed 27 August 2019.

<sup>295</sup> DHHS 2014, op. cit., p. 19.

<sup>296</sup> The Commission reviewed contact between workers and children and young people in the month before and the month after the date of the placement change.

<sup>297</sup> Appendix: Table 53.

<sup>298</sup> Appendix: Table 54.

<sup>299</sup> Appendix: Table 55.

<sup>300</sup> Ibid.

## Participation through complaints

Another important way children and young people can have their voice heard is by being able to make a complaint about decisions they do not agree with.

### What young people said about complaints

Many children and young people said they wouldn't know how to complain.

*I had no idea about the capacity to make a complaint. There was no communication about this (Georgia, post-care – previously foster care, 18).*

*CREATE is the only place that has taught us our rights (Gayle, kinship care, 19).*

*Na, don't know how to make a complaint. I've considered it in the past but I would have no idea who to speak to other than my carer or worker. I would speak to an independent body if that was an option for me and I knew about it (Christopher, foster care, 16).*

Many children and young people we spoke to said that they would not feel safe or comfortable making a complaint.

*Like at times I have wanted to make a complaint when I was with that carer, I wouldn't have probably called a hotline because you worry what might happen to you. If someone came to me it would be different though (Quinn, residential care, 14).*

*The complaints issues... for young people they are so bad. Its harsh. It's really, really, harsh the way they [DHHS Complaints handling] come across, not understanding, don't accept us and our voice, and basically talk down to you. (Stephen, residential care, 17).<sup>301</sup>*

*You don't want to talk behind people's back (Terry, residential care, 14).*

Another strong theme from children and young people was that they would not complain because they did not trust their complaint would be taken seriously.

*Most of the houses I've been at, we've just ripped those [complaint] forms up. Pointless. Don't think anyone will listen to us... I think it's just cause in the past with other stuff nothing had been done... I don't think it will go anywhere. Personally, I wouldn't want to [make a complaint] (Tabitha, residential care, 16).*

*If it were a life and death situation I would use the complaints mechanism. My opinion is every kid should have a case worker they trust. My previous DHHS worker was very ignorant and rude and belittled me. Yeah I'd use the complaints body but first and foremost I'd go to people I had a relationship with first. For me that is teachers or someone I have good relationships with (Lucas, foster care, 13).*

*We feel they gang up on us and protect each other. It would help to have an advocate we can talk to. If somebody hurt you, you wouldn't be believed (Madison, residential care, 15, Aboriginal).*

<sup>301</sup> This quote is taken from strategic planning consultations the Commission conducted in August 2019.

*They often just dismiss me and that's when I punch holes in walls. When issues happen I go straight to mum (Imogen, residential care, 16).*

*People are just like 'oh you're just kids', they don't treat you like your opinion matters. Because of the things we have been through we have grown up so much quicker than what we should have. We have seen shit that most adults haven't and then they don't even take our opinions on board (Wendy, kinship care, 15).*

*You just feel so invalid when you try to explain shit to adults and they just don't fucking believe you, cops, mental health, fucking DHS (Gayle, post-care – previously kinship care, 19).*

Some children and young people told the Commission there should be somewhere for them to talk to about their concerns, with a particular understanding of the issues affecting children and young people in care but independent of their case worker and the department.

*There should be an independent body to make complaints to for children and young people... Just have someone, have it clear that they are there to just hear from kids and young people. Rather than expecting kids to make the phone calls and then worrying about the impacts that would have, have a proactive service going out all the time to the kids and proactively asking how kids are going, are there any complaints (Lincoln, kinship care, 9).*

*There needs to be more opportunities for young people to speak up for themselves... The starting point is for young people to know who the Commission is, but then also that when a young person gets in touch, the person at the Commission knows their shit, like can talk to us properly and understand. Like not talking down to you 'Ohhhhhhh'. It just annoys me when an adult talks down to us and make us feel small. That is what I feel DHHS do regularly and they come across really, really harsh, which then means young people won't ever call them... I tried really hard to find avenues to have myself heard so I think this is a big thing the Commission could do, have a function that was just for children and young people to contact and have their voices heard, complaints recognised... Like I have felt really good being able to have you come and speak to me about various things. Short term that just means maybe making sure that every kid knows who the Commission is. It wouldn't be hard I don't think (Stephen, residential care, 17).<sup>302</sup>*

*I think it would really help as well... if you don't have to give your information, you would be more likely to call them back. If family is hurting you they usually tell you not to tell anyone. It is important to let people know, if you don't want to give information we can still give you information to help you out (Leila, foster care, 16, Aboriginal).*

*When I had no one to talk to when I was in foster, I would call random numbers for someone to talk to and that is how I would get advice from people. It was weird and stuff but normally people would help and I wished there was a number to call. It would really help if it could give kids with advice that need it (Phoebe, returned home, 16, Aboriginal).*

<sup>302</sup> This quote is taken from strategic planning consultations the Commission conducted in August 2019.

## Research and analysis about complaints

Children and young people have a right to make a complaint if they are feeling unsafe or unhappy about their experience in care.<sup>303</sup> In addition to resolving concerns raised by children and young people, complaints processes can offer safety and protection, demonstrate to children and young people that they have a right to participate and allow children and young people to contribute to improved service provision.<sup>304</sup>

The Commission has previously observed children and young people in care need an independent and accessible complaints mechanism in its 2015 inquiry, ‘...as a good parent would...’, which noted that there was nowhere to make a complaint that offers independence and found there was ‘a strong need for a complaints body where children [would] feel confident to speak and confident in the integrity of the independence of the authority to conduct the investigation’.<sup>305</sup> The inquiry recommended that a complaints body, independent of the department and funded agencies, be established to hear directly from children.<sup>306</sup>

In response to this recommendation, the department advised that:

- In October 2016, it was investigating the feasibility of establishing an independent complaints mechanism for children and young people. The department advised that in the interim it was progressing actions to promote awareness of internal complaints processes for children and young people in residential care.
- In March 2017, it had developed a ‘Youth Participation Model’ to participate in design and consultation workshops with the department and that young people’s feedback on their ‘experience making complaints’ had been discussed.

- In September 2017, the Victorian Ombudsman had agreed to the department promoting it as an independent complaints option for children and young people in residential care.<sup>307</sup>
- In December 2018, new resources were made available to increase complaints awareness among children and young people in out-of-home care and a child-friendly online complaints form was added to the department’s updated ‘Making a complaint’ webpage. The webpage also references access to the Victorian Ombudsman for children who choose not to make a complaint through the department’s complaint processes.

The Commission notes that there is still no specialised independent complaints body where children and young people say they feel confident to speak about their experiences in care.

## Complaints to agencies and the department

The Program requirements for care providers in Victoria require that funded agencies have written policies and procedures in place that staff are familiar with (and that are readily accessible) for resolving complaints and disputes lodged by children and families and that children and their families are to be made aware of these processes.<sup>308</sup>

The department’s website provides details about how a child or young person in out-of-home care can complain in various formats, including a YouTube video and information sheets in ‘easy English’.<sup>309</sup> The department advises that to make a complaint children and young people should:

- first, talk to a carer or someone they trust, like a case manager or teacher, or the case worker’s manager

<sup>303</sup> DHS 2007, op. cit.; Cashmore J 2002, op. cit., p. 844.

<sup>304</sup> Aiers A and Kettle J 1998, When things go wrong: young people’s experience of getting access to the complaints procedure in residential care, *National Institute for Social Work*, UK, cited in Winkworth G and McArthur M 2006, *Principles of child-centred practice: timely, developmentally appropriate, participatory and collaborative*, Institute of Child Protection Studies, ACU National for the ACT Department of Disability, Housing and Community Services, Canberra, p. 18.

<sup>305</sup> CCYP 2015a, op. cit., p. 81.

<sup>306</sup> *Ibid.*, p. 21.

<sup>307</sup> Correspondence from Kym Peake, Secretary, DHHS, 28 September 2017.

<sup>308</sup> DHHS 2014, *Requirements for home-based care in Victoria: interim revised edition*, State of Victoria, Melbourne, p. 37. DHHS 2016e, Program requirements for residential care in Victoria, State of Victoria, Melbourne, p. 36.

<sup>309</sup> DHHS 2019g, ‘Making a complaint’, <<https://www.dhhs.vic.gov.au/making-complaint>>, accessed 6 February 2019; and DHHS 2019h, ‘Making a complaint – for children and young people in out-of-home care’, <<https://dhhs.vic.gov.au/making-complaint-children-and-young-people-out-home-care>>, accessed 6 February 2019.

- contact the complaint team at the department by phone, email or by sending a complaint form.<sup>310</sup>

The department advised the Commission that between 10 September 2018 and 1 March 2019, 1,359 feedback matters related to ‘child and family services’ were registered by the department. Only 10 of these (0.7 per cent) were made by a person under the age of 18.

### Complaints to an independent complaints body

Where the department is unable to resolve a complaint, the child or young person may refer the matter to the Victorian Ombudsman.

During 2017–2018, the Victorian Ombudsman received 1,065 complaints about Child Protection.<sup>311</sup> The Victorian Ombudsman does not record complainant-specific data beyond a person’s name, contact details and whether a person identifies as Aboriginal or Torres Strait Islander or as having a disability.<sup>312</sup> It is therefore not possible to know whether children in care use this avenue to address their concerns. None of the 204 children and young people we spoke to said they knew of this avenue.

### Barriers to complaints

Any complaints mechanism for children and young people in care must be respectful, culturally inclusive, responsive, child and young person-centred and trauma informed.<sup>313</sup>

A number of barriers may prevent children and young people in care from making a complaint:

- children and young people not knowing of available mechanisms. Most children and young people we spoke to did not know how to make a complaint<sup>314</sup>

<sup>310</sup> DHHS 2019h, op. cit.

<sup>311</sup> Victorian Ombudsman, 2018, *Annual report 2018*, State of Victoria, Melbourne. p. 41.

<sup>312</sup> Correspondence from Deborah Glass, Victorian Ombudsman, 19 March 2019.

<sup>313</sup> Commonwealth of Australia 2019, *Complaint handling guide: upholding the rights of children and young people*, Commonwealth of Australia, Department of the Prime Minister and Cabinet, Canberra.

<sup>314</sup> When provided with an opportunity to respond to the draft report, the department advised that data collected through the department’s Viewpoint survey indicates that 55 per cent of children in care surveyed know how to make a complaint. Seventy-two per cent of the children surveyed were living in residential care.

- children and young people feeling concerned their complaints will be dismissed, not understood, or people would ‘talk down to them’<sup>315</sup>
- children and young people told us they were reluctant to complain because they feared negative repercussions.

### Finding 13: Existing complaints processes

Based on the available data recording complaints made to the department, an extremely low number of children and young people raise complaints using the department’s complaints mechanism. The Victorian Ombudsman is the only independent body children and young people in care can complain to and there is no data to indicate whether children and young people are using that mechanism. This, combined with the feedback from children and young people, suggests that existing complaints processes are under-utilised by children and young people in care.

Children and young people told the Commission that existing complaints mechanisms were inaccessible to them because they were:

- not child friendly or well informed about issues affecting children in care
- not known by children or young people
- not trusted, in that children and young people expressed concern that people would not understand their issues, be dismissive of their concerns or that there would be repercussions.

<sup>315</sup> A similar theme arose in the consultations by the WA Commissioner for Children and Young People, that ‘children and young people often feel frustrated that their ideas and concerns are not taken seriously by adults’: Western Australian Commission for Children and Young People 2013, *Are you listening? Guidelines for making complaints systems accessible and responsive to children and young people*, State of Western Australia, Subiaco, p. 16.

## Measures by the department to improve participation with children and young people

Having participation firmly embedded in an organisation's culture is critical to ensuring its success.<sup>316</sup> The first prerequisite for children and young people's participation is that they have a choice about how they want to participate.<sup>317</sup> This will be different for each child and should be accommodated by offering flexible options for participation.<sup>318</sup>

The department and Victorian Government have introduced a number of measures intended to improve participation.

### My Views booklet

The Inner Gippsland Children and Youth Area Partnership developed the *My Views* booklet in collaboration with young people, service providers and carers. The Area Partnership supported this initiative 'after [receiving] numerous reports that children and young people in out-of-home care [felt] like they are not engaged in key decisions made about their lives'.<sup>319</sup>

The *My Views* booklet was designed to highlight a child or young person's views at case planning meetings about them. The booklet asks children and young people to list important people in their lives, their concerns and worries and what could be improved at home.

The booklet was designed to ensure:

- children and young people are heard in meetings planning for their care
- families, carers and workers involved in a child's life understand the child or young person's views

- children and young people's views are used to inform decisions
- children and young people are advised of decisions which are made about them.<sup>320</sup>

The *My Views* booklet was used by partners of the Inner Gippsland Children and Youth Area Partnership, including Anglicare Victoria and Berry Street. Since its implementation, the *My Views* booklet has:

- identified children that were not feeling safe
- been used to support the children and young people's voice in court
- changed case plan directions
- provide the opportunity for children to write down what they would not be able to say.<sup>321</sup>

One of the files reviewed by the Commission found good practice by a Child Protection worker's use of the *My Views* tool when representing the young person's views to the court on their behalf.

Workers consulted for this inquiry who had used the *My Views* booklet spoke positively about its capacity to support children and young people's participation in case planning.

*We have the My Views booklet and we encourage the use of that. So if the young person can't be at the case plan meeting or doesn't want to be, the case manager will bring that to the meeting to represent their views without them being there (Child Protection staff member).*

The department has since informed the Commission that the *My Views* booklet has been superseded by the Voice of the Child project. The department advised that the paper-based booklet will not be reprinted as this is considered an outdated method of capturing a child or young person's views. The department advised that it did not undertake an evaluation of the *My Views* booklet.

<sup>316</sup> Sinclair R 2004, 'Participation in practice: making it meaningful, effective and sustainable', *Children & society*, vol. 18, no. 2, p. 114.

<sup>317</sup> Cashmore J 2002, op. cit., p. 841.

<sup>318</sup> Winkworth G and McArthur M 2006b, op. cit., p. 17.

<sup>319</sup> Children and Youth Area Partnerships 2017, *My views booklet*, State of Victoria, <<https://ingipps.areapartnerships.vic.gov.au/inner-gippsland/my-views-booklet>>, accessed 4 April 2019.

<sup>320</sup> McDowall J 2013, op. cit., p. 94.

<sup>321</sup> Children and Youth Area Partnerships 2015, *Inner Gippsland innovation bootcamp*, State of Victoria, <[https://ingipps.areapartnerships.vic.gov.au/sites/default/files/Inner%20Gippsland%20Area%20Partnership\\_Innovation%20Bootcamp%20report\\_September%202015.pdf](https://ingipps.areapartnerships.vic.gov.au/sites/default/files/Inner%20Gippsland%20Area%20Partnership_Innovation%20Bootcamp%20report_September%202015.pdf)>, accessed 4 April 2019.

## Voice of the Child

The department's Priority Strategic Projects Branch is leading the Voice of the Child project. This project aims to draw on 'design thinking and agile project management methodology' to:

- *Co-design guidance, tools, and processes on the best ways to empower children to contribute to decisions on policies and services that affect them*
- *Work with children and stakeholders to co-design a digital platform for children to provide their feedback on services they engage with; and help staff interpret guidance/resources for their work area.*<sup>322</sup>

## Client voice framework for community services

Through the Voice of the Child project, the department has developed the Client voice framework for community services (the framework). The framework is 'intended as a resource to assist with prioritising and informing practice, capability and improvement approaches'.<sup>323</sup>

There are five client voice principles which are intended to 'provide overarching guidance for seeking, listening to and acting on the client at the individual, organisation and system levels:

1. the client voice is essential for quality and safety
2. clients have expertise
3. the client voice is part of everyone's role
4. there are many client voices
5. the client voice leads to action'.<sup>324</sup>

While the framework contains useful guidance for services to include the client voice in service design and policy development, it does not seek to provide practical guidance for Child Protection practitioners about ways to ensure children and young people's voices are heard and acted upon in day-to-day case planning decisions.

<sup>322</sup> DHHS 2018s, *Voice of the child: project on a page*, unpublished internal document, State of Victoria, Melbourne.

<sup>323</sup> DHHS 2019t, *Client voice framework for community services*, State of Victoria, Melbourne, p. 7.

<sup>324</sup> *Ibid.*, p.11.

## Ministerial Youth Advisory Group

In mid-2019 the government established the Ministerial Youth Advisory Group (MYAG) in partnership with the CREATE Foundation.<sup>325</sup> MYAG engages children and young people from metropolitan and regional areas who are currently in care services or have been in care about their Child Protection and care experiences. In particular, the group will discuss and provide advice to the department and the Minister for Child Protection about progressing the Roadmap policy agenda.<sup>326</sup>

### Finding 14: Attempts to include the voice of the child

Further and more specific work, building on the department's 'Voice of the child' project, is needed to improve children and young people's participation in day-to-day decisions in care.

<sup>325</sup> Email from the department to the Commission dated 1 October 2019.

<sup>326</sup> Donnellan L, Minister 2019, 'A system for young people, designed by young people', media release 2 August 2019, <https://www.premier.vic.gov.au/wp-content/uploads/2019/08/190802-A-System-For-Young-People-Designed-By-Young-People.pdf>.

# Chapter 6

## My home

### Chapter at a glance

- A significant number of children and young people in care experience an unacceptable and damaging number of placement changes.
- Many children and young people in stable kinship and foster placements said their placement felt like home.
- Children and young people in care are least likely to feel at home in residential care due to its often unsafe, chaotic, conflict prone and institutional environment. These problems are driven in part by inappropriate mixing of children and young people in residential care.

### Key data

- As at 31 December 2018, 40 per cent of all children and young people in care had experienced between one and 28 placement moves during their first six months in care.
- Children and young people who experienced more than one placement during their first six months in care moved on average 3.3 times.
- Contingency placements are very expensive and cost the department \$43.05 million last financial year, almost \$2,077 per child per day.

*I haven't felt like there is an emphasis on 'home' in any place I have lived in the past. In the past it never has been given a thought – all those things we said are important aren't important to the people who put us there and who 'care' for us (Sofia, foster care, 16, Aboriginal).*

## Introduction

Every child or young person who is removed from their parents has the right to live somewhere that feels like home. This chapter explores the views of children and young people about whether their placement felt like a safe, stable and loving place.

For some children and young people who spoke to us, including many in foster and kinship care, being in care felt safe, stable and homely. These children and young people told us they often relished being in a home where they felt welcome, loved, had a space of their own, had clear rules and boundaries, could engage in regular activities and have pets – like 'normal' kids.

However, being in care did not feel like home for the vast majority of children and young people we spoke to in residential care. They consistently informed us that residential care:

- is violent and unsafe<sup>327</sup>
- lacks rules and consequences where workers rely overly on police to de-escalate 'difficult behaviours' in a way that no reasonable parent would
- exposes younger children to the drug use and criminal misconduct of older residents
- can feel cold, an institutional living environment
- inappropriately co-locates residents with complex behavioural and mental health issues, to their collective detriment.

Children and young people in all forms of care also told us that being in care did not feel like home when they had experienced constant movement between placements, which they experienced as degrading, dislocating and upsetting.

<sup>327</sup> This is discussed further in Chapter 7.

The key driver of unresolved placement instability in Victoria's out-of-home care system is a combination of:

- rising numbers of children and young people going into care
- a lack of suitable carers and placements, especially for children and young people living with complex trauma, challenging behaviours and/or intellectual disabilities, which limits the system's capacity to match the carer and placement to the child or young person
- a lack of tailored supports for carers to maintain placements (as noted in Chapter 10) and for children and young people in care to recover from traumatic experiences they have often endured prior to their entry into care.

Against the backdrop of falling numbers of foster carers in Victoria,<sup>328</sup> an increasing number of foster and kinship carers appear to be ending placements.<sup>329</sup> Additionally, the co-location of children and young people with significant experiences of trauma and, for some, challenging behaviours in four bed residential units is fuelling a conflict prone and unsafe environment for these children and young people. This in turn is driving further placement instability.

Due to the lack of appropriate therapeutic placements for children recovering from complex trauma, the imperative to find a bed for a child or young person appears to preclude genuine consideration of what placement would be in their best interests.

<sup>328</sup> The Commission notes that falling numbers of foster carers is a worldwide trend, and not limited to Victoria.

<sup>329</sup> The Commission notes the department has concerns about the reliability of data upon which this finding is based. See: Figure 15 and Figure 16.

This chapter highlights that care will not feel like home unless it can provide children and young people with stable and secure placements in which they can begin to address the trauma that brought them into care.

## Having a home is important

The children and young people the Commission spoke to emphasised the importance of their placement feeling like 'home'. They described home as somewhere safe, comfortable and loving, where you feel like you belong and where you can relax.

*I think the most important thing is finding a steady home. It's so hard when you move around, especially to make friends and socially (Caden, post-care, 19, Aboriginal).*

*Now home is somewhere you can go to. It is your own environment. You can have things you want, pictures, you feel safe, relaxed and can do whatever you want to do (Adam, post-care — previously residential care, 24).*

**Q: Do these places feel like home to you? Can you tell me what 'home' means to you?**

*Should be a safe place (Leila, foster care, 16, Aboriginal).*

*Should be love, feel loved no matter what (Sofia, foster care, 16, Aboriginal).*

*Support and sense of belonging (Caroline, post-care, 19, Aboriginal).*

**Q: What makes a placement feel like home?**

*Love (foster care, 13).*

*That I know I can always come back here and feel safe (post-care, 20).*

*Being with my brother and sister (kinship care, 15).*

*No workers, nice welcoming furniture, no locks on doors like the pantry, food in the house (lead tenant, 17).*

*If it's your own house and how you want it with your own rules (residential care, 17, Aboriginal).*

## Did out-of-home care feel like home?

### My placement felt like home

Children and young people in stable, foster care and kinship care placements were most likely to express positive feelings about their placement feeling like home.

*Foster care already felt like 'home'. It was just the natural next step – it took the need to talk to a worker away (Sienna, post-care, 20).*

*[Residential care] sucked. The first one was the worst, then the second one was a bit better then I got to where I am now [in home-based care] and it's the best that I have lived in my whole life. Residential care doesn't feel like home to me (Connor, foster care, 12, Aboriginal).*

*I have found a home. But there are so many other kids out there that haven't been able to be as lucky. Like those kids in a resi care unit and feeling scared. Everyone needs to be able to feel at home and safe and secure and I want everyone to be as lucky as I am. It's not always possible. There aren't enough foster carers. This weekend we have had two emergency kids. Out of everyone I just like the way [my foster carer] does it (Agnes, foster care, 17).*

*I like living here. We have trees (named all the trees in the backyard). We are growing vegetables and have chooks. I like gardening (Myles, foster care, 9, Aboriginal).*

For many children and young people, feeling wanted and welcomed was synonymous with feeling at home.<sup>330</sup> Children and young people in home-based care were far more likely to feel this way than those in residential care.

*The foster carer included me in a lot of things and included me in his family. I felt more loved and included and my whole life changed when I went into long-term foster care. I had been visiting them before I went into care for respite. I felt much more comfortable in that kind of care. Even after I was, 18 I asked, 'Why didn't I go into longer-term placement before resi?' It was because I had family in that area [where the resi was] and I was going to school there (Jeremy, post-care, 21).*

*I am in permanent care. I am special as the people I live with chose me and want me and I appreciate it. They have cared for me and my brother (Mila, foster care, 12).*

*I am still living with my foster carer. He's taken me on as a son. He has opened up his house to me. He gave me my keys when I first moved in. It made me feel, 'I am secure, I am safe'. It felt like a home point for me (Wade, post-care, 21).*

*It was a struggle at first, obviously living away from family is a struggle for everyone. The house has made me feel welcomed. Feels like my second family. After a few weeks it was quite easy to feel comfortable and feel like a home (Myles, foster care, 9, Aboriginal).*

*I have been here four years, I am their kid (survey respondent, foster care, 12).*

*The placement that I am at now [is the best], because they have loved me and ensured that I have everything that I have and make sure that I am happy and being able to get an education (survey respondent, foster care, 13).*

<sup>330</sup> This is consistent with CREATE's Report card (2013, p. 34), which found '[w]ithout doubt, the experience of a warm, caring, and supportive relationship defined ... good placements'. Similarly, CREATE's *Out-of-home care in Australia: children and young people's views after five years of national standards* (2019, p. 7) reported that '[a] good placement was based largely on the child or young person having a warm, loving relationship with the carers, and feeling 'at home' or comfortable in the care situation'.

### Being in residential care was not home

Children and young people in residential care often remarked that it did not feel like home. Those who had entered residential care after experiencing multiple placements were most likely to express negative views about whether it felt like home.

*I had two years in resi – they were probably the worst two years of my life (Wade, post-care, 21).*

*Residential care doesn't feel like home to me (Connor, foster care, 12, Aboriginal).*

*This is supposed to be my family, but they do not act like a family (Sawyer, residential care, 16, Aboriginal).*

*Resi would improve if it was more homely, be more like family ... sit down when a kid wants to talk (Carter, residential care, 16, Aboriginal).*

However, there were a handful of exceptions to children and young people's almost universally negative experiences of residential care.

*I like living here, good access to internet and TV (Mariah, residential care, 15).*

*I felt comfortable most at resi. For me, that was like a home 'cos you were comfortable (Leo, foster care, 16).*

### Things that helped and hindered out-of-home care to feel like home

When speaking about whether being in care felt like home, the children and young people we consulted most commonly identified factors such as:

- feeling and being safe (see Chapter 7)
- stability in where home is
- the quality of their relationships with other children and young people in their placement
- the existence of rules, structure and how conflict was resolved
- whether their physical living environment felt homely
- access to food
- having pets.

These factors are discussed in turn below. Relationships with carers are also critical to a placement feeling like home and are considered in Chapter 10.

### Stability

#### My home was stable

A relatively small number of the children and young people we spoke to (n = 55) noted that their home in care was or had been stable (in the current or final placement before leaving care). Children and young people were more likely to report stability when they had experienced long-term kinship and foster care placements, with carers they found compatible.

*I like where I'm living. Since I was three, on and off. It's safe and makes me feel comfortable (Gemma, kinship care, 10).*

*I've lived with Auntie Nellie for four years. I like living with her, she gives us stuff we need, like good clothes and PE clothes and swimming clothes. When our shoes are wrecked, she buys us a new pair right away. Most of our clothes were wrecked when we were living at mum's house and the whole house was a mess (Cooper, foster care, 14, Aboriginal).*

*Although all the shit that has led to being where I am now, I feel like I'm lucky. But that is the issue, I got lucky because I am friendly with the manager here [at the agency], and she knows me and realised they had a carer who was similar to me and we have clicked. But what about all the others out there who will keep bouncing between carers like I was doing for the year up to now (Iris, foster care, 15, has been with current carer for one year).*

*I was lucky 'cos my grandparents made me feel like I was part of the family. I was never, ever introduced as their foster child and that made me feel loved and appreciated. I would encourage foster carers to try and do that, that was the most important thing (Caden, post-care, 19, Aboriginal).*

*We know everyone here and we have been here for a long time (Hayden, residential care, 13, Aboriginal).*

These children and young people sometimes had considerable insight into the benefits of stability for them and were more likely to go to their carers for emotional support.

**Q: How has this placement changed things for you?**

*I stopped over-eating. I'm mentally all there now. I'm not 'in pieces'. I'm getting physically fit. I don't have anything to stress or worry about (Kevin, foster care, 17).*

## **My home was not stable**

Placement instability was a key issue raised by almost half of the children and young people we consulted (n = 94). Many told us that the instability they experienced made being in care not feel like home.

*I didn't have a home environment when I was growing up, nowhere I lived felt like a home (Adam, post-care – previously residential care, 24).*

*Like I literally always have a backpack ready just in case I'm moved. No joke, I hoard toothbrushes and keep them and put them in a backpack that sits in my room (Iris, foster care, 15).*

*Before resi, I was in foster since birth. I call her my nana – I was with her from six weeks to six years old, and then with a girl called Jane until I was about 12, and that's when they started putting me in heaps of different foster care placements because I kept on running away because they were not giving me what DHHS were supposed to (John, post-care – previously residential care, 18).*

*It is hard with the number of kids coming through resi-care. One kid goes and in 20 minutes another comes in. [...] We don't get told who is coming or going out. That makes us [kids] angry more than we need to be (Stacey, residential care, 17).*

*I tend to lock myself in my room and shut myself off. [...] I'm living out of my suitcases, because I'd like to run away, but I don't have anywhere to go (Evelina, residential care, 17).*

*I have been in foster care now for eight weeks and have had three placements in a short time (Landon, foster care, 16).*

*I have been in foster care for five months, I have had five different placements, before that I was living with my mum (Simon, foster care, 14).*

Children and young people often described constant moving as degrading, dislocating and upsetting. Some children and young people blamed themselves and appeared to internalise guilt about repeated placement changes.

*It's really hard when you have to think about it. Each time I had to move it would bring back all these memories and feel like the same shit was happening over and over again (Lewis, kinship care, 15).*

*They shouldn't move kids at rough times. Like they were gonna move me at Christmas and Christmas is a massive trigger for myself (Karina, residential care, 18).*

*[I] was initially scared of resi. I only knew one person. [It's] a strange feeling where you turn up to different places with a worker and a bag and it felt like the worker was saying, 'Here have a kid' (Byron, residential care, 15, Aboriginal).*

*Moving around different places has been really stressful. I do one week in one and then I get moved out. I felt like I couldn't settle in one house (Ellie, residential care, 16, Aboriginal).*

*At first, it was really difficult but after a while I thought it was like a normal thing just to move constantly. Wouldn't get any notice until the day. It's usually like at the moment ... [My workers] don't usually [tell me why] ... just say, 'You're going'. I've only lived in four resis, mostly temporary. No one's really told anyone here that I'm permanent, but they've just assumed that I am (Terry, therapeutic residential care, 14).*

*Change the moving – I've lived all over Victoria (Cole, post-care, 21).*

*I have been in foster care for five months. I have had five different placements. Before that I was living with my mum. Before that I was in foster care for 14 months with the same family. Now I turned into a teenager, no one wants me because I eat too much and we are not easy to look after (Simon, foster care, 14).*

**Q: What is it like moving from one placement to another?**

*I hate it. I have to be good. I don't think they loved me or else I wouldn't have moved (foster care, 12).*

*It can be scary for others but for me it wasn't really scary because I've met them beforehand (foster care, 15).*

*Not good, because it is like we are getting treated like rag dolls (foster care, 14).*

*It unsettled me more and more each time I moved (lead tenant, 17).*

*Shit (residential care, 17).*

*You are already deprived of having parents and a stable family so really what is so important is consistency (Audrey, post-care – previously foster care, 18).*

Four young people told the Commission that ‘acting out’ or running away was their only available tool to influence placement change.

*The only time I had any say was to smash up their car or place and then I would be moved (Owen, residential care, 15).*

*Then they put me in a long-term placement but I'd didn't like her, there was an older boy and he was 18 years old and she was never home because she worked in the city. I was too scared to ask to move so just did bad things and it worked. I didn't want to hurt her feelings (Ruth, residential care, 15).*

*I don't want to live in resi anymore, don't want to live in resi. Told them all. No one is listening. [I] just get put back in there. So I keep running away, rather live on the streets like a homeless person (Sawyer, residential care, 16, Aboriginal).*

*I have lived in about 20 different residential care units. I have ran away so many times and have been put on safe custody warrants 10 times (Jack, residential care, 16, Aboriginal).*

Children and young people experiencing placement instability in residential care sometimes reported being housed in short-term accommodation in hotels or being placed in residential care at a young age, pointing to a critical lack of sustainable placement options in the system.

*Yesterday DHS workers came to visit me and told me I'm getting out tomorrow. They said I might have an emergency placement and they might have me in a hotel again (Derek, secure welfare, 15).*

**Q: How many times do you think you moved in all the times you were out of your mum's care?**

*I dunno, like honestly would probably be like 70 times or something like that. And I know the rules are something like you have to be 12 before you live in resi, but I was placed in resi before that. I was like 10. I sometimes ran away and things like that as well (Iris, foster care, 15).*

### Case study on placement instability<sup>331</sup>

In John's last three years in care, he moved between over 20 different placements. The Placement Coordination Unit secured him placements mostly in foster and kinship care. John eventually moved to a residential care unit, and, after this placement broke down, Child Protection booked him into a hotel.

During a four-week period over the summer holidays, Child Protection placed John in seven different foster homes. Child Protection did not contact John about these placement changes, and often he had to contact them to find out where he would be staying next.

On at least two occasions during this four-week period, Child Protection relied on John to get public transport or police to transport him to the next placement. Once, John asked Child Protection to pick him up and take him to the next placement. Child Protection refused and advised him he would need to get public transport and threatened to get a

warrant if he did not arrive at the placement. Another time, After Hours Child Protection Emergency Services suggested he go to the closest police station to get a lift to his placement. John waited for a lift at the police station for two hours before leaving.

Following this period of instability, Child Protection spoke to John's adult sister about kinship care at John's request. John's sister agreed to trial this for a month. This placement lasted for about five months. During the placement, Child Protection visited John only twice. While John was placed with his sister, he received the support of a mentor, a kinship support team and a mental health service. Despite this, John's sister contacted Child Protection to ask for more support to make sure the placement would last. Child Protection attempted to provide this support, but the placement broke down shortly afterwards.

### Research and analysis about placement instability

#### Placement instability harms children and young people

Children and young people in care throughout Australia have long raised placement instability as among their key concerns. For example, most respondents captured by CREATE's *Report card* (2013) 'expressed their dissatisfaction and largely addressed the disruption to the social and emotional aspects of their lives caused by repeatedly moving'.<sup>332</sup>

The CREATE survey 2018 concluded that '[t]oo many young people were experiencing moves when they didn't want it'.<sup>333</sup> While not addressing children and young people's prior experiences of placement instability, the Viewpoint survey 2018 reported that across all care types, 92 per cent of children and young people felt 'completely settled where they live[d]'.<sup>334</sup>

This was lower for children and young people in residential care, of whom 65 per cent felt 'settled where they live now'.<sup>334</sup>

<sup>331</sup> This case study is based on a review of a live CRIS case file. The case study has been deidentified to protect the privacy of the child.

<sup>332</sup> McDowall J 2013, op. cit., p. 24.

<sup>333</sup> McDowall J 2018, op. cit., p. xvi.

<sup>334</sup> Viewpoint 2018, *The views of children and young people in out of home care in Victoria*, Viewpoint, p. 12.

Continuity and stability in care arrangements and relationships is an important factor in a child or young person's development.<sup>335</sup> In this inquiry, children and young people told us that placement instability disrupts schooling, friendships and connection with family, community and culture. International research has consistently established 'that generally worse [life] outcomes are experienced for young people who have experienced placement instability'<sup>336</sup> including:

- 'increased anxiety and depression and difficulties trusting and forming new relationships'<sup>337</sup>
- emotional and behavioural problems<sup>338</sup>
- poor adult outcomes related to physical and mental health and education<sup>339</sup>
- heightened risk of criminal offending<sup>340</sup> and sexual behaviour problems.<sup>341</sup>

Children and young people being forced to move between placements frequently 'adds to the trauma and insecurity they have often suffered before coming into care'.<sup>342</sup> A 2017 internal document (prepared for the department by ThinkPlace) concluded – on the basis of consultations with Child Protection and CSO workers, carers and children and young people in care – that:

- Children and young people in care often don't feel loved by anyone. This is because they are passed around from placement to placement and between multiple people such as parents, carers and workers.<sup>343</sup>
- Multiple placements and placement breakdowns means starting all over again with a new family or resi unit and often results in a change of agencies, resulting in more instability and uncertainty in the child or young person's life.<sup>344</sup>
- Children and young people are often removed from placements with little warning and are not able to prepare emotionally and don't get a chance to say goodbye. Being removed from their family or from a placement can mean the loss of positive things in the child or young person's life such as relationships, school, sense of belonging in a location.<sup>345</sup>

When children and young people are forced to change placement with limited notice or ability to prepare, they 'can become prone to chronic fears and anxiety and may withdraw or become overly compliant'.<sup>346</sup> As such, placement instability is contrary to the right of children and young people to '[c]areful thought being given to where I will live so I will have a home that feels like a home'.<sup>347</sup> It is also contrary to the tenets of a trauma-informed approach to out-of-home care outlined in Chapter 12: Reforming the out-of-home care system.

**335** Victorian Ombudsman 2010, *Own motion investigation into Child Protection: out of home care*, State of Victoria, Melbourne.

**336** Bollinger J 2017, 'Examining the complexity of placement stability in residential out of home care in Australia: how important is it for facilitating good outcomes for young people?' *Scottish Journal of Residential Child Care*, vol. 16, no. 2, p. 8.

**337** Ibid., p. 8 citing Koh E et al. 2014, 'What explains instability in foster care? Comparison of a matched sample of children with stable and unstable placements', *Children and Youth Services Review*, vol. 37, pp. 36–45, and O'Neill M et al. 2012, 'Placement stability in the context of child development', *Children and Youth Services Review*, vol. 34, no. 7, pp. 1251–58.

**338** Ibid.

**339** Ibid.

**340** Ryan JP and Testa M 2005, 'Child maltreatment and juvenile delinquency: investigating the role of placement and placement instability', *Children and Youth Services Review*, vol. 27, no. 3, p. 227.

**341** Bollinger J 2017, op. cit., p. 8.

**342** Office of the Guardian of Children and Young People 2013, *Literature review: the impact and experience of moving while in care*, State of South Australia, Adelaide, p. 21.

**343** ThinkPlace 2017, *Out of home care architecture reform insights report*, unpublished internal document, ThinkPlace, Melbourne, p. 13.

**344** Ibid., 14.

**345** Ibid.

**346** Office of the Guardian of Children and Young People 2013, op. cit.

**347** DHS 2007, op. cit.

### Trends in placement instability in Victoria

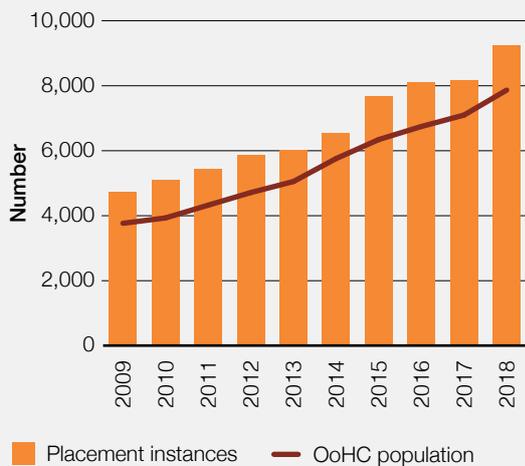
Placement stability in out-of-home care in Victoria has been an issue of concern for children and young people in care for some time. The Protecting Victoria’s Vulnerable Children Inquiry (2012) expressed grave concerns about placement instability and noted that placement stability had declined significantly over the preceding decade.<sup>348</sup> This inquiry recommended that the Victorian Government should, as a matter of priority, establish a comprehensive five-year plan for Victoria’s out-of-home care system including the core objective of improving ‘the quality and stability of out-of-home care placements’.<sup>349</sup> This plan was superseded by the Roadmap strategy.

Analysis of CRIS placement data between 2009 and 2018 (Figure 12) shows that overall, placement instability is not improving.<sup>351</sup>

In addition, Figure 13 below reveals that the average monthly placement instances per 100 children and young people is increasing for children and young people in foster and residential care services.

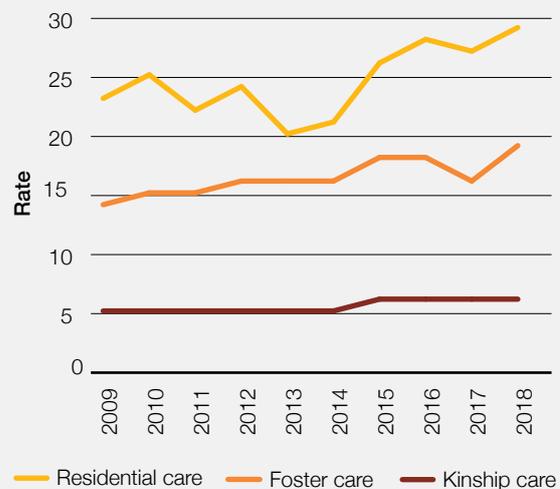
The Commission noted in its report ‘...safe and wanted...’ that: ‘[t]he department does not monitor the total number of placement changes experienced by a child in out-of-home care’.<sup>352</sup>

**Figure 12: Placement instances per year compared with total out-of-home care population, 2009–2018**<sup>350</sup>



Source: DHHS data extraction from CRIS database, 10-year placement conclusions. Data provided to the Commission on 31 July 2019.

**Figure 13: Average rate of placement movements per month, per 100 children and young people in each placement type as at 31 December, 2009–2018**



Source: DHHS data extraction from CRIS database, 10-year placement conclusions. Data provided to the Commission on 31 July 2019.

<sup>348</sup> Cummins PD, Scott D and Scales B 2012, op. cit., p. 248.

<sup>349</sup> Ibid., p. 232.

<sup>350</sup> Excluding permanent care orders and administration end date.

<sup>351</sup> The department cites ROGS data from 2019, which indicates that placement stability has increased. The Commission acknowledges the ROGS data. However, this data counts the number of children and young people exiting the system, and not placement instances as shown in Figure 12.

<sup>352</sup> CCYP 2017, op. cit., p. 35.

In response, the Commission recommended that the department:

- [introduce] measures to monitor the total number of placement changes children experience in out-of-home care
- [review] the circumstances of children who have experienced high levels of placement changes and develops tailored strategies to minimise future placement instability for those children.<sup>353</sup>

In June 2018, the department informed the Commission that it accepted this recommendation in principle:

*These issues are being considered in the context of current out-of-home care reform design. The department will explore options for implementing this recommendation in the context of the current recording system and identify options for tailored strategies to minimise future placement instability for children who have experienced high levels of placement changes. If changes to the placement component of CRIS were required, this would be an extensive project.*

*The department has measures in place to monitor the total number of placement changes children experience in out-of-home care.*

*By September 2018, the department will develop a monitoring mechanism for placement data to trigger senior oversight of children experiencing multiple placement changes in out-of-home care. This recommendation is in scope for further examination through the longitudinal study.*

When asked for an update on the status of this work, in late July 2019 the department informed the Commission that '[t]he Department does not have a current monitoring mechanism at a State-wide level'.<sup>354</sup> Given the importance of placement stability for children and young people in care, this inaction is disappointing.

## Placement instability over time

As at 31 December 2018, only half of all children and young people in care (n = 3,392) had maintained the same placement since going into care.<sup>355</sup> The longer a child or young person is in Victoria's out-of-home care system, the higher the likelihood they will experience multiple placements. Of the children and young people in care as at 31 December 2018, children and young people in residential care were most likely to have endured multiple placements. Those in kinship care were least likely to have experienced multiple placement moves.

A significant number of children and young people in care experience placement instability when they first enter care. As at 31 December 2018, 40 per cent of all children and young people in care had experienced between one and 28 placement moves during their first six months in care (n = 3,233).<sup>356</sup> Children and young people who experienced more than one placement during their first six months in care moved on average 3.3 times.<sup>357</sup>

## Placement instability across placement types

Being in residential care is associated with high levels of placement instability. Children and young people whose current placement is residential care are most likely to have experienced multiple placements over the duration of their time in care – an average of eight placements, compared with an average of 5.3 placements in foster care and 3.6 placements in kinship care (see Table 23 below). Almost seven out of 10 children and young people in residential care (68 per cent) have experienced between five and 28 placement moves while in care.<sup>358</sup>

<sup>353</sup> Ibid., p. 28.

<sup>354</sup> Email from the department to the Commission dated 27 July 2019.

<sup>355</sup> Appendix: Table 56.

<sup>356</sup> Appendix: Table 57 and Table 58.

<sup>357</sup> Appendix: Table 58.

<sup>358</sup> Appendix: Table 59.

**Table 23: Average number of placements of children and young people in out-of-home care, by placement type and duration in out-of-home care, as at 31 December 2018 (n = 3,940)<sup>359</sup>**

Duration in OOHC in years	Placement type				Weighted average for care types
	Kinship care	Foster care	Residential care	Residential care – Therapeutic	
Less than 1 year	2.8	4.3	4.3	5.8	3.4
1-2 years	3.1	4.4	6.4	6.6	3.9
2-3 years	3.4	5.0	8.8	7.9	4.4
3-4 years	3.9	5.2	10.0	8.3	4.8
4-5 years	4.0	5.5	13.6	11.0	5.0
More than 5 years	5.1	6.5	12.4	15.2	6.5
<b>Total</b>	<b>3.6</b>	<b>5.3</b>	<b>8.0</b>	<b>9.0</b>	<b>4.6</b>

Source: DHHS data extraction from CRIS database, placement instances of children and young people in out-of-home care as at 31 December 2018. Data provided to the Commission on 15 June 2019.

## Drivers of placement instability

### *A lack of appropriate placement options and suitable carers across the system*

As noted in Chapter 3, the number of children and young people in care has more than doubled in Victoria in the past 10 years, combined with unresolved issues of placement instability. Throughout Australia, demand for out-of-home services ‘far outweighs the capacity of child protection systems and service providers’.<sup>360</sup> In this context, ‘appropriate placements for children and young people are often based on availability rather than need’.<sup>361</sup> As a consequence, children and young people are less likely to be placed with carers best suited to their particular needs or expressed preferences,<sup>362</sup> particularly where children and young people exhibit challenging behaviours.<sup>363</sup>

<sup>359</sup> Children with two or more placement changes, in care for more than one month, excluding placement-end reason ‘Administrative end date’ (instances recorded for administrative purposes only) and permanent care orders. This average includes children and young people in care who have experienced more than one episode of care.

<sup>360</sup> Australian Senate 2015, *Community Affairs References Committee: Out-of-home care*, Commonwealth of Australia, Canberra, pp. 80–81.

<sup>361</sup> *Ibid.*

<sup>362</sup> *Ibid.*, p. 81.

<sup>363</sup> ICPS 2005a, *Good practice for placement planning*, ICPS, Canberra, p. 4, citing Bath H 2000, ‘Rights and realities in the permanency debate’, *Children Australia*, vol. 25, no. 4,

All Child Protection staff members interviewed by the Commission (n = 16) noted a lack of suitable placements as the key driver of instability in the system.

*Look when I first started I think there was more placements available and higher level of good carers (ten plus years ago). Back in the day it was much easier to place kids 0–10 years of age and now, it’s so much more difficult (Child Protection staff member).*

*On any given day, three quarters of the Placement Coordination Unit work is placement planning for children who are in out-of-home care already. Eighty-five per cent of kids we are working on in any given month are already in out-of-home care. Children land in the out-of-home care system and the system is already bursting at the seams and this is when the instability starts for them (Child Protection staff member).*

pp. 13–17 and DHS 2014, *Stability Planning and Permanent Care Project 2013–14: final report*, unpublished internal document, State of Victoria, Melbourne.

*In our office right now as we speak, we have three suitcases for kids who are at school but currently don't have a placement. It is just tragic (Child Protection staff member).*

**Q: What do you think is driving placement instability?**

*The availability and the suitability of robust, responsive, warm home-based carers. It does start to impact on decision making. I've recently sat here at night with a sibling group of seven, trying to decide if I should take a certain course of action, knowing there was no one place we could house them all and they would be split into various locations. Do you do that or place them back with the family? Both are very high risk situations so your hands are so tied in many ways with our current environment (Child Protection staff member).*

*There just [aren't] enough foster families and then kids can be put into resi as a stop gap and that creates a whole suite of other issues (Child Protection staff member).*

*One of the major things is the sheer lack of options of numbers of placements (Child Protection staff member).*

**Q: What do you think is the biggest driver of placement instability?**

*I think it's around the lack of placements mostly – within every region. But then the complexities of young people and inability to match them, they often get moved for reasons that aren't their fault (Child Protection staff member).*

*I don't know if it will ever get to be better due to lack of carers. We are putting kids up into motel rooms sometimes or sent out of region where they get disconnected with school which is another major issue (Child Protection staff member).*

Several Child Protection staff members commented that the lack of placements reduces the system's capacity to match the carer and placement to the child, which undermines placement stability.

*There is a lot of focus on the matching. But often the options are so limited so we will have to consider 'Yeah. This isn't the best match but it's better than any other option'. Sometimes it's purely vacancies like there might literally be one placement option in the region (Child Protection staff member).*

*Trying to identify the most appropriate placements is so hard. The biggest factors are the pure lack of availability of placements particularly when there is an emergency that arises and a kid needs to be moved immediately... especially looking at the different level of needs, high risk youth often being placed with other high-risk kids and their behaviour escalates. We try to do matching but we can't do it well enough and this leads to issues (Child Protection staff member).*

*When a young person enters a placement, Child Protection, and the agency and care team of the other young people will talk about matching. [The Placement Coordination Unit] will be very involved in those conversations. We do a lot of matching and compatibility – also involve our principal practitioner who has oversight of the higher risk young people and placements. We do sometimes say that is not a suitable placement. The vulnerability sometimes is that we have no placement and it is about mitigating the risk of the placement that may not be suitable (Child Protection staff member).*

**Placement instability among children and young people with complex trauma, behavioural issues and/or disability**

File reviews conducted by the Commission revealed that in Victoria's current out-of-home care system, placement instability is worst for children and young people with complex trauma, behavioural issues and/or intellectual disability, due to the lack of appropriate placements for them. As at 31 December 2018, there were 403 children and young people in care who had experienced 10 or more placements over the duration of their time in care. Of these, a disproportionate number were Aboriginal (33 per cent).

The Commission reviewed the files of 32 of these children and young people and found that 81 per cent (n = 24) presented with complex trauma and challenging behaviours. Challenging behaviours among this cohort of children and young people commonly involved damage to property, bullying of siblings or their carers' biological children, and sometimes assaults against others.

Of the group who exhibited challenging behaviours:

- more than one-third had been assessed as having an intellectual disability (n = 9)
- one-quarter had exhibited sexualised behaviours (n = 6)
- half had run away from placement repeatedly (n = 12).

Most of these children and young people (n = 20) had experienced high levels of placement instability (more than six moves in their first year) when they first entered care.

Child Protection, CSO and Placement Coordination Unit (PCU) staff confirmed the shortage of suitable home-based placements for children and young people with complex trauma, challenging behaviour and/or intellectual disability and its relationship with the placement instability they experience in the system.

*With any child that has behavioural issues that is over like 10 you really can't get any home-based care placements. There is such a major shortage (Child Protection staff member).*

*For a lot of the kids with reactive attachment and the trauma, it is very difficult to find placements and if you do it is a very short period. I think we need to build on our practice in trauma training and support for carers to be able to care for these kids (Child Protection staff member).*

*Home-based care is out of reach for children with a disability or mental health (Child Protection staff member).*

*The other complexity around carers is for kids with disability – with the NDIS rolling out we used to have previously placements with Disability Advocacy Service with our kids, but now with NDIS we would have to look in Melbourne. Those places just aren't available. Quite a scary space for us at the moment. Currently [there is] a young person who is 12, he is getting too large and too violent and his carers are old and his placement is going to have to end and we have nothing for that child (Child Protection staff member).*

*We have a kid at the moment who is eight and has a lot of behavioural issues and we can't get any home-based care for [him] (Child Protection staff member).*

*We need to be attracting career carers. There is a place for other types of carers but you bring in a seven or eight year old who is significantly traumatised and is barely going to school and has a lot of behavioural issues, carers currently aren't going to do that. You just need paid carers who are there and trained (Placement Coordination Unit staff member).*

*Many [residential care] staff are not trained in how to care for kids with a disability and other clients can become escalated because of the arrival of someone with a disability. This means they are more likely to go into contingency placements (Placement Coordination Unit staff member).*

When the Commission interviewed Child Protection and PCU staff members about instability first in care, they confirmed that instability when children and young people first enter care is a common and sometimes re-traumatising experience. Some Child Protection staff members linked this instability to a lack of appropriately skilled carers and/or a lack of planning before the child or young person came into care.

*Usually when they first enter is when they have least stability... A lot of the trauma they have around placement moves comes from early on, in these first two weeks (Child Protection staff member).*

*The beginnings of the instability come from behaviours that arise when they are first moving into care, it is often a hugely traumatic time already for the kids then due to no placement that is appropriate they are put in short term options often resi and there it all begins (Child Protection staff member).*

## **The flow-on effects of the lack of appropriate placements**

The lack of suitable placements in home-based care is driving low vacancy rates in residential care which are typically close to or exceed funded placements (this is particularly concerning given that at any one time a number of units will be vacant due to repairs or refurbishment).

Low residential care vacancies – coupled with a lack of appropriate placements across the system – is driving demand for unfunded contingency placements.<sup>364</sup> PCU managers informed the Commission that in practice a contingency placement usually involves a child being placed in a unit ‘borrowed’ from a CSO, or a hotel suite and that these placements commonly lack a consistent group of staff.

The department advised the Commission that:

*Factors contributing to these placements include client complexity, location, sibling groups, demand, planning, or a crisis requiring an immediate response. Most contingency placements utilise a department house and must adhere to the residential care guidelines. Some contingency placements utilise a hotel, motel, serviced apartment, caravan, or cabin arrangement.<sup>365</sup>*

PCU staff members interviewed by the Commission informed us that the primary drivers of demand for contingency placements were:

- a lack of appropriate funded placement options – commonly where the child or young person is very young, vulnerable or considered a danger to others
- children and young people with a disability who receive insufficient support under the NDIS and a lack of capacity of residential care workers to cope with the sometimes challenging behaviours of children and young people with an intellectual disability and/or autism

<sup>364</sup> Over the last decade, there has been no fixed definition across the department of ‘contingency placement’ but the department has advised it is moving towards a uniform definition and associated counting rules. However, the department has advised the Commission that: ‘a contingency placement occurs when an operational division opens a placement without a funded target. Contingency placements sit outside the agreed and budgeted targets and are financed via other sources than the divisional placement services budget’. Email from the department to the Commission dated 28 July 2019.

<sup>365</sup> Ibid.

**Table 24: Residential care funded places by daily average occupancy rates and division**

Location	Funded placements	Daily average occupancy	Daily average occupancy – Aboriginal
East	93.5	90.6	22.2
North	115	93.5	27.1
South	123	99.4	18.5
West	133	140.2	16.9
<b>Total</b>	<b>464.5</b>	<b>423.7</b>	<b>84.7</b>

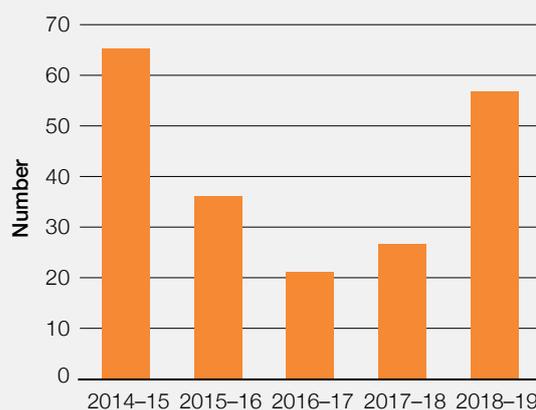
Source: Data provided to the Commission on 14 March, 2018.

- an interest in keeping sibling groups together where there are no other immediate suitable placement options for them.

Contingency placements are very expensive and cost the department \$43.05 million in 2018–2019, almost \$2,077 per child per day.<sup>366</sup> On any day in 2018–2019, there were on average about 57 children and young people in a contingency placement, and, over the course of 2017–2018, the department housed 173 children and young people in these placements (some had multiple placements). On average, in 2017–2018, a contingency placement lasted 88.6 days.<sup>367</sup> In 2018–2019, according to the department's data, the primary reason for placements were: complexity, including disability (63 per cent),<sup>368</sup> demand (15 per cent), sibling group (18 per cent) and other (4 per cent).<sup>369</sup>

The number of contingency placements appears to have risen steadily since 2016.<sup>370</sup>

**Figure 14: Average daily occupancy rates in contingency placements, 2014–2015 to 2018–2019**



Note: In 2018–19, contingency counting rules were changed to include all unfunded placements, which led to an increase in children from North and South division.

Source: Average daily contingency occupancy year to date. Data provided to the Commission on 20 September 2019.

<sup>366</sup> Source: Statewide contingency data provided to the Commission on 20 August 2019.

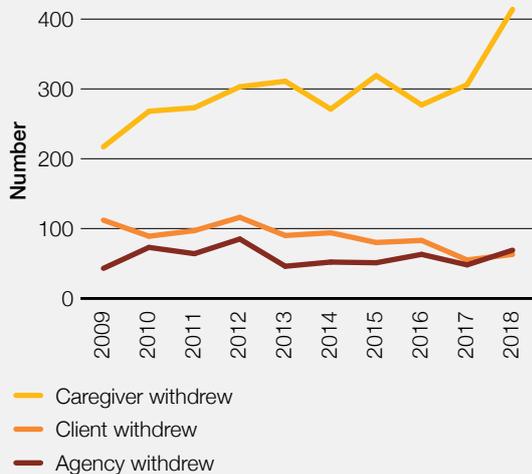
<sup>367</sup> Ibid.

<sup>368</sup> Ibid. Category includes departmental categories: 'complexity' and 'primary complexity issue'.

<sup>369</sup> Ibid. Category includes: 'other', '(blank)', 'violence / aggression', 'primary complexity issue', 'mental health' and 'drug and alcohol abuse.'

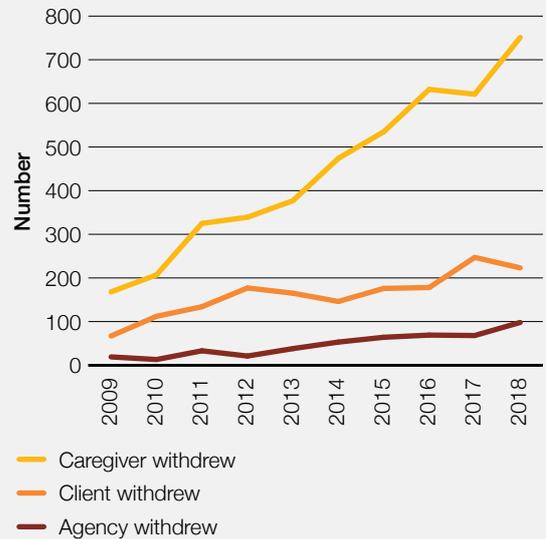
<sup>370</sup> The Commission has been advised by the department that in 2018–2019, contingency counting rules were changed to include all unfunded placements which led to an increase in contingency placement numbers reported for children and young people in north and south divisions.

**Figure 15: Number of unplanned exits per year from foster care placements, 2009–2018<sup>371</sup>**



Source: DHHS data extraction from CRIS database, 10-year placement conclusions. Data provided to the Commission on 31 July 2019. Administrative end-date placement instances excluded.

**Figure 16: Number of unplanned exits per year from kinship care placements, 2009–2018**



Source: DHHS data extraction from CRIS database, 10-year placement conclusions. Data provided to the Commission on 31 July 2019. Administrative end-date placement instances excluded.

### Carers withdrawing in kinship and foster care

Placement instability is in part attributable to carers deciding to end placements. Data over the last four years illustrates an overall upward trend in unplanned exits initiated by carers in both kinship and foster care. In 2017–2018, 1,165 of unplanned exits occurred for this reason (see Figures 15 and 16). Over this period there has been a net year-on-year exit of foster carers, illustrative of an increasing number of foster carers withdrawing among an ever-dwindling number of placements.

The Commission’s analysis of the 32 CRIS files of children and young people who had experienced 10 or more placements revealed that it was common for carers to withdraw when they were caring for children and young people with complex trauma and challenging behaviours. Of the 17 children and young people in the sample of files reviewed whose last placement had been in home-based care and who were noted as living with complex trauma and challenging behaviours, 10 children and young people’s foster or kinship carers had decided to withdraw due to those behaviours.

Child Protection, PCU and CSO staff members also linked carers’ decision to withdraw with their lack of capacity to support children and young people with complex histories of trauma and behavioural issues:

<sup>371</sup> The department has advised the Commission that ‘[t]here is no CRIS guide definition for ‘agency withdrawal’ and Child Protection practitioners may choose this field for a range of purposes, accounting for variability between financial years’ (email from the department to the Commission dated 5 August 2019) The department has also noted that this data is unreliable as there is no guide for how to apply the unplanned exit reason, and as such the data relies on the personal interpretation of the Child Protection worker. While taking these concerns into account, the Commission has been provided with no alternative data. We consider that this data is indicative of trends in placement breakdown.

*The lack of professionalised foster care is a gap. We expect these people to have jobs and live their lives as they would and then we are asking them to take on these kids with huge trauma and behavioural issues and that impacts on the foster carer's ability to maintain the placement (Child Protection staff member).*

*Placement is always the issue... foster carers ending placement due to behaviours and that but the sheer number of placements or lack thereof are always a daily issue for us (Child Protection staff member).*

*[The carers] might have had them for years and then they get to adolescence and a range of issues emerge and they try but get to a point they can't deal with the behaviours anymore. Then it leads to a situation where they just give up and Child Protection will have to deal with that. Often we don't have the same relationship with the kid as the carer would. Then you might have a conversation about having a goodbye meeting (Child Protection staff member).*

However, two interviews with PCU staff and one foster carer suggested that sometimes agencies are intervening to end challenging placements when carers are happy to continue.

*Sometimes agencies are too protective of carers and kids are not prioritised. For example, we may have a young person in a placement and the agency will say that placement is ending – children might have been going well – but the agency will say that the carer can't keep caring for that child. When you speak to the carer (which PCU does sometimes) you discover they would have been happy to keep going (Placement Coordination Unit staff member).*

*We went through a bad patch where my foster son was lighting fires, was drinking and smoking in primary school. I went to the department and said I need some help. Their response was 'Ok we will just shift him'. They didn't ask me about that, they didn't ask him about that. It was just easier to shift him to another family. Fortunately, I got wind of that before it happened, and I made a big fuss about that happening and didn't go ahead. It would have been his 12th placement or something, last time I checked you can't treat unorganised attachment with just shifting kids all the time (Foster carer).*

Prior research has noted a lack of 'support to carers at time of crisis or falling confidence to manage behaviours'<sup>372</sup> as a key driver of carers ending placements. The file review of 32 files of children and young people who had experienced more than 10 placements considered the supports that the child or young person's carer had received during their most recent non-emergency or respite placement.

The review found that of the 22 kinship and foster carers covered by the file review:

- 64 per cent of these files lacked evidence of additional training being offered or provided to the carer to help address the complex trauma and challenging behaviours of the child or young person in their care (n = 14)<sup>373</sup>
- 36 per cent did not receive any respite, often despite numerous requests (n = 8)
- 77 per cent appeared to lack regular (at least monthly contact) with a worker with case management responsibility for the child or young person (n = 17).

<sup>372</sup> Office of the Guardian of Children and Young People 2013, op. cit., p. 7, citing Cashmore J and Paxman M 2006, 'Predicting after-care outcomes: the importance of "felt" security', *Child and Family Social Work*, vol. 11, no. 3, pp. 232–41; and Norgate R et al. 2012, 'Social workers' perspectives on the placement instability of looked after children', *Adoption & Fostering*, vol. 36, no. 2, pp. 4–18.

<sup>373</sup> When provided with an opportunity to respond to a draft of this inquiry report, the department advised that carers may have accessed training through Carer KaFÉ and Child Protection or the funded foster care agency may not know.

In our group consultations with carers, they often remarked on the connection between a lack of supports and placement breakdown or carer burnout. Child Protection and PCU workers also raised concerns about the continuing lack of supports for carers, particularly for kinship care and noted their relationship to placement breakdown. Current supports to kinship and foster carers to maintain placements (including training and development, support and supervision and financial supports) are discussed in detail in Chapter 10.

### ***Incompatibility and conflict between children and young people in a placement as a driver of placement breakdown***

Child Protection staff members told us that the compatibility of children and young people in the placement was a key factor in decision making about placements in residential care but that often a lack of placements contributed to 'poor placement mix' and commonly resulted in placement breakdown.

*The discussions around movement is had with PCU. We are the ones that go and end up telling the child they have to move and usually this is unplanned and last minute and the child is wondering 'What have I done wrong?' but mostly it's around matching. That is what I find, predominately in resis but also within foster placements (Child Protection staff member).*

*In resi care, there are often issues within the dynamic of the home and we have to move a young person to another home. So much of it is crisis led and you don't get to plan the placement move... You know in resi the kids might have a fight and the police put in an IVO or there is sometimes scapegoating in resis. It is just very difficult to have planning when changes need to occur for the benefits of young people. We know that it is flawed and is not always child focused (Child Protection staff member).*

### **Lack of involvement of children and young people in decision making about placements**

Many children and young people told us that they received limited information about proposed placement moves and were unable to participate in decision making about them (this is discussed in detail in Chapter 5). Placement stability can be improved by involving children and young people in decision making about where they live and who they live with.<sup>374</sup> In fact, the extent to which a child or young person's views are taken into account in planning decisions is a strong predictor of placement stability.<sup>375</sup>

### **Initiatives to address placement instability**

The department has advised the Commission of a variety of initiatives intended to improve placement stability.

#### ***Family stability packages***

The South Initiative has trialled a new Family Stability Packages program to 'provide 12 months of flexible funding and key worker support to kinship families who are at risk of breakdown to prevent children and young people in kinship placements becoming further entrenched in the out-of-home care system'.<sup>376</sup> The department has advised the Commission that this trial was not continued beyond 30 June 2018 but that instead, kinship carers and the children in their care can access support through TCPs.

<sup>374</sup> ICPS 2005a, op. cit., p. iv, citing Kiely P 2001, *A longitudinal evaluation of family group conferencing*, Masters of Clinical Psychology thesis, Macquarie University, and Lupton C and Stevens M 1997, *Family outcomes: following through on family group conferences*, Social Services Research and Information Unit.

<sup>375</sup> Ibid., p. v, citing Schofield G 2003, 'The research overview', *Stability in Foster Care seminar*, 22-23 January 2003, Royal Academy of Engineering, Westminster, and Triseliotis J 2002, 'Long-term foster care or adoption? The evidence examined', *Child and Family Social Work*, vol. 7, no. 1, pp. 23-33.

<sup>376</sup> DHHS 2018n, *South Division Out-of-home Care Initiative: Family Stability Packages outcome evaluation report*, State of Victoria, Melbourne, p. 1.

### **The new statewide model for kinship care**

In December 2017, the Victorian Government announced a \$33.5 million investment for a new statewide model for kinship care. This new model includes the objective of '(d) promote placement stability, including reducing the likelihood of entry into residential care'. The 2019–2020 budget announced funding of \$116.1 million for this model to continue for the next four years.

An early independent evaluation of the model finalised in November 2018 found that it is on track to meet its objective of improving the stability of kinship care placements. The evaluation also found that 'the percentage of children and young people entering residential care from kinship care in the past six months [had] reduced, and the percentage entering permanent care [had] increased'.<sup>377</sup> The evaluation also concluded that '[p]lacements that received... brokerage broke down at a lower than average rate'.<sup>378</sup> However, the evaluation concluded that:

*With regards to placement stability, there was no change in the rate of breakdown among kinship care placements state-wide. Data suggests that the kinship workers, First Supports, case contracting and brokerage have not reached enough placements – and/or have not been working with those placements long enough – to have impacted breakdown metrics state-wide in the time period. Interviews and monitoring data show an identified need for kinship workers and brokerage to operate at greater scale, so that they may better identify, reach out and support vulnerable placements.*<sup>379</sup>

### **Finding 15: Placement stability in care in Victoria**

Children and young people in care in Victoria experience an unacceptably high level of placement instability. Placement instability impairs the safety, wellbeing and life outcomes of these children and young people.

Placement instability in Victoria is largely attributable to a combination of:

- rising numbers of children and young people going into care
- a lack of suitable placements and carers, especially for children and young people living with complex trauma, challenging behaviours and/or intellectual disabilities, which limits the system's capacity to match the carer and placement to the child or young person
- inadequate planning when children enter care
- a lack of tailored supports for carers to maintain placements (as noted in Chapter 10) and for children and young people in care to recover from trauma.

Our review of the CRIS files of children and young people who have experienced multiple placement moves suggests that children and young people with complex trauma, challenging behaviours and/or intellectual disabilities are at higher risk of placement instability in the out-of-home care system.

<sup>377</sup> Centre for Evaluation and Research 2018a, *The new model of kinship care: evaluation report (lapsing program)*, unpublished internal document, State of Victoria, Melbourne, p. 6.

<sup>378</sup> Ibid.

<sup>379</sup> Ibid.

## Relationships and peer groups in care

### Peer influences in residential care

Young people with an experience of residential care were often very frank with the Commission about how being in residential care had influenced their criminal offending, drug use and violence against others. Many young people reported that their peers sometimes exerted significant social pressure on them to engage in negative behaviours.

*I was in resi care with 16 to 17-year-olds and they would take me to do things with them like getting drugs and burglaries. I started smoking dope from a young age (Tyler, residential care, 16, Aboriginal).*

*Other things have got worse though [in resi].*

#### **Q: Can you tell me about that?**

*Mainly just the drugs and that. Marijuana I didn't do much before I came to resi, now I do it all the time, like actually every day (Seth, residential care, 16).*

*Peer pressure made it hard. It could be going out to drink or smoking something. Every bad thing you could think of they would try and pressure you into, especially if you are young. I got peer pressured so bad. With drugs and alcohol and illegal shit, I feel like it all comes from being in resi (Eileen, post-care – previously residential care, 18).*

*We just smoke bong. Everyone I know in resi does it. It gives you something to do (Owen, residential care, 15).*

#### **Q: Has being in resi affected your health?**

*My lungs bro from smoking. I smoked gear [meth] since coming to resi (Xavier, residential care, 14).*

*When I first moved into resi all the other kids were doing drugs so then I got involved in it and [my family] hated that (Tabitha, residential care, 16).*

*[In resi] you will literally be on drugs, going out on activities, eating or seeing friends. There isn't time for anything else (Eileen, post-care – previously residential care, 18).*

*That's kinda what made me like this, being in resi. Got my first bong and that when I came here, mixed with older kids, then I went to crime. Happens to all the kids that come here. Everyone ends up in trouble with the cops and that. No one can stop you going out late and stuff (Walker, residential care, 16).*

*I think that resi is a breeding ground for drugs. Like, myself, I never really used drugs before I went into resi. I know lots of kids who are really good and never used drugs before and in the space of a year they are in Parkville (Hudson, post-care, 18).*

*Sometimes I know it's the last option to do, but it's almost like sending a kid to Parkville. If they aren't already a career criminal, by the time they are out of Parkville they are. They feed off everyone else, and it changes their decisions in life. It's the same with resi. I'm just lucky I didn't turn out like half of them (Evan, foster care, 16, Aboriginal).*

Others said they had concerns for younger children in their unit who were easily influenced by older residents.

*[The other people I lived with] did not wash. They were feral. They were too young to live there. There was a nine year old there. It was not a good place for him. He was so vulnerable and impressionable and now he is out stealing cars. Most of the kids there are doing that. Most don't have the mindset to be themselves, so they will try and make the other ones happy and be their friends. A lot of young kids started chroming and smoking ice because the older kids were doing it. I was smoking yardi but stopped when I got a panic attack (Brandon, post-care – previously residential care, 18, Aboriginal).*

*We have a 12 year old boy staying with us [16 and 17-year-olds]. He is learning all this stuff – like how to swear at staff. He will be corrupted in resi (Ellie, residential care, 16, Aboriginal).*

In one instance, a young person in residential care reported that workers had used drugs with the young people in the unit.

*Another worker [...] used to smoke ice with the young people. He would go into their room when they were smoking weed in there (Logan, residential care, 15).*

## Living with the trauma of others

Many children and young people across all care types told the Commission about the difficulty of maintaining their own mental health in an environment where others were acting out due to their trauma or poor mental health. This sometimes made them feel unsafe, and had a detrimental impact on their own emotional wellbeing.

*One resident has issues and I acknowledge that, but what she does affects me. The first day I was here [she] tried to kill herself, and the following day I tried to take an overdose. I thought it was my fault I had a lot of stress at the time with other stuff (Bethany, residential care, 15, Aboriginal).*

*If I was by myself I feel like I would have been better off compared to living with two other girls with major mental health issues. It feels unsafe physically – my foster sister has harmed other people and pets in the house, and mentally. [...] [My foster sister] has always had major mental health problems [and keeps saying] 'I want to kill people' [...]. Recently she has got really bad – over the last year. When I am at 'home' – I don't want to use the word but that's the word I have been told to use – I am always looking over my shoulder as I am feeling unsafe (Mckenzie, foster care, 15).*

*The kids had trauma so I kept to myself [in residential care] (Theodore, post-care – previously residential care, 19, Aboriginal).*

*The 12-year-old locks himself in his room. He comes out, 'goes off his head' and then goes back to his room (Ellie, residential care, 16, Aboriginal).*

## Having a say about placement mix in residential care

Many young people we spoke to expressed frustrations at having no say about where they lived and who they lived with. Consequently, young people's suggestions for how to improve peer relationships in residential care primarily focused on improving the compatibility ('placement mix') of residents, including through involving children and young people in decision making about this.<sup>380</sup>

<sup>380</sup> This is consistent with CREATE findings. See: McDowall J 2013, op. cit., in which respondents expressed a strong view that the current child protection system does not

*I want matchmaking. Kids that makes things hard in the house should not be in the house with other people (Owen, residential care, 15).*

*I want to pick who I live with (Warren, residential care, 14, Aboriginal).*

*They should do it like I had it. When I went in [to residential care], there was only one kid slightly older than me. They should do one-on-one units for 12-year-olds, coz they are better with someone to watch them and be there for them (Ellie, residential care, 16, Aboriginal).*

*Every young person should be in a one-on-one residential care placement and then move to group homes when they can cope with other kids and people (Liam, residential care, 17).*

*If they are gonna move them into resi, they should place them with kids that they know they will get along with, like when they placed me in my first one it was just stupid. I was like goody two shoes – if ya know what I mean – no drugs but they placed me with all these druggos that were doing ice and stuff. They should have at least one house [for people] that are similar [and] don't do drugs (Trudy, residential care, 14).*

*Kids who use frequently should be put in with other kids who use [drugs] frequently and other kids who don't use should be put together those who are low risk (Hudson, post-care, 18).*

*Things I'd change? Pocket money! Nah, just kidding. I'd put kids together that match. Anger problems, if you chuck a kid who can't fight with one who can, you have a problem (Logan, residential care, 15).*

*Why were people like me who were not high risk put in such a high-risk environment? (Emerson, post-care – previously residential care, 24).*

## **Research and analysis on placement mix in residential care**

### ***The co-placement of children and young people with complex trauma and challenging behaviours in residential care***

Residential care is often considered as a placement for children and young people who have experienced multiple prior placements in kinship or foster care.<sup>381</sup> As a consequence, 'young people with multiple and complex difficulties are [often] placed together in an environment that is ill-equipped to meet their complex developmental needs'.<sup>382</sup>

A significant body of Australian and international research evidences that '[c]o-location of "high risk" young people in congregate accommodation, raise[s] these young people's] exposure to behaviour and attitudes which increase the likelihood of offending behaviour'<sup>383</sup> and drug use.<sup>384</sup> Drug use is common among children and young people in residential care as a form of self-medication and also due to boredom.<sup>385</sup> The safety implications of poor 'placement mix' are addressed in Chapter 7.

Residential workers consulted for this inquiry often attributed conflict between residents to placement mix. When interviewed for this inquiry, Child Protection

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match children with appropriate placements; and McDowall J 2018, op. cit., which observed that '[o]ne issue mentioned by an unexpected number of respondents concerned problems encountered when sufficient consideration was not given to the needs of the young people when matching them to a placement context (e.g., with the carer and/or other young people residing at the same location)' (p. 34).

<sup>381</sup> Mendes P and Snow P 2016, *Young people transitioning from out-of-home care: International research, policy and practice*, Springer, p. 6.

<sup>382</sup> *Ibid.*, p. 7.

<sup>383</sup> Victoria Legal Aid 2016, *Care not custody: a new approach to keep kids in residential care out of the criminal justice system*, Victoria Legal Aid, Melbourne, p. 7, citing Mendes P et al. 2014, *Good practice in reducing the over-representation of care leavers in the youth justice system*, Monash University, Melbourne.

<sup>384</sup> *Ibid.*

<sup>385</sup> Mendes P et al. 2014, op. cit., p. 26.

staff members confirmed the negative influence being in residential care had on children and young people.

*It just doesn't really even make sense putting some of these kids together in a house (Child Protection staff member).*

*There is no possibility to actually match kids to any placement that would make them safe, stable and able to thrive. And my understanding is the resi system is maintaining the status quo (Child Protection staff member).*

*We know with young people when they get to resi they have come from adverse experiences and they bring that trauma with them and they are living with three other people and it becomes very volatile (Child Protection staff member).*

*Putting kids from different families with different types of traumatic backgrounds together is fraught (Child Protection staff member).*

*Resi care model doesn't provide the kids with what they need. Mostly in terms of the client mix. They are all four bed units in my region, and often they just can't live safely with each other. It leads to us having to move children which isn't good (Child Protection staff member).*

*This lad who is 13 went into resi last year. He is slowly developing a range of different behaviours from being in that environment. He was petrified when he went in, wanted to protect himself so did that by being compliant with the older boys who were in the house who were exploiting him criminally. We do always look for alternatives, looking actively at alternatives but they just aren't there (Child Protection staff member).*

### **The presence of younger children in residential care**

As noted above, many young people in residential care consulted by the Commission for this inquiry noted their concerns about the placement of younger children with older teenagers, and their consequential exposure to the drug use and criminal offending of other residents.

In Victoria, as at 31 December 2018, there were 36 children aged between six and 11 years old in residential care in Victoria and 126 aged between 12 and 14. Eighteen of these children and young people aged under 12 were recorded to have a sibling. Eleven of these 18 children recorded to have one or more sibling in residential care were placed with at least one other sibling.<sup>386</sup> This placement of some young children in residential care may reflect attempts by the department to keep a sibling group together when home-based care for the group cannot be found.

Child Protection staff members interviewed for this inquiry themselves observed the damaging effects of placing younger children in residential care.

*If kids go into resi care younger it is so harmful, but if they had the right carers initially they wouldn't have had to go into resi. Once they get into resi they learn these behaviours around how to get what you want and the mixing of these young people in these settings just doesn't work, which is well known and it just is not beneficial for these kids (Child Protection staff member).*

*Younger children, there just isn't enough foster families and then kids can be put into resi as a stop gap and that creates a whole suite of other issues (Child Protection staff member).*

<sup>386</sup> Source: DHHS data extraction from CRIS database, population and case details in out-of-home care as at 31 December 2018, provided to the Commission on 31 July 2019.

### **Drivers of inappropriate placement mix in residential care**

The Placement Coordination and Planning Framework requires that: 'Placement planning should focus on appropriately matching the child to a placement which is able to meet his/her individual needs' and that '[t]he placement of one child should not jeopardise the safety or individual needs of another child'.<sup>387</sup>

However, Child Protection and PCU staff members told us that a lack of placements contributed to 'poor placement mix' in residential care.<sup>388</sup> Additionally, as the overall population of children and young people in care has increased year on year (see Chapter 3), the number of children and young people in residential care has remained relatively stable. This may have led to a concentration of children and young people in residential care who are considered to be 'more difficult to place' due to more complex or challenging behaviours.

### **Drivers of children under 12 years entering residential care**

The department initiated 'The children under 12 in residential care project' – which examined point in time data for a cohort of children aged under 12 years who were in residential care at June 2016 and November 2017 – to determine the characteristics and drivers of younger children entering and remaining in residential care. The project identified the following insights:

*The most common reasons for children under 12 entering residential care were:*

- *client characteristics (client described as 'complex client')*
- *client behaviour (described as 'challenging behaviour')*
- *carer capacity*
- *TCP breakdown*
- *lack of alternative placement option.*

<sup>387</sup> DHHS 2019p, *Placement coordination and planning framework*, unpublished internal document, State of Victoria, Melbourne, p. 15.

<sup>388</sup> Prior inquiries and research in Victoria have also concluded that '[b]ecause of system constraints, decisions about where a child should be placed are not always able to be made in the child's best interests' (VAGO 2014, *Residential care services for children*, State of Victoria, Melbourne, p. x. See also: Mendes P et al. 2014, op. cit., p. 25.

*Children from this cohort who persistently remained in residential care and did not transition into alternative models fell into three categories based on the following care needs:*

- *had a developmental disability with behavioural challenges*
- *were in sibling group placements*
- *had clinical diagnosis of a severe emotional and/or behavioural disorder.*

The project concluded:

- Children who entered residential care prior to the age of 12 years and remained in residential care tended to have lower levels of functioning compared to those residing in foster care arrangements.
- Current levels of staff training associated with behavioural, emotional and mental health issues did not adequately equip staff to support this group of children.
- A concerted focus on addressing unmet complex needs and behaviours of concern is required to support those children who remain within residential care settings.<sup>389</sup>

### **Initiatives to improve placement matching**

The department has advised the Commission that it is currently undertaking work to strengthen placement matching, including changes to the entry and exit check lists and assessments, and that identification of risks and risk management will be enhanced through this work with the use of behaviour support plans.<sup>390</sup> The Commission is concerned this will not address the underlying drivers of poor placement mix outlined above.

<sup>389</sup> Email from the department to the Commission dated 4 August 2019.

<sup>390</sup> Email from the department to the Commission dated 1 March 2019.

## Finding 16: Placement mix in residential care

Children and young people with an experience of residential care told us they were often heavily impacted by the behaviour of other children and young people in their units, and that their safety and wellbeing is compromised by:

- children and young people with serious behaviour and/or mental health issues being placed together in non-therapeutic residential care units
- younger children being placed with adolescents in residential care and being negatively influenced by exposure to drug use, violence and criminal offending.

This poor placement mix appears to be contributing to:

- the criminalisation of children in care
- the likelihood that children and young people in care will be exposed to re-traumatising behaviours
- poor recovery outcomes for children and young people.

The problem of poor placement mix in residential care is largely attributable to:

- a lack of suitable and supported placements in the care system, particularly for children and young people with challenging behaviours
- the current, inflexible model of residential care
- increasingly complex needs of children and young people in residential care.

## Rules, structure and resolving conflict

Children and young people across all care types expressed a clear preference for home environments that had rules and structure, and where conflicts and disagreements could be resolved.

### Foster care and kinship care

Several children and young people in foster and kinship care appeared to relish living in a home environment where there were rules and structure.

*When it came to living with my grandma – I was 17 and I still had to be home before dark, had to be home before dinner. We ate, we washed, we sat down, we communicated over the table. Rules, respect, expectations can be a good thing. Kids basically need structure and discipline, and it builds respect and understanding what is acceptable and what isn't (Hazel, post-care, 19).*

*Now I'm with my sister – it's all right because there's more stability. My sister tells me I have to be home by certain times, but here [in residential care],<sup>391</sup> no one cares. Now I'm going to Berry Street school because my sister makes me. When I was [living in resi], I was never here – I'd come home to eat, sleep and have a shower, whereas with my sister there's more rules (Marlon, kinship care, 15).*

One young person observed that successfully resolving conflict in the home between children and young people and their carers necessitated the involvement of other foster family members and workers.

<sup>391</sup> This young person was interviewed in a residential unit, where he was visiting a friend, having left to live with his sister.

*When my foster mum and I had fights, [my worker] would say to my foster mum, 'You love Anne right now, yeah?' And she would say, 'Yes I do, but she is just doing my head in right now'. I also had a lot of support from my foster brothers who would chat to [my foster mum] and transition us back together. My foster brother would listen to me and really cared about me and would mediate between me and my foster mum. He would say to her, 'When Anne goes to her room, don't follow her (Anne, post-care, 18).*

## Residential care

Many young people in residential care described their living environment as chaotic and lacking in rules.

*I got into trouble when I was in resi, just to come back into youth justice because there is more structure (Karina, post-care, 18, Aboriginal).*

*Change of staffing. Two staff in morning and afternoon and one at night. It is hard for my brain to work out when there is no routine and structure. The staff are like our parents. This unit is not too bad and mostly stable staff (Stacey, residential care, 17).*

*Everyone didn't have rules, we all did what we wanted and that's why we all always got into so much trouble, youth justice and everything (Robert, post-care – previously residential care, 19).*

*In resi, you can do what you like and they can't do anything about it. It's what they do. So then you can't go home because you've been in resi (Xavier, residential care, 14).*

Some young people associated a lack of rules with not being cared for.

*I like foster care. Like, I could get away with things but I could get in trouble. Like, at least they cared more. Here they don't even try to stop me doing things (Ruth, residential care, 15).*

A small number of young people experienced incentives for things like brushing their teeth, or workers doing things for them that they should do for themselves, as infantilising.

*With resi, when you are 17 they still treat you like you are 12 'cos it is for everyone from 12 to 17, so there is a lot of younger people, same rules for everyone but with the [leaving care agency], I am treated like an adult, I can bring alcohol into the house, I can cook for myself, I clean the place myself (Hudson, post-care – previously residential care, 18).*

*Here they sometimes do my washing for me. How is that teaching me independence? They should just tell me to do it, clean my room. It went from me being the adult (at home) to me being the child (in resi). Now that I can be more immature, I have to start being an adult again (Logan, residential care, 15).*

*It should not be clean up to get money. You should not have to ask permission to get a spoon. You are just teaching them to obey. [In residential care], [t]hey treat you like you are an animal that needs to be trained. (Brandon, post-care – previously residential care, 18, Aboriginal).*

## Research and analysis of rules in residential care

Household rules and consequences are essential to the stability of any home because they ‘help family members achieve a balance between getting what they want and respecting the needs of others [and can also] help children and teenagers feel safe and secure’.<sup>392</sup>

There was a strong alignment between what workers and young people with an experience of residential care told us about the lack of rules in residential care. While some residential care workers told the Commission about incentives such as pocket money they had put in place to reward good behaviour or doing chores, others noted the lack of rules or consequences for poor behaviour. One commented, ‘[b]ecause there are not restrictive practices, there are no consequences for anything. They trash the unit and then they get their nails done. We are not teaching kids to live in the real world’.

However, two residential care workers from different units noted their unit ensured clear and natural consequences were connected to poor behaviour, for example, young people were not allowed to watch television if they did not go to school. Workers in secure welfare informed the Commission that these units had a much stronger focus on routine, structure and setting boundaries and consequences, which they said was easier in an enclosed environment.

While the *Program requirements for residential care in Victoria* require funded agencies to ‘have written policies and practices in place that outline appropriate trauma-informed intervention and support in response to challenging behaviour by children in residential care’.<sup>393</sup> When consulted for this inquiry, the department noted that while there has been a strong focus on training residential workers on the principles of trauma-informed care, there has not been a commensurate focus on how to operationalise these principles through evidence-informed behavioural interventions, with an emphasis on setting boundaries and natural consequences. This issue is explored in more detail in Chapter 10.

<sup>392</sup> Raising Children Network 2018, ‘Family rules’, <<https://raisingchildren.net.au/teens/behaviour/behaviour-management-ideas/family-rules>>, accessed 10 March 2019.

<sup>393</sup> DHHS 2016e, *Program requirements for residential care in Victoria*, State of Victoria, Melbourne, p. 18.

When provided the opportunity to respond to a draft of this inquiry report, the department advised that every residential care worker is required to undertake an accredited behaviour unit which includes learning objectives such as recognising situations for potential conflict and identifying appropriate preventative and defusing strategies. As part of their assessment, workers must demonstrate the ability to:

- recognise and respond to situations where behaviours of concern are present
- communicate effectively in a situation of conflict by: engaging positively and supportively; using negotiation and problem-solving skills; and modelling assertive behaviour.

### Finding 17: Rules and consequences in residential care

In spite of recent training requirements introduced for residential care workers, children and young people in residential care, and some workers, told the Commission that many units lack clear and consistently applied rules and approaches. This suggests further training and support is needed for residential care workers in how to implement the principles of trauma-informed care through evidence-informed behavioural interventions.

## Police involvement with residential care units

Young people with an experience of residential care often reported that workers regularly called police to the unit due to conflict between children and young people and/or their workers. In some circumstances, young people told us that police involvement was unnecessary and disproportionate to the incident.

*There was friction between young people at the resi. The house got trashed all the time. Workers would contact police and the young people would run. There were many charges of criminal property damage (Byron, residential care, 15, Aboriginal).*

*If something happens in the unit ... remember that fight we had [nods at other young person who nods back] ... they go and hide in the office and call the cops (Violet, residential care, 16).*

*I used to get arrested all the time and then I could not go to school. Police would arrest me at the resi. Sometimes for drugs. Sometimes it was for having a cigarette inside because I was sick of the workers and wanted to bait them. Sometimes it was because you were shouting and they were scared (Eileen, post-care – previously residential care, 18).*

Young people also expressed a strong dislike of residential workers reporting residents as missing and relying on police to return them to placement when they had not come home on time.

*All the workers do is just call the cops. They want me to go to secure, they don't do anything else (Sawyer, residential care, 16, Aboriginal).*

*Whenever I leave, the cops get called on me. It's unfair but I know it's their job. Like last night I fell asleep at a mate's house (Faith, residential care, 15).*

*Even when I call [the residential unit] every hour they still say they'll call the police. Then the police call and say I'm a missing person. I say, 'But I'm not missing'. I get messages from on call saying I need to return to resi. They scare the crap out of me – they make it sound like I'm going to get in so much trouble (Evelina, residential care, 17).*

*If you go out for a bit, they will call the cops on you in resi. If you tell them to fuck off, they would call the cops (Roger, residential care, 15).*

*Stop putting warrants on kids. They just lock you up when you are found (Byron, residential care, 15, Aboriginal).*

*In resi ya can't do much. I don't know why, but they seem to report you missing as soon as you leave, but in foster they say as long as ya home by this time then that's good, as long as ya not breaking the law (Evan, foster care, 16, Aboriginal).*

**Q: Every time you came in to the resi you were checked and patted down?**

*Yeah.*

**Q: What were they checking for?**

*Alcohol and marijuana.*

**Q: And what happened if they found it?**

*Call the police, but it all depends on the staff that are on, some pat you down and some don't. It depends which staff are on shift as to how you are treated, like they are all different. What I don't like about resi, is it's all about the staff. They're inconsistent.*

**Q: If police are called, what happens?**

*Sometimes they would take you to secure welfare, or just down to the cop shop and charge you and bail you out.*

**Q: Is that for possessing drugs and/or alcohol?**

*Yeah. Sometimes they had called them and 'cos there was so many kids bringing in weed, the cops wouldn't even bother coming out, saying they'd already been out this week (Hudson, post-care – previously residential care, 18).*

**Research and analysis of police over-involvement in residential care**

Children and young people in care are significantly over-represented in the criminal justice system, especially children and young people in residential care.<sup>394</sup> In 2018–2019, 2,036 incidents in residential care (522 major, 1514 non-major) and 285 incidents in therapeutic residential care (54 major, 231 non-major) recorded in CIMS included the word 'police' in their incident descriptions.<sup>395</sup> This amounted to 46 per cent of all residential care incidents recorded on CIMS and 59 per cent of all therapeutic residential care incidents.<sup>396</sup>

<sup>394</sup> Malvaso CG and Delfabbro P 2015, 'Offending Behaviour among young people with complex needs in the Australian out-of-home care system', *Journal of Child and Family Studies*, vol. 24, no. 12, p. 3563.

<sup>395</sup> DHHS client incident management data extraction. Accessed by the Commission on 4 July 2019. Police involvement is counted per incident if the occurrence of the word 'police' is noted in the incident full description. The Commission notes that this could include incidents where residential unit staff considered calling the police but decided they were not required.

<sup>396</sup> Ibid.

The Sentencing Advisory Council report *Crossover kids: vulnerable children in the youth justice system* examined the Child Protection backgrounds of the 5,063 children and young people who received a sentence or diversion in the Children's Court of Victoria in 2016 or 2017. The report found that children and young people in residential care are over-represented in the youth justice system and that:

- '58% of the 213 sentenced or diverted children in out-of-home care on 30 June 2017 were in residential care'.<sup>397</sup>
- One in five children and young people sentenced to custodial orders were in residential care.<sup>398</sup>

Victoria Legal Aid (VLA) also reports that its clients who are in care are 'almost twice as likely to face criminal charges as those who remain with their families' and 'to be charged with criminal damage for property-related offending'.<sup>399</sup> A recent VLA report on this issue, *Care not custody*, concluded that '[t]his is due at least in part to the continued practice in many residential facilities of relying on police to manage incidents of challenging behaviour by young people'.<sup>400</sup>

**Residential care workers' views on police involvement in residential care**

Almost all of the residential workers who spoke to the Commission described difficult relationships with police. One commented that police 'see us as tiresome. We are always putting in missing person reports'. Others mentioned the lack of understanding some police had of children and young people in care.

<sup>397</sup> Sentencing Advisory Council 2019, *Crossover kids: vulnerable children in the youth justice system*, State of Victoria, Melbourne, p. 74.

<sup>398</sup> Ibid, p. 25.

<sup>399</sup> Victoria Legal Aid 2016, op. cit., p. 1.

<sup>400</sup> Ibid., p. 1. In August 2018, VLA re-reviewed its Child Protection client data and found young people in care continued to be significantly over-represented in the criminal justice system. This data revealed that one in three young people it had assisted with a Child Protection matter and who were placed in out-of-home care also needed legal assistance with a criminal charge: Victoria Legal Aid 2018, *Care not custody fact sheet*, Victoria Legal Aid, Melbourne, p. 1.

However, two residential workers told us about a positive relationship between the police youth taskforce and their unit.

*They get resi. Sometimes they just call and check in, see how things are going and say hello. It's good for the young person as well to see that police aren't always a negative thing (Residential care worker).*

*Police Youth Liaison Officers are usually good. There was an officer who understood the kids and turned up unannounced – to build a relationship with the police so this is great but this doesn't always happen and there was one great officer but he moved... A police officer who has a relationship with the kids and can defuse situations would be good (Residential care worker).*

One residential care worker estimated that their unit called out the police on average eight times a month, while others remarked that they would generally try not to call police for small property damage. Another stated that they avoided calling the police as a behavioural management strategy: 'It's a one-time strategy because the kids work out that nothing will happen to them'.

When young people left the unit without permission or were 'acting out', some residential workers told the Commission they were guided by the young person's behavioural support plan as to whether or not they would report the young person missing to the police.

*If they are going to heighten, we would call the police. Like smashing a plate and getting more aggressive. ... Sometimes if a carer can't get through to someone, and they are getting really aggressive, there is sometimes no options left (Residential care worker).*

## **Current initiatives to limit police involvement in residential care**

The department has advised the Commission that *An agreed plan: working together to reduce the criminalisation of young people in residential care* (the agreed plan) between the department, Department of Justice and Community Safety, Victoria Police, VACCA, the Aboriginal Children and Young People's Alliance and the Centre for Excellence in Child and Family Welfare is being developed to reduce the high rates of contact between young people in residential care and police and justice services.

The department is also trialing a new approach to improve interactions between police and children and young people in residential care through the Building Resilience in Children and Young People Living in Residential Out of Home Care pilot in East Division.

The partners in the pilot (including East Division DHHS and Department of Justice and Community Safety, Victoria Police, residential care providers and other members of the young people's care team) have developed a guide with the aim of 'support[ing] children and young people during times of distress with a consistent approach that recognises their trauma, and aims to minimise their involvement in the justice system'.<sup>401</sup> The guide is supported by monthly meetings between the residential unit and the Designated Buddy Police station. An evaluation of the pilot commenced in December 2018 and is expected to be completed in December 2019.

<sup>401</sup> DHHS 2018d, *Building Resilience in Children and Young People Initiative: developing the parenting community around the child – East Division*, unpublished internal document, State of Victoria, Melbourne, p. 3.

### Finding 18: Involvement of police in residential care

Many of the children and young people in residential care told the Commission that residential care providers rely too much on police to resolve incidents of challenging behaviour by young people. Prior Victorian-based research suggests that unnecessary police involvement is a significant contributing factor to the criminalisation of children and young people in care.

### Physical environment, privacy and possessions

Having a space of their own was important to many of the young people we spoke to.

*Being able to have your own space and to be able to feel clean and safe. That's really important. That's a big one (Piper, foster care, 16).*

*[We] lived with nine other people in a house – no room. Just lived in the lounge room in the bunk bed. Big sister got the top bunk. There were too many people for the house. After that we moved into our own place, so we had an actual bedroom (Phillipa, kinship care, 12).*

*You can only have one person over at a time and they can have as many as they want [...] and it feels uncomfortable. She would knock on the door if I have a friend over and it was eight o'clock (Daphne, lead tenant, 17).*

While it was rare for children and young people in foster or kinship care to raise concerns about their physical environment, this was a critical issue for those with an experience of residential care.

### The physical living environment in residential care

Many young people living in residential care commented that their physical living environment was sterile, impersonal, dilapidated or 'like a prison'. They observed that items, food or rooms that you could access in a normal home were often locked away. Some also commented that their negative feelings about their physical environment were intensified by their inability to influence what it looked like.

*I am living in a shit hole. My house looks ugly as and empty. [...] It feels like an abandoned house (Warren, residential care, 14, Aboriginal).*

*Make [resi units] look more like a home, more colour. There is more colour in youth justice (Karina, post-care – previously residential care, 18, Aboriginal).*

*This house should get a reno. It's just so dead. I think we should have a say about what they put in it. I feel like that they just buy things for no reason. They bought this stuff without asking us, you guys are not living here (Ruth, residential care, 15).*

#### Q: When you talk about home, what does that mean?

*A normal house, paint the walls, get carpet, set up like a normal house. Not like a prison. The little simple things that matter, bro (Derek, residential care, 16).*

*Resi care would be better if there was not crim safe wire on the windows, as it feels like you are locked up in a cell (Tyler, residential care, 16, Aboriginal).*

*Why does everything have to be locked, the laundry, the toilet? (Dora, residential care, 16).*

*A lot of the workers here are lovely but you can't really call a resi 'home'. Home is your own place, your own food and furniture. Here you have to ask somebody to get your door unlocked (Gavin, residential care, 17, Aboriginal).*

*Before here, I was in a hotel before. Like a resi but for one person. I was here [at the hotel] for three months and before that pretty sure I was in another resi. Been in resi care from age nine. The hotel was annoying because there was no garden or outside ... I got to use my PlayStation all day and all night (Cameron, residential care, 15).*

**Q: Tell me about a 'purpose built resi', what does that mean?**

*Means it's built just for resi kids. It has alarms on doors. Every door has an alarm and that, like can't even go for a piss without the alarm going off. It is a prison. [...] Don't make purpose built resis – make them feel like home rather than a prison. [It's] probably worse than a prison (Derek, residential care, 16).*

*It's not set up like a home. It's set up like a fucking prison. The door would have a metal strip on the side so you would not be able to pry it open. They are heavier doors and shit. It is all plain on the inside but it's all this light beige colour. [...] It did not feel like a home at all. Just this place where you were stuck at (Roger, post care – previously residential care, 18).*

*I live here with holes in the walls and a broken fly screen door. It's not home [...]. I don't want to live here anymore (Laura, residential care, 15).*

A lack of privacy or sense of ownership of the space also contributed to residential care not feeling like home.

**Q: Does residential care feel like home?**

*No. People just come in and out. It's not a normal house routine. People just open the door and walk in. Even tradies do it.*

**Q: What about your privacy?**

*Not even the privacy. Not even the workers do it (Kerry, residential care, 15).*

*If I'm watching the TV in the lounge, I will say I want to watch TV by myself. I just want a bit of space and to do my own thing (Paige, residential care, 14).*

*The workers need to understand it is the kids' house, not their house. They treated it like we just lived here but it was our house and our home (Eileen, post-care – previously residential care, 18).*

Some young people expressed annoyance that their physical living environment was determined by the needs of workers rather than residents.

*You can't go building cubby houses in trees because it's a lot of risk for them [workers] but when you're at home you can go ahead. It's sort of annoying. I feel like I'm restricted (Terry, residential care, 14).*

*I don't like the signs around the resi unit [the young person indicated the fire emergency plan and the Convention on the Rights of the Child on the wall]. [They] make it feel not like home (Harry, residential care, 16).*

There was only one exception where a young person noted that their physical environment in residential care felt homely.

*It's more home-like than other resis. Other resis are gaol looking (Terry, therapeutic residential care, 14).*

Young people also often told the Commission that their personal possessions were insecure, and often stolen or destroyed by their peers.

**Q: Everyone needs a place that feels like home. How do you feel about living here?**

*It's a bit shit here. Other kids go off. [They] use all the towels to have a shower and steal food and stuff (Marlon, kinship care, 15).*

*[A] boy that lives with me took my [game console] and threw it over the fence. Mum and dad will be upset that this one is lost [...]. [He] has punched me. He's been calling me names and thinks he's so cool and makes me look like I'm a loser (Neil, residential care, 12).*

*I don't feel like I'm at home here – I have a bed, but I can't leave my stuff out. All my clothes are in suitcases because I feel like running away but I have no place to go (Evelina, residential care, 17).*

**Q: What's resi like?**

*I don't like it. I left two [phones] in my room and then they were gone. I think one of the agency workers took it (Paige, residential care, 14).*

*I hate the fact when I come home people have broken into me room. I can't do anything about it everyone says I'll get charged if I do anything after that (Walker, residential care, 16).*

*[W]hen my belongings were getting packed up other kids stole my stuff (survey respondent, lead tenant, 17).*

For some young people in residential care, not being able to take their possessions with them from placement to placement undermined their sense of self:

*In some ways you couldn't even feel part of yourself because you didn't collect things, you always had to move and leave things behind, they pack up ya room themselves, things get lost and destroyed (Adam, post-care – previously residential care, 24).*

## Research and analysis about the physical environment in residential care

The *Program requirements for residential care* in Victoria recognise that:

*The physical environment where a child resides and the material goods they are provided with have a significant impact on their physical, emotional and psychological development and wellbeing.*<sup>402</sup>

These program requirements also establish clear standards for children and young people's physical living environment in care:

- Despite some children needing to live away from their home and families in residential care, funded agencies must ensure wherever possible a home-like environment is created to ensure children receive nurturing and a positive care experience.
- The physical living environment will reflect community expectations of a 'home'. It will be a place where children feel safe and supported. Children should not be placed at risk of harm due to the physical environment in which they reside.<sup>403</sup>

However, residential care in Victoria has often been found to fall short of these standards. The '*... as a good parent would ...*' inquiry visited multiple residential units and concluded 'the home environment of some residential care units ... was deplorable, they were stark and derelict'.<sup>404</sup>

Based on these findings, the Commission recommended that the department take steps to '[i]mmediately improve the physical environment of residential care units to make them look and feel like homes'.<sup>405</sup> The 2016–2017 Budget allocated \$9.4 million to immediately renew or replace up to 24 residential care properties to ensure they were fit for purpose and allocated an additional \$2.3 million over two years for the urgent and essential repairs of residential care units. The department also redesigned its maintenance program and conducted spot 'unannounced' audits on residential care units which included a review of the units' conditions and the organisations' responsiveness to address

maintenance matters that could impact the quality of care provided.

The sometimes unwelcoming physical environment of residential care remains a concern since the Commission made this finding. In the course of conducting interviews for this inquiry, the Commission visited 30 residential care units.

In general Commission staff observed that:

- The units were not very homely and sparsely decorated, with the doors to residential rooms typically locked.
- There appeared to be limited personal effects from the young people in the common areas such as photos, paintings, achievements or artwork – some residential care workers commented that if personal photos or other items were on the walls, they would be damaged by other residents.
- 'Purpose built' units tended to feel the most sterile.

There were some exceptions where residential units provided a homely environment. These were usually in instances where multiple siblings shared the same unit. In these units, the siblings' doors were not locked and the units were decorated in the common areas, including photos of the children who lived there and art they had made. In these units, policy and procedural documents were kept to the office and not visible in the rest of the unit, bedrooms were left open and staff slept overnight, meaning everyone in the house was following the same routine. In a series of inspections of residential care units conducted by the Commission as part of a new program, some units were found to be welcoming and homely while others were in serious disrepair.

Several residential care workers informed the Commission that the children and young people in their units often lacked privacy or a space of their own. One commented that, 'I have worked in houses with one living dining area, there is absolutely no escape for the kids. ... They always say there's nowhere to go other than our bedrooms'.

<sup>402</sup> DHHS 2016e, op. cit., p. 32.

<sup>403</sup> Ibid., p. 18.

<sup>404</sup> CCYP 2015a, op. cit.

<sup>405</sup> Ibid., p. 18.

Residential care workers advised us that it was rare for children and young people in residential care to have a key to their own room – but they needed to be locked so residents would not steal each other’s possessions. Some residential workers observed that requiring a child or young person to ask to have their room unlocked each time they wanted to access it made residential care feel less like a normal home. Others rationalised the often sterile residential care living environment: ‘It’s very institutionalised – but you have to make it bullet proof – can’t be like a normal house’.

### **Analysis of quality and compliance audits**

The Commission reviewed 42 department quality and compliance audits conducted in 2018 to consider their observations of the physical environment of residential care. These audits typically referred to the units as ‘clean,’ ‘well maintained’ or ‘home like’. However, the Commission is concerned that the audits did not show any evidence of consulting with residents about their views on whether their physical environment felt homely. Additionally, department guidance on how to conduct these audits does not refer to any criteria by which auditors should assess whether a unit is home-like.<sup>406</sup>

The audits also revealed a significant number of units which were damaged and required repairs (n = 13) which would have detracted from the unit providing a home-like environment including: graffiti inside the home, damage to plaster and carpentry, stained carpets, exposed wires and missing cupboards. In three cases, the audits concluded that the home environment of the residential unit met ‘reasonable community expectations’ where the same audit also observed the general appearance of the house was run down (including graffiti on the inside and outside of the house, mould, holes in plaster walls and rubbish being stored at the rear of the property) or the house was bare and in need of furniture.

The audits also noted five instances of units engaging in restrictive practices without a rationale on file (these usually related to things such as the locking of storage, cutlery or linen cupboards). One audit also identified the practice of a unit placing CCTV cameras in the hallway of the property.

<sup>406</sup> DHHS 2018m, *Residential care performance audit program, unpublished internal document*, State of Victoria, Melbourne.

## **Finding 19: Physical living environment in residential care**

While the Commission is aware of residential units where efforts have been made to create a welcoming and home-like environment, many children and young people we consulted for this inquiry told us they had experienced the physical living environment in residential care as sterile, institutional and even prison-like. These observations were often confirmed by Commission staff and the department’s own Quality and Compliance Audits.

This problem is exacerbated by children and young people being given limited opportunities to influence their personal and shared spaces.

## **Location**

Being close to family, friends and services mattered to many of the young people with whom we consulted. Some noted their satisfaction with where they were living, while others said their current placement had dislocated them from their families, friends, community and education.

*I live in [country town], it’s a really nice place. There is very nice people there, there is someone I know who lives in the neighbourhood (Stephanie, foster care, 9, Aboriginal).*

*I live not too far from original home, living with nan at the moment which is good (Quinn, kinship care, 14).*

*It takes forever to get to school on PT (Ruth, residential care, 15).*

*I hate it – it's in [Melbourne suburb]. It's so far from everything – my friends and my missus (Owen, residential care, 15).*

*Here is the best because this one is closer to town, closer to school and closer to home (my family) (Diana, residential care, 14).*

*They are moving me to [suburb]. It pisses me off because it is away from my area (Hope, residential care, 16).*

*All supports I trusted and supports I know are so far away from where I live, so they can't even see me. They try to get me to see new people and then it's like I don't trust this person 'cos I don't know them (Derek, residential care, 16).*

## Research and analysis about placement location

Data held in the department's CRIS system confirms that many children and young people in care end up in a placement which is far from home.

On 31 December 2018:

- 47 per cent of Aboriginal children and young people in care were placed in a location that was different to the area in which they lived at the time of their entry into care and 32 per cent were living in a different division
- 43 per cent of non-Aboriginal children and young people in care were placed in a location that was different to the area in which they lived at the time of their entry into care and 26 per cent were living in a different division.<sup>407</sup>

<sup>407</sup> Appendix: Figure 20.

In consultations with the Commission, Child Protection staff members informed the Commission a lack of appropriately skilled carers and suitable placements is contributing to children and young people being placed in locations that are distant from their families, friends and education.

### **Q: Some children we spoke to said they were placed far from school and family. What is the main driver behind that?**

*It is a major lack of resources.... I've got a young person who had a placement 10 mins away, it broke down and it's now over an hour away (Child Protection staff member).*

PCU staff members also informed us that while location is taken into account when attempting to identify an appropriate placement, placement availability often means children and young people have to move. One Child Protection staff member said that attempts to place children with a family member sometimes necessitates placing them outside of their community.

*The times we are trying to place or keep children with extended family members, we will place them with a family member a long distance away, and that will mean they are further away from their school and community because the legislation requires to look for family first which is right but often can mean placing children out of their community (Child Protection staff member).*

## Finding 20: Placement location

The location of some children and young people's placement has had a negative impact on their capacity to maintain a connection with their friends, community and education.

## Pets

Eighteen different children and young people mentioned the presence of pets in their homes. Several said that having pets was good for their mental health and wellbeing:

*Pets help a lot – 'cos there are times that are really crappy like all my sisters and I suffer from depression a lot. Pets help so much with that (Hazel, post-care – previously residential care, 19).*

*I've been in other resis. This resi is the only place that has animals like chooks, horses, a cat, guinea pigs and fish (Terry, residential care, 14).*

*The animal teaches you like to keep calm, go out to the horses or chickens and feed them, clean them. Colin teaches us [...]. I get bored when I'm inside (David, residential care, 14).*

### **Q: What are the best bits about living here?**

*[I like g]oing out and doing planned activities and I can have my rabbit here (Brooke, residential care, 16).*

*[I want] animals in the house 'cos its good for our mental health (Erin, residential care, 16).*

## Research and analysis about pets in care

Research suggests that pets or companion animals can positively contribute to children and young people's social and emotional development, including building a positive self-image, ability to show empathy, improved emotional self-regulation and communication with others.<sup>408</sup>

Several of the residential units the Commission visited for this inquiry had pets or shared a dog between units. However, there appeared to be no uniform policy across CSOs regarding when it was appropriate for children and young people in residential care to have access to pets in their units and when children and young people had access to pets, this occurred on an ad hoc basis. At present, departmental guidelines concerning children and young people in care do not address the potential benefit of children and young people in care having pets or companion animals. Rather, current guidelines focus on pets as either a safety risk to children or young people<sup>409</sup> or as the origin of a child and young person's grief.<sup>410</sup>

When the Commission asked the department what it could do to support children and young people in care to have companion animals where appropriate, the department advised as follows:

*The department would support programs or initiatives that promote positive outcomes for children and young people, such as a therapeutic approach that utilises a companion or therapy animal aligning with the child or young person's case plan.*

*The use of a therapy animal would be a local approach involving the care team, carers, support workers and the child or young person.*

*Along with animal welfare, consideration needs to be given to:*

- *Health and allergies of children, young people, carers or support workers residing or visiting the home.*

<sup>408</sup> Melson G 2003, 'Child development and the human-companion animal bond', *American Behavioral Scientist*, vol. 47, no. 1, pp. 31-39.

<sup>409</sup> DHHS 2014, op. cit., p. 44.

<sup>410</sup> DHHS 2017d, *Manual for kinship carers*, State of Victoria, Melbourne, p. 28.

- *The behaviours and characteristics of children and young people in the home.*
- *Health and safety of residents with consideration to risks associated with animals (e.g. dog bites).*
- *Property and Safety issues as outlined in the Program Requirements (e.g. hygiene, cleanliness and home like environment).*
- *Risk management and emergency considerations.*<sup>411</sup>

## **Finding 21: Pets**

Pets or companion animals can positively contribute to children and young people's social and emotional development in care. Current departmental guidelines and policies do not address the potential benefit of children and young people in care having pets or companion animals, even for situations where this does not pose an undue risk to animal welfare.

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<sup>411</sup> Email from the department to the Commission dated 12 March 2019.

# Chapter 7

## My safety

### Chapter at a glance

- Children and young people are most likely to feel safe in foster and kinship care and unsafe in residential care.
- Some young people told us that they felt more unsafe in residential care than in the homes from which Child Protection removed them.
- Poor placement mix – resulting from a lack of appropriate placement options for children and young people living with complex trauma – is a key contributor to poor safety in residential care.

### Key data

During 2018–2019, the department's Client Incident Management System (CIMS) recorded:

- 6,583 incidents for children and young people in care.
- On average a child or young person in residential care was the subject of about two major incidents and over nine non-major incidents.
- Three quarters of all incidents related to residential care, despite only six per cent of children and young people in care being in residential care.

*DHHS take us out of our parents' care for whatever reason and put us in a resi which is just as bad. [...] If someone's being taken out of someone's care because there's been violence, you don't put them somewhere where there's more violence – it causes more trauma (Evelina, residential care, 17).*

## Introduction

Children and young people are generally taken into out-of-home care because they have experienced significant violence, abuse and neglect in their homes. To heal from this trauma, it is critical that they are safe in care.

While children and young people in foster and kinship care often told us they felt safe in care, almost half of those with an experience of residential care told us that it was often violent and dangerous. Departmental data on incidents in care confirms that children and young people in residential care are at most risk of harm.

A smaller but still significant number of young people in kinship and foster care also told us that they were not, or had previously not been, safe because of abuse or bullying perpetrated by their carers. Some told us that this harm went unseen because no worker was checking up on them. This chapter also finds that children and young people in kinship care, who are less likely to benefit from case management by funded agencies and more likely to have no allocated Child Protection worker, are most likely to go unseen in the system and the least likely to tell an adult professional they feel unsafe. However, this chapter also identifies that children and young people in foster care also often lack regular one-on-one contact with their workers.

What children and young people told us about their poor safety in care points to the need for:

- a substantial increase in the availability of appropriate placements for children and young people, particularly for those with challenging behaviours and/or high needs, outside of residential care so these children and young people are given every opportunity to heal from the trauma underlying these behaviours
- improved monitoring of children and young people in care – including ensuring all children and young people in care have regular one-on-one contact with their workers
- robust and efficient incident reporting and response systems.

## Feeling and being safe in care matters

To recover from past abuse, children and young people in care need to be protected from re-traumatising experiences, including use of force, physical and verbal aggression, bullying, discrimination, humiliation, abuse, neglect and abandonment.<sup>412</sup> Research suggests that 'felt security' in care – feeling loved, feeling a sense of belonging, having a strong sense of personal identity – [is also] critical to how well young people fare as adults'.<sup>413</sup>

Children and young people are most likely to feel safe when their placement is stable and feels like home, with supportive staff, compatible peers and where young people can relax.<sup>414</sup> Children and young people in care often differentiate between *being* safe – from perceived threats such as assaults and bullying – and *feeling* safe, which involves 'physical, emotional, and bodily responses that they experience when risks [are] not present'.<sup>415</sup>

<sup>412</sup> Downey L 2009, *From isolation to connection: a guide to understanding and working with traumatised children and young people*, Child Safety Commissioner, State of Victoria, Melbourne.

<sup>413</sup> Campo M and Commerford J 2016, 'Supporting young people leaving out-of-home care', *Australian Institute of Family Studies*, Melbourne, citing Cashmore J and Paxman M 2006, op. cit., and Cashmore J and Paxman M 2007, *Wards leaving care: four to five years on – a longitudinal study*, State of New South Wales, Sydney.

<sup>414</sup> Moore T 2017, *Protection through participation: involving children in child-safe organisations*, Child Family Community Australia, Melbourne, p. 216.

<sup>415</sup> Ibid., p. 214.

## What young people told us about their safety

A high number of the children and young people we consulted expressed concerns about their physical and emotional safety in care (n = 44). Most of these children and young people (n = 30) were in residential care or spoke about being unsafe in residential care in the past.

### Residential care

Children and young people's safety concerns in residential care usually related to bullying or assaults by other young people living at the unit.

*Other resis, where there are more worse kids, they don't feel like home. My first night here a kid wanted to stab me and I never wanted to come home again (Kylie, residential care, 16).*

*This is just a place for you to go when you have nowhere else to go. This can also be shit when kids are here that disrespect you [and] say nasty shit about you and throw you around the house (Garrett, residential care, 15, Aboriginal).*

*I have not felt safe in any of my placements. I got bashed by another resident [in this placement] (Abigail, residential care, 13, Aboriginal).*

*I'm getting bullied in resi by two girls [...]. [They are] stealing clothes, hitting, insulting, breaking the rules (Gabrielle, residential care, 15).*

*I felt safe some of the time – I had to get an IVO against someone I lived with. There were other units I only managed to stay for two nights. I was locked outside (Robert, post-care – previously residential care, 24).*

*There was a kid that was aggressive but should not be left with other people. There is never food in the house because [another young person] smashes everything (Owen, residential care, 15).*

*Resi was an aggressive experience – I was one of the lucky ones who was not targeted by the people who lived there. That was not the case for the other young people. It was a really violent experience. You get close to the young people but don't necessarily agree with their actions (Zoe, post-care, 22).*

*You can get bashed up [by other residents] at any time. I got punched by [another resident] and staff didn't do anything. We called cops and they didn't do anything. The staff and coppers said just forget about it. I feel pissed off about this (Max, residential care, 15).*

*I've been in and out of here for about three years. There's a new kid [...] that I don't get along with. I refuse to stay here, I hate it. I stay in a mate's shed (Walker, residential care, 16).*

### Q: Have you had any bad experiences in your placements? What happened?

*I've been bullied and assaulted by other kids. I have had my valuable belongings stolen on multiple times. About \$1000 worth of stuff has been stolen from me (lead tenant, 17).*

*Assaulted by other kids, my items stolen, my room being searched all the time (residential care, 17, Aboriginal).*

Three young people and one survey respondent also informed the Commission that they had been sexually assaulted by another young person while in residential care.

*When I first moved back here (second time here) I wanted to know more about who was here – when I heard there were two boys I was worried. When I got here first they were nice – and were showing off and showing me around. It was good at first but then [one of the male residents] is quite a violent person – recently has asked me out and tried to touch me on the ass and I feel uncomfortable (Evelina, residential care, 17).*

*There had been this one kid who was touching me in weird places. The previous night he filmed me having relations with [another person]. I threatened to punch him if he didn't get rid of it and then I did punch him (Heidi, post-care, 18).*

**Q: Have you had any bad experiences in your placements? What happened?**

*I was pushed off a resi roof and the kids made me do sex stuff (Jane, foster care, 12).*

Some young people were able to reflect on the effect of the violence they had experienced in residential care.

*A traumatic event happened to me in resi care. Going in and coming out of resi had an effect going into my longer-term foster placement. That resi got shut down because of the bad experiences. The frustration of having no one to complain built up as anger. I was never so angry before I went into resi. It was where I built up my anger. I did not have a lot of support. If I did get more support, it was more at the end. I was already drug affected and it took hold (Wade, post-care – previously residential care, 21).*

*The only reason I'm absconding is because I don't feel safe there. They don't listen to me, I don't feel valued (Imogen, residential care, 16).*

*Where ever I went, there were always those issues [of violence]. At 15 or 16, I actually got violent myself. I had this guy baiting me and baiting me. I tried to not let it get to me and introduce him to other people on the block. He started claiming that we were threatening to bash him. I finally lost it and threatened to bash him. I went out to my mate's place and I punched him in the face. It was not me. That was what had surrounded me for so long and it felt good to do it but I felt awful after that that was what I had become. It caused me to lose my friends and I got punched by some other guy who saw me on street. In terms of the staff, there were no consequences or punishment for me. The violence becomes a part of you if you are not careful. I felt so bad and I decided I never wanted to do that again. I knew I could never raise my fist again (Emerson, post-care – previously residential care, 24).*

In three cases, young people in residential care reported that a worker had assaulted or sexually assaulted them:

*When I was 11 years old, I lived in a resi with a 17-year-old girl. She and a worker belted me. No one believed me that it happened until another young person reported it too, then [the worker] was sacked. I had only heard that the person was sacked by another person. No-one told me it was investigated or what had happened (Logan, residential care, 15).*

*I was in a [...] resi about two years ago when I was 14. It was a bad place, other kids would push you, workers would push the kids. Kids taking drugs. Was scared to come into resi again after that. Didn't make a complaint, was only there for a short time (Ash, residential care, 16).*

## Foster and kinship care

Children and young people in foster and kinship care were more likely to speak positively about safety in their home.

### Q: What other stuff makes her a good carer?

*She gives me the opportunity to talk about the stuff I want to have. Letting me take risks. Letting me feel happy and safe. Not forcing me to do things (Vanessa, foster care, 17).*

*I like where I'm living... It's safe and makes me feel comfortable (Gemma, kinship care, 10).*

*Being able to have your own space and to be able to feel clean and safe – that's really important. That's a big one (Piper, foster care, 16).*

### Q: Everyone needs a place that feels like home. How do you feel about living here?

*I feel safe, warm, and loved (Thomas, foster care, 10).*

However, in a significant number of cases (n = 19), children and young people stated they were subject to bullying or physical abuse by their carers or other children or young people in the placement.

*I had different workers. I told them about my foster brother bullying me but they did nothing about it (Phoebe, returned home, 16, Aboriginal).*

*I went to foster care when I was 11 years old – then when I was bashed by one of the other kids in foster care, I moved to residential care (Ellie, residential care, 16, Aboriginal).*

*I hear about abusive foster parents. I stayed with one ... it was fucked (Toby, post-care – previously foster care, 27).*

*The [kinship carer] I was with was toxic for me, but it was the last placement for me before they put me in foster care, so they left me there even though I was saying that the placement was doing a lot more harm and wasn't safe (Caroline, post-care – previously kinship and foster care, 19, Aboriginal).*

*The mean one [...] who done things to us [...] I told [my worker] and she's not allowed to take care of kids anymore (Hayden, residential care, 13, Aboriginal).*

*I was in my last foster care placement for seven years and this was a negative experience. It was quite an abusive environment [...] there was a lot of emotional and physical abuse and drug use by the foster children. At the time I really had no one to go to. When I turned 18, I ran off [...]. I went to a friend's place for one year. When I left, I packed a bag of clothes. I didn't really want to take anything else with me (Ebony, post-care, 22).*

*[My foster carer] would hold me down and stuff. That just made it worse. I was only six years old. I had an anger problem. It was a really big family... And I always felt like I was on the outside (Eileen, post-care – previously foster care, 18).*

*I was in foster care when I was two years old and I remember being hit with a belt (Ambrose, foster care, 16).*

*I had three different placements. One I did not get along with. I hated the dad. He was a cunt. We used to get into punch-ons all the time. He tried to stand over you and make you scared. He was a bully (Dominic, post-care – previously foster care, 18, Aboriginal).*

*Then went to live with my grandad, my dad's dad. He did bad things and gave me alcohol. I became an alcoholic. He abused me, tried to suffocate me (Madison, foster care, 15, Aboriginal).*

*I have had DHHS workers since I was five or six – then I was on different orders with Nan [when I was older]. But that situation (with Nan) was abusive so I ran away [interstate] for 6 months – had a safe custody warrant out against me and then I was taken to a foster care place, but I ran away (Marlon, kinship care, 15).*

*I never get a say. My pop always tells me to be quiet and to shut up and that's it. And then he's mean to [my sibling] also (Stewart, kinship care, 14).*

*My last foster carer was the worst person I have ever set eyes on ... It started going downhill when it got tough with money. [They] were getting \$400 for me a fortnight. [They] would only use that money for me. We started to get really low on money and [they] started drinking. [They] always drank but [they] started drinking more and more and ended up hating me. From then it was shit, [they] would come into my room and say what a worthless piece of crap that I am and I that I refused to accept love (Tom, foster care, 17, Aboriginal).*

Several young people also told us that no one checked on whether they were safe in their placement.

*Being in kinship care, we never got checked. No-one checked if placement was going ok. I think there is lots of gaps in kinship care with less supports (Sam, post-care – previously kinship care, 21).*

*When I was placed with gran, [Child Protection] did not check on me. My Child Protection worker didn't know about grandpa hitting me with his stick. When I told Child Protection about grandpa, Child Protection told him off (Lincoln, kinship care, 9).*

**Q: Anything else that might have changed those experiences that didn't work?**

*The government could have done more. I was with one family for like five years or so but the government didn't actually realise that the carer was hitting us.*

**Q: Did you feel like you could talk about it?**

*Yeah. I guess.*

**Q: Did you?**

*Yeah but nobody really followed it up (Evan, foster care, 16, Aboriginal).*

## Other Victorian data on safety in care

### Prior research on how safe care feels

In 2018, the department commissioned a survey on '[t]he views of children and young people in out-of-home care in Victoria' (the Viewpoint survey 2018).<sup>416</sup> The survey, of 600 children and young people aged between eight and 17, found that:

- 96 per cent said they felt safe where they live now<sup>417</sup>
- 97 per cent of children and young people in foster care and 93.5 per cent of children and young people in kinship care felt 'safe where they live now'<sup>418</sup>
- 83 per cent of children and young people in residential care in Victoria felt 'safe where they are now'.<sup>419</sup>

Additionally, CREATE's latest report on children and young people's views about the out-of-home care system (the CREATE Survey, 2018) reported that approximately:

- 78 per cent of Victorian children and young people surveyed 'strongly agreed' with the statement 'I feel safe and secure'<sup>420</sup>
- nationally, '96-97 per cent of the Foster, Kinship, and Permanent Care groups agreed with the statement ['I feel safe and secure']'
- nationally (no Victorian data was available for this issue), 69 per cent of children and young people in residential care felt 'safe and secure'.<sup>421</sup>

Both the CREATE and Viewpoint surveys focused on how children felt in their current placement, while the Commission's consultations invited children and young people to tell us about their experiences over their lifetime in care, which reflects the cumulative experiences of these children and young people over that time. This may account for the significant differences in reported feelings of safety among the children and young people interviewed by the Commission and those surveyed by Viewpoint and CREATE.

### Data on incidents in care in Victoria

Children and young people in care face a heightened risk of serious incidents related to their immediate safety and wellbeing. During 2018–2019, the department's Client Incident Management System (CIMS)<sup>422</sup> registered 6,583 such incidents.<sup>423</sup>

#### Number and type of incidents in residential care

Children and young people in residential care face a disproportionate risk of harm in care. During 2018–2019, on average a child or young person in residential care was the subject of about two ( $n = 2.27$ ) major incidents and over nine non-major incidents ( $n = 9.07$ ).<sup>424</sup> In 2018–2019, three quarters of all incidents (75 per cent) reported on CIMS related to residential care ( $n = 4,908$ ).<sup>425</sup> The most common incidents (major and non-major) in residential care were absent client ( $n = 1,331$ ), dangerous actions-client ( $n = 1,103$ ) and self-harm/attempted suicide ( $n = 633$ ).<sup>426</sup> A significant number of incidents also related to alleged physical or emotional harm to the child or

<sup>416</sup> The [survey sample of 600] was drawn from a population of 2489 children in out of home care on 2 January 2018. In line with the requirements of the AIHW National Survey of Children in Out of Home Care (the National Survey) in scope were children aged 8-17 years, in out of home care (OOHC), on a Care by Secretary Order or Family Reunification Order or Long-term Care Orders of at least 3 months duration' (Viewpoint 2018, op. cit., p. 5).

<sup>417</sup> Ibid., 10.

<sup>418</sup> Ibid., 12.

<sup>419</sup> Ibid., 12.

<sup>420</sup> McDowall J 2018, op. cit., p. 36.

<sup>421</sup> Ibid., p. 37. The survey sample size for Victoria was 933 children and young people.

<sup>422</sup> The Client Incident Management System (CIMS) outlines the approach and key actions out-of-home care service providers must take to manage a client incident. All incidents must be identified and reported and any incident classified as 'major' must be the subject of review and investigation: DHHS. 'Client Incident Management Guide' 2017, 11. The 2018–2019 set of incidents was extracted according to the 'endorsed date'. An incident can involve one or more children and young people. The incident impact and type are recorded individually per child and categorised according to their alleged involvement in the incident (for example, as a victim or perpetrator). For the purposes of this report, the primary incident type recorded for the first client reported is used to calculate the nature of incidents reported.

<sup>423</sup> Appendix: Table 60.

<sup>424</sup> Appendix: Table 61 and Table 62.

<sup>425</sup> Appendix: Table 60.

<sup>426</sup> Appendix: Table 63.

young person.<sup>427</sup> Adolescents in residential care (young people aged 13 years and over) accounted for 68 per cent of all incidents registered on CIMS in 2018–2019 for out-of-home care.<sup>428</sup>

### **Peer-to-peer incidents in residential care**

A number of incidents (major and non-major) recorded in residential care in 2018–2019 involved alleged ‘client-to-client’ harm (n = 596) and these illustrate the often volatile and unsafe residential care environment.<sup>429</sup>

When the Commission also reviewed a sample of major and non-major incidents lodged in CIMS from January 2018 involving violence perpetrated by residents against other residents, it found:

- incidents commonly escalated very quickly, evidencing children and young people living with significant trauma and difficulties regulating their emotions
- residents sometimes attempted to use common household objects to cause harm
- workers often had to intervene physically to prevent one resident causing serious harm to another.

Client-to-client incidents in residential care are a long-standing issue. The Commission’s ‘...as a good parent would...’ inquiry reported that children and young people in residential care repeatedly told the Commission that they felt unsafe in their unit because of the behaviour of the other children and young people with whom they lived.<sup>430</sup> Children and young people’s often challenging and frightening experiences related to ‘placement mix’ are explored in further detail later in this chapter.

### **Sexual assault, sexualised behaviours and exploitation in residential care**

In 2018–2019, CIMS data recorded 246 incidents of children and young people in residential care being subject to alleged sexual abuse or exploitation by individuals outside of the unit, as well as 63 such incidents within the unit.<sup>431</sup> The Commission’s inquiry, ‘...as a good parent would...’ found that ‘Children living in residential care in Victoria are reporting an alarming level of sexual abuse and sexual exploitation’.<sup>432</sup>

While it was rare for children and young people consulted for this inquiry to disclose sexual abuse or exploitation, the Commission has ongoing concerns about sexual abuse and exploitation of children and young people in residential care. The prevalence of these incidents is unclear; there has been a dramatic drop in reported incidents following the department’s recent transition from its prior Critical Incident Reports (CIR) system to CIMS. Between 1 September 2017 and 31 December 2017, the department received 309 reports related to sexual exploitation, inappropriate sexual behaviour, and sexual abuse through the CIR system. However, over the same period in 2018, the department received only 198 reports of similar nature through the new CIMS system.

The Commission has separately raised concerns about the reduced reporting of sexual exploitation. In response to the draft inquiry report, the department advised that the reduced number of sexual exploitation incident reports is in line with the expected reduction of overall incidents reported within CIMS due to the different reporting requirements under CIMS. For an incident to be reported under CIMS, there needs to be an identifiable impact or risk of harm. Where only a suspicion of potential risk is present, this risk should be actively case managed without requiring a CIMS report. The Commission is concerned about this change and also considers that it may reflect reduced attention to identifying and preventing sexual exploitation.

<sup>427</sup> Ibid.

<sup>428</sup> Appendix: Table 64.

<sup>429</sup> Appendix: Table 65.

<sup>430</sup> CCYP 2015a, op. cit., p. 108. See also Moore T 2017, op. cit., p. 217.

<sup>431</sup> Appendix: Table 65. The Commission counted incidents recorded on CIMS as ‘other>client’ in residential care as incidents involving alleged harm by individuals outside of the unit.

<sup>432</sup> CCYP 2015a, op. cit., p. 14.

The Commission has also identified several instances between February and June 2019 of CSOs miscategorising serious incidents of alleged sexual exploitation as a category other than sexual exploitation and classifying the incident as non-major. The Commission is in ongoing discussions with the department about identifying and rectifying the drivers of the marked decrease in reported incidents as well as the miscategorisation of incidents.

### **Risks to younger children in residential care**

The Commission is extremely concerned by the presence of children under 12 in residential care (see Chapter 6). During 2018–2019, children aged 12 and under in residential care were the subject of 457 major and non-major incidents<sup>433</sup> (about 7.74 per child).<sup>434</sup> Over 100 of these incidents involved the younger children being subjected to alleged ‘client-to-client’ harm. These children were also the subject of 26 incidents of alleged staff-to-client harm.<sup>435</sup>

### **Safety in kinship and foster care**

#### ***Alleged incidents of harm to children and young people involving carers***

In 2018–2019, CIMS recorded 172 incidents of alleged harm by carers in foster care and 164 in kinship care. In both care types, the majority of incidents related to allegations of poor quality of care or physical or emotional abuse.<sup>436</sup> However, over the course of this year there were 15 allegations of sexual abuse by foster carers.<sup>437</sup>

During the same period the Reportable Conduct Scheme received 92 notifications of reportable conduct related to carers in foster care and 92 in relation to kinship care.<sup>438</sup> The majority of the conduct reported related to allegations of physical violence and significant neglect of a child. The Commission notes

that not all allegations will be substantiated. For example, in 2018–2019, of the 170 reportable allegations closed for foster care, 36 per cent (n = 264) were substantiated. For kinship care, 49 per cent of closed reportable allegations were substantiated (92 out of 187).<sup>439</sup>

The Commission analysed a random sample of allegations received in 2017–2018 and found that 85 per cent of allegations (60 out of 71) in kinship and foster care involved carers using inappropriate physical or psychological discipline against children or young people in their care.

#### ***Incidents in kinship care***

Children and young people in kinship care during 2018–2019 were five times less likely than children and young people in foster care to be the subject of an incident report on CIMS.<sup>440</sup> This difference is also reflected in incidents reported to the Reportable Conduct Scheme during 2018–2019. Over this period, the scheme received 92 reportable notifications in relation to foster care and the same number in relation to kinship care, despite about three times as many children and young people being in kinship care.

While the reason for the difference in the rate of reported incidents is not clear, there is some basis to consider it may be due to an under-reporting of incidents in kinship care. An internal report prepared by KPMG for the department in June 2016 expressed concerns about significant under-reporting of critical incidents in Child Protection case managed kinship care placements compared with placements managed by CSOs.<sup>441</sup> The report noted that in July 2015, ‘CSOs reported 71 critical incidents and DHHS reported one critical incident’.<sup>442</sup>

For this inquiry, the Commission analysed a representative sample of 118 reportable conduct allegations from 2017–2018 to determine trends in how concerns about safety and wellbeing of children and young people in care come to light in different care types.

<sup>433</sup> Appendix: Table 64.

<sup>434</sup> The rate of incidents reported from residential care for children under 13 is calculated from the age reported on the first client recorded in CIMS and child’s age as at 31 December 2018.

<sup>435</sup> Appendix: Table 66.

<sup>436</sup> Appendix: Table 67 and Table 68. The Commission counted incidents reported as ‘staff>client’ in kinship and foster care placements as incidents involving carers as alleged perpetrators.

<sup>437</sup> Appendix: Table 67.

<sup>438</sup> Appendix: Table 69.

<sup>439</sup> Appendix: Table 70.

<sup>440</sup> Appendix: Table 60.

<sup>441</sup> KPMG 2016, *Review of the kinship care model*, unpublished internal document, State of Victoria, Melbourne, p. 30.

<sup>442</sup> *Ibid.*

The analysis revealed the following:

- Children and young people in residential and foster care were more likely than their peers in kinship care to report concerns about their safety or abuse to an adult professional.
- Children and young people in all forms of care are less likely to report concerns about their safety in care to a Child Protection worker than a funded agency worker.
- Agencies (including funded agency case managers and residential care providers) are more likely to become aware of alleged concerns about the safety of a child or young person (either through the child or young person reporting the alleged incident or the agency becoming aware of it through other means) than Child Protection workers.<sup>443</sup>

Low levels of child or young person-led reporting in kinship care may be due to their often limited contact with agency workers relative to other care types.

Children and young people in kinship care:

- are least likely to benefit from case management by a funded agency<sup>444</sup>
- are, if case managed by Child Protection, less likely to have face-to-face contact with their Child Protection worker – this is in part due to the high number of cases which are managed by a team leader while awaiting allocation to a case worker (this issue is discussed in detail in Chapter 5).

Additionally, children and young people in kinship care may also be less likely to report concerns about their safety in care due to fears of the repercussions of making an allegation against a family member.

### **Placement screening in kinship and foster care**

The program requirements for home-based care place a variety of requirements on funded foster care agencies to screen potential foster carers and ensure they can provide a safe home environment to the children and young people in their care.<sup>445</sup>

<sup>443</sup> Appendix: Table 71.

<sup>444</sup> As at 31 December 2018, only 30 per cent of children and young people in kinship care were case managed by a CSO versus 49 per cent in residential care and 47 per cent in foster care. Source: DHHS data extraction from CRIS database, population and case details in out-of-home care as at 31 December 2018. Data provided to the Commission on 31 July 2019.

<sup>445</sup> DHHS 2014, op. cit., p. 29.

The Commission's analysis of departmental quality and compliance audit reports of CSOs providing foster care placements completed in 2018 (these audits related to 61 individual carers) revealed that CSOs were non-compliant in:

- 25 per cent of cases with the requirement to pre-assess carers, including failure to conduct disqualified carer checks or reference checks after the carer was accredited (n = 15)
- 43 per cent of cases with the requirement to use the mandatory Victorian foster care approval process (n = 26)
- 34 per cent of cases with program requirements to conduct annual home environment checks (n = 21).

Child Protection also monitors the safety of kinship placements by completing mandatory safety screening (including police history check and a CRIS check) and a preliminary assessment before a kinship care placement commences. Child Protection guidelines require that Child Protection complete kinship assessment forms A to C, which include an assessment of the safety and suitability of the placement.<sup>446</sup> However, the KPMG review of the kinship care model noted in 2016 that 'Part A and B assessment forms are not completed in a timely manner'.<sup>447</sup> When provided with an opportunity to comment on a draft of this inquiry, the department noted that '[t]he new model of kinship care was designed to address these findings, and the new model has been in operation since March 2018'.

With regard to the completion of the Part C (referred to above), the KPMG report noted that '[t]he annual review and monitoring of kinship care placements by Child Protection practitioners is not occurring consistently in a manner that meets the requirements under DHHS policy'.<sup>448</sup> The report attributed Child Protection's poor compliance with these mandatory assessments to the heavy workload and increasing administrative burden of Child Protection workers, as

<sup>446</sup> Form A (the 'Kinship carer assessment report template') must be completed prior to placement. Form B must be completed if the placement is to last more than three weeks, and form C after the child has been in care for 12 months: DHHS 2019d, 'Kinship care assessment – advice', *Child Protection Manual*, <<http://www.cpmanual.vic.gov.au/advice-and-protocols/advice/out-home-care/kinship-placement/kinship-care-assessment>>, accessed 27 March 2019.

<sup>447</sup> KPMG 2016, op. cit., p. 28.

<sup>448</sup> *Ibid.*, 30.

well as the 'pervasive assumption that children or young people in kinship care placement are 'safe with family' unless proven otherwise'.<sup>449</sup> The report attributed this issue to 'workload pressures and demands of Child Protection staff [resulting] in them spending significantly less time monitoring their kinship care caseloads than CSOs and ACCOs'.<sup>450</sup> This raises concerns for the oversight of the safety of children and young people in these placements. However, the Commission notes that CSOs funded under the First Supports initiative (outlined in detail in Chapter 10), may assist in the timely preparation of Part B assessments.

The Commission requested that the department provide it with an update on current compliance with the completion of kinship carer assessment Part A, B and C. In response, the department advised that it was not yet in a position to provide this data.<sup>451</sup>

### Research and analysis on monitoring safety in placement

The out-of-home system has a number of key mechanisms to monitor and identify concerns about the safety of children and young people in care including:

- regular face-to-face contact between children and young people in care and their workers
- incident monitoring systems
- placement screening in residential care.

This section considers the effectiveness of these mechanisms.

### Face-to-face contact

Regular contact with children and young people in care was critical to ensuring their safety in placement. The *Program requirements for home-based care in Victoria* state that 'CSOs will ensure that the safety of the carer's home and environment is monitored regularly through home visits and is formally reviewed annually using home and environment checks as part of the review process for carers'.<sup>452</sup> The Commission's concerns about the current lack of contact between children and young people in care and their workers – including its implications for the safety of children and young people in care – is outlined in detail in Chapter 5.

### Incident reporting

Child Protection staff members indicated they also relied on reports lodged on CIMS to monitor the safety of children and young people in placement, however, several expressed concerns that Child Protection had a reduced capacity to monitor the safety of children and young people in care following the transition to the new CIMS system.<sup>453</sup>

Some Child Protection staff members, when consulted by the Commission, expressed concerns that:

- they are no longer able to monitor non-major incidents in real time and only become aware of these issues several weeks after the fact
- relying on agencies to report and investigate incidents may conflict with their pecuniary interests in retaining their contract to provide services
- some funded agencies lack the resources and capacity to conduct investigations into serious safety incidents effectively.

As noted above, the new system has decreased the reporting of certain types of incidents, and the Commission is working with the department in relation to a number of concerns.

<sup>449</sup> Ibid., 29.

<sup>450</sup> Ibid., 30.

<sup>451</sup> Email from the department to the Commission dated 10 June 2019.

<sup>452</sup> Email from the department to the Commission dated 5 May 2019.

<sup>453</sup> When offered an opportunity to respond to the draft Inquiry report, the department advised that CIMS is not a case management tool or alert system and is not intended to be relied upon as the primary source of information to monitor safety. Service providers are required to advise and update case managers independently in the event that an incident has occurred that impacts on a client.

## Initiatives to improve safety in care

The department has advised the Commission of several current initiatives to improve the safety of children and young people in care:

Initiative	Overview
<b>Addressing Occupational Violence in Out-of-home Care project</b>	The department is currently addressing safety concerns related to placement mix through the Addressing Occupational Violence in Out-of-home Care project. The project aims to develop: <ul style="list-style-type: none"> <li>• a residential care occupational violence risk assessment and management process</li> <li>• an 'interim tool to provide a safer system of work through supporting communication between key stakeholders of risks and mitigation strategies for young people [...] in the first half of 2019'.</li> </ul>
<b>Quality and Safety framework</b>	The department has informed the Commission that it is 'taking a system-wide approach to driving quality and safety through the establishment of the Community Services Quality and Safety Office established to implement a new Quality Governance Framework'. <sup>454</sup>
<b>Victoria Police and DHHS Vulnerable Children's Subcommittee</b>	In March 2019 the department and Victoria Police created the Victoria Police and DHHS Vulnerable Children's Subcommittee. The subcommittee is intended to 'progress bi-lateral work to improve safety for vulnerable children and young people in care and/or who are known to Child Protection'. <sup>455</sup>

### Finding 22: Safety in kinship and foster care

Reflecting recent surveys of children and young people in care, most children and young people we spoke to who were currently in kinship or foster care told us they felt safe in their current placement.

However, a significant number of children and young people told us that they had been unsafe in prior kinship and foster placements, either because they had been hit, bullied or otherwise abused.

### Finding 23: Monitoring and identification of safety concerns in care

The following factors act as barriers to safety issues for children and young people in care being identified and addressed:

- insufficient monitoring of the safety of children and young people by Child Protection and, to a lesser degree, CSO workers, particularly children and young people in kinship care
- inconsistent practice among CSO and Child Protection workers regarding face-to-face contact with children and young people in care separate from their carers.

### Finding 24: Safety in residential care

Based on available data and advice from children and young people, residential care in its current form is unsafe for children and young people and currently places them at an unacceptable risk of harm.

<sup>454</sup> Email from the department to the Commission dated 5 May 2019.

<sup>455</sup> Ibid.

# Chapter 8

## My family

I want my family to come back together.

We're family and we stick together.



### Chapter at a glance

- Since the introduction of the permanency amendments, the number of children and young people on permanent care orders has risen significantly. However, the rate of children and young people reunifying with their parents has fallen slightly.
- Siblings are often split up in care due to a lack of suitable and supported placements.
- Many children and young people appear to have regular contact with parents on their own terms.
- Some children and young people feel they cannot influence decision making about contact.
- Children and young people living with developmental delays or intellectual disabilities appear to be less likely to have regular contact with their parents.

### Key data

- About two out of five of all children and young people in care with siblings in care live separately from one or more of them.
- Forty-four per cent of children and young people in the 2018 Viewpoint survey said they had less contact than they wanted with family.

*Family to me is someone I can dislike a lot, and still chill out with at the same time. I can walk in and eat food out of the cupboard and they won't blink an eyelid. 'In your bones you belong together at that time' is what I see family as (Iris, foster care, 15).*

## Introduction

Our parents, siblings and extended family help tell the story of who we are and where we fit into the world. They hold our histories, shared memories and culture, and we turn to them for support during times of challenge as we make our way through life. The children and young people we spoke to for this inquiry told us they deeply value these connections, but sometimes struggle to maintain them through the upheaval of constantly changing placements, separated siblings, living far from home and complex, and sometimes fraught, family relationships.

This chapter highlights what children and young people in care told us about:

- the support they were given to reunify with their families
- their ability to maintain a connection with siblings, either in the same placement or through contact
- how they experienced contact with their parents and extended family members.

## Support for reunification

While Victorian legislation and policy prioritises children and young people in care being supported to transition back to their parents where that is in their best interests, some of the children and young people we spoke to who had experienced reunification remarked on the lack of supports they had received to make this often difficult transition back home. File reviews conducted by the Commission for this inquiry confirmed that children and young people in care often do not benefit from intensive service supports to reunify with parents, even when they are on an order which contemplates reunification. Since the permanency amendments took effect in 2016, the number of children and young people on permanent

care orders has risen significantly, but the rate of children and young people reunifying with their parents has not.

## Living with siblings

The children and young people we consulted who lived in a placement with their siblings often told us that this made them happy and helped being in care feel more like home. Being separated from siblings was a source of distress for many of the children and young people we spoke to. Departmental data suggests that about a third of children and young people in care live separately from one or more of their siblings in care, and that sibling groups are most likely to stay together in kinship care. This chapter finds that a key driver of sibling groups being split up in care is a lack of appropriate placements for sibling groups, especially larger ones, coupled with a lack of planning and supports to keep or bring sibling groups together in care.

## Contact with family

Most of the children and young people we spoke to had regular contact with their parents and siblings. Many told us that this contact happened on their own terms – this was also reflected in the vast majority of files we reviewed. A smaller number of children and young people spoke about being given no choice about contact with their parents and found forced contact deeply upsetting.

Our file reviews and interviews with Child Protection staff members also revealed that the out-of-home care system is not doing enough to prioritise or plan for contact between children and young people in care and their siblings and extended family members.

## Reunification with parents

Many of the children and young people we spoke to were on orders that anticipated their return home to their parents or were about to 'age out' of care and return home. While reunification was not a key focus of our consultations, a small number of the young people we spoke to mentioned they had, or were about to, move back in with family. None observed they had benefitted from supports to make that transition.

### Q: Did you get support to transition back home?

*No. It was the hardest thing moving back home from foster. We didn't know how to live with each other anymore. We used to lock ourselves in our rooms. We didn't know how to talk to our parents any more or speak to them for advice and help. We ended up becoming a family again. I said, 'We need to make change and have family meetings and need to make us a family again. We can't have DHHS say we are not a family. We are going to prove that we are a family' (Phoebe, returned home, 16, Aboriginal).*

*Mum and I are really close, but when outside people get involved that's when we have trouble. I talk to mum all the time – we talk all the time on the phone. We communicate very well. I'm meant to go back to her, but I can only see her once a week – how can you start living with someone when you only see them once a week? (Evelina, residential care, 17).*

*I'm moving into my brother's in one or two weeks. [He has] to get like a working with children check and they are just waiting on the approval of me moving in to live with him.*

### Q: Is this what you want?

*Yeah.*

### Q: So you are close with him?

*Like I speak to him a fair bit. But haven't seen him heaps last few years, I guess. He's, I think, 25 (Bethany, residential care, 15, Aboriginal).*

## Research and analysis about family reunification

### The legislative framework for reunification

In 2015, permanency amendments were introduced with the intention of supporting children and young people in care to either reunify with their families – with the assistance of intensive service supports around the family and child or young person – or find stability in care in a timely way.<sup>456</sup> The amendments require that every child and young person in need of protection must have a permanency objective to guide the direction of case planning. The amendments established a hierarchy of permanency objectives – ranging from family preservation to permanent care – with an express preference for family preservation or reunification where it is in the best interests of the child.<sup>457</sup> Where a child or young person's case plan has family reunification as its permanency objective, 'the compatible Children's Court orders are an interim accommodation order that places the child in out-of-home care or a family reunification order'.<sup>458</sup>

As at 31 December 2018:

- 23 per cent of children and young people in care (n = 1,787) were subject to a reunification order
- 34 per cent (n = 2,674) of the case plans of children and young people in care had a reunification objective.<sup>459</sup>

<sup>456</sup> Children, Youth and Families Amendment (Permanent Care and Other Matters) Bill 2014, second reading, 21 August 1998.

<sup>457</sup> CYFA, s. 167.

<sup>458</sup> DHHS 2016d, 'Family reunification – advice', *Child Protection Manual* <<http://www.cpmmanual.vic.gov.au/advice-and-protocols/advice/case-planning/family-reunification>>, accessed 7 July 2019.

<sup>459</sup> Appendix: Table 72.

### **Trends in reunification since the introduction of the permanency amendments**

'...safe and wanted...' found that '[a]lthough the permanency amendments clearly preference family preservation and family reunification, there ha[d] been an 11 per cent decrease in the number of children the department has reunified with their parents following the commencement of the permanency amendments'.<sup>460</sup> Three years on, there has been little movement in the overall rate of children and young people reunifying with their parents as a proportion of the total out-of-home care population.

Over the same period, there has been a significant increase in permanent care orders, although there has been recent downward movement.

### **Measuring reunification**

The Commission's inquiry '*...safe and wanted...*' recommended that the department 'measure, monitor and report on the number of children in out-of-home care who have been successfully reunified with their family'.<sup>461</sup> While the department has accepted this recommendation, in March 2019, the department advised the Commission that the 'data report on reunification has not yet been developed'.<sup>462</sup>

In the Commission's view such a monitoring mechanism is essential for the department to track performance against one of the key policy intentions of the permanency amendments.

**Table 25: Children and young people in out-of-home care reunified with parents between 2009–2018**

Year	Total population	Reunified with Parent/s	Rate in 100
2009	3,767	645	17.1
2010	3,933	1,116	28.4
2011	4,325	1,194	27.6
2012	4,713	1,413	30
2013	5,053	1,466	29
2014	5,759	1,613	28
2015	6,344	1,948	30.7
2016	6,746	2,144	31.8
2017	7,097	2,298	32.4
2018	7,866	2,297	29.2

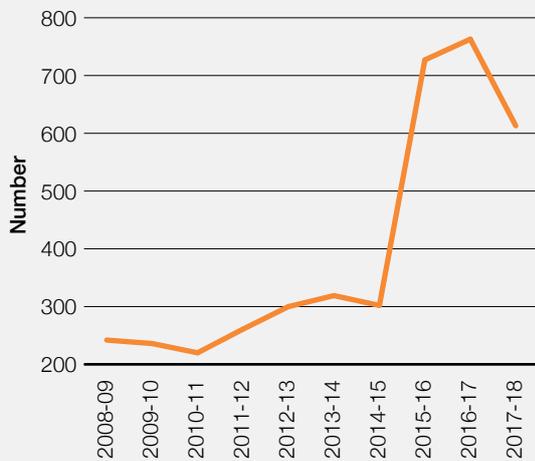
Source: DHHS data extraction from CRIS database, 10-year placement conclusions. Data provided to the Commission on 31 July 2019.

<sup>460</sup> CCYP 2017, op. cit., p. 32.

<sup>461</sup> Ibid., p. 27.

<sup>462</sup> The department further advised the Commission that '[t]he data report on reunification has not yet been developed. It is proposed to include a measure in the new outcomes framework related to the timeliness of achieving permanency objectives, including family reunification. The longitudinal study commenced in July 2018 and will report in June 2020. The study will include data on achieving reunification. National reporting on the timeliness of the achievement of permanency objectives, including family reunification, is being developed.'

**Figure 17: Permanent care orders issued, 2008–2009 to 2017–2018**



Source: DHHS data extraction from CRIS database, 10-year trend – permanency objectives. Data provided to the Commission on 31 July 2019.

Financial year of order issue date	Permanent care orders issued
2008–2009	242
2009–2010	236
2010–2011	220
2011–2012	261
2012–2013	300
2013–2014	319
2014–2015	302
2015–2016	727
2016–2017	763
2017–2018	613

**Supports for reunification**

The CYFA 2005 imposes legislative obligations on the Secretary of the department to support children and young people who are subject to a case plan with a reunification objective to reunite with their families.<sup>463</sup> In addition, s. 175C(2) of the CYFA 2005 provides that ‘[t]he Secretary must, to the fullest extent possible, work with and engage any parent with whom the child is intended to be reunified in making case planning decisions for the child’. Due to the time-limited nature of family reunification orders and objectives,<sup>464</sup> timely and accessible services and supports to families and children and young people in care are critical to uphold the right of the child or young person as

far as possible ‘to know and be cared for by his or her parents’.<sup>465</sup>

This section considers the adequacy of these supports with a focus on:

- the case management and allocation of children and young people whose order or permanency objective contemplates reunification
- worker contact to support reunification
- the quality of case planning towards reunification
- the engagement of children and their families with services to support reunification.

**Case management and case allocation**

‘...safe and wanted...’ identified significant barriers to children and young people reunifying successfully with their parents, where reunification is contemplated by the order or permanency objective. This inquiry reported that children case managed by Child Protection often received minimal or no contact with their allocated Child Protection practitioner, contrary to the department’s own guidelines. ‘...safe and wanted...’ also identified that, as at August 2016, 378 children and young people on a reunification order (22 per cent) had no allocated worker.<sup>466</sup>

<sup>463</sup> These orders are intended to ensure ‘that a child who has been removed from the care of a parent of the child is returned to the care of a parent’, s. 167(b) of the CYFA 2005.

<sup>464</sup> The permanency amendments also introduced provisions intended to overcome delays in children and young people in care transitioning to permanency in care, in circumstances ‘when it is recognised that there is little possibility of family reunification’ (Children, Youth and Families Amendment (Permanent Care and Other Matters) Bill 2014, second reading, 21 August 1998). These amendments attempted to do this by introducing timeframes for achieving reunification, including a bar on ‘family reunification being pursued as a permanency objective if a child has been in out-of-home care for a cumulative period of 12 months and there is no real likelihood of safe reunification in the next 12 months’ (CCYP 2017, op. cit., p. 18).

<sup>465</sup> CRC, Article 7.

<sup>466</sup> CCYP 2017, op. cit., p.19.

As noted in Chapter 5 and Chapter 11, unallocated cases receive less attention, which likely impacts on the quality of planning and action in support of reunification.

Since this time, there has been no improvement in this critical barrier to successful reunification. As at 31 December 2018:

- Of the 1,772 children and young people on a family reunification order, 92 per cent were case managed by Child Protection (n = 1,632).<sup>467</sup> Of these 1,632 cases, 21 per cent were unallocated (n = 348).<sup>468</sup>
- The overwhelming majority of children and young people with a permanency objective of family reunification were case managed by Child Protection (96 per cent, n = 2,541 out of 2,674 children and young people on these orders) and of these, 23 per cent were unallocated (n = 578).<sup>469</sup>

### Contact with workers

Contact between workers and children and young people and their families – to enable case work to support successful reunification – is critical.<sup>470</sup> ‘...safe and wanted...’ identified a concerning lack of contact between Child Protection workers and children and young people and their families to support them to meet the permanency objective.<sup>471</sup> The Commission’s review of 100 CRIS files for this inquiry similarly found that the children and young people on a reunification order generally had limited contact with their workers. Less than half of the children and young people in this sample<sup>472</sup> had face-to-face contact with their Child Protection worker every month or more. Worker contact with parents outside of supervised contact with the child was evident in only five cases.

<sup>467</sup> Appendix: Table 73.

<sup>468</sup> Appendix: Table 74. As noted above, ‘unallocated’ refers to cases which are assigned to a team leader but awaiting allocation to a case worker.

<sup>469</sup> Appendix: Table 72 and Table 75.

<sup>470</sup> CCYP 2017, op. cit., p. 86.

<sup>471</sup> Ibid., p. 121.

<sup>472</sup> Children with a reunification order or with a reunification objective.

### Active engagement of children, young people and family with services

Both legislation and the *Child Protection Manual* recognises that: ‘[r]eunification requires a range of appropriate services and supports from the point that a child first enters care and beyond the child’s return home, to meet the child; and their family’s needs’ and that ‘[s]trong engagement and collaboration with the family and the services provided are also necessary in order to address the protective concerns to make the process of reunification possible’.<sup>473</sup> Child Protection guidelines note that funding packages for reunification may be used to address specific case planning goals and tasks.<sup>474</sup>

‘...safe and wanted...’, on the basis of extensive consultations and CRIS file reviews noted:

- a lack of active service engagement with the child or young person’s family of origin to support successful reunification
- parents experiencing long waiting lists and difficulties accessing services, despite recent government investment.<sup>475</sup>

This apparent lack of supports for reunification persists. The Commission’s analysis of a smaller set of children and young people who were subject to reunification orders over a six-month period (n = 14) in 2018–2019 revealed significant service and practice barriers to successful reunification. In only half of the files reviewed, was there evidence of active service engagement with families (n = 7) or children and young people in care (n = 7) to support family reunification.

<sup>473</sup> DHHS 2016d, op. cit.

<sup>474</sup> These goals and tasks include:

- access to relationship or family counselling, family therapy and family mediation services
- child care or respite care to assist parents with the ongoing care of their children
- provision of a family support worker
- provision of other in-home support and material aid that will assist the family’s functioning
- support to enable women and children to leave relationships involving family violence.

(DHHS nd-a, *Family preservation and reunification packages: guidelines for Child Protection*, unpublished internal document, State of Victoria, Melbourne.

<sup>475</sup> CCYP 2017, op. cit., p. 19.

Where supports were provided, this usually involved a child and family service actively engaging with the family, such as Stronger Families, or the provision of additional support through TCPs. When provided, these supports often eventuated in a young person's reunification with their family. These supports often ran alongside parents' voluntary engagement with services to improve their capacity to parent and safely care for their child or children (such as men's behaviour change programs or family violence counselling).

When consulted for this inquiry, Child Protection staff members noted the improved availability of service supports towards reunification, but sometimes still recognised the need for more of these services.

*We are getting better at getting the services to come in and do that support work. There are certainly services out there, some are funded. It just needs a lot of active work to make it happen. There are timeframes, but we don't want to be rushing these processes. A lot of that can remain in place up to 12 months post the reunification. Stronger Families is huge for us. We don't have the suite of services that metro has but TCP and Stronger Families are the main go to. We would do better with more but they are not resourced (Child Protection staff member).*

*Sometimes it's beneficial when engaging the parents in addressing protective concerns that it is not Child Protection – I have seen more buy-in from the parents when they have the engagement with other services. [These services] have the time to hold their hands in a way to navigate some of the paperwork, appointments (Child Protection staff member).*

*I think it's a lot better than what it was. We now have access to reunification programs in the service network, the [redacted] reunification program is good and we have had good success done with it. The supports they provide are daily follow ups and they are very intensive in their work alongside Child Protection...The legislation changes have been helpful, you have to now show the steps you have taken to support the family to address the issues and makes us more accountable. Some workers have struggled with the thought of working alongside rather than on top (Child Protection staff member).*

The Commission has ongoing concerns about the levels of available funding to support reunification as a proportion of the government's total expenditure of the out-of-home care system. In 2017–2018, the department allocated \$46.7 million to family preservation and reunification services supports for a combined total of about 1,800 children and young people who were subject to family preservation or reunification orders (about \$2,600 per head).<sup>476</sup> Over that same period, the department spent over \$280 million on residential care at a cost of about \$666,100 per head.

Additionally, parents often face considerable waiting times to access other services to help them make the changes necessary to bring about successful and safe reunification. Service providers, consulted as part of the Commission's '...safe and wanted...' inquiry, repeatedly informed the Commission that:

*Waiting lists for alcohol and drug services, mental health services and family violence services are lengthy, and in some cases can be up to 18 months.<sup>477</sup>*

<sup>476</sup> As at 31 December 2018, 1,840 children and young people were subject to these orders. Source: DHHS data extraction from CRIS database, population and case details in out-of-home care as at 31 December 2018, provided to the Commission on 31 July 2019.

<sup>477</sup> CCYP 2017, op. cit., p. 125.

### Quality of case plans

In ‘...safe and wanted...’ the Commission expressed concerns about the quality of case plans which had an objective of reunification, noting ‘considerable deficiencies in case plans and/or poor quality case plans’.<sup>478</sup> Consequently, the Commission recommended, among other things, that the department provide ‘Child Protection practitioners with specific training to build their expertise in working with families to achieve reunification’.<sup>479</sup> Of the files examined by the Commission for this inquiry where the child or young person was subject to a reunification order or objective:

- In just over half of the cases (n = 8), case plans and associated action tables provided guidance about what changes would need to occur for the child or young person to return home.
- However, in half of the files under review (n = 7), the case plan imposed a strong onus on parents to demonstrate their capacity to safely parent (for example, through seeking appropriate help for mental health or drug or alcohol issues) without detailing how to identify and engage with those services.

### Misalignment of permanency objective with order type

In 2017, ‘...safe and wanted...’ found that ‘[o]f 1,570 children on family reunification orders in August 2016, 325 children (20.7 per cent) had a recorded permanency objective that did not involve family reunification or family preservation’.<sup>480</sup> The inquiry concluded that ‘a permanency objective that is inconsistent with a protection order, obstructs timely, permanent outcomes, given ... a key barrier to permanency [is] the conflict between protection orders and case-planning decisions’.<sup>481</sup>

Consequently, this inquiry recommended that:

- ‘Where a child on a family reunification order has a permanency objective that does not involve reunification, the Department should, if necessary, return to court to seek the appropriate order’.<sup>482</sup>

As at 31 December 2018, only 65 per cent of children and young people subject to a family reunification order had a permanency objective of family reunification, meaning 35 per cent had a recorded permanency objective that did not involve family reunification or family preservation.<sup>483</sup> The Commission is concerned that this issue has continued to worsen since ‘...safe and wanted...’.

### Department initiatives to support reunification

The department conducted a pilot project in South Division in 2017 and 2018 targeting children and young people up to 17 years of age living in kinship care who had a family reunification case plan and were subject to a family reunification or care by Secretary order. This Kinship Care Reunification Program aimed to support these children and young people and their families to achieve their reunification goals through intensive support and financial assistance. The program was delivered by OzChild, the Victorian Aboriginal Child Care Agency and the Gippsland and East Gippsland Aboriginal Co-operative. The program began accepting referrals in February 2017.

The program evaluation indicated that in 14 of the 36 referrals, children and young people had successfully reunified with their families. The evaluation also found that despite some challenges in adapting the model to suit Aboriginal families, the project showed that ‘targeted reunification efforts supported by access to brokerage can successfully support family reunification efforts’.<sup>484</sup> Unfortunately, the trial ceased on 30 June 2018.

<sup>478</sup> Ibid., p. 70.

<sup>479</sup> Ibid., p. 27.

<sup>480</sup> Ibid., p. 117.

<sup>481</sup> Ibid.

<sup>482</sup> Ibid.

<sup>483</sup> Appendix: Table 72.

<sup>484</sup> Centre for Evaluation and Research 2018d, *South Division Out-of-home Care Initiative: Kinship Care Reunification Program outcome evaluation report*, unpublished internal document, State of Victoria, Melbourne, p. 6.

## Finding 25: Family reunification supports

Successful and sustainable reunification of children and young people with their family is impeded by:

- children and young people on family reunification orders not having an allocated case worker
- case planning that does not always provide children and young people in care and their parents with a clear pathway towards reunification
- limited access to some of the services required to meet the parents' and family's needs
- a lack of intensive reunification supports to assist children and young people to reunify with their parents

There is no evidence that these systemic barriers, identified in the Commission's 2017 inquiry, '*...safe and wanted...*', have been addressed by the department.

## Placement with siblings

Many of the children and young people we consulted for this inquiry were part of a family with multiple siblings in care. Whether or not they had been placed with their siblings often had a strong bearing on their overall experience of being in care.

Children and young people were more likely to say their placement felt like home when they lived with siblings (n = 8).

*If I need to talk to someone now, my brother would be the first person I would talk to (Ellie, residential care, 16, Aboriginal).*

*It was always us three looking after each other and not having parents. We basically grew up looking after one another so that's why we have a bond (Kayla, post-care, 18).*

**Q: How are things right now on a scale of 1 to 10?**

*Probably 9*

**Q: Is there anything you'd change about here?**

*I love having all the kids around me. Especially the little ones. It makes me so happy (Agnes, foster care, 17).*

**Q: Does it feel like a home?**

*Yeah, because it's like staying with my brothers, so I've got at least got one family member near (Patrick, kinship care, 11, Aboriginal).*

*Apparently no one else was going to accept me before this. [Starts to cry.] It's great to be able to be together. We do wish our brother was living here together (Ezra, residential care, 15, Aboriginal).*

However, the children and young people we spoke to were more likely to say that they were living separately from their siblings (n = 32) than with them (n = 10). Being separated from siblings was sometimes a source of frustration, anxiety and sadness.

*We have two younger brothers and two older brothers. We should all be together (Tyrah, foster care, 15, Aboriginal).*

*We don't know any of our grandparents. My sisters live in [another state] and [in a Victorian regional centre] and I have a brother in [outer Melbourne]. I've only met my sisters once and never met my brother. My case manager is planning a trip [...] to meet with my sister. They are avoiding me meeting my brother. I found him on Facebook. I told my worker I don't care if he [has a mental illness], I would still want to know him. Having family is like the only thing I have left (Brooke, residential care, 16).*

*I have a brother in resi care and another brother and sister who are in long-term foster care. I don't get to see [my twin] and I haven't seen my other brother and sister for a long time (Simon, foster care, 14).*

*I had a brother who was 16 months older and they tried to keep me and him together. In the end my brother stayed with a foster family and I was moved. I was difficult to look after and I just wanted to be with my family member so I kept running away (Sadie, kinship care, 15, Aboriginal).*

## Research and analysis about placement with siblings

### Whole-of-population data on placement with siblings

Forty-one per cent of all children and young people in care with a sibling in care live separately from one or more of them. As at 31 December 2018, there were 6,167 children and young people recorded in CRIS as having one or more siblings in care (including permanent care).

Of these children and young people with a sibling in care:

- 59 per cent (n = 3,632) were living with all of their siblings.
- 16 per cent (n = 980) were living with one but not all of their siblings.
- 25 per cent (n = 1,555) were living separate from all of their siblings.<sup>485</sup>

For the first seven years of the last decade, the overall proportion of children and young people in care placed with all of their siblings gradually improved. This has plateaued over the last two years. This slow improvement may be attributable to the year-on-year increase in the number of children and young people in kinship care (as discussed below, sibling groups are more likely to remain together in kinship care).

### The benefits of siblings living together

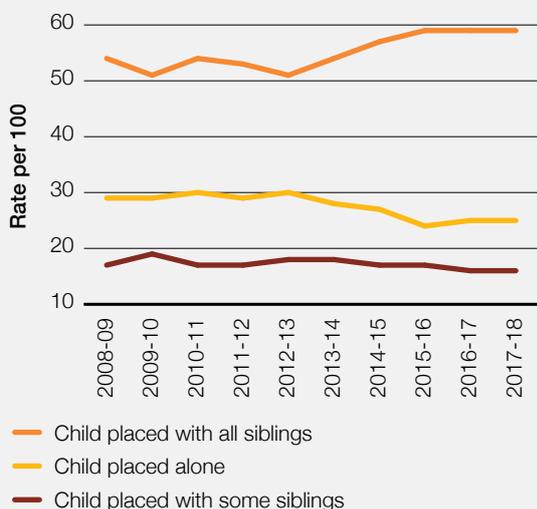
There are significant benefits to placing siblings together in out-of-home care, including increased placement stability, attachment to carers and the likelihood of children and young people's successful return to their parents.<sup>486</sup> Placing siblings together also contributes to lower levels of depression and self-blame for entry into care.<sup>487</sup>

<sup>485</sup> Appendix: Table 76.

<sup>486</sup> McCluskey T 2015, 'Sibling relationships and connection in out-of-home care', *FACS NSW Practice Conference*, Berry Street, Melbourne, p. 16.

<sup>487</sup> McDowall J 2015 op. cit., p. 17.

**Figure 18: Rate of children placed with siblings (per 100 children and young people in care), 2008–2009 to 2017–2018**



Source: DHHS data extraction from CRIS database, 10-year sibling co-placement. Data provided to the Commission on 31 July 2019.

Conversely, separating siblings in out-of-home care has been linked with various negative outcomes:

- Separated siblings report additional trauma and are ‘likely to be preoccupied with thoughts of siblings, leading to depression’.<sup>488</sup>
- Being placed apart from siblings can ‘compound the separation and grief issues accompanying placement in out-of-home care, precipitating a belief in children that they have “lost a part of themselves” and no longer can access their usual social and emotional supports’.<sup>489</sup>

## Barriers and enablers to siblings being placed together in care

### Size of sibling group

As at 31 December 2018, the average size of an intact sibling group in care was 2.4 children and young people whereas the average size of a group where only some of the siblings were placed together was 3.6. In our review of 100 CRIS files, of the 35 children and young people who lived separately from one or more than their siblings, 31 came from a sibling group of three children or more. This all suggests that larger sibling groups are less likely to be placed together.<sup>490</sup>

The department observes that it is often difficult to place larger siblings groups together due to the ‘availability of placements for larger sibling groups [and that t]his may even be an issue for kinship care placements’.<sup>491</sup> In our consultations with Child Protection and Placement Coordination Unit staff members, they also confirmed carers’ lack of capacity to take on large sibling groups as a key driver of sibling groups being broken up in care.

*The main barrier we find is carers’ capacity or ability to take on multiple children. Often they have other kids residing in the care. They might say we can take two but can’t take four. Our hands are tied in those instances, particularly if carer capacity is stretched. Sometimes we will preference going out of region to keep the siblings together. Sometimes that isn’t even possible. It’s about making the assessment (Child Protection staff member).*

*[The key issue is the] resource base – especially with larger sibling groups. When you get to four or five even in a kinship placement, they just don’t have the capacity (Child Protection staff member).*

<sup>488</sup> McDowall J 2015 op. cit., p. 17.

<sup>489</sup> Ibid.

<sup>490</sup> McDowall J 2015, op. cit., p. 20, citing Child Welfare Information Gateway 2013, *Sibling issues in foster care and adoption*, US Department of Health and Human Services, Children’s Bureau, Washington DC.

<sup>491</sup> Email from the department to the Commission dated 5 May 2019.

*Usually there aren't foster placements available that will take multiple kids (Child Protection staff member).*

Several Child Protection staff members noted innovation in the face of a lack of placements for large sibling groups.

*Some agencies have worked really well to pair carers up for those large sibling groups – they maintain daily sibling contact. One example was mother and daughter carers who have separate houses who always try to take sibling groups. There are also two carers who have become friends through their carer relationship and therefore it is only in the evenings when [the children] are separated (Child Protection staff member).*

*We have some sibling groups who live a few streets away from each other and have ensured carers know each other (Child Protection staff member).*

### **Sibling placement across care types**

Large kinship groups are most likely to remain together in kinship care. This may be due to these carers' desire to keep their family united under the one roof. Children and young people with a sibling in care were most likely to be placed with one or more of their siblings in kinship care (80 per cent) and least likely in residential care (28 per cent).<sup>492</sup> When consulted for this inquiry, the department also noted an emerging pattern of sibling groups initially being placed together in foster care but the carer over time relinquishing care of siblings who exhibited more 'difficult behaviours'.

<sup>492</sup> Appendix: Table 76.

### **Age**

Children and young people in care are least likely to be placed with one of their siblings during their first year of life and during their adolescence (aged 13-17 years).<sup>493</sup> The department confirms that the capacity of the out-of-home care system to place siblings together is impacted by the '[a]vailability of carers that are able/willing to take sibling groups where there are significant differences in ages (some carers may only wish to care for a certain age group)'.<sup>494</sup>

### **Complex trauma, challenging behaviours and disability**

Children and young people in care also appear less likely to be placed with siblings when they are living with a developmental delay or intellectual disability or exhibiting challenging behaviours. The Commission's review of 100 CRIS files also revealed that of the 35 children and young people who were living separately from one or more of their siblings in care:

- The files of almost two thirds (n = 22) noted that the child or young person exhibited challenging or sexualised behaviours.
- Forty per cent (n = 14) had a developmental delay or intellectual disability.

In our conversations with Child Protection staff members, they suggested that complexity and trauma are contributors to sibling groups being broken up in care.

*Ideally we would place siblings together but it depends on the kids' trauma and the amount of kids the carer has (Child Protection staff member).*

*It's best to place siblings apart at the start, then return together after a period of time to address their trauma but the system runs ahead and it doesn't end up happening (Child Protection staff member).*

<sup>493</sup> Appendix: Figure 21

<sup>494</sup> Email from the department to the Commission dated 5 May 2019.

*Young people with a history of trauma, I have examples where their behaviours developed to the point they were creating significant risk to the other sibling. No matter the supports we put in place for the carer, it had to end (Child Protection staff member).*

The department has also confirmed that siblings will sometimes not be placed together where:

- children may require different therapeutic responses or individual placement requirements that may not be suitable for the sibling group
- there are protective concerns about children being placed together or having contact with each other (sexually abusive or violent behaviours).<sup>495</sup>

### Case planning and service supports to keep siblings together

Throughout Victoria, there appears to be a lack of case planning in support of specialised service supports to help keep siblings groups together in care or help them reunify in care where appropriate. The Commission is unaware of any bespoke service supports to maintain sibling groups in placement, with the exception of the South Division's Keeping Connected Sibling Support and Placement Service Pilot (discussed below).

Additionally, our review of the 100 CRIS files revealed:

- only one case plan contained a goal of reunifying siblings in placement
- none of the case plans noted the rationale for not reunifying separated siblings in care
- a lack of additional supports to help unite or maintain sibling groups in placement.

The department has informed the Commission that it is testing a new approach to reduce the unnecessary separation of siblings through the South Division Keeping Connected Sibling Support and Placement Service Pilot. The pilot program commenced servicing clients in February 2018 and is funded to continue in 2019–2020. It aims to provide support to sibling groups at risk of being separated when entering out-of-home care, therapeutic plans for new sibling

groups in care, and contact plans for children and young people in care who have been separated from their siblings. The program is time limited to a maximum of five weeks to enable Child Protection to plan for longer-term care.<sup>496</sup>

A mid-cycle evaluation of the program indicated the program was showing early signs of promise, including the following:

- In the first five months of operation, the Keeping Connected short-term placement element has successfully supported seven groups of siblings (25 individuals) to stay together upon entry to out-of-home care when all other options had been exhausted.
- After the short-term placement, six of seven groups have been kept together.<sup>497</sup> Importantly, in the only instance where the group was separated it was determined to be in the best interests of the siblings.<sup>498</sup>

The mid-cycle program evaluation also noted some challenges in the short period it was servicing clients, including:

- recruitment of carers
- capacity of Child Protection staff to collaborate with and contribute to the Keeping Connected team during a short five-week engagement
- limitations with the department's database, which does not automatically identify sibling groups.<sup>499</sup>

The department has advised the Commission that:

*South Division continues to test the model. Other divisions have a keen interest in understanding what outcomes are being achieved for sibling groups through this model. The model is currently subject to evaluation which will inform broader statewide rollout implications.*<sup>500</sup>

<sup>495</sup> Email from the department to the Commission dated 5 May 2019.

<sup>496</sup> Centre for Evaluation and Research 2018c, *South Division Out-of-home Care Initiative: Keeping Connected – Sibling Support and Placement Service outcome evaluation report*, unpublished internal document, State of Victoria, Melbourne, p. 7.

<sup>497</sup> At the time of writing.

<sup>498</sup> Centre for Evaluation and Research 2018c, op. cit., p.4.

<sup>499</sup> Ibid., pp. 10–15.

<sup>500</sup> Email from the department to the Commission dated 10 July 2019.

## Finding 26: Separation of siblings in care

A significant number of children and young people in care still live in placements separate from their siblings, which often has a detrimental impact on their development and wellbeing. The inappropriate separation of siblings can – at least in part – be attributed to a lack of:

- appropriate placements for sibling groups, particularly for those with younger children or adolescents
- case planning and dedicated service supports to help sibling groups stay together or to help them reunify while in still in care.

Sibling groups are most likely to remain intact in kinship care, which points to the need for distinct service supports to help support and maintain kinship care placements of multiple siblings.

The department does not currently track or report on how many children and young people in care live separately from another sibling in care. This understates the significance of this issue and prevents activity to address it.

## Maintaining connections with family

This section considers children and young people's experiences of contact with parents, siblings and extended family members, including:

- the extent and quality of their contact
- barriers to contact and connection
- children and young people's ability to participate in and influence decision making about contact in a meaningful way.

## Contact

### Contact with parents

Of the children and young people who spoke to us about contact with their parents, 30 said they regularly saw one or both of their parents, and nine told us they had no contact at all. Contact was more likely to be with mothers than fathers.

### Barriers to contact

Many of the children and young people we spoke to encountered significant barriers to contact with their parents. Some had no means of contacting them. Others reported their parents often cancelled access visits. Nine told us that one of their parents was in prison.

#### Q: Do you still have contact with your mum?

*Not any more. It's been a few years. I want to talk to mum and dad. I don't have phone numbers for them. Dad smashed his phone by accident and got a new one and we don't have his number (Freddie, foster care, 10, Aboriginal).*

#### Q: Do you get to see your family?

*Actually I'm like quite annoyed because my dad keeps cancelling the visits (Patrick, kinship care, 11, Aboriginal).*

Others told us about relationship difficulties with their parents, which sometimes led to them avoiding contact.

**Q: Are you in contact with your mum?**

*I want it but it won't happen. She has a difficult personality – so it's hard to get along (Vanessa, foster care, 17).*

**Q: Do you ever see your mum? Do you want to?**

*To be honest, I love my mum with all my heart. I'd do anything for her but the things she's done to us kids, I don't think I can ever forgive her (Timothy, kinship care, 13, Aboriginal).*

*My mum's sad. She doesn't have a husband, I think she's cuckoo. [...] I don't know my dad. I have a good dad now, but I still like to know [about how my mum is] (Fletcher, foster care, 12, Aboriginal).*

*I only met my dad two years ago but things went wrong (Adelaide, residential care, 16).*

*I see mum now once a year. It's like talking to a stranger. Once a year is more than enough (Mckenzie, foster care, 15).*

A significant number of children and young people told us that one of their parents had died. This was understandably often a cause of significant distress.

*Mum died five years ago. Me and my little brother were the closest to her. She used to say she wishes she could run away, and she'd take me and my little brother with her (Bethany, residential care, 15, Aboriginal).*

*My dad died ... from a drug overdose. He had been out of prison [a few] years before. This screwed me a little that I hadn't spent time with him (Theodore, post-care – previously residential care, 19, Aboriginal).*

*When my mum died, I went completely numb, only started to feel things when I self-harmed (Gayle, post-care – previously kinship care, 19).*

### Choosing to have contact

Several of the children and young people we spoke to expressed or implied that they had been able to choose the contact they had with their parents.

*I don't really like to be connected to my mum's side of the family after all the circumstances I've been in – my dad's side I speak to often. I recently went back over there for a trip and we are well connected. My worker [...] assisted me a bit with this. I just let them know this is what I really wanted, and that is how it happened eventually (Christopher, foster care, 16).*

*I talk to some [of my extended family]. [...] I can when I wish to speak to them. I have the freedom (Seth, residential care, 16).*

*With my mum, I am allowed to call mum anytime I want, but I choose not to because I have tried to help her and that and support her, but now I feel like I should keep doing my own thing. I don't want anything to do with her anymore. She brings up all the really horrible memories for me, and it makes my life so hard (Gavin, residential care, 17, Aboriginal).*

*[I was] always having regular contact with my mum, but I stopped. That was my choice. There is always the option that if I wanna go see my mum I can (Garrett, residential care, 15, Aboriginal).*

Some children and young people also told us that they wanted more contact with their parents and that sometimes their desire for more contact was not heard or acted upon.

*We see mum mainly on our birthdays. I would like more. She doesn't have a job, single parent pay, so can't afford to see us much. DHHS pays for her to come here for couple of weeks. I want to see her every two weeks (Hayden, residential care, 13, Aboriginal).*

*I would really like to see my mum more than I usually do. Probably have a talk to them. I want to see my mum more often. My little brothers see my mum more than me. I only see her a little bit (Megan, foster care, 11).*

*They would let me do access with my brother sometimes, but I got told I could not see my dad because he was a fucking druggo. I don't see why that is a problem (Eileen, post-care, 18).*

*For me it has to be up to the young person whether they see the family or not, it got to the point we had to be dropped at the police station and we were both like we aren't going to go 'cos we knew she wasn't going to rock up, but we were made to go. So the decision was given to the parents. Nan would drop us off, before that we would be dropped off where mum was staying and then from then on we had to be at the police station (Tom, post-care, 21).*

Several children and young people told us that contact occurred without them having a say in it.

*I preferred being in care to being with my family. My mother was a drug addict. My father was abusive to all of us... My father has disappeared. One time I was sent ... to see my father. I went on a plane on my own. I wasn't asked if I wanted to go and see [him] (Fletcher, foster care, 12, Aboriginal).*

*We had access but mum didn't show up for many of them. I saw my sisters. Sometimes we went to the show and all that. I wouldn't have a clue who made those decisions. They told me to go to access after school so I went there after school and that's just how it was (Hazel, post-care, 19).*

*It came to the point where I had to see her even when I didn't want to. It was such a weird arrangement but because I was young [five years old], it didn't matter much I guess (Gayle, post-care – previously kinship care, 19).*

In one instance, a young person told us that they felt pressured into contact with their parents and that this was upsetting.

*I think in terms of the case plan, they kept forcing me to talk to my parents. This really got on my nerves and for me it was really bad. I didn't want to talk to my parents. I think that should be the person's decision if they want to speak to their parents or not. Eventually I just said, 'Ok. I will talk to them'. So, I did phone contact and that. Week after week [my workers] were pressuring me to talk to my mum and I was saying, 'No. No. No'.*

**Q: How do you think they could have handled that?**

*They could have asked me, 'Do you want to speak to your parents?', rather than just saying, 'You should speak to them' (Caden, post-care, 19, Aboriginal).*

### Contact with siblings

A comparatively large number of children and young people (n = 21) who were living separately from their siblings were in contact with them. Of those who were not in contact with their siblings (n = 13), only two of them were not in contact by choice.

*I see my sisters quite a lot, go on holidays with them and stuff. I can go and stay with them at their adopted family (Gavin, residential care, 17, Aboriginal).*

*My sister is not alive and my brother I don't see and I don't want to see him [for] a lot of reasons (Trudy, residential care, 14).*

*I get to see [my brother]. His nan doesn't want me to see him anymore because I use drugs and stuff. I'm not as bad as I was [...] but as a teenager we all try new things (Diana, residential care, 14).*

*My brother is into drugs and has done time in youth justice. We were close as we are close in age, but now I tend to keep away from him because of all his problems (Bridget, post-care, 19).*

Of the children and young people we surveyed who had contact with siblings, frequency of contact ranged from a few times a year to weekly. Seven told us they kept in contact by phone, five by text message and nine through social media.

### Sibling contact and choice

Many of the children and young people we spoke to expressed a strong desire to have more contact with their siblings.

*I am working my hardest to see them. I keep pushing to see them. ... [I want] better contact with my siblings – this is major (Simon, foster care, 14).*

**Q: Has anyone explained the reasons why you don't get to see your siblings?**

*No. I don't think it's much of a big deal to ask for. It shouldn't even be up to them if we want to see each other, we are brother and sister (Simon, foster care, 14).*

*Let the kids see the family members that they wanna see as soon as possible (Daniella, foster care, 11).*

Some young people attributed their inadequate contact with their siblings to a lack of human resources and poor service supports.

*Contact with my siblings in Melbourne has been approved but when I want to go and see my older brother the resi staff say they are short staffed. 'No we are low staffed and can't take you ...'. It's just two suburbs away – I don't get it (Ellie, residential care, 16, Aboriginal).*

*DHHS took me and my sister and brother and we were together for six months and they split us up for two years and five months. It was impossible for us to see each other and it would get to the point I would never see my brother. Every time I said I want to see my brother outside of school, they would say 'I am so sorry. We'll do it next week'. They kept on pushing it forward. Access with our mum and dad was only like twice a week. It got to the point where me, [and my brother and sister] did not know each other so well. (...) Access for all of us was terrible. Access kept on reducing. I raised my youngest brother for five months – now I can't see him (Phoebe, returned home, 16, Aboriginal).*

**Q: Tell us a bit more about your siblings, you said you speak to them still, is that right?**

*I speak to [my sibling who is interstate] every now and then on Facebook but haven't seen him in years face to face.*

**Q: How do you think Child Protection handled family in terms of keeping contact?**

*Really shit, there is no sugar coating. I wouldn't say it ruined my family, but it certainly didn't make us closer. It would of been nice if we could see each other once a week or something. The only time we saw each other was the holiday program at [our agency] but then [name of sibling] got too old and we didn't have the chance.*

**Q: What should we do for siblings if we were to give advice to DHHS?**

*Talk to them, arrange opportunities for them to meet and hang out. I think that is the problem with so many of DHHS things. It's not rocket science but they overcomplicate so many things, particularly with sibling contact (Caden, post-care, 19, Aboriginal).*

### Case study about Jeremy – contact with siblings<sup>501</sup>

Jeremy is a 13-year-old Aboriginal boy from regional Victoria. Jeremy has eight siblings. Child Protection removed all of the children from their mother's care. Six siblings were eventually returned to her while Jeremy and one other remained in care.

Jeremy has been in out-of-home care for about one and a half years. He and his brother lived together in different foster care placements for a while but then his brother moved back home with his mother and siblings while Jeremy was moved into a residential care unit. In mid-2018, Jeremy was moved into another unit in another town.

Since being in care, Jeremy has had very limited contact with his family including his siblings since they left care. He has also not met his new baby brother, who was born late last year.

Jeremy's case plan did not include any information about contact or proposed reunification with any of his siblings.

### Contact with extended family

Thirteen of the children and young people we spoke to indicated they had regular contact with extended family such as cousins, aunts, uncles and grandparents (excluding kinship carers), and a smaller number said they had no contact whatsoever (n = 5).

Aboriginal children and young people in kinship care were far more likely to mention their connections and contact with these family members.

*I see my uncles, my cousins, they live near us. I see them nearly every day. My cousin I see her. I have a brother who lives with us every second or third month, he comes over. Then I have three cousins [interstate] who come down for Christmas. If it's a special occasion like a birthday or something like that they come down (Daisy, kinship care, 11, Aboriginal).*

*We get to go to see nan regularly. We hang around with nan and sometimes go shopping. We also see our cousins, aunties, uncles at our nan's house (Kiara, foster care, 12, Aboriginal).*

*I have my other aunties on my dad's side we talk daily, cousins who I play online games with (Ethan, kinship care, 15, Aboriginal).*

Contact with extended family offered some of the children and young people knowledge about who they were and emotional support in times of difficulty.

*My grandad played for the same football team – my foster mum tells me about my grandparents. We deliver bread to [my grandmother] every Sunday (Fletcher, foster care, 12, Aboriginal).*

*My auntie has helped me and has been my mentor. She has advocated for me (Bridget, post-care, 19).*

<sup>501</sup> This case study is based on a CRIS file review. Details of the case study have been changed to protect the privacy of the young person.

**Q: Who would you call if you needed help?**

*Her. (points at another young person in residential care)*

**Q: What about the adults in your life, who would you contact?**

*I'd call my auntie (Hope, residential care, 16, Aboriginal).*

Some children and young people (n = 5) told us they wanted more contact with their extended family or described a lack of contact.

*I was writing to my brother and said give my pa all my love and my grandmother said don't say that because it would make him cry. I have zero contact with him and I am worried that he is old and I will only find out that he has died six months later (Tara, foster care, 12).*

*I used to go see my uncle but something came up on his record, as if you shouldn't sort that shit out before you get visits. I saw him five times or something and then bang (Darryl, residential care, 15).*

*We lost connection with Uncle Josh when we had to move. He used to come visit us and that, but now things have changed and made us look at him in a different way (Nona, kinship care, 14, Aboriginal).*

*I don't really see my poppy, he lives in [rural Victoria] on a farm with my mum (Megan, foster care, 11).*

*I talk to my aunts a little bit, from both sides. Other than that no one really talks to me. It's the only family occasions that we talk, birthdays, Christmas and all that. Or if we see each other in person (Bethany, residential care, 15, Aboriginal).*

## Research and analysis about contact

### Contact matters

Contact with family members (including parents, siblings and extended family) is critical for children and young people to maintain a sense of connection to kin, 'build shared experiences and memories, and help them develop their sense of identity'.<sup>502</sup> Previous research suggests that positive, ongoing and well-planned contact with parents can contribute to improved life outcomes and placement stability for children and young people. It also reduces the likelihood of children and young people in care 'acting out' through so-called 'externalising behaviours'.<sup>503</sup>

Young people transitioning from the out-of-home care system 'who are able to establish positive relationships with their family in care and/or when transitioning from care are more likely to enjoy a positive self-identity and self-confidence, and overall better outcomes'.<sup>504</sup> Young people 'on the path to adulthood rely on their families for myriad forms of support, support that is critically important to their development and future life outcomes'.<sup>505</sup> Assisting young people to re-establish 'these family connections ... before they exit out of foster care'<sup>506</sup> can help strengthen the social supports most young people take for granted as they transition to independence.<sup>507</sup>

However, contact is unlikely to be of any benefit to a child or young person when its purpose 'is unclear, if children feel unsafe with their parents or if there is existing conflict between parents and carers'.<sup>508</sup>

<sup>502</sup> CREATE Foundation 2014, *Hearing from children and young people in care: experiences of family contact – Western Australia*, CREATE Foundation, pp. 323, 5.

<sup>503</sup> Bullen T et al. 2015b, *Literature review on supervised contact between children in out-of-home care and their parents*, Institute of Child Protection Studies, Canberra, p. 11.

<sup>504</sup> Mendes P et al. 2012, 'Young People transitioning from out-of-home care and relationships with family of origin: an examination of three recent Australian studies', *Child Care in Practice*, vol. 18, no. 4, pp. 357–70, p. 358.

<sup>505</sup> Avery R 2010, 'An examination of theory and promising practice for achieving permanency for teens before they age out of foster care', *Children and Youth Services Review*, vol. 32, no. 3, p. 400.

<sup>506</sup> Ibid.

<sup>507</sup> Ibid.

<sup>508</sup> Ibid.

**Other Victorian research on children and young people views on contact**

Reflecting the concerns of many of the children and young people we spoke to, 41 per cent of children and young people in the Viewpoint survey 2018 of children and young people in care, ‘said there was something they wanted to change about contact with family they don’t live with’.<sup>509</sup> Their responses are outlined in Table 26 below.

**Planning for contact**

The critical importance of connection to family to the wellbeing of children and young people is enshrined in the CYFA 2005, which notes that when determining what action or decision is in the best interests of the child, consideration must be given to:

- the need to strengthen, preserve and promote positive relationships between the child and the child’s parent, family members and persons significant to the child
- the need, in relation to an Aboriginal child, to protect and promote his or her Aboriginal cultural and spiritual identity and development by, wherever possible, maintaining and building their connections to their Aboriginal family and community.<sup>510</sup>

The *Child Protection Manual* recognises contact as a significant factor in a child’s care and wellbeing and states that case plans need to address ‘who the child is able, and not able, to have contact with, whether or not the contact is to be supervised, and frequency of contact’.<sup>511</sup>

**Contact with parents**

**Frequency of contact**

While the department does not systematically track the frequency of contact between children and young people in care and their parents, most appear to have the opportunity for regular contact with their parents. Reflecting what children and young people told us, as well as the Viewpoint survey 2018 results above, the Commission’s analysis of 100 CRIS files over a six-month period found that in the majority of cases:

- Child Protection and funded agency workers supported children and young people to have regular contact with their parents, if they wanted it to occur (n = 60)
- information on file was more likely to suggest that contact with a parent had been a positive experience (in 19 cases, file notes indicated that it had been a positive experience and only three noted that contact had been a negative experience for the child)
- contact with at least one parent was accommodated in the child or young person’s case plan (n = 78).

However, based on the Commission’s file reviews, children and young people with developmental delays or intellectual disabilities were less likely to be supported to have regular contact with their parents. In our review of 100 CRIS files, of the 25 children and young people noted as having a developmental delay or intellectual disability, about half (n = 12) had no or infrequent contact with their parents.

**Table 26: Viewpoint survey 2018 assessment by children and young people about different types of contact**

	Visiting family		Talking to family		Writing to family	
	%	n	%	n	%	n
Less than I want	44%	182	31%	129	35%	145
As much as I want	48%	199	60%	252	60%	249
More than I want	9%	36	9%	36	6%	23

<sup>509</sup> Viewpoint 2018, op. cit., p. 21.

<sup>510</sup> s. 10(3)(b)(7)(c) of the CYFA 2005.

<sup>511</sup> DHHS 2018f, ‘Case planning – advice’, *Child Protection Manual*, <<https://www.cpmanual.vic.gov.au/advice-and-protocols/advice/case-planning/case-planning>>, accessed 7 July 2019.

### **Choice about contact**

Giving children and young people a say in when and how contact occurs is critical to their development and sense of agency.<sup>512</sup> Including children and young people in discussions about contact means actively listening to them and giving them a genuine opportunity to think through and talk about their options.<sup>513</sup>

Departmental guidance gives limited direction about how children and young people should be able to participate in decision making about contact.<sup>514</sup>

In prior Australian studies, children and young people also reported that forced contact, whether supervised or not, was upsetting and infuriating,<sup>515</sup> and that they would actively avoid it where possible.<sup>516</sup> Given how important it is that children and young people feel safe during contact with their parents, the Commission is concerned that a significant number of children and young people we consulted felt their wishes did not matter in determining the frequency of contact, or whether it should occur at all.<sup>517</sup>

### **Barriers to contact with parents**

Confirming what children and young people told us, the Commission's analysis of 100 CRIS files identified a variety of interpersonal factors preventing regular contact, including: parents refusing to attend (n = 36), the child or young person refusing contact (n = 22) or contact representing a risk to the safety or wellbeing of the child or young person (n = 9). In addition to these factors, the department also advised the Commission that distance and transportation issues sometimes act as a barrier to frequent contact with parents.<sup>518</sup>

### **Contact with siblings**

Where siblings cannot be placed together, contact between brothers and sisters is crucial to their wellbeing as 'they may be the most enduring relationships they have'.<sup>519</sup>

Siblings in out-of-home care may:

- be primary attachment figures to each other
- 'provide a sense of family continuity'
- 'help with establishment of identity and roles'
- 'protect [each other] from the alienation of profound abuse'
- 'provide solace, understanding, sanctuary'.<sup>520</sup>

The *Child Protection Manual* advises that it is important for case plans to 'include contact with siblings if they are living in separate care arrangements'.<sup>521</sup>

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**512** Bullen T et al. 2015a, *Supporting quality contact visits for children in out-of-home care*, ICPS, Canberra, p. 3; and Bullen T et al. 2015b, op. cit., p. 2.

**513** Fitzgerald R and Graham A 2011 "'Something amazing I guess": children's views on having a say about supervised contact', *Australian Social Work*, vol. 64, no. 4, pp. 487–501.

**514** Ibid.

**515** Kiraly M and Humphreys C 2015, 'A tangled web: parental contact with children in kinship care', *Child & Family Social Work*, vol. 20, no. 1, pp. 106–115.

**516** CREATE Foundation 2014, op. cit., p. 323.

**517** The issue of forced contact was less apparent in the Commission review of the 100 CRIS files which only identified one instance of a child or young person being made to have contact against their wishes. The relevant file note reported that this caused significant emotional distress to them. However, the Commission came across several examples of children and young people influencing when and how often contact with parents occurred (n = 27).

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**518** Email from the department to the Commission dated 5 May 2019.

**519** Bullen T et al. 2015a, op. cit., p. 3.

**520** McCluskey T 2016, op. cit.

**521** DHHS 2018f, op. cit.

### **Frequency of contact with siblings**

The full picture of contact between siblings (including Aboriginal children and young people) is unclear as the department does not systematically collect this data. However, the Commission's review of the 100 CRIS files found that the majority of children and young people with a sibling in care had regular contact with them (n = 36 out of 45 children).

### **Barriers to contact with siblings**

Poor case planning appears to be a key barrier to children and young people in care having contact with their siblings. The Commission's review of 100 CRIS files found that of the 45 children and young people with siblings who were not placed with them, 20 of their case plans did not address sibling contact. Children and young people whose case plans did not address contact with siblings were unlikely to have any contact with them.<sup>522</sup> In almost all cases where a child or young person's case plan did not include contact with a sibling, the case plan or related meeting notes did not provide a rationale for this.

Child Protection staff members told the Commission they prioritised sibling contact but identified several barriers to it occurring including:

- contact which relied on the cooperation of another sibling's CSO worker – this was particularly difficult when siblings had been placed far away from each other
- high frequency contact obligations which conflicted with school or carer commitments or wishes.

<sup>522</sup> There was no evidence of any sibling contact on file for 12 of the 20 children and young people with no reference to sibling contact in their case plans.

### **Contact with extended family**

Contact with extended family is also important to children and young people's development and identity, especially if the child or young person has limited or no contact with their parents.<sup>523</sup> When consulted in prior Australian studies, many children and young people in care had no contact at all with extended family<sup>524</sup> despite sometimes valuing a connection equally with birth parents.<sup>525</sup>

The Commission's review of 100 CRIS files suggested a minority of children and young people in care have regular contact with members of their extended family (n = 19). Contact with extended family members was rarely provided for in the children and young people's case plans under review (n = 26). Where case plans or action tables referred to contact with extended family members, it usually did so in a non-specific way (for example, 'For [John] to be supported to have regular contact with his siblings and extended family members'). This lack of specificity suggests limited engagement with the child, young person or extended family members to plan for this contact.

<sup>523</sup> ICPS 2005a, op. cit., p. 37, citing Parkinson P 2003, 'Child protection, permanency planning and children's right to family life', *International Journal of Law, Policy and the Family*, vol. 17, no. 2, pp. 147–72.

<sup>524</sup> Moss M 2009, 'Broken circles to a different identity: an exploration of identity for children in out-of-home care in Queensland, Australia', *Child & Family Social Work*, vol. 14, no. 3, pp. 311–21.

<sup>525</sup> Ibid.

### **Finding 27: Contact between children and young people in care and their family**

At present, the department does not consistently record in the case plan or systematically collect data on the frequency of contact between children and young people in care and their family members. This means it is impossible to track the frequency of contact across the system.

However, consultations with children and young people and file reviews conducted by the Commission suggest that:

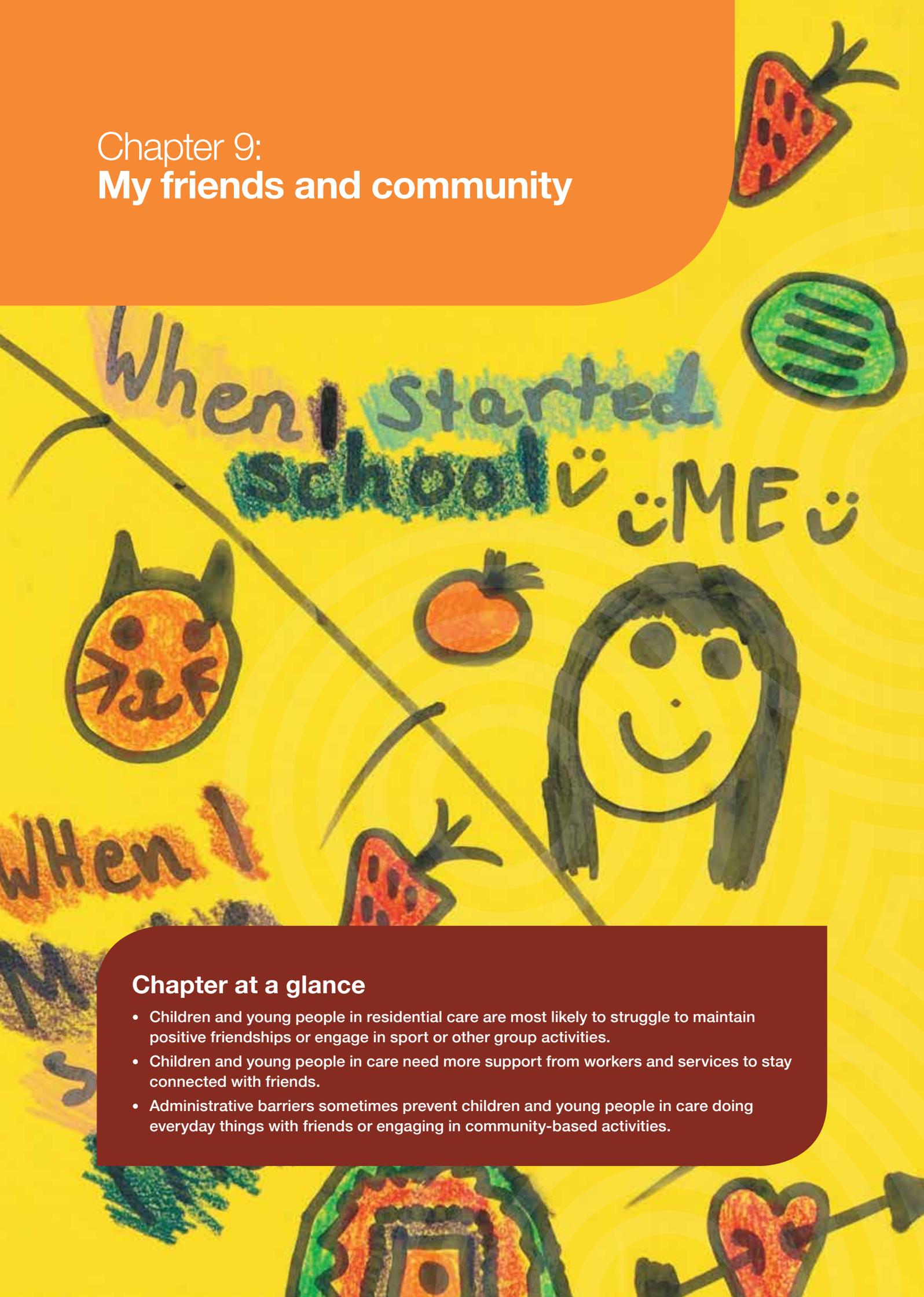
- Most children and young people in care have frequent contact with their parents and siblings.
- Many children and young people said they wanted more contact with parents and siblings.
- Children and young people in care are less likely to have frequent contact with extended family members. This is partly due to case planning practices which do not appear to prioritise extended family relationships.
- Concerningly, based on our file reviews, children and young people with developmental delays or intellectual disabilities appear less likely to have consistent contact with their parents.

### **Finding 28: Decision making about contact with family**

Children and young people in care are often able to participate in or influence decision making about contact with parents, siblings or extended family. However, the Commission was also concerned to come across several instances of children and young people being forced to have contact with parents or otherwise being unable to influence decision making about contact. There is currently a lack of departmental guidance about how those working with these children and young people can best support them to participate in such decision making.

## Chapter 9: My friends and community

When I started  
school  
تَوَدَّ مَعِي



### Chapter at a glance

- Children and young people in residential care are most likely to struggle to maintain positive friendships or engage in sport or other group activities.
- Children and young people in care need more support from workers and services to stay connected with friends.
- Administrative barriers sometimes prevent children and young people in care doing everyday things with friends or engaging in community-based activities.

*If you want to stay at a friend's place for more than two nights you have to tell [my agency]. I never actually get invited to sleep overs (Faye, kinship care, 10, Aboriginal).*

## Introduction

Having friends is important for children and young people's self-esteem, identity and emotional wellbeing. Many children and young people in out-of-home care spoke positively to us about their friends and stressed their importance as critical support figures in their lives. Many also told us they needed more support from workers and services to stay connected with friends. Some expressed frustration about the administrative barriers to doing things with friends that 'normal kids' do, like going swimming, sleeping over at a friend's house or playing sport.

Many children and young people also told us that being able to take part in activities in the community was critical to a placement feeling like home. Children and young people in kinship and foster care were much more likely to tell us that they were engaged in activities in their community. However, those in residential care were more likely to say they were bored and had nothing to do, which had a negative impact on their behaviour and wellbeing. The Commission's file reviews confirmed that children and young people in foster and kinship care were much more likely than those in residential care to enjoy regular extra-curricular activities.

This chapter finds that the department needs to do more to prioritise friendship and community connections through case planning and financial supports to boost these children and young people's engagement in pro-social activities in the community around them.

## Friends and supports

Making and maintaining connections with friends was very important to many of the children and young people we consulted. A significant number of children and young people spoke positively to us about their friends (n = 18) and stressed their importance as critical support figures in their lives.

*The only reason I survived that was because I had friends to help me through it because I didn't want to give up – didn't want to be killed at the hands of someone else or myself. Didn't want to commit suicide. Yeah, I had a plan until 13 to kill myself at 18 if things hadn't changed (Rhys, foster care, 17).*

*I have a good group of friends and one special friend who really helps me out. I don't know what I would do without him. We are best mates (Landon, foster care, 16).*

### Q: Who do you go to for support?

*My friends, but more like my best friends. I've known them since I was like three and we've always stayed in contact and if I have a problem on my mind, I can always just go to his house (Ethan, kinship care, 15, Aboriginal).*

### Q: What is family to you?

*Someone I can trust, loyal. My mate is from Africa. He has a very strict family, doesn't smoke. I was getting into all this bad stuff and he didn't, and he still had my back. I count him as family. My nan does too (Quinn, kinship care, 14).*

*I didn't [tell] anyone that I cut myself. I now have a scar problem and it is a bit hard going down to the beach. I am a bit insecure about it but I have a good group of friends (Sadie, kinship care, 15, Aboriginal).*

Several children and young people stressed the importance of friends who had shared similar life experiences.

*The majority of my friends were in the system so I always had people I could relate to and rely on (Caroline, post-care, 19, Aboriginal).*

However, a concerning number of children and young people told us they did not have friends or were disconnected from them.

**Q: Who do you go to when you want some support with anything?**

*Sort of – not really anyone. But it is someone but not really anyone (Mervin, residential care, 10, Aboriginal).*

*I can talk to some of my friends and family and that. But not really. There's only one really I can talk to and feel safe 'cos she cares and that's my (...) worker but she's on holidays (Derek, residential care, 15).*

**Q: Who do you go to when you want some support with anything?**

*No-one – no-one at school or workers (Colin, residential care, 12).*

*I don't really speak to any old friends from school. A couple have ended up just like me. A couple get on the cones. A couple chrome (Owen, residential care, 15).*

**Q: Was there anyone you could talk to?**

*No. When I was in one of my first placements for about four years. I had a best friend and everything was good and she passed away and I still haven't talked to anyone about it (Eileen, post-care – previously residential care, 18).*

*All my friends are on meth. When I left school, I lost a lot of friends. When I got on meth I lost more. And now I don't have any friends that aren't on meth (Matilda, residential care, 15).*

*I lost my friends because of DHS.*

**Q: How'd that happen?**

*'Cos I got in DHS and nobody likes DHS (Faith, residential care, 15).*

### Barriers to seeing or connecting with friends

Children and young people told us that placement instability and placements far from home were a key source of disconnection from friends. Some told us being in care made it harder to have friendships.

*I am in long-term care and I am hoping I don't have to move from here. I have no idea what is going on. I have had to leave lots of friends and although I talk to them it is not the same (Tara, foster care, 12).*

**Q: Is that hard to stay in touch [after you changed placements]?**

*It was before I had a phone but now it's a bit easier. Just gotta work up the courage to ask the people for information (Rhys, foster care, 17).*

*We have kept in touch with one friend from Melbourne we have known for nine years and she is the only friend we now have [now that we have moved away] (Philippa, kinship care, 12, Aboriginal).*

*We lost connection with most people when we moved in with my uncle. I was going through a lot of stuff and when ya like 10 years old, no one wants to hear that. It was hard to keep in touch 'cos it was hard to act the same after all the stuff that happened. I got supported by my friend and her mum through that time (Nona, kinship care, 14, Aboriginal).*

Children and young people also identified process-driven hurdles to spending time with friends.

*I'm only allowed to have friends over. I can only go to one friend's house. You need to have your friends searched by DHHS. It just takes so long. And you just feel so different to other kids. I just want it [to be] quicker – it takes a few months (Ezra, residential care, 15, Aboriginal).*

*I'm not allowed [to go to parties] unless their house is checked out. I just can't stay the night without an inspection first (Courtney, residential care, 11, Aboriginal).*

*I'm not allowed to swim in places without a lifeguard. Up to the knee policy (Hayden, residential care, 13, Aboriginal).*

*If you want to hang out/sleep over you have to have your friends' parents get a police check (Evelina, residential care, 17).*

*You can't go on excursions or anything when ya in foster care. [You] have to do the same with haircuts. If you want to get a haircut, your parent has to sign off on a thing unless there is a court order (Wendy, kinship care, 15).*

Two young people with an experience of residential care noted particular challenges staying connected with friends.

*I got invited to a Christian youth camp. ... They made it their mission to get me involved. They said just sit up the back and be present and then they invited me along to their youth group. I still felt like an outcast. I wanted to keep trying and create that community. Because the workers could not always get me there and it restricted when I could attend, I could only go every three to four weeks. Everyone was building these connections and I was just popping in and out (Emerson, post-care – previously residential care, 24).*

*It's pretty normal for kids in resi to have mental health get worse. Not sure why ... But probably heaps of reasons. Friends can't come here, boyfriends and girlfriends can't come and like ya wouldn't want to bring ya family here 'cos there is kids that you wouldn't want around your family. Also, they won't drive you and take you to your friends' houses and stuff and it makes kids grow up a lot quicker 'cos they have to go find their own way and get around themselves. Most kids that come to resi, they have had a hard life already. Then they have to be 10 years older than what their age is on top of that (Kylie, residential care, 16).*

## Research and analysis about friends

Echoing what children and young people told the Commission, in prior Australian research children and young people have articulated their 'need for peer support through friendship networks'.<sup>526</sup> In 2016–2017, the Southern Melbourne Children and Youth Area Partnership (SMCYAP) surveyed approximately 70 carers and case managers – who completed the survey on behalf of 79 children in kinship and foster care – to develop a better understanding of the needs and barriers to participation in sport, recreation and social activities for children in care and their carers in the local government areas of Greater Dandenong, Casey and Cardinia.<sup>527</sup> The survey found that '31 per cent [of the children and young people in care] frequently saw their friends outside school, 44 per cent sometimes and 22 per cent occasionally, rarely or never'.<sup>528</sup>

The Viewpoint survey 2018 found that 69 per cent of children and young people surveyed saw friends 'as much as they want' – this number was lowest among children and young people in residential care (58 per cent).<sup>529</sup>

<sup>526</sup> McDowall J 2013, op. cit., p. 5.

<sup>527</sup> The department has advised the Commission in relation to the survey that '[t]he survey included a small sample of carers and case managers (around 70 participants) across the three LGAs. The results of the survey highlighted the key barriers to participation for children and carers such as cost, transport, lack of time and capacity of carers and staff, low confidence of children to engage with the clubs. There was nothing controversial about those results at the time. The survey results guided our place work and supported the development of a pilot to address participation barriers through local collaboration. The survey's methodology has limitations – it was not developed for an academic or research purpose, but rather to identify main areas of concern for carers and children and steer local action' (email from the department to the Commission dated 17 July 2019).

<sup>528</sup> Southern Melbourne Children and Youth Area Partnership 2016, *Early survey findings: social connection for children in out-of-home care*, unpublished internal document, State of Victoria, Melbourne.

<sup>529</sup> Viewpoint 2018, op. cit., p. 27.

## Barriers and enablers to maintaining friends in care

### *Planning for friends*

Case managers surveyed as part of the Southern Melbourne Children and Youth Area Partnership noted that a key barrier to children and young people in care making and keeping connected with friends was '[w]orkers and care teams not prioritizing social connection'.<sup>530</sup> The Commission's review of the files of 100 children and young people in care found that, outside of noting a child or young person's preference or involvement in activities outside of school, it was rare for case plans or associated actions tables to consider a child or young person's need to develop or maintain a positive network of friends. Departmental case planning does not emphasise the importance of creating and sustaining positive peer networks and only includes one reference to friends.<sup>531</sup>

### *Friendships in residential care*

Maintaining positive friendship groups appears to be particularly difficult in residential care. Residential care unit workers informed the Commission that, in general, friends were not allowed to visit the unit (sometimes due to fears of residents 'contaminating visitors') but that staff would attempt to obtain departmental approval for residents to visit friends. Several workers observed that young people often did not seek approval and would see friends on their own terms outside of the unit; in these instances, the workers would then typically call the police to return them to placement.

<sup>530</sup> Ibid.

<sup>531</sup> The only advice related to friends is as follows: '[i]n focusing on promoting children's permanency, attention must be given to preserving and promoting children's relationships with primary carers, siblings, significant adults in their lives, and friends' (DHHS 2018g, op. cit.).

*No one can come to the unit at all – but young people go out and do what they want. Sometimes they don't make the best choices about where – but staff try to get departmental approval as to whether the address is safe. The kids won't want us to ask the department for permission, because they know the answer will be no so they just go. In that situation we have to follow the safety crisis management plan which [usually] says if kids go without approval, we call the police and get a warrant to get them back (Residential care unit staff member).*

*Friends is not something we really do anything with. They just go and do it. That plays a role in absconding clearly. The fact is that staff don't have a priority on the young persons' relationships, particularly when they have positive friendships. I think this is one issue, like our job doesn't even cross over with their friendships much only when they abscond we pick them up and they are with their friends. That isn't like a family situation, 'cos families usually are aware and know the friends (Residential care unit staff member).*

*There is a blanket rule to not have outside people in the resi unit (Residential care unit staff member).*

However, the Commission spoke to a worker from one unit – with residents all from the same sibling group – who was making significant efforts to encourage and support them to maintain connections with friends and the wider community, including organising play days and sleepovers at the unit.

## **Finding 29: Connection with friends**

Children and young people in care told us – and the Commission's file reviews confirmed – that they do not receive enough support to maintain positive friendships in care, particularly in residential care.

Current case planning guidelines and practice do not emphasise the needs of children and young people in care to develop and sustain positive friendships.

## Social activities and boredom

The children and young people we spoke to consistently informed us that being engaged in activities and having the opportunity to have fun was important to how they experienced care.

### Foster and kinship care

Many children and young people in foster and kinship care spoke positively about being engaged in voluntary extracurricular activities and sports. Regular outings for children and young people in foster care helped give them a sense of belonging, especially in a new home:

**Q: Do you feel like your foster family gives you lots of opportunities?**

*Yes. I'm really good at [musical instrument]. I play [musical instrument] in the school orchestra. I like music. I've played for three years. I got a most improved award recently (Fletcher, foster care, 12, Aboriginal).*

*I got to make orange juice, lemonade and sell them for \$1. I was never bored (Karl, foster care, 11).*

*I like living with [my carer] – I've been able to travel and I'm happier (Carson, foster care, 12).*

**Q: What is good about living here?**

*I am with family. You do more fun stuff. The Aboriginal kids get to do lots of things. But we also do things like having a big Christmas party and Easter party which [my agency] put on for us. I am going on a Circus camp at Christmas time (Rachel, foster care, 12, Aboriginal).*

*I do lots of things on weekends and after school. Sometimes we go with [Henry] and [Ben] to the skate park and the cricket field near our house. [My carer] takes us to cricket and basketball on weekends, it's good (Zane, foster care, 9, Aboriginal).*

*Foster camp was good because it was so natural. We got to choose to go. Wasn't like forcing us to do a survey about our life or whatever. Those sort of things are a good opportunity which is why I loved it (Noemi, foster care, 17, Aboriginal).*

*We would go to swimming pools and theme parks. I would live those times all over again. We went to our first football match – it was Sydney Swans and West Coast. It was the best (Phoebe, returned home, 16, Aboriginal).*

However, sometimes departmental processes appeared to get in the way of a child or young person engaging in the activities they wanted.

*The amount of approval that you need to go places and things. It means I have to wait and the difference between 'normal' kids compared to me and the other foster kids, we have to go through a huge process and just to go for one night and for a weekend trip. It makes us and 'normal' kids different and we stand out from the rest. I missed out on a number of things because of things like that and holidays, and it has had a huge impact on me. If DHS understood the impact some things that are easy like that have on us, I hope they could change it (Liam, residential care, 17).*

*I wanted to do [a sport], [and] I feel like I want to do that again but it takes forever [to get things approved] (Cameron, residential care, 15).*

*Think about a kid in resi who's had a shit life. You'd want them to have a good time and have a chance. I've always wanted to do [an outdoor activity] but they say it is too dangerous. I'd need all the gear but you can learn to do it the right way (Diana, residential care, 14).*

One young person did observe that it had become easier to get permission to engage in extracurricular activities.

*New foster care changes are great – [they] can sign for excursions and much more (Kevin, foster care, 17).*

## Residential care

Many children and young people with an experience of residential care implicitly or explicitly stressed the importance of regular activities outside of the unit.

*There needs to be supports in place for the kids. Also, more shit to do, Netflix, PlayStation – anything to get their mind off being in resi (Derek, residential care, 15).*

*Parkville [Youth Justice Precinct] was better than my last resi. There was stuff to do. In resi you sit around and do nothing. If they were not busy, they would just sit down with their phone the whole time (Roger, residential care, 15).*

*Resi is boring – nothing I can do (Faith, residential care, 15).*

*[Residential care is] boring because not enough activities – not being able to get more pocket money. There is a TV and a games room but we don't use it. We sit round doing nothing. The TV was smashed and this is a new one but the kid who smashed it has moved out (Ellie, residential care, 16, Aboriginal).*

Some young people reported that not having anything to do in the unit led them to seek stimulation elsewhere or misbehave.

*[The residential workers] would say there are activities in the unit. But it was just basketball so I would do my own thing and they would just call the cops. If I told them where I was going and I was not there when they checked on me, they would just call the cops (Roger, residential care, 15).*

*Sometimes I muck up just to get 'em out of the office...Staff need to be like involved with clients and do something with them – we get bored then take off and do stupid stuff (Ellie, residential care, 16, Aboriginal).*

Some young people linked a lack of things to do in residential care with staff shortages or poor staff motivation.

*I feel like more than two staff should be on so there's like more things to do so if the child wants to do something they can go and do that. It's frustrating when they say no capacity (Ruth, residential care, 15).*

*You ask them to do something and they don't interact and they say no. Like go for a drive and do something rather than just sit at the unit – see a movie or something (Roger, residential care, 15).*

Young people were more likely to express positive feelings about being involved in activities where their residential unit committed to regular group events or where they could receive one-on-one attention from staff.

*Another good thing was every Friday was take-away night. Every Wednesday we would go and rent DVDs and it made it feel more like a home – the workers would sit and watch with us. It was one of those things you would do with your family (Emerson, post-care – previously residential care, 24).*

*I am on my own and if I want to do something, I can do it... I wanted to play ice hockey and they take me there (Liam, residential care, 17).*

One young person, who had been placed in a therapeutic residential care unit, noted the improved access it gave him to activities.

*There was one resi that I was doing good at – the others were shit. The good one was therapeutic. There was barely anyone there so I got to do a lot of stuff. There were only two other young people.*

**Q: Were you able to do more activities?**

Yeah.

**Q: What else was different?**

*They got more funding and they could do more stuff. They would take me for a drive whenever I wanted to. We'd just drive anywhere. ... I could not go back to therapeutic resi because it was full (Roger, residential care, 15).*

## Research and analysis about activities in care

Children and young people in care in Australia have consistently reported that being able to participate in activities is critical to a placement feeling like home.<sup>532</sup> In addition to addressing boredom, regular recreation and leisure activities 'provide opportunities for learning self-care skills and for promoting resilience generally, and for developing community connections'.<sup>533</sup> Research also suggests there is a strong link between children and young people in care being engaged in sport or other extracurricular activities, and school engagement.<sup>534</sup>

The Commission's review of 100 CRIS files noted that less than half (n = 47) of the children and young people were identified as being involved in social activities – such as team sport – outside of school. Of these, the majority were in kinship care and the minority were in residential care.

<sup>532</sup> McDowall J 2013, op. cit., p. 35, and CREATE Foundation 2004, *In their own words: experience of ACT children and young people in care*, CREATE Foundation, Canberra.

<sup>533</sup> ICPS 2005b, *What works in residential care? A review of the literature*, ICPS, p. 12, citing Daniel B et al. 1999, "It's Just Common Sense' isn't it?": Exploring ways of putting the theory of resilience into action, *Adoption & Fostering*, vol. 23, no. 3, pp. 6–15.

<sup>534</sup> Townsend ML 2001, *Are we making the grade? The education of children and young people in out-of-home care*, Doctor of Philosophy thesis, Southern Cross University, p. 50, citing Gilligan R 2007, 'Spare time activities for young people in care: what can they contribute to educational progress?' *Adoption & Fostering*, vol. 31, no. 1, 92–99; Holland A and Andre T 1987, 'Participation in extracurricular activities in secondary school: what is known, what needs to be known?' *Review of Educational Research*, vol. 57, no. 4, 437–66; and Thomas N 2007, 'Towards a theory of children's participation', *International Journal of Children's Rights*, vol. 15, no. 2, p. 199.

## Barriers and enablers to activities

### *Carer-related barriers*

In 2016–2017, the Southern Melbourne Children and Youth Area Partnership survey revealed that:

- 59 per cent of children and young people in care were involved in one or more activities
- 27 per cent of children had not participated in any activities in the previous six months
- 29 per cent were not currently involved in any recreation.<sup>535</sup>

Over a third of the carers (35 per cent) who completed the survey noted barriers to the children and young people in their care participating in activities outside of school. The most common barriers cited were:

- access to transport (13 per cent of respondents)
- time, availability or capacity (10 per cent)
- financial constraints (eight per cent).<sup>536</sup>

Case managers surveyed also identified ‘placement change/churn, information sharing between placements and geographic isolation’ as key barriers to children and young people in care engaging in activities.

### *Barriers to activity in residential care*

Residential care unit workers often identified that they had made significant efforts to involve children and young people in residential care in activities outside of the unit, sometimes with success, but had encountered various barriers to this including:

- a lack of transport options due to limited staff resources
- stigma associated with children being in care and transported there by a worker
- a reluctance among children and young people to engage after long periods of not having been involved in any organised group activity involving their peers.

The department has advised the Commission that, in an attempt to improve the participation of children and young people in activities in residential care, it has funded the HEALing Matters online training package and knowledge exchange platform for residential care workforce which is aimed at improving eating and physical activity habits of young people living in residential care. The program includes a specific module on the benefits of physical activity for physical fitness, mental health, cognitive functioning and social connectedness. Participating houses receive grants to support the development of healthy habits such as sporting equipment. The program is available to all residential houses.<sup>537</sup>

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**535** Southern Melbourne Children and Youth Area Partnership 2016, op. cit.

**536** Ibid. With regard to financial constraints, it is expected that foster carers will cover the cost of activities out of their care allowance but there is also client expenses funding that supports carers with the cost of extraordinary expenses, that can include participation in additional activities to support the child/young person’s development (DHHS 2017a, *Care allowances and other financial support for carers: information for foster carers, kinship carers, permanent carers, and special needs local adoption carers*, State of Victoria, Melbourne).

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**537** Email from the department to the Commission dated 15 February 2019.

### Administrative hurdles

The department provides complex and often voluminous advice to carers and residential workers regarding the circumstances in which a child or young person can engage in activities, overnight stays and school excursions, and when by law a carer requires a specific authorisation for a child or young person to engage in a particular activity.<sup>538</sup>

During consultations with the Commission, carers told us that administrative requirements made doing things as a foster family difficult:

*Interstate travel is a real issue but I'm not exactly sure what the risk is. The sign off to get a passport. It's just a nightmare... We were going on a holiday... But the mother was being difficult and CP [Child Protection] just said put them in resi (Foster carer).*

*The [child in my care], she hadn't been out of the state. We went to Newcastle for a weekend. First got to check with Youth justice. They were like, that's fine as long as you're with her. Spoke to [Child Protection]... Ended up taking so much time and resources to resolve it. One of the hardest things with Child Protection they have no delegation whatsoever (Foster carer).*

One Child Protection staff member remarked on the difficulties in obtaining approval for a child to stay the night at a friend's place:

*At the end of the day, if I was going on a sleepover my mother would make sure she would, at the minimum, meet the people whose house we were sleeping over at...why isn't that afforded to these kids, but we are such an anxious service system we don't do it. The Child Protection Manual says that if there is a request to overnight stay the decision may be made to have overnight stay without a police check done. People just get anxious about it but these are kids and these should have 'normal' kid experience. So actually some of those minor bureaucratic things that make these kids feel different to other kids like those police checks, aren't necessary for a one or two night sleep over (Child Protection staff member).*

The department has recently taken steps to standardise authorisations for children and young people in foster care. In 2018, the department updated the carer authorisation policy for home-based placements, so foster carers can be issued with a standard instrument of authorisation by the Chief Executive Officer of their agency.<sup>539</sup> The standard instrument includes authorisation to approve school excursions and recreational activities within Victoria.<sup>540</sup>

The process for kinship carers is more complicated. Kinship carers must obtain a child-specific authorisation for each child or young person in their care from the case planner.<sup>541</sup> Specific authorisation is required for things such as:

- school activities, excursions and work experience
- school camps within Victoria
- participation in activities such as sports, cultural and social clubs within Victoria.<sup>542</sup>

<sup>538</sup> DHHS 2018j, 'Participating in activities – advice', *Child Protection Manual* <<http://www.cpmanual.vic.gov.au/advice-and-protocols/advice/out-home-care/participating-activities>>; DHHS 2018e, 'Authorising carers – advice', *Child Protection Manual*, <<http://www.cpmanual.vic.gov.au/advice-and-protocols/advice/out-home-care/administration/authorising-carers>>, accessed 10 March 2019; and DHHS 2017d, op. cit.

<sup>539</sup> Email from the department to the Commission dated 14 May 2019.

<sup>540</sup> Ibid.

<sup>541</sup> DHHS 2017d, *Manual for kinship carers*, State of Victoria, Melbourne, p. 20.

<sup>542</sup> Ibid.

### ***Planning for activity***

The 100 case plans and action tables reviewed by the Commission revealed a lack of emphasis on children and young people in care being supported to engage in extracurricular activities. Only 28 per cent of case plans included content connected to supporting children and young people to engage in sport, participate in youth groups or otherwise connect with their community.

## **Finding 30: Activities in care**

### **Children and young people in residential care**

A significant number of children and young people in residential care are unable to engage in activities in the community due to resource and staffing constraints. The Commission is concerned that this is a contributing factor to behavioural problems, drug use and criminal conduct among children and young people living in residential care.<sup>543</sup>

### **Children and young people in kinship and foster care**

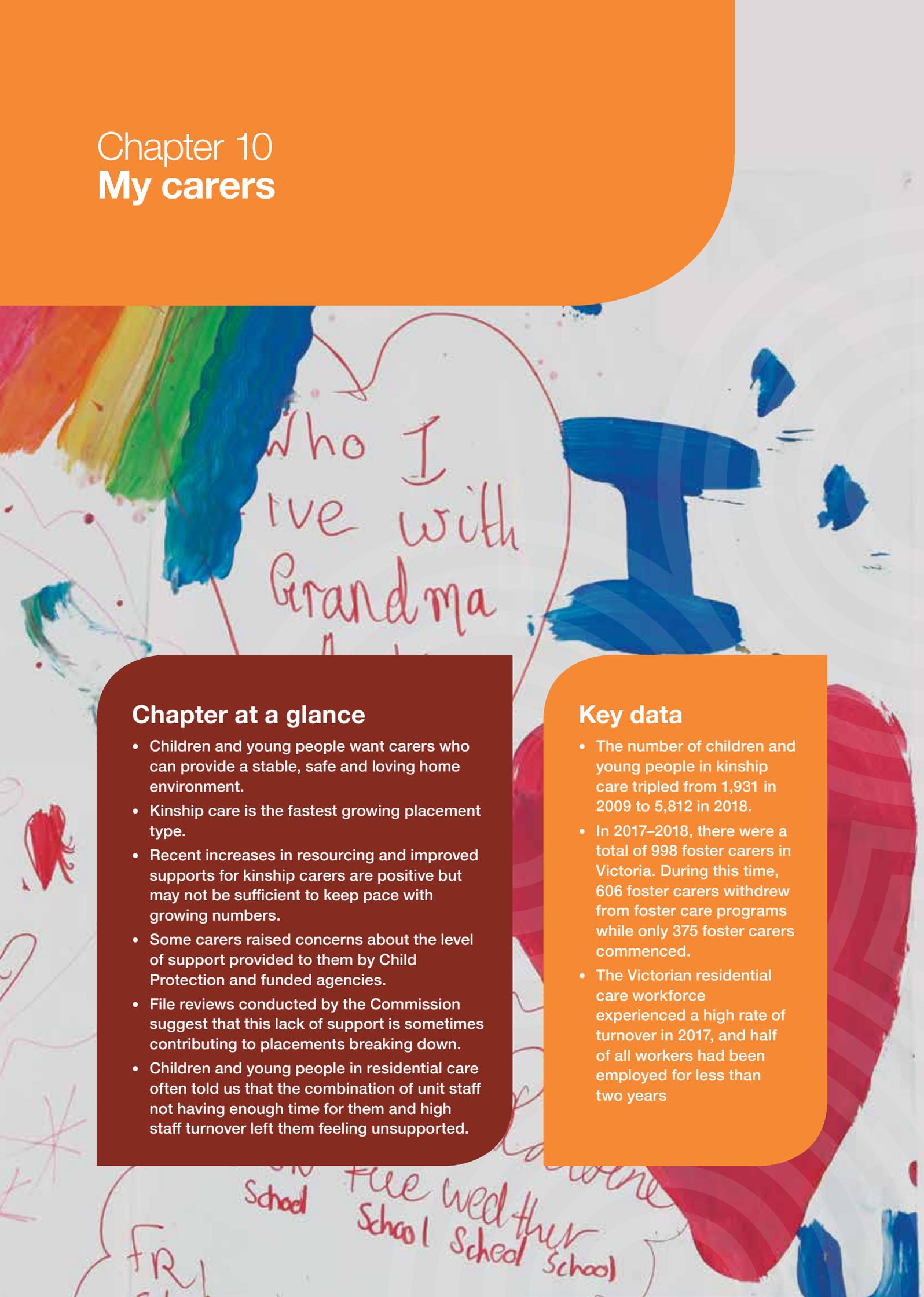
Children and young people in kinship and foster care are more likely to be engaged in voluntary extracurricular activities and sports, however still face significant barriers to participating.

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**543** See also: Moore T 2017, op. cit., p. 216.

# Chapter 10

## My carers



Who I  
live with  
Grandma

### Chapter at a glance

- Children and young people want carers who can provide a stable, safe and loving home environment.
- Kinship care is the fastest growing placement type.
- Recent increases in resourcing and improved supports for kinship carers are positive but may not be sufficient to keep pace with growing numbers.
- Some carers raised concerns about the level of support provided to them by Child Protection and funded agencies.
- File reviews conducted by the Commission suggest that this lack of support is sometimes contributing to placements breaking down.
- Children and young people in residential care often told us that the combination of unit staff not having enough time for them and high staff turnover left them feeling unsupported.

### Key data

- The number of children and young people in kinship care tripled from 1,931 in 2009 to 5,812 in 2018.
- In 2017–2018, there were a total of 998 foster carers in Victoria. During this time, 606 foster carers withdrew from foster care programs while only 375 foster carers commenced.
- The Victorian residential care workforce experienced a high rate of turnover in 2017, and half of all workers had been employed for less than two years.

*Love is huge. You have to feel loved growing up  
(Audrey, post-care – previously foster care, 18).*

## Introduction

This chapter examines children and young people's experiences of carers in kinship, foster and residential care.

Strong relationships with carers lead to positive outcomes for children and young people in all care types.<sup>544</sup> Children and young people we spoke to told us that having a carer who can provide a stable, safe and loving environment is essential. Children and young people require carers who are sufficiently trained to understand and manage their trauma, and the support of a care team to help them provide the best possible care.<sup>545</sup>

The majority of children and young people in kinship care we spoke to felt supported and loved in their kinship care placements. However, some young people reported feeling unsafe and unsupported. This chapter considers the factors that may help and hinder kinship carers' ability to provide good quality care, including carers' ability to access support. The Commission consulted with a number of kinship carers and their views regarding access to supports are included in this chapter.

Most of the children and young people in foster care we spoke to said that when they were placed with a carer who listened and showed they cared, they felt happy, safe and loved. Young people told us how important it is to be treated by foster carers as a member of the family. A number of children in foster care informed the Commission about negative

experiences with carers who did not listen to or respect their opinions and did not spend time getting to know them. A number of children and young people in foster care talked about feeling unsafe or unhappy in their foster care placement. Through our consultations with foster carers, we heard that some foster carers did not feel properly supported or equipped to look after young people who were dealing with the long term effects of trauma. We heard that this sometimes contributed to those placements breaking down. This chapter examines what prevented foster carers from accessing support to reduce the risk of placement breakdown.

Appropriate support for current foster carers is well accepted as the most effective retention strategy.<sup>546</sup> This highlights the need for all carers to be properly supported and provided with sufficient training to understand and meet the needs of the children and young people in their care.

For children and young people in residential care, their residential care workers provide their day-to-day care. Having a good relationship with them made a big difference. The Commission heard that children and young people in residential care said that often unit staff did not spend enough time with them. This made them feel unsupported. Many of the children and young people in residential care we spoke to said having a high turnover of residential unit staff impacted on their ability to develop a trusting relationship with them.

As noted in Chapter 6, residential care typically accommodates the most vulnerable cohort of children and young people in out-of-home care, with many having experienced a high number of failed placements prior to coming into residential care. As such, it is vital that they be provided with care that is therapeutic and trauma-informed. This chapter examines some of the limitations that prevent residential unit staff from providing relationship-based

<sup>544</sup> Wojciak AS et al. 2017, 'The relationship between caregivers and youth in foster care: examining the relationship for mediation and moderation effects on youth behaviors', *Journal of Emotional and Behavioral Disorders*, vol. 25, no. 2, p. 98.

<sup>545</sup> Sammut J 2011, *Do not damage and disturb: on Child Protection failures and the pressure on out-of-home care in Australia*, Centre for Independent Studies, Sydney; Taren-Sweeney M and Hazell P 2006, 'Mental health of children in foster and kinship care in New South Wales, Australia', *Journal of Paediatrics and Child Health*, vol. 42, no. 3, pp. 89–97, cited in Harding L et al. 2018, 'High stress experienced in the foster and kin carer role: understanding the complexities of the carer and child in context', *Children and Youth Services Review*, vol. 95, p. 316.

<sup>546</sup> Frederico M et al. 2004, "'The way all foster care should be": the Experience of therapeutic foster carers in the Victorian Circle Program', *Children Australia*, vol. 39, no. 4, pp. 211–15.

care, both in standard and ‘therapeutic residential care’ settings. The Commission also consulted with a number of residential care unit staff, and we have incorporated their views in this chapter.

## Kinship care

The Commission spoke to 44 children and young people living in kinship care across Victoria during our consultations for this inquiry.

### What matters to young people in kinship care

Children and young people in kinship care told the Commission what makes a good kinship care placement. For many, it was somewhere they felt safe, connected and loved.

*Living there feels like a family (Shane, kinship care, 15, Aboriginal).*

*It depends if you know the person. I used to stay in my room all the time. I'd keep to myself. This one, I know it is going to be long term. She's my mum's friend. I know these people, she's good (Fletcher, kinship care, 16).*

*I live in my house with my nan, my brother, my sister, my auntie, my baby cousin, two dogs, my neighbour's cat and my turtle ... I would never leave my nan even if we have a huge fight (Timothy, kinship care, 12, Aboriginal).*

Several children and young people talked about their experience of first moving into a kinship care placement. For many young people in kinship care, having a connection to their carer was key.

*Before we went over to [carer's house] that [worker] come over and said where would you like to stay and we all agreed that [carer] was best (Dwayne, kinship care, 13, Aboriginal).*

*When I was three, I was taken away from my parents. I went to someone else for a couple of nights until my nan and my pa said they were going to take me and my sister (Kevin, kinship care, 14).*

*I live with my nan, my two dogs and one bird. My nan's been there for me no matter what she's been there since I was very little. Nan took care of me every now and then, but once I turned eight, I went to move in with my nan. It sort-of happened fast, but yeah, nan said she wanted to take care of me and here we are (Nigel, kinship care, 13).*

*I got taken away from my parents when I was nine and moved in with nan. I live with my little sister who is ten. I like living with nan (Christian, kinship care, 12).*

As noted in Chapter 4, some young people told the Commission that they valued the rules and safety provided by a stable kinship care placement.

*I liked [my carers] more than [Aunt] because there were a lot of things going on in our family that we wanted to get away from. A lot of alcohol. And there wasn't any at [my carers] (Heather, kinship care, 15, Aboriginal).*

*I am now in a kinship placement with my Aunty. I am on an order and will stay with her until I turn 18 years. This is the longest I have stayed anywhere. My Aunty is the only one in my family who is not addicted to drugs and alcohol (Sadie, kinship care, 15).*

*Now I'm with [my] sister – it's alright because there's more stability – my sister tells me I have to be home by certain times, but there (at the residential unit) no one cares. Now I'm going to school because my sister makes me. When I was here [residential unit where young person was interviewed] I was never here – I'd come home to eat, sleep and have a shower, whereas with my sister there's more rules (Marlon, kinship care, 15).*

*Yeh if I was living with my mum, I wouldn't even have the opportunity to have a uniform. By living with nan, I get a boost with my schooling. If you were to live in a poorer family or situation you wouldn't be able to have the same opportunities as what I have now. I hate to think what I would have done. I'd probably be at home right now twiddling my thumbs. I think it has definitely changed me being in kinship care, I can do a heap more stuff now. I have more opportunities to do more things (Ethan, kinship care, 16).*

Some young people in kinship care told the Commission that their current kinship care placement came with its own problems such as overcrowding.

*At the moment it is a bit sketchy. My nan and my step grandpa are getting a divorce. My aunty also lives there. She is 17. She is gonna live with her dad and I'm gonna live with nan. People are getting into arguments about that (Ethan, kinship care, 16).*

*[We] lived with nine other people in a house – no room. Just lived in the lounge room in the bunk bed. Big sister got the top bunk. There were too many people for the house. After that we moved into our own place, so we had an actual bedroom (Phillipa, kinship care, 12).*

Several young people in kinship care commented that their carers needed more support.

*My placement ended because my Aunty could not handle my trauma (Leila, foster care – previously kinship care, 16).*

*Yeah with my nan, she had money and that, but never support. Felt like she was always working things out for herself (Quinn, residential care, 14).*

## Research and analysis about experiences in kinship care

Kinship care is the fastest growing type of placement in out-of-home care in Victoria, having almost tripled between 2007–2008 and 2017–2018.<sup>547</sup> As at 31 December 2018, there were 5,812 children and young people living in kinship care in Victoria.<sup>548</sup> The benefits of kinship care are well established: it is generally more stable and it provides children with a sense of normality.<sup>549</sup> It also affords children a wider network of family members beyond their nuclear families.<sup>550</sup> However, some argue that this characterisation of kinship care as being 'like a normal family' has resulted in less policy and practice development, in relation to kinship care, particularly regarding assessment, support and monitoring of these placements.<sup>551</sup>

<sup>547</sup> See Chapter 3, Figure 3.

<sup>548</sup> See Chapter 3, Figure 3.

<sup>549</sup> Nixon P 2007, *Relatively speaking: developments in research and practice in kinship care*, vol. 11, research in practice, 2007, cited in Kiraly M and Humphreys C 2017, 'The changing face of out-of-home care in Australia: developing policy and practice for the 21st century', *Children Australia*, vol. 42, no. 4, p. 230.

<sup>550</sup> Messing JT 2006, 'From the child's perspective: a qualitative analysis of kinship care placements', *Children and Youth Services Review*, vol. 28, no. 12, pp. 1415–34, cited in Kiraly M and Humphreys C 2017, op. cit., p. 230.

<sup>551</sup> *Ibid.*, p. 231. In response to the draft report, the department noted reforms introduced in 2018 to improve the assessments of and support for kinship placements; these reforms are discussed later in this chapter.

### Who are kinship carers?

Research suggests that kinship carers are typically older, usually grandparents,<sup>552</sup> although there are a growing number of young carers (typically siblings) and non-familial kinship carers, otherwise known as ‘kith carers’.<sup>553</sup> Kinship carers are often propelled into care arrangements at times of crisis, without planning or preparation. Kinship carers often have lower incomes and experience financial hardship.<sup>554</sup> Many kinship carers may be required to stop working in order to care for the child or children in their care, adding to financial strain.

*I had to reduce my work hours, so I went to Centrelink (Kinship carer).*

*I had to leave my work... Tried putting [him] into child care one day a week. That was brutal. He was traumatised (Kinship carer).*

Some carers may have been involved in reporting concerns to Child Protection which has resulted in the child or young person coming into their care. When consulted by the Commission, kinship carers spoke about the difficulty of navigating relationships with the birth parents of the child or young person they are caring for.

*It isn't a planned thing... it's such an emotional time... That's the difference between foster carers and us, foster carers put their name down to be a carer so have some sort of plan. With us, it happens without any plan (Kinship carer).*

*I put my hand up to have this child. When my daughter was pregnant I told Child Protection that she was using (Kinship carer).*

*Once [Child Protection] decided I was totally willing to throw my own child under the bus (the mother of my grandchild), that is when they say they can place the grandchild with you. Once the mother was out of the picture, [Child Protection] pretty much left me alone totally (Kinship carer).*

Research also suggests that there are a significant number of sole kinship carers, the majority of whom are female.<sup>555</sup>

### Insufficient support compared with foster carers

All carers require support to ensure that they can provide the best possible care. In our consultations with children and young people, we heard that some kinship care placements experienced overcrowding, poverty and other challenges which made their additional responsibilities as carers particularly difficult to manage. Kinship carers' lack of access to supports has been highlighted through recent research, both in Victoria and nationally.<sup>556</sup>

### Financial support

There are two main types of financial supports available for all carers:

- care allowance
- client support funding.<sup>557</sup>

Since 2018, under the new model of kinship care,<sup>558</sup> existing kinship carers can also access placement support funding and new kinship carers can access flexible funding in the first 12 months of the placement.

<sup>552</sup> Kiraly M 2016, *Family links: kinship care and family contact*, Doctor of Philosophy thesis, University of Melbourne, p. 11.

<sup>553</sup> Kiraly M 2015, *A review of kinship carer surveys: the 'Cinderella' of the care system?*, Child Family Community Australia.

<sup>554</sup> Victorian Ombudsman 2017, *Investigation into the financial support provided to kinship carers December 2017*, State of Victoria, Melbourne, p. 72.

<sup>555</sup> Kiraly M 2016, op. cit., p. 1.

<sup>556</sup> Victorian Ombudsman 2017, op. cit., p. 16. See also Qu L et al. 2018, *Working together to care for kids*, AIFS, Canberra, p. xiii. Lack of financial support is also highlighted in KPMG 2016, op. cit., p. 57.

<sup>557</sup> DHHS 2018, *Financial support guide for home-based carers*, State of Victoria, Melbourne.

<sup>558</sup> The new model is discussed later in this chapter.

Kinship and foster carers may also receive support indirectly through targeted care packages (TCPs).<sup>559</sup> TCPs are an allocation of funding and target that is tailored specifically to meet the individual needs of a particular child or young person. Unlike the above two financial supports available for carers, this funding is attached to a child or young person and is based on their specific needs to prevent them from entering a residential care placement.<sup>560</sup>

When consulted by the Commission for this inquiry, kinship carers said they found financial support provided by the department to be lacking.

*When my child was placed with me the most support I got was through Centrelink... Financial support – not sure when I got that. That didn't come for months. They just didn't mention it. No support at all (Kinship carer).*

At interview with the Commission for this inquiry, Child Protection and funded agency staff also raised concerns about the lack of support provided to kinship carers.

*We can apply for special allowances [for kinship carers] ... but there is no equality. Usually our kinship carers will be grandparents or aunts and uncles, and they won't be working, and they just aren't supported enough to look after the kids (Child Protection staff member).*

*The kinship area is difficult. I take my hat off to a lot of these people. These people put their hand up to care for a child and the caregiver reimbursement is just not adequate. And the hurdles they have to go through to get support at the department is tough. It is very discretionary as to who is the manager at DHHS at the time. For example, a kid has a camp Uluru and the cost is \$800. Team manager might say 'Well, you get a cost built into your caregiver payment that is part of that' whereas other team managers might say 'Well, that is a big chunk of your money we will cover that'. So, there isn't consistency. It can also depend on how hard the individual case manager advocates... And I find that it is predominately grandmothers who take on this role and 'cos they are family they will just cop it, but then really struggle (Child Protection staff member).*

#### **Kinship care assessment process**

The level of care allowance provided by the department is determined by Child Protection in the kinship care assessment process. Departmental policy requires kinship care Part A assessments to be completed within one week of the placement commencing and part B assessment within six weeks of the placement commencing.<sup>561</sup> Child Protection makes decisions about payment levels based on the Part A and Part B assessment. Part C is a formal 12-month review of long-term kinship care arrangements for a child in a kinship placement that is undertaken by Child Protection or the funded agency. It should be linked to the child's case plan.<sup>562</sup>

Kinship carers may also request a higher care allowance through care team processes, however the Victorian Ombudsman found that this process is complicated and time consuming.<sup>563</sup> As a result, it recommended that 'the transparency of decisions relating to higher care allowance levels for kinship carers should be improved'.<sup>564</sup> The department advised the Commission that in August 2018, it amended the care allowance policy to streamline

<sup>559</sup> DHHS 2018q, *Targeted care packages guidelines: to provide individualised and flexible supports that better meet the needs of children in out-of-home care (January 2018)*, State of Victoria, Melbourne, p. 9.

<sup>560</sup> *Ibid.*, p. 7.

<sup>561</sup> DHHS 2019d, op. cit.

<sup>562</sup> *Ibid.*

<sup>563</sup> Victorian Ombudsman 2017, op. cit., [131].

<sup>564</sup> *Ibid.* p. 24.

approval by a local director of a higher rate of care allowance.<sup>565</sup>

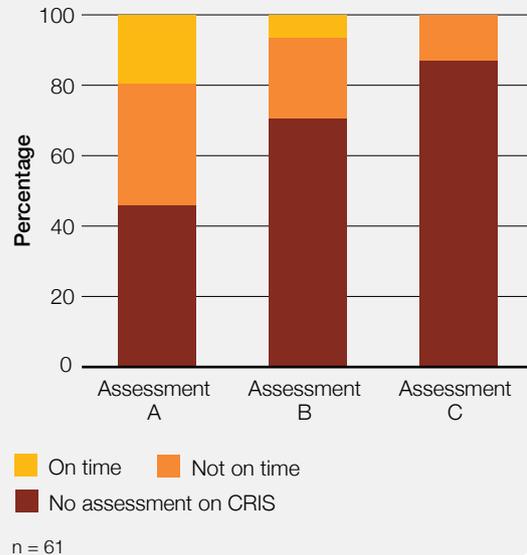
A 2016 review of kinship care found that Part A and B assessments were not being completed by Child Protection in a timely manner, if at all.<sup>566</sup>

When provided with the opportunity to respond to the draft report, the department advised the Commission that upgrades to its case management database occurred at the end of June 2019 to enable tracking and monitoring of kinship assessments. This will, in future, allow data to be extracted from CRIS to check for completion of kinship assessments.

The Commission’s file review included an examination of 61 cases of children in kinship care. The Commission reviewed these with particular regard to whether there was evidence of a Part A, B or C assessment, and if so, whether it was completed within the required timeframes, one week, six weeks or 12 months, respectively.

As set out in Figure 19, the Commission found that 46 per cent of the cases it reviewed had no Part A assessments recorded on CRIS. The Commission considered how many Part A assessments were completed within the required one week of the commencement of the placement start date. The Commission only found 12 cases which met this criterion.<sup>567</sup> The Commission found evidence of the Part B assessment in 30 per cent of cases. Of these, only four had been completed within the requisite six week timeframe.<sup>568</sup> Only 10 per cent of files reviewed by the Commission had evidence of the Part C assessment, none of which were completed on or before the 12 month requisite timeframe.<sup>569</sup>

**Figure 19: File review – Kinship assessment part A, B and C completion rate, Commission review of CRIS files**



**Supervision and support for carers**

Child Protection is responsible for managing almost three-quarters of cases in kinship care.<sup>570</sup> It is responsible for the assessment, case management, support and monitoring of children and their carers, including any financial support.<sup>571</sup> Guidelines require case managers to have ‘regular contact’ with carers and children in care and that fortnightly contact is best practice, unless otherwise stated in the case plan.<sup>572</sup>

<sup>565</sup> Email from the department to the Commission dated 6 May 2019.

<sup>566</sup> KPMG 2016, op. cit.

<sup>567</sup> Appendix: Table 78.

<sup>568</sup> Appendix: Table 79.

<sup>569</sup> Appendix: Table 80.

<sup>570</sup> As at 31 December 2018, 73 per cent (n = 4,243) of cases in kinship care were managed by Child Protection.

<sup>571</sup> DHHS 2018p, ‘Support of kinship carers – advice’, *Child Protection Manual*, 16 October 2018, <<https://www.cpmanual.vic.gov.au/advice-and-protocols/advice/out-home-care/kinship-placement/support-kinship-carers>>, accessed 14 August 2019.

<sup>572</sup> DHHS 2018h, op. cit.

During consultations, kinship carers said they did not receive adequate support from their Child Protection and funded agency staff.

*I would say the workers have got so many other carers or children on their books (Kinship carer).*

*Wouldn't call them, takes weeks for them to return a call. For instance, I got assaulted... I rang DHS straight away. They called me a week later. It was pretty bad. My granddaughter witnessed this. They didn't offer any support at all. I had to seek that out myself (Kinship carer).*

*Workers monitored but no support. I actually got along really well with her, just no real supports. Once she left, there was a couple of workers after that, they had no idea what had happened before. They make decisions about things when they don't know (Kinship carer).*

*I had a couple of periods where there was no worker for five months (Kinship carer).*

At interview with the Commission, one Child Protection staff member also commented on the lack of supervision and support available to kinship carers.

*We go through and do part A and part B assessments but there isn't enough support to help them and help the kids regulate when issues arise. We have grandparents trying to manage kids with significant behavioural difficulties and they really need that additional support. Also, grandparents who aren't working get the free child care but then those who are don't and their payment is minimal and doesn't cover what they need (Child Protection staff member).*

The Commission reviewed the level of contact between kinship carers and workers over a six-month period. Of the 37 cases reviewed, only 13 demonstrated evidence that they had met the minimum fortnightly contact requirement.<sup>573</sup>

### **Respite**

Respite care is provided to families to allow carers and children or young people to have time away from each other, and can be helpful in managing the stress involved in providing care.<sup>574</sup> Respite providers need to be approved by Child Protection or the funded agencies as suitable carers for the child.

Both Child Protection and funded agency staff commented on the difficulty experienced by kinship carers trying to access respite.

*Kinship placements can get respite but not as much as other placements (Child Protection staff member).*

*Kinship carers have very limited availability for respite. I don't know if that is just because we are rural, but it is quite limited. We utilise camps and things like that for kinship carers but that can be really expensive (Funded agency staff member).<sup>575</sup>*

### **Training and development**

Since April 2017, the department has funded the Foster Care Association of Victoria to provide ongoing training for foster and kinship carers. This is done through Carer KaFÉ Training and includes both online and in-person training for kinship carers. Training is completed on a voluntary basis by kinship carers. The department advised that as at December 2018, more than 3,900 carers have attended a total of 245 training sessions.<sup>576</sup>

<sup>573</sup> Appendix: Table 81.

<sup>574</sup> DHHS 2017d, op. cit., p. 46.

<sup>575</sup> When provided the opportunity to respond to a draft of this inquiry report, the department disputed these observations, advising that 'kinship carers do have access to respite. Case managers are required to organise the respite'.

<sup>576</sup> Email from the department to the Commission dated 22 March 2019.

A 2018 survey conducted by the Australian Institute of Family Studies of kinship carers across Australia<sup>577</sup> found that only 16 per cent of kinship carers said they had received training in the last 12 months, compared with 54 per cent of foster carers.<sup>578</sup> When asked what type of training would have been helpful to have been provided, the most common type of training identified was to assist carers in coping with children's emotional and behavioural issues, including those that are a result of trauma (identified by n = 19 carers, n = 13 or 68 per cent of whom were relatives/kinship carers).<sup>579</sup>

Section two of the comprehensive (Part B) assessment by Child Protection identifies any training needs required by kinship carers. However, it is not clear whether the uptake of these training and development opportunities are monitored by the department other than a formal 12-month review a year later. This lack of follow up and monitoring by Child Protection disadvantages kinship carers, who may benefit from the assistance of their Child Protection or funded agency case worker to provide or arrange access to training, and the children and young people in their care.

The Commission reviewed 10 files of young people in kinship care who had experienced 10 or more placement changes. Nine of the young people whose files were reviewed were on a long-term or care by Secretary order, and one was on an interim accommodation order. Their ages ranged between 11 and 17. In each of the cases reviewed, the child or young person had already experienced 10 or more placements.

In all 10 of the cases reviewed, complex behaviours and a lack of support to manage their escalation, was identified as one of the main drivers for the placement breakdown. Evidence found in the file review suggests that supports provided to kinship carers were not commensurate with the level of risk of placement breakdown.

For example:

- Three of the cases demonstrated evidence of having kinship care assessment Part A completed. Only one of these occurred within the requisite one week. None of the files demonstrated evidence of a Part B or C assessment.
- Only two young people were in receipt of a TCP, although there was evidence in two other cases reviewed that the carer had requested a TCP, but the worker had advised the young person was not eligible.
- One of the files reviewed demonstrated 69 contacts between the carer and the worker during the six-month review period. The Commission found that this included seven phone calls, 57 emails (primarily from the carer to the Child Protection worker to chase up quotes, receipts and support), two face-to-face care team meetings and three home visits after the young person was dropped off or taken to the placement. Only one of the home visits took place with the allocated case worker.
- Only four of the files had evidence of respite being used by the carer. None of the files demonstrated evidence that the carer had been offered or received any training.<sup>580</sup>

### ***New kinship care model***

In March 2018, the Victorian Government introduced a new model of kinship care which aims to increase stability and support of kinship carers. The new model is part of the Roadmap commitment to reform the child and family services system.<sup>581</sup> The primary aims of the model are to:

- identify kinship networks early
- strengthen reunification, where appropriate
- promote placement quality, and support children and young people living with kinship families, enabling them to thrive
- promote placement stability, including reducing the likelihood of entry into residential care.

<sup>577</sup> This study included 266 kinship carers and 154 foster carers from Victoria.

<sup>578</sup> Qu L et al. 2018, op. cit. p. 47.

<sup>579</sup> *Ibid.*, p. 48.

<sup>580</sup> Appendix: Table 82.

<sup>581</sup> DHHS 2017e, *New kinship care model information sheet*, State of Victoria, Melbourne.

The department's initial and ongoing investment in the new kinship care model was significant and much needed. The Victorian Government initially announced a \$33.5 million investment for a new statewide model for kinship care.<sup>582</sup> This investment was from 1 March 2018 to 30 June 2019. In the 2019–2020 budget, the Victorian Government continued this investment, investing \$116.1 million over four years and ongoing funding to continue the kinship care model.

There are five different elements to the new model:

- kinship care engagement workers
- Aboriginal placement identification and support
- First Supports
- reunification support packages for Aboriginal children and young people
- additional case contracting targets.

In addition to the above, the department advised that the new kinship care model includes \$5 million per year of funding available to support existing placements. Kinship carers can access this funding through kinship care engagement workers.<sup>583</sup>

Since its introduction, kinship carers have reported to the department improved accessibility to support through kinship care workers, and particularly through the kinship carer phone lines, that have been established in each division under the new model.<sup>584</sup> A recent evaluation of the new kinship care model found that it had positive outcomes, particularly in the identification and recruitment of kinship networks.<sup>585</sup> From April 2018 to the end of September 2018, the department's kinship workers provided support and/or found carers or mentors for a total of 1,383 children and young people, nearly a third of whom (27 per cent) were Aboriginal.<sup>586</sup>

The new model provides much needed support to those kinship carers benefitting from it, and in particular, all new kinship placements expected to last longer than three months, who will be offered support through the First Supports initiative. The introduction of the new model is an important first step. However, it is unclear whether the current level of investment is

adequate given the increasing number of children and young people entering kinship care.

The new model has included additional funding allowing more children and young people to be case managed by a CSO or ACCO if they are on care by Secretary or long-term care orders and have a non-reunification case plan goal.<sup>587</sup> The evaluation found, based on interviews with staff, that the increase in cases was adequate and that the demand is 'not significantly higher than what is funded'.<sup>588</sup>

Based on data provided to the Commission, however, it seems that the additional funding does not cover all of the children and young people eligible to be case contracted, and a significant number were without an allocated case worker at 31 December 2018.<sup>589</sup>

Under the new model, kinship care cases managed by funded agencies delivering the First Supports program will be referred back to Child Protection for case management after the initial 12-month placement support.

The Commission's review of kinship care placements found that kinship care placements can experience breakdown after several years of apparent stability. This is particularly evident as children and young people reach new developmental stages and their behaviour changes. The Commission heard through our consultations that it is at this time kinship carers may require additional support.

Repeated concerns have often been raised about Child Protection's ability to provide sufficient support to kinship carers, with competing priorities of court work, family reunification and complex high-needs cases taking up most of their time.<sup>590</sup> Given the existing Child Protection workload pressures and high number cases without an allocated worker, it is unclear whether 44 kinship care engagement workers will be able to provide an adequate level of support.

<sup>582</sup> Centre for Evaluation and Research 2018a, op. cit., p. 5.

<sup>583</sup> Email from the department to the Commission dated 22 August 2019.

<sup>584</sup> Centre for Evaluation and Research 2018a, op. cit., p. 28.

<sup>585</sup> *Ibid.*, p. 24.

<sup>586</sup> *Ibid.*, p. 31.

<sup>587</sup> Total of 1,607.

<sup>588</sup> Centre for Evaluation and Research 2018a, op. cit. p. 46.

<sup>589</sup> Data provided to the Commission on 31 December 2018 includes 5,812 children and young people in kinship care. 2,107 of these were eligible. Appendix: Tables 83, 84 and 85.

<sup>590</sup> KPMG 2016, op. cit.

Workers spoke positively about the new kinship care model, and in particular, the benefits of the First Supports and kinship finding components. They noted this had taken pressure off overloaded Child Protection staff and provided much needed support to families.

There were, however, a small number of Child Protection staff who raised concerns about the limitations of the new kinship care model and advocated for supports similar to those provided to foster carers.

*Kinship carers – there is still a big gap in that area. There is a new program that helps to support them, but it is still not quite enough in my opinion. I think it is a major lack. If we could better support and resource this area [...] it would possibly lessen numbers going into resi (Child Protection staff member).*

### Finding 31: Support for kinship carers

Despite significant improvements since the introduction of the new kinship care model, many carers still receive inadequate levels of support, including:

- timely access to financial supports
- ongoing placement support, supervision and monitoring and respite.

There is also ongoing concern about the adequacy of training on trauma-informed care provided to kinship carers.

### Finding 32: New kinship care model

Under the new kinship care model, the Victorian Government has allocated much needed flexible funding and additional workers to support children and young people's kinship care placements. However, given that kinship care is the fastest growing type of care, the Commission remains concerned that the new model will not meet demand.

### Foster care

The Commission spoke to 66 children and young people who were living in foster care. This next section includes the views of those children and young people living in foster care in addition to some children and young people in residential care who shared stories about previous experiences living in foster care.

### What matters most to children and young people in foster care

Children and young people told the Commission that a good foster carer should listen, be caring, loving and supportive.

*The foster parents I stayed with for the longest period are pretty much responsible for me getting to where I am. Without them I would have been stuffed (Toby, post-care – previously foster care, 27).*

*She gives me the opportunity to talk about the stuff I want to have. Letting me take risks. Letting me feel happy and safe. Not forcing me to do things (Vanessa, foster care, 17).*

*Foster family always the go-to people on every problem – constantly texting with questions even now about stuff like how to pay bills etc (Sienna, post-care – previously foster care, 20).*

*I liked my first foster care placement and felt safe there but had to leave because my foster parents were having another baby. I like my current foster parents, they have been good, and they take care of me (Brian, foster care, 15).*

*[Carers] have always supported me in whatever I say. When I wrote the letter [to the court] saying I want [carers] to be my family for as long as my life (Agnes, foster care, 18).*

*My foster carers... were Aboriginal. They taught me stuff about culture. They helped me keep in contact with family. I stuck with one for most of it... They listened to me... [Carer] was really understanding. He understood why I was misbehaving sometimes (Phoebe, returned home, 16, Aboriginal).*

*My carers now I have been with for 10 years, they're my family. They refer to me as their child, it makes me feel like I belong, feel loved, not just another statistic or kid in the system (Lucas, foster care, 13).*

Young people also spoke about the benefits of developing strong relationships with all family members of their foster family.

*I think I've been pretty lucky in terms of foster carers – like others go from home to home all the time. My grandparents who I still speak to, I knew them before moving to their house. They aren't my actual grandparents, but they are to me (Caden, post-care, 19, Aboriginal).*

*I'm living in an awesome family environment. I have no blood siblings but a lot of foster siblings. My niece is my foster niece. I've seen her from 10 months to two years old (Harmony, foster care, 17, Aboriginal).*

Children and young people recognised that some carers were not well equipped to deal with their trauma, which contributed to the placement breaking down.

*Definitely need training with kids who have experienced trauma. It's the same as being a teacher, you can't just go into a classroom and start teaching stuff can you? It's important that they learn the correct empathy. I have had experienced carers that have really poor levels of training and subsequently was abused (Lucas, foster care, 13).*

*Increase the training for the carers so they better understand what they are actually getting into prior to taking on kids. For some carers I've had it is like they actually don't know much about fostering. They had no idea what sort of background we might come from. One area they didn't understand with me, is that they didn't understand the upbringing a lot of us kids have had. They underestimate it I guess and that is the experience I had (Jimmy, foster care, 17).*

*If they don't know what to do and how to respond to trauma they could make things worse. They need to know what is happening in the brain and that a child or young person is reacting to trauma. Carers need some understanding of these things in order to guide young people on the right path (Kevin, foster care, 17).*

*I think also another key role to being a foster carer is it can't necessarily be trained – training is very important to understand. But to be a foster carer you need to do it for the love. There needs to be like some way to check the reasons why people are becoming foster carers. Like my agency at the moment are desperate to get foster carers but I just want to make sure they are thorough. Like at the end of the day we are all humans, we basically are all in some way family (Lucas, foster care, 13).*

*I was doing everything they asked and I rarely got new clothes. She [foster carer] would hold me down and stuff. That just made it worse. I was only six years old. I had an anger problem. It was a really big family... I always felt like I was on the outside (Eileen, post-care – previously foster care, 18).*

*My carer, I know she is trying her best. But with three girls with major mental health problems ... her actions can be scary. She once said, 'You belong to me'. To me, that's really scary. And I don't think it's necessary... Her son has taken time off to help us – which is very nice of him. I don't think he can help that much. He is very uptight and he gets angry (Mckenzie, foster care, 15).*

*My foster mum's first thing to do when we got into a fight was to threaten to kick me out. This was after having numerous placement changes, whenever we had any conflict it would be a threat of being kicked out (Harmony, foster care, 17).*

Some children and young people felt like their carers treated them differently because of their care status.

*I was in foster care. They asked me what I wanted, and I told them I didn't want to be there anymore. The two kids I was with [the carer's kids] would get so much stuff, and I wouldn't get anything. (Diana, residential care, 14).*

One young person was resentful at being placed with carers who were not able to connect him to his culture.

*[Foster carers] were not Indigenous and could not understand what we were going through. There are plenty of respected elders that wanted to put their hands up, but they were ignored (Brandon, post-care – previously residential care, 18, Aboriginal).*

## Research and analysis about children and young people's experience of foster carers

### ***The importance of positive relationships with foster carers***

Positive foster carer relationships can have a significant impact on improving outcomes for children and young people.<sup>591</sup> Foster carers can provide a source of attachment and belonging as well as demonstrating positive relationships and behaviour, which in turn increases placement stability for young people.<sup>592</sup> Positive relationships between young people and their foster carers can also assist young people to deal with the effects of early trauma.<sup>593</sup>

<sup>591</sup> Fernandez E 2007, 'How children experience fostering outcomes: participatory research with children', *Child and Family Social Work*, vol. 12, no. 4, pp. 349–59; Chapman MV et al. 2004, 'Children's voices: the perceptions of children in foster care', *American Journal of Orthopsychiatry*, vol. 74, no. 3, pp. 293–304.

<sup>592</sup> Wojciak AS et al. 2017, op. cit., p. 98.

<sup>593</sup> *Ibid.*, p. 102.

Young people reported to CREATE in 2018 that ‘respectful’, ‘understanding’, ‘empathic’, and ‘loving’ were valued traits in carers by the majority of children and young people in care.<sup>594</sup> Having a carer who supports young people in foster care to maintain a connection with their birth family, encourages them in their education and provides a link to the broader community, is crucial to positive care outcomes,<sup>595</sup> and longevity in the placement.<sup>596</sup> Children and young people who can observe and learn positive relationship skills earlier in their foster care placements will develop stronger relationships with the foster care family.<sup>597</sup>

In its recent national survey of all children and young people living in care, CREATE found that 17 per cent of respondents noted ‘a few differences’, and 10.4 per cent reported that they experienced at least ‘several differences’, between treatment towards themselves and other children and young people in their foster care placement.<sup>598</sup>

It is well accepted that children and young people in out-of-home care have generally experienced past abuse and trauma due to the circumstances that led them to being in care. We heard that some children and young people in care felt that their carers were unable to provide them with the level and care that they required. This next section considers the factors preventing carers from providing the level of support necessary to assist them to heal from past trauma.

### ***Factors impacting foster carers’ ability to provide positive care experiences***

As at 31 December 2018, there were 1,610 children and young people living in foster care placements across Victoria.<sup>599</sup> In 2017–2018, based on available data, there were a total of 998 foster carers in Victoria.<sup>600</sup> During this time, 606 foster carers withdrew

from foster care programs while only 375 foster carers commenced.<sup>601</sup>

The department funds agencies to recruit and support foster carers through case management. Funded agencies are responsible for:

- recruitment and assessment of foster carers
- supporting foster carers
- meeting the protection and care needs of children and young people in foster care.

There are currently 44 funded agencies providing support through case management services for children and their foster and kinship carers in out-of-home care.<sup>602</sup>

### ***Support and supervision***

Through support and supervision, carers are able to voice any issues that have arisen with a child or young person in their care. In consultation with funded agency staff, they can then identify appropriate supports to help remedy the issues.

In addition to supporting the needs of children and young people in their placements, funded agencies are required to visit carers regularly to:

- supervise and support carers effectively
- monitor the quality of care provided
- ensure the safety of the carer’s home and environment
- ensure carers are receiving the appropriate level of carer reimbursement and financial assistance for which they are eligible while caring for a child.<sup>603</sup>

<sup>594</sup> McDowall J 2018, op. cit.

<sup>595</sup> Fernandez E 2007, op. cit.

<sup>596</sup> Sinclair I and Wilson K 2003, ‘Matches and mismatches: the contribution of carers and children to the success of foster placements’, *British Journal of Social Work*, vol. 33, no. 7, pp. 871–84.

<sup>597</sup> Fernandez E 2007, op. cit.

<sup>598</sup> McDowall J 2018, op. cit., p. 38.

<sup>599</sup> Source: DHHS data extraction from CRIS database, population and case details in out of home care as at 31 December 2018. Data provided to the Commission on 31 July 2019.

<sup>600</sup> Australian Institute of Health and Welfare 2018, *Child*

*protection Australia*, Table S57, accessed 1 May 2019. In response to the draft inquiry report, the department advised that the Australian Institute of Health and Welfare count the number of foster carers that do not have a placement and does not begin caring again before the end of the financial year. The foster carer may be resting and starting another placement in July but will still be counted as an exit. Inactive carers are also counted as exits if they have been inactive for more than three months. This is not balanced out by counting entries as entries count the number of carers commencing for the first time ever. If the carer has taken a break and started again in the next financial year they are not picked up by this count.

<sup>601</sup> Appendix: Figure 22.

<sup>602</sup> Email from the department to the Commission dated 27 June 2019.

<sup>603</sup> DHHS 2014, op. cit. p. 27.

The department's *Requirements for home-based care in Victoria* requires funded agencies to ensure a minimum of monthly supervision for carers at the beginning of a placement, and allows them to set more frequent supervision, monitoring and support over and above this minimum.<sup>604</sup>

The department monitors the supervision of carers by funded agencies in its compliance and quality audits. The Commission analysed the data from 12 of these audit reports from 2018. Only three of the 12 audits reviewed by the Commission demonstrated evidence that the program requirement for monthly supervision with carers was met.

As part of the Commission's file review, we examined foster care cases to assess the level of contact between foster care agency workers and carers during a six-month period. Just over half (n = 9) of the 17 cases reviewed, met or exceeded the minimum monthly contact requirement.<sup>605</sup> Two cases did not demonstrate any evidence of contact between the carer and the foster care agency worker, and two cases demonstrated only one instance of contact during a six-month period.<sup>606</sup>

The highest number of contacts between the foster care agency and the carer was 44. However, in this instance, only one visit and three phone calls were initiated by the agency worker. The carer made more than 20 phone calls to a worker. This case resulted in an unplanned exit with the carer withdrawing.

During consultation with foster carers, the Commission heard that support provided by funded agency staff was not always accessible or helpful. Foster carers told the Commission that the provision of good support is connected to the case worker's availability, personality and stability.

*The support is tied in with the personality of the worker at the CSO. You get a good worker and things will run fairly smoothly, you'll get support, requests for excursions when going to school etc.... you get a bad one and the wheels don't turn. In our experience, we have had probably two really good ones (Foster carer).*

<sup>604</sup> Ibid., p. 33.

<sup>605</sup> Appendix: Table 86.

<sup>606</sup> Ibid.

Carers also said that case workers were overloaded with cases and so not always available to provide them with advice and support.

*Really our base of support are our family and close friends. I don't feel unsupported by the case manager, but they are just spread quite thinly and I think budget or whatever comes into it.... And sometimes the worker is just not available to help (Foster carer).*

Carers also expressed dismay that investment was being directed towards recruitment campaigns for foster carers, rather than supporting current foster carers appropriately. Improving supports was considered a better recruitment strategy.

*One other thing that I would feed back, I think I find it really ironic, government is gonna spend another \$32 million dollars recruiting new foster carers. I don't think you would need to recruit new foster carers, if the time and money was spent in putting in appropriate things for current carers it works across both, as recruitment and as support for those caring and ultimately the kids in this system will benefit and will have the opportunities that all kids should have to learn and love and be loved (Foster carer).<sup>607</sup>*

During interviews with Child Protection staff, the availability of agency support was perceived to be insufficient, however as the department does not track or monitor the number of carers who withdraw from foster care programs and their reasons for leaving, it is therefore not possible to quantitatively assess whether support needs impact carers' reasons for leaving. However, based on the Commission's consultations with both carers and workers, lack of support has been said to influence foster carers' reasons for withdrawing from a placement or from caregiving altogether.

<sup>607</sup> In response to the draft inquiry report, the department clarified that \$32 million was not invested in recruiting foster carers. The department noted however, that \$5 million was invested over three years through Fostering Connections.

### *Limited access to therapeutic placement supports*

Currently, only six per cent (n = 110) of all foster care placements are therapeutic.<sup>608</sup>

In addition to initiatives being trialled in the South Division, 'therapeutic foster care' is mostly provided through the Circle program, which aims to support and promote child-centred practice and the principles of children's rights.<sup>609</sup> The Circle program includes a care team with a therapeutic specialist who provides focused training and support to children and young people and their foster carer. The program aims to build the capacity of those in the care environment to effectively support the child to recover from the effects of abuse-related trauma. Research has shown that circle program carers are 'well trained, well supported and better placed to provide a healing environment for children who have experienced trauma'.<sup>610</sup> Foster carers consulted for the inquiry spoke highly of the Circle program.

*The Circle program is a very trauma-informed approach, shows you so much more different ways that you can handle situations. I, for one, think that this training should be mandatory (Foster carer).*

The Commission reviewed a total of 32 cases of children and young people who had experienced 10 or more prior placement breakdowns. The Commission found that a lack of therapeutic support for foster carers was a significant driver of placement breakdown. Despite evidence of the young person's escalating behaviours, including absconding and increasing sexualised behaviours, there was limited evidence of the carers being offered support or strategies to appropriately manage these behaviours.

### *Difficulty navigating the system*

The Commission consistently heard in our consultations with carers, workers and young people about difficulties navigating the out-of-home care system. There can be particular complexity for foster

carers who are often left negotiating decisions with multiple parties. Compounding this are the delays caused by Child Protection workers' high caseloads, considered in more detail in Chapter 11.

*No one gives up caring because of the kids. They give up caring because the system is unmanageable and dysfunctional (Foster carer).*

Carers informed the Commission that their ability to care for children and young people would benefit from improved access to:

- information about the child or young person in their care, including prior to or at the beginning of the placement
- respite when required. The department should develop guidelines to enable the delivery of respite by non-traditional providers when it is in the best interests of the child
- timely access to funds available either through Child Protection or funded agencies to support the placement
- identity documents essential to the care of the child or young person, such as passport, birth certificate and Medicare details.

Even when case managed by funded agencies, foster carers are in frequent contact with Child Protection as a member of the care team.<sup>611</sup> When carers feel heard, valued and respected at care team meetings, they are more likely to remain in the role as carer.<sup>612</sup>

Participation in care teams and other planning for the child was varied. Some carers informed the Commission that they were not invited to care team meetings. Some carers informed the Commission that when they were involved with case planning and care team meetings, they felt like their opinions did not count or were not taken seriously.

<sup>608</sup> Appendix: Table 87.

<sup>609</sup> DHHS 2009, *The Circle Program: a therapeutic approach to foster care – program guidelines*, State of Victoria, Melbourne.

<sup>610</sup> Frederico M et al. 2014, op. cit., p. 213.

<sup>611</sup> DHHS 2016a, 'Care teams – advice', *Child Protection Manual*, 12 December 2016, <<https://www.cpmanual.vic.gov.au/advice-and-protocols/advice/out-home-care/care-teams>>, accessed 21 March 2019.

<sup>612</sup> Frederico M et al. 2014, op. cit., p. 213.

*I just can't reiterate enough, we know these kids. We have their best interest at heart so they need to listen to what we have to say (Foster carer).*

Some carers told the Commission that even when they reached out for support, the support provided was not in the best interest of the child or young person in their care.

*I think a better range of support for carers [is needed]. We went through a bad patch where my foster son was lighting fires, was drinking and smoking in primary school. I went to the department and said I need some help. Their response was 'OK. We will just shift him'. They didn't ask me about that, they didn't ask him about that. It was just easier to shift him to another family (Foster carer).*

Experiences of direct contact with Child Protection was varied. Some foster carers had trouble trying to reach the relevant case worker, while others reported that they had minimal contact with Child Protection as this was managed by the funded agency case worker and they were told they could not contact the department. Many carers expressed frustration about delays experienced when contacting Child Protection about seeking approval for a range of proposed actions.

*Untie some of the red tape. What they have to sign off for. Slows down the system dramatically. Release some of that back to agencies. So approvals can be made at lower levels. Rather than taking 12 months. Quick decisions would help the system enormously (Foster carer).*

*Responses to simple things, like a request for haircuts and things like that... Anything like this takes forever to get when the worker isn't on the ball. Timely responses to requests that can be very simple (Foster carer).*

As well as impacting on day-to-day decisions such as haircuts and school excursions, some carers reported delays in responses from the department in relation to significant matters such as school selection.

*When my foster son was finishing primary going into high school, preferences were due in April. I had been to heaps [of schools], drawn up a list of pros and cons of different schools I'd been to, but I couldn't get the department to even look at this decision until it was actually too late for some of the schools.... What that has meant in the long term is I couldn't get my kids into a school in the public system that I thought was going to meet all their needs (Foster carer).*

A number of foster carers who spoke to the Commission raised concerns about the limited amount of financial support available to them, in addition to the confusing pathways to access funds.

*I work part time, purely because of my foster caring. That is a sacrifice I choose to make and that is a challenge because you are out of pocket with it (Foster carer).*

*Sometimes we have had children whose schools are ... 100 kilometres away by car as well as [driving to] weekend activities. In those cases again, dependent on the case worker we might get some acknowledgement of the driving in the way of a fuel card or something (Foster carer).*

This concern was shared by some Child Protection staff interviewed for the inquiry, who considered that carers were being 'set up to fail'.

*We expect a lay person to implement complex plans for a pittance of reimbursement. We do not tell them that Child Protection will barge into their home and tell [them] how to live... We set carers up to fail (Child Protection staff member).*

*Some foster carers are not equipped to recognise or respond to trauma*

Some of the children and young people we spoke to for this inquiry informed the Commission that they felt that their foster carers were not equipped to recognise or respond to their trauma. A number of foster carers and Child Protection staff we spoke to recognised a need for more training and development for carers in relation to trauma-informed care.

In Victoria, funded agencies are responsible for providing the mandatory initial training to carers, *Shared lives Victoria*.<sup>613</sup> In March 2019, the department released an updated version of this training and induction package for carers. This training includes training on:

- appropriate care and behaviour management of children affected by developmental trauma
- the concept of brain development and developmental trauma, including its impact on children's feelings of safety and ability to regulate emotions
- 'repair' parenting, including the PACE approach
- culture and identity, including Aboriginal identity.

Launched in April 2017, Carer KaFÉ (hosted by the Foster Care Association of Victoria) provides learning and development opportunities for foster and kinship carers throughout Victoria. As at December 2018, more than 3,900 carers have attended 245 training sessions.<sup>614</sup> The carers, Child Protection and funded agency staff spoken to for the inquiry all spoke positively about the increased access to training and the increased level of quality in training provided by Carer KaFÉ. However, as noted earlier in this chapter, as there is no related performance output regarding the requirement for funded agencies to provide trauma-informed training for their carers, there is no way of knowing how widely this is provided across Victoria.

*Initiatives to improve supports for foster carers*

*Carer strategy – Strong carers, stronger children*

On 24 October 2019, the Victorian Government released a new carer strategy – *Strong carers, stronger children*.<sup>615</sup>

The strategy includes key goals aimed at:

- increasing the number of carers
- further consideration of alternative models of home-based care including foster care
- providing additional supports to carers to assist in the day-to-day care of a child
- improving the content and delivery modes of training for carers, including tailored training for carers of Aboriginal children and culturally and linguistically diverse children
- supporting carers to provide nurturing relationships by connecting them to peer and community support networks and exploring new options for respite including maintaining connections with extended family and participation in recreational activities.<sup>616</sup>

The strategy will be rolled out over the next five years, through a series of action plans developed in close consultation with the sector.<sup>617</sup> The Commission welcomes this and encourages the government and department to take into account this inquiry when developing action plans under this strategy.

<sup>613</sup> DHHS 2014, op. cit., [3.3].

<sup>614</sup> Email from the department to the Commission dated 22 March 2019.

<sup>615</sup> 2019s, DHHS, *Strong carers, stronger children – supporting kinship, foster and permanent carers to achieve the best outcomes for children and young people in care*.

<sup>616</sup> *Ibid.*, p. 6–7.

<sup>617</sup> *Ibid.*, p. 5.

### **Finding 33: What children and young people said they need from their foster carers**

Children and young people in care told us they need foster carers who are caring and supportive, and can understand their experiences, behaviours and what they need.

### **Finding 34: Foster carers' access to support**

While foster carers' experiences of accessing support were mixed, a number of foster carers expressed frustration that support provided to them is generally inconsistent, inflexible and non-collaborative. This was confirmed in the Commission's file reviews, which found that foster carers had limited access to:

- placement supervision and monitoring through direct, face-to-face contact with their agency worker
- therapeutic supports.

### **Finding 35: Carer KaFÉ**

Foster carers and workers informed the Commission that Carer KaFÉ is an accessible provider of useful and practical development opportunities for carers across Victoria.

### **Finding 36: Training provided to foster carers**

The department does not currently track or monitor ongoing training provided to foster carers. Consequently, Child Protection and in particular, the Placement Coordination Unit, has limited information about the availability of foster carers who have undertaken specific training to care for children and young people with particular needs.

## **Residential care**

The department advised the Commission that there are approximately 464 funded residential care placements statewide. Of these, 41 are in 'therapeutic residential care homes'. As at 31 December 2018, there were 433 children and young people living in residential care, of which almost a quarter were Aboriginal (n = 100).

Residential care units are funded by the department and managed by funded agencies. Most of the houses have four children and young people living together (approximately 80 per cent), however, there are also a number of two and three bed residential care units across Victoria.

The Commission spoke to 71 young people who were living or had an experience of living in residential care. Their experiences of living in residential care are discussed in Chapter 6. This section examines what young people said about their experiences of residential care unit staff, who are, for all intents and purposes, their carers.

### **What matters most to children and young people about their residential care workers**

Some children and young people reported having a good relationship with the residential care unit staff. In these instances, the relationship was good because they felt heard, respected and cared for.

*My residential care workers listen to me [...] [Worker] has been here for years, he is 'family' (Cameron, residential care, 17).*

*I still stay in touch with this one worker. He was a carer at one of my units. He just cared and that was the difference, took me to do shit and made time for me (Adam, post-care – previously residential care, 24).*

*I had this one house [...] the majority of the workers really wanted to connect with the young people in there. They had an understanding of what it was like to be our age. They could call on their experience and reflect and say that was what it was like for me at that age. They could make that connection (Emerson, post-care – previously residential care, 24).*

*I liked everything about the [residential care unit]. The workers. The house. The location. The backyard. I had good relationships with the workers (Owen, residential care, 15).*

*I was a bit shy when I first met with the resi workers, I was 14. The ones here are nice, they listen to what you say. The kids respect you (Ash, residential care, 16).*

Children and young people said that some residential care unit staff did not spend enough time getting to know them.

*The others were just staff and the job was just a job to them. Resi would improve if it was more homey, be more like family [...] sit down when a kid wants to talk. Some resi staff stay in the office all day. Staff will take the card for the TV so you can't finish some shows and you have to go to bed early. But I wasn't going to school so why stop me watching TV? (Carter, residential care, 16, Aboriginal).*

*The ...resi unit I am in is shit. They don't do enough with us and they don't ask us what we need or want... Current placement... they lock 'emself in the office and never leave the house. If you shot up... they do something. Sometimes I muck up just to get em out of the office. I smash things just so that they take us out – to the beach or somewhere (Ellie, residential care, 16).*

*I had to call my resi workers, instead of them calling me and giving me support... Workers just sit on the couch and play on their phones, bro. I keep telling them [ACCO] is supported accommodation but where is the support, bro? (Sawyer, residential care, 16, Aboriginal).*

*Some workers would just sit in the office and write notes and others would actually want to engage with you and connect (Emerson, post-care – previously residential care, 24).*

Children and young people found that the transient nature of the workforce meant that they were not able to build rapport with those workers.

*You will never build a relationship when the workers change all the time. You won't help people when you have new faces all the time. And you are like, I want to build this, and then the worker is gone (Brandon, post-care – previously residential care, 18, Aboriginal).*

*Sometimes the resi workers transport me but they usually say that they are short staffed. The workers are just dopey. It is usually the same staff but occasionally they get another person if they are short staffed. There is a night manager who is really nice, but there are different staff on different shifts across the week (Ellie, residential care, 16, Aboriginal).*

*Sometimes [residential care workers] change every week (Trudy, residential care, 14).*

*The young people hate it when the casuals come in. We don't generally have casuals that stick around for a long time. There were a couple of casuals that I had seen before. You have no rapport. As a resi kid you, are aware that all these people that you don't know, know about you (Audrey, post-care – previously foster care, 18).*

Children and young people said that many residential care unit staff were not properly trained to support them and help them manage their trauma.

*My resi workers were not trained enough. It should not be an entry level position – you are dealing with young people at the most stressful time of their lives, all with different issues and then they start sharing their issues with each other. To deal with the aggression, a lot of the staff needed more training. They could not deal with incidents until they had the chance to deal with a few – but by that time, the harm had been done by the prior conflict and crisis (Harriet, residential care, 18)*

*A traumatic event happened to me in resi care. Going in and coming out of resi had an effect going into my longer term foster placement [...] there were a lot of casual workers. There were a lot of workers I could not have a relationship with because a week later they would be gone. It is hard to trust when they are not there regularly. They stopped me from seeing the small family that I had and could see (Wade, post-care – previously residential care, 21).*

*Some workers don't listen. I have really bad anger issues and when I'm already mad and I ask them to go away they keep biting and then they snap at me and they blame me (Kerry, residential care, 15).*

*Maybe give a shit – if you're going to work here (Matilda, residential care, 15).*

## The importance of strong residential care worker relationships

Children in residential care generally experience poorer health, social and education outcomes than children in other types of out-of-home care. Residential care staff, as their carers, must provide children and young people with the same level of care as a good parent.<sup>618</sup> This means making provision for a child's physical, intellectual, emotional and spiritual development.<sup>619</sup> Unfortunately, research has often shown that residential care providers are consistently falling short of this expectation.<sup>620</sup>

Throughout our consultations, children and young people in residential care referred to the importance of having a residential staff member who they could talk to and trust. The importance of positive relationships between residential care unit staff and children and young people is well established.<sup>621</sup> Positive relationships between children and residential care unit staff can bolster their confidence and sense of self-worth.<sup>622</sup>

In order for young people to establish trust in residential care unit staff, workers need to demonstrate empathy, willingness to understand the young person's perspective, keep promises and respect confidentiality. Children and young people we spoke to also said that they valued residential care unit staff who listened to their needs and acted on them.

### **Impacts of staffing structures on workers' ability to engage young people in residential care**

The Victorian residential care workforce experienced a high rate of turnover in 2017, with more than half of all

<sup>618</sup> CYFA 2005, s. 174(b).

<sup>619</sup> CYFA 2005, s. 174(1)(b).

<sup>620</sup> VAGO 2014, op. cit., and CCYP 2015a, op. cit.

<sup>621</sup> Moore T et al. 2018, 'Sticking with us through it all: the importance of trustworthy relationships for children and young people in residential care', *Children and Youth Services Review*, vol. 84, p. 69.

<sup>622</sup> Ibid., citing Augsberger A and Swenson E 2015, op. cit., and Gallagher B and Green A 2012, 'In, out and after care: young adults' views on their lives, as children, in a therapeutic residential establishment', *Children and Youth Services Review*, vol. 34, no. 2, pp. 437–50.

workers having less than two years' tenure with their employing organisation.<sup>623</sup> In addition, almost half (49 per cent) of the residential care workforce is casual.<sup>624</sup> The department advises that, based on residential audits over a six month period using a sample approach, the proportion of workers that meet minimum qualification requirements is now expected to be approximately 90 per cent.

Many residential care providers have traditionally also used casual staff contracted from an agency (agency staff).<sup>625</sup>

High staff turnover, the casualised nature of the residential care workforce and the reliance on agency staff impedes strong relationships between children and their carers. Some of the residential care unit staff interviewed spoke about the difficulties maintaining a skilled and consistent team in residential care settings which they attributed to the casualised work force, administrative burden and the particular challenges in managing children and young people with complex needs and challenging behaviour.

*Staffing is a massive issue. Houses without a full well functioning team have trouble caring for kids, in houses where you have a good staffing team – you can have the most difficult kids in Victoria, but they will be turned around by skilled staff (Residential care unit staff member).*

*Since I've been supervisor and now that there is stand up shift, I only have two office days available so it would be about 50/50 [administrative tasks versus being with the young people] but there are five kids – and two of them are young [under 10 years] (Residential care unit staff member).*

**Q: Could you tell us about the ratio of children and young people to workers?**

*Couldn't, [because I] have too many staff on (Residential care unit staff member).*

During our consultations with residential care unit staff, four staff members raised concerns about the inconsistent nature of the workforce and workers' practice.

*Not consistent at all. People more so stick to similar boundaries, but some often get comfortable but sometimes not in a good way, that makes it harder for the kids 'cos if one carer is getting closer and bending rules then the young person will be like why won't you do that? And it creates disharmony within the relationship (Residential care unit staff member).*

*If it's mostly agency staff then it's a free for all – but if they have a good team then the workers will be able to call kids on behaviour – much safer when staff are working together (Residential care unit staff member).*

The Victorian Government has sought to address this issue through the introduction of the minimum qualification requirements for residential care unit staff in Victoria which aims to develop staff and encourage retention.<sup>626</sup> However, the ability of workers to engage with children and young people is limited when there are a number of different workers involved in the provision of care. As one worker pointed out, having more available staff can lead to greater disruption for the residential care home. It also reduces the extent to which of residential care homes feel 'home-like'.

The case study below is based on a residential care facility that the Commission visited during this inquiry. It highlights the benefits of having a case worker based at the residential care unit and a stable and consistent workforce.

<sup>623</sup> 2017f, Minimum Qualification Strategy for Residential Care Workers in Victoria, State of Victoria, Melbourne, p. 9.

<sup>624</sup> Ibid.

<sup>625</sup> Centre for Excellence in Child and Family Welfare 2012, *Victorian residential care workforce census at a glance*, Centre for Excellence in Child and Family Welfare, Melbourne.

<sup>626</sup> DHHS 2018a, op. cit.

### Case study: Residential care

Jane is the manager of a semi-rural residential care unit in south-east Victoria.

The unit houses three siblings aged between nine and 16. The siblings have lived in this house for five years, and three of the five staff working on the unit have worked at the house exclusively for between two and a half and three years. The siblings are all on care by Secretary orders but have had no allocated Child Protection worker. Jane plays the role of case manager and says this arrangement works well.

When Commission staff visited the unit to consult with young people it had a distinctly homely feeling in comparison to other units: the younger children were having healthy afternoon snacks prior to heading to afternoon sporting activities; there was folded washing on the dining table ready for the children to collect and put away. One child was engaged in imaginative play dressed as a pirate.

Each of the children and young people living in the house is regularly involved in after school sport.

It wasn't always that way. A great deal of encouragement and work with each of the young people to build those connections has

occurred over several years.

All of the siblings attend school regularly, they have their friends over to the unit for sleep overs and they often visit their friends and stay over as well. In the holidays they go on camping trips together.

Aside from the benefit of having the sibling group together, Jane puts the homeliness and stability of the unit down to a number of factors:

- There is continuity of staff and they work well together as a team.
- Staff work hard to keep the visibility of paper work and admin tasks and any signs that the house is a work place away from the young people as much as possible.
- Jane directly case manages the young people, meaning that discussions and decisions can happen in a way that is more 'family-like'.
- The staff sleep over in the house rather than having to resource overnight 'stand up' shifts where staff stay awake all night. Having everyone go to sleep made the place feel more normal and also reduced the number of staff in contact with the siblings.

## Residential care is not therapeutic

Children and young people in residential care need workers who are caring and therapeutically trained to identify and manage complex behaviours.

Trauma-informed organisations are said to better respond to the needs of trauma survivors and at the very least, 'avoid re-traumatisation'.<sup>627</sup>

The Commission found in Chapter 6, that almost universally, young people's experiences of living in residential care were negative. This was mainly due to:

- unsuitable placement mix and young people's experiences of managing other young people's trauma
- sterile physical environments that are not home-like
- the complexity and needs of the children and young people entering residential care.

Compounding these factors is the continued use of a heavily casualised, low-paid workforce that has not been consistently trained or supported in the application of practical, trauma informed interventions.

The *Program requirements for residential care in Victoria* require residential care providers to have written policies that outline trauma-informed intervention and support in response to challenging behaviour by children and young people in residential care.<sup>628</sup> Staff should be made aware of the policies through supervision and training to ensure they use these policies and procedures in their practice with children.<sup>629</sup>

Almost all of the residential care staff we consulted with said that while they had been provided training in trauma-informed care, they had mixed responses about the quality of the training received or how effective it was in practice. While some staff felt that they were provided with very good training, others commented that they were left with an understanding of trauma and its impact, but without the practical tools to respond to trauma-related behaviour.

<sup>627</sup> Guarino K et al. 2009, *Trauma-informed organizational toolkit*, Center for Mental Health Services, Substance Abuse and Mental Health Administration, and the Daniels Fund, the National Child Traumatic Stress Network and the WK Kellogg Foundation, Rockville, MD, p. iii, cited in Jones G and Loch E 2015, 'What we have learnt about therapeutic residential care: it's more than just "good resi"', *Developing Practice: The Child, Youth and Family Work Journal*, no. 41, p. 71.

<sup>628</sup> DHHS 2016e, op. cit., [2.3.3].

<sup>629</sup> Ibid.

Residential care staff interviewed for this inquiry informed the Commission that they struggled to provide relationship-based, child-centred therapeutic care to children and young people in their units.

*It depends on the mixes [of children and young people], often there is just too much going on and you are reacting to things. On occasions, when there is a settled house, you can sit, do craft, play games, read etc. but when there is anyone absconded you spend your time in the office writing. If someone's misbehaving or damaging property you are always in the office writing stuff. It's all documentation and that is key time you aren't spending [with children and young people] (Residential care unit staff member).*

## Attempts to improve the quality of residential care

In May 2017, the department released the *Minimum qualification strategy for residential care workers in Victoria* in order to 'support community service organisations to meet the established minimum qualification and ensure residential care workers have the necessary skills, qualifications and training to care for vulnerable children and young people in residential care'.<sup>630</sup> The strategy mandates that:

*From 1 January 2018 all residential care workers providing direct care in a residential care home funded or delivered by the department are required to hold, or be undertaking, either:*

- *Certificate IV in Child, Youth and Family Intervention (Residential and out-of-home care), including a mandatory trauma unit of competency*
- *a recognised relevant qualification, plus completion of a short top up skills course.*<sup>631</sup>

However, some residential care staff the Commission interviewed had misgivings about whether the strategy will improve the overall quality of residential care.

<sup>630</sup> DHHS 2018a, op. cit.

<sup>631</sup> Ibid., p. 7.

*Staff have to do modules Cert 4 to do residential care and I go to other training [courses]. But at the end of that training you come back to the unit and face the reality of working with kids who can't talk for more than five minutes (Residential care unit staff member).*

*I don't think I have enough training, I don't think anyone has... the [workforce] is so transient so it's hard. Also, sometimes no amount of training will help. Trauma-informed practice is tricky (Residential care unit staff member).*

The minimum qualification strategy is a positive development. However, the introduction of a Certificate IV will not, on its own, address the broader concerns about residential care not being trauma-informed.

### **Therapeutic residential care**

There are 40 community services and one government-run service funded to provide 'therapeutic residential care' for 172 children and young people in Victoria.<sup>632</sup> As at 31 December 2018, 131 children and young people were placed in a 'therapeutic residential care' setting.<sup>633</sup>

'Therapeutic residential care' units are given additional funding to provide:

- a part-time therapeutic specialist per therapeutic residential care home
- two additional residential staff as part of the therapeutic residential care team.<sup>634</sup>

A review of Victorian 'therapeutic residential care' in 2011 found that it provided significantly better outcomes for children and young people than the standard residential care model.<sup>635</sup> No further reviews of the Victorian model have been conducted since that time. However, a recent survey conducted of

37 'therapeutic residential care' services across Australia found that therapeutic residential services were limited in their ability to provide services that were therapeutic or child-centred.<sup>636</sup> Strict funding models, high staff turnover and poor placement mix were all cited as drivers.<sup>637</sup>

Respondents to the survey suggested a 'shift in thinking away from a "one-size fits all" approach to service provision and towards an understanding of "what works for whom, and when" would improve service delivery'.<sup>638</sup>

Participants in the survey also suggested changes to staffing ratios and staffing qualifications to better meet the needs of young people with more complex needs.<sup>639</sup>

During consultations with workers and young people, the Commission heard that in practice, there was very little difference in the standard of therapeutic care provided across the two types of residential care. Instead, all workers agreed that trauma-informed practice was important, but that it did not always happen in practice.

*We wish it was therapeutic, but in practice therapeutic doesn't seem to mean much (Residential care unit staff member).*

*The only difference between therapeutic residential care and residential care is the title... Therapeutic specialists are employed to engage the staff (not the young people) ... I'm yet to see a progress report or treatment summary. If it were actually therapeutic, I'd like to see a progress report – plan – how the care provider is addressing those symptoms and what changes are being made to the care style to indicate that the concerns are being addressed, that's what the program requirements say should be happening (Child Protection staff member).*

<sup>632</sup> Unpublished DHHS divisional data provided to the Commission on 27 March 2019.

<sup>633</sup> Appendix: Table 88.

<sup>634</sup> Jones G and Loch E, op. cit., p. 73. Originally the model also included stand-up night staff, however this is now standard in all residential units.

<sup>635</sup> Verso Consulting 2011, *Evaluation of the therapeutic residential care pilot programs final summary and technical report*, State of Victoria, Melbourne, p. 172.

<sup>636</sup> McLean S 2019, *Therapeutic residential care services in Australia*, Child Family Community Australia, p. 17.

<sup>637</sup> Ibid.

<sup>638</sup> Ibid.

<sup>639</sup> Ibid.

*One agency that comes to mind has different models in their care system... and I think the more specialised and individualised options for these kids with traumatic history [...] more of these options would assist us a lot in terms of engaging with young people...if we could get that for every child it would be great... Some of those other 'therapeutic units' I don't see the therapeutic nature of the units coming out (Child Protection staff member). The agencies we are using [to provide therapeutic residential care] are not trauma-informed and the quality of care is dubious. Therapeutic residential care does not work – it's a name only (Placement Coordination Unit staff member).*

Unless residential care units can provide strong organisational and system-wide foundations to enable unit staff to form quality relationships with children and young people in their care, 'therapeutic residential care' will fail to deliver care which is truly therapeutic.

### **Finding 37: Trusting relationships with residential care workers**

Many children and young people said that they did not feel like they always had someone to talk to or connect with in residential care. Children and young people told us that they would like to be able to spend more time with their workers in order for them to get to know and trust their workers.

### **Finding 38: Residential care workers' capacity to respond to trauma**

Children and young people had mixed feedback on their residential care workers' capacity to respond to their trauma. Despite inroads made by the Victorian Government to improve residential care services, including the introduction of the minimum qualifications requirement, workers' capacity to care effectively for children and young people is impacted by:

- ongoing use of casual and agency staff by many providers
- inconsistent training provided to staff across funded agencies
- placement mix and associated pressures in the residential care environment.

### **Finding 39: Therapeutic residential care**

Despite therapeutic residential care program requirements and the availability of additional funding (consisting of a 0.5 FTE therapeutic specialist per home and two additional residential staff as part of the team), the Commission did not otherwise identify:

- evidence of therapeutic residential care meeting the therapeutic standards required by the program requirements
- a noticeable difference in the quality of care provided by therapeutic residential care compared with standard residential care settings.

# Chapter 11

## My workers

### Chapter at a glance

- Children and young people in care rely on their workers to help them navigate the out-of-home care system.
- Many children and young people in care are frustrated about their limited contact with workers and the large number of workers simultaneously involved in their care.
- Barriers preventing workers from providing adequate support to children and young people included competing priorities, distance, high worker turnover and attrition and lack of staff training and development.

### Key data

- Child Protection workers currently hold an average of 15 cases, compared to 10 to 12 cases managed by workers at a funded agency.
- In 2016–2017, the Child Protection workforce experienced an attrition rate of 16.5 per cent, 6.4 per cent higher than the broader department (10.1 per cent).
- The attrition rate for Child Protection practitioners remains high, with an average of 14 to 15 per cent in the last two years.
- Almost half of all staff who exited the Child Protection workforce between 1 July 2018 to 15 May 2019 left within their first year of employment.

*The amount of DHS workers that get changed, I reckon I've had maybe eight or nine in total and they don't even know me. It would be good if they could keep the same worker and build a relationship and you can tell them how you are feeling and be honest about how things are going. The workers don't know you. How can they help do the best things for you if you don't have the chance to get to know them? (Christopher, foster care, 16).*

## Introduction

The *National standards for children in out-of-home care* require all children and young people in out-of-home care to have access to at least one adult role model who they can turn to for support and advice.<sup>640</sup> In most cases, particularly if children and young people have experienced a number of different placements, this adult will be the child's worker. Children and young people in out-of-home care rely on their workers to help them understand the care system, keep in contact with their family, prepare for the future, express their views and seek to influence decisions impacting them. As such, the relationship they have with their worker is critical.

Children and young people told us that a good worker was someone who showed they cared. They also valued a worker who visited regularly and got to know them personally. This helped children and young people to develop a trusting relationship with their worker. When they trusted their worker, they could share things that they could not share with anyone else, and they felt they could navigate the complexities of the child protection system more easily.

Many of the children and young people we spoke to said that limited contact with workers prevented them from developing a trusting relationship with their worker. Young people we spoke to were conscious that their workers were very busy; this made some feel like they were a burden. Many expressed their frustration at the large number of different workers they came into contact with during their time in care, either because of the number of different services involved or

because of the high turnover in workers. When children and young people had negative relationships with their workers, they did not have faith in their workers' ability to support them. This made them feel powerless.

Having consistent workers who visit regularly enables children and young people to experience stability, feel cared for and supported, and be heard and empowered to participate in decisions affecting them. This requires 'regular contact, consistency and continuity, and following through on promises, aspects often missing from children and young people in care'.<sup>641</sup>

Throughout this inquiry and Chapter 5 in particular, the Commission examined barriers that prevent workers from building trusting relationships with children and young people in out-of-home care. This included limited contact workers had with children and young people in their care due to managing high caseloads, high worker turnover and high attrition rates in workers and the large number of children and young people without an allocated worker.

Children and young people also said they valued a worker who provided practical support and followed through on their promises. This chapter considers what factors impact on their workers' ability to provide support, including:

- lack of authority to make decisions
- large numbers of professionals involved
- lack of training and development
- competing priorities
- distance.

<sup>640</sup> Department of Families, Housing, Community Services, and Indigenous Affairs 2011, op. cit.

<sup>641</sup> Cashmore J 2002, op. cit., p. 843.

While most of the children and young people we spoke to were unable to say whether their allocated worker was a Child Protection worker or funded agency worker, where possible, we have grouped what children and young people have said about the different types of workers. Children and young people living in residential care referred to their residential care workers as 'workers'. However, because residential care workers are in effect, the primary carers for children and young people in residential care, the Commission's discussion about residential care workers is covered in Chapter 10.

### What children and young people said makes a good worker

When asked what makes a good worker, the children and young people we consulted identified attributes such as care and trust, regular contact and support.

Many children and young people we spoke to (n = 16) told us that having a trusting relationship with their worker was key to navigating the out-of-home care system. Many had positive experiences with a worker at one point.

*Trust is really important. We trusted each other. She was trying to explain stuff to me if I did not get it. She was trying to help me as much as she could. She came to court with me. She was a friend more than a worker. Workers should be like that (Tiana, foster care, 17).*

*Knowing there is someone you can trust that you can reach out to (Jonah, post-care, 19).*

*I have my own case worker... She is like my mum. I love my case worker. All permanent staff are good and help each other out (Isabel, residential care, 17).*

*I like that I can actually trust her. I can tell her things that I can't tell anyone else (Megan, foster care, 11).*

*[Worker] is more interactive, always wants to know what is happening, sits down and just asks how the days been, always in touch. She feels like a real person, like I have a real relationship with her. She got me into army cadets as well. When we are with mum they didn't provide anything to support mum but now [worker] is supporting her. She meets with her, she just cares I think (Jake, residential care, 14).*

*I would not say he was a worker – he was from [ACCO]. People call him [worker name] – they respect him. He would always comfort me. If I did not want to talk, he would respect me (Phoebe, returned home, 16, Aboriginal).*

*This current worker says she'll do something, then actually does it – that's the difference. Comes out two times per week, if she can't she'll let us know – that's what makes her good (Ashleigh, residential care, 16).*

*[Worker] was the best because as a worker he gelled with all his kids and our foster parents – he would calm down my mum because I was a brat and I put her through a lot. I was having issues with rejection. My family did not want me. How could a stranger? I don't know what he did but he just fixed everything. He was really informal (Georgia, foster care, 18).*

*[Worker] is professional but she is also a human. She treats me more like a human not a robot. Like she will talk about her family and stuff like that. I know it's their job so they are professional, but they need to be able to know the line... The different role of the worker versus the family. Integrity in themselves is the most important thing. The case worker is representing you as a person. Like [worker] does. She is a loud mouth, but she is so good at representing me. She is strong enough to get my point across. She knows I am a human being and she thinks in that way. She puts herself in my shoes (Luke, foster care, 13).*

*She made it clear to me what her job is. I don't think it was that hard for her... I told [worker] about my AOD problems once I became close to her, now she's hooked me up with [support service]. I would never have done that if I didn't trust [worker] (Jake, residential care, 14).*

Some workers were too impersonal. This made it difficult for children and young people to form a trusting relationship with them.

*It's like they have a book and they have to stick by it. 'This is the way it goes – you are a foster child – you're not a human. This is the way everyone has to do it' (Sofia, foster care, Aboriginal, 16).*

*I have learnt over the years you can't trust them [Child Protection workers or counsellors] because they can't get emotionally involved so if you tell them something they will blab to the office (Riley, foster care, 14).*

*They're too impersonal. Didn't even know my name, they could have asked what name I go by. Always dressed up in heels and office wear. Also, no male workers. Not relatable all in pencil skirts and high heels – I'd look at them and be like, 'What do you know about kids?' (Sienna, foster care, 20).*

*The workers after that were very much 'by the book', they would be like doing the minimum and just ticking boxes, wouldn't treat us as an individual or get to know me. With workers after that, half the time you didn't know when they were leaving or whatever. I get that we are sort of a 'client', but we are also children (Hayley, foster care, 16).*

A number of children in foster care said that regular contact helped children and young people build trust in their worker.

*I see my worker currently every fortnight. I think that should be the minimum and they need to get to sit down have a chat, get to know me. My worker now has done that and that has meant I trust her. The most important thing I would look for is that they understand the importance for young people to develop relationships, and that understanding their role is to seek the child's needs first and this is done by understanding the young person (Christopher, foster care, 16).*

*I see my [CSO] foster care worker every two weeks. I like my foster care worker. My foster care worker is just there when I need him. I don't see him as a worker, I see him more as a friend. I have known my foster care worker for a few years (Brian, foster care, 15).*

*He sees me once a month, has a chat. Calls me once a week to check in, always wants an update on how I'm doing etc. Always checking on what I want to be involved in outside of school. He helps arrange things. I've had good workers, like [worker's name] is a good worker. I have a new DHHS worker now, but I can't remember his name (Ethan, kinship care, 16).*

*We speak to [CSO worker] 24/7 (Monique, kinship care, 12).*

*Need one worker who you can go to, a consistent worker. My worker for like a year or two was amazing like that. He was very hands on. He would touch base with me and get to know me (Hayley, foster care, 16).*

A significant number of children and young people told us that they were not able to develop a relationship with their worker because of the limited contact they had with them.

*My fucking worker forgot my name, like you just feel like shit. I felt like a burden. I felt like I should just run away 'cos they have too many kids, [worker] would say 'My job is so hard, I'm really trying' (Gabrielle, foster care, 15).*

*DHHS don't do shit ... I don't see him very often – he gets the resi to tell me stuff – he wouldn't see me for four months at a time (Annabelle, residential care, 16).*

*We do have a worker, haven't seen her for a very long time, but we do have one, don't remember her name (Claudia, foster care, 11).*

*Walked around with no shoes for months. People told me to ask the DHHS worker. I couldn't find him. No one responded (William, residential care, 16).*

*My ICMS [Intensive Case Management Service] workers and YJ [youth justice] workers know nothing about me. They don't know what I really want when I leave resi (Owen, residential care, 15).*

Young people told the Commission that their workers did not have time for them as they were too busy.

*Workers have too much work...At [CSO] there have been many workers – they leave because of the workload. [Current worker] is great, but she's got two jobs, intake and case management (Kevin, foster care, 17).*

*To be honest I think my worker will only agree to things if it is less effort for him. He has lots of things going on and he's always busy. He has his priorities. He is always ready to answer the phone but I don't feel that he really listens to what I want (Landon, foster care, 16).*

*My worker did what she said she would do but she's not reliable because she has so much shit on her plate. She'll get around to it but she's so busy (Alyssa, residential care, 16).*

Contact with Child Protection workers was particularly limited. Children and young people told the Commission they had only met their Child Protection worker once or twice during their time in care, and sometimes they had only ever received contact by telephone.

*I don't know my DHHS worker. I don't know how to contact him. I would like to. I don't know if what I'm saying is getting through or not. There's lots of things I'm not aware of. I am 15 years old – I should be able to hear what they are saying about me. I know they are always talking about me behind my back (Mckenzie, foster care, 15).*

*I have met one DHHS worker once in four years and then only by phone (Kevin, foster care, 17).*

*I don't know who my DHHS worker is (Brian, foster care, 15).*

*Child Protection workers do not have enough time. Their case loads are too high. You can't build up trust with these workers, they are just working on files not about the person. Ideally workers should spend time with a young person, doing activities not just meeting in an office. They should build a rapport. The young person should be the priority not the file notes (John, kinship care, 14).*

*We do have a DHHS worker but he's different now – we don't really know what they do. We've only met him once (Monique, kinship care, 12, Aboriginal).*

Children and young people expressed their frustration about having a number of different workers involved in their case. This impacted their ability to trust their worker.

*[My] siblings and me will have a lot of different workers. You never got to know them so you never got to trust them. They never stuck around or said what their job was, how they could help us or what we could do. We could have seven different workers in a month. Are you here to work with us or just do what other people tell you to do and leave? (Layla, foster care, 16).*

*My workers kept going missing. The workers didn't stick around. I wasn't really involved so it didn't bother me, but every time a worker came to see me it was a different person (Alyssa, residential care, 16).*

*Honestly, I've had like so many workers, like I could have had 70 different workers in a month and some of them I would never even know them at all (Kate, foster care, 15).*

*He just left my case, and then I got another person put on my case. People changed my case like 10 times [...] I never knew what the fuck was going on (Robert, residential care, 19).*

*We probably had about 20 DHHS workers. Also, there were times when we had no workers allocated. I remember I'd come home for school and you know how government cars have different number plates? I'd see their car and go like, 'Oh for fuck's sake'. They'd just sit there and say the same shit every time and they're new every time and always ask the same questions (Sienna, post-care, 20).*

*I've had five different workers in the past year. My very first worker met me twice in a month. Next didn't meet both of them. Worker used to say bad stuff about my mum doing drugs calling her a 'junkie' and things like that. She ended up retiring (Jake, residential care, 14).*

*It is hard when you get to know a worker and they move on (Ashton, lead tenant, 17).*

*At one point, I had to ring up and ask who my worker is. I think we were going to court or something. My worker is always changing. It is actually impossible to know (Caden, post-care, 19, Aboriginal).*

The Commission repeatedly heard during consultations with children and young people that workers who were working most closely with children and young people, including case workers, had the least amount of decision-making authority. Children and young people said they valued a worker who provided support and had the authority to make decisions and helped them get things done.

*There is like a hundred guidelines for one little thing, needs to go through a million people and by the time it happens it's forgotten about and that's a small thing for some people and a big thing for me. So, I dunno (Kate, residential care, 16).*

*The amount of approval that you need to go places and things. It means I have to wait and the difference between 'normal' kids and compared to me and the other foster kids, we have to go through a huge process just to go for one night and for a weekend trip. It makes us and 'normal' kids different and we stand out from the rest. I missed out on a number of things because of things like that and holidays, and it has had a huge impact on me. If DHS understood the impact some things that are easy like that have on us, I hope they could change it. So I think the agency working with the young person should have the power so it's not a ten step thing to do normal stuff (Christopher, foster care, 16).*

*[CSO workers] are good, we like them. Go fishing and talk to [CSO workers] about problems (Charles, foster care, 10, Aboriginal).*

*I had some support from [CSO] but the first worker that I had was not good and didn't do anything for me and would not show up. My auntie complained to the manager and I got a new worker. He is much better and does things for me. He says he will meet with me every fortnight and he does (Brianna, kinship care, 17, Aboriginal).*

*Even if I was having trouble I had no confidence that they would have done anything. Like most kids in out-of-home care – we don't trust DHHS workers (Sienna, post-care, 20).*

Children and young people said that it was important for their worker to listen to them and not take the carer's side.

*I've told my caseworker – [CSO] that I feel unsafe and want to move placements. She said we can look at placements. But I think she's more on my carer's side because I've been there since I was little. Even my counsellor thinks that. My response is I might have a little bit of attachment but not enough to stay. My important years are coming up (Mckenzie, foster care, 15).*

*They interviewed me in front of my [carers]. It was in mediation. I was sitting in front of the desk and I had to speak about them in front of them. Of course, I wasn't going to say they abused me. So, then they just think, ok it's all great (Gabrielle, foster care, 19).*

*Worker goes with the carer not with the kid – that shouldn't happen, the worker should go with the kid. They didn't listen to anything I was saying. I told them I was going to run away and then I did. I felt like DHHS was more supportive of my family than of me (Ellie, foster care, 15).*

## Research and analysis about having a good worker

The importance of having a positive relationship with an independent person, to talk to and seek advice from, cannot be understated. Studies have shown that for children and young people in out-of-home care, the influence of a case worker or mentor can influence positive life outcomes.<sup>642</sup> For example, a study in the United States found that young people with a worker or mentor were more likely to complete high school and gain employment and less likely to use alcohol or drugs or to experience homelessness.<sup>643</sup>

<sup>642</sup> Collins ME et al. 2010, 'Supporting youth in the transition from foster care: formal and informal connections', *Child Welfare*, vol. 89, no. 1, p. 137.

<sup>643</sup> Ibid.

The relationship that children and young people in out-of-home care have with their case worker can be one of the most stable in their life, particularly if they have experienced a large amount of placement instability throughout their time in care. Workers can play many roles in a child's life. In addition to being a source of information and advice, they are 'uniquely positioned to model, teach, and promote healthy relationships for youth in foster care'.<sup>644</sup>

Workers provide children and young people in out-of-home care with multiple forms of support, including emotional (trust, caring), instrumental (transport, services), informational (advice and guidance) and appraisal (feedback).<sup>645</sup>

The literature recognises that recovery from trauma must take place in the context of healing relationships.<sup>646</sup> Forming trusting relationships with children and young people in out-of-home care is particularly important as they are likely to have experienced the negative effects of disrupted attachment, relationship breakdowns, maltreatment and neglect, and other adverse childhood experiences.

Building a trusting relationship between workers and children and young people is considered one of the best predictors of positive outcomes.<sup>647</sup> Developing a therapeutic trusting relationship with workers is necessary to reduce potential re-traumatisation and further disconnection. This approach aligns with the principles of trauma-informed care.<sup>648</sup>

Children and young people value a worker who delivers on their promises.<sup>649</sup> CREATE found that 63 per cent of children and young people surveyed found their caseworkers to be 'helpful'.<sup>650</sup> However, they also said that their case worker was no more

helpful to them than family and friends.<sup>651</sup>

Children and young people informed the Commission that a good worker is someone who:

- is trusting and caring
- visits regularly
- is consistent and stable
- provides support.

### **Barriers to trusting relationship with workers**

Chapter 5 outlines barriers to participation with children and young people. These effectively mirror the barriers that prevent children and young people from forming trusting relationships with their workers:

- lack of regular contact with workers
- high worker case loads
- high turnover in workers
- number of children and young people without an allocated worker.

Through this inquiry, the Commission found that despite Child Protection policy prioritising engagement with children and young people, it did not always occur.

### **Workforce capacity**

As outlined in Chapter 5, data provided by the department about the Child Protection workforce indicates that, while positive, attempts to grow the workforce over the last few years have resulted in a surplus of junior staff. Limited practitioner experience can have a negative impact on the level of service being delivered to children in care.

Growing the workforce and increasing experience and retention have been raised as a major concern for the department,<sup>652</sup> and the community services sector.<sup>653</sup> The constant churn in the out-of-home care sector makes it difficult for workers to gain the necessary experience to engage with children meaningfully. It also drains existing limited resources by continually having to train and develop new staff.

<sup>644</sup> Augsberger A and Swenson E 2015, op. cit., p. 235.

<sup>645</sup> Ibid.

<sup>646</sup> Bath H 2008, op. cit.; Anglin JP 2014, *Pain, normality, and the struggle for congruence: reinterpreting residential care for children and youth*, Routledge; and Mendes P et al. 2014, op. cit.

<sup>647</sup> Moore T et al. 2018, op. cit., citing Kopta SM et al. 1999, 'Individual psychotherapy outcome and process research: challenges leading to greater turmoil or a positive transition?', *Annual Review of Psychology*, vol. 50, no. 1, p. 69.

<sup>648</sup> Mendes P et al. 2014, op. cit., p. 41–42.

<sup>649</sup> Cashmore J 2002, op. cit., p. 843.

<sup>650</sup> McDowall J 2018, op. cit., p. 106.

<sup>651</sup> Ibid.

<sup>652</sup> DHHS 2018k, op. cit., p. 14.

<sup>653</sup> ACOSS 2011, *Australian community sector survey*, ACOSS, New South Wales.

Given the structure of the community services sector in Victoria, it is difficult to obtain up-to-date data on attrition and retention rates of that workforce. The department advised the Commission that it does not collect, monitor or track workforce data of funded agencies delivering services to children and young people in out-of-home care. This is a major concern, particularly as we heard from many children and young people in out-of-home care about how frequent changes in workers adversely impacts on their experience of being in out-of-home care.

### **Child Protection workforce strategy**

The department has developed the *Child Protection workforce strategy 2017–2020* to address concerns about worker turnover, among other things. The strategy has five priorities:

- attracting and recruiting the best people
- building a professional identity for the workforce that recognises Child Protection as a valued profession of the highest integrity and competence
- growing and developing ‘our people’
- engaging and retaining ‘our people’
- the wellbeing of our workforce – our goal is to ensure immediate and responsive mental health support and to develop innovative approaches to the health, safety and wellbeing of our workforce.<sup>654</sup>

The department has acknowledged that there are not enough alternative entry pathways for experienced recruits and that it currently relies heavily on internal progression for CPP4-6 roles.<sup>655</sup> However, given the high staff attrition rates particularly within the first three years, this is an unsustainable recruitment solution.

### **Finding 40: Trusting relationships with workers**

Some children and young people informed the Commission that they had a positive experience with at least one or two workers while they were in care. However, the majority of children and young people said that their experiences with workers were limited because:

- Their worker was not available to provide support.
- They did not know who their worker was.
- Their worker was too impersonal or busy to get to know them.

### **Finding 41: Workforce capacity**

High numbers of changes in workers impacts the level and quality of services delivered to children and young people in out-of-home care.

### **Finding 42: Information about funded agency workforce**

The department relies on services provided by funded agencies, particularly for children and young people in out-of-home care. The information known to the department about the workforce of funded agencies providing these services is relatively limited. The department does not currently track or monitor the workforce capacity or training of these agencies.

<sup>654</sup> DHHS 2018k, op. cit.

<sup>655</sup> Ibid., p. 15.

## Barriers to providing support

### ***Lack of authority to make decisions***

The current structure of the child protection system indirectly reduces the autonomy of workers working directly with children and young people in out-of-home care.

In relation to cases which are managed by a funded agency,<sup>656</sup> case managers are responsible for attending to most of the individual needs of some children and carers, while Child Protection retains responsibility for 'significant decisions'.<sup>657</sup> Child Protection policy provides that this includes decisions which fall outside the parameters of the case plan.<sup>658</sup> These often include decisions about approval for activities that may require additional funding (see Chapter 8). In these cases, workers need to contact the Child Protection worker and await approval, delaying the outcome.

Throughout our consultations with workers, we heard that lack of collaboration between agencies and Child Protection impacts on workers' ability to provide support.

*One agency doesn't allow us to contact any carer directly, even if it is saying that contact has been cancelled today. Other agencies will do that and they will say that's not our role you can ring the carer yourself. It's a bit petty in that way but in some ways you can kind of see they want to protect carers etc, but again it misses the fact the kids are at the centre of this (Child Protection staff member).*

<sup>656</sup> In response to the draft report, the department advised that most case management for kinship care, the largest placement type, sits with Child Protection. For foster and residential care only approximately 50 per cent of children are case managed by an agency.

<sup>657</sup> DHHS 2015b, op. cit.

<sup>658</sup> Ibid.

The Commission found that this issue also impacts on cases managed by Child Protection. Children and young people in care come into contact with a large number of Child Protection workers with varying degrees of authority to make decisions about their care. This results in double-handling and increases the chance of workers missing children and young people's requests. This issue is discussed in more detail in the section below.

This fragmentation of decision-making power causes significant confusion for everyone involved, especially children and young people. Streamlining workers' ability to make decisions consistently was raised in our consultations with carers and is discussed in more detail in Chapter 10.

### ***Large numbers of professionals involved***

It is common for children and young people in care to have a large number of professionals working with them at any given time. Some of the children and young people we spoke to were confused by the number of workers they had contact with. They could not always remember their names, recall when they last visited, and had a limited understanding of their different roles. Throughout our consultations, we heard from children and young people that this creates confusion about worker role clarity.

As noted in Chapter 5, the child protection system has become increasingly fragmented, in order to maximise workers' time. Less complex tasks such as transport and supervising contact are typically allocated to lower level Child Protection workers.<sup>659</sup> The Commission found that this system greatly reduced the number of direct contact visits between children and their allocated worker. In a number of cases reviewed by the Commission (n = 17) the majority of contact between the young person and Child Protection was with a worker who was not the young person's allocated case worker, and was often a different worker on each occasion.

Workers interviewed by the Commission also commented on the confusing nature of the structure.

<sup>659</sup> DHHS 2015c, op. cit.

*There is always confusion around [the case management structure], even carers and professionals are confused about that. I can completely see that this is a thing. I think my team are clear about it but there is a lot of ambiguity which I don't think is beneficial for the young people at all. Some of that negativity around the department will come from professionals always saying, 'I'll need to speak to DHHS about this'. Sometimes this will lead to extra confusion around what is happening and it's one person speaking to another to another (Child Protection staff member).*

*I think there is a lack of clarity in the roles. It is so hard for [children and young people] to understand. Particularly when they had a great relationship with their Child Protection worker then they get contracted... you know that's what we do if a case is stable we will place them in [a funded agency]. [Young people] often see it like a good guy bad guy type of thing... It doesn't mean much – we can't outsource our statutory obligations (Child Protection staff member).*

The case study overleaf, based on a file reviewed by the Commission, illustrates the extremely high number of workers involved in each case.

### **Lack of training and development**

Child-centred and family-focused, relationship-based practice is a core capability that should be demonstrated by all Child Protection workers in practice.<sup>660</sup> Communicating with children and young people, particularly those who have experienced trauma, is a skill that requires training and experience. This chapter highlights the need for additional work to support skills, training and systems to engage with children and young people.

The majority (80 per cent) of the Child Protection workforce has a degree or higher in social work and psychology.<sup>661</sup> Funded agency staff interviewed informed the Commission that they relied on hiring case managers who have completed tertiary education to ensure a level of competency in trauma-informed care. The department's recent survey of funded agency case managers found that over a quarter (26 per cent) of the respondents held a diploma and just under half (47 per cent) held a bachelor degree as their highest qualification. Only six respondents reported that their qualifications did not equip them for their role, with the majority (n = 109) reporting that they felt partly or fully equipped.<sup>662</sup>

All Child Protection workers must complete the Beginning Practice course when they commence working. The department advised that there is a module regarding engaging children, young people and their families as part of Beginning Practice. In addition, the CREATE Foundation contributes to the Beginning Practice course by providing a two-hour module (presented by young people with care experiences), covering working with children and young people involved with Child Protection.

Most funded agency workers interviewed by the Commission said they had undertaken trauma training and had regular supervision or reflective practice. However, only one funded agency staff member confirmed that they received training on engaging and building rapport with children and young people.

*We have been quite fortunate as an organisation. We made an investment which cost a lot of money to bring in practitioners to train all staff (Funded agency worker).*

<sup>660</sup> DHHS 2018k, op. cit., 45-49.

<sup>661</sup> Ibid., 17.

<sup>662</sup> DHHS 2019b, *Case contracted management survey*, unpublished internal document, State of Victoria, Melbourne.

## Case study about Anna<sup>663</sup>

Anna was placed into the care of her grandparents by Child Protection when she was 13 years old. Anna and her sister were the subject of eight previous reports to Child Protection. These related to their exposure to family violence and their mother's poor mental health and drug use.

While they were in the care of her grandparents, Anna and her sister had supervised visits with their mother, as ordered by the Children's Court.

The list below outlines the number of professionals Anna was required to interact with during the 16-month period reviewed by the Commission.

1. Child Protection worker, A, first visit
2. Child Protection worker, B, transport – case worker
3. Child Protection worker, C, transport
4. Child Protection worker, B, transport – case worker
5. Child Protection worker, B, contact – case worker
6. Child Protection worker, D, home visit
7. Child Protection worker, E, case planner
8. Magistrate, court
9. Lawyer, court
10. Child Protection worker, B, case worker
11. Child Protection worker, F, contact
12. Child Protection worker, G, contact
13. Child Protection worker, H, contact
14. Child Protection worker, I, contact/new case worker
15. Child Protection worker, J, contact
16. GP, check-up and immunisations
17. Magistrate, court
18. Lawyer, court
19. Child Protection worker, I, case worker
20. Child Protection worker, I, contact
21. Child Protection worker, K, contact
22. Child Protection worker, K, contact
23. School principal
24. School teacher
25. Child Protection worker, G, contact
26. Child Protection worker, L, contact
27. Child Protection worker, M, contact
28. Child Protection worker, N, contact
29. Child Protection worker, L, contact
30. Child Protection worker, O, contact
31. Child Protection worker, M, contact
32. Child Protection worker, P, contact
33. Child Protection worker, Q, contact
34. Child Protection worker, R, contact
35. Child Protection worker, S, contact
36. Child Protection worker, R, contact
37. Child Protection worker, I, case worker
38. Child Protection worker, R, contact
39. Dentist
40. Child Protection worker, T, contact
41. Child Protection worker, M, contact
42. Child Protection worker, U, contact
43. Child Protection worker, V, contact
44. Child Protection worker, W, contact
45. Child Protection worker, R, contact
46. Child Protection worker, R, contact
47. Child Protection worker, R, contact
48. Child Protection worker, R, contact
49. Police officer 1, contact
50. Police officer 2, contact
51. Child Protection worker, X, contact

<sup>663</sup> This case study is based on a review of a live CRIS case file. The case study has been deidentified to protect the confidentiality of the child.

52. Child Protection worker, Y, contact
53. Child Protection worker, Z, home visit
54. Child Protection worker, AA, contact
55. Child Protection worker, AB, contact
56. Child Protection worker, AB, contact
57. Child Protection worker, AB, contact
58. Wellbeing worker 1, mental health check
59. Wellbeing worker 2, mental health check
60. GP, mental health plan
61. Child Protection worker, AC, contact
62. Child Protection worker, AD, contact
63. Child Protection worker, AB, contact
64. Child Protection worker, AB, contact
65. Child Protection worker, AE, contact
66. Child Protection worker, AB, contact
67. Child Protection worker, AC, contact
68. Child Protection worker, Y, contact
69. Child Protection worker, AB, contact
70. Child Protection worker, AA, contact
71. Child Protection worker, AC, contact
72. Child Protection worker, M, contact
73. Child Protection worker, AF, case plan meeting – new case worker. Anna was not invited
74. Child Protection worker, AC, contact
75. Child Protection worker, AE, contact
76. Child Protection worker, Y, contact
77. Child Protection worker, AB, contact
78. Child Protection worker, AB, contact
79. Child Protection worker, AB, contact
80. Child Protection worker, AG, contact
81. Child Protection worker, AG, contact
82. Child Protection worker, AH, contact
83. Child Protection worker, AG, contact
84. Child Protection worker, AG, contact
85. Child Protection worker, AG, contact
86. Child Protection worker, AG, contact
87. Child Protection worker, AG, contact
88. Child Protection worker, AG, contact
89. Child Protection worker, AG, contact
90. Child Protection worker, AH, contact
91. Child Protection worker, AH, contact
92. Lawyer, conciliation conference
93. Child Protection worker, AF, conciliation conference, case worker
94. Child Protection worker, AI, contact
95. Child Protection worker, AH, contact
96. Child Protection worker, AH, contact

During the course of Child Protection's involvement over 16 months, Anna came into contact with Child Protection and other professionals on 96 occasions.

Anna had three different Child Protection case workers, however her contact with them was limited. Anna was not invited to case planning meetings and most of the information about Anna was obtained through her carer by telephone.

The most contact Anna had with Child Protection was during her contact visits. Child Protection usually picked Anna and her sister up from school and took them to various locations for their contact visit with their mother. After two hours, the Child Protection worker would drive Anna and her sister back to their grandparents. Anna's contact visits with her mother were rarely supervised by the same Child Protection worker; the Commission counted 32 different Child Protection workers involved in these visits.

*One of the challenges is that [children's] needs are complex. They are individuals in their own right. The amount of training you get in Child Protection is exhaustive. When you get to a CSO, it comes down to the CSO to arrange training. We have asked to join training at the department and they said no. It comes down to cost (Funded agency worker).*

*Generally, when case managers are employed there is an expectation that they have completed tertiary training and staff have a level of competency (Funded agency worker).*

The training needs of Child Protection staff have recently been reviewed in the *Child Protection workforce strategy 2017–2020*.<sup>664</sup> This states that there are limited ongoing or refresher development opportunities for Child Protection practitioners,<sup>665</sup> particularly for lower-level case practice support workers,<sup>666</sup> and the department does not currently monitor or track participation in training and development, nor the impact of training and development on practice.<sup>667</sup>

The lack of attention paid to learning and development of Child Protection practitioners is unacceptable given the importance of their roles and the vulnerabilities of children and young people in out-of-home care. The department's workforce strategy aims to strengthen training and development of Child Protection workers by establishing a structured continuing professional development model.<sup>668</sup> In the Commission's view, this approach is vital and overdue. Training and development of the Child Protection workforce must be prioritised and adequately resourced.

The Child Protection workers we consulted had mixed views about training and development opportunities within Child Protection. Most workers said that they had received some form of training about trauma-informed care. None of the Child Protection workers

had received any training on communicating and engaging with children and young people.

*Head office runs [training], a lot of this is focused on younger kids and early intervention type study. Although nine times out of ten we are working with older kids who have been through a lot more trauma (Child Protection worker).*

*There is training. Engagement and interviewing training is provided to new practitioners. There is so much importance about being able to build a rapport with the young person, then you are able to utilise those skills and understand the interests the kids have and be able to build on that. Some of this (rapport building) can be taught. Some I think comes with experience. To some degree these staff get enough training (Child Protection staff member).*

The department advised that its continuing professional development model is a commitment to supporting its Child Protection workforce to track the skills, knowledge and experience that they gain both formally and informally in their work. The department's Child Protection learning and development programs are not available to funded agency workers.

### **Competing priorities**

Reforms which prioritise record keeping to demonstrate compliance have been found in the United Kingdom to contribute to workers' inability to prioritise spending time with children and young people.<sup>669</sup> When interviewed by the Commission, both Child Protection and funded agency workers raised concerns about the amount of time taken up by administration and court. Workers reported that this impacted on their ability to do 'proper work' with children in out-of-home care.

<sup>664</sup> DHHS 2018k, p. 19.

<sup>665</sup> Ibid.

<sup>666</sup> Ibid.

<sup>667</sup> Ibid.

<sup>668</sup> Ibid., p. 9.

<sup>669</sup> Munro E 2011, *The Munro Review of Child Protection: final report, a child-centred system*, Government of the United Kingdom, UK, p. 7.

*We are a lot of things to a lot of people. Sometimes we are a taxi, we are doing court reports, we are in court both criminal and family, so many things take up our time (Child Protection staff member).*

*In my team the admin far outweighs the contact. But in any instance where we are required to go and engage with a young person, that takes the priority. I would like to say the contact outweighs the admin but I can't say that confidently. It certainly should be. How can we do admin if we don't have an accurate picture of what's happening with the child? (Child Protection staff member).*

*Well over 50 per cent of workers' time is spent on admin. And the pressure on those case managers... the case managers for the agency working on the ground are so admin heavy and then Child Protection ring them and ask why they haven't seen this kid for two weeks. It's the same on the agency side. I was just having a conversation this morning with a senior manager from an agency that the case managers are just feeling it so much in relation to documentation and admin 'cos then we are expecting them to go out and build rapport and engagement with these kids (Funded agency staff member).*

*You are at court, doing a report for another matter, taking phone calls while there, and managing a crisis. We waste so much of our time and days at court and on court reports. We need a dedicated person who can represent our workers at court, rather than have 15 workers at court on a Monday sitting around waiting (Child Protection staff member).*

*The weight of admin on practice is really heavy but necessary. We are governed and it's a statutory requirement (Funded agency staff member).*

During the Commission's interviews with Child Protection and funded agencies, a number of staff members also expressed frustration about the amount of time spent on cases that are in crisis. While often this meant that one case received a significant amount of attention, as one worker pointed out, this did not equate to spending 'quality time' with the child in that case.

*It fluctuates. When coming into care the first time or a placement breakdown [the child or young person and their worker] will spend a lot of time together. It's not quality time though and they probably would usually both prefer not to spend together because it is stressful and a truly traumatic time for the kid mostly. In terms of quality time it would be really minimal. Half an hour a fortnight perhaps. It fluctuates obviously but the quality time is just not enough. Not enough to develop quality relationships and trust (Child Protection staff member).*

### **Distance**

Concerns about the additional burden on Child Protection workers in regional locations who travel long distances have been raised in the context of other inquiries.<sup>670</sup> Workers located regionally have to factor in driving time to their workload, often supervising contact visits with family, which occur after school hours and can go on into the evening outside of work hours. The Commission heard that distance was also a barrier to some workers arranging regular contact with children and young people.

<sup>670</sup> VAGO 2018, op. cit., and Cummins PD et al. 2012, op. cit.

Workers interviewed for this inquiry located in rural areas spoke of spending a significant proportion of their time driving to and from visits with children and young people. They said traveling long distances reduced their ability to split their time evenly between children and young people whose cases they were managing.

*Something new for me down here is the geographical distance... what I'm finding down here is kids can be two hours away. It makes it really hard. Workload demand, court reports and admin tasks are just huge. It all gets in the way of being able to do the job. Being used as a transport service (Child Protection staff member).*

*The other issue with us is distance. You know we have clients in Melbourne at the moment and the worker will go down weekly. Getting assistance from another office is like pulling teeth so getting someone to do a home visit is impossible. Locally, even though we travel from [regional town] at least to [regional town] so another 1.5 hour drive, you are out for over half a day just to do a one hour home visit (Child Protection staff member).*

**Q: What are the barriers, if any, regarding your ability to engage with children and young people?**

*Time and distance, we live in a regional area (Funded agency staff member).*

**Q: If you were in charge of DHHS what would you do?**

*Maybe give a shit if you're going to work here. DHHS overlook so much. They take people out of placements that are ok, and they leave people in places they shouldn't (Jane, residential care, 15).*

## Finding 43: Workers' ability to provide support

Interactions between workers and children and young people were most effective when they were regular, relationship-based and trauma-informed. Children and young people informed the Commission that their workers were, at times, ineffective and unhelpful because they:

- did not have sufficient decision-making authority
- were not focused on their needs, but rather, the needs of their carers
- did not have the ability to recognise or respond to their trauma
- were affected by practical factors, such as distance and competing priorities.

# Chapter 12

## Reforming the out-of-home care system



### Chapter at a glance

- The pressures on the out-of-home care system are well known and have been documented in past inquiries and recognised in the Victorian Government's Roadmap for Reform strategy.
- While the Victorian Government has made positive inroads, significant extra investment and major reform is required.
- The Victorian Government should make changes that focus on:
  - stemming the flow of children and young people coming into care
  - ensuring adequate and effective investment in the child protection and out-of-home care system
  - addressing the over-representation of Aboriginal children and young people in out-of-home care.
- The Victorian Government should also implement change to meet its legislative obligation to provide care 'as a good parent would' by:
  - listening to the voice of children and young people and enabling their effective participation
  - fostering connections with family, friends and community
  - providing care that is stable, safe, home-like and therapeutic ensuring that there are therapeutic pathways to a stable home.
- Finally, reform is needed to ensure better departmental tracking and monitoring of the system and, in particular, of how the children and young people are faring within that system.

*I thought I was loved and then all of a sudden it felt like I am just a number on the spreadsheet kind of thing (John, foster care, 16).*

## Introduction

The purpose of out-of-home care is to provide alternative care options for children and young people where their parents are unable to safely look after them. The system has been built with the intention of creating safe, stable and caring environments in which children and young people can be raised and develop to reach their full potential. Despite a number of positive efforts towards reform to reduce pressure on carers and the workforce, increasing strain on the system and chronic under-resourcing of those working with and caring for children is significantly limiting its capacity to address the fundamental needs of children and young people in care.

Children and young people across Victoria have told us they want their opinion to be heard in decisions made about them and to feel that they matter. They want greater stability, safety and a place that feels like home. They told us they want kind, supportive and consistent workers and carers. Those who have experienced trauma through abuse and neglect told us they want those around them to understand how that trauma impacts upon them and to help them to heal and recover. Too many said that these things are not happening.

A clear and repeated message from the children and young people we spoke to was that they did not feel cared for, that instead they felt dehumanised by the system.

*It basically feels like you're a puppet and they're just pulling the strings (Samantha, residential care, 16).*

The preceding chapters in this report have set out findings based on what young people have told us about the key aspects of care that matter to them and what the system data and other research tells us. This chapter sets out the recommendations which flow

from these findings in the context of what is already well known about the stressors on the system and the significant work that has already been done by the government as part of *Roadmap for Reform: Strong families, safe children* (Roadmap). Progress has been made, but much more is required.

## The system pressures are already known

Over the past decade, a number of inquiries<sup>671</sup> have repeatedly highlighted the challenges in the out-of-home care system which prevent it from meeting the basic needs of children and young people in care, including:

- difficulties coping with the year-on-year growth of children and young people entering care
- limited capacity to respond to the increasingly complex needs of children and young people entering care, including the effects of trauma and abuse
- poor safety in all forms of care, particularly in residential care
- lack of appropriately supported foster and kinship carers
- lack of appropriately skilled residential workers

<sup>671</sup> These include:

- Victorian Ombudsman 2010, *Own motion Investigation into Child Protection: Out of Home Care* (Melbourne: Ombudsman Victoria, 2010)
- The Hon. Philip Cummins 2012, *Protecting Victoria's Vulnerable Children Inquiry*
- Commission for Children and Young People 2015 *...as a good parent would... Inquiry into the adequacy of the provision of residential care services to Victorian children and young people who have been subject to sexual abuse or sexual exploitation whilst residing in residential care*
- Commission for Children and Young People 2016, *Always was always will be Koori children: Systemic inquiry into services provided to Aboriginal children and young people in out-of-home care in Victoria*
- Commission for Children and Young People 2017... *Safe and Wanted... Inquiry into the Implementation of the Children, Youth and Families Amendment (Permanent Care and Other Matters) Act 2014.*

- a failure to match children and young people with appropriate placements
- reliance on residential care to ‘fill the gap’ in foster care
- an increasing and increasingly disproportionate number of Aboriginal children and young people in the system
- a failure to support Aboriginal children and young people to maintain a connection with siblings, family, community and culture, despite legislatively mandated requirements such as cultural support plans and compliance with the Aboriginal Child Placement Principle.

### The Roadmap for Reform

Against the backdrop of these inquiries, the Victorian Government released Roadmap in April 2016. Roadmap clearly recognised the significant pressures on and problems in the system and committed to long-term major transformation of Child Protection, out-of-home care and child and family services. Roadmap contains three key reform directions, the third being:

*[s]trengthening home-based care and improving outcomes for children and young people in out-of-home care.*<sup>672</sup>

Since the release of Roadmap, the Victorian Government has allocated additional funding to:

- continuing the transfer of case management of Aboriginal children in care to ACCOs and supporting the recruitment of Aboriginal foster and kinship carers and improved cultural support planning
- increase the number of foster carers and provide them with additional supports (this increased funding is supported by the development of a carer strategy to support carers in providing consistent and quality care to children and young people)
- improve residential care environments and provide therapeutic models of residential care

- improve outcomes for Aboriginal children and young people through the transition of placement and case management supports to ACCOs and support the recruitment of Aboriginal foster and kinship carers and improved cultural support planning
- recruit an additional 650 Child Protection staff across the department’s four operational divisions
- introduce a new kinship care model to strengthen reunification (where appropriate), promote placement stability [and] reduce the likelihood of entry into residential care.<sup>673</sup>

### The South Initiative

As part of the Roadmap activity, the department has also funded and initiated a series of pilots in South Division (collectively referred to as the ‘South Initiative’). These trials aim ‘to test, refine and evaluate new and innovative services for children in, or at risk of entering, care, including residential care’.<sup>674</sup> The initiatives include:

- Treatment Foster Care Oregon (TFCO) – a professionalised foster care model that provides an alternative placement option to residential care.
- Keep Embracing Your Success (KEYS) – a model of residential care that provides a wrap-around service team to support young people. The model includes a live-in component and outreach support to assist young people to transition to lower intensity placements.
- Keeping Connected Sibling Support and Placement Service – a service aimed at keeping siblings together while longer term placements are identified which also provides therapeutic plans for new sibling groups.
- Return to Country program – which provides opportunities for Aboriginal children and young people living in out-of-home care to learn about and practise their culture.
- Kinship Care Reunification Program – which targets children and young people currently in kinship care to transition back to the care of their parents.<sup>675</sup>

<sup>672</sup> DHHS 2016h, op. cit., p. 32.

<sup>673</sup> Email from the department to the Commission dated 1 October 2019.

<sup>674</sup> DHHS 2018o, *The South Initiative*, unpublished internal document, State of Victoria, Melbourne.

<sup>675</sup> The status of these initiatives is outlined in Appendix:

## Measuring outcomes

Roadmap committed to improving how the system monitors how well children and young people in care fare. It proposed a new out-of-home care outcomes framework and identified the areas most in need of improvement.<sup>676</sup> This Children and Families Outcomes Framework is currently being prototyped for statewide testing<sup>677</sup> and the department advises that it 'identifies long-term, aspirational outcomes for children, families and the service system that will inform all aspects of policy and service design and service delivery'.<sup>678</sup> The department has also informed the Commission that it is 'using predictive analytics informed by linked data and soft intelligence to understand system pressures and patterns of service use to inform models of care'.<sup>679</sup>

## The need to transform out-of-home care remains

The Victorian Government's assessment of the need to transform out-of-home care as stated in Roadmap is built on a thorough understanding of the current pressures on the system.<sup>680</sup> It is clear that significant work and investment has occurred in the three years since that strategy was released and that further promising work is in train. However, despite these attempted reforms, children and young people's experience of care remains impacted by critical unresolved systemic issues:

- the number of children and young people in care is rising at a much faster rate than Victoria's population, especially Aboriginal children and young people, and this is placing increasing strain on the capacity of the system to meet the needs of all children and young people in care
- the problem of placement instability – especially for children and young people with complex trauma – is ongoing

Table 89.

<sup>676</sup> DHHS 2016h, op. cit., p. 32.

<sup>677</sup> Email from the department to the Commission dated 26 August 2019.

<sup>678</sup> Email from the department to the Commission dated 1 October 2019.

<sup>679</sup> Ibid.

<sup>680</sup> DHHS 2016h, op. cit., pp. 9–14.

- a lack of truly therapeutic placements for children and young people recovering from trauma and neglect
- residential care continues to be unsafe and re-traumatising for many children and young people
- foster carers are leaving the system at a faster pace than new carers are recruited<sup>681</sup>
- many workers lack the time and capacity to properly engage with children and young people in care
- the problem of high Child Protection staff turnover is unresolved.

For Roadmap to deliver its goal to improve outcomes for children and young people in care, the Victorian Government urgently needs to develop the next stages of the strategy, and dedicate the resources, focus and effort required to implement it.

## Key principles for reform

In response to the Commission's recommendations, the Victorian Government should be guided by the following reform principles:

- the need to stem the flow of children and young people coming into care
- the need for adequate investment in the out-of-home care system
- the need to address the over-representation of and lack of cultural support for Aboriginal children and young people in out-of-home care
- the need to build an out-of-home care system that provides care 'as a good parent would' and:
  - listens to the voice of children and young people and enables their effective participation
  - fosters connections to important people in the lives of children and young people
  - is stable
  - is safe
  - supports children and young people to recover from their previous experiences of trauma
  - ensures that there are effective pathways from residential care to more home-like environments
- the importance of tracking and oversight of the system and, in particular, of how children and young people are faring within that system.

<sup>681</sup> See Chapter 10. This is disputed by the department but is based on data published by the AIHW.

## Stem the flow of children and young people coming into care through early intervention

The focus of this inquiry is what it is like to be a child or young person in care, as well as what it might take to create an out-of-home care system more attuned to the needs of children and young people. However, adequately resourcing this should not be at the cost of stemming the flow of children and young people into the out-of-home care system through early intervention. From 2013–2014 to 2017–2018, early intervention services received around a quarter of the total investment, with around three-quarters going into statutory Child Protection and out-of-home care services.<sup>682</sup> In other words, the story of chronic under-resourcing to out-of-home care is far outstripped by the inadequacy of funding for early intervention and support, an issue which must be tackled as a matter of urgency in order to stem the increasing demand for services in the out-of-home care system. The Commission has made recommendations in relation to the need for investment focused on early intervention and prevention in its inquiry, *‘Lost, not forgotten: Inquiry into children who died by suicide and were known to Child Protection’*.<sup>683</sup>

## Resource the system properly

In addition to the clear need to invest more into early intervention, there is also a need to ensure funding is adequate and allocated most effectively to meet the developmental needs and ensure the safety of all children and young people in care. As outlined in Chapter 3, while overall funding to the Victorian out-of-home care system has increased significantly between 2009 and 2018, it remains consistently less than the Australian average per child, and resourcing of Child Protection services has not kept pace with the significant increase in reports and substantiations (see Chapter 3).

## Investment has increased under Roadmap, but more is required.

Investment in the system since Roadmap so far has been positive. As outlined in Chapter 3, more than 650 additional positions have been funded across four operational divisions in the past four years – a much needed and positive decision. However, funding additional positions is not enough on its own to prevent the significant attrition rate and the continued under-resourcing of the Child Protection workforce, particularly at the more senior level.<sup>684</sup>

Similarly, additional funding directed towards recruitment of and support for foster care placements is a much needed and positive development. In practice, however, this has not, on its own, been sufficient to prevent a net loss in carers.<sup>685</sup>

The new kinship model includes staff resources to find kinship places as well as additional funding to stabilise existing placements and support kinship carers. An additional \$5 million has been confirmed in the 2019–2020 budget to support and stabilise placements over the next four years.<sup>686</sup> This is much needed funding, however, given the approximately 6,000 kinship placements that exist around the state, more investment is required.

With the continuing shortage of carers and placement options for children and young people, placement decisions cannot currently be made in a way which adequately takes into account the individual needs of a child or young person. The shortage of placement options in the system also means that existing carers are under growing strain to take on children with increasing complexity. These pressures, left unaddressed, will continue to lead to placement decisions which are reactive, rather than based on the best interests and express wishes of the child or young person, which in turn increases the risk of placement breakdown.

Residential care provides placements for around 400 young people, or five per cent of the overall out-of-home care population and yet, it accounts for around 40 per cent of the overall budget. The allocation of such a high proportion of the out-of-home care

<sup>682</sup> Productivity Commission 2018, op. cit., Table 16A.7.

<sup>683</sup> CCYP, 2019, *‘Lost, not forgotten: Inquiry into children who died by suicide and were known to Child Protection’*, State of Victoria, Melbourne, p. 22.

<sup>684</sup> See Chapter 11.

<sup>685</sup> See Chapter 10.

<sup>686</sup> Email from the department to the Commission dated 25 August 2019.

budget is particularly concerning, given the fact that residential care is acknowledged by the department as a 'placement of last resort'<sup>687</sup> and consistently described by children and young people as violent and unsafe.<sup>688</sup>

The department has established a Residential Care Strategy working group through the Roadmap Implementation Ministerial Advisory Group (RIMAG). This working group includes sector and department representatives and young consultants/Ministerial Youth Advisory Group members. The aim of the working group is to generate and test short and medium term actions to improve the safety, effectiveness and connectedness of residential care which will form part of the Residential Care Action Plan to be tabled at RIMAG in November 2019.

The department has also succeeded in limiting the number of young people placed in residential care. This has been due in part to the success of targeted care packages (TCPs), which have been working as an important mechanism for stabilising placements and keeping children and young people out of residential care.<sup>689</sup> As at April 2019, the department reported that 858 TCPs had been allocated since their inception.<sup>690</sup>

Child Protection staff interviewed by the Commission often viewed TCPs positively, however they also expressed a common view that there were insufficient packages available, and that the packages were increasingly being used to support people in the lead up to exiting from care, rather than for diverting them from residential care. Some Child Protection workers also expressed confusion as to how TCPs were accessed and allocation decisions made.

It is also important to note that residential care placements have also been limited due to a freeze on new residential places and because some children and young people are housed instead in unsatisfactory short-term contingency placements. As outlined in Chapter 6, the department is using contingency placements where children are too

young, too 'complex' or where they have a serious disability. Such arrangements are a reactive use of funding, which could instead be used to create more appropriate therapeutic models of care for these children.

As mentioned above, there have been five pilots conducted in South Division. While it is important to trial new models and initiatives in order to evaluate and adapt them, it is equally important to plan for the lessons from pilot programs to inform state and system wide improvements. One of the programs has been discontinued, two are being evaluated and the remaining two have been extended until 2020, with future plans unclear.

In order to further target and prioritise resourcing to out-of-home care, the Commission recommends the following:

### **Recommendation 1: A new investment approach**

That, in line with *Roadmap for reform: strong families, safe children*, the Victorian Government develop, resource and implement an integrated, whole-of-system investment model and strategy for the child and family system.

The investment model should identify the resourcing levels needed for a safe and quality out-of-home care system by taking into account:

- drivers of demand
- key data and analysis relating to children and young people in the out-of-home care system
- the need to reverse the increasing numbers of Aboriginal children and young people entering out-of-home care.

The investment strategy should focus on maintaining safe and quality services in line with demand while also investing to reduce the number of children and young people entering care and improve outcomes.

<sup>687</sup> DHHS 2016h, op. cit., p. 29.

<sup>688</sup> See Chapter 6.

<sup>689</sup> A TCP is an allocation of funding attached to a child or young person and is tailored to their specific needs to prevent them from entering a residential care placement. See DHHS 2018q, op. cit., p. 7.

<sup>690</sup> Numbers provided by the department on 10 October 2019.

Strategies to reduce demand should include:

- targeted earlier intervention and prevention, prioritising the most vulnerable cohorts, including those with chronic and complex issues and children exposed to cumulative harm
- a focus on Aboriginal children and young people
- resources to work with children and young people in care and their families where reunification is in the child's best interests.

Strategies to improve outcomes for children and young people in out-of-home care should include:

- more suitable care placement options that are tailored to meet the needs of children and young people in care
- more focused placement planning to minimise placement changes
- additional service supports to assist sibling groups to stay together or help them reunify while still in care, especially for larger groups of siblings in kinship care
- supports to help carers maintain placements, including during times of crisis or difficulty
- measures to ensure children and young people are provided with appropriate and supported opportunities to participate in decision-making processes that impact on them
- funding for ACCOs to provide case management as part of the transition process to Aboriginal Children in Aboriginal Care
- significant ongoing training and development for Child Protection staff including in therapeutic and trauma-informed approaches to children and young people.

## Over-representation of and lack of cultural supports for Aboriginal children and young people

As outlined in Chapter 4, the number of Aboriginal children and young people in care has tripled since 2008–2009, from 687 to 2,027. Chapter 4 also set out the ongoing problems with cultural planning and the provision of cultural supports to Aboriginal children and young people. Significant efforts have been made by the Victorian Government, CSOs and ACCOs (under the oversight of the Aboriginal Children's Forum) to improve the implementation of cultural safeguards for Aboriginal children and young people in care, and early progress in relation to returning power and decision-making responsibility for Aboriginal children and young people in care to Aboriginal organisations and communities is promising. Nevertheless, challenges remain. The need to invest further in early intervention to prevent Aboriginal children and young people from entering the care system is addressed above in recommendation 1. To further support these efforts and also ensure Aboriginal children and young people's connection to culture, the Commission recommends the following:

### **Recommendation 2: Ensure compliance with processes and principles to support connection to culture**

That the department explore how accountability and governance measures can be strengthened at a regional and local level to lift the quality and implementation of legislated processes to support connection to culture for Aboriginal children and young people in care.

### **Recommendation 3: Address the over-representation of Aboriginal children and young people in care**

That the Victorian Government continue to support Aboriginal people's right to self-determination including through increased investment in community-led services and the gradual transfer of responsibility for the case management and case plan of Aboriginal children and young people in care to ACCOs.

### **Provide care 'as a good parent would'**

*It's not a normal job. It's working with families and homes. It's not just one of those jobs you get paid for. You have to have people that care (Sarah, kinship care, 15).*

The CYFA 2005 requires children and young people who come into state care to be cared for 'as a good parent would'.<sup>691</sup> The idea that a state-delivered service system would care for children and young people like a parent may seem intangible and difficult to achieve, however it is fundamental to providing children and young people in care with a more positive experience. In conversations with children and young people, their carers and workers, as well as through our own review of CRIS files, the Commission has identified the following key components of care that meets this standard:

- listening to the voice of children and young people and enabling their participation
- having a trusted worker
- fostering connections with important people in the lives of children and young people
- more stable, safe and home-like care
- therapeutic, in that it supports children to recover from their experiences before entering care.

<sup>691</sup> CYFA 2005, s. 174(b).

### **Voice and participation**

*Actually talk to [young people] about why things are happenings (Rhys, foster care, 17).*

Young people we spoke to repeatedly told us that they wanted to know about decisions being made about their lives and to have input into those decisions. They also told us that they were frequently left out of those decisions. The importance of participation is recognised in the legislation and in Child Protection policy.<sup>692</sup>

In Chapter 5 the Commission found that poor practice in relation to participation is often linked to case load pressures and the fact that children and young people have multiple workers, each of whom may hold only a limited understanding of how best to facilitate that young person's participation. The Commission's review of CRIS files confirmed that in practice, involvement was often incidental, tokenistic and that the opportunities to participate were limited because they were reliant on regular contact with the allocated case worker. Infrequent contact also meant that it was difficult to build trust and rapport with one worker.<sup>693</sup>

To ensure that the voice of children and young people is heard and that they are able to participate in decision-making, the Commission recommends the following:

### **Recommendation 4: Listening and responding to the voice of children and young people**

That the department review and revise all foundational guidance, training and tools to embed children's participation in decision making. This review should apply to existing guidance relating to all staff working with children and young people in care, including contracted agency staff.

<sup>692</sup> CYFA 2005, s. 10(1)(d).

<sup>693</sup> See Chapter 5.

The development of tools should:

- include paper-based and digital resources that can be used by practitioners during home visits to promote the inclusion of children and young people's views in decision making
- include ways to record views effectively and include them in practitioners' assessment of planning decisions.

That the department establish mechanisms to ensure that workers are allocated case loads which allow them regular face-to-face contact with children and young people in order to build trust and rapport and to facilitate genuine opportunities for children and young people to participate in decision making about them.

That the department amend relevant program requirements and guidelines relating to the placement of children and young people in care to ensure that, unless exceptional circumstances exist, children and young people are:

- informed about the proposed placement prior to the placement
- where possible, provided with the reason for any decision made by Child Protection or contracted agencies to place them in or remove them from a placement against their expressed wishes.

## Having a trusted worker

Children and young people in care told us they wanted workers who cared about them and that they could trust, someone who they could see regularly and who could provide them with support. Young people also told us that their ability to participate effectively in decision making depended on them having a trusted worker to support them.

Their lived experience was unfortunately often the opposite; they often lacked one stable worker who understood their needs and could help them navigate the system to meet their needs while in care. Workers confirmed that this was not occurring in practice due to high case loads and insufficient staffing.

*The reality is that the kids don't get the time with workers due to the resource issues, high work load...there is only one way to fix that is [through] more staffing and reduce the caseloads (Child Protection staff member).*

Targeted care packages appear to be an attempt to address the need for a key trusted person. They are implemented by a 'key worker', who is intended to play a 'pivotal role' and 'wherever possible' also provide case management to a child.<sup>694</sup> In practice, it seems that the 'key worker' role is an additional, often peripheral worker involved in a child's life, rather than a worker to replace all others, adding another layer of bureaucracy. In addition, under the guidelines for targeted care packages, a key worker will only become involved once it can be shown that a placement is at risk of breaking down,<sup>695</sup> or as we heard in consultations with Child Protection staff members, when a child is in residential care and preparing to leave care because they are turning 18. Neither of these scenarios provides an ideal context for building trust or rapport with a young person.

The rationale for a key worker is recognised in current departmental strategy. The department's pathways approach (referred to above) envisages implementing 'a lead practitioner model to enable children, families and carers to have a consistent relationship with a dedicated case worker and coordinator' who 'would take a lead role to coordinate and help connect people to the range of services they require'.<sup>696</sup>

### Recommendation 5: Provide a single point of contact/key worker for all children and young people in care

That the department ensure that there is a single point of contact or 'key worker' for all children and young people in care, with authority and access to resources to make day-to-day decisions related to implementing the child or young person's case plan and helping to navigate the system.

<sup>694</sup> DHHS 2018q, op. cit., p. 9.

<sup>695</sup> Ibid., p. 7.

<sup>696</sup> Email from the department to the Commission dated 1 October 2019.

That the department consider whether funding packages can be administered to 'follow' the child or young person as they move through different placements and be available regardless of where they live.

## Complaints

As outlined in Chapter 5, children also told us that they were not provided with information and were generally unaware about how to raise their concerns through complaints mechanisms. Even when aware, young people expressed a clear mistrust of such mechanisms, both in relation to their confidentiality, their capacity to understand young people's issues and the kind of changes they could produce.

Complaints handling processes need to be well communicated, and readily accessible by children and young people. Consultations with young people pointed to a need for clearer, more transparent and more child and young person-accessible mechanisms for raising concerns. While the current use of existing complaints mechanisms is unknown (due to agencies' approach to data capture) these mechanisms are not in any event tailored to children and young people. They are not, for example, adapted to be accessible to children and young people, such as by providing flexible options for children and young people to raise their concerns. Additionally, the data from those complaints is not analysed or used to drive systemic reform.

### **Recommendation 6: Establish a child and young person-centred complaints function**

That the Victorian Government establish an independent, specialised child and young person-centred complaints function to receive complaints from children and young people in care, including concerns about their immediate safety or ongoing concerns about their wellbeing while in care.

## Fostering connections

*We lost connection with most people when we moved in with my uncle. I was going through a lot of stuff and when ya like 10 years old, no one wants to hear that. It was hard to keep in touch 'cos it was hard to act the same after all the stuff that happened. I got supported by my friend and her mum through that time (Nona, kinship care, 14, Aboriginal).*

As outlined in Chapters 8 and 9, maintaining connections where possible and appropriate with siblings, family and friends and community is critically important for children and young people's sense of wellbeing. However, the Commission found that children and young people were often split up from their siblings and, while they did have contact with their parents, they sometimes lacked the ability to influence decision making about the circumstances and frequency of that contact. The Commission also heard that there were sometimes administrative barriers to connecting with friends and community, particularly for children and young people in residential care.

To support connections to family and community, the Commission makes the following recommendations:

### **Recommendation 7: Improving connections to family, friends and community**

That the department:

- in consultation with children and young people with a lived experience of care, design good-practice guidelines and training on how to support children and young people to participate in decision making about contact with parents, siblings, extended family and friends. Guidance should include how best to incorporate children and young people's views about contact into their case plan

- revise the case planning template and advice to include the requirement for planned activity towards reuniting separated sibling groups in care or clearly state the rationale as to why this should not occur
- review the adequacy of contact supports for children and young people in care with a disability, including a developmental delay or intellectual disability
- amend current case planning guidelines to improve planning and support for children and young people in care to develop and sustain safe, appropriate and positive friendships
- review the effectiveness of the current carer authorisation policy to maximise the participation of children and young people in care in activities in their community
- review the adequacy of the current budget allocation to support children and young people in all forms of care to engage in activities both inside and outside of their homes.

## Stable, safe, home-like and therapeutic care

*It's really hard when you have to think about it. Each time I had to move it would bring back all these memories and feel like the same shit was happening over and over again (Lewis, kinship care, 15).*

Care provided 'as a good parent would' needs to be stable, safe, home-like and therapeutic. Each of these elements are interrelated and the interventions to achieve one element will often also address the others.

### Stability

As outlined in Chapter 10, children and young people told the Commission that having a carer who can provide a stable, safe and loving environment is critical. In Chapter 6, we saw that placement instability is a chronic problem for many children and young people in care. This is in part due to a lack of available carers. It is also due to a lack of supports available to carers, particularly given the often complex trauma experienced by children and young people coming into their care. The need to increase carer numbers requires significant investment as outlined in recommendation 1 above. The other factor that drives instability is placement breakdown, which can happen for a variety of reasons, including where children are in placements that are unsafe, and where carers are not provided with sufficient supports to care for the children and young people in their care and to help them to heal from past trauma and abuse.

### Safe and home-like

In Chapters 6 and 7, the children and young people with an experience of residential care told us that it was:

- violent and unsafe
- lacking in rules and consequences
- prison-like, cold and institutional
- criminogenic – in that it exposed younger children to the drug use and misconduct of older residents
- an environment that inappropriately co-located residents with complex behavioural and mental health issues with other children and young people to their collective detriment.

While children and young people in kinship and foster care settings were far more likely to describe their placement as safe and home-like, they also sometimes reported feeling unsafe due to individual carers and/or because of other young people in the same placement.

In Chapter 6, the Commission found that many children and young people in residential care experienced an over-reliance by residential care providers on police to resolve incidents of challenging behaviour by young people. The Commission also outlined the 'agreed plan' between the department, the Department of Justice and Community Safety,

Victoria Police and the Centre for Excellence in Child and Family Welfare aimed at reducing the high rates of contact between young people in residential care and police and justice services. The Commission welcomes this collaborative interagency approach.

In addition to implementing measures to improve safety, placement mix and police involvement, there is a need to make residential care a more home-like place to live. Children and young people living in residential care wanted it to be more welcoming and to have more home-like comforts, including pets. Making care more safe and home-like should also improve stability and may also assist children and young people to heal and recover from past abuse.

### **Therapeutic**

A therapeutic approach to out-of-home care requires a system which is trauma-informed. Children and young people in out-of-home care are typically survivors of significant trauma and abuse, including family violence, parental drug use or mental ill health, and significant neglect of their basic needs. The *National Standards for out-of-home care* recognise that the ability of children and young people to recover from the effects of this trauma can be influenced by the quality of care they receive.<sup>697</sup>

This means that workers, services and the out-of-home care system must not only understand how trauma impacts on children and young people's development, but also be equipped adequately to respond. Trauma-informed responses are becoming increasingly common in the Victorian health and human services system. For example, Victoria's *Child Protection Manual* includes resources on child trauma and development,<sup>698</sup> and Victorian state health services are encouraged to adopt a trauma-informed approach to the delivery of mental health services.<sup>699</sup>

A trauma-informed response is dependent on and intersects with stability and safety and access to a home-like environment as outlined above. Voice and agency is also a recognised component of a therapeutic approach. Trauma-informed practice also requires that there be opportunities to develop positive and nurturing relationships with carers and workers, and that those working with children and young people are able to focus on addressing the trauma behind challenging behaviours.<sup>700</sup>

The behaviours of children and young people in care can sometimes be challenging as a result of past unhealed trauma.<sup>701</sup> Instead of focusing on purely punitive or disciplinary responses to such behaviours, carers and services working with these children and young people need to concentrate on addressing the trauma-related origin of the behaviours and providing them with opportunities for emotional healing.<sup>702</sup> Ensuring this kind of therapeutic response to trauma requires supports, training and guidance for those working with children and young people.

### **The Roadmap reforms – access to trauma-informed training and guidance**

Roadmap recognised that carers need training and support to help children overcome trauma associated with abuse and neglect.<sup>703</sup> It promised 'new models of support and training for foster carers and families and kinship carers, testing and refining models of professional foster care so that foster carers and families are a valued part of the treatment team for children and young people overcoming the impact of trauma'.<sup>704</sup> Roadmap also promised to upskill the workforce working in out-of-home care by establishing mandatory qualifications for residential care workers and upskilling the existing workforce.<sup>705</sup>

<sup>697</sup> Department of Families, Housing, Community Services, and Indigenous Affairs 2011, op. cit.

<sup>698</sup> DHHS 2015a, 'Child development and trauma', *Child Protection Manual*, <<https://www.cpmanual.vic.gov.au/our-approach/best-interests-case-practice-model/child-development-and-trauma/child-development-and>>, accessed 25 March 2019.

<sup>699</sup> DHHS 2018u, *Trauma-informed care*, <<https://www2.health.vic.gov.au/mental-health/practice-and-service-quality/safety/trauma-informed-care>>, accessed 4 June 2019.

<sup>700</sup> Reid, Carrie. "The Transition from State Care to Adulthood: International Examples of Best Practices." *New Directions for Youth Development*, vol 2007, no 113, 2007, 33–49, 36.

<sup>701</sup> *Ibid.*, p. 39.

<sup>702</sup> *Ibid.*

<sup>703</sup> DHHS 2016h, op. cit., p. 28.

<sup>704</sup> *Ibid.*, p. 28.

<sup>705</sup> *Ibid.*, p. 32.

In consultations with Child Protection workers, most said that they had received training in trauma-informed care. Most of the agency staff we spoke to also reported having received trauma-related training, although the level and nature of the training varied significantly between agencies.

While considerable work has been done in relation to ensuring that those caring for children and young people in out-of-home care have an understanding of trauma, more access to training is needed. As discussed in Chapter 10, while there is some free training through Carer KaFÉ for foster and kinship carers, the department does not currently track or monitor who has undertaken training.

The *Child Protection workforce strategy 2017–2020*, referred to in Chapter 11, acknowledges that there are limited ongoing or refresher development opportunities for Child Protection practitioners<sup>706</sup> and aims to establish a structured professional development model.<sup>707</sup> However, this professional development model does not appear to have been rolled out. The department does not offer professional development training to contracted agencies, nor does it track or monitor what training agencies are providing to their staff beyond the minimum qualifications required for residential staff since 2016.

The following recommendations are targeted at ensuring that care is stable, safe, home-like and therapeutic:

### **Recommendation 8: Ensure carers can access respite and other supports**

Consistent with the *Strong carers, stronger children* strategy, that the department ensure that foster and kinship carers can readily access respite and other supports when required with a particular focus on supports required to maintain placement stability.

### **Recommendation 9: Continue to improve support for kinship carers**

That, in addition to First Supports, provided to families in the first 12 months of the placement, the department develop measures as part of the *Strong carers, stronger children* strategy to ensure that:

- those kinship placements continue to receive supports after this timeframe where required
- the risk of placement breakdown is identified early so that so that resources can be allocated appropriately.

### **Recommendation 10: Improve face-to-face contact between workers and children and young people in care**

That the department provide clear guidance to Child Protection, CSO and ACCO workers with case management responsibility that when they have face-to-face contact with children and young people in care, they:

- ask about their safety not in the presence of their carers
- provide them with a clear way of contacting their worker if they do have concerns about their safety.

Later in this chapter, the Commission addresses the need for alternative options to residential care and makes corresponding recommendations. Noting, however, that developing and implementing alternatives to current models of residential care may take some time, the Commission makes the following recommendations aimed at addressing some of the current concerns about conditions in residential care.

<sup>706</sup> DHHS 2018k, op. cit., p. 19.

<sup>707</sup> *Ibid.*, p. 9.

### **Recommendation 11: Improve peer influences and relationships in care**

That the department, as part of its work to improve placement matching, develop and implement guidelines which:

- prohibit the placement of children aged under 12 years with older children or young people unless the older child is a sibling and it is in the best interests of the child
- provide guidance to improve decisions about the co-placement of children and young people with complex needs.

### **Recommendation 12: Reduce involvement of police in residential care**

That the department ensure that any inter-agency protocol to reduce the contact of children and young people in residential care with police and the criminal justice system is developed and monitored in consultation with:

- children and young people with an experience of residential care
- a representative Aboriginal Community-Controlled Organisation
- the Commission.

The implementation of this protocol should be supported by additional training and support for residential care workers in responding to and working with children and young people affected by trauma. This training and support should emphasise the need for consistency and predictability.

### **Recommendation 13: Improve the physical living environment of residential care**

That the department, in consultation with children and young people with an experience of residential care:

- develop guidelines about what a home-like residential care environment looks and feels like
- conduct rigorous assessments of residential care drawing on these guidelines
- ensure these assessments include speaking to children and young people within these units about their views on the extent to which the physical living environment feels like a 'home'.

### **Recommendation 14: Improve access to pets in residential care settings**

That the department:

- develop guidelines for contracted agencies to help them determine when it is in the best interests of a child or young person in care to have access to a companion animal
- support programs or initiatives which utilise a companion or therapy animal.

**Recommendation 15: Provide staff and carers with appropriate supports to respond to trauma**

That the Victorian Government ensure that appropriate supports are provided to deal with trauma, including:

- Kinship and foster carers should be supported and encouraged to learn about effective responses to trauma.
- All contracted agency staff should be required to undertake training in regard to trauma informed care.
- Learning and development for Child Protection staff that provides regular updates on evidence-based approaches to children and young people living with trauma.

**Therapeutic pathways to a stable home (rethinking residential care)**

*This is just a place for you to go when you have nowhere else to go. This can also be shit when kids are here that disrespect you [and] say nasty shit about you and throw you around the house (Garrett, residential care, 15, Aboriginal).*

**A lack of truly therapeutic options**

All children and young people in care who are recovering from trauma need a range of truly therapeutic options which can support them to make the transition to living in a family-like environment, including back home with their parents where this is safe and in the best interests of the child or young person. However, the current system lacks therapeutic placements for children and young people in care who have significant trauma and associated behavioural issues.

Too many children and young people are placed in residential care with other traumatised young people. Young people with an experience of residential care told us repeatedly that people with significant behavioural issues – who require intensive and therapeutic support – should not be placed in residential or home-based placements with other young people until they are ready.

**The transformation of residential care promised under Roadmap has not been realised**

This vision of specialised care that would help young people to transition to home-based care was articulated in Roadmap. Roadmap, noting the concerns raised by recent inquiries concerning residential care, recognised that:

*Residential care needs to be transformed from a placement of last resort to a program of intensive treatment and stabilisation for young people with complex behaviours, so that home-based care is sustainable.*<sup>708</sup>

Roadmap also specifically recognised that '[i]t is vital for children under 12 to be kept out of residential care'.<sup>709</sup> To achieve this, the government committed to new targeted, home-based support models for children under 12 with complex behaviours.<sup>710</sup> In 2018–19, the department allocated \$40.5 million to targeted care packages to move children and young people out of residential care and into supported home-based care.<sup>711</sup> The Victorian Government also committed additional funding to transform residential care from the current model to a 'clinical treatment model' (\$36 million).<sup>712</sup>

However, Roadmap's promise to 'transform residential care from the current model to a program of intensive treatment and stabilisation' has not, so far, been realised. While an interim evaluation conducted by Anglicare of its KEYS pilot project is promising in terms of improved outcomes for young people,<sup>713</sup> it is unclear what the plans for this model are after next year and whether the Victorian Government intends to expand upon the initial pilot.

Training for residential care workers – in both therapeutic and mainstream residential care – has also not been enough to transform residential care into a place of 'intensive treatment and stabilisation'. As a result of Roadmap, residential care workers are required to have a Certificate IV qualification. That qualification includes training about the impact of trauma and trauma-informed care. However, while training is important, the residential care setting is not trauma-informed for many children and young people because:

- The residential care workforce is highly casualised and there is a high turnover rate,<sup>714</sup> making it extremely difficult for children and young people to experience a positive and nurturing relationship with an adult as required as part of a trauma-informed approach (see Chapter 10).
- Residential care settings can often feel and be unsafe for young people, running counter to a trauma-informed approach.

The Commission acknowledges the range of supports and funding to support home-based care, and TCPs aimed at keeping children and young people out of residential care. However, a new approach to residential care is required, given the hundreds of children and young people who continue to experience harm in both residential care and contingency placements.

Instead of viewing residential care as one of a number of placement choices for young people – albeit the least favoured 'option of last resort' – the system needs to fund more flexible therapeutic supports and interventions that are aimed at transitioning young people into a stable home, including reunification with their parents where appropriate.

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**708** Victorian Government, *Roadmap for Reform: Strong Families, Safe Children – the First Steps* (Department of Health and Human Services, 2016), 32.

**709** Ibid.

**710** Ibid.

**711** Ibid.

**712** Ibid.

**713** Anglicare Victoria, *Keep Embracing Your Success (KEYS) Interim outcomes analysis*, 14 August 2019, p. 9.

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**714** See Chapter 10.

### Recommendation 16: Create therapeutic pathways to a stable home

That the Victorian Government create and fund a suite of therapeutic options for children and young people in care which support children and young people with complex trauma and challenging behaviours to transition over time to more family-like care environments including:

- a model of care, support and accommodation tailored to the child or young person's individual needs with continued transition support to facilitate them moving into home-based care
- more flexible placement options, including two bed or single bed placements with tailored and appropriately skilled staff (not through current contingency arrangements)
- a form of professionalised foster care.

That the Victorian Government increase funding and availability of therapeutic placement prevention and reunification supports for children and young people in or at risk of entering out-of-home care.

That the department develop the expertise, focus and capacity of Child Protection workers to assist families to achieve reunification, including case planning.

### Data systems to track, measure and monitor key outcomes for children and young people in the system

Throughout this Inquiry, the Commission has encountered significant gaps in the data collected and reported on by the department including:

- measures to monitor the total number of placement changes children experience in out-of-home care (including reliable respite care numbers)<sup>715</sup>
- information which would assist in the review of the characteristics of children who have experienced high levels of placement changes<sup>716</sup>
- measures to monitor or report on the number of children in out-of-home care who have been successfully reunified with their family<sup>717</sup>
- regular reporting on sibling groups<sup>718</sup>
- measures to track or monitor contact between siblings<sup>719</sup>
- data relating to kinship care assessments.<sup>720</sup>

Without the ability to collect and track information about how children and young people experience the system, the department is effectively making key decisions about the sequencing and prioritisation of policy direction and investment in the dark.

In order to ensure that data is used to inform decisions about sequencing and prioritisation of funding and effort, the Commission makes the following recommendation.

<sup>715</sup> See Chapter 6.

<sup>716</sup> Ibid.

<sup>717</sup> See Chapter 8.

<sup>718</sup> Ibid.

<sup>719</sup> Ibid.

<sup>720</sup> See Chapter 10.

### **Recommendation 17: Improve government monitoring of out-of-home care**

That the Victorian Government develop mechanisms to track and report on outcomes for children in out-of-home care to ensure that care services, policy and programs are focused on improved outcomes for children and young people in care. This should include the development of key indicators, including but not limited to:

- number of placement changes children and young people experience
- drivers and characteristics of placement breakdown
- frequency of contact with siblings and family members
- number of siblings living separately from one or more of their siblings in care
- successful reunification of children with their family
- timeliness of kinship care assessments
- funded agency workforce capacity and training
- contact between children and young people and their workers
- number of complaints received from children and young people in care is improved disaggregated by age and care type.

An appropriate internal governance body should be established to monitor and track these indicators and ensure that the data collected can inform implementation and sequencing of reform initiatives.

The internal governance body should provide regular updates to the Commission on these indicators and on the impact of reform initiatives on the indicators.

Appendix  
**Tables and figures**



## Chapter 3: The Victorian out-of-home care system

**Table 27: Out-of-home care cases managed by funded agencies and Child Protection and order type as at 31 December 2018 (n = 7,980)<sup>721</sup>**

Order type	Case management category		Total
	Funded Case Management	Child Protection Managed	
Care by Secretary order	1,763	1,073	2,836
Family reunification order	140	1,632	1,772
Interim accommodation order	12	1,573	1,585
No current order found in CRIS	131	1,012	1,143
Long-term care order	547	97	644
<b>Total</b>	<b>2,593</b>	<b>5,387</b>	<b>7,980</b>

Source: DHHS data extraction from CRIS database, population and case details in out-of-home care as at 31 December 2018. Data provided to the Commission on 31 July 2019.

**Table 28: Total Child Protection notifications by outcomes and year 2008–2009 to 2017–2018**

	Investigations in process	Substantiated	Not substantiated	Dealt with by other means	Total notifications
2008–2009	917	6,344	3,956	31,634	42,851
2009–2010	1,577	6,603	5,636	34,553	48,369
2010–2011	962	7,643	5,336	41,777	55,718
2011–2012	1,002	9,075	5,995	47,758	63,830
2012–2013	1,052	10,447	7,474	54,299	73,272
2013–2014	1,242	11,952	8,049	60,813	82,056
2014–2015	1,130	14,115	9,856	66,485	91,586
2015–2016	1,138	14,888	12,400	78,636	107,062
2016–2017	1,138	16,451	13,587	79,785	110,961
2017–2018	1,022	18,333	14,528	81,717	115,600

Source: Productivity Commission 2019, *Report on government services 2018*, Table 16A.4, Commonwealth of Australia, Canberra.

<sup>721</sup> Excluding the orders types with less than 100 cases (family preservation and undertaking) and permanent care orders. Also excluding the case management categories ACAC, and community partnership and permanent care.

**Table 29: Children and young people in out-of-home care by placement type and year 2009 to 2018**

As at 31 December	Foster care	Kinship care	Residential care	Other	Total
2009	1,362	1,931	420	54	3,767
2010	1,378	2,095	421	39	3,933
2011	1,417	2,395	475	38	4,325
2012	1,453	2,743	484	33	4,713
2013	1,465	3,106	464	18	5,053
2014	1,538	3,732	466	23	5,759
2015	1,545	4,305	460	34	6,344
2016	1,528	4,753	427	38	6,746
2017	1,570	5,069	440	18	7,097
2018	1,610	5,812	433	8	7,863

Source: DHHS data extraction from CRIS database, 10-year out-of-home care population trend, provided to the Commission on 10 March 2019 (excluding children and young people on permanent care orders).

**Table 30: Children in out of home care by Aboriginal status and year 2009 to 2018**

	Out-of-home care population for Aboriginal children and young people	Out-of-home care population for non-Aboriginal children and young people
2009	687	3,080
2010	778	3,155
2011	875	3,450
2012	972	3,741
2013	1,073	3,980
2014	1,263	4,496
2015	1,475	4,869
2016	1,632	5,114
2017	1,793	5,304
2018	2,027	5,839

Source: DHHS data extraction from CRIS database, 10-year out-of-home care population trend, provided to the Commission on 10 March 2019

**Table 31: Child Protection practitioner positions above or below target, by level of seniority, July 2017 to June 2019**

	Jul–Dec 2017	Jan–Jun 2018	Jul–Dec 2018	Jan–Jun 2019	Two year average
CPP-2	122	165	162	121	143
CPP-3	-12	47	99	129	66
CPP-4	-156	-130	-83	-35	-101
CPP-5	-211	-168	-161	-125	-166
CPP-6	-17	-9	4	6	-4
<b>Total</b>	<b>-274</b>	<b>-95</b>	<b>21</b>	<b>97</b>	<b>-63</b>

Source: Data provided in email to the Commission from the department on 20 September 2019.

## Chapter 4: My culture – Aboriginal children and young people in care

**Table 32: Aboriginal children and young people in care by Aboriginal carer in current placement (including permanent care) (n = 2,265)**

Aboriginal carer in current placement	#	%
No Aboriginal carer in current placement	764	34%
Not stated	934	41%
Aboriginal carer in current placement	567	25%
<b>Total</b>	<b>2,265</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, population and case details in out-of-home care as at 31 December 2018. Data provided to the Commission on 20 September 2019.

**Table 33: Aboriginal children and young people by Aboriginal carer in current placement and placement type (kinship and foster care only) (n = 1,924)<sup>722</sup>**

Aboriginal carer in current placement	Placement type				Total #	Total %
	#		%			
	Kinship care	Foster care	Kinship care	Foster care		
Not stated	663	174	43%	46%	837	44%
No Aboriginal carer	461	191	30%	50%	652	34%
Aboriginal carer	418	17	27%	4%	435	23%
<b>Total</b>	<b>1,542</b>	<b>382</b>	<b>100%</b>	<b>100%</b>	<b>1,924</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, population and case details in out-of-home care as at 31 December 2018. Data provided to the Commission on 20 September 2019.

<sup>722</sup> Excluding residential care, not captured for this care type.

**Table 34: Number and percentage of Aboriginal children and young people by sibling arrangement and DHHS area as at 31 December 2018 (n = 1,506)**

DHHS Area	Sibling group arrangement						Total #	Total %
	#			%				
	Placed alone	Placed with all siblings	Placed with some siblings	Placed alone	Placed with all siblings	Placed with some siblings		
<b>North Division</b>	135	217	115	29%	46%	25%	467	100%
Hume Moreland	19	19	14	37%	37%	27%	52	100%
Loddon	39	68	33	28%	49%	24%	140	100%
Mallee	40	58	30	31%	45%	23%	128	100%
North Eastern Melbourne	37	72	38	25%	49%	26%	147	100%
<b>South Division</b>	106	234	67	26%	57%	16%	407	100%
Bayside Peninsula	26	41	5	36%	57%	7%	72	100%
Inner Gippsland	28	57	26	25%	51%	23%	111	100%
Outer Gippsland	27	61	12	27%	61%	12%	100	100%
Southern Melbourne	25	75	24	20%	60%	19%	124	100%
<b>West Division</b>	112	203	67	29%	53%	18%	382	100%
Barwon	38	53	23	33%	46%	20%	114	100%
Brimbank Melton	20	28	8	36%	50%	14%	56	100%
Central Highlands	16	28	10	30%	52%	19%	54	100%
Western Melbourne	16	36	13	25%	55%	20%	65	100%
Wimmera South West	22	58	13	24%	62%	14%	93	100%
<b>East Division</b>	83	119	48	33%	48%	19%	250	100%
Goulburn	45	51	25	37%	42%	21%	121	100%
Inner Eastern Melbourne	9	11	3	39%	48%	13%	23	100%
Outer Eastern Melbourne	18	31	10	31%	53%	17%	59	100%
Ovens Murray	11	26	10	23%	55%	21%	47	100%
<b>Total</b>	<b>436</b>	<b>773</b>	<b>297</b>	<b>29%</b>	<b>51%</b>	<b>20%</b>	<b>1,506</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, population and case details in out-of-home care as at 31 December 2018. Data provided to the Commission on 31 July 2019.

**Table 35: Aboriginal children and young people by sibling arrangement and order type as at 31 December 2018 (n = 1,506)**

Order type	Placed with siblings						Total #	Total %
	#			%				
	Placed with all siblings	Placed alone	Placed with some siblings	Placed with all siblings	Placed alone	Placed with some siblings		
Care by Secretary order	229	182	130	42%	34%	24%	541	100%
Family reunification order	155	66	38	60%	25%	15%	259	100%
Interim accommodation order	123	69	28	56%	31%	13%	220	100%
Permanent care order	105	38	40	57%	21%	22%	183	100%
Long-term care order	67	42	43	44%	28%	28%	152	100%
No current order found in CRIS	84	38	15	61%	28%	11%	137	100%
Family preservation order	10		3	77%	0%	23%	13	100%
Undertaking		1		0%	100%	0%	1	100%
<b>Total</b>	<b>773</b>	<b>436</b>	<b>297</b>	<b>51%</b>	<b>29%</b>	<b>20%</b>	<b>1,506</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, population and case details in out-of-home care as at 31 December 2018. Data provided to the Commission on 31 July 2019.

**Table 36: Aboriginal children and young people by sibling arrangement and placement type as at 31 December 2018 (n = 1,506)**

Placement type	Placed with sibling/s						Total #	Total %
	#			%				
	Placed with all siblings	Placed alone	Placed with some siblings	Placed with all siblings	Placed alone	Placed with some siblings		
Kinship care	567	247	175	57%	25%	18%	989	100%
Foster care	79	110	75	30%	42%	28%	264	100%
Permanent care	122	48	41	58%	23%	19%	211	100%
Residential care	5	29	6	13%	73%	15%	40	100%
Other		2		0%	100%	0%	2	100%
<b>Total</b>	<b>773</b>	<b>436</b>	<b>297</b>	<b>51%</b>	<b>29%</b>	<b>20%</b>	<b>1,506</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, population and case details in out-of-home care as at 31 December 2018. Data provided to the Commission on 31 July 2019.

**Table 37: Children and young people by Aboriginal status and permanency objective as at 31 December 2018 (n = 7,888)**

Permanency objective	Aboriginal				Total #	Total %
	#		%			
	Aboriginal	Non-Aboriginal	Aboriginal	Non-Aboriginal		
Long-term out of home care	845	2005	42%	34%	2,850	36%
Family reunification	590	2084	29%	36%	2,674	34%
Permanent care	421	1123	21%	19%	1,544	20%
Family preservation	103	362	5%	6%	465	6%
Not stated	68	286	3%	5%	354	4%
Adoption		1	<1%	<1%	1	<1%
<b>Total</b>	<b>2,027</b>	<b>5,861</b>	<b>100%</b>	<b>100%</b>	<b>7,888</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, population and case details in out-of-home care as at 31 December 2018. Data provided to the Commission on 31 July 2019.

**Table 38: Aboriginal children and young people by compliance with the Aboriginal Child Placement Principle, for Aboriginal children and young people as at 31 December 2018 (including permanent care) (n = 2,365)**

ACPP	#	%
Not compliant with ACPP	814	34%
Compliant with ACPP	1,551	66%
<b>Total</b>	<b>2,365</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, Population and case details in out-of-home care as at 31 December 2018, provided to the Commission on 31 July 2019.

## Chapter 5: My voice

**Table 39: Child Protection managed cases by allocation status and order type as at 31 December 2018 (n = 5,310)**

Order type	Team leader allocated				Total #	Total %
	#		%			
	Allocated	Unallocated	Allocated	Unallocated		
Family reunification order	1,284	348	79%	21%	1,632	100%
Interim accommodation order	1,214	359	77%	23%	1,573	100%
Care by Secretary order	639	416	61%	39%	1,055	100%
Other order type or no order found on CRIS	666	287	70%	30%	953	100%
Long-term care order	62	35	64%	36%	97	100%
<b>Total</b>	<b>3,865</b>	<b>1,445</b>	<b>73%</b>	<b>27%</b>	<b>5,310</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, population and case details in out-of-home care as at 31 December 2018. Data provided to the Commission on 31 July 2019.

**Table 40: File review – Child Protection managed cases by number of worker contacts by placement type over six months (n = 48)**

Placement type	0	1-6	7-11	12+	Total
Foster care	1	4	1		6
Kinship care	4	26	1	4	35
Other placement type	1				1
Residential care	3	2	1		6
<b>Total</b>	<b>9</b>	<b>32</b>	<b>3</b>	<b>4</b>	<b>48</b>
<b>Percentage of total</b>	<b>19%</b>	<b>67%</b>	<b>6%</b>	<b>8%</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, reviewed during the period 1 April 2018 to 1 October 2018, or six months prior to the date of the most recent long-term breakdown. Data provided to the Commission on 16 August 2018.

**Table 41: File review – funded agency managed cases by contracted worker contacts and placement type over six months (n = 52)**

Placement types	0	1-6	7-11	12+	Total
Foster care		13	3	5	21
Kinship care	3	10	3	2	18
Other care type	1			3	4
Residential care	1	4	3	1	9
<b>Total</b>	<b>5</b>	<b>27</b>	<b>9</b>	<b>11</b>	<b>52</b>

Source: DHHS data extraction from CRIS database, reviewed during the period 1 April 2018 to 1 October 2018, or six months prior to the date of the most recent long-term breakdown. Data provided to the Commission on 16 August 2018.

**Table 42: Daily average number of kinship and foster care placements receiving case contracted services**

Placement type	Performance measure	Average annual target	Average YTD actuals	YTD performance
Foster care – all	Daily average occupancy	1,861	1,772	95%
Kinship care	Daily average number of placements receiving case contracting services	1,490	1,255	84%

Source: DHHS provision of Service Delivery Tracking summary report, provided to the Commission on 5 August 2019.

**Table 43: Children and young people in out-of-home care by average and maximum number of primary assigned Child Protection workers and duration in care as at 31 December 2018 (n = 5,450)**

Duration in care	Average number of primary assigned CP workers	Max. number of primary assigned CP workers
< 1 years	7.9	44.0
1-2 years	11.3	56.0
> 2 years	16.7	78.0
<b>Total</b>	<b>11.3</b>	<b>78.0</b>

Source: DHHS data extraction from CRIS database, population and case details in out-of-home care as at 31 December 2018. Data provided to the Commission on 31 July 2019.

**Table 44: File review – Child Protection managed cases by number of workers over six months (n = 48)**

Number of workers	#	%
1	12	25%
2-4	25	52%
5-7	8	17%
8-10	3	6%
<b>Total</b>	<b>48</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, reviewed during the period 1 April 2018 to 1 October 2018, or six months prior to the date of the most recent long-term breakdown. Data provided to the Commission on 16 August 2018.

**Table 45: File review – Child Protection managed cases by average and maximum number of workers and DHHS division over six months (n = 48)**

DHHS division	Average no. of workers in six-month review period	Max. no. of workers in six-month review period
East Division	2.5	8
North Division	4.4	10
South Division	3.0	5
West Division	2.9	8
<b>Total</b>	<b>3.2</b>	<b>10</b>

Source: DHHS data extraction from CRIS database, reviewed during the period 1 April 2018 to 1 October 2018, or six months prior to the date of the most recent long-term breakdown. Data provided to the Commission on 16 August 2018.

**Table 46: File review – Funded agency managed cases by number of workers over six months (n = 52)**

Number of workers	#	%
1	3	6%
2-4	34	65%
5-7	14	27%
11-12	1	2%
<b>Total</b>	<b>52</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, reviewed during the period 1 April 2018 to 1 October 2018, or six months prior to the date of the most recent long-term breakdown. Data provided to the Commission on 16 August 2018.

**Table 47: File review – Funded agency managed cases by average and maximum numbers of workers over six months (n = 52)**

Number of workers	
Average no. of workers in six-month review period	3.8
Max. no. of workers in six-month review period	12

Source: DHHS data extraction from CRIS database, reviewed during the period 1 April 2018 to 1 October 2018, or six months prior to the date of the most recent long-term breakdown. Data provided to the Commission on 16 August 2018.

**Table 48: File review – Children and young people with a case plan in the last 12 months by DHHS division (n = 122)**

DHHS division	Case plan in the last 12 months				Total #	Total %
	#		%			
	Yes	No	Yes	No		
East Division	30	2	94%	6%	32	100%
North Division	21	8	72%	28%	29	100%
South Division	23	5	82%	18%	28	100%
West Division	25	8	76%	24%	33	100%
<b>Total</b>	<b>99</b>	<b>23</b>	<b>81%</b>	<b>19%</b>	<b>122</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, reviewed during the period 1 April 2018 to 1 October 2018, or six months prior to the date of the most recent long-term breakdown. Data provided to the Commission on 16 August 2018.

**Table 49: File review – Children and young people with a case plan in the last 12 months, by placement type (n = 122)**

Placement type	Case plan in the last 12 months				Total #	Total %
	#		%			
	Yes	No	Yes	No		
Foster care	42	13	76%	24%	55	100%
Kinship care	32	6	84%	16%	38	100%
Residential care	19	4	83%	17%	23	100%
Other placement type	6		100%	0%	6	100%
<b>Total</b>	<b>99</b>	<b>23</b>	<b>81%</b>	<b>19%</b>	<b>122</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, reviewed during the period 1 April 2018 to 1 October 2018, or six months prior to the date of the most recent long-term breakdown. Data provided to the Commission on 16 August 2018.

**Table 50: File review – Children and young people who were consulted on their case plan, by DHHS division (n = 99)**

DHHS division	Children and young people consulted on case plan				Total #	Total %
	#		%			
	No	Yes	No	Yes		
East Division	25	5	83%	17%	30	100%
North Division	15	6	71%	29%	21	100%
South Division	19	4	83%	17%	23	100%
West Division	19	6	76%	24%	25	100%
<b>Total</b>	<b>78</b>	<b>21</b>	<b>79%</b>	<b>21%</b>	<b>99</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, reviewed during the period 1 April 2018 to 1 October 2018, or six months prior to the date of the most recent long-term breakdown. Data provided to the Commission on 16 August 2018.

**Table 51: File review – Children and young people who were consulted on their case plan, by placement type (n = 99)**

Placement type	Evidence children and young people consulted about case plan				Total #	Total %
	#		%			
	No	Yes	No	Yes		
Foster care	35	7	83%	17%	42	100%
Kinship care	24	8	75%	25%	32	100%
Residential care	15	4	79%	21%	19	100%
Other placement type <sup>723</sup>	4	2	67%	33%	6	100%
<b>Total</b>	<b>78</b>	<b>21</b>	<b>79%</b>	<b>21%</b>	<b>99</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, reviewed during the period 1 April 2018 to 1 October 2018, or six months prior to the date of the most recent long-term breakdown. Data provided to the Commission on 16 August 2018.

**Table 52: File review – Children or young people who had their wishes reflected in their case plan, by placement type (n = 99)**

Placement type	Children and young people's wishes reflected				Total #	Total %
	#		%			
	No	Yes	No	Yes		
Foster care	27	15	64%	36%	42	100%
Kinship care	20	12	63%	38%	32	100%
Residential care	15	4	79%	21%	19	100%
Other placement type	3	3	50%	50%	6	100%
<b>Total</b>	<b>65</b>	<b>34</b>	<b>66%</b>	<b>34%</b>	<b>99</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, reviewed during the period 1 April 2018 to 1 October 2018, or six months prior to the date of the most recent long-term breakdown. Data provided to the Commission on 16 August 2018.

<sup>723</sup> Other placement type is lead tenant and contingency placements.

**Table 53: File review – Children and young people who were consulted about their placement change, by DHHS Division (n = 122)**

DHHS division	Children and young people consulted about placement change				Total #	Total %
	#		%			
	No	Yes	No	Yes		
East Division	15	17	47%	53%	32	100%
North Division	18	11	62%	38%	29	100%
South Division	17	11	61%	39%	28	100%
West Division	19	14	58%	42%	33	100%
<b>Total</b>	<b>69</b>	<b>53</b>	<b>57%</b>	<b>43%</b>	<b>122</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, reviewed during the period 1 April 2018 to 1 October 2018, or six months prior to the date of the most recent long-term breakdown. Data provided to the Commission on 16 August 2018.

**Table 54: File review – Aboriginal children and young people consulted about their placement change (n = 122)**

	Children and young people consulted about placement change				Total #	Total %
	#		%			
	No	Yes	No	Yes		
Aboriginal	37	21	64%	36%	58	100%
Non Aboriginal	32	32	50%	50%	64	100%
<b>Total</b>	<b>69</b>	<b>53</b>	<b>57%</b>	<b>43%</b>	<b>122</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, reviewed during the period 1 April 2018 to 1 October 2018, or six months prior to the date of the most recent long-term breakdown. Data provided to the Commission on 16 August 2018.

**Table 55: File review – number and percentage of children and young people who were consulted about their placement change, by placement type (n = 122)**

Placement type	Children and young people consulted about placement change				Total #	Total %
	#		%			
	No	Yes	No	Yes		
Foster care	39	16	71%	29%	55	100%
Kinship care	18	20	47%	53%	38	100%
Other placement type	1	5	17%	83%	6	100%
Residential care	11	12	48%	52%	23	100%
<b>Total</b>	<b>69</b>	<b>53</b>	<b>57%</b>	<b>43%</b>	<b>122</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, reviewed during the period 1 April 2018 to 1 October 2018, or six months prior to the date of the most recent long-term breakdown. Data provided to the Commission on 16 August 2018.

## Chapter 6: My home

**Table 56: Children and young people with one or more than one placement change, by number of placements and current placement type as at 31 December 2018 (n = 7,872)**

Placement type	Number of placement changes				Total #	Total %
	#		%			
	1	>2	1	>2		
Kinship care	3,667	2,168	63%	37%	5,835	100%
Foster care	225	1,379	14%	86%	1,604	100%
Residential care	37	325	10%	90%	362	100%
Residential care – Therapeutic	3	68	4%	96%	71	100%
<b>Total</b>	<b>3,932</b>	<b>3,940</b>	<b>50%</b>	<b>50%</b>	<b>7,872</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, placement instances of children and young people in out-of-home care as at 31 December 2018. Data provided to the Commission on 15 June 2019.

**Table 57: Children and young people in care with one or more placements in the first six months of care by number of placements at 31 December 2018 (n = 7,987)**

Number of placements in first 6 months	Total	%
1	4,754	59%
2-6	3,013	38%
7-11	172	2%
>12	48	1%
<b>Total</b>	<b>7,987</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, placement instances of children and young people in out-of-home care as at 31 December 2018. Data provided to the Commission on 15 June 2019.

**Table 58: Average number of placements for children and young people with more than one placement in the six months from their first recorded placement date**

Average no. of placement in six months of current episode of OoHC	Max. no. of placement in six months of current episode of OoHC
3.3	28

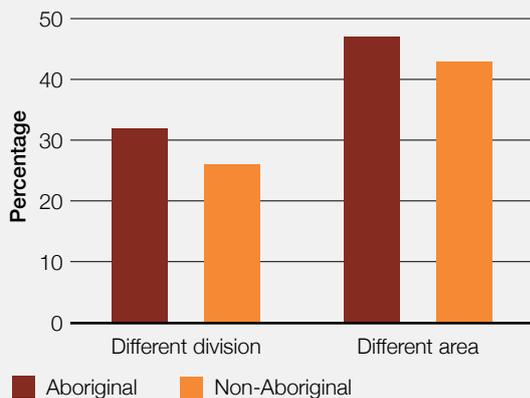
Source: DHHS data extraction from CRIS database, placement instances of children and young people in out-of-home care as at 31 December 2018. Data provided to the Commission on 15 June 2019.

**Table 59: Children and young people in out-of-home care by current placement type and number of placements over time spent in care, as at 31 December 2018 (n = 7,827)**

# Placements	Placement types						Total #	Total %
	Foster care	Kinship care	Residential care	Foster care	Kinship care	Residential care		
1	190	3,290	34	12%	57%	8%	3,514	45%
2-4	722	1,821	106	45%	31%	24%	2,649	34%
5-7	344	349	96	21%	6%	22%	789	10%
8-10	160	140	61	10%	2%	14%	361	5%
11-13	77	57	45	5%	1%	10%	179	2%
14-16	32	39	24	2%	1%	6%	95	1%
17-20	23	20	12	1%	<1%	3%	55	1%
> 20	54	76	55	3%	1%	13%	185	2%
<b>Total</b>	<b>1,602</b>	<b>5,792</b>	<b>433</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>7,827</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, placement instances of children and young people in out-of-home care as at 31 December 2018. Administrative end date placement instances excluded. Data provided to the Commission on 15 June 2019. This data includes multiple episodes in care.

**Figure 20: Percentage of Aboriginal and non-Aboriginal children and young people placed in a different location to that listed at time of intake<sup>724</sup>**



Source: DHHS data extraction from CRIS database, population and case details in out-of-home care as at 31 December 2018. Data provided to the Commission on 31 July 2019.

<sup>724</sup> To calculate this from the CRIS extract provided, the Commission conducted a match function on the 'Intake' field to the placement field (column U to AD).

## Chapter 7: My safety

**Table 60: Incidents (major and non-major) by placement type in 2018–2019 (n = 6,583)**

All incidents: Primary Incident type (client one)	# All incidents	%	Population as at 31 December 2018	Rate per child, per placement type
Residential care*	4,908	75%	433	11.33
Foster care	892	14%	1,610	0.55
Kinship care	648	10%	5,812	0.11
Other care types	135	2%	8	-
<b>Total</b>	<b>6,583</b>	<b>100%</b>	<b>7,866</b>	<b>0.84</b>

Source: DHHS client incident management data extraction. Incidents may have occurred within previous financial year or earlier for historical allegations. Incidents endorsed between 1 July 2018 and 30 June 2019. Accessed by the Commission on 28 August 2019.

**Table 61: Major incidents by placement type in 2018–2019 (n = 1,558 incidents)**

Major: Primary Incident type (client one)	# Major incidents	%	Population as at 31 December 2018	Rate per child, per placement type
Residential care*	982	63%	433	2.27
Foster care	267	17%	1,610	0.17
Kinship care	239	15%	5,812	0.04
Other care types	70	4%	8	-
<b>Total</b>	<b>1,558</b>	<b>100%</b>	<b>7,863</b>	<b>0.20</b>

Source: DHHS client incident management data extraction. Incidents may have occurred within previous financial year or earlier for historical allegations. Incidents endorsed between 1 July 2018 and 30 June 2019. Accessed by the Commission on 28 August 2019.

**Table 62: Non-major incidents by placement type in 2018–2019 (n = 5,025 incidents)**

Non major: Primary Incident type (client one)	# Non-major incidents	%	Population as at 31 December 2018	Rate per child, per placement type
Residential care*	3,926	78%	433	9.07
Foster care	653	13%	1,610	0.41
Kinship care	381	8%	5,812	0.07
Other care types	65	1%	8	-
<b>Total</b>	<b>5,025</b>	<b>100%</b>	<b>7,863</b>	<b>0.64</b>

Source: DHHS client incident management data extraction. Incidents may have occurred within previous financial year or earlier for historical allegations. Incidents endorsed between 1 July 2018 and 30 June 2019. Accessed by the Commission on 28 August 2019.

**Table 63: Incidents for children and young people living in residential care by incident type in 2018–2019 (n = 4,908)**

Primary incident type (client one)	#	%
Absent client	1,331	27%
Dangerous actions – client	1,103	22%
Self-harm/attempted suicide	633	13%
Inappropriate physical treatment	459	9%
Medication error	239	5%
Physical abuse	203	4%
Emotional/psychological trauma	178	4%
Sexual abuse	174	4%
Injury	139	3%
Sexual exploitation	135	3%
Emotional/psychological abuse	123	3%
Inappropriate sexual behaviour	103	2%
Poor quality of care	84	2%
Financial abuse	2	<1%
Death	2	<1%
<b>Total</b>	<b>4,908</b>	<b>100%</b>

Source: DHHS client incident management data extraction. Incidents may have occurred within previous financial year or earlier for historical allegations. Incidents endorsed between 1 July 2018 and 30 June 2019. Accessed by the Commission on 28 August 2019.

**Table 64: Incidents for children and young people by age group and placement type in 2018–2019 (n = 6,583)**

Placement type	Age groups				Total #	Total %
	#		%			
	0-12 years old	>12 years old	0-12 years old	>12 years old		
Residential care (all types)	457	4,451	7%	68%	4,908	75%
Foster care	468	424	7%	6%	892	14%
Kinship care	308	340	5%	5%	648	10%
Other care types	25	110	<1%	2%	135	2%
<b>Total</b>	<b>1,258</b>	<b>5,325</b>	<b>19%</b>	<b>81%</b>	<b>6,583</b>	<b>100%</b>

Source: DHHS client incident management data extraction. Clients age is determined by age at time of the incident. Incidents may have occurred within previous financial year or earlier for historical allegations. Incidents endorsed between 1 July 2018 and 30 June 2019. Accessed by the Commission on 28 August 2019.

**Table 65: Incidents in residential care that report alleged perpetrator and victim, by incident type (client one) in 2018–2019 (n = 1,283)**

Incident type (client one)	Alleged perpetrator victim						Total #	Total %
	#			%				
	Client- to-Client	Other- to-Client	Staff- to-Client	Client- to-Client	Other- to-Client	Staff- to-Client		
Inappropriate physical treatment	313	115	31	24%	9%	2%	459	36%
Physical abuse	71	72	60	6%	6%	5%	203	16%
Sexual abuse	43	115	16	3%	9%	1%	174	14%
Sexual exploitation	4	131		<1%	10%	<1%	135	11%
Emotional/ psychological abuse	94	21	8	7%	2%	1%	123	10%
Inappropriate sexual behaviour	69	33	1	5%	3%	<1%	103	8%
Poor quality of care		6	78	<1%	<1%	6%	84	7%
Financial abuse	2			<1%	<1%	<1%	2	<1%
<b>Total</b>	<b>596</b>	<b>493</b>	<b>194</b>	<b>46%</b>	<b>38%</b>	<b>15%</b>	<b>1,283</b>	<b>100%</b>

Source: DHHS client incident management data extraction. Only a subset of incident types within CIMS requires the identification of an alleged perpetrator. Incidents endorsed between 1 July 2018 and 30 June 2019. Accessed by the Commission on 28 August 2019.

**Table 66: Children under 12 (client one only), reported in an incident in residential care by alleged perpetrator and victim and incident type in 2018–2019 (n = 123)**

Residential care 11 and under (client one) incident type	Alleged perpetrator victim						Total #	Total %
	#			%				
	Client-to-Client	Staff-to-Client	Other-to-Client	Client-to-Client	Staff-to-Client	Other-to-Client		
Inappropriate physical treatment	44	3	7	36%	2%	6%	54	44%
Physical abuse	6	12	5	5%	10%	4%	23	19%
Emotional/ psychological abuse	12	1	2	10%	1%	2%	15	12%
Inappropriate sexual behaviour	12		3	10%	<1%	2%	15	12%
Poor quality of care		8		<1%	7%	<1%	8	7%
Sexual abuse	3	2	1	2%	2%	1%	6	5%
Sexual exploitation			2	<1%	<1%	2%	2	2%
<b>Total</b>	<b>77</b>	<b>26</b>	<b>20</b>	<b>63%</b>	<b>21%</b>	<b>16%</b>	<b>123</b>	<b>100%</b>

Source: DHHS client incident management data extraction. Only a subset of incident types within CIMS requires the identification of an alleged perpetrator. Children were under the age of 12 years at the time the incident. Incidents may have occurred within previous financial year or earlier for historical allegations. Incidents endorsed between 1 July 2018 and 30 June 2019. Accessed by the Commission on 28 August 2019.

**Table 67: Incidents in foster care that report alleged perpetrator and victim by primary incident type (client one) in 2018–2019 (n = 381)**

Foster care (only) Primary incident type (client one)	Alleged perpetrator victim						Total #	Total %
	#			%				
	Client-to-Client	Other-to-Client	Carer-to-Client	Client-to-Client	Other-to-Client	Carer-to-Client		
Inappropriate physical treatment	16	58	31	4%	15%	8%	105	28%
Poor quality of care		27	50	<1%	7%	13%	77	20%
Physical abuse	3	19	53	1%	5%	14%	75	20%
Sexual abuse	9	28	15	2%	7%	4%	52	14%
Inappropriate sexual behaviour	24	13	1	6%	3%	<1%	38	10%
Emotional/ psychological abuse		6	22	<1%	2%	6%	28	7%
Sexual exploitation		6		<1%	2%	<1%	6	2%
<b>Total</b>	<b>52</b>	<b>157</b>	<b>172</b>	<b>14%</b>	<b>41%</b>	<b>45%</b>	<b>381</b>	<b>100%</b>

Source: DHHS client incident management data extraction. Only a subset of incident types within CIMS requires the identification of an alleged perpetrator. Incidents endorsed between 1 July 2018 and 30 June 2019. Accessed by the Commission on 28 August 2019.

**Table 68: Incidents in kinship care that report alleged perpetrator and victim by primary incident type (client one) in 2018–2019 (n = 381)**

Kinship care (only) Primary incident type (client one)	Alleged perpetrator and/or victim						Total #	Total %
	#			%				
	Client-to-Client	Other-to-Client	Carer-to-Client	Client-to-Client	Other-to-Client	Carer-to-Client		
Poor quality of care		31	62	<1%	9%	18%	93	28%
Physical abuse	1	22	54	<1%	7%	16%	77	23%
Inappropriate physical treatment	11	36	28	3%	11%	8%	75	22%
Emotional/psychological abuse	2	21	12	1%	6%	4%	35	10%
Sexual abuse	1	22	7	<1%	7%	2%	30	9%
Inappropriate sexual behaviour	5	12	1	1%	4%	<1%	18	5%
Sexual exploitation		8		<1%	2%	<1%	8	2%
<b>Total</b>	<b>20</b>	<b>152</b>	<b>164</b>	<b>6%</b>	<b>45%</b>	<b>49%</b>	<b>336</b>	<b>100%</b>

Source: DHHS client incident management data extraction. Only a subset of incident types within CIMS requires the identification of an alleged perpetrator. Incidents endorsed between 1 July 2018 and 30 June 2019. Accessed by the Commission on 28 August 2019.

**Table 69: Notifications of reportable conduct in out-of-home care by placement type received in 2018–2019 (n = 647)**

Amended service type	2017–2018		2018–2019		Total RCS	
	No.	Prop. (%)	No.	Prop. (%)	No.	Prop. (%)
Foster care	113	31%	92	32%	205	32%
Kinship care	105	29%	92	32%	197	30%
Residential care	127	35%	87	30%	214	33%
Respite and contingency care	4	1%	8	3%	12	2%
Employee – other/admin	5	1%	4	1%	9	1%
Lead tenant	6	2%	3	1%	9	1%
Permanent care	1	<1%			1	<1%
<b>Total</b>	<b>361</b>	<b>100%</b>	<b>286</b>	<b>100%</b>	<b>647</b>	<b>100%</b>

Source: Data extracted from CCYP database as at 2 September 2019.

**Table 70: Closed reportable conduct allegations by finding and conduct category for selected out-of-home care service types in 2018–2019**

Conduct Category	Foster care			Kinship care			Residential care		
	Substantiated	Not substantiated	Total	Substantiated	Not substantiated	Total	Substantiated	Not substantiated	Total
Physical violence	54	92	146	53	48	101	11	61	72
Significant neglect of a child	15	23	38	34	33	67	14	7	21
Behaviour that causes emotional or psychological harm to a child	22	36	58	3	9	12		34	34
Sexual misconduct	1	7	8	2	1	3	1	17	18
Sexual offences	2	12	14		4	4	1	8	9
<b>Total</b>	<b>94</b>	<b>170</b>	<b>264</b>	<b>92</b>	<b>95</b>	<b>187</b>	<b>27</b>	<b>127</b>	<b>154</b>

Source: Data extracted from CCYP database as at 2 September 2019.

**Table 71: Sample of Reportable Conduct Scheme notifications across care types (sample size: n = 118)**

Care type and sample size	Source of Reportable Conduct Scheme notification
Residential care (n = 45)	<p><b>Child made the report: 71% (n = 32)</b>            Child reported to agency worker: (n = 5)            Child reported to Child Protection worker: (n = 5)            Child reported to residential worker: (n = 20)            Child to parent: (n = 1)            Child to police (n = 1)</p> <p><b>Child did not make the report: 29% (n = 13)</b>            Residential worker witnessed alleged incident: (n = 9)            Other: (n = 4)</p>
Foster care (n = 45)	<p><b>Child made the report: 70% (n = 31)</b>            Child reported to agency worker: (n = 12)            Child to Child Protection worker: (n = 1)            Child to counsellor: (n = 5)            Child to school or childcare: (n = 8)            Child to current carer: (n = 4)            Child to other professional: (n = 1)</p> <p><b>Child did not make the report: 30% (n = 14)</b>            Agency source of report: (n = 4)<sup>725</sup>            Police attended incident: (n = 2)            School or childcare witness reported: (n = 1)            Other: (n = 7)</p>
Kinship care (n = 28)	<p><b>Child made the report: 50% (n = 14)</b>            Child reported to agency worker: (n = 5)            Child reported to CP worker: (n = 2)            Child to parent or current carer: (n = 5)            Child to counsellor: (n = 1)            Child to school: (n = 1)</p> <p><b>Child did not make the report: 50% (n = 14)</b>            Agency source of report: (n = 7)<sup>726</sup>            Child Protection worker witness alleged incident: (n = 1)            School or childcare witness reported: (n = 3)            Other: (n = 3)</p>

<sup>725</sup> Includes: worker witnessed, allegation arose during quality of care investigation and carer self-reported to agency.

<sup>726</sup> Ibid.

## Chapter 8: My family

**Table 72: Orders by type and permanency objective, as at 31 December 2018 (n = 7,879)<sup>727</sup>**

Order type	Permanency Objective										Total #	Total %
	Long-term out of home care		Family reunification		Permanent care		Family preservation		Not stated			
	#	%	#	%	#	%	#	%	#	%		
Care by Secretary order	1,636	58%	60	2%	1,102	39%	4	<1%	5	<1%	2,807	100%
Family reunification order	360	20%	1,164	65%	209	12%	53	3%	1	<1%	1,787	100%
Interim accommodation order	150	9%	1,138	72%	60	4%	215	14%	26	2%	1,589	100%
Other order types or no order recorded on CRIS	152	14%	312	30%	76	7%	193	18%	320	30%	1,053	100%
Long-term care order	551	86%		<1%	90	14%		<1%	2	<1%	643	100%
<b>Total</b>	<b>2,849</b>	<b>36%</b>	<b>2,674</b>	<b>34%</b>	<b>1,537</b>	<b>20%</b>	<b>465</b>	<b>6%</b>	<b>354</b>	<b>4%</b>	<b>7,879</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, population and case details in out-of-home care as at 31 December 2018. Data provided to the Commission on 31 July 2019.

**Table 73: Children and young people on family reunification orders by case management category as at 31 December 2018 (n = 1,772)<sup>728</sup>**

Case management category	Order type Family reunification order	
	#	%
Funded agency managed	140	8%
Child Protection managed	1,632	92%
<b>Total</b>	<b>1,772</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, population and case details in out-of-home care as at 31 December 2018. Data provided to the Commission on 31 July 2019.

<sup>727</sup> Excluding permanent care orders and order types and permanency objective with less than 100 cases, (undertaking, Family Preservation Order and adoption).

<sup>728</sup> Two case management categories report low numbers which may jeopardise privacy.

**Table 74: Allocation status of Child Protection managed cases on a reunification order as at 31 December 2018 (n = 1,632)**

Family reunification order Allocated Child Protection worker Child Protection case managed	#	%
Allocated	1,284	79%
Unallocated	348	21%
<b>Total</b>	<b>1,632</b>	<b>100%</b>

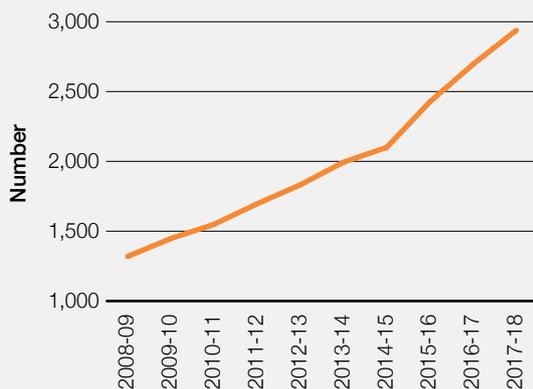
Source: DHHS data extraction from CRIS database, population and case details in out-of-home care as at 31 December 2018. Data provided to the Commission on 31 July 2019.

**Table 75: Allocation status of Child Protection managed cases on family reunification permanency objective as at 31 December 2018 (n = 2,541)**

Family reunification permanency objective Allocated Child Protection worker Child Protection case managed	#	%
Allocated	1,963	77%
Unallocated	578	23%
<b>Total</b>	<b>2,541</b>	<b>100%</b>

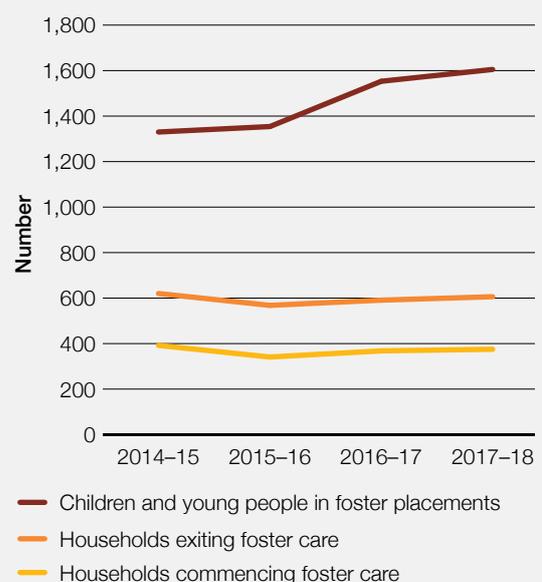
Source: DHHS data extraction from CRIS database, population and case details in out-of-home care as at 31 December 2018. Data provided to the Commission on 31 July 2019.

**Figure 21: Number of children and young people on permanent care orders 2008–2009 to 2017–2018**



Source: DHHS data extraction from CRIS database, 10-year permanency objectives. Data provided to the Commission on 31 July 2019.

**Figure 22: Households commencing and exiting foster care per year, and the foster care population 2014–2015 to 2017–2018**



Source: Australian Government, AIHW Child Protection Australia, Table 6.1, accessed 1 May 2019.

**Table 76: Children and young people with siblings in out-of-home care by placement type and placement with sibling(s), as at 31 December 2018 (including permanent care) (n = 6,167)**

Placed with siblings	Placement type								Total #	Total %
	Kinship care		Permanent care		Foster care		Residential care			
	#	%	#	%	#	%	#	%		
Placed with all siblings	2,368	66%	867	63%	371	35%	26	19%	3,632	59%
Placed alone	722	20%	305	22%	429	41%	99	72%	1,555	25%
Placed with some siblings	520	14%	197	14%	251	24%	12	9%	980	16%
<b>Total</b>	<b>3,610</b>	<b>100%</b>	<b>1,369</b>	<b>100%</b>	<b>1,051</b>	<b>100%</b>	<b>137</b>	<b>100%</b>	<b>6,167</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, Population and case details in out-of-home care as at 31 December 2018, provided to the Commission on 31 July 2019.

**Table 77: Rate of children and young people placed with siblings (per 100 children and young people in out-of-home care) from 2008–2009 to 2017–2018**

Financial year	Sibling group arrangement – rate per 100		
	Child placed with all siblings	Child placed with some siblings	Child placed alone
2008–2009	54	17	29
2009–2010	51	19	29
2010–2011	54	17	30
2011–2012	53	17	29
2012–2013	51	18	30
2013–2014	54	18	28
2014–2015	57	17	27
2015–2016	59	17	24
2016–2017	59	16	25
2017–2018	59	16	25

Source: DHHS data extraction from CRIS database, 10-year sibling co-placement. Data provided to the Commission on 31 July 2019.

## Chapter 10: My carers

**Table 78: File review – Kinship care assessments by days between kinship start date and Assessment A (n = 61)**

Assessment A	#	%
Less than one week	12	20%
More than one week	21	34%
No Assessment A on CRIS	28	46%
<b>Total</b>	<b>61</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, reviewed during the period 1 April 2018 to 1 October 2018, or six months prior to the date of the most recent long-term breakdown. Data provided to the Commission on 16 August 2018.

**Table 79: File review – Kinship care assessments by days between kinship start date and Assessment B (n = 61)**

Assessment B	#	%
Less than six weeks	4	7%
More than six weeks	14	23%
No Assessment B on CRIS	43	70%
<b>Total</b>	<b>61</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, reviewed during the period 1 April 2018 to 1 October 2018, or six months prior to the date of the most recent long-term breakdown. Data provided to the Commission on 16 August 2018.

**Table 80: File review – Kinship care assessments by days between kinship start date and Assessment C (n = 61)**

Days between Assessment C	#
More than one year	6
<b>Total</b>	<b>6</b>

Source: DHHS data extraction from CRIS database, reviewed during the period 1 April 2018 to 1 October 2018, or six months prior to the date of the most recent long-term breakdown. Data provided to the Commission on 16 August 2018.

**Table 81: File review – Kinship carer contacts with workers in a six-month period (n = 37)**

Carer>Child Protection worker contact (Kinship)	#	%
0	1	3%
1-6	20	54%
7-11	3	8%
12+	13	35%
<b>Total</b>	<b>37</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, reviewed during the period 1 April 2018 to 1 October 2018, or six months prior to the date of the most recent long-term breakdown. Data provided to the Commission on 16 August 2018.

**Table 82: File review – Kinship care cases which led to breakdown (n = 10)**

Kinship placement date started	Date placement ended	Managed by Child Protection or funded agency	CP reason placement ended
25/11/2018	21/05/2019	Funded agency managed	Unplanned exit, client withdrew
28/03/2019	2/05/2019	Child Protection managed	Carer withdrew
8/12/2017	26/02/2018	Child Protection managed	Carer withdrew
20/02/2017	29/04/2017	Child Protection managed	Carer withdrew
22/03/2018	1/06/2018	Child Protection managed	Unplanned exit, client withdrew
16/12/2016	18/06/2018	Child Protection managed	Carer withdrew
20/02/2017	15/06/2018	Child Protection managed	Carer withdrew
14/09/2018	27/09/2018	Child Protection managed	Carer withdrew
17/05/2014	21/09/2018	Child Protection managed	Unplanned exit, client withdrew
12/04/2017	18/05/2017	Child Protection managed	Unplanned exit, client withdrew

Source: DHHS data extraction from CRIS database, reviewed during the period 1 April 2018 to 1 October 2018, or six months prior to the date of the most recent long-term breakdown. Data provided to the Commission on 16 August 2018.

<b>Commission assessment of reason placement ended</b>	<b>Evidence of assessment Part A, B or C</b>	<b>Evidence of TCP</b>	<b>Evidence of respite</b>	<b>Evidence of carer training</b>	<b># of contact with carer and worker</b>
Says young person withdrew but there is a file note from carer very clearly withdrawing	None	No. Evidence of worker considering but too late, carer withdrew	Yes	No	25
Carer advised she had not received any financial assistance. Young person is also not receiving any Centrelink payments.	None	No	No	No	8
Young person has a disability, carer prioritised own family safety	Part A only: 11/02/2017	Carer requested, told not eligible.	No	No	67
Escalating behaviours, lack of support	Part A only: 20/04/2017	No	No	No	12
Inadequate accommodation	None	No	No	No	17
Escalating behaviours	None	Yes	No	No	19
Lack of support	None	Yes	Yes	No	31
Lack of support	None	No	Yes	No	10
Breakdown in relationship between carer and young person, no contact/support from worker in 6 months	Part A only: 05/02/2015	No	Yes	No	2
Behaviours	None	No	No	No	5

**Table 83: Children and young people in kinship care on long-term care orders, care by Secretary orders, and non-reunification permanency objectives, by Aboriginal status and case management category as at 31 December 2018 (excluding ACAC and community partnerships case management types) (n = 2,107)**

Case management category	Aboriginal status				Total #	Total %
	#		%			
	Non-Aboriginal	Aboriginal	Non-Aboriginal	Aboriginal		
Contracted Case Management	870	483	60%	74%	1,353	64%
CP Managed	583	171	40%	26%	754	36%
<b>Total</b>	<b>1,453</b>	<b>654</b>	<b>100%</b>	<b>100%</b>	<b>2,107</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, population and case details in out-of-home care as at 31 December 2018. Data provided to the Commission on 31 July 2019.

**Table 84: Children and young people in kinship care on long-term care orders, care by Secretary orders and non-reunification permanency objectives by Aboriginal status and allocation status as at 31 December 2018 (n = 754)**

Child Protection managed allocation status	Aboriginal status				Total #	Total %
	#		%			
	Non-Aboriginal	Aboriginal	Non-Aboriginal	Aboriginal		
Allocated	347	89	60%	52%	436	58%
Unallocated	236	82	40%	48%	318	42%
<b>Total</b>	<b>583</b>	<b>171</b>	<b>100%</b>	<b>100%</b>	<b>754</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, population and case details in out-of-home care as at 31 December 2018. Data provided to the Commission on 31 July 2019.

**Table 85: Children and young people case managed by Child Protection in kinship care by Aboriginal status and Child Protection allocation status as at 31 December 2018 (n = 4,243)**

Child Protection case allocation status	Aboriginal status				Total #	Total %
	#		%			
	Non-Aboriginal	Aboriginal	Non-Aboriginal	Aboriginal		
Allocated	2,406	651	72%	72%	3,057	72%
Unallocated	927	259	28%	28%	1,186	28%
<b>Total</b>	<b>3,333</b>	<b>910</b>	<b>100%</b>	<b>100%</b>	<b>4,243</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, population and case details in out-of-home care as at 31 December 2018. Data provided to the Commission on 31 July 2019.

**Table 86: File review – Foster carer contact with Child Protection and contracted agency workers over six months (n = 17)**

Carer contact with worker (foster)	#	%
0	2	12%
1-6	8	47%
7-11	1	6%
12+	6	35%
<b>Total</b>	<b>17</b>	<b>100%</b>

Source: DHHS data extraction from CRIS database, reviewed during the period 1 April 2018 to 1 October 2018, or six months prior to the date of the most recent long-term breakdown. Data provided to the Commission on 16 August 2018.

**Table 87: Foster care placement targets from 1 July 2018 to 30 June 2019**

Foster care level of support	Average annual target	Average YTD actuals	YTD performance	Percentage of target
Foster care – adolescent community placement	45	33	73.45%	2%
Foster care – complex	324	384	118.28%	17%
Foster care – general	770	702	91.06%	41%
Foster care – intensive	611	550	89.96%	33%
Foster care – therapeutic foster care	110	104	94.11%	6%
				<b>100%</b>

Source: DHHS provision of service delivery tracking summary report. Data provided to the Commission on 5 August 2019.

**Table 88: Funded and actual placements as at 31 December 2018**

Care type	Funded placements	Actual numbers in residential care
Residential care – therapeutic	172	71
Residential care	292	362
<b>Total residential care</b>	<b>464</b>	<b>433</b>

Source: DHHS data extraction from CRIS database, placement instances of children and young people in out-of-home care as at 31 December 2018. Data provided to the Commission on 15 June 2019.

## Chapter 12: Reforming the out-of-home care system

**Table 89: Current status of South Initiative pilots<sup>729</sup>**

Initiative	Description	Current status
<b>Treatment Foster Care Oregon (TFCO)</b>	TFCO is a professionalised foster care model that provides an alternative placement option to residential care. A multidisciplinary care team supports the child or young person and a carer who has been trained in the requirements of the program. The model simultaneously prepares children with emotional and/or behavioural challenges to move to a lower-intensity placement, such as home-based care or home with family, and assists families and caregivers to provide effective parenting.	This program is to be continued until 2020 to allow for the initial target of 28 children to be reached and for those children to complete the program. <sup>730</sup>
<b>Keep Embracing Your Success (KEYS)</b>	KEYS works with highly vulnerable young people aged between 13 and 16 living in, or at risk of entering, residential care who are exhibiting complex, risky and challenging behaviours. The KEYS model provides a wrap-around service team (both in the live-in component and throughout transition) that prevents sexual exploitation and provides support for life-skills development, behaviour/emotional regulation, mental health problems, drug and alcohol issues, healthy eating and active living in a home-like environment. It has two components: a live-in component through two dedicated houses and outreach support to assist with transitioning into a lower-intensity placement.	KEYS has been funded until 2020.
<b>Keeping Connected Sibling Support and Placement Service</b>	The Keeping Connected Sibling Support and Placement Service aims to build the capacity within the home-based care system to better respond to existing and incoming sibling groups. It offers three separate components: <ul style="list-style-type: none"> <li>• a short-term group placement that helps keep siblings together while long-term options are identified</li> <li>• therapeutic plans for new sibling groups entering care</li> <li>• contact plans to support young people who are already in care and separated.</li> </ul>	South Division is continuing to test this program. An evaluation is currently being conducted which may inform a broader statewide roll out.
<b>Return to Country program</b>	The Return to Country program provides opportunities for Aboriginal children and young people living in out-of-home care to learn about and practise their culture in a way that is empowering, supports connectedness, instils hope and optimism about the future, identifies meaning in life and makes self-determination possible. There are three key program components: <ul style="list-style-type: none"> <li>• development of a Return to Country framework – providing tools and resources to develop and implement a return to country</li> <li>• a Return to Country support worker – to support care teams (run by both the department and funded agencies) in the planning and preparation phase and to monitor progress and outcomes of Return to Country reunions</li> <li>• flexible funding to implement approved Return to Country reunion proposals.</li> </ul>	An evaluation has been conducted showing that implementation has been difficult due to poor cultural planning and cultural competence of Child Protection and agency workers. The model is considered to have significant potential, but only one of the 18 young people targeted was successfully provided with the opportunity to return to country.

<sup>729</sup> Updates on these initiatives were provided by email to the Commission over several months in early 2019.

<sup>730</sup> Email from DHHS dated 27 June 2019.

Initiative	Description	Current status
<b>Kinship Care Reunification Program</b>	The Kinship Care Reunification Program targets children and young people aged 0–17 years currently in kinship care with a case plan that aims to achieve family reunification. The program supports the child to transition from a formal kinship care arrangement back to the care of their parents.	This trial ceased on 30 June 2018.

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COMMISSION FOR CHILDREN  
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### **Commission for Children and Young People logo**

The logo represents our vision for all children to be strong in health, education, culture and identity, and face the world with confidence.

The people are connected, equal in size and importance, and there is a fluidity that binds them together.

The mission of the Commission is for all young Victorians to achieve these goals.

The symbol is a Koori design created by Marcus Lee for the Commission.

The Commission respectfully acknowledges the Traditional Owners of the country throughout Victoria and pays respect to the ongoing living cultures of First Peoples.



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