
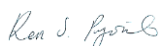


# Yoorrook Justice Commission

Witness Statement of Argiri Alisandratos  
Section 1 (Main Body)



## WITNESS STATEMENT OF ARGIRI ALISANDRATOS

Signature		Witness	
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Witness Statement – Argiri Alisandratos – Yoorrook Justice Commission – 21 March 2023, amended on 24 April 2023



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## WITNESS STATEMENT OF ARGIRI ALISANDRATOS



- i. I, Argiri Alisandratos, Acting Associate Secretary Department of Families, Fairness and Housing of 50 Lonsdale Street Melbourne, in the state of Victoria, say as follows:
- ii. I am the Acting Associate Secretary of the Victorian Department of Families, Fairness and Housing (**department**). I commenced acting as Associate Secretary of the department in August 2022.
- iii. I make this statement to the Yoorrook Justice Commission (**Commission**) in my capacity as acting Associate Secretary of the department. I am authorised to make this statement on behalf of the department.
- iv. The statement is true and correct to the best of my knowledge and belief. I make this statement based on matters within my knowledge and documents and records of the department which I have reviewed. I have also used and relied upon data and information produced or provided to me by officers within the department. The opinions expressed in this statement are also informed by my professional experience, formed over a period of 30 years of practice and leadership roles across Children and Families, and the broader social care system. Since 2007, I have held a number of operational and Policy/Program Executive Leadership roles that have shaped my observations and views reflected in this statement.
- v. This statement has been prepared with the assistance of department officers and lawyers.
- vi. Throughout this statement, I refer to documents attached to this statement in Section 2 and marked sequentially as **AA-1**, **AA-2** and so on.

### Acknowledgment

- vii. I acknowledge the Traditional Owners of Country throughout Victoria and pay my respects to their Elders past and present. Sovereignty has never been ceded.

### Scope of statement

- viii. I make this statement in response to each of the specific questions that the Commission has asked me to address. However, due to its length, I am presenting my statement in two documents.
- ix. The first document (**Section 1**) contains the responses to the Commission's questions, and the second document (**Section 2**) contains the attachments that support my responses and a glossary of terms and abbreviations. Section 1 includes:
  - (i) My **Opening remarks**, which explain the scope of my statement to be necessarily focused on the department's area of responsibility and acknowledgements of how past and present injustices continue to shape the operation of the system today.
  - (ii) **Part A**, which provides an introductory overview of the Child Protection System, the legislative context, and the Children and Families Service System. Part A also responds to questions 1 and 2.

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(iii) **Part B**, which contains my response to each of the Commission's questions that have been assigned to me. I have not always responded to the questions sequentially but rather grouped them under specific headings to better explain and illustrate the current policy and operational context and avoid duplication. The headings are:

- Over-representation and key legislative, policy, and program reforms
- First Peoples Families with Child Protection involvement
- Risk assessment framework and human rights
- Child Protection workforce and children's experiences in care
- Care services: The experiences of children and carers
- System expenditure and financial supports
- Incidents and complaints
- Pre-birth reports, barriers to care and support needs
- Future focus



### Professional background and qualifications

- x. Before I was appointed Acting Associate Secretary, I held a range of senior public service roles within the department and its previous iterations, including:
- (i) Deputy Secretary, Children Families Communities and Disability since 2017.
  - (ii) Lead Commander of Operation Benessere from July 2020 to November 2020.<sup>1</sup>
  - (iii) Operations Chief Transformation Officer from March 2016 – November 2016.
  - (iv) Deputy Secretary South Division (Dandenong) from December 2016 – July 2017.
  - (v) Director Southern Melbourne Area (Dandenong) from July 2015 – March 2016.
  - (vi) Director Inner Gippsland Area (Morwell) from January 2013 to June 2015.
  - (vii) Assistant Director of Placement and Support, with responsibilities for policy and program development for Victoria's Family Services and Out of Home Care system from March 2009 to January 2013.
  - (viii) Director Community Services, Loddon Mallee from January 2007 to March 2009.
  - (ix) Manager Placement and Family Services, North-West Metropolitan from February 2001 to January 2007.
- xi. My professional qualifications and recognition of service are:

<sup>1</sup> Operation Benessere was established to coordinate the COVID-19 public health response relating to the public housing towers at Flemington and North Melbourne on 4 July 2020. The then Department of Health and Human Services was the 'control agency' responsible for coordinating the response in line with Victoria's emergency management framework.

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- (i) Executive Master of Public Administration from ANZSOG (2009).
- (ii) Bachelor of Social Work from Monash University (1989).
- (iii) Awarded a Public Service Medal in the Queen's Birthday Honours List in 2022.
- (iv) Named on the COVID-19 Honour Roll for outstanding public service to the community.

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## OPENING REMARKS

1. I wish to begin by acknowledging the Traditional Owners of Country throughout Victoria and pay my respects to their Elders, past and present. I acknowledge and respect that First Peoples<sup>2</sup> self-determination is a human right and recognise the resilience, adaptation and innovation demonstrated by generations of First Peoples who have fought for this right to be upheld.
2. I make this statement in my professional capacity as acting Associate Secretary of the department. The opinions I express here are informed by 30 years of professional experience, observations and reflections about the Children and Families Service system and how this system, intended to protect and support children and families, has functioned, and continues to function, in ways that have unintentionally contributed to the over-representation of First Peoples children in the Child Protection system.
3. I acknowledge the enduring and profound impacts of colonisation and the legacies of past laws and policies that enabled horrific invasion in the lives of First Peoples families. As noted in the landmark 1997 *Bringing them Home* report (the Report). First Peoples children were removed from their families in the name of assimilation and placed in institutions, fostered or adopted by non-First Peoples families. These harsh assimilationist policies were preceded by the segregation of First Peoples on reserves, followed by the policies of 'merging and dispersing' which included the removal of children of mixed descent into institutional care.<sup>3</sup> I wish to acknowledge the strength and survival of the Stolen Generations and all First Peoples in the face of such State brutality.<sup>4</sup>
4. As evidenced by the testimonies recorded in the *Bringing them Home* report and the accounts of witnesses at this Commission's public hearings in December 2022 and earlier this month, many First Peoples children were abused, treated harshly, and indoctrinated by their carers and society at large to believe they were inferior, and their safety, belonging and culture irrevocably damaged.
5. Explicit attempts were made by the State to fracture families, dislocate First Peoples from culture (including language) and community, and break connection to Country. I acknowledge that the laws, policies, and practices that enabled these horrific and shameful acts underpin and continue to cast a dark shadow over the Child Protection system. These colonial underpinnings continue to influence the operation of the system today, resulting in over-representation and ongoing injustice.

<sup>2</sup> Throughout this statement, I use the term First Peoples to refer to both Aboriginal and Torres Strait Islander peoples who are living in Victoria. However, I use the term Aboriginal when referring to the specific name of an organisation, initiative, or program, or citing a section of an Act. The term First Peoples is also used in the preamble to the *Advancing the Treaty Process with Aboriginal Victorians Act 2018*, in recognition of the distinct cultural authority held by Traditional Owners as Victoria's First Peoples in the Treaty process.

<sup>3</sup> See: *Bringing them home* Chapter 4: Victoria <https://humanrights.gov.au/our-work/bringing-them-home-chapter-4#Heading34>

<sup>4</sup> In recognition of the lasting suffering experienced by the Stolen Generations because of their forced removal from their families, the Victorian Government now offers the Stolen Generations Reparations Package, which provides access to some financial reparations, an apology from the state and healing support. These measures can in no way provide adequate reparation for the trauma inflicted upon First Peoples by the State.

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6. As seen through the testimonies made to the Commission by First Peoples with first-hand experience of the Child Protection System, the profound impacts of colonisation, dispossession and child removal continue to be felt today, and racism continues to exist within State systems and structures. The impacts of historical and ongoing systemic racism are reflected across all the socio-economic, health and wellbeing determinants, contributing to the rates of over-representation of First Peoples children in the Child Protection and Care services systems.
7. My statement is necessarily focused on the department's areas of responsibility in Children and Families Services, Child Protection and Care services. These services sit within the secondary and tertiary end of the Children and Families Services system and together work with the objective to support vulnerable children and families and respond to protect children from significant harm.
8. The Children and Families Services System operates within a complex and integrated system and matrix of supports including universal,<sup>5</sup> secondary,<sup>6</sup> specialist services and tertiary services<sup>7</sup> which are provided by local, State and Commonwealth governments. Laws, policies, and practices that operate within and across these systems inevitably impact how vulnerable children and families are supported. Changes to the legislation and policy settings in one part of the system generally impact on other parts of the system.

### **The over-representation of First Peoples children in the Child Protection system**

9. The over-representation of First Peoples children is a deeply concerning feature of the Victorian Child Protection system. The department and the Victorian Government have been working to address this over-representation through various reforms over the past decade, including those informed by the findings of Taskforce 1000 and subsequent independent inquiries conducted by the Commission for Children and Young People.
10. Consistent with the objectives of Treaty, these reforms have gradually and increasingly acknowledged the critical importance of approaches that are led by First Peoples. These have been important first steps in developing alternative approaches that centre on First Peoples' knowledge and agency to achieve a self-determined Children and Families system. I note that the Treaty Negotiation Framework provides for negotiation to support the transfer of relevant decision-making power from the State to First Peoples.
11. I understand that the core of the challenge facing these reforms lies in the system's very origins, the impacts of which still reverberate and continue to cause damage to First Peoples today.
12. Understanding the present-day impacts of our colonial past provides much-needed context to understand the nature and prevalence of over-representation today. In the words of Wamba Wamba woman and Chief Executive Officer of First Peoples' Health and Wellbeing, Karinda Taylor at the December 2022 hearings, *"we have (a) disproportionate need, yes, because of our history,*

<sup>5</sup> Programs targeted at entire population in order to provide support and education before problems occur, Source: Australian Institute of Family Studies (2014), Defining the public health model for the child welfare services context

<sup>6</sup> Programs targeted at families in need to alleviate identified problems and prevent escalation, Source: as above

<sup>7</sup> Interventions for children experiencing maltreatment, Source: as above

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*because of colonisation. There is also structural bias embedded within the system, a function of the system historically, culturally, it reflects the culture where we are at in Australia, and that's something that we need to grapple with."*<sup>8</sup>

13. Within the context of this history, the department has conducted data analysis, intelligence gathering and open dialogue including with the Aboriginal Children's Forum (**ACF**)<sup>9</sup> to identify, the underlying and often unaddressed needs that contribute to over-representation to inform the nature and scope of our service response. These include the socioeconomic determinants discussed above, family circumstances, the availability of trusted and culturally safe early support services for First People, and systemic issues within the Child Protection system.
14. Data analysis indicates that across all families, the known risk factors of family violence, substance abuse, homelessness and poor mental health, are closely correlated with Child Protection involvement. However, due to the well-documented racist legacies of colonialism and dispossession, including those that remain embedded in our systems, these risk factors statistically present with greater frequency for First Peoples families. These risk factors drive the over-representation of First Peoples children in the Child Protection system and account for 55 per cent of the difference in the rate of reports and 35 per cent of the difference in the rate of entry to care.
15. Undoubtedly, systemic racism and bias is also a key driver of over-representation and addressing it requires two broad approaches, one that focuses on structures and systems inclusive of legislation and policies and the other a deliberate focus on arming our people with the skills to identify and counter conscious and unconscious bias and racism within our service settings.
16. Other drivers of over representation detailed in my statement include:
  - The need to identify and address the systemic and structural barriers that prevent First People from exercising their agency to access early help or 'diversionary' placement prevention and reunification services that reduce the likelihood of Child Protection involvement. To this end, the department has focussed on achieving proportional funding for Aboriginal Community Controlled Organisations (**ACCOs**) over the last decade and since 2015-16 has allocated approximately 15 per cent of family services funding within ACCOs.
  - The recent focus on designing programs for, and responding to, families with the most complex needs and children at risk of entering Child Protection and care systems at the expense of supporting more vulnerable families earlier in need.
  - The possibility that unnecessary reporting to Child Protection is occurring because reporters do not have sufficient awareness of early support services, are misjudging risk because of unconscious and conscious bias, or lack trust in the secondary service system. I make this assumption based on the high proportion of reports to Child Protection, for both First Peoples and non-First Peoples children that do not meet the threshold defined in legislation for an

<sup>8</sup> Quote from Karinda Taylor's statement to the Commission at the hearings on 8 December 2022.

<sup>9</sup> The ACF brings together representatives from Victoria's ACCOs, CSOs and the Victorian Government to promote the safety, health and resilience of vulnerable Aboriginal children and young people and oversee the implementation of Wungurilwil Gaggapduir: Aboriginal Children and Families Agreement. The ACF meets quarterly.

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investigation (meaning, the child is not assessed by the Secretary to be in need of protection).

- Systemic issues whereby Child Protection legislation, policies and procedures, intended to ensure prompt and responsive services, provide a stable environment for children in care and assist in the prioritisation of workload, may be driving interventionist approaches by not adequately considering the need for timely, deeper and more trusting engagement with children and families to facilitate change and build protective factors.
  - A lack of culturally appropriate exit pathways from Child Protection for First Peoples children placed in care who cannot be reunified with their parents.
17. Beyond quantifying the contribution of risk factors on the rates of reports and entries to care, the impacts of these additional drivers on rates of over representation cannot be quantified and is likely due to systemic bias in the system. I use the term systemic bias to refer to factors that may include bias embedded in system design, for example, policies or procedures that lead to greater surveillance of First Peoples families, as well as bias resulting from a lack of cultural understanding and awareness. I note it is also possible for systemic bias to contribute to the known risk factors.

### Our efforts to date

18. In response to the Commission's questions, my statement details a considerable range of legislative, policy, system and practice changes implemented over the last decade to drive improvements. While many of the responses demonstrate our collective efforts to address the over-representation of First Peoples children in the Child Protection system and improve outcomes for children and families, I acknowledge that these efforts have not succeeded in reducing rates of over-representation.
19. It is becoming increasingly apparent that efforts to add new requirements and procedures and drive compliance with legislation and policies are not achieving the desired change and are failing to address the drivers of over representation. In addition, the cultural competence of our workforce, our ability to recognise and address our own biases and form culturally attuned relationships with First Peoples children, families and carers continue to curtail efforts to address over-representation.
20. While we have achieved much reform at the systems, legislative and policy levels since 2016 and many of our processes and procedures now include First Peoples' perspectives and aspirations for the child and family system, I acknowledge that implementation is often hindered by a system that is under considerable strain and struggles to meet demand in a timely way, which often necessitates the prioritisation of children most at risk. Providing timely carer payments, developing cultural plans, visiting children and families regularly, and developing relationships with children and families are all contingent on sufficient staffing capacity with the right skills so that caseloads across all parts of our system are manageable and support the implementation of our commitments, policies and desired practice.
21. Throughout my statement, there are references to policies and practices that support Child Protection involvement and the removal of children from parental care. This involvement in the lives of vulnerable First Peoples families, most frequently by non-First Peoples, is confronting for



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families, particularly given the long history of forcible child removals that created the Stolen Generations and lasting intergenerational trauma. Such trauma can be exacerbated when the State's engagement is not culturally safe and cultural connection is not recognised as a protective factor.<sup>10</sup>

22. The protection of children is a fundamental requirement of a thriving society and, while this must rightfully balance the rights of parents and families, the best interests of the child remain paramount. I acknowledge that the best interest of the child is to remain in safe, supportive environments where culture is present in the form of a strong identity and connection to kinship and Country. The need to give the widest assistance and to intervene only to the extent necessary to secure the safety and wellbeing of the child requires complex assessments and professional judgement and should always be front and centre of any Child Protection involvement.
23. Our efforts to address over-representation and improve outcomes for First Peoples children to date have largely focussed on improving the existing service response by adding new requirements for the Child Protection workforce to protect and promote the cultural identity of First Peoples children and their connection to culture. Such examples include efforts to improve the identification of Aboriginality, compliance with the Aboriginal Child Placement Principle (**ACPP**) and the model to support cultural planning.
24. Significantly, however, in partnership with ACCOs, we have progressed the authorisation of First Peoples agencies and continued the transition of responsibility for First Peoples children to ACCOs. Almost one in every two First Peoples children subject to protection orders and in care is now receiving case planning and/or case management of an ACCO. Through efforts to transition children to ACCOs, we are seeing some early indicators of improved reunification efforts and engagement. The department, ACCOs and Community Service Organisations (**CSOs**) have collectively set a target that 100 per cent of First Peoples children are to transition to ACCOs and have developed strategic governance and oversight arrangements including the ACF to drive the attainment of this target.
25. A Bill has recently been introduced to Parliament to enable the authorisation of ACCOs to undertake investigations of Child Protection reports so that ACCOs may intervene earlier and divert families from Child Protection.
26. The Victorian Government has also invested significantly in earlier intervention supports for First Peoples families before they reach crisis point. Over \$23 million in additional funding has been provided to ACCOs between 2016-17 and 2021-22 to deliver these services, a 104 per cent

<sup>10</sup> See paragraphs 24 and 25 of Karinda Taylor's Outline of Evidence dated 7 December 2022 where she says, "In my experience, child protection workers from the (department) are often prejudiced and have a bias towards intervention and removals in the case of Aboriginal parents. This is especially so where Aboriginal parents have a: Child protection history (either their own or they have another child in care); Childhood trauma (such as childhood abuse); or Disability (often the characteristics of their disability are used against them, rather than accommodated with appropriate supports). Available on the Commission's website <https://yoorrookjusticecommission.org.au/wp-content/uploads/2023/02/HB1.0001.0012.0001-4.2-Witness-Outline-Karinda-Taylor.pdf>

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increase.<sup>11</sup> This means that ACCOs receive 15 per cent of *family and parenting services* funding which is provided on a 'sliding scale' that reflects demand at each part of the system.

27. There is evidence that well-targeted effort at the primary prevention stage has the greatest likelihood of preventing progression to the tertiary system. First Peoples agencies have told us that offering accessible, holistic, integrated, and non-stigmatising services early to First Peoples in need is critical to addressing vulnerability. The need for coordinated culturally safe and integrated place-based solutions and corresponding investments that centre First Peoples knowledge and agency in ways that facilitate enduring and self-determined solutions across all government-provided and funded services is paramount.
28. We have begun to see a slight decline in the rates of First Peoples children in care. The rate of First Peoples children in care peaked in 2020-21, with a rate of 103 per 1,000 in June 2021,<sup>12</sup> and has fallen slightly since then to 102.2 in 2021-22. While we still have a very long way to go in reducing the number of children in care, I am encouraged that the trend is starting to move in the right direction.
29. While we have reason to be proud of these achievements, I recognise that we have a long way to go to address the rates of over-representation. While these reforms have been guided by consultation, co-design and strong partnerships with First Peoples leaders, caucuses of strategic governance forums and ACCOs, I recognise that they are unlikely to achieve the outcomes we are seeking without a self-determined approach led by First Peoples. It is evident, within the current social and cultural context, that reform approaches need to be bold and focused more on system transformation through self-determination and Treaty and less on incremental change to the existing system.
30. The department is committed to progressing the design and implementation of a Children and Families system that is led by First Peoples who know foremost the needs of their children and communities.
31. Consistent with the objectives of the Victorian Aboriginal Affairs Framework (VAAF)<sup>13</sup>, enabling First Peoples to lead reforms requires the transfer of control over data, research, funding, and resources to First Peoples and shared State and First Peoples accountability for the ongoing transition and ultimate design and implementation of a renewed system.
32. Reform of this magnitude is complex and will need to factor in issues of scale, the unique aspirations of First Peoples communities and agencies, the Treaty process, historic funding arrangements and the roles historically held by the government and the community sector more broadly.

<sup>11</sup> SAMS data extract, 17 Feb 2023.



<sup>12</sup> Source: Report on Government Services 2023, Table 16A.2.

<sup>13</sup> Source: The Victorian Aboriginal Affairs Framework (VAAF) 2018–2023, (Melbourne: Victorian Government, 2018), accessible from: <https://www.firstpeoplesrelations.vic.gov.au/victorian-aboriginal-affairs-framework-2018-2023>.

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33. Reforming and transforming the current system will require both urgent and long-term commitment, careful prioritisation of effort, coordination of supports and investment across Victorian and Commonwealth government departments, and new and re-prioritised investment and strong partnerships for which Victoria has a strong recent history. Importantly, a revised system will require a transfer of authority, power and decision-making to First Peoples and the return of First Peoples children to their families and communities.

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## PART A

### INTRODUCTION: AN OVERVIEW OF THE CHILD PROTECTION SYSTEM



#### Legislative and service context

34. The following introduction is provided to aid the Yoorrook Justice Commission's understanding of the Children and Families services sector and to provide the foundation for subsequent responses to the Commission's questions.

#### Legislative context

35. The *Children, Youth and Families Act 2005 (Vic)* (**CYFA**) provides the legislative framework for protecting Victorian children and providing community services for children and families. The CYFA establishes the best interest principles (s.10), specifying that the best interests of the child are paramount in the making of a decision or taking of an action in relation to that child. Under s.8 all decision makers under CYFA, including the Children's Court, Child Protection, CSOs and ACCOs must comply with the best interest principles and must give consideration to the decision-making principles set out under s.11 of the CYFA.
36. Under s.10(2) of the CYFA, when determining whether a decision or action is in the child's best interests, decision makers must consider:
- The need to protect the child from harm.
  - The need to protect the child's rights.
  - The need to promote the child's development (considering their age, stage of development, culture, and gender).
37. For an Aboriginal child s.10(3)(c) requires consideration to be given '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'.
38. The CYFA sets out additional requirements for responding to Aboriginal children including but not limited to:<sup>14</sup>
- In practical terms, what impact has the permanency amendments to the CYFA had on reunification efforts and/or results for First Peoples children and families S.12 – Additional decision-making principles for Aboriginal children.
  - S.13 – ACPP specifying the considerations and criteria to be applied when making any decision regarding the placement of an Aboriginal child in out of home care.

<sup>14</sup> The Children and Health Legislation Amendment (Statement of Recognition, Aboriginal Self-determination and Other Matters) Bill 2023, introduced to the Victorian Parliament on 21 February 2023, if passed will establish additional binding 'recognition' principles to guide decision making regarding Aboriginal children and will legislate all five elements of the Aboriginal Child Placement Principle, namely: prevention, participation, partnership, placement and connection.


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- S.14 – Further principles for placement of Aboriginal child.
  - S.176 – Cultural support for an Aboriginal child in out-of-home care.
  - S.323 – Restrictions on the making of a Permanent Care Order (**PCO**) in respect of an Aboriginal child.
39. In addition to the CYFA, when working with all children, Child Protection must consider, and act in a way that is compatible with, a child's human rights as provided for in the *Charter for Human Rights and Responsibilities Act 2006 (Vic)* (the Charter). The CYFA also reflects parts of the United Nations Convention on the Rights of the Child and adopts these into Victorian law.

### ***The children and families service system***

40. The Victorian Children and Families Service System comprises a broad range of agencies and providers, including statutory and non-statutory services that work to promote the safety and wellbeing of children and families with varying degrees of complexity and need.
41. The key entry points into the Children and Families System, illustrated at Attachment **AA-1** include:
- Direct engagement by children and families with Family Services.
  - Direct engagement by children and families with, or referral to, The Orange Door (for more information about The Orange Door refer to paragraph 47).
  - A report to Child Protection.
42. In its broadest sense, the Children and Families Services System include:
- Universal (or primary) services offered to all children through maternal and child health, early childhood education and care, schooling and health platforms.
  - Targeted (or secondary) services that include parenting and family services and those that respond to specific needs including family violence, socioeconomic disadvantage, housing, disability, alcohol and other drugs, mental health, employment, social exclusion, and involvement with the justice system.
  - Statutory (or tertiary) Child Protection and Care services.
43. Importantly, the interaction that children and their families have across these systems of support is not linear, and children and families can and do move across and between entry points and may access multiple supports at one time or in episodes.
44. Through the Child Protection and Family Services portfolio, the department is responsible for providing advice on and implementing system and service design, reform and funding, delivery and oversight of the targeted and statutory children and family services. This includes parenting, early help and family services, statutory Child Protection and care services, permanent and leaving care services.

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### Parenting and family services

45. Family services aim to promote the safety, stability and development of vulnerable children, young people and their families from birth to 17 years of age. They aim to build family capacity to keep children safe and thriving and focus on early intervention to stabilise issues affecting families before they escalate to prevent more intensive or statutory intervention.
46. Family services are predominantly funded by the State Government and delivered by CSOs and ACCOs under established service agreements. Programs include:
  - Parenting services and supported playgroups – supporting families with emerging, low-intensity needs to build parenting skills and confidence and strengthen community connections.
  - Early Help family services – embedding family services practitioners in universal settings for families experiencing disadvantage and with emerging needs. These services improve children's wellbeing and developmental outcomes by supporting their parents to develop their skills and confidence.
  - Integrated family services – providing case management support to families experiencing cumulative harm, or who have multiple, complex needs, to support child wellbeing and safety and build family resilience. Additionally, these services seek to connect families with the supports they require, for example mental health or family violence support.
  - Intensive family services – maintaining children safely at home through holistic, strength-based, joined-up intensive case management supports, delivered in partnership, as appropriate, with Child Protection and other agencies.
  - Family preservation and reunification response services – delivering evidence-based and intensive support to families where children are at risk of entering care or where children are in care and the aim is to safely reunify with their family.

### The Orange Door

47. The Orange Door provides an entry point to access child and family services, and family violence services. The Orange Door is operational state-wide across all 17 departmental areas providing assistance for families who need support with the care, development and wellbeing of children and young people, adults, children and young people who are at risk of experiencing or have experienced family violence, and service responses for people who use family violence.
48. The Orange Door brings together area-based intake services – including specialist family violence, child and family services, men's family violence and Aboriginal Community Controlled Organisations. A map of the department's 17 service areas is provided in Attachment **AA-2(a)** and ACCOs funded to deliver services under CYFA in Attachment **AA-2(b)**.
49. The Orange Door provides initial supports to adults, children and young people in need, including an assessment of risk and wellbeing, safety planning, immediate crisis supports and connection to a range of services. Where child wellbeing is the presenting issue for a family, practitioners are able to assess and put in place the necessary supports that respond to the child's development

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and wellbeing needs, as well as assessing whether family violence is an underlying issue, and responding to identified safety concerns.

50. The Orange Door network brings together area-based intake services – including specialist family violence, child and family services, men’s family violence and ACCOs – providing support for:
  - Adults, children and young people experiencing family violence.
  - Families who need support with the care and wellbeing of children and young people.
  - People who use family violence.
51. Referrals to The Orange Door, including Child Protection referrals, involving a family or individual who has been identified as Aboriginal are prioritised as Tier 1 referrals, meaning the child or family is to be assigned a practitioner within 48 hours and continue to be prioritised during periods of high demand. The Orange Door actively seeks to establish whether a person is Aboriginal, where this is unknown.
52. Referrals are assessed by a practitioner from an Aboriginal service at intake who completes a whole of family assessment of risk and safety concerns, including for children. Practitioners are able to seek practice direction from experienced Aboriginal Practice Leaders and also consult directly with Community Based Child Protection staff who are based in The Orange Door.
53. The Practitioners from Aboriginal services in The Orange Door work with the families and local Aboriginal services to determine service choice within the broader service offerings by ACCOs. Aboriginal clients may choose to receive a service response delivered by ACCO or non-ACCO services.
54. In 2021-22 a total of 128,273 clients accessed support via The Orange Door for parenting or family support or because of family violence, of which 10,964 identified as Aboriginal.<sup>15</sup>

### **Child Protection**

55. The Victorian Child Protection program (Child Protection) of the Department of Families, Fairness and Housing operates in accordance with principles, powers and functions set out in the CYFA to provide for the support and protection of children and young people at risk of harm within their families. The main functions of Child Protection are to:
  - Receive, register, and assess reports to Child Protection.
  - Investigate matters where it is assessed that a child is at risk of significant harm.
  - Refer children and families to services that assist in providing the ongoing safety and wellbeing of children.
  - Make applications to the Children's Court if the child's safety cannot be ensured within the family.
  - Administer protection orders granted by the Children's Court.

<sup>15</sup> These figures do not capture the full capacity of The Orange Door network as new sites were progressively rolled out in 2021-22 and the service wasn't state-wide until this time.

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56. The Child Protection Intake service (Intake) is responsible for receiving and responding to reports of concern for a child's wellbeing or safety. Reports can be received from any member of the community, predominantly by phone, however some reports are received via email or in writing. In addition to information provided by the reporter, Intake practitioners may seek information from professionals involved with a child or family to inform the risk assessment and determine the appropriate response. Consultation occurs throughout the case with the Aboriginal Child Specialist Advice and Support Service (**ACSASS**) to support decision making where the child is Aboriginal. Intake practitioners will also consult the Sexual Offences and Child Investigation Teams within Victoria Police where concerns received may constitute a criminal offence.
57. Using all information available relating to the child and family, Intake completes a risk assessment under the SAFER children framework, including, where family violence is an identified risk factor, a risk assessment under the Multi-Agency Risk Assessment and Management (**MARAM**) framework. These assessments, in consultation with an Intake Team Manager inform the final Intake decision. Intake may provide advice to reporters, make appropriate referrals for families, or, where it is assessed that the child is in need of protection progress the matter for investigation. Reports assessed as urgent are to be responded to within two days and other matters within fourteen days.
58. Where it has been determined that a report requires investigation, Child Protection Practitioners will exercise their legal mandate to directly engage with the child and parents/carers to assess if the child or young person is at risk of harm. Following an investigation, a Child Protection Practitioner will need to determine whether they are satisfied on reasonable grounds that the child is in need of protection. This is called the substantiation decision. This assessment considers whether the alleged harm to the child has occurred, or if there is a likelihood of harm occurring, whether the consequence of that harm is concerning, significant or severe and the impact on the child's safety or development.
59. Where harm is substantiated, Child Protection works with families to address the risk to enable children and young people to remain in parental care in accordance with the child's case plan. S.168(1) of the CYFA requires that a case plan be developed for a child where protective concerns have been substantiated. S.166 of the CYFA requires every case plan to include a permanency objective. The permanency objectives are listed in s.167 of the CYFA, in order of preference as determined to be appropriate in the best interests of the child.
60. When harm cannot be addressed, and the child needs protection from significant harm, and the child's parents have not, or are unlikely, to protect the child from harm of that type, Child Protection will make a Protection Application under s.162 of the CYFA with the Children's Court and where required seek approval to place the child in out-of-home care which includes the kinship care, foster care, permanent care or residential care. For an Aboriginal child the decision to issue a Protection Application must be made in consultation with ACSASS.
61. When a child is first placed in care the objective is most commonly to reunify the child with their parents/carers. The CYFA (s.287A) provides that when issuing a Family Reunification Order (**FRO**) for children already in care, the period of that order must not have the effect of the child being in care for a cumulative period that exceeds 12 months. The Court may extend the FRO for a further 12 months where there is compelling evidence the parent/s will permanently resume care of the

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child during the period of the extension. The extension must not have the effect that the child will be placed in out of home care for a cumulative period that exceeds 24 months calculated in accordance with 287A of the CYFA. In 2021 a temporary change was made to enable the Court to factor the impacts of COVID-19 when extending orders and to extend FROs for a further six months where such impacts are evident.<sup>16</sup>

62. Once a child has been in care for two years if it is not safe for them to return home the child will typically be subject to a Care by Secretary Order, a long-term Care Order or PCO and their case plan aligned to the objective of these orders which is to pursue permanent alternative care.
63. S.323 of the CYFA places restrictions on when the Court may make a permanent care order for an Aboriginal child. The Court is prevented from making the order in respect of an Aboriginal child if that child is to be placed solely with non-Aboriginal person(s) unless the disposition report provided to the Court states that no suitable placement can be found with an Aboriginal person(s), the decision to seek the order has been made in consultation with the child where appropriate and Child Protection is satisfied that the order will accord with the ACP. The Court must not make a permanent care order in respect of 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 the child.
64. Only a small number of reports to Child Protection result in a court order being made. For most children who come to the attention of Child Protection, their involvement ceases with the closure of a report at intake or the conclusion of an investigation or protective intervention, often with referrals being made to other services as appropriate to support the family's needs.
65. In 2021-22 a total of 117,804 reports were received of which 11,249 (9.5 per cent) concerned First Peoples children.<sup>17</sup> Of the 117,804 reports, 35,755 were investigated with 4,445 (12.4 per cent) involving First Peoples children. Of these 35,755 investigations 16,071 were substantiated of which 2,185 (13.5 per cent) related to First Peoples children. Refer to NTP-002-003 for a comparison of this data over 12 years.
66. On 31 December 2022 there were 17,845 children with an open case in the Child Protection system of whom 3,851 (22 per cent) were Aboriginal. This includes open investigations, substantiations where Child Protection is working with the family's agreement and without court order, and with children subject to court orders (excludes intake, closed cases and PCOs).

### **Care services**

67. Under the CYFA, the Secretary must provide necessary care and support to children and young people living in out-of-home care, and act as a good parent would. Where this occurs, the Secretary assumes parental responsibility for these children and must make all decisions in the

<sup>16</sup> This amendment was made via the Justice legislation Amendment (System Enhancements and Other Matters) Act 2021 and is due to sunset on 26 April 2023.

<sup>17</sup> Some children may be subject to multiple reports in the same 12-month period, with 117,804 reports relating to 81,704 unique children, or 5.3% of Victorian children.

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child's best interests. For First Peoples children this includes the application of the ACPP hierarchy (which I elaborate on in my response to Question 37), and provision of a culturally safe placement.

68. Children and young people may be placed into the following care types: kinship care; foster care; permanent care; or residential care. Refer to the response to question 41 for an overview of each care type.
69. At the end of January 2023 there were 2,078 First Peoples children and young people in kinship care; 418 in foster care; and 103 in residential care. At the same time there were 4,945 non-First Peoples children in kinship care; 958 in foster care; and 348 in residential care.

#### **Additional requirements and services for Aboriginal children (ACSASS)**

70. ACSASS is a specialist program first implemented in the 1980's which now supports the legislative requirements outlined in s.12 of the CYFA regarding decision making for Aboriginal children. S.12 requires Child Protection to consult an "Aboriginal agency" (as defined in the CYFA) and have regard to the views of members of a child's Aboriginal community when making significant decisions in relation to that child.
71. Accordingly, ACSASS is funded to provide culturally attuned advice, input into risk assessments and cultural information to inform the assessment of all reports regarding the abuse or neglect of Aboriginal children and advice on significant decisions that determine the future of Aboriginal children across all phases of Child Protection intervention. Among the functions of ACSASS is to:
- Provide relevant cultural advice and input into the Child Protection assessment and case planning practices including information on Aboriginal child rearing practices, Aboriginal history and culture and to provide input into risk and safety assessments.
  - Support families to understand and engage in the Child Protection process they are involved with.
  - Provide advice to Child Protection on all reports and significant case planning decisions.
  - Attend home visits with Child Protection.
  - Attend formal case planning meetings (including reviews).
  - Obtain and provide information on local and state-wide Aboriginal services.
  - Provide information to the Children's Court both verbally and in written form if required.
72. ACSASS is funded \$6,746,844 ongoingly and is delivered by the Victorian Aboriginal Child Care Agency (**VACCA**) in all parts of Victoria except the Mallee Area, where it is delivered by Mallee District Aboriginal Services (**MDAS**) and the Loddon Area where it is delivered, in partnership, by Njernda Aboriginal Corporation<sup>18</sup> and the Bendigo and District Aboriginal Co-operative (**BDAC**).

<sup>18</sup> Njernda means *to know our living culture* in Wemba Wemba. Source: Njernda Aboriginal Corporate website available at <https://www.njernda.com.au/>

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### **Cultural planning**

73. When an Aboriginal child enters out-of-home care, under s.176 of the CYFA, a cultural plan must be given to the child. Child Protection policy requires this is to be provided to the child within 19 weeks of entering care. Refer to the response to Question 87 for a description of the cultural planning process.

### **Aboriginal Children in Aboriginal Care**


74. S.18 of the CYFA enables the Secretary of the department to authorise ACCOs to undertake specific functions and powers conferred on the Secretary under the CYFA and assume responsibility for Aboriginal children on Children's Court protection orders.
75. Implementation of s.18 takes the program name Aboriginal Children in Aboriginal Care (**ACAC**). and is the first program of its kind in Australia. Each ACCO delivering ACAC gives their program a unique name such as VACCA which has named their program Nugel.<sup>19</sup>
76. Currently VACCA and BDAC have received authorisation from the Secretary of the department to perform functions and powers of the Secretary. As at the end of December 2022, a total of 198 Aboriginal children were receiving support from VACCA and BDAC pursuant to an authorisation under s.18 ACAC is funded to enable the authorisation of up to 396 children pursuant to an authorisation under s.18 by June 2024.
77. BADAC and Njernda are currently in the pre-authorisation phase and preparing for full authorisation and are each funded to support 18 Aboriginal children 'as if' full authorisation had been provided. Rumbalara Aboriginal Co-operative is also preparing to commence pre-authorisation.

### **Community Protecting Boorais Pilot**<sup>20</sup>

78. Another Australian first initiative is the establishment of a new Aboriginal response to Child Protection reports, known as Community Protecting Boorais pilot. This initiative will enable authorised ACCOs to conduct investigations of reports made to Child Protection that are currently undertaken by Child Protection.
79. This initiative included 2020-21 Victorian State budget investment of \$11.6 million over four years to establish one First Peoples-led team at both VACCA and BDAC with capacity to respond to up to 174 Child Protection reports per year that require investigation.
80. In 2021-22 there were 4,445 such investigations undertaken in respect to First Nation children. This will enable earlier First Peoples-led and culturally informed protective intervention by ACCOs and ultimately divert children and families from Child Protection.

<sup>19</sup> Nugel is a Wurundjeri word meaning *belong*. Source: VACCA 2018-2019 annual report available at <https://www.vacca.org/content/Document/VACCAAnnualReport2018to2019.pdf>

<sup>20</sup> Boorais is a Wurundjeri word for babies or child.


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81. The pilot is anticipated to commence in mid-2023 pending passage of enabling legislation which at the time of writing, is before the Victorian Parliament as the Children and Health Legislation Amendment (Statement of Recognition, Aboriginal Self-determination and Other Matters) Bill 2023.

**Contracted case management and transitioning Aboriginal children to ACCOs**

82. Child Protection may contract a CSO or ACCO to undertake case management or specified case tasks only for a child who is subject to a protection order. Case management is the coordination and delivery of services provided as part of a case plan. 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 who is subject to a protection order.
83. Contracting arrangements are designed to enable the most appropriate agency to support the child and implementation of the case plan. For example, when a child is settled in their care arrangement it may be determined the kinship, foster or residential care agency supporting the carer/placement is best able to support the child and in doing reduce the number of professionals involved with the child.
84. The Transitioning Aboriginal Children and Young People to ACCOs initiative, commonly known as TAC, focuses on transferring case management of Aboriginal children in out-of-home care who are on final protection orders (excludes Interim Accommodation Orders) to ACCOs.
85. The target set in 2017 by the ACF was to transition 100 per cent of Aboriginal children in care who are on contractable orders to an ACCO by 2021 through ACAC authorisation or contracting case management. As at the end of December 2022, 852 (47 per cent) of Aboriginal children on final orders and in out-of-home care were either supported by an ACCO subject to a s.18 authorisation or by way of contracted case management being provided by an ACCO.
86. Investment to date, particularly in the initial stages of TAC, focused on contracting case management of kinship care placements to ACCOs. This investment, as well as the implementation of ACAC, has largely driven the achievement of 47 per cent of Aboriginal children being managed by an ACCO.
87. Progressing the transfer of First Peoples children in foster care and residential care placements has proven more challenging. This is explored further in the response to Question 16(b).

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## Question 1

*Theme: Overview and Context*

In the period since the Commission for Children and Young People (CCYP) Always Was, Always Will Be Koori Children (AWAWBKC) and In the Child's Best Interests (ITCBI) reports were released in October 2016, what does the State regard as the key factors that have contributed to the observed increase in the rates of: (a) Child Protection involvement in First Peoples' children and families, and (b) First Peoples children in out of home care?

### Response to Q.1

88. I acknowledge, that despite significant work having been undertaken by Government, CSOs and ACCOs since these CCYP inquiries, the rates of First Peoples children and families involved with Child Protection and in out-of-home care have remained significantly higher than for non-First Peoples children and families, and that these rates have been growing. The highest rate of over representation is for out-of-home care, which has seen the most rapid growth over this period.
89. As of June 2022, First Peoples children were five times more likely than non-First Peoples children to be the subject of a report to Child Protection, Child Protection was seven times more likely to investigate a report with respect to a First Peoples child, nine times more likely to conclude that harm was substantiated, and 22 times more likely to place a First Peoples child in care.
90. To identify, as far as possible, the rates and drivers of over-representation, the department has conducted data analysis, intelligence gathering and open dialogue in a range of forums, including with the ACF. The findings will inform ongoing departmental efforts to address those factors from within the Children and Families Services System.
91. As I have noted elsewhere in my statement, the contributing factors to the over-representation of First Peoples children in Child Protection include the profound impacts of colonisation, laws and policies and ongoing systemic racism that have led to socio-economic inequity and the lack of availability and accessibility of culturally safe specialist support services. The observed increase in rates of involvement by Child Protection with First Peoples children and families is most likely related to the interface between all these factors. I do not know specifically why those rates have increased since October 2016. No specific measures exist for the role racism and bias play in over-representation. Although difficult to measure, attempts should be made to research how these factors influence Child Protection decision-making.

### Socio-economic and family circumstances

92. As noted in my introduction, some known risk factors are very closely correlated with Child Protection involvement across *all* families – not just First Peoples families. These include socio-economic factors and family circumstances including family violence, homelessness, alcohol and drug issues and mental health issues. There are many more specific factors, but those are the most significant ones.
93. As a result of the profound impacts of colonisation, subsequent government policies including the dispossession of land, resources and language, the forced removal of children to achieve

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assimilation and the impacts of enduring intergenerational trauma and systemic racism, these risk factors are significantly more prevalent in First Peoples families than non-First Peoples families.<sup>21</sup> Indeed, with regards to family violence, the *Always was, always will be Koori children* report found it to be the primary reason First Peoples children to enter out-of-home care in Victoria. Of the 980 children whose cases were reviewed, 88 per cent were affected by family violence.

94. Combined with systemic racism that contributes to biases in decision-making, the increased prevalence of these risk factors among First Peoples families also drives over-representation. The department estimates these risk factors account for 55 per cent of the difference in the rate of reports to Child Protection and 35 per cent of the difference in the rate of entry to care.

### **Access to, trust in and use of early and specialist support services**

95. Another key driver identified is the State's ability to provide a service system that First Peoples can access and trust to support engagement in early intervention family services or 'diversionary' placement prevention and reunification services. These services are designed to support families build skills and resilience and scaffold them to increase their ability to provide a safe and nurturing home environment. These services significantly support better outcomes for at-risk children and reduce the likelihood of subsequent Child Protection involvement. However, I am aware, that because of the way in which State services have been and continue to be seen as unsafe and untrustworthy for First Peoples, many First Peoples do not trust these services and are therefore less likely to engage early in need for fear of being reported to Child Protection and experiencing unsafe cultural practices where services they are referred to are provided by CSOs.
96. This was illustrated in the testimony of Aaron Wallace from BDAC who appeared before the Commission on 7 December 2022 "*...It's okay if at that time child protection will investigate and refer our families to services, those services are not culturally appropriate, and then they substantiate harm because they haven't engaged. As an Aboriginal person, why would you want to engage with a racist service? A service that's not - that's bias towards your culture. We have some families that, yes, you know, enter the system, and they shouldn't enter the system, so that's why we have taken on that investigation phase, because we want to get in early.*"<sup>22</sup>
97. The capacity within family services and placement prevention and reunification services struggles to meet demand and with more investment additional families could be supported and the



<sup>21</sup> Aboriginal Victorians are more than twice as likely as non-Aboriginal Victorians to experience family violence. Source: VAHI Victorian Population Health Survey 2017, p.36

15% of homelessness clients are Aboriginal (compared with 1% of the population). Source: DFFH homelessness data

On a population basis there are 11 times as many Aboriginal applicants on the VHR as non-Aboriginal, and 6 times as many Aboriginal tenants in public housing. Source: Calculation based on DFFH housing data and ABS population data

Aboriginal people are admitted to public hospitals for mental health conditions at about three times the rate of the total for all people in Victoria. Source: Social Health Atlases, Torrens University Australia (Published Dec 2022) – Calculation based on an Age Standardised Rate of 2,462 per 100,000 (Aboriginal) and 842 per 100,000 (all persons)

<sup>22</sup> Aaron Wallace Transcript of Day 3, 7 December 2022, available on the Commission's website <https://yoorrookjusticecommission.org.au/wp-content/uploads/2023/01/Transcript-7-Dec-2022.pdf>

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timeliness of service responses improved. The duration and intensity of work required to support families are increasing over time, as is the complexity of families, which means the service system is focusing efforts on more complex families rather than families with less need and risk who would benefit from early help. Capacity is also impacted by workforce challenges that are particularly evident for ACCOs which are discussed further in Question 6.

98. Insufficient capacity in these services can lead to repeated reports to Child Protection and ultimately to children and young people requiring more intensive services where earlier intervention may have otherwise successfully diverted them. This is likely to be contributing to the increase in rates of First Peoples children involved in child protection and care services.
99. We have a strong history of First Peoples delivered family and placement prevention, and reunification services and Aboriginal organisations receive 15 per cent of family and parenting services funding. This is on a 'sliding scale' where for less intense family services we aim for, and achieve, proportional funding at a level equal to the proportion of First Peoples children reported to Child Protection (nine per cent) and for more intensive family services we aim for, and achieve, proportional funding equal to the proportion of First Peoples children entering care (24 per cent). More detail about the proportionality of funding is provided in the response to Question 50 and in Attachment (AA-26).
100. A high proportion of reports to Child Protection, for both First Peoples and non-First Peoples children, do not meet the threshold for an investigation as while most reports evidence concern for the child's well-being reported children are often not assessed by Intake practitioners to be in need of protection which is the legislated threshold that triggers an investigation. Specifically, 61 per cent of reports concerning First Peoples children are *not* investigated, compared to 71 per cent of reports for non-First Peoples children. This suggests that many reporters may not have sufficient awareness of early support services to refer families to or prefer to report their concerns to Child Protection for assessment.
101. While the majority of reports for all children are not investigated, where child well-being concerns are evidenced Child Protection may provide advice to the reporter or refer the child and family to appropriate services, most commonly the Orange Door, for parenting and family support or family violence services.
102. Given the higher rates of reports for First Peoples children, of which 87 percent were re-reports in 2021-22, - i.e. beyond a level that can be attributed to common risk factors – and the rates at which reports for all children do not reach the threshold for investigation I believe some reporters are misjudging the level of risk, lack awareness and trust in the secondary service system or prefer to have Child Protection assess the level of risk all of which is leading to unnecessary reporting.

### **Systemic issues and bias**

103. It is likely that over-representation is further but not completely explained by risk factors unavailable in the data. For example, financial stress, family functioning, and access to services. As I have canvassed in my opening remarks, the rest of the difference is likely due to systemic bias embedded in system design.

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104. Undoubtedly, the over-representation of First Peoples in the contemporary Child Protection system is also a product of systemic injustice, the seeds of which were planted in the earliest period of colonisation, where the erroneous belief of racial superiority over First Peoples was used as justification.
105. I acknowledge the dispossession of First Peoples, the forced removal of their children, and denial of Law, Lore, language and culture, has created the conditions for the enduring intergenerational trauma and social and economic inequality that many First People continue to experience today.
106. The department has policies and requirements that are intended to ensure prompt and responsive services and to intervene only to the extent necessary to protect the child. However, given systemic bias and other factors relating to intergenerational trauma and socio-economic inequity, some of these policies and requirements have had unintended consequences for First Peoples children and families.
107. For example, policies require Child Protection to decide whether or not the reported concerns are substantiated within 28 days of a report, and where the concerns are substantiated a further decision to either close the case or issue Protection Application within 90 days (with provision to extend this approval to a maximum of 150 days with approval). These timelines are intended to ensure intervention is limited to that necessary to secure the safety and wellbeing of the child, avoid case drift and to support workflow. However, due to the long history of serious systemic injustice acknowledged above, Child Protection often needs additional time before it can build relationships and develop trust with First Peoples families, in order for First Peoples families feel comfortable to discuss their needs and goals and engage with supports.
108. The 28 and 90-day timeframes to reach substantiation and closure or Protection Application decisions may not allow sufficient time to develop an informed assessment and for families to be referred and engaged with trusted services. This may lead to caseworkers substantiating harm or issuing Protection Applications because Child Protection's concerns have not been resolved and Child Protection have not been able to adequately engage with First Peoples families to connect them with services.
109. It is noted that Child Protection substantiates 20 per cent of all reports concerning First Peoples compared to 13 per cent for non-First Peoples children and that Child Protection substantiates 45 per cent of reports within 28 days for First Peoples children compared to 39 per cent for all children (31 Jan 2023).
110. Another element of service design is the *cumulative harm* policy, which requires the third report in twelve months and the fifth in the child's life to be investigated unless otherwise approved by a more senior worker. This increases the likelihood of Child Protection investigating First Peoples children as they are commonly reported for the first time at an earlier age and subject to more re-reports. In 2021-22, 87 per cent of reports to Child Protection concerning First Peoples children were re-reports, compared with 73 per cent for non-First Peoples children.
111. In 2021-22, 53 percent of First Peoples children involved in Child Protection (at any phase) had had more than five reports, compared with 34 per cent of non-First Peoples children. The table

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below provides data demonstrating the proportion of First Peoples and non-First Peoples children per number of reports over a five-year period to 2021-22.


*Table 1: Cumulative reports 5 years to 2021-22*

	1 <sup>st</sup> report	2 <sup>nd</sup> report	3 <sup>rd</sup> report	4 <sup>th</sup> report	5 <sup>th</sup> report	6+ report
First Peoples	13%	10%	9%	8%	8%	53%
Non-First Peoples	24%	15%	11%	9%	7%	34%

112. Of concern and consistent with this data is that First Peoples children are being reported to Child Protection for a third time and fifth time at a younger age, with the average age for a third report for a First Peoples child being 6.5 years compared to 7.9 years for a non-First Peoples child. The average age for a fifth report is 8.5 years for a First Peoples child and 9.2 years for a non-First Peoples child.
113. The permanency amendments were designed to ensure a safe and stable environment for children and young people in care and to ensure children did not drift in care. For those children unable to be reunified within two years it was intended that efforts would then be made to identify and secure a permanent care placement and where possible a PCO. It has become apparent that PCOs are often considered to be culturally unsafe and are therefore not supporting exit pathways for First People children from Child Protection and care. ACCOs report that many First Peoples kinship carers, while willing to care for the child until they reach 18, are reluctant to agree to a PCO as it severs the parent's (their relatives) parental responsibility. The lack of oversight of placements once a PCO is made also increases anxiety and risk that the carer may not actively promote, or worse still sever the child's connection to culture.
114. As at August 2022, 14 per cent of all protection orders for First Peoples children were Long-term Care Orders compared to 9 per cent for non-First Peoples children and 15 per cent of all orders were PCOs for First Peoples children compared to 27 per cent for non-First Peoples children. While Long term Care orders provide children with permanency of care, the child remains in the Child Protection system unlike children who are subject to PCOs where the case is closed. By extension the numbers of First Peoples children recorded as being in care accumulate and don't reduce at the same rate as non-First Peoples children.

### **Conscious and unconscious bias and insufficient cultural understanding and competence**

115. Importantly, I also acknowledge there is insufficient cultural understanding and competence across our system. While there has been an increased focus on professional development and training, discussed later in my statement, the cultural competence of the workforce has resulted in failures to understand and respond appropriately to First Peoples families and is likely to be driving reports, higher rates of substantiation and intervention. While it is difficult to quantify, I do accept, given accounts by First People over my professional career and our increasing rates of over-representation that both conscious and unconscious bias and racism still exist in our service system as it does in the broader community. As noted above, attempts should be made to research how these factors influence Child Protection decision-making, including seeking the views of First Peoples directly.

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116. The pervasive impact of racism and unconscious bias on practice was highlighted by Ms Felicia Dean, Chief Executive Officer of Rumbalara Aboriginal Co-operative, in her testimony to the Commission on 7 December 2022. Ms Dean stated that "... one of the other problems is this white lens is used to assess everything. Often that white lens is grounded in a basis of prejudice and racism and unconscious bias. It's there. And there are lots of examples of that."<sup>23</sup> I acknowledge the important truth of this statement and the contribution of the 'white lens' to over-representation.

### **Conclusion**

117. All the factors I have mentioned combine, and they build on each other, so we see a compounding effect as children move through the Child Protection system, culminating in the very high rates of First Peoples children in care.

### **Question 2**

*Theme: Overview and Context*

Over the same timeframe [from Oct 2016 to now], has a corresponding rate of increase been observed in the case of non-First Peoples children and families?



### **Response to Q.2**

118. No. In the past six years the rate of involvement of First Peoples children in the Child Protection system has increased 43 per cent (up from 146.1 per 1,000 children in 2016 to 209.3 per 1,000 children in 2022) compared with a 32 per cent increase (up from 10.2 per 1,000 children to 13.5 per 1,000) for Non-First Peoples children.<sup>24</sup>
119. During the same period the rate of First Peoples children in out of home care increased by 28 per cent from 79.9 per 1,000 children in June 2016 to 102.2 per 1,000 in June 2022. This compares with a reduction in the rate of non-First Peoples children in care of 20 per cent from 5.9 per 1,000 to 4.7 per 1,000.
120. It is worth noting that the rate of First Peoples children in care peaked in 2020-21, with a rate of 103 per 1,000 in June 2021 and has fallen slightly since then to 102.2 in 2021-22.<sup>25</sup>
121. Data to support the response to Question 2 is available at Attachment **AA-3**.

<sup>23</sup> Felicia Dean Transcript of Day 3, 7 December 2022, available on the Commission's website: <https://yoorrookjusticecommission.org.au/wp-content/uploads/2023/01/Transcript-7-Dec-2022.pdf>

<sup>24</sup> Data for 'involvement' in Child Protection reflects a count of children with an open case or a closed case with an open placement, but excludes permanent care placements.

<sup>25</sup> Source: Report on Government Services 2023, Table 16A.2

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## PART B

### OVER-REPRESENTATION AND KEY LEGISLATIVE, POLICY, AND PROGRAM REFORMS

122. The over-representation of First Peoples children in contact with the Child Protection system and in care has, rightly and necessarily, been a significant and persistent concern in Victoria over many years. While it has been the subject of many inquiries and reports, current responses and strategic directions to address over-representation have been largely influenced by the Taskforce 1000 project undertaken in 2014 and the subsequent inquiries.
123. Taskforce 1000 was a state-wide initiative that examined the circumstances of 980 First Peoples children in care on final orders noting there was approximately 1,740 total First Peoples children in care at the time. It sought to identify and respond to issues impacting on their stability, development, and cultural connectedness. It was a joint initiative of the Department of Health and Human Services and the then Commissioner for Aboriginal Children and Young People.
124. As a result of Taskforce 1000, the Commission for Children and Young People undertook two systemic inquiries which were both tabled in Parliament in 2016:
- *Always was, always will be Koori children (AWAWBKC)*: a systemic inquiry into services provided to Aboriginal children and young people in out of home care, which made 79 recommendations.
  - *In the child's best interests (ITCBI)*: inquiry into compliance with the intent of ACPP in Victoria, which made 54 recommendations.



#### Question 3

*Theme: Overview and Context*

In relation to each of the recommendations within the Always Was, Always Will Be Koori Children and In the Child's Best Interest reports, explain: (a) The State of Victoria's (State's) response (including whether accepted in principle, part or full); (b) Implementation status (as at February 2023); and (c) Current arrangements for monitoring and reporting upon progress.

#### Response to Q.3

125. Together the AWAWBKC and ITCBI reports made 133 recommendations to improve outcomes for First Peoples children. The Victorian Government accepted the 128 recommendations directed to it either in full or in part. The remaining were five recommendations that were not directed to government.

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126. Of the 128 recommendations accepted by government, 104 of these have been fully implemented or retired.<sup>26</sup> Of the remaining 29 recommendations, 19 are considered complete by the department and are to be assessed by the Commission for Children and Young People (CCYP). The remaining 10 are being progressed with approximately half of these related to legislative amendments to strengthen the ACP that are expected to be acquitted through the passage of the Statement of Recognition Bill currently before Parliament. As the recommendations are too numerous to detail, a summary of the status of all acquitted recommendations and those still in progress can be found at Attachment **AA-4**.
127. A representative working group of the ACF, comprising representatives from the CCYP, CSOs, ACCOs, the Victorian Aboriginal Children and Young People's Alliance and relevant government departments was established at the request of the then Commissioner for Aboriginal Children and Young People, following the tabling of these inquiries. The purpose of the Working Group is to monitor and endorse the implementation of all recommendations. This working group reaches agreement about the acquittal of each recommendation which is then provided to the CCYP. The department is working with the current Commissioner for Aboriginal Children and Young People to consider the ongoing governance arrangements for outstanding recommendations from these CCYP inquiries.

#### Question 4



*Theme: Overview and Context*

In addition to the reform actions described in response to paragraph (3), what other key legislative, policy and/or program reforms has the State initiated in the period since the CCYP, AWAABKC and ITBCI [sic] reports were released, in order to: (a) Ensure adherence and compliance with the Aboriginal Child Placement Principle (ACPP); (b) Reduce the number of Aboriginal children and families in contact with the Child Protection system (CP System); (c) Support family preservation and/or reunification efforts; and (d) Strengthen and support Aboriginal families deemed to be at risk, from the time of their first contact with the CP System?

#### Response to Q.4

128. ITCBI focused on Victoria's compliance with the intent of the ACPP, which aims to ensure wherever possible, an Aboriginal child is placed with Aboriginal extended family or relatives. The report made 54 recommendations of which 40 are now complete.
129. There are 12 recommendations from AWAABKC and ITCBI that directly relate to the ACPP, 6 of these have been proposed to the CCYP by the department to be acquitted with the remaining 6 ACPP recommendations still in progress.
130. Critical to improving compliance with the ACPP which was the central focus of ITCBI, the department has introduced mandatory recording of the ACPP placement hierarchy by practitioners

<sup>26</sup> A recommendation may be retired when the ACF working group agree that implementation is no longer required. For example, this may occur when the recommendation has been superseded by another initiative or reform.

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and now requires that where the placement does not comply with the ACP placement hierarchy, a justification must be recorded. Compliance with the ACP is reported to the ACF.

131. Implementation of the 104 recommendations made in both the AWA and ITCBI and additional reform has supported the following reforms:
- Aboriginal-led service delivery expansion including implementation of s.18 ACAC and increased numbers of Aboriginal children being case managed by ACCOs.
  - Progression of proportional funding to ACCOs.
  - The early and correct identification and recording of children's Aboriginality and robust processes to support de-identification.
  - The identification of kinship networks through the Aboriginal Kinship Finding Service.
  - Improved cultural planning for all Aboriginal children in care rather than only children subject to Guardianship Orders so they are better connected to culture.
  - Practitioners to develop cultural plans and ensure they can access cultural advisors within the department or within ACCOs for support when working with Aboriginal children.
  - Legislative reform to strengthen cultural support, introduce a new Long-term Care Order and provide protections for Aboriginal children when issuing a Permanent Care Order.
  - Improved supports for kinship carers through introduction of the Kinship Support Program.
  - Carers of Aboriginal children being able to access training to build their cultural competence.
  - Governance and partnership arrangements between the department, CSOs and ACCOs that are robust and support reform efforts and the sharing of data to support planning and accountability.
  - ACCOs to innovate through funding for Learning and Innovation Grants.
  - The employment of Aboriginal Cultural Support Advisors by the Child Protection Program.
132. The Victorian Government is working to reform the Children and Families system to provide a diverse range of flexible, evidence-informed earlier intervention supports for families that match their needs, experiences, stage of life and risk profile.
133. Since 2017, the Victorian Government has invested in earlier intervention supports aimed at supporting First Peoples families before they reach crisis point. Over \$23 million in additional funding has been provided to ACCOs between 2016-17 to 2021-22 to deliver these services, a 104 per cent increase.<sup>27</sup>
134. The vision for this work was championed by the Roadmap for Reform: strong families, safe children, released in 2016 and the Wungurilwil Gapgapduir Aboriginal Children and Families Agreement.<sup>28</sup> These reforms embedded a clear focus on Aboriginal self-determination around

<sup>27</sup> Data Source: Expenditure reports extracted from the department's general ledger.

<sup>28</sup> Wungurilwil Gapgapduir means *strong families* in Latji Latji.

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decision making and care for Aboriginal children and families and strongly promoted the importance of culture as a primary protective factor for Koori children and families.

135. In 2020-21 and 2021-22, the Victorian Government invested \$335 million and \$328 million respectively to test and expand trials of new service models, such as Koorie Supported Playgroups, Early Help Family Services, Family Preservation and Reunification Response, Family Group Conferencing and Putting Families First. Additionally, as part of the 2022-23 Budget, a further \$40.7 million was invested to provide Family Services support for up to 1,000 more families each year, and \$21.4 million to assist up to 1,600 families with disability.
136. The Government and department have implemented initiatives to support child development and wellbeing such as Koorie Supported Playgroups, expanded Healthy Mothers, Healthy Babies and worked with education to hold free kindergarten places open for Aboriginal children. Through Koorie Supported Playgroups parents and children enjoy a range of activities together that support strengthening the child-parent relationship and connection to culture.
137. To help families with emerging needs receive support when they need it, we have recently implemented Early Help Family Services pilots in all 17 DFFH Areas. This initiative sees family service practitioners embedded in universal services. ACCOs have partnered with non-ACCO providers to provide Early Help Family Services in childcare and kindergartens, primary and secondary schools, Maternal and Child Health and Hospital settings. ACCOs focus on working with Aboriginal children and families in those settings including through facilitated playgroups and support groups. Five ACCOs are involved in delivering Early Help Family Services at seven sites across the state. Eight per cent of the Early Help Family Services is funded through ACCOs. Three ACCOs are directly funded and deliver Early Help Family Services at five sites. In addition to this direct funding, two ACCOs are also involved in partnerships at a further two sites. The funding for the additional two ACCOs is through arrangements directly with the CSOs they are in partnership with.
138. Our family support programs operate from ACCOs in all 17 department areas across the state. The range of programs and funding (including proportional funding) is described in the response to Question 50.
139. In 2020, we established the Family Preservation and Reunification Response (the Response) to support children and their families to remain together safely and enable children in care to return home safely through the provision of evidence-informed practices. The Response was developed in close consultation with the ACCOs to ensure it was culturally appropriate. Further, the Response has given us the opportunity to significantly progress work towards developing an Aboriginal evidence-based model that is designed, developed and owned by Aboriginal organisations and community. Aboriginal children and families connected to the program have access to culturally safe and inclusive practices, delivered by practitioners, trained and coached in implementing Aboriginal cultural practice elements.<sup>29</sup>

<sup>29</sup> Response Operational Start-up Guide 2021 - <https://providers.dffh.vic.gov.au/response-operational-start-up-guide-doc>

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140. The rollout of the Response, together with some additional intensive support funding, was carefully planned to ensure it was implemented in Areas and cohorts most in need, with consideration given to the needs of Aboriginal communities. This has resulted in 24 per cent of our most intensive program funding being allocated to ACCOs across the State, proportional to the rate First Peoples children are entering care.
141. In 2022 the department implemented an adaptation of the Response model, “Putting Families First” (PFF). This model is designed specifically for families with complex needs that have multiple interactions across health, social and justice services, including mothers with a recent custodial experience and young people with recent youth justice involvement.
142. It is currently being trialled with up to 38 families per year in Brimbank Melton and Goulburn areas. In Goulburn, the partnership is led by Rumbalara Aboriginal Cooperative, while in Brimbank Melton, the Victorian Aboriginal Child Care Agency is a core partner. PFF takes a whole of family view and leverages an interdisciplinary team of specialists across mental health, community health, alcohol and other drugs, family violence, housing, legal and financial services, to collaboratively assess, plan, coordinate and facilitate delivery of practical and therapeutic supports, while proactively supporting families to build sustained networks of support, with the aim of keeping families safely together and reducing further involvement with statutory services. (Putting Families First Operational Guidelines, 2022).
143. In addition, several ACCO designed and led pilots are underway to divert Aboriginal children and families from the Child Protection System:
- The Family Group Conferencing Pilot Program operates at intake phase and three other pilot sites for families, including Aboriginal families. It supports Aboriginal families to make decisions about their children early in Child Protection involvement, strengthens engagement with services, and diverts families from further statutory involvement. The pilots commenced July 2022 and are funded to 30 June 2024.
  - Aboriginal Child Protection Diversion Trials funded through Innovation and Learning Grants that operate at Intake or Investigation phases include the three listed below (further information about these trials is provided at Attachment **AA-5**):
    - Aboriginal-Led Case Conferencing Trial (VACCA)
    - Garinga Bupup Trial (BDAC).<sup>30</sup>
    - Aboriginal Family Led Decision-Making (AFLDM) during Investigation Program Trial (Goolum Goolum Aboriginal Cooperative and Njernda Aboriginal Corporation).

### **Wungurilwil Gapgapduir**

144. The Victorian Government has re-committed to the implementation of Wungurilwil Gapgapduir through a refreshed three-year action plan (2021-2024). Core to that commitment is the reduction of the over-representation of Aboriginal children in Child Protection and alternative care, primarily

<sup>30</sup> Garinga Bupup means *growing baby* in Dja Dja Wurrung

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by providing enablers to advance Aboriginal models of care and the transfer of decision-making for Aboriginal children to ACCOs.

145. Agreed actions in Wungurilwil Gapgapduir provide the foundations for Victoria's plan to meet Target 12 of the National Agreement to reduce the rate of over-representation of Aboriginal children in care by 45 per cent by 2031. Importantly, however, the VAAF holds government to more ambitious targets than Victoria's commitments under the National Agreement, including Goal (2.1) Eliminate the over-representation of First Peoples children and young people in out-of-home care.<sup>31</sup>

### Question 5



*Theme: Overview and Context*

In the State's assessment, have the reforms identified in response to paragraphs (3) and (4) in the case of First Peoples children and families been: (a) Appropriately designed and/or implemented (including having regard to principles of self-determination); (b) Culturally appropriate; and (c) Effective in strengthening First Peoples children and families?

### Response to Q.5(a)

146. The department has sought to ensure that reforms are designed and implemented in line with the four critical enablers for self-determination which require government action in the VAAF, to prioritise culture, address trauma and support healing, address racism and promote cultural safety.
147. Increasingly the design of programs and initiatives have been either co-designed between the department and ACCOs or in more recent times designed solely by ACCOs informed by principles of self-determination. In this regard the design and implementation of programs has been changing and evolving with programs designed directly after Taskforce 1000 more likely to have been subject to consultation, evolving to co-design (cultural planning) and in the last 5 years First Peoples-led and designed programs have been evidenced, i.e., ACAC program guidelines and Innovation and Learning Trials. I do, however, acknowledge none are truly self-determining as even those designed and implemented by ACCOs have been developed within existing parameters of the CYFA which has not been self-determined or led by First Peoples.
148. Since 2015, the establishment of the ACF enables ACCOs to identify the need for reform, guide, direct and oversee policy development impacting Aboriginal children involved with Child Protection, to ensure policy and practice is self-determined and undertaken in a culturally appropriate manner.

<sup>31</sup> DPC, *Victorian Aboriginal Affairs Framework (VAAF) 2018–2023*, (Melbourne: Victorian Government, 2018), 22, <https://www.firstpeoplesrelations.vic.gov.au/victorian-aboriginal-affairs-framework-2018-2023>.

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### **Aboriginal Child Placement Principle**

149. The ACPP requires Aboriginal agencies to be consulted and involved in decision making regarding out of home care decisions and arrangements for Aboriginal children and specifying the placement of children within their cultural networks unless there is no other safe option.
150. It is recognised that while it promotes information exchange, shared decision making and advocacy and is a culturally responsive program ACSASS is not self-determining as the advice provided does not need to be followed. As ACSASS was developed in the late 1980s it does not reflect current commitments to self-determination more appropriately achieved through the transition of children to ACCOs but continues to provide a critical service to Child Protection until a full transition is realised.
151. Processes and programs have been established to enable senior staff of Aboriginal agencies that provide ACPP-related programs including ACSASS, AFLDM and cultural planning to contribute to decisions including, but not limited to, care team meetings where the child's case plan is established which has improved cultural practice, but I recognise these programs do not enable ACCO decision making or self-determined approaches.

### **Support Family Preservation and/or reunification efforts**

152. The Family Preservation and Reunification Response (the Response) is the Family Service program that is specifically targeted at children most at risk of entering care. It aims to reduce the number of children entering or remaining in care by strengthening families through evidence-based approaches. ACCOs deliver the Response in all 17 department areas, enabling Aboriginal families to be connected to culturally appropriate services.
153. As described in the response to Question 4, the Response was developed in close consultation with the Aboriginal community to ensure it was culturally appropriate. Further, the Response has given us the opportunity to significantly progress work towards developing an Aboriginal evidence-based model that is designed, developed, and owned by Aboriginal organisations and community. Aboriginal children and families connected to the program have access to culturally safe and inclusive practices, delivered by practitioners, trained, and coached in implementing Aboriginal cultural practice elements.<sup>32</sup>
154. ACCO funding for the Response and other intensive family services is matched to the proportion of First Peoples children in entries to care.
155. The Response progresses the government's commitment to advance Aboriginal self-determination, as laid out in Roadmap for Reform: Strong Families, Safe Children and Wungurilwil Gapgapdair: Aboriginal Children and Families Agreement.

<sup>32</sup> Response Operational Start-up Guide 2021 - <https://providers.dffh.vic.gov.au/response-operational-start-up-guide-doc>

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### **Strengthen and support Aboriginal families deemed at risk**

156. During the assessment of a report regarding an Aboriginal child, Child Protection must consult with ACSASS to receive input and guidance about the child's circumstances and cultural needs so these can be considered when making decisions regarding the best interests of Aboriginal children.
157. The Victorian Government engaged VACCA to develop a comprehensive cultural safety training package that is tailored to The Orange Door operations. VACCA also developed a cultural safety assessment tool and action plan which provides a consistent framework to assess and strengthen cultural safety through local action plans and has been endorsed by ten partner Aboriginal Community Controlled Organisations across Victoria.
158. ACCO services in each of The Orange Door networks auspice Cultural Safety Project Leads to deliver the mandatory training to practitioners in The Orange Door. In addition, Cultural Safety Project Leads consult local Aboriginal services and networks to inform cultural safety assessments and action planning, which is undertaken with each local governance group, to improve and embed cultural safety. These activities align with The Orange Door Aboriginal Inclusion Action Plan to ensure that services are inclusive for Aboriginal clients and staff.
159. The Aboriginal Diversion Pilots are examples of self-determined initiatives that respond to an agreed objective and enable ACCOs to design a local response without prescriptive program requirements or funding adjuncts to existing programs.

### **Cultural Plans**

160. Following legislative reform, implemented in 2016 requiring the provision of cultural plans to all Aboriginal children in care a process of facilitated co-design was undertaken between the department and ACCOs to design the model and cultural plan template. This process determined that responsibility for development of the cultural plan would be led by the care team and supported by cultural planning advisors funded within ACCOs and the proportion of funding to be attributed to each component of the model.

### **Response to Q.5(b)**



161. As previously stated, the ACF is a partnership that drives reform of the Child Protection and family services systems, enabling First Peoples-led voices and decisions to be at the centre of policy design. The department provides quality data reports to the ACF membership to enable evidence-based decision making regarding the seven key performance indicators identified by the ACF.

### **Aboriginal Child Placement Principle**

162. The ACPP requires decision makers to apply the principles and prioritise placement of Aboriginal children with their family, or Aboriginal carers. Where this is not possible, the child's connection to culture and community needs to be maintained.

### **Support Family Preservation and/or reunification efforts**

163. As noted in my response to Question 5(a), the Family Preservation and Reunification Response has significant and proportionate funding for ACCOs to deliver the Response. Non-ACCO

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providers are required to provide culturally safe services, inclusive of Aboriginal self-determination through respectful and equitable partnerships with ACCOs in line with commitments and principles in Wungurilwil Gapgapduir and the *Beyond Good Intentions Statement*.<sup>33</sup> These partnerships formalise the need for CSOs, the department and Child Protection to listen to the Aboriginal community as the primary guide for improving practice, services, and outcomes for Aboriginal families. It honours Aboriginal culture in service delivery and the rights of Aboriginal children to be raised within their culture and community.

164. Aboriginal children and families are connected to ACCO delivered Family Preservation and Reunification Response whenever possible and as first priority. Sometimes this is not possible as Aboriginal families may express a preference about which provider they prefer or the ACCO may not have capacity. In these situations, the Aboriginal family may be connected to a non-ACCO provider, and that provider is expected to provide culturally safe services and to work in partnership with the local ACCO.
165. ACSASS consultations enables Child Protection to plan culturally appropriate responses for children and families.
166. In late 2021, the department funded 18 new, fixed-term Aboriginal Cultural Support and Awareness Advisor positions across all divisions to build cultural competency, provide advice and capacity building to improve outcomes and cultural connections for First Peoples children and progress self-determination reforms for First Peoples children, families, and communities.



### ***Response to Q.5(c)***

#### **Aboriginal Child Placement Principle**

167. Recent reforms to improve compliance with the ACPP outlined above will improve and promote practitioner awareness and compliance with the ACPP noting that every placement decision must be recorded and justified when the child is not placed with family. While not yet formally evaluated this practice requirement is considered an effective strategy to promote change and compliance and will ultimately improve accountability.
168. As of 31 December 2022, 59 per cent of First Peoples children in care were placed with family or extended family: 33 per cent with Aboriginal relatives and 26 per cent with non-Aboriginal relatives. This has changed very little from 31 December 2016 when the figure was also 59 per cent (with 34 per cent placed with Aboriginal relatives and 25 per cent with non-Aboriginal relatives).<sup>34</sup>

<sup>33</sup> In 2013, Berry Street, the Victorian Aboriginal Child Care Agency, MacKillop Family Services and the Centre for Excellence in Child and Family Welfare convened a one-day public seminar for community service organisations and government entitled, *Beyond Good Intentions*, to discuss how best to support self-determination for Aboriginal families and communities in Victoria. The *Beyond Good Intentions* statement was formally endorsed in October 2015. Its purpose is to drive collaboration and reform and create a fair, just and restorative child and family welfare service system for Aboriginal and Torres Strait Islander children.

<sup>34</sup> Source: internal data.

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### **Support Family Preservation and/or reunification efforts**

169. As of November 2022, 12 ACCOs are involved in delivering the Family Preservation and Reunification Response (Response) and 855 Aboriginal families have been connected to the program.<sup>35</sup> While the program has not yet been evaluated, early outcomes suggest a positive impact on reducing entries to care, estimating the additional impact of the Response to date, is 56 (nine per cent) fewer children in care, with larger impacts for families in regional areas and for older children (these results are not disaggregated by cultural background).<sup>36</sup>
170. Aboriginal families have provided positive feedback about their contact with the Response.

### **Strengthen and support Aboriginal families deemed at risk**

171. The Aboriginal Child Protection Diversion Trials, designed by ACCOs, focus on culturally responsive services to engage early with Aboriginal families to divert them from Child Protection involvement. Early finding regarding their effectiveness have been positive.
172. The trial sites commenced in September 2021, with evaluation results demonstrating that they are diverting First Peoples families from Child Protection-led investigations with fewer substantiations. The trial has shown that the First Peoples-led case conferencing trial had a 78 per cent diversion success rate and Garinga Bupup (Unborn reports) had a 63 per cent diversion rate in the local area where the trials ran.<sup>37</sup>

## **Question 6**

*Theme: Overview and Context*

What does the State recognise to be the key failings of the current CP System in the case of First Peoples' children and families?


## **Response to Q.6**

173. The drivers of First Peoples over-representation include broad community wide factors as well as systemic and practice-based factors that all contribute to the current state of over-representation of First Peoples children in the tertiary end of the system, being the State's Child Protection and care system.
174. The department recognises that the colonisation process and systemic injustices have resulted in devastating and unthinkable atrocities committed against First Peoples. It is acknowledged that all our systems, including Child Protection and the broader Children and Families Services retain strong colonial features which are still contributing to the way First Peoples are viewed, supported

<sup>35</sup> Source: DFFH, Service Agreement Management System (SAMS)

<sup>36</sup> Source Department of Health, Data retrieved June 2022 from internal data modelling system - Victorian Social Investment Model (VicSIM), Analytics Evaluation and Research Branch.

<sup>37</sup> Source: Seeking Safety; Aboriginal Child Protection Diversion Trials Evaluation Final Report 20 December 2022. The University of Melbourne.


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and are consequently disproportionally featured within tertiary services including in the rates of children in care.

175. It is my opinion that as a society we have a way to go in shifting community attitudes about First People and promoting an understanding of the historical and ongoing impacts of colonisation.
176. As a department there is more that can be done to recognise the importance of investing in a range of more holistic, less prescriptive First Peoples-led and designed community and universal supports to strengthen and build resilient communities and families. This responsibility is also shared across all tiers of government and across multiple portfolios beyond the State's Child Protection and Family Services portfolio. The rates of over-representation reflect the performance of our entire social welfare system noting the role and responsibilities each part of the system has for vulnerable children. Much more is required from all parts of the system if we are to substantively change this concerning level of over-representation.
177. Critically in Victoria, the Children and Families Services system has been unable to reduce the over-representation of First Peoples children in care. Despite our significant collective efforts and a range of innovations implemented to divert First Peoples children from State care, we have not made progress against Target 12 of the National Agreement or Target 2 of the VAAF. In Victorian, as of 30 June 2021, 10.3 per cent of First Peoples children were in out-of-home care. On the current trajectory and without accounting for the impact of the existing system settings and services elements, or any further scaling of the state's reform efforts, the current Closing the Gap estimates predict that this rate of removal could rise to 16.9 per cent by 2031.<sup>38</sup>
178. While the Government and department are committed to First Peoples-led service design and delivery, and the fundamental right of First Peoples to self-determination, it is recognised that we still have a long way to go to achieve these commitments. While progress is being made, we are yet to achieve an adequate mix of First Peoples-led services in all parts of the service system and in all communities to provide choice to First People. Most services funded by government have not been designed by First People and operate within legislative and policy parameters that have not been determined by First People.
179. The 2022 Transitioning Aboriginal Children to ACCOs; Rights and Aspirations Project has identified a range of barriers that impact the objective of having all Aboriginal children in care supported by an ACCO. These include ACCOs choosing not to deliver some services to children in care where they believe these, as currently designed, to be culturally inappropriate and unsafe, such as foster care and residential care. Many ACCOs do not wish to deliver services at the tertiary end of the system particularly when the service involves child removal in accordance with legislative and policy requirements designed with a white lens.
180. Until services, programs, and the legislative parameters within which these services operate are designed by First People, it is unlikely all ACCOs will agree to provide all services that support the

<sup>38</sup> Productivity Commission (2021b). *Linear regression model estimate from Closing the Gap Target 12 data tables*. Closing the Gap Information Repository - Productivity Commission. Available at: <https://www.pc.gov.au/closing-the-gap-data/dashboard/socioeconomic/outcome-area12>.



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transition of children. This demonstrates that the system as it is currently designed is limited in its capacity to provide the necessary opportunities for ACCOs to support more First children and, ultimately, limits the number of children who can transition to being supported by an ACCO.

181. There is an opportunity through Treaty to change how child protection and family service priorities are identified, programs designed, funding allocated, and services delivered. Treaty is the legal framework through which First Peoples self-determination can be fully realised, including to support the important work of ACCOs
182. As a sector we also need to do more to address workforce challenges which impact system capacity. These challenges are particularly evident for ACCOs where program scale, time limited funding, inadequate infrastructure and the additional cultural load on First People employees who work and live in community all impact staff recruitment and retention. More is needed to adequately support ACCOs growth and sustainability needs and to address the insufficient staffing pipeline across community services to realise funded capacity, noting approximately 10 per cent of department funded or delivered community services jobs are currently vacant.
183. There has also been a failure to sufficiently advance Aboriginal data sovereignty commitments which support First People's communities to have control over the collection, use, generation, and management of their data and in doing so build a strong evidence base of what works for First People.
184. As well as the system failings just discussed, we have not sufficiently invested effort in workforce capability and culturally informed service delivery nor done enough to identify the existence and prevalence of unconscious, conscious bias and racism and to address this within our sector.
185. I acknowledge more is needed to support the design and delivery of learning and development opportunities for the Children and Families sector to ensure non-stigmatising and culturally safe service delivery. For example, it would be beneficial to have comprehensive training about the design and use of risk assessment tools, and how these can be strengthened to promote engagement by factoring in intergenerational trauma, power imbalances and experiences of racism, and recognition of culture as a protective factor and that the loss of culture needs to be considered in any assessment process. Such efforts could also support reflective practice and how to identify and self-regulate unconscious and conscious bias and racism.
186. Dr Jacynta Krakouer spoke of this in her evidence to the Commission on 8 December 2022: *"We need to all check our unconscious bias and actually check our privilege and do the work of actually interrogating whether or not we might actually hold some racialised assumptions. Whether or not we might look at Aboriginal families in a more risky way."*
187. Similarly, Karinda Taylor's evidence also provided on 8 December 2022, noted *"There is actually bias infiltrated into the tools that are used for decision-making, the bias that is put behind the risk notifications and the way in which we concentrate on risk to the neglect of the strengths. There is bias inbuilt in that."*

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**Question 11***Theme: Overview and Context*

Has the State produced any projections as to how, year on year, the State will meet outcome 13 of the national Closing the Gap targets?



**Response to Q.11**

188. The state has not produced any projections as to how it will meet Outcome 13 of the national Closing the Gap targets. Outcome 13 is about Aboriginal and Torres Strait Islander families and households being safe. With the target being, by 2031, the rate of all forms of family violence and abuse against Aboriginal and Torres Strait Islander women and children be reduced at least by 50 per cent as progress towards zero.
189. The department is commissioning work that may assist with this. Specifically, an expert third-party provider will be engaged to develop family violence projections for both First Peoples and the entire Victorian population. This work will estimate when family violence prevalence and reporting rates will start to decline in Victoria and where government needs to prioritise effort and investment to achieve this.
190. The work currently due for completion by the end of 2023 will be delivered in two parts:
- Part A – a high-level theoretical framework of the preconditions required to produce a decline in family violence in Victoria, to help guide government's reform activity and build understanding across government, the sector and the community of the complexities involved in the generational journey to end family violence.
  - Part B – using the high-level framework, a model of projections for when family violence will decline based on agreed scenarios, including reform activity and investment, to help guide, at a more granular level, the likely impact of future reform policy and investment decisions.

**Question 13**

*Theme 1. Rates and trends re CP intervention in the lives of First Peoples' children and families. (a) In the period since the Always Was, Always Will Be Koori Children Report (Oct 2016), numbers/ trends re: (a) Aboriginal children in the CP System (or known to CP System)*

As of 1 January, in each year since October 2016: (a) How many First Peoples children have been in (or had a file open within (are "known to")) the CP System? (Note: Where available, include data concerning Children with multiple CP System interactions including breakdown by type). (b). What is the proportion of First Peoples children in the CP System, vs non-First Peoples children? (c). Provide a breakdown of the ages of First Peoples children in or known to the CP System (e.g. <12 months, 1-3 years, etc). (d). What is the gender split of First Peoples children in the CP System (Male, Female, Undisclosed/Other)? (e). What is the life expectancy of First Peoples who have been in the CP System?

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**Response to Q.13(a) and (b)**

191. Data on the number and percentage of First Peoples children and non-First Peoples children in the Child Protection system, including prior Child Protection interactions each year from 2016-2022 is provided in Attachment **AA-6** and **AA-7**.
192. The data indicates the number of First Peoples children in the Child Protection system has increased 55 per cent in the last six years, compared with a 40 per cent increase for non-First Peoples children over the same period. This has led to the proportion of First Peoples children in the Child Protection system rising from 20 per cent to 22 per cent since 2016 (based on open cases). Similarly, the proportion of First Peoples children in the Child Protection system with multiple prior interactions has risen. In December 2022, 77 per cent of First Peoples children involved with Child Protection had been the subject of multiple reports, 65 per cent had had multiple investigations, 49 per cent had had multiple substantiations, and 48 per cent had had multiple placements in care.

**Response to Q.13(c)**

193. Data breaking down the ages of First Peoples children in or known to Child Protection is provided in Attachment **AA-8**.
194. The data indicates the number of First Peoples children in the Child Protection system has increased across all age groups in the last six years. Proportionally there is an increasingly even spread across age groups (with eight groups now representing 10 per cent or greater, up from just five groups in 2016). First Peoples children aged zero to two years continue to have the greatest proportion but this has declined from 22.8 per cent in 2016 to 15.8 per cent at the end of 2022.

**Response to Q.13(d)**

195. Data on the gender of First Peoples children in the Child Protection system is provided in Attachment **AA-9**.
196. The data indicates the proportion of female to male First Peoples children in care has remained extremely close to 50 per cent for all years between 2016 and 2022. As at the end of 2022 there were four more male First Peoples children than female First Peoples children in care.

**Response to Q.13(e)**

197. I am unable to respond to this question as the department does not collect longitudinal data of this nature.

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**Question 14**

*Theme 1. Rates and trends re CP intervention in the lives of First Peoples' children and families. (b) Removal of Aboriginal children into out-of-home care*

(a) As of 1 January, in each year since October 2016: (a) How many First Peoples children have been in out-of-home care? (b) What is the proportion of First Peoples children in out-of-home care, vs non- First Peoples children? (c). Provide a breakdown of ages of First Peoples children removed into out of home care (e.g. <12 months, 1-3 years, etc); (d) What is the gender split of First Peoples children in out-of-home care? (e). What is the proportion of First Peoples children in out-of-home care by DFFH region(s)

**Response to Q.14(a) and (b)**

198. Data showing the number of First Peoples children and non-First Peoples children in care each year from 2016 to 2022 is provided in Attachment **AA-10**. It shows the number of First Peoples children in out-of-home care has increased 51 per cent in the last six years. This compares with a 26 per cent increase for Non-First Peoples children over the same period. The proportion of First Peoples children in care has increased from 25 per cent at the end of 2016 to 28.6 per cent at the end of 2022.

**Response to Q.14(c)**



199. Data showing the number of First Peoples children in care by age each year from 2016 to 2022 is provided in Attachment **AA-11**. It tells us the number of First Peoples children in care has increased reasonably consistently across most age groups. First Peoples children between the ages of one and eight consistently make up close to half of those in care, with proportionally smaller numbers of First Peoples children in care under the age of 12 months and 17-18 years, these groups have exhibited greater volatility over the last six years.

**Response to Q.14(d)**

200. Data showing the number of First Peoples children in care by gender each year from 2016 to 2022 is provided in Attachment **AA-12**. It indicates the proportion of female to male First Peoples Children in care has remained close to 50 per cent for all years between 2016 and 2022. As at the end of 2022 there were marginally more female First Peoples children than male First Peoples children in care.

**Response to Q.14(e)**

201. Data on the proportion of First Peoples children in care each year from 2016 to 2022 broken down by departmental area is provided at Attachment **AA-13** for North Division, **AA-14** for South, **AA-15** for East and **AA-16** for West. The data shows that, as of the end of 2022, Loddon had the most First Peoples children in care in Victoria. Additional commentary on trends across each of the four departmental operational divisions is included with the data provided.

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**Question 15**

*Theme 1. Rates and trends re CP intervention in the lives of First Peoples' children and families. (c) Aboriginal children in non-Aboriginal placements*

The AWAWBKC report found that (as of October 2016):

1. There were 980 Aboriginal children in out-of-home care
2. 88% of children had experienced family violence
3. 87% of children were exposed to parental alcohol/ substance use
4. 42% of children were placed away from their extended family
5. 25% of the children on Guardianship Orders had no cultural support plan
6. 86% of children were case managed by a non-Aboriginal agency
7. Over 40% of children with siblings were separated from their brothers and sisters
8. Over 60% of children were placed with a non-Aboriginal carer

What is the comparable position in the case of First Peoples children and families, as at February 2023?

**Response to Q.15**

202. Key points relating to the data is provided in Attachment **AA-17**.


203. The measures drawn from the '*Always was, always will be*' report was a Taskforce 1,000 survey and cannot be replicated from data in the Client Relationship Information System (CRIS).<sup>39</sup> Presented here are existing DFFH measures which most closely align.

204. As of 31 December 2022, there were 2,365 First Peoples children in out-of-home care. This represents a 51 per cent increase compared with 31 December 2016 when there were 1,743 First Peoples children in care. It should be noted that the Taskforce 1000 project did not include all First Peoples children in care, and the figure of 980 represents only those that were included in the survey. Specifically, children on Interim Accommodation Orders and those where contested hearing were underway were excluded from the process.

- There is limited data in CRIS to indicate whether a child has experienced family violence. Data presented represents the percentage of substantiated cases with a primary abuse type of physical or emotional harm as the experience of family violence would most likely fall into one of these two categories. The combined percentage for these for First Peoples children has increased 4 percentage points, from 89 per cent to 93 per cent in the last 6 years.
- As of 31 December 2022, 41 per cent of First Peoples children in care were placed away from family – unchanged from 31 December 2016. Of the 59 per cent of First Peoples children who were placed with family or extended family, 33 per cent were with First Peoples relatives and 26 per cent with non- First Peoples relatives.<sup>40</sup>
- First Peoples children with a cultural plan has increased from 18 per cent to 52 per cent.

<sup>39</sup> An electronic system used to manage client information.

<sup>40</sup> Data source: DFFH Client Relationship Information System (CRIS)

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- Case management responsibility by a non-Aboriginal agency (managed by the department or non-ACCO) for First Peoples children in care has decreased by 20 percentage points (from 88 per cent to 68 per cent).
- First Peoples children with siblings separated from some or all of siblings fell 5 percentage points (from 66 per cent to 61 per cent).
- First Peoples children placed with a non-First Peoples primary carer has decreased 3 percentage points (from 35 per cent to 32 per cent).

### Question 16

*Theme 1. Rates and trends re CP intervention in the lives of First Peoples' children and families. (c) Aboriginal children in non-Aboriginal placements*

In the period since the *Always Was* Report was released, provide an explanation of the key steps that the State has taken to prioritise: (a) The placement of First Peoples children with First Peoples families; and (b) Case management of First Peoples children by First Peoples agencies.

### Response to Q.16(a)

205. Kinship care is provided by a child or young person's relatives or members of their social network and gives children and young people greater connection with family compared to other placement types. Kinship care helps First Peoples children build and promote positive cultural and community connections.
206. A key step in prioritising kinship care was the introduction of a new model of kinship care in 2018 to focus on earlier identification of kinship networks, strengthening community connections for First Peoples children in care and delivery of better, more flexible support. This includes:
- Kinship Engagement Teams – practitioners employed by the department to actively search for kin and to provide time-limited support, including the Kinship Placement Support Brokerage and managing phone line support in each departmental operational division
  - Aboriginal kinship finding and genealogical service – a dedicated service provided by VACCA
  - First supports – comprehensive assessments, planning and family services supports for new placements delivered by CSOs and ACCOs and First Supports Brokerage.
  - We have also invested in Kinship Finding Service and improve supports provided to kinship carers through the Care Help Desk and Care Kafe. During 2021-22 in response to COVID 19 additional payments were made to kinship carers and a hot line funded to provide additional support to carers recognising the additional pressures being experienced
207. Note the Victorian Auditor General's Office (**VAGO**) tabled the performance audit of the Kinship Care Model in Parliament on 22 June 2022. The report is publicly available via <https://www.audit.vic.gov.au/report/kinship-care>. The department has accepted all the recommendations.

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**Response to Q.16(b)**

208. Following the Always was, always will be inquiry report, through the ACF, the department and funded ACCOs and CSOs committed to the transition of case management for all Aboriginal children in care on contractable orders to ACCOs.
209. Program guidelines, governance structures and transition processes have been established in all departmental areas to support the identification of children in relation to who it is appropriate to transition case management and to provide oversight of progress.
210. The progress of transferring case management responsibility for Aboriginal children managed by either the department or a CSO to an ACCO has exceeded 250 per cent since the publication of Always was, always will be. As at December 2022, 47 per cent of Aboriginal children in care on a contractable order are either managed or authorised to an ACCO across kinship, foster and residential care.
211. While this has resulted in a substantial increase in the number of Aboriginal children supported by an ACCO, progress has stalled. To reinvigorate efforts the Transitioning Aboriginal Children to ACCOs; Rights and Aspirations project was undertaken in 2022 to identify the barriers to transition and to identify each organisation's aspirations for current and future service delivery so that opportunities to transition more children can be realised.
212. To date the transition has been largely focussed on children in kinship care with the transition of children in foster care and residential care being much slower. While six ACCOs deliver foster care ACCOs report the model is culturally inappropriate and does not support recruitment and retention of carers. In addition, CSOs report many foster carers are reluctant to transfer to an ACCO having formed a relationship with their agency of choice. A time limited working group has been established to consider approaches to promote the transition of Aboriginal children in foster care and their carers to ACCOs.
213. There are only two ACCOs delivering residential care for a small number of children limiting the likelihood of these children being transitioned. Again, ACCOs report the current model of residential care is not culturally safe and many ACCOs do not aspire to deliver residential care. Given the number of First Peoples children placed in residential care supporting a redesign and the potential to contract case management or provide authorisation to an ACCO for these young people without the ACCO providing care will be important next steps for transition efforts.

**Question 17**

*Theme 1. Rates and trends re CP intervention in the lives of First Peoples' children and families. (d) Reunification of children removed with their family.*

In each year from 1 January 2017 to present: (a) What percentage of First Peoples children in out of home care are reunited with their families? (b) What percentage of non-First Peoples children in out of home care are reunited with their families? (c) What is the average period of time in out of home care for First Peoples children? (d) What is the average period of time in out of home care for non-First Peoples children?

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**Response to Q.17**

214. Data responding to each component of this question is provided in Attachments **AA-18** and **AA-19**. It demonstrates that the percentage of First Peoples children in care who are reunited with their families within 24 months has declined from 18.7 per cent in 2016 to 16.6 per cent in 2020. This compares with a decline from 19.3 per cent to 17.8 per cent for Non-First Peoples children in the same period.
215. Since 2016, the average period in care for First Peoples children has increased from 32.4 months on average to 46.8 months. The average period in out of home care for all children has increased from 30 months on average to 42 months over the same period.



**Question 18**

*Theme 1. Rates and trends re CP intervention in the lives of First Peoples' children and families. (d) Reunification of children removed with their family.*

What does the State regard as the key challenges and barriers in increasing the rate of reunification in the case of First Peoples children and families?

**Response to Q.18**

216. Families need support to address protective concerns and successfully reunify with their children. As outlined in my response to Question 1, risk factors such as mental health, homelessness, family violence and alcohol and drug issues are significantly more prevalent in Aboriginal families than non-Aboriginal families due to colonisation, subsequent government policies including the dispossession of land, resources and language, the forced removal of children to achieve assimilation and the impacts of enduring intergenerational trauma. We have heard, for example from Aaron Wallace who I quoted in my response to Question 1 above, that First Peoples lack trust and are therefore often reluctant to access support services given the association of these services with a long history of dispossession and child removal and are often considered culturally unsafe.
217. ACCOs report that First People experience difficulties accessing support services such as family services, family violence services, drug and alcohol services, in a timely manner, particularly at crisis points.
218. They also report that many services are not holistic or culturally safe, resulting in a lack of engagement and First Peoples being reluctant to seek help early. Many services are siloed, and families struggle to access, connect and then stay engaged when they are experiencing intergenerational trauma and poverty. Homelessness and insecure housing, and the interface with family violence, also play a key role in preventing reunification of children.
219. In contrast, access to holistic and intensive First Peoples-led programs, such as the Family Preservation and Reunification Response, appears to be more effective in supporting reunification of children in Aboriginal families than mainstream/historical service offerings.
220. Other barriers impacting the likelihood of reunification include:

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- Access to affordable and stable housing. Homelessness and insecure housing, and the interface with family violence, play a role in preventing the reunification of children who have been removed from their mothers.
- The availability of culturally attuned drug and alcohol services that can respond in a timely manner particularly at crisis points where a child is at risk of removal
- The capacity of services to engage with First Peoples families build trust and work with complex trauma and multi faceted need and risk.
- Improving the Children and Families sector's ability to identify and address unconscious bias and racism.
- Putting in place appropriate supports to address the impacts of poverty and socio-economic factors as distinct from neglect and abuse.

### Question 19



*Theme 1. Rates and trends re CP intervention in the lives of First Peoples' children and families. (d) Reunification of children removed with their family.*

What are the key opportunities to address the issues identified in response to paragraph (18)?

### Response to Q.19

243. Enabling Aboriginal children to have their protection and care needs managed by ACCOs is an important step in addressing the barriers to reunification outlined in response to Question 18. Evidence presented at the Commission demonstrates that ACCOs are more likely to provide culturally safe services that are attuned to the needs of First Peoples. As stated in the Victorian Aboriginal Children & Young People's Alliance's written submission to the Commission, *'ACCOs know their community best and are most in touch with community needs. Being given more control over their destinies and services will lead to increased support for building communities and families that are strong in culture and connection to Country.'*<sup>41</sup>
244. A recent evaluation of ACAC tells us that First Peoples children involved with Child Protection who are managed by an ACCO, rather than departmental Child Protection, are more likely to be reunified with family or in stable, culturally safe alternative care. The evaluation found that for First Peoples children managed under ACAC, reunification occurred with families in 22 per cent of cases, compared to 11.1 per cent when managed by the department's Child Protection Practitioners. This demonstrates that First Peoples-led decision-making and engagement with First Peoples families is proving successful.
245. By 2024, ACAC will support 396 Aboriginal children and young people. In contrast there are close to 1850 Aboriginal children in care that could be ultimately supported by ACAC if funding was made available and or reattributed from case contracting funding to fund additional ACAC teams.

<sup>41</sup> Victorian Aboriginal Children and Young people's Alliance (2022), *Submission on Child Protection to the Yoorrook Justice Commission*, p. 4.

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As previously discussed, workforce challenges and the ability recruit or second staff will inevitably impact the pace with which programs such as ACAC can be rolled out.

246. ACCOs across Victoria received \$15.9 million per annum to support 436 families through the Family Preservation and Reunification Response (the Response) in 2021-22. As described in the response to Question 4, the Response was established to support children and their families to remain together safely and enable children in care to return home safely through the provision of evidence-informed practices. In 2021-22, 33 per cent of Response cases involving Aboriginal children were to support reunification.<sup>42</sup>
247. The Response was developed in close consultation with the Aboriginal community to ensure it was culturally appropriate. Aboriginal children and families connected to the program have access to culturally safe and inclusive practices, delivered by practitioners, trained and coached in implementing Aboriginal cultural practice elements.<sup>43</sup> These services seek to support Aboriginal families to connect with support services that address their needs.
248. As described in my response to Question 4, we have a strong history of Aboriginal delivered family services and placement prevention and reunification services, with Aboriginal organisations receiving 15 per cent of family and parenting services funding.
249. To address the prevalence of family violence experienced by Aboriginal people, Victoria has committed to prioritising specific self-determined approaches to prevent and respond to family violence against Aboriginal people, as described in my response to Question 28.
250. The department, through Homes Victoria, has also implemented the 'Homes for Families' program, which is designed to move families out of the hotel accommodation they were allocated during the pandemic to provide stable and secure housing. To date we have moved 165 families into a home and 42 (25 per cent) have been Aboriginal households.

## Question 20

*Theme 1. Rates and trends re CP intervention in the lives of First Peoples' children and families. (d) Reunification of children removed with their family.*



In practical terms, what impact has the permanency amendments to the Children Youth and Families Act 2005 (Vic) (CYF Act) had on reunification efforts and/or results for First Peoples children and families?

## Response to Q.20

251. Of concern, there appears to have been a deterioration in the timeliness of reunification for all children since 2016. The journey to permanency (reunification and permanent or long-term care) continues to take longer for First Peoples children compared to non-First Peoples children. This is

<sup>42</sup> Internal Finance, Performance and Risk (FPR) Data – January 2023

<sup>43</sup> Response Operational Start-up Guide 2021 - <https://providers.dffh.vic.gov.au/response-operational-start-up-guide-doc>

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illustrated in the table below which includes data on the percentage of children in out-of-home care who have been reunified with their families within 24 months.

*Table 2: Percentage of children in care who were reunified within 24 months of the reference date*

	31-Dec-16	31-Dec-17	31-Dec-18	31-Dec-19	31-Dec-20
First Peoples	18.7%	16.0%	16.3%	14.9%	16.6%
Non-First Peoples	19.3%	18.7%	18.5%	18.6%	17.8%

*Table 3: Average duration in placement for children reunified with their families in each year*

	2016	2017	2018	2019	2020	2021	2022
First Peoples	13.6	15.1	13.9	17.4	15.3	15.8	19.9
Non-First Peoples	10.8	12.0	11.7	11.0	12.0	13.5	16.0



252. In 2016 First Peoples children that were reunified had been in care for an average of 13.6 months, compared with 10.8 months for non-First Peoples children. Since then, the time spent in care prior to reunification has grown to 19.9 months for First Peoples children in 2022 and 16.0 months for non-First Peoples children.
253. It is acknowledged there continues to be systemic barriers that impact reunification rates when children are placed in care. These barriers include the ability of parents and professionals who support families to access the services they need including family services, family reunification services, family violence, alcohol and drug, mental health and housing services. Often services cannot be provided immediately or at a time that parents are seeking support. Wait times for these services vary and can impact on the rate at which families can address protective concerns.

## FIRST PEOPLES FAMILIES WITH CHILD PROTECTION INVOLVEMENT

### Question 27

*Theme 3. Characteristics of First Peoples' families with Child Protection involvement. Relevant factors including possibly disadvantage and poverty, lack of affordable or stable housing, family violence, drugs, alcohol, mental health, family history of removals and separation (intergenerational trauma), loss of cultural identity and connection through Government interventions, employment and education status.*

What are some of the key characteristics of First Peoples' families with CP System involvement? E.g., economic disadvantage, lack of affordable or stable housing, family violence, drugs, alcohol, mental health, family history of removals and separation (intergenerational trauma), loss of cultural identity and connection through Government interventions, employment and education status – as well as resistance to Government intervention or contact.

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**Response to Q.27**

254. Key characteristics of all children in the Child Protection system include:

- Experience of or exposure to family violence.
- Homelessness or lack of stable housing.
- Alcohol or drug use, or exposure to parental alcohol and drug use.
- Poorer rates of educational attainment.
- Mental health or parental mental health.
- Family history of Child Protection involvement or removal from family.
- Offending behaviour and police or youth justice involvement.
- Parent who has been in custody.
- Experienced or been exposed to sexual violence.
- A young mother.

255. This is not an exhaustive list of characteristics but represents the most prevalent. Additionally, due to the continued impact of historical and present-day systemic injustices, these characteristics appear more frequently and in combination for and young people in the Child Protection system – meaning they are more likely to present as having more complex needs. For this reason, there is no doubt that culturally safe service delivery needs to be improved so that First Peoples families feel confident, safe and supported to access early help and reduce the trajectory into out-of-home care.

**Question 28**



*Theme 3. Characteristics of First Peoples' families with Child Protection involvement. Relevant factors including possibly disadvantage and poverty, lack of affordable or stable housing, family violence, drugs, alcohol, mental health, family history of removals and separation (intergenerational trauma), loss of cultural identity and connection through Government interventions, employment and education status.*

What are the key policies, programs and other initiatives through which the State is seeking to: (a) Address those underlying characteristics; (b) Strengthen and support Victorian First Peoples children and families; and (c) Ensure that programs for First Peoples are culturally appropriate and effective, including through funding for Aboriginal Community Controlled Organisations (ACCOs)?

**Response to Q.28(a)**

256. There are a several key policies that together aim to address and respond to the needs of First Peoples families that contribute to Child Protection involvement and are considered drivers of over-representation as follows:

- Victorian Aboriginal Affairs Framework is the Victorian Government's overarching framework for working with Aboriginal Victorians, organisations and the wider community to drive actions, with self-determination its guiding principle. The VAAF holds government to ambitious targets including Goal 2.1, the elimination of over-representation of Aboriginal children and young people in out-of-home care.

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- Closing the Gap is a commitment from all Australian governments and Aboriginal and Torres Strait Islander representatives to a fundamentally new way of developing and implementing policies and programs that impact the lives of Aboriginal and Torres Strait Islander people.
- The Roadmap for Reform: Strong Families, Safe Children outlines the Victorian government's reform of the Child Protection and family services system and includes a commitment to Aboriginal self-determination, decision-making and care for vulnerable Aboriginal children and young people.
- Wungurilwil Gapgapduir: Aboriginal Children and Families Agreement and Strategic Action Plan is a landmark partnership between Aboriginal community, Government and community service organisations to advance self-determination and commit to better outcomes for Aboriginal children and their families. It outlines a strategic direction to reduce the number of Aboriginal children in out-of-home care by building their connection to culture, Country and community.
- Korin Korin Balit-Djak plan details how the department will work with Aboriginal communities, community organisations, other government departments and mainstream service providers – now and into the future – to improve the health, wellbeing and safety of Aboriginal people in Victoria.
- Dhelk Dja: Safe Our Way – Strong Culture, Strong Peoples, Strong Families commits Aboriginal communities, Aboriginal services and government to work together and be accountable for ensuring that Aboriginal people, families and communities are stronger, safer, thriving and living free from family violence. The Dhelk Dja Agreement commits to the development of three-year action plans to articulate the critical actions to progress the Dhelk Dja Agreement's strategic priorities.
- Free from Violence, is the primary prevention strategy to prevent violence before it starts
- Everybody Matters Inclusion and Equity Statement, commits to a culturally safe and responsive family violence system for Aboriginal people.
- Mana-na woorn-tyeen maar-takoort - Every Aboriginal Person Has a Home: Victorian Aboriginal Housing and Homelessness Framework (VAHHF) is the blueprint for government and the sector to work together to address the systematic housing and homelessness challenges faced by First Peoples. The framework aims to move beyond a state of crisis management to housing equity.

### **Response to Q.28(b) and (c)**

#### **Housing**

257. Homes Victoria has implemented a range of programs and initiatives to support First Peoples to either access housing or maintain their existing tenancy including:

- \$1.166 million over three years to Aboriginal Housing Victoria to support the implementation of Mana-na woorn-tyeen maar-takoort- Every Aboriginal Person Has a Home: The Victorian Aboriginal Housing and Homelessness Framework (VAHHF).

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- Big Housing Build (BHB): is the largest investment in social housing in Victoria's history, with 10 per cent of net new social housing dwellings to be allocated to First Peoples, including delivering a total of 820 new homes.
- Aboriginal Private Rental Assistance Program (APRAP) for which ACCOs are funded supports Aboriginal households who are experiencing or at risk of homelessness to maintain existing private rental tenancy or secure new private rental.
- Transfer of 1,448 public housing properties to Aboriginal Housing Victoria to own, manage and develop on behalf of First Peoples.
- As part of the \$500 million Building Works stimulus package, \$35 million has been allocated to Aboriginal housing, which is being delivered by Aboriginal Housing Victoria in partnership with ACCOs. A further \$13 million has been committed to social and Aboriginal housing throughout the broader Building Works stimulus package.
- Aboriginal Home Connect is a lapsing program from March-August 2021 as part of the Victorian Government's COVID-19 response and recovery package.
- More Than a Landlord program provides tenancy and well-being supports to vulnerable First Peoples households through Aboriginal Housing Victoria's community housing properties.
- In 2022, \$240,000 was funded to the Victorian Public Tenants Association to deliver an Aboriginal and Torres Strait Advocacy pilot program to social housing renters who are First Peoples.
- The Aboriginal Tenants at Risk Program aims to assist the tenants in Homes Victoria or Aboriginal Housing Victoria properties to maintain their current housing.
- \$50 million Youth Housing Program for two youth supportive accommodation models in partnership with ACCOs.
- Work is underway to construct and operate new family violence refuges in Horsham and Warrnambool for First Peoples victim survivors of family violence, in addition to the Shepparton family violence refuge.
- \$75.3 million in the 2022-23 State Budget to transform services for Victorians experiencing or at risk of homelessness.

### **Family Violence Key Programs and Initiatives**

258. To address the prevalence of family violence experienced by First Peoples, Victoria has committed to a response led by First Peoples underpinned by self-determination and are doing this in two important ways:

- First, by ensuring that self-determination is at the heart of every strategy that guides the way we prevent and respond to family violence in Victoria; and
- Second, by prioritising specific self-determined approaches to prevent and respond to family violence against First Peoples.

259. Implementation of the Royal Commission into Family Violence Recommendations: All 227 recommendations have been implemented, backed by an investment of \$3.7 billion, and remain focused on fully implementing Ending Family Violence – Victoria's 10-year plan for change. The



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10-year plan embeds the right to self-determination in all reforms and commits to supporting community-led responses underpinned by a strong Aboriginal community-controlled sector and community partnerships. The department funds ACCOs to work in The Orange Door to provide specialist family violence and safety and child wellbeing services to their communities.

260. The Dhelk Dja Partnership provides a flexible pool of funding for First Peoples-led tailored initiatives to prevent and respond to family violence through the Dhelk Dja Aboriginal Family Violence Fund. The fund includes programs focussed on healing and change programs, financial counselling support for First Peoples women to leave unsafe homes, and therapeutic services and programs to support First Peoples children.
261. The Victorian Aboriginal Community Initiatives Fund: supports 42 culturally appropriate, place-based community-led projects to prevent and respond to family violence in Victorian Aboriginal communities delivered by more than 30 Aboriginal organisations and community groups across the state.
262. Aboriginal-led family violence and sexual assault programs: ACCOs are funded to deliver First Peoples-led trials of innovative family violence and sexual assault programs, including:
  - Aboriginal Sexual Assault Trials to deliver culturally sensitive support to Aboriginal victim survivors of sexual assault based on holistic healing principles and building on the Nargneit Birrang Framework.
  - Medium-term Perpetrator Accommodation Service which supports victim survivors and their children, to remain safely in their home, while assisting persons using violence to actively engage with services to reduce the risk of family violence.
  - Serious risk perpetrator program seeks to keep victim survivors safe by joining up responses across the service system to keep serious-risk adults using family violence in view, disrupt their use of violence, change their behaviour, and lead them to accountability.
263. An accessible and culturally safe Orange Door Network provides First Peoples with a culturally safe and responsive service through agreed referral pathways and working arrangements between The Orange Door and ACCOs at the local level.
264. Aboriginal Access Points are being established to provide a culturally safe referral pathway into The Orange Door for Aboriginal people impacted by family violence.
265. The MARAM Framework requires approximately 370,000 workers, including teachers and doctors, across Victoria to identify, assess and manage family violence risk.
266. Child and Young Person-focused MARAM Practice Guides to equip those who work directly with children and young people are being developed in partnership with ACCOs to ensure cultural safety for Aboriginal and Torres Strait Islander communities is embedded. These Guides support professionals to work together to prioritise the safety and wellbeing of Aboriginal and Torres Strait Islander children and young people through a holistic, individualised approach to identify needs and risks and promote recovery and healing to divert Aboriginal families from Child Protection and out-of-home-care involvement.

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267. Specific guidance to support the accurate identification of the predominant aggressor of family violence, including considerations for Aboriginal women.
268. Dhelk Dja Partnership Forum: is representative of the Aboriginal community and Aboriginal family violence sector responsible for overseeing the Dhelk Dja 10-Year Agreement.
269. The ACCO Family Violence Sector Forum supports the development of culturally safe services and responses for Aboriginal people impacted by family violence.
270. The Dhelk Dja Monitoring, Evaluation and Accountability Plan includes First Peoples-led and defined indicators and measures of success to respond to and prevent Aboriginal family violence to monitor progress against the Dhelk Dja Agreement.

### **Children and Families key programs and initiatives**

271. Family Services are funded through the Child Protection and Family Services output and have been described in response to Question 4, 50 and 51. Family Services vary in intensity from Supported Playgroups and Parenting Support, through to Family Services and the Family Preservation and Reunification Response.
272. All Family Services aim to address the underlying characteristics outlined in this question, or to support families to access services that can assist in addressing those characteristics. Family Services are targeted and prioritised to those who are most vulnerable.
273. The Family Preservation and Reunification Response is an evidence-based service model implemented in all 17 department areas that aims to keep vulnerable children and families together safely where possible, and to support children in care to return home safely. The Response is delivered by 34 providers including 12 Aboriginal Community Controlled Organisations, in partnership with Child Protection.
274. The Response's evidence-based practice approach, including the Aboriginal elements and modules, was developed in close consultation with the ACCOs to ensure it was culturally appropriate. Uniquely, this practice approach embeds Aboriginal cultural practices known to support Aboriginal children and families. This work has been led by ACCOs and will ensure that services are culturally safe and inclusive for Aboriginal children and families. See response to Q4 for more details.
275. Putting Families First is a trial designed specifically for families with complex needs that have multiple interactions across health, social and justice services, including mothers with a recent custodial experience and young people with recent youth justice involvement. The model includes an interdisciplinary team of specialists across mental health, community health, alcohol and other drugs, family violence, housing, legal and financial services and has ACCOs as core partners or partnership leads. See response to Question 4 for more details.
276. Innovation and Learning fund (the fund) provide ACCOs that deliver children and families services the opportunity to build knowledge, learning and a body of evidence, to drive children and family services investment, trial new practice elements to embed innovations into practice, grow innovative practices across the system and explore new and culturally informed ways of working to

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improve outcomes for First Peoples children and families. Since the fund has been established, ACCOs have developed innovative ideas, based on local needs and opportunities, that are First Peoples-led, informed and have strengthened cultural connections.

277. The Aboriginal Child Protection Diversion Trials aim to respond to the over representation of Aboriginal children in Victoria through design and implementation of First Peoples-led solutions. The program trials provide access for Aboriginal families to culturally safe and relevant services in an effort to reduce Child Protection investigations involving Aboriginal children, Aboriginal child removals and placement of Aboriginal children in care.
278. A 2002 evaluation, Seeking Safety: Aboriginal Child Protection Diversion Trials Evaluation Final Report, undertaken by The University of Melbourne, highlighted the effectiveness of the Aboriginal-Led Case Conferencing (ALCC) trial and Garinga Bupup in diverting Aboriginal children from Child Protection investigations. The ALCC trial had an 78% diversion success rate, and Garinga Bupup had a 63 per cent diversion rate preventing children entering the Child Protection system between September 2021 to September 2022. There was excellent uptake and use of the trials by families, and good uptake of AFLDM conferencing by families in the later stage of implementation following redesign. Parents were very satisfied with their service; they experienced a high-level of personal and cultural safety during care and felt supported by ACCO Convenors/Case Manager.
279. The evaluation verified core components or active ingredients that are essential if Aboriginal Community Based Child Protection Mechanisms are to achieve desired outcomes these being safe, empowering and trusting relationships enabled by an Aboriginal service provide;, voluntary relationships; brokerage; and culturally grounded practices that reflect Aboriginal cultural values of family preservation, respect, honesty, choice, and empowerment including maintaining cultural integrity in service delivery. In summary, the trials evidence positive outcomes derived from Aboriginal Community Based Child Protection initiatives designed and implemented by ACCOs.

#### **Services to support people who were removed and/or placed in institutional care**

280. The department and the Victorian Government acknowledge the trauma and life-long impact of historical abuse and neglect that many Victorian children including members of the Stolen Generation experienced while placed in institutional care.
281. The Premier has committed to making a formal apology in Parliament on the government's behalf to people who experienced abuse in all institutional settings.
282. The Victorian Government is funding multiple initiatives which directly or indirectly address the intergenerational trauma and loss of cultural identity amongst First Peoples caused by forced removals and family separations. These services are either already open to First Peoples to access or will be when they are operational. They include:
  - Funding of support services for Pre-1990 Care Leavers, including Open Place and the Care Leaver Australia Network (CLAN).
  - The department is developing a Victorian Historical Care Leaver Redress Scheme which will provide support to Victorians who were placed in orphanages, children's homes and missions and experienced physical, psychological, and emotional abuse or neglect.

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- Restore, which is the counselling and cultural healing service for people who have experienced institutional child sexual abuse in Victoria and have accepted an offer of counselling and psychological care from the National Redress Scheme.
- The Care Leaver Records Service, which helps Care Leavers and their family members to access information about their time in out-of-home care through Freedom of Information requests.

283. The department is unable to respond to initiatives that respond to drug and alcohol abuse or mental health issues as this is the responsibility of the Department of Health.

### Question 29



*Theme 3. Characteristics of First Peoples' families with Child Protection involvement. Relevant factors including possibly disadvantage and poverty, lack of affordable or stable housing, family violence, drugs, alcohol, mental health, family history of removals and separation (intergenerational trauma), loss of cultural identity and connection through Government interventions, employment and education status.*

In the case of the key policies, programs and initiatives identified in response to paragraph (28): (a) What is the current duration of their funding (and is it recurrent)? (b) Explain any disparity in the various funding arrangements (particularly, as between ACCOs and other funding recipients.

### Response to Q.29(a)

Table 4: Funding timeframe - Housing

Program / Initiative	Recurrent Y/N	Funded until
Implementation of the Victorian Aboriginal Housing and Homelessness Framework	N	June 2025 (3 year funding)
Funding homelessness services for Aboriginal Victorians – one Aboriginal homelessness open entry point	N	June 2025
Aboriginal Private Rental Assistance Program (APRAP)	N *the PRAP receives ongoing funding, to which First Peoples are eligible. Work is underway to explore options to make APRAP funding ongoing	June 2024 (current five areas/locations) June 2025 (additional four areas/locations)
Aboriginal Tenants at Risk Program	Y	Ongoing
Building Works Stimulus Package	N	30 June 2023
Aboriginal Home Connect	N	No longer active – ceased 31 August 2021
Big Housing Build Commitment	N	Big Housing Build is due for completion by end of 2025.
Community Housing Sector Development Fund	N	Big Housing Build is due for completion by end of 2025.
More Than a Landlord program	N	March 2023
Youth Housing Program	N	Big Housing Build is due for completion by end of 2025.
Victorian Public Tenants Association- Aboriginal Advocacy roles	N	June 2023

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Core and Cluster Family Violence Refuges	N
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284. The Victorian Government has increased family violence and sexual assault service delivery funding to ACCOs from approximately \$5.2 million in 2017-18 to approximately \$52.5 million in 2022-23, which includes new service delivery functions arising from the family violence reforms.
285. The \$52.5 million in 2022-23 represented around 12 per cent of total family violence service funding in that year. Approximately 73 per cent of the funding directed to ACCOs in 2022-23 was recurrent including for Aboriginal family violence services, The Orange Door, supported accommodation, therapeutic interventions, and responses for people using violence.

*Table 5: Funding timeframe - Responding to family violence*



Program initiative	Recurrent Y/N	Funded until
Communities Initiative Fund	Y	N/A
Aboriginal Access Points	Y	N/A
The Orange Door	Y	N/A
ACCO-delivered family violence services	Y (73%)	27% fixed term until 2023-24, with a small proportion ceasing in 2024-25
The Dhelk Dja Fund	N	2022-23
Aboriginal Sexual Assault trial	N	2023-24
Medium-term Perpetrator Accommodation Service	N	2022-23
Serious Risk Perpetrator Program	N	2024-2025

*Table 6: Funding timeframe - Family Services*

Program initiative	Recurrent Y/N	Funded until
Family Services	Y (approx. 65%) however, approx. 35% is not	35% ends 2023-24
Family Preservation and Reunification Response (included in Family Services above)	Y (approx. 35%) however, approx. 65% is not	65% ends 2023-24
Putting Families First (included in Family Services above)	N	2023-24
Innovation and Learning fund	Y	2023-24

*Table 7: Funding timeframe - Services for people who were removed and/or placed into institutional care*

Program initiative	Recurrent Y/N	Funded until
Care Leaver Records Service	Y	
Statewide Pre 1990 Support Services	Y (approx. 75%), however, approx. 25% is not	25% ends 2023-24
National Redress Scheme	N	2027-28
Victorian Redress scheme (funding for victim/survivor supports and payments)	N	2024-25

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**Response to Q.29(b)**

286. Noting the breadth of services outlined in Question 28, it is not possible to provide a detailed explanation for any funding disparities between service or service providers or why each activity may or may not be funded recurrently and many explanations are subject to Cabinet in Confidence decisions. In the broadest terms however funding decisions are based on the outcomes of annual Expenditure Review Committee decisions which factor the funds available for allocation across portfolios subject to government priorities and factor the need for funding to be sustained over time or a time limited period to test and trial or to undertake a one-off activity. I have, however provided a summary of the comparative allocation of Children and Families expenditure in my response to Questions 50 and 51.

**Family violence response**

287. In line with the Aboriginal Funding Policy, at least 10 per cent of all new family violence and sexual assault funding is allocated to ACCOs.

288. Family Safety Victoria is committed to working with the Dhelk Dja Koori Caucus to establish a sustainable funding approach under the proposed 10 Year Investment Strategy to ensure ACCOs delivering family violence service responses are supported with equitable funding to continue to meet the demand for culturally safe, holistic service responses that meet the needs and aspirations of the Victorian Aboriginal community.



**Family Services response**

289. In line with Wungurilwil Gapgapdair and the department's Aboriginal Self Determination policies, funding for ACCO delivered Family Services is commensurate with demand, that is the number or proportion of Aboriginal children who need the services. For Family Services, 15 per cent of services are delivered through ACCOs. More detail can be found in response to Question 50 and Attachment **AA-26**.

**Question 30.**

*Theme 3. Characteristics of First Peoples' families with Child Protection involvement. Relevant factors including possibly disadvantage and poverty, lack of affordable or stable housing, family violence, drugs, alcohol, mental health, family history of removals and separation (intergenerational trauma), loss of cultural identity and connection through Government interventions, employment and education status.*

What are the key challenges and opportunities in respect of the programs identified in response to paragraph (28)?

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### Response to Q.30

290. The key challenges and opportunities in relation to family violence prevention and response include:<sup>44</sup>

- Building a skilled and sustainable workforce for family violence prevention and response, including the specialist Aboriginal workforce.<sup>45</sup>
- Short-term funding which presents a particular challenge for ACCOs in delivering sustainable services.<sup>46</sup>
- Strengthening data collection and analysis from departmental family violence programs and initiatives to better understand and demonstrate impact.<sup>47</sup>
- Leveraging national action to deepen the impact of Victoria's investment in preventing and responding to family violence against Aboriginal people.<sup>48</sup>
- Greater focus on children and young people as victims of family violence in their own right has the potential for more child-centred responses that disrupt intergenerational cycles of violence.<sup>49</sup>
- Improving practice and cultural safety when identifying and managing the risk of family violence for Aboriginal children and young people, by embedding the child and young person-focused MARAM Practice Guidelines across workforces.
- Potential to increase the number of Aboriginal people who benefit from the client-centred model of support offered through The Orange Door.
- Ensuring a continuous program to increase the availability of social and affordable housing for Victorian Aboriginal households to meet housing demand.

291. The key challenges in relation to housing include:

- A high demand for social and affordable housing, as well as homelessness services with over 5,500 First Peoples living in social housing, and 3,379 new priority Aboriginal applicants

<sup>44</sup> In response to the challenges consistently raised by the Dhelk Dja Koori Caucus in relation to short-term funding to ACCOs, further work is underway to model demand for family violence services to better match funding to demand as part of the commitment to develop a 10-year investment strategy under the Dhelk Dja agreement.



<sup>45</sup> The potential to increase the number of Aboriginal people who benefit from the client-centred model of support offered through The Orange Door can be achieved through introduction of Aboriginal Access Points to The Orange Door.

<sup>46</sup> The challenges posed by short term funding has consistently been raised by the Dhelk Dja Koori Caucus as outlined in the report by the Family Violence Reform Implementation Monitor available online at [Monitoring Victoria's family violence reforms: Aboriginal-led prevention and early intervention Report | Family Violence Reform Implementation Monitor \(fvrim.vic.gov.au\)](https://www.fvrim.vic.gov.au/monitoring-victoria-s-family-violence-reforms-aboriginal-led-prevention-and-early-intervention-report)

<sup>47</sup> In response to the need for strengthened collection and analysis of data across all family violence programs and initiatives, an Aboriginal Data Mapping and Data Needs project to support a baseline understanding of family violence experienced by Aboriginal people and build the evidence base for prevention and intervention has begun.

<sup>48</sup> The opportunity to leverage national action stems from the development of an Aboriginal and Torres Strait Islander Action Plan under the National Plan to End Violence against Women and Children.

<sup>49</sup> More child-centred responses that disrupt intergenerational cycles of violence are important, noting recent Australian data shows that almost nine in ten adolescents who report using violence in the home, also report childhood experiences of family violence and other forms of maltreatment – K Fitz-Gibbon et al, Adolescent family violence in Australia: A national study of prevalence, history of childhood victimisation and impacts, September 2022, ANROWS Research Report. [https://anrowsdev.wpenginepowered.com/wp-content/uploads/2022/09/RP.20.03-RR1\\_FitzGibbon-AFVinAus.pdf](https://anrowsdev.wpenginepowered.com/wp-content/uploads/2022/09/RP.20.03-RR1_FitzGibbon-AFVinAus.pdf)

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are on the Victorian Housing Register waiting list. In 2021-21, 17 per cent of First Peoples sought homelessness support.

- Our experience is that social housing renters with multiple and complex needs can find it very difficult to retain them. While the department has introduced various supports to promote housing stability, including targeted programs for First Peoples, these programs don't have ongoing funding to address underlying issues.<sup>50</sup>

292. The key challenges and opportunities in relation to Family Services for children and families include:

- High and increasing demand for services that exceeds the system's capacity.
- Workforce challenges which impact system capacity. There is insufficient staffing pipeline generally and particular retention stressors for ACCOs including program scale, infrastructure and cultural load on First People employees.<sup>51</sup>
- Unconfirmed commitment for ongoing funding once the trial is completed and there is limited capacity to share positive outcomes.

293. The key challenges and opportunities in relation to services to support people who were removed and/or placed into institutional care include:

- Many of the services are not keeping pace with demand despite investment in recent years.
- First Peoples impacted by Stolen Generations and institutional care are ageing and have diverse health and social needs that are not amenable to prescriptive program models.
- In relation to Stolen Generation Reparations Package – the challenge of avoiding the potential re-traumatisation of applicants and processing applications in a timely manner.

<sup>50</sup> Based on previous First Peoples renter support program evaluations, up to 17 per cent of renters (over 18 years old) require specific support. It is estimated that approx. 1,485 First Peoples renters per year experience significant stressors requiring targeted intervention to maintain their housing tenancy.

<sup>51</sup> The term cultural load refers to the "invisible workload that employers knowingly or unknowingly place on Aboriginal and Torres Strait Islander employees to provide Indigenous knowledge, education and support" Source: Easing the 'cultural load' for indigenous people in the workplace in LSJ Online <https://lsj.com.au/articles/easing-the-cultural-load-for-indigenous-people-in-the-workplace/>

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## RISK ASSESSMENT FRAMEWORK AND HUMAN RIGHTS



### Question 21

*Theme 2. Risk Assessment Framework / Human Rights considerations prior to removal of First Peoples' children into out-of-home care. (a) Explanation of considerations taken into account by Child Protection staff in applying the Framework (including training, oversight, consideration of cultural considerations and the negative health, wellbeing and trauma impacts of child removal), including any key changes over the past 10 years.*

Provide an overview of the key processes followed by the State in determining whether or not a child should be removed from their family into out of home care, including particularly under the Risk Assessment Framework.

### Response to Q.21

294. The CYFA gives the legislative underpinning for actions that may be taken by the State when a child is assessed as being in need of protection. While most investigations that result in a substantiation of harm do not proceed to a Protection Application, s.162 of the CYFA specifies the grounds for such decisions. In general terms it establishes a two-fold threshold for such decisions including that:
- The child has suffered or is likely to suffer significant harm as a result of specified harms.
  - That the child's parents have not protected or are unlikely to protect the child from such harm.
295. In broad terms the grounds for a Protection Application include that the child has been abandoned by his or her parents; the parents died or most commonly the child has suffered or is likely to suffer significant harm as result of physical, sexual, emotional, or psychological harm and the child's parents have not protected or are unlikely to protect the child from harm of that type. In addition, a Protection Application can be issued if the child's physical development or health has been, or is likely to be, significantly harmed and the child's parents have not provided or arranged or allowed the provision of basic care or effective medical, surgical, or other remedial care.
296. Importantly when a child has been placed in emergency care under s.241 of the CYFA the Children's Court must hear an application for an Interim Accommodation Order as soon as practicable and within one working day. This functions to ensure independent oversight of all decisions involving the removal of a child from their family and that grounds and thresholds for such removal is evidenced.
297. The process followed by the State in determining whether a child should be removed from their family into out of home care is based on a thorough risk assessment using the SAFER Children Risk Assessment Framework, alongside consultation with ACSASS by the delegated decision makers in Child Protection (a senior Child Protection Practitioner with the classification CPP5 Case

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Planner and above).<sup>52</sup> Only where the following factors are indicated within SAFER is there a need to consider removing a child from parental care:

- The consequence of harm judgement in SAFER is rated as either severe or significant
- The probability of harm is considered very likely
- The child's safety needs cannot be met by the parents.

298. SAFER provides the practice framework to enable the making of a risk assessment and determination relating to a child's safety in parental care. As referred to above, s.162 of the CYFA gives the legislative underpinning on which a decision would be made relating to a child considered in need of protection.
299. Consultation with ACSASS must occur during all five risk assessment practice activities within SAFER and prior to Child Protection making *any* significant decisions including substantiation of protective concerns and the removal of a child from parental care. The process for consultation with ACSASS is set out in the ACSASS Program requirements (February 2019)<sup>53</sup>. Consultations are required to be documented on the child's CRIS file.
300. The SAFER Children Framework S practice activity requires Child Protection to seek information from, and shares information with, ACSASS, including information about family, culture, kinship networks and community including existing supports available to the child and family. The A practice activity considers the information gathered to inform decision-making which can include whether or not a child's safety can be maintained in parental care. The severity of harm, pattern and history, and factors that increase the likelihood of harm are considered within the A practice activity in consultation with ACSASS. For an overview of each practice activity see the response to Question 42(b).



## Question 22

*Theme 2. Risk Assessment Framework / Human Rights considerations prior to removal of First Peoples' children into out-of-home care. (a) Explanation of considerations taken into account by Child Protection staff in applying the Framework (including training, oversight, consideration of cultural considerations and the negative health, wellbeing and trauma impacts of child removal), including any key changes over the past 10 years.*

What key steps are taken by the State to ensure that the following considerations are adequately taken into account prior to removing any First Peoples children into out of home care: (a) Cultural considerations; (b) Negative health, wellbeing and trauma impacts; and (c) Human rights.

<sup>52</sup> See my response to question 24 for an explanation of how the Best Interests Case Practice Model is embedded into SAFER.



<sup>53</sup> ACSASS program requirements < <https://www.dffh.vic.gov.au/publications/wungurilwil-gapgapduir-aboriginal-children-and-families-agreement>>

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### Response to Q.22(a)

301. Child Protection intervention with First Peoples children is informed by the legal requirements in the CYFA, SAFER, the best interests case practice model and the Charter of Human Rights and Responsibilities Act.
302. In addition to the best interests' principles (s.10 CYFA) and the decision-making principles (s.11 CYFA), the additional decision-making principles for First Peoples children set out in s.12 to s.14 of the CYFA must be considered for First Peoples children, recognising the importance of self-determination and self-management.
303. The Beginning Practice induction program for new Child Protection Practitioners contains a specific module which covers the additional decision-making principles for First Peoples children in the CYFA, along with the placement hierarchy which steps out examples of how to ensure a child is placed with Aboriginal family members to ensure the child's cultural needs are prioritised.
304. As per the additional decision-making principles for First Peoples children set out in s.12 to s.14 of the CYFA, Child Protection must consult with ACSASS which provides culturally attuned input to significant decisions relating to First Peoples children including the decision to place a child in out of home care. The program requirements which outline the practice and procedures for consulting with ACSASS can be found on the Child Protection Manual.<sup>54</sup>
305. S.12(1)(b) of the CYFA also refers to the requirement to have a meeting convened by a First Peoples convenor approved by an ACCO. The AFLDM Program is a partnership between the department and ACCOs which provides families a culturally safe space for to meet with Child Protection and an ACCO community convenor to discuss Child Protection concerns and how the family might work to address protective concerns.
306. A referral to this program is required to be initiated within 48 hours of substantiation of harm in order to ensure that families are empowered to work together as early as possible to prevent a child entering out of home care. Such meetings provide opportunities for extended family, community, and Elders to participate in planning and decision making recognising the important role extended family and community play in respect to First Peoples children. While this policy exists, I acknowledge current resourcing levels within the AFLDM program, and the co-convenor model does not always support the occurrence of timely meetings in all instances.
307. I also note that while AFLDMs provide an opportunity for family and community to provide advice and options to support the child and family, decision-making is ultimately retained by Child Protection. Preparation for the meeting requires the Convenors to establish 'bottom lines' within which decisions can be made that in most cases reflect the case plan direction. I acknowledge that families are not provided unlimited decision-making responsibility, and this can impact whether families feel empowered and supported to make decisions through this process. I note the testimony provided by Aunty Rieo Ellis to the Commission on 7 December 2022, regarding a

<sup>54</sup> <https://www.cpmanual.vic.gov.au/advice-and-protocols/protocols/acsass-program-requirements>

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family's participation in an AFLDM where she stated, *'when we do that, we get the false – the false belief that – or false hope that we are allowed to have a say.'*

308. The child's cultural rights are also protected through adherence with the ACPP which prioritises the placement of the child with their Aboriginal family where they must be placed in care. In recent times local agreements between ACCOs and Child Protection have also developed to support information exchange and planning for First Peoples children that are at risk of entering care or have been placed in care to maintain and promote their cultural rights.
309. Any decision to issue a Protection Application (**PA**) for a child must be endorsed by a Team Manager (CPP5) or above. The removal of any child from parental care due to abuse or neglect is a significant and life changing event that has enduring consequences for the child, his or her parent/s, extended family, and community. The decision to issue a PA is considered one of the most significant decisions a Child Protection Practitioner can make and the child's need for safety and protection is weighed carefully with the negative impacts and trauma of removing a child from parental care. Practitioners are particularly mindful of these impacts for First Peoples children and their families and communities given the enduring impacts of past child removal policies and legacies of the Stolen Generations. While these impacts weigh heavily, it is equally important that we do not have a greater tolerance of risk for First Peoples children or delay action when a child is at significant risk. It is also critical to ensure that assessments of risks of harm are not influenced by unconscious bias or systemic racism, and are culturally attuned, so that Child Protection intervenes only when there is real, objective risk of harm, rather than doing so based on a failure to understand First Peoples families, or on their willingness to engage with Child Protection.

### **Response to Q.22(b)**

310. Upon substantiation of protective concerns, a case plan must be developed for each child that includes the permanency objective for the child and specifies matters concerning their day-to-day care including issues related to education, health and wellbeing. It is common that the case plan includes references to therapeutic supports that respond to the harm the child has experienced. The template for case planning under s.166 CYFA is provided in Attachment **AA-20**.
311. Advice and guidance provided by ACSASS is crucial in assisting Child Protection to promote the health, safety and wellbeing of First Peoples children including case planning and in considering options to prevent removal.
312. Consultation with ACSASS supports adherence with the CYFA which outlines the requirement of intervention being limited to securing the safety and wellbeing of the child and giving the widest possible assistance to a child and their family, and to protect and promote their Aboriginal cultural and spiritual identity. Please refer to the overview part of my statement for a more fulsome list of the functions of ACSASS.
313. If the decision is made to place a child in out of home care, it is a requirement that Child Protection develop a cultural plan to ensure that a child's cultural needs are prioritised, including culturally appropriate health care and education goals. This plan must be endorsed by the Chief Executive Officer of the local ACCO.

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314. Child Protection may also consult and seek advice from the Child Protection Litigation Office (CPLO) concerning legal matters not limited to the interpretation of grounds, use of evidence and threshold considerations.


### **Response to Q.22(c)**

315. All children have the right to be safe and nurtured within healthy and enduring relationships, to heal from adverse experiences, and to be supported to take part in the decisions that affect their lives. S.10 of the CYFA reflects Article 3 of the United Nations Convention on the Rights of the Child (Convention)<sup>55</sup> by requiring Child Protection decision makers to consider the best interests of the child as the paramount right when making any decisions under the CYFA.<sup>56</sup> When determining what it is in the best interests, Child Protection decision makers must, in relation to an Aboriginal child, consider the need to protect and promote the child's Aboriginal cultural and spiritual identity and development and their connection to Aboriginal family and community.
316. Child Protection is committed to upholding the human rights of First Peoples children and operating in accordance with the rights set out in the *Charter of Human Rights and Responsibilities Act 2006* (Charter). Obligations under the Charter, in particular the obligation on decision makers to give proper consideration to, and act in a manner that is compatible with Charter rights, in particular s.17 and s.19, is consistent with the principles in the CYFA. All department Child Protection staff are bound to consider Charter rights when making decisions, including prior to removal and throughout Child Protection involvement. These rights and principles are reflected in the SAFER framework to guide decision-making.
317. All departmental employees undergo mandatory training on the Charter rights and obligations, with additional training for Managers.
318. Nevertheless, it is recognised it can be challenging for Child Protection Practitioners to undertake the necessary balancing of all relevant rights when making a decision, and to act in accordance with the CYFA. In particular cases a decision might have the effect of limiting one right while ensuring another right is promoted (for example safety and protection of the child over preservation of the family unit). I acknowledge that these rights are not always in tension and that in many circumstances preservation of the family unit will also enhance the overall safety, in particular the cultural safety, of the child. However, this may not always be the case. Guidance and training are provided to Child Protection staff on properly considering Charter rights in the Child Protection Manual.<sup>57</sup>
319. Child Protection is supported in these important decisions through the requirement to consult with ACSASS prior to the possible removal of an Aboriginal child. While consultation is required and Child Protection must consider the advice provided, Child Protection is ultimately responsible for all decisions and may take actions not supported by ACSASS.

<sup>55</sup> <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

<sup>56</sup> s.10(1) CYFA

<sup>57</sup> <https://www.cpmanual.vic.gov.au/our-approach/roles-and-responsibilities/human-rights-and-child-protection>

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320. Child Protection may also consult and seek advice from the CPLO concerning legal matters not limited to the interpretation of grounds, application of evidence and threshold considerations and obligations under the Charter.

### Question 23

*Theme 2. Risk Assessment Framework / Human Rights considerations prior to removal of First Peoples' children into out-of-home care. (a) Explanation of considerations taken into account by Child Protection staff in applying the Framework (including training, oversight, consideration of cultural considerations and the negative health, wellbeing and trauma impacts of child removal), including any key changes over the past 10 years.*

How does the State comply with its obligation to give proper consideration to the Charter rights in ss 17(2) and 19(2) of the Charter of Human Rights and Responsibilities Act 2006 (Vic) (Charter Act) prior to removing any First Peoples children into out of home care?

### Response to Q.23


321. The *SAFER children framework guide* identifies that the key component of the role and mandate of Child Protection is legislation, specifically the CYFA. As employees of a public authority, Child Protection workers are required to give proper consideration to, and act in a manner that is compatible with a child's rights as outlined in the Charter and the principles in the CYFA when making decisions. Consideration should also be given to the Convention rights.
322. As I have outlined above, all decisions by Child Protection require the consideration of all relevant human rights (including s.17(2) and s.19(2)), with the paramount right being the best interests of the child as set out in the CYFA. The Human Rights and Child Protection Practice Advice (Document ID number 3201, version 2, 26 July 2016), available on the Child Protection Manual, sets out how the Charter impacts practice in Child Protection and provides guidance on complying with the State's obligation to give proper consideration to Charter rights prior to the removal of any First Peoples children to out of home care.<sup>58</sup>

### Question 24

*Theme 2. Risk Assessment Framework / Human Rights considerations prior to removal of First Peoples' children into out-of-home care. (a) Explanation of considerations taken into account by Child Protection staff in applying the Framework (including training, oversight, consideration of cultural considerations and the negative health, wellbeing and trauma impacts of child removal), including any key changes over the past 10 years.*

Provide an explanation of the key changes that have been made to the Risk Assessment Framework in the period since 1 January 2013: (a) Generally; and (b) In the case of First Peoples children and families.

<sup>58</sup> <https://www.cpmanual.vic.gov.au/our-approach/roles-and-responsibilities/human-rights-and-child-protection>

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**Response to Q.24(a)**

323. Between January 2013 and November 2021, the Best Interests Case Practice Model (**BICPM**) was the sole practice framework in place to guide Child Protection and the Children and Families Services sector in their work with children and families. In November 2021 the SAFER Framework was introduced.
324. The BICPM includes four risk assessment practice activities including: information gathering, analysis and planning, action and reviewing outcomes. The model identifies the processes that underpin and enable good practice as being relationship building, engagement, partnership, and empowerment.
325. When SAFER was implemented in November 2021, the BICPM remained as the overarching model of practice for Child Protection however the four BICPM risk assessment practice activities were replaced by the SAFER's five risk assessment practice activities. These are: seek (information and evidence), analyse (to determine the risk assessment), formulate (a case plan), enact (the case plan) and review (the risk assessment).
326. In comparison to the four practice activities in the BICPM, the five practice activities in SAFER provide a more guided professional judgement approach to risk assessment and practice in Child Protection:
- Within the **S practice activity of SAFER**, evidence informed essential information categories provide practitioners the lens to seek, share, sort and store information and evidence focused on each child and their family within the legislative framework of the CYFA.
  - The **A practice activity** provides the structure for practitioners to make sense of the information they have gathered and determine the overall consequence and probability of harm to the child(ren). The A section of SAFER includes consideration of any risk associated with family violence with MARAM embedded within the A practice activity.
  - The **F practice activity** relates to the formulation of a case plan in collaboration with children and families, which includes goals and tasks for the family that align with risk assessment established in A.
  - The **E practice activity** relates to the enacting of the case plan and in doing so, giving the widest possible assistance to the parent and child to ensure intervention by Child Protection is limited to that necessary to secure the child's safety and wellbeing (consistent with s.10(3)(a) of the CYFA).
  - The **R practice activity** relates to reviewing the risk assessment including considering whether provision of the widest possible assistance to the parent and child has created sufficient change to the extent the child(ren) is no longer at risk of harm.

**Response to Q.24(b)**

327. The intent of the BICPM was for practice to be relationship based, child focussed, and family centred. Building good relationships with children and their families, community members and services was viewed as enabling a more informed assessment to occur and giving a solid basis to ongoing case work. Specific to First Peoples children and families, the BICPM considered culture

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as playing a protective role and the possible loss of culture needing to be seen as a risk factor in any assessment undertaken by Child Protection.

328. The BICPM provided practitioners the following guiding considerations for meeting the needs and wellbeing of First Peoples children and families:

- The historical context of colonisation and the impact of the Stolen Generations for the child and family.
- The child's education, physical, emotional, and spiritual needs, from the perspective of culture, not in isolation from each other.
- The child's significant relationships as encompassing wider community, not just immediate family.
- The views of Elders and other significant community members particularly in education and the maintenance of culture.

329. Further, in implementing the BICPM with First Peoples children and families, practitioners were advised to refer to the Aboriginal Cultural Competence Framework, developed by the Victorian Government.

330. In 2023, the BICPM remains the overarching model of practice and engagement with all children and families, including First Peoples; however, the SAFER Children Framework specifically guides risk assessment. Embedded within SAFER is specific advice relating to Aboriginal cultural safety and self-determination, which references that professional judgement must acknowledge the experience of First Peoples and must guide day-to-day practice in a way that is deeply respectful and culturally safe.



331. SAFER references the seven principles of *Wungurilwil Gapgapduir Aboriginal Children and Families Agreement* as an outline for how Child Protection Practitioners can work with community and the Children and Families Services sector to benefit First Peoples children and families.<sup>59</sup> Key resources and information to support the above principles are included within the SAFER guidance for practitioners and are as follows:

- Dhelk Dja: Safe Our Way - strong culture, strong peoples, strong families 2018-2028<sup>60</sup>
- Aboriginal and Torres Strait Islander cultural safety framework<sup>61</sup>
- *Charter of Human Rights and Responsibilities Act 2006*.

<sup>59</sup> Wungurilwil Gapgapduir is available at: <https://www.dffh.vic.gov.au/publications/wungurilwil-gapgapduir-aboriginal-children-and-families-agreement>

<sup>60</sup> Dhelk Dja: Safe Our Way is available at: <https://www.vic.gov.au/family-violence-reform-rolling-action-plan-2020-2023/priorities-for-2020-2023/dhelk-dja-safe-our-way>

<sup>61</sup> The department's Cultural Safety Framework is available at: <https://www.health.vic.gov.au/health-strategies/aboriginal-and-torres-strait-islander-cultural-safety>

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**Question 25**

*Theme 2. Risk Assessment Framework / Human Rights considerations prior to removal of First Peoples' children into out-of-home care. (a) Explanation of considerations taken into account by Child Protection staff in applying the Framework (including training, oversight, consideration of cultural considerations and the negative health, wellbeing and trauma impacts of child removal), including any key changes over the past 10 years.*

Over the same timeframe as in paragraph (24) explain the key guidance available to Child Protection staff in applying the Framework, including: (a) Policies and procedures; and (b) Training (attaching copies of all training materials provided to relevant staff); and (c) Supervision (including legal advice and independent oversight).

**Response to Q.25(a)**

332. All Child Protection staff have access to the SAFER SharePoint where there is a suite of material that supports the application of SAFER to Child Protection practice, which includes the following:

- SAFER Children Framework guide.
- SAFER in CRIS user guide.
- Multiple CRIS video guides.
- Multiple practice resources and tools.<sup>62</sup>



**Response to Q.25(b)**

333. The department facilitates the delivery of SAFER training to Child Protection staff as follows:

- SAFER Essentials Course A and B (two three-hour online sessions offered in 2021). This was targeted to all CPP levels and supported the implementation of SAFER prior to its commencement.
- SAFER Essentials (three-hour online session post 2021 to current). This is targeted to all CPP staff who did not complete the SAFER Essentials Course A and B.
- Introduction to SAFER (30-minute eLearn module - current). This is targeted to CPP2s and is a prerequisite for Leading and Managing SAFER in practice. It is an e-learning modules so is open to all departmental staff who wish to lead more about SAFER and its application.
- Leading and managing SAFER in practice (for Child Protection managers, leaders, and executives – 50-minute eLearn module - current).
- All Beginning Practice (BP) participants are requested to complete the Introduction to SAFER e-learn prior to BP. SAFER content is embedded throughout the BP program including detailed curriculum from the SAFER Essential course. Participants are then taught the application of SAFER through a detailed case study.

334. Additional SAFER practice curriculum will be rolled out in 2023.

<sup>62</sup> Source: Internal Child Protection Learning Hub.

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**Response to Q.25(c)**

335. Victoria's Child Protection Practitioners use professional judgement, the SAFER children framework, Child Protection manual and supervision and mentoring from their line manager or other senior practitioners to support assessments and decision making. Senior practitioners include Aboriginal Cultural Support and Awareness Advisors, Aboriginal Family Led Decision Makers, Practice Leaders, Principal Practitioner, State-wide Principal Practitioner Aboriginal Children and Families and the Child Protection Litigation office. Practitioners also gather information and consult other specialist services including with ACSASS.
336. The Child Protection manual provides advice about legislation, policies, and procedures to be followed and the Client Relationship Information System directs and requires supervisor endorsement for specific actions or decisions.
337. Child Protection Practitioners access professional development to strengthen their practice.
338. Independent oversight of Government Departments occurs through the legislated functions of several oversight bodies including the Victorian Auditor General's Office, the Victorian Ombudsman, and the Commission for Children and Young People.
339. The CCYP is legislated to provide advice to Government about policies and practices and the provision of services relating to the safety and wellbeing of vulnerable children and young persons or to conduct an inquiry in relation to a matter relating to the safety and wellbeing of a vulnerable child or young person or a group of vulnerable children or young persons.



**Question 26**

*Theme 2. Risk Assessment Framework / Human Rights considerations prior to removal of First Peoples' children into out-of-home care. (a) Explanation of considerations taken into account by Child Protection staff in applying the Framework (including training, oversight, consideration of cultural considerations and the negative health, wellbeing and trauma impacts of child removal), including any key changes over the past 10 years.*

Does the State regard the changes to the Risk Assessment Framework identified in paragraphs (22) and/or (24) as having contributed to the observed rise in the rate of removal of First Peoples' children into out-of-home care?



**Response to Q.26**

340. There has been a steady growth in the rate of First Peoples children in care to 2021. Since the mid-2021, this has however pleasingly plateaued for both First Peoples and non-First Peoples children and has slightly decreased throughout 2022. The rate of First Peoples children in care in June 2021 was 103.2 per 1,000 children and this fell slightly to 102.8 in December 2022.
341. It is unclear to what extent SAFER or other initiatives outlined throughout the submission may be contributing to this trend. The SAFER Framework was introduced in 2021, and an outcomes evaluation is yet to occur.

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342. An initial evaluation of the SAFER Risk Assessment Framework was undertaken by the department's Office of Professional Practice (OPP) in 2022 and focused on pre-implementation workforce preparedness for the SAFER Risk Assessment Framework, the extent to which the framework is meeting its four objectives as per the guide and the workforce confidence and competence in implementing the operational practice change over time.
343. Action to implement the SAFER evaluation findings are focused on:
- Developing a performance framework and reporting capacity for monitoring the use of SAFER in practice, including how data is used to intervene early with additional support as needed
  - Continuing to embed SAFER in practice through the development of practical tools that support practitioners and managers in their everyday use of SAFER and extending professional development modules.
344. To support further evaluation, performance indicators have been established that aim to monitor the application of the SAFER practice activities across each phase of the Child Protection program. This data will produce intelligence about how well SAFER is being applied in practice and for certain cohorts of children. The data produced will inform future evaluation questions and will be used to measure performance and outcomes overtime.
345. Once the reporting capacity is built and data can be extracted, planning for the second SAFER evaluation will commence.

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Witness Statement – Argiri Alisandratos – Yoorrook Justice Commission – 21 March 2023, amended on 24 April 2023

## CHILD PROTECTION WORKFORCE AND CHILDREN'S EXPERIENCES IN CARE

### Question 57

*Theme 8. Child Protection staff. (a) Number (total and fulltime time equivalent) of First Peoples staff (including case workers) as a proportion of all Child Protection staff*

Specify, as at February 2023, the DFFH CP System staff (whether employees or contractors) that identify as First Peoples: (a) Total number; (b) FTE equivalent staff; and (c) As a proportion of overall staff.

### Response to Q.57(a)

346. As of February 2023, 54 First Peoples staff are employed in the Child Protection program, these are staff employed by the department to deliver frontline operational functions, and comprise:

- 39 Child Protection Practitioners (**CPP**).
- 12 Aboriginal Cultural Advisors under Children, Youth and Families (CYF) classifications.
- three Senior Managers/Executives.

### Response to Q.57(b) and (c)

347. As a proportion of all staff, two per cent of staff employed identify as First People. The table below provides data on FTE and First Peoples staff as a proportion of all staff.



*Table 8: First Peoples staff in frontline services as a proportion of all staff by FTE*

Type of Employment	Number of First Peoples (Headcount)	Substantive FTE (Headcount)	Proportion
Child Protection Practitioners (all CPP2 to CPP5)	39	2,587	1.5 %
Aboriginal Cultural Support workers (CYF classification)	12	12	100 %
Senior Managers and Executive (CPP6 and SES)	3	122	2.5 %
Total	54	2,721	2 %

### Question 58

*Theme 8. Child protection staff. (a) Number (total and fulltime time equivalent) of First Peoples staff (including case workers) as a proportion of all Child Protection staff.*

Specify, as at February 2023, the DFFH case workers that identify as First Peoples: (a) Total number; (b) FTE equivalent; and (c) As a proportion of overall.

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**Response to Q.58(a)**

348. As of February 2023, 39 Child Protection Practitioners (under CPP classification) identified as First Peoples. A further seven First Peoples hold substantive Child Protection positions but are on secondment with the department, the broader Victorian Public Sector or on extended leave.

**Response to Q.58(b) and (c)**

349. The table below shows the breakdown of First Peoples Child Protection Practitioners according to the classification of their position and as a proportion of overall staffing numbers.

*Table 9: First Peoples CPPs by classification and as a proportion of overall staffing*

Classification	Number of First Peoples (headcount)	FTE (headcount)	Proportion Overall (headcount)
CPP 2	5		
CPP 3	3		
CPP 4	13		
CPP 5	18		
Total	39	2,661	1.46%

**Question 59**

*Theme 8. Child protection staff. (b) Number (total and fulltime time equivalent) of First Peoples staff in Child Protection management roles and associated executive roles, as a proportion of all Child Protection management roles, and proportion of all Child Protection associated executive roles.*



Specify, as at February 2023, the number of DFFH CP System senior management and executives that identify as First Peoples: (a) Total; (b) FTE equivalent staff; and (c) As a proportion of overall.

**Response to Q.59**

350. There are currently three First Peoples Senior management and executives employed by the Child Protection program who identify as First Peoples. The table below provides data on the FTE and these roles as a proportion of overall management roles.

*Table 10: First Peoples in CP program management roles as a proportion of overall management roles*

Classification	Number of First Peoples	FTE equivalent	Proportion overall
SES-1	2	14	14.3%
CPP-6	1	69	1.5%
Total	3	83	3.6%

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**Question 60**



*Theme 8. Child protection staff. (c) Cultural awareness/cultural safety training provided to Child Protection staff including number and proportion of Child Protection staff and executives provided with that training in the last 36, 24 and 12 months, frequency of that training, content of that training and information regarding the provider(s) of that training i.e. First Peoples versus non-First Peoples providers); monitoring and managing of racism and unconscious bias.*

As at February 2023, explain any background cultural awareness/ cultural safety education requirements of Child Protection staff (including as part of tertiary study), as a pre-condition of employment.

**Response to Q.60**

351. Child Protection Practitioners at the department are required to hold qualifications or equivalent experience in accordance with the Victoria Public Service Enterprise Agreement 2020. Current degree qualifications recognised by the department include but are not limited to (based on relevant experience), social work, psychology and counselling for roles that commence at the Child Protection Practitioner Level 3 rank (case carrying commencement). A large majority of major tertiary providers now incorporate Aboriginal and Torres Strait Islander studies within the above major courses as part of the standard curriculum.
352. Current degree qualifications recognised by the department include the following:
- Social work degree – a recognised social work degree or a similar welfare or behavioural-related degree that includes a primary focus on child development, family dynamics and/or impacts of trauma and preferably, a practical component such as counselling or case work practice.
  - Related welfare degree – a recognised Diploma of Community Services Work or similar qualification that is studied over a minimum of two academic years full time (or part time equivalent) and includes – a primary focus on child development, human behaviours, family dynamics and/or impacts of trauma – supervised field work placements (ideally completed within the Children and Families welfare sector and at least one unit of study in case management, case work practice or counselling).
  - Other qualifications or work - a psychology degree (or major) accredited by the Australian Psychologist Accreditation Council<sup>63</sup> or a qualification and relevant experience that meets Child Protection Qualifications Framework requirement.
353. Any other relevant qualification and experience are assessed on a case-by-case basis. There is a strong focus on social work and psychology degrees from a recruitment perspective and a large majority of major tertiary providers now incorporate Aboriginal and Torres Strait Islander studies within the above major courses as part of the standard curriculum.
354. The department has established relationships with a large majority of tertiary institutions across Victoria and continues to engage with these providers on cultural elements to their standard

<sup>63</sup> <https://apac.au/accredited-programs/>

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curriculum to support and enhance these studies and the knowledge and skills of those studying the community-based courses.

### Question 61

*Theme 8. Child protection staff. (c) Cultural awareness/cultural safety training provided to Child Protection staff including number and proportion of Child Protection staff and executives provided with that training in the last 36, 24 and 12 months, frequency of that training, content of that training and information regarding the provider(s) of that training i.e. First Peoples versus non-First Peoples providers); monitoring and managing of racism and unconscious bias*

As at February 2023, explain the key cultural awareness / cultural safety training provided to Child Protection staff including: (a) Numbers and relative proportion of staff provided with that training in the last: i. 36 months; ii. 24 months; and iii. 12 months, (b) Seniority of staff identified in response to sub-paragraph (a); (c) Applicable policies regarding frequency, content of the training; and (d) First Peoples status of training provider(s).

### Response to Q.61(a)

355. Cultural awareness/cultural safety training provided to Child Protection staff includes:

- All new employees are required to complete the Aboriginal Cultural Safety e-learn as part of their new employee orientation.
- All people managers are required to complete Aboriginal Cultural Safety for Manager training.
- Aboriginal Cultural Awareness and Safety training is available for all staff.

356. These training packages were developed by Koorie Heritage Trust and align with the Aboriginal Cultural Safety Framework.

357. All Child Protection Practitioners and managers who are new to Child Protection in Victoria are required to complete the Beginning Practice Induction program. The training module, *Engaging with Aboriginal Children and Their Families* is delivered as part of Beginning Practice. This module was designed by the State-wide Principal Practitioner – Aboriginal Children and Families and includes modules related to:

- The importance of culture.
- Cultural context and history.
- The Aboriginal Placement Principles
- Cultural plans.

358. Child Protection practice discussions are fortnightly-half-hour-online practice presentations on different topics/themes related to Child Protection practice. Three Child Protection practice discussions relating to working with First Peoples children and families have been delivered since 2020. The recordings of these are available on the internal Child Protection Learning Hub on SharePoint.

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359. Intake phase learning and development practice workshop series are monthly one-to-two-hour online practice webinars on different topics/themes related to Child Protection practice in Intake Phase. All Child Protection staff who work in Intake or the After-Hours Child Protection Emergency Services (**AHCPES**) and Rural After-Hours service are invited to attend these sessions.
360. Child Protection Career Advancement Program (CAP) is a state-wide mentored professional development program targeting CPP3/CYF3 practitioners aspiring to become advanced practitioners (CPP4/CYF4) and advanced practitioners aspiring to become team managers or senior Child Protection Practitioners (CPP5/CYF5). This seven-month program is available through an annual application process and comprises six modules.
361. The table below provides data on the number and relative proportion of staff provided with that training in the past 12, 24 and 36 months respectively.

*Table 11: Community Operations and Practice Leadership Division CP training attendance*



Learning Program	Proportion of CP staff training provided to	Last 12 months Feb '22 - Feb '23	Last 24 months Feb '21 to Feb '23	Last 36 months Feb '20 to Feb '23
Aboriginal Cultural Safety (elearn)	All new CP employees	1,036	2,191	2,191
Cultural Safety for Managers	All CP managers	94	259	348
Aboriginal Cultural Awareness and Safety	All CP staff	292	645	923
Beginning Practice	Mandatory for all new CP staff prior to commencing case work	462	951	1,160
CP Practice Discussions (3 focussed on cultural awareness)	All CP staff including executives	106 Online	106 Hybrid Online and Live	403 Hybrid Online and Live
Intake Phase L&D Practice Workshop series (1 session)	All CP staff working in Intake & AHCPES & Rural After-Hours Service	43 Hybrid Online and Live	N/A	N/A
CP Career Advancement Program	CPP3s and CPP4s	100	200	300

#### **Response to Q.61(b)**

362. Data is not collected on the seniority of staff identified in the table above.

#### **Response to Q.61(c)**

363. All learning program content for Child Protection staff is aligned and consistent with current policy, practice and relevant legislation. Content is reviewed and endorsed by the department's Chief

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Practitioner or State-wide Child Protection Principal Practitioner before training is delivered to Child Protection staff. All new Child Protection staff must complete Beginning Practice prior to being allocated case work responsibilities.

### **Response to Q.61(d)**

364. From at least 2001, all practice training for Child Protection Practitioners concerning First Peoples children and families have been developed and delivered by First Peoples.

### **Question 62.**

*Theme 8. Child protection staff. (c) Cultural awareness/cultural safety training provided to Child Protection staff including number and proportion of Child Protection staff and executives provided with that training in the last 36, 24 and 12 months, frequency of that training, content of that training and information regarding the provider(s) of that training i.e. First Peoples versus non-First Peoples providers); monitoring and managing of racism and unconscious bias*



As at February 2023, explain key Child Protection policies and procedures for identifying and managing instances within its workforce of racism and/or unconscious bias in the case of First Peoples.

### **Response to Q.62**

365. The department's workforce, including First Peoples in Child Protection are supported by organisational policies and procedures for identifying and managing racism and/or unconscious bias including:

- The Aboriginal and Torres Strait Islander Cultural Safety Framework, which was developed in collaboration with First Peoples stakeholders, organisations and staff to support the department and mainstream services across the health, human and community services sectors to create culturally safe environments, services, and workplaces.
- It is the responsibility of all employees, including managers, supervisors and executives to be accountable for cultural safety in all policies, programs, services, and workplaces. Since the framework launched in July 2019, the department has continued to embed the cultural safety framework in policy and processes including developing and implementing an annual cultural safety survey for First Peoples staff that includes identifying experiences of racism, lateral violence and cultural load.<sup>64</sup>
- The Positive Workplaces policy outlines options to address employee concerns in relation to inappropriate behaviour demonstrated by other employees, where the severity and nature of the behaviour falls short of misconduct. The policy applies to all employees. The policy specifically includes supporting cultural safety and addressing unconscious bias, racism, discrimination and the ability to support Aboriginal self-determination.

<sup>64</sup> The cultural safety survey for the department's First Peoples workforce is usually conducted annually. However, this did not take place in 2022 as the department has engaged Aboriginal consultancy ABSTARR, to undertake a review to develop an Aboriginal Cultural Safety Measurement and Assessment Tool.

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- The eDINMAR (electronic disease, injury, near miss, accident report) Incident reporting and investigation system is a key element of our health and safety risk management approach and provides an online system for reporting all workplace incidents. This includes any hazard which could cause physical or psychological harm or resulted in harm.
- The Victorian Public Sector Commission (VPSC) Code of Conduct for Public Sector Employees provides the foundation of the integrity and accountability framework for all public sector employees.<sup>65</sup> Employees should respect and promote human rights. Public sector employees ensure their own decisions, advice and policy development properly considers the human rights set out in the charter.<sup>66</sup> The Protection of cultural rights is included in the charter.
- The Managing Misconduct Policy and Guideline addresses any employee conduct that is inconsistent with their contract of employment, or the department's Values, or the Code of Conduct for Victorian Public Sector Employees 2015, or the department's policies (including those above) and procedures, practice manuals or other instructions.

### Question 63

*Theme 8. Child protection staff. (d) **Turnover and attrition of Child Protection staff (including short term contract v permanent staff, and turnover and attrition of First Peoples Child Protection staff).***

As at February 2023, breakdown of employment status of Child Protection staff, including: (a) Full time employee; (b) Part time employee; (c) Contractor (long term); (d) Contractor (short term); and (e) Other.

### Response to Q.63

Table 12: CP positions by type of employment



Division	Full time	Part time	Casual	Grand Total
East Division	322	51	1	374
North Division	397	80	0	477
South Division	534	100	67	701
West Division	568	86	1	655
Statewide Services Group	232	122	24	378
Other	68	8	0	76
Total	2,121	447	93	2,661

Table 13: CP headcount by type of tenure

Division	Ongoing	Fixed term	Casual	Grand Total
East Division	312	61	1	374
North Division	432	45	0	477
South Division	563	71	67	701

<sup>65</sup> <https://vpsc.vic.gov.au/ethics-behaviours-culture/codes-of-conduct/code-of-conduct-for-victorian-public-sector-employees/>

<sup>66</sup> [Demonstrating commitment to human rights - VPSC](#)

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West Division	567	87	1	655
Statewide Services Group	318	36	24	378
Other	76	0	0	76
Total	2,268	300	93	2,661

### Question 64

**Theme 8. Child protection staff. (d) Turnover and attrition of Child Protection staff (including short term. Child Protection staff (including contract v permanent staff, and turnover and attrition of First Peoples Child Protection staff).**

As at February 2023, provide an overview of Child Protection staff: (a) Demographics (including age, gender, DFFH region); (b) Average employment duration; (c) Annual rate of turnover; and (d) Current vacancies (general, and identified roles).

### Response to Q.64(a)

Table 14: CP employees by age and division



Division	< 25 years	25 - 35 years	35 - 45 years	45 - 55 years	55 to 65 years	> 65 years	Grand Total
East Division	28	157	82	64	38	5	374
North Division	47	184	135	70	35	6	477
South Division	78	217	205	132	56	13	701
West Division	59	275	177	90	46	8	655
Statewide Services Group	11	117	125	74	40	11	378
Other	4	21	20	24	6	1	76
Total	227	971	744	454	221	44	2,661

Table 15: CP employees by gender and division

Division	Female	Male	Gender not disclosed	Non-Binary	Grand Total
East Division	301	66	6	1	374
North Division	393	82	2		477
South Division	601	99	1		701
West Division	555	93	5	2	655
Statewide Services Group	321	50	4	3	378
Other	59	16	1	0	76
Total	2,230	406	19	6	2,661

### Response to Q.64(b)

366. Average tenure is 6 years and 1 month

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Table 16: CP employees by tenure and division

Division	< 6 months	< 1 year	1 to 2 years	2 to 5 years	5 to 10 years	> 10 years	Grand Total
East Division	38	45	62	77	78	74	374
North Division	53	51	91	115	85	82	477
South Division	68	71	136	127	147	152	701
West Division	78	70	146	126	119	116	655
Statewide Services Group	24	11	55	54	94	140	378
Other	0	0	0	0	0	76	76
Grand Total	261	248	490	499	523	640	2,661

**Response to Q.64(c)**

367. Between 1 January 2022 and 31 January 2023, the department's Child Protection turnover rate was 22 per cent. The turnover rate includes staff permanently leaving the department and for another role in the VPS.<sup>67</sup>

**Response to Q.64(d)**

368. For both general and identified roles in the department's Child Protection payroll, there were 462 ongoing vacancies as of 27 February 2023, which is the date of the last report. As of 15 February 2023, which is the date of the last report for identified positions, there were no vacancies against identified positions in the department's Child Protection payroll.

**Question 31**


*Theme 4. Experiences of First Peoples' children in out-of-home care. (a) Turnover of placements and case workers.*

As at February 2023, what is the average period of employment for a child protection worker at: (a) DFFH; (b) ACCOs (section 18 organisations)? Please include a breakdown for First Peoples and non First Peoples workers.

**Response to Q.31**

369. The average period of employment for a Child Protection Practitioner in the department is six years and one month. The average period of employment for First Peoples in Child Protection is 5 year(s) and 11 month(s).

<sup>67</sup> The department's Child Protection turnover rate is calculated using the staff departures/headcount as of 31 January 2023.

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370. I am unable to answer this question in relation to ACCOs, as the department does not hold data on staff employed by ACCOs. All staff undertaking Child Protection functions as part of the Aboriginal Children in Aboriginal Care program are employed directly by ACCOs.

#### Question 34



*Theme 4. Experiences of First Peoples' children in out-of-home care. (a) Turnover of placements and case workers.*

As at February 2023, within the CP System: (a) How many roles held by First Peoples staff were Aboriginal identified positions; and (b) What are the key divisions and roles through which training, guidance and support on cultural matters are provided to the non-First Peoples workforce?

#### Response to Q.34(a)

371. There are two First People staff members in designated special measure Child Protection Practitioner (CPP) roles. In addition, there are 18 Aboriginal Cultural Support Advisors positions that are designated First Peoples positions (12 currently filled), under the CYF classification supporting cultural advice and plans in the Child Protection system. The Child Protection workforce also includes six First Peoples staff members in AFLDM positions.
372. We are also the first department in Australia to create a dedicated CareerTrackers Child Protection internship stream, which provides First Peoples university students with multiyear paid internships with the option to progress into ongoing employment upon completion of their degree. The department hosts up to 10 designated First Peoples interns per year as part of this program.
373. There have been some challenges attracting and retaining First Peoples Child Protection employees due to the high demand for First Peoples workers with social welfare or community services related qualifications across government, ACCOs and the broader sector. I recognise that ensuring a culturally safe work environment is important to the attraction and retention of First Peoples Child Protection employees, and ensuring that workplaces remain free from racism, unconscious bias, cultural load and lateral violence is critical to achieving this.
374. The department uses two types of identified positions: designated and prioritised, under the special measure provisions of the *Equal Opportunity Act 2010* (Vic). Designated roles are only open to First Peoples applicants; prioritised roles are where First Peoples will be considered and assessed first, and other applicants can be considered for the role only in the event there are no First Peoples applicants.
375. Since the launch of the Aboriginal Workforce Strategy 2021 – 2026 the department has committed to all roles with 'Aboriginal' in the title as designated or prioritised.<sup>68</sup> The department has also launched the Aboriginal Women in Leadership Fast Track Program, to improve representation of Aboriginal women in Manager and Executive positions across the department. Three of the 10

<sup>68</sup> <https://www.dffh.vic.gov.au/publications/aboriginal-workforce-strategy-2021-2026>

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participants are from the Child Protection Program. Our Child Protection Workforce Strategy 2021 – 2024 also has dedicated actions including identifying barriers to First Peoples candidates and developing alternative pathways.

**Response to Q.34(b)**

376. First Peoples staff within the Aboriginal and Self-determination and Outcomes Division can provide support on cultural matters. Beyond these roles additional positions/roles include:

- Deputy Secretary, Aboriginal Self-determination and Outcomes Division.
- Executive Director, Aboriginal Partnerships and Practice.
- State-wide Principal Practitioner, Aboriginal Children and Families.
- Director, Aboriginal Engagement, North Division.
- Director, Aboriginal Engagement, East Division.
- Director, Aboriginal Engagement, South Division.
- Director, Aboriginal Engagement, West Division.
- Director, Aboriginal Cultural Safety and Innovation.

377. Under each key Director role there are additional Managers and Senior Advisors supporting the delivery of the work program.



378. The Corporate and Delivery Services Division has a team within People and Culture Branch supporting the Aboriginal Workforce Strategy and workforce related cultural matters across the business. These roles include:

- Director, Aboriginal Engagement, Diversity and inclusion.
- Manager, Aboriginal Engagement.
- Manager, Aboriginal and Diversity Workforce.
- Four Senior Advisors.

379. The Aboriginal Engagement team also coordinates the Aboriginal cultural safety working group, comprised of First Peoples employees with different areas of expertise from all areas of the department. Non-First Peoples employees can seek cultural advice on projects, policy or workforce related matters.

380. The Community Operations and Practice Leadership Division has specialist roles providing cultural advice including:

- 18 Aboriginal Cultural Support Advisors.
- State-wide Principal Practitioner, Aboriginal Children and Families.

Signature		Witness	
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## CARE SERVICES: THE EXPERIENCE OF CHILDREN AND CARERS

### Question 32

*Theme 4. Experiences of First Peoples' children in out-of-home care. (a) Turnover of placements and case workers.*

As at February 2023, what is average rate of turnover of child protection workers supporting children in the CP System: (a) DFFH; (b) ACCOs (section 18 organisations)? Please include a breakdown for First Peoples and non-First Peoples workers.

### Response to Q.32(a)

381. The turnover rate of departmental Child Protection staff is 22 per cent. The average period of employment of First Peoples in Child Protection is 5 year(s) and 11 month(s). To calculate turnover, staff permanently leaving Child Protection for another role in the Victorian Public Service have been included in the turnover calculations.<sup>69</sup>

### Response to Q.32(b)

382. I am unable to answer this question as the department does not hold data on staff employed by ACCOs. All staff undertaking Child Protection functions as part of the Aboriginal Children in Aboriginal Care program are employed directly by ACCOs.

### Question 33

*Theme 4. Experiences of First Peoples' children in out-of-home care. (a) Turnover of placements and case workers.*



As at February 2023, what key programs/ processes are in place to seek to maintain continuity in case workers, supporting children in the CP System?

### Response to Q.33

383. The Child Protection program has as a phased base approach with case workers changing upon phase movement. These phases include:

- Intake where the report is received, recorded, and assessed.
- Investigation and assessment/protective intervention which commences at investigation and concludes following a decision regarding substantiation, and where further work with the family is required to enact the case plan goals.

<sup>69</sup> The turnover rate has been calculated using the staff departures/headcount as of 31 January 2023.

Signature		Witness	
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- Case management which commences following the making of a Children's Court order and concludes at either closure or decision to contract the case to a CSO/ACCO.
  - Contracted case management applicable only when a case is contracted to a CSO/ACCO.
384. In addition, a change of case worker may occur when staff resign or move position within the program.
385. Staff turnover can increase the risk of children and families having to re-tell their story and disrupt continuity of knowledge. The department tries to minimise this impact through good record keeping. The recording of information is critical to ensuring children don't have to tell their story again, and that key people and issues for the child are known if there is a change of worker.
386. The primary strategy to maintain continuity of case worker is to attract and retain staff. The *Child Protection Workforce Strategy 2021-2024* focuses on retention of Child Protection Practitioners through seven focus areas.<sup>70</sup>
387. While the allocated or contracted worker is ultimately responsible for the case management of allocated cases, they are supported by a care team when children are placed in care. Professional members of the care team share and assume various tasks and responsibilities including when a case manager may depart the program or change roles pending allocation to a new practitioner.
388. In addition, other practitioners in the allocated worker's team step in as needed to complete urgent tasks and when the case is awaiting allocation. In all instances where a child/family is awaiting allocation of a new worker the team manager will assume responsibility for the case management and will be the primary contact for the child, family, and professionals.

### Question 35.

*Theme 4. Experiences of First Peoples' children in out-of-home care. (a) Turnover of placements and case workers.*

As at February 2023, what process has to be followed in: (a) Updating and informing the child/family and relevant carers if a new case worker is appointed? (b) Ensuring a sufficient handover between workers?

### Response to Q.35(a)

389. An Aboriginal child or young person, their parents and care or care provider is to be told as soon as practicable that a change of case worker is to occur, when a new Child Protection Practitioner is likely to be allocated and who the contact person will be during the interim period.
390. Where a care team is in place for an Aboriginal child or young person all efforts should be made to ensure that the child or young person is not negatively affected by this outcome. The care team may decide:
- Who will tell the child or young person they will be getting a new practitioner and when

<sup>70</sup> Source: <https://www.vic.gov.au/new-strategy-launched-support-victorias-child-protection-workforce>

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- What further action is required to support the child through this change.

391. Given the network of supports within the care team, other people involved in the child's life are also able to provide support to the Aboriginal child or young person until a relationship with a new Practitioner is established.

### **Response to Q.35(b)**

392. All handovers, whether this occurs because of transfers between phases, geographical areas (where a child and/or family relocate) or following the departure of staff are expected to be completed quickly and communicated effectively.

393. When a case is transferred between Child Protection phases (for example from investigation and assessment to case management) a comprehensive transfer summary must be completed on CRIS. This includes all key risk factors, a summary of intervention and the child's SAFER risk assessment. Typically, when a practitioner departs the program, case notes are completed, and a case summary will be prepared to support handover.

394. It is also best practice that a verbal handover occurs between practitioners and often the Team Leader (or a more senior position if the case is complex) where possible so any questions, issues or concerns can be comprehensively addressed.

### **Question 36.**

*Theme 4. Experiences of First Peoples' children in out-of-home care. (a) Turnover of placements and case workers.*

As at February 2023: (a) What is the average duration of a placement for a First Peoples child in out of home care? (b) What key programs and initiatives are being pursued by the State to reduce placement turnover?

### **Response to Q.36(a)**

395. The latest Report on Government Services 2023 (for 2021-22 data) provides data relating to placement stability, showing that in Victoria 87 per cent of First Peoples children aged 2-17 years who were in out-of-home care for two years or more (on 30 June 2022) had 2 or less placements in the past 2 years. This compares with 95 per cent for NSW and a national average of 88 per cent.

396. As of January 2023, the average duration of a placement for First Peoples children was 30.9 months. The average duration for kinship care placements is the longest at 32.5 months. Foster care is the second longest at 29.4 months. Residential care placements were 10.0 months on average. Data concerning the average duration of placements by placement type as of January 2023 is provided in Attachment **AA-21(a)** and number of First Peoples children in care by placement type in Attachment **AA-21(b)**.

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**Response to Q.36(b)**

397. The Government funds a range of initiatives to support placement stability and prevent placement turnover. This includes:

- Placement Coordination Units (PCUs) monitoring placements for children and young people in residential and foster care and lead tenant settings. Monitoring is also undertaken at an agency and individual child/young person level. The intent is to identify as early as possible any vulnerable placements and contribute expertise to placement planning. PCUs participate in professional Care Team meetings for children and young people who are identified as vulnerable to placement breakdown to contribute options to support the placement and prevent breakdown.
- The new Kinship care Model, established in March 2018 to meet the needs of a growing number of kinship care placements identifies kinship networks early to strengthen reunification where appropriate, promote placement quality, support children and young people living with kinship families and promote placement stability, including reducing the likelihood of entry into residential care. The main components of the kinship model include:
- Kinship Engagement teams within the department that conduct kinship finding and provide flexible supports to kinship carers. Kinship engagement teams operate in each departmental area, providing flexible supports to kinship carers and undertaking kinship finding activities for children in care. Kinship engagement teams may also make referrals to First Supports for eligible kinship placements where required.
  - The First Supports program, delivered by CSOs and ACCOs supports new kinship placements where it is expected the child will remain for at least three months. A kinship carer may continue to access First Supports anytime within 12 months of the referral. This supports seeks to enhance family capability and parenting skills, improve the caregiver/s relationship with children, promote safety, stability and development of children and young people, and enhance social connectedness.
  - An Aboriginal kinship finding and genealogical service delivered state-wide by VACCA.
  - Additional case contracting targets for non-First Peoples children who are on long-term or care-by-Secretary orders and who have a non-reunification case plan goal.
  - Aboriginal reunification support packages for First Peoples children consisting of 200 hours of intensive family services.

398. Targeted Care Packages (**TCPs**) provide flexible funding for wrap around supports to maintain placements, which include family reunification and home-based care placements. The packages provide an allocation of funding attached to a child or young person to support the delivery of a suite of services and living arrangements designed to meet their individual needs. Funding can be used to secure support and specialist services, cultural activities and connection, education and health supports and practical support such as private rental accommodation, transport and household goods to support a placement. First Peoples children, children under 12 years old and children at risk of entering residential care are priority cohorts for TCPs. The ACPP is applicable to TCPs.

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399. Ongoing training is also provided to all carers through Carer KaFE to support carers knowledge and skills, with the aim of better supporting and maintaining placements.
400. If a child remains in kinship care and a decision has been made to seek a PCO, Child Protection need to liaise with the Adoption and Permanent Care Team to organise a meeting with the VACCA permanent care program to discuss the development of a permanent care cultural assessment report and preparation of a cultural plan. This is intended to enhance the stability of the placement and ensure the placement is culturally safe. The Child Protection team manager must write to the Chief Executive Officer of VACCA requesting a report.
401. The 2020-21 state budget included \$1 billion for the children and family services system and included funding for 41 new placements across 19 new two-and-three-bed homes for children who are not able to live with their families. This new placement capacity allowed for better placement matching and the ability to keep sibling groups together, by placing sibling groups directly into these homes, or moving children in four bed home into the new smaller homes and freeing up the larger four-bedroom homes to place larger sibling groups.
402. Funding also provided for the trial of a Care Hub, a multi-disciplinary team providing integrated early assessment, planning and wrap-around supports for children and young people who are first time entrants to care. The primary objectives of the model are family reunification, minimising the time spent in care and promoting long term placement stability. The Care Hub includes an outreach component where the multidisciplinary team delivers place-based and community supports to the child or young person for up to 12 weeks. Children and young people continue to receive outreach supports through the Care Hub when exiting the placement component of the Care Hub. Children and young people can also be referred directly to the outreach component.

### Question 37

*Theme 4. Experiences of First Peoples' children in out-of-home care. (b) siblings in separate placements*

As at February 2023, explain the key systems, processes and procedures within the CP System in place to seek to achieve and monitor compliance with the Aboriginal Child Placement Principle (ACPP). Please address all elements of the ACPP in your response.

### Response to Q.37

403. Practice advice is provided on the Child Protection Manual about what steps Child Protection Practitioners need to take to comply with the ACPP including consultation with ACSASS if a child is to be placed in care, speaking to the child and their family to seek their views and wishes, and complying with the placement hierarchy.
404. The ACPP is a legislative requirement of the CYFA that specifies the principles and practices to be followed when placing an Aboriginal child in care. The ACPP outlined in s.13, along with further principles specified in s.14 of the CYFA, are intended to ensure that the cultural, spiritual, and emotional needs of Aboriginal children are met, and the child's connections to family, community, and culture are maintained. When applying the ACPP, the additional decision-making principles specified in s.12 of the CYFA must also be considered.

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405. The ACPD includes a specified criteria or hierarchy practitioners must follow when placing an Aboriginal child in care. The criteria are:
- That as a priority, wherever possible the child must be placed within Aboriginal extended family or relatives and where this is not possible other extended family or relatives.
  - If, after consultation with the relevant Aboriginal agency, placement with extended family or relatives is not feasible or possible, the child may be placed with-
    - An Aboriginal family from the local community and within close proximity to the child's natural family.
    - An Aboriginal family from another Aboriginal community.
    - As a last resort a non-Aboriginal family living in close proximity to the child's natural family.
406. In practice, this means that when a child is placed in care the department or ACAC provider and the relevant ACCO will work together to identify a suitable family or community placement for the child. This will involve assessing the child's cultural heritage and needs and identifying appropriate family or community members with adherence to the ACPD who can provide the child with a safe and nurturing environment.
407. Compliance with the ACPD is monitored via CRIS which records whether the child has been placed using the following categories:
- (i) Placement with Aboriginal relative
  - (ii) Placement with non-Aboriginal relative
  - (iii) With Aboriginal community member geographically close to the child's family
  - (iv) With Aboriginal carer from another community
  - (v) Non-Aboriginal care geographically close to the child's family
  - (vi) Other non-Aboriginal carer.
  - (vii) Residential.
408. For options ii), iv) and vi), due to the carer being non-Aboriginal, there is a further requirement that practitioners select one of the following options:
- After reasonable efforts, no Aboriginal caregiver able to be identified.
  - After reasonable efforts, no Aboriginal caregiver able to be contacted.
  - Potential Aboriginal caregiver(s) identified but were unable to provide care.
  - Potential Aboriginal caregiver(s) identified but unwilling to provide care.
  - Potential Aboriginal caregiver(s) assessed as unsuitable to provide care.
409. Finally, there is a free text box for practitioners to document the rationale for the placement in line with the ACPD for each option listed above.

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410. Performance data on compliance with the ACPP is reported at the ACF which is held quarterly.

### Question 38



*Theme 4. Experiences of First Peoples' children in out-of-home care. (b) siblings in separate placements*

As at February 2023, what key programs and initiatives are in place to support First Peoples siblings being in placed into out-of-home care placements together?

### Response to Q.38

411. I recognise that a child's relationship/s with their sibling/s are potentially the most enduring relationships in a child's life and can assume even greater importance if relationships with parents are impacted as a result of child removal or disconnection from culture. The department places a high level of importance on keeping sibling groups together, noting this is critical for maintaining sibling bonds and relationships and preventing any further trauma associated with removal from parental care.
412. I note the evidence provided to the Commission by Ms Sissy Austin on 2 March 2023 who spoke about the importance of contact between families and children and her establishment of a Facebook group for reconnecting indigenous siblings. Ms Austin made clear that, *"keeping connected to family is our right as Aboriginal people, and our children have a right to know..., who their siblings are, who their family is, where they belong. Our kinship is who we are... Without knowing who we are, where we belong, there's a sense of... loss."*<sup>71</sup> I acknowledge that we must do more when siblings are separated to maintain their relationships and connections and that we do not always pay sufficient attention to this.
413. The best interest principles in s.10 of the CYFA require that in making decisions or taking action consideration is to be given to a range of factors including the desirability of siblings being placed together when placed in out of home care (s.10(q)).
414. In addition, the Placement Planning and Placement Coordination Framework requires that co-placement of sibling groups should be promoted and supported in the best interests of the child/ren.
415. The 2021-22 Budget included funding for:
- Keeping Siblings Connected in the department's South Division which aims to build the capacity within the home-based care system to better respond to existing and incoming sibling groups. It offers short-term group placements to keep siblings together while long-term options are identified; therapeutic planning and responses for new sibling groups entering care and contact plans to support children and young people who are already in care and separated.

<sup>71</sup> Sissy Austin Transcript from Day 3, 2 March 2023 available on the Commission's website <https://yoorrookjusticecommission.org.au/wp-content/uploads/2023/03/WUR.0004.0002.0060-Hearing-Transcript-Day-2-02-March-2023.pdf>

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- 41 new beds, across 19 two and three bed therapeutic residential care homes which provide additional placement capacity, allowing for better placement matching and the ability to keep sibling groups together, either directly into these homes, or by freeing up the larger four-bedroom homes to place larger sibling groups.
  - The Care Hub currently being trialled in Loddon Area includes a short-term sibling placement for up to six children and young people with approved foster carer/s. The Care Hub has supported several kinship placements caring for sibling groups where the children were at risk of entering residential care to prevent the placement breaking down and to keep siblings together.
416. The Aboriginal Kinship Finding program delivered by VACCA, aims to find Aboriginal family connections to ensure suitable kinship placements can be provided for children in care or at risk of entering care including identifying placements that support siblings remaining together.
417. Despite these initiatives, the availability of funded placement options to accommodate sibling groups, particularly large sibling groups, is limited and placing siblings together cannot always be achieved. I acknowledge that this limitation is unsatisfactory.



### Question 39.

*Theme 4. Experiences of First Peoples' children in out-of-home care. (b) siblings in separate placements*

As at February 2023, in circumstances where siblings cannot be placed together: (a) What policies/procedures guide their placement in other settings? (b) What measures are implemented to maintain contact between siblings (e.g. requirements of carers, monitoring of frequency of contact, updating of Cultural Support Plans (CSPs))? (c) What practical support(s) are made available to carers, to support contact being maintained between siblings (e.g. ensuring contact details are shared (and updated), funding for visits and other contact, returns to Country)?

### Response to Q.39(a)

418. The case plan, developed at substantiation is a succinct, high-level plan that is prepared for the child. S.166(2) of the CYFA provides that a case plan must contain all decisions made by the Secretary concerning the child that:
- The Secretary considers to be significant decisions, and
  - Relate to the present and future care and wellbeing of the child, including placement of, and contact with, the child.
419. Where siblings cannot be placed together the case plan should include details of how their relationships and contact is to be maintained and promoted including whether the contact is to be supervised and, if so, the frequency of contact.
420. Compliance with the ACPD applies to sibling groups and where they cannot be placed together the emphasis remains on identifying kinship options and other family-based care as priorities. Where siblings must be separated due to placement capacity or the unique needs/ages of siblings work

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occurs to keep siblings in proximity of one another and to support the connection of carers so they can support sibling contact and relationships.

### **Response to Q.39(b)**

421. Contact, including sibling contact, and updating cultural plans is the responsibility of the 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 which includes contact arrangements. Care teams are led by the ACCO or CSO supporting the placement and by Child Protection where the case management is not contracted to an ACCO/ACAC or CSO. Care teams will allocate responsibilities to enact contact plans.
422. In the development of cultural plans, the care team leader must make a referral to the Senior Advisor – Aboriginal Cultural Planning (employed by a local ACCO) within three working days. The care team leader is to consult with the Senior Advisor – Aboriginal Cultural Planning about the composition of the care team. The care team consists of the child's carer, parent (unless there is a very good reason not to), the worker supporting the placement and any other adults who play a significant role in the care of the child. The ACCO CEO, when approving the CSP, will set the CSP review date.
423. The care team use the Looking after Children framework to guide decision- making and documents, such as the Care and Placement Plan, which are maintained as live documents, with the aim of clearly documenting what the care team has agreed to do and achieve.

### **Response to Q.39(c)**

424. Support to carers is provided by the ACCO or CSO supporting the placement or Child Protection where the case is managed by the department. This includes supporting the carer to maintain sibling contact and arranging for supervision of contact if required.
425. Carers may also be supported through the allocation of Child Protection Practitioners (CPP2) who assist in the supervision and transportation of children to contact arrangements. Client support funding can also be provided to the carer where contact may create a financial burden for the carer.
426. The child's cultural support plan may require flexible brokerage to implement the agreed activities as part of the \$3.18m provided per annum to ACCOs to support cultural planning approximately \$800,000 per annum is provided to ACCOs for flexible brokerage to be used for children whose case management is contracted and can be used to fund cultural activities and Return to Country activities. For children whose case management is undertaken by Child Protection (i.e., their case management has not been contracted to an ACCO or CSO) client support funding is used to support cultural plans including Return to Country.

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**Question 40**

*Theme 4. Experiences of First Peoples' children in out-of-home care. (b) siblings in separate placements*

What are the key challenges and opportunities in the funding, delivery and accessibility of the programs and initiatives identified in response to paragraph (38) and (39)?

**Response to Q.40**



427. There can be significant additional costs to kinship, foster and permanent carers when welcoming a sibling group into their home. The need for additional bedrooms and potential loss of income are two examples of this. The VAGO performance audit of the Kinship Care Model, tabled in the Victorian Parliament in mid-2022, asked the department to review the processes for kinship carers care allowances, which presents an opportunity to consider improvements to support sibling co-placements. The Department is intending to review the care allowance procedures through 2023.
428. The Keeping Connected Sibling and Placement Support model referenced above is currently available in only one departmental operational division. As it has demonstrated positive impacts in supporting sibling groups there is opportunity to increase capacity State-wide, subject to funding.
429. TCP's provide individualised packages for children in kinship and foster care placements. TCP's can support siblings to be placed together as well as supporting siblings who are placed separately. Packages would include funding support for siblings in separate placements to have contact with each other and share activities. The funding would include costs for the carers or a support worker to enable this to occur.
430. The key challenge for placing children and young people in sibling groups in residential care is the capacity in the system and the size/bed capacity of each home to enable placements of large sibling groups. There are opportunities to improve the number and mix of homes according to size which would provide additional capacity and increase options to keep siblings together.
431. The Care Hub model is currently in the trial phase, and adjustments to the model are being made in consultation with key stakeholders based on learnings. The Care Hub trial is funded until June 2024. An evaluation will be undertaken over 2023, to consider the impact of the model, identify further learnings and inform decisions around further investment. The department's Centre for Evaluation and Research Evidence is supporting the evaluation.

**Transport support**

432. Carer's capacity to transport siblings placed together to their separate schools or activities often in different directions and at similar times can pose a further barrier. It is the shared responsibility of the care team supporting the child to support carers with transport arrangements to ensure the arrangement is sustainable.

**Client support funding**

433. The Client Support Funding policy was released in 2016. The policy guides decision making around providing funds through client expenses and placement support brokerage to support placements where a child has specific support needs that are outside the scope or purpose of a

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care allowance. There is an opportunity to review the policy to ensure it is being operationalised as intended, to provide additional financial support in extraordinary circumstances to foster and kinship carers.

### **Cultural Plans**

434. There are also opportunities for the department, CSOs and ACCOs to improve the active monitoring of cultural plans. Cultural plan brokerage to support implementation of plans may be insufficient depending on the agreed activities within the cultural plan. For example, cultural plans maynote the desirability of Return to Country activities occurring for the child, however the available funding may not fully cover all Return to Country activities.

### **Question 41**



*Theme 4. Experiences of First Peoples' children in out-of-home care. (c) **Children in care in non-family environments (e.g. group homes, temporary accommodation).***

Provide an overview of (a) The different settings in which First Peoples children in out of home care within Victoria are currently accommodated (e.g. foster care, kinship care, residential care); (b) As at February 2023: i. Data concerning the average duration of placements in each of the settings in sub-paragraph (a) above; and ii. As at February 2023, a breakdown of the total number of placements of First Peoples children in each of the settings identified in sub-paragraph (a).

### ***Response to Q.41(a)***

435. Children in out of home care in Victoria, including First Peoples children, are placed in the following settings:

- Kinship care: Kinship care is provided by a child or young person's relatives or members of their social network. At the end of January 2023 there were 2,078 First Peoples children in kinship care.
- Foster care: Foster care is provided by volunteer carers who make a conscious decision to become accredited and registered carers. Foster carers provide care in their own home and are usually not known to the child or young person before the placement. This includes therapeutic foster care placements such as the Circle program and the evidence-based program Treatment Foster Care Oregon (TFCO) which support children and young people with more complex needs. At the end of January 2023 there were 418 First Peoples children in foster care.
- Permanent care: Permanent care occurs when a child or young person is placed with approved permanent carers. This often happens when an existing kinship or foster care placement is converted to permanent care by a court order. As noted in the legislative and service context provided in Section 1 of my statement, s.323 of the CYFA, places restrictions on the making of a permanent care order in respect of an Aboriginal child, unless an Aboriginal agency recommends the making of the permanent care order. At the end of January 2023 there were 461 First Peoples children in permanent care.

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- Residential care: Residential care is provided in community-based houses by trained residential care workers who are rostered to care for the children and young people 24 hours a day. Children and young people who live in residential care are often those who have experienced the greatest level of trauma and who, therefore, require the most therapeutic care and support. Residential care includes the four-bed model of residential care, therapeutic residential care, two- and three-bed therapeutic residential care and the Keep Embracing Your Success (KEYS) models. At the end of January 2023 there were 103 First Peoples children in residential care.
  - Lead tenant provides medium-term accommodation and support to young people aged 16-18 years in out of home care. Lead tenant programs provide a safe semi-independent living environment in which young people are supported by one or two approved adult volunteer lead tenant/s who provide day-to-day guidance and mature role-modelling. The lead tenant volunteer also works collaboratively with program staff members in monitoring and responding to the wellbeing of young people. At the end of January 2023 there were three First Peoples children in lead tenant placements.
436. In some situations where there is not an available placement able to meet a child or young person's needs, children will be placed in a contingency placement. Contingency placements may include the placement of a child or young person in a department house, motel, or serviced apartment. A child or young person may also be placed in a non-standard placement, which is similar to contingency placements and provides additional funding for greater staff support in residential care properties to enable the safety of other children and staff in the properties. A child may be placed in a non-standard placement where additional support is required due to complexity, a disability and/or significant behaviours of concern.

### **Response to Q.41(b)**

437. The average duration of a placement for First Peoples children was 30.9 months as of January 2023. The average duration for Kinship care placements is the longest at 32.5 months. Home based care is the second longest at 29.4 months. Residential care placements were 10.0 months on average. See Attachments **AA-21(a)** and **AA-21(b)** for data concerning the average duration of placements by placement type as of 31 January 2023 and number of First Peoples children in care by placement type.

### **Question 42.**

*Theme 4. Experiences of First Peoples' children in out-of-home care. (c) **Children in care in non-family environments (e.g. group homes, temporary accommodation).***

In what circumstances may First Peoples children be placed in non-family environments e.g. group homes, temporary accommodation such as motels? Are these regarded as options of last resort? In each year since 2016, how often has this occurred and for what timeframes?

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### Response to Q.42

438. When making decisions about placing a child in care, the CYFA prescribes additional decision-making principles to be considered for Aboriginal children (s.12 and s.13), including the ACPP. In deciding on a placement for an Aboriginal child, Child Protection must wherever possible place the child with their Aboriginal extended family. Where this cannot be achieved other Aboriginal family from the child's local community or an Aboriginal family from another Aboriginal community may be considered. Any non-Aboriginal placement must ensure maintenance of the child's culture and identity.
439. When considering a non-Aboriginal placement, kinship care is the preferred placement. Where a kinship placement cannot be found, foster care placements are then considered. When placement with family or foster care is not possible, a residential care placement may be made.
440. As noted in my response to Question 41(a) above, in some situations where there is not an available placement able to meet a child or young person's needs, children will be placed in a contingency placement. Contingency placements are not the department's preferred placement option. They do however provide an important safety net for children unable to be accommodated in other forms of care. The reasons for placing a child or young person in a contingency placement include:
- Insufficient capacity available in the local area where the child or young person lives
  - The child or young person's needs being such that they are unable to be cared for in a funded placement, and a contingency placement allows for a more tailored and flexible response
  - The department placing a high level of importance on keeping sibling groups together and a contingency placement may be required to enable this, where no funded placement can accommodate the sibling group.
441. Contingency care arrangements in a motel are arranged for a small number of children and young people and are made for the shortest period possible.
442. Data on the number of First Peoples children in non-family environments from 2017-2018 to 2021-2022 is provided in Attachment **AA-22**. The data indicates that the number of First Peoples children placed in at least one residential care placement has ranged from 115 to 125 in the last five financial years. Temporary placements have ranged from 14 to 51 and lead tenant placements have ranged from 6 to 15.

### Question 43

*Theme 4. Experiences of First Peoples' children in out-of-home care. (c) **Children in care in non-family environments (e.g. group homes, temporary accommodation).***

What are the known characteristics and needs of children in such settings e.g. age, education status, disability, known behaviours, interactions with the criminal justice system (CJ System)?

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**Response to Q.43**

443. As of June 2022, of children and young people in residential care:

- 82 per cent were aged 13 to 18 years old, 14 per cent were 7 to 12 years old, 2 per cent were less than 6 years old, and 3 per cent were 19 years old plus – these being children in Lead Tenant placements.
- 50.5 per cent identified as male.
- 48.2 per cent identified as female.
- 23.6 per cent were Aboriginal or Torres Strait Islanders.
- 35.7 per cent had a recorded disability.

444. Data on the number of First Peoples children in non-family environments by gender over a five-year period from 2017-2018 to 2021-2022 is provided in Attachment **AA-23**, and by age over the same period in Attachment **AA-24**.

445. Young people aged 12-18 years who require residential care placements are often those who have experienced the greatest level of trauma and who, therefore, require the most therapeutic care and support. These young people often display complex behavioural and mental health presentations including drug and alcohol abuse, verbal and physical aggression, sexualised behaviours, dissociation and suicide ideation.

446. A contingency arrangement is required when a child or young person exhibits such extreme behaviours of concern or complex needs, or where sibling groups can be kept together.

447. Lead tenant provides young people aged 16-18 years with accommodation and independent living supports before they transition out of care.

448. The department does not report data relating to the complexity of children and young people in care. This individualised information is recorded by the case worker in each child or young people's case notes.

449. The department does not retain data regarding criminal charges/offences. This information is held by Victoria Police and the Department of Justice and Community Safety.



**Question 44**

*Theme 4. Experiences of First Peoples' children in out-of-home care. (c) **Children in care in non-family environments (e.g. group homes, temporary accommodation).***

Is there a correlation between children housed in settings of the nature identified in paragraph (42) above, and children that are, or later come to be, known to the CJ System (particularly in the case of First Peoples children)?

**Response to Q.44**

450. Data showing the proportion of First Peoples children and non-First Peoples children over 10 years of age residing in residential care, lead tenant and contingency placements (i.e., not home-based

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placements) respectively who the criminal justice system has had contact with prior, and subsequently, to the making of the care arrangements is provided in Attachments **AA-25(a)** and **AA-25(b)**. This data also shows the relative risk of contact with the criminal justice system relative to children in home-based placements.

451. The data, derived from the population of children in these settings between 2017-18 through to 2021-22, indicates that the criminal justice system will have contact with a high proportion of children residing in residential care, lead tenant and contingency arrangements, both before and after the care placement. This is the case for First Peoples children and non-First Peoples children.
452. The proportion of children that the criminal justice system will have subsequent contact with is particularly high for children aged 10-14 years (67 per cent of First Peoples children and 66 per cent of non-First Peoples children in the case of residential care). The data also demonstrates the different, and increased risk, of criminal justice contact for all children placed in these settings when compared to home-based settings (kinship and foster care). Based on data derived from the population of children in these settings between 2017-2018 through to 2021-22, it is 1.2 times more likely that the criminal justice system will have contact with a First Peoples child aged 10-14 years, and 1.3 times more likely that the criminal justice system will have contact with a First Peoples child aged 15-19 years, in residential care, subsequent to that care, than a First Peoples child in a home-based care setting.

#### Question 45



*Theme 4. Experiences of First Peoples' children in out-of-home care. (c) **Children in care in non-family environments (e.g. group homes, temporary accommodation).***

As at February 2023, what are they key programs and initiatives that are in place to support the cultural needs of children in non-family care environments: (a) State programs; and (b) ACCO programs?

#### Response to Q.45(a)

##### ACCO delivered Residential Care

453. Currently only two ACCOs, VACCA and MDAS deliver residential care to a small number of First Peoples children. Several ACCOs have advised their unwillingness to deliver residential care until a more culturally appropriate model is developed. As part of the Transitioning Aboriginal Children to ACCOs: Rights and Aspirations Project undertaken in 2022 several ACCOs spoke about the two – four bed model with rostered staff not being culturally attuned. Several ACCOs spoke of their desire to redesign a model that supports broader notions of family; does not exclude family members unable to care for children; is capable of caring for larger sibling groups; and is able to build cultural connections were highlighted.
454. VACCA have recently been provided case management targets for several children residing in residential care in the East and Ovens Murray that is provided by a CSO which may be another approach to support children residing in residential care.

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### **Care Hub**

455. The 2020-21 State Budget included funding to trial a Care Hub in Loddon for children and young people who are new entrants to care. The Care Hub is a multi-disciplinary team providing integrated early assessment, planning and wrap-around supports for children and young people who are first time entrants to care. The multi-disciplinary team works across multiple placement options including foster and residential care as well as providing outreach supports, including to children in kinship care. The multi-disciplinary services include cultural supports alongside therapeutic supports, mental health, family work as well as alcohol and drug support services. The Care Hub cultural support worker from BDAC works with the child or young person and their family to improve connections to community and culture, assesses the cultural needs and strengths of the child or young person and their family and contributes to the Care Hub assessment and plan and supports the care team to work with the child or young person in accordance with their cultural support plan.

### **Keep Embracing Your Success (KEYS) model**

456. The department is funding and working with the VACCA to design and implement a culturally safe model of therapeutic residential care, based on the model and learnings from the Keep Embracing Your Success (KEYS) model.

### **ACSASS**



457. ACSASS is a specialised state-wide program delivered by ACCOs that provides culturally attuned input into Child Protection risk assessments and decisions regarding the abuse or neglect of Aboriginal children. ACSASS supports compliance with s.12 and s.13 of the CYFA, which require Child Protection to consult an ACCO when making significant decisions in respect to Aboriginal children and when an Aboriginal child is placed in care.

### **Cultural Plans**

458. A cultural plan is one part of a holistic approach to planning for vulnerable children and young people in care. The CYFA establishes cultural support as essential for Aboriginal children in out-of-home care to maintain and strengthen their Aboriginal identity and encourage their connection to their Aboriginal culture and community.
459. The case plan for an Aboriginal child in out-of-home care is required to address the child's cultural support needs and reflect and be consistent with those needs. It contains significant decisions relating to the child. The child's cultural plan includes various elements to promote and maintain cultural support for the child while they are in out-of-home care.

### **Response to Q.45(b)**

460. The KEYS model discussed in response to Question 45(a) is an example of an ACCO-designed and run (jointly with the department) program that aims to implement a culturally safe model of therapeutic residential care.

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**Question 46**

*Theme 4. Experiences of First Peoples' children in out-of-home care. (c) **Children in care in non-family environments (e.g. group homes, temporary accommodation).***

In the case of both State and ACCO programs identified in response to paragraph (45), explain: (a) The timeframes over which above are currently funded for (b) Key challenges and opportunities in their funding, delivery and accessibility.

**Response to Q.46(a)****Care Hub**

461. The Care Hub is currently being trialled in the Loddon area. The trial is currently funded until 30 June 2024.

**Keep Embracing your success**

462. The ACCO-designed Keep Embracing Your Success (KEYS) model is a culturally safe therapeutic residential care being provided by VACCA in the North division and is funded on an ongoing basis.

**Cultural planners**

463. Senior Advisors – Cultural Support Planners located within ACCOs are permanently funded.

**ACSASS**

464. ACSASS, also located within ACCOs, is also permanently funded.



**Response to Q.46(b)**

465. In addition to VACCA providing residential care in Western Melbourne, Brimbank Melbourne, Southern Melbourne, Inner Gippsland, North East Melbourne and Hume Moreland and MDAS providing residential care in the Mallee which is recurrently funded there is an opportunity to develop an ACCO led and designed residential care model

466. There is also an opportunity to explore how First Children in residential care can be supported by an ACCO when their care is not provided by an ACCO. Examples include offering case management and connecting children to cultural support activities offered by the local ACCO.

467. The Care Hub model is currently in the trial phase and adjustments to the model are being made in consultation with key stakeholders based on learnings. An evaluation of the model will be undertaken to consider the impact of the model and identify further learnings. Further information about the evaluation is provided in the response to Question 40.

468. The ACCO-designed KEYS model is currently only offered in the North Division.

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**Question 47**

*Theme 4. Experiences of First Peoples' children in out-of-home care. (d) **Children within (or known to) CP System being at an increased risk of interaction with the CJ System.***

As at February 2023, what percentage of First Peoples children in (or known to) the CP System are also known to the CJ System?

**Response to Q.47**

469. An analysis of data from Child Protection and Youth Justice client databases (linked data) has been undertaken, which shows that as of 1 June 2022:

- There were 33 First Peoples young people with an open Child Protection case or care and protection order (excluding intake and including permanent care orders) who were also on a Youth Justice order, representing 0.7% of all First Peoples young people in Child Protection.
- By comparison there were 90 dual non-First Peoples young people, or 0.5%.



470. In October 2022, data was provided to the Commission reflecting young people in care identified in the Child Protection CRIS data base as being on dual Child Protection and Youth Justice orders. This data was accompanied by a caveat indicating that it may represent an undercount because it relies on case managers completing a checkbox in CRIS to indicate the young person is subject to a Youth Justice order. The linked data now provided to the Commission is considered to be reliable.

*Table 17: Number and percentage of Child Protection clients on a Youth Justice order as of 1 June 2022<sup>72</sup>*

<b>Open Child Protection case or order + Youth Justice order</b>	<b>1 June 2022</b>
First Peoples young people	33
Percentage of First Peoples young people in CP	0.7%
Non-First Peoples young people	90
Percentage of non-First Peoples young people in CP	0.5%
All young people	123
Percentage of all young people in CP	0.5%

471. Data comparing the percentage of First Peoples and non-First Peoples children involved with Child Protection and Youth Justice over a seven-year period from 2015-16 to 2021-22 was provided to the Commission in response to NTP-002-001 (Trance 3).

<sup>72</sup> Analysis of linked data from the Department of Justice and Community Safety and the department. Figures reflect the number of children that have an open child protection case (excluding intake) or an open care and protection order and an open youth justice order as of 1 June 2022. Figures include permanent care orders.

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Table 18: Child Protection clients in placements with a Youth Justice order (provided as part of NTP-002-001)<sup>73</sup>

In OOHC placement AND on dual order	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22
First Peoples young people	13	14	18	20	19	21	15
Percentage of First Peoples young people	0.5%	0.5%	0.6%	0.6%	0.5%	0.6%	0.4%
All young people	33	41	46	52	58	60	46
Percentage of All young people	0.3%	0.3%	0.3%	0.3%	0.4%	0.4%	0.3%

Source: CRIS

472. I am also aware of a number of research pieces that provide data on the prevalence of children and young people who are known to both Child Protection and Youth Justice, including publications by the Australian Institute of Health and Welfare<sup>74</sup> and a series of reports published by the Sentencing Advisory Council. The Sentencing Advisory Council's 2019 'Crossover Kids': Vulnerable Children in the Youth Justice System Report<sup>75</sup> found that of the 5,063 children who were sentenced or diverted in the Victorian Children's Court in 2016 or 2017, 38 per cent were the subject of at least one Child Protection report.

#### Question 48

**Theme 4. Experiences of First Peoples' children in out-of-home care. (d) Children within (or known to) CP System being at an increased risk of interaction with the CJ System.**

As at February 2023: (a) What measures have been put in place to prevent cross-over between systems; (b) How are the efforts in sub-paragraph (a) working to prevent entry or escalation through the CJ system, including diversion out of the system); (c) What key programs and initiatives are in place to support the needs of these children: i. State programs? ii. ACCO programs?



#### Response to Q.48(a)

473. Victoria has comparatively low rates of youth justice involvement compared to other states and territories for First Peoples and non-First Peoples. While, concerningly, First Peoples children are significantly over-represented among this population, Victoria has the lowest number of First Peoples children under Youth Justice supervision with 68.4 per 10,000 young people under Youth Justice supervision in Victoria compared with the national average of 116.7 in 2020-21. Notably, at

<sup>73</sup> The table shows a unique count of dual CP/YJ children in care within each financial year. Clients may appear more than once across financial years, reflecting each year they were in care. Dual CP-YJ status is identified by the Child Protection Practitioner marking the 'dual YJ client' checkbox in the case section of CRIS. This data is likely to be an under-count, as there may be Child Protection children who are involved with Youth Justice who are not identified in CRIS.

<sup>74</sup> Young people under youth justice supervision and their interaction with the Child Protection system  
<https://www.aihw.gov.au/reports/youth-justice/young-people-under-youth-justice-supervision/summary>

<sup>75</sup> Crossover Kids: Vulnerable Children in the Youth Justice System Report  
<https://www.sentencingcouncil.vic.gov.au/publications/crossover-kids-vulnerable-children-youth-justice-system-report-1>

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9.6 per 10,000 population, Victoria's detention rate of young First Peoples is the lowest nationally.<sup>34</sup>

474. While I acknowledge significant caution must be exercised in drawing any positive conclusions from a circumstance where any young person comes to the attention of youth justice and more so when that young person is placed in detention, this does indicate that there is something in the Victorian approach that is working to divert children from Youth Justice involvement.
475. One such strategy that supports young people at high risk of adverse outcomes, including youth justice involvement is the implementation of High-risk youth panels and schedules which support Child Protection case planning of young people at risk where intervention to ameliorate the risk factors has not yet been achieved. The high-risk youth schedule provides a framework to support the early identification of a relatively small cohort of the highest risk and most vulnerable young people and requires regular review, monitoring and planning by a multi-sector high-risk young panel.
476. High-risk youth panels operate at a sub-divisional or area level and may comprise of membership, including, but not limited to Child Protection Practitioners and senior managers, ACSASS, mental health and therapeutic treatment services. Education, health specialists, and other services that may have a specific relationship with the young person or family including youth justice workers.
477. Relating specifically to young people in residential care, the Framework to reduce criminalisation of young people in residential care (the Framework), released in February 2020, is a multi-agency commitment to reduce the high rates of contact between young people in residential care and police and justice services. Signatories include the department, the Department of Justice and Community Safety, Victoria Police, VACCA and the Centre for Excellence in Child and Family Welfare.
478. Work is underway to develop a memorandum of understanding and practice guidelines for Child Protection and Youth Justice which will set out agreements between the parties to support a collaborative and coordinated approach to working with shared clients. The parties have committed to working together, within existing legislative and policy frameworks, to collaborating and coordinating their activities in relation to shared clients in order to keep them safe from harm, promote their well-being, cultural connections and cultural safety and attempt to address the risks of the young person's offending or re-offending.

#### **Response to Q.48(b)**

479. The Framework sets out the individual and collective responsibilities of signatories to reduce the criminalisation of young people in residential care, it establishes guiding principles to inform local practices and procedures and provides a decision-making guide for residential care workers to reduce unnecessary or inappropriate police contact, as well as additional guidance for Victoria Police in responding to non-crisis incident within homes.
480. Implementation of the Framework is supported by an 18-month action plan which is currently being finalised (with endorsement being sought from the signatories). The review will then occur at the

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end of that 18-month period. While the Framework targets all children in residential care, several actions aim to support First Peoples children and young people.

481. Monitoring will occur through implementation with a planned review of the impacts of the Framework at completion of the 18-month action plan.
482. High-risk youth panels are required to meet at least monthly and are expected to include multi-sector representatives at an appropriately authorised level of seniority to make decisions to best support safety and wellbeing for youth people.

### **Response to Q.48**

483. In line with the 18-month action plan is the First Peoples-specific KEYS model of residential care, operated by VACCA to support children with mental health and complex needs to transition back home or to independent living. The department continues to work with VACCA to ensure the model is culturally safe and appropriate.

### **Question 49**

*Theme 4. Experiences of First Peoples' children in out-of-home care. (d) **Children within (or known to) CP System being at an increased risk of interaction with the CJ System.***



In the case of both State and ACCO programs identified in response to paragraph (48): (a) On what timeframe are the programs currently funded for; and (b) Explain key challenges and opportunities in their funding, delivery and accessibility

### **Response to Q.49(a)**

484. In the case of programs identified in response to Question 48:
- Programs under the Framework to reduce criminalisation of young people in residential care, which brings together programs and initiatives across agencies designed to prevent or divert young people in residential care from the criminal justice system are funded independently of the framework.
  - There is no funding attached to the Memorandum of Understanding and practice guidelines.
  - The ACCO-designed KEYS model of culturally safe therapeutic residential care is being provided by VACCA in the North division and has ongoing funding.

### **Response to Q.49(b)**

485. Implementation of the Framework is supported by an 18-month action plan, once delivered this will support achieving the outcomes and objectives of the Framework. A key challenge to implementation and implementation monitoring (for the framework and action plan) has been COVID and the diverting of resources. However, work has now recommenced with the finalisation of the action plan imminent. This will then be followed by planned monitoring and implementation activities.

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486. Once it is completed and agreed, implementation of the Memorandum of Understanding and practice guidelines for Child Protection and Youth Justice will provide the opportunity to improve the way Child Protection practitioners and Youth Justice workers work together to respond to, and improve outcomes for, common clients by setting clear expectations and requirements. A challenge that is likely to persist, however, is the lack of reliable data capture on CRIS. This can lead to a situation where Child Protection is not aware that a young person is involved with Youth Justice and can thereby delay collaboration.
487. The ACCO KEYS model is currently only offered in the North Division.

## SYSTEM EXPENDITURE AND FINANCIAL SUPPORTS

### Question 50



*Theme 5: Child Protection system expenditure. In the period 1 January 2017 to present, in the case of First Peoples' children and families: (a) Annual expenditure, overall, and with a breakdown of: (i) Tertiary end of the system; (ii) Early intervention programs and initiatives (aimed at strengthening families); and (iii) Funding for ACCOs — community led programs and initiatives.*

In the period 1 January 2017 to present, in the case of First Peoples' children and families, summarise annual expenditure on the CP System: (a) Overall; (b) Breakdown of: i. Primary expenditure; ii. Secondary expenditure; and iii. Tertiary expenditure.

### Response to Q.50

488. In 2021-22 the department's annual expenditure in the Child Protection and Family Services portfolio was \$1,883.2 million.<sup>76</sup>
489. The total funding in the Child Protection and Family Services programs (delivered by ACCOs and CSOs) is \$904.92 million in 2021-22. This has increased from \$472.69 million in 2016-17. An increase of 91 per cent. The funding covers:
- Family and Parenting Services - \$309.82 million
  - Community delivered Child Protection Services - \$37.45 million
  - Care Services - \$518.35 million
  - Transitions from Care Services - \$26.65 million
  - Other - \$12.65 million
490. The department does not fund Primary or Universal services but rather it is for community delivered Secondary or Targeted services (Family and Parenting and Transitions from Care) and Tertiary or Statutory services (Child Protection and Care Services). Other includes system enablers such as workforce, network, and program support.

<sup>76</sup> Report: 'SAMS 2 DE 08d Commitment sub-activity level final agreement versions'. [20 February 2023]

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491. The total funding in Child Protection and Family Services programs delivered through ACCOs is \$127.38 million per annum in 2021-22.
- Family and Parenting Services - \$46.59 million
  - Community delivered Child Protection Services - \$25.42 million
  - Care Services - \$46.97 million
  - Transitions from Care Services - \$4.50 million
  - Other - \$3.90 million
  - This has increased from \$50.34 million in 2016-17. An increase of 153 per cent.
492. The proportion of funding in the Child Protection and Family Services portfolio delivered by ACCOs is 14 per cent in 2021-22. This has increased from 11 per cent in 2016-17. The proportional funding varies as follows:
- Family and Parenting Services – 15 per cent
  - Community delivered Child Protection Services – 68 per cent
  - Care Services – 9 per cent
  - Transitions from Care Services – 17 per cent
  - Other – 31 per cent
493. Through Wungurilwil Gapgapdair and the department's First Peoples self-determination policies, the department has strengthened its approach to proportional funding for ACCOs.
494. The aim is that funding of ACCOs is commensurate with demand, that is, with the number or proportion of First Peoples children who need the services. This varies across Child Protection and Family Services portfolio.<sup>77</sup> Please see further detail in Attachment **AA-26**.

### Question 51

*Theme 5: Child Protection system expenditure. In the period 1 January 2017 to present, in the case of First Peoples' children and families: (a) Annual expenditure, overall, and with a breakdown of: (i) Tertiary end of the system; (ii) Early intervention programs and initiatives (aimed at strengthening families); and (iii) Funding for ACCOs — community led programs and initiatives.*

In responding to 50(b), please include a breakdown by reference to: (a) Funding recipients (bureaucracy (DFFH), ACCOs, carers and families); (b) Key types of expenditure and programs (including for strengthening families); and (c) Geographic expenditure (e.g. by DFFH region or metropolitan vs rural).

<sup>77</sup> Note: ACCOs also receive funding through the department for services funded through other Government portfolios, for example family violence.

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## **Response to Q.51**

### **Funding recipients**

495. In answering Question 50 I have focused on the sector delivered services, that is, services delivered by ACCOs and CSOs.

### **Child Protection delivered by the department**

496. In 2021-22 the department expended \$328.26 million to deliver the Child Protection Program.<sup>78</sup>

### **Care Allowance**

497. Carers approved to provide care for children in out of home care receive the care allowance. In 2021-22 carers received \$198.95 million in care allowance payments.

498. It is not possible to provide a breakdown for care allowance for First Peoples carers or First Peoples children in care.

### **Client Expenses**

499. In 2021-22, total expenditure on client expenses was \$26.85 million. This includes \$2.23 million delivered through ACCOs and CSOs and included in the response to Question 50 and \$24.62 million paid directly by the department.

### **Families**

500. Families are not direct funding recipients through the Child Protection and Family Services output. They are supported by program funding. Carer families also receive the care allowance. Client support funding is also available to address the needs of the placement and support the needs of the child and provides carers with assistance to commence maintain or sustain a placement, support the child's family access requirements or purchase of specific items or services like therapeutic services and recreational activities.

501. Children whose families are engaged with Family Services can also be supported through Family Services flexible funding. This could include purchasing specific goods or services rather than through providing funding to families.

### **Geographic expenditure**



502. The department can provide a level of geographic breakdown of funding for programs and services but will need more time to prepare.

### **Key types of expenditure and programs**

503. In answering Question 50 I have outlined the key programs in the Child Protection and Family Services portfolio that are sector delivered:

- Family and Parenting Services

<sup>78</sup> Data Source: Expenditure reports extracted from the department's general ledger

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- Community delivered Child Protection Services
- Care Services
- Transitions from Care Services
- Other



### Question 54

*Theme 7. Financial supports. (a) available financial supports for kinship carers, foster and other carers*

Please explain, as at February 2023, in dollar terms the weekly quantum of financial support currently available through DFFH and/or Section 18 ACCOs for: (a) Kinship carers; (b) Foster carers; and (c) Other carers (providing a relevant breakdown), including in each case any applicable “starting” ranges and/or levels and eligibility criteria for higher payment levels.

### Response to Q.54(a)(b) and (c)

504. There are five care allowance levels which apply equally to kinship, foster and other carers that reflect the diverse needs of children and young people in care – see care allowance amounts below.
505. All assessed and approved kinship, foster and permanent carers are eligible for a Level 1 care allowance when they welcome a child into their home.
506. Higher level care allowances are then determined on a case-by-case basis based on the complexity of the child’s needs. Ongoing specialist or support costs are also considered when determining the care allowance level. Whilst all children in out of home care are likely to present with complex issues, the level of support required varies considerably.
507. A higher-level care allowance can be approved at any time throughout a placement with a foster or kinship carer.
508. For permanent carers, a higher-level care allowance can be considered prior to finalisation of the Permanent Care Order.
509. To assist in meeting the immediate or ‘start-up’ costs of caring for a child or young person in kinship and foster care, an additional amount is paid to carers over the first six months of the placement, where the carer is receiving the level 1 allowance.
510. Additionally, a quarterly education allowance is paid to kinship and foster carers of school age children to contribute to the child or young person’s educational costs.
511. Level 1 accommodation allowance (same rates as Level 1 care allowance) is also available via the Home Stretch program for existing kinship, foster and permanent carers caring for a young person 18 to 21 years, who is transitioning from care if the young person remains in their care.
512. A higher-level care allowance may also continue beyond a young person’s 18th birthday up until 21 years to support the young person’s continued engagement with school.

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513. Care allowance rates are indexed annually and are publicly available. The 2022-23 rates outlined in the tables below.<sup>79</sup>
514. Care allowances are also supplemented by client expenses, available for additional needs of children in kinship and foster care, administered by Child Protection.
515. Foster carer placements are also supported by placement support brokerage, administered by the foster care agency.
516. Kinship care placements are also supported by First Supports brokerage to support stabilisation of the placement early and placement support brokerage to prevent placement breakdown throughout the placement, administered by the kinship care provider or the departmental Kinship Engagement Teams.
517. Permanent carers can access flexible funding, administered by their peak body, Permanent Care and Adoptive Families (**PCAF**).

Table 19: Care allowance structure and payment rates 2022-23 (Level 1)

Age	Annual rate	Fortnightly rate
0-7	\$11,141	\$427.05
8-10	\$11,529	\$441.92
11-12	\$12,770	\$489.46
13+	\$16,386	\$628.09

Table 20: Care allowance structure and payment rates 2022-23 (Level 2)

Age	Annual rate	Fortnightly rate
0-7	\$11,761	\$450.81
8-10	\$12,781	\$489.90
11-12	\$15,111	\$579.21
13+	\$20,747	\$795.24

Table 21: Care allowance structure and payment rates 2022-23 (Level 3)

Age	Annual rate	Fortnightly rate
0-7	\$15,342	\$588.07
8-10	\$16,538	\$635.64
11-12	\$19,773	\$757.91
13+	\$27,269	\$1,045.22

Table 22: Care allowance structure and payment rates 2022-23 (Level 4)

Age	Annual rate	Fortnightly rate
0-7	\$29,482	\$1,130.06
8-10	\$29,482	\$1,130.06
11-12	\$29,482	\$1,130.06
13+	\$29,482	\$1,130.06

<sup>79</sup> Information about support for home based carers and care allowance rates are available here:

<https://services.dffh.vic.gov.au/support-home-based-carers-victoria>



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Table 23: Care allowance structure and payment rates 2022-23 (Level 5)

Age	Annual rate	Fortnightly rate
0-7	\$45,382	\$1,739.47
8-10	\$45,382	\$1,739.47
11-12	\$45,382	\$1,739.47
13+	\$45,382	\$1,739.47

\*Educational & Medical Expenses is now incorporated within level groupings.

Table 24: Therapeutic foster care allowance

Age	Annual rate	Fortnightly rate
0-7	\$18,926	\$725.44
8-10	\$20,167	\$773.01
11-12	\$23,357	\$895.28
13+	\$30,853	\$1,182.58

Table 25: Education Assistance Initiative

Age	Annual rate
5-11 years	\$384.03
12-18 years	\$576.03

Table 26: New placement loading (six months)

Level	Fortnightly rate
Level one	\$67.85

### Response to Q.54(b) additional



518. Foster carers are eligible for many of the same financial support as kinship carers, however they do not receive First Supports and their placement support brokerage is administered by the foster care agency with whom they are registered.

### Response to Q.54(c) additional

519. Permanent carers are also eligible for many of the same financial supports as foster and kinship carers, with the following differences:

- A higher-level care allowance can only be considered prior to finalisation of the Permanent Care Order
- Permanent carers do not receive the new placement allowance or the school attendance allowance.

520. Instead of First Supports, Placement Brokerage and Client Expenses, Permanent carers can access flexible funding, administered by their peak body, PCAF.

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**Question 55**

*Theme 7. Financial supports. (a) available financial supports for kinship carers, foster and other carers*

Please explain the training, support, and other services made available to support each class of carer identified in paragraph (54), including the rationale for any discrepancy between them

**Response to Q.55****Pre-assessment training**

521. Foster care applicants are provided with pre-assessment training to support applicants to make an informed choice about providing foster care and are provided induction training. CSOs deliver Shared Lives 2019 and ACCOs deliver Our Carers for Our Kids.
522. Kinship carers do not receive pre-assessment training as such placements are generally not planned and are commonly made with little notice following a child being removed from parental care.



**Post placement support**

523. When children are placed in foster care, all placements receive supervision and support from the CSO or ACCO that the carer is accredited with. Case management responsibility for children in foster care is held by Child Protection, unless the child's case management is contracted to the CSO/ACCO.
524. Kinship carers can access support through the kinship care model which include:
- Kinship Engagement Teams – practitioners employed by the department to actively search for kin and to provide time-limited support, including the Kinship Placement Support Brokerage and managing phone line support in each departmental operational Division
  - Aboriginal kinship finding and genealogical service – dedicated service provided by VACCA
  - First supports – comprehensive assessments, planning and family services supports for new placements delivered by CSOs/ACCOs and First Supports Brokerage.

**Post placement training**

525. Foster and kinship carers can access a range of training through Carer KaFE Learning and Development program. In 2021-22, Carer KaFE was expanded to include permanent carers. Training opportunities are detailed on the Carer KaFE website.<sup>80</sup>

<sup>80</sup> <https://www.carerkafe.org.au>

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## **Financial supports**

### *Information and advocacy*

526. Foster, kinship, and permanent carers can also access support and advice, information, advocacy and counselling support from their respective carer peak body which exists for each care type.
527. The Care Support Help Desk delivered by the Victorian Government aims to assist foster and kinship carers. For first time entrants to care, the Care Support Help Desk organises key documentation required to support the child/ren in care, such as Medicare numbers and birth certificates, and documents to get support, such as a letter to Centrelink for financial support. The Care Support Help Desk sends information to kinship carers on supports available from both State and Commonwealth governments and from Kinship Carers Victoria.
528. The Care Support Help Desk also support a phone line for foster and kinship carers. The phone line is to support carers with requests such as assisting with Care Allowance issues and the need for key documents such as Medicare cards or birth certificates through to more general support in understanding Child Protection and court processes.<sup>81</sup>

### **Question 56**



*Theme 7. Financial supports. (b) Justification for any discrepancy in available supports in (a).*

Please provide reasons for any differences between the levels of financial support, described for different classes of carers.

### ***Response to Q.56(a)***

529. There are no differences in the rates of care allowances provided to kinship, foster and permanent carers however the process for assessing and approving higher levels are different for each care type.
530. For foster carers, the care allowance level is determined and assessed by a placement coordination team within the department, in consultation with the relevant foster care agency.
531. For kinship and permanent carers, the assessment to determine the recommended care allowance level is undertaken by Child Protection.
532. When case management of a child in kinship care is contracted to an agency, the agency can request a higher-level care allowance be made. Consideration is also being given to whether the recently introduced Care Support Help Desk might support kinship carers who are seeking a higher allowance where the case is closed, and Child Protection is no longer involved.
533. While permanent carers may be found to be eligible for a higher- level care allowance, this must be approved prior to the permanent care order being made. There is limited ability for levels to be

<sup>81</sup> Further information about the Care Support Helpdesk is available at <https://services.dffh.vic.gov.au/kinship-care>

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adjusted beyond this, given that Child Protection are no longer involved in the child's life-giving rise to difficulties assessing the child's needs.

## INCIDENTS AND COMPLAINTS

### Question 52

*Theme 6. Significant incidents in the case of First Peoples' children & families. In the period 1 January 2017 to present, in the case of First Peoples' children within the CP System or known to Child Protection:*

In the period 1 January 2017 to present, in the case of First Peoples' children within the CP System or known to Child Protection, please provide an annual breakdown of the number of recorded: (a) Deaths; and (b) Critical incidents.

### Response to Q.52(a)

534. The annual breakdown, from 2017 to present, of the number of recorded deaths of First Peoples' children known to Child Protection (at any time during their lifetime) is set out below:

*Table 27: Annual breakdown of recorded deaths*

2017	2018	2019	2020	2021	2022	2023*	Total
4	8	6	12	11	2	1	44

\*Until 31 January 2023

535. Of these deaths, the following were in scope for a child death inquiry by the CCYP, (*Commission for Children and Young People Act 2012* s 34) as the child who died was known to Child Protection at the time of death or in the 12 months prior to their death:



*Table 28: Deaths in scope for child death inquiry by CCYP*

2017	2018	2019	2020	2021	2022	2023*	Total
4	8	5	11	9	1	1	39

\*Until 31 January 2023

536. It is important to note that the causes of death are not solely attributable to abuse and neglect and include accidental deaths, deaths associated with illness and medical conditions, Sudden Infant Deaths and deaths attributable to drug and substance misuse and suicide and self-harm. Between 2007 and January 2023 over 50 per cent of First Peoples' children in scope for a child death inquiry died from illness or a medical condition or sudden infant death syndrome, while eight per cent died from a non-accidental injury.<sup>82</sup>

<sup>82</sup> Source: internal data. Note: the categorisation of death is what is known to the department at a point in time. The Coroners Court holds records about the determination of death.

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537. Children may have been living at home, been placed in care or in hospital at the time of death and may have had open or closed involvement with Child Protection. Between 2007 and January 2023, of the First Peoples' children in scope for a child death inquiry, 69 per cent (27 children) were residing in parental care and 18 per cent (seven children) were in out-of-home care, with the remaining children living independently or in hospital at the time of their passing.

### **Response to Q.52(b)**

538. Incident reporting in the period specified occurred under two different systems – accordingly I have provided two separate tables.

539. The *Critical Client Incident Management Instruction* (CCIMI) was the incident reporting system for the department until January 2018 for service providers and until 1 October 2018 for Child Protection case-managed clients who were not in placement with service providers.<sup>83</sup>

540. On 15 January 2018 the department implemented the *Client Incident Management System* (CIMS) as the new incident reporting system for all departmentally funded services in-scope for reporting incidents as outlined in the CIMS guide 2017. This meant that from October 2018, Child Protection and other departmentally delivered services commenced reporting incidents in CIMS. The CIMS guide was updated in January 2020.<sup>84</sup>

*Table 29: Incidents reported in CCIMI by year, incident type (excluding death) and First Peoples status<sup>85</sup>*

Year	First Peoples	Non-First Peoples	Total
	children	children	
	Critical Incident	Critical Incident	
2017	558	3,261	3819
2018	119	591	710
Total	677	3,852	4,529

<sup>83</sup> Technical update 2014 - the CCIMI guide

<sup>84</sup> Client Incident Management guide: Client incident management system (CIMS) December 2017

<sup>85</sup> Note about CCIMI Incidents data:



The data reflects a count of Category One Critical Incident reports (CCIMI) within the service types under the Children, Youth and Families program where Child Protection involvement is known, by Indigenous status and incident type (excluding death), for the calendar year 2017 and 2018 (part-year coverage, due to Child Protection not transitioning to CIMS until October 2018). Data in relation to client deaths is not included within this data set.

Out-of-home care is made up of incidents reported by providers of the following Service Types: CYF Home-based care, CYF Kinship Care, CYF Residential care and CYF Secure welfare and CYF Statutory Child Protection Services.

The CCIMI incident reporting system was replaced by the CIMS incident reporting system on 15 January 2018.

Clients may be involved in more than one incident during any given period.

The quality of the data recording First Peoples status of subject young people has not been verified and is as reported by the service provider.

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Table 30: Incidents reported in CIMS by year, primary incident type (excluding death) for primary client and First Peoples status<sup>86</sup>

Year	First Peoples	Non-First Peoples	Total
	children	children	
	Critical Incident	Critical Incident	
2018	280	862	1,142
2019	370	1,356	1,726
2020	443	1,593	2,036
2021	476	1,736	2,212
2022	707	1,747	2,454
2023*	51	126	177
Total	2,327	7,420	9,747

### Question 53

*Theme 6. Significant incidents in the case of First Peoples' children & families. In the period 1 January 2017 to present, in the case of First Peoples' children within the CP System or known to Child Protection:*

In the case of the incidents of the nature identified in response to paragraph (52), describe (cross referencing key legislation, policies and guidelines) the key processes for: (a) Reporting; (b) Investigation; and (c) Addressing key causative factors (particularly where recurring across individual incidents).

<sup>86</sup> Note about CIMS data:

Data reflects a count of major impact incident reports (CIMS) (excluding death) within the service types under the Children Youth and Families program where CP involvement is known, by Indigenous status, for calendar years 2018, 2019, 2020, 2021, 2022 & 2023 (part-year coverage to 31 Jan 2023).

Data in relation to client deaths is being provided by the Office of Professional Practice and is not included within this data set. CIMS was implemented on 15 January 2018.

Out of Home Care is made up of incidents reported by providers of the following Service Types: Home-based care – foster, Home-based care – kinship, Home-based care - Lead tenant, Residential care, Secure welfare, Statutory Child Protection Services, After Hours Child Protection emergency service, Child Protection intake and Principal Practitioner, Statutory Child Protection services - Foster care, Statutory Child Protection services - Kinship care, Statutory Child Protection services - Lead tenant or other, Statutory Child Protection services - Residential care Therapeutic care.

Incidents may have multiple clients, each with their own impact types.



This extract contains only the primary client and primary incident type.

Clients may be involved in more than one incident during any given period.

The quality of the data recording First Peoples status of subject young people has not been verified and is as reported by the service provider.

'Neither Aboriginal nor Torres Strait Islander' includes "Not stated or inadequately described".

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## Response to Q.53(a)

### Reporting of critical incidents

*Critical Client Incident Management Instruction (CCIMI) (technical update 2014) (the CCIMI guide)*

541. The CCIMI guide was the incident reporting system until January 2018 for service providers, and until 1 October 2018 for Child Protection case managed clients who were not in placement with service providers. Under the CCIMI system, the requirement to report incidents applied to all services delivered directly by the department and all service providers funded by the department and was an obligation included as part of the service agreement.

### *Reporting process*

542. The required actions (including reporting) when an incident occurred were detailed in the CCIMI guide. They included:

- Respond to immediate needs and establish a safe environment.
- The most senior staff member recorded the incident on the client incident report form.
- A management representative recorded action taken in response to the incident.
- The incident report was submitted via the designated fax number to the department.

543. Guidance on type and categorisation of the incident was provided in the CCIMI guide and in the *Critical Client Incident Management Summary guide and categorisation table: 2011*.

544. Once incident reports were received by the department, they were reviewed by a Child Protection Manager and category 1 incident reports were endorsed by the Senior Executive of the Division. The Manager would identify if the incident required a referral for further investigation.



545. In the event of the death of a current or former Child Protection client where the case was closed within 12 months of the death, independent review and analysis occurred in accordance with the *Commission for Children and Young People Act 2012*. Additional information regarding the reporting of a client death was outlined in the Child Protection Manual.

546. The policy document *Responding to allegations of physical and sexual assault instruction; technical update 2014* was also a reference document for reporting and management requirements of allegations of physical and sexual assault.

547. Any allegations which related to a potential criminal act were required to be reported to police such as alleged assault as soon as possible after becoming aware of the incident.

### Client Incident Management System (CIMS)

548. On 15 January 2018 the Client Incident Management guide: Client incident management system (CIMS) December 2017 was implemented as the new incident reporting system for all departmentally funded services in-scope for reporting incidents as outlined in the CIMS guide 2017. In October 2018, Child Protection and other departmentally delivered services commenced reporting incidents in CIMS. The CIMS guide was updated in January 2020. The obligation to report was included as part of the service agreement.

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549. Under CIMS a client incident is defined as any event or circumstance that occurred during service delivery and resulted in harm to the client.

550. The key changes related to:

- Introduction of assessment of impact on the client to determine categorisation (major or non-major). (Client Incident Management System (CIMS) guide s.3.3).
- Reduction in the number of incident type categories
- Introduction of investigating client to client incidents of alleged abuse.
- Service providers are responsible for the end-to-end process of the incident reporting process including management of investigations and reviews.
- Use of an electronic tool for reporting and recording incidents.

551. In CIMS the identification response and reporting phase is like CCIMI in relation to attending to client safety and wellbeing. The incident is required to be submitted to the department within three working days of the incident occurring. The incident reports are reviewed by a designated unit to determine if the incident report complies with the CIMS guide. If required, the incident report is returned to the service provider for amendment and resubmission.

552. Under CIMS the reporting of death of a client is defined as “death of a client during service delivery where the death is unanticipated or unexpected. This includes death as a result of the use or misuse of drugs, alcohol or other substances”. Not all current or former client deaths are reportable incidents under CIMS.

553. All major impact incidents are subject to an investigation or a review.

#### **Additional supporting guidance documents**

554. Additional resources to support the service providers in undertaking the incident reporting process include:

- Client incident management guide Addendum: Out-of-home care January 2020
- Client incident management summary guide January 2020
- Client incident management system: Investigative Framework December 2017
- Guide to the emergency use of physical restraint in out-of-home care March 2018.
- Children, Youth and Families Amendment (Security Measures) Act 2014 Part 3 Management of children in out of home care (relates to Secure Welfare incidents).

#### **Additional considerations for CCIMI and CIMS.**

- Any potential criminal matters are required to be reported to police.
- Under the CYFA s.81 and s.82, referrals are made to the Secretary of the department for an independent investigation into allegations of physical or sexual abuse by a carer.
- In 2017, the *Child Wellbeing and Safety Act 2005* was amended to provide powers to the Commission for Children and Young People to oversee and monitor the handling of

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allegations of child abuse by relevant government departments and non-government organisations under the Reportable Conduct Scheme.

### **Reporting of child deaths**

555. A statutory obligation exists to report the deaths of all current Child Protection clients to the Coroner's Court of Victoria (s 11 of the *Coroners Act 2008* (Vic)). In the case of a former client, the department is obligated to notify the coroner of a reportable death or reviewable death. A reportable death (s 4 of the *Coroners Act 2008*) includes the death of a child under statutory care (for whom the Secretary has parental responsibility), who was placed in emergency care and the death was unexpected, unnatural or violent, or resulted directly or indirectly from accident or injury. A reviewable death (s 5 of the *Coroners Act 2008*) is the death of a second or subsequent child of a parent. Reportable death requirement for medical practitioners is found in s 13 of the *Coroners Act 2008*.
556. The Coroners Court also advises the Office of Professional Practice (OPP) within the department of any reportable or reviewable deaths of children or young people under the age of 18 years. The OPP ascertains whether the child or young person was known to Child Protection and provides this advice to the Coroners Court.
557. The Secretary is required to notify the Commission for Children and Young Person Commission (CCYP) as per s 35 of the *Commission for Children and Young People Act 2012* (Vic) of a child death if the child was involved with or had known to Child Protection in the 12 months preceding their death. This child's death is in scope for a child death inquiry and the notification to the CCYP is made by the OPP. For children who die through expected medical or terminal illness/conditions (these are neither reviewable nor reportable) the Child Protection division involved with the child informs the OPP of the child's death.
558. In the event of the death of a current or former client, Child Protection staff are required to:
- Ensure that a client incident management system (CIMS) incident report is completed and submitted (either by Child Protection or funded service) if the death occurs during service delivery and where the death is unanticipated or unexpected. Information on CIMS is publicly available and can be found at [www.https://providers.dffh.vic.gov.au/cims](https://providers.dffh.vic.gov.au/cims)
  - For First Peoples children, Child Protection is to advise the ACSASS of the child's death.
  - Notify the Children's Court of Victoria, Child Protection Litigation Office, or rural solicitor if the death if the child was subject to an order or proceedings before the court
  - Make sure all relevant persons (for example, members of the child's care team) are aware of the death
  - Liaise with Victoria Police when required.
  - The OPP is responsible for notifying senior departmental leaders of the death.

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## Response to Q.53(b)



### Investigation of critical incidents

#### *Critical Client Incident Management Instruction (CCIMI) (technical update 2014)*

559. Under the CCIMI policy any allegations of staff to client abuse or neglect, would be subject to the quality-of-care process. The purpose of this process (detailed in Guidelines for responding to quality-of-care concern in out-of-home care (technical update) 2014) was to determine if the alleged abuse could be substantiated.
560. The process involved the Quality-of-Care Co-ordinator, meeting the service provider and Child Protection representatives to consider the allegation, plan key actions, gather and review information (such as interviews and file reviews), and decide if the alleged abuse could be substantiated. Any other issues of concern were identified and a response planned. This could be in relation to the care/staff, client or a system or process issue. The process was required to be completed within 28 working days.

#### *Client Incident Management System (CIMS)*

561. In CIMS, investigations are required for major impact incidents involving:
- Abuse of a client by a staff member (including volunteer/carer) or another client. (Abuse includes physical, sexual (including sexual exploitation) emotional/psychological (including cultural) and financial abuse).
  - Poor quality of care
  - Unexplained injury
562. Definitions for CIMS are detailed in the Client Incident Management guide appendix A.
563. The service provider is responsible for managing the investigation process. The investigation involves the planned and systematic gathering and analysis of all relevant facts by interviewing witnesses, examining documentation, skilled observation and obtaining expert opinion where appropriate.
564. Where the allegation relates to a potentially criminal matter then a report to police is expected to be made by the service provider. If the police commence an investigation into the alleged incident, then the incident reporting investigation is on hold until the police investigation is completed.
565. The purpose of the investigation is to determine whether the client experienced abuse or neglect as a result of the incident.
566. Once the investigation is completed (other than investigations with a not substantiated – no further action outcome), the service provider is required to complete a response plan. This could relate to specific client issues, staff actions) or any process or systems issues. Actions should inform a continuous improvement process for the client, improved service provision or response by the service provider.

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567. The investigation process is required to be completed within 28 working days. The department then reviews the report to ensure the review process is based on the report complying with the CIMS requirements rather than approval of the outcome decision.

*Additional considerations*

568. The additional considerations for CCIMI and CIMS identified in the reporting phase are also relevant in the investigation phase.
569. At times information becomes available during the investigation phase which was not available at the reporting phase. Such information may lead to referrals or the provision of additional information to inform the previous referral for Police, s81/82 and/or Reportable Conduct Scheme.



**Investigation of child deaths**

570. The Coroners Court investigates reportable deaths and reviewable deaths, in accordance with the *Coroners Act 2008*. The role of the Coroners Court is to investigate reportable deaths, reviewable deaths and fires, and make findings to determine the facts of a death and recommendations on matters connected to the death to help prevent similar deaths from occurring and make recommendations on matters connected with the death, including public health or safety or the administration of justice. These recommendations are considered by the department to inform continuous improvement opportunities.
571. Whilst the CCYP does not conduct investigations, as an independent oversight agency, that may establish an inquiry in relation to a child/young person via a child death inquiry, an individual inquiry or systemic inquiry.
572. For children who have died and were a client of Child Protection or known to Child Protection in the 12 months preceding their death, the CCYP in accordance with the Commission for Children and Young People Act (s.34) must undertake an inquiry to consider services provided to the child and family with the aim of promoting improvements in policies and practices for the safety and wellbeing of children through findings and recommendations.
573. The Commission may also initiate an individual or systemic inquiry concerning children and young people and upon recommendation of the Minister for Child Protection.

***Response to Q.53(c)***

**Addressing causative factors in response to critical incidents**

574. The reason for reporting incidents for both incident reporting systems (CCIMI and CIMS) has been to learn from individual incidents and patterns of incidents, to reduce the risk of harm to clients, and improve the quality of services and the service system.
575. The objective of both incident reporting systems has been the timely and effective responses to client incidents to address client safety and wellbeing.

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*Critical Client Incident Management Instruction (CCIMI) (technical update 2014)*



576. Under CCIMI there were several processes which could be implemented to address issues of concern or patterns of incidents. For a carer, outcomes could involve actions related to support and Supervision, a carer development plan, or a formal care review (which could lead to the de-registration of a carer if the decision was that they were no longer suited to the continue in the role).
577. For clients, the quality-of-care process issues could be identified which required review or action for the client. This could relate to alteration in support plan, safety planning etc and these would be referred to the Child Protection representative to be addressed through the relevant process for that client which would include the Care Team process.

*Client Incident Management System (CIMS)*

578. Under CIMS the purpose of the response plan, which is a required element of each investigation, (other than investigations with a not substantiated – no further action outcome), is to identify opportunities for improvement/learning which relate to the client, staff and or broader service provision.
579. The Response Plan is intended to inform the continuous improvement approach of the service provider to provide better outcomes for client. It is expected that specific issues or patterns of behaviour are raised, discussed, and addressed through existing mechanisms of service providers and Child Protection. These would include:
- Care Team meetings.
  - Designated panel meetings
  - Case/Care planning mechanisms.
  - Regular performance and monitoring meetings with Agency Performance System Support (APSS).

**Addressing causative factors in response to child deaths**

580. The *Coroners Act 2008* requires a public statutory authority or entity who receives a recommendation from a coroner to respond, in writing, within three months stating what action, if any, has or will be taken.
581. The department does not have a statutory obligation to respond to recommendations from the CCYP in response to child death inquiries. However, as part of the child death inquiry process the department is given the opportunity to provide comment on child death inquiries both at draft and final stage and will respond to any recommendations made by the CCYP. The department's response to the final report may also include any initiatives or practice improvements being undertaken by the department that relate to the findings of the report.

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**Question 53 [sic]**

*Theme 9. Complaints concerning First Peoples' children and families. (a) Rates (in period 1 January 2017 to present)*

For each 12-month period in the period 1 January 2017 to present, annual data concerning complaints received by Child Protection: (a) First Peoples; and (b) Total.

**Response to Q.53a [sic]**

*Table 31: Only First Peoples complaints for each 12-month period from 1 Jan 2017 to 31 Jan 2023*

Row Labels	2017	2018	2019	2020	2021	2022	31 Jan	Total
							2023	
Complaints from service users, their advocates and public	38	49	27	41	69	68	8	300
Complaints from External Oversight bodies	64	25	14	14	20	7	0	144
Total	102	74	41	55	89	75	8	444



**Response to Q.53b [sic]**

*Table 32: TOTALS - All complaints for each 12-month period from 1 Jan 2017 to 31 Jan 2023*

Row Labels	2017	2018	2019	2020	2021	2022	31 Jan	Total
							2023	
Complaints from service users, their advocates and public	550	699	723	769	923	1146	142	4,952
Complaints from External Oversight bodies	261	302	578	350	534	453	43	2,521
Total	811	1,001	1,301	1,119	1,457	1,599	185	7,473

*Table 33: TOTALS - Only Non-First Peoples complaints*

Row Labels	2017	2018	2019	2020	2021	2022	2023	Total
							YTD	
Complaints from service users, their advocates and public	512	650	696	728	854	1,078	134	4,652
Complaints from External Oversight bodies	197	277	564	336	514	446	43	2,377
Total	709	927	1,260	1,064	1,368	1,524	177	7,029

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## Observations

582. There were 7473 complaints/enquiries received between 1 January 2017 and 31 January 2023 comprising:

- 4,952 complaints from clients/advocates/stakeholders of which:
- 444 (6 per cent) were from/by/on behalf of First Peoples and
- 2,521 complaints/enquiries from external oversight bodies of which:
- 144 (6 per cent) related to First Peoples

583. For First Peoples, 56 per cent were received from the CCYP (compared to 32 per cent for non-First Peoples) and 43 per cent from the Victorian Ombudsman (VO) (compared to 67 per cent for non-First Peoples).<sup>87</sup>

### Question 65.

*Theme 9. Complaints concerning First Peoples' children and families. b) Processes for investigation and resolution (timeframes and outcomes), including how cultural considerations are taken into account;*

Describe how complaints concerning First Peoples children, families and carers are managed, and how any investigation and resolution: (a) Is sufficiently independent from the relevant Child Protection teams / officers; and (b) Takes account of cultural considerations in the case of First Peoples.

## Response to Q.65

### The management of complaints concerning First Peoples children, families and carers

#### Background

584. The department defines a complaint as an expression of dissatisfaction with services provided, contracted, funded or regulated by the department. A complaint relates to a specific episode, occurrence or provision of service that has resulted in an impact on any individual or group. This can include the complaints handling process itself.

<sup>87</sup> Analysis notes and caveats:



Data sources were RIEMS Report Manager 1/1/2017 to 31/12/2018 (sourced on 13 February 2023) and Feedback Management System (FMS) Qlikview 1/9/2018-to 31/1/2023 (sourced 10 February 2023) to reflect the change from using RIEMS to FMS in September 2018

2023 data relates to one month (January) of service only and should be reviewed with caution

Complaints data aggregates Tier 1/2/3 complaints into one figure for complaints, External Oversight enquiries include matters from all external oversight sources are aggregated into one figure, noting that 99 per cent of matters are submitted by the Victorian Ombudsman and the Commissioner for Children and Young People

RIEMS data includes complaints about funded organisations, which inflates the total complaints reported for the department for 2017 and 2018

Complaints are received through multiple pathways – complaints raised directly with department operations staff are often resolved with clients on the spot or as part of day-to-day service delivery, and may not have been formally entered onto corporate feedback systems.


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585. The department acknowledges everyone's right to express their opinion about services they have received and/or used. The department values feedback and identifies the complaints process as an opportunity to meaningfully respond to people's concerns and use the feedback to shape service improvements whilst protecting complainant confidentiality and privacy.
586. Complaints handling is undertaken in accordance with the Feedback (including compliments and complaints) management policy for provided, contracted, funded and regulated services in the context of relevant program policy requirements and guidance. The department has a no-wrong door policy in relation to receiving feedback and welcomes engagement with clients and their advocates, community partners and the public.
587. In addition to the Feedback Policy's complaints process, department programs have separate processes available to complainants to:
- review and appeal Child Protection investigation and case management decisions
  - make complaints to the Victorian Ombudsman and other external oversight bodies
  - review and respond to protected disclosures, staff grievances related to their employment, or processes for a legal right of appeal, such as to the Family Court, Victorian Civil and Administrative Tribunal or Housing Appeals Unit.

#### **Access to complaints**

588. There are many pathways into the department for people to raise complaints, such as through the Child Protection Intake Service, the After-Hours Service, telephone contacts for operational offices and individual staff phones.
589. Many complaints are received and resolved by the department's operations staff through day-to-day service delivery through the many conversations about children's best interests.
590. The department accepts complaints lodged on behalf of other people and can arrange an interpreter to help with language services
591. I note that for young people in Residential Care, the department will soon launch the Your Voice Emoji Survey to support young people in all Residential Care Units to submit timely feedback.
592. The department also provides Complex Needs Coordinators who are available for secondary consultation which may provide local support services for clients, including those who have identified as a person with disability or are under the age of 18 years.
593. The department displays information about complaints and alternate mechanisms (such as the Victorian Ombudsman, Victorian Information Commissioner, Disability Services Commissioner and CCYP) at operations offices and shares this information with clients/families at the point of intervention and first visit. An audit is completed every three years to ensure compliance with the Human Services Standards and demonstrate its capability/processes that ensure people's human rights are supported and upheld.
594. The department has online information about how to make a complaint. This also refers people to Child Protection intake and after-hours and has a page specifically to support children in out of

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home care to make complaints (Making a complaint for children and young people in out-of-home care (care services)). The information is available online at (<https://www.dffh.vic.gov.au/making-complaint>).



595. The department refers complaints about services provided by funded organisations back to that organisation in the first instance. Where the matter is unable to be resolved at the local agency/organisation level, the complaint is referred back to the department.
596. The department also supports people to submit anonymous complaints. People are welcome to make a complaint without disclosing their identity or can provide their name and contact details but ask to have the complaint marked anonymous to ensure those details are not passed on to anyone beyond the Feedback Service. The department may not be able to investigate and resolve anonymous complaints if there is insufficient information to proceed.
597. The department uses the information provided to investigate and resolve the complaint, and in accordance with our Privacy Policy.
598. From time to time the department develops Communications Plans for some complainants to manage difficult and complex situations, promote a joint understanding of the challenges and to support staff wellbeing.

#### *Access for First Peoples*

599. First Peoples have the option to identify as such when providing details of their complaint through on-line, email or over the phone with the Feedback Service, which is then shared with operations staff to support complaint resolution. There is not a specific or separate complaint management process should a complainant identify as First Peoples and not all First Peoples will identify when providing details of their complaint.
600. The Feedback Services asks if the complainant wishes to identify as Aboriginal or Torres Strait Islander, which is then recorded on the corporate Feedback System. For complaints received via email, the Feedback Service will use available resources to attempt to determine if the person identifies as an Aboriginal or Torres Strait Islander person, which is not always possible.
601. The department actively works with First Peoples families, service providers, stakeholders, and communities to support clear and sensitive identification of First Peoples and to record this in corporate systems to support responsive services and build awareness of First Peoples clients' concerns.

#### **Feedback Service**

602. The data presented in this response relates largely to people who have chosen to submit feedback and complaints to the Department's Feedback Services through:
  - Submitting an online make a complaint e-form.
  - Telephoning the department's Feedback Service on 1300 884 706.
  - Emailing the department's Feedback Service via [feedback@dffh.vic.gov.au](mailto:feedback@dffh.vic.gov.au).
  - Sending regular post mail to Complaints, GPO Box 4057, Melbourne, Victoria 3000.

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603. The Feedback Service team assesses the seriousness of the complaint and distributes the complaint to the relevant program area which then determines who is best placed to manage the complaint and commence contact with the complainant. This team undergoes Cultural Safety training and participates in the audit against the Human Services Standards to demonstrate its commitment to upholding and protecting client rights.

### **Complaint Management**

604. The department's Feedback Policy guides staff to firstly try to resolve the complaint at a local level before escalating to senior involvement. Staff managing complaints assess the severity, safety, complexity, impact, and the need for immediate action.
605. Staff work to protect the privacy and confidentiality of the information provided to support feedback to be considered independently, fairly, and objectively.
606. Children and Families program staff make all attempts to resolve complaints at the local level in the first instance (which is termed a Tier 1 complaint, with an expectation to resolve the matter within 10 working days).
607. If this is not achieved or the complainant is not satisfied with the outcome, the feedback is reviewed by a senior supervisor or manager (known as a Tier 2 complaint, also to be investigated within 10 working days).
608. Should an independent review be required to resolve the complaint (known as a Tier 3 complaint, to be reviewed within 20 working days), it is conducted by a senior Manager/Executive who is independent of the program area (e.g., from another operations division or program or from corporate colleagues with complaint management expertise). The complainant may also raise their matter with the Victorian Ombudsman, CCYP or other oversight body and this is also considered a Tier 3 complaint.
609. Staff communicate the outcome of a Tier 1/2/3 complaint to the complainant and provide advice on alternative courses of internal or external review options.

### **Response to Q.65(a)**

610. The Feedback Policy requires staff to act independently, fairly, and objectively, consistent with the values of the Department and the requirements of the Victorian Code of Conduct. The department provides staff with a range of training to support conflict management, to promote awareness of unconscious bias and to maintain independence and act with integrity and probity.
611. The department's Feedback Policy approach aims in the first instance to resolve matters through local engagement (Tier 1) with staff familiar with the case, the program, and local arrangements. In addition to this approach, complainants can indicate whether they would like their complaint dealt with by an officer or office independent from the staff member who the complaint is about. They are also able to provide a complaint anonymously to the department.
612. Staff also consult First Peoples colleagues (employed in roles such as Senior Practitioners, local Aboriginal Cultural Support and Awareness Advisors in all Areas and State-wide programs and

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Aboriginal Family Led Decision Making Convenors) who provide expert and independent advice to staff to support appropriate case management decisions and to resolve complaints in a culturally safe way

613. Where complaints cannot be resolved at a local level (Tier 1), the Department supports a step-removed approach for complaints to be escalated to investigation to Team leadership level (Tier 2) or independent review (Tier 3). Tier 2 investigations/Tier 3 reviews are often led by at-level or senior staff from other operations divisions, programs, or corporate colleagues with expertise in complaints/dispute resolution.
614. Depending on the seriousness the matter, complaints about staff conduct are overseen by senior staff or may be managed through a separate People and Culture process - related investigations are undertaken by staff other than the subject of the complaint.
615. Complaints relating to decisions at key milestones for the child are escalated to formal Child Protection appeals and review processes.

**Response to Q.65(b)**

616. When investigating and resolving complaints, individual complaints managers:
- review information in the complaint as well as about the child/family/complainant
  - contact the complainant to better understand the nature of the concerns (Feedback Policy recommends doing this within three business days)
  - work with the complainant to share relevant information about their concerns and the program requirements, attempt to resolve the concern and provide suitable referral pathways to external complaints mechanisms.
617. The department strengthens the cultural considerations provided to First Peoples' complaint investigations and resolution through several methods. Complaints managers are supported to consult internally with Aboriginal program experts (Senior Practitioners, local Aboriginal Cultural Support and Awareness Advisors in all Areas and State-wide programs and Aboriginal Family Led Decision Making Convenors) and externally (ACSASS and specialist staff supporting children transitioning to an ACCO under s.18 of the CYFA) to ensure that complaint investigation and resolution, along with case management decisions, reflect better consideration of First Peoples cultural requirements.
618. Where appropriate, Complex Needs Coordinators are appointed to provide secondary consults to local support services for clients, including those who have identified as a person with disability or are under the age of 18 years.
619. Building the cultural competency of operations staff is a focus for the department. The department has a responsibility for the cultural safety of First Peoples in the organisation and builds staff competency to act responsibly when working with Aboriginal colleagues, service users including children and families, and communities. This translates to all the work they do, including how they manage complaints.

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620. The department develops cultural competency by providing cultural safety training to all operations staff. In addition, Child Protection staff complete the recently refreshed Beginning Practice orientation program and build knowledge about First Peoples children and families and connections with the community through consulting with experts, such as ACSASS, and through mandatory engagement with the Aboriginal Family Led Decision Making process when developing the case plan.
621. Staff are encouraged to view complaints as an opportunity to respond to the people involved, to check in on the 'life of the case', better understand the department's practice and identify improvement strategies. Child Protection staff reflect upon complaints and related learnings through care team meetings and formal compulsory staff supervision.
622. To strengthen approval processes and line of sight of complaints relating to First Peoples children, families, and carers, senior staff are engaged to oversee complaints, including the Child Protection Director in operations areas.

### Question 66

*Theme 9. Complaints concerning First Peoples' children and families. Numbers of complaints upheld, numbers of complaints not upheld where the complaint has been made by a First Peoples individual compared to a non-First Peoples individual; and*

For each 12 month period in the period 1 January 2017 to present, annual data concerning complaint resolution in the case of First Peoples children, families and carers including: (a) Whether investigated; and (b) outcome (i.e. upheld, not upheld, discontinued), including (where available) comparative data (as against non First Peoples complaints).

### Response to Q.66(a)

623. For the period from 1 January 2017, to present, there were 7473 complaints raised in the department's corporate feedback systems.<sup>88</sup>
624. All complaints were investigated noting the process explained previously, 99 per cent of the 7473 complaints have been closed, 101 were open as of 13 February 2023.

### Response to Q.66(b)



625. The department captures information about complaint/enquiry outcomes by measuring the extent of resolution (fully/partially/not resolved) and satisfaction (agree/strongly agree to being satisfied).<sup>89</sup>

<sup>88</sup> Source: RIEMS from 1/1/2017 to 31/12/2018 and Feedback Management System from 1/9/18 to 31/1/2023.

<sup>89</sup> A note about the data:

The number resolved/not resolved is based upon complaints sourced only from the Feedback Management system (i.e., from September 2018 to 31 January 2023).

The data **excludes** (blank) responses, so the Grand Total of complaints which includes an indication of resolution (5193) is less than the overall count of complaints (7473).

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Table 34: Complaints Resolution - First Peoples

Row Labels	2017	2018	2019	2020	2021	2022	2023	Total
Not resolved	0	3	5	7	12	14	2	43
Resolved (partially / fully)	0	20	32	45	71	52	3	223
Total	0	23	37	52	83	66	5	266

Table 35: Complaints Resolutions Non-First Peoples

Row Labels	2017	2018	2019	2020	2021	2022	2023	Total
Not resolved		21	87	107	135	148	6	504
Resolved (partially / fully)		293	1018	882	1062	1080	88	4423
Total		314	1105	989	1197	1228	94	4927

Table 36: TOTAL Complaints Resolutions

Row Labels	2017	2018	2019	2020	2021	2022	2023	Total
Not resolved	0	24	92	114	147	162	8	547
Resolved (partially / fully)	0	313	1050	927	1133	1132	91	4646
Total	0	337	1142	1041	1280	1294	99	5193



626. It is observed that:

- The resolution rate for complaints and external oversight enquiries was lower for First Peoples (84 per cent) than for non-First Peoples (90 per cent) over the reporting period. It is also noted that one in five complaints for First Peoples were not resolved in 2022 compared to 12 per cent for non-First Peoples.
- Some matters cannot be resolved due to difficulties in contacting the complainant to finalise the matter, the department and complainant not reaching an agreement (potentially due to exhausting service options, limitations of service delivery), concerns for staff safety, or the matter progressing to a formal appeal or external oversight process.
- The extent of resolution is assessed by departmental staff managing the complaint.<sup>90</sup>

Not resolved = Cannot be Resolved + Not Resolved

Resolved = Partially Resolved + Fully Resolved

<sup>90</sup> Analysis notes and caveats: Analysis notes and caveats: 1) Resolution data is available from September 2018 onwards (from the Feedback Management system only). 2) 2023 data is not complete (one month only in 2023) and should be reviewed with caution

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**Question 67**

*Theme 9. Complaints concerning First Peoples' children and families. Independence of process*

Describe any available external complaint mechanisms for First Peoples children, families and carers, in the case of children in care being case managed by: (a) DFFH; and (b) ACCOs (e.g. section 18 organisations).

**Response to Q.67(a)**



627. First Peoples children in care or those case managed by the department or an ACCO can raise concerns to the respective departmental or ACCO complaints process in the first instance, or may engage the following external bodies complaint mechanisms:

- Health Complaints Commissioner
- Disability Services Commissioner
- Housing Registrar
- Independent Broad-based Anti-Corruption Commission
- Mental Health Complaints Commissioner
- Office of the Public Advocate
- Office of the Victorian Information Commissioner
- Victorian Auditor-General's Office
- Victorian Civil and Administrative Tribunal
- Victorian Equal Opportunities and Human Rights Commission
- Victorian Ombudsman
- Victorian Workcover Authority.

628. First Peoples children, families and carers may also gain support from professional organisations such as the Kids Helpline, the CCYP, the department's Carer Support Help Desk, Kinship Carers Victoria (KCV) and the Foster Care Association of Victoria (FCAV).

**Response to Q.67(b)**

629. Please refer to the answer for Question 67(a).

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## PRE-BIRTH REPORTS, BARRIERS TO CARE AND SUPPORT NEEDS

### Question 68

*Theme 10. Pre-birth reports. (a) Current systems & processes*

In the period 1 January 2017 to present, describe the annual rate of pre-birth notifications: a) First Peoples; and (b) Total.

### Response to Q.68

630. In 2022 there were 404 reports to Child Protection regarding unborn First Peoples children and 1,689 for non-First Peoples' children.
631. The annual rate of unborn reports for First Peoples children has consistently been between 4 and 5 per cent of all reports of concern to Child Protection for First Peoples children over the period 2017 to 2022. This compares with a rate of between 1.5 per cent and 1.8 per cent for unborn reports for Non-First Peoples children over the same period. See Attachment **AA-27**.

*Table 37: Number and rate of pre-birth (unborn) reports from 2017 to 2022*

	2017	2018	2019	2020	2021	2022
First Peoples children						
Pre-birth (unborn) reports	386	503	475	516	464	404
Pre-birth (unborn) reports as a % of all reports	4.3%	4.9%	4.5%	4.7%	4.2%	3.6%
Non-First Peoples children						
Pre-birth (unborn) reports	1,783	2,099	2,062	2,042	1,876	1,689
Pre-birth (unborn) reports as a % of all reports	1.7%	1.8%	1.8%	1.8%	1.7%	1.5%



### Question 69

*Theme 10. Pre-birth reports. (a) Current systems & processes*

In the period 1 January 2017 to present, describe the proportion of children the subject of reports in paragraph (68) that were subsequently removed into out-of-home care (within 180 days of birth): (a) First Peoples; and (b) Total.

### Response to Q.69

632. The proportion of First Peoples children who were the subject of a pre-birth (unborn) report and who were subsequently removed from parental care and placed into out of home care within 180 days of birth has consistently been higher than the proportion for non-First Peoples children in the years from 2017 to 2021.
633. In 2021, 18.2 per cent of First Peoples children who were the subject of an unborn report were removed into care by six months of age, compared with 11.0 per cent for non-First Peoples

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children. In 2017 these rates were 15.4 per cent for First Peoples children and 12.4 per cent for non-First Peoples children. See Attachment **AA-28**.

*Table 38: Proportion of children subject to pre-birth (unborn) report in out-of-home care before 6 months of age*

	2017	2018	2019	2020	2021
First Peoples children	15.4%	19.3%	18.2%	20.1%	18.2%
Non-First Peoples children	12.4%	9.8%	11.4%	12.1%	11.0%



## Question 70

### *Theme 10. Pre-birth reports. (a) Current systems & processes*

Describe the current systems and processes under the CYF Act and relevant policies and procedures for the making, investigation and following-up of pre-birth reports: (a) Prior to the mother giving birth; and (b) Subsequent to the mother giving birth.

### **Response to Q.70(a)**

634. The CYFA establishes two pathways for people to report or refer an unborn child where they have "a significant concern for the wellbeing of the child after their birth". The CYFA enables confidential reports to Child Protection (s.29) and confidential referrals to The Orange Door (s.32) to be made about unborn children and stipulates the type of responses that may be provided (s.30(2) and s.33(3)).
635. The guiding practice principle is one of supportive intervention, rather than interference with the pregnant woman's rights.
636. A report about an unborn child can be received by Child Protection at any stage of a woman's pregnancy. As a general principle, an unborn child report should be made when the pregnancy is confirmed to:
- Allow sufficient time for a well-informed assessment and planning.
  - Enable effective referrals to maternity services, The Orange Door or other appropriate support services before the child's birth.
  - Minimise initial approaches for advice and assistance being made to the mother during the last stages of her pregnancy. Provide opportunities for the mother to engage with professionals and services and contribute her ideas and solutions to resolve any concerns and to achieve better outcomes.
637. An unborn child report cannot proceed to a protective investigation by Child Protection and as such does not entail a substantiation decision, SAFER risk assessment, or protection application. If determined necessary, these may be completed after an intake report is made at the time of the child's birth.
638. The CFYA (s 30) outlines the responses that Child Protection can have regarding an unborn report, and the *Child Wellbeing and Safety Act 2005* (CWSA) (Part 6A) outlines the situations in

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which Child Protection can share information to achieve these responses. Under the CFYA and the CWSA, an unborn child report may result in Child Protection responding in the following ways:

- provide advice to the reporter, including where the reporter is a family member
- refer to The Orange Door or another service
- provide advice and assistance to the mother of the unborn child
- share information with other prescribed services to assess whether and how best to provide the mother with assistance, referrals or advice.

639. If a mother is not willing to work with Child Protection, she cannot be compelled to accept advice and assistance or services to which she may be referred. Where the mother is not consenting, Child Protection may decide to convene a case conference with the relevant professionals to determine the process for considering a future report, closer to or at the time of the child's birth. In this instance, the unborn child report must be closed following the case conference as there is no role for Child Protection.

640. I would also like to acknowledge that while the intent of responding to an unborn report is to assist the mother of the child, current resourcing levels and demand for family services can mean work and services are prioritised towards families and children requiring immediate support and assistance.



#### **Response to Q.70(b)**

641. Once the mother has given birth to a child, and where an unborn report is still open, options include

- Closing the unborn report and take no further action or
- Closing the unborn report and opening a new intake report to register, assess, and classify as per other reports.

642. For child wellbeing reports, the Child Protection Practitioner will contact the family if required to provide advice or referral to appropriate services. If referring to The Orange Door, Child Protection should inform the family of the referral and complete the referral. If a referral has been made to The Orange Door, a family service, or a service agency (as defined in s.3 of the CYFA), it is recommended that the case is not closed until the referral is accepted or another action is taken within the prescribed timelines.

643. An unborn child report can be closed, and a new report opened on CRIS after the baby is born where the reporter believes on reasonable grounds the child is in need of protection. Where the report is classified as requiring protective intervention, Child Protection will conduct a planned or urgent protective investigation to assess the risk of harm to the child's safety and development and determine the most appropriate course of action. A risk assessment will be completed as part of the investigation once a child is born. A protection application can only be issued after the birth when it is assessed that the child needs protection. This decision must be endorsed by a team manager or above.

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644. All infants are significantly vulnerable to harm due to their fragility and developmental dependence. Where a child is under two years of age, policy requires that following the substantiation a decision is made to categorise the response required to support and keep the child safe as an **infant intense response** or an **infant response** in accordance with the level of risk posed to the child. Each categorisation includes specific practice requirements, including relating to the frequency of visits and the level of oversight required by senior practitioners and pathways to escalate the intensity of support provided to those infants deemed most at risk and their families. Wherever it is safe to do so, the response provided is aimed at strengthening and supporting the family so an infant can remain in, or return to, the home. Further information about infant risk assessment and response is available on the Child Protection Manual.<sup>91</sup>

### Question 71



*Theme 10. Pre-birth reports. (b) Rights of mother/ family to receive notice of a report having been made;*

Describe the processes for a pre-birth report being shared with: (a) The mother/family the subject of the report; (b) Relevant hospitals; and (c) (In the case of First Peoples mothers) relevant ACCOs.

### Response to Q.71(a)

645. Child Protection's involvement with a mother at the pre-birth stage following receipt of an unborn report is voluntary and therefore relies on the mother's consent.
646. The intent of the legislation and policy is to enable support in the community for prevention of future harm and to reduce the likelihood of Child Protection intervention after the child's birth by working earlier and in partnership with the mother and appropriate support services to address the need or risk factors. The guiding practice principle is one of supportive intervention, rather than interference with the rights of the pregnant woman.
647. Child Protection can provide assistance for as long as required up until the child's birth with the mother's consent.
648. In summary, the mother's verbal consent is required in the following situations:
- Where Child Protection's response is to provide advice and assistance to the mother (s 30(2)(b)). This is because any assistance or direct case work provided to the mother is voluntary as Child Protection's investigative and statutory powers do not apply until after the child's birth.
  - Where Child Protection wishes to involve the father of the unborn child or partner and extended family in a case conference or any assistance and service which may be provided to the mother. This is because the response provisions in the CYFA (s.30(2)(b) and (c)) only apply to 'the mother of the unborn child'.

<sup>91</sup> <https://www.cpmanual.vic.gov.au/advice-and-protocols/advice/children-specific-circumstances/infant-risk-assessment-and-response>

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649. Consent is not required to exchange information with other entities such as hospitals where the aim is to assess and plan appropriate supports and advice to the mother, or in decision making about whether to close the case or keep it open until the child's birth. The mother's consent is also not required when providing information or advice to the person who has made the unborn report. This occurs when Child Protection determines providing advice to the reporter is the most appropriate response, for example, where the reporter is well placed to support the mother of the unborn child.

### **Response to Q.71(b)**

650. Certain professionals who may have contact with vulnerable children or their parents are defined as 'information holders' under the CYFA (s.3 of the CYFA; r.6 of the Children, Youth and Families Regulations).

651. To carry out its responsibilities, Child Protection can request and receive information from and disclose information to information holders. Information holders (other than police) may also be subject to a compulsory disclosure direction. Relevant to hospitals the following are information holders for the purposes of the CYFA:

- Information sharing entities (ISEs) under the Child Information Sharing Scheme and Family Violence Information Sharing Scheme.
- Registered medical practitioners – doctors and psychiatrists
- Nurses
- Midwives
- Registered psychologists
- A person in charge of:
  - A health service
  - A mental health service


652. The Child Information Sharing Scheme (CIS) permits the requesting and disclosure of confidential information between prescribed information-sharing entities (ISEs) for the purpose of promoting the well-being and safety of a child or group of children. ISEs are obliged to provide information in response to a request from another ISE (unless the information is exempt).

653. There will be situations beyond the circumstances covered under the CYFA where Child Protection holds information relevant to promoting the safety or well-being of a child or group of children. For example, the Child Information Sharing Scheme may apply where:

- The relevant information is held in closed case records.
- Information held by Child Protection in connection with a client may be relevant to promoting the safety or well-being of another child or group of children.

### **Response to Q.71(c)**

654. Where it is known or believed that an unborn child is Aboriginal, Child Protection must contact ACSASS for consultation to inform the actions to be taken. The mother's consent is not required

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for this consultation to occur. The role of ACSASS in the consultation is to assist with assessing need and risk or determining the most appropriate response to ensure the necessary planning and assistance is provided to the mother. The actions which could be taken at this point are:

- Provide advice to the person who made the report.
- Provide advice and assistance to the mother of the unborn child.
- Make a referral to a community-based Children and Families service.

655. Where Child Protection retains involvement, consultation with ACSASS will continue. The focus of the consultation is on facilitating effective engagement, support and assistance to the mother.
656. No consent from parents or children is required for this information exchange although best practice is to inform families about the information that is collected and disclosed about them, subject to the child's safety needs.
657. In addition, Child Protection Directors, Area Operations Managers and other senior staff engage with local ACCO's regularly, including on a case-by-case basis when needed to achieve the best possible outcomes for First Peoples children and their families. This also includes discussion to identified actions to address any barriers or concerns.



## Question 72

*Theme 10. Pre-birth reports. (c) Supports made available to the mothers prior to birth (including through ACCOs)*

Explain the processes for the assessment and provision of culturally appropriate support services to a mother the subject of a pre-birth report, prior to her giving birth (including through ACCOs).

## Response to Q.72

658. The mother's involvement at the pre-birth stage is voluntary, and intervention requires her consent. Risk assessments are not conducted at this stage. Child Protection works with ACSASS and relevant ACCOs to support the mother to reduce the likelihood of Child Protection intervention after the child's birth and improve the child's safety and wellbeing following birth.
659. Where Child Protection retains involvement through the pre-birth phase, consultation with ACSASS continues to facilitate effective engagement and to provide support and assistance to the mother.
660. Child Protection may refer the matter to The Orange Door or other services to provide advice, services, and support to the mother of the unborn child where this is assessed to be the most appropriate response. Such services typically include health, housing, family violence, alcohol and drug or mental health services. When such referrals are made, Child Protection must close the unborn child report. Additionally, where there is a risk of protective intervention following the birth of an Aboriginal child, a referral to a service providing a Victorian Aboriginal Family Preservation and Reunification (VAFPR) response may be appropriate.
661. The department has funded a unique First Peoples Child Protection diversion program being trialled by BDAC, which is funded until June 2023. The Garinga Bupup trial, undertaken in the

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Central Goldfields, Greater Bendigo, Loddon, Macedon Ranges and Mt Alexander localities receives referrals where there are concerns about an unborn Aboriginal child related to their safety and wellbeing after birth, early in pregnancy and ideally before Child Protection had open a case. The aim is for a specialist Case Manager to engage the mother and develop a strategy that would prevent or minimise the need for Child Protection intervention after the baby was born.

662. The trial receives referrals from family services including from within BDAC, The Orange Door and the community. In fact, more and more referrals are from the client themselves, indicating the appropriateness of the self-determined and culturally safe approach that underpins the program design.<sup>92</sup>
663. An independent evaluation of Garinga Bupup found, in summary, that:
- There was excellent uptake and use of Garinga Bupup.
  - Parents were very satisfied with their service and experienced a high-level of personal and cultural safety during care and felt supported by ACCO Convenors/Case Manager.
  - Garinga Bupup mothers showed a high level of trust in the Garinga Bupup Senior Case Manager, and the Garinga Bupup Senior Case Manager also highlighted the close “family-like” relationship that she formed with mothers.
  - There was evidence that the trials improved parents’ self-esteem, self-agency, and personal empowerment, and successfully engaged parents in community-based support to address struggles linked to poverty and disadvantage and exacerbated by social isolation.<sup>93</sup>
664. The evaluation found that Garinga Bupup had a 63 per cent success rate in diverting a Child Protection investigation following the birth of a child.

### Question 73

*Theme 10. Pre-birth reports. (d) Supports made available to mothers post-birth to support family unity and/or reunification*



For mothers the subject of pre-birth reports, explain post-birth processes including (where not previously resolved) including: (a) Assessment of what is in the best interests of the child; and (b) The types of support that are made available to mothers in aid of: i. Family unity; ii. Reunification as soon as possible; and/or iii. Addressing identified concerns.

### Response to Q. 73(a)

665. Upon the birth of a child who has been the subject of an unborn report, Child Protection must close the unborn report, if this has not previously occurred.

<sup>92</sup> Wise, S., and Brewster, B. (2022). Seeking Safety: Aboriginal Child Protection Diversion Trials Evaluation Final Report. The University of Melbourne: Parkville.



<sup>93</sup> As above

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666. If concerns exist upon the birth of the child, a new report must be made which is assessed in accordance with the SAFER practice activities – to seek, share, sort and store information and evidence and to analyse and assess risk.
667. The assessment must comply with the CYFA best interests' principles and additional decision-making principles for First Peoples children. This includes, wherever possible, the need to protect and promote their cultural and spiritual identity and development by maintaining and building their connections to their Aboriginal family and community. Further information about the legal framework for Child Protection is provided in the service context overview in Part 1.
668. Where there is an unborn report and the child is then born, the options are to:
- Close the unborn report and take no further action or
  - Close the unborn report and opening a new intake report to register, assess, and classify as per other reports
  - The response to the intake report may result in:
    - Provision advice to the reporter or
    - Provision of advice to the family or
    - Referral to a community-based Children and Families service or another service to support the child and family or
    - Decision to classify the report as a protective intervention report in which an investigation is required within two days of the report (urgent investigation), or within 14 days of the report (planned investigation).
669. The Best Interests Case Practice Model used by the Children and Families Services Sector and practitioners to assess pre-birth reports in the intake phase outlines the need to consider:
- The historical context of colonisation and the impact of the Stolen Generations on this child and family
  - From the perspective of culture, the child's educational, physical, emotional, or spiritual needs– these considerations should be made holistically, not in isolation from each other
  - The child's significant relationships as encompassing a wider community, not just immediate family, and including Elders, and Aunties and Uncles.
670. Seek the views of Elders and other significant community members, particularly in education and the maintenance of culture. Additionally, practitioners are advised to refer to the Aboriginal Cultural Competence Framework, which has been developed by the Victorian Government.

### **Response to 73(b)(i)**

671. Given the involvement of ACSASS at all decisions making points, it is anticipated that culturally appropriate support services are identified and made available to mothers as early as practicable.
672. Child Protection is guided by ACSASS to provide a culturally appropriate assessment and a plan for intervention with the family.


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673. The kind of support available to the mother will depend on the issue, the level of risk, and their willingness to engage.
674. Before a case is closed, effort is made to engage them with a culturally appropriate support service including through The Orange Door, a drug and alcohol service, a mother/baby admission, or a referral to a mental health professional.
675. A case can be substantiated if a protective intervener is satisfied on reasonable grounds that the child needs protection based on one or more of the grounds defined in s.162 of the CYFA.
676. The investigation of the reported concerns and subsequent risk assessment, informs decision-making and the outcome of the investigation.
677. A decision about substantiation should be made as early as possible, and no later than 28 days after the date of the report. The decision about substantiation relies on information gathered through the risk assessment process.
678. Directly after substantiation, there must be an Aboriginal Family Led Decisions Making Meeting – otherwise known as AFLDM.
679. An AFLDM is the primary process for case planning for First Peoples children that seek to provide solutions to address Child Protection concerns. AFLDM is:
- Underpinned by the principles of Aboriginal self-determination.
  - Guided by Aboriginal culture requiring the active involvement of Elders and the wider family network in decision-making.
  - A tool for empowering Aboriginal families to identify concerns and develop solutions to achieve child safety and wellbeing.
680. Unless the family declines, ACSASS attends the AFLDM and assist in identifying the activities and tasks necessary to bring about change.

### **Response to 73(b)(ii)**

681. If a child or young person has been placed out of home, an AFLDM must be held as a matter of urgency, and a case plan prepared to address the risk issues that led to the placement.
682. At this stage, the family is likely to need intensive support for reunification to occur. The Family Preservation and Reunification Response delivered by ACCOs in each of the department's 17 Child Protection Areas is an example such support.
683. The response seeks to provide early support to First Peoples children, young people and their families to address concerns and avoid entering care. It is designed to keep families together through approaches that are underpinned by First Peoples self-determination and which promote culturally safe and inclusive services that are anchored in culture and an understanding of the ongoing impacts of colonisation on First Peoples children and families.

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**Response to 73(b)(iii)**

684. The AFLDM and the subsequent case plan will outline the identified risk issues and a plan to support the Aboriginal family to stay together in the community. The family will be supported by ACSASS and other members of the Aboriginal Community as necessary to implement the case plan. It is important to note that using the SAFER Risk Framework, identification of areas of concern may arise and precipitate the need for a case plan review or review of services involved with the family.

**Question 74**

*Theme 10. Pre-birth reports. (e) DFFH's assessment of and response to complaints received (including letter from First Peoples' Health and Wellbeing to DFFH dated 30 August 2021, see: HB1.0001.0012.0070); and*

Explain the action taken by DFFH in response to the complaint letter received from First Peoples' Health and Wellbeing dated 20 August 2021, including: (a) Investigation; (b) Actions; and (c) Follow up.



**Response to Q.74**

685. On 30 August 2021 the Executive Director Bayside Peninsula Area (BPA) received a letter of concern from the CEO of the First Peoples' Health and Wellbeing (**FPHW**). In response, a case file audit was commenced of the three matters referenced in the letter from FPHW.
686. In September and October 2021, two executive level meetings between departmental and FPHW staff were held to work through thematic issues, to identify opportunities for improvement and review a draft decision-making approach prepared by BPA Child Protection to improve local Child Protection practice with respect to First Peoples children. BPA Child Protection also offered to provide 'fee for service' funding to FPHW to enable the service to engage and attend meetings on behalf of mutual clients more actively. Further a 'point of contact' for Child Protection staff within FPHW was agreed and a commitment made that Child Protection staff would engage with the service to support current clients and refer new families to the service for health and wellbeing services.
687. In October 2021 the department provided a draft of the BPA *CP decision making for Aboriginal and Torres Strait Islander children* document to FPHW inviting any further feedback, prior to finalising it later that month and distributing it within BPA Child Protection senior leadership group for immediate implementation.

**Question 75**

*Theme 10. Pre-birth reports. (f) Human rights considerations in the case of First Peoples mothers and families.*

In investigating and determining suitable action(s) in response to pre-birth reports, explain the processes for the consideration of human rights considerations (including, specifically, in the case of First Peoples), including how the obligation to give proper consideration to the Charter rights in s 17(2) and s 19(2) of the Charter Act is complied with.

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### Response to Q75

688. As I outlined in my responses to Questions 22 and 23, all department Child Protection staff are required to give proper consider and act in a manner that is compatible with Charter rights when making decisions including in relation to considering and taking actions following unborn child reports.
689. The CYFA and the department's policies promote and support early intervention and prevention to improve outcomes for expectant mothers of an unborn child. The intent is to enable support in the community for prevention of future harm and to reduce the likelihood of Child Protection intervention after the child's birth by working earlier and in partnership with the mother and appropriate support services to address the need or risk factors. This seeks to maximise the rights of the child recognised in s.17(2) of the Charter.
690. The actions available to Child Protection staff to support the mother following an unborn child report to the department are to provide advice and assistance to the mother of the unborn child and to refer the matter to a community-based Children and Families service or a service agency to provide advice, services, and support to the mother of the unborn child. The department may also share information with other prescribed services for the purposes of assessing whether and how best to provide assistance, referrals or advice to the mother.
691. As noted above, consideration must be given the cultural rights in s 19(2) in all decisions made by Child Protection staff. In respect of the cultural rights of the unborn child, where it is known or believed the unborn child is a First Peoples' child, Child Protection must contact ACSASS for consultation to inform the actions to be taken. The mother's consent is not required for this consultation to occur.
692. The role of ACSASS in the consultation is to assist with assessing need and risk or determining the most appropriate cultural response to ensure the necessary planning and assistance is provided to the mother, thereby seeking not just to comply, but to maximise the future enjoyment by the unborn child of the rights recognised in s.19(2) of the Charter by supporting the cultural rights of the mother, and the rights of the mother and child in s.17(1). Where Child Protection retains involvement, consultation with ACSASS will continue as it would with an Aboriginal child during the protective intervention phase. The focus of the consultation will usually be on facilitating effective and culturally appropriate engagement, support, and assistance to the mother.

### Question 76

*Theme 11: barriers to and difficulties for first peoples' families assuming a caring role. (a) Current background check processes (including Working with Children Check)*

Describe current application and background check processes (including Working with Children Checks, National Police Checks) for assessing the suitability of prospective carers of First Peoples children in out-of-home care, including: (a) The key factors or information that is relevant to any approval decision (e.g. criminal record); and (b) The timeframes over which the searches are conducted.

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**Response to Q.76(a)**

693. In relation to the application and background check process for assessing the suitability of prospective carers of First Peoples children in out-of-home care, the following provides a summary of the key steps:

**Foster Care**



694. Once an applicant completes a foster care application form, those who agree to the conditions of the application such as attending training and background safety checks, are invited to attend training and the safety check process begins. The 15-hour training is delivered over two days and aims to ensure that prospective carers understand the requirements and what is involved. Applicants are then invited to start the assessment process, using the mandatory assessment tool *Step by Step 2020*.
695. Foster care agencies such as CSOs and ACCOs are required to ensure that staff who assess foster care applications are appropriately trained and have completed the quality assurance registration.
696. When making an assessment, a care agency is required to comply with all the safety screening checks. These include:
- Checking with the department to confirm that the prospective carer is not disqualified from the Register of out-of-home carers
  - A national police history check for all adults in the household and any other adults who regularly stay overnight.
  - An international police check for applicants and members of their household who are 18 years of age and who have spent 12 months or more overseas during the past ten years. If this is not possible, three additional referee checks from people who knew the applicant while in that country must be conducted.
  - A Working with Children Check (**WWCC**) for the prospective carer and all adult members of the household.
  - Directly contacting – face-to-face or by telephone – three responsible people to act as referees for the applicant. Referees must have known the applicant for a minimum of two years, must still be in contact with the applicant, must not be directly related and must have observed the applicant's interaction with children.
  - If an applicant has previously fostered with another CSO or ACCO in Victoria or interstate, they must contact these organisations to seek advice as to the applicant's suitability and competencies.
697. The decision to accredit a foster carer is made by a foster care panel, which includes a representative from the department. The decision is made based on all the information gathered and the results of the checks.

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### Kinship care

698. In relation to kinship care, Child Protection or the authorised Aboriginal agency begins by completing a preliminary assessment and mandatory safety screening which include national police history checks and CRIS checks.
699. A national police check is required for every prospective kinship carer and all members of their household who are 18 years of age and over who reside or regularly stay overnight. These police checks will be undertaken by Child Protection.
700. If a kinship carer has lived overseas for a cumulative period of 12 months or longer, an international police history check is undertaken if possible. If an international police history check cannot be completed, the reason is recorded and referee checks from two or more individuals who personally knew the carer while they were living in the other country or countries are obtained, if possible.
701. Approved kinship carers are required to hold a Working with Children Check under the Worker Screening Act 2020. New carers have 21 days from the date the child is placed in their care to apply for a Working with Children Check. The provision of kinship care is considered child-related work under the Worker Screening Act 2020, which establishes the Working with Children Check.
702. In addition to being a legal requirement that all kinship carers apply for and hold a Working with Children Check, the checks also facilitate the department's ongoing monitoring of the suitability of carers to continue providing kinship care. This is because any future relevant criminal charges and/or disciplinary or regulatory findings will trigger a reassessment of the carer's suitability to hold a Working with Children Check.
703. A review of Child Protection records held within the Child Record Information System (CRIS) is also undertaken to identify additional relevant information including whether the prospective carer/s or another usual adult member of the household have ever been assessed as being responsible for harm to a child.
704. This information, together with that gathered through discussion with the carer, supports the assessment of the suitability of the placement and fitness of the prospective carer and other usual adult household members to provide care to the child, consistent with the child's best interests.
705. The kinship care assessment process includes two parts, referred to as part A and part B.
706. The part A assessment includes collection of information to enable assessment about the placement's short-term suitability (up to six weeks in the placement) including:
- The household composition and family relationships through a genogram.
  - The child's needs; any siblings and parents
  - Occupation and health information of the proposed kinship carer/s
  - Completion of WWCC, police checks, CRIS check for the carer/s
  - Interviews with the client/s not in the presence of the proposed carers
  - Interview with the parent/s

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- Interview with the proposed carers and any adult household members
707. Following the successful completion of the part A assessment process (and placement of the child/ren), a comprehensive part B assessment is undertaken if the placement is likely to exceed six weeks. This process involves exploration of a range of issues to identify the suitability of continuing the placement of the child/young person in terms of risks and protective factors and to identify support needs for the child.
708. The domains covered in the part B assessment includes:
- Carer understanding of the child's needs and capacity to meet needs
  - Practicalities impacting on caring capacity
  - Carer/child relation
  - Motivation and commitment
  - Relationship with parents
  - Personal and family history
  - Managing change, stress and carer support

### **Response to Q.76(b)**

709. I understand that the Commission is asking about the time frame that is applied to police checks and Working with Children Checks.
710. Police checks for carer assessments are run across all Australian police agencies and show disclosable court outcomes. For adults, the results include all outcomes in the preceding ten years without further conviction. If the individual was convicted as a minor, this period is five years.<sup>94</sup>
711. An adverse police check will inform the risk assessment process but will not necessarily preclude a person from being approved. Exceptions to this are specific Category A offences and offences against children that prevent carers from obtaining a Working with Children Check which are elaborated on in response to Question 77. A list of Category A offences is provided in Attachment **AA-29**.
712. Working With Children Checks provide initial screening and ongoing monitoring of carers for any new offences or charges that fall within the *Worker Screening Act 2020* (Vic).<sup>95</sup>
713. All safety checks (including the WWCC and national history police check, disqualified carer check and reference checks) are required to be undertaken before the foster carer is accredited and a child or young person is placed in their care.

<sup>94</sup> Source: <https://www.crimcheck.org.au/blog/how-far-does-a-police-check-go-back#:~:text=For%20adults%2C%20this%20period%20is,this%20period%20is%20five%20yearshttps://www.crimcheck.org.au/blog/how-far-does-a-police-check-go-back#:~:text=For%20adults%2C%20this%20period%20is,this%20period%20is%20five%20years>.

<sup>95</sup> Source: <https://www.workingwithchildren.vic.gov.au/individuals/applicants/things-you-need-to-know>

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714. For kinship carers, a national history police check and CRIS check must be undertaken before the placement of a child and a Working with Children's Check must be applied for within 21 days of the placement commencing.
715. However, should the Commission be asking about the time frames in which carer assessments are made, I can provide the following information:
- On average foster care assessment takes between 6 and 9 months to complete.
  - Upon completion of satisfactory safety checks, the assessment process focuses on the following key competencies:
    - Kinship carers must be assessed regardless of whether the placement is planned, emergency or pre-existing, therefore the initial Part A assessment can be conducted within short timeframes.
    - For kinship arrangements likely to proceed beyond 6 weeks, a comprehensive assessment will also be undertaken by Child Protection, Kinship Engagement Workers or a funded service through the First Supports Program. Comprehensive assessment and planning are focused on the kinship carer(s) ability to meet the ongoing safety and needs of the child and include engagement with the key members of the carer's family and household, including adults and older children.



### Question 77

*Theme 11: barriers to and difficulties for first peoples' families assuming a caring role. (a) Current background check processes (including Working with Children Check)*

Describe (qualitatively, or if data is available, quantitatively) the rate of occurrence at which First Peoples applicants' background check returns results which may trigger: (a) Further assessment processes; and/or (b) An assessment that an individual would not constitute a suitable carer

### Response to Q 77(a)

716. The department does not keep data on the number of prospective carers whose background checks result in either further assessment or an assessment they are unsuitable to provide care.
717. In circumstances where a Category A offence, is disclosed for a proposed kinship carer then the placement cannot proceed. If a Category A offence is disclosed against a usual adult household member, then the placement cannot proceed unless it is endorsed by both the Divisional Deputy Secretary as well as the Executive Director of the Office of Professional Practice. The list of Category A offences is provided in Attachment **AA-29**.
718. If a Category B or C disclosable offence is disclosed the carer will not automatically be refused the right to care but rather a further assessment will be undertaken concerning the likely impacts of such offending on their ability to care. For example, a prospective carer with offences for shoplifting or theft is likely to be approved however a carer with a history of drug offences in the recent past who is proposed to be a single carer for an infant is unlikely to be approved.

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**Response to Q. 77(b)**

719. If a criminal record check reveals a 'disclosable offence/s' the department's policy dictates that the placement cannot proceed unless approved by a divisional executive officer. Disclosable offences are separated into Category A, B and C offences these being in order of seriousness.<sup>96</sup>
720. Where a Category B or C offence forms part of a prospective kinship carer's history, a further assessment is undertaken with a discretionary decision-making process applied. The presence of a Category B or C offence does not automatically preclude a person from becoming a kinship carer.
721. In monitoring compliance with the requirements that carers have a WWCC, the department considers data for all kinship carers across the State as well as data specific to First Peoples carers in recognition of some of the unique challenges and barriers First Peoples carers may experience.
722. Over the past 12 months, there have been two months (August and September 2022) where the compliance of First Peoples carers was slightly below (96 per cent) than for non-First Peoples carers (97 per cent). In January 2022, however, compliance for First Peoples kinship carers was higher (97 per cent) than for non-First Peoples carers (96 per cent). Currently, compliance is consistent at 98 per cent across all kinship carers in the state including Aboriginal carers.
723. The department proactively works with Working with Children Check Victoria to resolve any barriers First Peoples carers might experience with the process.

**Question 78**

*Theme 11: barriers to and difficulties for first peoples' families assuming a caring role. (b) Processes for identifying and vetting of proposed carers (including feedback obtained from ACCOs, family and respected community members)*

Describe any additional processes for identifying and vetting proposed carers particularly in the case of First Peoples families, explaining: (a) What additional or alternative criteria or processes apply, and (b) Any involvement on the part of First Peoples Child Protection workers in the assessment process.

**Response to Q.78(a)**

724. There are no additional criteria or requirements for vetting First Peoples who seek to become carers for a child. There are, however, additional supports and practice guidance to support Child Protection Practitioners, CSOs and ACCOs to assess an applicant's suitability to provide culturally safe care to care for a First Nation child and to support a culturally informed carer assessment process.

<sup>96</sup> Source: [Categorisation of offences - advice | Child Protection Manual \(cpmanual.vic.gov.au\)](https://cpmanual.vic.gov.au/)

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### **Aboriginal Child Placement Principle (ACPP) and identification of carers**

725. The process for identifying and vetting carers in the case of First Peoples families begins with a consideration of the Aboriginal Child Placement Principle previously discussed and ongoing consultation with ACSASS. The process of identifying carers may also be supported through AFLDM processes and information exchange with the local ACCO.
726. The Aboriginal Kinship Finding Service previously noted is also available to support identification of kinship networks.

### **Assessing Aboriginal kinship carers**

727. A practice guide for Child Protection Practitioners in assessing kinship carers for First Peoples children in a culturally competent way is available: *Assessing Kinship Placements for Aboriginal Children: A practice guide for Child Protection practitioners* developed by VACCA and forms part of the Child Protection [Manual](#)<sup>97</sup>.



### **Assessing Aboriginal foster carers**

728. The Step-by-Step 2020 foster care assessment tool provides guidance and processes for assessing an applicant's suitability to provide culturally safe care for First Peoples children. The tool also guides assessors about assessing applicants in a culturally safe way.

### **Response to Q.78(b)**

729. There is no requirement for any Child Protection staff to be involved in the assessment of First Peoples foster carers as all such assessments are undertaken by CSOs and ACCOs funded to provide foster care.
730. For CSOS and ACCOs, it is strongly recommended that an Aboriginal advisor supports the assessment of an applicant's ability to provide culturally safe care to First Peoples children. It is also strongly recommended that one member of the assessment team is Aboriginal for this part of the assessment.
731. When assessing First Peoples foster care applicants, non-First Peoples foster care assessors are required to have undertaken face-to-face cultural awareness training and wherever possible work with an Aboriginal advisor to monitor that the assessment is being conducted in a culturally safe way.
732. There is also a recommendation that CSOs and ACCOs include an Aboriginal person on the foster care panel, which makes the final decision to accredit a foster care applicant.
733. In respect to assessments of kinship carers these are conducted by Child Protection Practitioners with no requirement for First Peoples staff to be involved.

<sup>97</sup> [www.cpmanual.vic.gov.au](http://www.cpmanual.vic.gov.au)

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**Question 79**

*Theme 11: barriers to and difficulties for first peoples' families assuming a caring role. (b) Processes for identifying and vetting of proposed carers (including feedback obtained from ACCOs, family and respected community members)*



In the case of the processes identified in response to paragraphs (76) and (78): (a) Describe any reviews, assessment or audits (whether internal or external) in the period 1 January 2017 as to the navigability and/or appropriateness in the case of First Peoples children and families; and (b) What are the opportunities for, and potential impediments to, improvement in the case of First Peoples children and families?

**Response to Q.79(a)**

734. Since January 2017, the foster care assessment tool has been reviewed and updated in consultation with funded foster care agencies by the former Department of Health and Human Services.
735. The updated tool included new guidance and practice, including a strengthened assessment of an applicant's suitability to provide culturally safe care to First Peoples children. The updated tool, published in March 2020, also guides assessors about assessing foster care applicants in a culturally safe way. In 2018, a new kinship care model was introduced which includes:
- Kinship Engagement Teams – practitioners employed by the department to actively search for kin and to provide time-limited support, including the Kinship Placement Support Brokerage and managing phone line support in each Division
  - Aboriginal kinship finding and genealogical service – dedicated service provided by VACCA
  - First supports – comprehensive assessments, planning and family services support for new placements delivered by CSOs/ACCOs and First Supports Brokerage.
736. On 22 June 2022, the Victorian Auditor General's Office report on the performance audit of the kinship care model was tabled in Parliament. The audit aimed to understand if the model has achieved its objectives to deliver timely, stable and quality kinship care placements for children and young people. The department has accepted the Auditor-General's recommendations and is progressing with actions in response to the opportunities identified for continued improvement in the delivery of services to children, their families, and carers.

**Response to Q.79(b)**

737. The processes for assessment and the background checks of carer applicants are intended to be updated as and when new policies, guidance and practices are established. The department works closely with foster and kinship care agencies and other relevant stakeholders to identify opportunities and barriers.

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**Question 80**

*Theme 11: barriers to and difficulties for first peoples' families assuming a caring role. (c) Availability of services and transportability of records (incl. health records of children in care).*

Explain current (as at February 2023) programs, policies and initiatives for: (a) Implementing transportable electronic health, education and other relevant records for First Peoples children in out of home care; and (b) Seeking to ensure continuity and/or orderly transfer of services for First Peoples children, moving between placements.

**Response to Q. 80(a)****Health**

738. All Child Protection clients placed in care have a Commonwealth Government My Health Record unless they were opted out of the system or had their record cancelled by a parent before they entered care. If a child under the age of 14 had been opted out of the system or had their record cancelled by a parent and they are later placed in care by Secretary or long-term care order, Child Protection will opt the child back into the system and create a record for them. Under these orders, the Secretary has exclusive parental responsibility for the child and recognises the importance of a child having a My Health Record.
739. For young people aged 14 years and older, Child Protection cannot access a Child's My Health Record irrespective of whether Secretary has parental responsibility, unless the young person provides access or an application is made to, and granted by, the Commonwealth Government for access to the young person's record. For example, this could occur if a young person has an intellectual disability and is not able to make decisions regarding their My Health Record.
740. Child Protection usually accesses a child's My Health Record to view medical history via the Children in Care Portal (the portal) which they access via a link embedded in the Client Relationship Information System (CRIS). The role of Child Protection and access to this portal varies dependent on the court order the child is subject to. This portal is owned by the Commonwealth Government. Child Protection Practitioners also record health information and alerts in the CRIS file which is viewable to all practitioners and contracted/authorised agencies
741. When a child is supported by an ACCO following an authorisation under s.18 of the CYFA, the authorised ACCO is responsible for determining how they will interact with My Health Record.
742. If a carer is authorised to become a nominated representative for a child's My Health Record account, an invite is created via the portal, providing the carer with general access to the child's My Health Record. This is only for children subject to care by Secretary or long-term care orders and assessed as appropriate by the case planner. Like Child Protection Practitioners, carers are not authorised to make any changes to a child's record or delete any information.
743. There is comprehensive practice guidance in the Child Protection manual regarding accessing a child's My Health Record account and the importance of sharing health information in the best interests of the child

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744. The department intends to undertake system enhancements to improve CRIS, with a particular focus on ensuring health and education records best serve the child's needs.

### **Education information**

745. There is no transportable electronic system in place to support the transfer of education records. Instead, there are processes and requirements for Child Protection Practitioners, care teams and student support groups to record and share relevant information in CRIS about the child's education and needs.

746. The Essential Information Record (EIR) is started in the first two weeks of a child's placement in an out of home care service. The EIR holds important information about the child, including their school details.

747. All members of the care team contribute the information they know to the EIR and it is updated whenever new information is obtained. CRIS and CRISP have mirror systems for recording information needed for the EIR - so the placement provider and Child Protection should each provide the other with an electronic copy of their updated EIR whenever any significant changes are made. Carers need to be given a copy and updates when there are any significant changes to the EIR.

748. In addition, when a child enters out of home care, Child Protection Practitioners are required to:

- Advise the school principal in writing that the child has been placed in out-of-home care, and if there is any change in the child's legal status or care arrangements.
- Ensure that the school's name is recorded in CRIS.
- Provide information about the child's history and care arrangements to the school as soon as possible including a record of schools or early childhood centres the child has attended. The school will liaise with other education service providers to ensure the transfer of relevant information.
- Ensure that up to date information is provided to the school about changes to the child's circumstances and care arrangements.
- Discuss the child's educational needs with the care team.
- Complete the Education, employment or childcare section of the child's case plan which sets out the significant decisions about the child's education. Include specific strategies to support the child's school attendance in the actions table.

749. As part of the *Out of Home Care Education Commitment Partnering Agreement*,<sup>98</sup> Child Protection and schools must also establish a student support group for each child living in out-of-home care consisting of key education staff, the child or young person, case managers, families, and support services. The student support group is responsible for developing the individual education plan to support educational achievement and engagement of the child or young person.

<sup>98</sup> Full title: Out of Home Care Education Commitment – a partnering agreement between DFFH, DET, Catholic Education Commission of Victoria, Independent Schools Victoria, VACCA, Centre for Excellence in Child and Family Welfare

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**Response to Q. 80(b)**

750. The My Health Record system supports transfer of information about a child's health between placements and carers. Records can be viewed securely online at any time and are personally controlled. Importantly, a child having a My Health Record provides them with the opportunity, as far as possible, to have a lot of their significant medical history in one place.
751. Child Protection and authorised Aboriginal agencies record information obtained from a child's My Health Record into the CRIS system, as well as any other health-related information regarding the child that is provided via the child's GP, carer, family and other health professionals.
752. Information regarding the child's health is provided to the care team for the child as required to promote the child's health and wellbeing, and for health, management plans to be enacted and monitored as required.

**Other information**

753. The CRIS record for a child can be viewed by any Child Protection employee involved in the case and the file is also viewable by contracted agencies and ACCOs from the stage of protection order.
754. The CRIS record for a child is managed by any Child Protection employee or ACAC employee involved in the case. When a case is contracted, the CSO/ACCO case manager is granted limited CRIS access only to the case file of the contracted client.
755. When a child is placed in out of home care, the CSO/ACCO providing the placement is given access to the child's CRISP record, which only provides access to information that is relevant to the placement.



**Question 81**

*Theme 11: barriers to and difficulties for first peoples' families assuming a caring role. (c) Availability of services and transportability of records (incl. health records of children in care).*

What support does the State provide to First Peoples carers in navigating Government processes including: (a) Registering children for services; (b) Seeking feedback on aspects of the application process that were not culturally appropriate; and (c) Providing ongoing guidance and support once approved as carers.

**Response to Q.81(a)**

756. A care team is required for all children in care, except for permanent care and adoption placements. The care team is the group of people who jointly look after the child while they are in care, managing the day-to-day care and best interests of the child in accordance with the overall case plan. The child's primary carer should be a member of the care team and can seek and receive advice from professionals about how to access and register for services.
757. In addition, Victoria's Kinship Care Model identifies kinship networks earlier; promotes placement quality and supports children and young people living in kinship care; promotes placement stability;

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strengthens reunification where appropriate; builds community connections for First Peoples children in kinship care; and delivers better, more flexible support.

758. As part of the model of kinship care, 44 (full-time equivalent) kinship staff work with children, young people, carers and families across Victoria, based in each of the department's 17 areas across the state.
759. The kinship care teams are available to provide advice and support to kinship carers where there is current Child Protection involvement.
760. Kinship and foster carers can also contact the Care Support Help Desk for advice and information on accessing services and support.
761. When children are placed in foster care, the carer receives placement support and supervision from the CSO or ACCO that the carer is accredited with. The foster care worker can provide advice about how to access services.
762. Foster, kinship, and permanent carers are also able to access support from their respective peak bodies. Support includes information, advocacy, advice, and counselling support.

#### **Response to Q.81(b)**

763. CSOs and ACCOs are required to have written policies and procedures for resolving disputes and complaints made by carers that are readily accessible to carers.

#### **Response to Q.81(c)**

764. When children are placed in foster care, all placements receive supervision and support from the CSO or ACCO that the carer is accredited with. Children in foster care are also case managed by Child Protection unless this is contracted to the CSO/ACCO
765. Kinship carers can access support through the kinship care model which includes support through kinship engagement teams for a time-limited period or through the allocated Child Protection Practitioner.
766. Foster, kinship and permanent carers can also access support and advice, information, advocacy and counselling support from their respective carer peak body.
767. The Care Support Help Desk (CSHD) is a new initiative funded with \$5.8 million through the 2022-23 Budget to improve support for foster and kinship carers. There is a CSHD team in each of the four operational divisions. The teams are responsible for:
- Applying for key documents, such as Medicare Cards and birth certificates for all children and young people who are entering care for the first time, improving the timeliness that carers receive this documentation
  - Providing carers with the documentation required to access Commonwealth government supports

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- Providing kinship carers with a 'Welcome Pack' that includes information on the supports that they can access from Victorian and Commonwealth Governments and Kinship Carers Victoria
- Managing a phone line for carers, providing a clear point of contact for carer queries and issues including assistance navigating Child Protection and court processes.

768. The CSHD commenced operation in October 2022. Through to February 2022, the four CSHDs have supported 234 First Peoples children to have key documents and 58 First Peoples carers have contacted the phone line for support.

### Question 82

*Theme 12: other needs in the case of first peoples children in Child Protection system. 12(a) Processes for confirmation of Aboriginality and the incidence and processes for: (i) designating a child as having 'non confirmed identity'; and (ii) de-identification of Aboriginality of child;*

Explain current (as at February 2023) DFFH processes for confirmation of First Peoples status (Aboriginality) and the incidence and processes for: (a) Designating a child as having 'non confirmed identity'; and (b) De-identification of First Peoples status (Aboriginality) of child

### Response to Q.82(a)

769. Child Protection Practitioners are required to ask a reporter if the child is Aboriginal and/or Torres Strait Islander at intake and, if not recorded at Intake to do so by the conclusion of the investigation when direct contact occurs with the family.
770. If the reporter (or another source) does not know if a child or sibling is Aboriginal and/or Torres Strait Islander, the child's status is recorded by Intake as 'under assessment' on the client file (CRIS) and further enquires are made if the case proceeds to investigation and remains open.
771. At the first home visit as part of the investigation, the question is then asked sensitively and respectfully. If a parent or child declines or objects to answer the question, Child Protection explains to the child and family that the purpose of this question is to ensure appropriate support is provided. If the report is investigated, it is no longer an option to record an 'under assessment' response by the end of the investigation.
772. Throughout Child Protection involvement, following substantiation, and when providing formal documentation to families, such as case plans and court reports, the practitioner should draw attention to the client's details and ask the family to check that the information regarding First Peoples' status – or Aboriginality – is recorded correctly. This provides regular opportunities for children and parents to check information about their Aboriginality and make changes as necessary.
773. Furthermore, as soon as a child is identified as Aboriginal and/or Torres Strait Islander, ACSASS should be advised of the report and consulted on all significant decisions.

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**Response to Q.82(b)**

774. There may be situations where a child's status has been recorded as Aboriginal and/or Torres Strait Islander in CRIS and this status may be inaccurate due to administrative error or incorrect information having been provided by a reporter at Intake.
775. When this occurs during the Intake Phase, 'De-identification of the child as Aboriginal and/or Torres Strait Islander', may occur and the reasons for de-identification recorded.
776. During all other phases of Child Protection involvement, the process is as follows:
- Consultation with both the child (subject to their age) and the parents occurs when a person advises they do not identify as Aboriginal.
  - Consult with ACSASS to establish whether they think de-identification should occur. ACSASS will consult with local communities and ACCOs as appropriate.
  - Request an email from ACSASS confirming their advice to de-identify the child.
  - If there is evidence that the child is not of Aboriginal and/or Torres Strait Islander origin, the process to de-identify a child will commence. This process is intended to ensure consideration is given to the impact on the child's right to culture that the decision may have.
  - A memo providing background information; outlining the issues; including the views of the child and their parents and of ACSASS is progressed to the Area Executive Director.
  - The Area Executive Director considers whether the de-identification process should be progressed, endorses the memo, and sends the memo to the Executive Director, Office of Professional Practice.
  - The Executive Director of the Office of Professional Practice will consult with the Commissioner for Aboriginal Children and Young People, and they will together consider whether a child should be de-identified.
  - The Executive Director of the Office of Professional Practice will be responsible for making the final decision regarding whether the child should be de-identified as Aboriginal and/or Torres Strait Islander.



**Question 83**

*Theme 12: other needs in the case of first peoples' children in Child Protection system. 12(b) Oversight and monitoring of rates of children: (i) being designated with 'non confirmed identity'; and (ii) being proposed for de-identification*

Explain current (as at February 2023) DFFH policies and procedures to oversee and monitor rates of children: (a) Being designated with 'non confirmed identity'; and (b) Being proposed for de-identification, including to ensure that the designations in sub-paragraph (a) are being investigated and resolved in a timely manner, and that First Peoples children in the CP System are not being under-reported.

**Response to Q.83(a)**

777. There is no policy or procedure to record children with a 'non-confirmed identity' noting that at intake phase the status can be recorded as 'under assessment' as during this phase contact is

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generally not made directly with the family to make such enquiries. Child Protection accepts self-identification as a sufficient basis to record and respond to a child as Aboriginal and/or Torres Strait Islander. Child Protection Practitioners are instructed to not seek proof or confirmation of First Peoples' status and as such, there is no recording or monitoring of this confirmation status.

778. It is acknowledged however that while Child Protection accepts self-identification some ACCOs have questioned the children's Aboriginality and have been unwilling to provide services without confirmation. While Child Protection will make attempts and enquiries to resolve such circumstances with the family where this is possible there are currently no policies or initiatives that support resolution of these children's Aboriginality however Child Protection will continue to record the child as Aboriginal and comply with the associated requirements.



### **Response to Q.83(b)**

779. Currently, de-identification requests are submitted to the State-wide Principal Practitioner for Aboriginal Children and Families within the department, who then consults with the Commissioner for Aboriginal Children and Young people. Before submitting the request, Child Protection must consult with both parents (in rare instances where a parent is unable to be contacted or deceased, one parent is considered sufficient), a Child Protection Director and ACSASS. The State-wide Principal Practitioner keeps records of the number of de-identification requests submitted, along with the type of error which has occurred.
780. There is currently targeted professional development underway to improve the identification of Aboriginal and Torres Strait Islander children in the Child Protection system. This includes a mandatory e-learn titled "Asking the Question: Identification of Aboriginal and Torres Strait Islander children in Child Protection". This e-learn is scheduled to go live in May 2023.
781. There is a practice discussion series commencing on 21 March 2023 which includes a session on "Asking the Question" and a dedicated resource on the Child Protection Learning hub to improve the confidence and competence of Child Protection in their conversations with families. Furthermore, the State-wide Cultural Support and Awareness advisor has been delivering targeted training to intake and after-hours teams to support practitioners in gathering cultural information from reporters.

### **Question 84**

*Theme 12: other needs in the case of first peoples' children in Child Protection system. 12(b) Oversight and monitoring of rates of children: (i) being designated with 'non confirmed identity'; and (ii) being proposed for de-identification*

In the period since 1 January 2017 to present, explain any key audits, reports, reviews of the policies and procedures referenced in paragraph 83 above, including DFFH's response(s) to recommendations and findings therein.

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### **Response to Q.84**

782. In June 2021, the Office of Professional Practice conducted an audit of de-identification requests submitted to the State-wide Principal Practitioner for Aboriginal Children and Families in the previous 12 months. Another audit was conducted in June 2022. The findings of both audits are presented below.

### **De-identification Data**

783. In the two years from 1 July 2020 to 30 June 2022, the State-wide Principal Practitioner received 93 requests to de-identify 150 individual children.

784. For most of these requests (54 per cent) the error occurred at the intake phase, followed by the investigation phase (20 per cent), the protective intervention phase (17 per cent) then unborn reports (9 per cent).



785. A detailed breakdown of the types of identification errors and their descriptions is provided in Attachment **AA-30**.

### **Enhancing Identification Project**

786. Following the 2021 Audit, the Office of Professional Practice commenced the "Enhancing Identification in Child Protection" project led by the State-wide Principal Practitioner for Aboriginal Children and Families. The project includes:

- Changes to the deidentification process to streamline and reduce delays in processing requests, such as providing further guidance on preparing requests and changing the level of authorisation in CP from Area Executive Director to CP director.
- Change of Child Protection policy to give Investigation practitioners greater flexibility to de-identify a child with ACSASS endorsement, without having to get an endorsement from the CCYP or State-wide Principal Practitioner for Aboriginal Children and Families. This reflects the fact that the investigation phase is usually the first opportunity to speak to the family directly to verify whether a child or family identify as Aboriginal or Torres Strait Islander. This change was authorised by Wungurilwil Gapgapdair Working Group One on 24th August 2022
- The above change to policy requires changes to Child Protection's CRIS system; a concept brief has been provided to the ICCMs committee and the Aboriginal Children & Families branch has received advice that this change will go live in July 2023. Development of a training package for investigations practitioners and ACSASS practitioners is currently underway

787. As part of the *Transitioning Aboriginal children to ACCOs; Rights and Aspirations Project* the inability to transition children to ACCOs where the child/family identifies as Aboriginal, but their Aboriginality is questioned or not able to be confirmed by the relevant ACCO was highlighted. A draft discussion paper proposing a process to consider and resolve the child's Aboriginality was prepared for the consideration of the Aboriginal caucus of ACF however this was not supported and did not proceed to the ACF.

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**Question 85**

*Theme 12: other needs in the case of first peoples' children in Child Protection system. 12(b) Oversight and monitoring of rates of children: (i) being designated with 'non confirmed identity'; and (ii) being proposed for de-identification*

Explain the State's position on legislative provision for medical records of First Peoples children in the CP System to be digitally available to the child or young person's health professionals ("transportable health records").

**Response to Q.85**

788. As discussed in the response to Question 80(a), all children in care will have a My Health Record unless they were opted out of the system, had their record cancelled by a parent before they entered care or opted out themselves if they are of the age of 14 years or above.
789. The role of Child Protection in relation to My Health Records varies and is dependent on the Children's Court order the child is under. The department can only access a child's My Health Record when the child is in court-ordered care and the Secretary has either parental responsibility for or care of the child as defined by the *My Health Records Act 2012* (Cth) and the CYFA.
790. If a child had been opted out of the system or had their record cancelled by a parent and is later placed in care via a care by Secretary or long-term care order, Child Protection will opt the child back into the system and create a record for them. Under these orders, the Secretary has exclusive parental responsibility for the child and recognises the importance of a child having a My Health Record.
791. Under the *My Health Records Act* (Cth), a child aged 14 years or over can decide for themselves whether to have a My Health Record. They have the authority to cancel their record without any permission from a parent, carer or Child Protection. A discussion should occur with the young person to inform and support their decision-making and to seek their consent to have their allocated Child Protection Practitioner as an authorised representative on their My Health Record and where appropriate their carer as a nominated representative.



**Question 86**

*Theme 12: other needs in the case of first peoples' children in Child Protection system. 12 (c) Number of cases and resources/funding provided to ACCOs to undertake or assist Child Protection with confirmation of Aboriginality*

Explain current (as at February 2023) DFFH processes for: a) Referring children to ACCOs that require confirmation of Aboriginality (including approximate numbers over previous 12-month period, if available); and b) resources and/or funding made available to ACCOs to assist with same.

**Response to Q.86(a) and (b)**

792. The department accepts self-identification and does not refer children or families to ACCOs to confirm Aboriginality. I am advised this is a culturally safe practice to protect the rights of future

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generations of Aboriginal people which acknowledges the detrimental impact of past policies which sought to break connection to identity, culture, and Country.

793. There are no services funded to review and confirm Aboriginality as a distinct activity and therefore this is no data concerning the number of children that require such confirmation. It is noted that some ACCOs support and provide confirmation while others require the family to provide supporting materials to do so.

### Question 87

*Theme 12: other needs in the case of first peoples' children in Child Protection system. (12d) Processes for preparation and monitoring of cultural support plans;*

Explain the processes involved in preparing CSPs in the case of First Peoples children in out-of-home care, including: a) Any guidance available to staff preparing CSPs; b) Common sources of cultural information included; and c) Processes for checks and review / sign-off of completed CSPs

### Response to Q.87

794. Information to support the preparation of a cultural support plan including the associated process and procedures can be found in the Child Protection manual and online.<sup>99</sup>
795. VACCA is also funded to develop and maintain the Deadly portal hub which is an online information hub that hosts a range of relevant cultural information for several Aboriginal communities to aid in the development of cultural support plans. Care teams seek information from parents/families and Elders, use information found on the internet and consult with ACSASS, departmental cultural advisors and senior advisors cultural planning within ACCOs.

### Question 88

*Theme 12: other needs in the case of first peoples' children in Child Protection system. (12d) Processes for preparation and monitoring of cultural support plans;*

Explain the current processes (as at February 2023) for ensuring that: a) CSPs are developed, implemented and monitored in a timely manner in the case of all First Peoples children in out of home care; and b) The child the subject of the CSP (where legally competent and capable) and First Peoples family and community members are involved and able to inform the development and implementation of CSPs.

### Response to Q.88(a)

796. Within three working days from when an Aboriginal child first enters out-of-home care, the care team leader must make a referral to the Senior Advisor – Aboriginal Cultural Planning employed by a local ACCO to seek advice and ensure the composition of the care team includes Aboriginal

<sup>99</sup> <https://www.cpmanual.vic.gov.au/advice-and-protocols/advice/aboriginal-children/cultural-plans-advice>

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people. Child Protection or the care team is responsible for the development of the Cultural Support Plan.

797. Cultural Support Plans are to be developed inclusive of all relevant members of the child and family's network, especially their Aboriginal family and community. Once prepared by the care team, with the support of the Senior Advisor – Aboriginal Cultural Planning employed by the ACCO, must seek approval of a child's cultural plan from the Chief Executive Officer (CEO) of the relevant ACCO within three weeks. Where the cultural plan requires further work prior to being approved, the Senior Advisor will be the conduit between the chief executive officer and the care team.
798. The timeliness of referrals and preparation of a cultural plan can be impacted by a range of factors including, in some circumstances, the need for Child Protection and/or the CSO/ACCO leading the child's care team to prioritise other critical tasks when a child first enters care as well as workload and staff pressures in Child Protection or the contracted CSO/ACCO.
799. The ACCO CEO will set the date for review. VACCA currently holds the state-wide Cultural Planning Co-ordinator position, which is tasked with developing training, working with ACCOs to ensure the agreed processes are followed and supporting ACCOs with guidance when issues arise.
800. I note the evidence provided by Aunty Glenys Watts on the 6 December 2022 and Ms Sissy Austin on 2 March 2023 regarding the quality and authenticity of cultural plans and acknowledge that compliance with cultural planning timeframes needs improvement and that the quality of some plans are lacking, particularly in respect to how family members and community are engaged in the development of such plans. The development of high-quality plans that are well researched and informed by family and community takes time, research, cultural knowledge and connections with Aboriginal community. As a department we need to review how this work is best supported and whether the model developed around 2017 is still serving us well.
801. A review of a sample of cultural support plans is underway which will also inform how these plans can be improved and what additional supports the workforce might need to support robust plans.



### Question 89

*Theme 12: other needs in the case of first peoples' children in Child Protection system. (12e) Funding and programs for strengthening identity and connection to Country*

What programs are available within the CP System to strengthen First Peoples identity and connection to Country?

### Response to Q.89

802. Many Aboriginal children in out-of-home care have become disconnected from their community, kinship groups and Country. It is their right to remain connected to their heritage and culture.
803. In Family Services, a key objective underpinning all programs is recognition that "Developing and maintaining cultural knowledge is central to healthy child development and identity formation in

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Aboriginal communities. Aboriginal culture and spirituality are increasingly recognised as strength and protective factors for families and children."<sup>100</sup>

804. In Family Services, flexible funding is regularly used to assist in supporting cultural identity and connection. For example, ACCOs use this funding to run activities such as cultural camps, screen printing workshops and dance ceremonies.
805. Child and Family Alliances exist in every departmental area across the State and include ACCO representation. Annual planning is required and must include a focus on the delivery of services that strengthen the cultural identity and cultural connection of First Peoples children, young people and families.
806. In the Family Preservation and Reunification Response, cultural practices have been identified in an Aboriginal-led process and integrated into practices to support families to stay together. Cultural practices are the unique ways that First Peoples practitioners work with and support First Peoples children and families and include practices such as deep listening and connecting to community and culture.
807. Family and placement prevention services are required to develop specific responses to identify different ways to assist and improve outcomes for vulnerable First Peoples children. An Aboriginal culturally informed resource tool has been designed to be used by service providers. The resource tool also includes reference to useful contextual and practice documents that will assist service providers in meeting the Human Services Standards and delivering quality services and outcomes for Aboriginal people.<sup>101</sup>
808. Return to Country initiatives allows First Peoples children in out-of-home care to reconnect with fundamental aspects of their heritage. Providing a significant opportunity for healing, growth and renewal.
809. The department funds \$3.18m per annum to ACCOs to maintain and strengthen the child's Aboriginal identity and encourage their connection to their Aboriginal culture and community through cultural plans. This includes the employment of Senior Cultural Advisors placed in ACCOs and approximately \$800,000 per annum for flexible brokerage for children whose case management is contracted to an ACCO to support the implementation of agreed activities within the cultural plan, which may include Return to Country. If the child is not case contracted to an ACCO, the department utilises client expenses and/or placement support grants to implement agreed activities within the cultural plan.
810. Many CSO care providers now employ cultural advisors to support the development and implementation of cultural plans and children's connection to Country. In addition, the recently employed Aboriginal Cultural Support Advisors within Child Protection also support advice to practitioners about how to support children connection to culture.

<sup>100</sup> <https://providers.dffh.vic.gov.au/program-requirements-family-and-early-parenting-services-victoria-word>, see page 16.

<sup>101</sup> [http:// providers.dffh.vic.gov.au/human-services-standards-aboriginal-culturally-informed-resource-tool-word](http://providers.dffh.vic.gov.au/human-services-standards-aboriginal-culturally-informed-resource-tool-word)

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811. Victorian Aboriginal organisations have always championed self-determination and provided a range of culturally safe services tailored to local priorities enabling Child Protection and their carers to refer and connect children to the support they need. Examples include connecting children to homework groups, sporting clubs, camps holiday programs and cultural events Their focus on reconnection improves self-efficacy and healing.
812. The Ballarat and District Aboriginal Co-operative (**BADAC**) is one of many ACCOs across Victoria that provide place-based services to their local community. The cooperative offers a full health service through its Baarlinjan Clinic, as well as direct pathways to other programs that support vulnerable families. Their Koorie Family Support program offers support to kinship carers, and early years playgroups, as well as facilitating the Aboriginal Family-Led Decision-Making program.
813. Another is the Mallee District Aboriginal Services which provides a range of place-based, community-oriented programs and services focused on Aboriginal social and emotional wellbeing across Mildura, Swan Hill and Kerang. Their early years' programs *Bumps to Babes and Beyond* and *Wondering from the Womb* are affirming because their approach is strength-based and underpinned by Aboriginal knowledge relating to children and families.

#### Question 90

*Theme 12: other needs in the case of first peoples' children in Child Protection system. (12e) Funding and programs for strengthening identity and connection to Country*

Describe the availability of programs in Victoria (including those offered in metropolitan areas, as well as in rural parts of Victoria).

#### Response to Q.90

814. ACCOs and Victorian Aboriginal Community Controlled Health Organisations (ACCHOs) operating across Metropolitan and Rural Victoria offer a range of services to help and support healthy, robust, and culturally strong communities. These include a comprehensive range of services and approaches including maternal and Child Health Services, Early Years and Childcare Services, Family services and Youth Services. It has not been possible to gather the range and availability of such services from ACCOs and CSOs in the time available to provide a comprehensive overview of all services.
815. ACCOs utilise a range of funding sources from philanthropic, State and Commonwealth funding to provide the services outlined in Q89. The departmental funding sources to support cultural connections and connection to Country includes funding for family services, cultural support plan brokerage, client expenses funding and Targeted Care Packages. There is no single source of departmental funding directed to Connection to Country programs including Return to Country activities provided by the department. Furthermore, I acknowledge that brokerage to support implementation of plans is inadequate.
816. Service availability varies across the State subject to the aspirations and priorities of each ACCO and the availability or approval of individual client funding to support such activities and cultural events. Workforce challenges within both CSOs and ACCOs may impact service offerings which

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are compounded in Rural Victoria where there is a greater level of staff shortages and/or a lack of suitably qualified and experienced staff to respond to families with a high level of need.

### Question 91

*Theme 12: other needs in the case of first peoples' children in Child Protection system. (12f)*

*Implementation of and compliance with the Framework to Reduce Criminalisation of Young People in Residential Care*

Provide an explanation of the current (as at February 2023) implementation status of the Framework For the Reduction of Criminalisation of Children in Residential Care (Framework). The Framework states that it will be reviewed on completion of the 18-month action plan, with a focus on, among other things, whether objectives and outcomes are being achieved. Please describe the outcomes of the review.

### Response to Q.91


817. Work to develop an 18-month action plan to progress the implementation of the Framework was temporarily put on hold due to a redirection of resources in response to COVID-19. Work recommenced early in 2022 and formal endorsement of the 18-month action plan by signatories is currently underway. The next steps to progress implementation include the finalisation of a monitoring plan and governance approach that includes localised multi-agency partnerships to drive implementation and accountability at a local level.
818. Development and oversight of the action plan and steps to support Implementation is supported by a Statewide Implementation Group. This group includes representatives from five signatory agencies (DFFH, DJCS, Victoria Police, The Centre for Excellence in Child and Family Welfare, VACCA) and seven supporting agencies which includes the Victorian Aboriginal Legal Service and the Victorian Aboriginal Child and Young People's Alliance. The group meets regularly to align with key decisions/milestones.
819. The next meeting of the State-wide Implementation Group is scheduled for early March 2023 which will be the third meeting since February 2022.
820. Work is in progress to identify data indicators to support ongoing monitoring and review of implementation. The review of the Framework is planned at the completion of the 18-month action plan, anticipated to commence mid-2024.

### Question 92

*Theme 12: other needs in the case of first peoples' children in Child Protection system. (12f)*

*Implementation of and compliance with the Framework to Reduce Criminalisation of Young People in Residential Care*



Describe any current proposals on the part of the State to amend or update the Framework

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**Response to Q.92**

821. As stated in my response to question 91 a review of the Framework is planned for mid-2024 following implementation of the 18-month action plan. Changes or updates ahead of the review may be undertaken to be responsive to emerging issues as determined by the State-wide Implementation Group.

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## FUTURE FOCUS



### Question 96

*Theme 14: Permanency amendments to CYF Act 2005 (Vic). 14(a) Rationale*

Explain the key rationale behind the permanency amendments to the CYF Act.

### Response to Q.96

822. The permanency amendments refer to the amendments to the CYFA made by the *Children, Youth and Families Amendment (Permanent Care and Other Matters) Act 2014* (the Amendment Act) which was passed by the Victorian Parliament in September 2014 and came into effect on 1 March 2016.
823. The permanency amendments arose from findings and recommendations of the Protecting Victoria's Vulnerable Children Inquiry (2012). The Inquiry was tasked by the Baillieu Government, with investigating systemic problems in Victoria's Child Protection system and making recommendations to strengthen and improve the protection and support of vulnerable young Victorians. Key findings of the Inquiry relevant to the Amendment Act included that:
- It takes, on average, over five years from a report being received to a child being placed on a permanent care order, which is too long and harmful to children.
  - The range of Children's Court orders should be simplified, and their purpose clarified.
824. The Inquiry recommended identifying and addressing the barriers to achieving more timely permanency.
825. To achieve this, the permanency amendments provided a legislative framework to focus on providing children with timely and secure outcomes and to embed permanency planning for children in need of protection.
826. Permanency refers to the achievement of an enduring care arrangement for a child that promotes the child's safety, development, and sense of belonging. For most children who come to the attention of Child Protection, this is achieved by supporting them to remain in the care of a parent. The intent was to prevent children from drifting in or between placements without early, clear and consistent decision-making for their future.
827. These amendments included but were not limited to
- Strengthened the timeliness of case planning by requiring case planning to occur following substantiation rather than following the issuing of a protection order.
  - Introduced requirements for all Aboriginal children in care to be provided a cultural plan rather than only those subject to a Guardianship Order.
  - Simplified the range of Court Orders, aligned the objective of the Order to case planning objectives and removed criminalising language i.e., changed a Family Supervision Order to a Family Preservation Order and Custody order to a Care by Secretary Order

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- Introduced timeframes to achieve reunification to prevent children drifting in care and not being afforded an opportunity for permanent alternate care if reunification was unlikely to be achieved.
- Introduced standards conditions on a PCO to ensure the protection of the child's identity and culture.
- Included amendments to make explicit that kinship care is the preferred placement type.
- Increased penalties for a range of offences against children within the CYFA.

### Question 97

*Theme 14: Permanency amendments to CYF Act 2005 (Vic). 14(B) Steps undertaken prior to introduction: i) Consultation (including with non s18 ACCOs); ii) Considerations in the case of First Peoples children (including human rights)*

Provide an overview of the key consultations that were undertaken before the introduction of the permanency amendments including with ACCOs and key First Peoples stakeholders (including with organisations not represented on the Aboriginal Children's Forum (ACF)).



### Response to Q.97

828. Preparation of the Amendment Act was subject to Cabinet-in-Confidence provisions and the department, then known as the Department of Human Services, was not given the authority to consult with stakeholders on the preparation of the Bill or the proposed amendments.
829. Immediately before its introduction the responsible Minister approved specified stakeholders being provided with a presentation of the Bill. Attendance at this presentation included CSOs, VACCA and the Centre for Excellence in Child and Family Welfare who provided feedback before its introduction.
830. I note, however, that the Amendment Act was significantly informed by the findings and recommendations of the Vulnerable Children Inquiry 2012 which invited written submissions and conducted public sittings. The Inquiry received submissions from and spoke to, Aboriginal people and organisations. The amendments were also informed by the subsequent Stability planning and permanent care project 2013-14 undertaken by the department. Stakeholders' views documented in the Inquiry's report helped inform the subsequent project and the Amendment Act.

### Question 98

*Theme 14: Permanency amendments to CYF Act 2005 (Vic). 14(b) Steps undertaken prior to introduction: i) Consultation (including with non s18 ACCOs); ii) Considerations in the case of First Peoples children (including human rights)*



Explain the key considerations that were taken into account in the case of First Peoples children and families prior to the introduction permanency amendments (including human rights).

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### Response to Q.98

831. The primary source evidence and key considerations for the permanency amendments in relation to all children were:
- The Vulnerable Children Inquiry
  - The Stability planning and permanent care project 2013-14
  - Child Protection data, including the length of time children were spending in care, reunification rates, protection orders, case planning compliance etc
  - Consultations with Child Protection staff and Stability Practitioners regarding barriers to achieving permanency.
832. The Vulnerable Children Inquiry found it took, on average, over five years from a report being received to a child being placed on a permanent care order, which is too long and harmful to children. The number of children and length of time they were drifting in care without clear planning for their future impacted disproportionately on First Peoples children given their over-representation in out-of-home care.
833. The Stability Planning and Permanent Care Project found that First Peoples children, on average, spend about 40 per cent more time in out-of-home care than non-First Peoples children and that this was contributing to over-representation. It also found that there were conflicting views among First Peoples and organisations and Child Protection Practitioners about permanent care.
834. As part of simplifying the suite of court orders and addressing the finding that in some circumstances permanent care is not an appropriate option for First Peoples children, the permanency amendments introduced a long-term care order. A long-term care order places the child with a specified carer until the child reaches 18 years of age, or marries, whichever occurs first. It confers parental responsibility for the child on the Secretary to the exclusion of all others. While used in a variety of circumstances for non-First Peoples and First Peoples children, it recognised that for cultural reasons a carer for an Aboriginal child may not wish, or an Aboriginal agency may not agree, to a permanent care order being made.
835. The permanency amendments responded to insufficient cultural planning and connections for Aboriginal children in care by requiring that all Aboriginal children in care be provided with a cultural plan connected to their case plan. This was intended to better preserve and strengthen the cultural rights and connections of children in care. Before the permanency amendments, the legislation only required cultural plans to be prepared for First Peoples children who were subject to a Guardianship Order.
836. Following the permanency amendments, case plans for First Peoples children in care are required to address the child's cultural support needs and reflect and be consistent with those needs. The child's cultural plan includes various elements to promote and maintain cultural support for the child while they are in out-of-home care. Significant policy work was undertaken in the wake of the permanency amendments, to change the way cultural planning is conducted. This resulted in ACCOs being funded by the department to support care teams to develop cultural plans, checking the plan for accuracy and appropriateness from a cultural perspective and signing the plan.

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**Question 99**

*Theme 14: Permanency amendments to CYF Act 2005 (Vic). 14(c) Reviews and assessments of possible consequences (particularly in the case of First Peoples children)*

Explain the assessments undertaken, prior to the permanency amendments being introduced, as to their possible implications, particularly in the case of rates of reunification between First Peoples children and their families?

**Response to Q.99**

837. The primary source evidence and key considerations about the need for and potential impacts on all children, including First Peoples children, for the permanency amendments, were:

- The Vulnerable Children Inquiry.
- The Stability planning and permanent care project 2013-14.
- Child Protection data, including the length of time children were spending in care.

838. In particular, the permanency amendments responded to the evidence and considerations for First Peoples children outlined in the Inquiry. Chapter 12 of the Inquiry report about 'meeting the needs of Aboriginal children and young people' outlined key findings and recommended reform directions to improve outcomes for Aboriginal children. The Inquiry received submissions from and spoke to, Aboriginal people and organisations.

839. The permanency amendments were informed by a range of data concerning the length and experiences of children in care.


840. The Bill<sup>102</sup> which led to the permanency amendments being made into law underwent an assessment of compatibility with Charter rights<sup>103</sup>. Through this process it was identified that the permanency amendments protect specific Charter rights<sup>104</sup>, limit the right against interference with the family and privacy<sup>105</sup> on the basis that such limitation is reasonable, lawful and achieves an appropriate balance between the rights of families and the rights of children and otherwise are compatible with the Charter.

<sup>102</sup> See: <https://www.legislation.vic.gov.au/bills/children-youth-and-families-amendment-permanent-care-and-other-matters-bill-2014>

<sup>103</sup> See: Hansard - [https://hansard.parliament.vic.gov.au/?IW\\_DATABASE=\\*%26IW\\_FIELD\\_TEXT=HOUSENAME%20CONTAINS%20\(ASSEMBLY\)%20AND%20SPEECHID%20CONTAINS%20\(4353\)%20AND%20SITTINGDATE%20CONTAINS%20\(21%20August%202014\)&Title=CHILDREN,%20YOUTH%20AND%20FAMILIES%20AMENDMENT%20\(PERMANENT%20CARE%20AND%20OTHER%20MATTERS\)%20BILL%202014&IW\\_SORT=n:OrderId&LDMS=Y](https://hansard.parliament.vic.gov.au/?IW_DATABASE=*%26IW_FIELD_TEXT=HOUSENAME%20CONTAINS%20(ASSEMBLY)%20AND%20SPEECHID%20CONTAINS%20(4353)%20AND%20SITTINGDATE%20CONTAINS%20(21%20August%202014)&Title=CHILDREN,%20YOUTH%20AND%20FAMILIES%20AMENDMENT%20(PERMANENT%20CARE%20AND%20OTHER%20MATTERS)%20BILL%202014&IW_SORT=n:OrderId&LDMS=Y)

<sup>104</sup> S.17 and 19(2) of the Charter.

<sup>105</sup> S.13 of the Charter.

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**Question 100.**

*Theme 14: Permanency amendments to CYF Act 2005 (Vic). 14(c) Reviews and assessments of possible consequences (particularly in the case of First Peoples children)*

Subsequent to the permanency amendments being introduced, what evaluation, review and/or analysis has the State undertaken or procured regarding their impact on First Peoples children and families?



**Response to Q.100**

841. Following the implementation of the Amendment Act, the then Minister committed to undertake an independent review of the impacts of the changes.
842. In 2016, the CCYP commenced an inquiry to review early evidence to determine the impacts of the permanency amendments. This led to the inquiry into the implementation of permanency arrangements ‘...safe and wanted ...’. The inquiry report recommended that the department undertake a longitudinal study in partnership with an academic institution into the impacts of the permanency amendments; and that the findings from the study inform a further independent inquiry into the permanency amendments to be undertaken in two years’ time.
843. In 2018, Melbourne University along with the University of Sydney and the University of NSW were commissioned by the department to undertake research into the impacts of the permanency changes between March 2017 and August 2019. This research is known as the Permanency Amendments Longitudinal Study (PALS). The PALS terms of reference requested that the study conducted by the academic consortia include the examination of:
- Intended changes that have occurred consistent with the objectives of the permanency amendments
  - Unexpected or unintended outcomes that have occurred as an outcome of the permanency amendments
  - Differential effects of the permanency amendments on Aboriginal and CALD children
  - Systemic issues that inhibit the achievement of permanency for children.
844. At the time of preparing this Statement, the PALS Report has not been publicly released. As such, the department considers it to be a draft report and any findings and recommendations remain preliminary.

**Question 101**

*Theme 14: Permanency amendments to CYF Act 2005 (Vic). 14(c) Reviews and assessments of possible consequences (particularly in the case of First Peoples children)*

What were the key findings of the evaluations, review(s) and analyses described in response to paragraph (100)?

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### **Response to Q.101**

845. The CCYP's Safe and Wanted report<sup>106</sup> did not find conclusive evidence that the legislation had widespread unintended consequences, however, identified a number of trends and systemic barriers to permanency.
846. As outlined in the response to Question 100 above, at the time of preparing this Statement the PALS Report has not been publicly released. The preliminary findings of the academic consortia that undertook the *Certainty for Children, Fairness for Families, Synthesised Research Findings* are that, overall, the permanency amendments achieved much of what they set out to do. Relevantly, preliminary findings included:

#### **Permanent care**

- The permanency amendments addressed key barriers to timely permanent care.
- More PCOs were achieved following the amendments.
- The time from Child Protection intake to PCO reduced following the amendments
- Permanent/long-term care contributed to children's sense of belonging, safety, and well-being.
- There were systemic barriers to lasting family connections when reunification was not possible including a reduction in parent-child contact, permanent and prospective permanent carers reporting managing contact challenging.
- Some carers reported feeling rushed into permanent care and there was inadequate post-care support to address the needs of children.



#### **Reunification**

- There was no change in the timeliness of family reunification following the permanency amendments.
- Parents perceived the purpose and direction of case plans to be clearer.
- There was a shortage of family reunification support services and waiting times for these services.
- There were challenges engaging parents in the process of change through casework.
- There were unexpected decisions and actions at court to support family reunification which increased disputes between adult parties including delays in resolving protection applications.

#### **Aboriginal children, young people and families**

- The journey to permanency (reunification and LTCO/PCO) takes longer for First Peoples children compared to non-First Peoples children.
- The slower progress related to case plan endorsement, a longer pursuit of family reunification, and lengthy delays in completing processes for an application for a PCO.

<sup>106</sup> <https://ccyp.vic.gov.au/inquiries/systemic-inquiries/permanency-amendments-inquiry/>

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- Cultural support along the Aboriginal child's permanency journey has improved but can be better.

847. The consortia identified that improvements can be made if representatives from all parts of the system come together to find solutions to:

- Better support reunification and confidence in the reunification process.
- Ensure successful family and cultural connections when permanent care is not deemed viable.
- Ensure prospective permanent carers are ready to transition to a permanent care arrangement and ensure a post-order level of support to enable children's developmental needs to be met over time.

### Question 102.

*Theme 14: Permanency amendments to CYF Act 2005 (Vic). 14(c) Reviews and assessments of possible consequences (particularly in the case of First Peoples children)*

How has the State assessed and responded to the concerns in paragraph (101)?

### Response to Q.102

848. The Victorian Government adopted the majority of the recommendations made in the Safe and Wanted report relating to additional resourcing, training and workforce, improving policy and practice, and is committed to monitoring the impact of the changes.

849. The department is currently considering the information and analysis provided in the PALS report and will continue to engage with stakeholders on how to keep more children safely at home with their families and improve the stability of placements where children are in out-of-home care.

### Question 103

*Theme 14: Permanency amendments to CYF Act 2005 (Vic). 14(d) Stakeholder concerns and criticisms, and responses thereto.*



What are the key concerns that have been raised with the State as to the effect of the permanency amendments on First Peoples children and their families?

### Response to Q.103

850. Some organisations, including ACCOs, have expressed concern about the impact of the permanency amendments on First Peoples children and families, with the mandated reunification timeframes considered as unachievable in many instances.

851. Other concerns raised included lack of services, waitlists for services particularly given the reunification timeframes and those which are available not being culturally appropriate.

852. The inclusion of adoption in the permanency hierarchy was also of concern to some members of the community, including First Peoples due to a view that it may result in more children being

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permanently removed from their families and communities. While this has not occurred in fact, and adoption remains subject to parental consent and is rarely applied in a Child Protection context, it did create apprehension.

853. In the CCYP's 'In our own words' inquiry report (2019), ACCO staff expressed concern the department does not prioritise reunification for First Peoples children and young people.
854. Other concerns were expressed regarding the inability of the Children's Court to place conditions on the new Care by Secretary Orders as they had previously been able to do for Custody Orders and the new Care by Secretary Order which could be made for 2 years no longer requiring annual review by the Court.
855. Several Aboriginal Legal Services raised several concerns about the permanency amendments, including (but not limited to): that they had a disproportionate and destructive impact on First Peoples children and families; the Children's Court's capacity was limited by no longer being able to tailor orders specific to need; and accountability and transparency of decisions by the department was reduced.



#### Question 104

*Theme 14: Permanency amendments to CYF Act 2005 (Vic). 14(d) Stakeholder concerns and criticisms, and responses thereto.*

How has the State assessed and responded to the concerns identified in response to paragraph 103?

#### Response to Q.104

856. The Government has introduced several initiatives to provide more support to parents to promote family preservation and reunification including increasing investment in family services and the evidence-based Family Preservation and Reunification Response and significantly increased funding to ACCOs for delivery so such services
857. Increased the number of children authorised and case managed by an ACCO to enhance opportunities for parents to engage with trusted supports
858. Following introduction and passing of the permanency amendments the department worked with key service providers in drug and alcohol, mental health, housing etc to promote services engagement and prioritisation of parents whose children were in care.
859. The department has invested in family-led decision making as the culturally appropriate method to undertake planning
860. In 2021, in response to the impacts of COVID-19, a temporary legislative change was made to enable the Court to factor the impacts of COVID-19 when extending orders and to extend FROs for a further six months where such impacts are evident.
861. On 21 February 2023, the Victorian Government introduced the Statement of Recognition Bill into parliament. The Bill seeks to increase self-determination for First Peoples by:

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- Amending the CYFA to further embed the Victorian Government's commitment to Aboriginal self-determination in the legislative framework for Children and Families services and provide critical enablers to support Aboriginal-led models of care
  - Enshrining all five elements of the Aboriginal Child Placement Principle in the CYFA to strengthen recognition of the importance of self-determination and culture for Aboriginal children, and
  - Amending the *Health Services Act 1988* and *Public Health and Wellbeing Act 2008* to acknowledge the Victorian Government's commitment to Aboriginal self-determination, recognise the key role of the Aboriginal Community-Controlled Health Organisations in the delivery of Aboriginal health services, and support healing, acknowledge trauma and provide a foundation for future legislative reform to strengthen Aboriginal self-determination health and wellbeing.
862. The Victorian Government committed \$46.2 million to increase the capacity of the Children and Families sector to provide support to children and families. In 2020-21 this included the delivery of the Family Preservation and Reunification Response (the Response) – an innovative approach to deliver a relational, evidence informed and coordinated support to vulnerable children and families through a strengthened partnership with Child Protection. There are now 34 funded CSO and ACCOs delivering the Response in 17 areas across Victoria. This includes an Aboriginal Response in each area. The Response works with First Peoples families and communities to promote culturally safe and inclusive services to support cultural healing and acknowledges the unique needs, preferences and history of First Peoples children and families.
863. The key objectives include building capacity of parents, carers and community to keep children safe through:
- Family preservation – creating safety at home and preventing removal and placement in care.
  - Family reunification – safely and rapidly returning children to their home.
864. In addition to the above increased investment has been received for a range of government services including but not limited to: Family group conferencing pilot, putting families first, early help family services, Koorie-supported playgroups, diversionary trials within ACCOs funded via Learning and Innovation Grants
865. AFLDM now occurs at the point of substantiation for First Peoples children to promote culturally informed case planning. The goal of AFLDM is to deliver culturally based decision making. It is the primary method by which case planning occurs for First Peoples children where protective concerns have been substantiated and is co convened by CP AFLDM and ACCO convenor.
866. Funding of 3.18m per annum to ACCOs has been provided to support development of cultural support plans, including funding for a state-wide Co-ordinator and cultural planners and brokerage
867. The department continues to monitor and consider data through forums such as the ACF to consider the impacts of the reforms on outcomes for children including entries and exits to care, reunification rates, siblings' placements, and compliance with the ACPP.

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868. Rates of adoption have been monitored to confirm no adverse impacts have occurred in response to adoption being in the permanency hierarchy.

869. In addition, the PALS longitudinal study was undertaken.



Sign here:  .....

Print name: Argiri Alisandratos.....

Date: 21/03/2023 amended on 24/04/2023.....

Witness:  .....

Date: 21/03/2023 amended on 24/04/2023.....

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