

Royal Commission into Institutional Responses to Child Sexual Abuse

Response to Issues Paper 4—Preventing sexual abuse of children in out of home care



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1 Executive Summary

This submission is made on behalf of the State Government of Victoria to assist the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission) in addressing the issues outlined in its' fourth Issues Paper, 'Preventing sexual abuse of children in out of home care'.

Victoria welcomes the opportunity to address the matters raised in Issues Paper 4.

This submission describes how Victoria's regulatory framework for Community Service Organisations (CSOs) and carers, and the various programs and initiatives in place, seek to improve outcomes for children in out of home care and help protect those children from sexual abuse.

In developing this submission, the Victorian Government has drawn on its experience in funding, regulating and delivering services for children across a range of sectors. The submission draws on the theory and evidence underpinning the prevention of child sexual abuse in out of home care and identifies the practical considerations to be taken into account in implementing a range of strategies.

In Part 3, this submission outlines how Victoria's out of home care system operates. It outlines a child-centred approach focusing on the 'best interests' of all children and the unique needs of Aboriginal children, children with disabilities and children with sexually abusive behaviours.

In relation to prevention strategies:

- Part 4 outlines the Victorian approach to overall oversight and regulation of out of home care;
- Part 5 explains the Victorian system of regulating individual carers, and how training and support is provided; and
- Part 6 addresses the importance of child-safe environments.

In Part 7, the submission provides an overview of Victoria's approach to responding to allegations of sexual abuse in out of home care and information about records management. Part 8 provides an overview of how children in out of home care can be supported and empowered to raise matters of concern.

Victoria is currently considering the report of the Family and Community Development Committee of Parliament's *Inquiry into the handling of child abuse by religious and other organisations*, tabled on 13 November 2013. This important report sets out comprehensive findings and recommendations concerning child abuse. The Victorian Government is considering all of the report's recommendations as a matter of urgency. The Government's response to those recommendations may affect some of the matters described in this response.

The Victorian Auditor-General is also conducting an audit of *Residential Care Services for Children*, due to be tabled in the Victorian Parliament in March 2014. Consideration of these reports will inform Victoria's ongoing approach to preventing and responding to sexual abuse in out of home care.

While this submission briefly describes policies and processes around mandatory reporting, incident reporting, quality of care investigations and the Suitability Panel, Victoria expects that it may deal with these matters in more detail in response to forthcoming issues papers on mandatory reporting and reportable conduct.

2 Introduction

This submission is made on behalf of the State Government of Victoria to assist the Royal Commission into Institutional Responses to Child Sexual Abuse (the Commission) in addressing the issues outlined in the Commission's fourth Issues Paper, entitled 'Preventing sexual abuse of children in out of home care'.

Vulnerable children and young people who are removed from the care of their parents because of abuse or neglect need the best care that our community can provide. The safety and wellbeing of these children and young people should be the paramount consideration for everyone involved in their care.

The *Children, Youth and Families Act 2005* (the CYF Act) creates a shared mandate for the Department of Human Services (DHS), CSOs and out of home carers to act in the best interests of the child or young person. The best interests principles in the Act draw attention to the critical dimensions of a child's experience and require a focus on children's safety, stability and development, in the context of their age and stage of life and their culture and gender. All decisions about children or young people must consider the best interests principles, including decisions relating to quality of care concerns.

This submission describes how Victoria's regulatory framework for CSOs and the various programs and initiatives in place to improve outcomes for children in out of home care help to protect those children from sexual abuse. In particular, this submission outlines how the Victorian out of home care system mitigates the risk of sexual abuse through:

- a focus on prevention;
- maintaining high standards of overall care through a 'best interests' framework;
- the regulation and monitoring of out of home care providers;
- the regulation of individual carers, providing training and support and creating child-safe environments;
- mechanisms for responding to allegations of abuse;
- empowering children in the out of home care system; and
- a commitment to continuously improving services and responding to reviews and inquiries.

In addition this submission seeks to highlight:

- that Victoria is one of only two Australian jurisdictions with a register for all foster and residential carers, and was the first to introduce this reform;
- the recent roll-out of a therapeutic residential care model following a successful evaluation;
- the work DHS undertakes collaboratively with Victoria Police to prevent sexual exploitation of young people in residential care and respond assertively where required;
- a five year plan for out of home care (currently under development) which seeks to improve outcomes for children, better manage placement demand and create a sustainable service system; and
- how Victoria has responded to a range of previous inquiries to continuously improve the out of home care experience for children in care and prevent sexual abuse occurring.

The submission will also address specific issues raised by the Royal Commission and explain how and why different out of home care types are regulated differently in Victoria (Part 5.4), and note that Victoria's policy parameters for independent investigation of carers and the Suitability Panel are currently under review (Part 7.6).

3 Victoria's out of home care system

Victoria's out of home care system operates within a strategic framework that includes the *National Framework for Protecting Australia's Children 2009–2020*, relevant Victorian legislation and the *Victoria's Vulnerable Children Strategy 2013–2022*. It features a range of care types and is informed by an overarching 'best interests' model that places the child at the centre of decision-making. Victoria's out of home care system also provides specialist support to Aboriginal children, children with a disability and children with sexually abusive behaviours.

3.1 Strategic framework

3.1.1 National Standards for out of home care

The National Standards for out of home care were developed as a priority project of the *National Framework for Protecting Australia's Children 2009–2020*. The National Standards are designed to deliver consistency and drive improvements in the quality of care provided to children and young people across Australia. Victoria participated in the development of the national standards with all states and territories.

The 13 National Standards focus on the key factors that directly influence better outcomes for children and young people living in out of home care. These are: health; education; care planning; connection to family; culture and community; transition from care; training and support for carers; belonging and identity, and safety, stability and security. While aiming for consistent outcomes for children across Australia, the national standards also allow for mutual recognition of existing state and territory quality assurance arrangements.

All jurisdictions are currently in the process of aligning data collections and reporting arrangements with the National Standards. Victoria is working towards achieving full reporting capability within the timeline.

3.1.2 Relevant legislation underpinning out of home care

The *Children, Youth and Families Act 2005* (CYF Act) and the *Child Wellbeing and Safety Act 2005* (CWS Act) provide the legislative framework for the care and protection of children who live in out of home care in Victoria. They reflect the importance of an understanding of the effects of trauma, abuse and neglect on a child's development and emphasise the need for children to receive stable, consistent, positive and nurturing care from a primary caregiver; be engaged in early learning, education and training; and to be connected to their family, community and culture.

The CYF Act defines when a child is in need of protection and sets out requirements for decision-makers under the Act, such as the Secretary DHS, to strengthen the capacity of families to care safely for children, intervene where necessary and place children or young people in out of home care to secure their safety. The CYF Act promotes the use of kinship placements, and the importance of working with families to reunite children as expeditiously as possible and securing permanent out of home care where the child is unable to be returned to their parents. When children and young people are placed in out of home care, it is the shared responsibility of out of home carers, CSOs and DHS to ensure their safety, stability and wellbeing.

The CYF Act allows for the registration of organisations in three categories: Out of Home Care Service, Community-based Child and Family Service and a prescribed category of service. The following Out of Home Care activities are in scope of registration under the CYF Act:

- educational support – children in residential care;
- intensive treatment services;
- home based care;
- lead tenant; and
- residential care and residential care – case management.

The *Commission for Children and Young People Act 2012* (the CCYP Act) sets out principles to guide the provision of services to children and their families. The CCYP Act also creates the Commission for Children and Young People (the Commission). The Commission undertakes a number of functions to promote the objectives of the CWS Act, such as promoting child-safe and child friendly practices in the community, monitoring the administration of the *Working with Children Act 2005* (WWC Act), providing oversight advice to the responsible minister on out of home care, and conducting child death inquiries and reporting on those inquiries to the minister.

3.1.3 Policy reforms

The structure and performance of the Victorian statutory child protection system has been the focus of several major policy reviews and reports over the past decade. In this context, the government has been pursuing a

broad reform agenda, aimed at creating a more integrated, holistic, effective, and sustainable system which delivers better outcomes for children. These reforms include:

- the implementation of a new operating model for statutory child protection;
- an area-based restructure of DHS;
- development and trialling of a new, integrated service delivery model called 'Services Connect';
- the Service Sector Reform project designed to create a more efficient and effective community and human services system (discussed in Part 3.1.4); and
- the *Victoria's Vulnerable Children's Strategy* which outlines a whole of government commitment to improving outcomes for vulnerable children, including children in care (discussed in Part 3.1.5).

3.1.4 Service sector reform

In 2012, the Victorian Government asked Professor Peter Shergold AC to provide his independent advice on community services into the future. On 1 November 2013, the Victorian Government launched Professor Shergold's final report: *Service Sector Reform – A roadmap for community and human services reform*.

The Victorian Government is taking immediate steps in response to Professor Shergold's report, beginning with a new Community Sector Reform Council, which will be established in 2013. The Council will bring together senior representatives from government and the community sector to consider the implementation of many of Professor Shergold's reform themes.

The Victorian Government has also endorsed the statement of principles for community and human services reform which was recommended by Professor Shergold. These principles will focus on achieving the best outcomes for clients; taking a holistic approach; program flexibility; citizen control; and early intervention.

3.1.5 Victoria's Vulnerable Children's Strategy 2013–2022

The *Protecting Victoria's Vulnerable Children Inquiry* (the Cummins inquiry) was initiated in January 2011, by the Victorian Government. It was a major, system-wide inquiry with broad terms of reference to comprehensively investigate systemic problems in Victoria's child protection system and make recommendations to strengthen and improve the protection and support of vulnerable young Victorians. The Cummins inquiry was conducted by a review panel chaired by the Honourable Philip Cummins, together with Professor Dorothy Scott OAM and Mr Bill Scales AO, and the final report was tabled in Parliament in February 2012. In May 2012, *Victoria's Vulnerable Children: Our Shared Responsibility* Directions Paper was released. This outlined the Government's commitment to addressing the challenges outlined by the Inquiry.

Development of a whole-of-government Strategy was a key recommendation of the Cummins inquiry. The *Victoria's Vulnerable Children's Strategy 2013–2022* was released in May 2013 and articulates a commitment to improving outcomes for vulnerable children and families by preventing abuse and neglect; acting earlier when children are vulnerable; and improving the outcomes for children in statutory care. It also includes a performance management framework that will monitor outcomes being achieved for vulnerable children and families across the State.

3.1.6 Five year plan for out of home care

In relation to out of home care specifically, the Victorian Government will release a five year plan for out of home care in 2013. The five year plan is informed by the aforementioned reform directions and will acknowledge the need to improve outcomes for children, better manage placement demand and create a sustainable service system. Such reform will consider a much stronger and more meaningful approach to articulating and monitoring the outcomes achieved for children in care; a new funding model that gives providers greater flexibility in meeting the needs of children and supports innovation; stronger accountability; greater role clarity between government and the non-government sector; and the creation of a more integrated service continuum across DHS' Areas.

Implementation of the plan will be developed in consultation with service providers and other relevant stakeholders, commencing from early 2014.

A complementary *Five year plan for Aboriginal children in out of home care* is also in development, and will emphasise the importance of maintaining strong connections to family and community.

3.2 Key features of the out of home care system

DHS defines out of home care as:

the placement of children away from their parents, due to concerns that they are at risk of significant harm. The purpose of out of home care is to provide children who are unable to live at home due to significant risk of harm, with a placement, which ensures their safety and healthy development and achieves stability.¹

Where the risk of harm is assessed as too great for children to live at home with their parents, Child Protection may need to place a child in out of home care while issues are addressed. The purpose of out of home care is to provide children who are unable to live at home due to significant risk of harm or parental incapacity with a placement that ensures their safety, enhances their development and achieves stability. The length of time a child requires care away from home varies according to the individual circumstances of the case, and/or the court order that is in place.

In Victoria, on any given night, approximately 6,400 children and young people under the age of 18 are unable to live with their family as a result of neglect or abuse.² The out of home care system aims to provide children and young people with stable placements which provide for their individual physical, emotional and psychological needs.

At 30 June 2012, there were 6,207 children aged 0 to 17 years residing in out of home care in Victoria. This represents an increase of about 53 per cent since 30 June 2003 (discussed further in Part 3.2.3). Victoria's rate of children living in out of home care was 5.1 per 1,000 children 0 to 17 years which is the lowest rate of all states and territories and lower than the Australian average of 7.7 per 1,000.

Of the 6,207 children in out of home care on 30 June 2012:

<ul style="list-style-type: none"> 5,688 children were in home based care 	<ul style="list-style-type: none"> - 45.6% were in kinship care - 24.1% were in foster care - 21.9% were in permanent care³
<ul style="list-style-type: none"> 519 children were in other care types 	<ul style="list-style-type: none"> - 7.7% were in residential care - 0.7% were in independent living and other non-standard care options

In 2011–12, Victoria had the third highest real recurrent expenditure in out of home care behind New South Wales and Queensland at \$351 million. For the same period, real recurrent expenditure per child in out of home care was \$56,652, the third highest of all states and territories in Australia after the Northern Territory and Western Australia.

3.2.1 Types of care

In Victoria, the out of home care system comprises a range of placement types.

Home-based care

Home-based care refers to contracted kinship care arrangements and all forms of foster care, including therapeutic foster care.

The CYF Act (section 10(3)(h)) promotes the use of kinship care arrangements, stating that:

If [a] child is to be removed from the care of his or her parent, ... consideration is to be given first to the child being placed with an appropriate family member or other appropriate person significant to the child, before any other placement option is considered.

¹ Child Protection Practice Advice No. 1395: Definition and Purpose of Out of home care: http://www.dhs.vic.gov.au/cpmanual/out-of-home-care/overview-of-placement-of-children-and-young-people/1395-definition-and-purpose-of-out-of-home-care?SQ_PAINT_LAYOUT_NAME=print_entire. The definition of *out of home care* in the CYF Act is 'care of a child by a person other than a parent of the child'. This definition is too broad for use throughout this paper. Note: the DHS definition does not include children who are living in out-of-home care outside of the child protection system, such as voluntary kinship or foster care placements made without the involvement of child protection, placements made in disability services, medical or psychiatric services, juvenile justice facilities, overnight childcare services or supported accommodation assistance services.

² Annual report 2012–13 Victorian Department of Human Services

³ Children in permanent care are not under the statutory guardianship of the Secretary DHS. See Part 3.2.1 for more information.

Kinship care is a placement within the child's wider family or community. Kinship care provides children with the security of being with family or adults from within their social network, promoting continuity, connectedness and stability in their lives.

When a kinship arrangement is not a possibility, placement in an alternative home-based care arrangement is preferred. **Foster care** is the temporary care of a child or young person up to 18 years of age, within a home-based setting, by an assessed, trained, accredited and registered foster carer. Foster care offers children exposure to a warm, nurturing and positive family environment. There is significant value for children in becoming a part of a carer's family and community.

Permanent care

Permanent care is a legal arrangement in which the child lives permanently with a family that becomes responsible for his or her custody and guardianship. Carers make a permanent commitment to the child placed in their care.

Children are placed in permanent care through the child protection system. Permanent care is not a voluntary placement and permanent care orders are made by the Children's Court, at which point custody and guardianship of the child is passed from the Secretary DHS to the permanent carers. Where a child in out of home care is not able to return to his or her birth family due to concerns for their safety, DHS must make decisions about the child's long term care requirements. In such circumstances, DHS is able to apply to the Children's Court for a permanent care order.

Residential care

Residential care is an out of home care placement option providing temporary, short-term or long-term accommodation and support to children and young people who have been removed from the family home. Residential care provides placement in a residential building using residential carers who are paid staff and employed on a rostered basis. Residential care facilities are based in the community and house a small number of children and young people all of whom are on protection orders issued by the Children's Court. Nearly all residential care facilities are operated by CSOs and supported by supervisory and management staff who are located offsite.

Residential care has two funded activity levels: *residential care intermediate* (RP2) for children and young people who display a significant level of challenging behaviour or who are part of a large sibling group, and *residential care complex* (RP3) for children and young people who display a significant level of complex behaviour, have multiple and complex needs and engage in high-risk behaviours.

Therapeutic Residential Care (TRC) is intensive and time-limited care for a child or young person in statutory care that responds to the complex impacts of abuse, neglect and separation from family. This is achieved through the creation of positive, safe, healing relationships and experiences informed by a sound understanding of trauma, damaged attachment, and developmental needs.

From 2008–12, Victoria piloted the therapeutic approach to residential care. TRC units receive additional funding to provide for the delivery of certain elements including a part-time therapeutic specialist and additional residential staff on roster. Staff must also participate in mandatory TRC training.

The TRC model achieves better outcomes for children and young people than standard residential care practice.⁴ These improved outcomes include:

- reduced risk-taking;
- improved stability, emotional and mental health and behaviour;
- improved quality of contact between young people and their family and between young people and their carers;
- greater participation in education and in extra-curricular activities in the community;
- improved academic functioning; and
- a significant improvement in sense of self.

The evaluation also confirmed the following service elements as essential to delivering an effective TRC program:

- specialised training;
- increased staffing levels;
- consistent rostering; and
- therapeutic specialists attached to units.

⁴*Evaluation of the Therapeutic Residential Care Pilot Programs*, Verso Consulting Pty Ltd, 2011. Available from http://www.dhs.vic.gov.au/_data/assets/pdf_file/0005/712868/therapeutic-residential-care-report.pdf, accessed 13 November 2013.

In 2012–13, Victoria allocated \$29.6 million over four years for the continued expansion of TRC. This provided ongoing funding for the TRC pilots (40 placements) and an additional 100 placements across Victoria. As of 1 July 2013 there are 12 providers of TRC including 11 CSOs and one departmentally funded service.

Secure Welfare Services

Secure Welfare Services (SWS) provide strengthened care and protection services for child protection clients (10 to 17 years) who are at a substantial and immediate risk of harm. The SWS is a specialist state-wide service that provides two 10-bed gender specific residential units with a rostered 24 hour staffing model. Admission to a SWS is often precipitated by a significant crisis in a child or young person's life. The aim of the SWS is to keep the child or young person safe whilst a suitable case plan is established to reduce the risk of harm and return the child or young person to the community as soon as possible in a safe and planned way.

SWS placement is considered an option of last resort, where containment is deemed necessary, and when the broader protection and care network cannot manage or reduce the risks to the child. As a secure facility, placement at a SWS is the most extreme form of protective intervention and all other options must be explored first and relevant human rights considered.

A child subject to a custody or guardianship order may be placed at a SWS for a period not exceeding 21 days if the Secretary DHS or the court (if the child or young person is subject to an Interim Accommodation Order) is satisfied that there is a substantial and immediate risk of harm. In exceptional circumstances, the period at a SWS may be for one further period not exceeding 21 days.

Lead tenant

Lead tenant services provide supported semi-independent accommodation options for young people aged 16 - 18 years who are child protection clients and transitioning to independence from state care. Young people are supported by an outreach support team and a volunteer 'lead tenant' who shares the accommodation. Young people are able to stay in 'lead tenant' programs for 12–18 months while they learn independent living skills.

Voluntary placements

In Victoria, a voluntary placement may occur with or without the involvement of DHS. A voluntary placement is where there is no court order requiring a child to live out of their parents' care. The parent consents to a voluntary arrangement with a service for the temporary care of their child. Voluntary placements may arise due to parental illness, family crisis or for emergency reasons. These placements may be a kinship care arrangement or a child care agreement in a funded out of home care organisation, including foster care and disability service placement options.

The CYF Act places reporting obligations on CSOs providing voluntary placements to parents under these arrangements.

Providers of out of home care

In Victoria, all but two out of home care services are delivered by CSOs. DHS delivers the secure welfare service and Hurstbridge Farm (a therapeutic residential care service).

Although not required by legislation, Hurstbridge Farm and the secure welfare service are subject to the *Department of Human Services Standards* (DHS Standards) and accreditation and review requirements (see Part 4.5).

3.2.2 Leaving care

Section 16(g) of the CYF Act requires the Secretary DHS to provide or arrange for the provision of services to assist in supporting a person under the age of 21 years to gain the capacity to make the transition to independent living where the person – (i) has been in the custody or under the guardianship of the Secretary; and (ii) on leaving the custody or guardianship of the Secretary is of an age to, or intends to, live independently.

Planning for leaving care commences when a young person turns 16 years of age and focuses on assessing and supporting the young person to acquire independent living skills and resources. To meet this obligation, DHS has a *Transition planning for leaving care* framework that aims to provide all practitioners involved in the delivery of case management, out of home care and post-care support with:

- best practice approaches and processes to prepare and support young people transitioning from out of home care;
- a strong, developmentally-based framework that supports children and young people to develop the skills and resources to grow into mature young adults able to participate fully in community life; and
- a flexible, accessible service planning response that provides a bridge for young people from care to post-care services, and to independence.

The guide to developing 15+ care and transition plans is designed to assist case managers, care teams and carers to identify and plan for the age-appropriate needs of young people aged between 15 and 18 years of age who are living in out of home care. The guide highlights the important areas of a young person's development by using the seven domains in the Looking After Children framework (discussed in Appendix C). In 2013-14, leaving care services in Victoria will receive \$8.9 million in funding for a range of services to meet the needs of young people transitioning from care:

- Springboard - Intensive education and employment support for young people leaving care – targeted at young people leaving residential care.
- Leaving Care Help Line – assists young people and their support workers to find their nearest service.
- Post-Care Support Information and Referral Services.
- Leaving Care Mentoring Program.
- Transitioning from Out of home care: Support for Aboriginal young people.
- Young People Leaving Care Housing and Support Initiative.
- Zero tuition fees for accredited training (Department of Education and Early Childhood Development) – initiative provides free tuition for accredited training courses from Certificate 1 to Diploma level.

3.2.3 Trends and challenges

All jurisdictions face challenges in delivering out of home care services. Ongoing increases in demand mean that new investment struggles to keep pace with rising needs and service costs.

Increased demand

Over the last decade the number of children and young people in out of home care in Victoria grew from 4,046 in 2003 to 6,207 in 2012,⁵ an annual year-on-year growth rate of 4.9 per cent. This rate of growth far exceeds the growth in the child population, which has increased at only 0.5 per cent per annum over the same period. For Aboriginal children the rate of growth has been even higher – 8.6 per cent per annum against an Aboriginal child population growth rate of 2.2 per cent.

A key contributor to the growth in the number of children in care is the increasing length of care placements.⁶ Excluding children on Permanent Care Orders, the most significant increase can be seen in the proportion of children staying in care for five years or more. This cohort has risen from comprising 10 per cent of the out of home care population in 2002 to 19 per cent in 2012. In 2002, 62 per cent of children remained in care for less than two years. In 2012, this figure had reduced to 50 per cent.

Table 1 below shows the 2012 placement rate per 1,000 children for each Australian jurisdiction. The placement rate is the measure of the rate of children in out of home care. Victoria has the lowest rate in Australia and is significantly below the rate in New South Wales and Queensland. This suggests that, comparatively, Victoria has succeeded in containing some growth in out of home care demand.

Table 1: Placement rates in out of home care per 1,000 children—2012⁷

	VIC	NSW	QLD	WA	SA	TAS	ACT	NT	TOTAL
Indigenous	66.4	83.4	42.2	51.6	55.0	25.1	68.0	20.7	55.1
Non-Indigenous	4.2	7.1	4.9	3.4	5.4	7.4	5.3	3.7	5.4
All Children	5.1	10.5	7.4	6.1	7.2	8.7	7.0	11.2	7.7

Policy changes arising from the CYF Act requirement to preference kinship placements wherever possible, in recognition of the importance of continuity, family and community connection for children, have impacted on the proportion of children in different types of out of home care. Between 2002 and 2012, the proportion of children residing in foster care declined from 37 per cent to 24 per cent of children in care. During the same period, the proportion of children in kinship care rose from 24 per cent to 46 per cent. In simple terms, foster care numbers have remained virtually static – growing by nine per cent – whilst kinship care has risen by 223 per cent.

Contingency care arrangements

From time to time, contingency care arrangements are made in exceptional circumstances when the core funded placement options within the out of home care system are unable to meet the specific needs of that child. Demand in the out of home care system combined with the complex needs and significantly challenging

⁵ Data obtained from DHS and AIHW, Child Protection Australia 2011–12, Child Welfare Series No. 55, 2013, pg 40. Available from <http://www.aihw.gov.au/WorkArea/DownloadAsset.aspx?id=60129542752>, accessed 13 November 2013.

⁶ Ibid, AIHW, pg 37

⁷ Ibid, pg 38

behaviours of some children and young people can impact on placement availability. The specific needs of a child may be met via establishment of an additional placement outside of the core funded placements, or the provision of additional funding to provide extra support within a core funded placement.

Contingency arrangements are time-limited and funded outside of the base/budget funding allocation. Funding for such placements is approved by a delegated senior manager in each DHS Division. Requirements for decision-making, establishment and monitoring of contingency arrangements exist within the Placement Coordination and Placement Planning Manual.

3.3 The best interests of children

In Victoria, the CYF Act creates a shared mandate for DHS, CSOs and out of home carers to act in the best interests of the child or young person. The 'best interests' model guides and coordinates interventions by DHS, professionals and carers in order to promote a child's safety, stability and development.

The CYF Act (s.10) establishes the *best interests* principles that form the basis for all child protection involvement with children and their families. All decisions about children or young people must consider the best interests of the child as paramount and decisions and actions must always acknowledge the need to:

- protect the child from harm;
- protect the child's rights; and
- promote the child's development taking into account his or her age, stage of development, culture and gender.

A full list of the 'best interests principles' is at Appendix C.

The 'best interests' case practice model reflects these principles and is based on sound professional judgement, a culture that is committed to reflective practice and respectful partnerships with the family and other service providers. The 'best interests' model contributes to preventing sexual abuse in out of home care through:

- planning and collaborative case management;
- regular face-to-face contact with the child;
- responding to placements that are under pressure;
- the use of high risk schedules and panels; and
- seeking to achieve permanency and stability in placements where possible – critical for meeting the child's needs and promoting their well-being.

More information on 'bests interests' case management is at Appendix C.

3.4 High risk schedules and panels

High risk infants (aged less than two years) and young people with acute at risk behaviour (12–17 years) are amongst the most vulnerable child protection clients and feature in a disproportionate number of critical incidents and adverse events. DHS policy provides for the establishment and maintenance of high risk schedules and associated high risk panels for high risk infants and high risk youth. High risk schedules and panels support case planning and monitoring of practice with child protection clients assessed at elevated risk of adverse outcomes where intervention to ameliorate the risk factors has not yet been achieved.

The *high risk schedule* provides a framework and mechanism to support early identification of a relatively small cohort of the highest risk and most highly vulnerable clients. A further key function of the high risk schedule is to support organisational risk management and early advice to senior child protection workers and CSO managers.

The primary role of *high risk panels* is to support rigorous case review, planning and decision-making, service integration and collaborative problem-solving and to provide support and direction to case management and other direct service staff, in respect of those clients on the high risk schedule.

Most infants regarded to be at high risk are generally at home with a heightened level of supervision. High risk youth are generally those in out of home care due to their multiple and complex behavioural and emotional needs and require long-term and substantial support.

Multiple and complex behaviour/features include but are not limited to:

- emerging or diagnosed psychiatric or psychological disorders;
- self harm or suicidal ideation, threats or attempts;
- sexually abusive behaviours, vulnerability to sexual exploitation, or manipulation by paedophiles and other dangerous adults;
- persistent challenging or extreme risk-taking behaviour and high levels of aggression;
- use of alcohol or other substances to the extent that the young person is at significant risk; and

- chronic running away from home or out of home care.

3.5 Placement stability and permanency

When a child is removed from their family due to unacceptable risk of harm, and the family is unlikely to provide sufficient safety for the child to return in the longer term, placement stability and permanency is a critical factor to meeting the child's needs and promoting their well-being.

In 2005, the CYF Act introduced the requirement that consideration be given to the desirability of continuity and stability in a child's care (section 10(3)(f)).

The DHS practice resource '*Best interests principles: a conceptual overview*' identifies stability in caregiving as a powerful predictor of long-term outcomes for children placed in out of home care. Foster children who experience multiple placements are likely to experience greater academic difficulties,⁸ and to have elevated levels of behaviour problems compared to children with stable placements.⁹

The case planning process must therefore guide and coordinate interventions by child protection and other professionals, to promote a child's safety, stability and development. If family reunification cannot occur in a timeframe appropriate to the child's developmental needs, the planning direction must be for stable long term out of home care. Where it is unlikely that the child can be safely returned to their family, early placement of the child promotes stability and permanency and is also likely to decrease challenging and problem behaviours which can lead to placement breakdown.

DHS and CSO practitioners must determine whether the placement of a young child in a stable and nurturing home-based care placement should be converted to a permanent placement or whether other carers assessed as permanent carers would be more in his or her best interests.¹⁰

The importance of continuity and stability in care arrangements and other relationships, particularly in the early years of childhood, is well founded in scientific research on the brain development of children. Research has identified that uncertainty, instability and disruption can have harmful effects on a child's wellbeing and development.¹¹

3.5.1 Court orders and processes that support stability

The CYF Act provides for stable long term out of home care by way of a guardianship order, a long term guardianship order or a permanent care order.

In Victoria, adoption and permanent care provides permanent family placements for children unable to live with their birth families. This includes:

- children placed in permanent care after a period of child protection intervention, who cannot be returned safely to their parents' care; and
- children relinquished by their birth parents to be adopted by approved adoptive parents.

Wherever long term out of home care is to be supported by a permanent care order, consultation should occur with an adoption and permanent care team.

3.5.2 Recent permanency and stability initiatives

Victoria currently has two distinct projects under way concerning permanency and stability in care.

The *Future Directions for Permanent Care and Adoption Project* is re-considering how permanent care and adoption programs are delivered in Victoria. A conceptual design for a new service model for permanent care and adoption has been scoped and is currently subject to consultation and testing. The Future Directions project aims to develop a more streamlined model that results in fewer placement changes for children while also increasing the availability of home-based care generally. The project is likely to recommend improved support to carers post-placement and post-legalisation, and improved education and training for carers.

⁸ Aldgate J, Colton M, Ghate D, and Heath A (1992) Educational attainment and stability in long-term foster care, *Children and Society*, 6(2), pp 91–103.

⁹ Fisher PA, Burraston B and Pears K (2005), quoted in *Best Interests principles: a conceptual overview*, DHS, Victoria 2007, p 24.

¹⁰ Best Interests principles: a conceptual overview, DHS, Victoria 2007. Available from http://www.dhs.vic.gov.au/_data/assets/pdf_file/0006/449214/the-best-interest-principles-a-conceptual-overview.pdf, accessed 13 November 2013.

¹¹ See, for example, Tilbury C and Osmond, J, (2006), Permanency Planning in Foster Care: A Research Review and Guidelines for Practitioners, *Australian Social Work*, Vol. 59(3).

In 2012–2013, the Victorian Government committed \$3 million to undertake a 12 month action research project to consider the Cummins inquiry finding that, on average, there is five years between a child's first report and the issuing of a permanent care order. The *Stability Planning and Permanent Care Project* takes an action research approach to make recommendations for change in practice, policy and legislation that will improve the quality and timeliness of stability planning and permanency resolution.

The project is examining the cases of all children under 10 years of age with a permanent care case plan and those in care for longer than 12 months with no permanent care case. The project seeks to identify barriers to achieving stability and identify opportunities to improve stability and permanency for these children. The project has appointed 24 workers for a 12 month period with project teams located in all DHS Divisions. The final report is due in mid-2014.

3.6 Aboriginal children in out of home care

Aboriginal children and young people are significantly overrepresented in out of home care client groups. Although Aboriginal people constitute approximately one per cent of the total Victorian population, they comprise close to 12 per cent of children in out of home care.

At 30 June 2012, there were 1,028 Aboriginal children aged 0 to 17 years residing in out of home care in Victoria, with 50 per cent residing in kinship care. Victoria's rate of Aboriginal children living in out of home care was 66.4 per 1,000 children 0 to 17 years which was the third highest after NSW and the ACT.

The Victorian Government is committed to practice approaches in out of home care which take account of Aboriginal culture, family relationships and parenting arrangements, as these are likely to better meet the best interests of Aboriginal children.

Approaches include:

- the Aboriginal child placement principle;
- the use of cultural support plans for Aboriginal children in out of home care;
- the Aboriginal cultural competence framework for CSOs; and
- a partnership approach, including a protocol between DHS and the Victorian Aboriginal Child Care Agency.

Aboriginal Child Placement Principle

The Aboriginal Child Placement Principle is a nationally agreed standard used in determining the placement of Aboriginal children in out of home care. The principle governs the practice of DHS practitioners when placing Aboriginal children in out of home care and aims to enhance and preserve Aboriginal children's sense of identity by ensuring that they maintain strong connections with their family, community and culture.

In Victoria, the principle is a legislative requirement and is enshrined in section 13 of the CYF Act. The principle requires that an Aboriginal agency be consulted and involved in decision-making regarding out of home care decisions and arrangements for Aboriginal children and specifies the order of priority in which types of placement are to be considered. The principle provides that, if it is in the best interests of an Aboriginal child to be placed in out of home care, priority is to be given to placing the child, wherever possible, within the child's Aboriginal extended family or relatives. The principle also requires that any non-Aboriginal placement must provide for the child's connections to their culture and community.

Cultural support plans for Aboriginal children in out of home care

The Aboriginal Child Placement Principle alone does not ensure that Aboriginal children will remain connected to their culture. Promoting a child's connectedness to their culture also requires plans and specific strategies to connect and strengthen the child's ties to extended family and the community they belong to, as each community is different.

Cultural support plans are developed to ensure that an Aboriginal child in out of home care remains connected to their family, community and culture.¹² Case plans for all Aboriginal children placed in out of home care, whether placed with Aboriginal carers or non-Aboriginal carers, include cultural support as a planning issue, with goals and tasks to be developed and continually reviewed to ensure the maintenance of the child's connections to their family, community and culture.

A specific cultural support plan must be completed for all Aboriginal children in out of home care who are subject to a guardianship to the Secretary or long-term guardianship to Secretary order (s 176 CYF Act).

¹² Child Protection Practice Manual Advice No 1060: Cultural support plans. Available from <http://www.dhs.vic.gov.au/cpmanual/practice-context/aboriginal-and-torres-strait-islander-children-and-families/?a=656459>, accessed 13 November 2013.

Cultural competence framework for CSOs

The *Aboriginal Cultural Competence Framework for CSOs* make clear that a child's safety needs to be understood in the context of their culture, as well as their age, stage of development and gender.¹³ Similarly, the former Office of the Child Safety Commissioner's guide to creating a child safe organisation emphasises that part of ensuring children are safe includes making sure they are culturally safe.¹⁴ Aboriginal children who are strong in their cultural identity are more likely to feel confident to speak up should quality of care concerns arise.¹⁵

Consistent with the Aboriginal Child Placement Principle and the *Aboriginal cultural competence framework*, the Victorian Aboriginal Child Care Agency (VACCA) and Aboriginal Community-Controlled Organisations (ACCOs) provide kinship and foster care services (including therapeutic foster care) for Aboriginal children and young people across Victoria. Some ACCOs also provide residential care for Aboriginal children and young people including Therapeutic Residential Care.

Where non-Aboriginal organisations are working with Aboriginal children, it is expected that the *Aboriginal cultural competence framework* will guide these CSOs in developing culturally-appropriate management strategies, policies and direct practice to ensure better outcomes for Aboriginal children and families. The *Program requirements for out of home care* also specify that all out of home care providers must uphold the Aboriginal child placement principle and obligations under the CYF Act to ensure that cultural identity and family and community connections are maintained and strengthened, including through development of cultural support plans.

A partnership approach

The *Human Services Aboriginal Strategic Framework 2013–2015* aims to improve outcomes for Aboriginal peoples in Victoria through a partnership between the Aboriginal community, CSOs and government agencies through, for example:

- the appointment of a new Commissioner for Aboriginal Children and Young People;
- the development of a five year plan for Aboriginal children in out of home care;
- the 'section 18 project' to pilot implementation of section 18 of the CYF Act across Victoria;
- supporting improved outcomes for Aboriginal peoples transitioning from state care; and
- supporting improved access to health services for Aboriginal children and young people in out of home care.

The establishment of the new Commissioner for Aboriginal Children and Young People recognises the vulnerabilities and significant overrepresentation of Aboriginal children and young people in the child protection system. Victoria is the only Australian jurisdiction to have a dedicated Commissioner for Aboriginal Children and Young People. The Commissioner will oversee the implementation of the *Five year plan for Aboriginal children in out of home care*, which will emphasise the importance of maintaining strong connections to family and community.

Section 18 of the CYF Act enables the Secretary DHS to transfer specified powers and functions in relation to a protection order for an Aboriginal child to the principal officer of an Aboriginal agency. VACCA, in partnership with DHS, is currently undertaking a pilot project to inform future implementation of section 18 with Aboriginal community-controlled organisations. The project will consider a range of operational matters including organisational infrastructure, capacity-building and trialling practice.

The project involves VACCA taking increased responsibility for up to ten children whose case management is currently contracted to the organisation (to the fullest extent possible without actual authorisation of their principal officer). Within the pilot, key case planning decisions made by VACCA are endorsed by DHS, who will also partner with VACCA as appropriate where a matter is before the Children's Court. The project will undergo a 12 month evaluation to examine:

- future implementation considerations;
- key aspects of the implementation process; and
- organisation infrastructure, capacity and other resourcing requirements.

¹³ http://www.dhs.vic.gov.au/data/assets/pdf_file/0010/586081/ecec_best_interest_framework_proof.pdf, accessed 13 November 2013.

http://www.dhs.vic.gov.au/data/assets/pdf_file/0011/580934/Aboriginal_cultural_competence_2008.pdf, p 10, accessed 13 November 2013.

¹⁴ http://www.cyp.vic.gov.au/childsafetycommissioner/downloads/childsafes_organisation.pdf, accessed 13 November 2013.

¹⁵ VACCA Submission in response to the Child Safe Organisations Issues Paper, page 4, November 2013. Available from <http://www.childabuseroyalcommission.gov.au/wp-content/uploads/2013/10/35.-Victorian-Aboriginal-Child-Care-Agency.pdf>, accessed 13 November 2013.

Protocol between DHS Child Protection and the Victorian Aboriginal Child Care Agency

The 2002 Protocol between DHS Child Protection and VACCA establishes the consultation process necessary for ensuring a culturally informed and effective response to the protection of Aboriginal children from harm.¹⁶

The aims of the protocol are to:

- include an Aboriginal perspective in risk and safety assessments of Aboriginal children;
- improve case planning and decision-making for Aboriginal children;
- improve the engagement of Aboriginal families with relevant support services; and
- improve the involvement of family and community members in providing support for Aboriginal children.

The Protocol sets out the broad roles and responsibilities for DHS and VACCA in responding to children, and provides for the establishment of a specialist child protection consultation service, the Aboriginal Child Specialist Advice and Support Service (ACSASS). A key role of ACSASS is to facilitate communication and understanding between Aboriginal children and families and DHS child protection practitioners. ACSASS is operated by VACCA in most parts of Victoria, while the Mildura Aboriginal Corporation, also known as Mallee District Aboriginal Services, provides ACSASS in the state's north west.

3.7 Support for children with disability in out of home care

Children with disabilities in out of home care are especially vulnerable to abuse and may require specialist support. The *Children, Youth and Families and Disability Services Operating Framework* (April 2012) sets out an approach to integrating services provided to vulnerable children and young people by child protection and disability practitioners. The operating framework is based on the 'best interests' principles and case practice model and sets out practice requirements where children and young people with disabilities are placed in the out of home care system. The framework requires:

- senior operational oversight;
- early identification of and reporting on children and young people with disabilities in out of home care;
- reporting on children and young people with disabilities in voluntary care or placement arrangements; and
- involvement of disability practitioners in care and case planning.

The recent organisational restructure at DHS supports the framework by enabling decisions affecting clients to be made at the local level based on a person's needs and circumstances. This new approach means that a client's primary relationship with DHS is through the local Area office, where people seeking support can have diverse needs met through a holistic and collaborative response.

Other initiatives include:

- The establishment of the Office for Professional Practice, which brings together expertise from child protection and disability services to improve, support and monitor practice across DHS. The establishment of the office has resulted in an increase in requests for consultation and advice from child protection workers in relation to children and young people with disabilities in out of home care.
- Services Connect – a new model of integrated human services in Victoria, designed to connect people with the right support, address the whole range of a person's or family's needs, and help people build their capabilities.
- The development of an integrated approach to working with fifteen children living in out of home care in the DHS West Division. The children involved in this initiative have a diagnosed intellectual disability, present with multiple behaviours of concern and many involved with the youth justice system. The Division's Specialist Services supports out of home care providers with education and training in positive behaviour support, the impact of trauma on children, health and human relations, person-centred practice and disability-specific training.
- A model of accommodation support for young people aged between 12 and 18 years who are involved with child protection and have intellectual disabilities. The service is provided by a CSO with significant support from Area-based disability practitioners and Services Connect.

3.8 Clients with sexually abusive behaviours

In Victoria, the CYF Act provides for DHS to receive reports for children requiring therapeutic treatment. The legislation enables the Children's Court to order a child, who is over the age of 10 and under 15 years, into therapeutic treatment and, where necessary for that treatment, place the child in out of home care. The provisions within the legislation are intended to supplement and not replace voluntary access to treatment.

¹⁶ http://www.dhs.vic.gov.au/_data/assets/pdf_file/0010/442594/protocol-child-protection-aboriginal-child-care-agency-vacca.pdf, accessed 13 November 2013.

3.8.1 Therapeutic Treatment Orders

A child may be placed on a Therapeutic Treatment Order and/or a Therapeutic Treatment (Placement) order if the Family Division of the Children's Court is satisfied that the child has exhibited sexually abusive behaviours and that the order is necessary to ensure the child's access to, or attendance at, an appropriate therapeutic treatment program. The orders remain for up to 12 months but can be extended for a further 12 months.

Any member of Victoria Police, the community or the Criminal Division of the Children's Court may make a therapeutic treatment report to DHS. When either Victoria Police or the Criminal Division of the Children's Court makes the report, DHS must refer the matter to the Therapeutic Treatment Board for advice.

3.8.2 Therapeutic Treatment Board

Part 4.13 of the CYF Act provides for the establishment of the Therapeutic Treatment Board. Members are appointed by the Governor in Council on the recommendation of the Minister from persons nominated by:

- the Chief Commissioner of Victoria Police;
- the Director of the Office of Public Prosecutions;
- the Secretary DHS; and
- health services considered appropriate by the Minister.

There are currently 16 members of the Therapeutic Treatment Board. The role of the board is twofold: first, to evaluate and advise the Minister on services available for the treatment of children in need of therapeutic treatment; secondly, to provide advice to Child Protection regarding the suitability of a Therapeutic Treatment Order for a child aged between 10 and 14 years.

3.8.3 Sexually Abusive Behaviour Treatment Services

Victoria funds 12 Sexually Abusive Behaviour Treatment Services (SABTS) to provide treatment to any child aged 10 years and under 15 years who has or is exhibiting sexually abusive behaviours for a period of between 12–24 months. The services can be accessed via a number of pathways including:

- direct referral by the family/young person;
- referral from DHS to the service after a therapeutic treatment report has been made and the family is willing to access the service with no legal intervention; and
- referral from DHS to the treatment program after a therapeutic treatment order or therapeutic treatment (placement) order has been made by the Family Division of the Children's Court.

The SABTS use a common assessment framework, with an increased focus on interventions with the child or young person's family, school and community, as well as collaborative service provision with Child Protection and police to address the broader needs of the child or young person.

An evaluation of the SABTS is in its final stages.

3.8.4 Male Adolescent Program for Positive Sexuality

The Male Adolescent Program for Positive Sexuality (MAPPS) provides an intensive group treatment program and, where assessed as appropriate, individual and family sessions for adolescents throughout Victoria who have been found guilty of a sexual offence.¹⁷

All MAPPS clients are on court orders supervised by the DHS Youth Justice service. Youth Justice provides services to young people aged from 10 to 21 years on community-based orders and custodial sentences imposed by the courts under the CYF Act.

Established in 1993, MAPPS is Victoria's first offence-specific program to target adolescent perpetrators of sexual abuse. Since 1999, the program has been conducted through the Adolescent Forensic Health Service to provide a range of health interventions for Youth Justice clients. The importance of intervention in adolescence is shown by:

- The extent of sexual offending by adolescents—approximately 20 per cent of recorded sex offences are committed by adolescents and it is estimated that 30–50 per cent of child molestation cases are perpetrated by adolescent males.
- Early intervention prevents future victims—sex offenders are likely to commit multiple offences over the course of a lifetime, with the majority of adult sex offenders beginning their offence pattern in adolescence.

¹⁷ http://www.dhs.vic.gov.au/_data/assets/pdf_file/0006/582486/youth-justice-factsheet-MAPPS.pdf, accessed 13 November 2013.

- The need for early intervention before the behaviour becomes chronic and ingrained—adolescence is a developmental period with more potential for behaviour change and positive sexual identity formation than later in adulthood.

The accountability process begins in court and continues in treatment. MAPPS emphasises the young man accepting responsibility for his offending behaviour and for making the changes necessary to lead a life without offending. The program's aims are to reduce the:

- incidence of sexual abuse in Victoria; and
- offender's risk of reoffending through the development of knowledge, skills and attitudes to manage his life without further offending.

4 Oversight and regulation of out of home care

Victoria's approach to the oversight and regulation of out of home care includes:

- legislation to underpin the establishment of practice standards;
- a regulatory framework for the service system; and
- requirements that focus on the appropriateness of care providers and the safety of children and young people in care.

These elements seek to prevent abuse occurring and ensure appropriate responses.

Out of home care services in Victoria are subject to oversight by a number of independent bodies, including:

- the Victorian Auditor-General;
- the Ombudsman; and
- the Commission for Children and Young People.

All of these bodies have taken an active interest in the delivery of out of home care services in Victoria over recent years. In addition, DHS, as the government department responsible for funding and regulating out of home care services, ensures CSO performance is subject to ongoing monitoring and scrutiny.

All out of home care services, including those directly delivered by DHS, are subject to independent audit on a three-yearly basis (including mid-cycle reviews at 12–18 months), and spot audits on an as-needs basis. DHS also publishes data about quality of care investigations in its Annual Report.

In response to the Cummins inquiry, DHS is developing a risk-based approach to CSO monitoring. Those CSOs identified as high risk will be subject to a higher level of monitoring and oversight at a local and state level.

4.1 The Victorian Auditor-General

The Victorian Auditor General's Office (VAGO) conducts performance audits to evaluate whether an organisation or government program is achieving its objectives effectively, efficiently and in compliance with all relevant legislation. VAGO is currently conducting an audit examining the effectiveness of the DHS' residential out of home care services program. This audit is focusing on whether:

- children and young people are in appropriate residential care services that meet their needs; and
- the residential care service system is subject to effective oversight and review.

This audit is scheduled to be tabled in the Victorian Parliament in March 2014.

Other recent VAGO inquiries relevant to the delivery of out of home care services have included:

- *The State of Victoria's Children Performance Reporting*—May 2013
- *Addressing Homelessness - Partnerships and Plans*—February 2013
- *Student Completion Rates*—November 2012
- *Carer Support Programs*—August 2012
- *Partnering with the Community Sector in Human Services and Health*—May 2010
- *Working with Children Check*—October 2008

4.2 The Victorian Ombudsman

The Ombudsman promotes excellence in public administration in Victoria and seeks to ensure high standards of public sector service delivery to all Victorians. The Ombudsman can inquire into or investigate administrative actions taken by a government department or public statutory body or by any member of staff of a municipal council. The Ombudsman has the power to investigate complaints about Victorian government authorities including DHS.

In May 2010, the Victorian Ombudsman completed his 'own motion' investigation into Victoria's out of home care system. The Ombudsman made 21 recommendations regarding improving the out of home care system. All but one recommendation was accepted and implementation of 17 of the 20 recommendations has been completed.

Other recent Ombudsman's investigations of relevance include:

- *Investigation into Secure Welfare Service*—2013.
- *Investigation of Storage and Management of Ward Records by the Department of Human Services*—March 2012.

- *Investigation regarding the Department of Human Services' Child Protection Program (Loddon Mallee Region)*—October 2011.
- *Investigation into the failure of agencies to manage registered sex offenders*—2011
- *Investigation into the Department of Human Services' Child Protection Program*—2009.
- *Improving Responses to Allegations involving Sexual Assault*—2006

4.3 Commission for Children and Young People

The Victorian Government established the Commission for Children and Young People (Commission) in March 2013, implementing commitments made in *Victoria's Vulnerable Children – Our Shared Responsibility* directions paper released in 2012.

The Commission replaced the former Office of the Child Safety Commissioner and holds advocacy and investigatory functions as well as a preventative function. The Commission reports directly to the Victorian Parliament. It builds on many of the functions of the former Child Safety Commissioner, including promoting the safety and wellbeing of children; monitoring out of home care; undertaking inquiries into the deaths of children known to child protection; and auditing the administration of Victoria's Working with Children Check scheme.

Consistent with recommendation 89 of the Cummins inquiry, the Commission has expanded responsibilities including the power to initiate inquiries into government and government-funded organisations. These can be individual inquiries in relation to the safety and wellbeing of a vulnerable child, or systemic inquiries, where the Commission identifies persistent or recurring issues in health services, human services or schools which are impacting on the safety and wellbeing of children and young people.

The recently appointed Commissioner for Aboriginal Children and Young People oversees policies and practices in recognition of the particular vulnerabilities and significant overrepresentation of Aboriginal children and young people in the child protection system. Victoria is the only jurisdiction in Australia to have a dedicated Commissioner for Aboriginal children and young people.

Section 8(1) of the CCYP Act states that among other functions, the Commission is to:

- provide advice to Ministers, Government Departments, health services and human services about policies, practices and the provision of services relating to the safety or wellbeing of vulnerable children and young persons;
- monitor and report to Ministers on the implementation and effectiveness of strategies relating to the safety or wellbeing of vulnerable children and young persons; and
- provide advice and recommendations to the Minister about child safety issues, at the request of the Minister.

To assist the Commission to undertake these functions, DHS provides the Commission with:

- all Category One incident reports that relate to children in out of home care, including quality of care matters;¹⁸
- a quarterly Category One incident data report (including incident date; incident type; program; facility/CSO and client details); and
- all outcome reports for quality of care investigations.

4.4 Department of Human Services role

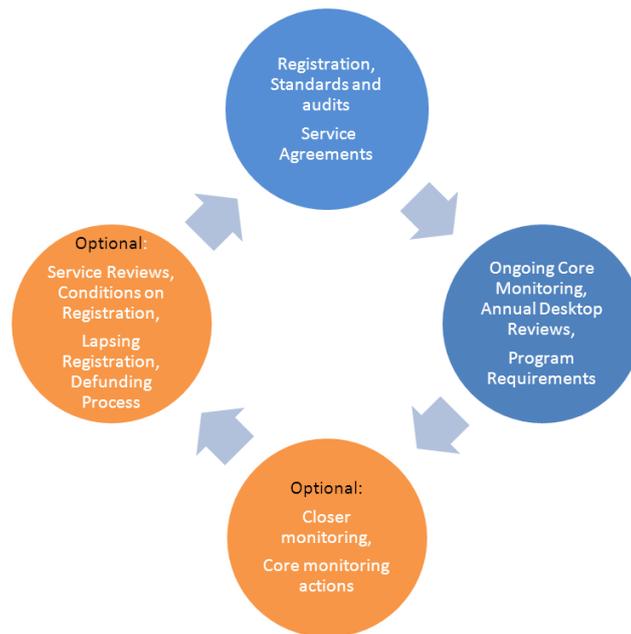
DHS regulates Victoria's out of home care services and engages with CSOs on an ongoing basis to ensure early identification of concerns and continuous improvement of service quality.

The CYF Act promotes high-quality services through a framework for registration and quality assurance of CSOs, including the development of performance standards for out of home care services and the granting of powers of inspection and visitation to DHS. The CYF Act provides for the Minister to determine performance standards and requires a CSO to comply with the relevant performance standards applicable to that community service.

Figure 1 summarises DHS' regulation and monitoring framework for out of home care providers. Key elements are registration, service agreements and regular assessment of compliance with DHS Standards.

Throughout the year, CSOs engage with DHS about their regular and ongoing reporting requirements and on an annual basis DHS assesses performance risks associated with the CSO and determines if further monitoring actions are required. In a small number of cases, a CSO will require a service review.

¹⁸ Incident reporting and quality of care processes are discussed in Parts 7.4 and 7.5.

Figure 1: Regulation and monitoring of out of home care providers

Reflecting earlier concerns raised by the Ombudsman and the Victorian Auditor-General, the 2012 Report of the *Protecting Victoria's Vulnerable Children Inquiry* (the Cummins inquiry) recommended that DHS retain responsibility for the regulation and monitoring of CSOs delivering out of home care, provided this function is independent and subject to independent oversight (recommendation 86). In July 2011, the Standards and Regulation Unit was established as a specialised and independent unit to strengthen the regulation of funded CSOs.

The recent restructure of DHS, completed in December 2012, further clarifies the separation of the department's policy, funding and regulatory functions. In particular, the branches responsible for accreditation, registration and monitoring of CSO performance against the DHS Standards, and coordination of the DHS monitoring framework, are structurally separated from branches with policy functions and responsibility for funding new programs or services. Day to day decisions regarding service agreements and funding arrangements for particular CSOs, and placement of children, are made at Divisional/Area level.

Adoption of an area-based approach to the planning, delivery and monitoring of out of home care services and outcomes (consistent with an element of Cummins inquiry recommendation 25) ensures an integrated, client-centred approach to service delivery and facilitates close engagement with CSOs at the local level (through new Local Connections teams). Standards of care are monitored so that concerns can be identified. DHS places a strong focus on early identification of, and action on, quality of care issues in order for concerns to be addressed before abuse occurs. This approach combines local responsiveness to the needs of children and those providing their care with central independent oversight and monitoring.

In addition, in response to recommendations made by the Cummins inquiry, DHS is placing greater value on public transparency as a means to further drive CSO compliance and child safety. The Cummins inquiry recommended that the enforcement of regulation should be monitored, with the results reported to the public on a systematic basis. The Cummins inquiry considered that annual reports should include information about:

- registration of CSOs and their performance against standards;
- registration and disqualification of out of home carers;
- Category One critical incidents;
- quality of care concerns, investigations of abuse in care and formal care reviews; and
- actions taken against CSOs.

In response, in the 2012-13 Annual Report, DHS provided additional information including the number of registered organisations, the number of organisations with revoked or lapsed registration and the numbers of organisations certified against the DHS Standards. DHS also publishes data about quality of care investigations in its Annual Report.

4.5 Registration and accreditation of out of home care providers

4.5.1 The Children, Youth and Families Act 2005

Part 3.3 of the CYF Act legislates the requirement for CSOs providing out of home care services to be registered, monitored and reviewed against performance standards. Prior to registration or renewal of registration, organisations are required to demonstrate their full compliance with the DHS standards.

The CYF Act requires that the Secretary DHS keep a register of community service providers and that a copy of the register of community services be available for inspection on the DHS internet site.¹⁹

4.5.2 Service agreements

All registered CSOs that provide out of home care have a service agreement with DHS. Service agreements with out of home care providers are negotiated, overseen and monitored by DHS Divisions where senior operational and local engagement staff work on a daily basis with CSOs.

Service agreements establish minimum and mandatory requirements for a range of matters including:

- service delivery specifications and arrangements;
- quality of service delivery and compliance with DHS Standards;
- targets, performance indicators and data collection, monitoring and reporting requirements;
- funding; and
- relevant legislation, policy and practice guidance with which the provider will comply.

Service agreements oblige CSOs to observe the requirements of DHS policies, including:

- *Critical client incident management instruction* (2011);
- *Responding to allegations of physical and sexual assault* (2005); and
- child protection and out of home care practice policies such as criminal records check, quality of care requirements, and case management functions.

The 2012–2015 Service Agreement also requires CSOs to attest annually that they are managing their risk according to the Australian and New Zealand risk management standard. The aim of this attestation is to ensure that CSOs are considering their risk and putting strategies in place as part of effective governance processes. The Victorian Managed Insurance Authority (VMIA) runs information sessions on risk management processes to support the attestation. The new policy guideline provides assistance for CSOs, and VMIA has a range of training and tools available to support CSOs with their risk management processes.

4.5.3 DHS service standards and program requirements

The DHS Standards are a single set of service delivery standards for a range of DHS-funded programs providing services to clients.

The service agreement clause ‘compliance with the standards’ specifies that CSOs must undertake a performance review against the DHS Standards by an independent review body (IRB) once every three years and obtain and retain accreditation. DHS endorses IRBs which accredit and review service providers against the DHS Standards as well as their own governance and management standards. The IRB provides a copy of the audit report to DHS, and DHS may choose to publish information about the organisation’s performance.

There are four standards, each with 16 criteria:

1. **Empowerment:** People’s rights are promoted and upheld.
2. **Access and Engagement:** People’s right to access transparent, equitable and integrated services is promoted and upheld.
3. **Wellbeing:** People’s right to wellbeing and safety is promoted and upheld.
4. **Participation:** People’s right to choice, decision-making and to actively participate as a valued member of their chosen community is promoted and upheld.

Organisations are externally reviewed against the Standards once every three years and CSOs must also meet the IRB’s mid-cycle review requirements at the 12–18 month mark. Through the accreditation process, IRBs will inform CSOs of any governance areas requiring improvement and propose actions to address these issues. IRBs must directly inform DHS where there are immediate notifiable issues, for example if staff file audits find that the CSO is found to be non-compliant with the Working with Children Check scheme.

¹⁹ <http://www.dhs.vic.gov.au/for-service-providers/children,-youth-and-families/Community-service-organisations/registration-requirements-for-community-services>, accessed 13 November 2013.

CSOs subject to the Standards can access all relevant information about the Standards and mandatory requirements online.²⁰

In addition to the Standards, out of home care providers must comply with specific guidelines and service requirements set out in the following documents:

- *Program requirements for home-based care in Victoria* (July 2012);²¹ and
- *Program requirements for residential care services in Victoria* (July 2012).²²

The *Program requirements for home-based care in Victoria* provide a common benchmark for home-based care practice requirements for DHS and CSO staff to ensure a consistent approach to high-quality service delivery. CSOs must make certain the care environment is suitable to ensure a safe and appropriate environment for children. The requirements compel CSOs providing foster care to:

- have an effective carer recruitment strategy;
- utilise the mandatory Victorian foster care assessment tools, panel approval and review processes for carers;
- provide mandatory pre-service training prior to a carer taking on the care of a child, and provide targeted professional development thereafter;
- monitor and address the quality of care provided by carers on an ongoing basis; and
- supervise and support carers effectively.

CSOs providing kinship care are required to:

- monitor and address the quality of care and the suitability of the home environment provided by carers on an ongoing basis;
- identify suitable, targeted training and information sessions for carers as required and facilitate carer participation; and
- supervise and support carers effectively, including providing kinship carer support groups.

The *Program requirements for residential care in Victoria* are the essential prerequisites for providing a quality service for the children and young people in residential care throughout Victoria. CSOs must use these requirements in conjunction with the DHS Standards and their own operational and procedural documentation. The requirements cover:

- practice approaches;
- environment and material goods expectations; and
- organisational and human resource requirements.

4.6 Monitoring and supporting out of home care providers

The *Department of Human Services Monitoring Framework* describes how DHS monitors compliance with service agreement requirements and a CSO's service quality and sustainability. The monitoring framework provides an overarching set of policies, guidelines and tools to support DHS staff to monitor CSO compliance with requirements. The framework applies risk management principles and provides for active monitoring of compliance through:

- ongoing core monitoring processes;
- an annual desktop review;
- additional core monitoring actions such as meetings to address specific issues; and
- a service review undertaken following an adverse desktop review outcome.

Service reviews, undertaken as either an internal review or by a consultant, have previously resulted in the withdrawal of funding from CSOs for a specific out of home care program or the withdrawal of all funding from a CSO.

Recommendation 85 from the Cummins inquiry stated that:

The Department of Human Services should adopt a risk-based approach to monitoring and reviewing of community service organisation performance, involving greater use of unannounced inspections and reviewing the performance of higher risk agencies more frequently than lower risk agencies.

In response, DHS is developing a risk-based approach to CSO monitoring. Those CSOs identified as high risk will be subjected to a higher level of monitoring and oversight at a local and state level. This new approach is

²⁰ <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/department-of-human-services-standards>, accessed 13 November 2013.

²¹ <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/program-requirements-for-home-based-care-in-victoria>, accessed 13 November 2013.

²² <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/program-requirements-for-residential-care-services-in-victoria>, accessed 13 November 2013.

part of a suite of reforms that align with the new DHS organisational structure and place a much greater emphasis on performance management of funded organisations.

4.6.1 Support for CSOs

Service agreements place a range of service delivery, quality and reporting obligations on CSOs and DHS has established systems and mechanisms to support CSOs to meet these obligations. Engagement with CSOs, and support of service delivery, is the responsibility of the three levels of the DHS organisational structure, i.e. the 17 DHS Areas, four Divisions across the state, and within the central office structure.²³

The 17 DHS Areas have primary responsibility for:

- CSO engagement, support, capacity building, and monitoring; and
- informing the broader oversight of CSO management and performance that occurs at the Divisional level within DHS.

The four DHS Divisions have responsibility for:

- a performance management system for internal and external services;
- quality improvement initiatives;
- strategic planning and business intelligence capability, strategic input into service implementation, and oversight of funded-sector performance and reform;
- oversight, support, and coordination of engagement and monitoring activities; and
- implementation and monitoring of actions following adverse findings in the CSO review process.

As indicated above, CSOs have access to a range of resources to support them to meet their obligations including:

- the DHS Policy and Funding Plan 2012–2015;
- the online Service Agreement Information Kit, which includes guidelines to assist understanding of Service Agreement obligations, and key department policies;
- the Funded Agency Channel, which provides CSOs with online access to their service agreement, associated program requirements and other departmental applications and resources;
- information resources concerning new program requirements, and policy changes;
- forums and training run for CSOs to support changes to obligations or program requirements;
- guides and tools to support the annual and independent review processes; and
- tools to promote effective governance arrangements.

4.7 Additional regulatory and oversight options

4.7.1 Independent regulation or oversight

The Cummins inquiry made a clear distinction between regulation and oversight of out of home care. The Inquiry recognised the importance of DHS as a regulator in responding immediately when critical incidents occur and/or allegations of abuse are made. The Cummins inquiry recommended that DHS retain responsibility for the regulation and monitoring of CSOs delivering out of home care, subject to independent oversight by the Commission. Given the importance of ensuring a rapid and agile response when critical incidents occur, the Victorian Government agrees that independent oversight is more appropriate than independent regulation.

Under the CYF Act, the Secretary DHS has significant responsibility for the protection of children at risk. In some cases, the Secretary also has custody or guardianship of children placed in out of home care. The Cummins inquiry noted that allowing an external agency to register and monitor a CSO could allow DHS to avoid responsibility for the performance of CSOs.²⁴

Commission for Children and Young People

As outlined above, and consistent with the Cummins inquiry's recommendations, the Commission receives copies of all Category One incident reports relating to children in out of home care, a quarterly incident data report, and outcome reports for all formal care reviews and investigated quality of care matters. The Commission is also now vested with the power to initiate own-motion inquiries into the safety and wellbeing of individual vulnerable children and into persistent or recurring issues in health services, human services or schools.

The former Child Safety Commissioner undertook inquiries at the request of the Minister which have contributed to policy and practice improvements in out of home care. For example, in 2011–12, a review was

²³ <http://www.dhs.vic.gov.au/about-the-department/our-organisation/organisational-structure>, accessed 13 November 2013.

²⁴ Report of the *Protecting Victoria's Vulnerable Children Inquiry*, January 2012, p 507. Available from <http://www.childprotectioninquiry.vic.gov.au/report-pvvc-inquiry.html>, accessed 13 November 2013.

undertaken into circumstances and case practice in relation to a cohort of high risk young people in out of home care, most of whom had histories of sexual abuse and/or sexual exploitation. The outcomes of this review have informed new approaches to strengthen collaborative practice with high risk young people, particularly in relation to assertive responses to the risk of sexual exploitation and training for residential carers.

Additionally, the Commission is currently finalising a further inquiry reviewing practice in the matter of multiple current and former child protection clients in contact with a convicted sex offender. The review is focusing on the system interface, communication and collaboration between DHS, Victoria Police and CSOs involved in the cases.

Additional national oversight

In light of the recent strengthening of the powers of the Commission, the Victorian Government does not consider that national oversight would be a cost-efficient or effective strategy for out of home care providers in Victoria (46 CSOs). A national body would duplicate the powers and functions of the Commission and similar bodies in other states and territories.

Existing regulation and monitoring of out of home care providers takes account of local needs and is responsive to regional variation. A state-based regulator is more likely to be familiar with local contexts and service delivery challenges on the ground. The new DHS structure facilitates close engagement with CSOs at the local level, for example, through the new Area-based Local Connections teams and the divisional Client Outcomes and Service Improvement Branches in each of the four DHS Divisions.

Further, many CSOs provide multiple services, such as out of home care, family support services and disability services. DHS has worked to streamline regulatory processes and reduce red tape for CSOs delivering multiple services in Victoria, for example through the introduction of consistent quality standards. Additional national oversight, specifically for out of home care providers, could create a disproportionate administrative burden on these providers, distract resources from the delivery of care and undermine these efforts.

4.7.2 Independent or community visitors

Rates of disclosure of sexual abuse by children are low, even in family contexts where the child is likely to have close relationships with a number of trusted adults to whom they could potentially disclose abuse.

There is currently no independent visitor scheme for children and young people in out of home care in Victoria. Youth Justice Custodial Services has engaged the Commission to implement an independent visitor program within youth justice centres. This program involves volunteer visitors visiting youth justice centres on a regular basis to ensure children's interests and rights are being protected while they are incarcerated. An independent visitor program for secure welfare (residential care) services is expected to be introduced in 2014.

An independent visitor scheme is appropriate to safeguard the rights of children who are incarcerated or subject to significant restrictions on their freedom and movement. The benefits of an independent visitor program in out of home care could include independent assessment of the physical care environment, adequacy of supplies and equipment, and availability of and access to community-based activities.

In an out of home care setting, however, where the child may lack close connections with a number of trusted adults (particularly in residential care), introducing another stranger into the child's life may not lead to an increase in disclosures of sensitive matters such as abuse or complaints about inappropriate behaviour. Nor are independent visitors likely to be able to detect inappropriate or grooming behaviour by potential offenders, who employ elaborate techniques to establish relationships of power and control over victims. Furthermore, evidence shows that complaints and concerns raised with independent visitors in Youth Justice generally relate to food, environment, and educational and recreational activities, rather than concerns about security, bullying or personal safety.²⁵

The Victorian Government considers that independent visitor schemes should be carefully examined to ensure there is evidence that they prevent or detect child sexual abuse.

For example, such aims could be achieved through a greater focus on empowering and encouraging children to report through existing means, such as:

- the 'best interests' practice model undertaken by key case managers and care teams which seeks to build key relationships of trust with the child or young person;

²⁵ Commission for Children and Young People (2013), *Independent Visitor program for Youth Justice Centres: Quarterly report for January–March 2013*.

- providing children and young people with linkages with other protective and responsible adults by maximising their opportunities for engagement with education and other community-based pursuits; and
- more extensive training and support being provided to carers and staff regarding recognising and understanding the dynamics and signs of sexual abuse.

Victoria's existing core monitoring requirements also flag issues of concern and enable the scaling up of responses in a systemic manner.

5 Regulating, training and supporting carers

The competencies, skills and personal attributes of carers are central to the provision of high quality out of home care services, and help to prevent a child or young person from experiencing sexual abuse. Victoria has a range of checks and other requirements in place to ensure that persons providing out of home care are screened, trained and supported in their role.

Approval of out of home carers (foster and residential carers) is governed by Part 3.4 of the CYF Act. This provides that an out of home care service must have regard to prescribed matters before approving a person as a foster carer, employing them as a residential carer or engaging them to provide services to children in residential care. The prescribed matters include:

- the person's criminal history;
- suitability;
- their fitness, medical (including psychiatric) health; and
- their skills, experience and qualifications.

The *Working with Children Act 2005* also places obligations upon employers of persons who carry out child-related work (including foster carers). The screening and assessment of kinship carers is undertaken by DHS and differs from foster care assessment in that the assessment of the carer is specific to their appropriateness as a carer for a particular child.

All foster and residential carers in Victoria must be registered. Victoria and NSW are the only Australian jurisdictions with carer registers.

All carers in Victoria receive training to ensure they have the necessary skills to care for children in out of home care, who often have a history of trauma and may be particularly vulnerable to further abuse. Carer and placement support and supervision also enable the out of home service to monitor children's outcomes and to support carers to provide the best possible care and further their professional development. The Program Requirements for home-based care and residential care set out the expectations for CSOs in relation to the recruitment, assessment, training, support and monitoring of carers.

5.1 Pre-employment screening

In Victoria, DHS uses both criminal history checks and Working with Children Checks (WWCCs) to mitigate against the risk of approving or employing unsuitable carers. The police records check provides immediate information pending the finalisation of the WWCC as well as ensuring that other relevant non-child-related offences are considered in determining the overall suitability of the prospective employee or carer. The WWCC then provides ongoing monitoring of cardholders for child-related offences in Victoria.

5.1.1 Criminal history (police record) checks

Under the Program Requirements and the DHS Criminal history checks policy, out of home care organisations are required to undertake national criminal history checks as part of the approval process for:

- foster carers and lead tenants and as part of the recruitment process for residential carers;
- other employees or contractors with direct client contact; and
- people providing services involving direct client contact in a residential setting (such as tutors and recreational staff).²⁶

Usual members of the household in foster care settings (including spouses/partners, children aged 18 and older and persons who regularly stay overnight) must also undergo a national criminal history check prior to any child being placed.

Similarly, for kinship placements, DHS is required to conduct a national criminal history check on all adults (18 years and over) living in or staying in the household. Through an agreement between Victoria Police and DHS, police provide a report to DHS of all findings of guilt with or without conviction regardless of age at the time of the offence, as well as any pending matters.

A national criminal history check is also carried out on proposed permanent carers and all adult members of their household no more than three months prior to the application being listed in court. In cases where the permanent placement is with a kinship carer, the checks are undertaken by DHS who directly manages kinship placements. In all other cases, the checks are undertaken by the responsible CSO.

²⁶ Child Protection Practice Advice number 1524, *Criminal history checks*
<http://www.dhs.vic.gov.au/cpmanual/practice-context/child-protection-program-overview/1524-criminal-records-check>,
accessed 13 November 2013.

National criminal history checks must be conducted at least once every three years for kinship carers, foster carers, lead tenants and all adult members of their households, and for direct care employees of CSOs that provide out of home care. If a check on an applicant for employment as a residential carer reveals a disclosable outcome, the CSO is required to seek the approval of DHS to employ the carer.²⁷

CSOs (and in the case of kinship care, DHS) are also required to carry out international police checks in relation to prospective carers who have lived overseas for a cumulative period of 12 months or longer. Where an international police record check cannot be made, referee checks must be conducted with at least two individuals who personally knew the individual while they were residing in the other country/countries.²⁸

CSO compliance with criminal history check requirements is monitored as part of the process of independent review against the DHS Standards. A sample of staff and carer files is audited against the mandatory checklist, which includes checking for evidence that criminal history checks has occurred.

5.1.2 Working with Children Check

As discussed in the Victorian Government response to Issues Paper 1, any person engaged in or intending to do child-related work in Victoria (including as a volunteer) must have a WWCC. A WWCC assessment notice allows a person to engage in child-related work for five years, during which time Victoria Police undertake ongoing weekly monitoring of relevant Victorian offences.

It is the responsibility of out of home care providers to determine the staff and volunteers who require a WWCC and to ensure they have a valid card. Out of home care providers must also ensure new starters apply for a WWCC before they commence working or volunteering.

As outlined in Parts 4.4 and 4.5, DHS monitors compliance with this policy through the process of independent reviews of CSOs against the DHS Standards.

As advised in the Victorian Government submission in response to Issues Paper 1, DHS does not require kinship carers to have a WWCC. The broader assessment procedures, undertaken prior to and during kinship care placements, provide for a security screening regime and suitability assessment that is equal to or greater in scope than that provided by the WWCC.

Kinship carers are not required to hold a WWCC on the basis that:

- kinship care arrangements commonly arise in the context of a family crisis (unlike foster and residential care placements where carers are pre-assessed) so it would be impractical to require a WWCC prior to placement;
- kinship carers are specifically targeted by DHS to care for an individual child, consistent with section 10(3)(h) of the CYF Act, which requires that, in practical terms, kinship care is considered and investigated before any other placement option. Unlike foster care applicants and residential care employees, kinship carers are not persons seeking an opportunity to care for vulnerable children; and
- the burden associated with obtaining a WWCC may create disincentives for kinship carers to provide voluntary care for a child in need of protection. Should a kinship carer not comply with the requirement to obtain a WWCC, DHS would need to consider alternative placements which may be less suitable for maintenance of the child's linkages with their family.

Similarly, new permanent carers are not required to have a WWCC. The criminal records check and other assessments made in relation to the applicant's suitability are considered adequate prior to a court order being made. Given that custody and guardianship of the child is transferred to the permanent carer (such that they become the child's legal parent until the child reaches the age of 18), it is not considered appropriate for the carer's criminal record to be subject to ongoing monitoring. Where a child in permanent care is identified as at risk of harm arising from abuse, the carer may be the subject of a report to DHS child protection services.

5.2 Carer assessment, approval and registration

Carer assessment and approval are critical to providing high quality care, through ensuring a protective and nurturing out of home care environment.

As noted earlier, the approval of kinship carers is undertaken by DHS and differs from foster care approval in that the assessment of the carer is specific to their appropriateness as a carer for a particular child.

²⁷ A summary of disclosable offences can be found here: http://www.dhs.vic.gov.au/data/assets/pdf_file/0011/482573/1524-appendix-1-summary-list-of-disclosable-offences.pdf, accessed 13 November 2013.

²⁸ Child Protection Practice Advice number 1524, *Criminal history checks*: <http://www.dhs.vic.gov.au/cpmanual/practice-context/child-protection-program-overview/1524-criminal-records-check>, accessed 13 November 2013.

Registered out of home care services are responsible for approving foster and residential carers. Screening and assessment must be fully completed prior to a child being placed with a carer. Under Part 3.4 of the CYF Act and Regulations, CSOs must have regard to the person's suitability against the following criteria (in addition to criminal history and WWCC requirements described above):

- the person's medical (including psychiatric) health;
- the person's skills, experience and qualifications;
- the person's capacity to provide stability for a child;
- the capacity of the person to promote and protect a child's safety, wellbeing and development;
- the person's capacity to provide appropriate support to the maintenance of a child's cultural identity and religious faith (if any);
- the person's capacity to develop a positive relationship with a child;
- the person's capacity to develop positive relationships and to work collaboratively with a child's family;
- the capacity of the person to develop a positive relationship and to work collaboratively with child protection services, registered out of home care services and professional providers of services to children; and
- the person's general character.

5.2.1 The carer register

All foster and residential carers in Victoria must be registered.²⁹ Victoria and NSW are the only Australian jurisdictions with carer registers.

Under Part 3.4 of the CYF Act, DHS is required to maintain a carer register that records the approval status of carers and the CSO with whom they are associated. The CYF Act requires all approved foster and residential carers (including casual workers) to be registered with a particular provider before caring for children. The register is held by DHS.

CSOs inform DHS of the approval, employment or engagement of a carer by formally registering the carer on the register. CSOs are responsible for ensuring that all of their carer records on the register are kept up to date and are an accurate reflection of their carer pool.

In 2008, DHS established an electronic Carer Register that records details of all out of home carers and manages the details of carers under investigation or carers who have been disqualified. CSOs submit details of prospective carers to DHS to be checked against the details held on the register.

CSOs can view all registered carers associated with their organisation and if a carer ceases to provide out of home care, for whatever reason, the CSO is responsible for revoking (closing) the carer record on the register within legislative timeframes. (Revoking a carer record is not the same as disqualification under the Act; where a carer's registration is revoked, the person may be re-registered in the future.)

The CYF Act states that a person who has been disqualified from the carer register may not be approved as a foster carer, employed as a carer by a residential out of home care service or engaged to provide services to children in residential out of home care. Victoria's out of home care Suitability Panel process determines whether a person should be disqualified and removed from the register of out of home carers.³⁰ If the Suitability Panel determines that a carer poses an unacceptable risk of harm to children, DHS will update the carer record to reflect that the carer is disqualified from providing out of home care in Victoria.

The CYF Act creates offences for an out of home care service to employ a person who has been disqualified by the Suitability Panel or without inquiring whether the person is disqualified. It is also an offence for a person to apply for work as an out of home carer while disqualified or to conceal the fact that they are under investigation as to their suitability (CYF Act, sections 99–122). Refer to section 7.6 for further information.

5.2.2 Residential carers

CSOs are required to thoroughly assess all applicants for work in residential out of home care services, including employees, contractors and volunteers. In addition to criminal history and WWC Checks, assessment includes:

- confirmation of qualifications and experience;
- confirmation that the applicant possesses the skills, personal attributes and competencies required to successfully fulfil the job they have applied for (through the interview process); and
- direct contact (either face-to-face or telephone contact) with two referees to confirm the applicant's suitability, including contact with the most recent employer.

²⁹ Kinship carers are assessed and approved, but do not need to be registered.

³⁰ The Suitability Panel is discussed further in section 7.6.

CSOs are expected to ensure that all new staff receive appropriate orientation and induction to the organisation, and are provided with copies of the CSO's policies and procedures, its mission statement and values, and its structure, including lines of accountability and roles and responsibilities.

5.2.3 Foster carers

The suitability of foster carers and their adult partners must be assessed using the mandatory competency-based carer assessment package *Step by Step Victoria (SxSV)* or *Step by Step Aboriginal Assessment Tool*. Assessments must be undertaken by a staff member trained in use of the tool. The tools incorporate assessment of attitude, skills, cultural competence and personal attributes. SxSV includes modules that promote awareness of, and competency in, understanding and responding to sexual abuse. Foster carers are assessed based on four key competencies—that they:

- provide a safe environment that is free from abuse;
- demonstrate a personal readiness to become a carer;
- promote the positive development of children in care; and
- have the ability to work as part of a team.

The assessment must include at least one home visit to conduct a 'home and environment check', and all household members (including children) must attend at least one information session.

Direct contact must be made (face-to-face or telephone) with three referees who have known the applicant for a minimum of two years (but are unrelated to the applicant), are still in contact with the applicant, and have observed the applicant's interaction with children. If an applicant has previously fostered with another CSO in Victoria or interstate, the CSO must contact these other CSOs to seek advice as to the applicant's suitability and competencies.

A foster care panel that includes representation from the CSO and DHS is responsible for approving foster carers. DHS representation on the panel is mandatory. The accreditation status of the carer must be specified by the panel (for example, the type of care, number, ages and gender of children to be cared for). Following approval, the CSO must have the foster carer registered within 14 days. Approval is for 12 months and is reviewed every year.

5.2.4 Kinship carers

Prior to any kinship care placement being made, DHS must assess and approve the carer. Assessment of kinship carers is undertaken by DHS child protection workers. In addition to the criminal history of the carer and other adult members of the household, this preliminary assessment of a prospective kinship carer prior to placement includes consideration of:

- the capacity of the carer to promote the child's safety, healthy wellbeing and development;
- checks on the suitability and fitness of the proposed carer to care for the child;
- discussions with the carer about safety and cooperation with DHS; and
- a check to determine the history, if any, of involvement of child protection in relation to the prospective carer's children.

Minimum assessment includes a home visit as soon as possible (generally within the first week of placement) to identify the suitability of the accommodation, the carer's capacity to care for the child, the carer's understanding of the child's needs, and any supports required by the carer, including specialist supports.

DHS maintains a continuous monitoring role over kinship care placements through regular home visits and contact with the child for the duration of the placement. Where case management of a kinship case is contracted to a CSO, DHS maintains oversight to ensure that practice requirements are met, including regular visitation to the placement.

The child protection practitioner must undertake and complete a comprehensive assessment for all kinship care placements that are likely to exceed three weeks. This assessment is to be completed within six weeks of the commencement of the placement, with the preliminary assessment as its basis. The comprehensive assessment should focus on the ability of the kinship carer(s) to meet the ongoing needs of the child and to engage in long-term planning for this child. This assessment should involve more than one visit and include the key members of the carer's family and household.³¹

Screening and assessment of kinship carers differs from the screening and assessment of foster and residential carers in recognition of the distinction features of kinship care, including that:

³¹ DHS child protection practice advice no. 1435: Kinship care & assessment (January 2013), "Comprehensive assessment", p.4. Available from http://www.dhs.vic.gov.au/cpmanual/out-of-home-care/kinship/1435-kinship-care-and-assessment?SQ_PAINT_LAYOUT_NAME=print_entire, accessed 13 November 2013.

- there is a pre-existing relationship between the child, family and the carer;
- the carer is being assessed to care for a specific child; and
- the carer is usually identified by the child or their family.

5.3 Training and support for carers

As previously noted, the competencies, skills and personal attributes of carers are central to high-quality out of home care and are a significant influence on the capacity of out of home care systems to promote the safety and wellbeing of children and young people.

The *Program requirements for home based care in Victoria* require CSOs to ensure that:

...carers have timely access to support, information and training that ensures they are competent to meet the specific needs of children in their care. For example, training may be required to ensure effective management of a medical condition, a disability, sexual assault, challenging behaviours, a therapeutic approach to care or any other special needs.

Pre-service training must be completed by foster carers, their partners and any other adults with a care-giving role in the household, prior to a child being placed with the carer.

5.3.1 Training requirements

Given the vulnerabilities of the population they work with, the program requirements for out of home care include distinct requirements for carer training and support across residential care, foster care and kinship care. These requirements oblige CSOs to provide training and development opportunities to ensure carers are competent to meet the specific needs of children in their care. Maintaining and growing the commitment to evidence-informed and practically-based training requires a well-coordinated effort across government and non-government sectors, professional bodies and educational institutions.

Training for those who work with children at risk of sexual abuse generally incorporates the following dimensions:

- principles of child development;
- an understanding of sexual development;
- the basics of sex education;
- developmental trauma;
- attachment and its role in healthy development;
- understanding sexual abuse dynamics; and
- signs and indicators of sexual abuse.

More information on these training dimensions, available specialist resources and the range of training providers is at Appendix D.

5.3.2 Residential care

For residential carers, the *Program requirements for residential care* include that CSOs should, wherever possible, recruit staff who have a combination of relevant qualifications and the appropriate personal skills and attributes.

CSOs are also required to:

- have an induction training program for new residential carers;
- have written policies and procedures in place:
 - concerning staff supervision;
 - to identify the development needs of direct care staff and supervisory staff; and
 - to manage critical or stressful incidents and the impact this has on staff and the children;
- provide the opportunities and resources required for the ongoing professional development of staff; and
- have a written code of conduct in place for all CSO staff and management, and ensure all CSO employees are aware of its requirements.³²

Residential carers employed by CSOs have a diverse set of qualifications and skills. The preferred qualification for residential carers in Victoria is the Certificate IV in Child, Youth and Family Intervention (Residential and Out of Home Care.) A 2012 census of the residential care workforce in Victoria found that 49 per cent of full-time

³² <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/program-requirements-for-residential-care-services-in-victoria>, accessed 13 November 2013.

and 45 per cent of part-time employees hold the industry-based qualification and 68 per cent of full-time employees hold a relevant tertiary qualification.³³

In 2001-02, Victoria initiated a funded training strategy, the *Residential care learning and development strategy* (RCLDS), to strengthen residential care services in recognition of the link between staff competency and client outcomes. More information on this strategy can be found at Appendix D.

5.3.3 Home-based care

CSOs hold the primary responsibility for the provision of training to foster carers. Victoria has a mandatory pre-service training package for foster carers, carers' partners and any other adults with a care-giving role in household. This training is delivered by CSOs as part of their carer recruitment, assessment, and accreditation responsibilities.

Shared Stories Shared Lives Victoria (SSSLV) is the mandatory pre-service training course for all prospective foster carers (including adolescent community placements) in Victoria. The course consists of eight modules, and is delivered to foster carers over 16 hours by trained providers. SSSLV complements and provides the context for Step by Step Victoria (SxSV).

At the conclusion of the training, participants should be able to:

- identify different forms of child abuse including: physical, sexual and emotional abuse, neglect, and poor quality care;
- understand the impact of abuse on children; and
- respond appropriately to a child's disclosure of abuse.

The Victorian Aboriginal Child Care Agency (VACCA) provides a similar program, *Our carers our kids*, for foster carers and staff in Victorian Aboriginal Community Controlled Organisations.

5.3.4 Kinship care

Victoria has invested in a Kinship Care Support Model that recognises the support needs of kinship carers. This model assists funded CSOs to support kinship placements, provide stability for children and meet the needs of children in their care. The Kinship Care Support Service provides intensive assistance in the initial support phase of the placement. Following this, an assessment is made in consultation with the family, the CSO and DHS regarding the type of ongoing support the family needs to maintain the child's safety and wellbeing.

Victoria also has an Aboriginal Kinship Care Model that provides culturally-specific support to Aboriginal kinship carers, and includes access to support groups, information and training and support. The model ensures that family, community, and cultural ties are maintained for children placed away from their parents to ensure they feel more culturally secure.

The provision of education to kinship carers regarding the needs of children affected by trauma is delivered as a voluntary educational option through the Kinship Care Support Service. This has been found to be more effective than compulsory training.

In 2012–2013, Victoria funded a three year program to provide:

- 'Information and support sessions' for kinship carers to reflect on and improve their care of children and self. The primary aims of the carer information and support sessions are to provide information, networks and improve their knowledge and understanding of the children they care for.
- Professional development sessions for CSO staff managing kinship placements to:
 - provide relevant professional development training which can be applied to the work they undertake with children and carers in kinship placements; and
 - improve CSO kinship staff knowledge and understanding of children who have experienced trauma, grief and loss.

5.4 Variations in regulation

In Victoria there are variations across care types in relation to screening, assessment and approval, and registration requirements. There are also differences in training requirements, placement monitoring and review. These differences stem from the different nature of the placements.

³³ *Victorian Residential Care Workforce Census at a Glance*, Centre for Excellence in Child and Family Welfare Inc. February 2012. Available at <http://www.cfecfw.asn.au/sites/www.cfecfw.asn.au/files/1036%20Vic%20Resident%20Care%20Workforce%20Census.pdf>, accessed 13 November 2013.

Residential carers are paid employees. They will most likely care for multiple children, as part of a rostered team, in a purpose-built unit. As employees, it is appropriate that residential carers are subject to the recruitment and selection processes of their employing CSO. As described above, the employing organisation will conduct pre-employment checks and assessments in line with its human resources policy and the DHS Standards and Program Requirements, including police checks and WWCCs. As a paid employee employed to care for multiple children, it is appropriate that the carer be required to be registered by their employing organisation.

Foster carers are volunteer carers who are likely to look after one or more children in their own homes. Requirements for police checks, WWCCs and registration are consistent with those for residential carers. Unlike assessments of residential carers, foster carer assessments and review include consideration of all members of the household, existing family dynamics and suitability of the family home. Because foster carers are not employees, employment recruitment and selection processes do not apply. However, accreditation occurs through a foster carer panel that includes representation from DHS and the CSO.

Kinship placements differ in a number of important ways from foster placements. Connolly argues that ‘because kinship care is essentially different from foster care, kin-specific processes of assessment, monitoring and management to reflect that difference are necessary’.³⁴

Kinship carers are also volunteer carers, but are selected from within a particular child/ren’s family or social network. Unlike foster care applicants and residential care employees, kinship carers are not persons seeking an opportunity to care for vulnerable children. DHS child protection workers identify and approach potential family members or members of the child/ren’s social network to care for a particular child in their family or community. Section 10(3)(h) of the CYF Act requires that kinship care is considered and investigated before any other placement option.

Kinship placements are not generally amenable to forward planning and pre-approval as they commonly arise in the context of a family crisis (unlike foster and residential care placements where carers are pre-assessed). Kinship care also privileges the prospective carer’s pre-existing relationship with the child, and recognises the importance of continuity, family and community connection for children.³⁵ Recognising that a wide diversity of families may be suitable to care for children, and that placement with a known and/or related carer may be in the best interests of the child, it is appropriate that the expectations of kinship carers may be different from those that apply to be carers who are unknown to the child.³⁶

The case-by-case process for screening, assessing and monitoring kinship carers seeks to protect children from harm, without discouraging kinship carers from volunteering to care for a child. Ongoing case management and close monitoring of the kinship placement by DHS are also critical elements for ensuring children in kinship care are safe.

Overregulation of kinship care has the potential to diminish the pool of people willing to provide it and lead to an overreliance on alternative care options, which may be less appropriate for the child. This would be inconsistent with the principles in the CYF Act regarding the best interests of the child and prioritisation of kinship care, as well as international trends towards home-based care arrangements. The imposition of additional checks, mandatory requirements and expectations for kinship carers (such as registration and mandatory training)—which may be appropriate for an employee or unknown volunteer, but which do not ordinarily apply to family—also has the potential to undermine the establishment of a ‘normal’ family environment for the child, in which the child feels a sense of belonging and connection.

5.5 Professionalisation of foster carers

Victoria is examining opportunities for the professionalisation of foster carers. A professional model of foster care may increase the attraction and retention of high-quality foster carers. It could also assist to manage specific high-needs clients. There is a range of unresolved Commonwealth legislative, industrial and taxation obstacles to implementation. However, a model of professional foster care could include:

- requiring specific qualifications and training requirements;
- applying a different funding model; and
- providing different specialist supports.

³⁴ Marie Connolly, *Kinship care: a selected literature review*, Research undertaken for the Department of Child, Youth and Family (New Zealand), May 2003, p 25. See also Queensland Department of Communities, Child Safety and Disability, *Kinship care: a literature review*, 2012: <http://www.communities.qld.gov.au/resources/childsafety/foster-care/kinship-care-literature-review.pdf>, accessed 13 November 2013.

³⁵ Op cit.

³⁶ Op cit.

6 Creating a child safe environment in out of home care

The DHS Standards Criterion 3.5 requires out of home care providers to demonstrate that their services provide a safe environment for all people, free from abuse, neglect, violence and preventable injury. In determining whether an organisation meets this criterion, DHS may consider whether the service provider:

- has clearly documented policies and processes for responding to potential or actual harm, abuse, neglect, violence and /or preventable injury; and
- provides carers with the information they need to adequately care for children and young people in their care prior to the commencement of the placement.

As discussed in the Victorian Government's *Response to Issues Paper 3: Child Safe Institutions*, the evidence base for child safe strategies focuses on situational crime prevention and includes:

- organisations having a general culture of child safety, and linking child safe policies with codes of conduct;
- organisations taking a child-centred approach to all activities, in order to support children's participation and empowerment;
- human resource practices (including recruitment and selection procedures) that signal the organisation's commitment to children's safety;
- education and training so staff and volunteers can understand and detect signs of abuse and know when and how to respond;
- strategies underpinned by effective governance arrangements that ensure the right structures and mix of people to oversee the organisation; and
- appropriate information-sharing that equips individual organisations, and the wider community, to ensure children are safe.

Victoria's approach to ensuring out of home care providers are child safe through a focus on the 'best interests' of the child, robust recruitment procedures and education and training for carers is set out in previous Parts of this submission and the Appendices. Child safety should also be focused on situational crime prevention in both physical and online environments. Further detail on supporting and empowering children in out of home care is outlined in Part 8.

6.1 Physical environment

6.1.1 Home-based care

The *Program requirements for home-based care* in Victoria require that CSOs and Aboriginal Community Controlled Organisations (ACCOs) conduct home and environment checks for out of home care placements. These checks cover:

- sleeping arrangements and privacy;
- safety of the general home environment;
- provision of a smoke-free environment;
- equipment and furniture;
- storage of hazardous and dangerous materials;
- fire safety; and
- vehicles, fencing, animals and firearms.

When conducting preliminary assessments on kinship carers, DHS child protection workers consider general safety and hygiene in and around the home, proposed sleeping arrangements for the child/young person and whether the child/young person has an age-appropriate space in the house.

6.1.2 Residential care

The *Program requirements for residential care* require that CSOs provide clean, hygienic, home-like premises that are kept in good repair and meet all reasonable expectations and legal requirements for motor vehicle safety, fire safety, and water safety. Each child/young person is required to have their own bed and is provided with accommodation that reflects their need for privacy and space. Formal surveillance (cameras and sensor alarms) are not a requirement in residential care units, although some residential units do have external cameras and alarms on some doors.

Commencing in 2000–01, a \$73 million multi-year program was undertaken to upgrade residential out of home care facilities (the Placement and Support Residential Facility Renewal Strategy). The designs were strongly influenced by the need for housing that assists children's development and protects children from harm.

The general requirements of the design guidelines include:

- living areas to enable staff to interact with clients while having reasonable visual surveillance of entry/exits;
- avoiding dead end corridors to aid visual surveillance;
- increasing opportunities for casual surveillance; and
- client bedrooms to be a private and secure space.

6.1.3 Determining the appropriate client mix

Each DHS Division has a Placement Coordination Unit that has an overview of placement availability across their geographical area. These units work in collaboration with DHS child protection services and out of home care providers to identify the best placement option available for the child or young person. Placement Coordination Units consider factors such as client age, gender, behaviour, culture and the numbers of children already in a placement when considering placing a client. They also consider implications of Quality of Care processes in terms of availability of carers to provide placements.

6.2 Online environment

BeNetWise is an approach to cyber-safety and digital inclusion, developed specifically with and for the out of home care and alternative education sectors in Victoria. BeNetWise offers suggestions of creative, healthy and positive engagement on the internet for children and young people, as well as tools, strategies and resources to enable staff, carers and educators in the sector to support children and young people in their care to safely and responsibly access digital technology. BeNetWise is an initiative of Berry Street, developed with funding from the Telstra Foundation, in collaboration with the (former) Office of the Child Safety Commissioner and in consultation with DHS.

7 Responding to allegations of sexual abuse in out of home care

The great majority of children residing in out of home care receive good quality care from dedicated carers who have a commitment to making a difference in a child or young person's life. Sometimes, however, concerns are raised about the quality of care provided to a child or young person.

Where a concern arises regarding the risk of sexual abuse to children and young people in out of home care, an integrated system of legislation, policies and protocols is activated. The child's immediate safety is assessed, the allegations are investigated, and appropriate action is taken.

Child sexual abuse does not occur in a vacuum. A number of recognised factors lead to some children and young people being more vulnerable to sexual abuse than others.^{37, 38, 39, 40} These factors include, but are not limited to:

- a background of family dysfunction, family violence and family breakdown;
- a prior history of sexual abuse;
- disconnection from peers and schools;
- problematic early attachment relationships resulting in emotional neediness and vulnerability;
- a sense of isolation and not fitting in; and
- intellectual disability.

Victoria's approach to responding to allegations of sexual abuse in out of home care comprises:

- collaboration with Victoria Police;
- mandatory reporting arrangements;
- departmental requirements for responding to allegations;
- an incident reporting framework;
- quality of care processes; and
- independent investigations and the Suitability Panel, which determines whether carers should be disqualified from being placed on the Carer Register.

These systems and processes are outlined in the following sections. Victoria may provide more detailed information regarding mandatory reporting, incident reporting, quality of care processes and the Suitability Panel in response to future Royal Commission issues papers.

7.1 Collaboration with police

Children and young people in out of home care often present with significant abuse and trauma histories, leaving them particularly vulnerable to further abuse and sexual exploitation.

DHS and Victoria Police recognise the need to work together on many areas of mutual interest and responsibility. This partnership exists within a broad governance agreement between both organisations outlined in the *Overarching Relationship Principles Memorandum of Understanding between Department of Human Services, Department of Health, and Victoria Police (June 2010)* (the MoU).⁴¹

The MoU sets out the high level mechanisms by which DHS and Victoria Police interact to promote the safety and well-being of vulnerable children, young people and families who are clients of DHS. The MoU gives rise to a number of specific functional protocols such as the *Protecting Children* protocol and working arrangements regarding vulnerable clients.

7.1.1 Protocol between Child Protection and Police

The protocol between the DHS child protection program and Victoria Police (*Protecting children: Protocol between Department of Human Services—Child Protection and Victoria Police* 2012) requires DHS to report

³⁷ Department of Human Services: Adolescents with sexually abusive behaviours and their families: best interest case practice model specialist practice resource, (2010) Victorian Government.

³⁸ Rich, P (2003), *Juvenile sexual offending: Understanding assessing and rehabilitating*, John Wiley & Sons, New Jersey; Rich, P. (2006) *Attachment and sexual offending: Understanding and applying attachment theory to the treatment of juvenile sexual offenders*, John Wiley and Sons, West Sussex.

³⁹ Ryan, G, & Lane, S (1997) 'Introduction', in: G. Ryan & S Lane (eds) *Juvenile sexual offending: causes, consequences and correction* (pp.3-9), Jossey-Bass, San Francisco.

⁴⁰ Worling, J, & Curwen, T, (2000) 'Adolescent sexual offender recidivism: success of specialized treatment and implications for risk prediction', *Child Abuse & neglect*, Vol 24, pp. 965-982.

⁴¹ The MoU between DHS and Victoria Police is currently being reviewed. The Department of Health is no longer a signatory to this MoU and will make separate arrangements with Victoria Police.

concerns of criminality to Victoria Police. Section 7.3 of the protocol 'Reporting criminal offences to Victoria Police' states:

Where Child Protection receives a report under section 183 or 184 of the Children, Youth and Families Act, from a source other than Victoria Police, regarding a child in need of protection due to sexual abuse, physical abuse or serious neglect, Child Protection must notify Victoria Police at the point of intake in order to facilitate joint planning of an appropriate response. Victoria Police must be notified prior to Child Protection visiting any parties or directly commencing their investigation.

7.1.2 Collaborative Responses Steering Committee

Since 2008, senior officers of DHS and Victoria Police have met regularly to provide a strategic implementation and operational focus on child protection and youth justice activities common to both organisations.

The *Collaborative Responses to Child Protection and Youth Justice Steering Committee* has a broad mandate in relation to the governance of the collaborative work between DHS and Victoria Police regarding vulnerable children and young people. The Committee has examined processes and practices in relation to warrants for children and young people who are missing, joint investigation processes, information-sharing regarding sex offenders, and joint training initiatives.

This governance structure is currently subject to review to ensure it addresses contemporary issues of shared concern and reflects the new DHS organisational structure.

7.1.3 Operational Collaboration

The Streetwork Outreach Service (SOS) is an after-hours service providing street-based outreach to young people at risk of harm and exploitation in St Kilda and the Central Business District. It includes active and coordinated collaboration with Victoria Police in the identification and apprehension of sexual perpetrators. SOS practitioners are child protection interveners who actively engage young people in the 'street' environment to assist them to understand the harm associated with these activities and work to prevent or reduce the level of risk, increase the protections for young people and support young people out of any exploitation through assessment and intervention.

Youth Resource Officers (YROs) are police members who specialise in child- and youth-related issues. They act as a facilitator, co-ordinator and referral service provider of youth services for police, youth and the community. Victoria Police YROs build links and partnerships with key youth stakeholder groups, for example, attending High Risk Youth meetings and engaging with DHS workers.

YROs complete a three week Youth Officer Training Course, which includes more intensive training on adolescent development, stakeholder engagement, managing risks, working with young people, role boundaries, and drug education. There are approximately 80 YROs located across rural and metropolitan Victoria.

7.1.4 Collaboration to prevent sexual exploitation of young people in out of home care

DHS and Victoria Police have a shared commitment to children and young people in out of home care who are at risk of sexual exploitation. This commitment seeks to disrupt the activities of individuals who try to exploit vulnerable children and young people in out of home care. A focus on prevention, intervention and support seeks to:

- raise awareness and develop evidence-informed responses to sexual exploitation; and
- strengthen partnerships between DHS, Victoria Police and CSOs to develop strategic and effective responses and improved outcomes for children and young people.

The collaboration takes a dual approach comprising:

- support and mentoring for operational interventions in high risk matters; and
- building practitioner and police knowledge through training and professional development opportunities for DHS child protection workers, CSOs and Victoria Police.

Key partners include the DHS child protection service, the DHS Office of Professional Practice, Victoria Police Sexual Offences and Child Abuse Investigation Teams (SOCITs) and the Victoria Police Sexual Crimes Squad. The CSOs that provide residential care are also significant partners in this work.

The core of this effort is timely information exchange among the key agencies once concerns arise that a young person in care may be at risk of sexual exploitation. Concerns are reported through the DHS critical incident reporting system. Information is provided immediately to Victoria Police and at other key points to ensure all

information about persons of concern is considered and investigated and any immediate safety concerns for the young person are addressed. Oversight of the joint response is the responsibility of the *Collaborative Responses Steering Committee*.

DHS has also outposted a senior child protection practitioner at the Victoria Police Sex Offender Registry to support information exchange with DHS child protection.

7.1.5 Multidisciplinary Centres

Multidisciplinary Centres (MDCs) enable a specialist response to sexual offences and sexual abuse through an integrated, multidisciplinary context and an environment which provides safety, support and access to justice.

The MDCs co-locate staff from:

- DHS child protection—child protection practitioners located in MDCs respond to child victim/survivors of sexual abuse by working collaboratively with Victoria Police and Centres Against Sexual Assault (CASAs) to protect children experiencing, or at risk of, sexual abuse. Child protection practitioners located at MDCs are protective interveners whose role is to assess risk and who act to promote the safety, stability and development of children and young people.
- SOCITs—specialised investigative teams of detectives trained to provide a victim-focused specialist investigative response to the complex crimes of sexual assault and child abuse; and
- CASAs—government-funded organisations which provide children and adults who have experienced sexual assault with access to comprehensive, timely support and intervention to address their needs.

The MDCs also have close ties with the Victorian Institute of Forensic Medicine (VIFM) and Victorian Forensic Paediatric Medical Service (VFPMS) that provide forensic medical examinations. These specialist professionals work collaboratively to provide a victim/survivor-centred, integrated and holistic response to victims of sexual assault from a single location.

MDCs have been operating in Frankston and Mildura since 2007. The Geelong MDC opened in July 2012. The 2012-13 Victorian State Budget provided funds to establish a further three MDCs—two rural centres in Bendigo and Latrobe Valley and a principal centre in Dandenong. All will be established by 2015.

7.2 Mandatory reporting

Mandatory reporting applies to all children in Victoria including children subject to a protection order, who may or may not be in out of home care. Mandatory reporting requires a mandated group of professionals to report physical or sexual abuse where they have formed a reasonable belief that such abuse is occurring.

Under section 184 of the CYF Act, medical practitioners, nurses, midwives, teachers, principals and police are mandated to make a report to DHS if they believe on reasonable grounds that a child is in need of protection from physical or sexual abuse and their parent(s) have not protected or are unlikely to protect them from harm of that type.

The following may constitute reasonable grounds for forming a belief that a child is in need of protection:

- a child states that they have been physically or sexually abused;
- a child states that they know someone who has been physically or sexually abused;
- someone who knows the child states that the child has been physically or sexually abused;
- professional observations of the child's behaviour or development leads the mandated professional to form a belief that the child has been abused or is likely to be abused; and/or
- signs of physical or sexual abuse leads to a belief that the child has been abused.

A report must be made as soon as practicable after forming the belief, and on each occasion on which the reporter becomes aware of any further reasonable grounds for the belief.

The *Code of Conduct for Victorian Public Sector Employees* also includes a positive obligation upon DHS employees to report any unethical conduct. In addition, where a child who resides in an out of home care placement is the subject of an allegation of sexual abuse or assault, the DHS incident reporting policy applies (see Part 7.4). The allegation must be reported to DHS and the police. Where the allegation concerns a carer, the quality of care policy also applies (see Part 7.5).

7.3 DHS Departmental Instruction

The DHS *Departmental Instruction: Responding to Allegations of Physical or Sexual Assault* (2005) sets out the management and reporting requirements relating to allegations of physical or sexual assault involving specified groups of clients. The aim of the instruction is to:

- protect clients and staff from assault;
- support clients and staff who report allegations of physical or sexual assault;

- meet duty of care obligations; and
- hold perpetrators of assaults accountable for their actions.

The 2005 Instruction contains a set of minimum standards for supporting victims and reporting allegations of physical and sexual assaults to Victoria Police. It applies to DHS clients receiving facility-based services operated or funded by DHS, youth justice facilities, child protection clients in out of home care and disability services clients.

The Instruction requires that, upon receipt of information that a child has been sexually or physically assaulted, the reporting of matters to police must occur as soon as possible so that police can determine whether or not an offence has occurred and what criminal investigation response is necessary.

7.4 Incident reporting

DHS's primary mechanism for reporting and responding to allegations of sexual assault is the critical incident reporting framework. Reporting of incidents is supported by the use of the TRIM records management system that is the department's primary system for registration and management of records and sharing of information.

Pursuant to DHS' *Critical client incident management instruction 2011*, and *Critical Client Incident Management Summary Guide and Categorisation Table*, service providers are required to report critical incidents involving or affecting clients that occur at the service or during service delivery. Most incidents reported under this instruction are considered allegations as they are yet to be proven at the time of reporting. The suite of incident reporting directions and guides is available online.⁴²

There are two categories of reportable incidents: Category One incidents, which include all incidents that have resulted in a serious outcome, such as a client death or severe trauma; and Category Two incidents, which involve events that threaten the health, safety and/or wellbeing of clients or staff.

All client-related allegations of physical and sexual abuse must be reported to DHS via the client incident reporting system. When an allegation of sexual abuse is reported to DHS, the matter must be reported to the police. All alleged staff to client assaults, whether sexual or physical, are classified as *Category One* incidents regardless of whether medical attention is required and regardless of the type of assault alleged. Client to client sexual assault is also classified as a Category One incident.

Within the instruction, sexual assault for the purpose of reporting is defined as follows:

Sexual assault includes rape, assault with intent to rape and indecent assault. An indecent assault is an assault that is accompanied by circumstances of indecency. Examples are unwelcome kissing or touching in the area of a person's breasts, buttocks or genitals. Indecent assault can also include behaviour that does not involve actual touching, such as forcing someone to watch pornography or masturbation.

An incident report alerts senior DHS staff to a critical incident involving a client or staff member. Where the allegation relates to sexual abuse of a child or young person in out of home care, in addition to completing an incident report, the CSO will advise DHS as soon as possible to ensure the immediate safety issues are considered and managed. Analysis of critical incident management data is undertaken by DHS Divisions to identify themes and monitor operational issues.

Both the DHS *Departmental Instruction Responding to Allegations of Physical or Sexual Assault (2005)* and the DHS Incident Reporting instruction are scheduled for review in 2014.

7.5 Quality of care processes

7.5.1 Responding to quality of care concerns in out of home care

All allegations of sexual abuse by an out of home carer result in a quality of care investigation. Under section 82 of the CYF Act, any person may make a report to the Secretary DHS, alleging physical or sexual abuse by a foster carer or a residential out of home carer towards a child or young person in out of home care (under the age of 18 years, at the time of the alleged abuse).

The Victorian response to allegations of sexual abuse of children in out of home care is outlined in the DHS guidelines *Responding to quality of care concerns in out of home care (2009)* (the Guidelines). The Guidelines apply to DHS and CSOs that provide out of home care. The Guidelines apply when information is received

⁴² <http://www.dhs.vic.gov.au/funded-agency-channel/about-service-agreements/incident-reporting/human-services>, accessed 13 November 2013.

about concerns for the quality of care for children and young people living in home-based care (including kinship and lead tenant) or residential care. The Guidelines describe the process for responding to quality of care concerns in out of home care, taking into account the expectation that children and young people will receive good quality care and that carers will be treated with respect and afforded natural justice. The scope of the Guidelines is the management of concerns about the care provided to children and young people by adult carers.

Provision of high quality out of home care involves significant emphasis on a partnership between DHS and CSOs. Victoria's approach to quality of care features a process for early identification of concerns about the carer and/or placement. Reporting and responding to a quality of care concern, for example, a carer reported to be smoking in the house or allowing unfettered visits by strangers, can identify circumstances where carers may find the placement challenging or are beginning to act in a manner contrary to the best interests of the child. Early identification of concerns, followed by appropriate and balanced action, minimises the risk of concerns escalating into abuse.

When a quality of care concern is raised about a child or young person in out of home care, DHS, CSOs, carers and police must work together to ensure that the safety and best interests of the child are paramount and that an effective and timely response is achieved.

In addition, under the program requirements for both home-based and residential care, when an allegation of abuse or a quality of care concern is raised in relation to an Aboriginal child, DHS and the CSO are required to ensure a relevant member of the child's Aboriginal community is included as part of any investigation.

Staff involved in leading the response and making appropriate decisions must be well-trained. Victoria has a state-wide quality of care training program for DHS and CSO staff.

The quality of care process is led by senior staff within both DHS and CSOs who are supported by clinical specialists in sexual abuse including Principal Child Protection Practitioners.

7.5.2 Children's participation in the quality of care process

Participation of the child in the quality of care process is an imperative of the Guidelines. The Guidelines contain a number of guiding principles for managing allegations of abuse in care, with a focus on the rights of the child, their parents and the carers involved. In relation to children's participation in the quality of care process, the Guidelines include two relevant guiding principles:

- The best interests of the child will always be paramount:
 - In making decisions, there must be consideration given to protecting the child from harm, protecting the child's rights, promoting the child's development in age-appropriate ways and to the appropriate supports for the child to maintain their cultural identity and links to their community.
 - Responses to quality of care concerns must be managed in a way that minimises the trauma to the child.
- Children and young people will be listened to and heard. They must be:
 - supported, in a child-friendly way, to tell their story and express any concerns;
 - provided with ongoing support during and after any investigation or formal care review process;
 - provided with information in a child-friendly and age-appropriate manner about their rights, the support available to them and the procedures and processes of the investigation or formal care review; and
 - informed of the outcome of an investigation or formal care review process in a child-friendly and age-appropriate manner.

In practical terms, the availability of a case manager when a child enters the child protection system and the formation of a care team on entry into out of home care are two crucial foundations that, over time, may facilitate the circumstances in which a child feels comfortable and safe to disclose the occurrence of abuse.

7.5.3 Fairness in the quality of care processes

To assist carers to understand the quality of care process, DHS has developed the document *Quality of care concerns in out of home care: A guide for carers May 2011*. The guide is a summary of information from the Guidelines that is targeted to carers. It contains the principles focusing on the rights of the child, their parents and carers in managing allegations of abuse in care. The principles that relate directly to carers and parents are:

- Carers will be treated fairly, honestly and with respect. They will be:
 - listened to and heard;
 - supported through the investigation or formal care review process and given as much information as is possible without interfering with the process;

- given information about the investigative or review process, the timeframes and what support is available to them;
- informed of the outcome of an investigation or review and the implications for them; and
- informed about complaints and review procedures and processes.
- Parents will be told about concerns for the welfare of their child. They will be:
 - listened to and heard and their concerns taken seriously;
 - given information about any concerns;
 - advised of the investigation or formal care review process to be followed;
 - advised of the outcomes; and
 - informed about complaints and review procedures and processes.

The Guidelines establish clear requirements for the participation of carers and parents in quality of care reviews and investigations, including circumstances where it may not be appropriate.

7.5.4 Appeal processes available for carers

The *Charter of Human Rights and Responsibilities Act 2006* (the Charter Act) sets out the basic rights, freedoms and responsibilities of all people in Victoria. The Charter Act requires public authorities, such as Victorian state and local government departments and agencies (and people delivering services on behalf of government) to act consistently with the Charter Act.

Section 24 of the Charter Act establishes that:

A person has a right to a fair hearing. This means the right to have criminal charges or civil proceedings decided by a competent, independent and impartial court or tribunal after a fair and public hearing.

The initial point of contact for carers to discuss their concerns and options is with their CSO (or DHS Child Protection if the kinship carer does not have contact with a CSO). CSOs (or Child Protection, in the case of some kinship carers) have the responsibility to provide carers with information and support throughout a quality of care matter, including the process to raise concerns and resolve differences. Registered foster carers also have support from the Foster Care Association of Victoria.

The *Registration Standards for Community Service Organisations* require CSOs to have written procedures for the resolution of disputes or complaints by staff, carers, children, young people and families. These procedures should include the process for lodging and managing complaints, steps and timeframes in assessing and resolving disputes and the process to appeal decisions that are made, such as where a carer disagrees with a decision or recommendation made during the course of a formal care review.

If the carer has any concern about a decision to withdraw their accreditation or to terminate their employment, they must discuss this directly with the relevant CSO and pursue the CSO internal dispute resolution procedures.

The Quality of Care Guidelines described earlier outline a clear process of review for carers to pursue, should they be dissatisfied with the outcome of a quality of care investigation. The Guidelines establish two separate review processes for carers to seek review of decisions concerning quality of care investigations and outcomes. Carers are able to seek a review:

- through an internal DHS review process of the decision to substantiate abuse; and/or
- by their CSO of any recommendations made that directly affect them as carers.⁴³

Carers are also able to raise issues with the Commission for Children and Young People and the Victorian Ombudsman.

Victoria will provide more information concerning its quality of care policy and processes in the forthcoming Royal Commission issues paper on reportable conduct schemes for employees.

7.6 Independent investigation and Suitability Panel

The CYF Act establishes a process whereby registered carers can be disqualified from being placed on the register of out of home carers if the Suitability Panel determines the carer poses an unacceptable risk of harm to children. The CYF Act stipulates that this process can only commence if the following criteria are satisfied:

- there is an allegation of physical or sexual abuse;
- the allegation is against a registered carer involving a child or young person in their care; and

⁴³ Guidelines for responding to quality of care concerns in out-of-home care, DHS, December 2009 p54. Available from <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/Guidelines-for-responding-to-quality-of-care-concerns-in-out-of-home-care>, accessed 13 November 2013.

- the abuse is alleged to have occurred on or after 7 December 2002.

Where a report is received and these criteria are met, the Secretary DHS must consider whether there is a reasonable basis for conducting an independent investigation and may decide such an investigation is warranted.

After receiving a report of the independent investigation, the Secretary must decide whether to refer the matter for hearing by the Suitability Panel. The Secretary must not refer the matter to the Suitability Panel unless the report contains a finding that, on the balance of probabilities, the carer has physically or sexually abused the child, and the Secretary considers that the person poses an unacceptable risk of harm to children.

It is the role of the Suitability Panel to determine whether or not the allegations of sexual and/or physical abuse is proved on the balance of probabilities and then to determine whether the person should be disqualified from the register of out of home carers and therefore no longer be able to provide out of home care for children and young people.

The Suitability Panel consists of people independent of DHS with a range of qualifications and experience. It comprises a legal practitioner chairperson and other members who have a relevant tertiary qualification in law, social work, psychology, the treatment of sex offenders or in any other relevant discipline. The chairperson and members are appointed by the Governor-in-Council under the CYF Act.

Where the Suitability Panel disqualifies a carer, the Department of Justice is notified to enable consideration of the person's eligibility to retain their Working with Children Check. When a carer is disqualified, they have a right under section 118 of the CYF Act for review of the finding or determination by the Victorian Civil and Administrative Tribunal (VCAT) under sections 105, 106 and 112. This application must be made within 28 days of the Panel's determination. Further, under section 110 of the CYF Act a disqualified person may apply to the Suitability Panel for the removal of disqualification after 12 months have elapsed since the Panel's determination.

Since 1 July 2007, the Suitability Panel has disqualified 13 carers:

- seven carers for physical abuse only;
- four carers for sexual abuse only;
- two carers for both physical and sexual abuse;
- two of the six carers disqualified for sexual abuse were residential carers and four were foster carers.

The policy parameters of the independent investigation process and the operations of the Suitability Panel are currently under review.

7.7 Records management

The records of an individual's experience in state care may often be the only record of their childhood and the family from which they were separated. Over time, the record keeping practices of government authorities and care providers have been variable. This has presented significant barriers to care leavers' efforts to piece together the structure and detail of their childhood experiences, including where they may have been subject to abuse.

The *Victorian Parliamentary Inquiry into the Handling of Child Abuse by Religious and Other Non-Government Institutions* raised the importance of access to records by care-leavers. The report of the Inquiry noted that care leavers can become distressed after seeing the records they have requested and obtained. Services such as Family Information Networks & Discovery (FIND) assist care leavers to access their records and provide support throughout the process.

7.7.1 Record-keeping by out of home care providers

In July 2010, the Public Record Office Victoria released the *Strategic Management Standard PROS 10/10* which specifies recordkeeping compliance requirements for Victorian Government agencies.

Recordkeeping clauses are also included in the 2012–2015 service agreement that require CSOs to manage records related to the service they are funded for in accordance with the standards issued under the *Public Records Act 1973*. The clauses require CSOs to:

- implement and maintain a recordkeeping system that creates and maintains full and accurate hard copy and/or electronic records of services;
- ensure appropriate storage and security of information;
- ensure records are easily and quickly assessable by DHS as required (for example, where requested by the Auditor-General or Ombudsman and for auditing and performance monitoring purposes); and
- dispose of the records in accordance with service agreement requirements.

As part of reviews against the DHS Standards, independent review bodies assess a CSO's information and knowledge management processes and examine a sample of client and staff records.

7.7.2 Ward Records Plan

In 2012, the Victorian Ombudsman examined DHS records management in his report *Storage and Management of Ward Records by the Department of Human Services*. The Ombudsman considered that DHS should:

take immediate action to ensure that it has a thorough understanding of the records it holds in its collection so that care-leavers can be assured that they have been provided with all available information regarding this often traumatic chapter of their lives.

In 2013, DHS developed the DHS Ward Records Plan. The Plan addresses the Ombudsman's recommendations in relation to identifying, cataloguing and storing the personal histories of former wards.

DHS holds an estimated 80 kilometres of records in storage across the state of Victoria and the overarching objective of the Ward Records Plan relates to the right of former wards and care leavers to access information about themselves. The Plan will provide DHS with the capacity to:

- improve its responses to care leavers' requests for their personal information;
- better understand and respond to historical allegations of sexual abuse in out of home care; and
- more easily access information when required for research, reporting, assisting reviews and inquiries and effecting systemic change.

Currently, DHS is progressing an extensive ward indexing project, scheduled for completion in December 2013, and developing tools to support the recordkeeping practices of funded organisations in accordance with departmental policy. DHS is also pursuing avenues for the digitisation of archival records.

7.7.3 Access to records for people who have been in out of home care

The Australian Government has established a national network of Find & Connect support services for Forgotten Australians and Former Child Migrants. These support services help people access support and counselling and where possible obtain personal records, trace their history, understand why they were placed in care, connect with other services and support networks and reconnect with family where possible. The Find & Connect web resource may help people to find out about the homes they grew up in and where they may find their records from that period.

Open Place is a support service for Forgotten Australians who were in care in Victoria. In addition to free counselling services, and limited financial assistance to access health and training services, Open Place can assist people to access their records and trace family members. Berry Street Victoria is funded about \$2.4 million per annum to provide Forgotten Australians Support Services, including Open Place.

Under the *Freedom of Information Act 1982*, former Victorian Wards of State and past or current child protection clients can access their records through two DHS services:

1. the Family Information Networks & Discovery (FIND), which provides access to records for former Wards of State about time in children's homes and orphanages, assistance to locate records held by funded organisations and support when accessing files or when making contact with family members; and
2. the Freedom of Information (FOI) Unit, which provides access to records for former Wards of State who left the care system after 1986 and for all subsequent child protection clients in Victoria. The FOI unit manages proceedings before the VCAT and responds to the independent oversight of the FOI Commissioner.

8 Supporting and empowering children in out of home care

Supporting and empowering children in out of home care, and ensuring their voices are heard, is essential for ensuring they feel safe in care. As the Centre for Excellence in Child and Family Welfare (the Centre) argues, 'giving voice to those to whom services are addressed is a critical element of assuring and improving the quality of the outcomes for them'.⁴⁴ With a view to continuous improvement in out of home care services, there are a range of initiatives in place in Victoria to hear the voices of children in out of home care and help them to feel safe and supported.

8.1 The role of service providers

As outlined earlier, the CYF Act requires the Court, the Secretary DHS, and CSOs to have regard for the *best interests* principles in making any decision or taking any action under the Act.

Section 10(3)(d) of the CYF Act, requires consideration be given to:

the child's views and wishes, if they can be reasonably ascertained, and they should be given such weight as is appropriate in the circumstances.

This principle is implemented through the best interests case practice model which emphasises the importance of encouraging the participation of children and young people in decision-making and provides informal avenues for children and young people in care to raise concerns.

For example, in developing and reviewing child protection case plans, the CYF Act stipulates that the:

- child's view and wishes be given as much weight as appropriate to the circumstances;
- views of the child and family must be taken into account and both encouraged and given adequate opportunity to participate fully in decision-making; and
- child's caregiver should be consulted as part of the decision-making process and given opportunity to contribute to the process.

This is achieved through:

- ensuring that children are supported to participate in case plan meetings – this includes conducting meetings in a way that best supports the child;
- ensuring that, where appropriate, children participate in care team meetings; and
- visiting children regularly.

According to the DHS Standards, all out of home care providers must demonstrate:

- The relevant charter of rights is promoted and enacted in practice throughout the service.
- People are supported in their choice to use an advocate.
- People are satisfied with the supports they are provided around exercising their rights and responsibilities.
- People know what to do if their rights are violated.
- People are satisfied with the quality of service they receive.
- People are satisfied that their privacy and dignity are maintained.
- The complaints, appeals and feedback systems can be easily accessed by all people.
- People are satisfied with the management of complaints and feedback.
- People are satisfied with the management of review and appeals.
- Processes are in place to respond to allegations of misconduct/abuse in ways that ensure people are protected from future harm.

Children's participation in decision-making processes is reinforced through two relevant charters. The Client Services Charter outlines a commitment to:

- providing clients with the highest quality of service possible;
- listening to and working with clients to make sure that they get the help and assistance that is available to and right for them; and
- explaining to clients how they can have a decision reviewed, provide feedback or make a complaint.⁴⁵

The Charter for Children in Out of Home Care was developed by the former Office of the Child Safety Commissioner (now the Commission for Children and Young People) in partnership with the CREATE

⁴⁴ Centre for Excellence in Child and Family Welfare, *Their voice: Involving children and young people in decisions, services and systems*, Melbourne, 2011, p 19. Available from http://www.cfecfw.asn.au/sites/www.cfecfw.asn.au/files/Their_Voice_Monograph_Web.pdf, accessed 13 November 2013.

⁴⁵ DHS Client Services Charter, http://www.dhs.vic.gov.au/_data/assets/pdf_file/0007/666079/clientsservicescharter_20102011.pdf, accessed 13 November 2013.

Foundation and more than 100 children and young people. This Charter sets out the rights of children in out of home care and provides a guide for workers and carers about what they need to do to ensure children's rights are upheld. The child's right to 'be safe and feel safe' is emphasised in the Charter, which also outlines and explains the right to 'have a say and be heard' and the right to 'tell someone if I am unhappy'.

Since its launch in 2007, the Charter has been distributed to children in out of home care, carers, DHS child protection and CSO staff. Information sessions are held for carers and workers to promote the Charter. CSOs are also required to display the Charter in a prominent position in residential units.

Upon entering care children and young people are engaged in a conversation about their rights and responsibilities, including how to raise concerns or make a complaint, and the key people with whom they can raise concerns about their care at any time.

Clients and families are also provided with the contact details for other relevant complaint and oversight bodies such as the Commission, the Office of the Disability Services Commissioner and Ombudsman Victoria. Where a child has raised a concern about their care or disclosed abuse or a concern has been raised by a third party, it is a guiding principle of the quality of care process that 'children and young people will be listened to and heard'.⁴⁶ Please refer to Part 7.5 of this submission for further discussion of how children can participate in the quality of care process.

8.1.1 Current initiatives to promote children's voices

Various initiatives are under way in DHS Divisions to hear and promote children's voices. An example is the South Division's use of *Viewpoint*, an audio computer-assisted self-interviewing application designed for children and young people. *Viewpoint* enables the surveying of children in out of home care in order to capture the views of children as part of the care management conversation cycle. The pilot of *Viewpoint* has two parts:

1. an interactive client feedback survey instrument which, to date, has been completed by almost 200 children and young people in out of home care; and
2. use of *Viewpoint* by a child's care team to interactively and collaboratively create Looking After Children records (specifically the Assessment and Progress record which leads to the creation of a new Care and Placement Plan or 15+ Care and Transition Plan).

The *Viewpoint project* is aligned to the *National Standards for out of home care* around client feedback and participation in decision-making. DHS is represented on the national working group on client feedback. The working group is seeking to develop standard questions to be asked of a sample of children and young people in out of home care every two years.

8.1.2 Exit interviews

In Victoria there are a range of formal and informal avenues through which children in care can raise concerns. However, there is currently no formal exit interview process in place for children leaving care or transitioning between placements. The exception is where young people exiting secure welfare services have an opportunity to comment on their experience by completing a client feedback form.

As outlined above, surveys are conducted from time to time to enhance the understanding of children's experience in out of home care. When a child needs to move from one placement to another (which could be for a range of reasons), the child's case manager helps the child to transition to a new placement. This may include asking the child to reflect on their experiences in the former placement.

Where a young person is due to leave care as they turn 18, transition planning is undertaken (preferably commencing two years' prior to leaving care) to ensure that the young person is prepared to make a successful and sustainable transition to independent living. The transition plan is developed collaboratively between the young person and the care team, and may provide an opportunity for the young person to discuss their experiences.

There may be an opportunity to consider whether a more formal interview process would be beneficial for children and young people transitioning between placements or leaving care. If the intention is to provide an opportunity for children to raise concerns about their care, it will be important to ensure that an environment is created where children and young people feel safe to make such disclosures. Careful consideration would need to be given to how the interview would be conducted and by whom.

⁴⁶ Guidelines for responding to quality of care concerns in out-of-home care, DHS, December 2009. Available from <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/Guidelines-for-responding-to-quality-of-care-concerns-in-out-of-home-care>, accessed 13 November 2013.

8.2 Advocacy and other supports

In addition to opportunities to provide feedback or raise concerns within the out of home care system, a number of external avenues are available for children to speak up through organisations which actively work to promote the voices of children in care.

8.2.1 Commission for Children and Young People

A strong focus of the Commission for Children and Young People (Commission) is on promoting the voices of children, particularly those who are vulnerable. One of the specific functions of the Commission is to promote the provision of out of home care services that encourage the active participation of children in decision-making that affects them (section 28(a) of the CCYP Act). The Commission (and the former Child Safety Commissioner) have undertaken various activities over recent years to ensure the voices of children in out of home care are heard, including:

- conducting surveys regarding the experiences of children in out of home care; and
- hosting projects like the recent photographic exhibition *As Eye See It* which gives children and young people in care an artistic voice to express their views.

The Commission also runs the Community Integration Program, which aims to connect young people living in residential care with their local community. It involves volunteers from the community getting to know a vulnerable young person and supporting them to connect with others involved in a local activity, group or event that interests them. The program is based on the premise that young people who are actively involved in their local communities are more likely to experience positive educational, health and employment outcomes. Development of strong community connections and trusting relationships with responsible adults is also likely to give children in care greater confidence to express their views, and be protective against sexual abuse.⁴⁷

8.2.2 CREATE

DHS funds the advocacy group CREATE Foundation to undertake activities with children and young people in out of home care such as:

- CONNECT activities for children and young people in care, including Club CREATE (membership, magazines, website kits), Christmas activities, and other specific projects;
- EMPOWER activities for children and young people in care, including sector training, training and support of 20 young consultants, monthly Youth Advisory Group meetings, and Victorian representation at the National Youth Advisory Group;
- CHANGE activities for children and young people in care, including an annual CREATE Report Card investigation, connecting with all DHS Divisions to engage and work with children and young people on priority projects, and young people's representation on a range of project and advisory groups with government and other stakeholder groups.

CREATE's annual report card on the experiences of children in out of home care across Australia is an important mechanism for understanding the views of children about their experience. The 2013 report card is based on a survey of about 1000 children in out of home care. A positive finding in this year's report is that 90 per cent of the children and young people surveyed indicated that they felt safe and secure in their placement. However, the report also provides useful feedback for governments and out of home care providers on the need to ensure that children understand how to make complaints and feel empowered to do so.

8.2.3 Other supports

The Centre for Excellence in Child and Family Welfare (the Centre) supports participatory approaches to incorporating the views of children, both into decisions affecting the child's life and into broader policy and practice evaluation. The Centre emphasises that participation is not just about listening to young people and being responsive to their needs and wishes (consultation), but also about showing young people that their views have been acted upon and seeking their input on the effectiveness of the actions taken and improvements made (collaboration). In addition to the service improvements likely to arise, the Centre argues that participation can have personal benefits for the individual child or young person by helping to build new skills, personal resources, self-confidence and connectedness to communities. All of these benefits are likely to build the young person's resilience and have a protective effect against sexual abuse.

DHS currently funds the Centre for a range of activities including:

- the residential care learning and development strategy (RCLADS);
- sector and community representation; and
- training.

⁴⁷ Irenyi et al, (2006) 'Child maltreatment in organisations: Risk factors and strategies for prevention', Child Abuse Prevention Issues, No 25, p 7. Available from <http://www.aifs.gov.au/nch/pubs/issues/issues25/issues25.pdf>, accessed 13 November 2013.

The Centre also receives non-recurrent funding for state-wide foster care publicity and recruitment services (for example, the Foster a Brighter Future Website and free call Foster Care Hotline).

8.3 Educating children in out of home care about sexual abuse

As outlined in the Victorian Government's response to the Royal Commission issues paper on child safe institutions, it is critical to ensure that all children are equipped with the knowledge and confidence to protect themselves from sexual abuse.

Children and young people in out of home care settings are often disconnected from school and may miss out on the sex education curriculum. Efforts are being made to ensure children in care are engaged with school, for example through the *Out of home Care Education Commitment* to improve educational outcomes for children in out of home care,⁴⁸ which includes a comprehensive individual educational needs assessment, followed by targeted support.⁴⁹

The Department of Education and Early Childhood Development (DEECD) is working closely with DHS, Independent Schools Victoria and the Catholic Education Office to ensure greater compliance with the *Out of home Care Education Commitment*, including re-framing existing materials for schools, improving the current process for referrals, increased data tracking and data linkage as well as supporting schools to implement the recommendations of the assessments.

Victorian government schools deliver the Australian Curriculum in Victoria (AusVELS) to students in Prep to Year 10.⁵⁰ Some students undertake the *Towards Level 1 Victorian Education Learning Standards* (Towards Level 1) which provides a framework for developing effective learning programs and assessing students with disabilities and additional learning needs.⁵¹ To support schools to deliver sexuality education curriculum, over the last decade DEECD has developed a range of evidence-based resources in partnership with experts.

The Victorian Government is also investigating a specific protective behaviours curriculum resource available through the Queensland Department of Education, Training and Employment, providing young people with skills to protect themselves from sexual abuse. As discussed in the Victorian Government response to the issues paper on child safe institutions, it will be important for educative programs for young people to build young people's confidence and assertiveness, which has been shown to be effective in preventing sexual abuse.⁵²

DHS has also undertaken preliminary work with Berry Street on a project to deliver proactive sex education to children and young people in out of home care across Victoria.

⁴⁸ <http://www.education.vic.gov.au/Documents/school/teachers/health/a4partnering.pdf>, accessed 13 November 2013.

⁴⁹ *Victoria's Vulnerable Children: Our Shared Responsibility Directions Paper*, <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/reports-publications/victorias-vulnerable-children-our-shared-responsibility>, accessed 13 November 2013.

⁵⁰ <http://ausvels.vcaa.vic.edu.au/Print/AusVELS.pdf?d=hpe&l=F&l=1&l=2&l=3&l=4&l=5&l=6&l=7&l=8&l=9&l=10&e=0&e=1&e=2&e=3&e=4&e=5>, accessed 13 November 2013.

⁵¹ Available at <http://www.education.vic.gov.au/Documents/school/teachers/teachingresources/diversity/tl1vels.pdf>, accessed 13 November 2013.

⁵² Wortley and Smallbone, 'Applying Situational Principles to Sexual Offences against Children', 2006, pp 24-25; Stephen Smallbone, William L Marshall and Richard Wortley, *Preventing Child Sexual Abuse: Evidence, Policy and Practice*, Willan Publishing, Devon, 2008, chapter 7.

Appendix A Clarification of matters in the Royal Commission Fact Sheet 4.1: Preventing Sexual Abuse of Children in Out of Home Care

Section 4 of the Royal Commission Fact Sheet 4.1 concerns regulation of organisations.

Page 7, section 4.7 states 'In most states and territories where the department provides OOHC services, the department is not required to be approved.'

As previously noted, all out of home care providers must comply with the DHS Standards and independent review requirements. In Victoria, all but two out of home care services are delivered by CSOs. The DHS-delivered services are the secure welfare service and Hurstbridge Farm, a therapeutic residential service. Although not required by legislation, Hurstbridge Farm and the secure welfare service are subject to the DHS Standards and accreditation and review requirements.

The summary table on page 23 of the Fact Sheet should also be corrected to reflect this fact.

Page 8, section 4.11 summarises the states and territories' approaches to service standards. Part b. refers to the *Department of Human Services Standards*. The summary would be strengthened by noting that *organisations are reviewed against the Standards every three years by an independent review body endorsed by DHS. The governance and management system of the organisation is also reviewed using the standards of the independent review body.*

It should also be noted that a number of the requirements specified in other jurisdictions' standards, and outlined in section 4.11, for example in relation to recruitment and complaints handling, are included in service agreements and/or program requirements in Victoria, rather than in the DHS Standards.

Page 10, section 4.12 summarises the variety of approaches to auditing organisations for compliance purposes.

Part b. refers to Victoria's independent review process and states 'There is also provision for mid-cycle reviews and surveillance audits. The Cummins inquiry found that this approach to monitoring and reviewing does not do enough to identify, address and prevent the major and unacceptable shortcomings in the quality of OOHC...'

The suggestion is that mid-cycle reviews are non-mandatory or voluntary. This is incorrect as the DHS Standards require CSOs to undertake a mid-cycle review every 12 to 18 months.

Further, reference to the term 'surveillance audits' should also note that such audits were used under the former Disability Standards which have been superseded by the DHS Standards.

Page 11, section 4.13 summarises the limited exceptions for organisations to be approved, comply with the standards and be audited.

Part b. refers to Victoria and states 'Service providers who provide only *voluntary OOHC* need not be registered or comply with the standards or be audited.'

The meaning of the Fact Sheet's reference to *voluntary OOHC* is unclear. In Victoria, a *voluntary placement* may occur with or without the involvement of DHS child protection.

Voluntary placements are premised on consent by parents to place a child in an out of home care placement for a period of time due to factors including parental illness, family crisis or for emergency reasons. These placements may be a kinship care arrangement, in which case provisions under the CYF Act relating to child care agreements do not apply, or through a child care agreement in a funded out of home care organisation, including foster care and disability service placement options.

If the placement is with a registered CSO, then the parent and the CSO are required to enter into a child care agreement. Child care agreements can be:

- **Short-term agreements:** for a specific period not exceeding 6 months. It is the responsibility of the CSO to notify the Secretary DHS in writing of each agreement entered into within 14 days.
- **Long-term child care agreements:** A long-term child care agreement may be entered into with the written approval of the Secretary DHS for a maximum period of 2 years, and only if certain time-related conditions are met.

- **Long-term agreements with a suitable person as a party:** Long-term child care agreements can be made with a suitable person as a party. The suitable person may have applied to a CSO to be assessed to provide care for a specific child, or alternatively may be an out of home carer assessed and approved to provide care for any child.

Both short and long term agreements have mandatory review requirements that require the CSO to advise the Secretary DHS (delegated to the child protection service). The child protection policy regarding voluntary placements is available online.⁵³

Page 15-16, section 8.7 sets out state and territory mechanisms for dealing with serious complaints and allegations of sexual abuse.

Part b. (page 16) relates to Victoria and summarises the independent investigation and Suitability Panel processes established under the CYF Act. However, it omits Victoria's critical incident reporting and quality of care processes (see Parts 7.4 and 7.5), while equivalent processes in other jurisdictions are included.

Page 18, section 9.1 states that 'New South Wales is the only state or territory that has third party monitoring and oversight of the handling of reports of sexual abuse'.

As set out in Parts 4.3 and 4.7.1, the Commission for Children and Young People (Commission) monitors and oversees the handling of reports of sexual abuse in Victoria. DHS provides the Commission with:

- all Category One incident reports that relate to children in out of home care, including quality of care matters;
- a quarterly Category One incident data report (including incident date; incident type; program; facility/CSO and client details); and
- all outcome reports for quality of care investigations.

The Commission is also now vested with the power to initiate own-motion inquiries into the safety and wellbeing of individual vulnerable children and into persistent or recurring issues in health services, human services or schools.

Similarly, **page 19, section 9.8(b)** should make reference to the Commission's role in receiving Category One incident reports and outcome reports for quality of care investigations.

⁵³ <http://www.dhs.vic.gov.au/cpmanual/out-of-home-care/the-placement-process/?a=660609>, accessed 13 November 2013.

Appendix B Responses to Royal Commission Issues Paper 4

1. **An essential element of OOHC is for a child to be safe and secure. Are there core strategies to keeping children in OOHC safe from sexual abuse and what is the evidence that supports them?**

Refer to Parts 4, 5, 6, 7 and 8

2. **Is there evidence for having different strategies to keep children in OOHC safe from sexual abuse depending upon whether a child is in relative or kinship care, foster care or one of the forms of residential care?**

Refer to Part 5.4

3. **What are the strengths and weaknesses of models that check OOHC practices by an audit approach, a regular supervisory visit, or an irregular visit by someone like a community visitor?**

Refer to Part 4.7

4. **What are the strengths and weaknesses of having OOHC providers regulated by the child protection department, or regulated by a body separate from the child protection department?**

Refer to Part 4.7

5. **What are the core components of the training needs of those working with children who might be sexually abused including carers, caseworkers and staff of regulatory bodies? What priority should be given to training in relation to sexual abuse compared to other training needs?**

Refer to Part 5.3 and Appendix D

6. **Is there adequate and effective training and information available to carers who are caring for children who have sexually abused other children?**

Refer to Part 5.3 and Appendix D

7. **How should the rate of sexual abuse of children in OOHC be determined, noting that the National Standards for Out of home Care require reporting of substantiated claims of all types of abuse? Would a form of exit interview assist in capturing information? What should be introduced to ascertain whether information on child sexual abuse in OOHC is resulting in changed OOHC practices?**

Refer to Part 8.1.2

8. **What is the usefulness and validity of different ways to address allegations of sexual abuse brought against carers? In particular, which approaches enhance participation by the child particularly approaches best suited to seeking possible disclosures of abuse (including disclosures that might be inferred from behavioural changes) from children? Are the current processes fair? What appeal processes should be available for carers?**

Refer to Part 7.5

9. **What measures could be used to assess whether the safety of children from sexual abuse in OOHC is enhanced by independent oversight of the handling of allegations of sexual abuse?**

Refer to Part 4

10. **What are the strengths and weaknesses of different oversight mechanisms in keeping children safe from sexual abuse in OOHC?**

Refer to Part 4

11. **What implications exist for record keeping and access to records, from delayed reporting of child sexual abuse?**

Refer to Part 7.7

Appendix C Best interests case practice model

Best interests principles

The 'best interests principles' are outlined in section 10 of the *Children Youth and Families Act 2005* and are as follows:

- (1) For the purposes of this Act the best interests of the child must always be paramount.
- (2) When determining whether a decision or action is in the best interests of the child, the need to protect the child from harm, to protect his or her rights and to promote his or her development (taking into account his or her age and stage of development) must always be considered.
- (3) In addition to sub-sections (1) and (2), in determining what decision to make or action to take in the best interests of the child, consideration must be given to the following, where they are relevant to the decision or action—
 - (a) the need to give the widest possible protection and assistance to the parent and child as the fundamental group unit of society and to ensure that intervention into that relationship is limited to that necessary to secure the safety and wellbeing of the child;
 - (b) the need to strengthen, preserve and promote positive relationships between the child and the child's parent, family members and persons significant to the child;
 - (c) the need, in relation to an Aboriginal child to protect and promote his or her Aboriginal cultural and spiritual identity and development by, wherever possible, maintaining and building their connections to their Aboriginal family and community;
 - (d) the child's views and wishes, if they can be reasonably ascertained, and they should be given such weight as is appropriate in the circumstances;
 - (e) the effects of cumulative patterns of harm on a child's safety and development;
 - (f) the desirability of continuity and stability in the child's care;
 - (g) that a child is only to be removed from the care of his or her parent if there is an unacceptable risk of harm to the child;
 - (h) if the child is to be removed from the care of his or her parent, that consideration is to be given first to the child being placed with an appropriate family member or other appropriate person significant to the child, before any other placement option is considered;
 - (i) the desirability, when a child is removed from the care of his or her parent, to plan the reunification of the child with his or her parent;
 - (j) the capacity of each parent or other adult relative or potential care giver to provide for the child's needs and any action taken by the parent to give effect to the goals set out in the case plan relating to the child;
 - (k) access arrangements between the child and the child's parents, siblings, family members and other persons significant to the child;
 - (l) the child's social, individual and cultural identity and religious faith (if any) and the child's age, maturity, sex and sexual identity;
 - (m) where a child with a particular cultural identity is placed in out of home care with a care giver who is not a member of that cultural community, the desirability of the child retaining a connection with their culture;
 - (n) the desirability of the child being supported to gain access to appropriate educational services, health services and accommodation and to participate in appropriate social opportunities;
 - (o) the desirability of allowing the education, training or employment of the child to continue without interruption or disturbance;

- (p) the possible harmful effect of delay in making the decision or taking the action;
- (q) the desirability of siblings being placed together when they are placed in out of home care;
- (r) any other relevant consideration.

Best interests planning and case management

When a decision is made by DHS that a child is not safe within their immediate family and is in need of protection, the best interests principles require that consideration is:

*...given first to the child being placed with an appropriate family member or other appropriate person significant to the child, before any placement option is considered.*⁵⁴

Accordingly, DHS must explore the child's family network for any possible and appropriate (kinship) care options. Where a suitable kinship care placement is not possible and DHS needs to place a child in out of home care provided by a CSO (such as foster care or in residential care), a referral is made to the Placement Coordination Unit in the relevant DHS Division (for more information, see Part 6.1.3).

Case planning

Planning is an essential component of the 'best interests' model and each child in out of home care must have a case plan that reflects critical information about the care of the child, their specific needs, and overall planning direction.

This includes making decisions about information-gathering and assessment, and interventions to manage and reduce risk of harm. Planning also considers the strengths and capabilities of the family and/or carer to provide sufficient protection from harm and to promote the child's rights and development.

For children in out of home care in Victoria, the overall planning direction will either be family reunification or stable long term out of home care. Determination of the most appropriate and most protective option is achieved through active collaboration and engagement of the child, family and service providers with timely assessments, and comprehensive and coordinated assistance and support.

Planning for all children in out of home care needs to take account of, and address, trauma to the child associated with their experience of abuse and neglect, as well as their experience of separation from their parent(s). Case practice needs to encompass opportunities for healing and therapeutic work with the child and parents, and siblings if applicable.

Introduction of a child to a new placement is supported by the child protection practitioner in conjunction with the CSO and carer. A care team is formed as soon as possible to support the child and placement and to inform planning and case management. Whenever a child is placed in out of home care, responsibility for their day to day care is usually with the placement provider, the CSO. With the exception of some kinship care placements, the CSO will assume responsibility for how the child's day to day needs will be met in out of home care.

Understanding a child's needs is assisted by the Looking After Children (LAC) initiative implemented by all out of home care providers in Victoria.⁵⁵ Under the LAC framework, CSOs develop an initial care and placement plan within two weeks of placement. This plan will form a part of the formal statutory case plan, addressing how the child's care needs will be met during placement. The care and placement plan will document:

- the child's needs, in the seven LAC domains (health, emotional and behavioural development, education, family and social relationships, identity, social presentation, self-care skills);
- planned outcomes;
- roles and responsibilities of members of the care team and other professionals; and
- the role of parents.

The content of the case plan will vary depending on the nature of the original concerns that led to the protective intervention, the type of protection order made by the Court and any relevant conditions that are included. The CYF Act also places specific responsibilities on DHS. Under section 174, DHS must:

- make provision for the physical, intellectual, emotional and spiritual development and safety of the child in the same way as a good parent would; and
- have regard to the treatment needs of the child.

Additional planning requirements include:

- developing an individual education plan for each child in out of home care;

⁵⁴ CYF Act, s.10 (3)(h)

⁵⁵ <http://www.dhs.vic.gov.au/about-the-department/plans.-programs-and-projects/programs/children.-youth-and-family-services/looking-after-children-in-victoria-lac>, accessed 13 November 2013.

- meeting stability plan requirements for children requiring stable long term out of home care;
- developing a cultural support plan for each Aboriginal child placed in out of home care subject to a guardianship or a long-term guardianship to the Secretary order;
- meeting the needs of children who place themselves at high risk of harm; and
- assisting young people who are leaving care to make the transition to adulthood.

Case management of children in out of home care

High quality case management maximises placement outcomes and can help prevent abuse in out of home care. In Victoria, case management includes the following functions:

- engagement and direct casework with children and families;
- initial and ongoing safety and needs assessments;
- information management;
- identification, coordination and monitoring of therapeutic services for the child and family; and
- referral and linkage of families with external services.

If a child is living out of home on an interim accommodation order, DHS child protection will retain case management responsibility. Where a child is subject to a Children's Court protection order and resides in a sufficiently stable placement with a CSO, case management is contracted to the CSO.

A case contract is a formal written agreement, between DHS and another agency, usually a registered CSO, for the provision of case management for a child subject to a protection order. Contracting arrangements are designed to enable the most appropriate agency to support implementation of the case plan. DHS may contract a CSO to undertake total case management or specified functions only. Responsibility rests with the CSO case manager to coordinate care team members involved with the child in order to meet the goals of the case plan.

The objective of case contracting is to provide the most appropriate and effective case management service for the child and their family by:

- minimising the number of professionals involved; and
- maximising the effectiveness of established relationships that the child or family has with an agency or individual professionals.

The decision to contract case management for a child or young person subject to a final protection order is a case planning decision and must be endorsed by a delegated DHS decision-maker. When cases are contracted to a CSO, DHS retains ultimate responsibility for the case. In general, the statutory functions and delegations of DHS cannot be contracted.

The role of care teams and regular face-to-face contact with the child

In accordance with the best interests principles of the CYF Act, at the point of placement, a care team is established to facilitate collaboration between professionals to provide the widest possible assistance to a child and family. Together with regular face-to-face contact with the child, this collaborative approach is designed to increase safety through the development of trusting relationships that provide regular opportunities for discussion and raising issues of concern.

The composition of a care team will vary depending on the specific issues and needs of the child and family. However, it will always include the DHS practitioner, CSO placement worker, the child's case manager, the child's carer and parents (as appropriate). Members of the child's care team meet as regularly as required by the circumstances of the child and family.

Children and young people in out of home care will routinely have direct contact with the allocated DHS practitioner or contracted CSO case manager. Generally, fortnightly contact is a reasonable minimum, and more, or less, frequent contact will occur where appropriate to the child's best interests.

Contact between the case manager and the child should occur in the child's environment or at least in a child-friendly space. Case managers must have contact with the child in their placement to understand the child's comfort with the placement and carer(s), and also to view first-hand the dynamics of the placement. On occasion, another venue may be more appropriate.

The care team has responsibility to determine the detail of contact frequency and purpose consistent with the case plan goals. Minimum contact levels should be clear and endorsed by DHS.

Case plan progress reports

Case plans must be reviewed at least annually, or more often depending on the circumstances of the child or young person. Reviews focus on achievement of case plan goals, identify issues and barriers, confirm that case management and service delivery is adequate, seek the family's views, explore and respond to risk and vulnerability and allow for adjustments to the case plan as required.

The purpose of case plan progress reports is to:

- support and document achievement of the case plan;
- provide ongoing assessment of the case; and
- support decision-making in the best interests of the client.

Progress reports are an essential element in the case planning process, communicating and documenting critical events and changes for the client in the reporting period. This provides an opportunity to consider whether the case plan is appropriate, or whether a review is warranted.

Responding to placements under pressure

All members of the care team have a responsibility within the context of their role to support, monitor and report on the placement.

Where practitioners become aware of early indicators that a placement may be under pressure, they will advise the best interests (case) planner and the CSO supporting the placement. Early indicators may include observation of carers having difficulty, or the child demonstrating difficult or escalating behaviour. Where necessary, the care team should convene to review the circumstances, including the child's presentation, and determine whether additional supports are indicated to enable the placement to continue. This may include increased support for the caregiver, a behaviour management plan, therapeutic intervention, liaison with the school or a mentor for the child.

Where a change of placement occurs, the care team will support the child to settle into the new placement and also plan for carer support, crisis prevention, behaviour management and clear roles and responsibilities where the need to change placements is related to management of a child's behaviour.

Where there is no option other than a new placement, the care team can lessen the impact of the move upon the child by:

- offering clear, age-appropriate explanations of the reasons for the change;
- providing reassurance and support; and
- taking a planned and incremental approach to the move, so that the child is familiarised with the new setting and caregivers in advance of the placement occurring (this is particularly important for younger children).

Appendix D Training for carers to protect children and young people in out of home care from sexual abuse

Training dimensions

Training for those who work with children at risk of sexual abuse in Victoria generally incorporates the following dimensions:

- principles of child development;
- an understanding of sexual development;
- the basics of sex education;
- developmental trauma;
- attachment and its role in healthy development;
- understanding sexual abuse dynamics; and
- signs and indicators of sexual abuse.

These dimensions are outlined in more detail below.

1. *Principles of child development.*

Child developmental principles focus on physical, emotional, cognitive and moral development. They provide a 'template' for understanding how a child should 'be' in the world at any particular developmental stage. Moral, cognitive and emotional development is important to understand so as to provide developmentally-appropriate care, understanding and information. Examples of this are the development of concrete to abstract thinking, the development of morals, empathy, idiosyncratic versus collective viewpoints and the ability to self-soothe and manage difficult emotions.

2. *An understanding of sexual development*

All humans are sexual beings and, whilst it may be uncomfortable for professionals and carers to think of children in this way, it is vital to understand sexual behaviour and development in terms of what is normal, what is concerning and what is not. There are many publications and training resources that provide this information often referred to in terms of 'green light/yellow light/red light behaviours'.⁵⁶

3. *The basics of sex education*

Young people who reside in out of home care are at risk of being disconnected from school and sometimes miss out on sex education curriculums. (See Part 8.3.)

4. *Developmental trauma*

Many young people in care have a history of developmental trauma. Staff working in out of home care settings must understand 'why' young people react the way they do to seemingly innocuous or low tariff situations and 'how' to respond appropriately.

5. *Attachment and its role in healthy development*

Attachment relationships in the first years of life form the blueprint for future relationships. Understanding attachment assists in understanding the responses of young people to their current relationships.

6. *Understanding sexual abuse dynamics*

Staff in out of home care settings need to understand the dynamics of sexual abuse to be aware and vigilant, to understand where risk lies, and to understand what to look for and how to respond.

7. *Signs and indicators of sexual abuse - what to look for*

The signs and indicators of sexual abuse are documented throughout a vast body of contemporary literature. Specialist practice resources developed for child and family welfare practitioners by DHS capture the essential signs and indicators of physical and sexual abuse. The practice resources are available for download from the DHS website.⁵⁷

⁵⁶ Barnett, M, Giaquinto, A, Hunter, L, & Worth, C (2007), *Age appropriate sexual behaviour in children and young people*, SECASA & Gatehouse Centre Publication

⁵⁷ <http://www.dhs.vic.gov.au/for-service-providers/children,-youth-and-families/child-protection/specialist-practice-resources-for-child-protection-workers>, accessed 13 November 2013.

Specialist resources

The Office of Professional Practice (OPP) leads the development and dissemination of knowledge about effective responses to sexual abuse, sexually abusive behaviours, and sexual exploitation for both the child protection and out of home care sectors.

Through a range of specialist practice resources (SPRs), the OPP provides advice for the family services, child protection and out of home care sectors on information-gathering, analysis and planning, action, and reviewing outcomes in cases where specific complex problems exist or with particular developmental stages in children's lives. Current guides include information on child development and trauma, cumulative harm, and children and adolescents with sexually abusive behaviours.

There are specific SPRs addressing working with children with problematic sexualised behaviour and with young people who exhibit sexually abusive behaviours.^{58, 59} Both resources include sections concerning the placement of these children and young people. The resources confirm the need for an assessment of whether and how safety can be achieved in the placement and that adult carers need to be proactive in implementing clear boundaries and specific aspects of the safety plan. DHS also has a series of publications for sexual abuse survivors, their families, and professionals working with children who have experienced sexual abuse.^{60, 61}

All of the SPRs provide a common language and knowledge base to underpin all training across the child protection, family services and out of home care sectors.

Training providers

Sexual abuse training for the child protection workforce is provided by a specialist learning and development unit within DHS. The training aims to educate staff on adolescent sexual behaviour, managing sexually abusive children and young people, young people in residential care who exhibit sexually abusive behaviours, and therapeutic responses to young people exhibiting sexually abusive behaviours.

For out of home carers, a number of training programs and opportunities are delivered via the RCLDS initiative, organisations such as the Australian Childhood Foundation, Child Protection Society, and Berry Street Victoria, and sexual assault services such as Centres Against Sexual Assault (CASAs).

The DHS OPP also provides specialised tailored training for out of home care providers (including carers) regarding management of sexually inappropriate or abusive behaviours by individual or groups of children and young people in placement. The OPP operates a calendar of training based on the 'best interests' framework and its suite of SPRs.

The Australian and New Zealand Association for the Treatment of Sexual Abuse (ANZATSA)⁶² provides low cost training and conferences for all professionals working in the field of sexual assault and sex offending. Professionals working in the out of home care system and carers regularly attend ANZATSA conferences and workshops. The OPP has direct links with ANZATSA with a Statewide (Child Protection) Principal Practitioner on the ANZATSA board.

Up-to-date training and research is also provided at the National Therapeutic Residential Care Workshops (recently held in Melbourne in 2010 and in Brisbane in 2012). The two-day practical workshops are designed for residential care staff, clinicians, policy makers, program managers and educators, with a focus on trauma-informed care for children and young people in therapeutic residential services.

The Salvation Army (Westcare) is contracted by DHS to provide a calendar of regular SSSLV and SxSV familiarisation training sessions each year. These sessions are open to all foster care staff and are available at no cost to the CSO. VACCA provides training for CSOs to strengthen relationships with Aboriginal

⁵⁸ *Children with problem sexual behaviours and their families*, Best interests case practice model, Specialist practice resource, Department of Human Services 2012. Available from http://www.dhs.vic.gov.au/data/assets/pdf_file/0003/644772/children-problem-sexual-behaviours-families-specialist-practice-resource-2012.pdf, accessed 13 November 2013.

⁵⁹ *Adolescents with sexually abusive behaviours and their families*, Best interests case practice model, Specialist practice resource, Department of Human Services 2012. Available from http://www.dhs.vic.gov.au/data/assets/pdf_file/0005/589721/adolescents-sexually-abusive-behaviours-families-specialist-practice-resource-2012.pdf, accessed 13 November 2013.

⁶⁰ <http://www.dhs.vic.gov.au/cpmanual/library/information-sheets/information-sheets-for-clients/survivors-of-sexual-assault/child-sexual-abuse>, accessed 13 November 2013.

⁶¹ Child sexual abuse: Understanding and responding, For professionals working with children who have experienced sexual abuse, Department of Human Services Victoria 2013. Available from http://www.dhs.vic.gov.au/data/assets/pdf_file/0019/574210/Child-sexual-abuse_0813.pdf, accessed 13 November 2013.

⁶² www.anzatsa.org

organisations, families and communities. Guidance for non-Aboriginal carers of Aboriginal children is also available through the Secretariat of National Aboriginal and Islander Child Care, based on work undertaken by VACCA in partnership with DHS.⁶³ Many out of home care providers also have partnerships with therapeutic providers who, through the provision of therapeutic specialists, assist carers to understand and manage youth who sexually abuse.

Training for kinship carers is delivered by Anglicare Victoria, the Australian Childhood Trauma Group and Berry Street Victoria Take Two. The program of training includes sessions on children's behaviour, positive parenting strategies, relationships and complex family dynamics, self-care strategies, trauma and attachment.

Residential care learning and development strategy (RCLDS)

In 2001-02, Victoria initiated a funded training strategy, the *Residential care learning and development strategy* (RCLDS), to strengthen residential care services in recognition of the link between staff competency and client outcomes.

In 2005, management of the RCLDS was contracted to the CSO peak body, the *Centre for Excellence in Child and Family Welfare Inc.* ('the Centre'). The Centre employs a full time RCLDS project leader to facilitate ongoing development and implementation of a residential care training strategy. RCLDS receives recurrent funding to enable implementation of major projects and initiatives.

RCLDS aims to develop a competent and appropriately-trained residential care workforce through:

- high quality training, supervision and support to workers;
- the development of appropriate pre-service and in-service qualifications relevant to the field; and
- a commitment to and development of a lifelong learning culture in the workplace.

RCLDS delivers statewide training and coaching to residential workers in mental health, supervision skills for residential care managers, conflict management, problem sexual behaviours, working with Aboriginal children, young people, families and organisations, autism and intellectual disability, cyber safety, critical incident stress debriefing and working with children and young people from CALD communities.

RCLDS auspices a number of training and development programs for residential care staff including:

1. **'With Care'** – a two and five day training program for residential workers delivered by Take Two in partnership with the Salvation Army Westcare. The two day 'With Care' training is provided to all residential care workers while a five day more specialised program exists for Therapeutic Residential Care (TRC) staff. The 'With Care' modules include:
 - A 2 day foundational module that provides an overview of trauma and attachment theory and trauma-informed residential care.
 - A 2 day 'Building our Practice' advanced training module that aims to develop understanding of how to integrate trauma and attachment theories into a therapeutically intentional practical direct care approach.
 - A 5 day intensive training for staff working in therapeutic residential care.
2. **'Managing young people with problem sexual behaviours'** training is a one day introductory course that focuses on understanding, assessing and managing adolescents with problematic sexually abusive behaviours within the residential care environment. The course aims to equip participants with:
 - a greater understanding of problem sexual behaviours;
 - an increased awareness of working with this client population including risk identification within the residential care setting; and
 - knowledge of support structures within the care environment that assist management of problem sexual behaviours.
3. **'Working with adolescents at risk of exploitation'** is a new RCLDS training collaboration with the Office of Professional Practice and Victoria Police. This initiative provides the opportunity for residential care and other CSO staff, child protection practitioners, and police to learn and work together on how to best address the risk of sexual exploitation to children and young people in care.

The program requirements for residential care mandate RCLDS training for residential care staff in TRC.

In addition to provision of training for residential workers, RCLDS aims to develop a supportive learning and development culture for worker development and support by:

⁶³ Secretariat of National Aboriginal and Islander Child Care, *Foster their culture: Caring for Aboriginal and Torres Strait Islander children in out of home care*, 2008: <http://www.snaicc.org.au/uploads/rsfil/02301.pdf>, accessed 13 November 2013.

- supporting the development of a skilled workforce through scholarships and completion bonds;
- funding international speakers and conferences such as the National Therapeutic Residential Care Workshop;
- hosting an annual Resi ROCKS forum for residential care workers;
- provision of awards for excellence and leadership in residential care; and
- contributing to development of learning materials for the Certificate IV in Child Youth and Family Intervention (Residential and Out of Home Care).

A growing learning culture within the residential care workforce is recognised through an increasing demand for and uptake of training by residential workers and the number of CSOs becoming Registered Training Organisations and delivering accredited training to their staff.