

REVIEWING IMPLEMENTATION OF
THE ABORIGINAL AND
TORRES STRAIT ISLANDER
CHILD PLACEMENT
PRINCIPLE
VICTORIA
2021-23



SNAICC
National Voice for our Children

Acknowledgement

SNAICC shows respect by acknowledging the Traditional Custodians of Country throughout Australia and their continuing connections to land, waters and communities. SNAICC head office is located on the lands of the Wurundjeri People of the Kulin Nation, and SNAICC operates nationally. SNAICC acknowledges Traditional Owners of all lands and waters across this continent and pays respects to Elders past and present. We acknowledge and respect their continued connection to Country, care for community and practice of culture for generations uncounded.

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Acronyms and abbreviations

Acronym	Full name of acronym
ABS	Australian Bureau of Statistics
ACAC	Aboriginal Children in Aboriginal Care
ACCO/s	Aboriginal and Torres Strait Islander community-controlled organisation
ACPD	Aboriginal Child Protection Diversion
AEDC	Australian Early Development Census
AFLDM	Aboriginal Family-Led Decision-Making
AHHF	Aboriginal Housing and Homelessness Forum
AIHW	Australian Institute of Health and Welfare
ASDB	Aboriginal Service Development Branch
BDAC	Bendigo & District Aboriginal Co-operative
Child Placement Principle	Aboriginal and Torres Strait Islander Child Placement Principle
CHLAA	Children and Health Legislation Amendment (Statement of Recognition, Aboriginal Self-Determination and Other Matters) Act
CPLAS	Care and Protection Legal Advocacy Service
CSD	Community Services Directorate
CYFA	Children, Youth and Families Act
DFFH	Department of Families, Fairness and Housing
Dhelk Dja	Dhelk Dja Partnership Forum
FGC	Family Group Conferencing
FNFST	First Nations Family Support Team
FPRR	Family Preservation and Reunification Response
FSS	Family Support Services
IFSP	Intensive Family Services Program
IFSS	Intensive Family Support Services
MRF	Monitoring and Review Framework
National Agreement	National Agreement on Closing the Gap
OOHC	Out-of-home care
RAJAC	Regional Aboriginal Justice Advisory Committee
RoGS	Report on Government Services
Safe and Supported	Safe and Supported: the National Framework for Protecting Australia's Children 2021–2031
SCRGSP	Steering Committee for the Review of Government Service Provision
Seeking Safety	Seeking Safety: Aboriginal Child Protection Diversion Trials Evaluation Final Report
SNAICC	SNAICC – National Voice for our Children
VACCA	Victorian Aboriginal Child Care Agency
Yoorrook	Yoorrook Justice Commission

Introduction

This report reviews the progress of the Victorian Government, through the Department of Families, Fairness and Housing (DFFH), in implementing the full extent of the Aboriginal and Torres Strait Islander Child Placement Principle (Child Placement Principle).

The five elements of the Child Placement Principle are: *Prevention, Partnership, Placement, Participation and Connection*.

The aim of the Child Placement Principle is to:

- embed an understanding that culture is integral to safety and wellbeing for Aboriginal and Torres Strait Islander children and young people and is embedded in law, policy and practice
- recognise and protect the rights of Aboriginal and Torres Strait Islander children, family members and communities in child safety matters
- support self-determination of Aboriginal and Torres Strait Islander people in child safety matters
- reduce the over-representation of Aboriginal and Torres Strait Islander children in child protection and out-of-home care (OOHC) systems.

This year's review analyses implementation efforts over 1 July 2021 – 30 June 2023. Quantitative data for 2022–2023 are included where available. The qualitative analysis considers developments occurring to 30 June 2024.

The annual jurisdictional reviews are developed by SNAICC – National Voice for our Children (SNAICC) with input from Aboriginal and Torres Strait Islander community-controlled organisations (ACCOs) and state and territory governments. The reviews are informed by the best practice approach set out in SNAICC's Child Placement Principle resource series (SNAICC 2017, SNAICC 2018A), a 2018 baseline analysis (SNAICC 2018b), and subsequent annual reviews undertaken by SNAICC.

Quantitative and qualitative analysis is used to measure and review jurisdictions' progress against the five elements and across five interrelated systems elements—legislation, policy, programs, processes and practice.

Quantitative data is taken primarily from the 2024 Report on Government Services (ROGS) Chapter 16 – Child Protection (SCRGSP 2024), the Australian Institute of Health and Welfare (AIHW) *Child Protection Australia 2022–23* report (AIHW 2024a), and the AIHW *Aboriginal and Torres Strait Islander Child Placement Principle Indicators 2021–22* report (AIHW, 2024). OOHC figures in this review comprise 'out-of-home care' and 'third-party parental responsibility orders' from the AIHW report or, where indicated, 'out-of-home care' and other supported placement data from ROGS. Data on 'children of unknown Indigenous status in out-of-home care' have not been included in this review's figures, where relevant.

These reviews arise from *Safe and Supported: the National Framework for Protecting Australia's Children 2021–2031* (Safe and Supported). These reviews map implementation progress and gaps across Australia, highlight governments' reform successes and hold governments accountable to their efforts—or lack thereof—in achieving better outcomes for Aboriginal and Torres Strait Islander children and their families. In this way, these reviews align with the priority reform areas of the National Agreement on Closing the Gap (National Agreement), including Priority Reform 4 on improving Aboriginal and Torres Strait Islander peoples' access to data that affects them and their communities.

Overview

During the review period, the Victorian Government introduced several relevant bills into Parliament. These included the *Children and Health Legislation Amendment (Statement of Recognition, Aboriginal Self-Determination and Other Matters) Act 2023* (CHLAA), which was passed by Parliament on 20 June 2023.¹ The changes to the *Children, Youth and Families Act 2005 (Vic)* (CYFA) introduced by the CHLAA are relevant to all five elements of the Child Placement Principle.

Prevention

Aboriginal and Torres Strait Islander families and communities have been raising happy, healthy and resilient children who enjoy a strong connection to culture for generations. Despite these strengths, Aboriginal and Torres Strait Islander children continue to be over-represented across all aspects of the child protection system in Victoria.

A lack of adequate investment as well as the underlying systemic racism and discrimination in the child protection system continues to inhibit the prevention element of the Child Placement Principle. In 2022–23, only 26.9% of the Victorian Government's real recurrent expenditure on child protection services was attributed to Intensive Family Support Services (IFSSs) and Family Support Services (FSSs), which is a reduction compared to the proportion in 2021–22 (27.6%) (SCRGSP 2024, Table 16A.8). Despite a commitment to increase investment in early intervention and prevention, the Victorian Government continues to direct most of its funding towards the tertiary end of the child protection system.

The 2023–24 Victorian State Budget provided \$140 million over four years to reduce the over-representation of Aboriginal children in care, including funding to continue and expand Aboriginal-led early intervention and diversion initiatives, such as Aboriginal-led rapid engagement and diversion and the Aboriginal Family Preservation and Reunification response (Victorian Government 2023). This funding will be rolled out progressively to 2025–26 (Victorian Government 2023).

Partnership

The Victorian Government is well behind in its commitment to transfer the case management of all Aboriginal and Torres Strait Islander children in OOH to ACCOs by 2021. As of 30 June 2023, only

¹ The Bill received royal assent on 27 June 2023, with some provisions coming into operation the following day on 28 June (those expanding the functions and powers that can be transferred to ACCOs) and others not until 1 July 2024 (the Statement of Recognition, Recognition principles and expanded Child Placement Principle).

48 per cent of Aboriginal and Torres Strait Islander children in OOHC were case-managed by an ACCO, which is a decrease from 50% in June 2021.

Placement

Placement of Aboriginal and Torres Strait Islander children with family, kin or Aboriginal and Torres Strait Islander carers remains relatively stable. As of 30 June 2023, 40.4% of Aboriginal and Torres Strait Islander children in OOHC in Victoria were placed with Aboriginal and Torres Strait Islander relatives/kin. This is the highest rate in Australia (SCRGSP 2024, Table 16A.23). ACCOs and Aboriginal and Torres Strait Islander community members have continually raised the importance of placing Aboriginal and Torres Strait Islander children with their siblings. As of 28 February 2023, the DFFH reported that 57% of Aboriginal and Torres Strait Islander children are placed in OOHC with all siblings, and 17% are placed with some siblings.

Participation

Whilst not a specific initiative for Aboriginal and Torres Strait Islander families, Family Group Conferencing (FGC) was rolled out across four pilot sites in Victoria in July 2022. The FGC program received \$19.8 million in funding from 2021 to June 2024. As of 8 August 2023, 137 Aboriginal and Torres Strait Islander children had been referred to FGC, of which 44 progressed with conferencing. Unfortunately, the data available on the participation of Aboriginal and Torres Strait Islander families in Aboriginal Family-led Decision-making (ALFDM) remains limited. In 2021–22, the Yoorrook Justice Commission (Yoorrook) heard that only 24% of Aboriginal and Torres Strait Islander children in OOHC had an ALFDM meeting. This is despite a legislative requirement under section 12(1)(b) of the CYFA that a meeting be held, convened by an Aboriginal convenor, in relation to any placement or significant decision about an Aboriginal and/or Torres Strait Islander child.

Connection

As of 30 June 2023, 67% of Aboriginal and Torres Strait Islander children placed in care for longer than 19 weeks had a cultural support plan, compared to 58% in June 2021. Whilst the Victorian Government has made continued efforts to strengthen the connection of Aboriginal and Torres Strait Islander children in care, Aboriginal and Torres Strait Islander sector leaders have expressed concern over the quality and implementation of cultural support plans in Victoria.

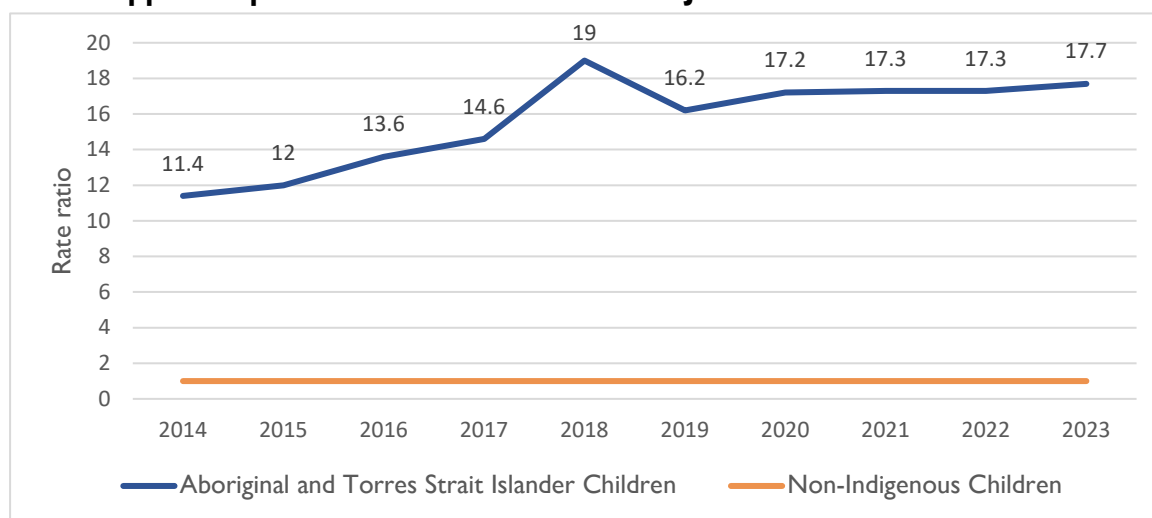
Prevention

The prevention element of the Child Placement Principle aims to ensure that Aboriginal and Torres Strait Islander children and their families grow up healthy and safe, and within their own family and community. Preventing children and families from entering the child protection system requires collaboration among various services and programs, that span multiple government sectors, such as health, education, housing and economic development. This review primarily focuses on the child protection-focused activities of the Community Services Directorate (CSD), while noting that holistic prevention can only be achieved with a whole-of-government approach.

Over-representation in child protection

Aboriginal and Torres Strait Islander children living in Victoria had contact with the child protection system at the highest rate in Australia—297.2 per 1,000 Aboriginal and Torres Strait Islander children in the population (SNAICC 2023). This is more than 10 times the rate of non-Indigenous children—28.6 per 1,000 children. As of 30 June 2023, Aboriginal and Torres Strait Islander children in Victoria were placed into OOHC and other supported placements² at 17.7 times the rate of non-Indigenous children, compared to 17.3 times in 2022 and 2021 (SCRGSP 2024, Table 16A.2, 16A.3 and 16A.42).³ This is the second highest rate of over-representation in Australia, behind Western Australia at 20.2. Figure 1 shows the trend in rate ratios comparing Aboriginal and Torres Strait Islander children and non-Indigenous children in OOHC and other supported placements in Victoria over the past ten years.

Figure 1 – Rate ratios of Aboriginal and Torres Strait Islander children in OOHC and other supported placements in Victoria as of 30 June 2014–2023.



Source: SNAICC calculation of rate ratios, with data drawn from - Report on Government Services 2024, Part F, Section 16 Child Protection Services. Table 16A.2, 16A.3 and 16A.42

² National out-of-home care counting rules changed for all states and territories in 2018-19 and now exclude children on third-party parental responsibility orders (TPPROs) from the count of children in OOHC. SNAICC believes that this change seriously undermines transparency and accountability, effectively rendering these children invisible in the system. The number of children on TPPROs is reported in the annual AIHW *Child Protection Australia* publication. Children in 'other supported placements' includes TPPROs and certain types of immigration orders. SNAICC has elected to use data on other supported placements for 2022-23 as disaggregated data about children on TPPROs has not yet been released. Past years' data are included for comparison. Because these calculations are based on other supported placements, they will differ slightly from overrepresentation data which only includes children in out-of-home care and on TPPROs. For calculations of overrepresentation rates based on only children in out-of-home care and on TPPROs, see the annual *Family Matters* Reports.

³ The source of this data is different from the Family Matters 2024 report and numbers will therefore differ

Both the total number of children in OOHC and the proportion of Aboriginal and Torres Strait Islander children in OOHC and other supported places in Victoria have increased since 30 July 2021. As of 30 June 2023, Victoria had 12,758 children living in OOHC and other supported places—the second highest number in Australia behind NSW (SCRGSP 2024, Table 16A.2 and 16A.3). Out of this number, 24.5% (3,125) of children identified as Aboriginal or Torres Strait Islander. As of 30 June 2022, Aboriginal and Torres Strait Islander children made up 23.8% (3,027 out of 12,707 children) of the total OOHC population, compared to 23.6%—2,984 out of 12,669 children—in 2020–21 (SCRGSP 2024, Table 16A.2 and 16A.3).

Just as the total number of children in OOHC in Victoria has increased since 30 July 2021, the proportion of Aboriginal and Torres Strait Islander children that were placed in OOHC each year has also increased. In 2022–23, 25.7% of children—906 out of 3,522 children—who were placed in OOHC were Aboriginal and Torres Strait Islander children, compared to 23.4% of children—804 out of 3,434 children—in 2021–22 and 23.8% of children—904 out of 3,806 children—in 2020–21 (SCRGSP 2024, Table 16A.4). The proportion of Aboriginal and Torres Strait Islander children who have exited care has also increased since 30 July 2021. In 2022–23, 24.4% of children—892 out of 3,662 children—who exited OOHC were Aboriginal and Torres Strait Islander children. This is compared to 24.2% of children—858 out of 3,545 children—in 2021–22 and 21.4% of children—831 out of 3,882—in 2020–21 (SCRGSP 2024, Table 16A.4).

Community Protecting Boorais

The CHLAA introduced several changes to the CYFA that are relevant to prevention. Most significantly, the existing range of the DFFH functions and powers that the DFFH may authorise ACCOs to perform, and exercise has been expanded from those exercised when children are on protection orders to include those exercised when a report is first received by the DFFH.

Community Protecting Boorais (CPB) is the DFFH-funded program where functions and powers are transferred to ACCOs to investigate protective intervention reports; make determinations about whether allegations of harm are substantiated; provide or refer families to services on a 'voluntary' basis without a court order or as a last resort file a protection application in the Children's Court of Victoria. To date, two Aboriginal Children in Aboriginal Care (ACAC) sites have been funded to manage the investigations of Aboriginal and Torres Strait Islander children, which means that less than 12% of Aboriginal and Torres Strait Islander children in the child protection system will receive an Aboriginal-led response (SNAICC 2023). Victorian Aboriginal Child and Community Agency (VACCA) and Bendigo & District Aboriginal Co-operative (BDAC) launched the CPB Pilot Program in October 2023, providing an Aboriginal-led and culturally informed response to risk assessment, provision of support services and intervention for Aboriginal children and families. VACCA has received funding for a CPB team in Narrm/Melbourne, in the Northern Metropolitan area, that has, to date, worked with 90 children. Funding restraints have meant that the program has been unable to accept referrals of 303 children from 155 families. The DFFH noted that an additional investment of \$13.7 million has been committed over three years from 2024–25 to expand the CPB Program (Victorian Government 2023).

Other Legislative changes introduced by the CHLAA

The CHLAA also introduced a new provision s.14(1A) to the CYFA to expressly identify ‘prevention’ as an element of the Child Placement Principle and recognise that ‘an Aboriginal child has a right to be brought up within the child's family and community’. In addition, a new Statement of Acknowledgment was introduced in s.7AA that provides that ‘the Parliament acknowledges that removing an Aboriginal child from the care of a parent may—(a) disrupt the child's connection to their culture; and (b) cause harm to the child, including serious harm.’

Aboriginal Child Protection Diversion Trials

The Aboriginal Child Protection Diversion (ACPD) trials aim to respond to the over-representation of Aboriginal and Torres Strait Islander children in the child protection system through the design and implementation of Aboriginal and Torres Strait Islander-led solutions (Victorian Government 2023). Funded by the DFFH through the Aboriginal Children and Families Innovation and Learning Fund, four ACCOs across Victoria are delivering three ACPD trials, offering culturally safe, ACCO-led support services to Aboriginal and Torres Strait Islander families who are in contact, or at risk of contact with the child protection system.

In 2022, The University of Melbourne evaluated the ACPD trials and released the *Seeking Safety: Aboriginal Child Protection Diversion Trials Evaluation Final Report (Seeking Safety)* (Wise S & Brewster G 2022). The Seeking Safety report highlighted the effectiveness of the Aboriginal-led Case Conferencing trial and Garinga Bupup trial—working with families to support unborn children—in diverting Aboriginal children from child protection investigations (Wise S & Brewster G 2022). The trials reported a 78% and 63% diversion rate respectively, in preventing children from entering the child protection system between September 2021 to September 2022 (Wise S & Brewster G 2022). The DFFH announced four-year Rapid Engagement and Diversion funding in the 2023–24 State Budget to extend these programs (Victorian Government 2023).

Whilst the ACPD trials have shown promising results in diverting Aboriginal and Torres Strait Islander families from contact with the child protection system, VACCA voiced their concerns over the continued use of short-term trial-based funding models (VACCA 2022), stating that the number of referrals exceeded the targets of the trial, but that the funding and limited 12-month delivery phase did not allow for the program to be scaled up to meet the demands of the community (VACCA 2022).

Social determinants of child protection involvement

Some of the key drivers of children and families entering the child protection system relate to social determinants of health. Access to adequate housing, education, employment and affordable food has a significant impact on an individual's health and wellbeing. For Aboriginal and Torres Strait Islander families, these factors are further complicated by the enduring effects of colonisation and intergenerational trauma.

The relationships between social determinants and the primary reasons for child protection

involvement are complex. There is a multi-faceted dynamic relationship between social determinants and child protection processes of notifications, investigations, substantiations, making of care and protection orders, and removal into OOHC. For example, poverty can often be conflated with neglect during child protection investigations and can result in inappropriate child protection interventions. The interplay between social and economic factors that can contribute to children being mistreated, abused and neglected is complex, and is intertwined with ongoing institutional biases and systemic racism. When looking at the level of child protection involvement in Aboriginal and Torres Strait Islander families, it is important to consider the factors around the family and community and whether they are creating enabling environments for children and families to thrive.

In 2021, Aboriginal and Torres Strait Islander people made up 1.2% of the total population in Victoria (ABS 2023) and Aboriginal and Torres Strait Islander children and young people made up just 1.8% of the population of children aged 0–17 (SCRGSP 2024). From 2021 to 2023 in Victoria, there continued to be a range of social, economic and health challenges that can contribute to Aboriginal and Torres Strait Islander children entering OOHC. These challenges, as well as recent activities to address them, are outlined below.

Early contact with Youth Justice

Aboriginal and Torres Strait Islander young people aged 10–17 living in Victoria were placed in detention at 9.3 times the rate of non-Indigenous young people in 2022–23 an increase from 9 in 2021–22 (SCRGSP 2024, Table 17A.5).

In April 2023, the Victorian Government announced its commitment to raise the minimum age of criminal responsibility from 10 to 12 years old by the end of 2024, and to 14 years old by 2027 (Victorian Government, 2023a). Disappointingly, the Victorian Government has since gone back on the commitment to raise the age to 14 years old by 2027.

Yoorrook heard of the systemic racism and bias that exists within the youth justice system with just 13.8% of Aboriginal and Torres Strait Islander children issued cautions or warnings in comparison to 20% of their non-Indigenous counterparts (Yoorrook 2023). There are currently nine Regional Aboriginal Justice Advisory Committees (RAJACs), which have been established to advocate for and promote the justice outcomes for Aboriginal and Torres Strait Islander people living in Victoria. There are several initiatives under development through the RAJAC implementation funding stream, such as Yalka Yakapna Woka (Yoorrook 2023). Yalka Yakapna Woka (Yarning Circles) is a program that seeks to identify at-risk Aboriginal and Torres Strait Islander young people aged 8–17 and support them to enhance their overall health and wellbeing through building connections to Country, culture and family (Yoorrook 2023).

Homelessness

In Victoria, 15% of people accessing homelessness services identified as Aboriginal or Torres Strait Islander (Yoorrook 2023). In 2021–22, there were 970 Aboriginal and Torres Strait Islander young people aged 16–24 who were experiencing homelessness and presented alone to specialist homeless services (Yoorrook 2023).

In 2022, *The Blueprint for an Aboriginal Homelessness System in Victoria* (Blueprint) was published by the Aboriginal Housing and Homelessness Forum (AHHF) and launched at the Aboriginal Housing and Homelessness Summit. The Blueprint outlines the design and implementation of an Aboriginal-specific response to homelessness in Victoria and is the first of its kind in Australia (Aboriginal Housing Victoria Limited, 2022).

Domestic and Family violence

In Victoria, Aboriginal and Torres Strait Islander people are more than twice as likely to experience family violence than non-Indigenous people (Yoorrook 2023). It is important to note that Victoria mostly records exposure to domestic and family violence under 'emotional abuse'. It would be preferable for Victoria to follow the lead from other jurisdictions and record exposure to domestic and family violence as a separate abuse type.

The Dhelk Dja Partnership Forum (Dhelk Dja) is an Aboriginal-led agreement, where Aboriginal communities and services work in partnership with the government to address Aboriginal family violence in Victoria. In May 2023, the Aboriginal Family Violence Prevention Mapping Project (Mapping Project) was released for the Dhelk Dja (Respect Victoria 2023). The Mapping Project identified government-funded prevention initiatives that were available in Victoria, with a particular focus on programs that were delivered by ACCOs, and highlighted the key successes, challenges and gaps that exist in current service delivery. (Respect Victoria, 2023).

Family Support and Intensive Family Support Services

Despite a commitment to increase investment in early intervention and prevention, the Victorian Government continues to direct the majority of child protection funding into the tertiary end of the child protection system. In 2022–23, only 26.9% of the Victorian Government's real recurrent expenditure on child protection services was attributed to IFSSs and FSSs, which is a decrease from 27.6% in 2021–22 and 27.3% in 2020–21 (SCRGSP 2024, Table 16A.8). This is the second highest proportion of expenditure on IFSSs and FSSs of all states and territories in Australia, behind the Northern Territory at 28.6%.

Looking further into the data reveals a more telling story of the cultural safety and responsiveness of these services. Despite being over-represented at every stage of the child protection system in Victoria, only 21.7% of children—1,686 out of 7,762 children—commencing IFSSs in 2022–23 identified as Aboriginal or Torres Strait Islander (SCRGSP 2024, Table 16A.35). This is compared to 23.7% of children—1,975 out of 8,340 children—in 2021–22 and 10.7% of children—1,243 out of 11,623 children—in 2020–21 (SCRGSP 2024).

Whilst the proportion of Aboriginal and Torres Strait Islander children accessing these services appears to have increased over time, the total number of children accessing IFSSs in Victoria has been decreasing. The DFFH noted that this decrease in the number of children accessing IFSSs is due to an increase in the duration and intensity of work required to provide support to families (Victorian Government 2023). The DFFH noted that greater efforts are put towards families with more complex needs, meaning that those families identified as less 'at risk' do not receive support through IFSSs

(Victorian Government 2023). With the number of children in OOHC continuing to rise each year, it is essential that all children and their families have access to early intervention and family support services such as IFFSs. In its interim report, *Yoorrook for Justice*, Yoorrook highlighted how efforts to support Aboriginal and Torres Strait Islander children and their families are not effective due to the lack of cultural safety and discriminatory behaviours in early intervention services (Yoorrook 2023).

In addition to the urgent need to address the systemic racism that is entrenched in the child protection system, submissions to Yoorrook called for increased investment and funding into Aboriginal-led early intervention and support services. The Family Matters Report breaks down the 2021–22 child protection expenditure and found that only 11.59% of the total expenditure on FSSs and IFSSs is allocated for ACCOs in Victoria (SNAICC 2023). Whilst there has been an increase in the funding provided to ACCOs over the last decade, VACCA reported that, of the funding received, only 2.8% was provided for early intervention and prevention services (SNAICC 2023).

The Victorian Government's 2023–24 State Budget provides the largest ever single investment—\$140 million over four years—to continue and expand the Aboriginal-led service system (Victorian Government 2024). This will include:

- expanding the ACAC program to an additional 774 children authorised to an ACCO by June 2027
- 144 additional Koorie Supported Playgroups each year by 2025–26 in all 17 areas across Victoria
- 330 Aboriginal families each year by 2025–26 receiving Aboriginal-led rapid engagement and diversion family services aimed at diverting families from the child protection system in all 17 areas across Victoria
- 85 additional Aboriginal families receiving the Aboriginal Family Preservation and Reunification response each year by 2026–27
- expanding the CPB program to an additional 174 children that can be investigated by an authorised Aboriginal agency
- \$13 million to support Aboriginal workforce development and organisational capacity building through the sector-led Aboriginal Workforce Fund, and for Aboriginal community infrastructure.

Increased investment in early intervention supports

The DFFH reported that over \$23 million of additional funding has been provided to ACCOs between 2016–17 and 2021–22 to deliver early intervention supports for Aboriginal and Torres Strait Islander families, a 104% increase (Victorian Government 2023). The DFFH reported that 15% of family and parenting services funding is provided to ACCOs (Victorian Government 2023). Whilst the proportion of funding is provided on a 'sliding scale' which reflects demand across each part of the system, as the rates of Aboriginal and Torres Strait Islander children and young people in OOHC continue to increase more investment is needed into early intervention and prevention services to keep these children and their families together.

The Victorian Government funds two key IFSSs, the Family Preservation and Reunification Response (FPRR) and the Intensive Family Services Program (IFSP), which are not included in the counting rules for IFSSs and FSSs in the RoGS data. The DFFH reported that 23.5% of Victoria's investment in FPRR is delivered by ACCOs (Victorian Government 2023). In 2021–22, the total number of Aboriginal and Torres Strait Islander children commencing in FPRR services was 1477—22% of all children commencing in these services (Victorian Government 2023). These services average more than 200 hours of service per family per period of support (Victorian Government 2023).

Integrated Family Services works with families in need of targeted support to address parenting concerns and improve child safety and wellbeing. The DFFH reported that 8.8% of Victoria's investment in Integrated Family Services is provided to ACCOs (Victorian Government 2023). In 2021–22, a total of 3,482 Aboriginal and Torres Strait Islander children commenced in these services—11% of all children commencing in these services. These services average around 100 hours of support per family per period of support (Victorian Government 2023). To help families with emerging needs receive support when they need it, the DFFH have recently implemented Early Help Family Services pilots in all 17 of the DFFH service areas (Victorian Government 2023). Five ACCOs are involved in delivering these services at seven sites across Victoria (Victorian Government 2023).

Unborn reports

The systemic and institutional racism that is entrenched within the child protection system is further displayed in the rate of unborn reports—or pre-birth notifications—that were made for Aboriginal and Torres Strait Islander children. An unborn report can be made where a health practitioner or concerned party has a 'significant concern for the wellbeing of the child after their birth' (DFFH n.d.). In 2022, 19.3% of all unborn reports in Victoria were made for Aboriginal and Torres Strait Islander children a rate that was more than double that of reports made for non-Indigenous children (Yoorrook 2023).

Whilst it may be argued that these reports are made as a form of prevention there is little evidence to show further investment into supporting the families or children who had unborn reports made. Often these reports lead to an infant being removed from their families. In 2021, of the Aboriginal and Torres Strait Islander children who had been subject to an unborn notification, 28.4% had entered care within 12 months of birth (Yoorrook, 2023). Aboriginal and Torres Strait Islander infants are removed at 15.5 times the rate of non-Indigenous infants in Victoria, the second highest rate of infant removals in Australia (SNAICC 2023). Victorian ACCOs have requested for many years that all Aboriginal and Torres Strait Islander unborn reports be referred to ACCOs. Unfortunately, there has been very slow progress in the DFFH on the development of guidelines to support those referrals. ACCOs are best placed to provide the support needed to address concerns and could help slow the rate of unborn reports flowing into child protection intervention and child removal.

Partnership

To improve the wellbeing of Aboriginal and Torres Strait Islander children and families, it is important that governments and key stakeholders establish and maintain genuine partnerships with Aboriginal and Torres Strait Islander communities. Ensuring meaningful involvement of Aboriginal and Torres Strait Islander people in all aspects of design, delivery and decision-making in child protection systems is an essential element of the Child Placement Principle. However, there is a need for governments to further prioritise the full implementation of this essential principle.

In 2021–22, just 14%—\$127.38 million—of the funding in the child protection and family services portfolio was directly provided to ACCOs (Victorian Government 2023). With Aboriginal and Torres Strait Islander children over-represented across all stages of the child protection system this percentage is disproportionately low. Yoorrook highlighted that this demonstrates the Victorian Government’s reluctance to embrace true partnerships with Aboriginal and Torres Strait Islander peoples and a failure in their commitment to empower Aboriginal self-determination (Yoorrook 2023).

The Aboriginal Children’s Forum (ACF) brings together representatives from Victorian ACCOs, Community Service Organisations and the Victorian Government to report on the progress of *Wungurilwil Gagapduir: The Aboriginal Children and Families Agreement* (Wungurilwil Gagapduir). A key objective of the ACF is for ACCOs to receive funding that is proportional to the over-representation of Aboriginal and Torres Strait Islander children and young people in care (Victorian Government 2023). Through the ACF, the DFFH is committed to achieving this objective and shifting to an Aboriginal-led system but acknowledges that system reform and building up the capacity of ACCOs has been particularly challenging (Victorian Government 2023).

Case management of Aboriginal and Torres Strait Islander children in care

One commitment in *Wungurilwil Gagapduir* was that all Aboriginal and Torres Strait Islander children in OOHC in Victoria would be case managed by an ACCO by 2021. As of June 2023, only 48% of Aboriginal and Torres Strait Islander children in OOHC were case managed by an ACCO, which is a decrease from 50% in June 2021 (SNAICC 2023).

In 2022, the Victorian Government announced the Aboriginal Community Controlled Organisations: Rights and Aspirations project. The Rights and Aspirations project’s objective is to reinvigorate the collective efforts of the Victorian Children and Families sector to transition Aboriginal children who are in care and subject to final protection orders from child protection and community service organisation managed placements to ACCOs (Victorian Government 2023). This transition is consistent with government policy and the objectives of the ACF. The Rights and Aspirations project made 24 recommendations to address barriers to the transition of case management to ACCOs, however, it is disappointing that the DFFH has not accepted or acted upon those recommendations.

Commitment to self-determination

The CHLAA implemented several changes to the CYFA legislation that should result in stronger Aboriginal and Torres Strait Islander self-determination in decision-making related to child protection.

In addition to enabling the transfer of the expanded functions and powers of the CPB program, the amendments embed the Victorian Government's commitment to Aboriginal self-determination in the legislative framework for children and family services, by introducing a Statement of Recognition and principles for all decision-makers involved with Aboriginal children and their families in the child protection system (Victorian Government 2023). The CHLAA also introduced new provisions s14(1B) and 1(C) in the CYFA to expressly identify 'partnership' as an element of the Child Placement Principle.

The drafting of CHLAA and its binding Recognition Principles was led by a working group which included ACCOs who deliver child and family services in Victoria (Victorian Government 2023a). While ACCOs welcome the CHLAA and its binding Recognition Principles the change needed to bring about the systemic change envisioned by Yoorrook and Victorian ACCOs will require more than policy and procedural change. A commitment to transfer of authority, control and resources to ACCOs is needed to enable self-determination.

Recommendation 1 of the Yoorrook for Justice report calls for the Victorian Government to transfer decision-making power, authority, control and resources to First Peoples, giving full effect to self-determination in the Victorian child protection system including obtaining and allocating resources and going beyond the transfer of existing powers and functions under the CYFA, which will require new, dedicated legislation, developed by First Peoples, for the safety, wellbeing and protection of First Peoples children and young people (Yoorrook 2023). In line with this recommendation, VACCA, in collaboration with other ACCOs, commenced a Legislative Reform Project in May 2023 and has substantially progressed the drafting of an 'Aboriginal Children and Families Act' to complete the transformation of a state-led child protection system to an Aboriginal Community of Care. The Victorian Government's response to the Yoorrook for Justice report reaffirms the state's commitment to ensure Treaty negotiations are informed by recommendations of Yoorrook and assists Yoorrook to achieve its truth-telling objectives (Victorian Government Response to Yoorrook Justice Report 2024).

Placement

When a child is to be placed in OOHC, the Child Placement Principle placement hierarchy ensures that Aboriginal and Torres Strait Islander children maintain connection to their family, community, culture and country.

As seen in Table 1 (pg. 17), the rates of placement of Aboriginal and Torres Strait Islander children with relatives/kin have remained relatively stable between 2017 and 2023. As of 30 June 2023, 40.4% of Aboriginal and Torres Strait Islander children in Victoria were placed with Aboriginal and Torres Strait Islander relatives/kin. This is the highest rate in Australia (SCRGSP 2024, Table 16A.23). The national average for placing Aboriginal and Torres Strait Islander children with Aboriginal and Torres Strait Islander relatives/kin is 32.2% (SCRGSP 2024, Table 16A.23). Reforms to CYFA that came into effect in 2016 have introduced a hierarchy of five permanency objectives which are, in order of preference:

1. family preservation
2. family reunification
3. adoption
4. permanent care
5. long-term OOHC (Yoorrook 2023).

Aboriginal and Torres Strait Islander people have expressed their concerns about these amendments and the failure of the Victorian Government to recognise the devastating impact these reforms will have on Aboriginal and Torres Strait Islander people (Yoorrook 2023). Aboriginal and Torres Strait Islander people living in Victoria—and across the country—have continually advocated against the permanency settings of current legislation. The decisions around permanency are based on Western constructs and legal frameworks and do not recognise the importance of kinship relationships and cultural identity (Yoorrook 2023). The permanency objectives introduced in Victoria place unrealistic timeframes on children and families and, as a result, see many children removed from their families and placed in unsuitable and culturally unsafe homes.

The DFFH reported it is currently considering advice on stakeholder feedback and potential reform options in relation to permanency settings, in line with recommendation 25 of the Yoorrook for Justice report (Victorian Government 2023). Implementation of the recommendation would require legislative reform. This work will seek to review opportunities to balance flexibility to provide parents with sufficient time to work towards reunification with the best interests of children and the significant impact that long periods of uncertainty through drawn-out reunification proceedings can have on children's development (Victorian Government 2023).

The CHLAA introduced a new provision s.13(4) to the CYFA to make clear that the Child Placement Principle must continually be applied by the Children's Court—not only when a child is first removed from parental care—and that its application extends to decisions that are not about placement, e.g., a decision to extend an order or what conditions should be included on an order. The provision is not enforceable.

Table – Aboriginal children in Victoria aged 0–17 in out-of-home care, by caregiver type (per cent), as of 30 June 2017–2023.

	2017	2018	2019	2020	2021	2022	2023
Placed with relatives/kin or other Aboriginal carer							
Aboriginal relative/kin	36.2	37.2	40.9	37.9	39.6	39.6	40.4
Non-Indigenous relative/kin	23.6	27.1	35.6	39.8	39.3	39.1	38.7
Total placed with relatives/kin	59.8	64.3	76.5	77.7	78.8	78.7	79.1
Other Aboriginal and Torres Strait Islander carer	3.1	2.9	1.9	1.4	1.4	1.6	1.4
Total	62.9	67.2	78.4	79.1	80.2	80.3	80.5
In another care arrangement							
Other non-Indigenous carer	15.9	15.7	16.3	16.8	16	15.1	14.7
Residential care or family group home	2.7	3.2	4.8	3.8	3.3	4.4	4.5
Independent living/living arrangements unknown	18.6	13.8	0.6	0.3	0.4	0.3	0.3
Total	37.1	32.8	21.6	20.9	19.8	19.7	19.5

Source: Report on Government Services 2024, Part F, Section 16 Child Protection Services, Table 16A.23

In placing Aboriginal and Torres Strait Islander children in care, Aboriginal and Torres Strait Islander communities and organisations have stressed the importance of keeping Aboriginal siblings together. The CYFA recognises the ‘desirability’ of keeping siblings together when placed in OOHC as a ‘best interests’ principle applicable to all children, however, this is not specifically identified as part of the Child Placement Principle. As of 28 February 2023, DFFH reported that 57% of Aboriginal and Torres Strait Islander children were placed in OOHC with all siblings and 17% were placed with some siblings (Victorian Government 2023).

To ensure that the placement element of the Child Placement Principle is upheld, more effort needs to be made to improve identification practises of Aboriginal and Torres Strait Islander peoples. Yoorrook heard concerning evidence around Aboriginal identification processes within the child protection system, where ACCOs were often left to confirm a child’s Aboriginality without any funding to support the work involved (Yoorrook 2023). This can result in children who are not Aboriginal accessing support and services reserved for Aboriginal children. Confirming a child’s Aboriginality is a complex process but it is critical that a child’s identity is confirmed as quickly as possible upon entry into the child protection system to ensure that the cultural rights of Aboriginal and Torres Strait Islander children are upheld. Having the access to information about a child’s cultural background, country, kinship and community is essential when placing an Aboriginal and Torres Strait Islander child in OOHC.

Participation

It is important that children in contact with the child protection system—along with their families—are actively involved in any decisions concerning their care. This is particularly important for Aboriginal and Torres Strait Islander children and young people.

When speaking directly to Aboriginal and Torres Strait Islander children and young people about their experiences in the child protection system, Yoorrook heard that many children and young people wanted to be more involved in decision-making around matters such as where they would live, and who they would have contact with (Yoorrook 2023). This confirms previous research findings that when children and young people are involved in decision-making processes, these often lead to stronger and more positive outcomes (Yoorrook 2023).

The Statement of Recognition and binding Recognition Principles introduced into the CYFA by the CHLAA include additional participation rights to those already existing within the CYFA. The CHLAA also introduced a new provision s.14(1D) to the CYFA, to expressly identify ‘participation’ as an element of the Child Placement Principle.

Marram-Ngala Ganbu Koori Family Hearing Days

In 2021, the Victorian Government announced the expansion of Marram-Ngala Ganbu Koori Family Hearing Days (Marram-Ngala Ganbu) in the Children’s Court to the Shepparton Children’s Court. Marram-Ngala Ganbu means ‘we are one’ in Woiwurrung language. Over the period of July 2022 to June 2023, a total of 226 families attended sittings in Shepparton and 407 families attended sittings in Broadmeadows (Children’s Court of Victoria, 2023). The Victorian Aboriginal Children and Young People’s Alliance and VACCA, followed by the Yoorrook Justice Commission, called for the expansion of Marram-Ngala Ganbu across Victoria. Unfortunately, despite a very positive evaluation, the Victorian Government has not expanded the program further.

Family Group Conferencing

Whilst not a specific initiative for Aboriginal and Torres Strait Islander families, Family Group Conferencing (FGC) was rolled out across four pilot sites in July 2022. The FGC program received \$19.8 million in funding from 2021 to June 2024. As of 8 August 2023, 137 Aboriginal and Torres Strait Islander children had been referred to FGC out of which 44 progressed with conferencing (Victorian Government 2023). None of the pilots were operated by ACCOs.

Aboriginal Family-Led Decision-Making

Unfortunately, the data available on the participation of Aboriginal and Torres Strait Islander families in Aboriginal Family-Led Decision-Making (AFLDM) remains limited. In 2021–22, Yoorrook heard that only 24% of Aboriginal and Torres Strait Islander children in OOHC had an AFLDM meeting (Yoorrook 2023). The DFFH reported that there were 1,256 AFLDM meetings held in 2022–23 (Victorian Government 2023), however, this number does not ensure that Aboriginal children and families were present in all these meetings, as the DFFH does not collect attendance at these meetings. Despite legislative requirements and Victoria’s AFLDM guidelines stating the AFLDMs are the preferred decision-making mechanism for Aboriginal families, current resourcing for Victoria’s

AFLDM program limits capacity to meet that demand. In the absence of AFLDMs, standard child protection case planning processes are routinely used, missing the opportunity that AFLDMs provide to engage Aboriginal families in an empowering partnership decision-making process.

Connection

When placing an Aboriginal and Torres Strait Islander child in OOHC, maintaining a strong connection with culture, family and community is a vital component to ensuring a child's ongoing wellbeing and safety.

The Statement of Recognition and binding Recognition Principles introduced into the CYFA by the CHLAA identify strong connections as the foundations needed for Aboriginal children to develop and thrive and to be protected from harm. The CHLAA also introduced a new provision s.14(1E) to the CYFA, to expressly identify 'connection' as an element of the Child Placement Principle.

The Aboriginal Child Specialist Advice and Support Service (ACSASS) program was established to ensure that an Aboriginal agency is consulted when an Aboriginal and Torres Strait Islander child enters the child protection system. The ACSASS program is critical to providing cultural advice on any significant decisions that are made around Aboriginal and Torres Strait Islander children.

In 2021–22, ACSASS was consulted for 63% of Aboriginal and Torres Strait Islander children under investigation, and 21% of Aboriginal and Torres Strait Islander children being placed in permanent care (Yoorrook 2023). As with AFLDMs, limited capacity—due to ACSASS funding levels that have not kept pace with the growth in child protection demand—has resulted in child protection making decisions without ACSASS input to provide cultural understanding.

The Victorian Aboriginal Children and Young People's Alliance have been calling for an expansion of ACSASS to allow for local ACCOs to provide child protection advice to families belonging to their Community.

Cultural support plans

One of the most important functions of the child protection system is to maintain Aboriginal and Torres Strait Islander children's connection to their culture. It is a legal requirement that all Aboriginal and Torres Strait Islander children in OOHC who are subject to a children's court order are provided with a cultural support plan. It is the DFFH's policy that Aboriginal and Torres Strait Islander children are provided with a cultural support plan within 19 weeks of placement (Yoorrook 2023).

As of March 2023, 67% of Aboriginal and Torres Strait Islander children placed in care for longer than 19 weeks had a cultural plan (Yoorrook 2023) an increase from 58% in June 2021. The Victorian Government has made continued efforts to improve the processing of cultural support plans through the introduction of roles such as the Statewide Coordinator for Aboriginal cultural planning introduced in 2017 and, more recently, senior advisor roles (Yoorrook 2023). However, further efforts need to be made towards the overall quality and implementation of these cultural support

plans.

To accompany the legislative requirement in 2016 that every Aboriginal child in care have a cultural plan, the DFFH funded Senior Advisers in Victorian ACCOs to assist with the development of cultural plans, as well as the creation of a Cultural Planning Statewide Coordinator position in an ACCO. That position has been auspiced by VACCA since its inception. Unfortunately, the model of cultural planning implemented in 2017 has resulted in a lack of clarity regarding responsibility for the development of cultural plans. Senior Advisers in ACCOs—who are best placed to provide the expertise required to develop plans—frequently find themselves removed from the development, management or implementation of cultural plans and, rather, are encouraged to take a ‘check box’ approach to sign off cultural plans for the DFFH (SNAICC 2023). Yoorrook heard that Departmental staff members who develop cultural support plans have limited understanding of the significance of cultural rights for Aboriginal and Torres Strait Islander children (Yoorrook 2023). The recent funding of an additional nine Senior Advisers has helped improve compliance with legislative requirements, particularly where the local ACCOs have a strong working relationship with their DFFH counterparts. However, this has not addressed the need for certainty regarding meaningful development and implementation of plans.

Once a cultural support plan is made, maintaining connection to culture, communities and families requires active efforts to participate in activities and programs. This requires increased funding to ACCOs to provide cultural and language programs for children. As part of the Victorian Aboriginal Community Controlled Health Organisation (VACCHO) *Culture + Kinship Program*, Budja Budja Aboriginal Co-operative was funded to run a series of ‘youth connection’ camps for Aboriginal and Torres Strait Islander children that focused on education and connection to Aboriginal culture (VACCHO 2023). Participants in the camps left with stronger feelings of pride in their culture and greater connection to their community (VACCHO 2023). A Social Return on Investment (SROI) analysis of the *Culture + Kinship* program found a social value of \$8.29 for every dollar invested (VACCHO 2023). Programs such as VACCHO’s *Culture + Kinship* highlight the strength of Aboriginal-led responses and positive outcomes that can come from investments in cultural programs.

The Victorian Government currently allocates \$3.18 million per year to ACCOs, which is intended to help support the implementation of cultural plans (Victorian Government 2023). Of this figure, approximately \$800,000 is a ‘flexible brokerage’ to be used for children whose case management is contracted, and the funding can be used to fund cultural activities and return-to-country activities (Victorian Government 2023). This flexible brokerage is significantly inadequate to connect Aboriginal and Torres Strait Islander children in care with culture and Country. Meaningful cultural activities and returning children to Country warrant adequate financial support.

Reunification

Children on long-term guardianship custody orders (GCOs) and third-party parental responsibility orders (TPPROs) are not considered to be candidates for reunification, due to the fact they are placed on orders that typically last until they are 18 years old—reflecting policymakers’ desires for

permanent outcomes. Nationally, 73% of Aboriginal and Torres Strait Islander children in OOHC in 2021–22 were on long-term GCOs and TPPROs (AIHW 2024c, S4.10). This means the majority of Aboriginal and Torres Strait Islander children in OOHC are on orders that do not prioritise reunification. SNAICC has calculated the proportions of children reunified using the total number of children in OOHC, including children on long-term GCOs or TPPROs as the denominator (AIHW, 2024a: Table T3). Children on long-term orders have often progressed to long-term care as a result of inadequate efforts to prioritise reunification or even connection with their families—or inadequate efforts to support families to address the barriers to providing safe care for their children, or as a result of policies that limit reunification due to short and unreasonable legislative or policy-imposed timeframes. Excluding these children from the denominator masks the failures of child protection systems to prioritise reunification and artificially inflates reunification rates. Including these children in these calculations provides a more accurate overview of the proportions of children reunified, even though children on long-term care orders are substantially less likely to be reunified.

As of 30 June 2022, 24% of Aboriginal children were reunified from OOHC—including long-term Guardianship orders—in Victoria (AIHW 2024a T3, AIHW 2024b: Table 10.18). In comparison, 21.6% of non-Indigenous children were reunified from OOHC in the same period (AIHW 2024a T3, AIHW 2024b: Table 10.18). Children who are reunified with their families from OOHC occasionally return to care, but this is not the case for the majority of children. This is significant because it is a potential indicator of whether the supports provided to the family has been sufficient and effective for the family in the long term. AIHW reports this data by whether a child returned to OOHC within 12 months after exiting to reunification. In Victoria, 78% of Aboriginal and Torres Strait Islander children who were reunified did not return to care within 12 months, slightly lower than the non-Indigenous rate of 83.7% (AIHW 2024a T3, AIHW 2024b: Table 10.18). This was slightly below the national rate, where 83.1% of Aboriginal and Torres Strait Islander children who were reunified did not return to care within 12 months (85.6% for non-Indigenous children) (AIHW 2024a T3, AIHW 2024b: Table 10.18).

Note: The source for these calculations has changed from previous reviews, due to changes in AIHW reporting. Source data is from Table 10.18 of the Aboriginal and Torres Strait Islander data table from Child Protection Australia 2021–22 (which includes reunifications for children on long-term orders) while previous reviews drew from Table S2.3a from the ATSCPP Supplementary tables 2022 released by AIHW (which excludes reunifications for children on long-term orders). Proportions have been calculated as the total number of Aboriginal and Torres Strait Islander children who exited to reunification (regardless of the type of reunification) each year divided by the number of Aboriginal and Torres Strait Islander children in OOHC and TPROs. The same formula was used for non-Indigenous children.

Additionally, improved reunification rates have been achieved by the Aboriginal Children in Aboriginal Care (ACAC) program. For Aboriginal children exiting care between 1 January and 30 June 2021, reunification was achieved for 83 per cent of children involved with ACAC compared to 64 per cent for those involved with child protection (Victorian Government 2023a).

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