

Part 4: Major protective system elements

**Chapter 12:**

Meeting the needs of Aboriginal children and young people

## Chapter 12: Meeting the needs of Aboriginal children and young people

### Key points

- The history of Aboriginal communities in Victoria directly impacts on Aboriginal children and families today. Past actions by government and non-government agencies have impacted negatively on Aboriginal families and the result is a continuing experience of trauma in the Aboriginal community.
- The Inquiry has found that outcomes for vulnerable Aboriginal children and their families are generally poor and significant improvement is required in the performance of systems intended to support vulnerable Aboriginal children and families. There is a need to develop specific Aboriginal responses to identify different ways to improve the situation of vulnerable Aboriginal children in Victoria.
- Improving outcomes for Aboriginal children requires active, focused and intense effort across all areas of government activity and within Aboriginal communities. The Inquiry endorses the *Victorian Indigenous Affairs Framework* and associated structures as the primary mechanism to drive action across government on the broad range of risk factors associated with Aboriginal children being at greater risk of abuse and neglect. Building on the Inquiry's earlier recommendation for area-based policy and program design, the Inquiry recommends more detailed monitoring of the *Victorian Indigenous Affairs Framework* should be developed and reported on at the operational level.
- As many vulnerable Aboriginal children and families will continue to receive a range of services from mainstream providers, Aboriginal cultural competence should become a feature of the Department of Human Services' standards for registering community service organisations. Additionally, culturally competent approaches to family and statutory child protection services for Aboriginal children and young people should be expanded.
- The numbers of Aboriginal children involved with Victoria's statutory child protection services and out-of-home care systems continues to rise and is unacceptably high. As part of the recommended Commission for Children and Young People, the Inquiry recommends the creation of a dedicated Aboriginal Children's Commissioner or Deputy Commissioner, to bring an increased focus to improving outcomes for vulnerable Aboriginal children in Victoria across all service systems.
- The adoption of a comprehensive 10 year plan for delegating the care and control of Aboriginal children removed from their families to Aboriginal communities is also recommended. Such a plan will enhance self-determination and provide a practical means for strengthening cultural links for vulnerable Aboriginal children.

## 12.1 Introduction

As in other jurisdictions Aboriginal children are over-represented in all aspects of Victorian statutory child protection services and have been since data collection commenced in 1990. The ability of statutory child protection services to address entrenched Aboriginal disadvantage is limited. Changing this situation and improving outcomes for Aboriginal children requires active, focused and intense effort across all areas of government activity and within Aboriginal communities.

This chapter considers how vulnerable Aboriginal children and families are faring in Victoria. *The state of Victoria's children 2009: Aboriginal children and young people in Victoria* report (DEECD 2010) shows that, in general, Victorian Aboriginal and non-Aboriginal children, young people, parents/guardians and their families share many of the same strengths and face similar challenges.

The evidence in the report shows many Victorian Aboriginal children have a good start in life, with the majority of Aboriginal women having antenatal check-ups and breastfeeding their babies, many main carers engaging in informal learning activities such as regular reading to the child and a high proportion of immunisation. The vast majority of parents and guardians feel safe at home during the day and report being able to get support in a crisis and have someone to turn to for advice. Many Aboriginal children and young people in Victoria are growing up safe and well in their families.

However, many Aboriginal children and young people in Victoria face challenges those in the non-Aboriginal population do not and may never experience. For example, a high proportion have ear, hearing and dental problems, and many experience daily discrimination, including at school, because they are Aboriginal (DEECD 2010, p. 2). The Inquiry was concerned that significant numbers of Aboriginal adults in households with children were victims of threatened physical violence. All these experiences are risk factors for Aboriginal children's health and wellbeing. In particular, many Aboriginal children, young people and families experience cumulative risk factors and this is a challenge for the current service system intended to support these children and families.

In this chapter the Inquiry considers the challenge of meeting the needs of vulnerable Aboriginal children and families. The Inquiry considers why good intentions, legislative changes, numerous reviews and various policies and programs have not significantly changed the outcomes for Aboriginal children and families. The Inquiry considers that due to the multifaceted and complex disadvantage experienced by Aboriginal children and their families, progress to improve outcomes for Aboriginal children is, and is likely to remain, slow. Despite the slow progress the Inquiry considers that it is important to continue to invest in programs and reforms that will build a better future for Victorian Aboriginal children.

The Inquiry has received submissions from, and spoken with, Aboriginal people who have identified the need for a more holistic view of the needs and role of Aboriginal communities, a different approach to service provision and the development of clear accountable plans to create a positive future for Aboriginal children and families. The Inquiry concurs with Aboriginal people who have asserted that outcomes for vulnerable Aboriginal children and families will only improve once practical gains in Aboriginal self-determination about children and families are achieved.

This chapter canvasses the historical context that impacts on Victorian Aboriginal communities, the role of government agencies in the past, and the contemporary impact of the Stolen Generations. It proceeds to examine the prevalence of risk factors for child abuse and neglect and the complex policy landscape surrounding Aboriginal disadvantage. The progress of Victorian Aboriginal children across the range of systems designed to support them is then discussed. The chapter considers in detail a broad range of issues raised in submissions received from Aboriginal organisations and communities and others.

The Inquiry has used the term 'Aboriginal' instead of 'Indigenous' when referring to Victorian Aboriginal children and their families as this is the convention in Victoria. However, in relation to data that is extracted from, or linked to, Commonwealth sources or processes the protocol adopted is to use the Commonwealth term of Indigenous.

## 12.2 Historical context

The history of Aboriginal communities in Victoria directly impacts on Aboriginal children and families today. It is not the intention of this section to provide a comprehensive review of the history of Aboriginal people in Victoria. This section considers the impact that legislation and government and non-government agencies in Victoria have had on Aboriginal families, and the resulting trauma experienced by the Aboriginal community. This provides background to consideration of the over-representation of Aboriginal children and young people in statutory child protection services and highlights the systemic change required to protect vulnerable Aboriginal children from abuse and neglect.

### 12.2.1 Traditional communities

Aboriginal Victorians have lived on this land for more than 40,000 years and are one of the oldest living cultures in the world. The traditional culture of Aboriginal communities is complex and a sense of identity and spirituality is defined by the land, the law, economics, politics, education and extended kinship networks (Department of Education and Early Childhood Development (DEECD), 2010, p. 24). Traditionally, Aboriginal communities in Victoria lived in large social groups. These communities identified as language-culture groups, with 36 to 40 in existence across Victoria at the time of European settlement, though they were not necessarily distinct groups. Often inter-group marriage occurred to develop alliances or to maintain relationships. These groups were also sometimes involved in larger coalitions that shared a similar language and culture, as well as spiritual beliefs. For example, in central Victoria the Kulin nation was formed from five groups that occupied adjacent territories (Broome, in DEECD 2010).

### 12.2.2 Colonisation

The complex culture of Aboriginal people was devastated with the arrival of the first European settlers in 1835. For example, prior to colonisation there were approximately 40 different languages spoken in Victoria. Most of these languages have been lost and the survival of remaining few languages is threatened (Victorian Aboriginal Corporation for Languages 2011). Over time colonisation has driven the decline in the health and wellbeing of Aboriginal Victorians, including children and young people across generations (DEECD 2010, p. 24).

In Victoria, European settlement brought rapid change over a relatively short period of time (DEECD 2010, p. 25). For example, in 1836, the Kulin population, whose nation had surrounded Port Philip and Western Port bays, was estimated to be 30,000 to 70,000. The battles over land and various diseases reduced this population to such a degree that by 1863 only 250 Kulin remained. Other Victorian districts had been depopulated to a similar extent (Pascoe, in Perkins & Langton 2008, p. 119).

The systematic marginalisation of Aboriginal people by the government of Victoria began in the period from 1850 to 1901. This is documented through the individual stories of Aboriginal people in *Wurrbunj Narrap: Lament for Country* by Bruce Pascoe. Pascoe states that a 'sophisticated war' was waged in Victoria against Aboriginal people (Pascoe, in Perkins & Langton 2008, p. 119). This sophisticated war was, in Pascoe's opinion, the use of legislation to create powers for government agencies to directly intervene in and control the lives of Aboriginal people in Victoria.

In 1858 the Victorian Government established a Select Committee to inquire into the living conditions of Aboriginal people in Victoria. The subsequent report accepted that Aboriginal communities had witnessed 'their hunting grounds and means of living taken from them' as an outcome of the British occupation of Aboriginal land. The Select Committee concluded Aboriginal people were themselves responsible for this outcome:

... had they been a strong race, like the New Zealanders, they would have forced the new occupiers of their country to provide for them; but being weak and ignorant, even for savages, they have been treated with almost utter neglect (Select Committee of the Legislative Council 1859, p. iv).

The report recommended that reserves be established in remote areas of the colony, both to 'protect' Aboriginal people from further injustices and to ensure that Aboriginal people be contained in order to restrict their freedom and place greater controls over their lives (Select Committee of the Legislative Council 1859, pp. iii-vi).

Following the 1858 report the Board for the Protection of Aborigines was established in 1860 to administer government reserves and missions. The protectorate system brought Aboriginal people into centralised missions in return for rations (Pascoe, in Perkins & Langton 2008, p. 125). These reserves were run on a system of Christian education and enforced labour. The traditions of Aboriginal society, including ceremonial practices, were often banned.

At this time any Aboriginal person who continued to live on their own land was subject to the authority of government appointed local guardians, such as police, clergymen or European landholders (Museum Victoria 2011).

From the beginning of colonisation there are documented accounts of Aboriginal leaders such as Billibellary, Simon Wonga, William Barak, Louisa Briggs and Jessie Donally, who sought to negotiate with the government for land, fair treatment and independence (Pascoe, in Perkins & Langton 2008, pp. 117-169).

There are also examples of well-meaning government employees such as William Thomas and John Green working with and on behalf of the Kulin (Pascoe, in Perkins & Langton 2008, p. 162). While these men had good intentions they held views that prevented them from understanding Aboriginal communities. For example, Thomas was considered a good Christian, but even he thought of the people as unenlightened savages (Pascoe, in Perkins & Langton 2008, p. 125) and Green looked on Kulin as childlike and doomed to disappearance (Pascoe, in Perkins & Langton 2008, p. 139).

### 12.2.3 Role of legislation and government agencies

Legislation and government agencies established to protect Aboriginal people became mechanisms that deliberately separated Aboriginal children from their families from colonisation until the late 1960s (Table 12.1).

At first in the reserves, such as Coranderrk at Healesville, east of Melbourne, separate living quarters were built for children, with an attached schoolroom. Then in 1875 the Board for the Protection of Aborigines proposed that all Aboriginal children be removed from what it termed 'wandering blacks' who had continued to live an autonomous life, outside the control of the reserves. In 1886 the board was given powers to separate Aboriginal children from their families and communities for the purpose of care, custody and education of the children of Aborigines.

In this same year the Board for the Protection of Aborigines amended the Aborigines Act 1886 which removed 'half-castes' from the reserves and intended to 'let the "old full bloods" die out'. The resulting destruction of Aboriginal families has resonated through the generations (Perkins & Langton 2008, p. xxvii).

This policy forcibly removed 'half caste' Aborigines from missions and reserves and forbade them access to mission stations and their families. 'Half-caste' children were removed from their parents on the missions when they were old enough to work and, under the authority of the Board, were sent out to service following a period of training, or for adoption with non-Aboriginal families (McCallum 2007, p. 9). The 1886 Act empowered the Board to transfer Aboriginal children to State care even when they were not orphaned.

The *Aborigines Act 1910* abandoned the distinction in law between 'full-blood' and 'half-caste' in terms of defining Aboriginality. This meant that people categorised as 'half-caste' and Aboriginal people living outside Victorian reserves were no longer ineligible for government assistance. The effect of the Aborigines Act was to extend the power of the board over Aboriginal people's lives. The Board was now empowered to make decisions, not only about the Aboriginal people living on its missions and reserves, but about 'half-caste' Aborigines as well.

The 1915 *Aborigines Act* provided that only people categorised as 'full-blood Aborigines' could live on Victorian mission stations. This legislation placed severe restrictions on contact between people on the mission and 'half-castes'. It also excluded Aboriginal people, deemed to be 'half-castes', from government assistance, leading to severe disadvantage and hardship.

In 1957 the new Aborigines Act replaced the Board for the Protection of Aborigines with the Aborigines Welfare Board. The new board had the function 'to promote the moral, intellectual and physical welfare of Aborigines (full-blood and half-caste) with a view to their assimilation in the general community' (Aborigines Act, 1957, section 6 (1)). From this time Aboriginal children were dealt with under the *Children's Welfare Act 1954*. Any removal of Aboriginal children from their family and community by the government from 1957 was enabled by this mainstream child welfare legislation.

A policy shift occurred in 1966 and it was accepted that Aboriginal children should stay with their families if possible (Victorian Aboriginal Child Care Agency (VACCA) 2006, p. 13). The Aborigines Welfare Board was abolished in 1968 when the Victorian Government established a Ministry of Aboriginal Affairs.

In the early 1970s there was a move by Aboriginal people to establish a national framework for protecting the rights of Aboriginal children, and to fund Aboriginal controlled child and family welfare agencies. VACCA was established in 1976 (Dyer 2003).

**Table 12.1 Victorian legislation relating to Aboriginals, 1869–1970**

Victorian legislation	Objectives	Government agency responsible
Aboriginal Protection Act 1869	<ul style="list-style-type: none"> <li>Established a system of reserves in remote areas and provided powers to separate Aboriginal children from their families and communities to 'educate' them.</li> </ul>	In 1869 the Board for the Protection of Aboriginals became responsible for the administration of the Aboriginals Protection Act.
Aboriginals Protection Act 1886	<ul style="list-style-type: none"> <li>Amended the Aboriginals Act to provide powers to remove 'half castes' from the reserves.</li> </ul>	Board for the Protection of Aboriginals
Aboriginals Act 1910	<ul style="list-style-type: none"> <li>Abandoned the distinction in the law between 'full-blood' and 'half-caste'.</li> <li>Excluded people categorised as 'half-caste' and Aboriginal people living outside Victorian reserves from eligibility for government assistance.</li> <li>Extended the power of the board to make decisions about all Aboriginal people, those on missions and reserves and 'half-caste' Aboriginals living elsewhere.</li> </ul>	Board for the Protection of Aboriginals
Aboriginals Act 1915	<ul style="list-style-type: none"> <li>Provided that only people categorised as 'full-blood Aboriginals' could live on Victorian mission stations.</li> <li>Placed severe restrictions on contact between people on the mission and 'half-castes'.</li> <li>Excluded Aboriginal people, deemed to be 'half-castes', from government assistance.</li> </ul>	Board for the Protection of Aboriginals
Aboriginals Act 1957	<ul style="list-style-type: none"> <li>Abolished the Board and established the Aboriginals Welfare Board.</li> <li>Established function of the board 'to promote the moral, intellectual and physical welfare of aboriginals ('full blood and half-caste') with a view to their assimilation in the general community'.</li> <li>The Aboriginals Welfare Board did not have specific powers in relation to children.</li> </ul>	Aboriginals Welfare Board
Children's Welfare Act 1954	<ul style="list-style-type: none"> <li>From 1957 Aboriginal children came under the provisions of the Children's Welfare Act.</li> </ul>	Children's Welfare Department
Aboriginal Affairs Act 1967	<ul style="list-style-type: none"> <li>The Aboriginals Welfare Board was abolished in 1968 and the Ministry of Aboriginal Affairs established.</li> </ul>	Ministry of Aboriginal Affairs
Social Welfare Act 1960	<ul style="list-style-type: none"> <li>There were no Aboriginal specific provisions.</li> </ul>	Social Welfare Branch within the Chief Secretary's Department

Source: Inquiry analysis

### 12.2.4 The Stolen Generations

The generations of Aboriginal children removed from their family are known by many people as the 'Stolen Generations' (Read 1981). These children were fostered out to non-Aboriginal families or brought up in institutions. Many Aboriginal people have been affected directly and many more indirectly by past policies leading to the Stolen Generations. Between 1835 and 1970 it is estimated that across Australia tens of thousands of Aboriginal and Torres Strait Islanders were removed from families and raised in institutions or with non-Aboriginal families (VACCA 2008, p. 13).

Removal of Aboriginal children from their families began soon after colonisation and concerns about the impact of the high rates of removal led to the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families (Human Rights and Equal Opportunity Commission 1997) (DEECD 2010, p. 26).

The Inquiry report *Bringing them home: National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (Australian Human Rights Commission 1997) found that the policies and practices of removal had multiple and profoundly disabling effects on individuals, families and communities, including across generations. This report highlighted that children removed from families were:

- More likely to come to the attention of the police as they grew into adolescence;
- More likely to suffer low self-esteem, depression and mental illness;
- More vulnerable to physical, emotional and sexual abuse;
- Almost always taught to reject their Aboriginality and Aboriginal culture;
- Unable to retain links with their land;
- Unable to take a role in the cultural and spiritual life of their former communities; and
- Unlikely to be able to establish their right to native title (DEECD 2010, p. 26).

On 17 September 1997 in recognition of this history of the Stolen Generations, Premier Kennett issued an apology in the Legislative Assembly to the Aboriginal people for the past policies leading to the removal of Aboriginal children from their families and communities. The apology began with the following comments:

That this house apologises to the Aboriginal people on behalf of all Victorians for the past policies under which Aboriginal children were removed from their families and expresses deep regret at the hurt and distress this has caused and reaffirms its support for reconciliation between all Australians (Parliament of Victoria, Legislative Assembly 1997, p. 107).

On 13 February 2008, Prime Minister Rudd also officially recognised the history of the Stolen Generations and issued an apology in the Australian Parliament. The apology included the following statement:

We apologise for the laws and policies of successive parliaments and governments that have inflicted profound grief, suffering and loss on these our fellow Australians. We apologise especially for the removal of Aboriginal and Torres Strait Islander children from their families, their communities and their country. For the pain, suffering and hurt of these stolen generations, their descendants and for their families left behind, we say sorry (Parliament of ACT, House of Representatives 2008, p. 167).

The history of Victorian Aboriginal people is directly relevant to any discussion about protecting vulnerable Aboriginal children and young people as most Victorian Aboriginal people alive today have directly experienced, or have had parents or extended family members who directly experienced, this policy (see section 12.3.1 for contemporary impact).

### 12.2.5 From 1970s to the present

From the 1970s onwards, the role of the Victorian Government in the lives of vulnerable Aboriginal children and families has continued to be prescribed and enacted through legislation related to the care and protection of children. Table 12.2 summarises this legislation and highlights sections related specifically to Aboriginal children and families.

**Table 12.2 Victorian legislation relating to Aboriginal children and families, 1970-2005**

Victorian legislation	Legislation related to Aboriginal children and families	Government agency responsible
<i>Social Welfare Act 1970</i>	Aboriginal children were subject to this Act, however, there were no specific provisions.	Department of Community Welfare Services
<i>Community Welfare Services (Amendment) Act 1978</i>	Aboriginal children were subject to this Act, however, there were no specific provisions.	Community Services Victoria
<i>Children and Young Persons Act 1989</i>	This Act introduced principles of case planning for Aboriginal children that required decision making involve relevant members of the Aboriginal community to which the child belongs.	Community Services Victoria and later the Department of Human Services
<i>Children Youth and Families Act 2005</i>	The Act includes provisions that specifically relate to Aboriginal children: <ul style="list-style-type: none"> <li>• the Aboriginal Child Placement Principle (ACPP) promotes a hierarchy of placement options to ensure that Aboriginal children and young people are maintained within their own biological family, extended family, local Aboriginal community, wider Aboriginal community and maintain their connections to their Aboriginal culture (sections 13 and 14);</li> <li>• a provision for the delegation of the Secretary's functions to the Principal officer of an Aboriginal agency (section 18); and</li> <li>• a provision that the Secretary must prepare and monitor the implementation of a cultural plan for each Aboriginal child placed in out-of-home care under a guardianship to the Secretary order (section 176).</li> </ul>	Department of Human Services

Source: Inquiry analysis

Over many years the legislation has gradually come to include provisions specifically related to Aboriginal children and families.

In 1989 the *Children and Young Persons Act 1989* introduced principles of case planning for Aboriginal children that required decision making to involve relevant members of the Aboriginal community to which the child belongs.

In 2002 the Victorian Government began the process of reviewing the state's statutory child protection service. The review was conducted in three stages comprising an initial report, community consultation and publication of a reform agenda. As part of this process specific consultations were held with Aboriginal communities and organisations.

The first review report was called *Protecting Children: The Child Protection Outcomes Project*. This report identified several potential areas for reform and commented that the reforms areas were likely to be relevant and appropriate for Aboriginal children. However, the report concluded:

That the issues are so important and challenging that it is not possible to adequately address them in this report. They require further examination, led by consultation with Indigenous communities and organisations (The Allen Consulting Group 2003, p. 94).

The second stage of the review was a consultation process. The findings from this consultation process were published in the *Report of the panel to oversee the consultation on Protecting Children: The Child Protection Outcomes Project* (Frieberg et al. 2004). In relation to Aboriginal children and families the report commented:

A key to the successful reform of children's and family services for Aboriginal communities will be ensuring they are developed in an holistic manner. It will not be sufficient to add an Indigenous element to, for example, the assessment and investigation procedure or to make modifications to the out-of-home care processes for Aboriginal children without considering whether the system as a whole is inclusive of Indigenous cultures and values. This will necessitate a greater recognition than is currently the case that the Indigenous communities should be able to exercise a significant measure of control over the provision of services delivered to their communities (Freiberg et al. 2004, p. 43).

In September 2004, the Department of Human Services (DHS) released the third stage of the review process, a report titled *Protecting children: Ten priorities for children's wellbeing and safety in Victoria: Technical options paper*. The report outlined the reforms proposed for Victoria's child protection service, the *Children and Young Persons Act 1989*, the *Community Services Act 1970*, and the Children's Court in 10 key areas.

In relation to Aboriginal children, the technical options paper concluded that Aboriginal services require a holistic approach that includes the community in problem solving and culturally relevant policies and programs.

It was recommended that culturally relevant policies and programs should be legislated to empower Aboriginal communities to take part in decision making and interventions impacting on children and families. The specific options proposed included:

- Incorporating the Aboriginal Child Placement Principle (ACPP) in legislation;
- Inserting a provision in legislation that requires the Minister to assist Aboriginal communities to provide effective prevention and intervention strategies;
- Legislating for the capacity to assign guardianship or custody of an Aboriginal child to a designated person in an Aboriginal organisation or agency; and
- Developing strategies to strengthen the participation of Aboriginal families in decision making processes.

In 2005 the new *Children Youth and Families Act 2005* included specific provisions related to Aboriginal placement principles, provision for transfer of guardianship and the need for cultural plans to maintain the connection of removed children to their community.

The care and protection of children has been reviewed extensively in Victoria since the 1970s (Table 12.3 summarises these reviews). No review, including this Inquiry, has included a specific term of reference about Aboriginal children and families despite the history of the removal of Aboriginal children from their families and the over-representation of Aboriginal children in the child welfare system. The table also highlights that few recommendations were made about Aboriginal children and families. Of the approximately 640 recommendations made by these reviews only six specifically referred to Aboriginal children and families.

The legislative changes and the various reviews of the child welfare system over more than 25 years has only infrequently addressed the needs of Aboriginal children and families who were over-represented in child welfare systems. One notable exception was the 1984 Carney Review. This review acknowledged the history of the removal of children, recommended that the Aboriginal placement principle be included in legislation, that Aboriginal self-determination be supported and that the capacity of Aboriginal organisations be enhanced. In 2005 the ACPP was incorporated into Victorian legislation.

**Table 12.3 Victorian reviews of child welfare, 1976 to 2010: consideration of Aboriginal children and families**

Date of report	Name of review	TOR specific to Aboriginal children and families	Aboriginal specific recommendations
1976	Norgard <i>Committee of Enquiry into Child Care Services</i>	Nil	One recommendation: <ul style="list-style-type: none"> <li>Aboriginal groups to be given a voice when decisions about children are made (20a).</li> </ul>
1984	Carney committee <i>Report of the Child Welfare Practice and Legislation Review (The Carney Committee's Report)</i>	Nil	Three recommendations: <ul style="list-style-type: none"> <li>Changes to Children's Court process (132);</li> <li>Aboriginal child placement principle (164); and</li> <li>Involvement of Aboriginal community members in case planning(184).</li> </ul>
1988	Law Reform Commission of Victoria <i>Report on Sexual Offences against Children</i>	Nil	Nil
1989	Mr Justice Fogarty and Ms Delys Sargeant <i>Protective Services for Children in Victoria: Interim Report</i>	Nil	Nil
1990	Victorian Family and Children's Services Council – Standing Committee on Child Protection <i>One year later: Review of the redevelopment of CSV's protective services for children in Victoria</i>	N/A	Nil
1993	Mr Justice Fogarty <i>Protective Services for Children in Victoria: Final report</i>	Nil	Nil
1996	Victorian Auditor-General <i>Protecting Victoria's Children: The Role of the Department of Human Services</i>	Nil	Nil
2001	Public Accounts and Estimates Committee <i>Report on the Review of the Auditor-General's Special Report No.43 – Protecting Victoria's Children: The role of the Department of Human Services</i>	Nil	Nil
2000	Jan Carter and reference group <i>Report of the Community Care Review</i>	Nil	Nil
2005	Victorian Auditor-General <i>Our children are our future: Improving outcomes for children and young people in Out-of-Home Care</i>	Nil	One recommendation: <ul style="list-style-type: none"> <li>Address gaps in out-of-home care in relation to Aboriginal children re: quality; resourcing, flexible service responses and reporting (13).</li> </ul>
2009	Victorian Ombudsman <i>Own motion investigation into the Department of Human Services Child Protection Program</i>	N/A	Nil
2010	Child Protection Proceedings Taskforce <i>Report of the child protection proceedings taskforce</i>	Nil	Nil
2010	Victorian Ombudsman <i>Own motion investigation into child protection out-of-home care</i>	N/A	Nil
2010	Victorian Law Reform Commission <i>Protection Applications in the Children's Court</i>	Nil	One recommendation: <ul style="list-style-type: none"> <li>Expanded role for Child Safety Commissioner to advocate for Aboriginal children (Option 5.1 (d)).</li> </ul>

Source: Inquiry analysis

### 12.3 Factors that impact on vulnerability in Aboriginal communities

As outlined in Chapter 2, there are no specific causes of child abuse and neglect, although research recognises that there are a number of risk factors. Children within families and environments in which these risk factors exist have a higher probability of experiencing child abuse and neglect. There is a range of risk factors arising from parent, family or caregiver characteristics including family violence, situational stress, alcohol and substance misuse, mental health problems, attitudes towards parenting, intergenerational abuse, and disability.

Further, there are risk factors that arise from a child's particular characteristics such as the age of the child, language and cognitive factors (including child disability). There are also risk factors associated with community and society such as social inclusion and exclusion and social norms and values.

There are multiple and complex historical, social, community, family and individual factors that underpin why many Aboriginal children are at greater risk of abuse and neglect. However, responding to the entrenched social and economic factors that contribute to the over-representation of Aboriginal children in statutory care and protection services is a critical challenge recognised by Australian state, territory and Commonwealth governments (Berlyn et al. 2011, p. 6).

#### 12.3.1 The impact of family disruption and child removal

As demonstrated in *Bringing them home: National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families* (HEROC 1997) the impact of Aboriginal child removal policies on contemporary Aboriginal communities is particularly profound.

Results from the 2008 National Aboriginal and Torres Strait Islander Social Survey (NATSISS) found that 11.5 per cent of Victorian Aboriginal people who responded to the survey and were living in households with children had been removed from their natural family and 47.1 per cent had a relative who had been removed. This was much higher than the national rate of 7.0 per cent of Aboriginal people in the survey who had been removed from their family and 37.6 per cent who had a family member who had been removed (DEECD 2010, p. 26).

In Victoria, for those people who reported they had a relative removed from their natural family, the majority of 15 to 24 year olds had their (great)/grandparents removed (45.0 per cent), followed by aunts/uncles (30.8 per cent) and cousins, nephews/nieces (27.1 per cent).

When asked in the 2008 Victorian Adolescent Health and Wellbeing Survey, one in five Aboriginal young people aged 12 to 17 responded that they identified as belonging to the Stolen Generations (DEECD 2010, p. 28).

There are no Aboriginal people whose lives have not been adversely affected by the past. In Victoria, there are no families who have not lost contact with members of their family or whose family relationships do not still bear the scars of the Stolen Generations or whose families were not decimated by the forced removal to different missions of family members and then the expulsion of lighter skinned members from the missions. These events happened to Aboriginal people who are alive today (VACCA 2006, p. 9).

#### 12.3.2 Risk factors impacting on Aboriginal children and young people

##### Parent, family or caregiver risk factors

There is a range of heightened risk factors for abuse and neglect for Aboriginal children and young people arising from parent, family or caregiver characteristics. This heightened risk is evidenced by the prevalence and severity of key risk factors, as identified in the NATSISS. These include:

- Family stress (experienced by self, family or friends) is high in Victorian Aboriginal households, with nearly 80 per cent experiencing one or more life stressors. This was almost double that for non-Aboriginal households and higher than for Aboriginal households in Australia (DEECD 2010, p. 132);
- Approximately a quarter (24.1 per cent) of Aboriginal people aged 25 years and over in households with children were a victim of threatened physical violence; 87.5 per cent of those who experienced physical violence knew the perpetrator (DEECD 2010, p. 198);
- The Victorian Indigenous Family Violence Taskforce estimated that 'one in three Indigenous people are the victim, have a relative who is a victim or witness an act of violence on a daily basis in our communities across Victoria' (Victorian Indigenous Family Violence Taskforce 2003, p. 4);

- Mental illness, serious illness and alcohol and drug-related problems were the stressors that were more likely to be experienced by Victorian Aboriginals than by Aboriginal people across Australia (DEECD 2010, p. 132);
- Approximately a quarter (24.8 per cent) of Victorian Aboriginal parents/guardians had used illicit drugs in the previous 12 months. This figure is higher than Aboriginal parents/guardians nationally (19.1 per cent) (DEECD 2010, p. 142);
- Over one-third (36.6 per cent) of Aboriginal parents/guardians had experienced high or very high psychological distress in Victoria in the previous month when surveyed, with 22.5 per cent of these unable to work or carry out normal activities over the previous four weeks due to their feelings and 16.3 per cent having been to see a health professional about feelings (DEECD 2010, p. 150);
- Almost 16 per cent of Aboriginal couple families had both parents unemployed or not in the labour force, triple that of non-Aboriginal couple families (DEECD 2010, p. 96);
- Just over one in five Aboriginal households had run out of food in the week of the NATSISS survey and could not buy more (DEECD 2010, p. 90);
- In approximately 40 per cent of Aboriginal families, no parent had completed Year 12. This figure is more than double the rate for all families in Australia (DEECD 2010, p. 90);
- The proportion of Aboriginal parents/guardians who drink at high-risk levels is 4.3 per cent, the same as for non-Aboriginal parents/guardians. The majority of Victorian Aboriginal parents/guardians aged 15 years and over drink at low-risk levels (59.0 per cent) lower than amongst non-Aboriginal parents/guardians (68.7 per cent). Of Aboriginal parents/guardians, 14.6 per cent drink at medium-risk levels, which was significantly higher than for non-Aboriginal parents/guardians at 5.1 per cent (DEECD 2010, p. 145); and
- In Victoria the teenage pregnancy rate for Aboriginal women is 4.5 times higher than for non-Aboriginal women (DEECD 2010, p. 232).

### **Risk factors associated with Aboriginal children**

The risk factors that arise from the child's particular characteristics are as follows:

- In Victoria children born to Aboriginal mothers are around twice as likely to be born with either very low or low birth-weight, compared with children born to non-Aboriginal mothers. The likelihood of having a low birth-weight baby is 12.5 per cent for Aboriginal women – almost double the rate of non-Aboriginal women (6.5 per cent) (DEECD 2010, p. 164);
- There are high proportions of ear and hearing and dental health problems among Aboriginal children (dental health is the second leading cause of hospitalisation in Aboriginal children) (DEECD 2010, p. 170); and
- Aboriginal children and young people are almost twice as likely as non-Aboriginal children and young people to have a need for assistance with core activities (2.9 per cent compared with 1.6 per cent) which can be used as a proxy measure for profound disability (DEECD 2010, p. 170).

### **Risk factors associated with community**

The risk factors in Aboriginal communities associated with social inclusion, exclusion, social norms and values include:

- High rates of victimisation and being physically harmed or threatened – this includes experiencing discrimination in daily life, including at school;
- 23.6 per cent of Aboriginal parents/guardians do not have a friend outside the household they can confide in – more than double the proportion of non-Aboriginal parents/guardians (DEECD 2010, p. 55); and
- One in five Aboriginal young people aged 15 to 24 years had experienced physical violence in the 12 months prior to the survey, with only one in three reporting their most recent experience to police (DEECD 2010, p. 196).

The risk factors for abuse and neglect are therefore heightened in the Victorian Aboriginal community for each grouping (parental characteristics, child characteristics and community factors).

## 12.4 Victorian and Commonwealth policy and services initiatives

Even the best support programs cannot overpower poverty in shaping a child's developmental outcomes (VACCA submission, p. 10).

### 12.4.1 Closing the Gap

*Closing the Gap* is a commitment made by all Australian Governments in 2007 to improve the lives of Indigenous Australians and provide a better future for Indigenous children. It is a nationally integrated strategy that has been developed through the Council of Australian Governments (COAG). In partnership with the Commonwealth Government and, through COAG, the Victorian Government is working with Indigenous communities to close the gap between Indigenous and non-Indigenous Victorians.

The six COAG *Closing the Gap* goals incorporated in the *National Indigenous Reform Agreement* are to:

- Close the life expectancy gap within a generation;
- Halve the gap in mortality rates for Indigenous children under five within a decade;
- Ensure all Indigenous four year olds in remote communities have access to early childhood education within five years;
- Halve the gap for Indigenous students in reading, writing and numeracy within a decade;
- Halve the gap for Indigenous people aged 20 to 24 in Year 12 attainment or equivalent attainment rates by 2020; and
- Halve the gap in employment outcomes between Indigenous and non-Indigenous Australians within a decade.

#### COAG agreements

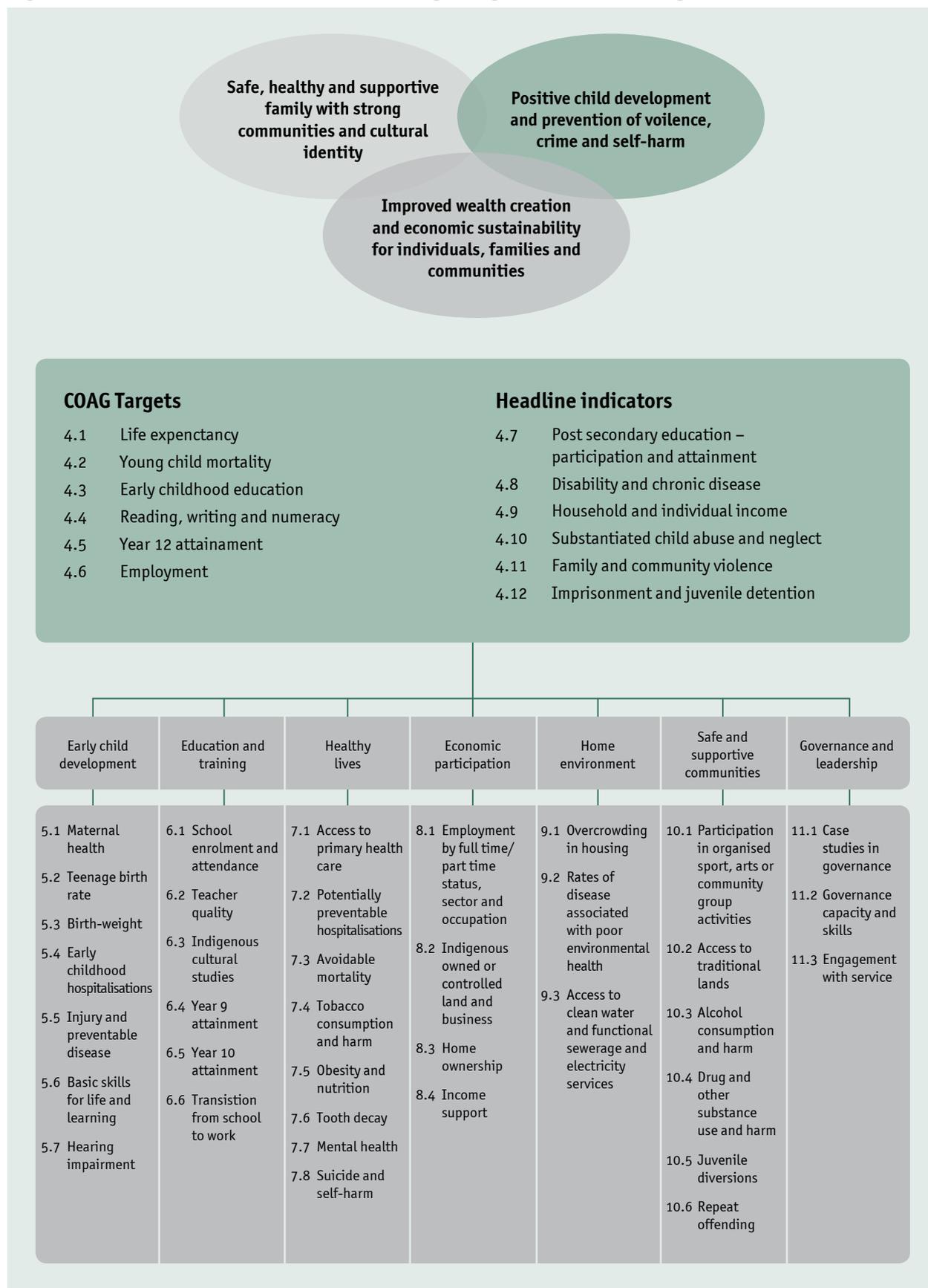
There are several Indigenous-specific COAG national agreements and partnerships signed by the Commonwealth and Victorian governments that are relevant to the achievement of the *Closing the Gap* goals. Implementation responsibility for national agreements and partnerships is with relevant departments and agencies:

- Closing the Gap in Indigenous Health Outcomes National Partnership;
- Indigenous Early Childhood Development National Partnership;
- Indigenous Economic Participation National Partnership;
- National Urban and Regional Service Delivery Strategy for Indigenous Australians; and
- Remote Indigenous Housing National Partnership.

Other major national agreements have been made in the areas of: education and youth transitions; affordable and social housing; workforce development; disability; health and preventative health; homelessness; and early childhood development. These agreements will also contribute to closing the gap between Indigenous and non-Indigenous Victorians

As part of the COAG commitment, governments agreed to a regular public report on progress in the *Overcoming Indigenous Disadvantage: Key Indicators* report. The report is in its fifth edition and provides a summary of current outcomes and examples of programs and policies that appear to be improving those outcomes (Steering Committee for the Review of Government Service Provision (SCRGSP) 2011b, p. 2). Figure 12.1 outlines how the COAG framework is attempting to address key areas of Aboriginal disadvantage by measuring progress and reporting against targets, headline indicators and key areas for improving outcomes.

Figure 12.1 COAG framework for overcoming Indigenous disadvantage



Source: SCRGSP 2011b, p. 11

### 12.4.2 Victorian Indigenous Affairs Framework

The *Victorian Indigenous Affairs Framework* (VIAF) provides a mechanism to focus on a long term, strategic and progressive effort to improve the health and quality of life of Indigenous Victorians. The framework has six strategic areas for action, principles to guide reform, and outlines partnership, coordination and the management structures that underpin it.

The six strategic areas for action align closely with the goals set by COAG. They are:

- Improve maternal and early childhood health and development;
- Improve education outcomes (formerly ‘Improving literacy and numeracy and Improving Year 12 completion or equivalent qualification, develop pathways to employment’);
- Improve economic development, settle native title claims and address land access issues;
- Improve health and wellbeing;
- Build Indigenous capacity; and
- Prevent family violence and improve justice outcomes.

These strategic areas for action tackle the most important social and economic determinants of Indigenous disadvantage in Victoria and are monitored and reported publicly through the *Victorian Government Indigenous Affairs Report* (Aboriginal Affairs Taskforce 2011). The report does not cover all action being taken across the Victorian Government in relation to Indigenous affairs, only the areas of strategic priority set out in the VIAF (Victorian Government 2010c). The 2009-10 report outlined the commitment of the new Victorian Government to closing the gap for Aboriginal Victorians. That report also indicated that the Premier has committed to reviewing the VIAF and that this will involve reconsideration of the established targets to improve outcomes for Aboriginal people and ensure they are appropriate.

The report outlines key areas of improvement achieved in Victoria such as:

- Increased three and four year old kindergarten participation;
- Improved attendance at Maternal and Child Health (MCH) clinics at key age milestones;
- Improved literacy and numeracy;
- Reduced rate of self-harm; and
- Increased rates of police response to Indigenous family violence incidents.

While it is encouraging that improvements are being made in these areas the Inquiry notes that this progress is incremental and is building very slowly from a base of significant existing differences between Aboriginal children and non-Aboriginal children in Victoria.

The report also identifies a number of areas where no improvement has been achieved in Victoria. These include:

- Indigenous perinatal mortality rate;
- Percentage of Indigenous babies with birth-weight below 2,500 grams;
- School attendance rates for Indigenous students;
- Successful transition of Indigenous young people aged 18 to 24 years to employment and/or further education; and
- Rates of chronic medical conditions among Indigenous people.

The report highlights three areas where Victoria is lagging behind national averages and improvement is needed. These are:

- Smoking rates;
- School retention rates; and
- Over-representation in the statutory child protection services.

### 12.4.3 Other plans

There are a number of plans seeking to improve outcomes for the Victorian Aboriginal community in areas of significant disadvantage. Table 12.4 provides a brief summary of the key plans as they relate to the prevention and reduction of abuse and neglect.

Table 12.4 Strategies to address Aboriginal disadvantage

Plan	Lead Agency	Key focus	Outcomes
Dardee Boorai: <i>Victorian charter of safety and wellbeing for Aboriginal children and young people (2008)</i>	DEECD	Defines eight outcome areas and reaffirms six key COAG targets to improve the safety, health, development, learning and wellbeing of Aboriginal children and young people.  Describes the roles and responsibilities of families, communities, community controlled organisations and mainstream services.  There is no reporting framework for the charter.  The charter states the implementation will be outlined and monitored through the <i>Victorian Plan for Aboriginal Children and Young People</i> .	See <i>Victorian Plan for Aboriginal Children and Young People (2010–2020)</i> below.
Balert Booron: <i>the Victorian Plan for Aboriginal Children and Young People (2010–2020)</i>	DEECD	Outlines 44 specific areas of actions to improve the health, safety, development, learning and wellbeing of Aboriginal children and young people in Victoria over 10 years.  Thirteen of these specific areas have measurable goals.	The VIAF notes five areas of improvement, five areas of no improvement and three areas lagging behind national averages (refer section 12.4.2).
Wannik: <i>Learning Together – Journey to our Future (the Wannik strategy)</i>	DEECD	Strategy to overcome poor educational outcomes for Koorie students. Its aim is to improve education outcomes for Koorie students by changing the culture and mindset of the government school system, implementing structural reforms and making better use of mainstream efforts and programs.	There are no set targets or milestones.  Note the VIAF education outcome areas show no improvement in school attendance, school retention, and transition to employment and further education.
<i>Aboriginal Justice Agreement (AJA)</i> (Two agreements since 2000)	DOJ	The agreement aims to reduce over-representation of Indigenous people in the youth justice and criminal justice system. A partnership between government and Aboriginal organisations has been in place since June 2000 and includes a diverse range of initiatives to reduce initial contact with the system and improve outcomes for Indigenous people at all stages of the youth justice and criminal justice system.	The success of the AJA2 in achieving these objectives is being assessed as part of an independent evaluation. There are no published results.
<i>Aboriginal Human Services Plan</i>	DHS	Since 2000 DHS has worked in partnership with the Aboriginal community to develop a statewide <i>Aboriginal Services Plan</i> . The Plan aims to achieve improvement in the health and wellbeing of Aboriginal people in Victoria in line with that of the general population by understanding causal factors contributing to the disparity in health and wellbeing, maximising the use of primary and preventative services and minimising the need for secondary and tertiary services by Aboriginal people.	The 2008–2010 plan is currently being evaluated and a new plan is being developed for 2011–2013
<i>Strong Culture, Strong Peoples, Strong Families:</i> The Aboriginal family violence strategy 10 year plan (2008)	DPCD	The plan sets out objectives, strategies and actions and is based on a partnership approach between Aboriginal communities, the Regional Action Groups and the Victorian Government to reduce family violence. It provides investment in both improved, integrated responses and in prevention activities. The strategic plan and its implementation plans are reviewed by a partnership forum and periodic independent evaluation.	There are no set targets or milestones.  There is no clear reporting framework.

Source: Inquiry analysis

#### 12.4.4 Conclusions on the policy landscape

Improving outcomes for Aboriginal communities is clearly a whole-of-government task, with the responsibility crossing over many areas of state government activity in addition to a significant Commonwealth Government role. The COAG *Closing the Gap* strategy and the VIAF both outline a comprehensive approach to overcoming Aboriginal disadvantage.

In key areas, such as statutory child protection services, progress is slow or hard to achieve. It is considered that without a substantial change in the individual, caregiver and community risk factors the goal of reducing the over-representation of vulnerable Aboriginal children in statutory child protection services will not be achieved. If progress is made in key identified areas of Aboriginal disadvantage through the current Commonwealth and Victorian Government policies this is likely to reduce the risk factors for child abuse and neglect and therefore help to prevent child abuse in Aboriginal communities.

The Victorian issue-specific plans (Table 12.4) are intended to drive change in relation to key areas of Aboriginal disadvantage and fall within the overarching approach established through the *Closing the Gap* strategy and the VIAF. These five plans are at various stages of implementation, achievement and review. Two plans are currently being reviewed, two plans have no set targets or milestones and one plan sets out 44 goals but only measures 13. None of the plans presently have a clear outcomes measurement and reporting framework against which to assess progress. This creates a policy context where the strong focus on the achievement of the goals as outlined in the VIAF is not reflected at the more detailed level of engagement.

For example, the Victorian Auditor-General's Office (VAGO) has reviewed the Wannik strategy and concluded that:

At the beginning of the fourth year DEECD cannot demonstrate whether the Wannik strategy is on track to improve education outcomes for Koorie students (VAGO 2011c, p. vii).

The Victorian Auditor-General has determined that although DEECD has been progressively implementing a range of priority actions, it is unclear whether progress is in line with DEECD's expectations because there are no set targets or milestones. The Victorian Auditor-General further comments that it is not evident that risks to the strategy's implementation are being adequately managed. Unless these issues are addressed, achieving the systemic reforms necessary to improve and sustain education outcomes for Koorie students is not likely (VAGO 2011c, p. vii). It is unsatisfactory that there are no targets or milestones for the Wannik strategy.

In addition the VIAF is based on a statewide monitoring of outcomes and reporting. However, reporting at a state level is not detailed enough to lead to a clear understanding of how the more specific issue based plans are progressing and does not reflect the impact of actions at a location or regional level. Reporting at a local level will provide valuable information about any barriers to implementation and what approaches work best. This knowledge could then be applied more broadly to enhance overall effectiveness.

In order to assist in efforts to prevent child abuse and neglect in Aboriginal communities and reduce the over-representation of Aboriginal children in statutory child protection services it is considered that the VIAF would benefit from the development of a more detailed and drilled down approach in its monitoring framework. It is recommended that the monitoring framework consider in more detail key areas of disadvantage related to vulnerable children (education or family violence, for example) and report local or place-based performance in specific localities with high prevalence rates of risk factors for child abuse and neglect (such as poor Australian Early Development Index (AEDI) scores and high child protection substantiation rates). This would allow for more effective targeting of effort and rigorous analysis of the barriers and obstacles by issue at the local service delivery level.

While the issue specific plans have some shortcomings, the plans related to justice and family violence have resulted from inclusive planning approaches with the Aboriginal community. This typically cascades upwards from community groups through to representation at larger forums and involves the regular demonstration of commitment of the most senior government representatives, Aboriginal leaders and community members through attendance at regular forums. These regular forum meetings (that may extend over more than one day) provide an opportunity to discuss issues in depth, develop relationships and openly report actions and outcomes. Future planning processes in relation to Aboriginal children and families should consider adopting a similar approach.

### Finding 7

The Inquiry affirms the *Victorian Indigenous Affairs Framework* and associated structures as the primary mechanism to drive action across government on the broad range of risk factors associated with Aboriginal children being at greater risk of abuse and neglect.

### Recommendation 32

More detailed monitoring should be developed for the *Victorian Indigenous Affairs Framework* that provides reports on outcomes at the operational level regarding key areas of disadvantage (such as education attainment or family violence) and in specific localities with high prevalence rates of risk factors for abuse and neglect.

## 12.5 Service systems

Aboriginal Victorians have access to the same publicly funded service systems as other Victorians. There is a broad range of systems that are applicable to the health and wellbeing of Aboriginal children and families such as health, economic participation, community safety and housing. These service systems are the focus of the COAG and VIAF improvement efforts and the associated monitoring and reporting regimes.

This section focuses on how Aboriginal children, young people and families are faring in the Victorian service systems of early years, education, family services and statutory child protection services. Each of these systems also provide a range of Aboriginal specific programs. A brief description of Aboriginal specific programs in the early years, education, family services and statutory child protection services are included in Appendix 10.

### 12.5.1 Aboriginal children and families in Victoria

*The state of Victoria's children 2009: Aboriginal children and young people in Victoria* (DEECD 2010) provides a comprehensive overview of how Aboriginal children and young people fare in the areas of safety, health, development, learning and wellbeing. This section highlights key areas relevant to the Inquiry.

In 2006 the Australian Census showed there were around 33,500 Aboriginal people living in Melbourne and regional Victoria, an increase from 27,800 in 2001. It is estimated that the Aboriginal population in 2010 has further risen to approximately 36,700 people (Victorian Government 2010c, p. 9). The Aboriginal

population in Victoria has a higher growth rate than the population as a whole (Victorian Government 2010c, p. 9).

The 2006 Census of Population and Housing identified that there were 576,700 families in Victoria, with 1.2 per cent of these being Aboriginal at that time. A very high proportion of Aboriginal families are one-parent families: 50.3 per cent compared with 20.6 per cent of all families with children (ABS 2006a). This figure reflects the national data (DEECD 2010, p. 39).

The majority of Aboriginal households in Victoria are one-family households (91.5 per cent), which is slightly higher than Aboriginal households nationally (86.5 per cent). The major difference observed between Victoria and Australia was the proportion of two or more family households, which was considerably lower in Victoria at 6.0 per cent compared with Australia at 10.4 per cent (DEECD 2010, p. 39).

In approximately two-thirds (64.1 per cent) of Aboriginal households in Victoria not all people within that household identified as Aboriginal in contrast to Australia as a whole, where only in 49.6 per cent of households not all people identified as Aboriginal (DEECD 2010, p. 39).

Although Victoria is the second most populated state or territory in Australia, only 0.7 per cent of the population are Aboriginal, the lowest in Australia. Victoria is home to an estimated 14,578 Aboriginal children aged 0 to 17 years, representing 1.2 per cent of all children residing in the state. This proportion is also the lowest in Australia, well below the national average (see Table 12.5).

Although the majority of Victoria's population is concentrated in metropolitan areas, a greater proportion of Victoria's Aboriginal children reside in rural Victoria, at 55.8 per cent compared with metropolitan Victoria at 44.0 per cent (see Table 12.6).

There are marked differences between the age structure of the Aboriginal population and the total population. Children make up almost half (43.5 per cent) of the 33,517 Aboriginal people counted in Victoria, almost double the proportion of children in the total population at 23.6 per cent (DEECD 2010, p. 35).

In summary the Victorian Aboriginal community:

- Is growing rapidly;
- Is widely dispersed across areas of the state with a significant proportion of the community living in regional and rural Victoria;
- Has a very high proportion of single-parent families; and
- Has a very high proportion of children who are over-represented in statutory child protection services.

Table 12.5 Aboriginal children aged 0 to 17 years, states and territories, 2006

State or territory	Children aged 0–17 years (a)		
	Aboriginal	All Children	% of children that are Aboriginal
New South Wales	68,196	1,607,803	4.2%
Victoria	14,578	1,183,258	1.2%
Queensland	65,484	1,004,795	6.5%
South Australia	12,121	350,158	3.5%
Western Australia	30,460	497,808	6.1%
Tasmania	8,087	116,831	6.9%
Northern Territory	26,381	60,854	43.4%
Australian Capital Territory	1,832	77,438	2.4%
<b>Australia</b>	<b>227,215</b>	<b>4,899,568</b>	<b>4.6%</b>

Source: DEECD 2010

Note: (a) Australian Bureau of Statistics (ABS) 2009a

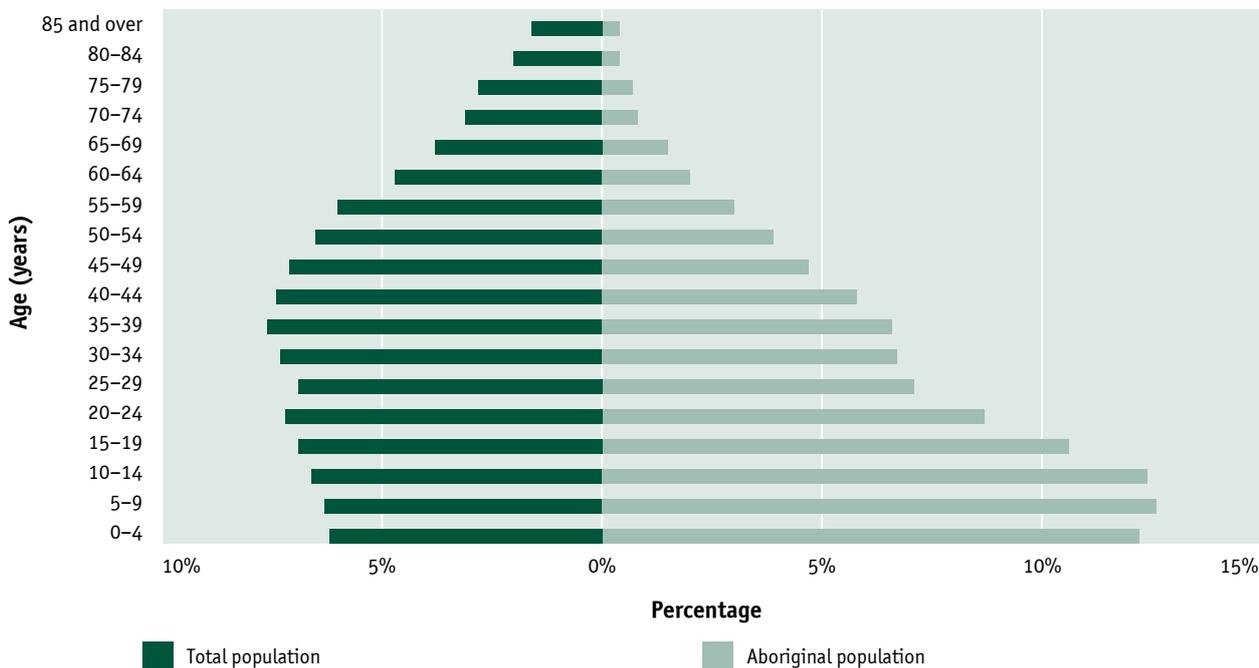
Table 12.6 Aboriginal children, by age group and region, Victoria, 2006

Region	0 to 4 years	5 to 9 years	10 to 14 years	15 to 17 years	Total 0 to 17 years	% of population aged 0 to 17 years
Eastern Metropolitan	249	319	299	190	1,057	8.0%
Northern Metropolitan	530	500	498	305	1,833	13.9%
Southern Metropolitan	490	553	468	267	1,778	13.5%
Western Metropolitan	324	307	315	201	1,147	8.7%
<b>Metropolitan</b>	<b>1,593</b>	<b>1,679</b>	<b>1,580</b>	<b>963</b>	<b>5,815</b>	<b>44.0%</b>
Barwon-South West	356	371	352	188	1,267	9.6%
Gippsland	377	416	434	217	1,444	10.9%
Grampians	189	220	228	120	757	5.7%
Hume	468	503	503	244	1,718	13.0%
Loddon Mallee	607	612	624	351	2,194	16.6%
<b>Rural</b>	<b>1,997</b>	<b>2,122</b>	<b>2,141</b>	<b>1,120</b>	<b>7,380</b>	<b>55.8%</b>
<b>Victoria (a)</b>	<b>3,598</b>	<b>3,811</b>	<b>3,721</b>	<b>2,086</b>	<b>13,216</b>	<b>100.0%</b>

Source: DEECD 2010

Note: (a) Due to small numbers, 'No usual address' and 'Unincorporated Victoria' categories could not be reported in the table but do contribute to total records (n = 98).

**Figure 12.2 Aboriginal population and non-Aboriginal population by age group, Victoria, 2006: percentage distribution**



Source: DEECD 2009c, p. 35

### 12.5.2 System performance data

This section considers the service systems relating to the early years of a child's life, education, family services and statutory child protection services and looks at how Aboriginal children and young people are faring within those systems.

#### Early years

There is little trend data for the participation of Victorian Aboriginal children in different forms of early years programs. There is also a lack of nationally comparable data regarding participation in early childhood education programs as noted in the Auditor-General's report on the *Administration of the National Partnership on Early Childhood Education* (Australian National Audit Office 2011).

The participation rates of Victorian Aboriginal infants receiving a MCH home consultation visit has increased from 88.2 per cent in 2006-07 to 91.3 per cent in 2007-08 (although it remains lower than for the total population at 98 per cent in 2006-07 and 98.9 per cent 2007-08). The proportion of Victorian Aboriginal children who participate in the 3.5 year old visit remains 20 percentage points behind the whole population (40.3 per cent compared with 60.1 per cent) (DEECD 2010, p. 132).

NATSISS shows that more than half (60.2 per cent) of Aboriginal children aged 0 to 12 years in Victoria had been in some form of child care in the previous week, much higher than all children in this age group (48.9 per cent). Of those who used child care, Aboriginal children were more likely to have been in informal care (with relatives or friends for example) and less likely to have been in formal care only (DEECD 2009c, p. 217).

In 2009-10 in Victoria 0.2 per cent of children attending child care and preschool services were Aboriginal. Aboriginal children between three and five years of age represented 1.2 per cent of all children in this age group in the community (SCRGSP 2011a, table 3A.4).

Around half of 0 to 12 year olds who attended formal care in the week prior to the survey used a long day care centre. The main difference between Aboriginal children and the total population of child care users was in the use of family day care. Aboriginal children were much more likely to be placed in family day care (approximately 20.0 per cent in both Victoria and nationally) compared with all children (7.6 per cent in Victoria, 8.9 per cent nationally) (DEECD 2009c, p. 219).

The Inquiry sought to further understand the attendance at child care by younger vulnerable Aboriginal children, however, this is the extent of data provided by ABS from the NATSISS survey on this subject. DEECD informed the Inquiry that further information had not been sought or additional analysis of NATSISS undertaken in relation to the use of child care.

Aboriginal children in Victoria are assisted by Koori Engagement Support Officers from the Koori Early Childhood Education Program, aimed at increasing participation for Aboriginal children in kindergarten. During the five year period between 2004 and 2009, the number of four year old kindergarten enrolments fluctuated. In 2009, 579 four year olds were enrolled in kindergarten (DEECD 2009c, p. 220).

Table 12.7 outlines the enrolment of three year old Aboriginal children in Early Start Kindergarten. Nearly one third of three year old Aboriginal children were enrolled in 2010.

**Table 12.7 Three year old Aboriginal children enrolled in Early Start kindergarten, Victoria, 2008 to 2011**

Year	Population projection	Enrolments	Participation rate
2008	838	109	13.0
2009	857	237	27.7
2010	847	249	29.3
2011	876	NYA	NYA

Source: Information provided by DEECD. Based on ABS 2009a.

Three year old enrolment figures reflect the number of participants in the Aboriginal Early Start program.

## Education

In Victoria, Aboriginal students generally have lower rates of literacy and numeracy, school attendance and school retention than their non-Aboriginal peers (VAGO 2011c, p. vii).

Using the AEDI to measure developmental vulnerability, Aboriginal children in Victoria are more than twice as likely as non-Aboriginal children to be vulnerable on one or more health and wellbeing domains at school entry, and nearly three times as likely to be vulnerable on two or more domains (DEECD 2009c, p. 217).

The proportion of Aboriginal children reading with 90 per cent to 100 per cent accuracy at the designated text levels for Prep, Year 1 and Year 2 remains consistently lower than non-Aboriginal children (DEECD 2009c, p. 224) (see Table 12.8).

Table 12.8 reveals that in Prep Aboriginal students are approximately 30 percentage points lower in recommended reading levels than all students. However, by Year 2 this difference has declined by half to 15 percentage points. This average performance difference then appears to remain throughout a child's educational experience. For example, in relation to literacy and numeracy, Aboriginal children and young people in Victoria continue to fare less well than their non-Aboriginal counterparts with differences in Year 9 across reading, writing, spelling, grammar and numeracy at least of the order of 20 percentage points (DEECD 2009c, p. 217).

Aboriginal students are more likely than non-Aboriginal students to be early school leavers. The Year 10 to 12 retention rate for Aboriginal students in government schools has been below 55 per cent for a number of years, compared with approximately 75 per cent for non-Aboriginal students (VAGO 2011c, p. 2).

**Table 12.8 Reading proficiency of Prep to Year 2 students enrolled in Victorian government schools, by Aboriginal status, 2000 to 2008**

	Year	Text Level	2000 %	2001 %	2002 %	2003 %	2004 %	2005 %	2006 %	2007 %	2008 %	Average 2000–08
Aboriginal students	Prep	5	41.4	44.3	44.4	47.8	49.8	48.0	46.7	49.5	50.3	46.9
	Yr 1	15	48.1	54.2	57.8	57.1	63.7	64.5	61.5	62.6	61.3	59.0
	Yr 2	20	77.9	76.5	75.9	76.3	76.7	82.2	82.7	82.9	81.0	79.1
All students	Prep	5	70.6	74.1	75.9	77.9	79.0	79.7	80.3	80.4	81.3	77.7
	Yr 1	15	79.9	83.1	84.5	85.7	87.0	86.3	86.9	86.7	86.4	85.2
	Yr 2	20	92.9	93.5	94.6	94.5	94.8	94.8	94.9	94.8	94.5	94.4

Source: DEECD 2010, p. 224

Table 12.9 shows that 72.4 per cent of Victorian government schools have at least one Aboriginal student enrolled.

**Table 12.9 Victorian government schools with Aboriginal enrolments, 2008 to 2011**

Year	Schools with Aboriginal enrolments
2008	71.8%
2009	73.5%
2010	70.9%
2011	72.4%

Source: Information provided by DEECD

Table 12.10 outlines school retention rates for Aboriginal and non-Aboriginal children over a 10 year period. Just over 40 per cent of Aboriginal students aged 12 to 17 years aspire to attend university compared with approximately 70 per cent of non-Aboriginal students (DEECD 2009c, p. 217).

Lower attendance rates among Aboriginal children are consistent across Year 1 to Year 10 in Victorian government schools. Lower rates of attendance were particularly notable in secondary school, for both Aboriginal and non-Aboriginal students in 2007 and 2008 (DEECD 2009c, p. 227).

Aboriginal students report similar levels of connectedness to school and to their peers as their non-Aboriginal counterparts (DEECD 2009c, p. 217). Close to one-third (30.6 per cent) of young Aboriginal people reported that their school recognises Aboriginal culture in its curriculum and nearly 60 per cent felt proud to be an Aboriginal person at school

(DEECD 2009c, p. 231). Approximately 50 per cent of Aboriginal children aged four to 14 years are taught Aboriginal culture at school (DEECD 2009c, p. 217).

Around one in five Aboriginal young people (21.2 per cent) aged 15 to 17 years are not attending an educational institution or participating in employment, compared with 8.8 per cent of Victorian 15 to 17 year olds who are not in either employment or education (DEECD 2010, pp. 243, 246).

#### Support at school

VACCA supports approximately 40 school aged children in foster care. The children are vulnerable, traumatised and need strong support at school. They all attend school. There have been two short suspensions from school this year [2011]. Both children returned to school immediately. The VACCA education support worker and the extended care team work closely with the school. The support worker can work one-on-one with the child at school if needed, focussing on educational or behavioural difficulties. Teachers feel supported and are included in care team meetings and consultations with therapeutic specialists. Schools are beginning to understand the importance of creating culturally safe environments and including culture into the curriculum. In 2009 all Aboriginal children in VACCA's foster care program achieved literacy and numeracy benchmarks as tested through the National Assessment Program, Literacy and Numeracy (extract from VACCA submission, p. 53).

**Table 12.10 Year 10-12 apparent retention rates at all schools (full-time students), Victoria and Australia, 1999 to 2008**

	1999 %	2000 %	2001 %	2002 %	2003 %	2004 %	2005 %	2006 %	2007 %	2008 %	Change 1999– 2008
<b>Victoria</b>											
Aboriginal	46.1	37.9	44.0	40.9	44.4	44.7	55.4	47.4	56.7	50.9	+ 4.8% points
Non- Aboriginal	94	95	95	95	95	95	94	92	91	91	- 2.3% points
<b>Australia</b>											
Aboriginal	43.1	43.8	43.6	45.8	45.7	46.0	45.3	46.8	48.5	51.0	+ 7.9% points
Non- Aboriginal	75.0	75.2	76.2	77.8	77.7	78.1	77.5	77.1	76.6	76.5	+ 1.5% points

Source: DEECD 2010, p. 244

### Family services

In the 2008-09 financial year, 23,789 families with children accessed family services. Of these, 1,492 (or 6.3 per cent) were Aboriginal families. Given the significant disadvantage in Aboriginal families this low participation rate is concerning because access to appropriate family support programs may prevent the need for engagement with statutory child protection services.

### Statutory child protection services

Aboriginal and Torres Strait Islander children are over-represented in all areas of the child protection system in every state and territory in Australia (Australian Institute of Health and Welfare (AIHW) 2011c, p. vii).

*The state of Victoria's children 2009: Aboriginal children and young people in Victoria* reports that Aboriginal children were 10 times more likely to be the subject of a substantiation at a rate of 48.3 per 1,000 children compared with non-Aboriginal children at a rate of 4.8 per 1,000 children. Nationally, the substantiation rate for Aboriginal children was 37.7 per 1,000 children, 5.8 times the rate of all children (DEECD 2010, p. 206). The Inquiry notes that the VIAF has highlighted this as an area that is lagging behind national averages and improvement is needed. However, due to the lack of

reliable prevalence data about child abuse and neglect, caution needs to be exercised when considering this data. It should not be concluded that Aboriginal children in Victoria are more likely to be abused and neglected than in other jurisdictions. It may indicate that the Victorian system is more responsive to child abuse and neglect in Aboriginal families than in some other jurisdictions.

The Inquiry's own data analysis shows that Aboriginal children are more likely to be the subject of a report of child abuse than non-Aboriginal children. Of the 2009-10 cohort 9.4 per cent of reports of child abuse concerned Aboriginal children. This compares with an estimated 1.2 per cent of children in Victoria who are Aboriginal.

The Inquiry's analysis also shows that there were 1,381 investigations relating to Aboriginal children from reports received in 2009-10. This is equivalent to 9.9 per cent of all investigations. Table 12.11 shows the number of investigations and substantiations based on reports received in 2009-10 by Aboriginal status. At 61.5 per cent, the rate of substantiations as a proportion of investigations is higher for Aboriginal children than for non-Aboriginal children (53.6 per cent).

**Table 12.11 Finalised child protection investigations and substantiations arising from 2010-11 reports, by Aboriginal status**

	Investigations	Substantiations	Substantiation rate
Aboriginal	1,361	829	63.0%
Non-Aboriginal	11,655	6,811	58.4%

Source: Information provided by DHS

Table 12.12 illustrates the Victorian trends in relation to Aboriginal children in statutory child protection from 2001 to 2010. These trends show a marked increase in relation to reports, a slight decrease in investigations and substantiations and an increase in care and protection orders. While the reasons for these changes are not clearly understood it is likely that the reporting rate is driven by the growing proportion and number of infants in the Aboriginal community. While the changes in investigation and substantiation rates are marked the proportion of substantiations resulting from investigations remains constant (68.5 per cent in 2000-01 and 66.8 per cent in 2009-10). This factor combined with a rise in care and protection orders may indicate that statutory child protection services are appropriately identifying vulnerable Aboriginal children at risk of significant harm.

### Out-of-home care

There has been an increase in the rate of children in out-of-home care since 2002 for both Aboriginal and non-Aboriginal children and young people. This increase, combined with the decreasing rate of admissions into out-of-home care, indicates that children and young people are staying in out-of-home care arrangements for longer periods.

In Victoria at 30 June 2009, there were 5,283 children aged 0 to 17 years in out-of-home care, a rate of 4.3 per 1,000 children. Of these, 734 were Aboriginal children, a rate of 48.7 per 1,000. Aboriginal children and young people were 11.3 times more likely to be in out-of-home care on 30 June 2009 than non-Aboriginal children. Across Australia, Aboriginal children were 6.6 times more likely to be in out-of-home care than all children in 2009 (AIHW 2010a).

As outlined in Chapter 10 Victoria's Aboriginal children and young people have markedly higher interactions with the out-of-home care system. The key observations are:

- Over the period 2001-10 the number of Aboriginal children and young people in out-of-home care increased by nearly 80 per cent with the rate per 1,000 Aboriginal children and young people

increasing from 36.5 per cent to 53.7 per cent, an increase of 47 per cent;

- Over the period the median duration of time in continuous out-of-home care increased from an estimated 16 months at the end of June 2001 to just over 2 years at the end of June 2011;
- 95 per cent of Aboriginal children were in home-based arrangements at the end of June 2010 with 51.8 per cent of Aboriginal children in kinship care; Nearly 70 per cent of Aboriginal children who entered care in the 12 months to the end of June 2010 were aged less than 10 years, a significantly higher proportion than for non-Aboriginal population; and
- Aboriginal children and young people who exited care in the 12 months to June 2011 had spent similar periods in care as non-Aboriginal children: 54.4 per cent had been in care for less than 12 months; 21.5 per cent one year to less than two years; and 24.1 per cent more than two years.

In Victoria the majority of both Aboriginal and non-Aboriginal children are placed in home-based care (96.5 per cent and 97.4 per cent respectively). There has been an increasing number of children placed with relatives and kin – higher for Aboriginal children at 52.9 per cent than non-Aboriginal children at 43.5 per cent (DEECD 2010, p. 213).

Caregivers of Aboriginal children were mostly aged over 50 (65 per cent), female and frequently single, and living in poverty with often crowded housing. Aboriginal carers were caring for larger numbers of children (average 2.4) than non-Aboriginal carers (average 1.8). Only half (53 per cent) of carers reported that they had adequate support to ensure that the children keep in contact with family and culture (Humphreys & Kiraly submission (a), pp. 2-3).

On 30 June 2009, 431 Aboriginal children in out-of-home care were living in arrangements that were in accordance with the ACPP. This accounts for 59.5 per cent of Aboriginal children in out-of-home care (DEECD 2010, p. 214).

**Table 12.12 Children in child protection reports, investigations, substantiations and care and protection orders per 1,000 Victorian children, by Aboriginal status, 2000-01 and 2010-11**

	2000-01		2010-11	
	Aboriginal	Non-Aboriginal	Aboriginal	Non-Aboriginal
Reports	117.6	24.5	178.1	31.1
Investigations	74.1	9.9	76.7	9.0
Substantiations	50.7	6.1	50.4	5.4
Care and protection orders	41.1	3.8	69.2	4.6

Source: SCRGSP 2011c, provided by DHS

This means there are still many Aboriginal children who cannot be placed with Aboriginal families or communities. One of the main reasons for this is the shortage of Aboriginal carers. The underlying factors involved in the ability to recruit Aboriginal carers include the impact of the past removal policies on parenting, social and financial barriers, the unwillingness of some people to be associated with the ‘welfare’ system and the disproportionately high number of Aboriginal and Torres Strait Islander children compared to adults (Berlyn et al. 2011, p. 5).

The Inquiry understands another factor is the criminal records check requirements for approval for placement in out-of-home care, which means that some Aboriginal adults are ineligible to become carers.

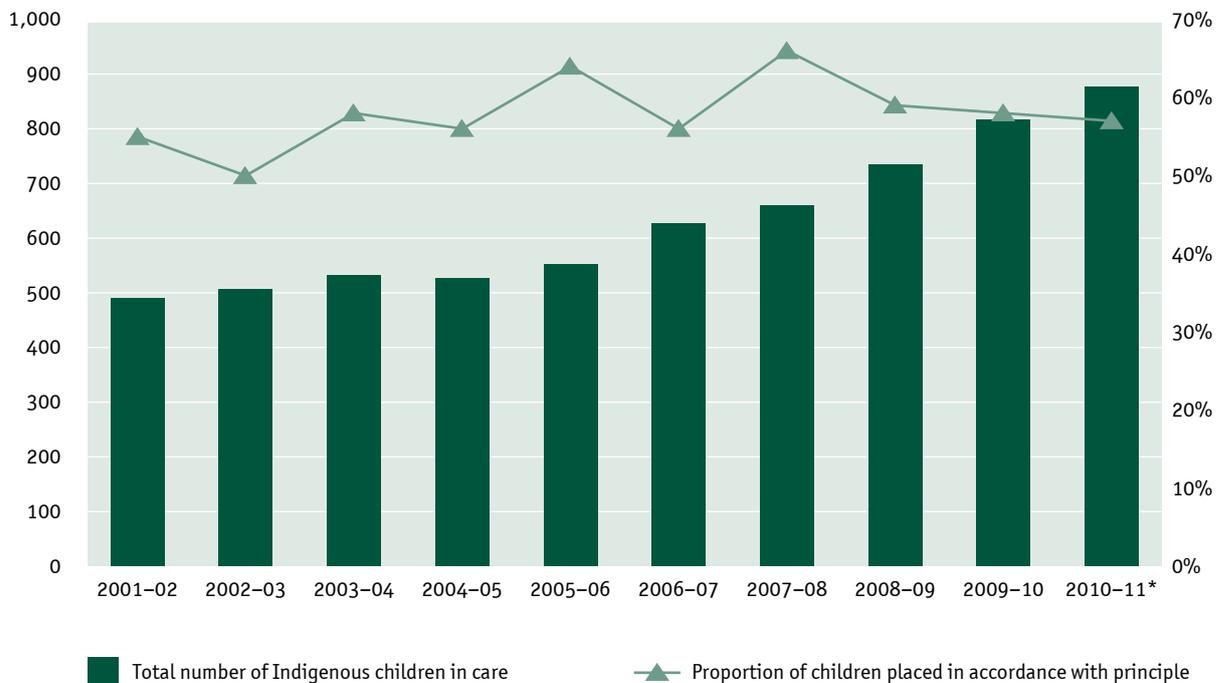
A key factor that results from the relatively young profile of the Victorian Aboriginal community is the proportion of children in relation to the proportion of adults who are potentially available to care for them. This is referred to as the youth dependency ratio. The youth dependency ratio is the percentage of the population under 15 years divided by the percentage of the population aged 15 to 64 years, which includes potential carers. In 2006 in Victoria the youth dependency ratio for the Aboriginal community was significantly higher (0.68) than for the non-Aboriginal population (0.28) (AIHW 2011a, pp. 1,104, 1,105).

As Figure 12.3 illustrates there has been little progress in Victoria in the improving the percentage of children placed in accordance with the ACPP over recent years. Further, Victoria rates fifth compared with other states and territories in complying with the ACPP (see Figure 12.4).

**VACCA’s Koori Cultural Placement and Support Program**

VACCA’s Koori Cultural Placement and Support Program works to connect the child or young person placed in out-of-home care to their family and community, and encourage the child to know and take pride in their culture. The program can also work alongside carers assisting them to involve the child in cultural events and introducing them to members of the child’s community. To date, the program operates for a small number of Aboriginal children in three regions of Victoria (VACCA submission, p. 54).

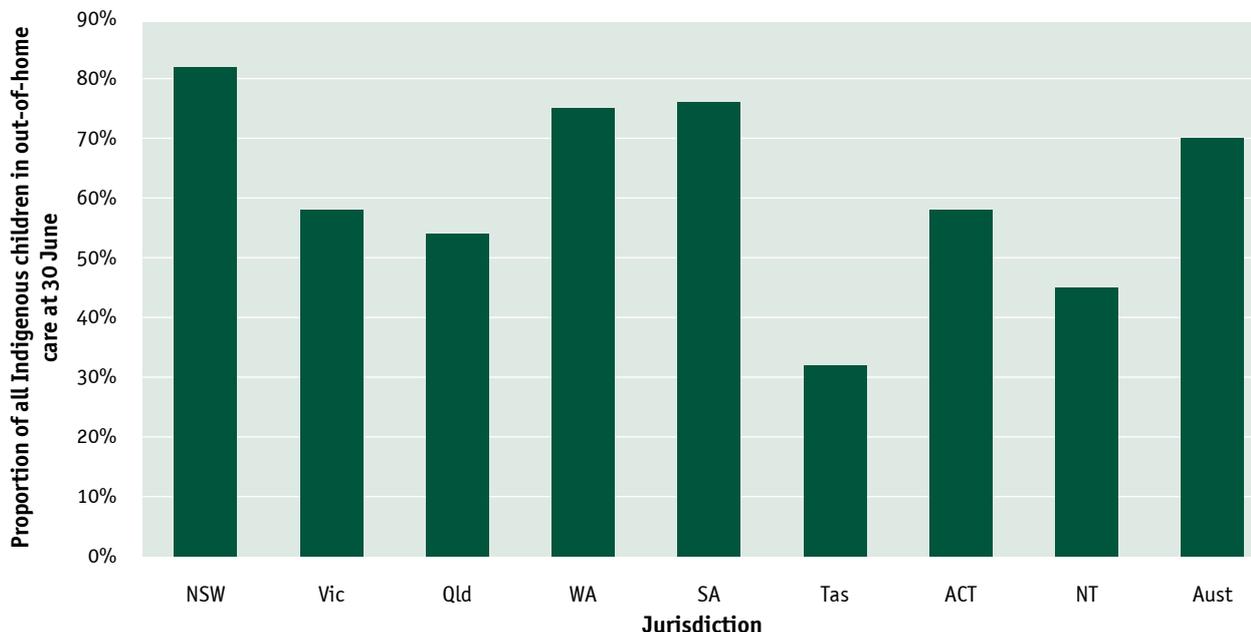
**Figure 12.3 Aboriginal out-of-home care placements and compliance with the Aboriginal Child Placement Principle, Victoria, 2001–02 to 2010–11**



Source: SCRGSP 2011c, Table 15A.62

\* Provided by DHS

**Figure 12.4 Aboriginal children placed in out-of home care in accordance with the Aboriginal Child Placement Principle, states and territories, 2009–10**



Source: SCRGSP 2011c, Table 15A.22

### Cultural competence

The impact of disadvantage on a child’s development and the history of forcible removal of Aboriginal children has resulted in Aboriginal families being suspicious of health and welfare services. This means that services designed to assist Aboriginal people must pay close attention to how Aboriginal people use the services and provide those services in a culturally competent manner. Cultural competence is defined as the integration of a set of congruent behaviours, attitudes and policies in a system, agency or among professionals and allows that system, agency or those professionals to work effectively in cross-cultural situations (Isaac & Benjamin 1991).

The registration process for community service organisations (CSOs) (see Chapter 21) has a standard related to cultural competence in the provision of services for Aboriginal children, young people and families. The performance of CSOs against the standards are externally reviewed. The *Report of the External Reviews of CSOs against the Registration Standards under the Children, Youth and Families Act 2005*, prepared by DHS (2007-10) records the results from this review process. The report identifies that only 48 per cent of CSOs were rated as having met the standard of respecting Aboriginal children and youth’s cultural identity (DHS 2011n, p. 20). Most CSOs subsequently sought to improve their performance against this standard through the inclusion of actions focused on improving cultural awareness. Typically the actions related to:

- Cultural awareness training to be completed by staff and carers and board members;
- Memoranda of understanding to be developed with local Aboriginal community controlled organisations (ACCOs);
- Implementation of the Aboriginal Cultural Competence framework; and
- Ensuring all carers and staff have received training in cultural competency practice and related areas to support the needs of Aboriginal and culturally and linguistically diverse children, youth and families (DHS 2011n, p. 36).

As outlined in Chapter 21 DHS has recently established a Standards and Registration Unit to undertake the registration, monitoring and review of CSOs in integrated family services, out-of-home care, disability services and homelessness support. The unit will monitor the performance of all CSOs against the new DHS standards from July 2012. Particular attention should be paid in the development of the new DHS standards and in the next cycle of registration to the performance of agencies in relation to cultural competence.

Chapter 16 provides further detail relating to the need for cultural competence by the workforce across the broad system to protect vulnerable children.

**Recommendation 33**

Aboriginal cultural competence should be a feature of the Department of Human Services standards for community service organisations. Further, the performance of agencies in relation to cultural competence should be an area of specific focus in the next cycle of community service organisation registration.

**12.6 Sector capacity**

ACCOs in Victoria currently provide a range of services on behalf of the Victorian and Commonwealth governments. This section considers capacity and related issues that have arisen during the course of the Inquiry.

**12.6.1 Commonwealth and state government expenditure**

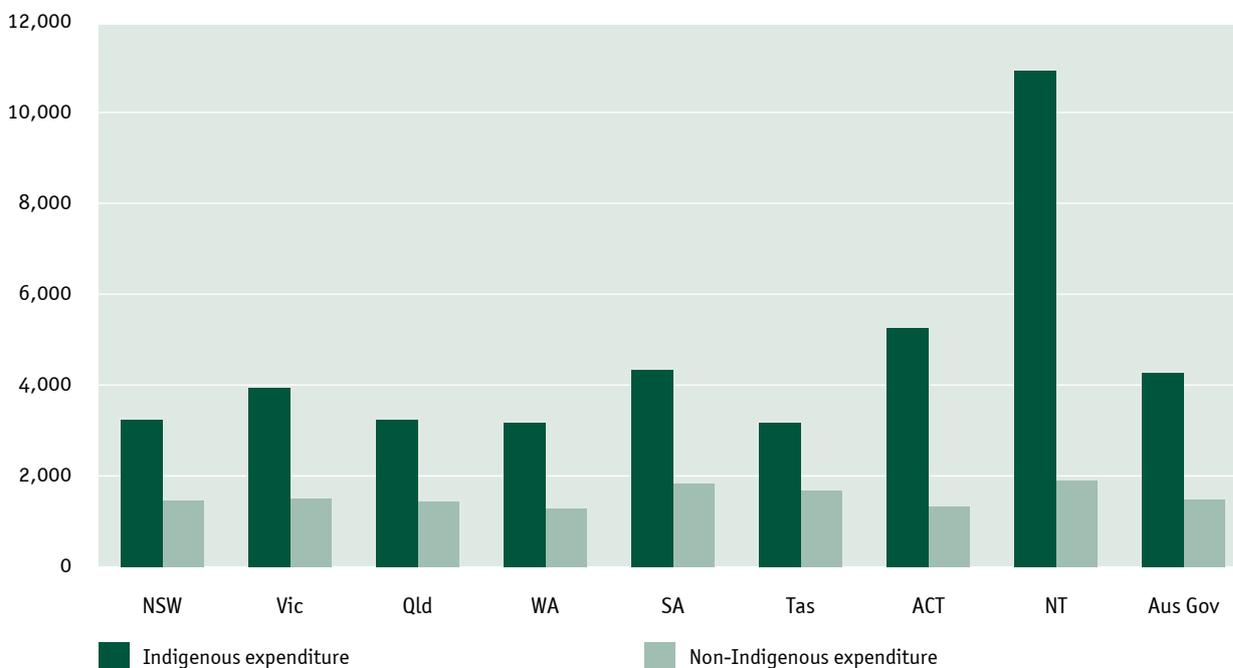
The *2010 Indigenous Expenditure Report Supplement* provides basic data on expenditure by government. It makes no assessment of the adequacy of that expenditure. However, the estimates in the report, when combined with other information (such as levels

of Indigenous disadvantage) can contribute to a better understanding of the adequacy, effectiveness and efficiency of government expenditure on services to Indigenous Australians.

The report identifies that expenditure on services related to Indigenous Australians per capita can be expected to be greater than for non-Indigenous Australians, given their significant relative disadvantage, more intensive use of services, and greater cost of provision (because of factors such as higher representation of the Indigenous population in remote areas) (SCRGSP 2011a, p. iii). Figure 12.5 outlines the expenditure per head of population on safe and supportive communities in 2008-09.

Figure 12.5 includes indirect and direct costs associated with providing safe and supportive communities. In comparison with other Australian jurisdictions Victoria's expenditure per capita is greater than expenditure in New South Wales, Queensland, and Western Australia, which all have large Aboriginal populations.

**Figure 12.5 Australian Government expenditure per head of population on safe and supportive communities, by Indigenous status, 2008-09**



Source: SCRGSP 2011a

### 12.6.2 The Aboriginal community controlled sector in Victoria

The ACCO sector is large and diverse. Aboriginal Affairs Victoria (AAV), a unit of the Department of Planning and Community Development (DPCD), provides advice to the Victorian Government on Aboriginal policy and planning and also provides some key programs. DPCD has a central role in managing Victoria's growth and development and building stronger communities. Within this context AAV works in partnership with Aboriginal communities, government departments and agencies to promote knowledge, leadership and understanding about Victoria's Aboriginal people.

AAV also has a lead role in building skills, leadership and capacity within communities and organisations. AAV runs regular governance training workshops tailored for Aboriginal community organisations and designed to strengthen Aboriginal organisations through development of management and governance skills of board members and key staff. In addition AAV provides the Indigenous Community Infrastructure Program, which assists Victorian Aboriginal organisations to acquire, upgrade and develop facilities for community use.

Currently AAV is also working with other state government departments and the Aboriginal community to develop a whole-of-government leadership and capacity building strategy. The strategy will identify and promote innovative approaches to the development of a coordinated range of leadership and capacity building opportunities.

AAV also is instrumental in establishing the Aboriginal representative arrangements and structure in Victoria and works closely with the secretariat to the Ministerial Taskforce on Aboriginal Affairs on the VIAF .

The report *Positioning Aboriginal Services for the Future* identifies that there are approximately 170 ACCOs registered as operating in Victoria. The report provides an overview of the Aboriginal Community Controlled sector in Victoria and represents the views expressed by a broad range of stakeholders (Effective Change 2007).

The sector is very diverse. For example there are:

- Small, medium and large organisations with a focus on health and community services;
- Single service organisations such as the Koorie Heritage Trust and the Aboriginal Housing Board Victoria;
- Statewide organisations such as VACCA;

- Organisations funded for peak body functions such as the Victorian Aboriginal Community Controlled Health Organisation (VACCHO), Victorian Aboriginal Community Services Advancement League (VACSAL) and Victorian Aboriginal Education Association Incorporated;
- Organisations that have been set up to represent the interests of traditional owners;
- Organisations established to support gathering places; and
- A range of other organisations involved in activities such as education, sport, business, arts and crafts, child care and the promotion of Aboriginal culture.

#### Governance

As community controlled organisations, ACCOs draw their board membership directly from the community they serve. Board members of ACCOs have the challenging role of balancing cultural and community expectations with their legal and fiscal obligations.

As part of the consultations for the *Positioning Aboriginal Services for the Future* project, information was collected about the membership, skills and qualifications of ACCOs' board members. The information collected shows that ACCO board members currently include:

- Elders, community leaders and people employed in a range of jobs including public servants, university lecturers, staff members of other ACCOs, nurses and Aboriginal health workers;
- People with doctorates, degrees and professional qualifications as well as people with basic literacy and numeracy skills or who cannot read or write; and
- People who have attended governance training such as that provided by AAV, as well as a majority of board members who have not received any specific governance training.

## Funding sources

In the Aboriginal community controlled sector the majority of organisations are solely dependent on Commonwealth and/or state government funding.

In 2010-11 the largest Victorian funding sources were DHS, which provides approximately \$33.5 million annually to ACCOs for service delivery and the Department of Health which provides \$24.3 million annually. In 2007 the Office for Aboriginal and Torres Strait Islander Health provided funding of \$20 million to Victorian ACCOs. Thirty-three health and community service focused ACCOs receive funding from both the Commonwealth and Victorian governments for health and community services. Most of these ACCOs have to manage multiple sources of funding with a diverse range of reporting, accounting and grant acquittal requirements.

The current system of resourcing Aboriginal organisations creates barriers to good service delivery and better outcomes for Aboriginal children and families. Multiple funding agreements and requirements for detailed submissions place pressure on Aboriginal organisations that do not have the infrastructure to manage these. Program resources usually have a narrow focus, while the needs of Aboriginal children and families are broad and multifaceted. There is little room for negotiation with funding sources and little room for flexibility when the model does not work for Aboriginal children and families who are presenting with highly complex needs and multiple disadvantage (VACCA submission, p. 62).

## Capacity

The *Positioning Aboriginal Services for the Future* report concludes that the majority of ACCOs in Victoria have very limited infrastructure and capacity in the areas of management, human resource management and industrial relations, finance, legal, policy and information technology. For example:

- Most ACCOs have extremely flat management structures, with staff from a variety of program areas reporting directly to the chief executive officer. Only a handful of organisations have a management team, and 12 organisations employ only one person in a management position.
- Only a handful of organisations have the resources to employ specialist staff such as a human resources manager, information technology manager, policy officers, training coordinators etc. In fact, the five largest organisations employ 64 per cent of all specialist staff.

Aboriginal organisations have difficulty in attracting, supervising and supporting appropriately qualified Aboriginal staff. This is in part because of the small number of Aboriginal people with appropriate skills and the preference of most organisations to employ Aboriginal people. Consistent with the *Positioning Aboriginal Services for the Future* report findings, submissions (VACCHO, p. 9; VACCA, p. 60; VACSAL, p. 6; Aboriginal Family Violence Prevention Legal Service Victoria (AFVPLSV), p. 11) to the Inquiry noted that the challenges for ACCOs providing child and family services included the following:

Developing the professional capacity of our Aboriginal workforce includes staff in child and family welfare and organisational development areas, such as finance and human resources management.

In the long term, programs which encourage Aboriginal participation in tertiary education for social work, community development, finance and human resource management are necessary to break down the dependence of Aboriginal child welfare agencies on non-indigenous professionals, government departments and mainstream organisations (VACCA submission, p. 60); and *The Positioning Aboriginal Services for the Future* project developed plans about what changes organisations and Governments might wish to make in order to ensure that ACCOs would be able to operate effectively over the next five to ten years. This report is one of a number where good plans made with Aboriginal services have not been implemented (VACCA submission, p. 60).

One of the key factors in retaining staff is having an appropriate work-life balance. This can be difficult for Aboriginal staff who are often part of the community they work in, facing the same issues of grief, loss and trauma that they are seeking to address (VACCA submission, pp. 59-60). As stated in one submission:

Aboriginal workers who provide support for families often have little support regarding child protection issues. Non-Aboriginal colleagues have limited understanding about the unique position these workers hold in Aboriginal communities (East Gippsland Discussion Group submission, p. 3).

The joint submission from Anglicare Victoria, Berry Street, MacKillop Family Services, The Salvation Army, Victorian Aboriginal Child Care Agency and the Centre for Excellence in Child and Family Welfare (Joint CSO submission) supported the concept of developing a 10 year plan to build the capacity and coverage of Aboriginal organisations supporting children and families. This was articulated in the VACCA submission as a:

10 year plan to develop Aboriginal organisations so they provide universal, secondary and tertiary services for Aboriginal children and families (VACCA submission, p. 5).

## Child and family welfare services

ACCOs are a significant provider of child welfare services for the Aboriginal community in Victoria both for secondary and tertiary services. There are 18 ACCOs providing child and family welfare services funded by DHS. There is an incomplete suite of Aboriginal family support services in areas where there are significant Aboriginal populations. Therefore, the availability and accessibility of Aboriginal family support programs to vulnerable Aboriginal families to provide early assistance with parenting and other issues is limited.

Child and family service providers must be registered and meet registration standards. DHS has provided funding to Aboriginal organisations over the past three years to assist them to meet registration requirements. DHS has advised the Inquiry that all the Aboriginal organisations that provide child and family services have been externally reviewed and re-registered during 2010.

ACCOs providing child and family services are registered and providing \$3.6 million in family services.

## 12.7 International comparisons

### Canada

As is the case in Victoria, Aboriginal children in Canada represent an increasing proportion of people living in Canada and continue to represent a far greater proportion of children in care than do non-Aboriginal children. (Note: in this section the term Aboriginal encompasses First Nations, Inuit and Metis peoples).

Legislation with respect to Aboriginal children differs across Canada's provinces; however, there is a trend towards tripartite negotiated agreements with Aboriginal peoples (Libesman 2004, p. 7). These agreements recognise the specificity of Aboriginal people's children's needs and the benefits of local control over children's services and decision making. In many instances in legislation, but otherwise in practice, the importance of including Aboriginal agencies in all aspects of decision making with respect to Aboriginal children is recognised.

Alongside the legislation in Canada there is a complicated patchwork of child welfare models serving Aboriginal children (National Collaborating Centre for Aboriginal Health 2010, p. 2). The most common models serving Aboriginal children are mainstream services and one of two Aboriginal models: either a partially delegated service delivery model that typically provides support services and guardianship, or a fully delegated service delivery that provides support and child protection services.

When delegation exists it involves the granting of specific powers for a specific purpose. Under a full delegation approach the province delegates the full range of child welfare services to the Aboriginal community or agency. Most Aboriginal people see delegated models as a transition to self-government (National Collaborating Centre for Aboriginal Health 2010, p. 2). Self-government includes not only Aboriginal service delivery but also Aboriginal self-governing authority over policy and funding.

There are 125 First Nations child welfare agencies including fully mandated agencies and agencies that provide partial support services. Outside of cities most First Nations families that live off reserves are likely to be receiving mainstream services.

Linesman considers that the effectiveness of the Canadian arrangements regarding the implementation of Aboriginal control over children's services and decision making is hampered by financial and other resource restraints and in some instances by the ad hoc implementation of reforms (Libesman 2004, p. 7).

In 2010 the Commission to Promote Sustainable Welfare noted that many experts link the inadequacy of funding with the growing numbers of Aboriginal children in care. The Canadian Incidence Study on Reported Child Abuse and Neglect has repeatedly found that Aboriginal children are investigated and their investigations are substantiated at higher rates than non-Aboriginal children. Aboriginal children are more likely to receive ongoing services after a substantiated investigation than non-Aboriginal children and Aboriginal children are more likely to be removed from their home than non-Aboriginal children.

The Commission notes that the significant over-representation of Aboriginal children in substantiated investigations and in child welfare placements has been found to be clearly correlated to the high level of caregiver, household and community risk factors (poverty, substance misuse, family violence, and poor housing conditions). The Commission concludes that if adequate funding was provided, structured in ways that support Aboriginal child welfare providers to target these risks, then there would be some promise of addressing the over-representation of Aboriginal children (Commission to Promote Sustainable Child Welfare 2010a, p. 33).

## United States

American Indian children are over-represented in the child welfare system, especially in out-of-home care and non-kinship foster placements. High rates of removals of American Indian children have continued in many US communities despite the requirements of the *Indian Child Welfare Act 1978* (ICWA).

The ICWA is the national legislation that regulates welfare for Native American children in the US (Lucero 2007, p. 4). The legislation transfers legislative, administrative and judicial decision making to Indian bands where children live on a reserve. All state child welfare agencies and courts must follow the law when they are working with Indian families in child custody proceedings.

The ICWA was passed with the dual objective of protecting the best interests of Indian children and to promote the stability and security of Indian tribes, communities and families. The ICWA had two overall purposes:

- To affirm existing tribal authority to handle child protection cases (including child abuse, child neglect and adoption) involving Indian children and to establish a preference for exclusive tribal jurisdiction over these cases; and
- To regulate and set minimum standards for the handling of those cases remaining in state court and in state child social services agencies.

The ICWA is premised on recognition of limited tribal sovereignty and the collective interest of tribes in children. ICWA gives Indian tribes the right to be involved in deciding what should happen for Indian children who may be placed in foster care or adoptive placements. Tribes, state agencies and state courts do not always agree on what the best plan is for Indian children in foster care (McCarthy et al. 2003, p. 81).

ICWA gives state child welfare agencies certain responsibilities to protect parental rights:

- Before state child welfare agencies can take children from their families, ICWA requires the agency to make 'active efforts' to help keep children at home. 'Active efforts' means any kind of direct services and assistance that will help the family stay together. But if the situation is very dangerous, children can be removed immediately until it is safe for them to be returned;

- An Indian parent or Indian custodian and their tribe, must receive 'notice' by registered mail of all of the legal proceedings involving children. If the child must be removed from home, the state child welfare agency and state court must notify the parent and child's tribe(s). This must occur whenever a tribal member is involved in a child welfare proceeding;
- If an Indian parent is not able to afford legal counsel, under the ICWA, they have the right to have legal counsel appointed by the court. If a state does not provide legal counsel, the court is supposed to notify the US Secretary of the Interior. The Secretary is supposed to pay reasonable fees and expenses for legal counsel; and
- Before removing a child from home, the ICWA requires that an 'expert witness' testify in court that this placement is necessary. The expert witness is a person who is American Indian or who is experienced in working with Indian families.

When adopting or fostering Indian children, state courts must follow a preferred order of placement that is similar to the ACPP. The descending order of preference to be followed is: with a member of the child's extended family; with other members of the child's tribe; with another Indian family; and if the above three options are not possible, with a non-Indian family. An Indian child may be removed, under state law, for a limited period of time for emergency placement to prevent imminent physical harm.

Native American child welfare is delivered through a number of agencies including non-government organisations, tribal agencies, and state and federal agencies. Lucero asserts working successfully with American Indian families requires both system-level and direct practice interventions (Lucero 2007, p. 14). The identified system-level approaches include a:

- Focus on early identification of American Indian children at risk;
- Culturally appropriate training of child welfare staff;
- Commitment to kinship placements and supporting extended family systems;
- Commitment to maintaining children's cultural connections; and
- Developing collaborative partnerships to benefit American Indian families (Lucero 2007, p. 25).

## Summary

In Canada and the US the child welfare systems responding to child abuse and neglect in First Nations communities face many similar issues to the Victorian system. One common feature of both jurisdictions is the development of mechanisms to include First Nations tribes or bands in decision making concerning Aboriginal children who have been abused or neglected and face removal from their birth family.

The challenges are also consistent with the Victorian experience:

- Growing numbers of Aboriginal children;
- The over-representation of Aboriginal children and families in the statutory child protection services;
- The difficulty of maintaining cultural connection;
- The determination and provision of adequate resourcing; and
- Designing approaches that can systemically accommodate the dual interest of the community or group and the individual rights of parents or the child.

## 12.8 Consultation

Chapter 1 provided details of the consultation process conducted by the Inquiry. In total, 12 different consultation events occurred including visits to metropolitan and regional Aboriginal organisations, as well as the consultation sessions with Aboriginal communities in Mildura, Shepparton, Dandenong, Warrnambool, Bairnsdale and Thornbury.

Themes raised in the consultations included the need for cultural competence training for child protection workers to understand the trauma from past practices and the psychological impact for previous generations. Participants said that child protection workers must be aware of protocols before entering the community, such as approaching the community before speaking with the families. They said that it is important for child protection workers to build trust and relationships with the community, and that communication had to happen earlier in the process, such as contacting the Aboriginal co-operatives when a child has to be removed.

Similarly, participants said that the community would greatly benefit from culturally appropriate counsellors, services, delivery models and materials, and that DHS should employ more Aboriginal staff and Aboriginal liaison workers in the community.

Another theme raised was the need for more support and communication before a child is removed. There should be stronger focus on prevention and early intervention, and on providing support such as respite care for families and carers in advance, instead of at crisis point. Ideally, parenting support should be available within the community, instead of having to go elsewhere to receive assistance. On that note, participants highlighted that physical access to services was an issue for the community and there was a sense that there was no planning for services in growth areas.

## 12.9 Inquiry submissions and consultations

Improvements to the various systems intended to support vulnerable Aboriginal children and families were a major focus the submissions and consultations with Aboriginal people during the Inquiry. Suggestions ranged from an increase in Aboriginal self-determination and culturally competent services to more practical matters of increasing school attendance and financial support for carers.

### Increase self-determination

Increased self-determination for Aboriginal communities was presented as a foundational requirement to improve outcomes for vulnerable Aboriginal children by Aboriginal organisations and groups. As the VACCA submission noted:

As an Aboriginal community controlled child and family service organisation, we believe that to protect vulnerable Aboriginal children and strengthen Aboriginal families and communities, we need a service system which respects Aboriginal self-determination and embeds Aboriginal culture into service provision (p. 1).

It was proposed that Aboriginal self-determination could be realised through Aboriginal governance, guardianship and the introduction of new mechanisms to oversee and promote systemic change in relation to vulnerable Aboriginal children and families.

### New oversight mechanisms

The proposals for new oversight mechanisms included the following proposals:

- Establishing an Aboriginal governance body and an Aboriginal Children's Commissioner (submissions from Berry Street, p. 16; Centre for Excellence in Child and Family Welfare, p. 8; VACCA, p. 4; VACCHO, p. 11);

- The appointment of a Deputy Commissioner for Aboriginal Children with a specific portfolio on Aboriginal children and young people (Joint CSO submission, p. 81; VCOSS submission, p. 57);
- Establishing a Family Lore Council comprised of respected Aboriginal representatives to provide expert advice to the Secretary of DHS as well as undertake a range of functions related to transfer of guardianship (VACSAL submission, p. 8);
- An Aboriginal advisory body to oversee the steps taken to improve outcomes for Aboriginal and Torres Strait Islander children (AFVPLSV submission, p. 27); and
- The regular reporting to forums that act in the interest of the Aboriginal and Torres Strait Islander community including the Aboriginal Justice Forum, the Indigenous Family Violence Partnership Forum and the Regional Aboriginal Justice Advisory Committees (AFVPLSV submission, p. 27).

A key rationale in the submissions advocating for the establishment of an Aboriginal Children's Commissioner was to enable the independent oversight of the Aboriginal specific provisions in the CYF Act and the future development of the systems to support vulnerable Aboriginal children overall. The AFVPLSV considered that what is needed is:

... a process of independent and transparent oversight with respect to the protection and advancement of legal rights and wellbeing of Aboriginal and Torres Strait Islander children and families in the child protection system in Victoria along with capacity for systemic advocacy (AFVPLSV submission, p. 2).

### Reduce the gap between policy and legislation and practice

A number of submissions specifically commented on the current gap between policy and legislation and practice (AFVPLSV, p. 9; East Gippsland Discussion Group, pp. 1-2; VACCA, p. 50). The East Gippsland Discussion Group submission stated:

The consultative group's experiences lead us to believe that the child protection legislation and program policies are often ignored, given cursory acknowledgement or in some cases draw discriminatory comments from child protection workers. This would indicate at least varying degrees of effective implementation of legislation and initiatives (pp. 1-2).

### Introduction of Aboriginal Children's Commissioner

The provision in the CYF Act that enables the transfer of guardianship of Aboriginal children to the Aboriginal chief executive officer (CEO) of an Aboriginal organisation (known as section 18) received support in the submissions (AFVPLSV, p. 9; VACCA, p. 5; VACCHO, p. 3; VACSAL, p. 8). As VACCHO commented:

VACCHO supports the option of a section 18 placement where the agency and the CEO are resourced sufficiently to make this governance of the child placement effective (VACCHO submission, p. 3).

However, two main areas of concern about section 18 were identified. First, that the provision had not yet been utilised and, second, that there were a range of specific considerations and dilemmas that require further consideration for effective implementation to occur. The introduction of an Aboriginal Children's Commissioner was seen as a means to maintain a focus on initiatives such as the transfer of guardianship and to provide visibility on progress.

Some dilemmas that arise with this provision that were identified as needing further clarity included:

- The concern that the community governance of ACCOs leaves them vulnerable to community backlash at a local level;
- The potential difficulties in protecting the privacy of the individuals concerned;
- That conflicts may also arise about the obligations as a service provider to the family and the policing role of statutory child protection services;
- The service will often be unable to speak publicly about its decisions in order to maintain integrity and confidentiality while the services and decisions critics are able to speak with impunity; and
- For a service provider, taking on responsibilities under section 18 may discourage parents from seeking support when they are in need, for fear of removal of their children (VACCHO submission, p. 5).

The Inquiry notes that Aboriginal community organisations are already preparing for responsibilities under section 18. A working group comprising ACCOs and DHS representatives has been meeting for the past four years to consider implementation issues. Recently there was a study tour to Canada to investigate first-hand how equivalent powers operate in that context.

## Statutory child protection services

The performance of statutory child protection services featured prominently in the submissions from Aboriginal organisations and groups. The reaction of many Aboriginal families to statutory child protection services was observed to be fear, distrust and trauma.

The lack of adherence to, or poor progress in implementing, Aboriginal specific provisions in the CYF Act was raised in a number of contexts. It was raised as part of the rationale for an Aboriginal Children's Commissioner and in relation to how some aspects of current operations could be altered or enhanced to overcome current obstacles. The VACCA submission observed:

Legislation that mandates consultation with an Aboriginal organisation about the protection of an Aboriginal child, adherence to the Aboriginal Child Placement Principle and development of cultural support plans for Aboriginal children in out-of-home care have not translated well into practice (p. 19).

In the provision of statutory child protection services the benefit and complexity of providing cultural advice was identified (AFVPLSV submission, pp. 22-23; East Gippsland Discussion Group submission, p. 5; Mungabareena Aboriginal Corporation supplementary submission, p. 1). The role of the Aboriginal Child Specialist Advice and Support Services in Victoria operated by VACCA and Mildura Aboriginal Corporation was discussed in the AFVPLSV submission. The submission noted that:

The introduction of the unique Aboriginal Child Specialist Advice and Support Services in Victoria (ACSASS) through the VACCA has been a progressive step forward. However, community education aimed at clarifying the role of ACSASS, including in relation to the broader role of VACCA and its relationship with DHS child protection, is also urgently needed. In addition, it is clear these services are heavily underfunded to adequately meet the needs of Aboriginal and Torres Strait Islander women and children (p. 24).

This submission also raised the policy dilemma of VACCA providing services in a range of areas including specialist cultural advice to statutory child protection services through ACSASS. It was proposed that greater assurances of confidentiality between the two service streams was required alongside a renewed emphasis on community education (AFVPLSV submission, p. 22).

The benefits of bringing the Aboriginal community and other service providers together to share responsibility for the safety and wellbeing of Aboriginal children were clearly expressed at the Dandenong Aboriginal community consultation:

The best interest of the child is for us to work together as a team (Dandenong Aboriginal consultation).

Successfully involving the Aboriginal community in decision making about Aboriginal children and young people in statutory child protection services through using the Aboriginal Family Decision Making (AFDM) program was identified as a strength that could be further developed. The Victorian Aboriginal Legal Service (VALS) submission commented that:

The AFDM program at Rumbalara is an example of a decision making forum for child protection matters that operates in a spirit of self-determination ... this AFDM program settles issues from a whole of community perspective where collaboration is the key and responsibility for the success of agreed outcomes is shared (VALS submission, p. 4).

## Out-of-home care

Consistent with the submissions summarised in Chapter 10 regarding out-of-home care the submissions from Aboriginal groups expressed the need to improve the options, quality and outcomes for children in out-of-home care when it is necessary that Aboriginal children are removed from their homes. VACCA commented:

For Aboriginal children, the State has not been a good enough parent. We need better outcomes for Aboriginal children (VACCA submission, p. 2).

The challenges of providing quality out-of-home care services were discussed in the submissions and a variety of measures were identified to improve performance. This included the provision of immediate financial support for Aboriginal carers, therapeutic interventions, respite care and educational support.

There are some things about caring for a child who has experienced trauma that we cannot control; however we can ensure that there is regular respite for carers, therapeutic support for placements, education support and adequate financial reimbursement (VACCA submission, p. 51).

The ACPP is a nationally agreed standard used in determining the placement of Aboriginal children within their own families and communities where possible. The principle has the following order of preference for the placement of Aboriginal and Torres Strait Islander children:

- Placement with the child's extended family (including non-Aboriginal family members);
- Placement within the child's Aboriginal community;
- Placement with other Aboriginal people; and
- Placement with non-Aboriginal carers.

As outlined in the VACCA submission the ACPP was established to ensure Aboriginal children's connection to their family and culture is promoted as a means of ensuring their safety and wellbeing. VACCA also noted:

... it was never the intent of the ACPP to place children with members of their family or community who presented a danger to them. If we do not protect Aboriginal children from abuse, the legacy will be a new generation of adults/parents who view abuse as normative rather than unacceptable and harmful (VACCA submission, p. 11).

The VACCA submission noted that the intent of the ACPP was for Aboriginal children to remain connected to their Aboriginal culture and community and proposed ways to improve compliance and reinforce the importance of partnership between ACSASS and statutory child protection services. These ideas included:

- Compliance with the legislative requirement to consult with ACSASS and comply with the ACPP is included as a monitored key performance indicator; and
- Child protection staff to be co-located with ACSASS staff within Aboriginal organisations.

## Reunification

The importance of maintaining the cultural connection of Aboriginal children who were placed with non-Aboriginal carers through mainstream organisations was also an area identified as requiring continued efforts (VACCA submission, p. 54).

The importance of supporting Aboriginal families and reuniting Aboriginal children with their families after being placed in out-of-home care was highlighted to the Inquiry. The Victorian Aboriginal Health Services (VAHS) submission commented that:

There is insufficient emphasis on reuniting families (p. 4).

At the Thornbury Aboriginal consultation it was stated that when an Aboriginal child is removed the Aboriginal community wants to see more reunifications and clarity about what needs to be done for the children to be placed back with their family.

When Aboriginal children cannot be reunited with their families, establishing permanent arrangements was considered crucial for Aboriginal children. It was put to the Inquiry that the DHS policy guidelines already have timeframes for considering permanent care, but due to staff turnover and workload pressures these timeframes were often not followed.

## The role of Aboriginal men in families

The importance of including and working with Aboriginal men was raised during the Inquiry. At the Aboriginal consultation in Warrnambool the role of Aboriginal men in the lives of Aboriginal children and their place in families was discussed and the positive impact of a project called Mibbinbah was brought to the Inquiry's attention (see box). As stated at the consultation session:

Children need fathers and more effort is needed in this area (Warrnambool Aboriginal consultation).

### Mibbinbah's vision

Mibbinbah is a project that seeks to enable Aboriginal and Torres Strait Islander males to regain their rightful place in society through creating safe spaces for spirit healing, empowerment, celebration and education and training. Men's Safe Spaces were developed as a model to enable Aboriginal and Torres Strait Islander males to meet and discuss issues of concern to them. This includes discussing depression and anxiety in a non-stigmatising environment. The Men's Safe Places involve the facilitation of men's groups in the local community.

The Mibbinbah Indigenous Men's Project is a participatory action research project that aims to understand the factors that make Indigenous Men's Spaces safe and healthy places for men, and how this might benefit families and communities.

## Sharing responsibility

In order to improve outcomes for vulnerable Aboriginal children, young people and families the need to reinforce the shared nature of responsibility across government was identified. As noted by VACCA:

Responsibility for protecting vulnerable Aboriginal children needs to be shared across the community and reflected in service delivery approaches. Universal services in health, education and housing need to see themselves as part of this system (VACCA submission, pp. 22-23).

## Early years support

In particular the importance of the early years of a child's life was emphasised. The submissions focused on improving the support to Aboriginal children and families in the early years with an emphasis on identifying at risk families early (Mungabareena Aboriginal Corporation supplementary submission, p. 2; VACCA submission, pp. 6, 28-31; VACCHO submission, p. 4).

The type of support that should be provided to Aboriginal children and families in the early years and who should provide the support was a key subject. Providing more holistic approaches and a continuum of care and support from the antenatal care of pregnant women through to support for parenting and child wellbeing in the early years was generally proposed. The Koori Maternity Service (KMS) was identified as an example of how this continuum of support could be achieved (VACCHO submission, p. 4).

## Aboriginal community controlled health organisations role

The VACCHO submission (p. 10) asserted that the community role of ACCHOs means they are well placed to provide leadership in the prevention effort and in the protection of children at risk. It was proposed that every ACCHO needs to be resourced to function as a main source of preventative services.

## Holistic approach to family violence

The issue of family violence in Aboriginal communities was discussed in many of the submissions to, and consultations with, the Inquiry. While not accepting family violence in Aboriginal communities, in general submissions sought a more holistic response from all services. This approach is exemplified in the following statements:

There is a punitive approach taken by support services to women who experience family violence in cases where child protection intervention results. Aboriginal and Torres Strait Islander women victims are often being re-victimised by an unhelpful, blaming approach, rather than being supported to deal with and understand the broad ranging impacts of violence (AFVPLSV submission, p. 8); and  
The Aboriginal community does not excuse the unacceptable levels of family violence perpetrated by Aboriginal men. All perpetrators of family violence must be held accountable for their actions but also be supported effectively to stop the behaviour and be given the chance to become the man they can be; a warrior, free of anger and disconnection, culturally strong and proud (North Western Metro Indigenous Regional Action Group submission, p. 1).

## Distribution of funds

The Inquiry was advised that the funding approaches of government departments can impede the development of timely and effective responses to vulnerable Aboriginal children. VAHS commented that they were unable to attract funds for additional enhanced MCH services due to the funds being distributed based on local government areas and not in relation to the needs of specific groups. VAHS stated that because they operate as a hub for child and family services for Aboriginal mothers from a wide range of localities this should be an effective way to reach vulnerable Aboriginal children (visit to Victorian Aboriginal Health Service).

## Education

Another area of significant concern was about the accessibility of education to Aboriginal children and young people. The submissions focused on the need for DEECD to provide more support to Aboriginal children and families and more focus on the role of culture in education. It was highlighted that both Aboriginal children and their families require increased support from schools in order to participate successfully, make educational transitions and achieve:

There is a need for increased support for children in schools to support their participation and performance in order to build a foundation of success at school, to keep children and families connected to schools and to assist school retention (VACCHO submission, p. 5).

The East Gippsland Discussion Group was particularly concerned about DEECD providing appropriate support for Aboriginal adolescents:

Local anecdotal reports that indicate Aboriginal adolescents are school refusing from early adolescence and seem to be ignored by primary and secondary schools, and Department Education and Early Childhood Development. No action appears to be taken to address non-attendance and ensure that the factors contributing to school refusal are addressed (East Gippsland Discussion Group submission, p. 4).

The fragility and the importance of efforts to maintain a strong focus on the role of culture in education for Aboriginal children was identified by VACCA:

Aboriginal students are spread across Victoria with 73 per cent of all schools having an Aboriginal student. Isolation is exacerbated by schools that do not see a role for culture in education or where school principals face demands from the education department or school communities to focus primarily on literacy and numeracy (VACCA submission, p. 38).

The importance of meeting the educational needs of Aboriginal children in out-of-home care was identified as requiring increased leadership and sustained commitment from DEECD. As the VACCA submission observed:

There are still challenges with schools. Despite the new DEECD/DHS Partnering Agreement launched in 2010, Individual Education Plans for meeting children's needs are normally driven by VACCA rather than the teacher. Any changes to approach are precarious and dependent on individual teacher discretion, rather than being a strong curriculum focus (p. 53).

### Family services

As outlined in Chapter 8, family services have an important role in early intervention to support vulnerable families to care for their children safely. The benefit of support services for vulnerable Aboriginal parents was highlighted in the AFVPLSV submission:

In the experience of FVPLS Victoria, mainstream services such as Family First and Child FIRST are effective in assisting the furtherance of voluntary agreement families. In addition, Parenting Assessment and Skill Development Services (PASDS) are extremely beneficial to our clients to provide intensive in home support and on-going teaching skills. The 10-day parenting courses offered by the Queen Elizabeth Centre are particularly helpful to our clients as it is an excellent opportunity to be with staff to gain assistance and provide basic parenting skills (p. 25).

The issue of the reluctance of Aboriginal families to seek help from mainstream Child FIRST was commented upon in the Mungabareena Aboriginal Corporation supplementary submission:

... there are still the same feelings about Child FIRST as there is about child protection. People feel like they are being targeted even if they are sent to Child FIRST (p. 2).

In the Public Sitting at Broadmeadows VACCA staff commented that this was due, in part, to the lack of specific Aboriginal family services:

The effectiveness of an Aboriginal Child FIRST will depend on the range and availability of Aboriginal family services. Aboriginal families comprise 6.3% of families attending family support services. In the North East area, just over one third of these families receive an Aboriginal family service. An Aboriginal Child FIRST service that must refer around two in every three Aboriginal families to mainstream family services may be compromised in terms of achieving its potential (VACCA, Broadmeadows Public Sitting).

### Cultural competence of service providers

Another strong theme in the submissions received from Aboriginal organisations and groups was the necessity for mainstream service providers to be culturally competent. Generally the submissions advocated for the provision of mandatory and uniform Aboriginal cultural competence training (AFVPLSV, p. 40; VACCA, p. 26; VACCHO, p. 7; VAHS, p. 4). The AFVPLSV submission argued that:

Uniform and mandatory cultural awareness training would also contribute to better outcomes for Aboriginal and Torres Strait Islander children (p. 36).

As part of demonstrating cultural competence AFVPLSV also discussed the requirement for services to be more flexible in the provision of service:

Our greatest concern with mainstream services is that they need to be more flexible in their intake criteria for Aboriginal and Torres Strait Islander families as well as with their scheduling (AFVPLSV submission, p. 25).

There was a call for the proper application of cultural competence as at times workers may mistakenly accept conduct as culturally appropriate in Aboriginal families that would not be acceptable in non-Aboriginal families.

Due to the over-representation of Aboriginal children in the statutory child protection system some submissions recommended that more Aboriginal staff need to be employed in statutory child protection services and greater attention given to professional development. The Royal Children's Hospital (RCH) Social Work Department proposed that:

... greater priority be given to training and ongoing professional development for Aboriginal staff in this sector. In New South Wales for example, comprehensive training is provided to ensure Aboriginal staff are employed and retained in positions within the Department of Community Services (RCH Social Work Department submission, p. 3).

The Mungabareena Aboriginal Corporation supplementary submission stated that, they need Aboriginal workers or people who have worked with Aboriginal people and are accepted by the community in the statutory child protection services.

## Protection for adolescents

The involvement in, and effectiveness of, statutory child protection services for young Aboriginal people was highlighted in the VACCA submission. VACCA informed the Inquiry that that Aboriginal young people aged 15 to 17 are significantly less likely to be statutory child protection clients than at any other time in their childhood:

In 2009/10, they comprised 5.4 per cent of all CP [child protection] substantiations for Aboriginal children compared with 52 per cent for children under five years (VACCA submission, p. 54).

The reason for the absence of young Aboriginal people is not clearly understood; however, the VACCA submission explained that based on its experience, young Aboriginal people often return home at around age 15 after the discharge of a protection order and are then left vulnerable and without sufficient support (VACCA submission, p. 54).

The East Gippsland Discussion Group also raised a range of concerns about providing appropriate support for Aboriginal adolescents at risk. One of these concerns was:

The Ways Forward report (1995) suggests the high rates of incarceration of young Aboriginal people, in part may represent higher rates of conduct disorders amongst Aboriginal young people...Child and Adolescent Mental Health Services in Victoria are very poorly equipped to provide effective therapy for conduct disorders and often are limited in providing culturally appropriate care (East Gippsland Discussion Group submission, p. 5).

### 12.10 Conclusion

As this chapter has outlined, vulnerable Aboriginal children are at heightened risk of abuse and neglect due to the prevalence of a range of risk factors in the Aboriginal community. As evident from the key data presented in section 12.5.2 and in the summary of the submissions to the Inquiry in section 12.9, significant improvement in the performance of systems that are intended to support vulnerable Aboriginal children and families is needed.

Achieving change in the outcomes for vulnerable Aboriginal children and families is a whole-of-government task, with the responsibility crossing over many areas of state government activity in addition to a significant Commonwealth Government role. The depth of the challenge to achieve improvement in the outcomes for vulnerable Aboriginal children is acknowledged at a national and state level through the existing policy frameworks.

COAG and the Victorian Government have established comprehensive approaches through the COAG *National Indigenous Reform Agreement* and VIAF to address areas of significant disadvantage that are consistent with improving the risk factors that would prevent child abuse and neglect. As outlined in section 12.4 the Inquiry affirms the VIAF and associated structures as the primary mechanism to drive action across government on the broad range of risk factors associated with Aboriginal children being at greater risk of abuse and neglect. Further, the Inquiry has recommended more detailed monitoring should be developed for the VIAF that provides reports on outcomes at the operational level regarding key areas of disadvantage.

Within the systems of early years, education, family services and statutory child protection services (including out-of-home care), Aboriginal children are experiencing very poor outcomes. These poor outcomes suggest the need for the development of specific Aboriginal responses to identify different ways to assist vulnerable Aboriginal children and improve outcomes. The adoption of specialist responses that can accommodate the special needs of the Aboriginal community is required to improve outcomes for children. Where specialist responses have been developed but outcomes for children are not improving it is essential that the responsible agencies analyse the reasons, engage with the Aboriginal community to develop alternative approaches (including funding arrangements), and make the necessary changes to the service responses and evaluate the impact of the service changes.

In light of the levels of disadvantage in the Aboriginal community, the growing numbers of infants and children and the service access issues for Aboriginal communities, one service delivery area that requires immediate consideration is the provision of enhanced MCH services to vulnerable Aboriginal children and mothers.

Education is a key area where outcomes for Aboriginal children require significant improvement. Educational participation and achievement are an essential part of meeting the needs of vulnerable Aboriginal children and young people and is vital for addressing social disadvantage.

Most importantly the educational achievement of Aboriginal children and young people is unacceptably lower than for non-Aboriginal students and it is DEECD's responsibility to develop strategies and interventions to improve this for Aboriginal children and young people at all year levels. It is concerning that Aboriginal children commencing school are significantly more vulnerable than their non-Aboriginal peers. This is an important area to tackle because this early vulnerability will influence educational outcomes over many years.

Improving education outcomes for Aboriginal children and young people is a key focus of the COAG *National Indigenous Reform Agreement* and the VIAF. It is considered that the strategies and interventions that DEECD employ should be measured, monitored and publicly reported in detail. It is considered by the Inquiry that, given the levels of disadvantage in Aboriginal communities in Victoria, DEECD should adopt a place based approach to target strategies and measure progress.

Another area of significance is providing early support to vulnerable Aboriginal children and families.

It is likely that the number of Aboriginal families participating in family services could be higher if there were not the historical barriers to engagement and if Aboriginal family services were available in all areas with significant Aboriginal populations. One of the identified barriers to the provision of this is the incomplete suite of support services in areas where there are significant Aboriginal populations. The availability and accessibility of Aboriginal family support programs and the community nature of ACCOs increases the likelihood Aboriginal families will seek help early to assist with parenting and other issues. It is considered important that this situation is remedied.

It is also clear that many vulnerable Aboriginal children and families will continue to receive a range of services from mainstream providers. As outlined in the submissions the cultural competence of mainstream service providers and child protection is critical to effectively engaging with and helping vulnerable Aboriginal children and families. As outlined in section 12.5.2 and in Chapter 16 on workforce issues, the Inquiry makes a number of recommendations to improve the cultural competence of mainstream providers.

In relation to statutory child protection services and out-of-home care, the numbers of Aboriginal children continues to be unacceptably high. However, it is acknowledged that the ability of statutory child protection services to address entrenched disadvantage is limited. Therefore, it is considered that renewed efforts to create an improved service responses are needed for the large numbers of Aboriginal children within statutory child protection services (including out-of-home care).

As part of these renewed efforts it is proposed that programs and approaches that are currently effective are continued and expanded. This includes use of programs such as ACSASS, AFDM and Aboriginal kinship care support.

### Recommendation 34

The Government should expand the use and effectiveness of culturally competent approaches within integrated family services and statutory child protection services, through the Department of Human Services by:

- Establishing funding arrangements with the Aboriginal Child Specialist Advice and Support Service that enable cultural advice to be provided across the full range of statutory child protection activities;
- Using the Aboriginal Family Decision Making program as the preferred decision making process if an Aboriginal child in statutory child protection services is substantiated as having suffered abuse or neglect;
- Expanding family preservation and restoration programs so they are available to Aboriginal families in rural and regional areas with significant Aboriginal populations;
- Expanding Aboriginal kinship care support to provide support to all Aboriginal kinship carers; and
- Expanding Aboriginal family support programs so they are available to Aboriginal families in areas with significant Aboriginal populations.

In Chapter 16 the Inquiry recommends that statutory child protection services develop recruitment strategies to attract suitable candidates from Aboriginal backgrounds.

The Inquiry considers that there are two areas in relation to vulnerable Aboriginal children and young people where specific regular system oversight is required.

First, the implementation of specific provisions in the CFY Act, including cultural support plans, the ACPP and section 18, require increased transparency. Second, in key areas such as education and statutory child protection services, where progress is slow or hard to achieve, service development and performance reporting requires a consistent and sustained focus.

The Inquiry considers that the creation of a dedicated Aboriginal Children's Commissioner or Deputy Commissioner is necessary to address these two areas. This position would bring an increased focus to improving outcomes for vulnerable Aboriginal children in Victoria through monitoring, measuring and reporting publicly on progress against objectives for vulnerable Aboriginal children across all areas of government activity.

### Recommendation 35

As part of the creation of a Commission for Children and Young People, an Aboriginal Children's Commissioner or Deputy Commissioner should be created to monitor, measure and report publicly on progress against objectives for vulnerable Aboriginal children and young people across all areas of government activity, including where government provides resources for non-government activities.

As part of renewed efforts to create an improved service responses for the large numbers of Aboriginal children within statutory child protection services (including out-of-home care) the Inquiry has considered a number of structural adjustments. First, it is considered that more effective outcomes for vulnerable Aboriginal children are likely to be achieved with greater Aboriginal self-determination in relation to vulnerable Aboriginal children. As part of this revitalising the efforts to implement section 18 in the CYF is considered a priority. While it is recognised that there are still a number of important and complex issues that need to be resolved in relation to this provision, making progress in this area is important. A clear strategy is required to establish a transparent process that seeks to delegate the guardianship of Aboriginal children removed from their families to Aboriginal communities.

Second, given that the number of children per adult is much higher in the Aboriginal community than in the non-Aboriginal community, and given the much higher proportion of Aboriginal children in care, this inevitably means it will be harder to find Aboriginal caregivers for Aboriginal children. When one considers the health status of many of the Aboriginal adults, and the burden of caregiving and social disadvantage that may already carry, it is highly likely that many Aboriginal children will continue to be placed with non-Aboriginal caregivers. In these circumstances maintaining the cultural connections of Aboriginal children is crucial. Therefore, it is considered that a progressive plan of transferring responsibility for the out-of-home care placements of Aboriginal children in non-Aboriginal placements to ACCOs will both enhance self-determination and provide a practical means to strengthen the cultural links for those children.

### Recommendation 36

The Department of Human Services should develop a comprehensive 10 year plan to delegate the care and control of Aboriginal children removed from their families to Aboriginal communities. This would include:

- Amending section 18 of the *Children, Youth and Families Act 2005* to reflect Aboriginal community decision making processes and address current legislative limitations regarding implementation;
- Developing a sustainable funding model to support transfer of guardianship to Aboriginal communities that recognises the cost of establishing an alternative guardianship pathway. These arrangements would initially be on a small scale and require access to significant legal advice, legal representation, practice advice, specialist assessments and therapeutic treatment;
- Developing a statewide plan to transfer existing out-of-home care placements for Aboriginal children and young people from mainstream agencies to Aboriginal community controlled organisations and guide future resource allocation (with performance/registration caveats and on an area basis);
- Providing incentive funds for Aboriginal community controlled organisations to develop innovative partnership arrangements with mainstream providers delivering out-of-home care services to Aboriginal children to connect them to their culture;
- Targeting Aboriginal community controlled organisations capacity building to these activities i.e. guardianship, cultural connection and provision of out-of-home care services; and
- Providing increased training opportunities for Aboriginal community controlled organisation staff to improve skills in child and family welfare.

The proposed Aboriginal Commissioner or Deputy Commissioner for children and young people should report on performance against this plan.