**Submission:**

## *Day of General Discussion: “Children’s rights and alternative care”*

## The Centre for Excellence in Child and Family Welfare (the Centre) welcomes the opportunity to provide a submission to the Committee on the Rights of the Child.

The Centre is the peak body for child and family services in Victoria, Australia. For over 100 years we have advocated for the rights of children and young people to be heard, to be safe, to access education and to remain connected to family, community and culture. We represent over 150 community service organisations, students and individuals working across the continuum of child and family services.

## Victorian context

Section 10(1) of the *Children, Youth and Families Act 2005* (Vic) states that ‘the best interests of the child must always be paramount’.[[1]](#footnote-1) The Act forms a binding framework for government decision making and service delivery to uphold children’s rights.

In Victoria, the rate of children entering care is growing each year, with significant over-representation of Aboriginal children. Child and family services are unable to meet the high levels of demand.

The Commission for Children and Young People,[[2]](#footnote-2) Royal Commission into Institutional Responses to Child Sexual Abuse,[[3]](#footnote-3) Victorian Ombudsman,[[4]](#footnote-4) Victorian Auditor-General’s Office[[5]](#footnote-5) and Sentencing Advisory Council[[6]](#footnote-6) have all highlighted significant failings in Victoria’s child protection system. Many children in care experience multiple placements, disengage from education, have poor health outcomes, experience sexual abuse, exit care into homelessness, and enter the justice system.[[7]](#footnote-7)

Despite multiple reforms to address these challenges, more needs to be done to uphold the rights of children in care or at risk of entering care.

**Roadmap for Reform**

The Victorian Government’s *Roadmap for Reform: strong families, safe children*, shifts the focus from crisis response to early intervention and prevention. Its intent is to enable all children to be safe and to thrive.

The government has provided significant funding boosts for child and family services, resulting in many new initiatives, some of which are discussed below.

**Keeping children safe**

Family violence is a key driver of entry into care. In 2016, the Victorian Royal Commission into Family Violence made 227 recommendations aimed at reducing the prevalence and impact of family violence. The government has since invested over $2.9 billion to keep women and children safe. Despite COVID-19, significant achievements have been made in law, service delivery, community awareness and governance.[[8]](#footnote-8)

*The Orange Door*

The Victorian Government established Family Safety Victoria (FSV) to drive family violence reform. The Orange Door hubs enable a more streamlined approach to service provision. This model, overseen by FSV, brings together specialists in family violence, men’s behaviour change, child and family work, and child protection. FSV is also funding a dedicated Child Wellbeing role at the Centre to support workforces in The Orange Door and broader service system to prioritise children’s rights and wellbeing.

*Information sharing*

The Child Information Sharing Scheme (CISS) is a key reform that enables information to be shared by authorised agencies to keep children safe and promote wellbeing. Under CISS, services work in more integrated ways to identify needs and risks, promote earlier intervention and improve outcomes for children and families.[[9]](#footnote-9)

CISS complements the Family Violence Information Sharing Scheme (FVISS) and Multi-Agency Risk Assessment and Risk Management (MARAM) Framework. A two-year review of CISS found noticeable improvement in workforce attitudes to information sharing.[[10]](#footnote-10)

## Early intervention to keep families together

A recent analysis by Social Ventures Australia (SVA) found that investment of around $193 million over 10 years would deliver cumulative net savings of $1.99 billion to the child protection system.[[11]](#footnote-11) SVA’s financial modelling indicated that up to 1,460 children could be prevented from entering care during this 10-year period.[[12]](#footnote-12)

The Victorian Government has since invested in the development of an Early Intervention Investment Framework to guide Treasury budget preparations. It is also funding a trial to embed family services in universal settings, such as schools and community health hubs, to provide more accessible services for vulnerable families and prevent entry into the statutory system.

*Evidence-based programs*

The Victorian Government is funding an evidence-based Family Preservation and Reunification intervention for high-risk and at-risk families which aims to reduce the number of children and young people entering and/or remaining in care. Early findings suggest the initiative is making a difference.

The government has also funded a range of evidence-based programs in child and family services. Despite data showing improved outcomes for children and families, CSOs are yet to receive ongoing funding that would consolidate efforts to uphold children’s rights to live safely with family.

*Children with disability*

In Australia, around 15 per cent of children in care have a disability, some of whom are relinquished into care by their families.[[13]](#footnote-13) The Victorian Government has funded Family Services Disability Specialist practitioners and a Children with Complex Disability Support Needs Program to connect families experiencing vulnerability with the National Disability Insurance Scheme (NDIS). While it is too early to determine effectiveness, we know that lack of access to formal supports is a key driver of relinquishment.[[14]](#footnote-14)

*Poverty alleviation*

In Australia, an estimated 774,000 children under 15 years of age live in poverty, largely driven by the Federal Government’s inadequate social security system that pushes families into poverty. Many low-income parents with young children are also subjected to harsh compliance measures, such as payment suspensions, which leaves some families having to prioritise rent or bills over food.

Australia’s social security system must provide an adequate standard of living to support family functioning by meeting basic food, shelter and other needs.

**What needs to change**

The Australian Government must immediately increase social security payments above the poverty line so families can meet children’s needs. It must review its punitive welfare policies that exacerbate vulnerability and hardship for children and families.

## Embedding children’s rights

The [*National Framework for Protecting Australia’s Children 2009-2020*](https://www.dss.gov.au/our-responsibilities/families-and-children/publications-articles/protecting-children-is-everyones-business) did not focus sufficiently on rights or address structural drivers of entry into care, such as poverty. The Australian Government is consulting on a new plan.

**What needs to change**

To embed children’s rights in decision making, the Australian Government needs to:

* Establish a cabinet-level Minister for Children
* Develop a national child wellbeing and poverty prevention strategy
* Introduce child impact statements for all new policies, legislation and programs
* Create an Australian Charter of Rights
* Fully integrate the Convention on the Rights of the Child in domestic law
* Ensure the new National Framework focuses on rights and structural drivers of entry into care.

## Aboriginal self-determination

The Victorian Government’s *Wungurilwil Gapgapduir: Aboriginal children and families agreement* between Aboriginal organisations, government and CSOs aims to reduce the number of Aboriginal children in care. It focuses on building children’s connection to culture, country and community and on transferring responsibility for Aboriginal children in care to Aboriginal service providers and families.

The Aboriginal Children in Aboriginal Care (Nugel) program supports Aboriginal organisations to assume custody or guardianship responsibilities for Aboriginal children in care.

Such reforms are critical to preventing Aboriginal children from entering care and in providing culturally safe support for Aboriginal children in care.

## Quality alternative care options

**Foster care**

Despite innovative programs to recruit foster carers,[[15]](#footnote-15) the number of carers is declining and current demand is not being met.[[16]](#footnote-16) Treatment Foster Care Oregon is an example of an evidence-based program that offers intensive support to foster carers who care for children and young people with complex needs for a period of nine months.[[17]](#footnote-17) Results from the program have seen children either returned to their families or move to a long-term home-based care placement, and not enter residential care in the two years after the program.[[18]](#footnote-18)

**What needs to change**

We need to rethink foster care models and invest in innovate alternatives such as professionalised foster care.

**Kinship care**

Most children in care live with relatives in a kinship placement. A review by the Commission for Children and Young People found that fewer than half the reviewed case files showed fortnightly contact between child protection and carers, despite significant risk of placement breakdown.[[19]](#footnote-19) The Victorian Ombudsman found that kinship carers receive inadequate financial assistance, affecting their capacity to meet children’s needs.[[20]](#footnote-20)

**What needs to change**

Kinship carers must be adequately supported to provide quality care to children and young people.

**Residential care**

Monash University and the Children’s Court of Victoria analysed 300 case files of young people in youth justice with child protection involvement.[[21]](#footnote-21) They found that therapeutic residential care, which is available to some young people with complex needs, has contributed to significant improvements in outcomes.[[22]](#footnote-22) However, only 40 per cent of residential care homes in Victoria are funded at the therapeutic level. Providers of residential care in Victoria are significantly underfunded and operating with a deficit.

**What needs to change**

Government must fund residential care units to meet the true costs of service delivery and make sure all units are therapeutic models so that all children in residential care can access the benefits of therapeutic care.

**Health of children in out-of-home care**

Children in care have higher rates of physical, mental and developmental health needs than their peers.[[23]](#footnote-23) While the *National Clinical* *Assessment Framework* requires an initial health check within 30 days of the child entering care and a comprehensive assessment within three months,[[24]](#footnote-24) these standards are not being achieved for Victorian children in care.[[25]](#footnote-25)

**What needs to change**

The Victorian Government needs to:

* Amend legislation to require health assessments and follow up services for children entering care within a set time frame
* Fund a state-wide rollout of the successful Pathway to Good Health clinics to enable timely health and mental health assessments for all children in care and all children known to child protection
* Expand the co-location of health clinicians within child protection and child, youth and family service teams state-wide.

## Support for care leavers

The Victorian Government has now extended the age of leaving care from 18 to 21 years, enabling young people to continue living with their carers or transition to an independent living arrangement. A recent study by the Commission for Children and Young People found limited post-care supports available for young people after leaving care.[[26]](#footnote-26) The Centre’s *Raising Expectations* program aims to improve care leaver access to and completion of tertiary education. The model brings together government, universities, TAFEs and CSOs. It has contributed to tangible improvements for care leavers and a significant increase in numbers of care leavers enrolled in tertiary education. Scaling up this model nationally would enable more care leavers to access and complete post-secondary education.

## Justice

In Australia, young people in the care system are over-represented in youth justice. Children as young as 10 years old can be sent to prison.[[27]](#footnote-27) Evidence supports raising the age of criminal responsibility to at least 14 years.[[28]](#footnote-28) While the Victorian Government has sought to reduce the number of young people in contact with the justice system,[[29]](#footnote-29) it is yet to commit to raising the age.

Around 48 per cent of Aboriginal children in detention are on remand. Many of these children experience short periods of remand which result in a non-custodial sentence, meaning that remand was unnecessary. Key drivers of these high remand rates include amendments to bail laws that make it significantly more difficult to seek bail.[[30]](#footnote-30)

**What needs to change**

Australian governments need to raise the age of criminal responsibility to at least 14 years of age.

The Victorian Government needs to urgently reform bail laws that contribute to the incarceration of children.

1. See Part 1.2 – Principles, *Children, Youth and Families Act 2005* (Vic). [↑](#footnote-ref-1)
2. Commission for Children and Young People (CCYP) 2019, [*‘In our own words’: Systemic inquiry into the lived experience of children and young people in the Victorian out-of-home care system*](https://ccyp.vic.gov.au/assets/Publications-inquiries/CCYP-In-Our-Own-Words.pdf), CCYP, Melbourne. [↑](#footnote-ref-2)
3. [Royal Commission into Institutional Responses to Child Sexual Abuse](https://www.childabuseroyalcommission.gov.au/) (2017). [↑](#footnote-ref-3)
4. Victorian Ombudsman 2020, [*Investigation into complaints about assaults of five children living in Child Protection residential care units*](https://assets.ombudsman.vic.gov.au/assets/Reports/Parliamentary-Reports/1-PDF-Report-Files/Investigation-into-complaints-about-assaults-of-five-children-living-in-Child-Protection-residential-care-units.pdf?mtime=20201105101519), Victorian Ombudsman, Melbourne; Victorian Ombudsman 2017, [*Investigation into the financial support provided to kinship carers*](https://assets.ombudsman.vic.gov.au/assets/Reports/Parliamentary-Reports/1-PDF-Report-Files/Investigation-into-the-financial-support-provided-to-kinship-carers.pdf?mtime=20191217151124), Victorian Ombudsman, Melbourne. [↑](#footnote-ref-4)
5. Victorian Auditor-General’s Office (VAGO) 2018, [*Maintaining the mental health of child protection practitioners*](https://www.audit.vic.gov.au/sites/default/files/2018-05/20180510-Child-Protection.pdf), VAGO, Melbourne. [↑](#footnote-ref-5)
6. The Sentencing Advisory Council (Vic) conducted a study titled *‘Crossover kids’: Sentenced and diverted children known to the child protection service* and released [three reports](https://www.sentencingcouncil.vic.gov.au/projects/crossover-kids-in-youth-justice-system) on the findings released in 2019 and 2020. [↑](#footnote-ref-6)
7. Australian Institute of Health and Welfare (AIHW) 2019, *Data tables: specialist homelessness services 2018-19*, AIHW, Canberra; Department of Education and Training 2019, [*The state of Victoria’s children report: a focus on health and wellbeing 2017*](https://www.education.vic.gov.au/Documents/about/research/SOV-2017-research.pdf), Victorian Government, Melbourne. [↑](#footnote-ref-7)
8. Family Violence Reform Implementation Monitor 2021, [*Report of the Family Violence Reform Implementation Monitor*](https://content.vic.gov.au/sites/default/files/2021-05/Report%20of%20the%20Family%20Violence%20Reform%20Implementation%20Monitor%20-%20as%20at%201%20November%202020_1.pdf), Victorian Government, Melbourne. [↑](#footnote-ref-8)
9. Department of Health and Human Services 2018, [*Child Information Sharing Scheme Ministerial Guidelines: guidance for information sharing entities*](https://www.vic.gov.au/sites/default/files/2019-01/Child%20Information%20Sharing%20Scheme%20Ministerial%20Guidlines%20-%20Guidance%20for%20information%20sharing%20entities.pdf)*,* Victorian Government, Melbourne. [↑](#footnote-ref-9)
10. ACIL Allen Consulting 2020, [*Child Information Sharing Scheme two-year review: final report*](https://content.vic.gov.au/sites/default/files/2021-03/CISS%20Two%20Year%20Review%20Report_0.pdf), ACIL Allen Consulting, Melbourne. [↑](#footnote-ref-10)
11. Social Ventures Australia (SVA) Consulting 2019, *[The economic case for early intervention in the child protection](https://www.berrystreet.org.au/uploads/main/Files/SVA-ResearchPaper-TheEconomicCaseForEarlyIntervention-2019.pdf)*

*[and out-of-home care system in Victoria](https://www.berrystreet.org.au/uploads/main/Files/SVA-ResearchPaper-TheEconomicCaseForEarlyIntervention-2019.pdf)*, SVA Consulting, Melbourne. [↑](#footnote-ref-11)
12. Social Ventures Australia (SVA) Consulting 2020, *[Keeping families together through COVID-19: the strengthened](https://www.berrystreet.org.au/uploads/main/Files/SVA-ResearchPaper-KeepingFamiliesTogetherThroughCOVID-2020.pdf)*

*[case for early intervention in Victoria’s child protection and out-of-home care system](https://www.berrystreet.org.au/uploads/main/Files/SVA-ResearchPaper-KeepingFamiliesTogetherThroughCOVID-2020.pdf)*, SVA Consulting, Melbourne. [↑](#footnote-ref-12)
13. Australian Institute of Health and Welfare (AIHW) 2021, *Data tables: Child protection Australia 2019-20*, Child Welfare series no. 74, Cat no. CWS 78, AIHW, Canberra. [↑](#footnote-ref-13)
14. Nankervis, K, Rosewarne, A & Vassos, M 2011b, ‘Why do families relinquish care? An investigation of the factors that lead to relinquishment into out-of-home respite care’, *Journal of Intellectual Disability Research*, vol. 55, no. 4, pp. 422-433. [↑](#footnote-ref-14)
15. The Centre runs Fostering Connections, an innovative model that works collaboratively with government and CSOs to actively recruit foster carers. [↑](#footnote-ref-15)
16. CCYP 2019. [↑](#footnote-ref-16)
17. OzChild n.d., Treatment Foster Care Oregon (TFCO), viewed 24 September 2020, <<https://www.ozchild.org.au/service/treatment-foster-care-oregon-tfco/>>. [↑](#footnote-ref-17)
18. OzChild 2019, [*Annual Report 2018/19*](https://www.ozchild.org.au/wp-content/uploads/2020/01/Annual-Report-2018-19.pdf), OzChild, Melbourne. [↑](#footnote-ref-18)
19. CCYP 2019, p. 31. [↑](#footnote-ref-19)
20. Victorian Ombudsman 2017. [↑](#footnote-ref-20)
21. Baidawi, S & Sheehan, R 2019, *‘Cross-over kids’: effective responses to children and young people in the youth justice and statutory Child Protection systems*, report to the Criminology Research Advisory Council, Australian Institute of Criminology, Canberra. [↑](#footnote-ref-21)
22. Baidawi & Sheehan 2019; Department of Health and Human Services 2016, *Program requirements for the delivery of therapeutic residential care in Victoria*, Victorian Government, Melbourne. [↑](#footnote-ref-22)
23. McLean, K, Little, K, Hiscock, H, Scott, D & Goldfeld, S 2019, ‘Health needs and timeliness of assessment of Victorian children entering out-of-home care: An audit of a multidisciplinary assessment clinic’, *Journal of Paediatrics and Child Health*, vol. 55, no. 12, pp. 1470-1475. [↑](#footnote-ref-23)
24. Department of Families, Housing, Community Services and Indigenous Affairs & National Framework Implementation Working Group 2011, *An outline of National Standards for out‐of‐home care: A priority project under* *the National Framework for Protecting Australia’s Children 2009-2020*, Commonwealth of Australia, Canberra, p. 10. [↑](#footnote-ref-24)
25. McLean et al. 2019. [↑](#footnote-ref-25)
26. Commission for Children and Young People (CCYP) 2020, *[Keep caring: systemic inquiry into services for young](https://ccyp.vic.gov.au/assets/Uploads/CCYP-Keep-caring.pdf)*

*[people transitioning from out-of-home care](https://ccyp.vic.gov.au/assets/Uploads/CCYP-Keep-caring.pdf)*, CCYP, Melbourne. [↑](#footnote-ref-26)
27. Dean, A 2018, *The intersection between the child protection and youth justice systems*, CFCA Resource Sheet, Australian Institute of Family Studies, Melbourne. [↑](#footnote-ref-27)
28. Committee on the Rights of the Child 2019, *Concluding observations on the combined fifth and sixth periodic reports of Australia*, CRC, Geneva. [↑](#footnote-ref-28)
29. See, for example, [*Framework to reduce criminalisation of young people in residential care*](https://providers.dffh.vic.gov.au/sites/default/files/2020-02/A%20Framework%20to%20reduce%20criminalisation%20of%20young%20people%20in%20residential%20care.PDF). [↑](#footnote-ref-29)
30. Commission for Children and Young People (CCYP) 2021, [*Our youth, our way: Systemic inquiry into the over-representation of Aboriginal children and young people in Victoria's youth justice system*](https://ccyp.vic.gov.au/assets/Publications-inquiries/CCYP-OYOW-Final-090621.pdf), CCYP, Melbourne. [↑](#footnote-ref-30)