

# Responses to the sexual abuse and sexual exploitation of children in residential care in Victoria

*Centre for Excellence*  
in Child and Family Welfare Inc.



100 Years  
1912–2012

# About the Centre for Excellence in Child and Family Welfare

The Centre for Excellence in Child and Family Welfare is the peak body for child and family welfare in Victoria, providing independent analysis, dialogue and cross-sectoral engagement to break down multi-causal factors that perpetuate disadvantage and vulnerability. Working alongside our 90 member organisations, the role of the Centre is to build capacity through research, evidence and innovation to influence change. The Centre and its member organisations collectively represent a range of early childhood, child and family support services, youth and out-of-home care services, including kinship care, foster care and residential care.

## Acknowledgements

Much of the recent history of sexual abuse and sexual exploitation of children in residential care in Victoria has not had the benefit of academic research and analysis. The author wishes to acknowledge the contribution of the Office of Professional Practice in the Department of Human Services and the many individuals from the Victorian child and family welfare sector in Victoria who very generously gave their time and knowledge in assisting the preparation of this report.

The author also wish to acknowledge the work of Max Liddell's 2003 Monash University thesis<sup>1</sup> which was a rich source of information particularly around the early history of Victorian child welfare and the advice and assistance of Mary Kyrios, Senior Policy and Project Officer and Mietta Kyrios, Project Officer at the Centre for Excellence in Child and Family Welfare.

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August 2014

Suggested citation: Centre for Excellence in Child and Family Welfare, *Responses to the sexual abuse and sexual exploitation of children in residential care in Victoria*, (2014)

ISBN: 978-1-92-111036-8

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<sup>1</sup> M. Liddell, *Protecting Children or Reluctant Parenting: Themes in Child Welfare History in Victoria from 1970 to 2000*, Doctor of Philosophy Thesis, Monash University , 2003

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## Introduction

In May 2014 the Commission for Children and Young People (the Commission) commissioned the Centre for Excellence in Child and Family Welfare to prepare a short analysis of past and current responses to the sexual exploitation of children in residential care in Victoria. Following discussions with the Commission it was agreed that the report would focus on four key themes relating to the sexual abuse and sexual exploitation of children in residential care in Victoria:

1. A narrative that described the changing nature of the Victorian legislation relating to vulnerable children.
2. A description of the development of policy and operational responses to vulnerable children in residential care.
3. A summation of contemporary themes and issues relating to the sexual abuse and sexual exploitation of children in residential care, including responses from other jurisdictions.
4. A description of current approaches to therapeutic residential care models.

The report will assist the Commission's inquiry into the adequacy of the provision of services to children and young people who have been subjected to sexual exploitation or sexual abuse whilst residing in residential care (the Inquiry's full terms of reference are provided at Appendix One).

# 1 Legal developments in Victoria relating to vulnerable children

Historically, child abuse and neglect legislation has reflected attitudes to children, family and abuse types prevalent at the time. The following section provides a short description of the evolution of legal approaches to child abuse and neglect in Victoria.

## 1860 - 1900

Aside from the long tradition of Aboriginal and Torres Straits Islander customary law, the first known Australian legal developments, based on Western judicial concepts related to the establishment of hospitals (1792), female factories (1792) and 'lunatic asylums' (1811)<sup>2</sup>.

The systematic dispossession of Aboriginal peoples from their land and cultures also began at this time and continues to have an enduring, negative legacy. As each new wave of migration occurred in the 19<sup>th</sup> century new social problems emerged including unemployment, serious public health issues including malnutrition, early mortality, illegitimacy, sexually transmitted diseases, crime and recurring concerns about abandoned children and their mothers.

The first specific Victorian legislation to assist 'deserted women' was enacted in 1840 which allowed deserted mothers to seek maintenance from deserting husbands in Victoria<sup>3</sup>.

The *Neglected and Criminal Children's Act 1864* was the first legislation in Victoria related to neglected and criminal children and involved: the establishment of industrial schools for neglected children including children seen as difficult to manage, residing in a brothel or associating or dwelling with any person reputed to be a prostitute. Reformatory schools for 'criminal' children were also established. Police authorities could bring a child up to the age of 15 years old before the Court Justices to determine the outcome. A child could be detained at an industrial school for neglected children or a reformatory school for criminal children for between one and seven years. The Act legislated for penalties between ten and twenty pounds for individuals who withdrew, harbored or communicated with inmates or detainees in industrial or reformatory schools.

This new legislation reflected growing concern about growth in the number of abandoned children resulting from rapid shifts in migration and employment patterns. The first Government initiated inquiries into children's institutions occurred during this time in both Victoria and New

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<sup>2</sup> Liddell, op. cit

<sup>3</sup> The Victorian Law Reform Commission's Final Report, *Protection Applications in the Children's Court*, June 2010 contains a useful history of the evolving nature of Victoria's child protection legislation

South Wales. These inquiries promoted the 'boarding out' of children separated from their parents in foster care placements as the preferred policy response.

The Victorian *Neglected and Criminal Children's Amendment Act 1874* provided for the practice of 'boarding out' in Victoria's child welfare system. Children under the age of six could be placed in an industrial school. Neglected children under the age of 16 and criminal children under the age of 17 could be detained. The amendments added that individuals who withdrew, harbored or communicated with an inmate or detainee could also be imprisoned for up to fourteen days.

The legislation was further amended in 1878 to allow for the transfer of children to and from industrial to reformatory schools.

In 1887 separate legislation was introduced in the *Neglected Children's Act* and the *Juvenile Offenders' Act* that distinguished between 'neglected' and 'criminal' children. The responsibility for 'neglected' children was transferred to the Department for Neglected Children which signified changed policy about the protection of children in their parents care and enabled children to be made wards of the state.

In addition, intervention could take place by 'child rescuers' not just police, if a child was found living in a brothel or involved in street trading and hawking. Further, the legislation limited the government from establishing any more industrial schools and promoted policy on the placement of neglected children in foster care.

Child protection agencies were established in the United Kingdom in 1883, followed later by New South Wales, Australia in 1890.<sup>4</sup> The Victorian Society for the Prevention of Cruelty to Children was established in 1896. Throughout this period philanthropic organisations and charities, often church led, were established that focused on reaching out to vulnerable children and families. In 1905 the Children's Welfare Association of Victoria was formed, recently renamed the Centre for Excellence in Child and Family Welfare.

## **1906 - 1954**

In 1906 the *Children's Court Act* was introduced which established the Children's Court of Victoria.

In 1923 the first Declaration of the Rights of the Child<sup>5</sup> was drafted by the Save the Children organisation and later adopted by the League of Nations (of which Australia was a member). Key provisions included:

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<sup>4</sup> Alister Lamont and Leah Bromfield (2010) *History of child protection services*, National Child Protection Clearinghouse Resource Sheet, Australian Institute of Family Studies, October 2010

<sup>5</sup> Declaration of the Rights of the Child, (1923) Accessed at:  
[http://www.childrights.md/files/09\\_Declaration%20of%20the%20Rights%20of%20the%20Child%201923.pdf](http://www.childrights.md/files/09_Declaration%20of%20the%20Rights%20of%20the%20Child%201923.pdf)

*The child must be given the means requisite for its normal development, both materially and spiritually.*

*The child that is hungry must be fed, the child that is sick must be nursed, the child that is backward must be helped, the delinquent child must be reclaimed, and the orphan and the waif must be sheltered and succored.*

*The child must be the first to receive relief in times of distress.*

*The child must be put in a position to earn a livelihood, and must be protected against every form of exploitation.*

*The child must be brought up in the consciousness that its talents must be devoted to the service of its fellow men.*

In 1924 the *Children's Welfare Act* was introduced and the relevant department was now referred to as the Children's Welfare Department as the stigma associated with a neglected child was recognised. The *Children's Welfare Act* was amended in 1928 to replace all legislation in relation to child welfare. During this time there was a shortage of foster parents and there was again an increased use of children's homes for state wards. In 1933 the Act was again amended to extend the definition of neglected child to include females found soliciting for the purposes of prostitution or wandering in a public place.

In 1954 the legislation was amended to provide for and promote the welfare, protection and care of children and young people. Its key provisions included:

- A requirement for non-government organisations to register with the Children's Welfare Department.
- A system of regulation for non-government children's institutions. Non-government children's institutions were required to be registered by the department and were known as 'approved children's homes'. An agency could apply for a child in its custody to be admitted to State guardianship once agreed maintenance contributions fell into six months arrears
- The Children's Court determined whether a child or young person was in need of care.
- Police were able to arrest without warrant any child or young person suspected of being in need of care and bring the child before a Children's Court to be committed to the care of the department.
- The department was authorised to make a range of placements including in institutions, private homes, employment or domestic service.



In 1959 the United Nations General Assembly adopted an expanded version<sup>6</sup> of the 1923 Declaration on the Rights of the Child, adding ten principles in place of the original five. The four core principles of the Declaration were non-discrimination; devotion to the best interests of the child; the right to life, survival and development; and respect for the views of the child. However, the Declaration contained no specific reference to the sexual abuse or exploitation of children.

### **1960 - 1978**

The 1960 *Social Welfare Act* introduced for the first time the requirement to consider the welfare of the child as the first and paramount consideration:

*s24 (h) In placing any child or young person pursuant to the provisions of this section the welfare of the child shall be the first and paramount consideration and any provision made for the physical intellectual and spiritual development of any such child or young person or for his employment shall be such as a good parent would make for his child.*

The 1970 *Social Welfare Act* established a Social Welfare Department supported by the employment of social work professionals that was responsible for families and child and adult criminals. This was consistent with international approaches following the second wave of child rescue movement, instigated by research led by Dr. Henry Kempe known as the “battered child syndrome” and similar research in Australia. However, most of the grounds for admitting children to care (which were largely unchanged from the 1960 *Social Welfare Act*) remained grounded in 19<sup>th</sup> Century concepts of responding to behaviours seen as problematic:

*s31. Every child or young person under seventeen years of age who answers to any of the following descriptions shall be deemed to be a child or young person in need of care and protection*

*(a) found begging or receiving alms or being in any street or public place for the purpose of begging or receiving alms or inducing the giving of alms;*

*(b) found wandering, abandoned, or sleeping, in any public place;*

*(c) who has no visible means of support or no settled place of abode;*

*(d) who is in a brothel or lodges lives or resides or wanders about with known or reputed thieves drunkards vagrants or prostitutes whether such thieves drunkards vagrants or prostitutes are the parents of the child or not;*

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<sup>6</sup> Declaration of the Rights of the Child, Adopted by UN General Assembly Resolution 10 December 1959  
Accessed at: <http://www.un.org/cyberschoolbus/humanrights/resources/child.asp>

*(e) who (not being duly licensed pursuant to the provisions of Division 9 of this Part) is employed in street trading in contravention of that Division or the regulations after a member of the police force or any person authorized in that behalf by the Governor in Council has (whether orally or otherwise) warned the child to desist from such trading and (where the parent or guardian of the child can be found) warned such parent or guardian that the child should desist from such trading;*

*(f) who is not provided with sufficient or proper food nursing clothing medical aid or lodging or who is ill-treated or exposed;*

*(g) who takes part in any public exhibition or performance referred to in Division 9 of this Part whereby the life or limbs of the child taking part is endangered;*

*(h) who is in the care and custody of any person unfit by reason or his conduct or habits or incapable by reason of his health to have the care and custody of the child or young person;*

*(i) who is lapsing or likely to lapse into a career of vice or crime;*

*(k) who is exposed to moral danger;*

*(l) who is required by law to attend school and who without lawful excuse has habitually absented himself from school and whose parent has, in respect of such absence, been convicted under Part IV of the Education Act 1958.*

In 1978 the *Community Welfare Services Act* made significant changes to the definition of a child in need of care and protection. The focus on intervention would be as a result of a guardian's actions or inactions that would affect or likely to affect a child's physical, mental and emotional development rather than a child's behaviour. The Act provided a new definition of when a child was in need of care and protection. Intervention could occur where there was maltreatment of a child by a guardian, such as ill-treatment, abandonment, inability or unwillingness to exercise supervision, or the absence of a guardian due to death or incapacitation, and significantly removed grounds based on the child's behaviour. One of the new grounds was that a child or young person would be in need of care if he or she 'has been ill-treated or is likely to be ill-treated or his physical, mental or emotional development is in jeopardy'.

The 1978 amendments also required that a child could not be admitted to the care of the Department unless the Director-General was satisfied that all reasonable steps had been taken to provide the necessary services to enable the child to stay with the family, and that admission to state care is in the best interests of the child in the circumstances.

## 1978 - 1989

In November 1982 an independent committee, the Child Welfare Practices and Legislation Review Committee, (the Carney Committee) was established to review child welfare practice and legislation in Victoria.

The terms of reference<sup>7</sup> of the Committee were:

1. *To carry out a review of child welfare legislation and practice in that part of the Victorian welfare/justice system affecting children, young people and their families.*
2. *To develop a framework of principles that should guide and govern child welfare legislation and practice in Victoria in the foreseeable future.*
3. *To provide detailed instructions on provisions to guide the drafting of new child welfare legislation consistent with the principles identified.*
4. *To make recommendations on any changes in practices or services that are desirable within the foreseeable future, and to indicate practical ways of achieving these, where possible, by rationalisation of existing resources.*
5. *To suggest a time-scale for the implementation of changes in practices and/or services according to priorities developed through the review process.*

The committee was also tasked to prepare draft legislation to accompany the Final Report to Parliament in 1984.

In consultation with the community, the Committee prepared guiding principles for child welfare in Victoria; drafted new child welfare legislation governing the practice of the Children's Court and the Department of Community Welfare Services and made recommendations about future strategies and services in the child welfare area. The Committee ceased operation on submission of its final report in 1984.

The *Children's Court (Amendment) Act 1986 (Vic)* was passed in response to the Carney Committee's report. This Act implemented recommendations the Carney Committee had made in relation to restructuring the Children's Courts into two separate divisions: the Family Division and the Criminal Division.

The focus of intervention was further reinforced with the introduction of the *Children and Young Persons Act 1989* which now included sexual abuse, physical abuse, emotional or psychological abuse and harm to a child's physical development or health as specific grounds. Intervention into child abuse and neglect was not limited to abuse of a child by a parent, but the child's parent having not protected or unlikely to protect the child from harm.

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<sup>7</sup> Accessed at: <http://researchdata.and.s.org.au/child-welfare-practices-and-legislation-review-committee/147031>

The new Act responded to many of the criticisms in the Carney Committee's report<sup>8</sup>, principally that children were too readily removed from their parents' care and insufficient emphasis placed on family preservation. The Act defined new requirements for the exercise of statutory authority in family life and directed that family reunification be a primary consideration in the State's response to child abuse and neglect. The Act also included:

- principles to guide decision making in the Court
- revised the grounds for protection applications, to focus on past harm or the risk of future harm to the child
- included an Aboriginal Child Placement Principle
- created a new range of dispositions powers, ranging from voluntary undertakings, through Supervision Orders, Custody and Guardianship Orders and for the first time introduced Permanent Care Orders

These changes coincided with significant developments at the international level with the United Nations General Assembly adopting the Convention on the Rights of the Child in 1989. The Convention deals with child-specific needs and rights. The Convention requires that states act in the best interests of the child and acknowledges that every child has certain basic rights, including the right to life, his or her own name and identity, to be raised by his or her within a family or cultural grouping, and to have a relationship with both parents. In 1990 the Commonwealth Government ratified the Convention after gaining approval of the States and Territories.

Article 19<sup>9</sup> of the Convention states:

*1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.*

*2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.*

Article 34<sup>10</sup> of the Convention sets out specific obligations in relation to sexual abuse and sexual exploitation:

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<sup>8</sup> Child Welfare Practice and Legislation Review Committee (1984), *Equity and Social Justice for children, families and communities*, Final Report (3 volumes), Vic. Govt. Printer, Melbourne.

<sup>9</sup> United Nations General Assembly, (1989) Article 19, Convention on the Rights of the Child Accessed at: <http://www.humanium.org/en/convention/text/>

*States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:*

- a) The inducement or coercion of a child to engage in any unlawful sexual activity;*
- b) The exploitative use of children in prostitution or other unlawful sexual practices;*
- c) The exploitative use of children in pornographic performances and materials.*

### **1990 - 2014**

In 1992 the main responsibility for intervening in child abuse matters was established with the government ending the dual track system of Victoria Police intervening with children in need of protection.

In 1993 mandatory reporting by selected professional groups for suspicions of physical and sexual abuse was introduced by law. This was an acknowledgement of the trauma and impact of these abuse types on children and young people and the need to protect them from such harm.

In 2005 the *Children Youth and Families Act* and the companion *Child Wellbeing and Safety Act* were introduced and provide the legal framework for current practice with vulnerable Victorian children.

Just as the *Children and Young Persons Act 1989* can be characterised as representing a major paradigm shift in how vulnerable children were understood and ‘constructed’, the two new Acts introduced in 2005 represented a further and arguably more significant paradigm shift:

<b>Legislation</b>	<b>Narrative</b>
<i>Social Welfare Act 1960</i>	Protecting children exhibiting problematic behaviours
<i>Children and Young Persons Act 1989</i>	Protecting children from significant harm
<i>Children Youth and Families Act 2005</i> <i>Child Wellbeing and Safety Act 2005</i>	Promoting children’s safety, stability and development

The key policy objectives<sup>11</sup> of the new legislation were:

<sup>10</sup> ibid

<sup>11</sup> Department of Human Services, *A framework to promote children’s safety, wellbeing and development*, 2006. Accessed at:  
[http://www.dhs.vic.gov.au/\\_\\_data/assets/pdf\\_file/0005/590864/ecec\\_fact2\\_april\\_2006.pdf](http://www.dhs.vic.gov.au/__data/assets/pdf_file/0005/590864/ecec_fact2_april_2006.pdf)

- *To promote children's best interests, including a new focus on children's development*
- *To support a more integrated system of effective and accessible child and family services, with a focus on prevention and early intervention*
- *To improve outcomes for children and young people in the Child Protection and out of home care service system*

Many features of the new Act were entirely new and included<sup>12</sup>:

- Common principles to guide practice and decision making
- Pathways to connect vulnerable children and families to the prevention and early intervention services they may need
- More flexible Child Protection responses to reports
- A new focus on cumulative harm
- Maintaining vulnerable Aboriginal children within their communities and a new provision enabling the Secretary to transfer custody and guardianship of an Aboriginal child to the Principal Officer of an Aboriginal Community Controlled Organisation
- Promoting stability in care arrangements and beyond
- A capacity to intervene in cases where children aged over 10 but under 15 years are engaging in sexually abusive behaviours
- Powers and orders of the Children's Court
- A framework for registration and quality assurance of community services and carers
- Clearly authorised information sharing to promote children's safety, wellbeing and development

The Act provided the legal architecture for a new set of services known as Integrated Services/Child FIRST and the capacity for these services to accept referrals from other services, professionals and individuals.

Significantly, new provisions were introduced allowing Child Protection to receive referrals from the Children's Court Criminal Division or reports from anyone in the community about a child aged 10-14 years engaging in sexually abusive behaviours. New therapeutic treatment provisions for children exhibiting sexually abusive behaviours were also introduced, administered by a Therapeutic Treatment Board. These new provisions addressed concerns about a growing number of instances of child on child sexual abuse.

The Act also introduced a new framework for registration and quality assurance of community services and carers, including residential care providers. The provisions provided for a three year registration period for out of home care providers with performance reviews required at

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<sup>12</sup> *ibid.*

specified intervals. A new carer register was established which included carers in residential care settings and provided for the disqualification of carers found to have acted improperly.

The new Act also introduced a s.495 '*Offence to harbour or conceal*' provision, requiring that a person must not "in the knowledge" that a child is absent, and without lawful authority or excuse from a placement in which the child has been placed: harbour or conceal the child, or assist to harbour and conceal the child, or prevent or assist in preventing the child from returning to a residence specified in a Children's Court Order or a residence determined by a Secretary delegate.

Where Child Protection receives information that an identifiable person is engaging in any offences under s.495 of the Act (with or without the intent to sexually exploit that child) they must provide police with that information. Victoria Police may then interview and charge that person.

Offences in sections 495 – 497 of the 2005 Act include:

- Harbours or concealing a child subject to specific court orders
- Counselling or inducing such children to be absent from placement without lawful authority; and
- Entering, lurking and loitering where children are placed.

The companion *Child Wellbeing and Safety Act 2005* also introduced important new provisions including:

- A set of common principles for services provided to vulnerable children. The principles were designed to guide and inform the provision of Government and community services for children, including services provided by other Government departments.
- The creation of a Child Safety Commissioner
- The establishment of a Victorian Children's Council to provide independent and expert advice to the Minister
- The establishment of a Children's Services Coordination Board

The provisions regarding the Child Safety Commissioner were amended by the *Commission for Children and Young People Act 2012* which provided for the establishment of a Commission for Children and Young People and its functions and powers.

The objective of the Commission was to promote continuous improvement and innovation in:

- policies and practices relating to the safety and wellbeing of children and young people generally and in particular those who are vulnerable; and
- the provision of out-of-home care services for children

In December 2013, the Victorian Government introduced amendments to the *Children, Youth and Families Act 2005* to confirm that the balance of probabilities is the standard of proof in the Children's Court and that there is no requirement to determine the likelihood or unlikelihood of future abuse and neglect. This enables proof of child abuse and neglect applications that in the past were often examined under a higher standard of proof and provided additional protection to children from abuse and neglect, especially sexual abuse where proof of the application was compromised due to the use of the *1938 Briginshaw v Briginshaw* test as a higher standard of proof than the balance of probabilities. The Briginshaw test requires a court to take into account the nature of the subject matter of the proceeding and the gravity of the facts alleged.<sup>13</sup>

### **Recent responses to child sexual abuse in the broader community**

In 2013 the Victorian Government tasked the Family and Community Development Committee to investigate<sup>14</sup> the handling of child abuse in religious and other non-government organisations. The inquiry's report, *Betrayal of Trust*<sup>15</sup> was released in November 2013 and the Victorian Government's response<sup>16</sup> to the report's recommendations was released in May 2014. The Victorian Government subsequently implemented a series of legislative amendments to the *Crimes Act* as recommended in the *Betrayal of Trust* report. These included:

- An offence for organisations who fail to take action where staff pose a risk of sexual abuse of children. A maximum penalty of five years imprisonment applies to this offence
- An offence for adults to fail to report suspicions of child sexual abuse to the Police. A maximum penalty of three years imprisonment applies to this offence.
- The legislation acknowledges the challenges vulnerable individuals will experience in reporting suspicions of child sexual abuse by incorporating a fear of safety defence.
- A child is defined as a child under the age of 16 years.

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<sup>13</sup> *Report of the Protecting Victoria's Vulnerable Children Inquiry*, (2013), Department of Premier and Cabinet

<sup>14</sup> See Family and Community Development Committee, (2013) *Inquiry into the Handling of Child Abuse by Religious and Other Organisations*, Victorian Parliament. Accessed at: <http://www.parliament.vic.gov.au/fcdc/inquiries/inquiry/340>

<sup>15</sup> Family and Community Development Committee, (2013), *Betrayal of Trust*, Victorian Parliament. Accessed at:

[http://www.parliament.vic.gov.au/images/stories/committees/fcdc/inquiries/57th/Child\\_Abuse\\_Inquiry/Report/Inquiry\\_into\\_Handling\\_of\\_Abuse\\_Volume\\_1\\_FINAL\\_web.pdf](http://www.parliament.vic.gov.au/images/stories/committees/fcdc/inquiries/57th/Child_Abuse_Inquiry/Report/Inquiry_into_Handling_of_Abuse_Volume_1_FINAL_web.pdf)

<sup>16</sup> *Victorian Government Response to the Report of the Family and Community Development Committee Inquiry into the Handling of Child Abuse in Religious and Other Organisations*, (2014) Accessed at: [http://www.parliament.vic.gov.au/images/stories/committees/fcdc/inquiries/57th/Child\\_Abuse\\_Inquiry/Government\\_Response\\_to\\_the\\_FCDC\\_Inquiry\\_into\\_the\\_Handling\\_of\\_Child\\_Abuse\\_by\\_Religious\\_and\\_Other\\_Non-Government\\_Organisations.pdf](http://www.parliament.vic.gov.au/images/stories/committees/fcdc/inquiries/57th/Child_Abuse_Inquiry/Government_Response_to_the_FCDC_Inquiry_into_the_Handling_of_Child_Abuse_by_Religious_and_Other_Non-Government_Organisations.pdf)



- Information which is protected by privilege, such as communications between a client and their lawyer, or a religious confession, may remain confidential and the information is not required to be disclosed to police.
- Amends the Children, Youth and Families Act 2005 to provide that if a mandated professional makes a child abuse report to the Secretary to the Department of Human Services, the Secretary must report the information to the police. This process will enable a person to provide all of the information they possess on the one occasion, rather than being required to report the same information to both police and the Department of Human Services.
- A person who made disclosures to the police are protected, where relevant, in their professional conduct and ethics, are not subject to any liability and that any disclosures made do not contravene certain confidentiality provisions of the Health Services Act 1988 or the Mental Health Act 1986.
- The above new provisions do not require proof that a sexual offence has been committed.

The Crimes Amendment (Grooming) Act which came into effect in July 2014 prohibits any communications with a child or the child's parents/carers intended to facilitate engaging the child in a sexual offence. The new provisions reflect a better understanding of the dynamics of sexual abuse and sexual exploitation and provide scope to address enticement, manipulation and grooming.

## 2 Administrative and policy responses to vulnerable children

### Administrative arrangements

Through various departmental iterations, the State Government has administered Victoria's child welfare system for the last 150 years. Parts of the following description are derived from work conducted by Find and Connect Support Services, an Australian Commonwealth funded organisation providing history and information about Australian orphanages, children's homes and other institutions<sup>17</sup>.

The Department of Industrial and Reformatory Schools (1864-1887) came into being with the passage of the *Neglected and Criminal Children's Act 1864*. Children who were deemed to be 'neglected' were sent to industrial schools. Children convicted of any offence could be sent to a reformatory school, but justices had the authority to take their age and circumstances into account and to send them instead to an industrial school.

The main responsibility of the Department for Neglected Children (1887-1924) upon its establishment was the maintenance and management of 'neglected' children including: supervision of State wards in receiving houses and probationary schools, provision of trade apprenticeships programs, 'boarding out' of children in the service of persons willing to take charge of their maintenance and education and provision of assistance to non-wards.

The Department of Reformatory Schools (1901-1954) came into being following the proclamation of the *Juvenile Offenders' Act* in 1887. This act split responsibility for convicted juveniles to the Department of Reformatory Schools, and responsibility for 'neglected' children to the Department for Neglected Children. Despite this separation, the Department of Reformatory Schools was administered by the Victorian government jointly with the Department for Neglected Children and the Children's Welfare Department (as it was renamed in 1924).

In 1928 the Department became responsible for the adoption of State wards, and for the regulation of the employment of children in street trading. In 1946, the Director of the Department assumed guardianship of migrants under twenty-one years of age who arrived in Victoria without parents or relatives.

The Children's Welfare Department was established in 1924 to replace the Department for Neglected Children. The renaming of the Department signified the Government's awareness of the stigma which had become attached to the term 'neglected child', and did not reflect a change in functional responsibility or status. From 1954 responsibility for juvenile offenders and

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<sup>17</sup> Further information about Find and Connect Support Services can be accessed at: <http://www.findandconnect.gov.au/>

reformatory schools (from 1954 known as juvenile schools) was also assumed by the Children's Welfare Department.

The Royal Park Depot in Parkville was the sole reception centre for children committed to State care from about 1880 to 1961. The Depot was a 'clearing house' for boys and girls, before they were boarded out, sent out to domestic service or committed to a reformatory school. In 1955 it became known as Turana. It remained the sole reception centre for children committed to State 'care' until 1961 when Allambie became the main government reception centre.

A new Social Welfare Branch was established under the provisions of the *Social Welfare Act 1960*. The Social Welfare Branch comprised four divisions: Family Welfare, Youth Welfare, Probation and Parole and Prisons. New sections were established to improve the Department's staff training and information collection. The Branch supervised a number of state-run institutions (reception centres, children's homes and family group homes). In 1971, all of the Social Welfare Branch's functions were taken over by the new Social Welfare Department.

In 1972 a new system of funding was introduced for residential care. Within a short time a large number of agencies began lobbying Government on the basis that a number of services were facing bankruptcy, a recurring pattern over the next 40 years. The Government responded in 1974 with the introduction of a new system of funding.

By 1974 there were 40 Departmental Family Group Homes around Victoria, housing 209 children. Departmental regional centres had also been established in Mildura, Horsham, Warrnambool, Geelong, Ballarat, Bendigo, Shepparton, Wodonga, Bairnsdale and Morwell. As well as Allambie, Baltara, Turana and Winlaton, reception centres also operated in Mildura and Ballarat. Smaller children's homes were operating in Bendigo (5), Geelong (5), Sale (2), Bacchus Marsh (1), Lara (1), Portsea (1), Sorrento (1) and Mornington (2). There was an expansion of Family Group Homes in rural Victoria with homes established in Geelong (8), Traralgon (2), Morwell (2), Kilmore (2) and Ararat (2)<sup>18</sup>. However, most children in out of home care were cared for by voluntary organisations. According to the 1976 Norgard Enquiry, of Victoria's approximately 5,800 wards of state, 45 per cent (2,600 children) were cared for in residential establishments run by voluntary organisations.

The 1970s period also saw the establishment of Aboriginal Child Care Agencies, reflecting emerging views that Aboriginal children should where possible be placed within their own community.

In 1978 the Social Welfare Department was renamed the Department of Community Welfare Services. The new department comprised the Family and Adolescent Services Division, a Youth Services Section, an Adoption Section, a Residential Child Care and a Regional Services Division.

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<sup>18</sup> 1976 data sourced from the Norgard Enquiry (1975). Accessed at <http://www.findandconnect.gov.au/ref/vic/objects/pdfs/1976map.pdf>

The Family and Adolescent Services Division was responsible for the management of reception centres and youth training centres in Victoria.

The Residential Child Care section was responsible for the 'care' of wards (about 80 per cent of children and young people) as well as non-wards (who were placed in non-government 'care' by parents or guardians).

The Youth Services Section was concerned with preventive care for 'at risk youth'. It ran hostels for young people located in Sunshine, Ivanhoe and Thornbury. It also subsidised hostels run by the non-government sector. The Section ran Youth Welfare Services at Ascot Vale, Brunswick Hawthorn and Windsor.

The management of foster care was transferred to the Regional Services Division in 1976. The Department had a policy of regionally based foster care programs, so that children in foster care could be placed in their local community and maintain links with family and friends. An annual review of wardship was introduced in February 1983.

In the same year, the Victorian government established a separate Office of Corrections. This led to a restructure within the Department of Community Welfare Services. From May 1983, there was a new Protective and Substitute Care Branch within the Department. The broad aims of the Branch were to provide a wide range of services to give care and protection to children and young people at risk of abuse, neglect or exploitation - and to provide care and control of young offenders.

This branch was responsible for foster care, provided by the Department and 25 non-government agencies. It also organised adoptions, together with eight approved adoption agencies. Its residential care was largely provided in family group homes, comprising 4 or 5 children.

Community Services Victoria (CSV) replaced the Department of Community Welfare Services in 1985. A number of functions were transferred from the Department of Health to the new CSV in 1985, including intellectual disability services, maternal and child health, kindergartens and child care.

The Department of Health and Community Services was established in 1992. In 1993, the Melbourne Youth Justice Centre opened on the site of Turana. In 1995 the new Victorian Department of Human Services (DHS) became responsible for the dealing with children placed in the care of the state, an arrangement that continues to the present.

A significant policy shift relating to the delivery of residential care occurred soon after with the decision to outsource all departmentally provided residential care to community services organisations.

This was commented upon in a 1996 report<sup>19</sup> by the Victorian Auditor-General:

*In recent years the Department of Human Services (DHS) has been progressively reducing its traditional reliance on placing children in facility-based care such as family group homes and rostered units in favour of a range of other settings, better suited to a child's needs, with a strong emphasis on home-based care. This strategy is strongly supported by audit, after allowing for the fact that in some instances, facility-based care meets a child's needs. However DHS has not been successful in providing the level of home-based care needed to replace the facility-based accommodation being phased down, in conjunction with more children coming into care. As a result many children, mostly adolescents, were being located in family group homes and rostered units for long periods, whereas their time in these units in many instances was intended to be short-term.*

*The impact of the above arrangements, although unavoidable to a certain degree with highly disturbed adolescents who are difficult to place, has contributed to a situation where due to a range of factors including the effect of abuse suffered and the influences of other children, a substantial number of these children exhibit severe behavioural problems. Audit established that of the children over 10 years of age in care, a high percentage regularly absconded from placements, leading to a potential for serious harm and criminal behaviour. DHS staff in residential units have a limited capacity to exercise firm control over children in their care<sup>20</sup>.*

The Auditor-General also made the following comment:

*The audit found, that closures of residential facilities, including family group homes were undertaken without adequate planning having been undertaken to ensure that a sufficient pool of home-based care-givers were available to accommodate the increasing numbers of children entering the system. DHS also considered that the non-government agencies funded by DHS to recruit care-givers and arrange alternative care were initially slow in responding to DHS requests for placements. The result was that the Department was forced to open contingency units to provide temporary accommodation for these children until such time as the non-government sector was able to respond to the accommodation demands of DHS.*

*The further closure of family group homes needs to be deferred until it can be demonstrated that other viable options are available to cater for the needs of children initially entering the system, and in particular, sibling groups<sup>21</sup>.*

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<sup>19</sup> Auditor-General of Victoria, *Special Report No, 43, Protecting Victoria's Children, the Role of the Department of Human Services*, 1996

<sup>20</sup> *ibid.* p.208

<sup>21</sup> *ibid.* p.209

During this period the way the department 'managed' funded out of home care services changed with the introduction of a separate 'provider management' function within each of the eight regions. With the change of government in 1999 the department returned to the previous arrangement where funded programs were managed within the child protection management structure. With the change of government in 2010 a review of the Department of Human Services structure was undertaken and this led to further significant changes in the administration of child protection and out of home care, including:

- The replacement of a traditional central office program structure comprising a children and family services division, a housing division and disability division with a matrix structure characterised by two large divisions focussing respectively on policy and strategy and operational service delivery. An Office of the Chief Child Protection Practitioner was established reporting to a Deputy Secretary.
- Collapsing the existing nine regions into four Divisions (East, West, North and South) and the creation of 17 areas (along similar borders to the 18 regions that were established in the late 1980s).
- A return to a provider management type arrangement in each of the four new Divisions with the Placement Coordination Units (responsible for the placement of children in out of home care) functionally separated from the child protection management line.

Significant further changes were quietly introduced to the structure of the department in early 2014, primarily a shift back to a more program based central office structure with child protection service delivery functions reporting through to the same Deputy Secretary. Child protection policy and strategic review functions however continues to operate through a separate Division.

The effectiveness of the separation of the Placement Coordination function from the child protection program continues to receive attention, with the department recently indicating an intention to pilot the location of this function at an area level.

### **Recent policy and service delivery developments**

From the early 1990s and over the next decade a wide range of initiatives and developments relating to young people in care were initiated, including:

- The establishment of the Association of Young People in Care (AAYPC) in 1993 and the subsequent establishment of the Create Foundation in 1999.
- The commencement of Families First, the first departmentally funded program with a specific focus on preventing admission to care.
- The establishment of a male and female Secure Welfare unit which provided a time-limited, secure and contained environment for highly vulnerable young people

- The establishment of Mobile Support Teams whose duties included providing after hours support to staff working in residential care homes. These teams were subsequently disbanded.
- The establishment of Behaviour Intervention Support Teams to support staff and carers working with vulnerable children and young people. These teams were also subsequently disbanded.
- The commencement of the Streetwork Outreach Project which worked with vulnerable young people in St Kilda and the Melbourne CBD
- The establishment of a High Risk Adolescents schedule operating within each of the department's regional child protection programs, supported by a High Risk Adolescents brokerage funds.
- The establishment of the Intensive Case Management Service (ICMS) for vulnerable young people delivered by community services organisations.
- The establishment of Hurstbridge Farm in 2003, a departmentally run residential facility based on therapeutic care principles.
- The introduction in 2003 of the *Looking after Children* assessment framework.
- The establishment of Take Two, a statewide developmental therapeutic program for children and young people in the Child Protection system.
- The adoption of the 'Sanctuary' model of residential care by a number of community services organisations.
- A significant expansion of Family Services during the early 2000s culminating in the statewide roll out of Child FIRST between 2007 and 2009.

In 2009 the Department of Human Services released *Directions for Out-Of-Home Care*<sup>22</sup> which outlined seven reform directions:

- Support children to remain at home with their families;
- A better choice of care placement
- Promote wellbeing
- Prepare young people who are leaving care to make the transition to adult life
- Improve the education of children in care
- Develop effective and culturally appropriate responses for the high numbers of Aboriginal children in care; and
- A child-focused system and processes.

These directions led to new initiatives designed to expand the number and quality of out-of-home care placements, extend the therapeutic residential care pilot program and assist Aboriginal kinship carers to better meet the specific needs of Indigenous children.

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<sup>22</sup> Department of Human Services, *Directions for Out of Home Care*, 2009

## **National Standards for Out of Home Care**

In 2011, as part of the Council of Australian Governments *National Framework for Protecting Australia's Children* a set of *National Standards for Out of Home Care* were released with full implementation expected to be complete in 2015<sup>23</sup>. The 13 National Standards focus on the key factors that directly influence better outcomes for children living in out-of-home care. The standards are:

*Standard 1 - Children and young people will be provided with stability and security during their time in care.*

*Standard 2 - Children and young people participate in decisions that have an impact on their lives.*

*Standard 3 - Aboriginal and Torres Strait Islander communities participate in decisions concerning the care and placement of their children and young people.*

*Standard 4 - Each child and young person has an individualised plan that details their health, education and other needs.*

*Standard 5 - Children and young people have their physical, developmental, psychosocial and mental health needs assessed and attended to in a timely way.*

*Standard 6 - Children and young people in care access and participate in education and early childhood services to maximise their educational outcomes.*

*Standard 7 - Children and young people up to at least 18 years are supported to be engaged in appropriate education, training and/or employment.*

*Standard 8 - Children and young people in care are supported to participate in social and/or recreational activities of their choice, such as sporting, cultural or community activity.*

*Standard 9 - Children and young people are supported to safely and appropriately maintain connection with family, be they birth parents, siblings or other family members.*

*Standard 10 - Children and young people in care are supported to develop their identity, safely and appropriately, through contact with their families, friends, culture, spiritual sources and communities and have their life history recorded as they grow up.*

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<sup>23</sup> Department of Families, Housing, Community Services and Indigenous Affairs together with the National Framework Implementation Working Group, *An outline of National Standards for Out-of-home Care*, 2011



*Standard 11 - Children and young people in care are supported to safely and appropriately identify and stay in touch, with at least one other person who cares about their future, who they can turn to for support and advice.*

*Standard 12 - Carers are assessed and receive relevant ongoing training, development and support, in order to provide quality care.*

*Standard 13 - Children and young people have a transition from care plan commencing at 15 years old which details support to be provided after leaving care.*

### **Ombudsman Victoria**

The 2006 Ombudsman Victoria own motion inquiry *Improving responses to allegations involving sexual assault*<sup>24</sup> examined how government agencies, including the Department of Human Services, the Department of Justice, the Department of Education and Training and Victoria Police, respond to allegations involving sexual assault.

The inquiry report highlighted significant challenges in coordinating responses to sexual assault across a range of government departments. Recommendations from the inquiry included:

- Improving the reporting of incidents of sexual assault
- Strategies to prevent sexual assault including treatment services for children under 14 exhibiting sexually abusive behaviour
- Strengthening police investigative processes
- Strengthening community education about sexual assault

In 2010 Ombudsman Victoria released a report<sup>25</sup> on out of home care that had a strong focus on improving the quality of care experienced by children and young people in out of home care. This report highlighted emerging concerns about the sexual abuse and exploitation in children in out of home care:

*The sexual exploitation of young people in the out of home care system has also been identified as a significant issue, with incident reports identifying a group of children in out of home care who are involved in prostitution and sexual exploitation.*<sup>26</sup>

The report added that:

*Residential care is rarely the preferred placement option for children in out of home care and its use in Victoria is progressively decreasing. However, a lack of options means the department is continuing to place children in residential care even when it is not considered the most suitable placement for them.*

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<sup>24</sup> Ombudsman Victoria, *Improving responses to allegations involving sexual assault*, 2006

<sup>25</sup> Ombudsman Victoria, *Own motion investigation into Child Protection – out of home care*, May 2010

<sup>26</sup> Ombudsman Victoria, op. cit. p.10

*The evidence I obtained indicates that many residential care staff lack basic qualifications and that some do not have adequate skills in relation to critical matters such as the use of physical restraint.*

*Children with the most complex behaviours and needs often end up in residential care. The fact that these children are often cared for by unqualified and transitory workers is problematic. Failing to appropriately recruit and train carers is likely, in my view, to perpetuate the current issues with staff turnover and create further placement instability for the children in residential care units.<sup>27</sup>*

Recommendations from the Ombudsman's report, which were accepted by the department, focussed on:

- Improved investigations of Quality of Care incidents
- Including allegations of child against child abuse in the *Guidelines for responding to quality of care concerns in out of home care*.
- Improved analysis of Incident Reports and Quality of Care investigations, and the provision of this information to the Child Safety Commissioner
- Publishing analysis of Quality of Care investigations in the Department of Human Services annual report.

In respect of the latter recommendation, the 2011-12 and 2012-13 Department of Human Services annual reports contain only raw data relating to the number of quality of care investigations.

### **Protecting Victoria's Vulnerable Children Inquiry**

In late 2010 the new incoming Victorian Liberal National Party Government commissioned a comprehensive inquiry *"To inquire into and develop recommendations to reduce the incidence and negative impact of child abuse and neglect In Victoria ..."*.<sup>28</sup>

Led by the Honourable Philip Cummins (chair), Emeritus Professor Dorothy Scott OAM and Mr Bill Scales AO the inquiry released its comprehensive three volume report in January 2012. Of its two key recommendations in respect of out of home care, only one so far has been progressed, - the development of a comprehensive five year plan for out of home care. Its other recommendation, on which the Government has not yet provided a definitive response, was:

*26. To provide for the clear and transparent development of client-based funding, the Government should request the Essential Services Commission to advise on:*

- *The design of a client-based funding approach for out of home care in Victoria; and*

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<sup>27</sup> *ibid.*, p.14

<sup>28</sup> *Report of the Protecting Victoria's Vulnerable Children Inquiry*, Department of Premier and Cabinet, 2012, p.xxi.

- *The unit funding of services for children and young people placed in care.*<sup>29</sup>

### **Victorian Auditor-General**

In March 2014, the Victorian Auditor-General released an audit of *Residential Care for Children*<sup>30</sup>. The audit's findings and recommendations are broadly consistent with the findings from *Protecting Victoria's Vulnerable Children Inquiry Report*. These are set out below:

*That the Department of Human Services:*

- *establishes alternative affordable models of care with sufficient flexibility to cater for the varying and complex needs of children*
- *actively promotes to children in residential care the processes for making a complaint and investigates the feasibility of establishing an independent advocacy role to support children in residential care*
- *develops performance measures for delivery of residential care services for children to meet legislative requirements and outcomes for children*
- *ensures that residential care staff have the necessary skills, qualifications, training and support to work effectively with children and their families*
- *identifies systems and processes for collecting and analysing information which better meet the department's compliance, assurance and reporting needs*
- *reviews existing demand forecasting approaches and develops plans for the capacity that is actually required.*

*DHS has committed to a series of actions to address these recommendations.*<sup>31</sup>

The report also provided, based on unpublished departmental data, details of projected and actual demand for residential care between 2006-07 and 2017-18 (set out in chart below).

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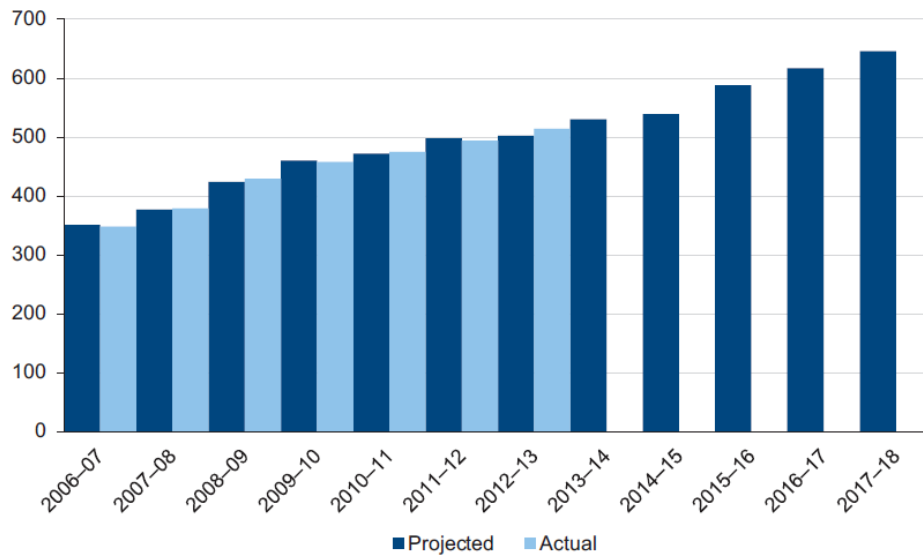
<sup>29</sup> *Report of the Protecting Victoria's Vulnerable Children Inquiry*, op. cit. p.liv.

<sup>30</sup> Victorian Auditor-General, *Residential Care for Children*, March 2014

<sup>31</sup> *ibid.* p. xiii.

## Department of Human Services projections for residential care to 2017–18

Average daily occupancy (placements)



Source: Victorian Auditor-General's Office, *Residential Care for Children*, March 2014 (p.26)

The Department of Human Services data indicated demand for residential care was projected to rise from just over 500 placements in 2013-14 to just under 650 placements in 2017-18.

The Auditor-General noted that his staff had examined departmental budget submissions to the Budget and Expenditure Review Committee, a sub-committee of Cabinet, and confirmed that the Department of Human Services had alerted government to the pressures on residential care services during this period.

In 2014, the Victorian Government released its *Out of Home Care: A Five Year Plan*<sup>32</sup>. The plan is based on the achievement of the following overarching goals:

- Improved outcomes – improved personal, economic and social outcomes for children and young people in out-of-home care.
- Reduced demand – slow the growth in the number of children and young people being placed in out-of-home care over the long-term.
- Sustainable delivery – create the foundation for a more sustainable, efficient and effective out-of-home care system.

As outlined in the Minister's foreword, the plan set out the following immediate priorities:

- Realise legislative and practice reforms to help provide permanency and stability for

<sup>32</sup> Department of Human Services, *Out of Home Care: A Five Year Plan*, 2014

children.

- Investigate opportunities to better support and grow our vital foster carer workforce.
- Increase the role of the non-government sector in assessing and supporting kinship care arrangements.
- Establish a practical approach to monitoring the outcomes being achieved for children and young people in care. Based on this information, a process for reporting on the wellbeing of children and young people in the care of each service provider will also be established.
- Commence immediate actions to improve the safety and wellbeing of children and young people in residential care.
- Develop a complementary plan for Aboriginal children and young people in out-of-home care.
- Explore innovative approaches to commissioning, targeted at preventing entry to care, supporting transition from residential care and improving leaving care supports.
- Establish a more collaborative and effective approach to governance – and through this – identify and act on opportunities for practical system improvements.

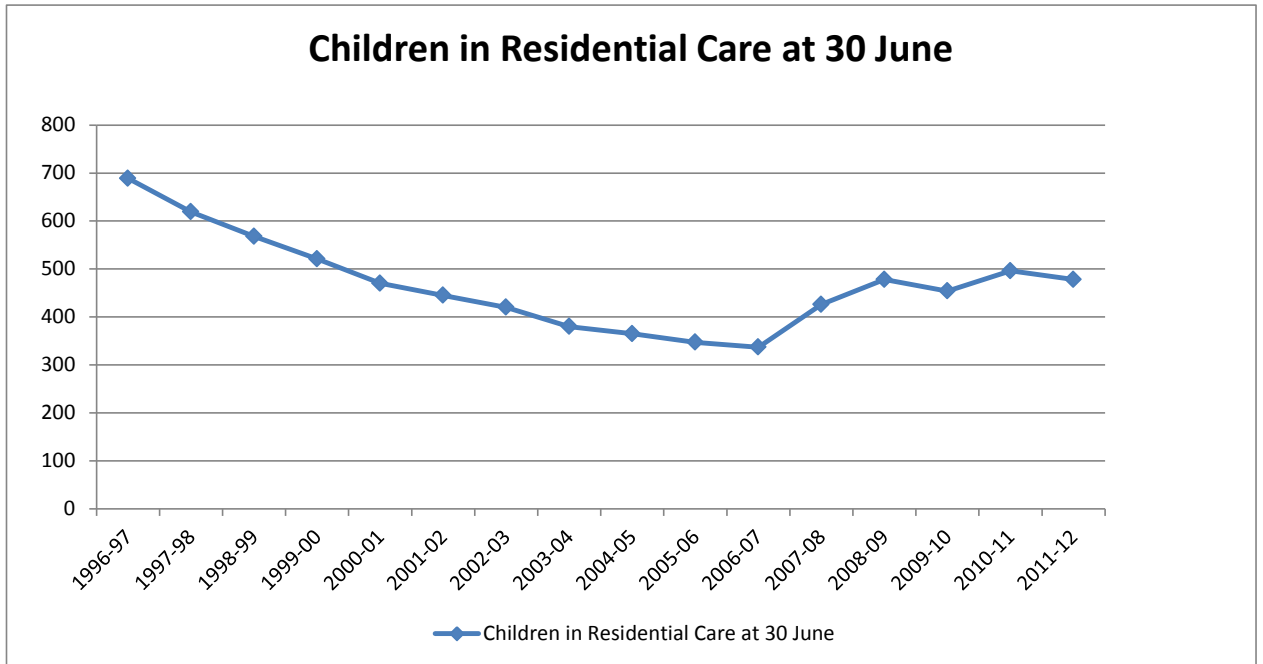
To support initial implementation \$336 million over four years was announced in the 2014 State Budget to support the plan for the following initiatives:

- the construction of new residential care facilities
- new therapeutic residential placements
- therapeutic home-based care packages
- technology to assist the implementation of an outcomes framework to ensure views of children in care are incorporated into case planning, as well as informing the monitoring and assessment of out-of-home care providers
- enhanced support for foster and kinship carers
- professional development and support for residential care staff.

An Out-of-Home Care Advisory Group with very wide representation sector and departmental representation has been established to support the implementation of the plan.

### Current residential care arrangements

Between 1996-97 and 2011-12 the number of children and young people placed in residential care on 30 June each year in Victoria declined from 700, or 6.5 children per 10,000 children (0-17 years) in 1996-97 to just under 500, or 3.9 children per 10,000 children (0-17 years) in 2011-12.



Source: Australian Institute of Health and Welfare, *Child protection Australia* annual reports (1996-97 to 2011-12)

As at June 2014 there were 17 (down from 18 in late 2013) community service organisations funded to provide approximately 450 placements across Victoria. Another community service organisation has recently given notice to the Department of Human Services of its intention to 'hand back' some residential care targets to the department in the second half of 2014.

Since 2010 the Department of Human Services has published limited data in its annual report on the percentage of children under 12 years placed in residential care (as a percentage of all children in out of home care) on the 30 June each year. The data indicates that over the last four years between 20 and 30 per cent of placements in residential care involve children under 12.

<b>Children under 12 years placed in residential care (Victoria)</b>			
	Number	Per Cent of all Children in Out of Home Care	All children in out of home care
30-Jun-10	89	1.63%	5469
30-Jun-11	135	2.37%	5678
30-Jun-12	122	1.97%	6207
30-Jun-13	92	1.43%	6399

Source: Analysis based on data provided in Department of Human Services annual reports and Report of Government Services reports produced by the Productivity Commission each year.

There is a broad consensus that placements of children under 12 years in residential care is undesirable but often unavoidable due to the need to place large sibling groups together and the absence of suitable home-based placements.

According to the Productivity Commission, 479 children and young people were placed in residential care on 30 June 2013<sup>33</sup>. Of these:

- Just under 50 per cent were placed in the basic RP2 model of residential care and just over 50 per cent in the better funded RP3 model of care provided by community services organisations. The RP3 model includes a number of placements based on the therapeutic care model.

The Auditor-General's 2014 report<sup>34</sup> observed that the planned capacity of Victoria's residential care system is 459 placements in contrast with a daily average occupancy during 2012-13 of 508 placements. The gap between funded capacity and actual capacity is filled by contingency units, often established on a temporary, short term basis. As detailed in the Auditor-General's report, the provision of contingency units represents an unfunded liability for the Department. The Auditor-General calculated the number and cost of these unfunded placements:

*In total, 390 extra unfunded placements were purchased in 2011–12 at a cost of \$19.9 million, and 306 places were purchased in 2012–13 at a cost of \$24 million<sup>35</sup>.*

The absence of sufficient new funds to address growing demand resulted in the Department of Human Services having to fund the gap from within its internal budget. This was achieved in part by shifting \$11.3 million in funds from other funded initiatives in 2011-12, including \$2.8 million in funds for Health and Education Assessments for children in out of home care, \$1 million for building the capacity of Aboriginal organisations and \$2.8 million for services for children leaving care.

<sup>33</sup> Table 15.A19, Productivity Commission, *Report of Government Services 2014*

<sup>34</sup> Victorian Auditor-General op cit.

<sup>35</sup> Victorian Auditor-General, op cit. p.34.

What is evident from this data is a growing gap between residential capacity and actual demand. Whilst not made explicit in the Government's *Out of Home Care: A Five Year Plan*, subsequent briefings by the department indicated that the commitment to introduce therapeutic models of care across all residential care types during the life of the plan is premised on the assumption that approximately half of all children in residential care can be moved into more appropriate, less expensive home based care placements.

Many stakeholders have commented that this is a heroic assumption given the highly complex needs of children currently in residential care placements alongside departmental forecasts (as referred to in the Auditor-General's 2014 report) of a 30 per cent growth in demand for residential care placements by 2017-18.

### Out of home care demand and expenditure

Victoria's expenditure on out of home care is by national standards modest. According to the Productivity Commission<sup>36</sup> Victoria spends \$450 per child in the population on child protection and out of home care compared to \$679 in New South Wales and \$640 in Queensland. This is the lowest level of expenditure in Australia.

Table 15A.1 **State and Territory Government real recurrent expenditure on child protection and out-of-home care services, (2012-13 dollars) (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m)**

	Unit	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13
Real expenditure per child											
Child protection and out-of-home care services											
NSW	\$	369.60	381.05	399.33	450.37	532.74	554.30	660.01	669.62	653.85	679.15
Vic	\$	264.31	298.44	302.85	310.02	325.58	369.38	391.80	417.40	443.11	450.14
Qld	\$	275.67	372.56	436.90	497.43	537.10	551.99	561.12	629.81	660.66	640.54
WA	\$	248.46	250.29	258.29	285.80	364.20	432.26	471.78	517.72	563.39	593.85
SA	\$	179.51	233.33	251.18	354.74	392.03	424.55	466.77	501.92	552.45	578.71
Tas	\$	228.41	261.28	326.94	430.78	410.67	418.83	479.85	512.54	548.86	539.58
ACT	\$	403.78	557.68	497.69	463.83	435.35	439.34	431.92	490.36	484.30	505.97
NT	\$	376.07	445.56	528.33	541.57	711.84	888.22	1 013.75	1 307.12	1 587.54	2 217.03
<b>Australia</b>	<b>\$</b>	<b>296.57</b>	<b>336.26</b>	<b>360.17</b>	<b>403.58</b>	<b>454.03</b>	<b>486.50</b>	<b>537.74</b>	<b>573.83</b>	<b>594.19</b>	<b>612.13</b>

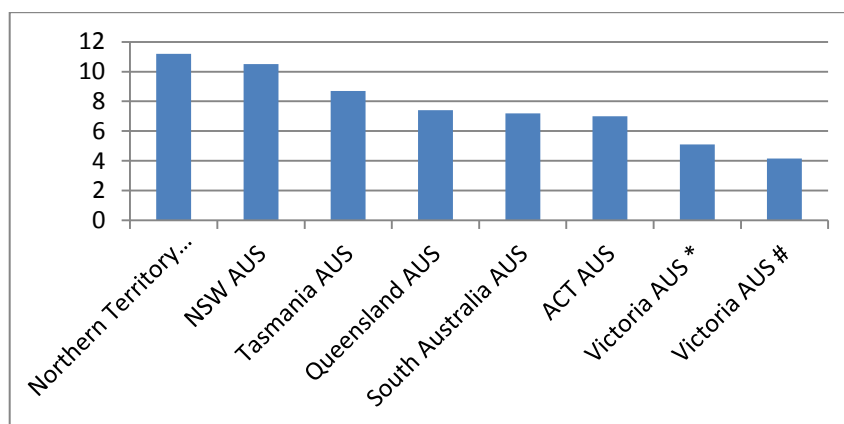
Source: Table 15A.1, Productivity Commission, *2014 Report on Government Services*

In part this reflects lower levels of demand in Victoria. In 2012, there were 5.1 Victorian children per 1,000 children in out of home care compared to NSW (10.5), Queensland (7.4) and a national average of 7.7 children per 1,000 children:

<sup>36</sup> Productivity Commission, *2014 Report on Government Services*, 2014. Accessible at: <http://www.pc.gov.au/gsp/rogs/community-services>



**Children aged 0–17 in out-of-home care, states and territories, 30 June 2008 to 30 June 2012  
(rate per 1,000 children)**



\* As reported in *Child protection Australia 2011-12*, Australian Institute and Health and Welfare

# Excluding children subject to Permanent Care Orders

While the overall rate of Victorian children in out of home care is low, it does have a similar number of children placed in residential care when compared to New South Wales.

Type of placement	NSW	Vic	Qld	WA	SA	Tas	ACT	N T	Total
All children									
Residential care	480	479	618	150	330	25	38	73	2 193
Family group homes	19	na	..	191	–	22	–	8	240
Home based care									
Foster care	7 091	2 025	4 492	1 467	1 102	445	208	406	17 236
Relative/kinship care	9 730	3 190	3 026	1 617	1 190	303	291	40	19 387
Other home based care	–	680	..	–	6	235	22	186	1 129
<b>Total home based</b>	<b>16 821</b>	<b>5 895</b>	<b>7 518</b>	<b>3 084</b>	<b>2 298</b>	<b>983</b>	<b>521</b>	<b>632</b>	<b>37 752</b>
Independent living (incl. private board)	93	23	..	20	29	5	–	3	173
Other (incl. unknown)	9	2	..	191	–	32	–	32	266
<b>Total children</b>	<b>17 422</b>	<b>6 399</b>	<b>8 136</b>	<b>3 636</b>	<b>2 657</b>	<b>1 067</b>	<b>559</b>	<b>748</b>	<b>40 624</b>

Source: Table 15A.19, Productivity Commission, *Report on Government Services*, 2014

It is speculated that the main reason for the relatively high number of children in residential care in Victoria is that it is a product of a successful diversionary youth justice system. The national data bears this out with significantly higher numbers of young people placed in youth justice detention facilities in other jurisdictions compared to Victoria. For example, in 2011-12, on a daily average basis, there were 77 young people placed in detention in Victoria compared to 299 in New South Wales and 137 in Queensland. In terms of a rate per 100,000 children, Victoria's rate of youth detention is 66 per cent below New South Wales and 50 per cent below the Queensland rate.

**Daily average number and rate of males and females aged 10–17 years in detention (a), (b), (c), (d), (e)**

	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Tas</i>	<i>ACT</i>	<i>NT</i>	<i>Aust</i>
<b>2011-12</b>									
Daily average number									
Male	270	<b>70</b>	125	151	51	20	18	33	737
Female	29	<b>7</b>	11	16	7	1	2	5	78
Total	299	<b>77</b>	137	167	60	21	20	38	819
Rate per 100,000 young people aged 10-17 years									
Male	73.2	<b>25.4</b>	51.4	122.0	62.4	72.7	102.5	237.5	64.0
Female	8.3	<b>2.7</b>	4.7	13.9	9.0	3.9	11.8	40.9	7.2
Total	41.7	<b>14.3</b>	28.8	69.1	37.6	39.5	58.0	144.0	36.5

Source: Table 16A.5, Productivity Commission, Report on Government Services 2014

### **Changing attitudes to sexual abuse and sexual exploitation**

Attitudes to the sexual abuse and sexual exploitation of children in Victoria in the first 70 years of the 20<sup>th</sup> Century were primarily viewed through a criminal justice and public health lens, with little focus on the impact upon the child victim. Deep-seated fears originating in the 19<sup>th</sup> century, of moral contagion brought about by sexual abuse continued to prevail, as echoed in the oral testimony of Donella Jaggs, an official in the Victorian Children’s Welfare Department in the 1960’s and 1970’s.<sup>37</sup>

*The Nineteenth Century is on about contamination. Partly, I, I think partly, partly it's, it's the moral, ah, the religious stuff, but it's essentially coming from the growth of huge cities and the need for sanitary reform. And there's this fear that people pass on physical contagion to each other, which is why we need sewerage. But we can pass on moral contagion ...*<sup>38</sup>

*“So you needed to have young prostitutes so you could make the maximum out of them before they knocked-up [became pregnant] and you wanted them before they got full of venereal disease -- so there's always been a mass market in that.”*<sup>39</sup>

Throughout this period occasional cases of sexual abuse of children were identified and in some cases prosecuted but little is known what supports or services were offered to the child victims.

<sup>37</sup> Donella Jaggs interviewed by Jill Barnard in the *Forgotten Australians and Former Child Migrants Oral History Project*. Accessed at: <http://nla.gov.au/nla.oh-vn5079534>

<sup>38</sup> Donella Jaggs, op cit.

<sup>39</sup> Donella Jaggs, op cit.

*‘There’s also been just plain sexual conniving between adults and children which was regarded... frowned upon and was certainly illegal.’<sup>40</sup>*

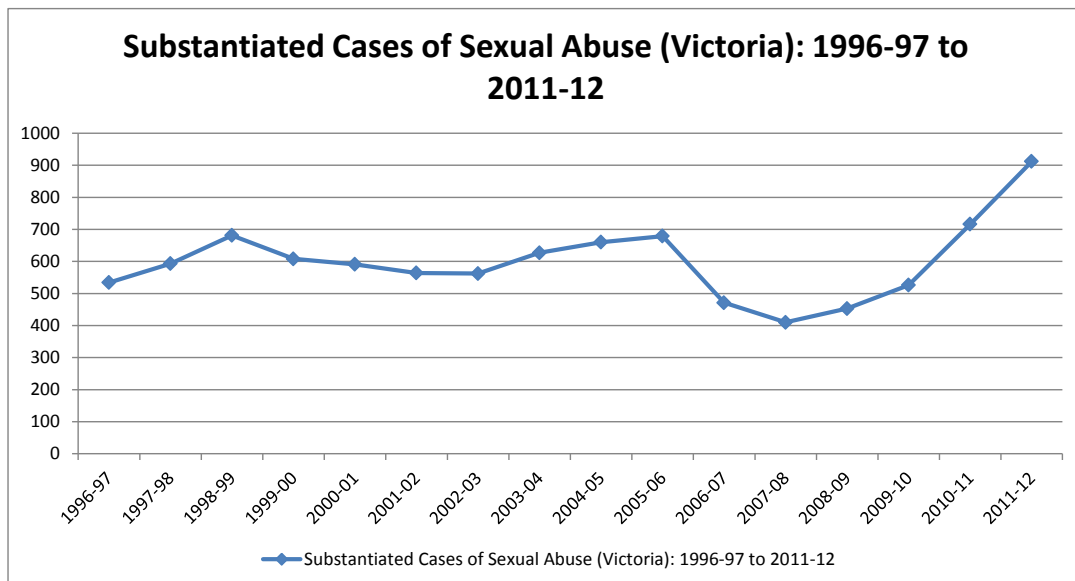
However, as shown in current testimony before the Royal Commission into Institutionalised Responses to Child Sexual Abuse the sexual abuse of children in institutions was barely recognised.

By the 1980’s new public health challenges were emerging with the so called ‘AIDS epidemic’ and the accompanying ‘Grim Reaper’ advertising campaign.

A significant shift occurred in 1989 with the introduction of the *Children and Person’s Act* which for the first time introduced specific grounds for intervention relating to harm caused by sexual abuse. This reflected significant changes in the understanding of sexual abuse from a primarily criminal justice and public health lens to one that reflected growing interest in the rights of women and children.

American research undertaken by Jon Conte and Anna Salter on the causes and consequences of child sexual abuse figured prominently in the training and induction of new child protection practitioners at this time. Concepts of forensic interviewing of child sexual abuse victims were introduced across the State’s child protection response teams.

Despite growing awareness of child sexual abuse, the actual number of substantiated cases of child sexual abuse in Victoria was stable between 1996-97 and 2007-08, but over the last five years has experienced significant growth.



Source: Australian Institute of Health and Welfare, Child Protection Australia reports 1996-97 to 2011-12

<sup>40</sup> Donella Jaggs, op cit.

In terms of incidence, the rate of substantiated child sexual abuse has increased from five per 10,000 children (0-17 years) in the population in 1996-97 to 7.5 per 10,000 children in the population, growth of 50 per cent. However, it is important to note that this Victorian data does not include incidents of sexual abuse and sexual exploitation involving children already placed in out of home care. Currently, data relating to these forms of abuse is not publically available, although such incidents are reported through the department's critical incident reporting system.

Recent media coverage based on internal Department of Human Services data shows that in the year to March 2014 children in out of home care reported 98 alleged rapes, 96 indecent assaults and 73 instances of sexual exploitation<sup>41</sup>. Not all these children were necessarily in residential care and not all the reported incidents would have occurred in an out of home care setting.

However, leaving aside these provisos there is a very high incidence of sexual abuse and sexual exploitation in Victorian residential care settings. This media coverage followed earlier reports of organised gangs of men sexually exploiting children in out-of-home care and enticing them into trading sex for money, drugs and alcohol<sup>42</sup>.

### **Current Victorian governance, policy and operational responses**

This section describes current governance arrangements and responses to sexual abuse and sexual exploitation of children, including children in residential care.

Much of the infrastructure and approaches described in this section have only been instigated in the last five years and represent a significant body of work by staff from the Office of Professional Practice in the Department of Human Services, led by the Chief Practitioner, Ms Robyn Miller and key staff from Victoria Police.

Commencing in 2007 there was a steadily growing interest in the issue of sexual exploitation of children in care following a number of police investigations in Melbourne and rural Victoria. This coincided with Statewide Group Analysis of High Risk Adolescents that highlighted risks associated with sexual exploitation.

In 2008 and 2009 the department's Chief Child Protection Practitioner organised joint forums involving Victoria Police, the Child Safety Commissioner and his office, departmental and community services staff to consider recent cases of sexual exploitation of children in out of home care. At this time Victoria Police advised that evidentiary difficulties in prosecuting cases

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<sup>41</sup> ABC News, *Leaked documents show hundreds of sexual assault allegations in Victorian children's homes*, 4 July 2014. Accessed at: <http://www.abc.net.au/news/2014-07-03/documents-show-hundreds-of-sexual-abuse-allegations-in-homes/5570166>

<sup>42</sup> ABC News, *Paedophile gangs targeting children in state care in Victoria for sexual abuse*, 12 March 2014. Accessed at: <http://www.abc.net.au/news/2014-03-11/criminal-gangs-enticing-children-in-state-care-into-prostitution/5313632>

of sexual abuse and sexual exploitation had led to new approaches, referred to as 'disruptive policing'. This involved Victoria Police actively discouraging and disrupting individuals and groups suspected of involvement in sexual exploitation .

In 2010 the department made changes to its incident reporting system, introducing a new category of 'sexual exploitation' to replace the previous term, 'prostitution'.

In the same year Victoria Police discovered that a large number of men placed on the Sex Offender Register may have been having unauthorised contact with children. A joint investigation of several hundred children by Victoria Police and the Department of Human Services occurred.

A senior child protection manager was outposted to Victoria Police to facilitate liaison between the two organisations and that position subsequently became permanent. These events were later the subject of an investigation by Ombudsman Victoria which made a number of recommendations focussing on improved processes and procedures involving Victoria Police, the Department of Human Services and Corrections Victoria<sup>43</sup>. A range of policy and practice initiatives were subsequently introduced and are summarised under the following themes:

- Statewide Governance Arrangements
- Child Protection Practice, Procedures and Professional Guidance
- Local Responses
- Identifying and Monitoring Children at Risk of Sexual Exploitation
- Information and 'Intelligence' Sharing
- Residential Care Workforce and Program Requirements
- Specific Learning and Development Initiatives

#### *Statewide Governance Arrangements*

The *Collaborative Responses to Child Protection and Youth Justice Steering Committee* was established in 2008 with responsibility to oversight the work of the Department of Human Services and Victoria Police in relation to child protection and youth justice clients. The Committee was chaired by the Executive Director, Children Youth and Families, and the Deputy Commissioner, Victoria Police.

In June 2012, the new *Protecting Children protocol between DHS Child Protection and Victoria Police* was endorsed and implemented in both organisations. The protocol provides guidance for child protection practitioners and Victoria Police members to ensure that an effective collaborative response is provided by both services for children who have suffered, or are likely

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<sup>43</sup> Ombudsman Victoria, *Whistleblowers Protection Act 2001 Investigation into the failure of agencies to manage registered sex offenders*, February 2011

to suffer, significant harm due to physical, sexual, emotional or psychological abuse and/or neglect.

In October 2012, an addendum protocol was also developed for the exchange of information on registered sex offenders between Victoria Police and Child Protection.

In May 2013, the department and Victoria Police commenced a review of the existing governance arrangements for the inter-organisational partnership and in April 2014 this led to the Department of Human Services and Victoria Police establishing a new high level Collaborative Responses Steering Committee<sup>44</sup>. The Committee's Terms of Reference<sup>45</sup> are:

1. *Provide oversight of implementation of government policy as it relates to the shared jurisdiction of DHS and Victoria Police.*
2. *Provide oversight of implementation of strategic initiatives and directions agreed by7 the Secretary DHS and Chief Commissioner, Victoria Police.*
3. *Examine and respond to issues of strategic and operational intersection between DHS and Victoria Police concerning collaborative responses to individuals and families in receipt of services from DHS.*
4. *Identify policy, systemic and operational; issues for joint attention and promote collaborative responses to individuals and families in receipt of services from DHS.*
5. *Promote development of and provide strategic support to DHS/Victoria Police relationships at divisional/regional/area levels.*

A series of sub-committees are being established including a *Sexual exploitation of children and young people in out of home care* sub-committee. The priorities<sup>46</sup> for this committee are to:

- *Develop and implement a statewide strategy for preventing and responding to sexual exploitation and report to the Committee on progress and outcomes.*
- *Monitor compliance with MoU and protocol agreements relevant to the collaborative approaches to sexual exploitation and to information sharing.*
- *Provide a statewide forum for issue identification and management and recommended resolutions and desired outcomes.*
- *Promote inter-organisational knowledge building and professional development.*
- *Develop standard data sets and systems for performance and outcome reporting.*
- *Collect and analyse statewide sexual exploitation incident reporting and template data and provide reports to the Committee.*

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<sup>44</sup> Department of Human Services and Victoria Police, *Collaborative Responses Steering Committee*, April 2014

<sup>45</sup> *ibid.*, p.2

<sup>46</sup> *ibid.*, p.8

In April 2014, the Department of Human Services established a time limited Child Protection Sexual Exploitation Taskforce led by the Assistant Director, Child Protection in the department's Statutory and Forensic Services Design Branch. The Taskforce was established to develop an integrated statewide governance structure, systems and processes. The integrated statewide governance structure aims to support the timely collection and reporting of data and intelligence regarding sexual exploitation by providing a consistent quality assurance and reporting structure across divisions. The taskforce concluded in June 2014. Some of the taskforce work is now being progressed through the sexual exploitation sub-committee of the Collaborative Responses Steering Committee.

#### *Child Protection Practice, Procedures and Professional Guidance*

In March 2014 a new advice *Sexual exploitation of children and young people Advice no. 1597*<sup>47</sup> was issued to Victorian child protection practitioners regarding child protection clients who are identified or believed to be at risk of sexual exploitation. This advice adopts the definition of sexual exploitation developed by the UK *Tackling Sexual Exploitation National Working Group*<sup>48</sup> and now widely used by the UK Government and local authorities:

*Sexual exploitation of children and young people under 18 involves exploitative situations, contexts and relationships where young people (or a third person or persons) receive 'something' (e.g. food, accommodation, drugs, alcohol, cigarettes, affection, gifts, money) as a result of them performing, and/or another or others performing on them, sexual activities.*

*Child sexual exploitation can occur through the use of technology without the child's immediate recognition; for example being persuaded to post sexual images on the Internet/mobile phones without immediate payment or gain. In all cases, those exploiting the child/young person have power over them by virtue of their age, gender, intellect, physical strength and/or economic or other resources. Violence, coercion and intimidation are common, involvement in exploitative relationships being characterised in the main by the child or young person's limited availability of choice resulting from their social/economic and/or emotional vulnerability.*

Advice no. 1597 provides definitions of the following terms<sup>49</sup>:

- *Grooming*

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<sup>47</sup> Department of Human Services, *Sexual exploitation of children and young people Advice no. 1597*, 13 March 2014. Accessible at: [http://www.dhs.vic.gov.au/cpmanual/practice-context/children-in-specific-circumstances/1597-sexual-exploitation-of-children-and-young-people?SQ\\_PAINT\\_LAYOUT\\_NAME=print\\_entire](http://www.dhs.vic.gov.au/cpmanual/practice-context/children-in-specific-circumstances/1597-sexual-exploitation-of-children-and-young-people?SQ_PAINT_LAYOUT_NAME=print_entire)

<sup>48</sup> The National Working Group for Sexually Exploited Children and Young People, 2008. Accessible at: <http://www.nwgnetwork.org/who-we-are/what-is-child-sexual-exploitation>

<sup>49</sup> op cit., p.2-3

- *Sexual exploitation template*
- *Disruption (by Victoria Police)*
- *Person of interest*
- *Registered sex offender*
- *Victoria Police Sex Offences Child Investigation Team (SOCIT)*
- *Victoria Police Sexual Crimes Squad*

The advice details the policies and procedures to be followed by child protection practitioners when responding to information that a child or young person is being sexually exploited. These include detailed guidance<sup>50</sup> on:

- *Placement on the High Risk Youth Schedule*
- *Critical client incident reporting requirements*
- *Sexual exploitation information template*
- *Care team or professionals meetings*
- *Identifying and prosecuting alleged offenders*
- *Removal of a client's mobile phone*
- *Family Violence and Personal Safety Intervention Orders*
- *Offences in relation to children in out of home care*
- *Prosecution procedure guidelines*

A detailed procedure must be followed in cases of alleged sexual exploitation<sup>51</sup>:

*When a child or young person is identified to be at risk of sexual exploitation the child protection practitioner, must:*

- *immediately inform SOCIT via phone or email of the exploitative activity (sexual abuse)*
- *conduct a thorough review of the child or young person's file to assess historical trauma and the impact it may be having upon the child or young person's current presentation*
- *consult with the divisional or statewide principal practitioner*
- *convene a care team or professionals meeting to gather information on the exploitation and formulate appropriate risk and management strategies*
- *enter into a sexual exploitation template all contextual and collated information relating to the exploitation, specifically the date, time and location of the act or acts, and if known, information on the alleged perpetrator - see Related content.*

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<sup>50</sup> op cit., p.4-8

<sup>51</sup> op cit., p5



*Upon completing the sexual exploitation template the child protection practitioner must submit the sexual exploitation template to the divisional child protection operations manager (CPP 6.2) or the delegate for review.*

*The child protection operations manager, or their delegate, is to provide operational oversight of the reported information, provide additional information as necessary and submit the template (via email) to the Senior Practice Advisor, Sex Offender Registry Liaison, Office of Professional Practice (OPP). The reviewed template must also be recorded in the CRIS file.*

*As new information comes to light, or on a minimum quarterly basis, the child protection practitioner is responsible for providing updates to information contained in the template. As with the original template, all updates are to be reviewed by the child protection operations manager, or their delegate.*

Advice 1597 also sets a range of background factors that should be considered and a set of Practice Principles (See Appendix Three).

There is now an extensive body of research on the sexual exploitation of children<sup>52</sup>. Specific guidance for Victorian child protection practitioners is provided through a series of Specialist Practice Resources. Two Specialist Practice Resources have been released with a specific focus on children and young people exhibiting sexually abusive behaviours:

- *Children with problem sexual behaviours and their families*<sup>53</sup>
- *Adolescents with sexually abusive behaviours and their families*<sup>54</sup>

The resources do not replace the department's Child Protection Manual but provide a guide to help practitioners deal with the particularly sensitive issues and situations when working with vulnerable children and families.

The Specialist Practice Resources define sexually abusive behaviours<sup>55</sup> as:

*A child has exhibited sexually abusive behaviours when they have used their power, authority or status to engage another party in sexual activity that is either unwanted or where, due to the nature of the situation, the other party is not capable of giving consent (for example animals, or children who are younger or who have a cognitive impairment). Physical force or threats are sometimes involved. Sexual activity may include exposure,*

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<sup>52</sup> For a detailed summary of current and past research see: A Jackson, *Literature Review, Young people at high risk of sexual exploitation, absconding and other significant harms*, Berry Street Childhood Institute, 2014

<sup>53</sup> Department of Human Services/Australian Institute of Family Studies, *Children with problem sexual behaviours and their families*, 2012

<sup>54</sup> Department of Human Services, *Adolescents with sexually abusive behaviours and their families*, 2012

<sup>55</sup> *ibid.*, p.6

*peeping, fondling, masturbation, oral sex, penetration of a vagina or anus using a penis, finger or object, or exposure to pornography. This is not an exhaustive list.*

A full list of current advice and guidance produced by the Department of Human Services is provided in Appendix Three.

### *Local Responses*

Significant effort<sup>56</sup> has also been focussed on developing effective local responses that reflect and operationalise the high level statewide governance approach and the policy intent of more effective and coordinated local responses to child sexual exploitation. This is a complex but vital task given the large number of diverse organisations, each with specific roles and mandates, that may be involved in providing a local response to child sexual abuse and sexual exploitation.

These may include:

- residential and home-based care providers in the community sector
- child protection and placement co-ordination staff in the Department of Human Services
- uniformed officers and Sexual Abuse and Child Abuse Investigation Teams (SOCIT Teams<sup>57</sup>) from Victoria Police
- Multidisciplinary Centres (which involve staff from Victoria Police, the Department of Human Services, Sexual Assault Centres and forensic health specialists agencies working collaboratively to provide an integrated and holistic response to victims of sexual assault from a single location)
- Corrections Victoria

The Department of Human Services Sexual Exploitation taskforce has recently drafted a proposed joint Department of Human Services and Victoria Police local governance arrangements which currently is pending sign off. The draft local governance proposal includes Department of Human Services Divisions and Victoria Police Regions identifying and establishing appropriate local governance arrangements reflective of area-based (for the Department of Human Services) and divisional (for Victoria Police) structures to hold specific responsibility for oversight of operational responses to sexual exploitation of children and young people in care.

It is intended that local governance arrangements will comprise senior officers from both organisations including representation from divisional Child Protection and Client Outcomes and Service Improvement Branches (Department of Human Services), and Victoria Police SOCITs. The

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<sup>56</sup> Information included in this *Local Responses* section is based on material provided by the Office of Professional Practice in the Department of Human Services

<sup>57</sup> SOCIT Teams are teams of specialist detectives who are trained to investigate the complex crimes of sexual assault and child abuse. There are 27 SOCIT Teams in Victoria

local governance arrangements will have direct reporting lines through to the new Sexual exploitation sub-committee.

To assist local collaboration, the *Sexual exploitation of children and young people in out of home care* sub-committee has drafted an Integrated Practice Response Guide for Child Protection and Victoria Police SOCITs which details local arrangements and processes to be put in place to respond to the risk of sexual exploitation of children and young people.

The Integrated Practice Response Guide will provide for the identification of local structures that support the relationship and operational procedures between Child Protection and Victoria Police; articulate agreed local processes for information sharing; and identify the disruption and strategic/tactical responses to protect children from sexual exploitation.

#### *Identifying and Monitoring Children at Risk of Sexual Abuse and Sexual Exploitation*

Identifying and monitoring children who may be at risk of sexual abuse and sexual exploitation is a critical component in developing effective responses. Early identification of at risk children enables a suite of strategies to be put in place to provide a circle of safety and support around the child and can provide the information that law enforcement agencies need to proactively pursue, disrupt and prosecute perpetrators.

All Victorian Department of Human Services Divisions now operate what is known as the *High Risk Youth Schedule*. The *Schedule* provides a framework and mechanism to support early identification of the most highly vulnerable clients including those at risk of sexual exploitation. High risk schedules also support organisational risk management and provide for early advice to the Divisional child protection executive and also the local area executive.

Each client on the schedule is required to have an effective and adequate multi-service case plan and functioning care team, and case intervention, goal achievement and risk management arrangements that are reviewed by a high risk panel no less than monthly.

Placement of the child or young people on the schedule enables support and direction for case practice through rigorous review of the case history, planning, intervention and outcomes. It also facilitates, multidisciplinary collaborative problem-solving and assists identify effective future interventions and risk management strategies.

In 2012, a new process for recording the details of clients at risk of sexual exploitation was introduced through the requirement that a sexual exploitation template be completed and updated for each client deemed at risk.

The sexual exploitation template supports the collation of concise and relevant information on acts of sexual exploitation concerning the person of interest, the child or young person, and the sharing of this information with Victoria Police. The template is a joint Child Protection and

Victoria Police document and prompts divisional child protection practitioners for consideration and recording of specific information to assist police intelligence gathering for investigative purposes and to support safety planning.

The Office of Professional Practice oversees and coordinates collation of child protection information from Divisions. Divisions forward completed templates to the Office of Professional Practice for analysis and identification of any possible links across the state to other young people and alleged perpetrators (also known as persons of interest).

The templates are then provided to Victoria Police Sexual Crimes Squad for analysis and to identify any alleged perpetrators who are known to police. In addition, the Office of Professional Practice obtains quarterly updates on all children reported as at risk of sexual exploitation and prepares a consolidated report for internal reporting purposes and for sharing with Victoria Police.

The Office of Professional Practice and Victoria Police are currently reviewing the sexual exploitation template to improve data collection and analysis, and strengthen information sharing processes and systems. It is anticipated that the revised template will integrate incident reporting data with information about sexual exploitation risk.

The Department of Human Services Critical Incident Management approach enables the routine monitoring of emerging issues. Comprehensive guidance on critical incident reports involving physical and sexual assault is provided in *Responding to allegations of physical or sexual assault*.<sup>58</sup> This instruction applies to all services directly delivered or funded by the Department of Human Service.

The data received for incident type behaviour/sexual exploitation is reviewed monthly and cross referenced with the child sexual exploitation master list maintained by the Office of Professional Practice.

For the most serious incidents (category 1) the following groups must also be informed of the incident.

- All category 1 incidents that include alleged criminal acts must be reported to the Police, regardless if the child or young person consents to this report.
- A copy of all category 1 reports relating to out of home care clients must be provided to the Commission for Children and Young People (CCYP). In addition and as required, the CCYP receives a copy of e-mail alerts for incidents that have a very high impact on the client.

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<sup>58</sup> Department of Human Services, *Responding to allegations of physical or sexual assault*, 2014. Accessed at: [http://www.dhs.vic.gov.au/\\_\\_data/assets/word\\_doc/0005/870035/responding-to-allegations-of-physical-or-sexual-assault-tech-update-2014.doc](http://www.dhs.vic.gov.au/__data/assets/word_doc/0005/870035/responding-to-allegations-of-physical-or-sexual-assault-tech-update-2014.doc)

- Since 2010, the CCYP also receives a copy of quality of care outcome reports on a fortnightly basis.

### *Information and 'Intelligence' Sharing*

As the central coordinating body the Office for Professional Practice in the Department of Human Services has access to a wide variety of information sources including critical incident reports, information contained in sexual exploitation templates and information from its outposted staff member at Victoria Police. The new *Sexual exploitation of children and young people in out of home care* sub-committee can also act as a clearing house for new and emerging information relating to both children and groups of children who may be at risk and perpetrators.

Putting all this information together, or 'joining the dots' should lead to earlier identification of at risk children and the development of better, more targeted responses by involved agencies at the local level. To support this intelligence gathering the Office for Professional Practice has developed a process which maps and identifies the links between children and young people deemed at risk and known offenders and alleged perpetrators.

This information is incorporated into a 'link chart' document that is forwarded to Victoria Police and tailored to their operational requirements. It assists Victoria Police develop their own operational brief to commence targeted activities at known offenders/persons of interest, including groups of offenders/persons of interest that are targeting vulnerable young people in a highly systematic, co-ordinated manner.

The link charts provided by the Office of Professional Practice facilitate a statewide as well as localised approach to targeting known offenders and persons of interest.

### *Residential Care Workforce and Program Requirements*

In 2012<sup>59</sup> a workforce census of organisations providing residential care in Victoria was undertaken. Key findings from the census included:

- 68 per cent of workforce were female, 32 per cent male
- 55 per cent were employed on a casual basis, 26 per cent were full time and 19 per cent were part time

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<sup>59</sup> Centre for Excellence in Child and Family Welfare, *Victorian Residential Care Workforce Census at a Glance*, 2012

- Of the full time workforce 68 per cent had a Certificate IV or above, eight per cent were undertaking a Certificate IV and 24 per cent did not hold a relevant qualification
- Of the part time workforce 57 per cent had a Certificate IV or above, seven per cent were undertaking a Certificate IV and 36 per cent did not hold a relevant qualification
- Of the casual workforce 62 per cent had a Certificate IV or above, seven per cent were undertaking a Certificate IV and 38 per cent did not hold a relevant qualification

Significantly, of the total workforce 34 per cent did not possess a relevant qualification.

Community Services Organisations delivering residential care for children are required to comply with the Department of Human Service's *Residential Care Program Requirements*<sup>60</sup>, described in the following terms:

*The program requirements are the essential prerequisites for providing a quality service for the children in residential care throughout the state.*

*The requirements are statements of what CSOs providing residential care services need to do in order to meet service expectations. In general, the requirements do not outline how – this information can be sourced from the range of program guidelines and other documents as referenced throughout this publication. CSOs will also have their own operations and procedural documentation that outline how the program requirements are implemented.*

Domains covered in the *Residential Care Program Requirements* include<sup>61</sup>:

- The legislative and legal context
- Program requirements
- Environmental and material goods requirements
- Organisational and human resource requirements

In respect of incidents of sexual abuse and sexual exploitation the *Residential Care Program Requirements* states:

*CSOs will have practice guidelines for residential carers about working with children (under ten years of age) who exhibit problem sexual behaviour and with children and young people displaying sexually abusive behaviour (aged over ten).*<sup>62</sup>

The guideline also refer to supporting documentation produced by the Department of Human Services as well as procedures to be followed following critical incidents but is otherwise silent on the sexual abuse and sexual exploitation of children in residential care. There is no specific guidance in the guidelines on responding to the needs of children exposed to sexual abuse and

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<sup>60</sup> Department of Human Services, *Residential Care Program Requirements in Victoria*, April 2014

<sup>61</sup> *ibid*

<sup>62</sup> *Ibid.*, p.13

sexual exploitation or specific guidance on appropriate service responses to children who may be exhibiting sexually abusive or sexually exploitative behaviours. This appears to be an omission and the expectation that CSOs develop their own practice guidelines may lead to variable and inconsistent responses.

### *Specific Learning and Development Initiatives*

Training plays a critical role in maintaining good professional practice and there has been significant focus on enhancing front line staff's knowledge of child sexual abuse and child sexual exploitation. Training for staff working with vulnerable children (principally child protection, out of home care and family services) is based around the Best Interests principles articulated in the Children, Youth and Families Act 2005. All these services are subject to the Best Interests principles.

The Best Interests Case Practice Model professional development series, focuses on application of the model to particular areas of practice but include common and broader messages about practice. The Best Interests series includes two professional development programs for child protection, youth justice and disability program staff, and the broader child and family services sector in relation to sexual abuse. These are full day programs on *Working with children and problem sexual behaviour and young people with sexually abusive behaviour*, and *Working with adolescents at risk of sexual exploitation* (co-facilitated by Victoria Police).

The sexual exploitation program is provided to child protection, police and community sector organisations and is delivered in a way that draws on the multi-sector experiences to share knowledge, strategies and data and encourage strong collaboration to address sexual exploitation.

The aims of the training are to:

- Understand what constitutes child sexual exploitation, including models of exploitation, the role of technology, organised versus opportunistic forms of exploitation.
- Redefining how we view young peoples' involvement in sexually exploitative situations.
- Systems response to sexual exploitation.
- Interagency responses.
- Innovative practice to interrupt sexual exploitation

In 2013, almost 2000 staff from child protection, police, and community service organisations participated in Best Interests training. This included over 800 participants in specialised training regarding sexual exploitation.

By the end of 2014, a further 470 child protection practitioners, police, and staff from community service organisations will have participated in Best Interests training.

The Office of Professional Practice also co-facilitates a third program with Forensicare, *Understanding sexual offending – Implications for child protection staff*.

The department also resources professional development programs that target particular cohorts of operational staff. For example, the Residential Care Learning and Development Strategy (RCLDS) is funded by the department to provide a professional development and learning Residential Care Learning and Development Strategy

The Department of Human Services *Residential Care Learning and Development Strategy* (RCLDS), currently delivered by the Centre for Excellence in Child and Family Welfare aims to improve outcomes for children and young people living in residential care in Victoria due to child protection issues. It is the principal in-service training available for residential care staff.

RCLDS is overseen by a Reference Group comprised of senior, experienced representatives from community service organisations providing residential care services, the Department of Human Services, and the Centre.

The goals of RCLDS are:

- The ongoing development and maintenance of a skilled and stable workforce.
- Provision of high quality training, supervision and support to workers.
- Development of appropriate pre-service and in-service qualifications relevant to the field.
- Commitment to and development of a lifelong learning culture in the workplace.
- To support the development of appropriate services to Aboriginal children and young people in care through promoting cultural sensitivity and awareness by its mode of operation, in training and in learning materials.ng program for residential care and other out of home staff.

In 2014-15, the Office of Professional Practice will provide training for up to 400 residential care workers in the RCLDS forum *Working with young people at risk of sexual exploitation*.

In 2013-14 a new training package was rolled-out to enhance the theoretical knowledge and practice of practitioners in the delivery of the sexually abusive behaviours treatment services. The Australian and New Zealand Association for the Treatment of Sexual Abuse deliver some components of the program in conjunction with interstate and internally based leaders in the field, including Office of Professional Practice.

In 2015, the Office of Professional Practice will continue its training effort across child protection, police and community service organisations. Training is also being extended to



professionals who work with people with disabilities and with young people in the youth justice system.

### 3 Emerging themes

A significant number of submissions have been made to the Royal Commission into Institutional Child Sexual Abuse<sup>63</sup> on preventing sexual abuse of children in out of home care. The themes described in those submissions have much in common with the themes arising from this short analysis. Overseas analysis and reform, particularly in the United Kingdom, is identifying similar themes (see International Approaches section later in this chapter and Appendix 2).

While the Royal Commission into Institutional Child Sexual Abuse is only part completed, its terms of reference have an explicit reference to current and future policies relating to the sexual abuse and sexual exploitation of children in institutionalised settings and the related roles of governments and institutions. The Royal Commission's first two terms of reference in its Letters Patent state:

*a. what institutions and governments should do to better protect children against child sexual abuse and related matters in institutional contexts in the future;*

*b. what institutions and governments should do to achieve best practice in encouraging the reporting of, and responding to reports or information about, allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;*<sup>64</sup>

There does now appear to be a strong national and international consensus emerging on the appropriate policy, funding and service delivery priorities to address the challenge of sexual abuse and exploitation of children in out of home care. These build on recent directions outlined in this report and are likely to involve significant and far-reaching changes to current arrangements. The next section provides a brief synopsis of these themes.

#### Placement prevention

Out of home care is a very high cost intervention and in a context of both significant demand growth and constrained budget capacity there has been renewed interest in strategies to prevent admission to out of home care and promote earlier reunification.

The *Stronger Families*<sup>65</sup> model recently piloted in six Department of Human Services areas (Loddon, Mallee, Inner Gippsland, Barwon, North East Melbourne and Southern Melbourne) is an integrated placement prevention and reunification service. The service targets children who

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<sup>63</sup> Accessible at: <http://www.childabuseroyalcommission.gov.au/submissions/312/issues-paper-4,-preventing-sexual-abuse-of-children-in-out-of-home-care->

<sup>64</sup> Letters Patent of the Royal Commission into Institutional Child Sexual Abuse, (January 2013) Accessed at: <http://www.childabuseroyalcommission.gov.au/about-us/terms-of-reference>

<sup>65</sup> Information on *Stronger Families* model is based on a recent presentation on the evaluation of the model by KPMG: Department of Human Services, PowerPoint presentation *Out of Home Care Community Service Organisation support forum*, 18 March 2014, unpublished

are at imminent risk of being removed and placed in out of home care for the first time, or children who have recently entered out of home care for the first time but are able to return home with supports. Children 0-2 years and 10-15 years and Aboriginal children are prioritised.

The service is characterised by: integrated governance arrangements; single referral point with child protection; a coordinated person centred service response; flexible support packages; specialist services; and individually tailored service responses.

Unpublished evaluation findings indicate that:

- Children involved with *Stronger Families* were less likely to be in care at closure and at three, six, nine and 12 months post closure, compared to participants in comparator programs
- *Stronger Families* is helping reduce the number of children entering OOHC and reducing the amount of time children and young people spend in OOHC before being reunited with their families
- The cost benefit analysis estimates for every additional dollar invested additional savings of \$1.23 are realised within child protection and out of home care
- The *Stronger Families* model supports a more culturally proficient response for Aboriginal children and families

Funding for further expansion of Stronger Families is not currently available.

### **Different forms of sexual abuse and sexual exploitation**

It is important to recognise the various forms of sexual abuse and sexual exploitation that may occur in residential care settings since each form of abuse requires a specific set of monitoring and practice responses. The different forms of abuse and exploitation include:

- Sexual abuse and sexual exploitation by organised gangs and paedophiles
- Sexual abuse and sexual exploitation through the use of social media
- Child on child sexual abuse and exploitation
- Carer to child sexual abuse and exploitation

Organisations and practitioners working with sexually abused and exploited children and young people require support and training in all these forms of abuse so that they can recognise the signs and symptoms and develop appropriate responses.

### **Characteristics of children in residential care**

Children in residential care present all the typical indicators and trauma symptoms arising from abuse and neglect. Most have also experienced one or more of the following: poverty, exposure to abuse of alcohol and drugs, mental health issues and family violence involving their carers.

While brief or limited exposure to such issues may not have lasting impact, prolonged and cumulative exposure can result in significant attachment and interpersonal issues and disorders, developmental delay, disassociation, self-regulation difficulties, age-inappropriate sexualised behaviours, self-harming behaviours and suicide ideation. Often these characteristics may already be present before the child or young person enters out of home care.

The key needs of these children and young people include:

- A deep understanding of their past history, their culture and family circumstances
- Skilled treatment by appropriately qualified practitioners and carers
- Provision of a safe and secure care environment including careful management of the child's interaction with their family and past and present peers
- A comprehensive care and support plan in which roles and responsibilities are clearly articulated, regularly reviewed and updated

Importantly, an absence of one or more of these features is likely to lead to further deterioration in the child's condition and behaviours and an increased likelihood of sexual abuse and sexual exploitation.

### **Workforce and care setting requirements**

All staff, - direct care staff and practitioners - working with vulnerable children in residential care settings require the specific skills and knowledge set out previously. However, with often unqualified casual staff accounting for 55 per cent of the direct care workforce and 34 per cent of the total workforce having no relevant qualification it is difficult to gauge to what extent these staff are able to effectively perform their work to an adequate standard. With a highly casualised, lowly paid and often unqualified workforce it is inevitable that children in residential care will experience frequent changes in the quality of the staff group caring for them.

Creating a safe and secure environment for vulnerable children in residential care settings requires a range of staffing, procedural and organisational characteristics including:

- A mix of residential care types that can be tailored to the particular needs of each vulnerable child
- A safe, normalised and homely physical care environment
- Sufficient staff to provide close care or supervision to children requiring such intervention

- Sufficient staff to ensure children are supported to get to and attend school and pursue extra-curricular and other leisure activities
- Clearly understood and shared admission procedures
- Regular case and care planning processes that actively encourages and hears the child's voice and pay particular attention to the child's health and educational needs
- Clearly understood incident management procedures
- Open and transparent exchange of relevant information whilst protecting the privacy of the child or young person
- Effective staff recruitment and selection processes and ongoing professional development
- Appropriate staffing levels and a stable, skilled direct care workforce
- Clearly understood and applied staff codes of conduct

All stakeholders consulted during the preparation of this report highlighted the need to upgrade the training, qualifications and skills of residential care staff. A better trained and supported workforce, with consistently applied minimum qualifications should over time reduce the current heavy reliance on a casualised workforce.

### **Multidisciplinary approaches**

At both the strategic and operational level there have been significant enhancements in recent years, particularly between Victoria Police and the Department of Human Services. This includes the new *Collaborative Responses Steering Committee* and the permanent placement of a senior child protection manager in Victoria Police to facilitate improved integration and collaboration.

Child victims of sexual assault involving family members or victims subject to sexual assault in an out of home care setting typically encounter three separate service systems in the immediate aftermath of the assault – Victoria Police, Sexual Assault Services and Child Protection. At the instigation of local practitioners, a pilot multi-disciplinary centre involving these three services was piloted in the Frankston area in 2007. The pilot aimed to provide a collaborative investigative and support response to victims of sexual assault. A positive evaluation of the pilot by Deakin University<sup>66</sup> led to the provision of funding to establish multi-disciplinary centres in six locations. Currently three are operational (Frankston, Mildura and Geelong) with planning for the remaining three centres (Dandenong, Bendigo and La Trobe Valley) underway.

The inclusion of specialist staff within therapeutic residential care models also reflects the expansion of multidisciplinary approaches.

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<sup>66</sup> Powell, M and Hughes-Scholes, C. Evaluation of the Sexual Offence and Child Abuse Investigation Team (SOCIT) and Multidisciplinary Centre Pilot Program, Deakin University, 2012

## **Demand and capacity pressures in residential care**

As discussed in Chapter Two, residential care for Victorian children and young people continues to experience significant demand and capacity pressures. The Victorian Government's *Out of Home Care: A Five Year Plan*<sup>67</sup> outlines a number of measures to address these pressures, however makes only limited commitments to additional residential care or alternative placement capacity. It is extremely doubtful that these commitments will be sufficient to address the 30 per cent growth in demand for residential care placements by 2017-18 projected by the Department of Human Services. If the department's projection is accurate, the lack of additional or alternative forward placement capacity will place further pressure on already overstretched services.

As noted in Chapter Two of this report, a similar strategy to reduce the quantum of residential care in the 1990s drew the following observation from the then Auditor-General in 1996:

*However DHS has not been successful in providing the level of home-based care needed to replace the facility-based accommodation being phased down, in conjunction with more children coming into care.*<sup>68</sup>

Whether the current plan described in *Out of Home Care: A Five Year Plan*<sup>69</sup> can avoid similar planning mistakes remains to be seen.

## **Does residential care have a future?**

From its early development in the mid-19<sup>th</sup> Century residential care for vulnerable children has evolved from a focus on large congregate industrial and reformatory settings through to smaller homes based in the community and many variations in between.

As a proportion of the total out of home care placement system, residential care now accounts for less than eight per cent of all placements but just under 43 per cent of the total cost of out of home care in Victoria<sup>70</sup>. This, combined with recurring concerns about the quality of residential care, has led some stakeholders and commentators to question the future sustainability of this care type.

Recent inquiry reports, in particular the *Protecting Victoria's Vulnerable Children Inquiry* report and consultations with stakeholders suggest there is particular interest in progressively reducing the number of children placed in residential care by expanding the availability of individually tailored home based care placements. This approach is a centrepiece of the *Out of Home Care: A*

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<sup>67</sup> Department of Human Services, *Out of Home Care: A Five Year Plan*, 2014

<sup>68</sup> Auditor-General of Victoria, *Special Report No, 43, Protecting Victoria's Children, the Role of the Department of Human Services*, 1996

<sup>69</sup> Op cit.

<sup>70</sup> Productivity Commission, op. cit. Table 15.A3

*Five Year Plan* although some reservations have been expressed about the feasibility of the plan. These focus on three aspects of the proposal.

First, concerns that Commonwealth taxation treatment of professional foster care has yet to be resolved despite strong advocacy to the federal government by States and Territories. Until such issues are resolved it is doubtful that there will be sufficient incentives for prospective home based carers to commit to the care of highly vulnerable children and young people.

Second, there are serious questions about how such a transition could be managed in the context of the department's projected demand growth for residential care of 30 per cent over the next four years.

Third, transitional or 'hump' funding would usually be required for a transition of this nature. This relates to the need to continue providing a residential care setting for those children who cannot be placed in a tailored home based care setting. Similarly not all children can be placed immediately nor would it be desirable to move children from settled residential care arrangements that are meeting their needs.

Residential care settings have a high level of fixed costs, mainly staff wages and salaries; in effect a four bedded unit with one child resident has only slightly lower costs than the same unit with four residents. Until each residential care setting can be fully decommissioned the department will be liable for the costs of both the unfilled 'beds' as well as the equivalent home based care packages. In the absence of dedicated transitional or 'hump' funds to enable this to occur, the proposed strategy may not be financially sustainable.

Irrespective of the potential alternatives to high cost residential care, it seems likely there will always be a small cohort of children and young people whose needs and behaviours are beyond the capabilities of even the most skilled home-based carer.

For such children and young people, a high quality residential placement with care provided by a multidisciplinary team of skilled professionals is perhaps the only feasible and humane care option. As such, it seems likely that residential care for children does have a future in Victoria, albeit with fewer placements and in a different form compared to current Victorian residential care settings.

### **Responses to sexual abuse and sexual exploitation in other jurisdictions**

At the request of the Royal Commission into Institutional Responses to Child Sexual Abuse, the Australian Institute of Family Studies (AIFS) has outlined the statutory definitions of child sexual abuse nationally and internationally<sup>71</sup>. The countries included in the analysis were: Australia and all the States and Territories, New Zealand, United Kingdom, Canada - Ontario, and the USA –

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<sup>71</sup> Australian Institute of Family Studies, *Statutory definitions of child sexual abuse*, June 2013 Accessed at: <http://aifs.gov.au/institute/pubs/carc/6.html>

Illinois and California. The following had specific references to sexual exploitation: Australia - Northern Territory and Queensland, Canada – Ontario, USA – Illinois and California. Northern Territory, Ontario and the USA included definitions of sexual exploitation. California has a more detailed definition of sexual exploitation and includes sexual abuse in out of home care:

*“As used in this article, the term “abuse or neglect in out-of-home care” includes physical injury or death inflicted upon a child by another person by other than accidental means, sexual abuse as defined in Section 11165.1, neglect as defined in Section 11165.2, unlawful corporal punishment or injury as defined in Section 11165.4, or the wilful harming or injuring of a child or the endangering of the person or health of a child, as defined in Section 11165.3, where the person responsible for the child's welfare is a licensee, administrator, or employee of any facility licensed to care for children, or an administrator or employee of a public or private school or other institution or agency. “Abuse or neglect in out-of-home care” does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer.”*

Some jurisdictions include sexual exploitation in their child protection legislation while others include it in criminal law. Although it is unclear why some jurisdictions include sexual exploitation of children in child protection legislation, it may be an indicator of the prevalence of sexual exploitation of vulnerable children in those communities.

## **International approaches**

### **Ireland**

Inquiries into child sexual abuse in Ireland have centred on child abuse and sexual abuse in religious settings. The *Children First: National Guidance*<sup>72</sup> was established for the protection of children to assist in the identification, reporting and effective management of child abuse and neglect. It outlines the roles and responsibilities of the statutory agencies responsible for child protection and provides guidance to organisations such as religious/faith-based and sporting organisations that have contact with or provide services to children.

### **United Kingdom**

In the United Kingdom the most relevant inquiry to Victoria's Commissioner for Children and Young People inquiry into child sexual abuse and exploitation in residential care is the *Inquiry into Child Sexual Exploitation in Gangs and Groups* conducted by the Children's Commissioner

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<sup>72</sup> Department of Children and Youth Affairs (Ireland), *Children First: National Guidance*, 2011. Accessed at: <http://www.dcy.gov.ie/documents/Publications/ChildrenFirst.pdf>



for England. An interim report<sup>73</sup> and a final report<sup>74</sup> made a number of findings and recommendations relevant to the current experience of child sexual exploitation occurring in Victoria.

The interim report made some findings specific to children in care, these included:

- The incidence of sexual exploitation of children in care was estimated between 20 per cent and 35 per cent.
- 21 per cent of all children identified as being sexually exploited were in the care system.
- Children in care are inherently vulnerable and therefore require greater vigilance in terms of their protection.
- The impact of multiple placement breakdowns was cited as creating a particular vulnerability by reducing children and young people's ability to feel loved or form close relationships. However, the literature also acknowledges that while children in care account for a disproportionate number of children known to be sexually exploited, the majority of known sexually exploited children are not children in care. In addition there is a significant likelihood that many other victims of child sexual exploitation, whether in care or not, are yet to be identified.
- Specific challenges arising from the need to respond to issues of children who go missing, and the need to hold and sustain relationships with children to decrease their vulnerability are regularly cited.
- Whether a child has a positive experience and good outcome from their stay in residential care will be largely dependent on the quality of care offered to them and whether or not the placement is the most appropriate to their needs.
- The interim report cited recommendations across the literature for a 'more professionally equipped workforce', and the need for more consistent support and training for staff working in children's residential care. Many children report valuing positive and consistent relationships that they build while in residential care, and not all have negative experiences. The benefits of reflective practice, both with foster carers and those working in residential care are routinely considered by researchers who, above all else, place the quality of the relationships between staff and children as the most effective tool for keeping children safe from harm.

The Interim report identified the following as key issues to be addressed:

- The process of assessing the needs of children and the appropriateness of placements

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<sup>73</sup> Children's Commissioner (England), *Accelerated report on the emerging findings of the OCC's Inquiry into Child Sexual Exploitation in Gangs and Groups, with a special focus on children in care*, 2012. Accessed at: [http://www.childrenscommissioner.gov.uk/content/publications/content\\_580](http://www.childrenscommissioner.gov.uk/content/publications/content_580)

<sup>74</sup> Children's Commissioner (England), *If only someone had listened: Office of the Children's Commissioner's Inquiry into Child Sexual Exploitation in Gangs and Groups Final Report*, 2013. Accessed at: [http://www.childrenscommissioner.gov.uk/content/publications/content\\_743](http://www.childrenscommissioner.gov.uk/content/publications/content_743)

- The need to consider the place of children’s residential homes within the wider child care and child protection system
- Care planning and safety planning arrangements for children
- Empowering of staff through improved standards of training and support
- Greater consistency regarding data collection, information sharing and responses to children at risk within children’s homes and across the local authority and independent sectors
- Improvements to support for staff and children and relationship building in order to reduce incidences of missing children
- Data sharing and multi-agency working to improve intelligence on child sexual exploitation and protection of children
- Concerns about the use of foyers, bed and breakfast and hostel accommodation for 16 - 17 years olds
- Focus on child sexual exploitation as it applies to children in care, and the lack of attention paid to the risks of child sexual exploitation to other children including boys
- Concerns about the criminalisation of children in care.

The Inquiry’s Final Report identified measures of effective practice for protecting children and young people from sexual exploitation:

- *Focus is on the child by professionals and agencies.*
- *Building positive relationships and trust with children to provide them with the knowledge of what is abuse and feel supported to be able to tell someone about it.*
- *Effective leadership to develop good practice and commitment to tackling child sexual exploitation.*
- *Strategic planning including prevention and protection central to effective practice.*
- *Awareness-raising activity programmes for professionals*
- *Spotting the warning signs by knowing the indicators to look out for*
- *Joined-up working amongst agencies improved identification and practice.*
- *Early identification and pre-emptive action leads to the breaking-up of networks that exploit children.*
- *Scrutiny and oversight was found to be essential to ensure that the intended outcomes are being achieved<sup>75</sup>.*

The Inquiry developed the *See Me, Hear Me Framework*<sup>76</sup> which is intended to ensure that children and young people who are victims of sexual exploitation or at risk of exploitation are seen, heard, supported and understood and protected. This Framework focuses on:

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<sup>75</sup> op cit. p. 10-11

- preventing the sexual exploitation of children
- identifying, protecting and supporting the victims
- disrupting and stopping perpetrators, securing justice for victims and obtaining convictions.

While other jurisdictions have conducted inquiries into the sexual exploitation of children, these have focused on either past exploitation occurring in religious institutions, particularly Ireland and Canada. Details and links to these inquiries are provided in Appendix Two.

### **Social media applications**

The rapid growth of the Internet and social media applications over the last decade has been a factor in the changing nature of sexual abuse and sexual exploitation of children and young people in residential care settings.

Virtually all young people in residential care now have a mobile phone which provides access to a range of social media applications and the broader Internet. Such applications, or 'apps' as they are known, can provide positive experiences but there are also many risks that vulnerable children and young people may not be aware of. In particular, it is reported paedophiles may be targeting vulnerable young people in residential care through these apps.

Appendix Five provides a short summary prepared by the Centre for Excellence in Child and Family Welfare of the principal apps used by children and young people and some of the potential risks that young people and their carers should be aware of.

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<sup>76</sup> op cit. p. 55

## 4 Therapeutic residential care models

The Victorian Government's *Out of Home Care: A Five Year Plan* makes a clear commitment to continue expanding the availability of therapeutic residential and home-based care:

*In recent years, total expenditure on placement and placement support programs by the Victorian Government has increased significantly, and many service providers also report they have invested significant amounts of funding from sources other than government to support children and young people in out-of-home care.*

*Much of this new investment has been directed towards expanding our capacity to meet the therapeutic needs of children in care – in particular through specific therapeutic residential and home-based care placements. These are important and effective placements, however they are currently available for only a small proportion of the total number of children and young people in care. Over the past five years, the number of children and young people in residential and foster care has risen only slightly – the great majority of growth in placement numbers has been for children in kinship care arrangements.*

*It is important that we continue to provide more opportunities for children and young people in care to receive the therapeutic care responses many of them need. One way of doing this is to continue to increase the number of therapeutic placements available. However, we also need to make sure that we capitalise on the growing body of knowledge and expertise within the system so that a larger proportion of carers and staff – not just those working in specific therapeutic foster or residential care programs – are equipped to provide therapeutic care responses<sup>77</sup>.*

This chapter provides a short summary of the key characteristics of known approaches to therapeutic residential care for vulnerable children and young people.

### Definition of Therapeutic Residential Care

The National Child Protection Clearing House Issues Paper *on Therapeutic residential care in Australia* provides a useful summary of current approaches<sup>78</sup>. In 2009 the Community and Disability Services Ministers' Advisory Council endorsed the convening of a National Therapeutic Residential Care Workshop. This workshop led to the establishment of a National Therapeutic Residential Care Working Group which adopted the following definition of therapeutic residential care:

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<sup>77</sup> op cit. p. 55

<sup>78</sup> National Child Protection Clearinghouse, *Therapeutic residential care in Australia: Taking stock and looking forward*, 2011

*Therapeutic Residential Care is intensive and time-limited care for a child or young person in statutory care that responds to the complex impacts of abuse, neglect and separation from family. This is achieved through the creation of positive, safe, healing relationships and experiences informed by a sound understanding of trauma, damaged attachment, and developmental needs<sup>79</sup>.*

### **Characteristics of children in therapeutic residential care**

Based on feedback from members of the Working Group, the following were seen to be the key characteristics of children and young people in therapeutic residential care settings:

- *recurring and often severe self-harming behaviours, including suicide attempts;*
- *a history of running away and prolonged absences;*
- *multiple placement disruptions due to behaviour;*
- *sexually inappropriate behaviours;*
- *mental health problems; antisocial behaviours, including violence and aggression towards others;*
- *alcohol and substance abuse;*
- *cruelty to animals; and*
- *developmental delays or disabilities.*

*What differentiates young people in therapeutic residential care from other forms of care is that problems normally occur with significant frequency and affect day-to-day functioning in a highly adverse manner. Additionally, in many cases, there is a history of unsuccessful attempts to manage difficulties and behaviours, which points to the need for a more holistic, structured therapeutic approach.<sup>80</sup>*

### **Common features of therapeutic residential care**

Two features which distinguish therapeutic residential care models from more traditional forms of residential care are a strong focus on the on-site presence of clinical specialists, who work closely with care staff to develop individualised treatment plans for each child or young person and an emphasis on intensive staff induction, training and ongoing support in the chosen form of therapeutic residential care.

There is a range of contrasting approaches to therapeutic residential care with the main differences relating to how each model 'interprets', 'responds to' and 'treats' the child or young person's affect and behaviour. The next section describes findings from evaluations of these approaches.

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<sup>79</sup> op cit. p.2

<sup>80</sup> op cit. p. 6

## Evaluations of therapeutic residential care

In 2007, the five Health and Social Care Trusts in Northern Ireland introduced therapeutic approaches in a number of residential care settings which aimed to improve staff skills and the outcomes for young people. The different approaches were subject to an independent evaluation by the UK Social Care Institute for Excellence and the Institute of Child Care Research<sup>81</sup>.

Five different models of therapeutic residential care were evaluated:

- South Eastern Trust – Sanctuary model
- Northern Trust – Children and Residential Experiences (CARE) model
- Belfast Trust – Social pedagogy
- Southern Trust – Attachment, Regulation and Competency (ARC) model
- Western Trust – Model of attachment practice

A summary of each approach derived from the *Therapeutic approaches to social work in residential child care settings* publication is provided in Appendix Four.

The evaluation methodology involved scoping review of the approaches deployed within the trusts, qualitative research to record lessons learnt to date about the challenges involved in adopting and implementing a therapeutic approach and the administration of a staff survey and collection of administrative data that looked at the likely impact of the approaches on residential child care.

To varying degrees all of the models included a focus on attachment, trauma, improving young people's competencies and neurodevelopmental/bio-psychosocial theory. There were differences in the extent to which each model included the child's family in the model, with only the CARE model involving the young person's family in their care, planning and treatment.

All the models focussed on providing a clear theoretical framework to inform the practice of residential care. Surveys of involved staff highlighted emotional self-regulation, attachment and trauma as the key concepts informing practice. The impact on staff was described as:

*Eight out of ten (80 per cent) of those who answered a question about the difference that training was making to their practice, said their practice had either shown some improvement or had improved significantly as a result of the model-specific training they*

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<sup>81</sup> Social Care Institute for Excellence and the Institute of Child Care Research, *Therapeutic approaches to social work in residential child care settings*, May 2012

*had received. Only two respondents felt that the training had made no difference to their practice. And just one person reported that the training had a negative impact on their practice.*<sup>82</sup>

*By refocusing their work onto the emotional wellbeing of children and young people, all five models reminded staff of their original reasons for working in residential care – often in challenging organisational contexts – namely, to help young people who have had troubled lives and experienced considerable trauma. The theories supporting the approaches used gave staff a better understanding of how those earlier experiences negatively affected young people in the ‘here and now’ – emotionally, psychologically and behaviourally. The theories that helped them better understand this also allowed them to respond more constructively, to avoid conflict whenever possible, and to ‘depersonalise’ challenging behaviour.*<sup>83</sup>

The evaluation also examined the impact of the training on the level of adverse events of critical incidents. This found that client on staff assaults was 51 per cent lower than before the training commenced and the level of absconding or running away was 45 per cent lower. However, there were no statistically significant changes in the level of attempted suicide, prescription drug use, threatening staff and criminal activity.<sup>84</sup>

The evaluation did not highlight any of the five approaches as achieving significantly better or worse outcomes, possibly unsurprising given the strong similarities across the five models. However, the evaluation did find ‘*evidence of the potential benefits of equipping staff with a systematic way of thinking about their work with children and young people who are looked-after.*’<sup>85</sup>

### **Victorian evaluation of therapeutic residential care**

In Victoria a two year evaluation of Therapeutic Residential Care was undertaken by Verso Consulting between August 2009 and July 2011<sup>86</sup>.

The evaluation examined the impact of additional therapeutic residential care funding in 12 sites in Victoria. All 12 sites were influenced by the Sanctuary model, described as *a theory-based, trauma-informed, evidence-supported, whole culture approach that has a clear and structured methodology for creating or changing an organisational culture.*<sup>87</sup>

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<sup>82</sup> op cit. p.32

<sup>83</sup> ibid. p.36

<sup>84</sup> ibid. p. 48-49

<sup>85</sup> ibid. p. 51

<sup>86</sup> Verso Consulting Pty Ltd, *Evaluation of the Therapeutic Residential Care Pilot Programs, Final Summary Report and Technical Report*, November 2011

<sup>87</sup> ibid. p.72

The evaluation's aim was:

*To evaluate the effectiveness and efficacy of the Therapeutic Residential Care services that form part of the Out-of-home Care system for children and young people in Victoria.*<sup>88</sup>

The key findings from the evaluation were highly positive and included:

- Significant improvements in placement stability.
- Significant Improvements to the quality of relationships and contact with family.
- Sustained and significant improvements to the quality of contact with their residential carers overtime in the Therapeutic Residential Care (TRC) pilots.
- Increased community connection.
- Significant improvements in sense of self.
- Increased healthy lifestyles and reduced risk taking.
- Enhanced mental and emotional health.
- Improved optimal physical health.
- Improvements in relationships with school is evident across multiple measures.
- Contrast between the comparison group and the TRC – with significant improvements in the TRC group evident compared to no evidence of change in the comparison group.
- Trained staff and consistent rostering produced lower staff turnover compared to other residential care units.<sup>89</sup>

Verso calculated that the cost of therapeutic residential care was an average of \$65,000 per child or young person per annum. This represents a 25-30 per cent loading upon the existing RP3 unit price of \$239K per placement. The evaluation considered the cost-benefit of this additional investment and made the following observations:

*TRC has achieved longer term benefits (outcomes) in addition to those for which we are currently able to estimate monetary benefits. For example, reduced risk taking and aggressive behaviour, improvements in physical and mental health, better educational opportunities and greater positive connection to family and community.*

*Unfortunately, a lack of available longitudinal data linking children and young people's experiences in care to their later life outcomes makes it extremely difficult to monetise the longer term benefits of TRC.*

*Since the financial impacts of the anticipated longer term benefits are not included, it is important to note that this analysis cannot answer if per dollar spent on TRC the benefits exceed costs. A longitudinal study would allow relevant information to be collected that would inform a broader analysis of TRC's longer term financial benefits.*

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<sup>88</sup> *ibid.* p.4

<sup>89</sup> *ibid.* p. 6-8



*However, we hope that by costing the short term benefits, we have demonstrated that TRC can reduce immediate costs to government by reducing police time, use of expensive secure welfare placements, the frequency of hospital admissions and other use of other community services.*

*These are not distant cost savings beyond the budgetary cycle, but in the short term amount to an average minimum economic benefit of \$44,243 per annum for each year a child or young person is in TRC.*

*The economic analysis is comprised of three main components: an audit of client information held in DHS files; an examination of the young people's placement history and trajectory of placement change; and an estimate of the costs avoided in the first year after exit from TRC. In principle, the costs avoided calculated from this comparison data significantly offsets the cost of providing TRC.<sup>90</sup>*

The Verso evaluation made the following recommendations:

*Recommendation 1:*

*That the 'pilot' status of the TRC programs be removed, authorising them as a legitimate and on-going models of residential care.*

*Recommendation 2:*

*Utilise the findings of this report to shift from a 'care and accommodation' focus to a 'treatment' focus (therapeutically informed services) across out of home care.*

*Recommendation 3:*

*Progressively expand the TRC Pilots to eventually incorporate most Residential Care sites across the State.*

*Recommendation 4:*

*Undertake and maintain population based planning to provide accurate predictions of the future demand for residential care.*

*Recommendation 5:*

*Develop a minimum data set to measure the effectiveness of the program, the quality of the program, to aid reporting on the program and to support continuous improvement.*

*Recommendation 6:*

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<sup>90</sup> *ibid.* p. 171

*Develop an approach to continued resourcing based on the efficacy of the program for the young person and society and giving to due recognition to the capacity to reduce costs occurring in other parts of the system both within DHS and across Government.*

*Recommendation 7:*

*Undertake consultations to clarify information exchange and to overcome barriers with regard to facilitating effective therapeutic processes and assessments across TRCs.*

*Recommendation 8:*

*Develop a more coherent and effective post exit care response and program.*

*Recommendation 9:*

*Support the development of a professional body for Therapeutic Specialists, encompassing accreditation, training, clinical support in order to further develop and maintain this emerging workforce.*

*Recommendation 10:*

*Implement 22 service improvements as identified in the main report (built on findings and discussion in sections 3, 4 and 5).<sup>91</sup>*

The *Out of Home Care: A Five Year Plan* broadly adopts all these recommendations with the intention that within the life of the five year plan all Victorian residential care will be based on a therapeutic care model.

The Northern Ireland research and the Verso Victorian research present a compelling case for the mainstreaming of therapeutic residential care approaches. This is not inconsistent with those commentators who have expressed doubts about the future viability and 'fit for purpose' of residential care for vulnerable children and young people. The respected Annie E Casey Foundation in America has called for a significant reduction in residential care, however proposes:

*... limiting the use of residential placements to short-term therapeutic treatment that engages families and targets kids' specific needs.<sup>92</sup>*

To support such a strategy the Foundation advocates for a major policy shift to:

- *Substantially decrease the number of children placed in residential settings.*

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<sup>91</sup> Ibid. p.10-11

<sup>92</sup> Annie E Casey Foundation, *Reconnecting child welfare and child development: A summary*, 2012. Accessed at: <http://www.aecf.org/m/resourcedoc/AECF-ReconnectingChildDevelopmentSummary-2013.pdf>

- *Substantially expand the continuum of family-based services and supports for children and families in the child welfare system.*
- *Ensure that children's first child welfare placements are not in group care or other residential settings.*
- *Do not use shelter facilities or assessment centers as child welfare placements for children of any age.*
- *Develop clear criteria for continuously monitoring children's progress to ensure that stays in residential treatment settings last only as long as the therapeutic benefit.*
- *Address children's relational needs while in out-of-home care through family finding and engagement, relationship- and permanency-focused services and therapies, and training to help kin and foster family caregivers develop supportive relationships with children in their care.*<sup>93</sup>

James Anglin contends that therapeutic residential care should be conceived as follows:

*One can think of therapeutic residential care as like the "intensive care service" of child welfare; no one seriously considers eliminating intensive care in hospitals because it is too expensive. It is an important part of the medical system*<sup>94</sup>.

In conclusion, the research evidence overwhelmingly points to the value of therapeutic residential care and this is reflected in current Victorian policy settings.

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<sup>93</sup> *ibid*

<sup>94</sup> Professor Jim Anglin, School of Child and Youth Care, Victoria University, Canada 2013 (Unpublished PowerPoint presentation)

## **Appendix One Inquiry into the adequacy of the provision of services to children and young people who have been subjected to sexual exploitation or sexual abuse whilst residing in residential care.**

The Commission for Children and Young People

The *Commission for Children and Young People Act 2012* provides the legislative mandate for the Commission for Children and Young People. The Commission comprises the Principal Commissioner for Children and Young People and the Commissioner for Aboriginal Children and Young People.

The objective of the Commission is to promote continuous improvement and innovation in policies and practices relating to the safety and wellbeing of children and young people generally, but with a particular focus on vulnerable children and young people. This mandate includes promoting the highest standards in the provision of out of home care services for children and young people. The Commission is also tasked with monitoring youth justice and out of home care services which includes residential care, foster care and kinship care.

The functions of the Commission include the provision of advice to Government as well as making specific recommendations to Ministers, Government Departments, health services, human services and school services concerning child safe policies, practices and the provision of services relating to the safety and wellbeing of vulnerable children and young persons.

The Commission is also responsible for promoting the interests of vulnerable children and young persons as well as promoting child-friendly and child-safe practices within the wider Victorian community.

The Commission is empowered to conduct the following types of inquiries:

Inquiries concerning the death of child protection clients,

Inquiries concerning children or young persons,

Inquiries concerning the provision of services.

## Terms of Reference

The Commission for Children and Young People continues to be disturbed by the incidence of sexual abuse and sexual exploitation of children and young people who are currently living in State-funded residential care.

The Commission has commenced an inquiry into the provision of residential care to children and young people in Victoria who are at risk of, or who have experienced, sexual abuse or sexual exploitation whilst residing in residential care. The inquiry will also consider the adequacy of the response to children who have been the victim of sexual abuse or sexual exploitation and will include consideration of matters such as the immediate response in protecting the child or young person from further abuse, the investigation of allegations (to the extent that is appropriate), the supports and services made available to the victim and any learnings or improvements to procedures that resulted.

The inquiry is being conducted under Division 3 of Part 5 of the *Commission for Children and Young People Act 2012*, as the Commission has determined that it is appropriate to conduct an inquiry into the incidence of sexual abuse and sexual exploitation of children and young people residing in out of home care. The Commission has determined that this is a matter relating to the services provided, or omitted to be provided, which are relevant to the safety and wellbeing of vulnerable children and young people.

The Commission intends to make recommendations to government for system reform and improvement in order to effectively reduce the number of children and young people experiencing sexual abuse or sexual exploitation whilst in residential care. Specific reference will be given to:

The factors that increase the risk and incidence of sexual abuse or sexual exploitation of children and young people in residential care together with effective prevention strategies.

The adequacy of the present models of residential care being offered to children and young people in Victoria.

Possible changes to the model of residential care being offered to children and young people in Victoria.

The interaction between the departments, agencies and service providers and how these sectors can work together to better protect children and young people in residential care from sexual abuse or sexual exploitation.

The adequacy of the response and support offered to children and young people who have been subject to sexual abuse or sexual exploitation whilst residing in residential care.

For the purpose of this inquiry, the term 'sexual abuse' includes the assault, rape or alleged rape of, or by, a child or young person. The term 'sexual exploitation' is considered a specific form of sexual abuse as the children and young people by virtue of their age and development are unable to give informed consent. Sexual exploitation of children and young people takes different forms, and can range from children and young people being involved in sexually exploitative relationships, receiving money, goods, substances or favours in exchange for sex with one or more adults, to being exploited in more 'formal' forms of sex work. In all cases, those exploiting the children or young people have power over them by virtue of their age, gender, physical strength, economic or other resources, such as access to drugs.

## The Inquiry process

The Commission for Children and Young People will make recommendations and provide advice to the government regarding systemic reform to effectively reduce the incidence of sexual abuse or sexual exploitation of children and young people in residential care.

The Inquiry will focus on the responses of the service systems, associated policies and procedures and the adequacy of the present models of residential care.

The Commission will not consider or make recommendations regarding the circumstances of individual cases.

The Commission will:

Audit the service system responses to a sample of cases whereby children or young people have experienced sexual abuse or sexual exploitation whilst residing in residential care and will seek the co-operation of the Department of Human Services in undertaking this task.

Conduct unannounced on-site inspections of a number of residential care facilities in Victoria to evaluate the adequacy of care being provided to children and young people.

Utilise and reference previous reports and inquiries, relevant policies and procedures, academic research and writings as well as interstate and international experience. The Commission will also seek submissions from and consult with:

families, children and young people who have personally experienced residential care,

child protection services including front line workers and managers,

community service organisations who provide residential care services, including direct care staff and managers,

other service providers,

police and courts,

relevant experts,

and the perspectives of the broader community.

The Commission will aim to provide a report to the Minister for Community Services, other relevant Ministers and the Secretary of the Department of Human Services by the end of 2014.

The Commission will seek to have the final inquiry report tabled in Parliament. The Commission will monitor the implementation by government of the inquiry recommendations.

Bernie Geary, OAM

Principal Commissioner

## Appendix Two Institutional child sexual abuse inquiries 2002-2013

The following information<sup>95</sup> was compiled by staff from the Australian Institute of Family Studies at the request of the Royal Commission into Institutional Responses to Child Sexual Abuse.

**Last updated:** June 2013

Users should check relevant jurisdictions to be sure there have been no changes since this time.

A number of inquiries into institutional child sexual abuse have been conducted in other countries. This list provides information on inquiries in Canada, UK Ireland, and NZ. This list includes government sanctioned reviews and does not include reviews/reports into individual cases or government annual reports into child deaths.

Ireland

The Ferns report : presented by the Ferns Inquiry to the Minister for Health and Children  
2005, Dublin, Government Publications

Commission of investigation report into the Catholic Archdiocese of Dublin  
2009

Commission to inquire into child abuse  
2009, Ireland, Commission to Inquire into Child Abuse (Ryan report)

Report by Commission of Investigation into Catholic diocese of Cloyne  
2011

UK

Safeguarding Children: A Joint Chief Inspectors' Report on Arrangements to Safeguard Children  
2002, London, Department of Health

"It's everyone's job to make sure I'm alright" - Report of the Child Protection Audit and Review  
2002, Edinburgh, The Stationery office

The Victoria Climbié inquiry: report of an Inquiry (PDF 272 KB), 2003, Norwich, The Stationery Office, (Lord Laming Report)

The protection of children in England: action plan, 2009, The Government's response to Lord Laming

The protection of children in England: a progress report, 2009, Norwich, The Stationary Office

The Government's response to Lord Laming: one year on, 2010, Norwich, The Stationery Office

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<sup>95</sup> Paper prepared by the Australian Institute of Family Studies for the Royal Commission into Institutional Responses to Child Sexual Abuse. Accessed at: <http://www.aifs.gov.au/institute/pubs/carc/4.html>

The Munro Review of Child Protection: Final Report - a child-centred approach, 2011, Norwich, Department for Education

A child centred system: the government's response to the Munro review of child protection, 2011, Department for Education

Inquiry into child sexual exploitation in gangs and groups, 2012- [current inquiry]. Children's Commissioner for England.

Giving victims a voice: joint report into sexual allegations made against Jimmy Saville, 2013, NSPCC and Metropolitan Police Service, (Project Yewtree)

Northern Ireland Historical Institutional Abuse Inquiry 2012 [current inquiry]

Review of child neglect in Scotland 2012, Edinburgh, The Scottish Government

Macur Review 2012, The Macur Review is an independent review established to examine the conduct and remit of the Sir Ronald Waterhouse Inquiry into the abuse of children in care in Wales [current inquiry]

New Zealand

Every child thrives, belongs, achieves : the Green Paper for vulnerable children (PDF 610 KB), 2011, Auckland, Ministry for Social Development

The White Paper for Vulnerable Children, 2012, Wellington, New Zealand Government

Inquiry into improving child health outcomes and preventing abuse with a focus from preconception until three years of age, 2012, New Zealand Parliament [current inquiry]

The Glenn Inquiry, 2012, This is an independently funded inquiry, separate from government [current inquiry]

Canada

Restoring dignity: responding to child abuse in Canadian institutions (PDF 228 KB), 2000, Ottawa, Law Commission of Canada

Safeguarding the future and healing the past: the Government of Canada's response to Restoring dignity 2001, Ottawa, Dept of Justice



## Appendix Three Guidance and Advice

*Sexual Exploitation of Children and Young People, Advice no. 1597<sup>96</sup>*

### Background factors

Children or young people at risk of sexual exploitation may be vulnerable and susceptible to:

- psychological dependence upon the perpetrator
- peer pressure and fear of being excluded from their friendship group
- fear of retribution from offenders to themselves or family
- desire for money, drugs and gifts that are on offer
- distorted perceptions of what is acceptable adult behaviour
- unresolved trauma and a drive for mastery and control.

Grief and ongoing loss of family warmth and connection may result in young people in out of home care being particularly vulnerable to the seduction and manipulation of offenders who are skilled at grooming them using attention, flattery and the promise of, for example, parties, car rides, technology (that is new mobile phones), alcohol and drugs.

Pro-active, considered case planning, and when necessary, effective crisis planning are of utmost importance; however a process of critical reflection is also important so that as a system, and as caring adults, we do not repeat previous interventions that have not been effective.

Being particularly vulnerable to sexual exploitation may also be usefully framed as a symptom of the unresolved trauma and distress experienced by the young person. This is almost always connected to the pain associated with their experiences of, and within their family of origin as well as an ongoing sense of hopelessness and frustration that these can change.

In managing the symptoms and crises that arise, attention should remain firmly focussed on the underlying causes. Young people need to be understood within the context of their past and current circumstances and warm, caring, enduring and healthy relationships are vital to changing their trajectory – as are positive, safe and healthy relationships with their family members and carers.

Strong and collaborative engagement and information sharing practice also needs to occur between child protection, police, community service organisations and other key stakeholders to strengthen the system's ability to adequately protect children and young people from sexual exploitation – refer to practice advice 1090, 'Information sharing in Child Protection practice' – see Related content.

### Practice principles

To guide practice in relation to children and young people identified as experiencing or at risk of sexual exploitation, the following practice principles should be considered:

- senior operational and place-based Child Protection managers must oversee collaborative efforts with Victoria Police and other key stakeholders to both prevent and disrupt sexual exploitation

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<sup>96</sup> Accessible at: [http://www.dhs.vic.gov.au/cpmanual/practice-context/children-in-specific-circumstances/1597-sexual-exploitation-of-children-and-young-people?SQ\\_PAINT\\_LAYOUT\\_NAME=print\\_entire](http://www.dhs.vic.gov.au/cpmanual/practice-context/children-in-specific-circumstances/1597-sexual-exploitation-of-children-and-young-people?SQ_PAINT_LAYOUT_NAME=print_entire)

- sexual exploitation of children is child abuse and should not be minimised as 'adolescent experimentation'
- children cannot consent to sexual exploitation
- to effectively safeguard children or young people at risk of sexual exploitation, a zero tolerance approach to sexual exploitation must be adopted
- prompt and regularly updated information sharing between Child Protection, out-of-home care providers and Victoria Police forms the foundation for collaborative, effective and preventative interventions
- robust relationships and communication strategies among key operational stakeholders are crucial for achieving good outcomes for children and young people
- when children and young people are unable or are not be ready to make sworn statements to police about the sexual exploitation, disruptive policing methods to keep children safe must be utilised.

Boys and young men are equally at risk of sexual exploitation but it remains a hidden area due to the associated stigma of what other's will think, pressure to keep quiet and assumptions that boys are more in control of their situation. There is also a correlation between offending behaviour (low level crime) and sexual exploitation.

#### *Related Advice*

The Office of Professional Practice in the Department of Human Services has provided the following listing of currently (2014) available advice and guidance for Department of Human Services staff working children at risk of sexual abuse or sexual exploitation.

#### *Child Protection practice advice*

- *No. 1597 Sexual Exploitation of Children and Young People (March 2014)*
- *No. 1014 High risk youth – practice requirements (January 2013)*
- *No. 1594 High risk schedules and panels for infants and youth (January 2013)*
- *No. 1581 Children in contact with sex offenders (November 2012)*
- *No. 1357 Missing persons reports (November 2012)*

#### *Specialist practice resources*

- *'Adolescents with sexually abusive behaviours and their families - Best interests case practice model' DHS 2012.*
- *'Children with problem sexual behaviours and their families - Best interests case practice model' DHS 2012.*
- *'Adolescents and their families - Best interests case practice model' DHS 2012*

#### *Reporting instructions*

- *DHS Critical client incident management instruction 2011*
- *DHS instruction: Responding to Allegations of Physical or Sexual Assault (RAPSA 2005)\*

#### *Protocols*

- *Overarching Relationship Principles Memorandum of understanding between Department of Human Services and Victoria Police (November 2014).*

- *Protecting Children – protocol between DHS – Child Protection and Victoria Police (June 2012)*
- *Addendum protocol: preventing sexual exploitation of children and young people in care (April 2014)*

## Appendix Four Description of the Northern Ireland Models

See Footnote 97

### 1.1 Overview

The models being put into practice in each trust are:

South Eastern Trust – Sanctuary model

Northern Trust – Children and Residential Experiences (CARE) model

Belfast Trust – Social pedagogy

Southern Trust – Attachment, Regulation and Competency (ARC) model

Western Trust – Model of attachment practice

### 1.2 Sanctuary

#### Origins

The Sanctuary model was developed in America. The principal architect describes it as a whole system approach to creating a system that can effectively meet the needs of traumatised children.

#### Core components

The Sanctuary model highlights the effect of trauma on children. It recognises that organisations and the staff within them can produce dysfunctional (defensive) ways of behaving. Change therefore has to be at a systems level. The model incorporates a trauma-informed, shared language – SELF – standing for Safety, Emotion management, Loss and Future. The language and philosophical foundations of the model are reinforced by a set of practical tools for staff and children to use.

#### Theory of change

The Sanctuary model is complex, with no explicit “theory of change” or “logic model”. The implicit theory of change appears to be that: by bringing staff to a shared understanding of trauma and its effects, and giving them a language to communicate that understanding, staff can bring about the changes in organisational behaviours, structures and processes needed to address the damaging effects of trauma.

### 1.3 CARE (Children and Residential Experiences)

#### Origins

CARE originated in 2005 in America. It aimed to develop a competency-based curriculum to help residential care staff set up practices that would improve outcomes for children.

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<sup>97</sup> Appendix Four is a direct copy of Appendix One included in Social Care Institute for Excellence and the Institute of Child Care Research, *Therapeutic approaches to social work in residential child care settings*, May 2012

## **Core components**

CARE focuses on two core areas of competence: improving leadership and organisational support for change, and improving consistency in and across team members in how they think about, and respond to, the needs of the children in their care.

## **Theory of change**

The CARE model works on the idea that improving the understanding of trauma and its impact on development will allow staff to improve interactions with children by:

- focusing on strengthening attachments building competencies
- adjusting expectations depending on children's developmental stage and trauma history involving families in the child's care and treatment
- enriching dimensions of the environment to create more therapeutic media.

Improving interactions between staff and children is thought to help children develop more positive perceptions about themselves and their relationships and interactions with staff. This also contributes to improvements in children's social and emotional wellbeing.

## **1.4 Social pedagogy**

### **Origins**

Social pedagogy has a long history as a recognised discipline in Europe. It aims to promote children's social functioning, social identity and social competence, and their social inclusion. In June 2007 the DfES (England and Wales) proposed piloting Social Pedagogy to explore its effectiveness.

### **Core components**

It is difficult to identify "core components" as such, as the main features of social pedagogy are based more on values than observed evidence, and reflect different approaches to children and different cultural histories of social interventions. However, the relationship between child and pedagogue is important and good communication essential. This relationship is seen as more collaborative or democratic than the hierarchical approach usually found in children's homes. So-called "ordinary tasks or events" offer opportunities to encourage development, and social pedagogy blurs the dividing line between the personal and the professional, whilst also recognising the private.

## **1.5 ARC (Attachment, Self-regulation and Competency)**

### **Origins**

The ARC framework was developed at the Trauma Centre at Justice Resource Institute in Brooklyn, MA. It was first used in one of the Intensive Support Units in Northern Ireland, and then rolled out to other homes.

### **Core components**

ARC is described as a flexible framework that allows practitioners to choose from a "menu" of sample activities and interventions. These are organised into three areas:

Therapeutic approaches to social work in residential child care settings attachment, self-regulation and competency. Carers help traumatised children to (re)build healthy attachments by:

- tuning in to children to better understand their behaviour and emotional responses

- managing their own affect
- responding consistently to children’s behaviour and establishing routines that promote a sense of safety.

### **Theory of change**

There is no explicit theory of change for ARC. Implicitly, it assumes that outcomes can be improved by:

- giving staff a theoretical framework to think about child development and how things “go wrong”
- targeting those factors thought to disrupt normal development
- working with children, their families and carers to help remedy deficits.

## **1.6 MAP (Model of Attachment Practice)**

### **Origins**

The Model of Attachment Practice was – at the time of research – under development in the Western Trust. It had advanced to the roll-out stage at the time of writing. The trust used a range of sources, including work in foster care and residential care. A Canadian project for conduct-disordered youth and their families at the Maples Adolescent Treatment Centre has been particularly influential, together with the “dyadic developmental” approach.

### **Core components**

MAP uses attachment theory and research on neurodevelopment to help staff understand children’s behaviour and what it means. Core components include: trauma, systematic practice, the building of emotional intelligence, competency and resilience in children and young people. It encourages staff to be “actors” rather than “observers” and to recognise the effects of the emotional demands placed on them in their work with children. Other core components are the importance of authoritative parenting and “attunement”.

### **Theory of Change**

The implicit theory of change in MAP is that by allowing staff to see children’s behaviour through the conceptual lens of attachment theory they can better understand the meaning and causes of their behaviour. The resulting changes in their attitudes to children and young people will allow them to form better relationships. This in turn will allow staff to help children and young people learn more adaptive and “prosocial” ways of relating and behaving.

## Appendix Five Cyber-Safety and Social Media: what young people need to know about protecting their privacy

Social networking sites and apps are first and foremost designed to keep us in touch with our community. When used in a safe manner, they are a great tool of communication and can be very helpful in making us feel connected. Sometimes though these sites and apps can be used by ill-intentioned people to obtain our private information or put us in danger. Though for the most part social media is a positive aspect of modern-day life, it is important we are aware of relevant risks and limitations.

The most commonly used social media sites and apps amongst young people are:

### Facebook

- 1 billion profiles worldwide
- Operates with users having both a friends list and more recently, an optional follower list
- Status updates, location “check-ins”, picture upload and messenger services available
- Smartphone app or desktop site available

### Twitter

- 700 million profiles worldwide
- Operates with users having a follow list
- Users add to their profile with tweets, re-tweets, favourite tweets and twitpics
- Smartphone app or desktop site available

### Instagram

- 150 million profiles worldwide
- Operates with users having a follow list
- Picture edit and upload functions, locations and captions available with picture update
- Recently launched private picture messenger function
- Smartphone app required for picture upload, desktop site available to like and comment on photos

### Kik Messenger

- 120 million users worldwide
- Operates with a contact list
- Text and picture messenger
- Smartphone app

### Snapchat

- 60 million profiles worldwide, 30 million active users per month
- Operates with a contact list
- Upload and edit pictures or short videos called “snaps”. These can only be viewed once by the recipient for 3-10 seconds.

- Smartphone app

## Privacy & Security Settings

Many apps and sites allow the user to set their profiles to “private”, meaning only groups of people approved by the user can see their posts and information. Facebook has the most detailed privacy settings, such that users are able to control the audience for all types of posting. For example, you can have your pictures set to private but your status updates public. Whilst this is can be a helpful feature, it is important for people (especially those underage) to be aware that should they wish for their profile to be private, that they adjust all the settings and read the Terms & Conditions properly. Private profiles on Twitter and Instagram mean other users must request permission to be added to the follow list to be able to view posts. Snapchat and Kik operate more as messenger tools, so once someone has obtained your username or contact details, they will be able to send you messages or snaps. Snapchat recently though has added a privacy setting where only contacts approved by the user can send them snaps.

- Anonymity

Most social media apps and sites will require you to give your full name. It is possible to make up a new name, or change your surname to something else should you wish to retain a level of anonymity. Be aware though that through email addresses and other data from previous profiles or sites, you may still be contactable or traceable to your real name. Instagram, Twitter, Snapchat and Kik allow you to be viewed by a username so if you choose you can make this as unrelated to your name as you like.

Anonymity and privacy can also become a concern if you have too much profile information visible publically. When creating a Facebook profile it can be tempting to include every detail of your job, school, hometown or hobbies. Be mindful though of your privacy settings and how this could impact on who knows of your whereabouts on a daily basis.

- Location services

Keeping locations private when posting has become very difficult on Facebook and Instagram, especially when accessed through smart phone apps. When installing these apps onto a smartphone, often people do not realise that they have enabled location services. This means that status updates, photos and messages are geotagged, enabling people to search and find your general location. Instagram and Facebook as well encourage people to add their specific location, whether it be a café, concert venue or a house to their posts. People need to be wary of using these check-in features if they do not wish for people to know where they live or what places they frequent.

- Photos

On Facebook, Twitter and Instagram you can keep your photo posts private if you wish. If your friends however take a picture of you, they may choose to upload it to their social networks publically. If you do not feel comfortable with the picture your friend has uploaded of you to their profile, you can un-tag yourself. If you want the photo removed completely, the easiest thing to do is to talk to your friend and ask them to remove it. If you feel the photo is abusive, you may report the image and Facebook will review the content and can choose to take it down.

In sending pictures through Kik, people need to be aware that the person they are messaging can save the pictures or take screenshots of the conversations. Even in Snapchat, where the picture-messages



only last a couple of seconds, people can take screenshots and save photos to their camera roll. There are also new add-on apps available that allow you to replay people's snaps and take screenshots without the user being notified. The general rule of thumb to use with Kik and Snapchat is, if you would not post the photo to Facebook or Twitter, do not send it to a friend via a messaging app.

- Updates/tweets

Facebook status updates go by the same rules as photos and location check-ins. You can make yours private but you can still be tagged in a friend's public post. As Facebook has now introduced hashtagging, much like Twitter, it has become increasingly popular to have public status updates to enable connectivity with people writing about the same thing.

Although Twitter allows for private tweets and twitpics, the vast majority of profiles are on public. This enables people to tweet at celebrities, organisations, politicians etc. It also allows them to be part of trending tweets through hashtags and re-tweeted by other users. People on Twitter need to be aware of over-sharing or using it like a journal. If you post all day and everywhere you go, it can be easy for a person to read your profile and be able to locate you.

- Blocking/reporting

All social networking and messaging apps have a block function. This means if someone is harassing you or you feel they are cyber-stalking you, you can block them such that they cannot see any information of yours on that social media platform. Your entire profile will disappear from their view, not just posts. You can also report people for abusive content or for having a fake profile. This alerts site or app moderators to investigate your claim and take down the profile or post as they see fit.

### **Fake profiles ("Catfishing")**

Catfishing is a relatively new term, and it refers to someone making fake online identities with the intent of pursuing people romantically, to scam them financially or to manipulate and cyber-bully them. All social media apps have an email verification process aimed to ensure that only "real" people have profiles. If you have ever set up an email account before you would know how easy it is to make up an email address. Catfishing is a huge problem on Facebook, Twitter and Instagram especially. They use photos from other profiles or old Myspace accounts to make the profile seem legitimate. Young people especially should be aware of predators online posing as their peers. If someone you do not know makes contact with you via social media, and none of your friends have seen them before in person, it is best not to accept the friend request or reply to them.

### **Sexual content**

Because of issues with monitoring and policing sexual content, Kik has been given a +17 age rating. Unfortunately, as will all social media apps, it is very easy to lie about your age. Kik is very popular with young tweens as it uses data/Wifi instead of texting which requires a mobile phone contract. This means though that parents and carers need to be very aware of the risky content on Kik messenger before allowing their children to sign up. Anyone who knows your Kik username can add you, and many young people are choosing to display their Kik username to their public Instagram or Twitter profiles. In both Victoria and New South Wales recently, there were cases where underage girls were coerced by Kik users to send sexually explicit photos.

There have also been numerous instances where people have sent sexually explicit photos via Snapchat assuming that the photo will disappear. As has been discussed, it is very easy to take screenshots of snaps and then send them to other people or post them to other social media platforms. Be aware of every picture you send on a messenger app.

Sexual content on Facebook and Instagram is relatively well policed by the reporting and blocking functions, but it is still something to be conscious of on the messenger components of these apps.

### **Cyber-bullying**

If you are being bullied online, you should speak up and let a trusted adult know immediately. You can block and report the person, but it is important that you show someone evidence of the messages, especially if it is someone you have to see at school or home. Cyber-bullying is a serious issue and many schools and institutions have taken a zero tolerance stance on it. Sometimes the person cyber-bullying you has set up a fake profile to harass you with, these people are called “trolls” and their pages need to be reported. If you are feeling genuinely threatened by the person harassing you online, it might be necessary to involve authorities.

### **Digital footprint**

Something really important to consider if you are a young person using social media, is how your public posts may affect you in the future. The permanency of online activity is referred to as a “digital footprint”. Employers and relevant organisations are known to conduct social media searches as part of recruitment processes. Also, anyone who Google searches your name might come into contact with your previous posts. If you feel a post might be deemed inappropriate or embarrassing in the future, it’s probably best not to upload it at all.