



Permanence and stability

**The missing ingredients
for Victoria's most
vulnerable children**

Permanent Care and Adoptive Families Research Paper
September 2021

 **Rapid Impact**

Acknowledgements

We acknowledge the traditional owners and custodians of the land on which we work, the Wurundjeri people of the Kulin Nations, and pay our respects to Elders past, present and emerging. Sovereignty has never been ceded and this was, and always will be, Aboriginal land.

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Permanent Care and Adoptive Families Research Paper

September 2021



**Children are missing
the permanency
and stability they
desperately need
and are legislatively
entitled to**

Executive Summary

There are more Victorian children than ever before in out-of-home care. This excludes children on Permanent Care Orders. The last 3 years alone have seen a 21% increase in the daily average number of children in out-of-home care. Approximately half (48%) of these Victorian children have spent more than 2 years in out-of-home care, and of those in the care system for 2 or more years, two-thirds (67%) have had multiple placements.

The purpose of this report is to review the current state of permanent care in Victoria to understand:

- The reasons why so many children in out-of-home care are not moving to stable, permanent arrangements in a timely manner when they are unable to be re-unified with their birth parents,
- The consequences for children the longer they remain in the out-of-home care system,
- The support children in permanency arrangements need in order to recover from the accumulated harm, identity, and developmental issues both before and during their time in out-of-home care, and

- The requirements of children and families in permanency arrangements to create and sustain a stable environment that improves life opportunities and outcomes for these children.

Stability is key for children to recover from the significant disruption in their lives

International and domestic research has clearly shown that ‘drifting’ in the care system and multiple placements are strongly correlated with negative life outcomes for children, including poor mental health, underperformance at school, difficulty in building meaningful relationships, and time spent in the youth justice system. The earlier children find themselves in a permanent arrangement, the more likely they are to effectively heal and start the recovery journey from the inevitable trauma and disruption caused by both removal from their birth family and time in out-of-home care.

In 2019-20, 2,000 Victorian children were placed in care arrangements deemed to be “long-term”. However 67% of these children were on orders lasting only 2 years, without designated carers - missing the permanency and stability they desperately need and are legislatively entitled to.

Victorian permanency legislation has not gained the traction that was expected

In keeping with these findings, Victoria has legislated a permanency hierarchy that for children assessed as unable to remain at, or return to, their birth parents within legislated timeframes, prioritises adoption (only with parental consent) and permanent care over long-term out-of-home care. However, the legislation has not had the outcomes that were expected. Adoption is rarely used, and the number of Permanent Care and Long-term Care orders issued annually represents only a small proportion of the orders for children who cannot live with their parents.

Data reported nationally states that 2,000 children in Victoria in 2019-2020 were placed under Long-term guardianship and custody and third-party parental responsibility orders; however, 67% of these were on orders that were for 2 years. If only those orders (Adoption, Permanent Care and Long-term Care Orders) that apply until the child reaches 18 years of age are considered to provide true long-term stability and certainty for those children who cannot live with their birth parents, then in Victoria, only 641 children had achieved long-term stability in 2019-2020, not the alleged 2,000. The true permanency picture is in fact very different.

Inequity and systemic barriers to permanency require urgent attention

Determining the best alternative permanency pathway for a child is largely dependent on the availability of a suitable carer/s willing to care for the child until they reach 18 years of age. Those working in the out-of-home care system report carers often prefer to move to Long-term Care and Care by Secretary Orders (as opposed to Permanent Care Orders) as these maintain Department of Families, Fairness and Housing (DFFH) involvement, case management and better levels of financial support.

This would tend to indicate that one of the major barriers to carers agreeing to move to Permanent Care Orders is the lack of support for children and carers. When children are placed on Permanent Care Orders, the case is closed by Child Protection, resulting in carers losing case management and casework support previously provided by Child Protection or a contracted agency. While carer allowances are retained, these revert to the lowest level unless it is subsequently assessed that a higher rate is required, but carers frequently lament the difficulties in advocating for higher carer allowances and accessing additional financial support after the Permanent Care Order is made. Financial support is reportedly more difficult to navigate and access.

Feedback to the PCA Families Helpline and other carer forums indicates there is poor communication about permanency options and their consequences in order to assist carers

in making informed choices about entering into permanency care arrangements. This is consequential for kinship carers, particularly Aboriginal kinship carers, given the known disadvantage amongst this cohort.

Adoption in Victoria is rarely the case plan endorsed as a pathway out of the care system, as adoption applications to the County Court require parental consent. Some 17 children were involved in Local Adoptions in Victoria in 2019-2020 and it is believed only a few of these were in out-of-home care when the order was made. In general, Aboriginal communities oppose adoption. Currently, NSW is the only jurisdiction that is encouraging adoption as a court-ordered pathway from out-of-home care without parental consent. Simple Adoption, which has been introduced overseas, provides an alternative model where children are legally connected and have rights in both their birth and carer families, and their shared heritage is an evolving and valued part of their life story.

Aboriginal self-determination must drive all decisions and solutions for Aboriginal children

For Aboriginal communities, ongoing connection to family, community, culture and country, are well known protective and healing factors in a child's life, particularly for those who have experienced inter-generational trauma. Limited Aboriginal-led research is available to understand the degree to which the legislated Aboriginal placement and self-determination principles are

being applied to, and post, permanency decisions and the suitability and impact of current care arrangements for Aboriginal children, carers and families. Given the over-representation of Aboriginal children in out-of-home care, this is an issue that requires immediate attention.

Only with sustained support will outcomes change for children, carers and the Victorian community

The international research consistently reports that children and carers in stable permanent families require continuous, timely, and often intensive support as the children grow, particularly as adolescence approaches. This necessitates a universal assessment process to ensure that the placement is set up for success, then ongoing reviews need to be undertaken to make sure the support is adjusted to meet the ever-changing needs of the child and permanent family. Support not only needs to be timely, but those delivering the support require an understanding of the unique journey of children who have been in out-of-home care and are now growing up and adjusting to life in permanent families. This should be the same for all children achieving a permanency objective whether they be on a Long-term Care Order, Permanent Care Order or Adoption Order. Without this timely and informed support, the long-term outcomes for children who have been in the care system are likely to be compromised and trends such as over-representation in the criminal justice system, poor educational achievements, and higher levels of unemployment are set to continue.

Recommendations

To address these key challenges, and ensure the best long-term outcomes for Victorian children, this report has divided recommendations into eight core areas:

1.

Ensure equity of financial and other support for children irrespective of order type

Review the DFFH *Carer Entitlement Financial Policy* to create equity for all carers with consideration given to known physical, mental health, and developmental challenges of the child; carer disadvantage, respite needs and other circumstances of the family; long-term recovery issues; and changing needs over time. This implies that all children and carers are assessed against the same *Child and Family Support Framework*, and the starting financial entitlement and subsequent changes are determined for a child and carer irrespective of order or carer type (foster, kinship, permanent care, or adoption).

2.

Create transparency of Victorian data sets and research findings and the administration of policies and practices

Make available the Victorian data sets that underpin the national reporting framework in a form that reflects Victoria's care and protection orders, including how each order maps with national definitions and categories and AIHW data sets.

3.

Grow and share the permanency knowledge base

Commit to more targeted, longitudinal Australian research to understand the nature of support needed to both address the barriers to entering permanency and heal existing trauma once a permanent arrangement can be found. Understanding the changing needs of children and carers in permanent families will help to inform the support required for children to recover, heal and thrive, and highlight the ongoing needs of permanent carers to create a nurturing, stable environment, particularly as children grow.

4.

Support the growth of Aboriginal evidence to shape culturally supportive permanency solutions

Grow specific Aboriginal community-led and controlled research to bring the unique lens of Aboriginal self-determination and connection with community, culture and country, to the permanency journey of Aboriginal children, their carers, families and community.

5.

Improve permanency planning to set families up for success

Support the current Victorian review to ensure the handover of critical documents and data on children shifting placements, so informed choices can be made about appropriate care in each case. Make information on the nature and implications of each care order available and easy to understand, so informed decisions can be made by carers and those involved in the child's life (both in and out of Child Protection).

6.

Strengthen identity and connection

Support carers to access programs and approaches that connect children with their heritage, family, and culture, leveraging the proven healing effect of a strong sense of identity, particularly in Aboriginal communities. As part of this, further explore Simple Adoption as a means to maintaining dual family connection and identity, and enable the child to have rights in both families.

7.

Amplify the voice of permanent carers and children

Give carers and children the opportunity to have their voice heard when making decisions that impact their lives, whether that be the choice of permanency pathway or the ongoing decisions about support, needs and life expectations. Grant carers the automatic right to attend and have a say in relevant legal proceedings for the child in their care.

8.

Sustain the support for children and families, particularly the most vulnerable

Ensure the complex needs and family situation of children and carers are the key factors in determining what support is made available, and ensure nobody loses crucial support when entering permanency. Recognise that many permanent carers face the same challenges as those looking after children on Care by Secretary Orders, as for many children, the developmental delays and recovery will last a life time.

This report comes at a time when many of the traditional practices around child protection and approaches to out-of-home care are being challenged and new ways of thinking are being welcomed, trialled and evaluated.

This report will assist PCA Families to add to its thinking and the work that is already underway, and to partner with government, families, children and agencies, to make the changes that Victorian children, who have already experienced so much disruption in their short lives, deserve. By tackling these challenges together, PCA families believes, equality of opportunity, support and improved life outcomes are possible for every child in permanent care.

Structure of the paper

What is the issue?	12
More children continue to enter out-of-home care in Victoria than leave each year	12
Too many Victorian children experience instability due to ongoing disruption and extended time in out-of-home care	12
The permanency hierarchy in practice	14
Long-term guardianship and custody numbers mask a deeper problem	16
The DFFH remains the guardian in the majority of long-term guardianship arrangements	19
Only when children are in a stable environment with strong support can the much-needed recovery work begin	20
Limited data on children and carer permanent arrangements are available to inform policy, practice and support	22
Fewer Aboriginal children are moving into permanent care	22
Summary	24
Types of Victorian permanency arrangements	25
Permanent Care Orders	26
Adoption Orders	26
Long-term Care Orders	27
Other Victorian orders	29
Summary	29
Trends in permanency	31
Permanent Care Order trends	31
UK and US trends in permanency arrangements for children in out-of-home care	32
Trends in Adoption	32
A new option – Simple Adoption	36
Adoption for Aboriginal children	37
Summary	37
Why permanency matters	39
Children have a right to grow up in a safe and supportive environment	39
Reunification of children with their birth families should always be the first permanency option	40
Stability through permanency changes children’s lives	40
Earlier permanency reduces risk and harm	41
Harm from further placements can be avoided	41
Children no longer carry the stigma associated with being in out-of-home care	41
Low placement breakdown reduces demand and costs on the care system	42
Summary	43

Why permanent placement support must be at the ready	45
Children arriving in permanent placements often have significant trauma and other issues	45
The early identification of issues and well-supported placements enable recovery and reduce disparity	46
Children require support to strengthen their identity	47
Placement stress increases as children grow older	48
Parent-related factors can impact placement stability	48
Peer support and mentoring make a difference	49
Summary	49
Institutional barriers to permanency	50
Where there is ongoing support, it is often not well known to carers	50
Access to financial support is not based on the needs of the child and family	50
Limited regular respite available	52
Carers cannot manage with less financial support when many live below the poverty line	52
The nuances of each permanency option are not well understood	53
The necessary preparation and work are not completed prior to permanency	53
Aboriginal children require the support of an Aboriginal organisation to move to a permanent placement	53
Birth family and carer consent	54
Carers do not always have a voice in permanency decisions in the Children's Court	55
Absence of a trigger to review children who have been in care for longer than 2 years	55
Lack of dedicated trauma-informed health and education practitioners	55
Digital documentation can be inaccessible	56
Employment entitlements do not legally extend to permanent carers	56
Impact of the COVID-19 pandemic	56
Summary	56
Recommendations to improve the outcomes for children in permanent care arrangements in Victoria	59
1. Ensure equity of financial and other support for children irrespective of order type	59
2. Create transparency of Victorian data sets and research findings and the administration of policies and practices	60
3. Grow the knowledge base	60
4. Support the growth of Aboriginal evidence to shape culturally supportive permanency solutions	61
5. Improve permanency planning and create equality of support to set all families up for success	61
6. Strengthen identity and connection	62
7. Amplify the voice of permanent carers	62
8. Sustain the support for children and families, particularly the most vulnerable	63
Appendix I: Victorian Protection Orders	65
Appendix II: Summary of interventions based on evidence	66
Appendix III: Potential areas of research	67
Abbreviations	68
Glossary	69
Bibliography	72

What is the issue?

More children continue to enter out-of-home care in Victoria than leave each year

The number of children in out-of-home care, which excludes children on Permanent Care Orders, is at record levels across Australia, despite increased investment in prevention, early intervention and reunification efforts. As at 30 June 2020, approximately 46,000 children were in out-of-home care across the nation.¹ In Victoria, the number of children in out-of-home care has been steadily rising with an overall 21% increase over the last 4 years.² On a positive note, at 30 June 2020, Victoria had the lowest number of children in out-of-home care per 1,000 children than any other jurisdiction (6.3 per 1,000).³

In Victoria in 2019-2020, 4,376 children were admitted to out-of-home care and only 3,881 children were discharged.⁴ Most of this growth in out-of-home care has been children in kinship care arrangements. Kinship care has increased to 61% of all types of care, while foster care has declined to 14%.⁵

Kinship care had increased to 75% of out-of-home care at 30 June 2020 (despite the fact that in Victoria, those who provide both kinship care and foster care are classified as foster carers) and foster care had declined to 18%.⁶ Of the 3,326 children in permanent care at 30 June 2020, 516 were with kin, which was a significant increase from the previous year of only 72.⁷

Too many Victorian children experience instability due to ongoing disruption and extended time in out-of-home care

At June 2020, some 4,356 Victorian children had been in care for more than 2 years, excluding permanent care⁸ (See Figure 1).

1 Source: Data from Australian Institute of Health and Welfare, *Data tables: Child Protection Australia 2019-20*, (Canberra: AIHW, 2021), T3, <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2019-20/data>.

2 Ibid.

3 Ibid.

4 Source: Data from Australian Institute of Health and Welfare, *Data tables: Child Protection Australia 2019-20*, (Canberra: AIHW, 2021), S5.1, S5.2, <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2019-20/data>.

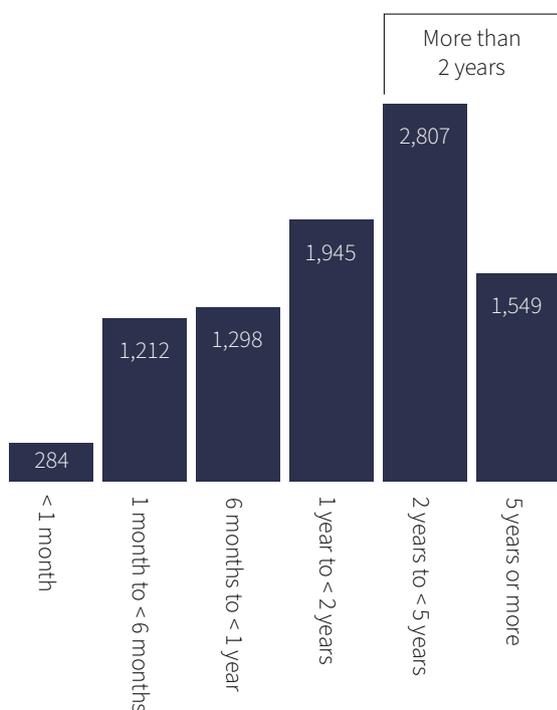
5 Ibid.

6 Source: Adapted from Australian Institute of Health and Welfare, *Data tables: Child Protection Australia 2019-20*, (Canberra: AIHW, 2021), table S5.3, <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2019-20/data>.

7 Source: Adapted from Australian Institute of Health and Welfare, *Data tables: Child Protection Australia 2019-20*, (Canberra: AIHW, 2021), table S4.5, <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2019-20/data>.

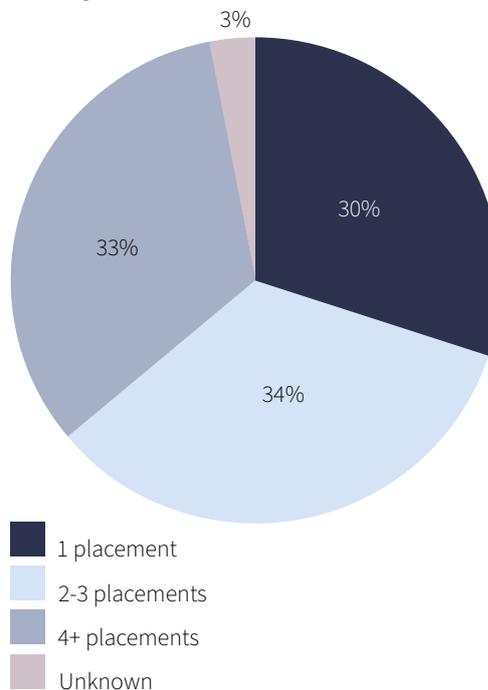
8 Source: Adapted from Australian Institute of Health and Welfare, *Data tables: Child Protection Australia 2019-20*, (Canberra: AIHW, 2021), table S5.14, <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2019-20/data>.

Figure 1 / Victorian Children in out-of-home care, by length of time continuously in care, at 30 June 2020 (excludes Permanent Care Orders)⁹



Every new placement creates further disruption to a child’s life and increases the risk of life-long impacts.¹⁰ Some 70% of children who exited out-of-home care in Victoria during 2019-2020 who had spent more than 2 years in care, had more than one placement¹¹ (See Figure 2).

Figure 2 / Proportion of Victorian children discharged from out-of-home care for 2 or more years by number of placements during 2019-20



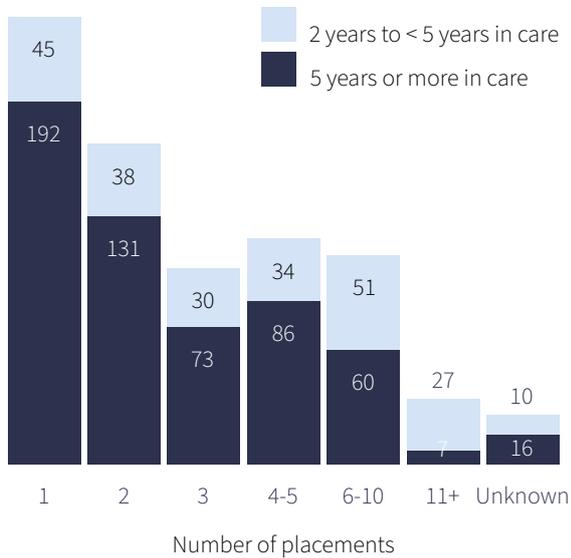
Of even greater concern is that at least 145 children had experienced six or more placements (See Figure 3).

⁹ Source: Adapted from Australian Institute of Health and Welfare, *Data tables: Child Protection Australia 2019-20*, (Canberra: AIHW, 2021), table S5.14, <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2019-20/data>.

¹⁰ David M. Rubin et al., “The Impact of Placement Stability on Behavioural Well-Being for Children in Foster Care,” *Pediatrics* 119, no. 2 (2007): 336-338, doi: 10.1542/peds.2006-1995.

¹¹ Source: Data from The Productivity Commission, *Child protection services – Data tables*, (2021), table 16A.15, <https://www.pc.gov.au/research/ongoing/report-on-government-services/2021/community-services/child-protection>.

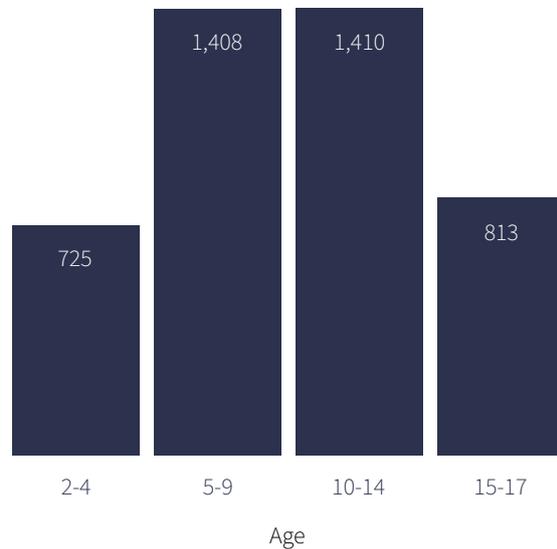
Figure 3 / Number of placements experienced by Victorian children in care for 2 or more years, and who were discharged from care during 2019-20 (excludes third-party/ Permanent Care Orders)¹²



File reviews conducted by the Commission for Children and Young People (CCYP) reported in 2019 that over 403 children and young people had experienced 10 or more placements over the duration of their time in care. Of these, a disproportionate number (33%) were Aboriginal.¹³

The majority (65%) of the 4,356 Victorian children in out-of-home care for more than 2 years at 30 June 2020 were between 5 and 14 years of age (See Figure 4). With every placement disruption, these school-aged children may have been forced to move to a different suburb, a new school, and potentially sever ties with friends, family and other trusted adults.

Figure 4 / Children in long-term out-of-home care, by age group, and state or territory, at 30 June 2020¹⁴



The permanency hierarchy in practice

Victoria, like other jurisdictions across Australia, has introduced legislation to increase the focus on finding stable alternative permanent homes for children unable to return home within legislated timeframes. The timeframe for pursuing reunification with birth families as the primary permanency objective is 2 years. If reunification is not achieved within 2 years, it is expected that a long-term, stable placement will be pursued for the child with an alternative family.¹⁵ The intent of the legislation is to stop children ‘drifting’ in the out-of-home care system and, most importantly, to improve their life outcomes.

12 Source: Data from The Productivity Commission, *Child protection services – Data tables*, (2021), table 16A.15, <https://www.pc.gov.au/research/ongoing/report-on-government-services/2021/community-services/child-protection>.

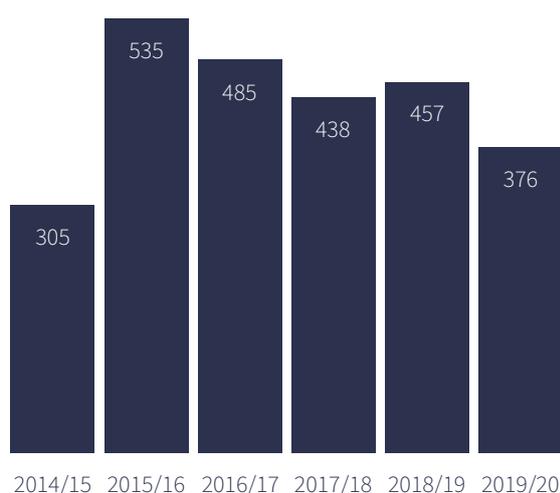
13 Commission for Children and Young People, *‘In our own words’: Systemic inquiry into the lived experience of children and young people in the Victorian out-of-home care system* (Melbourne: Commission for Children and Young People, 2019), 144, <https://ccyp.vic.gov.au/assets/Publications-inquiries/CCYP-In-Our-Own-Words.pdf>

14 Source: Data from The Productivity Commission, *Child protection services – Data tables*, (2021), table S5.14, <https://www.pc.gov.au/research/ongoing/report-on-government-services/2021/community-services/child-protection>.

15 Australian Institute of Health and Welfare, *Child protection Australia 2019-20*, 62.

Over the last 4 years, the total number of children on Permanent Care Orders in Victoria has increased by over 18%.¹⁶ However, over the same period, the number of Permanent Care Orders issued each year by the Children’s Court of Victoria has declined and new orders have only averaged 439 per year (See Figure 5). This indicates that Permanent Care Orders are not the preferred permanency objective for children leaving care and/or carers are unwilling to take on guardianship and other carer responsibilities. Information on how many children have a permanent care objective in their case plan but are waiting for a suitable family would be invaluable.

Figure 5 / Number of Permanent Care Orders issued by the Children’s Court of Victoria annually¹⁷



Note: Data extracted from the Children’s Court of Victoria Annual Reports

Despite these permanency measures, one in every two Victorian children (48%) remain in out-of-home care for longer than 2 years.¹⁸ However, this is lower than the national average, where some 67% (30,600) of children had been continuously in out-of-home care for more than 2 years.¹⁹ This is in contrast to the US, where in 2017, only 28% of children were in care for 2 or more years and 6 per 1,000 children were in care.²⁰

In order to achieve stability and permanency for at-risk children, every substantiated case requires a case plan with a permanency objective. The following permanency objectives are outlined at Section 167 of the *Children Youth & Families Act 2005 (as amended)* (the CYF Act) which states they ‘are to be considered in order of preference as determined to be appropriate in the best interests of the child.’²¹

Focused on birth family

- A) Family preservation,
- B) Family reunification,

Other arrangements when reunification is not possible

- C) Adoption, (under the Adoption Act which generally requires parental consent and is an order of the County Court),
- D) Permanent care (until 18 years of age or married), and
- E) Long-term care (until 18 years of age or married and reviewed annually).²²

Adoption and permanent care families have proven to be very stable, with 99% of children not returning to the out-of-home care system within 12 months of placement. Australian data on longer-term trends are not available. In Victoria

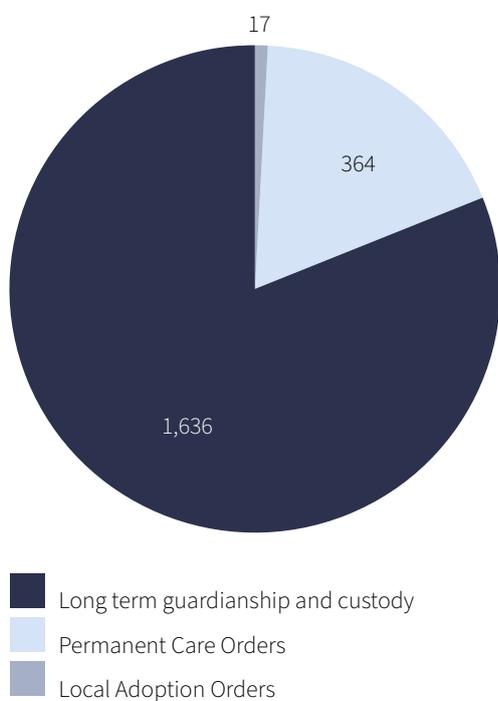
16 Source: Data from The Productivity Commission, *Child protection services – Data tables*, (2021), table T3, <https://www.pc.gov.au/research/ongoing/report-on-government-services/2021/community-services/child-protection>.
 17 “Child Protection Orders Explained,” Children’s Court of Victoria, accessed June 7, 2021, <https://www.childrenscourt.vic.gov.au/family-division/child-protection/child-protection-orders-explained>.
 18 Source: Data from The Productivity Commission, *Child protection services – Data tables*, (2021), S5.14, <https://www.pc.gov.au/research/ongoing/report-on-government-services/2021/community-services/child-protection>.

19 Ibid.
 20 “Trends in foster care,” Child Trends Databank, published May 24, 2018, <https://www.childtrends.org/indicators/foster-care>.
 21 Department of Health and Human Services, *Identifying and achieving the permanency objective*, 2456, v2 (2018), <https://www.cpmmanual.vic.gov.au/advice-and-protocols/advice/case-planning/identifying-and-achieving-permanency-objective>.
 22 Ibid.

in 2019-20, 4,889 children were discharged from care and protection orders, however only 376 Permanent Care Orders were issued, indicating that only 2% were discharged to permanent care.

In practice, where reunification is not possible, most children remain in out-of-home care in kinship, foster or residential care settings. While adoption is ahead of both long-term care and permanent care on the hierarchy, it is infrequently applied in Victoria, as it requires parental consent (See Figure 6).

Figure 6 / The number of Victorian children who transitioned to each of the non-reunification/family preservation options in 2019-20.^{23,24,25}



In 2019-2020, the daily average number of children on Permanent Care Order placements was 2,963.²⁶

Long-term guardianship and custody numbers mask a deeper problem

The Australian Institute of Health and Welfare (AIHW) collaborates with states and territories to collect and report on Child Protection data annually. One of Victoria’s permanency options, Long-Term Care by Secretary, falls under out-of-home care reporting, while Permanent Care Orders which transfer third-party parental responsibility, are included in AIHW permanency data. Adoption from out-of-home care is not included in the annual Child Protection Report; this is captured in a separate system and AIHW report.

Excluding adoption, AIHW data suggest 2,000 Victorian children who were unable to live with their parents had transitioned to stable, permanent arrangements in 2019-2020 (See Figure 7). This is based on the number of Victorian children described by the AIHW as being ‘Long-term finalised guardianship and custody’ orders as well as ‘Long-term Finalised Third-Party Parental responsibility’ (Permanent Care Orders). However, in analysing this further, 67% of these were for 2 years (Care by Secretary and Extension of Care by Secretary Orders had been included).²⁷

Long-term guardianship and custody numbers mask a deeper problem

23 Source: Data from Australian Institute of Health and Welfare, *Adoptions Australia 2019-20 supplementary data tables* (Canberra: AIHW, 2021), table S1 and S4 <https://www.aihw.gov.au/reports/adoptions/adoptions-australia-2019-20/data>

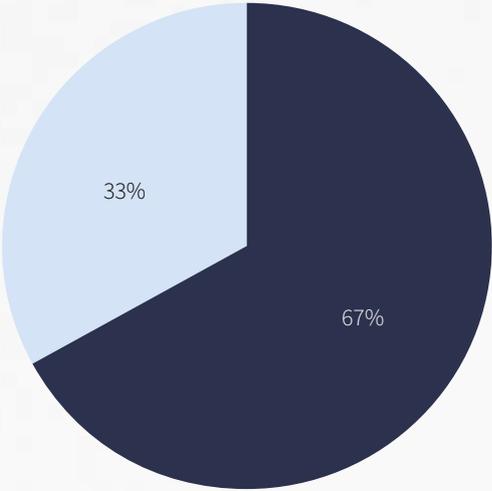
24 Source: Adapted from Australian Institute of Health and Welfare, *Data tables: Child Protection Australia 2019-20*, (Canberra: AIHW, 2021), table S4.1, <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2019-20/data>.

25 Children’s Court of Victoria, *Children’s Court of Victoria Annual Report 2019-2020* (2020), 34, https://www.childrenscourt.vic.gov.au/sites/default/files/2021-04/ChCV_Annual_Report_2019-20.pdf.

26 Department of Health and Human Services, Department of Health and Human Services annual report 2019-20 (Victoria: Victorian Government, 2020), 2, <https://www.dhhs.vic.gov.au/sites/default/files/documents/202010/Department%20of%20Health%20and%20Human%20Services%20Annual%20Report%202019-20.pdf>.

27 Children’s Court of Victoria, *Children’s Court of Victoria Annual Report 2019-2020*, 34, https://www.childrenscourt.vic.gov.au/sites/default/files/2021-04/ChCV_Annual_Report_2019-20.pdf.

Figure 7 / Breakdown of the AIHW ‘Long-term guardianship and custody’ orders by Children’s Court of Victoria order types²⁸



- Care by Secretary and Extension of Care by Secretary Orders only for a period of **2 years**
- Permanent Care Orders and Long-term Care Orders until **18 years** of age with Secretary and a designated carer



²⁸ Children’s Court of Victoria, *Children’s Court of Victoria Annual Report 2019-2020*, 34.

If the orders for 2 years are removed (Care by Secretary Orders and Extension of Care by Secretary Orders), then the number of children deemed to be admitted to long-term, stable permanent arrangements until they turn 18 years of age for 2019-20, drops dramatically. It falls from 2,000 children to 641 children (Permanent Care Orders and Long-term Care Orders with a designated carer) (See Figure 8).

The picture is clearer when one compares this data with the figures issued by the Victorian Children’s Court which actually makes the orders. Numbers for Long-term finalised third-party parental responsibility orders closely correlate with the number of Permanent Care orders made by the Children’s Court for 2019-20 (364 versus 376).

The number of Long-term finalised guardianship and custody orders (1636) closely correlates with the number of Care by Secretary Orders and Extensions of Care by Secretary Orders (946 and 410) plus Long-term custody orders (277) reported by the Victorian Children’s Court for 2019-20 (Figure 8).

This means that many Victorian children under the Long-term guardianship and custody category still have uncertainty as to whom they will be living with between now and the time they turn 18 years of age. In reality, stability and permanency have not been achieved for these children.

Figure 8 / National AIHW data categorisation of Victorian Children’s Court Orders, June 2019-2020^{29,30}



Without national data explicitly referencing Victorian order names, there is a lack of clarity and transparency around the relationship between Victorian and national data sets. For example, there is no AIHW jurisdictional data available on the total number of children in out-of-home care on Long-term Care Orders at 30 June 2020. The glossary of terms in the AIHW report offers high-level descriptors with no specific references to comparable jurisdictional orders. Further confounding the picture, the AIHW definition of a ‘Short-term guardianship and custody’ is where a child is placed with a

29 Source: Data from Australian Institute of Health and Welfare, *Data tables: Child Protection Australia 2019-20*, (Canberra: AIHW, 2021), table S4.1, <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2019-20/data>.

30 Children’s Court of Victoria, *Children’s Court of Victoria Annual Report 2019-2020*, 34.

nominated person for a specified period of 2 years (See Figure 9). This raises the question as to why Care by Secretary Orders and Extension of Care by Secretary Orders have been incorporated under Long-term finalised guardianship and custody orders.³¹

Figure 9 / Victorian court orders issued annually that extend to 18 years of age aligned with AIHW categories that extend to 18 years of age^{32,33}



Note, the AIHW Local Adoption numbers have been added to Figure 9 to illustrate how infrequently they are applied in Victoria. According to AIHW data, for 2019-2020, only 17 children were adopted locally.³⁴ It is unclear for how many of these children adoption was a permanency objective to exit out-of-home care.

The DFFH remains the guardian in the majority of long-term guardianship arrangements

Permanent Care Orders and Long-term Care Orders are not keeping pace with the growth of children in care, nor are they having a substantial impact on reducing the number of children who find themselves in out-of-home care for more than 2 years. There is also no evidence base to turn to that explains why Long-term guardianship and custody orders, where the Secretary retains guardianship, are more consistently applied. It should be noted, that a permanent care or long-term care objective might be in a child's case plan; however, in the absence of a carer, applications cannot progress to the Children's Court of Victoria. It is not clear how widespread this issue is, nor its impact on children remaining on orders for 2 years.

The *Stability Planning and Permanency Care Project 2013-14* report provides some reasons as to why carers are not prepared to move to Permanent Care Orders; however, these findings should be viewed with caution. All children aged 10 years or older who were not in permanent arrangements were excluded from the project cohort. The rationale for this was that this cohort was 'harder to place' as 'many older children have also suffered harm caused by a lack of continuity and permanency in their care arrangements and this may have caused problem behaviours to develop that would be hard for carers to manage'.³⁵

It could be argued that this very cohort should have been a priority for the research given the accumulated harm and disruption these children have already faced, rather than one that was excluded.

31 Australian Institute of Health and Welfare, *Child protection Australia 2019-20*, 93.

32 Source: Data from Australian Institute of Health and Welfare, *Data tables: Child Protection Australia 2019-20*, (Canberra: AIHW, 2021), table S4.1, <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2019-20/data>.

33 Children's Court of Victoria, *Children's Court of Victoria Annual Report 2019-2020*, 34.

34 Source: Data from Australian Institute of Health and Welfare, *AIHW Adoption Report 2019-2020* (Canberra: AIHW, 2021), table 3.7, <https://www.aihw.gov.au/getmedia/754e8ffa-d7ce-4a9b-b3bd-bc6e3252a030/aihw-cws-79.pdf.aspx?inline=true>.

35 Department of Health and Human Services, *Stability Planning and Permanency Care Project 2013-14* (Victoria, 2014), 25, https://www.parliament.vic.gov.au/images/stories/committees/SCLSI/Children_Youth_Families_Bill/Stability-planning-and-permanency-care-project-2013-14.pdf.

Some of the suggested reasons as to why children under 10 years of age had not moved to permanent placements included:

- Different views exist amongst Aboriginal people and organisations, and Child Protection practitioners, regarding permanent care (Finding 9),
- Inadequate financial support is a ‘major deterrent’ to people volunteering to become carers, and to foster and kinship carers converting to permanent carers of children already in care (Finding 25), and
- Contact conditions make it hard to recruit permanent carers for a child, thereby influencing placement stability (Finding 27).³⁶

Only when children are in a stable environment with strong support can the much-needed recovery work begin

Until children are in stable, permanent homes, it is difficult to start the much-needed recovery work to address trauma and other physical, emotional and mental health issues associated with the separation from birth families and time spent in care, including important work around identity. The older the child is when they move into permanent arrangements, the greater the likelihood of challenging behaviours and placement breakdown, as a child’s previous exposure to stress and abuse tends to surface and/or intensify during adolescence.³⁷

When children move onto Permanent Care and Adoption Orders, these children and their carers are not routinely and consistently supported by the government, based on presenting and known issues and challenges. In fact, once these legal orders come into effect, many lose entitlements and support, such as case workers and other funding they had previously received. This is particularly consequential given the high number of carers who are themselves disadvantaged, many of whom live in poverty.³⁸

The importance of a stable home is supported by resilience research that has revealed that children who grow up with at least one stable and committed relationship with a supportive adult, can overcome childhood trauma and adversity.³⁹

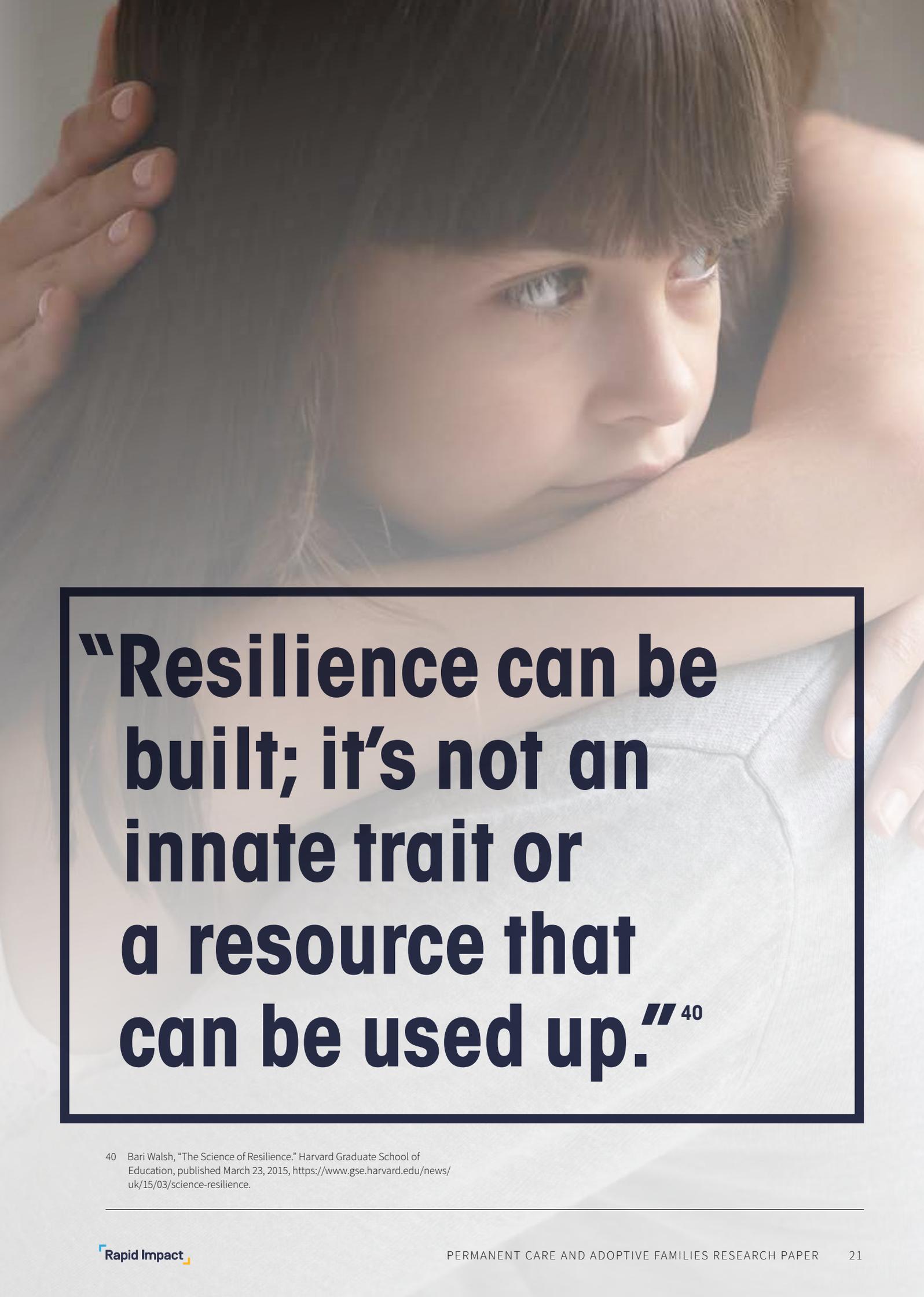
Only when children are in a stable environment with strong support can the much-needed recovery work begin

36 Department of Health and Human Services, *Stability Planning and Permanent Care Project 2013–14*, 25.

37 J. Palacios et al., “Adoption Breakdown: Concept, Research, and Implications,” *Research on Social Work Practice* 29, no. 2 (2018): 10, <https://doi.org/10.1177/1049731518783852>.

38 Community Affairs References Committee, *Grandparents Who Take Primary Responsibility For Raising Their Grandchildren* (Canberra: Commonwealth of Australia, 2014), 29, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Grandparent_Carers/Report.

39 Bari Walsh, “The Science of Resilience,” Harvard Graduate School of Education, published March 23, 2015, <https://www.gse.harvard.edu/news/uk/15/03/science-resilience>.



“Resilience can be built; it’s not an innate trait or a resource that can be used up.”⁴⁰

⁴⁰ Bari Walsh, “The Science of Resilience.” Harvard Graduate School of Education, published March 23, 2015, <https://www.gse.harvard.edu/news/uk/15/03/science-resilience>.

Limited data on children and carer permanent arrangements are available to inform policy, practice and support

Limited data and longitudinal research on permanency options make it challenging to evaluate and develop evidence-based decisions that inform order choices, and that improve services and support for children who cannot live with their birth families.⁴¹

A national *Permanency Outcomes Performance Framework* has been established with four outcome areas; however, at this stage, reporting is only against two outcomes (duration of care; some aspects of permanency planning and placement stability), and little is available by jurisdiction, and none is available for specific Victorian order types.⁴² This makes it challenging to evaluate and compare the quality of the experience over time for children who are on different orders and unable to return to their birth families, and the impact of varying levels of support.

Victoria uses a slightly different counting system for carers than other jurisdictions. If a carer is both a kinship and foster carer, they are categorised as a foster carer.⁴³ As a result, there is likely to be an under-estimation of the number of relatives who are caring for children. The number of permanent care families is not publicly reported, unlike kinship and foster care families, making it increasingly difficult to determine if this cohort is increasing or the same number of families are taking more children.

If the voice of the child was strong in the data collection and research, it is suggested that the key questions would be framed to provide direct answers to questions such as:

- Is this the family that I will I grow up with (at least until 18 years of age)?
- Will Child Protection still be involved in my life or will I be like other children?
- Will I have contact with my birth family?
- Will I continue to receive the support I need?

The current presentation of data makes it difficult to evaluate the overall trends in permanency, and therefore provide the answers to these crucial questions.

Fewer Aboriginal children are moving into permanent care

The rate of Aboriginal children admitted to out-of-home care in Victoria in 2019-2020 was 39 per 1,000, which was well above the national average of 13.8 per 1,000.⁴⁴ The discharge rates were also correspondingly higher for Aboriginal children in Victoria (32.1 per 1,000) against the national average (11.7 per 1,000) but fall short of those coming into care.⁴⁵

Data presented at the Aboriginal Children's Forum in March 2021 reported that of all the Aboriginal children who were engaged with Victorian Child Protection at December 2020, only 12% were on Permanent Care Orders (compared with 27% for non-Aboriginal children) and 10% of children were on Long-term Care Orders (compared with 6% of non-Aboriginal children) (See Figure 10)⁴⁶

41 Penny Mackieson, "The introduction and implementation of Permanent Care Orders in Victoria," (PhD thesis, University of Melbourne, 2019), 25, <http://hdl.handle.net/11343/225705>.

42 Australian Institute of Health and Welfare, *Child protection Australia 2019-20*, 63.

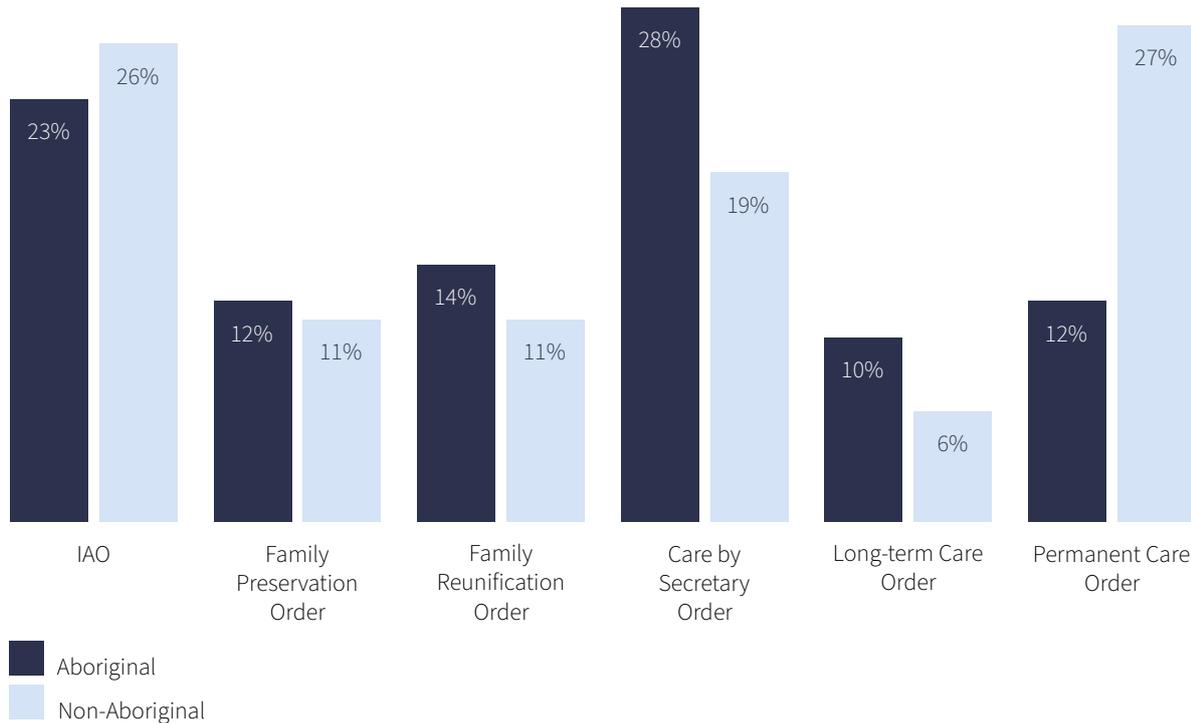
43 Australian Institute of Health and Welfare, *Child Protection Australia 2019-20: Appendixes B to E* (Canberra: AIHW, 2021), 30, <https://www.aihw.gov.au/getmedia/4600243d-a715-4334-afb5-7324b706ae04/aihw-cws-78-appendixes.pdf.aspx>.

44 Source: Data from Australian Institute of Health and Welfare, *Data tables: Child Protection Australia 2019-20*, (Canberra: AIHW, 2021), table S5.1, <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2019-20/data>.

45 Source: Data from Australian Institute of Health and Welfare, *Data tables: Child Protection Australia 2019-20*, (Canberra: AIHW, 2021), table S5.2, <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2019-20/data>.

46 ACF March 2021 – ACF key performance indicators, Department of Families, Fairness and Housing, 37.

Figure 10 / Children and young people in Child Protection by Order, at December 2020⁴⁷



It is generally understood that Aboriginal organisations and Aboriginal communities do not support the notion of Permanent Care Orders, given their strong belief that children should always be reunified with parents irrespective of the time it takes. In addition, Aboriginal organisations generally do not support Aboriginal children being placed with non-Aboriginal carers given the importance of healing and protective factors when growing up in culture and community. This is seen as a last resort and the least preferred option.

More research is required to understand Aboriginal views and the impact of permanency choices for Aboriginal children, and whether the outcomes for Aboriginal children on these orders are better or worse than for non-Aboriginal children.

The CCYP’s ‘...*Safe and Wanted...*’ Inquiry identifies that some of the delays in permanency planning for Aboriginal children are associated with the limited capacity of the DFFH and Aboriginal organisations to do the necessary work to find family, and to complete the assessments, case planning, cultural planning, and other requirements outlined in the Act. These systemic issues impact the achievement of timely, permanent outcomes for many Aboriginal children.⁴⁸ Further, Recommendation 14 of ‘...*Safe and Wanted...*’ notes that while the Department retains parental responsibility, the principles of Aboriginal self-determination are undermined.⁴⁹

47 ACF March 2021 – ACF key performance indicators, Department of Families, Fairness and Housing, 19.

48 Commission for Children and Young People, ‘...*safe and wanted...*’ *An inquiry into the implementation of permanency arrangements* (Melbourne: 2017), 25, <https://www.dhhs.vic.gov.au/sites/default/files/documents/201712/Safe%20and%20wanted%20inquiry%20into%20permanency%20arrangements%20report%20June%202017.pdf>.

49 Ibid., 100.



Summary

After 2 years, many school-aged children still find themselves in out-of-home care on orders, which continue to be renewed for 2 years at a time, and hence are at risk of moving from one carer to another, which can lead to significant disruption to their lives and further trauma.

Despite Victorian permanency legislation change to promote stability, a relatively small number of Victorian children are on Long-term Care, Permanent Care or Adoption Orders – true permanency where the carer’s family is known to the child until they reach 18 years of age. The inclusion of orders for 2 years at a time (Care by Secretary and Extension of Care by Secretary) under permanency distorts the permanency picture in Victoria and should be addressed.

More research is needed to understand the factors that are driving decisions that place children on short-term orders when a decision has been made that they cannot be re-unified with their family, the support and circumstances a carer requires to shift from Care by Secretary and Extension of Care by Secretary orders to those that support a child until 18 years of age, and finally, how each type of order impacts the long-term outcomes for children and their carer families.

Types of Victorian permanency arrangements

The United Nations' *Convention on the Rights of the Child* states that all children should be afforded the opportunity to grow up in a family environment.

“...recognising that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding.”⁵⁰

Where it is deemed by law that a child's birth family cannot provide a safe and stable environment, then an alternative 'permanent' family needs to be found so the child has an opportunity to develop other enduring relationships and is clear who will be caring for them both now and into the future.⁵¹

“There is a need for permanence through a family life [with] an enduring sense of stability, security, belonging and commitment... in other words, a family for life.”⁵²

The Australian states and territories vary in how they interpret permanency. In Victoria, the legal framework was established by the *Children, Youth and Families Amendment (Permanent Care and Other Matters) Act 2014 (VIC)* (permanency amendments) and is now enshrined in the CYF Act 2005. The amendments came into effect in March 2016.⁵³ In other Australian jurisdictions, different legislation applies according to how each interprets the national policy settings.

The Victorian amendments introduced a new focus on achieving stability and permanency for children assessed as unable to remain or return home within legislated timeframes.⁵⁴ The hierarchy prioritises Adoption and Permanent Care Orders over Long-term Care Orders. The hierarchy is expected to be applied in conjunction with the CYF Act's Best Interests principles and serves to:

“Actively seek the most suitable immediate placement, while preparing for long-term care arrangements and better developmental outcomes”⁵⁵

50 “Convention on the Rights of the Child,” United Nations Human Rights Office of the High Commissioner, published September 2, 1990, <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

51 “Permanent care,” Department of Families, Fairness and Housing, modified October 8, 2019, <https://services.dffh.vic.gov.au/permanent-care>.

52 Jesús Palacios et al., “Adoption in the service of child protection: An international interdisciplinary perspective,” *Psychology Public Policy and Law* 25, no. 2 (2019): 33, doi: 10.1037/law0000192.

53 *Children, Youth and Families Amendment (Permanent Care and Other Matters) Act 2014 (Vic)*, http://classic.austlii.edu.au/au/legis/vic/num_act/cyafacaoma201461o2014664/.

54 Department of Health and Human Services, *Identifying and achieving the permanency objective*, 2456, v2 (2018), <https://www.cpmanual.vic.gov.au/advice-and-protocols/advice/case-planning/identifying-and-achieving-permanency-objective>.

55 Australian Institute of Health and Welfare, *Child protection Australia 2019-20*, 61.

The County Court administers Adoption Orders under the *Victorian Adoption Act 1984*. All other elements of the hierarchy are administered by the Children’s Court of Victoria under the CYF Act. The range of orders that can be made by the Children’s Court of Victoria are set out in Appendix I:⁵⁶

The *National Framework for Protecting Australia’s Children 2009-2020* is designed to improve the experience of children in out-of-home care so they have “the same opportunities as their peers to reach their potential in life wherever they live in Australia”.⁵⁷ Choosing the right permanency option requires consideration of factors such as:

- Financial, educational and health support,
- The degree to which Child Protection remains engaged,
- The non-birth family’s decision-making rights,
- Inheritance rights of the child, and
- Obligations and support to maintain contact with birth families.

Permanent Care Orders

A Permanent Care Order transfers parental responsibility (custody and guardianship) for a child from their birth family or the Secretary of the DFFH, to a relative or new family, until the child is 18 years of age or marries.⁵⁸ Most Australian jurisdictions and the UK have the capacity to make orders that are akin to Victoria’s Permanent Care Order. While the names and nuances of legislation differ, for the purposes of this paper, the children under the court orders outlined in Table 1 will be captured under the umbrella term ‘Permanent Care Order’.

Adoption Orders

Historically, ‘adoption’ laws involved the transfer of custody and guardianship of a child to an adoptive family for life. With this came the extinguishment of contact and identity with the child’s birth family and automatic inheritance rights.⁵⁹ Today the concept of ‘open’ adoption is practised where

Table 1 / Orders and categories comparable to Victoria’s Permanent Care Order

National Third-party parental responsibility (AIHW)					
Permanent Care Order	Statutory Guardianship	Long-term Guardianship	Guardianship	Third-party parental order	No equivalent
Victoria Queensland Northern Territory	Western Australia	South Australia	NSW	National (AIHW definition)	ACT

The AIHW term ‘third-party parental arrangements’ represents permanent care-type order data from around the nation.

56 “Child Protection Orders Explained.” Children’s Court of Victoria, accessed June 7, 2021, <https://www.childrenscourt.vic.gov.au/family-division/child-protection/child-protection-orders-explained>.

57 “National Framework for Protecting Australia’s Children Indicators,” Australian Institute of Health and Welfare, modified August 18, 2020, <https://www.aihw.gov.au/reports/child-protection/nfpac/contents/summary>.

58 Department of Families, Fairness and Housing, *Long-term care order: Information for parents*, 2913.1 (Melbourne, 2019), 1, <https://www.cpmmanual.vic.gov.au/sites/default/files/2019-11/2913.1%20Long-term%20care%20order%20for%20parents%20V3.doc>.

59 Karleen Gribble and Stacy Blythe, “Adoption law should be reformed to give children legal connections to both of their families – here’s why,” modified May 13, 2020, https://www.westernsydney.edu.au/newscentre/news_centre/story_archive/2019/adoption_law_should_be_reformed_to_give_children_legal_connections_to_both_of_their_families_heres_why.

adoptive families are expected to support connection, information exchange and, where possible, the building of relationships with birth families to help children build their identity and generate their full life story.⁶⁰ Some key terms used to discuss adoption include:

- Known adoption – where a pre-existing relationship exists with the adoptive parents often involving step-parents, relatives, carers and others,⁶¹
- Local or plenary adoption – the most common arrangement in Australia where custody and guardianship are transferred from the birth family to the adoptive family (the birth family may be known or unknown to the child),
- Inter-country adoption – children are adopted from overseas and tend to be older, in sibling groups or may have special needs,⁶²
- Local adoption with DFFH funding (previously known as special needs adoption) – where the child is known to have significant physical, emotional, or mental disorders or syndromes.⁶³ This is not a specific order type in Victoria. Children adopted with known special needs are part of local adoption orders. While adoption is administered through the Department of Justice and Community Safety (DJCS), children adopted who have been identified as having special needs are a funded category under DFFH, and
- Simple adoption – a legal relationship which is created with the new permanent family whilst preserving the legal relationship with the birth family. This overcomes the challenge where birth parents are unwilling to relinquish the legal rights of their child, even when they know they are unable to care for them.⁶⁴

The child has rights in both families thereby reflecting the child’s full identity and heritage. The adoptive family has the primary parental responsibility. Note, this option is not currently available in Australia.

In the UK, ‘special needs adoption’ is seen as an out-dated term as it is believed all adopted children have experienced trauma from separation with their families and most have experienced abuse or neglect.

A child can apply to be adopted by their Permanent Care Order or Long-term Care Order carers when they turn 18 if they wish to formalise their relationship with the family.

Long-term Care Orders

Long-term Care Orders are where the Children’s Court of Victoria gives the Secretary of the DFFH the sole parental responsibility for a child to the exclusion of all others. The child is placed with a nominated carer, usually an existing foster or kinship carer. Under these orders, the carer receives carer support allowances and case management from Child Protection or a contracted agency. Although these orders are made until the child reaches 18 years of age, they are required to be reviewed every year.⁶⁵ These orders were introduced in 2016 to promote alternative permanent care, where carers still require/seek ongoing support.

Table 2 summarises the attributes and diversity within the permanency options open to a child in care. Note, Care by Secretary and Extension of Care by Secretary have been included, to illustrate why they do not meet the permanency criteria.

60 “Adopt a child from Victoria,” Department of Justice and Community Safety, modified June 24, 2021, <https://www.justice.vic.gov.au/your-rights/adoption/adopt-a-child-from-victoria>.

61 “Known adoption,” Australian Institute of Health and Welfare, accessed June 7, 2021, <https://meteor.aihw.gov.au/content/index.phtml/itemId/689423>.

62 “Things to consider,” Intercountry Adoption Australia, accessed June 7, 2021, <https://www.intercountryadoption.gov.au/countries-and-considerations/considerations/>.

63 “10 Things To Know About Special Needs Adoption,” Gladney Centre for Adoption, published June 30, 2017, <https://adoption.org/10-things-need-know-special-needs-adoption>.

64 Stacy Blythe and Karleen Gribble, *Belonging in Two Families: Exploring Permanency Options for Children in Long-Term Out-of-Home Care in Australia* (Western Sydney University, 2019), 16, https://engonetac.blob.core.windows.net/assets/uploads/files/Belonging%20in%20two%20families_download.pdf.

65 S290(3) CYF Act.

Table 2 / A comparison of current permanency options in Victoria and Simple Adoption (prepared by PCA Families)

	Care by Secretary Order/ Extension of Care by Secretary Order ⁶⁶	Long-term Care Order	Permanent Care Order ⁶⁷	Local Adoption with DFFH funding ⁶⁸	Plenary Adoption (local and intercountry) ⁶⁹	Simple Adoption
Duration of order	Maximum of 2 years	Ends at 18	Ends at 18	Lifelong	Lifelong	Lifelong
Who applies for the order	DFFH	DFFH	DFFH	DJCS	Adoptive parent	Adoptive parent
Birth family consent required	No	No	No	Yes, unless court ordered	Yes	Yes
Inheritance rights flow	Birth family	Birth family	Birth family	Adoptive family	Adoptive family	Birth family and Adoptive family
Birth certificate acknowledgement	Birth parents only	Birth parents only	Birth parents only	Adoptive parents	Adoptive parents	Birth family and Adoptive parents
Child's surname	Birth parents	Birth parents	Birth parents	Adoptive parents	Adoptive parents	Birth parents and Adoptive parents
Can the order be revoked?	Yes –Can expire at term; be revoked at any time or another order can be made	Yes –Reviewed each year	Yes –Can be revoked through application by birth parent, child or DFFH i.e. if placement breakdown	No	No	No
Supervision and assessment of placement by agency/ Child Protection post order	Yes Kinship, foster and residential care	Yes Kinship and foster care	No	No	No	No
Key parenting decisions	DFFH Child Protection/ Agency	DFFH Child Protection/ Agency	PCO parents	Adoptive parents	Adoptive parents	Simple adoption
Case management to meet child's needs	Yes	Yes	No	No	No	No
Monetary assistance (see below)	Care entitlements + other	Care entitlements + other	Care entitlements + flexible fund	Limited See Table 3	No	No
Birth family contact is arranged and supervised if required	DFFH Child Protection	DFFH Child Protection	PCO parents	Adoptive parents	Adoptive parents	Adoptive parents

Note: The impact of the 2021 Home Stretch funding on Permanent Care Orders is presently not clear

66 “Kinship care,” Department of Families, Fairness and Housing, modified June 24, 2021, <https://services.dffh.vic.gov.au/kinship-care>.

68 “Adopt a child from Victoria.”
69 Ibid.

67 “Permanent care,” Department of Families, Fairness and Housing, modified October 8, 2019, <https://services.dffh.vic.gov.au/permanent-care>.

In special circumstances, the *Children, Youth and Families (CYF) Regulations 2017* allows for joint parental responsibility to be shared with the child's birth parents if the court is satisfied that the DFFH, the child, the permanent carers, and the child's parents, have agreed to the terms of the order and special circumstances exist that justify such an order.

The 2021-2022 Victorian State Budget made provisions to extend the *Home Stretch and Better Futures* benefits to eligible children on permanent care orders. This allows for the continuation of care payments to carers to support children in permanent care arrangements until they turn 21 years of age or transition to independence.

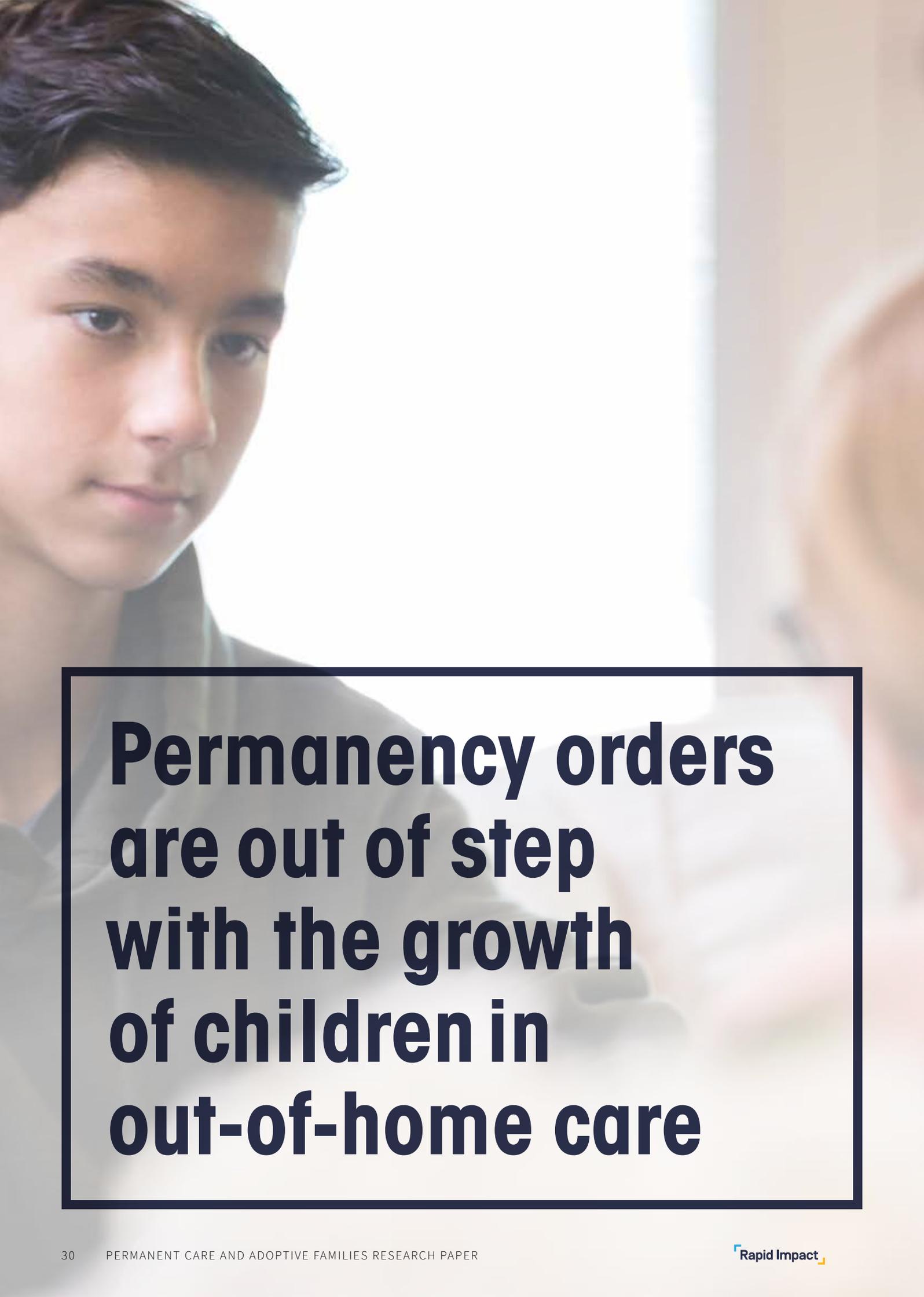
Other Victorian orders

The Victorian Magistrates Court can make a Parenting Order for parents and carers where agreement can be reached on care arrangements. Where 'parents or carers cannot agree on arrangements for the child in their care, and dispute resolution has not worked or is inappropriate,' then an interim order will be made and the matter is referred to the Federal Circuit Court of Australia for a decision.⁷⁰

Summary

The most significant differences between Permanent Care and Adoption Orders and other care and protection orders are that guardianship is transferred to the carers, who have parental responsibility for the child. Child Protection is generally no longer involved, and the level of entitlements and support differs. The philosophical, practical and individual preferences of the child, birth family, carer, agency and DFFH can all influence the final care and protection order decision. If an existing or alternative carer is not prepared to take on long-term parental responsibility, then a Care by Secretary Order or an Extension of Care by Secretary Order are the only options available.

⁷⁰ "Family Law," Magistrates Court of Victoria, modified May 22, 2019, <https://www.mcv.vic.gov.au/family-matters/family-law>.



**Permanency orders
are out of step
with the growth
of children in
out-of-home care**

Trends in permanency

Permanency laws have changed in most Australian jurisdictions to improve pathways to achieve stability for children, increase the voice of the child in decision-making, and strengthen Aboriginal self-determination.

Permanent Care Order trends

Changes to promote permanency in Victoria

As noted above, in 2016, amendments were made to the CYF Act, to promote permanency.⁷¹ These changes included:

- Replacing ‘continuity and stability’ with ‘continuity and permanency’,
- Further emphasising the need to make quicker decisions so as to reduce the harm to children and young people that may occur if continued delays were to occur,
- Requiring case plans to be developed following substantiation of abuse/neglect and that all case plans include a permanency objective aligned to the protection order i.e. Family Reunification Order must have a case plan objective of family reunification,⁷²
- A prerequisite for the Children’s Court to issue a Permanent Care Order for an Aboriginal child being a current Cultural Support Plan,⁷³
- A requirement with a Permanent Care Order, except under exceptional circumstances, that the “child’s identity and connection to the child’s culture of origin and the child’s relationship with their birth family” be preserved,⁷⁴

- Restrictions on how long a Family Reunification Order can be pursued as a permanency objective for a child, and
- Case plans not aiming for family reunification if the child has been in out-of-home care for a cumulative period of 12 months or more and is unlikely to be reunified with their family in the next 12 months.⁷⁵

It can be challenging for carers to understand the different dimensions of each order, how entitlement and financial support decisions have been determined, and whether the overall support will be sufficient to meet the child and their family’s changing needs. The interpretation and advice on orders from Child Protection and agencies can differ, and at times be inconsistent with the intent of the legislation.

The amendments make it clear that notwithstanding a court order acknowledging exceptional circumstances, the “child’s identity and connection to the child’s culture of origin” and “the child’s relationships with their birth family” must be maintained.

Apart from the initial rise in Permanent Care Orders when the new Victorian permanency legislation was introduced in 2014, the daily average number of children on Permanent Care Orders has remained relatively stable at 25%. This is out-of-step with the overall growth of children in out-of-home care. Further concerns around achieving permanency objectives have arisen with the recent decrease in the number of children on reunification orders, although some of this is attributed to the COVID-19 pandemic.⁷⁶

71 Children, Youth and Family Act 2005 (Vic), 1, <https://www.childrenscourt.vic.gov.au/sites/default/files/2020-11/cyfa-amendments20160316-summary.pdf>.

72 Ibid., s. 321(1)(ca).

73 Ibid., s.176(2).

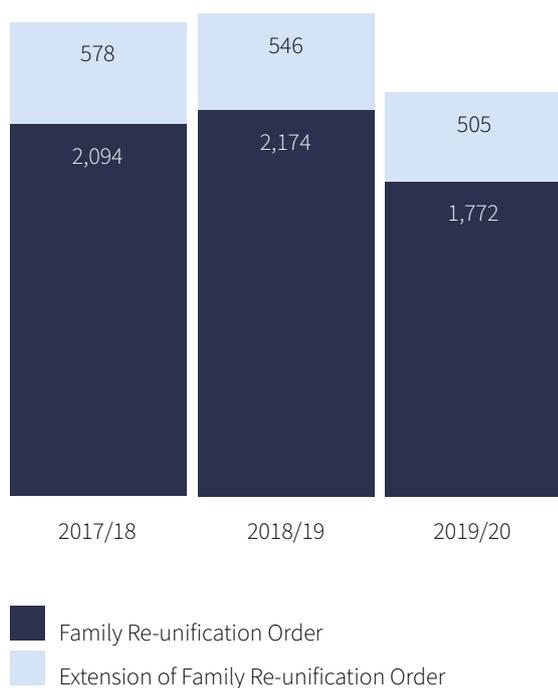
74 Ibid., s. 321(1)(ca).

75 Ibid., s. 67(4).

76 Children’s Court of Victoria, *Children’s Court of Victoria Annual Report 2019-2020*, 34.

An early evaluation of the Victorian permanency changes was conducted by the CCYP to understand the impact of the CYF Act amendments in the first 6 months of operation. In the ‘...Safe and Wanted...’ *Inquiry into the implementation of the Children, Youth and Families Amendment (Permanent Care and Other Matters) Act 2014*, it was identified that Permanent Care Orders initially increased by some 60%. This was attributed in part to the establishment of a temporary Child Protection permanency workforce to progress ‘stalled’ cases.⁷⁷ Since then, Permanent Care Orders and Long-term Care Orders have not increased as was foreshadowed (Figure 5) despite an increase in notifications and the recent decrease in Reunification Orders (Figure 11). This indicates more children remain in less stable placements.

Figure 11 / Reunification orders issued by the Children Courts of Victoria annually⁷⁸



UK and US trends in permanency arrangements for children in out-of-home care

In the UK, the introduction of a permanent care-type order (special guardianship order) has seen a marked decline in adoption since 2014-15 and an increase in the number of children moving into kinship arrangements (See Figure 12).

In the US in 2017, only 28% of children were in care for 2 or more years. A focus on permanency in the US has been attributed to an overall 30% decline in the number of children in care between 1998 and 2012. It should be noted, since then, there has been a progressive increase in numbers of children in care.⁷⁹

Trends in Adoption

Australian adoption trends

For the 11 years prior to 2015-2016, adoption rates had been declining in Australia with only 278 children adopted in 2015-2016 (See Figure 13).⁸⁰ There are many reasons attributed to this including a decline in fertility rates, a reduction in the stigma of children being born outside marriage, increased access to contraception and legal abortion, greater support for single parents, improved access to reproductive technology, and the emergence of family planning.⁸¹ In addition, many would argue that the establishment of permanent guardianship arrangements has reduced the need for adoption.⁸² The *Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (Hague Convention)* and the *United Nations Convention on the Rights of the Child (UN Convention)* have directly impacted and shaped inter-country adoption practices in Australia.

77 Commission for Children and Young People, ‘...safe and wanted...’ *An inquiry into the implementation of permanency arrangements*, 4.

78 Children’s Court of Victoria, *Children’s Court of Victoria Annual Report 2019-2020*, 34.

79 “Foster care,” *Child Trends*, published May 28, 2018, <https://www.childtrends.org/indicators/foster-care>.

80 “Adoptions Australia data visualisations,” Australian Institute of Health and Welfare, published December 13, 2019, <https://www.aihw.gov.au/reports/adoptions/adoptions-data-visualisations>.

81 *Ibid.*

82 *Ibid.*

Figure 12 / Trends in Adoption, Special Guardianship and Child Arrangement Orders in the UK

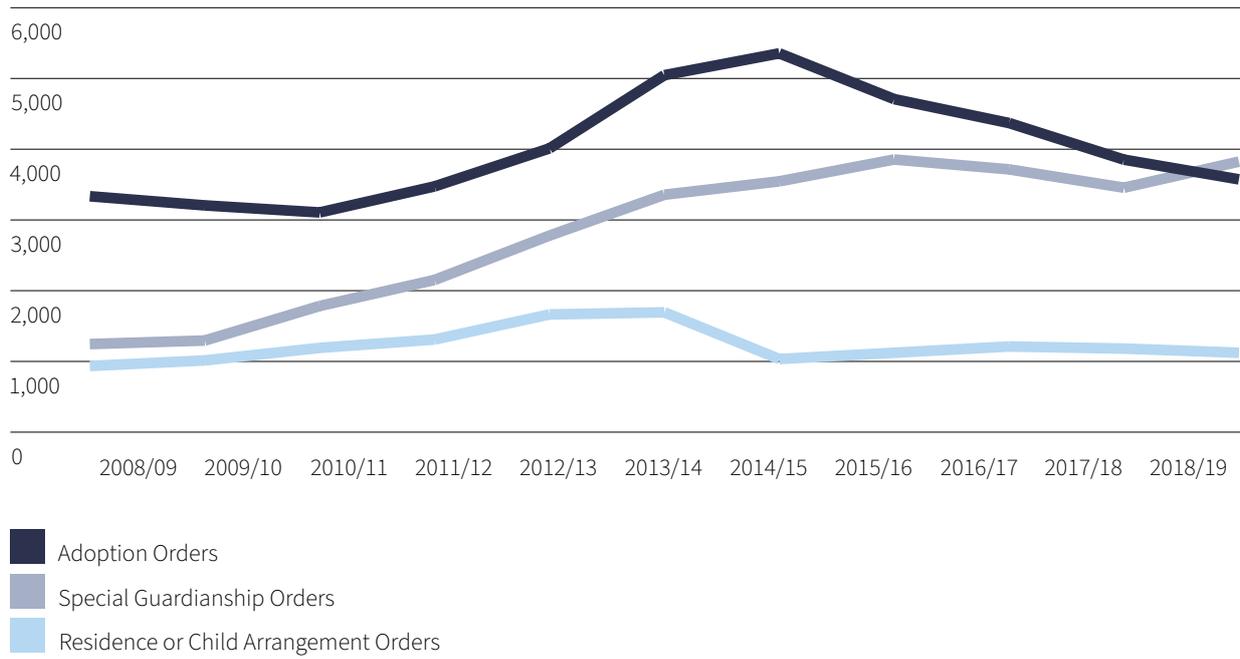
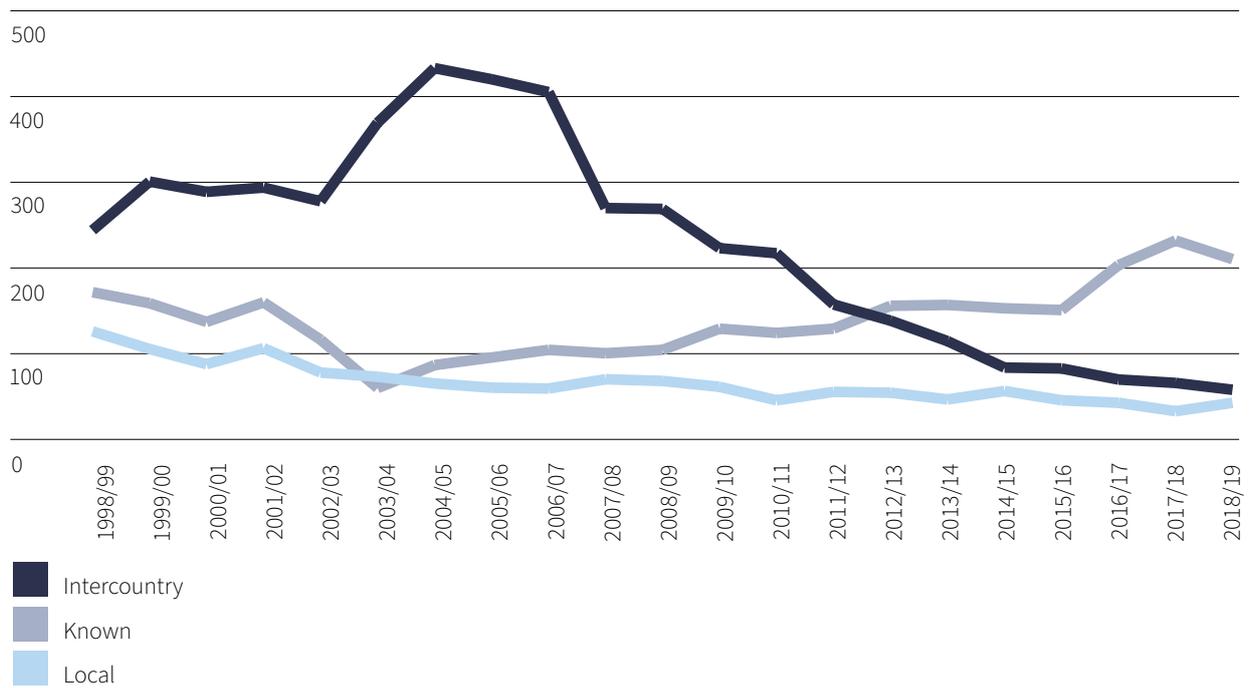


Figure 13 / Adoption, by type, in Australia⁸³



83 Source: Reprinted from "Adoptions Australia data visualisations," Australian Institute of Health and Welfare, *Adoptions Australia Data Visualisations* (Canberra: AIHW, 2021), published December 13, 2019, <https://www.aihw.gov.au/reports/adoptions/adoptions-data-visualisations>.

Inter-country adoption has declined for the 15th consecutive year. In mid-2019, Australia had active inter-country adoption programs with 13 countries. In 2019-20, 97% of inter-country adoptions were from Asian countries with the largest countries being Taiwan (43%), South Korea (22%) and the Philippines (16%). Over a decade ago, the key countries of origin were China and the Philippines.⁸⁴

NSW adoption trends

A feature of the NSW system is that permanency is 'actively driven' through adoption of children into long-term care.⁸⁵ The new Queensland legislation may well do the same as it places a similar emphasis on both guardianship and adoption from out-of-home care. In 2018, the *NSW Adoption Act 2000* clarified the five pathways to adoption:

- Local adoption (birth parents have made an adoption decision),
- Out-of-home care adoption (foster carers have adopted children in their care),
- Out-of-home care dual authorisation (carers assessed to become foster carers and adoptive parents at the same time),
- Special needs adoption (adoption of children with special needs), and
- Inter-family adoption (adopting a step-child with a disability or special needs).⁸⁶

Overall, the total number of adoptions in Australia remains small; however, the changes to the NSW Act have resulted in a 65% growth in adoption rates, with NSW now accounting for 9 out of 10 adoptions in Australia. Some 75% of the adoptions finalised in 2019-2020 were 'known adoptions', with 69% of these by carers, such as foster carers.⁸⁷ As part of the "Home for Life" reform, the NSW Government is working towards the goal:

"To double the number of children in safe and permanent homes by 2023 for children in, or at risk of entering, out-of-home care."⁸⁸

The 2017 review of the Victorian Adoption Act 1984 raised concerns that the NSW approach had some elements that could 'resemble forced adoption'.⁸⁹ These included the establishment of adoption targets, relaxing of criteria around consent, and pressure to reduce decision-making timeframes. In addition, the notion was raised that transferring children from the care system into adoption can be a way for government to avoid taking responsibility for providing 'effective remedial input and parenting services to vulnerable children and their parents'⁹⁰

Victorian adoption trends

On 1 July 2019, the administration and oversight of adoption in Victoria moved from the then Department of Health and Human Services (now DFFH) to the DJCS. Adoption is the only element of the permanency hierarchy that sits outside the DFFH, and is infrequently used as a permanency objective to exit out-of-home care. Victoria, like all other jurisdictions except NSW, has seen a steady decline in adoption rates (See Figure 14). Over the last 4 years, just over 20 children have been adopted in Victoria each year, which includes inter-country adoption.

The Children's Court of Victoria considers that the Permanent Care Order is similar to an Adoption Order, except for the length of time.

"A Permanent Care Order grants parental responsibility for a child to a person other than the child's parent or the DFFH. In effect, a Permanent Care Order is similar to an Adoption Order, however, the Permanent Care Order remains in force until the child turns 18 or marries."⁹¹

84 "Adoptions Australia data visualisations."

85 *Child Protection and Other Legislation Amendment Bill 2020* (Qld), <https://www.legislation.qld.gov.au/view/html/asmade/bill-2020-049#sec.8>.

86 "Want to adopt?", Communities & Justice, modified November 18, 2020, <https://www.facs.nsw.gov.au/families/adoption/adopting-a-child/want-to-adopt>.

87 "Adoptions Australia 2019-20," Australian Institute of Health and Welfare, published March 17, 2021, <https://www.aihw.gov.au/reports/adoptions/adoptions-australia-2019-20/summary>.

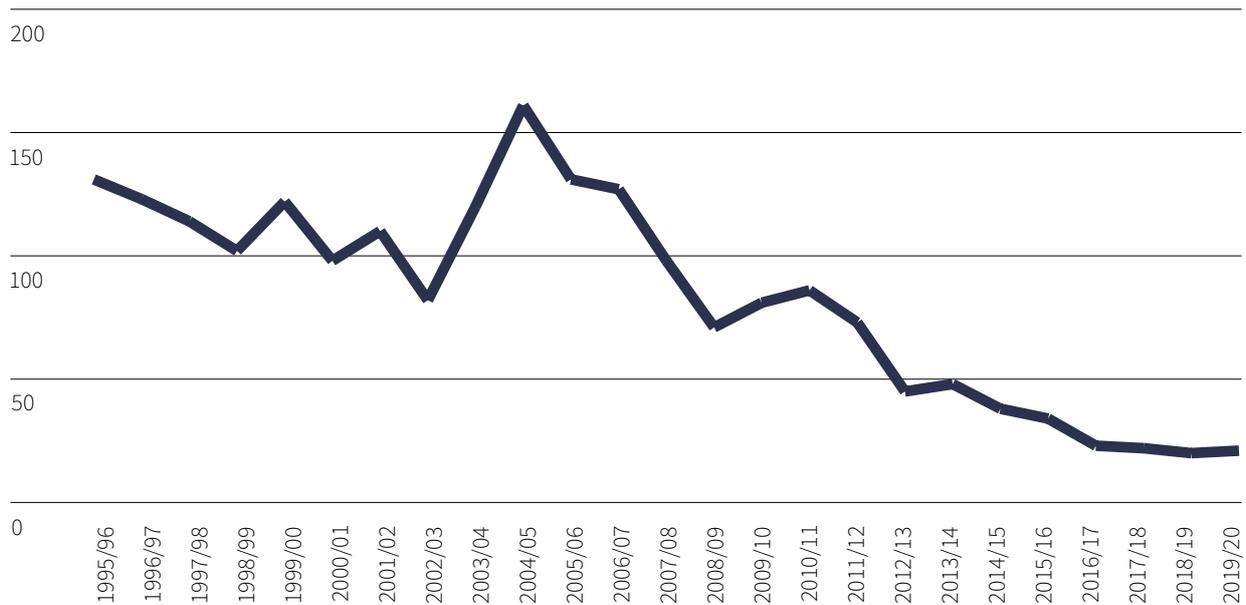
88 "Increasing permanency for children in out-of-home care," NSW Government, accessed June 7, 2021, <https://www.nsw.gov.au/premiers-priorities/increasing-permanency-for-children-out-of-home-care>.

89 Victorian Law Reform Commission, *Review of the Adoption Act 1984* (Victoria: Victorian Law Commission, 2017), 249, https://www.lawreform.vic.gov.au/wp-content/uploads/2021/07/VLRC_Adoption_Report_forweb.pdf.

90 Ibid., 282.

91 "Child Protection Orders Explained."

Figure 14 / Number of children adopted in Victoria, 1995-96 to 2019-20⁹²



In fact, there are other important differences which include birth family consent as a pre-requisite for adoption, a change in the level of support provided post-order, automatic inheritance rights and a change of surname for adopted children as discussed previously.

The CCYP raised concerns about the level of ongoing training and education afforded to practitioners to be able to guide best interest decisions for those involved in adoption decisions and services provision.⁹³ In addition, the CCYP cautioned that adoption not be used as a solution for permanent care parents who were frustrated with their inability to secure legal recognition of their parenting status at the Commonwealth level.

The *Cummin's Inquiry* went further to conclude that 'adoption for care should be a last resort'. The South Australian Royal Commission into the Child Protection system recommended that caution be exercised in using adoption as a solution where there is a shortage of carers. Whilst some families might be 'interested in starting or growing their families through adoption', and this can reduce the pressure on the care system, this is considered 'irrelevant' to issues that pertain to what is in the child's best interests.⁹⁴

92 Source: Data from Australian Institute of Health and Welfare, *Adoptions Australia 2019-20 supplementary data tables* (Canberra: AIHW, 2021), table S1, <https://www.aihw.gov.au/reports/adoptions/adoptions-australia-2019-20/data>.

93 Victorian Law Reform Commission, *Review of the Adoption Act 1984*, 249.
94 *Ibid.*, 246.

A new option – Simple Adoption

Legislation introducing Simple Adoption has been enacted in France, Belgium, Ethiopia, Mexico and Thailand.⁹⁵ A unique feature of Simple Adoption is that the child is legally related to both their birth parents and their adoptive family. Connection to both families and their heritage is encouraged as the child does not lose a part of their identity on adoption. Practically, the child's inheritance rights extend to both families. A research study completed in 2019, *Belonging in Two Families: Exploring Permanency Options for Children in Long-Term Out-of-Home Care in Australia*,⁹⁶ sought to understand the opinions of stakeholders with lived experience with respect to:

- Current permanency options available for children in Australia, and
- The introduction of Simple Adoption.

Overall, the 1,019 participants surveyed saw value in creating a Simple Adoption permanency option in Australia. Some of the direct quotes from research participants who supported Simple Adoption include:

“I have three permanent care daughters – simple adoption would suit our case perfectly. They want to belong to me, to carry my name and inheritance rights and they want to know they can stay with me forever even past 18. But they also want to stay in contact with their birth families as part of their heritage”

(Foster carer/guardian)

“This sounds fantastic and would solve a lot of problems so the child, aka my son, would still be recognised as a brother to his siblings and other birth relatives but also my son and my other children's brother. No lost connections or lost identity or sense of belonging”

(Foster carer)

“If this option were available now, I would much prefer it over either guardianship or plenary adoption. Although my oldest child is 12 and legally able to make a decision about what she wants, she is not able to understand the complexities and differences between guardianship and adoption. Simple adoption would mean that she would not be losing anything by making a choice to be adopted by me. She wants permanency very much but I am not convinced that she understands the implications of adoption enough for us to go down that path. I don't see any weaknesses in this form of adoption. It is about leaving choices for children as they grow into adulthood”

(Foster carer)⁹⁷

The *Belonging in Two Families* report recommends that:

- States and territories seek legal advice on commencing Simple Adoption,
- A National Simple Adoption Framework be introduced which is then reflected in state permanency and adoption practices, and
- A national approach for post-permanency support be established that spans the child's life to address trauma and displacement concerns.

95 Australian Institute of Health and Welfare, *Adoptions Australia 2019–20* (Canberra: AIHW, 2021), 4-6, <https://www.aihw.gov.au/getmedia/754e8ffa-d7ce-4a9b-b3bd-bc6e3252a030/aihw-cws-79.pdf.aspx?inline=true>.

96 Blythe and Gribble, *Belonging in Two Families: Exploring Permanency Options in Long-Term Out-of-Home Care in Australia*.

97 Ibid., 27.

Adoption for Aboriginal children

The Stolen Generations have had devastating impacts on the people who were forcibly removed as children, their parents and families, and their descendants.⁹⁸ Still today, the trauma, abuse and neglect result in greater levels of disadvantage for these people when compared with other Aboriginal people who were not removed from their families.

SNAICC's *Inquiry into Local Adoption* believes that until Aboriginal communities can reach agreement on the key elements of national and jurisdictional open adoption legislation policies, then a 'complete moratorium' on the adoption of Aboriginal children should be in place.⁹⁹ In addition, SNAICC makes the case that the concept of achieving permanency and stability through a legal order is flawed. A child might have a strong permanent connection to culture, family and community before entering care or while in care, and these do not change with an order type. In fact, there is some concern about the risk of a permanent placement severing a child's connection with identify and community, which in fact, is a breach of the rights of the child, and could have negative consequences that are experienced for many years to come.¹⁰⁰

Summary

The low numbers of adopted children in Victoria reveal that in practice, adoption is rarely chosen as a permanency objective to exit out-of-home care, despite its position on the permanency hierarchy. The lack of social licence due to historical factors such as the impact and legacy of the Stolen Generations involving the forceful removal of Aboriginal children from their birth families, and the need for parental consent from birth families, remain major barriers to adoption of these children.

Simple Adoption overcomes some of these concerns and provides some of the important rights for children who are not afforded a Permanent Care Order. At this stage, Simple Adoption is not being actively pursued by the Victorian Government. Further research would be required for the Victorian community, government and service providers to make an informed decision.

In the UK, the needs of adoptive and special guardianship families fall under the same framework and both have access to the adoption support fund. In Victoria, carers with children on Long-term Care Orders and Permanent Care Orders, although having similar responsibilities for a child until 18 years of age, do not enjoy the same relationships, peer connections, support and advice as a collective.

98 "The Stolen Generations," Australians Together, modified September 17, 2021, <https://australianstogether.org.au/discover/australian-history/stolen-generations/>.

99 Wendy Hermeston et al., *Inquiry Into Local Adoption* (SNAICC, 2018), 3, https://www.snaicc.org.au/wp-content/uploads/2018/06/SNAICC_Submission-Inquiry_into_Local_Adoption-May_2018.pdf.

100 Ibid.



**The longer a child
remains in care,
the greater the
likelihood that
harm accumulates**

Why permanency matters

The longer a child remains in care, the greater the likelihood that harm accumulates. For example, the child's educational outcomes may be compromised (poorer performance at school,¹⁰¹ more placements in special education, repetition of year levels, and early dropout in high school). Reduced time in care correlates with improved life outcomes for children, which includes increased educational achievement and income; and reduced criminality, disability and suicidality.¹⁰² In addition, there are substantial short and long-term cost benefits to the care system and society as a whole; for example, children who are unable to find a stable family or permanent home are more likely to commit crimes and become incarcerated.¹⁰³ The UK evidence demonstrates that children of parents, who themselves have been in out-of-home care, are more likely to enter the care system.¹⁰⁴

Until children are in stable, permanent homes, it is difficult to start the much-needed recovery work to address trauma and other physical, emotional and mental health issues associated with separation from birth families and time spent in care, including the important efforts around identity. The older the child is when they move into permanent arrangements, the greater the likelihood of challenging behaviours and

placement breakdown, as a child's previous exposure to stress and abuse tends to surface or intensify during adolescence.¹⁰⁵

Children have a right to grow up in a safe and supportive environment

Australia is a signatory to the *United Nations Convention on the Rights of the Child* which states that every child should be afforded the opportunity to grow up with a family, and that families should be supported and protected to carry out this critical role. Article 9 of the Convention further declares that children should not be separated from their parents unless it is in the best interests of the child.

“States’ parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child’s place of residence.”¹⁰⁶

101 Lorenda A. Taylor, “Increasing Adoption and Reducing the Number of Children in Foster Care in the U.S. and Abroad,” *PA Times*, accessed June 7, 2021, <https://patimes.org/increasing-adoption-reducing-number-children-foster-care/>.

102 Palacios et al., “Adoption in the service of child protection: An international interdisciplinary perspective,” 24.

103 “Increasing Adoption and Reducing the Number of Children in Foster Care in the U.S. and Abroad.”

104 Louise Roberts et al., “Care-leavers and their children placed for adoption,” *Children and Youth Services Review* 79 (2017): 355-361, <https://doi.org/10.1016/j.chilyouth.2017.06.030>.

105 Palacios et al., “Adoption Breakdown: Concept, Research, and Implications,” 10.

106 “Convention on the Rights of the Child,” United Nations Human Rights Office of the High Commissioner, published September 2, 1990, <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

Reunification of children with their birth families should always be the first permanency option

PCA Families supports the Victorian Government's prevention and early intervention focus to keep families together as outlined in Roadmap for Reform: Stronger Families, Safe Children¹⁰⁷ and the United Nations Convention on the Rights of the Child.

“...the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community.”¹⁰⁸

This is consistent with the *2018 US Family First Prevention Services Law*¹⁰⁹ and the UK Children's Act 1989 that states the first permanency option considered for a child in care should be reunification with their birth family where it is safe to do so.¹¹⁰ Poverty and an inability to access intense, timely support, should never be the reasons for removing a child from their birth family or placing children in permanency arrangements.¹¹¹

“Parents from a specific ethnic, cultural, religious or social heritage, as well as those living in poverty, should never be, by definition, considered incapable of taking care of their children (Arts 2 and 9 CRC; Arts 9 and 15 UN Guidelines).”¹¹²

Stability through permanency changes children's lives

Whilst birth family preservation and reunification should be the first option, the evidence shows there are limits for how long this should be pursued. As a group, children placed in permanent families outperformed those children who had remained in vulnerable families or institutional care.¹¹³ Consistent with this, Swedish studies reported that children moving out of the care system through adoption outperformed those in long-term foster care when assessed on cognitive competence and educational achievement. These children displayed better life outcomes than their siblings who remained in care longer.¹¹⁴

For children who have been in care, the need for substantial 'catch-up' has been observed in a number of key developmental areas when they are placed in a stable household. The early studies of children moving to special guardianship orders in the UK show promising results in terms of safety, wellbeing and developmental progress. Specifically, children on these permanency-type orders had improved educational outcomes for the curriculum taught to students 4-7 years of age and students 14-16 years of age.¹¹⁵

Children in care are often not afforded the same opportunities as their friends and peers.¹¹⁶ As well as impacting mental health, placement instability further affects a child's ability to maintain relationships with friends and service providers, engage in school and community life,¹¹⁷ and develop secure and healthy attachments as children and adults.¹¹⁸

107 Department of Health and Human Services, *Roadmap for Reform: stronger families, safe children* (Victoria: Victorian Government, 2016), 4, https://s3.ap-southeast-2.amazonaws.com/hdp.au.prod.app.vic-engage-files/3315/2384/3999/Roadmap_to_Reform_safe_families_safe_children_1.pdf.

108 "Convention on the Rights of the Child."

109 "Family First Prevention Services Act," National Center on Substance Abuse and Child Welfare, accessed June 7, 2021, <https://ncsacw.samhsa.gov/topics/family-first-prevention-services-act.aspx>.

110 *Children Act 1989* (UK), <https://www.legislation.gov.uk/ukpga/1989/41/contents>.

111 J. Selwyn, "The adoption of looked after maltreated children in England: challenges, opportunities and outcomes," *Developing Practice: The Child, Youth and Family Work Journal* (2017): 8, <https://search.informit.com.au/browseJournalTitle;res=IELHSS;issn=1445-6818>.

112 Palacios et al., "Adoption in the service of child protection: An international interdisciplinary perspective," 29.

113 *Ibid.*, 20.

114 *Ibid.*, 24.

115 "Adoption in the service of child protection: An international interdisciplinary perspective," 12.

116 State of Victoria, *Stability, Planning and Permanent Care Project 2013-14 Final Report* (Melbourne: Department of Health and Human Services, September 2014), 9, https://www.parliament.vic.gov.au/images/stories/committees/SCLSI/Children_Youth_Families_Bill/Stability-planning-and-permanent-care-project-2013-14.pdf.

117 Dave S. Pasalich et al., "Can Parenting Intervention Prevent Cascading Effects From Placement Instability to Insecure Attachment to Externalizing Problems in Maltreated Toddlers?" *Child Maltreatment* 21, no. 3 (2016), <https://doi.org/10.1177/1077559516656398>.

118 *Ibid.*

Moving children to a stable, supported, permanent environment can reduce the probability of genetic vulnerabilities surfacing or being expressed such as those associated with mental illness.¹¹⁹

It should be noted that in 2017-2018, at the time of placement, 34% of inter-country adoptions had 'moderate to substantial' care needs; however, after these children resided in Australia for 12 months, the number of children requiring additional support dropped to just 9%.¹²⁰

Earlier permanency reduces risk and harm

International studies report that age is the primary factor correlated with permanency breakdown, and that teenagers around 13-14 years of age are particularly at risk.¹²¹ Despite this knowledge, no explicit allowance is made for additional support and investment to prepare children and their permanent families for adolescence. In Victoria, like most jurisdictions, the majority of support is directed to the establishment and first year of a new permanent arrangement, regardless of the age of the child at placement.

Children placed before 6 months of age had few risk factors, while those placed after 24 months had many.¹²² This suggests that if a child is placed into kinship care within 6 months of birth, and if that placement subsequently turns into a permanent care arrangement, the number of risk factors at the time of permanency are likely to be significantly reduced.

With the best interests of the child in mind, and given what is known about age at placement, the UK and the US have introduced policies to accelerate permanency processes for those children who cannot return to their birth families.

“The longer it takes a child to be placed into a family, the more likely that child is to have many risk factors... A half of children placed over 2 years old had four or more known risk factors.”

When speeding up the transition into permanency in the US, it was feared that adoption breakdown rates might increase, but in fact, the reverse has occurred. Placements increased by 42% between the years 1995 and 2000 under the new laws, and disruptions decreased from almost 13% to less than 6% in that same timeframe.¹²³

Harm from further placements can be avoided

Even when a child enters care without known mental health issues, a planned or unplanned placement move is linked to the development of emotional and behavioural difficulties.¹²⁴ With every placement change, trusted adult relationships are fractured and/or missing and part of the child's history risks being lost. The high turnover of case workers and Child Protection workers over the child's care journey further exacerbates trust issues and problems with continuity of care.

“Even when foster care placements are stable, children do not always feel secure, as they know they can be moved”¹²⁵

Children no longer carry the stigma associated with being in out-of-home care

The increased sense of belonging and attachment for children on Permanent Care and Adoption Orders, when contrasted with those in out-of-home care, can in part be attributed to no longer carrying the stigma and negative labelling associated with being in the system.¹²⁶

119 Pekka Tienari et al., “Genotype environment interaction in schizophrenia-spectrum disorder. Long-term follow-up study of Finnish adoptees,” *The British Journal of Psychiatry* 184, no. 3 (2004), doi: 10.1192/bjp.184.3.216.

120 “Adoptions Australia 2018-19,” Australian Institute of Health and Welfare, published December 13, 2019, <https://www.aihw.gov.au/reports/adoptions/adoptions-australia-2018-19/summary>.

121 J. Selwyn, “The adoption of looked after maltreated children in England: challenges, opportunities and outcomes,” 1.

122 Julie Selwyn, *Post-adoption support and interventions for adoptive families: Best practice approaches* (German Research Center on Adoption (EFZA) (Munich: Deutsches Jugendinstitut e.V., 2017), https://www.dji.de/fileadmin/user_upload/bibs2017/Selwyn_Post_adoption_support.pdf.

123 J. Palacios et al., “Adoption Breakdown: Concept, Research, and Implications,” 10.

124 David M. Rubin et al., “The Impact of Placement Stability on Behavioural Well-Being for Children in Foster Care,” *Pediatrics* 119, no. 2 (2007). doi: 10.1542/peds.2006-1995.

125 J. Selwyn, “The adoption of looked after maltreated children in England: challenges, opportunities and outcomes,” 2.

126 Ibid., 3.

Children on orders, which includes Care by Secretary and Long-term Care found the regular monitoring by case workers to be intrusive.¹²⁷

“Being visited every month by case workers, support agency staff and the community visitor and having to have the children there for every appointment is not normal. These children are reminded nearly every month that they are different and that they don’t really belong to their foster family”

(Foster carer)¹²⁸

Some children talk of being discriminated against when the school community was aware they were in care.

“There was a lot of stigma in school – I got bullied quite a bit because the teachers knew I was a government kid, so you get treated differently I guess.”¹²⁹

Low placement breakdown reduces demand and costs on the care system

In Victoria, there were 1,061 child protection reports for children on Permanent Care Orders between 2016 and 2020; however, only 24 (2.3%) of these resulted in a child changing placements.¹³⁰ The AIHW data show that placement breakdown for permanent care and adoption is just 1%.¹³¹ These low levels of placement disruption are consistent with the findings from the UK for both Adoption and Special Guardianship Orders.

In the UK, findings published in 2019 in the document *Special Guardianship: A Review of the Evidence*, cited that approximately a third of children re-entered out-of-home care after reunification. Where children suffered further neglect or there were drug and alcohol issues, the number increased to 52%. Placement breakdown was far lower for those on Special Guardianship Orders (5%) and Adoption Orders (0.7%).¹³²

These findings are consistent with the extensive Bristol University study which analysed data on 37,355 adoptions spanning 12 years and found that disruption rates for adoption were 3.2%.¹³³

“Adoptive placements are the most stable of all types of placement, irrespective of age at placement”¹³⁴

An earlier UK study found that of 130 children being considered for adoption, when followed up some years later, 80 of the 96 adopted children (83%) were still with those families, whereas only 54% of 46 children in foster-care placements had stayed with the same family.¹³⁵

If a child within a permanent care family in Victoria has to return to the Child Protection system, the whole-of-system average annual cost for each placement type (encompassing funding to agencies to deliver the service and provision of allowance to carers), is as follows:

- \$44,000 for kinship care,
- \$70,000 for foster care, and
- \$345,200 for residential care.¹³⁶

127 Blythe and Gribble, *Belonging in Two Families: Exploring Permanency Options for Children in Long-Term Out-of-Home Care in Australia*, 22.

128 Ibid.

129 “Snap that Stigma,” Create Foundation, accessed June 7, 2021, <https://create.org.au/snap-that-stigma/>.

130 DFFH CRIS Data, Carer Helpline Report.

131 Australian Institute of Health and Welfare, *Child protection Australia 2019–20*, 64.

132 John Simmonds et al., *Special guardianship: a review of the evidence summary report* (London: Nuffield Foundation, 2019), 12, <https://www.nuffieldfjo.org.uk/wp-content/uploads/2021/05/NuffieldFJO-Special-Guardianship-190731-WEB-final.pdf>.

133 University of Bristol, “Report reveals adoption breakdown rate and the experiences of adoptive families in crisis,” (Press release, April 9, 2014), <http://www.bristol.ac.uk/news/2014/april/adoption-report.html>.

134 Selwyn, “The adoption of looked after maltreated children in England: challenges, opportunities and outcomes,” 1.

135 Julie Selwyn and David Quinton, “Stability, Permanence, Outcomes and Support: Foster Care and Adoption Compared,” *Adoption & Fostering* 28, no. 4 (Dec 2004): 8, doi: 10.1177/030857590402800403.

136 Social Ventures Australia, *Keeping families together through COVID-19: the strengthened case for early intervention in Victoria’s child protection and out-of-home care system* (Social Ventures Australia, August 2020), <https://www.berrystreet.org.au/uploads/main/Files/SVA-ResearchPaper-Keeping-FamiliesTogetherThroughCOVID-2020.pdf>.

Children bouncing in and out of the out-of-home care system are significant contributors to the annual \$709 million cost associated with the Victorian care system.¹³⁷

Summary

When attempts to reunify children with their birth family have been exhausted, securing another permanency option in a timely manner can reduce additional harm to the child and, most importantly, provide a stable family environment where the child can start the recovery journey.

Whilst there is limited Australian and Victorian research, there is consistency in the international data that shows the longer a child remains in the out-of-home care system, the increased likelihood of placement breakdown, and the greater the cost to society and to the child.



137 Social Ventures Australia, *The economic case for early intervention in the child protection and out-of-home care system in Victoria* (November 2019), 2, <https://www.berrystreet.org.au/uploads/main/Files/SVA-ResearchPaper-TheEconomicCaseForEarlyIntervention-2019.pdf>.



**Children do better
in permanent care
families when
support is available
for carers**

Why permanent placement support must be at the ready

The accumulated and ongoing trauma and challenges that children experience when they can no longer live with their birth families continues well into a child's life, even when they are part of stable permanent care families. Grief and loss associated with feelings of abandonment or confusion about identity are common.¹³⁸ Support may be required to address the increased risks of depression, anxiety, post-traumatic stress disorder, and other mental health issues that are elevated by exposure to neglectful, abusive, and inadequate care-giving.¹³⁹

Children are known to do better in permanent care families when support is available for carers to address the child's challenges, which in turn enhances the stability and wellbeing of their family along the permanency journey. Permanency policies, practices and support that promote stability in children's lives and the availability of specialised therapeutic support services by well-trained permanency-competent clinicians, can aid recovery and reduce long-term disparity.¹⁴⁰

While parenting programs are invaluable, these often occur when the child is very young. A lot more support is required to apply these parenting principles later in the child's life as both the child and family grow and change.

As the length of time in the permanent placement increases, particularly as adolescence approaches, so too does the importance to review services based on need and impact.¹⁴¹

Children arriving in permanent placements often have significant trauma and other issues

Harm can begin well before a child is born and the impacts are likely to last a lifetime, which has far-reaching consequences for access to enduring services and support. Some 60-70% of mothers whose children were adopted had misused alcohol and other drugs pre-birth.¹⁴² A Norwegian study of infants whose mothers had used drugs in-utero found that children in care, even when in long-term stable families, did not cognitively 'catch-up' over time. In fact, the vulnerabilities were amplified during adolescence, especially for girls.¹⁴³

A UK study found that 35% of children in care, compared with 10% of the general child population, had a mental health problem. Asthma, bed-wetting, vision impairment, and other forms of physical issues were also reported by two-thirds of carers. Furthermore, another study found that 10% of adopted children exhibited the full spectrum of DSM-5 symptoms of autistic spectrum disorder.¹⁴⁴

138 Social Ventures Australia, *The economic case for early intervention in the child protection and out-of-home care system in Victoria*, 2.

139 "Adoption in the service of child protection: An international interdisciplinary perspective," 11.

140 *Ibid.*, 18.

141 Palacios et al., "Adoption Breakdown: Concept, Research, and Implications," 23-25, 27.

142 Selwyn, *Post-adoption support and interventions for adoptive families: Best practice approaches*, 4.

143 Egil Nygaard et al., "Longitudinal cognitive development of children born to mothers with opioid and polysubstance use," *Pediatric research* 78, no. 3 (2015), <https://doi.org/10.1038/pr.2015.95>.

144 Selwyn, *Post-adoption support and interventions for adoptive families: Best practice approaches*, 5-6.

“Adoption does provide the opportunity for developmental recovery and a considerable body of research highlights that adoption is better for children than institutional or foster care but support is likely to be needed at some point across the life-span (e.g. van IJzendoorn & Juffer 2006). Haringer-Saunters and Trouteaud (2015) argue it is unrealistic to expect adoptive families to remain intact without access to appropriate services.”¹⁴⁵

Some of the life challenges that can surface when a child moves into permanent arrangements include:

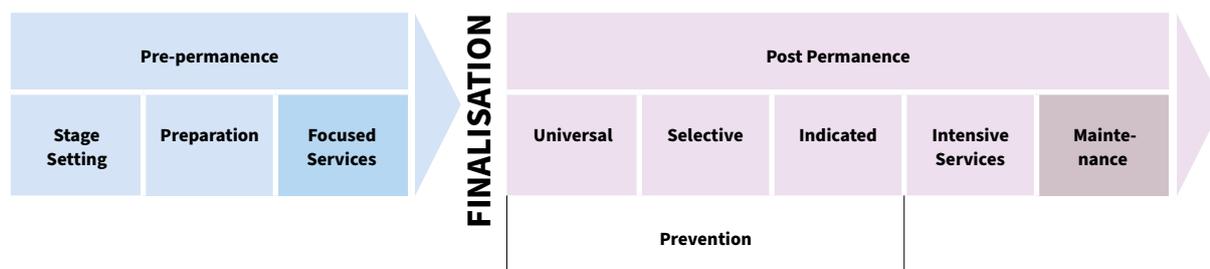
- Intra-personal competencies (e.g. sense of self),
- Inter-personal competencies (e.g. healthy relationships),
- Regulatory competencies (e.g. modulation of emotional and physiological experiences), and
- Neuro-cognitive competencies (e.g. attention capacity and managing impulsive behaviours).¹⁴⁶

The early identification of issues and well-supported placements enable recovery and reduce disparity

Growing up in a well-supported permanent family is critical for a child’s developmental recovery.¹⁴⁷ The US Quality Improvement Centre has developed a Permanency Continuum Framework (See Figure 15) based on the view that adoptive and guardianship families do better if they are fully prepared to take on a child, which includes proactively identifying risks and protective factors, as well as the support to address the anticipated and emerging needs and issues in a timely manner.¹⁴⁸

The Framework guides the work to support children during the transition from foster care to adoption or guardianship, and then helps families maintain stability and well-being along the permanency journey. A thorough assessment is seen as a pre-requisite to identify and address underlying issues. This avoids assumptions being made, such as, ‘it’s all about failure to attach’.¹⁴⁹

Figure 15 / Quality Improvement Centre for Adoption & Guardianship Support and Preservation QIC-AG Permanency Continuum¹⁵⁰



145 Selwyn, *Post-adoption support and interventions for adoptive families: Best practice approaches*, 3.

146 Ibid., 5

147 Selwyn, *Post-adoption support and interventions for adoptive families: Best practice approaches*, 12.

148 “QIC-AG Permanency Continuum Framework.” Quality Improvement Center for Adoption & Guardianship Support and Preservation, accessed June 12, 2021, <https://www.qic-ag.org/continuum-framework/>.

149 Matthew Woolgar and Stephen Basil Scott, “The negative consequences of over-diagnosing attachment disorders in adopted children: The importance of comprehensive formulations,” *Clinical Child Psychology and Psychiatry* 19, no. 3 (2013), doi: 10.1177/1359104513478545.

150 “QIC-AG Permanency Continuum Framework.” Quality Improvement Center for Adoption & Guardianship Support and Preservation, accessed June 12, 2021, <https://www.qic-ag.org/continuum-framework/>.

Professionals can dismiss issues that surface early with the expectation that they will diminish after the child has adapted to the new family dynamic; however, this may not be the case.

Selwyn has reviewed the research on the robustness and efficacy of a diversity of interventions with adoptive families, many of which are also used when children are in out-of-home care. The interventions have been categorised as ‘well supported by research and evidence’, ‘supported by research and evidence’, or ‘promising practice’ (Appendix II: Interventions based on evidence).

Too often, adoptive families wait until they are at a crisis point before they seek help. The messaging has changed in the UK to suggest that it is expected that adoptive parents will need support during some phase of the adoptive life cycle. The identified barriers to reaching out for support include:

- Adoptive parents feeling judged and/or inadequate,
- Service quality variability and limited ‘adoption-aware’ knowledge and practices,
- Poor assessments,
- Service delivery not being convenient for the adoptive family members, and
- Adoptive families not having the means or failing to meet the criteria to access supports.¹⁵¹

In the UK, every agency has to provide basic support to post-adoptive children (training, parenting support groups and counselling). In addition, specialist adoption mental health services have been developed to meet the needs of the child and family. The specialist assessments consider attachment and identity; the family environment and the child’s functioning at school; specialist

therapies; child and family relationship support; and education engagement and learning strategies. To increase awareness of the needs of adopted children and to support their journey, all adopted children receive priority school admission and schools receive additional annual funding for each adopted child (4-16 years of age). More work is being carried out with teachers to help them understand the impact of harm, attachment issues and trauma on the journey of adopted children.¹⁵²

Children require support to strengthen their identity

Despite the importance of a child’s identity, all too often a child arrives at their new family without key timelines of their story, family tree details, photographs, and carer history. Lack of a coherent narrative surrounding identity, and the difficulty of fusing an old and new sense of family and self, is a continuing issue for children moving into permanency arrangements.¹⁵³ Some children are unclear why they entered care and in the absence of this knowledge, can blame themselves.

A change in culture around permanency and adoption has seen greater transparency and encouragement of age-appropriate discussions around heritage which are now viewed as necessary and a healthy part of a child’s identity development and sense of connection. This open sharing of information with an adopted child is commonly referred to as ‘open adoption,’ and is one of the key elements of ‘Simple Adoption’.

To facilitate identity, South Australia (December 2020)¹⁵⁴ and New South Wales (November 2020)¹⁵⁵ amended their respective acts to enable the issuing of an Integrated Birth Certificate (IBC). In these jurisdictions, adopted children are provided with two documents, a post-adoptive birth certificate and an IBC.

151 Selwyn, *Post-adoption support and interventions for adoptive families: Best practice approaches*, 17.

152 Ibid.

153 Ibid., 15.

154 “Recent changes to the Adoption Changes,” Department for Child Protection, accessed June 7, 2021, <https://www.childprotection.sa.gov.au/adoption/changes-to-the-adoption-act>.

155 “Introducing Integrated Birth Certificates,” Communities & Justice, modified November 12, 2020, <https://www.facs.nsw.gov.au/families/adoption/introducing-integrated-birth-certificates#:~:text=An%20IBC%20is%20a%20new,a%20post%2Dadoptive%20birth%20certificate>.

“An IBC is a new form of birth certificate that includes information about an adopted person’s parents and siblings at birth, as well as their parents and siblings after adoption.”¹⁵⁶

The Cummins Inquiry advised in Recommendations 24 and 25 that ‘subject to security and cost implications, integrated birth certificates should be introduced in Victoria’, and be made available to children under 18 years of age by application.¹⁵⁷ These should have the same equal legal status as other birth certificates.

Placement stress increases as children grow older

A Californian longitudinal study demonstrated that the use of clinical services increased over time from 9% after 2 years post-adoption to 31% after a child had been in adoption for 8 years. In the UK, adoptive families identified the most challenging and disruptive years were during adolescence, often peaking around 14 years of age.¹⁵⁸ Often these families did not utilise any form of therapeutic support until early adolescence. The UK has established the Adoption Support Fund which is only used to finance therapeutic support services for special guardianship and adopted children. The investment is distributed through local authorities and adoptive agencies using existing statutory frameworks that assess need.¹⁵⁹

A lot more support is required to apply parenting principles later in the child’s life as both the child and family grow and change. The longer the permanent placement, particularly as adolescence approaches, the greater the importance and impact of providing services based on need, rather than time-limited criteria.¹⁶⁰

“Being able to receive services for as long as they are needed rather than for a time-limited period is linked with more positive outcomes.”¹⁶¹

Parent-related factors can impact placement stability

Parental factors can impact the chance of breakdown, including marital stability, initial expectations, willingness to seek help, and the ability to accommodate the needs of the child. Parents describe the characteristics of the support that they value as being:

- Timely,
- Professional, with specialist adoption knowledge and skills,
- Empowering, allowing parents to find solutions to their problems,
- Effective in strengthening family relationships, and
- Compassionate and nurturing, providing a blame-free approach where the voice of family members is genuinely heard and understood.¹⁶²

156 “Introducing Integrated Birth Certificates.” Communities & Justice, modified November 12, 2020, <https://www.facs.nsw.gov.au/families/adoption/introducing-integrated-birth-certificates#:~:text=An%20IBC%20is%20a%20new,a%20post%20adoptive%20birth%20certificate>.

157 Victorian Law Reform Commission, *Review of the Adoption Act* (Victoria: Victorian Law Reform Commission, 2017), xiv-xv, https://www.lawreform.vic.gov.au/wp-content/uploads/2021/07/MLRC_Adoption_Report_forweb.pdf.

158 Selwyn, *Post-adoption support and interventions for adoptive families: Best practice approaches*, 12.

159 “Guidance Adoption support fund (ASF),” Department for Education, modified May 12, 2021, <https://www.gov.uk/guidance/adoption-support-fund-asf>.

160 Palacios et al., “Adoption Breakdown: Concept, Research, and Implications,” 23-25, 27.

161 Selwyn, *Post-adoption support and interventions for adoptive families: Best practice approaches*, 22.

162 Ibid., 16.

163 Nikki Luke and Judy Sebba, *Supporting Each Other: An International Literature Review On Peer Contact Between Foster Carers* (Oxford: REES Centre, University of Oxford, 2013), 1, <http://www.education.ox.ac.uk/wp-content/uploads/2019/06/Supporting-Each-Other-An-International-Literature-Review-on-Peer-Contact-Between-Foster-Carers.pdf>.

164 Ibid.

Peer support and mentoring make a difference

A review of 33 research studies post 2000 across the UK, Ireland, North America and Australasia, identified the value of carer peer support, particularly in terms of learning from others and sharing one's own story.¹⁶³

“Two studies reported that carers participating in group training (Ogilvie et al., 2016) and peer support networks (Sinclair et al., 2004) reported feeling more supported by other carers than by other sources of support.”¹⁶⁴

In a specific study that asked carers to articulate the nature of the support that would be most helpful, they said, ‘education through sharing’.¹⁶⁵ Peer support can provide an invaluable opportunity for carers to receive emotional support, to seek feedback on issues that are on their mind, and to garner assistance with problem-solving. Carers sharing their stories also provides the space to normalise their experiences and take some comfort in the fact that, ‘everyone gets it wrong sometimes’.¹⁶⁶

Summary

International research consistently reports that children and carers in stable permanent families require continuous, timely, and often intensive support. This requires a universal, transparent assessment process to ensure the changing needs of the child and permanent family can be identified early and addressed. Without this timely support, the long-term outcomes for children who have been in the care system are likely to be compromised and, in addition, trends such as over-representation in the criminal justice system, poor educational achievements, and higher levels of unemployment are set to continue. In the absence of timely support, a Child Protection response may be the only option. This can result in breakdown of the placement, and worse still, time in residential care or the juvenile justice system.

Without timely support, the long-term outcomes for children who have been in the care system are likely to be compromised

163 Viktoria Ivanova and Jason Brown, “Support needs of Aboriginal foster parents,” *Children and Youth Services Review* 32, no. 12 (2010), <https://doi.org/10.1016/j.childyouth.2010.07.025>.

166 Luke and Sebba, *Supporting Each Other: An International Literature Review On Peer Contact Between Foster Carers*, 4.

Institutional barriers to permanency

Prospective families considering bringing a child into their family on a permanent basis need to know that life moving forward will be manageable. In Victoria, there is a diversity of reasons why carers are not willing to move to permanent care arrangements, and why an agency or child protection worker might not recommend permanency as an option. Many prospective families are concerned they will be unable to meet the needs of the children in their care when things go wrong; when unexpected developmental, social and behavioural issues arise, or the needs of the family change. This is particularly relevant where it has been recognised already that a child in their care will require a lifetime of support given the trauma they have experienced, or special needs have been identified. From the carer's perspective, it is challenging to compare permanency options and understand exactly how their support will be impacted by moving to a particular option.

Given the scarcity of Victorian and Australian research, it is difficult to draw conclusions regarding which barriers are more salient to permanency decisions and whether they are consistent across all prospective carers, or more impactful for specific carer cohorts. The barriers discussed below have been drawn from international research; PCA Families Victorian focus groups, interviews and helpline; and discussions with other peak bodies, and Fostering Connections.

Where there is ongoing support, it is often not well known to carers

PCA Families does not automatically receive carer details from the DFFH about families moving into permanency arrangements. Many of these families are unaware that they may be eligible for Flexible Funding or other support from PCA Families in those critical first few months of the placement. Without these details, PCA Families has no other way of initiating contact.

Access to financial support is not based on the needs of the child and family

Support that reflects a family's vulnerability and a child's complex behavioural and learning needs, which in many cases was provided prior to the issuing of a Permanent Care Order, can substantially change. When a Permanent Care Order is issued, case management ceases, and carer payments are automatically reduced to Level 1 and can only be assigned a higher rate following a further assessment by Child Protection. Carers are not consistently made aware of how to request adjustments to carer allowances should this be required, or of other supports, requests for an assessment, or access to Flexible Funding (capped per annum). It should be noted that the variation in support for carers is based on policies generated from the DFFH, not conditions of court orders.

This begs the question as to why there is not equitable support for carers based on the known child and carer needs. Why are the assessment processes and entitlements different depending on the legal categorisation of the care order, instead of what is in the best interests of the child?

Table 3 below demonstrates the variability in support based on different legal orders.

Table 3 / Comparison of Victorian support by permanency type (provided by PCA Families)

	Long-term care Orders – Foster carer	Long-term care Orders – Kinship carer	Permanent Care Orders	Local Adoption with DFFH funding ¹⁶⁷	Plenary Adoption
Eligibility for Level 1 care allowance	Yes Level 1-5	Yes Automatic Level 1 (unless assessed differently)	Yes Automatic Level 1 (unless assessed differently)	Yes	No
Increased care allowance	Yes	Yes Special Negotiated Adjustment – with evidence of projected costs required	Yes Special Negotiated Adjustment – with evidence of projected costs required	Yes Special Negotiated Adjustment – with evidence of projected costs required	?
New placement allowance and costs for the first 6 months	Yes	Yes	Yes	No	No
Education and medical payments	Yes	Yes	Yes	Yes	No
School Attendance Allowance	Yes	Yes	No	No	No
Eligibility for 18-21 years secondary education support (School or VCAL)	Yes	Yes	Yes	No	No
Additional funding	Yes Client support funding –placement support brokerage (apply to CSO) –client expenses (apply to DFFH Child Protection)	Yes Client support funding –placement support brokerage (apply to CSO or Child Protection) –client expenses (apply to DFFH Child Protection)	Yes Flexible Funding –Pre-order to 12 mths post PCO (apply to DFFH Child Protection) –Post-12 mths (apply to OzChild and PCA Families Fund)	Yes – ad hoc grants and no more than \$5,000	No
Disability support payment	Yes PBS via NDIS	Yes PBS via NDIS	Yes DSIAPC via NDIS	Yes DSIAPC via NDIS	Yes NDIS
Commonwealth Government Assistance (based on eligibility and challenging to access)	Yes	Yes	Yes	Yes	Yes

167 “Adopt a child from Victoria.”

Accessing other financial entitlements is also more difficult. For example, Centrelink currently requires a letter of support every 13 weeks for a carer to access the *Additional Child Care Subsidies*. The DFFH provides this letter whilst children are on Long-term Care Orders; however, those on Permanent Care Orders have to obtain these through PCA Families or medical professionals. There are often distinctions drawn by other government departments with respect to how they support different order types.

In the US, the availability of financial support was found to be the number one factor influencing whether a former foster carer was prepared to adopt a child.¹⁶⁸ Subsidies have been introduced such as Medicaid cards to assist with dental and medical costs, and psychiatry and mental health expenses. Even with these financial supports, some adoptive families find the support is not sufficient. This is in contrast to the Victorian system where permanent and adoptive carers must proactively advocate for support and are expected to have many of their needs met through the universal service system.

Limited regular respite available

Carers on Long-term Care Orders can access respite care through their agencies, subject to availability. Permanent carers and local adoptors receiving DFFH funding are able to use *Flexible Funds* to access respite; however, there is no dedicated agency or pool of respite carers available to support these carers.

Carers cannot manage with less financial support when many live below the poverty line

For governments around the world, living with kin is the preferred arrangement for children who cannot live with their birth families; however, kinship carers, even in high-income countries like Australia, are likely to be financially vulnerable.

“...two-thirds of kinship care-givers reported that they were ‘just getting along,’ ‘poor’ or ‘very poor.’”¹⁶⁹

In Victoria each year, approximately seven times more kinship care households commence care to every foster care household. A report by the Social Justice Social Change Research Centre found that kinship carers were predominantly female, older, more likely to have lower incomes, to be in public rental accommodation, less likely to be employed, or to have a university qualification, than foster carers.¹⁷⁰ Kinship carers were more likely to have an income from a Centrelink pension or benefit with a gross weekly income between \$80 and \$1,000, with one-third of kinship carers having a weekly income of less than \$500.¹⁷¹ This is highly consequential given the poverty line in Australia for a couple with two children is calculated to be \$960pw,¹⁷² and the difficulty experienced in obtaining or maintaining DFFH carer allowances above Level 1 for permanent kinship carers.

In the UK, an analysis of 2,000 special guardianship orders granted in the second quarter of 2020/21, revealed 89% of carers were kin, with just over 50% of these grandparents, approximately one-third siblings, and one-fifth other relatives.¹⁷³

168 Selwyn, *Post-adoption support and interventions for adoptive families: Best practice approaches*, 22.

169 Emily Delap and Gillian Mann, *The Paradox Of Kinship Care: The Most Valued But Least Resourced Care Option – A Global Study* (Family for Every Child's Care, 2019), 31, <https://bettercarenetwork.org/sites/default/files/2020-02/Kinship-Care-Global-Review-Final.pdf>.

170 Ainslie Yardley, Jan Mason and Elizabeth A Watson, *Kinship Care In NSW: Finding A Way Forward: Report On A Research Project: An Examination Of Issues Around The Support And Supervision Of Kinship Carers With A Particular Focus On NSW* (Penrith: University of Western Sydney, 2009), <https://researchdirect.westernsydney.edu.au/islandora/object/uws%3A16425/datastream/PDF/view>.

171 Community Affairs References Committee, *Grandparents Who Take Primary Responsibility For Raising Their Grandchildren* (Canberra: Commonwealth of Australia, 2014), https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Grandparent_Carers/Report.

172 P. Davidson et al., *Poverty in Australia 2020: Part 1, Overview. ACOSS/UNSW Poverty and Inequality Partnership Report No. 3* (Sydney: ACOSS, 2020), http://povertyandinequality.acoss.org.au/wp-content/uploads/2020/02/Poverty-in-Australia-2020_Part-1_Overview.pdf.

173 Meredith Kiraly, *A review of kinship carer surveys: the “Cinderella” of the care system?* (Melbourne: Australian Institute of Family Studies, 2015), <https://aifs.gov.au/cfca/publications/review-kinship-carer-surveys>.

Comparable information was not available for Victoria at the time of writing, but it is anticipated it would be similar. Again, this demonstrates the reliance on kinship carers, a group that is known to be financially challenged.

The nuances of each permanency option are not well understood

As can be seen from Table 3, understanding entitlements is complex and workers from different parts of the DFFH (case workers, First Supports, and Child Protection), as well as Community Sector Organisations (CSOs), Aboriginal organisations, and other peak bodies, are required to interpret and implement the policies and associated practices. The high turnover of staff can make it difficult to retain the requisite depth of knowledge and experience to apply permanency policies. Carers find it difficult to understand their entitlements, the processes to access financial support, and are often left facing the consequences where financial issues were not identified and resolved prior to finalisation of a Permanency Care Order. Significant variability in interpretation and ease of access to entitlements has been observed by PCA Families through financial hardship requests and continuing issues raised through its Helpline.

The necessary preparation and work are not completed prior to permanency

The 2018 Victorian Auditor-General's Office (VAGO) review found Child Protection to be overwhelmed and 'stretched beyond capacity' with the demands from high caseloads, new reports, and placement instability.¹⁷⁴ High vacancy rates and turnover amongst Child Protection staff continue to further exacerbate workload pressures.

The impact of this is essential reunification work to progress the first permanency objective, that is, children returning to birth families, may not have started or be well progressed. By rights, the family deserves every support, and if this is not available due to workload and service demand issues, then it is likely to be a key contributing factor to the number of Victorian children in care for longer than 2 years.

Child Protection is responsible for ensuring that the necessary preparation is complete prior to a child moving into a permanent placement. There are different documents and checklists depending on the type of arrangement. PCA Families often finds that permanent carers are not provided with case plans and other key documentation, including the rationale for the carer allowance level they have been provided. Calls to the Carer Helpline from permanent care families regularly indicate some of the critical checklist items such as the child's birth certificate, Medicare number, health care card, or copy of the order, have not been provided. This prevents the family accessing free or subsidised services.

Aboriginal children require the support of an Aboriginal organisation to move to a permanent placement

Additional factors require attention when exploring permanency options for Aboriginal children such as enduring and active connections to culture, family and community,¹⁷⁵ and adherence to the Aboriginal Child Placement Principle. These safeguards are to ensure Aboriginal children do not experience further harm, and inter-generational trauma is not perpetuated.

174 Victoria Auditor-General's Office, *Maintaining the Mental Health of Child Protection Practitioners* (State Government of Victoria, 2018), <https://www.audit.vic.gov.au/sites/default/files/2018-05/20180510-Child-Protection.pdf>.

175 Wendy Hermeston et al., *Achieving stability for Aboriginal and Torres Strait Islander children in out-of-home care* (SNAICC, 2016), 9, https://www.snaicc.org.au/wp-content/uploads/2016/07/SNAICC-Achieving_stability-1.pdf.

The purpose of the Aboriginal Child Placement Principle is to enhance and preserve Aboriginal children’s sense of identity as Aboriginal, by ensuring that Aboriginal children and young people are maintained within their own biological family, extended family, local Aboriginal community, wider Aboriginal community and their Aboriginal culture. The objectives of the Principle are to ensure that, recognition is given to an Aboriginal child’s right to be raised in their own culture and, to the importance and value of family, extended family, kinship networks, culture and community in raising -‘growing up’ – Aboriginal children.¹⁷⁶

The hierarchy of placement priorities for Aboriginal children is: the child’s family and kinship networks, the child’s Aboriginal community, then other Aboriginal carers.¹⁷⁷ As a last resort, if none of the above is possible, then Aboriginal children are placed with non-Aboriginal carers, provided they are able to maintain the child’s connections with their family, community and cultural identity.¹⁷⁸

Aboriginal organisations in Victoria have expressed deep concern that the two-year permanency timeframe is insufficient to complete all the necessary steps to support family reunification, including:

- Working deeply with birth families to facilitate reunification,
- Locating kin, particularly for those children where families have lost connection with culture and country due to colonisation and the Stolen Generations,
- Searching for opportunities to keep Aboriginal children in Aboriginal communities cared for by Aboriginal families,

- Assessing carers to ensure cultural needs are met,
- Educating both the carers and children about a child’s cultural heritage and issues affecting Aboriginal people today,¹⁷⁹ and
- Ensuring comprehensive case plans and Cultural Support Plans are in place. Despite concerted efforts over recent years, including oversight by the Aboriginal Children’s Forum, too many Victorian Aboriginal children in care (45% as at December 2020) still do not have Cultural Support Plans.¹⁸⁰

As a means of addressing the rights of Aboriginal children and Aboriginal self-determination, the CYF Act states that a Permanent Care Order cannot be made until the “the court has received a report from an Aboriginal agency that recommends the making of an order; and a Cultural Support Plan has been prepared for the child.”¹⁸¹ Currently, the Victorian Aboriginal Child Care Agency is funded by the DFFH to make this decision through its Lakidjeka program. Issues such as cultural safety and the degree to which the placement is in the best interests of the Aboriginal child are discussed.¹⁸² Only once VACCA has produced a Permanent Care Cultural Assessment report can Child Protection lodge an application with the Children’s Court. If cultural support plans are not up-to-date and active, and if there is not sufficient confidence that the placement will engage the child with their culture, then the permanent placement is unlikely to be supported.

Birth family and carer consent

For adoption to be a viable pathway out of care, the birth family must provide consent or otherwise a special dispensation can be secured from the County Court. In all instances when a Permanent Care Order or a Long-term Care Order is sought, the consent of the nominated carer is required.

176 Community Care Division, *Aboriginal Child Placement Principle Guide* (Melbourne: Victorian Government Department of Human Services), 7, <https://providers.dffh.vic.gov.au/sites/default/files/2017-08/aboriginal-child-placement-principle-guide-2002.pdf>.

177 Australian Institute of Family Studies, *Child protection and Aboriginal and Torres Strait Islander children* (2020), tinyurl.com/v2j2h3c.

178 Ibid.

179 “Permanent Care,” VACCA, accessed June 9, 2021, <https://www.vacca.org/page/services/children-and-families/children-in-care/permanent-care>.

180 ACF March 2021 – ACF key performance indicators, Department of Families, Fairness and Housing, 37.

181 Children, Youth and Families Act 2005, authorised by the Chief Parliamentary Counsel (VIC, 21 October 2020), 278, <https://content.legislation.vic.gov.au/sites/default/files/2020-10/05-96aa121%20authorised.pdf>.

182 Lakidjeka - Aboriginal Child Specialist Advice and Support Service (ACSASS), VACCA, accessed June 9, 2021, <https://www.vacca.org/page/services/children-and-families/children-in-care/lakidjeka>.

A requirement of a Permanent Care Order is managing contact between the child and birth family. For some carers, engaging with the birth family can be challenging or the carer for other reasons may not be willing to organise supervision and arrangements for any contact with the birth family. In these situations, many kinship and foster carers are more likely to choose to remain on Long-term Care Order.

Carers do not always have a voice in permanency decisions in the Children’s Court

The *DFFH Checklist* identifies specific parties that can attend court: birth mother and father, significant other/s, child/young person (10+ years) and other parties.¹⁸³ Given their knowledge and relationship with the child, it seems appropriate to specify that prospective permanent or long-term carers as a cohort can attend and have a voice in court proceedings, particularly given they will be responsible for implementing the order, including managing contact with the birth family. Currently, carers can attend under the ‘significant other/s’ category; however, they need to specifically apply to the magistrate to obtain permission to be party to the proceedings.

In addition, there is no easy resource available for carers to understand their legal rights. Birth family contact is typically a difficult issue to negotiate. A Permanent Care Order can include requirements for a child to have contact with birth parents up to 4 times per year. The CYF Act as amended now states at s321(1) that the Court “must have regard to the primacy of the child’s relationship with the child’s permanency family.” This includes creating sufficient flexibility to accommodate the changing development needs of the child, recognition of the child’s permanent care family life, and the capacity of the person caring for the child to carry out the contact requirements.

This aims to ensure that contact is practical in terms of frequency and type, as children’s needs,

safety and protective factors change. However, if an application to vary a Permanent Care Order is made after 12 months, there are no restrictions on the number of contacts the Court can order. Note, a birth parent must first demonstrate there are changes in circumstances to warrant the Court hearing the application.

Absence of a trigger to review children who have been in care for longer than 2 years

In the UK, many local authorities have permanency tracking panels where senior leaders monitor the care plans of every child. Permanency planning for children is progressed with pace and urgency.¹⁸⁴ In Victoria, permanent carer teams are only advised of a child who requires a permanent care family where kinship options are exhausted or foster care conversion is not possible, that is, where a stranger family is required. The *Permanent Care Manual* does not indicate that the agency’s permanent care teams are automatically involved in reviewing cases where children have been in care for more than 2 years. The manual notes that case workers ‘may consult’ with the permanent care team when making the decision regarding permanent care placement options. An agency’s permanent care teams are funded by DFFH to try to find permanent ‘stranger’ families for existing children; however, few stranger families are recruited annually with most permanent care families being kinship and foster carer conversions.

Lack of dedicated trauma-informed health and education practitioners

As noted above, children in permanency options do better with parenting and health practitioner support that is trauma-informed; however, in practice, it is hard to identify which medical practitioners across the spectrum of needs have the necessary expertise, and if they can be identified, it is highly likely there are significant waiting times for access.

183 “Court preparation checklist,” Department of Health and Human Services, modified March 27, 2020, <https://www.cpmanual.vic.gov.au/advice-and-protocols/tools-and-checklists/court-preparation-checklist>.

184 Permanency Tracking Panel, *Permanency Tracking Overview* (2020), https://www.proceduresonline.com/luton/childcare/files/perm_track_tor.pdf.

The mental health hubs recommended by the Royal Commission into Victoria's Mental Health System provide an opportunity to specify children in care as a priority cohort and to build the capacity of practitioners to understand their unique needs.

Government programs such as the Look Out Service offered by the Victorian Department of Education are essential for all permanency options; however, currently they are not available to adoptive families.¹⁸⁵

Digital documentation can be inaccessible

PCA Families discovered during the COVID-19 pandemic that some 165 carers did not have an email address and many did not have computers or the requisite digital literacy to access information, education and support.

The recently updated Victorian *Permanent Care Manual 2020* contains essential information for carers; however, its length and form make it hard for carers to access the information they need, and to know when they need to access it.

Employment entitlements do not legally extend to permanent carers

The *Fairwork Act 2009* definition of a parent for the purposes of leave and entitlements only captures those instances where an employee gives birth, an employee's spouse or de facto partner gives birth, or an employee adopts a child under 16 years of age.¹⁸⁶ This means that while carers of children on Permanent Care Orders are legally required to carry out all the responsibilities of a parent/adoptive parent, they are not eligible for the same leave and job security benefits.¹⁸⁷

Impact of the COVID-19 pandemic

The impact of the COVID-19 pandemic is yet to be fully realised, but it is well accepted that there will be ongoing negative impacts for some time. Early research has shown that 'compared with older age groups, young people have experienced high rates of psychological distress, loneliness, educational disruption, unemployment, housing stress and domestic violence.'¹⁸⁸ These impacts can only be understood through longitudinal research to understand where additional support might need to be readily accessible.

Summary

Currently, what is already known about the needs of a child and family does not necessarily translate into financial and other supports. Eligibility criteria, and the process for securing and reviewing support, are often not understood or can be overwhelming for carers. Many are unclear as to why they are or are not eligible for certain support. The fact that so many children are staying on Care by Secretary and Long-term Care Orders indicates that carers, Child Protection, and/or agencies, believe the package of support associated with a carer taking on guardianship and long-term care of a child on a Permanent Care Order falls short of what is believed to be a viable arrangement. Access to sufficient support is particularly important for the many kinship carers, particularly Aboriginal kinship carers, who would experience further financial hardship, and not have the resources to create a stable home. Genuine listening to what carers need and expect, particularly Aboriginal carers and Aboriginal organisations, is critical, if some of these barriers to permanency are to be resolved and potentially new arrangements considered.

185 "Supporting Students in Out-of-Home Care," State Government Victoria, modified March 3, 2021, <https://www2.education.vic.gov.au/pal/supporting-students-out-home-care/policy?Redirect=1>.

186 "Maternity & parental leave," Fair Work Ombudsman, accessed June 9, 2021, <https://www.fairwork.gov.au/leave/maternity-and-parental-leave>.

187 Ibid.

188 "COVID-19 and the impact on young people," Australian Institute of Health and Welfare 2021, modified June 25, 2021, <https://www.aihw.gov.au/reports/children-youth/covid-19-and-young-people>.



Access to sufficient support is particularly important for kinship carers, especially Aboriginal kinship carers



Recommendations to improve life outcomes for children, their carers and the community as a whole

Recommendations

1.

Recommendations to improve the outcomes for children in permanent care arrangements in Victoria

A number of initiatives are recommended to improve the life outcomes for children who grow up in permanent families outside their birth families and to better support their carers. Formalised permanent care arrangements are a relatively recent addition to the care system, so understandably the structures, support and impact of these arrangements are very much evolving. Recommendations therefore seek to improve the knowledge and evidence base regarding how to increase and improve permanency and many seek to provide equity of access to support and entitlements for children in permanent care and their families, recognising that the service system has an obligation to address trauma and aid the recovery of every child.

PCA Families seeks to collaborate with government and other peak bodies to cost and implement the recommendations, many of which will have positive flow-on benefits to all children in care. Some of the recommendations will require new investment; however, many can be delivered by re-purposing existing funds, improving collaboration across key players in the out-of-home care system, and changing existing policies, processes and practices. Many of the recommendations are likely to reduce the long-term burden on the care system and the community as a whole with the development of a system that is more fit-for-purpose.

Ensure equity of financial and other support for children irrespective of order type

- 1.1** Review the DFFH *Carer Entitlement Financial Policy* to create equity for all carers with consideration given to:
- Known physical, mental health, and developmental challenges of the child;
 - The level of carer disadvantage, respite needs and other circumstances of the family,
 - Long-term recovery issues, acknowledging that problems may occur many years after placement, and
 - Reassessment of the child and permanent family to identify changing needs over time.

This implies all children and carers are assessed against the same *Child and Family Support Framework*, and the starting financial entitlement and subsequent changes are determined for a child and carer irrespective of order or carer type (foster care, kinship care or permanent care or adoption).

2.

Create transparency of Victorian data sets and research findings and the administration of policies and practices

- 2.1** Collate and regularly make available Victorian data sets against agreed permanency measures within Victoria including how each order maps with national definitions and categories and AIHW data sets. As part of this, provide order-specific information, age, placement breakdown, length of time in care, length of time on an order, carer and conversion types, time taken to achieve either a Permanent Care Order or a Long-term Care Order. Data sets should be comparable by daily average per year, annual total, and point of time information.
- 2.2** Make available Victorian-funded government research to the community services sector in a timely manner so key learnings can be rapidly applied to improve support and services for children in permanent arrangements.

3.

Grow the knowledge base

- 3.1** Secure Government investment to empirically understand the structural and perceived barriers and inequities that prevent the timely movement of children into permanency arrangements when it is in the best interests of the child, including those barriers that create reluctance in carers and community members to transition to, or consider, permanent care arrangements. Include information on how many children remain in care, when no carer can be found to meet the permanency objective in the child's case plan.
- 3.2** Remove perceived impediments to carers moving to Permanent Care Orders including financial support, case management, and birth family contact issues.
- 3.3** Secure philanthropic investment for PCA Families to oversee longitudinal permanency research to measure the impact of sustained, timely support on the life outcomes of the child, their carer family, and birth family, for different permanency arrangements (see Appendix III: Potential Areas of Research).
- 3.4** Contribute PCA Families' knowledge and learning to the broader prevention and early intervention agenda about what helps to keep birth and carer families together.

4.

Support the growth of Aboriginal evidence to shape culturally supportive permanency solutions

4.1 Secure philanthropic or Government investment to support Aboriginal organisations to develop their own evidence base around how to best create culturally safe and appropriate permanency options for Aboriginal children which honour the Aboriginal Child Placement Principle and Aboriginal self-determination, and where Aboriginal children and carers can thrive, in culturally rich environments. In the spirit of Aboriginal self-determination, research of Aboriginal permanency issues and solutions should always be led, designed and conducted by Aboriginal organisations and communities.

5.

Improve permanency planning and create equality of support to set all families up for success

- 5.1** Support the current DFFH internal review to ensure critical documents and other child protection-driven and initiated processes are complete at handover, such as a care plan for the next 12-24 months (including financial assessments), Medicare card, birth certificates, legal orders, life story elements, and passport applications.
- 5.2** Provide DFFH employees, relevant agency employees, relevant peak bodies, carers, parents and guardians with a clear understanding of the different types of permanency (long-term care, permanent care, special needs adoption, adoption), the advantages and disadvantages of each type, and criteria to determine which is most appropriate, to overcome in-built system prejudices.
- 5.3** Work with the DFFH to advocate for the Commonwealth to streamline support payment processes for permanent care families, e.g. to avoid Centrelink childcare payments requiring ongoing letters of support.

6.

Strengthen identity and connection

- 6.1** Secure philanthropic or government investment for PCA Families to help adoptive families to provide their children with a strong sense of self through the development of a coherent narrative of their life story and strengthening connections with their heritage, culture and other significant people in their lives, who are not eligible for Flexible Funding or Carer KaFÉ training.
- 6.2** Determine the level of government and stakeholder support for a national Simple Adoption Framework, to maintain the child's rights with both their birth and adoptive families.
- 6.3** In the interim, until the outcomes of 6.2 are known, determine the level of support from Aboriginal and non-Aboriginal children and families in permanency arrangements for an Integrated Birth Certificate, which acknowledges a child's birth, and permanent care/adoptive family heritage. If there is support, draw on the experiences of New South Wales and South Australia to advocate for legislative change.
- 6.4** Introduce Victorian legislative amendments to the CYF Act to extend Permanent Care Orders to 21 years of age. In addition, introduce administrative processes to facilitate the transition to adult adoption by consent of both parties on the expiry of Permanent Care Orders/ Long-term Care Orders.

7.

Amplify the voice of permanent carers

- 7.1** Encourage the government to use the PCA Families' formal structures and networks to bring the voice and lived experience of children and permanent care families into the design, development and review of all future permanent care and adoptive family policies, practices and supports.¹⁸⁹
- 7.2** Advocate for the DFFH to amend the Court Preparation Checklist to incorporate expectations that prospective permanent and long-term carers as well as the child will always be asked if they would like to participate in the court process. In addition, the DFFH actively facilitate the Children's Court of Victoria's recognition of their standing in this regard and provide information regarding options for independent legal representation where desired.

189 Palacios et al., "Adoption in the service of child protection: An international interdisciplinary perspective," 32.

8.

Sustain the support for children and families, particularly the most vulnerable

- 8.1** When preparing for permanency, incorporate into the Child Protection manual a requirement for Child Protection practitioners to seek carers' consent to provide prospective permanent families' details to PCA Families, so engagement and support can commence early, and as a minimum, there is an awareness of the existence and support that can be provided by PCA Families.
- 8.2** Maintain ongoing funding of the PCA Families Helpline to proactively and regularly connect with permanent families to ensure they have access to the necessary support services, Carer KaFÉ, Flexible Funding, and entitlements, as their needs change during and post transition. This includes those services and supports to maintain carer wellbeing, as well as those therapeutic services required to help with recovery and address disruption and harm to the child.
- 8.3** Encourage the DFFH to work with PCA Families to ensure manuals and other information relevant to permanent carers are available in contemporary language and formats such as video clips and social media so they are readily accessible by children and permanent families.
- 8.4** Amend the definition used in the *Fair Work Act 2009* to include carers of children on Permanent Care Orders so they, like other carers and adoptive parents, are eligible for the same leave and job security benefits.
- 8.5** Secure government and philanthropic funding for PCA Families to improve peer support services to permanent families, including participating in virtual and local networks so they can share experiences, normalise situations, access resources, and find a pathway forward when faced with complex issues, in a truly supportive environment.
- 8.6** Secure government and philanthropic funding that is dedicated to therapeutic support for those in permanency arrangements who are not eligible for Flexible Funding.
- 8.7** Identify permanent care and adoptive families as a specific cohort in the implementation of the outcomes of the Royal Commission into Victoria's Mental Health System.

- 8.8** Provide permanent care and adoptive families with privileged access to specialist mental health service initiatives arising from the Royal Commission into Victoria’s Mental Health System including:
- Infant, Child and Youth Area Mental Health and Wellbeing Services and Multi-disciplinary hubs,
 - Regional Youth Prevention and Recovery Centres, inpatient beds and Hospital in the Home,
 - State-wide Trauma Service,
 - Family and carer-led centres in each region,
 - ‘Safe spaces’ and crisis respite facilities to support the resolution of mental health and suicidal crises, and
 - Digital-led platforms and networks associated with the new State-wide Trauma Service.

- 8.9** Provide trauma services (outlined in the Royal Commission’s Recommendation 21) not only for mental health, but for all medical and allied health services, e.g. dentists, optometrists and speech pathologists. Trauma-informed specialists are required for all medical offerings, and need to be known to, and accessible by, permanent families.

- 8.10** Seek government and philanthropic funding to increase residential camps, weekends away, carer retreats and regular ongoing respite measures to provide opportunities for:
- Children to connect with those in like situations, and most importantly, for parents to have a break without feeling their children are ‘going into out-of-home care’, and
 - Parents, carers and guardians to connect with those in like situations.

This applies where carers are not eligible for the DFFH foster care or kinship care respite, Carer KaFÉ programs or the DFFH *Flexible Funding*.

Appendix I

Victorian Protection Orders

Protection Orders

The court may make a protection order if it finds that the child is in need of protection; or there is a substantial and irreconcilable difference with the person who has parental responsibility for the child. All protection orders cease at 18 years of age.

Types of Protection Orders

An order requiring a person to give an undertaking to the court An undertaking may require a child, parents or person who the child is living with to do, or not do, certain things for a specified period. Once an undertaking is given the Department of Families, Fairness and Housing (DFFH) has no further involvement with the child or family.

Family preservation order A family preservation order gives the DFFH responsibility for the supervision of the child for a specified period but does not affect a person's parental responsibility for the child. This order provides for the child to live with and be placed in the day to day care of one or both of the child's parents. The DFFH supervise the care for the child during the period of the order

Family reunification order This order gives parental responsibility for the child to the DFFH but does not affect the parental responsibility of any other person for the child in making decisions about major long-term issues (subject to the court deciding otherwise). Major long-term issues include issues about a child's education, religious and cultural upbringing, long-term health and a child's name.

Care by Secretary order This order gives parental responsibility for a child to the DFFH to the exclusion of all others. This order is made for a period of 2 years.

Long-term Care Order This order gives sole parental responsibility for a child to the DFFH. The order remains in force until the child turns 18 or marries. The child lives with the same person or persons (who are not a parent) until the order is finished.

Appendix II

Summary of interventions based on evidence

A review of the robustness and efficacy of a diversity of interventions used with adoptive families internationally, many of which are also used when children are in care. The interventions have been categorised as either well supported by research and evidence, or demonstrated through promising practice.¹⁹⁰

1. Well-Supported by Research Evidence

Scope

The intervention must have undergone at least two rigorous randomized controlled trials (RCT) with one showing a sustained effect of at least 1 year.

Interventions

- Attachment and bio-behavioural Catch-up (ABC)
- Trauma-Focused Cognitive-Behavioural Therapy (TF-CBT)
- Parent-Child Interaction Therapy (PCIT)
- Video-feedback Intervention to promote Positive Parenting (VIPPP)

2. Supported by Research Evidence

Scope

The intervention must have undergone at least one RCT showing a sustained effect for at least 6 months.

Interventions

- Eye Movement De-sensitisation and Reprocessing for Children and Adolescents (EMDR)

3. Promising practice

Scope

The intervention must have undergone at least one study where a control group was used to establish benefit.

Dyadic Developmental Psychotherapy

- Circle of Security (COS)
- Nurturing Attachments Groupwork Programme
- Theraplay
- Under evaluation or not meeting the threshold above
- AdOpt: a group parenting programme website
- The Incredible Years Parenting Programme adapted for use with adoptive parents' website

¹⁹⁰ EFZA, *Post-adoption support and interventions for adoptive families: Best practice approaches* (Munich: Deutsches Jugendinstitut e.V., 2017), page number, https://www.dji.de/fileadmin/user_upload/bibs2017/Selwyn_Post_adoption_support.pdf.

Appendix III

Potential areas of research

It is recommended that research be conducted using Victorian data and information on the outcomes for children and carers from the different types of permanency arrangements: long-term foster and kinship care, permanent care order and adoption.

The relevant key outcome areas of the *Permanency Outcomes Performance Framework* (see below) could be used to guide qualitative and quantitative research. For all research, the voices of both the child and the carer should be at the centre, including during the design and implementation phases of the research.

Domain 1: Permanent, safe and stable care

Outcomes

- Children in a permanent care arrangement feel safe and secure.
- Children in out-of-home care have as few placements as possible.

Domain 2: Timely and informed decision-making

Outcomes

- Children are included in decision-making about their permanent care arrangements.
- Children receive timely decisions about their permanent care arrangements.

Domain 3: Achieve better life outcomes and realise their full potential

Outcomes

- Children have strong physical, social and mental health.
- Children attend, participate and achieve in quality education or employment.
- Children leave care equipped for the future.

Domain 4: Lifelong relationships, belonging, identity and connection

Outcomes

- Children have a connection with their family.
- Children have their cultural needs identified and responded to.
- Children are living within their cultural community.
- Children feel a sense of identity and belonging to family, culture and community

Further questions that might be considered:

- How many children in permanent arrangements do not finish Year 12?
- How many milestones do children in permanent arrangements miss or hit later?
- What proportion of children in permanent arrangements end up in the justice system?
- What proportion of children in permanent arrangements end up completing Year 12?
- What are the needs of children in permanent arrangements, especially pre-adolescence and during adolescence?

Abbreviations

AIHW	Australian Institute of Health and Welfare
CCYP	Victorian Commission for Children and Young People
CSO	Community Service Organisation
DFFH	Department of Families, Fairness and Housing (Formerly the Department of Health, and Human Services)
DHHS	Department of Health and Human Services
DJCS	Department of Justice and Community Safety
DSIAPC	Disability Services Initiative In Adoption and Permanent Care
NDIS	National Disability Insurance Scheme
PBS	Portfolio Budget Statement
VACCA	Victorian Aboriginal Child Care Agency
VAGO	Victorian Auditor-General's Office

Glossary

The national definitions below have been drawn from the Australian Institute of Health and Welfare's most recent Child Protection Annual Report 2019-202 given all jurisdictions are working towards common terms and data sets. Where specific Victorian definitions are materially different and impact the content of the report, these have been incorporated in the body of the report.

adoption: A legal process involving the transfer of the rights and responsibilities for the permanent care of a child from the child's parent(s) to their adoptive parent(s). The legal relationship between the child and the parent(s) is severed, and any legal rights that existed from birth regarding the birth parent(s)—such as inheritance—are removed. For the adoptive parents, the legal rights of the adopted child become the same as they would be if the child had been born to the adoptive parent(s).

agency: A body funded by state and territory departments responsible for child protection to provide services.

care and protection order: A legal order or arrangement that gives child protection departments some responsibility for a child's welfare.

child: A young person aged 0-17. For some states and territories, this includes unborn children.

child protection and support services: The departments in each state and territory that are responsible for child protection matters.

children subject to orders: Children aged 0-17 on a care and protection order or other formal arrangement, or children aged 18 or under who were discharged from those care and protection orders/arrangements.

disability: An umbrella term for any or all of: an impairment of body structure or function, a limitation in activities, or a restriction in participation. Disability is a multidimensional concept, and is considered as an interaction between health conditions and the environment.

finalised guardianship or custody order: Order involving the transfer of legal guardianship to the relevant state or territory department or non-government agency. This order involves considerable intervention in the child's life and that of their family, and is sought only as a last resort. A guardianship order conveys responsibility for the welfare of the child to the guardian (for example, for the child's education, health, religion, accommodation, and financial matters). It does not necessarily grant the right to the daily care and control of the child, or the right to make decisions about the daily care and control of the child, which are granted under custody orders. A custody order is generally an order that places a child in the custody of either the state or territory department responsible for child protection, or a non-government agency. It usually involves the child protection department being responsible for the daily care and requirements of the child, while the parent retains legal guardianship. Custody alone does not bestow any responsibility for the long-term welfare of the child.

finalised third-party parental responsibility

order: An order transferring all duties, powers, responsibilities, and authority to which parents are entitled by law to a nominated person(s) whom the court considers appropriate. The nominated person may be an individual, such as a relative, or an officer of the state or territory department responsible for child protection. Third-party parental responsibility may be ordered in the event that a parent is unable to care for a child, with parental responsibility then transferred to a relative, or other nominated person. Finalised third-party parental responsibility orders can be a long-term order or a Short-term order.

foster care: A form of out-of-home care where the caregiver is authorised and reimbursed (or was offered but declined reimbursement) by the state/territory for the care of the child. (This category excludes relatives/kin who are reimbursed.) Degrees of reimbursement made to foster carers vary.

foster carer household: A private household containing 1 or more foster carers:

- who have undergone the relevant screening/selection and approval process
- who have received authorisation from the relevant department or agency to enable a child to be placed in their care
- for whom reimbursement is available from the state or territory government for expenses incurred in caring for the child (degrees of reimbursement made to foster carers vary)
- who are part of an ongoing review process.

home-based out-of-home care: Care provided for a child who is placed in the home of a carer, who is reimbursed (or who has been offered but declined reimbursement) for the cost of care of that child. Home-based out-of-home care includes: relatives/kin who are reimbursed, foster care, and other home-based Out-of-home care.

households commencing care: Includes all carer households that, during the year ended 30 June, received authorisation from the relevant department or agency to enable a child to be placed in their care, regardless of whether a child was placed in their care

in that period. This includes households that received provisional authorisation (which might be to facilitate a placement) while formal approval/registration was being finalised. These households are included only once, at the time of provisional authorisation (and not again when full authorisation is received). Households commencing care for the first time are included. Households whose existing authorisation has been renewed as part of a standard ongoing review process are excluded. Households receiving authorisation to provide respite care only (and not also authorisation to provide general foster or relative/kinship care) are excluded.

households exiting care: Includes any carer household that, at some point during the year ended 30 June, were no longer authorised by the relevant department or agency to have a child placed in their care. For example, the carer household might have voluntarily withdrawn/deregistered, or the relevant department or agency might have formally revoked their authorisation. Households changing from provisional authorisation to full authorisation are excluded.

Aboriginal: Children of Aboriginal and/or Torres Strait Island descent who identify, and are identified as, an Aboriginal and/or Torres Strait Islander. Note: Victoria uses the term Aboriginal as opposed to Indigenous although the same definition applies.

interim and temporary order: An order covering the provision of a limited period of supervision and/or placement of a child. Parental responsibility under this order may be with the parents or with the department responsible for child protection. 'Unfinalised orders' (such as applications to the court for care and protection orders) are also included in this category, unless another finalised order is in place. In some jurisdictions, interim and temporary orders are put into place while a finalised order is sought.

long-term order: Transfers guardianship/custody to the nominated person for a specified period greater than 2 years, generally until the child reaches the age of 18.

notification: Contact made to an authorised department by people or other bodies alleging child abuse or neglect, child maltreatment, or harm to a child.

out-of-home care: Overnight care for children aged under 18 for which there is ongoing case management and financial payment (including where a financial payment has been offered but has been declined by the carer).

permanency planning: The processes used by state and territory departments responsible for child protection to achieve a stable long-term care arrangement (which can be broadly grouped as reunification, third-party parental responsibility orders, long-term finalised guardianship/custody/care, and adoption).

permanent care order: See finalised third-party parental responsibility order.

relative/kinship care: A form of out-of-home care where the caregiver is:

- a relative (other than parents)
- considered to be family or a close friend
- a member of the child or young person's community (in accordance with their culture)
- reimbursed by the state/territory for the care of the child (or who has been offered but declined reimbursement). For Aboriginal and Torres Strait Islander children, a kinship carer may be another Indigenous person who is a member of their community, a compatible community, or from the same language group.

relative/kinship carer household: A private household containing 1 or more relative/kinship carers:

- who have undergone the relevant screening/selection and approval process
- who have received authorisation from the relevant department or agency to enable a relative/kinship child to be placed in their care
- for whom reimbursement is available from a government authority or non-government organisation for expenses incurred in caring for the child (degrees of reimbursement made to relative/kinship carers vary)

- who are part of an ongoing review process

residential care: A type of care where the placement is in a residential building whose purpose is to provide placements for children, and where there are paid staff.

respite care: A form of out-of-home care used to provide short-term accommodation for children and young people where the intention is for the child to return to their prior place of residence. Respite placements include:

- respite from birth family, where a child is placed in out-of-home care temporarily for reasons other than child protection (for example, the child's parents are ill or unable to care for them temporarily, as a family support mechanism to prevent entry into full-time care, as part of the reunification process, or as a shared care arrangement)
- respite from placement, where a child spends regular, short and agreed periods of time with a carer other than their primary carer.

reunification: A planned process of safely returning and enabling a child to remain at home with their birth parent(s), family, or former guardian after a period of time in care when it is in the child's best interests to do so, and where it will safeguard the child's long-term stability and permanency. In practice, reunification tends to be nearly exclusively with birth parents. Also known as restoration.

substantiation of notification: Child protection notification made to relevant authorities during the current year (for example, 1 July 2019 to 30 June 2020) that was investigated (with the investigation finalised by 31 August), and where it was concluded that there was reasonable cause to believe that the child had been, was being, or was likely to be, abused, neglected, or otherwise harmed. Substantiation does not necessarily require sufficient evidence for a successful prosecution, and does not imply that treatment or case management was provided. Substantiations may also include cases where there is no suitable caregiver, such as children who have been abandoned, or whose parents are deceased

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