

Commission for Children  
and Young People

# Annual report

2022–23



COMMISSION FOR CHILDREN  
AND YOUNG PEOPLE

The Commission respectfully acknowledges and celebrates the Traditional Owners of the lands throughout Victoria and pays its respects to their Elders, children and young people of past, current and future generations.

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COMMISSION FOR CHILDREN  
AND YOUNG PEOPLE

23 October 2023

The Hon. Lizzie Blandthorn MP  
Minister for Children  
Level 22, 50 Lonsdale Street  
MELBOURNE VIC 3000

Dear Minister

In accordance with the *Financial Management Act 1994*, I am pleased to present the Commission for Children and Young People's annual report for the year ending 30 June 2023.

Yours sincerely

Liana Buchanan  
*Principal Commissioner*

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# Definitions

## Language in this report

The term 'Aboriginal' used in this report refers to both Aboriginal and Torres Strait Islander Peoples.

## Case studies and thematic studies

Case studies and thematic studies have been included to illustrate the work of the Commission for Children and Young People (the Commission) and key themes.

Pseudonyms have been used and details have been altered to protect personal privacy.

## Rounding

In tables and figures in this report, rounding may result in percentages not adding up to 100.

## Abbreviations and acronyms

ACCO	Aboriginal community-controlled organisation
ANZCCG	Australian and New Zealand Children's Commissioners and Guardians
CCYP Act	<i>Commission for Children and Young People Act 2012</i>
Charter	<i>Charter of Human Rights and Responsibilities Act 2006</i>
CIMS	Client Incident Management System
Commission	Commission for Children and Young People
CRICOS	Commonwealth Register of Institutions and Courses for Overseas Students
CRIS	Client Relationship Information System
CSO	Community Service Organisation
CWSA	<i>Child Wellbeing and Safety Act 2005</i>
CYC	Commission Youth Council
CYFA	<i>Children, Youth and Families Act 2005</i>
DFFH	Department of Families, Fairness and Housing
DGS	Department of Government Services
DJCS	Department of Justice and Community Safety

Expert Working Group	South Sudanese Australian Youth Justice Expert Working Group
FOI Act	<i>Freedom of Information Act 1982</i>
FRD	Financial Reporting Directions
FY	Financial year
IVP	Independent Visitor Program
MARAM	Multi-Agency Risk Assessment and Management
Marrung	Marrung: Aboriginal Education Plan 2016–2026
NDIA	National Disability Insurance Agency
NDIS	National Disability Insurance Scheme
OPCAT	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
QARD	Quality Assessment and Regulation Division
SAFER	SAFER Children Framework
Scheme	Reportable Conduct Scheme
SIDS	Sudden Infant Death Syndrome
SUDI	Sudden Unexpected Death in Infancy
SPT	United Nations Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
Standards	Child Safe Standards
VIT	Victorian Institute of Teaching
VEOHRC	Victorian Equal Opportunity and Human Rights Commission
VRQA	Victorian Registration and Qualifications Authority
VTU	Vocational Training Unit
WWCC	Working with Children Check



# From the Principal Commissioner



**Liana Buchanan**  
*Principal Commissioner*



**Victoria can be proud that successive governments have created a Commission for Children and Young people with wide-ranging functions to uphold children’s rights and safety, accompanied by strong powers to deliver on its mandate.**

Victoria can be proud that successive governments have created a Commission for Children and Young people with wide-ranging functions to uphold children’s rights and safety, accompanied by strong powers to deliver on its mandate.

In this context, it was affirming that the Commission of Inquiry into the Tasmanian Government’s Responses to Child Sexual Abuse in Institutional Settings recommended a body with functions and powers similar to ours. This inquiry exhaustively examined sexual abuse of children in a range of settings, including out-of-home care, youth detention, as well as universal services such as schools and health services. In its final report, it endorsed our mix of functions – which includes oversight over the child protection and youth justice systems, powers to regulate organisations to improve child safety and advocacy to benefit children and young people – as being the best model to keep children safe and hold government and organisations accountable. We were pleased to assist the Commission of Inquiry, drawing on our experience implementing reforms that are further advanced in Victoria.

This annual report reflects another busy year for the Commission. It describes our continued close monitoring of the treatment of children and young people in custody

and in the out-of-home care system. We completed a number of child death and other inquiries, which recognised elements of good practice where we saw it and recommended change where it was needed. A key focus has been progressing our systemic inquiry into the educational experiences of children and young people in the out-of-home care system, which will be tabled in parliament in November 2023. We also continued to closely monitor the government’s implementation of recommendations from our past inquiries, particularly as we see many problems that informed those recommendations continually resurface. We want to make sure the government continues to deliver positive change for children and young people.

Our regulatory functions to prevent and respond to child abuse in organisations continue to strengthen. Six years ago, the Reportable Conduct Scheme was introduced to require the Commission to be notified of allegations of harm against children in child-facing organisations, to allow us to monitor and support the organisation’s response. This year, we had an 81 per cent increase in notifications compared to the first year of the Scheme. We welcome the growing awareness and compliance underlying this increase, but the Commission has received



**The Commission received new powers in January 2023 to enforce Victoria's Child Safe Standards, which improve our ability to prevent child abuse in organisations and enable us to more decisively step in to address urgent and serious risks to children.**

no additional funding for the Scheme since that time. As a result, we have made changes to manage lower-risk reportable allegations more efficiently to allow us to focus our regulatory efforts on more serious matters. However, as we have highlighted in our submission to the Department of Families, Fairness and Housing for its review of the Reportable Conduct Scheme, we are worried that this underfunding may compromise our ability to ensure the Scheme delivers on its objectives to ensure responses to allegations of child abuse are acted on quickly and effectively by organisations.

The Commission received new powers in January 2023 to enforce Victoria's Child Safe Standards, which improve our ability to prevent child abuse in organisations and enable us to more decisively step in to address urgent and serious risks to children. We did much work internally to prepare for these new powers to ensure our use of them is considered, proportionate and well-targeted. We will continue to review and refine our regulatory approaches in line with best practice and the information and data we receive.

Across our varied work this past year I see that we are, as a community, making gradual improvements that benefit children and young people. Overwhelmingly, child-facing organisations have shown goodwill in embracing necessary changes to be safer and more inclusive. In some key areas, the government has demonstrated a genuine appetite for reform. This past year we have seen the Victorian Government's major investment to improve residential care, as well as funds to bolster support for care leavers and strengthen Child

Protection's response to sexual exploitation. This annual report, and detailed tables available on the Commission's website, discuss all of the actions taken in response to our recommendations.

However, change is too slow for many of Victoria's most vulnerable and marginalised children, including children and young people involved with Child Protection, in out-of-home care and youth detention. Every day I see examples of unacceptable compromises to their rights, wellbeing and safety that are often acknowledged but seen as an inevitable product of a pressured system.

It is my hope that there is appetite for fundamental reform in response to the findings and recommendations of the Yoorrook Justice Commission, which reported recently on the experience of First Nations children in the child protection and youth justice systems. Our Commissioner for Aboriginal Children and Young People, Meena Singh, gave evidence of the strength and beauty of Aboriginal culture and its healing and protective power for children and young people. It has been long clear to the Commission that current approaches to reducing over-representation of Aboriginal children in both custody and care are failing and that Aboriginal-led solutions are needed.

As a relatively small but highly motivated organisation, we always want to do more. This annual report reflects the breadth of our achievements and the extent of our ambition. Our ability to achieve so much comes down to the relentless hard work, persistence and commitment of the highly skilled staff right across the Commission. I thank



**This past year, I've been particularly proud of the ways we have continued to improve our own ability to embed children and young people's perspectives in our planning and decision-making.**

each and every one for their efforts. And I thank our equally hard-working, capable and driven executives, Leanne Barnes, Emily Sanders and Giovanna Tivisini, and my fellow commissioner, leader and advocate, Meena Singh.

I am also grateful to the current and former members of our Commission Youth Council who guide and enrich our work beyond measure. This past year, I've been particularly proud of the ways in which we have continued to improve our own ability to embed children and young people's perspectives in our planning and decision-making. This, together with our direct engagement with children and young people across our systemic inquiries and monitoring functions, gives us current and credible information to inform our recommendations and advocacy. We are always grateful for the trust placed in us by children and young people who share their personal experiences and lend their expertise to the complex problems we confront at the Commission.

Every year my reflections are double-edged. I'm heartened by progress towards delivering on children and young people's rights and wellbeing, but conscious of the scale of what remains to be done. While it is important to recognise progress, Victoria has a way to go before it can claim to be truly upholding the rights and best interests of all of its children and young people. In the meantime, we will continue to play our role in fearlessly advocating for their rights and safety.

From the

# Commissioner for Aboriginal Children and Young People



**Meena Singh**

Commissioner for Aboriginal Children and Young People



**There is a broader groundswell of reform in Victoria... These are exciting and potentially transformative opportunities to shape the future environments for Aboriginal children and young people to flourish in their culture and community.**

This has been a transformative year for the Commission and the landscape of Aboriginal affairs in Victoria and across the country. The importance of hearing Aboriginal children and young people's voices in this change is more important than ever.

A centrepiece of the Commission's work this year was our evidence to the Yoorrook Justice Commission. I began my evidence by acknowledging the incredible creativity, intelligence, and brilliance of Aboriginal children and young people in Victoria. While the Yoorrook hearings have often been focused on the challenges faced by Aboriginal children and young people who bear the weight of generations of systemic failures, there were also countless stories of resilience, strength and hope.

At Yoorrook hearings in December 2022 and May 2023 I was able to draw on the Commission's systemic inquiries, such as *In our own words*, *Out of sight*, and *Our youth, our way* and our child death inquiries. These pieces of work paint an often bleak yet detailed picture which underlines the systemic failures that disproportionately impact Aboriginal children and young people. The Yoorrook Justice Commission submitted its report into Victoria's child protection and criminal justice systems, *Yoorrook for Justice*, to the Governor and First

Peoples Assembly of Victoria on 31 August 2023. The report was publicly released on 4 September 2023.

The task of the Yoorrook commissioners is enormous and spans decades of past injustices. We see the echoes and impact of these injustices in the work of the Commission for Children and Young People today. I see many similarities between the two Commissions – both harnessing the power and experiences of those within the system to create recommendations for systemic change.

There is a broader groundswell of reform in Victoria that will come from progress towards Treaty and self-determination. These are exciting and potentially transformative opportunities to shape the future environments for Aboriginal children and young people to flourish in their culture and community.

While opportunities like Yoorrook do not come along often, the year also saw a continuation of sustained work to advocate and engage with Aboriginal communities across the state. This engagement has allowed us to centre the voices of children so that their insights and concerns were woven through the fabric of our work.

Our broader advocacy included contributing to and supporting legislative change to give Aboriginal Community Controlled Organisations a greater role in child



**This year ... saw a concerted push to progress raising of the minimum age of criminal responsibility to 12, and to accelerate the inevitable move to 14, as demanded by the evidence and international human rights standards.**

protection services concerning Aboriginal children and young people. We have also made it clear that the priority must be to support Aboriginal families through relationships and trust built before need arises, so children are not drawn into child protection in the first place. The necessity for culturally safe spaces is vital.

This year also saw a concerted push to progress raising of the minimum age of criminal responsibility to 12, and to accelerate the inevitable move to 14, as demanded by the evidence and international human rights standards. Raising the age was a central theme of the Aboriginal Justice Forum this year. We also joined with Victoria Legal Aid in a joint statement to press the case for this vital move, and engaged media around the Council of Attorneys-General.

This year I have also had the privilege of traveling throughout Victoria to engage with Aboriginal children, young people and their families to inform our inquiry into the educational experiences of children and young people in out-of-home care. These experiences have further strengthened my belief that systems and services that are responsive to the needs of Aboriginal children and young people can strengthen our community as a whole.

Our strategic partnerships have also progressed this year, bringing together the organisations, institutions and other stakeholders needed to bring about change – whether through the *Marrung* central governance committee on education; *Dhelk Dja* Partnership Forum on family violence; *Wunguilwil Gapgapduir* and the Aboriginal Children's Forum. These are incredible opportunities that bring together government departments with Aboriginal

Community Controlled Organisations and wider community service organisations to strengthen Aboriginal families. More detail on this work can be read in the chapter on improving outcomes for Aboriginal children and young people (see page 20).

As in previous years, we have continued to monitor the implementation of recommendations from our past inquiries, recognising that harms continue when recommendations are not enacted. Detail assessing progress on selected inquiries is also referenced in this report.

From a national perspective, I was also pleased this year to participate in and contribute to the Australian and New Zealand Children's Commissioners and Guardians with our Principal Commissioner and my close colleague, Liana Buchanan. It has been heartening to note the increasing representation of First Nations Commissioners, Guardians and Advocates in this group.

Finally, through the many challenges and often hard-won progress, I must acknowledge the energy and strength of Aboriginal children and young people, who are constantly inspiring me and renewing my passion in this role. As I told the Yoorrook Justice Commission, Aboriginal children and young people are quite literally our future. They are deserving of our investment of time, energy, love and resources.

About the

# Commission for Children and Young People

We are an independent statutory body that promotes improvements in policies and practices affecting the safety and wellbeing of Victorian children and young people.

We have a particular focus on Aboriginal children and young people and all children and young people in the out-of-home care and youth justice systems.

## What we do

At the Commission we:

- promote the rights, safety and wellbeing of children and young people
- provide independent scrutiny and oversight of services for children and young people, particularly those in the out-of-home care, child protection and youth justice systems
- advocate for best-practice policy, program and service responses to meet the needs of children and young people
- promote the views and experiences of children and young people to increase the awareness of government and the community
- support and regulate organisations that work with children and young people to prevent abuse, respond appropriately to allegations of child abuse and make sure these organisations have child-safe practices.



## Our vision

That children and young people in Victoria are supported to live safely and thrive, and their rights are respected and upheld.

## Our values

- We put the rights of children and young people at the centre of everything we do.
- We are strong, fearless and determined.
- We are transparent and accountable.
- We know diversity of people, experiences and perspectives makes our work stronger.
- We accomplish more as we are a united team.

## Legislation

Our objectives, functions and powers are outlined in the *Commission for Children and Young People Act 2012* (CCYP Act) and the *Child Wellbeing and Safety Act 2005* (CWSA).

## Our priorities

The Commission's work focuses on the five outcomes set out in our *Strategic Plan 2022–2025*.

### Outcome 1

Impacts for children and young people are understood and prioritised when government designs services, makes decisions and creates new laws

### Outcome 2

The Commission leads by example in ensuring the views and lived experiences of children and young people are sought, heard and acted on

### Outcome 3

Organisations keep children and young people safe, well and free from child abuse

### Outcome 4

Children and young people live free from systemic and institutional racism

### Outcome 5

There are fewer children and young people in out-of-home care and youth justice, and those in contact with these systems have their rights upheld

# Highlights: our year in review

## Release of our new strategic plan

In 2022, the Commission released its new *Strategic Plan 2022–2025* to set out the priorities and strategies to achieve our vision that children and young people in Victoria are supported to live safely and thrive, with their rights respected. The plan frames five outcomes with strategies and indicators to achieve them (see page 15).

## Contribution to Yoorrook

With the focus of the Yoorrook Justice Commission this year on the child protection and criminal justice systems, the Commissioner for Aboriginal Children and Young People was provided the opportunity to participate in this landmark truth-telling process to shine a light on the ongoing injustices faced by Aboriginal children and young people in these systems.

Highlighted in the Commissioner's evidence was the necessity for Aboriginal children and young people to have a say not just in decisions that affect them, but to shape the systems in which those decisions are made. The opportunity to participate in such a landmark event in Victoria's history, with a real chance at reform of systems that continue to impact on Aboriginal children and young people in negatively disproportionate ways, was also an opportunity for the Commission for Children and Young People to showcase the importance of our work across these systems (see page 21).

## Advocacy for positive change

This year the Commission advocated across a broad range of issues impacting the rights and wellbeing of Victoria's children and young people.

Raising the minimum age of criminal responsibility featured prominently in the national debate, with the Commission building on its past recommendations to government and advocating through the Aboriginal Justice Forum, as well as through strong media advocacy in the lead-up to the April meeting of the Standing Council of Attorneys-General, where a national approach was further considered.

Shortly before that meeting, the Victorian Government announced a minimum age of criminal responsibility of 12 to commence in late 2024, and 14 by 2027, with exceptions for certain serious crimes subject to the development of an alternative service model. The Principal Commissioner and the Commissioner for Aboriginal Children and Young People responded to the announcement in a joint opinion piece in the *Guardian Australia*.

More broadly, the Commission advocated on the development of new youth justice legislation, bail reform, and for the implementation of the UN Optional Protocol on the Convention Against Torture in Victoria.

In a submission to the NDIS review, the Commission argued for better protections for children with disability through stronger child safeguarding requirements for all NDIS service providers and improved collaboration with

child protection. Advocacy also focused on better responses to children and young people impacted by family violence, measures to improve the mental health and wellbeing of children and young people, and the need for governments to consider children and young people when framing new laws (see page 80).

## Child death inquiries

This year, the Commission completed 45 child death inquiries related to children and young people who died within 12 months of their last involvement with Child Protection, including eight child death inquiries for Aboriginal children. These cases identified a range of opportunities for practice improvements in the child protection and other service systems, including risk assessment, collaboration, decision-making, and service access.

Inquiries continued to highlight persistent and concerning themes, including premature case closures, inadequate responses to family violence and poor responses to Aboriginal children. Commission analysis examined these themes, whilst acknowledging the context of pressured child and family services, and a stretched child protection system. For the first time, the annual report includes information about the kinds of recommendations we have made in our child death inquiries and the responses we have received (see page 48).

## Government action on past inquiries

Monitoring of progress against the recommendations of the Commission's past systemic inquiries continued this year with a significant focus on child protection and out-of-home care – *Lost, not forgotten* (2019), on the experiences of 35 children known to Child Protection who died by suicide; *In our own words* (2019) on the experiences of children and young people in care; *Keep caring* (2020), on their experiences of leaving care; and *Out of sight* (2021), an examination of children and young people who are absent or missing from care.

The Commission has welcomed action on a number of our recommendations. A recurring theme in our inquiries and the subject of two separate inquiry recommendations was the need to bolster guidance for practitioners to make sure children are engaged directly and given a chance to have a say in decisions made about them. In response, Child Protection has updated practice advice and embedded the 'voice of the child' more explicitly into its new SAFER framework, requiring children's voice, views and wishes to be taken into account across all child protection phases.

We were heartened this year by the Victorian Government's recognition, through its \$548.4 million investment in the 2023–24 State Budget, of the urgent need to improve residential care. Responding to our findings in *In our own words*, the investment will see therapeutic supports being provided for all children in residential care and an increase in the availability of two- and three-bedroom residential care placements.

In response to *Keep caring* and following landmark investment in Home Stretch, the Commission also welcomed a further \$32.5 million investment in the 2023–24 State Budget and an additional \$7 million for a Housing First response that supports young people leaving residential care through guaranteed access to housing and personalised case work support.

We were pleased to note government funding of \$13.4 million to support Child Protection to strengthen its efforts to tackle sexual exploitation of children in care, as recommended in *Out of sight*. We will closely monitor whether cross-agency efforts are progressed in line with our recommendations.

## Establishment of an individual inquiry into the treatment of a child in adult prison

In February 2023, a child under the age of 18 in adult custody contacted the Commission and reported that prison officers had applied a spit hood on him earlier that day. The Commission established an individual inquiry to examine the application of the spit hood, the child's management and care in the lead-up to the application of the spit hood and, based on this case, the need for any improvements to the management, care and custody of children in the adult prison system.

The inquiry found a range of significant concerns about the child's treatment in adult prisons, including that he had been kept in effective isolation for a total of 24 weeks out of eight months, that the spit hood was applied despite him not having been involved in spitting incidents and without consideration of the requirements of the Corrections Regulations, and that the water in his cell was turned off for a total of 22 hours after he was involved in an incident. The Commission welcomed the department's response to the inquiry's findings and Corrections Victoria's advice that a range of work has commenced in response to the inquiry's recommendations (see page 41). The findings of this inquiry have reinforced the Commission's view that children should not be held in adult prisons.

## Youth Justice monitoring of significant increase in lockdowns

This year, the number of lockdowns almost doubled, despite an 11 per cent reduction in the average monthly number of children and young people in youth justice custody. The Commission has continued to see the direct impact that extended time in their rooms has on children and young people's access to education, exercise, fresh air, recreational activities, cultural and social support, and overall wellbeing.

In March 2023, the Commission raised these concerns formally with the government, urging immediate action to address staffing shortages and reduce the use of lockdowns across the centres (see page 34). The Commission has acknowledged a range of measures taken by Youth Justice to address excessive imposition of lockdowns and will continue to monitor the impact of these measures following the opening of Cherry Creek, salary uplifts for staff, and other planned changes to the system.

## Tenth anniversary of IVP

The Commission's Independent Visitor Program this year celebrated its 10-year anniversary of providing an independent avenue for children and young people in custody to safely raise their concerns and inform the Commission's advocacy for improved conditions. At December's anniversary event, the Commission and Youth Justice acknowledged the importance of a collaborative approach to the program, the generous commitment made by all the volunteer independent visitors over the past 10 years, and the ongoing need to provide independent oversight across youth justice centres to uphold the rights of children and young people (see page 43).

## New Child Safe Standards

On 1 July 2022, the new 11 Child Safe Standards came into force, bringing Victoria into closer alignment with the National Principles for Child Safe Organisations and providing more clarity for organisations on the minimum requirements they need to meet to comply with their legal obligations. The Commission promoted the new Standards as part of a Child Safe Standards media campaign that ran from May to August 2022, with a range of specific resources developed, including video overviews, plain language guidance, translated materials and information sheets designed for children and young people.

Implementing the new Standards makes organisations safer for all children and from 1 January 2023, new powers for the Commission and other Standards regulators to monitor and enforce compliance with the Standards came into operation. Six Authorised Officers have been trained and appointed by the Commission to utilise these new enforcement powers (see page 90).

## Reportable Conduct Scheme continues to grow

Notifications to the Reportable Conduct Scheme saw a record increase this year, with an 18 per cent increase on 2021–22 at 1,457 notifications, and an 81 per cent increase since the first year of the Scheme. We also saw a substantial increase (63 per cent) in notifications from the public in 2022–23 compared to the previous year.

As in previous years of the Scheme, physical violence was the leading reportable conduct type at 36 per cent. The education sector again generated the most allegations of sexual misconduct at 69 per cent, which represented 35 per cent of all allegations in that sector. Across the Scheme, and comparable with previous years, the overall substantiation rate was 28 per cent.

The year also saw the Commission refine its risk-based approach given resource limitations, including by significantly increasing numbers of lower-risk cases not fulsomely examined by the Commission.

In November 2022, the Commission provided a submission with 49 recommendations to the Department of Families, Fairness and Housing review of the Scheme. These included recommendations to expand the types of organisations covered by the Scheme, the types of conduct defined as reportable conduct under the Scheme and a range of other reforms to improve administration of the Scheme, including better information-sharing powers. The submission also recommended that the Victorian Government increase resourcing available to administer the Scheme (see page 94).

# Improving outcomes for Aboriginal children

This year represented Commissioner Singh's first full year in the role of Commissioner for Aboriginal Children and Young People, raising awareness of, and responding to, the issues impacting Aboriginal children and young people in child protection, youth justice and education.

In 2022–23, our work in this area included:

- contributing to the Yoorrook Justice Commission
- participating in strategic advocacy opportunities
- monitoring outstanding recommendations of Aboriginal-specific systemic inquiries
- engaging with Aboriginal children and young people and their communities.

## Contributing to the Yoorrook Justice Commission

Established in 2021, the Yoorrook Justice Commission is the first formal truth-telling process into historical and ongoing injustices experienced by First Peoples in Victoria, and Australia, and represents a significant milestone in Victoria's journey towards Treaty.

This year, the Yoorrook Justice Commission turned its attention to the child protection system and the criminal justice system. Commissioner Singh gave evidence on two occasions to the Yoorrook Justice Commission in public hearings in December 2022 and May 2023. Her testimony raised awareness of the complex issues faced by many Aboriginal children and young people and their families, and their interactions with the child protection and youth justice systems.

Drawing from the Commission's systemic inquiries into Aboriginal children and young people's experiences of the out-of-home care and youth justice systems, Commissioner Singh critiqued the government systems which are set up to keep all children and young people safe from harm as being siloed and unreflective of the needs and lived experiences of Aboriginal children and their families.

Her evidence emphasised the importance of cultural connections as a protective factor and spoke of the potential of well-resourced Aboriginal community-controlled organisations (ACCOs) to nurture and create opportunities for Aboriginal children and young people to lead remarkable lives and maintain connection to community, family and culture.

In addition to full implementation of outstanding recommendations from the Commission's systemic inquiries, Commissioner Singh advocated for a whole-of-government approach to addressing poor outcomes for Aboriginal children and young people, centring the voices of Aboriginal children and young people, stating that they, along with their families, have a right to be involved in decisions about their lives. Not only should these children be given opportunities to participate in decisions about their own lives, but the systems themselves should be shaped by their input and insights.

The Yoorrook Justice Commission submitted its Report into Victoria's child protection and criminal justice systems, *Yoorrook for Justice*, to the Governor and First Peoples Assembly of Victoria on 31 August 2023. The report was publicly released on 4 September 2023.

## Participating in strategic advocacy opportunities

### Partnership forums

Partnership forums provide an opportunity for strategic advocacy and accountability against agreements between the Victorian Government, ACCOs and the community to improve social justice outcomes for Aboriginal children and young people, their families and community. While not a signatory to these agreements, the Commissioner for Aboriginal Children and Young People is a member at many forums due to the Commission's role as an independent statutory body promoting the wellbeing and safety of children and young people, and as a strategic advocate for the interests of Aboriginal children and young people. The forums also have many sub committees and working groups, which Commissioner Singh and Commission staff also contribute to.

### **Dhelk Dja Partnership Forum**

The Dhelk Dja Partnership Forum is focused on addressing issues of Aboriginal family violence. The Commissioner for Aboriginal Children and Young People attended three forums as a member. The Commission's priority at these forums is to advocate for the rights of children and young people in the strategic discussions relating to the drivers and impacts of family violence and responsive services that cater to their needs.

### **Aboriginal Children's Forum**

Wungurilwil Gaggapduir is the tripartite agreement between the Department of Families, Fairness and Housing (DFFH), ACCOs and community service organisations (CSOs) to commit to, and implement, measures to achieve better outcomes for Aboriginal children and young people, and their families. The Aboriginal Children's Forum is the accountability mechanism for this agreement, and through this forum, Commissioner Singh continued to advocate for Aboriginal children and young people to be central to service delivery design, the necessity for greater investment in family strengthening and early intervention programs, and a whole-of-government approach and responsibility for reducing the numbers of Aboriginal children and young people going into out-of-home care.

### **Marrung**

*Marrung: Aboriginal Education Plan 2016–2026* (Marrung) is a ten-year plan that aims to improve learning, developmental and educational outcomes for Aboriginal students in Victoria. Marrung was developed in partnership with the Aboriginal community, including the government's principal partner in Aboriginal education, the Victorian Aboriginal Education Association Incorporated (VAEAI). As well as contributing to Victorian state targets, Marrung supports the achievement of the National Partnership Agreement on Closing the Gap and the Victorian Aboriginal Affairs Framework.

The Commissioner for Aboriginal Children and Young People is a member of the Marrung Central Governance Committee. Through membership on this committee, the Commission can oversee the implementation of Marrung,

including its alignment with relevant Victorian Government initiatives. Membership also provides the Commissioner for Aboriginal Children and Young People with key data relating to Aboriginal students in order to monitor progress against state targets.

### **Aboriginal Justice Forum**

Now in its twenty-third year, the Victorian Aboriginal Justice Agreement and the Aboriginal Justice Forum work to address over-representation of Aboriginal children, young people and adults in the criminal justice system. This year, the Youth Justice Collaborative Working Group, which is part of the Aboriginal Justice Forum, focused on raising the age of criminal responsibility, the need for prevention, early intervention and diversion for Aboriginal children and young people in contact with the justice system, concerns for a lack of focus on children and young people in the decriminalisation of public drunkenness, and the experiences of children and young people subject to successive lockdowns due to staff shortages in youth detention centres.

## **Monitoring of outstanding recommendations**

The Commission continued to advocate for the full implementation of the recommendations in *Our youth, our way: Inquiry into the over-representation of Aboriginal children and young people in the Victorian youth justice system*, including those that are also part of Wirikara Kulpa, the Victorian Government's Aboriginal Youth Justice Strategy. The *Our youth, our way* inquiry report was tabled in June 2021 and presented a framework for a reimagined youth justice system.

We have seen promising developments relating to several of our recommendations for legislative reform. This includes continuing work on raising the age of criminal responsibility and much-needed bail reform. The Commission will continue to work with the Department of Justice and Community Safety (DJCS) towards these changes, guided by Aboriginal children and young people, and the broader community.



The inaugural Commissioner for Aboriginal Children and Young People, Andrew Jackomos, undertook the landmark inquiries *Always was, always will be Koori children: Systemic inquiry into services provided to Aboriginal children and young people in out-of-home care in Victoria* and *In the child's best interests: Inquiry into compliance with the intent of the Aboriginal Child Placement Principle in Victoria*, both tabled in October 2016. The Commission will continue to monitor implementation of remaining recommendations, in a changing context of child protection services increasingly being delivered by ACCOs.

## Engaging with Aboriginal children and young people and their communities

Engagement and connection with Aboriginal children and young people and the community is crucial to the work of the Commission. Commissioner Singh and Commission staff travelled to metropolitan and regional areas to engage with a range of stakeholders and hear the experiences of Aboriginal children and young people, and the people who work tirelessly to support them to live a life connected to culture, family and community.

These engagement visits contributed to a range of work of the Commission, including development of a resource for Child Safe Standard 1 on cultural safety, the current inquiry into educational experiences of children and young people in out-of-home care, local issues in their communities, and issues for priority focus. Highlights from our engagements are outlined below.

### **Willum Warrain Koori Youth Summit**

In March, the Commission lent a hand in the running of the Koori Youth Summit at Willum Warrain Aboriginal Gathering Place in Hastings. Approximately 250 Aboriginal young people from schools in south-eastern Victoria came together for a 'deadly day out' with the theme 'Culture Matters'. Students engaged in cultural activities throughout the day, including a large art installation using sand to demonstrate their connections to one another.

The day finished with yarning circles, facilitated by several Commission staff, giving us the opportunity to hear about the young people's experiences of the day and the importance of culture in their lives.

### **First Nations Leaders Cultural Camp**

The Commission attended a cultural camp at Mount Evelyn hosted by the Victorian Electoral Commission and inaugural Commissioner for Aboriginal Children and Young People, Andrew Jackomos. The purpose of the camp was to provide young First Nations leaders with access to knowledge holders in the community. It created a safe and uplifting space to have discussions about issues affecting Aboriginal children and young people, as well as to connect with Aboriginal and Māori cultures.

### **Yaka Yakapna Corroboree**

In September 2022, the Commission attended the Yaka Yakapna Corroboree, hosted by the Njernda Aboriginal Corporation in Echuca. It was a day for local Aboriginal community members to come together and reconnect after the isolation and loneliness experienced by many during the pandemic. The day included traditional dances and performances, cultural activities, weaving workshops and art stations. It was also an opportunity for Commissioner Singh to meet with and hear from Aboriginal children and young people and community members and connect to Yorta Country, her mother and ancestors' Country.



Commissioner Singh at the Njernda Yaka Yakapna Corroboree.

***Strong Brother Strong Sister paddleboarding***

Strong Brother Strong Sister is a program providing mentoring for Aboriginal children and young people, led by former Commission Youth Council (CYC) member Keeden Graham. This year, the Commission spent the day with Strong Brother Strong Sister and the young people they support on Wathaurong Country, to learn stand-up paddleboarding and engage and connect. The day was hosted by the Victorian Indigenous Surfing Association, which runs events for Aboriginal children and young people around the state.

***Woorangalook Koori Surfing Titles***

Another Victorian Indigenous Surfing Association event was the Woorangalook Koori Surfing Titles in February. The Commission was part of a massive turnout from across the state, with over 160 Aboriginal children and young people registering to participate on the day, demonstrating unbelievable skill and talent in the water.

# Strengthening the engagement and participation of children and young people

# Strengthening the engagement and participation of children and young people

The Convention on the Rights of the Child provides that children have a right to be heard and involved in decisions that affect them. In 2022–23, the Commission continued to ensure we prioritise children and young people’s voices and influence in our work. This year has included recruiting new members to the Commission Youth Council (CYC), while maintaining our connection with many of our CYC alumni.

In 2022–23, our work in this area included:

- recruiting new CYC members
- training CYC members in facilitation skills
- inviting young people to lead our strategic planning process
- designing and formalising our Child and Youth Engagement Framework
- empowering children and young people to directly influence our work.

## Commission Youth Council – the new crew

In 2022–23, we had a changing of the guard within the CYC. Several young people were engaged by the Commission to provide input into particular projects and went on to join the CYC, bringing with them fresh ideas, diverse lived experiences and a range of exciting skills to our work. Throughout this transition, many of our alumni have stayed engaged in our work and have helped to mentor and onboard our new members.

Two former CYC members have actively supported the new members in their initial stages with the CYC, through formal guided training and mentoring, and by supporting them to connect with each other and become familiar with the many areas of work the Commission covers.

## Facilitation training, the ‘old’ mentoring the new

In previous years, the CYC has been involved in facilitating many discussions with, and presenting to, other young people and stakeholders, and consulting with young people to inform our work. This year, the new members of the CYC identified that they would like to develop their skills in this area.

One of our Youth Council alumni has started his own consultancy and has played a big role in supporting the new Youth Council members. One of the highlights was a training session in facilitation conducted in our office. The ability for the new members to learn from former CYC members has been powerful.

*‘It helped me make stronger connections, develop those skills and hear from someone who has been in this exact position in the past, so [it] was really practical.’ – Missi*

*‘It was really beneficial to learn as a group and be able to brainstorm ideas together!’ – Amelia*

*‘This training provided practical skills for engaging stakeholders, impactful presentations and meaningful consultations. It boosted my confidence, united new Youth Council members, and amplified our impact.’ – Julia*



Facilitation training led by Youth Council alumni – Kano.  
Left to right clockwise: Nikita, Missi, Sakshi, Julia, Amelia, Kano, Jason and Kueth.

## Young people leading our strategic planning

Since 2019, the Commission has ensured young people are engaged in our strategic planning processes. Over this time, we have increased the influence young people have in the development of the Commission’s Strategic Plan to make sure we are focusing on the areas that matter to children and young people.

### Youth Council involvement all the way

This year was the first strategic planning process that has had young people involved from the beginning. The CYC was included in the earliest discussions about the process and had input into how the Commission could enhance input from young people. One CYC member was involved in the whole planning process, and he ensured others from the group provided input throughout the process.

### Young people getting input from other young people

The CYC held a number of focus groups with diverse groups of young people from across the state to hear what they thought the Commission should prioritise in the next three years. Through a number of online and in-person facilitated discussions, the CYC gained input from 65 young people into our strategic plan. This feedback was collated and informed the Commission’s all-staff planning workshop.

The next stage of the strategic planning process was an all-staff workshop. This was facilitated by Krushnadevsinh (Kano) Ravalji, alongside Sue Kelsall, from Rapid Impact. The input from the 65 young people consulted by the CYC was presented at this workshop and informed subsequent discussions among staff.

Several other CYC members were also present at the strategic planning workshop and input from those who couldn’t attend was shared throughout the session. This was the first time a young person has co-facilitated the strategic planning workshop, and the first time we have had young people involved in the workshop itself.

## Spotlight: Missi's experience joining the Commission Youth Council

I've been part of the Youth Council for the past eight months now, and during this time I've been fortunate enough to embrace various projects and opportunities, discovering more about the Commission each time! One of the most memorable projects, was discussing with the Council, recommendations for the Commission's education inquiry – which was how I originally heard about the CCYP and their role, resulting with my current position in the Council.

I've witnessed how the Commission is really committed to diversity and representation, and I've been lucky enough to have made some very inspiring connections along the way – learning so much about the skills and resources needed for many different aspects of their work! Being a part of the Youth Council and having the opportunity to expand my skill set, and create even the slightest difference in the world, has been so very worthwhile and rewarding. I can't wait to experience more of this!

*'Being part of the Youth Council has been truly rewarding, giving me the opportunity to amplify the voices of young people and make a meaningful impact.'* – Julia

*'I've been volunteering with the Commission for a few years now. Although I can't change my time in the system, it feels great being able to help young people currently in out-of-home care. Being a part of the Youth Council is and has been a rewarding experience.'* – Jackie

*'I've been working with the Commission since I was 15 and 5 years later, I'm sitting on the Youth Council. During this time, I have always felt comfortable and safe to share my story, ideas or concerns. Since joining the Youth Council, I truly believe that my lived experiences not only give me insight into the work we do, I feel recognised and respected.'*  
– Nikita

## Spotlight: What are some of our alumni up to?

Over the past two years we have been considering how we can offer opportunities for our CYC alumni to remain engaged with our work. In the past year, many of them have remained connected to the Commission in various ways.

Here's what a few of them up are up to:

*'I was part of the Youth Council from 2021 to 2022. Since leaving the CYC I have continued with my PhD studies and have had a few art exhibitions take place over the last year. I still feel connected to the Commission for Children and Young People more broadly through the friends I made during my time in the CYC. It is always such a delight to hear what everyone is up to after being part of the group. The things I learned being part of the CYC I continue to think about and consider within my work and different spaces I exist in as an Aboriginal person. Through my own work I hope to also empower young people, in particular Aboriginal and Torres Strait Islander youth within the arts and tertiary education spaces.'*  
– Jahkarli

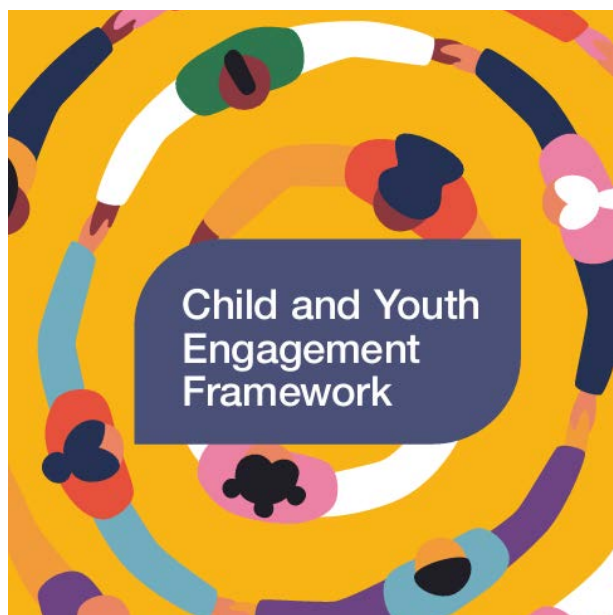
*'I was a Youth Council member from 2021 to 2022, I enjoyed my time in that role. I learned a lot about the Commission's work and had my voice heard and implemented. Last year, I had the opportunity to be a consultant for the Commission's strategic plan. It was a new experience for me, dealing with a project of that scale, but it turned out to be incredibly valuable. I gained skills and insights that help me every day. In 2023, I took a leap and launched Third Culture Australia, a social enterprise focused on consulting and training. The venture's been going strong, and credit goes to the Commission for its continued support. Recently, I ran induction and training sessions for the new CYC members and I remain connected with the Commission's activities. Excited to see what the future holds!'* – Kano

*'I was an OG member of the Youth Council back in 2020 and have remained connected to now. Early in 2023, after coming back from a uni exchange in Germany, I was offered a part-time role with the Commission as a project officer. I've had the chance to be involved in a range of work areas and see a bit more of the work that happens behind the scenes which has been pretty cool! I'm also in my fourth year of Law and Global studies, so that's keeping me busy!'* – Amelia

Another OG Council member, Kirra, is now a full-time youth engagement coordinator at Berry Street's Y-Change initiative.

*'Even after finishing up with the council, I still connect in. From casual catch ups, sharing about different things we are both working on, and popping into the office, I feel so passionate about the work and feel the warmth of people working at the Commission.'* – Kirra

## Child and Youth Engagement Framework



Child and Youth Engagement Framework.

This year we designed and formalised our Child and Youth Engagement Framework. This Commission-wide resource was developed by gathering and building on all of the great resources we have created over many years to inform our engagement with children and young people. We will publish a shorter version of the framework on our website during the coming year.

### What is the Child and Youth Engagement Framework?

Our framework describes how we ensure that children and young people have the space and opportunity to influence decisions that impact their worlds. It allows our staff to understand why, who and how to engage with children and young people in a safe, genuine and informed way. It also supports staff to engage with children and young people with confidence, as many children and young people have directly and indirectly informed this framework. The framework also links users to a range of helpful guidance materials, templates and forms to assist them to conduct their own engagement work.

### Why have a framework?

The Commission acknowledges that children and young people are experts in their own lives. The Child and Youth Engagement Framework ensures we provide our staff with clear expectations, principles, theory and practical resources about how to provide meaningful opportunities for children and young people to influence decisions that affect them.

### How we developed the framework

The Commission began developing the resources and principles for the Child and Youth Engagement Framework in dialogue with lived experience consultants from Berry Street's Y-Change program as part of our preparation for consultations with young people for the Commission's *In our own words* inquiry.

From its beginnings, the Child and Youth Engagement Framework has been developed in an applied way, iteratively and in consultation with Commission staff and young people. Our intention has been to create something that will continue to evolve as our engagement work grows rather than be a static resource.

### Who has been involved

Since the first engagement tools were built for the *In our own words* inquiry, many young people have been involved in developing this framework, including our CYC members. We have also worked with our Koori Advisory and Engagement team to include specific guidance on culturally safe engagement, and with colleagues at Youth Disability Advocacy Service to ensure that our approach is inclusive and accessible. During the COVID-19 lockdowns, we worked with CYC members to develop guidelines for safely conducting online forums to consult on our work. These guidelines now form part of our Child and Youth Engagement Framework resources.



## Children and young people influencing our work directly

### Child Safe Standards, helping organisations be safe places for children and young people

This year, a small group of young people assisted in recording guidance videos as part of the Commission's development of resources for each of the Child Safe Standards. In the videos, the young people speak about each of the Standards, what they mean to them and challenge organisations to step up and implement the Standards.

### Influencing our monitoring of residential care

The CYC has worked with the monitoring team over the past year to help develop the areas of discussion to focus on with children and young people in residential care, the questions to ask and how to hold the discussions.

### Working with the policy team

This year the CYC continued to engage with the policy team, both with short-term policy submissions and longer-term pieces of work, such as looking at how the Victorian Government can assess the impacts of its decisions on children and young people. An area of ongoing interest and concern has been mental health and wellbeing for children and young people in Victoria.

### Connecting with Aboriginal children and young people

The Commission has continued to prioritise connection and partnership with Aboriginal children and young people in all of our work. This allows us to embed self-determination in all that we do and provides us with the ability to highlight the brilliance, strength and resilience of young mob in our country.

Over the past year we have connected with many Aboriginal children and young people through our systemic inquiry into the education experiences of children and young people living in out-of-home care, and engagement with the Koori Advisory and Engagement team and Commissioner for Aboriginal Children and Young People.

### South Sudanese Australian Youth Justice Expert Working Group

The South Sudanese Australian Youth Justice Expert Working Group is a project established by the Victorian Government to understand and address the drivers behind the over-representation of South Sudanese Australian young people in the youth justice system in Victoria. The Commission's role in the project has been to support South Sudanese Australian young people's engagement with the project and ensure the work is informed by their experiences and ideas (see page 85 for a more detailed discussion).

The Commission also facilitated training sessions with the DJCS project team, discussing our ways of working, the key aspects of our Child and Youth Engagement Framework and how we keep our focus on children's rights in all our work.



Malou and Kueth planning our youth engagement for the South Sudanese Australian Expert Working Group.

## Strengthening the engagement and participation of children and young people

*continued*

### **Informing our education inquiry, a process of co-design to ensure we hear from children and young people about what needs to change**

In 2022, the Commission established an inquiry into the educational experiences of children and young people in out-of-home care. As part of a process of co-design to ensure we hear from children and young people about what needs to change, the CYC has been involved in:

- discussions and input on the inquiry's terms of reference
- developing methodologies for engagement
- developing questions and processes for asking questions of other children and young people
- testing methodologies and questions
- developing surveys
- developing and delivering external communications
- consulting with children and young people and other stakeholders
- refining the findings of the consultations and data
- developing recommendations for change and deliberating with the commissioners and other staff
- reviewing recommendations, including consulting with other young people.

Members of the CYC joined us on many regional trips across the state, working with staff to connect and hear from stakeholders, children and young people. Some young people who were consulted throughout this process remained connected with the Commission, engaging in further discussions about the inquiry and then formally joining the CYC. They have subsequently been involved in shaping the inquiry's findings and recommendations.

*'just a really random and amazing experience and opportunity' – Missi.*

*'This inquiry holds a special place in my heart because young people have been involved from start to finish. I got to be in planning conversations and got to go on a regional trip for consultations with young people and stakeholders. Now we're in the final stages of developing recommendations and creating a companion piece and even referencing! I'd been involved in our previous inquiries at various stages but seeing all the hard work that goes into an inquiry like this and knowing the positive impact that it will have is super inspiring. I've loved every single moment of it and am grateful that I've had the opportunity to be part of it.' – Amelia*

*'Participating in this education inquiry led me to have enlightening discussions with a group of young individuals. Hearing about their firsthand experiences and ideas is contributing to driving change!' – Julia*

# Oversight and monitoring of youth justice



# Oversight and monitoring of youth justice

When children and young people are detained in closed environments, like youth justice custody centres, independent oversight of their treatment is critical.

In 2022–23, our work in this area included:

- continuing our systemic advocacy
- monitoring youth justice incidents in custodial settings
- monitoring custodial population data, incident trends and isolation, lockdowns and use of force records
- monitoring children held in adult custody, including initiating an inquiry into the use of a spit hood
- operating a monthly Independent Visitor Program (IVP) at each youth justice centre
- monitoring other confined environments
- assessing progress against past inquiries
- preparing to work in the new Cherry Creek Youth Justice Precinct.

## Systemic advocacy

This year, the Commission continued to identify and raise concerns about a range of issues impacting on children and young people's safety and wellbeing in youth justice custody, including:

- workforce issues and the impact of frequent lockdowns on children and young people
- management of children and young people's complaints
- unclothed searches.

### Workforce issues and the impact of frequent lockdowns on children and young people

#### Lockdowns

The *Children, Youth and Families Act 2005* (CYFA) allows a child or young person to be held in their rooms or in isolation cells:

- when all other reasonable steps have been taken to prevent the person from harming himself or herself or any other person, or from damaging property *and* the young person's behaviour presents an immediate threat to themselves or others or property (section 488(2)); or

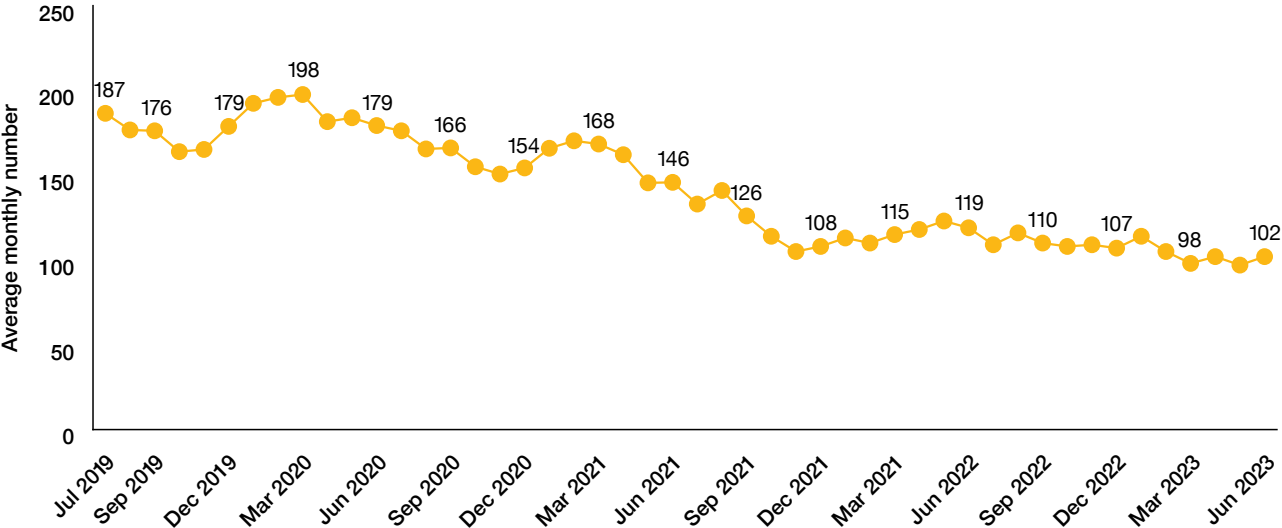
- when it is in the interests of the security of the centre (section 488(7)).

This year, despite an 11 per cent reduction in the average monthly number of children and young people in youth justice custody (Figure 1), the number of isolations under section 488(7) of the CYFA almost doubled.

The Commission acknowledges that a large proportion of these lockdowns is due to staff shortages, and that Youth Justice has undertaken a range of strategies during 2022–23 to attempt to address this issue, as further explored on page 36.

The 46,004 lockdowns authorised under section 488(7) of the CYFA in 2022–23 involved 394 unique children/young people. This represents a rate of 117 lockdown episodes per unique child/young person in the year (see Table 1 and Figure 2) and is significantly higher than the year before (70 lockdowns per unique child/young person per year).

**Figure 1. Average monthly number of children and young people in youth justice custody July 2019–June 2023**



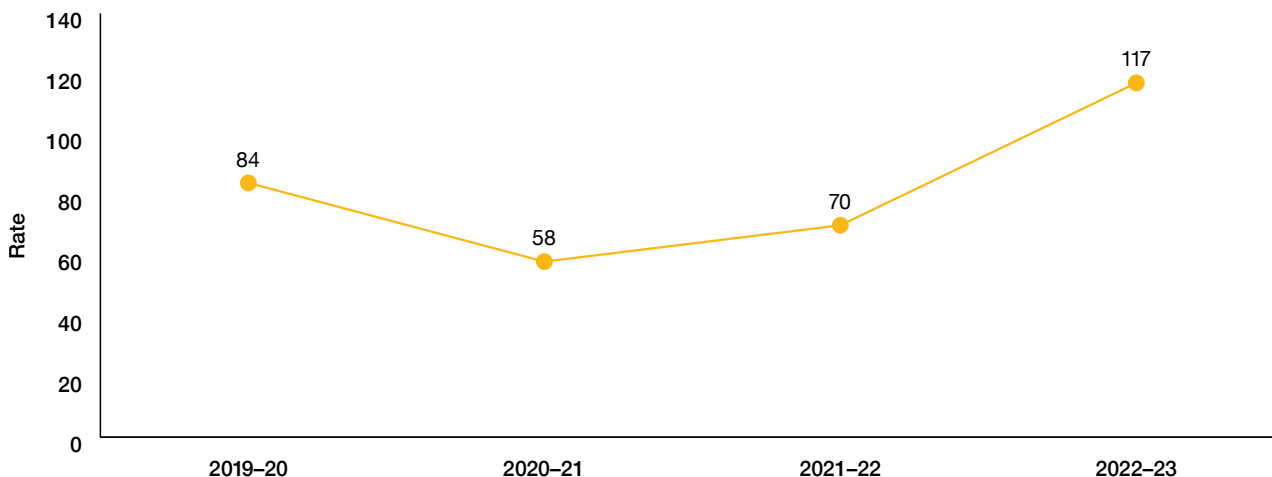
**Table 1. Number and rate of isolations for security reasons (lockdowns) under section 488(7) of the CYFA, by precinct 2019–20 to 2022–23<sup>1</sup>**

Year	Episode data	Malmsbury Youth Justice Precinct	Parkville Youth Justice Precinct	Total
2019–20	Number of lockdown episodes	22,917	33,973	56,890
	Number of unique children and young people locked down	240	545	678
	Rate of lockdown episodes per unique child/young person isolated	95	62	84 <sup>2</sup>
2020–21	Number of lockdown episodes	8,485	18,388	26,873
	Number of unique children and young people locked down	181	371	466
	Rate of lockdown episodes per unique child/young person isolated	47	50	58
2021–22	Number of lockdown episodes	8,513	15,335	23,848
	Number of unique children and young people locked down	167	263	340
	Rate of lockdown episodes per unique child/young person isolated	51	58	70
2022–23	Number of lockdown episodes	14,342	31,662	46,004
	Number of unique children and young people locked down	140	329	394
	Rate of lockdown episodes per unique child/young person isolated	102	96	117

<sup>1</sup> These figures are extracted from DJCS’ live database. Small variations in data have been reported by DJCS compared to other published data.

<sup>2</sup> A number of children and young people move between precincts, therefore the total number of unique children and young people locked down will not be the sum of the two locations.

Figure 2. Rate of lockdowns per unique child or young person 2019–20 to 2022–23



The Commission has continued to see the direct impact that extended time in their rooms has on children and young people’s access to education, exercise, fresh air, recreational activities, cultural and social support, and overall wellbeing.

*‘It’s as if you’re living just day by day ... you never know whether you are going to wake up and you’re in another lockdown or not.’*

*‘Parkville College staff will come to the cell door and give you worksheets, but I can’t learn because no-one can teach me.’*

*‘Even in adults they get more time out than here.’*

In March 2023, the Commission raised these concerns formally with the Victorian Government, urging immediate action to address staffing shortages and reduce the use of lockdowns across the centres.

Since then, the Commission has been encouraged by the announcement that Youth Justice staff salaries will be uplifted across new and existing centres, and that higher

numbers of new recruits are being trained to the uplifted capabilities. The Commission has also welcomed a new strategy to monitor cumulative daily lockdowns more closely and consider immediate strategies to reduce the use of lockdowns.

The use of lockdowns remain high and the Commission will monitor their use following the opening of Cherry Creek Youth Justice Precinct, while continuing to advocate to ensure Victoria’s youth justice centres operate with professional, multi-disciplinary teams equipped to meet the often complex needs of children and young people in the system.

**Isolations**

Episodes of ‘behavioural’ isolations typically occur in response to an incident. The CYFA allows a child or young person to be held in a locked room, separate from others and away from the normal routine of the centre when:

- all other reasonable steps have been taken to prevent the person from harming himself or herself or any other person, or from damaging property and
- the young person’s behaviour presents an immediate threat to themselves or others or property (section 488(2)).

In 2022–23, the number of ‘behavioural’ isolations under section 488(2) of the CYFA decreased substantially across both youth justice centres, from 1,486 episodes in 2021–22 to 663 episodes in 2022–23. The rate of isolation episodes per individual child or young person isolated also decreased from seven to four episodes for the year (Figure 3).<sup>3</sup>

The Commission welcomes this significant reduction in behavioural isolations and encourages Youth Justice to continue to employ alternative responses and strategies wherever possible.

**Figure 3. Annual rate of isolations for behavioural reasons per unique child or young person per year under section 488(2) of the Children Youth and Families Act 2005 2019–20 to 2022–23<sup>4</sup>**



**Complaint handling**

Youth Justice has been working for some time to improve complaint handling processes for children and young people. Until that work is progressed, the Commission continues to be concerned about:

- lack of a clear and shared understanding about the process for managing complaints received from children and young people
- inconsistent involvement of children and young people in the investigation of complaints
- lack of consistent processes for providing feedback to children and young people while a complaint is being considered, or when the matter is finalised.

The Commission will continue to encourage further improvements to Youth Justice’s complaint handling processes.

<sup>3</sup> These figures are extracted from the DJCS live database. Small data variations have since been reported by the department, compared to other published data.

<sup>4</sup> These figures are extracted from DJCS’ live database. Small variations in data have been reported by DJCS since their publication in previous Commission annual reports.

### Unclothed searches

This year, the Commission was pleased to see continued improvements by Youth Justice to reduce the number of unclothed searches in custodial settings. Youth Justice now publishes quarterly data about the number of unclothed searches and the number of searches by body scanners on the DJCS website.<sup>5</sup>

Youth Justice has also committed to eliminating all unclothed searches for girls and young women of all ages, and boys under 15 years of age, in youth justice centres. The Commission was pleased to see that in the last quarter of 2022–23, there were no unclothed searches conducted for girls and young women, or boys aged under 15 years.

While these initiatives are welcome, the Commission remains concerned about unclothed searches on male children and young people aged 15 years and older, particularly at Parkville Youth Justice Precinct. Due to the precinct's layout, this group of children and young people do not have immediate access to the electronic body scanners. In the last quarter of 2022–23, there were 71 unclothed searches at Parkville, and one unclothed search at Malmsbury. Only three of these searches resulted in contraband being found (a pack of cigarette papers, a vape and a torch).

### Monitoring incidents in youth justice custodial settings

The Commission's oversight of incidents in youth justice provides us with a valuable understanding of the system and the experiences of children and young people in custody and informs our broader advocacy.

Youth Justice recorded 114 category one incidents this year, seven per cent less than the previous year (Table 2).<sup>6</sup> The three most common types were:

- illness (43 incidents)
- client-on-client physical assaults (13 incidents)
- poor quality of care (11 incidents).

<sup>5</sup> See 'Youth Justice unclothed searches quarterly reporting (1 January 2023 to 31 March 2023)', DJCS website, <https://www.justice.vic.gov.au/youth-justice-unclothed-searches-quarterly-reporting-1-january-2023-to-31-march-2023>.

<sup>6</sup> Category one incidents are the most serious incidents and include incidents such as the death of a young person, allegations of physical or sexual assault, and serious behavioural issues that impact on young people or staff safety. Category two incidents reports relate to events that impact on the health, safety and/or wellbeing of children, young people and others, but are considered less serious.



**Table 2. Category one incidents in youth justice precincts by type 2019–20 to 2022–23**

Category one incident	2019–20	2020–21	2021–22	2022–23
<b>Assault</b>	<b>51</b>	<b>29</b>	<b>40</b>	<b>32</b>
Physical assault – client > client	8	6	13	13
Physical assault – client > other	1	0	0	0
Physical assault – client > staff	24	12	17	9
Physical assault – other > client	5	1	1	1
Physical assault – staff > client	10	3	1	2
Sexual assault – indecent – client > client	1	2	2	0
Sexual assault – indecent – client > staff	1	0	0	0
Sexual assault – indecent – other > client	0	1	1	6
Sexual assault – indecent – staff > client	1	0	0	0
Sexual assault – rape – client > client	0	0	1	0
Sexual assault – rape – other > client	0	4	4	1
<b>Behaviour</b>	<b>4</b>	<b>2</b>	<b>13</b>	<b>8</b>
Behaviour – dangerous	3	2	10	6
Behaviour – disruptive	0	0	0	0
Behaviour – sexual	1	0	1	1
Behaviour – sexual exploitation	0	0	2	1
<b>Other</b>	<b>21</b>	<b>41</b>	<b>70</b>	<b>74</b>
Breach of privacy/confidentiality matters	1	5	1	1
Community concern	1	3	1	1
Drug/alcohol	0	0	0	2
Escape – from centre	1	0	0	2
Escape – from temporary leave	0	0	0	0
Illness	1	20	46	43
Injury	0	2	7	10
Medical condition (known) – deterioration	1	2	2	1
Medication error – pharmacy	0	0	0	0
Poor quality of care	9	6	9	11
Possession	2	0	0	0
Property damage/disruption	2	0	3	3
Self-harm	0	0	0	0
Suicide attempted	3	3	1	0
<b>Total</b>	<b>76</b>	<b>72</b>	<b>123</b>	<b>114</b>

Category one incidents of poor quality of care increased by 22 per cent from the previous year. Seven of these incidents involved complaints of inappropriate staff conduct, including sexual misconduct and crossing professional boundaries. The remaining four involved allegations of inappropriate or excessive use of force by a staff member towards a child or young person.

The Commission does not support the use of 'poor quality of care' as an incident category for such incidents, and encourages Youth Justice to establish a more accurate reporting mechanism to record alleged and proven assaults or other misconduct by staff on children and young people in youth justice centres.

The Commission continues to raise concerns with Youth Justice about use of force on children and young people in youth justice centres. On average, there are two instances of unplanned force against children and young people in youth justice recorded each day.<sup>7</sup>

In 2023, Youth Justice introduced stronger mechanisms for the internal monitoring of use of force, which is anticipated to improve the safety of children and young people. Youth Justice is also strengthening processes for use-of-force record-keeping, and improving observation procedures after force is used on children and young people.

The Commission was encouraged to see that in 2022–23, Youth Justice recorded significantly fewer category one incidents involving client-to-staff assaults (decrease of 47 per cent) and that there were no category one self-harm or attempted suicide incidents recorded in the period.

### Incident queries

This year, the Commission asked for further information under section 60A of the CCYP Act about 40 incidents in youth justice custody, involving 67 children and young people. Eleven of the children and young people involved in these incidents were Aboriginal (16 per cent).

Almost a quarter of our incident queries related to client-on-client physical assaults. The Commission first identified the placement and management of vulnerable children and young people as an issue of concern in the 2017 systemic inquiry *The same four walls*. The corresponding recommendation to address this issue remains outstanding (see page 42).

## Monitoring children under 18 years in adult prison

The Commission monitors the treatment of any child under 18 years serving a sentence in adult custody. Children in Victoria are placed in adult custody either as a result of a transfer from youth justice to adult corrections under the CYFA or after being sentenced to a term of adult imprisonment.

The Commission considers that children should not be held in the adult prison system. Of the options available within that system there is only one dedicated youth unit – Penhyn Unit at Port Phillip Prison.

If children in adult custody are not suitable for placement in Penhyn, or if the unit has no capacity, they are typically placed on a restrictive regime for their safety. This usually involves the child being kept separate from all other prisoners, regular programs and prison activities.

This year, the Commission monitored Corrections Victoria's management of one child sentenced to a term of imprisonment in adult custody. Monitoring included regular visits with the child, review of daily reports provided by prison management and weekly meetings with Corrections Victoria. During this time, the Commission escalated a series of concerns about the length of time the child was managed separately, with very little contact with other prisoners, confined to his cell for 22 or 23 hours per day with limited access to programs or education.

<sup>7</sup> DJCS use of force data, 2022–23.

## Youth justice inquiries

### Establishment of an inquiry about a child in adult corrections

In February 2023, a child under the age of 18 in adult custody contacted the Commission and reported that prison officers had put a spit hood on him earlier that day.

The Commission established an individual inquiry to examine the application of the spit hood, the child's management and care in the lead-up to the application of the spit hood and, based on this case, the need for any improvements to the management, care and custody of children in the adult prison system.

The Commission has repeatedly advised government that spit hoods should not be used on children. Youth justice custodial settings do not have, or use, spit hoods. At the time the spit hood was used, the Corrections Regulations 2019 enabled a spit hood to be applied to a prisoner under the age of 18, but required consideration of the prisoner's age, their best interests and vulnerability (Reg 14(7)).

### Inquiry findings

The application of the spit hood occurred eight months after the child entered adult custody. The young person had experienced an unsettled time in adult custody and had displayed threatening and dangerous behaviour during a number of incidents.

The Commission found that the young person had been managed separately for almost 20 weeks. During this period, he had little contact with other prisoners, was confined to his cell for 22 or 23 hours per day, and had no access to education<sup>8</sup> and limited access to programs. For a further four weeks, the young person was regularly placed on an individual plan to manage his behaviour, spending 22 or 23 hours per day in his cell.

In the time the young person was in adult custody, Corrections Victoria regularly reviewed his placement and made a series of attempts to place him in less restrictive regimes, which were not successful. The young person's health and wellbeing had been significantly impacted by the extended time separated from others, reflecting a range of evidence about the impact of solitary confinement.<sup>9</sup>

The day before the spit hood was applied, the young person had been involved in a series of incidents, and had been moved by staff to another cell through authorised use of force. The young person reported that after being moved, the water in his cell had been turned off for approximately 22 hours, despite repeated requests for staff to return his access to water. The young person was unable to wash his hands and use the toilet facilities during this time.

The inquiry found a range of factors may have contributed to the incidents leading up to the use of the spit hood, including a recent change to the young person's medication that prison staff responding to him did not know about.

The inquiry found that Corrections Victoria's procedures regarding the circumstances in which a spit hood could be applied to a child in adult corrections had not been updated to reflect amendments to the Corrections Regulations 2019.

During the course of the inquiry, the Commission welcomed advice from Corrections Victoria that correctional policy would be amended to prohibit the application of spit hoods on children in adult custody.

### Key recommendations

The inquiry report reiterated the Commission's position that children should not be held in adult prisons and recommended that amendments be considered to provide for higher courts to formulate two-stage sentences for children facing longer terms of imprisonment, allowing for

<sup>8</sup> The young person commenced education with Parkville College in August 2023.

<sup>9</sup> As documented in Commission for Children and Young People (CCYP), *The same four walls: Inquiry into the 'use of isolation, separation and lockdowns in the Victorian youth justice system*, 2017 p. 39.

a fixed period to be spent in youth justice and the remaining period in adult prison.

Noting that children can currently be placed in adult prisons, the Commission made a number of other recommendations, including:

- The Corrections Regulations 2019 should be amended to explicitly prohibit the application of spit hoods on prisoners under the age of 18, reflecting recently amended policy.
- Additional dedicated youth units should be established across the corrections system.
- To provide for safer prisoner management, Corrections Victoria and Justice Health should consider broadening health related information exchange protocols, to account for information to be shared in the event that changes of medication may have an effect on a prisoner's behaviour.
- Corrections Victoria should review all prison policies through a child-specific lens and amend as required, considering section 17(2) of the *Charter of Human Rights and Responsibilities Act 2006* and Victoria's revised Child Safe Standards.
- Child-specific training and training in adolescent brain development should be provided to all staff working in units accommodating children, as introduced by the prison location in response to this inquiry.
- Corrections Victoria should develop policy and procedure to provide for an authorisation process for water being turned off in prisoners' cells, and to require a review after the water has been turned off for a certain period of time (such as three hours).

Upon review of the inquiry's draft report, the Department advised that:

- seven recommendations had been accepted
- three had been accepted in principle
- one was not accepted
- one recommendation remained under consideration.

Corrections Victoria has commenced a range of work in response to the inquiry's recommendations including:

- exploring opportunities to expand the capability of the prison system to better cater to the needs of young offenders
- developing a standalone policy to guide staff on how to manage children in adult custody
- enhancing statewide policy to introduce escalation, reporting and accountability processes when cell amenities are turned off
- commencing a review of all prison policies with a child-specific lens and continuing to update policies in accordance with Child Safe Standards as part of the routine policy review framework.

## Progress against past inquiries

### *The same four walls*

In 2017, the Commission undertook a systemic inquiry into the use of isolation and lockdowns in youth justice centres, *The same four walls: Inquiry into the use of isolation, separation and lockdowns in the Victorian youth justice system*. As at June 2023, four recommendations remain outstanding:

- Recommendation 1: That the Victorian Government amends the CYFA to clarify the purpose of isolation and the circumstances under which a young person can be isolated. Key principles should ensure that isolation is used for the shortest possible time and that detailed and accurate records are kept of all decisions about isolation.
- Recommendation 10: That the Victorian Government amends the CYFA to ensure that all young people in youth justice centres have at least one hour of fresh air each day.
- Recommendation 11: That the Department of Justice and Regulation<sup>10</sup> ensures that designated accommodation options for vulnerable children and young people are established in youth justice custodial settings, both in the proposed new facility and in existing centres.

<sup>10</sup> In November 2018, Department of Justice and Regulation became the Department of Justice and Community Safety.

- Recommendation 19: That the Department of Justice and Regulation publishes the Youth Justice Custodial Practice Manual to make its operations and policies (excluding security-related matters) visible to the community.

Recommendations 1 and 10 are likely to be acquitted with the introduction of specific youth justice legislation in 2023–24, and the Commission will continue to encourage DJCS to publish its policies on the DJCS website (Recommendation 19).

The outstanding recommendation (Recommendation 11) relating to the placement of vulnerable children and young people is of particular concern to the Commission, with assaults in youth justice custodial settings continuing to occur due to:

- the nature of their alleged offending
- affiliations with others in the community (or lack of)
- attempts to acquire others' medication.

The Commission continues to encourage DJCS to consider how to implement this recommendation with the opening of Cherry Creek providing for increased placement flexibility.

## Independent Visitor Program

Guided by an agreed protocol, our Independent Visitor Program (IVP) conducts monthly visits to Victoria's youth justice centres. Our volunteer independent visitors observe conditions at the centres, talk to children and young people about services and their experiences in custody, and report on their observations to the Commission after each visit. The Commission seeks to resolve issues with Youth Justice staff and management, with more serious issues escalated when required.

The IVP also conducts feedback interviews with children and young people on behalf of Youth Justice. The voluntary, anonymous interviews are an opportunity for children and young people to provide feedback about their experiences in custody. The responses are provided to

Youth Justice to help inform improvements to programs and service delivery.

### Issues raised

Children and young people raised 717 issues with the IVP during visits in 2022–23, an increase of 88 per cent on the number of issues raised last year. Although the increase in issues is likely to be largely attributed to the return of onsite visits,<sup>11</sup> the number is substantially higher than the number of issues raised before the COVID-19 pandemic, for example, in 2018–19 (516 issues, average of 188 children and young people in custody).

Children and young people raised the greatest number of issues about access to leisure activities, predominantly relating to requests for activities that can be done in their rooms, during lockdowns. The next most frequently raised issues were about health concerns and restrictive practices (lockdowns). Examples of other issues raised are included below.

### Concerns about placement

The number of issues relating to classification and placement increased significantly this year, from 11 issues last year to 49 this year. Most of these issues were requests from children and young people to move units or precincts because of placement concerns.

IVP raised concern for the safety of a young person at Malmesbury after volunteers observed him being verbally targeted by other young people about his offending background. In response to the issue being raised, Youth Justice put in place one-on-one staffing and moved the young person to another unit shortly afterwards. The following month, IVP met with the young person, who expressed relief at being moved out of the unit.

Another young man spoke about his anxiety associated with the increased number of young people in the units. In response to the issue being raised, IVP were advised the young person had been moved to another unit, with fewer young people, which had a positive impact on his mental health.

<sup>11</sup> From April 2020 to March 2022, all Independent Visitor Program visits were conducted online due to COVID-19 restrictions.

**Access to dental treatment**

Through 2022–23, ongoing consultation with Justice Health<sup>12</sup> about dental issues in youth justice has resulted in better health outcomes for children and young people requiring orthodontic maintenance and treatment, and improved processes between health services and the Royal Melbourne Dental Hospital.

In October 2022, a young person raised an issue with IVP regarding his orthodontic retainer, which had broken a month earlier, while he was in custody. IVP escalated the issue to Youth Justice’s health services and monitored the resolution of the matter over the following six months. The issue encountered a series of obstacles, including limited staff capacity to escort the young person to appointments, cancellation of appointments and issues with processing the impressions from the mould. After ongoing advocacy, the young person was finally provided with a replacement retainer in March 2023.

**Use of cameras in bedrooms**

In January 2023, a young person who was being accommodated alone in the Intensive Supervision Unit at Malmesbury raised an issue with the IVP regarding bedroom cameras being used to monitor him from another unit, due to lack of staff. The young person had covered the camera with toilet paper for privacy but said he had been repeatedly asked by staff to remove this.

IVP raised the issue with Youth Justice and was advised that approval had not been provided for the use of a camera for observation. The bedroom cameras were switched off the same day and IVP was informed that practice instructions have been strengthened to ensure cameras are not used unless approved by the relevant Director.

**Inequitable remuneration**

In March 2023, three young people on the Malmesbury senior site raised an issue regarding the 46 cents per hour rate of pay for the Vocational Training Unit (VTU),<sup>13</sup> which is notably lower than the rates of pay for other work across youth justice.

The issue was raised at the exit brief with the precinct Director, who advised that a review of pay rates had commenced in recent years, but was not completed due to COVID-19. Youth Justice committed to review the pay rate, and an increased rate of pay, to \$1.00 per hour, was approved in April 2023.

In the subsequent visit, independent visitors spoke to the young people, who confirmed they had started to receive the increased rate of pay and expressed pride in their own advocacy. VTU participation rates at Malmesbury have since increased, providing more young people with opportunities to work, learn skills and support their local community.

**Access to fresh air for girls and young women**

A key issue raised again by girls in the Cullity Unit at Parkville Youth Justice Precinct<sup>14</sup> was lack of access to fresh air and exercise outside of the unit, due to the unit’s lack of a suitable perimeter fence. The Commission has raised this issue with Youth Justice for a number of years.

In October 2022, a temporary fence was established surrounding the Cullity Unit. The Commission welcomed this improvement to the unit, and will continue to advocate for improved access to services and infrastructure for girls and young women over the next 12 months.

<sup>12</sup> Justice Health is a business unit of DJCS and is responsible for the delivery of health services for persons in Victoria’s prisons and youth justice precincts.

<sup>13</sup> The Vocational Training Unit is a program involving young people at Malmesbury undertaking precinct ground maintenance work. They are supported by a dedicated team of staff and can progress to maintenance work in the community.

<sup>14</sup> The Cullity Unit at Parkville Youth Justice Precinct houses all female children and young people aged 10–22 years of age in youth justice (remand and sentenced).

### IVP phonenumber

The IVP phonenumber was established in November 2021 to provide children and young people in youth justice centres with greater access to the IVP given the limited accessibility to the program during the pandemic.

This year the Commission received 33 phone calls from children and young people in custody, raising a total of 38 issues. The most common issues were related to complaints about staff and restrictive practices. All issues were promptly raised with Youth Justice for resolution and the Commission appreciates the precincts' ongoing support and cooperation with this service.

### Ten-year anniversary

On 2 December 2022, the IVP celebrated its ten-year anniversary with an event hosted by the Commission's CEO and attended by both commissioners.

Guests from Youth Justice, Parkville College and Justice Health attended, together with past and present independent visitors and staff from the Commission, including former Principal Commissioner, Bernie Geary. The celebration provided an opportunity to recognise the importance of the IVP and the incredible contribution of our volunteer independent visitors who bring much-needed connection to, and advocacy for, children and young people in youth justice centres.



Principal Commissioner Liana Buchanan and former Principal Commissioner Bernie Geary at the IVP 10 year celebration.



Independent visitors John Lorenzini and Belinda Miller-McBeth at IVP 10 year anniversary.

### Volunteer update

The Commission continues to support and recruit a strong pool of volunteers that participate in monthly visits to youth justice centres. In June 2023, the Commission undertook a recruitment campaign to increase the number of independent visitors in preparation for the opening of Cherry Creek Youth Justice Precinct. The campaign had a specific focus on recruiting First Nations People to support Aboriginal and Torres Strait Islander children and young people in custody.



Commissioner for Aboriginal Children and Young People, Meena Singh (far left) joins the independent visitors for the IVP visit to Malmesbury on 17 August 2022.

## Establishment of Cherry Creek Youth Justice Precinct

Victoria's youth justice custodial system is undergoing a significant period of change with the opening of Cherry Creek Youth Justice Precinct in August 2023 and the planned closure of the Malmsbury Youth Justice Precinct in December 2023. The Commission has appreciated ongoing updates from Youth Justice about the construction and operationalisation of Cherry Creek, the planned model of service delivery and the services and programs to be provided to children and young people at this facility.

The Commission will undertake regular onsite monitoring at Cherry Creek, assessing the operation of the new precinct and the treatment of children and young people there. We will also monitor the decommissioning of Malmsbury Youth Justice Precinct, with a particular focus on the impact of the transition for children and young people.

The Commission has been involved in induction sessions for new staff at Cherry Creek, explaining the role of the Commission's IVP. The IVP have also met with Cherry Creek management and other service providers about the program. The IVP commenced visits to Cherry Creek shortly after its opening.

## Monitoring of other confined environments

### Preventative detention

In 2018, the Commission received powers to monitor the safety and wellbeing of children held in preventative detention in Victoria pursuant to a police detention decision or preventative detention order under the *Terrorism (Community Protection) Act 2003*.

The Commission's powers include monitoring the treatment of a child detained in the above circumstances, promoting the interests of the child, accessing any document or information relating to the child's treatment while in detention and providing advice to the Attorney-General, other relevant ministers or the Chief Commissioner of Victoria Police about the child's treatment while in detention.

The Commission's legislation<sup>15</sup> requires that we report the number of times the Commission has performed its monitoring function as per the *Terrorism (Community Protection) Act 2003* in the relevant financial year and any general observations or conclusions the Commission may want to include in the report in relation to performance of its function.

In the 2022–2023 financial year, the Commission did not exercise its preventative detention function.

<sup>15</sup> CCYP Act, section 23A.



# Oversight and monitoring of child protection



# Oversight and monitoring of child protection

The Commission is responsible for monitoring and oversight of the child protection care system. We do this by:

- reviewing the death of every child who was involved with Child Protection in the year prior to their death
- conducting inquiries into service responses to individual children
- initiating inquiries into systemic issues affecting children in child protection.

In 2022–23, our work in this area included:

- establishing an individual inquiry into services provided to a vulnerable child
- conducting child death inquiries
- identifying common themes and issues that arise from our child death inquiries
- monitoring the progress of recommendations from our child death inquiries.

## Completed inquiries

### Individual inquiry

In 2022, the Commission established an individual inquiry relating to a vulnerable child, Jess, who was the only surviving victim of a domestic homicide. The inquiry was established due to concerns raised with the Commissioner about the supports and arrangements that were put in place for Jess.

The inquiry found that Jess was provided with high-quality support from specialised services to promote her safety, wellbeing and development, and to assist in addressing the significant trauma experienced. While the service response for Jess was positive, this inquiry highlighted the lack of practice guidance for how services work with children and young people bereaved by domestic homicide more broadly.

The Commission noted that, unlike some jurisdictions, Victoria has no multi-agency protocol in place when a child is bereaved as a result of domestic violence. As a result, there is no clear understanding about what each

agency will do and what they will be responsible for, despite quality service involvement having the potential to dramatically alleviate or exacerbate the impact of trauma on children who lose a parent due to domestic violence.

After initially suggesting there was no need for this work, DFFH has indicated that it will examine current service responses and identify any gaps and opportunities for service improvement. The department advises it will progress a best practice guide for child protection practitioners working with children bereaved by domestic homicide as part of this work. The Commission looks forward to receiving updates.

## Child death inquiries

Under the CCYP Act, the Commission must conduct an inquiry into the services provided to every child who dies and was known to Child Protection in the 12 months before their death. These inquiries aim to identify aspects of the service system that need to be improved to help children in the future. While the death of a child is a trigger for an inquiry, the Commission makes no findings as to the cause of death. Instead, the focus is on services provided to a child before they died.

### Child deaths reported to the Commission 2022–23

The Commission was notified of the deaths of 36 children in 2022–23, including five Aboriginal children.

The category of death identified in the following tables is based on information available to the Commission through Child Protection files and is indicative only. Only a Coroner can determine the formal cause of death.

Tables 3 and 4 provide further detail about category of death, Aboriginal status, and age of children at death.

In 2022–23, there were six children who died by suicide, which is a high number compared to previous years (Table 5). The Commission will continue to examine any concerning themes that have arisen in these cases as we finalise the inquiries for each of these children.

**Table 3. Child death notifications received by the Commission by Aboriginal status and category of death 2022–23**

Category of death	Aboriginal		Non-Aboriginal		Total	
	No.	%	No.	%	No.	%
Accident	1	20	7	23	8	22
Drug/substance related	0	–	1	3	1	3
Illness	3	60	6	19	9	25
Non-accidental trauma	0	–	2	6	2	6
SIDS/SUDI <sup>16</sup>	0	–	1	3	1	3
Suicide	0	–	6	19	6	17
Unascertained (by coroner)	0	–	1	3	1	3
Unclear from file	1	20	7	23	8	22
<b>Total</b>	<b>5</b>	<b>100</b>	<b>31</b>	<b>100</b>	<b>36</b>	<b>100</b>

**Table 4. Child death notifications received by the Commission by Aboriginal status and age 2022–23**

Age	Aboriginal		Non-Aboriginal		Total	
	No.	%	No.	%	No.	%
0–5 months	1	20	7	23	8	22
6–11 months	0	–	1	3	1	3
1–3 years	2	40	3	10	5	14
4–12 years	1	20	4	13	5	14
13–17 years	1	20	16	52	17	47
<b>Total</b>	<b>5</b>	<b>100</b>	<b>31</b>	<b>100</b>	<b>36</b>	<b>100</b>

<sup>16</sup> SIDS – Sudden Infant Death Syndrome; SUDI – Sudden Unexpected Death in Infancy

**Table 5. Child death notifications received by the Commission by category of death 2016–17 to 2022–23**

Category of death	2016–17	2017–18	2018–19	2019–20	2020–21	2021–22	2022–23
Accident	6	2	8	7	9	9	8
Drug/substance related	3	0	0	2	0	0	1
Illness	13	11	7	20	9	6	9
Non-accidental trauma	3	1	3	5	1	7	2
Pending determination/ unascertained/unclear from file	3	4	7	10	14	11	9
SUDI	3	7	6	2	8	3	1
Suicide/self-harm	5	1	3	5	4	1	6
<b>Total</b>	<b>36</b>	<b>26</b>	<b>34</b>	<b>51</b>	<b>45</b>	<b>37</b>	<b>36</b>

## Completed child death inquiries

In 2022–23, the Commission completed 45 child death inquiries (Table 6). These inquiries related to children who died between September 2019 and March 2023. Eight of the completed inquiries related to Aboriginal children. Based on these inquiries, we made 26 recommendations – 21 to DFFH and five to other departments or services.

As in previous years, most children were living at home with their parent or parents when they died (Table 7). The children whose lives we reviewed through our child death inquiries had been the subject of, on average, four reports to Child Protection, with 12 children (27 per cent) having only one report. Seven per cent of cases involved more than 10 reports, with the highest number of Child Protection reports being 17. In 24 of the completed child death inquiries, the Child Protection case was still open when the child or young person died.

**Table 6. Category of death in child death inquiries completed by the Commission by age and Aboriginal status 2022–23**

Category of death	Aboriginal	Non-Aboriginal	Total
<b>Accident</b>	<b>0</b>	<b>10</b>	<b>10</b>
1–3 years	0	2	2
4–12 years	0	3	3
13–17 years	0	5	5
<b>Drug/substance related</b>	<b>0</b>	<b>3</b>	<b>3</b>
13–17 years	0	3	3
<b>Illness</b>	<b>3</b>	<b>9</b>	<b>12</b>
0–5 months	1	1	2
6–11 months	0	1	1
1–3 years	1	2	3
4–12 years	0	4	4
13–17 years	1	1	2
<b>Non-accidental trauma</b>	<b>0</b>	<b>3</b>	<b>3</b>
1–3 years	0	1	1
4–12 years	0	2	2
<b>Suicide</b>	<b>2</b>	<b>4</b>	<b>6</b>
13–17 years	2	4	6
<b>Unascertained (by coroner)</b>	<b>2</b>	<b>4</b>	<b>6</b>
0–5 months	1	2	3
6–11 months	0	1	1
13–17 years	1	1	2
<b>Unclear from file</b>	<b>1</b>	<b>4</b>	<b>5</b>
0–5 months	1	0	1
1–3 years	0	2	2
4–12 years	0	2	2
<b>Total</b>	<b>8</b>	<b>37</b>	<b>45</b>

**Table 7. Child death inquiries completed by the Commission by living arrangements at death 2022–23**

Placement type	Aboriginal	Non-Aboriginal	Total
At home with parent	3	30	33
Kinship care	2	3	5
Never left hospital	1	1	2
Foster care	1	1	2
Residential care	1	1	2
Homeless	0	1 <sup>17</sup>	1
<b>Total</b>	<b>8</b>	<b>37</b>	<b>45</b>

## Practice themes and issues of concern

The themes identified in our child death inquiries completed in 2022–23 were largely consistent with those identified in previous years.

This year, we were pleased to highlight positive practice in a range of areas including risk assessment, collaboration, decision-making and service access. However, we note that practice varies considerably within and across cases, and we also highlight significant areas for improvement in each of these areas.

Each time we provide a draft child death inquiry report to DFFH, we provide an opportunity for any contextual factors that may have impacted on service provision, such as staff vacancies and workload, to be shared. This year, we only received information about such contextual factors in one case. In this case, high caseloads and staff vacancies were said to be impacting the timeliness of Child Protection’s response in the area.

The Commission acknowledges that the practice issues identified in child death inquiries occur within service systems under strain. The child protection system continues to experience high numbers of reports alongside ongoing challenges associated with attracting and retaining the required workforce. Similarly, the broader child and family service system, which has a pivotal role in working with families early to prevent risk factors from

escalating to the point of crisis, is also experiencing overwhelming levels of demand.

This year our analysis of child death inquiries highlighted both good practice and significant concerns across the following areas:

- responses to family violence
- coordination and collaboration between services
- premature case closure
- access to services
- responses to Aboriginal children and young people.

<sup>17</sup> The Commission and DFFH disagree about the living arrangements for this child. While the Commission’s view is that the child was homeless at the time of their death, DFFH considers that the child was living at home with their parents.

## Responses to family violence

Family violence featured in 36 (80 per cent) of the child death inquiries completed this year. The Commission noted positive practice in 10 cases, specifically in relation to the conduct of risk assessments.

In a large number of cases,<sup>18</sup> however, the Commission continued to see poor responses to family violence, including:

- 18 cases where there was inadequate assessment of family violence risk
- 14 cases where children were not connected to appropriate services to address their experiences of family violence
- five cases where children's disclosures of family violence were not considered or taken seriously
- one case where a MARAM assessment was not conducted following the first report regarding family violence concerns, and the assessment was only conducted upon Child Protection receiving a second report when the child was in hospital due to a serious family violence incident.

DFFH introduced its SAFER Children Framework (SAFER) in late 2021 and rolled out training for the Child Protection workforce around the same time. DFFH has told the Commission that SAFER should improve responses to family violence, and the Commission notes that much of the concerning practice identified above occurred before the introduction of SAFER. The Commission will continue to monitor the assessment of family violence risk through future inquiries.

## Case study:

### Max

Max was a young child who lived with complex medical needs and disability. He died as a result of an accident at his family home. Max was from a large, blended family and his older siblings had significant Child Protection involvement. Max was the subject of a number of reports to Child Protection, some of which raised significant protective concerns about family violence.

The Commission found that Child Protection did not gather sufficient information to inform its assessment of risk of harm to Max. While Child Protection was aware that Max's father had a criminal history and that he had perpetrated family violence in the past, this information was not further explored to fully understand Max's father's pattern of violence. Child Protection did not check whether police had attended family violence incidents at Max's family home, did not conduct a criminal record check for Max's father and did not conduct a Child Protection check for Max's siblings to determine the pattern and history of harm inflicted by Max's father.

The Commission also noted with concern that Child Protection based part of its assessment on the father's report that he was no longer drinking alcohol.

<sup>18</sup> The numbers of instances of particular practice in our thematic analysis do not add up to the total number of reports as multiple issues and themes were identified across all of our reports.

### **Coordination and collaboration between services**

The Commission also identified examples of inadequate coordination and collaboration in 25 cases and made findings in 12 cases. These examples often related to Child Protection and other services not proactively sharing or gathering critical information, including details about the child's physical or mental health, the parents' mental health, or services not liaising adequately to ensure coordinated and more effective responses to children.

In one case involving family violence, the Commission found that Child Protection did not gather sufficient information to make an informed judgement about how to ensure the child's safety. Child Protection did not contact police to seek information about the father's history of family violence perpetration and did not contact the father's GP to seek information about his drug use and mental health.

### **Case study:**

#### **Bevan**

Bevan was a teenager when they died from suicide. Bevan had been described as a popular child in primary school who progressed well academically. Bevan started exhibiting mental health concerns in late primary school. Bevan's behaviours and mental health concerns escalated in secondary school, with concerns of self-harming behaviours, suicidal ideation, substance abuse, sexual abuse and sexual exploitation.

Bevan was the subject of five reports to Child Protection. There were missed opportunities by Child Protection in two of the reports to facilitate a professionals meeting with Bevan's school and the mental health service. This would have supported greater collaboration and a shared understanding of the concerns and risk issues experienced by Bevan.

The lack of a coordinated service response to Bevan resulted in narrowly focused assessments and action plans. Child Protection did not liaise with mental health professionals to gain a more comprehensive understanding of Bevan's history of mental ill-health. Furthermore, mental health services did not liaise with Bevan's school or provide a mental health plan to assist the school. While the school made some attempts to re-engage Bevan, the complexity of the risk issues meant a more cohesive service response across service systems was required to keep Bevan engaged in education.



### ***Positive examples of interagency coordination and collaboration***

Effective collaboration, including through information-sharing between services who provide supports to children and their families, is an important and protective factor for children and young people in the child protection system. Effective collaboration allows responses to be coordinated, and ensure that the right supports are provided at the right time.

This year the Commission identified positive examples of collaboration and coordination in 25 child death inquiries and made findings about these positive practices in 13 cases. These examples highlighted regular and meaningful communication between services involved with children and their families, and proactive information gathering and sharing.

In one case involving a terminally ill baby, Child Protection worked collaboratively with health services, convened regular care team and professionals meetings to facilitate information sharing, and regularly consulted with relevant areas within DFFH to seek expert advice.

### **Case study:**

#### **Phillipe**

Phillipe, who had been diagnosed with a disability, was an adolescent when he died. Phillipe also presented with complexities related to his mental health, which included behaviours of concern manifesting in severe physical aggression towards his parents.

Phillipe and his family accessed a range of support services, including child protection, education, mental health services and the National Disability Insurance Scheme (NDIS), as well as community supports such as The Orange Door and disability behavioural support services.

All services worked collaboratively and provided a range of intensive supports to Phillipe and the family. These services acknowledged the critical and complex nature of support for Phillipe and provided consultation and assistance that reflected the parents' wishes and needs in their care for their son.

### Premature case closure

This year, the Commission highlighted instances of premature closure in 16 cases. In eight cases, case closure occurred at the intake stage, despite there being information on file that would have supported an investigation. In one case, an unborn report was closed despite a ten-year history of Child Protection involvement with the family, and without proper assessment of the mother's drug use or her capacity to protect her unborn child before the unborn report was closed. In this case, premature closure also meant that follow-up with drug and alcohol services to determine her level of engagement did not occur.

### Case study:

#### Rose

Rose died in an accident as a teenager. Rose had been the subject of seven Child Protection reports, all of which were closed at intake. The reported concerns related to neglect, cumulative harm and parenting concerns.

The Commission found that Child Protection underassessed the reported concerns. This resulted in premature closures in multiple reports and inappropriate referrals for family support when it was known that Rose's family was unwilling to accept community support services.

The Commission suggests this is a case where Child Protection would ideally have applied a different approach and used its leverage to ensure necessary supports were in place to ensure that the wellbeing and safety needs of Rose and her siblings were met.

### Access to services and service gaps

Access to appropriate and timely services is critical to the safety and wellbeing of children and young people.

The Commission made a total of 16 findings across 11 child death inquiries relating to poor access to services. In 12 cases, the Commission found that children were not supported to access appropriate services. In six of these cases the Commission found a lack of access to mental health service support for children and young people. This included insufficient responses for young people, delayed referrals and lack of follow up with the young people when they did not engage.

In one case, a young person was identified as self-harming, requiring a full health and mental health assessment, but neither occurred. In another case, a young person's frequency of placement changes affected their eligibility for service, as funding was based on geographical catchment areas. A lack of shared understanding between services of the young person's needs, disagreement between services about which one was responsible for care, and delays in referrals were all contributing factors to the lack of support for this young person.

Service gaps were identified in six cases. In one instance, the young person required a more intensive mental health service than was provided. In another case, the child psychologist did not have capacity to see the young person weekly due to high caseloads, limited time and limited funding (this case is discussed in more detail in the case study about 'Jerry' on page 57).

Limitations in residential care were also highlighted in the inquiries. One young person did not receive therapeutic residential care due to matching issues, despite two referrals made by Child Protection. In another example, a young person's placement decisions were made based on the availability of a bed, reflecting demand pressure in the residential care system, rather than on an environment that was appropriate and suitable to the young person's needs.

## Case study:

### Jerry

Jerry died by suicide as a teenager. He suffered from neglect and experienced family violence and psychological and emotional harms. Jerry was not provided with a safe, stable and consistent placement throughout his life, nor was he provided with a clean and safe environment in which his basic care and developmental needs could be met. This had a significant impact on his wellbeing, including his mental health.

Child Protection became involved on a number of occasions for lengthy periods and referrals were made to family support services; however, Jerry's mother was not able to provide Jerry with the nurturing care that he required. Jerry's mental health issues escalated, and Jerry began to self-harm.

The Commission found that there was a lack of specialised mental health services in rural areas. Although Jerry was provided with a child psychologist, the psychologist did not have the capacity to see Jerry on a weekly basis due to a high case load and limited availability. In addition, the services were not aware of the extent of the significant detrimental impact of his daily life experiences on his mental health. Consequently, Jerry missed out on referrals to the further specialist services that he required, including a comprehensive mental health assessment.

## **Effective access to services**

The Commission identified 19 cases highlighting positive practice in relation to effective service support, which promoted the safety and wellbeing of children and young people.

In one case, Child Protection worked with a parenting service and other support services, including Maternal and Child Health, to ensure appropriate support was provided. In addition, the Maternal Child Health service followed up with the family when appointments were missed to ensure the infant was assessed.

In another case, Child Protection promoted positive practice by ensuring a young person had access to appropriate support services past the age of 18 to support their placement.

## Case study:

### Jonah

Jonah was under 10 years of age when he died. Jonah's mother, Joanne was a young mother who lived with a borderline intellectual disability. Joanne and Jonah lived with extended family who all had a role in the care of Jonah. Child Protection and the support services consistently collaborated and proactively supported Joanne to access housing support, family counselling, and drug and alcohol support. The services supported Joanne to develop her independent living skills and provide a safe and stable environment for her son. This support occurred over a period that allowed Joanne to learn and develop her skills at her own pace. This level of support resulted in a case plan to transition Jonah into his mother's care.

### Responses to Aboriginal children and young people

Aboriginal children and young people require meaningful and culturally appropriate practice that includes an understanding of culture, identity, family connection and community to promote their safety and wellbeing.

The Commission conducted eight child death inquiries related to Aboriginal children and young people. The Commission made nine findings that highlighted practice gaps across four inquiries. These related to inadequate connection to family, culture and community, lack of consultation with an ACCO, inadequate case note recording from an ACCO, inadequate support for kith and kin carers, and lack of cultural supports.

#### **Insufficient effort to maintain cultural connection**

There were three findings related to insufficient attempts to connect a child with family and/or maintain connection to culture and community. In one case, Child Protection did not make sufficient attempts to connect a young person with their extended Aboriginal family and siblings. In another case, a young person requested support through an Aboriginal service, but there was no evidence that this occurred.

#### **Lack of support to kith and kin carers**

The Commission's child death inquiries made two findings in relation to the lack of support to the carers for two Aboriginal children. In one case, the non-Aboriginal relative caring for a young person was initially provided with adequate support from Aboriginal services but the supports ceased when the placement was made permanent. The lack of family support left a significant gap for the carers, including a lack of cultural support for the young person.

In another case, an Aboriginal young person experienced several kith and kin placements that were inadequately supported. The lack of support jeopardised the stability of the placements.

### Case study:

#### Sam

Sam was a teenager when they died by suicide. Sam was subject to 15 reports to Child Protection due to family violence, neglect and parental substance abuse. Sam's cultural support plan included a plan for return to Country when Sam was ready.

The cultural support plan did not meaningfully facilitate Sam's connection to culture, and it appears there was a lack of action to promote cultural engagement. Sam requested the support of an Aboriginal mentor however this did not occur. Sam's lack of engagement with cultural programs may have been partly impacted due to COVID-19.

Child Protection did not act on Sam's requests to have contact with their siblings. As a result, this contact did not occur. This is not consistent with the connection element of the Aboriginal and Torres Strait Islander Child Placement Principle which ensures 'Aboriginal and Torres Strait Islander children in out-of-home care do not endure the same sense of loss of identity and dislocation from family and community as the Stolen Generations, it is critical to actively support them to maintain or to re-establish their connections to family, community, culture and country.'<sup>19</sup>

<sup>19</sup> SNAICC, Aboriginal and Torres Strait Islander Child Placement Principle, 2017, p. 5.

### **Positive practice in relation to Aboriginal children and young people**

The Commission made positive findings in relation to the access of services in four inquiries. These findings all included reference to positive practice connected to health including hospital, mental health and maternal child health services. In one case the excellent support provided by a mental health service resulted in improved mental health for a young person. In another case, an Aboriginal hospital service demonstrated strong advocacy for the safety of an infant.

#### **Case study:**

##### **Lisa**

Lisa was a teenager when she died. Her parents struggled to care for her due to complex issues relating to her substance abuse and mental ill-health, family violence, periods of incarceration and neglect. Child Protection appropriately identified the risk to Lisa and progressed the case to investigation, which resulted in a Children's Court order. Lisa was placed in a kinship placement, and was supported to access the services she required.

The Commission found that there was strong collaboration among Child Protection, the school, and health, mental health and Aboriginal services. This included regular care team meetings that promoted Lisa's safety, health, education and wellbeing. Lisa's school ensured her educational needs were met, including at times when her deteriorating health prevented her from attending school. The services worked to maintain cultural connections for Lisa, including contact with family where possible, and regular respite with extended family. Lisa attended a cultural youth group and participated in other activities.

## **Child death inquiry recommendations**

This year, the Commission is reporting for the first time on the number of recommendations made in our child death inquiries as well as progress made against child death inquiry recommendations.

Since 1 July 2018, the Commission has made a total of 111 child death inquiry recommendations. The overwhelming majority of these recommendations (70 per cent) are to DFFH (previously the Department of Health and Human Services) and relate to improvements to the Child Protection system. For this year, we have only discussed the 78 recommendations where DFFH is the primary responsible agency.

In 2022–23, the Commission made 21 recommendations to DFFH (Table 8) and closed 17 recommendations (Table 9). The Commission made 78 recommendations to DFFH between 2018–19 and 2022–23. DFFH has responded to 63 of these recommendations and we are awaiting responses to 15 recommendations from more recent child death inquiries (Table 10). Of these 63 recommendations, DFFH has accepted 67 per cent in full, 11 per cent in principle, 10 per cent in part, and has not accepted 13 per cent.

**Table 8. Status of recommendations to DFFH 2018–19 to 2022–23**

Status of recommendation	2018–19	2019–20	2020–21	2021–22	2022–23	Total
Open	1	3	9	8	20	41
Closed	12	6	8	10	1	37
<b>Total</b>	<b>13</b>	<b>9</b>	<b>17</b>	<b>18</b>	<b>21</b>	<b>78</b>

**Table 9. DFFH recommendations closed, by closure type and year closed 2018–19 to 2022–23**

Closure type	2018–19	2019–20	2020–21	2021–22	2022–23	Total
Completed	0	4	7	7	14	31
Retired <sup>20</sup>	0	0	1	1	3	6
<b>Total</b>	<b>0</b>	<b>4</b>	<b>8</b>	<b>8</b>	<b>17</b>	<b>37</b>

**Table 10. Response to recommendations to DFFH 2018–19 to 2022–23**

Response	2018–19	2019–20	2020–21	2021–22	2022–23	Total
Accept	8	5	12	13	5	42
Accept in principle	3	1	2	1	0	7
Accept in part	0	3	1	1	1	6
Not accepted <sup>21</sup>	2	0	2	3	0	8
Not yet responded <sup>22</sup>	0	0	0	0	15	15
<b>Total</b>	<b>13</b>	<b>9</b>	<b>17</b>	<b>18</b>	<b>21</b>	<b>78</b>

### Key themes

The Commission has not previously included the recommendations from CDIs in our annual reports. As part of introducing this section, we have examined recommendations conducted over the past five years to look at themes in the areas of concern we have identified and our recommendations for improvements.

Where we identify shortcomings or issues of concern in child death inquiries, we often recommend improvements or interventions that may avoid the same issue arising for other children. Where similar recommendations have already been made, either in other child death inquiries or in our systemic inquiry work, attention will also be drawn to these.

This year we explicitly reiterated 11 past recommendations across six child death inquiries. Reiterated recommendations covered a range of areas requiring practice and system level improvements, including:

- two cases reiterated recommendations about the need to improve the prevention of and responses to cumulative harm
- two cases reiterated recommendations about the need to better identify and respond to suicide risk
- two cases reiterated recommendations about improved risk assessment of and support for children with complex needs and disability

<sup>20</sup> Recommendations that have been retired are no longer monitored by the Commission. This could be due to a number of reasons such as the recommendation not being accepted, or the recommendation being monitored through a systemic inquiry recommendation.

<sup>21</sup> A number of these recommendations are discussed in more detail in the thematic section for child death inquiry recommendations.

<sup>22</sup> When an inquiry report is finalised, the Commission requests a response to any recommendation be provided within six weeks of the receipt of the report.

- two cases reiterated recommendations about improving responses to Aboriginal children.

As discussed on page 52, the Commission is keenly aware of the overall resource constraints, workload pressure and systemic challenges impacting child protection practitioners. We invite contextual information about service capacity as part of our inquiries. Our discussion of practice shortcomings should always be read in that context; it should not be seen as critiquing workers who we know are often doing their very best in a stretched and flawed system.

In one case from 2020–21, the Commission recommended that an inquiry report be used to demonstrate the impact of an underfunded child protection system and the need for an improved and integrated child and family service system. This recommendation was not accepted on the basis that DFFH’s model of forecasting demand for the child protection system and the child and family services system more broadly was sufficient. As noted above in relation to progress on systemic recommendations, DFFH’s advice is that this work is incomplete.

Unfortunately, the Commission continues to see unmet demand in child protection services and, at times, a siloed child and family service system that does not always collaborate or share information effectively to meet the needs of vulnerable children and families.

Our analysis of child death inquiry recommendations made over the last five years highlighted the following themes for practice and system improvement:

- strengthening risk assessment and, following the introduction of SAFER, reviewing the implementation of the SAFER framework
- improving responses to family violence

- improving health assessments for children in out-of-home care
- strengthening child protection workforce development and training overall, and in relation to particular areas of practice
- improving responses to high-risk infants
- improving service delivery in public health emergencies.

### ***Improving risk assessment and the implementation of SAFER***

Over the last five years, the Commission has made many recommendations to strengthen risk assessment. In November 2021, DFFH introduced a new child protection risk assessment and management framework called the SAFER Children Framework (SAFER). SAFER aims to improve risk assessment practice by providing more detailed guidance to practitioners and integrating the Multi-Agency Risk Assessment and Management (MARAM) framework to strengthen family violence risk assessment.<sup>23</sup> The Commission welcomes this significant effort to improve child protection risk assessment and acknowledges that it takes time to embed practice change. We will continue to assess whether SAFER is supporting strengthened and more consistent risk assessment.

Since 1 July 2018, the Commission has made eight recommendations to strengthen risk assessments and an additional five recommendations focused on SAFER implementation. These recommendations sought to strengthen risk assessment through workforce development, undertaking audits, updating practice advice and using inquiry findings to improve policies and procedures. For example, one recommendation from 2021–22 resulted in Child Protection updating its advice in the Child Protection Manual to better assist practitioners in assessing sexual abuse risk. The advice now provides guidance on assessing a non-offending parent’s capacity

<sup>23</sup> As part of the Victorian Government’s family violence reform following the Royal Commission into Family Violence, the Multi-Agency Risk Assessment and Management (MARAM) framework was introduced to provide a common risk assessment framework across organisations and services encountering family violence. It aimed to strengthen how family violence is identified, assessed and managed across key workforces. In 2019, Child Protection became a prescribed organisation under MARAM, requiring it to use the MARAM framework to assess family violence risk.

to support a child's safety when the child has contact with a parent who is a sex offender.

In another case from 2020–21, the Commission recommended that reports of sexual abuse be prioritised for assessment, information sharing and access to therapeutic support. DFFH did not accept this recommendation, on the basis that all reports are determined by professional judgement and different types of abuse cannot be prioritised over others. The Commission remains concerned that concerns of sexual abuse are not responded to consistently in Child Protection practice.

Another two recommendations in the last two years focused on evaluating SAFER. One of these specifically recommended an audit focusing on infants, but DFFH advised that it will consider infants as part of its existing evaluation of SAFER. The Commission awaits further information about the scope and timeframe of this evaluation to ensure it addresses risk assessment issues identified in child death inquiries.

### **Improving responses to family violence**

Following the Royal Commission into Family Violence, DFFH has made a significant effort to strengthen Child Protection's response to family violence. This has included using the MARAM framework to identify, assess and manage family violence risk from 2019 onwards, which built on the 2018 *Tilting our practice* framework to provide guidance to child protection practitioners on working with children and families affected by family violence. While the Commission has welcomed these initiatives and noted some improvement, we continue to see inadequate responses to family violence risk in child death inquiries.

Since 1 July 2018, the Commission has made 13 recommendations that have focused on improving Child Protection's response to family violence risk. These recommendations have sought to strengthen how Child Protection identifies and responds to family violence risk through several different mechanisms. This includes:

- workforce training and development
- undertaking audits to assess efforts to improve practice

- amending the Child Protection Manual to strengthen guidance for practitioners
- reviewing policies, procedures and practice in light of particular inquiry findings.

The recommendations have led to a series of changes. For example, in 2022–23, DFFH updated the Child Protection Manual's procedure for when practitioners become aware that a perpetrator has breached their intervention order. It will also soon contain new advice on responding to adolescents who use violence. In 2020–21, training was delivered to strengthen practice when family violence is experienced by people with disability, and in 2022–23, training is being developed to improve Child Protection's way of working with people from culturally and linguistically diverse backgrounds who experience family violence.

In one inquiry in 2021–22, the Commission recommended an audit of family violence cases to assess whether practitioners were following Child Protection guidelines and, if not, what barriers there were. DFFH did not agree that the recommendation was required, because it considered there were no systemic issues. The Commission urged DFFH to reconsider the benefits of undertaking an audit to review whether responses to family violence were improving with the introduction of the MARAM and SAFER frameworks, noting the recurring nature of concerns. After further negotiation, DFFH agreed to conduct an audit and the Commission looks forward to receiving the audit findings.

A similar recommendation was made in 2021–22 in a case involving an infant who was exposed to family violence. In this case, DFFH completed an audit and found that, while there was some evidence of good practice, there were also areas where practitioners were not compliant with practice guidance, including relating to requirements for home visits, MARAM responsibilities and safe sleeping advice. The relevant Child Protection area has subsequently developed an action plan to address these practice issues.



### ***Improving access to health assessments in out-of-home care***

The National Clinical Assessment Framework for Children in Out-of-Home Care states that health assessments should be routine, including health checks when entering care and that all children and young people should have a health management plan.

In our child death inquiries, the Commission has seen poor adherence to these standards, particularly for children in kinship care. Examples of poor practice include:

- not obtaining children’s health information prior to them entering care
- not conducting a health assessment when a child enters care
- not providing adequate support to carers to meet a child’s health needs
- not supporting access to the National Disability Insurance Scheme (NDIS)
- not supporting access to dental health care.

In 2021–22, the Commission made two recommendations relating to the need to improve health assessments for children in care. After two years of seeing little progress in this area, we welcomed the 2023–24 budget investment in improving access to health assessments.

### ***Child protection workforce development and training***

Continuous professional development is critical to ensuring the Child Protection workforce demonstrates high-quality, evidence-based practice. The Commission frequently makes recommendations about using inquiry findings to inform professional development opportunities for staff, including through training and reflective practice sessions.

Since 1 July 2018, the Commission has made 24 recommendations related to workforce development. These recommendations seek to strengthen the skills and capabilities of the child protection workforce across a range of important practice areas, including:

- responding to high-risk infants
- conducting safe sleeping assessments

- responding to high-risk adolescents, including those at risk of sexual exploitation and with mental ill-health
- identifying and responding to cumulative harm
- working with children with disability and/or complex medical needs
- responding to reports of sexual abuse
- decision-making and planning for case closure
- listening to children and young people’s voices
- working with the Aboriginal Child Specialist Advice and Support Service
- information sharing and service collaboration
- assessing parenting capacity, particularly in the context of parental mental ill-health, parental substance misuse and sex offences.

The Commission welcomes DFFH’s more recent efforts to improve workforce skills and capabilities. The Commission notes that some training activities, such as webinars, are statewide opportunities, while others are targeted to a specific division. For example, in response to a recommendation from a 2020–21 inquiry, joint training across Child Protection areas was delivered on the physical, developmental and psychological impact of cumulative harm, how these are assessed and how to best present evidence to a court.

### ***Improving responses to high-risk infants***

As our previous annual reports have highlighted, the Commission frequently identifies concerns related to practice for high-risk infants. In June 2018, DFFH introduced the ‘Infant risk assessment and response decision’ policy and procedure that requires all infants to be classified as either needing an Infant Response or Infant Intensive Response. This was accompanied by detailed guidance and training on infant risk assessment. While this has been a welcome development, the Commission continues to see inadequate assessment and response to risk for infants, particularly at intake.

Since 1 July 2018, the Commission has made 12 recommendations to improve Child Protection’s response to high-risk infants. A consistent theme across these recommendations is the importance of practitioners being

## Oversight and monitoring of child protection *continued*

aware of the particular needs of infants, given their young age and dependence on adult carers for survival. For example, given that the Infant Response Decision Tool only applies during the investigation and protective intervention stages, two recommendations made in 2018–19 and 2021–22 called for specific advice to be developed regarding assessing risk to infants during intake. The Child Protection Manual has subsequently been updated.

Several recommendations between 2018 and 2021 also focused on how Child Protection assesses Sudden Infant Death Syndrome (SIDS) and safe sleeping risks, and engages with parents to discuss safe sleeping. In response to these recommendations, Child Protection has used the inquiry learnings in its redevelopment of training for practitioners, including ensuring that all new practitioners receive specific SIDS and safe sleeping induction training, and provided a recorded webinar to further existing practitioners' expertise on the matter. The underassessment of SIDS risk and poor engagement with parents around safe sleeping is a persistent issue, and there is a need for ongoing staff training.

### ***Improving service delivery in public health emergencies***

During the COVID-19 pandemic, public health restrictions disrupted service delivery in many ways. As noted in the Commission's 2021–22 annual report, this saw increased risk to vulnerable children and young people.

Since 30 June 2021, the Commission has made six recommendations to address issues relating to service provision during the COVID-19 pandemic. Of these recommendations, three were accepted and have been fully implemented, two were not accepted, and one is currently being assessed by the Commission.

The recommendations sought to ensure the learnings from child death inquiries were used to improve service provision in future public health emergencies. In particular, the recommendations highlighted the need for different approaches to risk assessment given the increased risk during lockdowns and services' reduced visibility of children.

While some responses recognised the critical issues identified in the various child death inquiries and recommendations, and reflect some effort to implement change, other responses rejected the need to learn from the COVID-19 experience. For example, between 2020 and 2022, DFFH rejected recommendations that learnings from the COVID-19 pandemic be used to inform future department advice on risk assessment during periods of lockdown. This was on the basis that Child Protection advice was continually updated based on public health directions during the pandemic, which are no longer in place.

The Commission's view is that some of Child Protection's responses to the pandemic were highly problematic and created serious risk for children. We will continue to urge DFFH to learn from the COVID pandemic to avoid similar approaches in future.

However, some progress has been made in response to two 2021–22 recommendations. DFFH shared a child death inquiry case study internally to communicate the importance of information sharing, collaboration and planning between child and family services in the context of a public health emergency. Additionally, DFFH has updated its remote service delivery advice to provide practitioners with further clarity on how to interact with parents remotely.

# Oversight and monitoring of out-of-home care



# Oversight and monitoring of out-of-home care

The Commission is responsible for monitoring and oversight of the out-of-home care system.

In 2022–23, our work in this area included:

- continuing our systemic inquiry into the educational experiences of children and young people living in out-of-home care
- monitoring adverse events (serious incidents) in out-of-home care
- conducting onsite inspections of residential care services
- identification and monitoring of systemic issues in out-of-home care
- monitoring the rights of children and young people in residential care
- conducting inquiries into service responses to individual children in out-of-home care
- responding to direct approaches for assistance from the public
- monitoring the progress of recommendations from previous systemic inquiries.

## Inquiries underway

In March 2022, the Commission established a systemic inquiry into the educational experiences of children and young people living in out-of-home care. This inquiry builds on our previous inquiry *In our own words* and examines the educational experiences of students in care, both in relation to supports provided in their placements from carers and workers, and supports provided within schools and other educational settings. The inquiry examines the educational outcomes of children and young people in out-of-home care and considers what helps and hinders students in care from staying engaged in education.

The final report, to be tabled in Parliament in November 2023, will make recommendations to strengthen supports and address barriers to education for children and young people in out-of-home care.

We have heard from 189 children and young people – 101 through face-to-face consultations and 88 via an online survey. The Commission also heard from 170 stakeholder groups comprising of 350 individuals. Throughout the inquiry the Commission has worked closely with our Youth Council members, some of whom have lived experience of accessing education while being in the care system, to assist in consultations, the development of questions and developing findings and recommendations. The Youth Council is also continuing to work on a youth companion piece for the inquiry.

## Monitoring of out-of-home care incidents

### Incidents reported in out-of-home care

Out-of-home care incidents reported in 2022–23 indicate a five per cent decline in the number of incidents reported compared with the previous year (Table 11). However, as has been stated in inquiries such as *Out of sight*, the Commission remains concerned that DFFH's Client Incident Management System (CIMS) does not appropriately capture all serious incidents impacting children and young people in out-of-home care. Our efforts to improve these reporting systems continue, with the Commission engaging in a series of consultations and submissions to the review of CIMS that is currently underway.

This year saw an encouraging decrease in the number of 'self-harm/attempted suicide' incidents reported in out-of-home care, but the number remains concerningly high (1,068). Also of concern in this year's reporting was the 52 per cent increase in reports of 'poor quality of care' incidents and the 13 per cent increase in 'inappropriate physical treatment' incidents.

**Table 11. Incidents in out-of-home care (all care types) by incident type 2020–21 to 2022–23<sup>24</sup>**

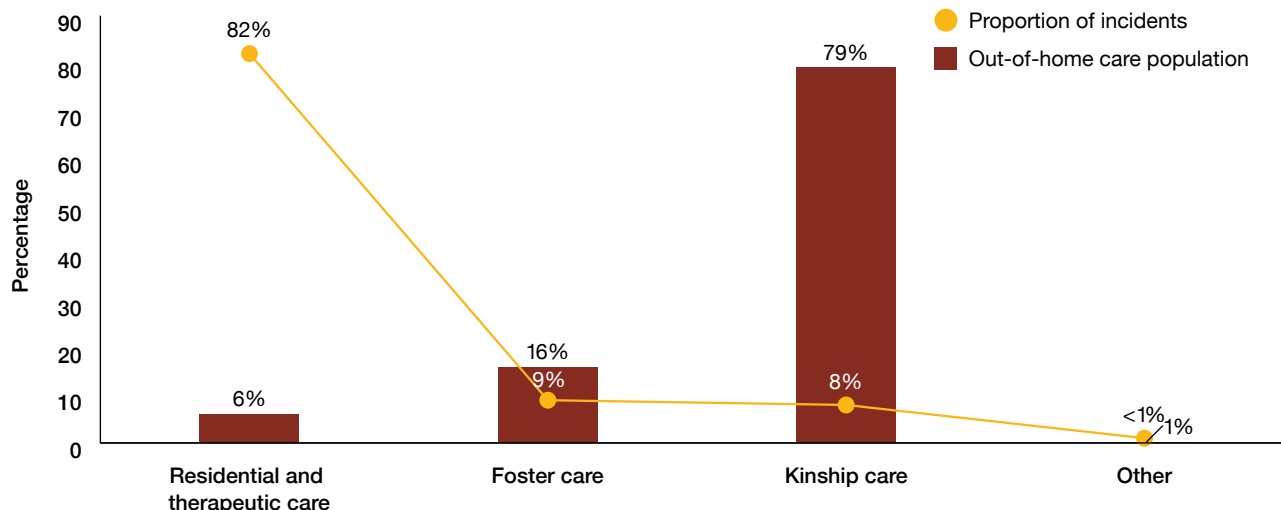
Incident type	2020–21	2021–22	2022–23	Percentage change 2021–22 to 2022–23
Absent client	2,669	3,558	3,604	1▲
Dangerous actions – client	1,231	1,312	1,236	-6▼
Self-harm/attempted suicide	1,083	1,388	1,068	-23▼
Medication error	512	1,188	991	-17▼
Inappropriate physical treatment	595	620	701	13▲
Physical abuse	565	701	669	-4▼
Injury	508	512	480	-6▼
Sexual abuse	313	334	343	4▲
Poor quality of care	222	211	322	52▲
Emotional/psychological abuse	256	310	303	-3▼
Sexual exploitation	239	303	239	-22▼
Emotional/psychological trauma	329	261	191	-27▼
Inappropriate sexual behaviour	152	176	153	-13▼
Death <sup>25</sup>	3	6	7	–
Financial abuse	7	5	5	–
Escape from a secure facility	0	2	3	50▲
<b>Total</b>	<b>8,684</b>	<b>10,887</b>	<b>10,315</b>	<b>-5▼</b>

The greatest proportion of incidents reported in out-of-home care continue to come from residential care, despite this group of children and young people making up only five per cent of the out-of-home care population (Figure 4).

<sup>24</sup> These figures are extracted from DFFH's live database, and small data variations may occur against last year's annual report figures.

<sup>25</sup> These numbers vary from last year's annual report following DFFH advice that, while reported as deaths in out-of-home care, subsequent examination by the department determined that a number of the deaths were related to clients of Child Protection, who were not in out-of-home care.

Figure 4. Out-of-home care population and proportion of incidents by care type 2022–23



### Reviews of incident reports

Section 60A of the CCYP Act requires the Secretary of DFFH to provide the Commission with information about all adverse events (serious incidents) involving children in out-of-home care. The Commission reviews each incident report to identify significant incidents or particularly vulnerable children and young people in out-of-home care and identify any systemic issues that require DFFH’s attention.

This year, the Commission reviewed 10,315 incident reports and initiated 88 incident queries. Aboriginal children and young people were involved in a quarter of our incident queries. The majority of incident queries (88 per cent) related to children and young people in residential care.

Many of our incident queries related to the strategies in place for children and young people who were away from placement for significant periods or reported to be involved in dangerous situations. As shown in Table 12, almost one quarter of our queries related to children and young people involved in self-harm, and 14 per cent were about children and young people reporting that sexual abuse had occurred, in a range of settings.

Table 12. Out-of-home care incident queries by the Commission 2022–23

Incident type	No.	%
Absent/missing person	21	24
Self-harm/attempted suicide	20	23
Dangerous actions (client)	16	18
Sexual assault/sexual abuse	12	14
Poor quality of care	5	6
Emotional/psychological abuse	4	5
Physical assault (client to client)	3	3
Inappropriate physical treatment	2	2
Physical assault/other/client	2	2
Emotional/psychological trauma	2	2
Injury	1	1
<b>Total</b>	<b>88</b>	<b>100</b>

## Systemic issues identified in out-of-home care

One of the Commission's functions is to promote improvement in policies and practices relating to the safety and wellbeing of children and young people in out-of-home care. Through our review of out-of-home care incident reports, the Commission gains important insights into the experiences of children and young people. Systemic issues are brought to the attention of DFFH through formal correspondence with the aim of improving service responses to children and young people in out-of-home care.

### Placement of children under the age of 12 in residential care

In June 2022, the Commission raised concerns with DFFH about the number of children under the age of 12 in residential care settings, and the risks younger children face in these settings.<sup>26</sup> This year, 11 per cent of the children and young people in residential care were under 12 years of age (n=54).<sup>27</sup>

This year, the Commission continued to urge DFFH to address this issue, writing to DFFH in October 2022 after identifying further incidents of concern including children under the age of 12 being assaulted and threatened by teenage co-residents.

In December 2022, DFFH responded to the Commission, acknowledging that there was more to be done to better monitor and support children under 12 placed in residential care. DFFH committed to supporting children under 12 to remain at home or in home-based care by providing more support for children with complex behaviours.

The Commission welcomes DFFH's work currently underway to revise the client matching and placement planning framework. We urge DFFH to prioritise this work, which was recommended in the 2019 *In our own words* inquiry, particularly as it relates to the placement of children under the age of 12 in residential care.

<sup>26</sup> CCYP, *Annual report 2021–22, 2022*, pp. 42–43.

<sup>27</sup> DFFH data provided to the Commission, 18 July 2023.

## Case study:

### Rory

A child under the age of eight who was placed in a residential care unit was reported to have experienced a series of physical assaults by co-residents. The Commission was advised that the child was in residential care because there were no identified kinship care placements and no foster care options had been identified, largely due to the child's disabilities and complex needs.

DFFH advised the Commission that the child's NDIS funding allocation had been exhausted, and that the department had provided interim funding while their NDIS funding was reviewed, to ensure an additional staff member was present to support the child before and after school in the home.

The Commission met with DFFH and the service provider to understand the supports and strategies being provided to the child and their family. The Commission was encouraged by the service provider's attempts to provide a more child-friendly environment. The incidents between the child and the co-residents reduced in number and severity over the following months, and the Commission closed its incident query.

### Abuse of over the counter medications

In March 2023, the Commission wrote to DFFH after identifying a series of incidents involving the dangerous consumption of non-prescription medication by children and young people in residential care. A desktop review revealed that DFFH's policies and guidelines for care providers in residential care settings did not identify any requirements relating to the prevention of, or response to, overdose of non-prescription medication.

## Oversight and monitoring of out-of-home care *continued*

The Commission recommended that DFFH review its current advice, policies and procedures for care providers. In response to the issue being raised by the Commission, the department undertook a review of relevant incidents and a series of client files to ensure appropriate planning and support were in place for young people.

The department advises it is linking the issues identified in this review to work to strengthen requirements for the safe storage of medication, scoping of new resources to educate young people about the harms of prescription medication, the CIMS review that is currently in progress, and the implementation of recommendations arising from the Commission's 2019 systemic inquiry *Lost, not forgotten*, (see page 73).

### **Children and young people as victims of sexual exploitation**

The Commission remains concerned about the high number of incidents involving the sexual exploitation of children and young people in residential care and the under-reporting of these incidents.

In February 2023, the commissioners wrote to the Minister for Child Protection and Family Services and the Chief Commissioner of Victoria Police to highlight continuing and under-reported sexual exploitation in residential care, and to seek action on the recommendations made in *Out of sight* for an operational, collaborative and coordinated approach between Child Protection, residential care workers and Victoria Police (see page 77).

The Commission issued a media release in April 2023, highlighting updated data that showed that between the release of *Out of sight* and the end of March 2023, 423 incidents of sexual exploitation in residential care were reported, involving 165 children. The Commission called for urgent action to protect these children, improve reporting and monitoring of sexual exploitation, and fund a complete overhaul of the residential care system.

In May 2023, the Commission welcomed the Victorian Government's budget announcement of \$548.4 million across four years to increase therapeutic supports in

residential care homes and address child sexual exploitation in residential care.

The Commission will continue to monitor this issue closely and work with DFFH and Victoria Police to improve the safety of children and young people in residential care.

### **Progress on systemic issues identified in previous years**

#### ***Gender identifiers in CRIS***

In response to an issue first identified by the Commission in 2019, this year DFFH introduced new Child Protection practice advice and procedures that provided guidance for Child Protection staff engaging with children about gender and recording non-binary genders in DFFH's Client Relationship Information System (CRIS).

DFFH will be undertaking further work to provide for the accurate recording of a child or young person's confirmed gender in CIMS and will be implementing further training for out-of-home care staff and carers.

#### ***Medication errors by staff***

In 2021 and 2022, the Commission wrote to DFFH referencing a significant number of medication errors in residential care that involved staff error. The Commission called for DFFH to take urgent action to improve systems for administering medication in residential care.

In August 2022, DFFH advised that a working group had been established to improve medication management in residential care to respond to the issues raised and drive practice change to reduce preventable medication errors involving staff actions. DFFH has committed to:

- deliver statewide policy and practice advice to reduce staff-related medication errors and support greater monitoring and oversight on the use of chemical restraints in residential care
- scope reporting and/or system changes needed for better oversight of staff-related medication incidents
- provide residential care provider training and resources to support implementation of the project outcomes



- identify longer-term actions needed to respond to chemical restraint as well as opportunities to improve young people’s agency in relation to their medication and support positive longer-term health outcomes for young people.

The Commission continues to monitor these incidents in out-of-home care and DFFH’s work progressing improvements in this area.

## Rights-based monitoring of residential care

In late 2022, the Commission conducted a statewide residential care monitoring activity to understand children and young people’s experiences of access to clothing and luggage while they are living in residential care.

Using the Charter for children in out-of-home care (the Charter),<sup>28</sup> Commission staff met with 15 children and young people living in seven randomly selected residential care homes across Victoria.

### Findings

The Commission found that there was a significant difference between DFFH policy and operational practice regarding the provision of clothing for children and young people in out-of-home care.

The Commission found that the lack of clarity and detail in the department’s current policies and guidance caused confusion and resulted in highly varied practice between service providers. The Commission also found that children, young people and service providers did not have a common understanding of individual entitlements to clothing, or the processes for acquiring new, correctly sized clothing for a range of situations.

### Observations from children and young people

#### Having enough clothes

*It is important to have enough clothes, especially if you need to chuck your clothes in the wash, you need to have back-ups to wear.*

*I don’t have enough clothes. I need more and I need something nice to wear.*

*I need a little more undies and socks.*

*I have some shorts but could use some more.*

#### Clothes that fit

*Half of my clothes are too small. They don’t fit.*

*I only have one pair of shoes that fit and ones that do not fit.*

*I have enough clothes, but some don’t fit.*

*I like warm and baggy clothes as it’s comfortable.*

*Some of my clothes are tight – they don’t fit me anymore.*

<sup>28</sup> Section 16(1)(f) of the CYFA identifies that the Secretary, Department of Families, Fairness and Housing (DFFH), has a responsibility to publish and promote a Charter for children in out-of-home care to provide a framework of principles to promote the wellbeing of those children. See ‘Charter for children in out-of-home care’, <https://services.dffh.vic.gov.au/charter-children-out-home-care>.

## Oversight and monitoring of out-of-home care continued

### School uniforms

*I need more school clothes. When I didn't have the right clothes, I just didn't go to school.*

*School uniforms are given [to me] by school.*

*I have one pair of pants which is too big, a polo that doesn't fit and one jacket.*

*I have no proper shirts. The only shirt I have got is my school shirt. Most of my t-shirts are tight.*

### Clothes for social activities and sports

*I need proper basketball shoes. I just make do with what I have.*

*I need swimming shorts, footy boots and footy socks.*

*I have clothes to do gymnastics.*

*I don't have any dressy clothes beside one pair of nice pants which are my funeral pants. I wore it to a funeral so I'm not going to wear that around.*

### Opportunities for improvement

The report identified the following opportunities for improvement for DFFH's consideration:

- That the department review and improve the current guidelines for service providers' provision of clothing for children and young people while living in residential care. The guidelines should be clear about the need for:
  - ongoing review and provision of a sufficient quantity of clothing that fits each child or young person, and allows them to participate in a range of activities, in a range of weather conditions
  - obligations of service providers, in the context of children and young people who receive additional income/payments
  - adequate provision of school uniforms
  - the provision of suitable luggage for overnight/short stays and to leave care.
- That the department develop child-friendly information describing what children and young people should expect to receive from service providers while living in care.
- That the department provide regular advice to the Commission over the following 12 months regarding strategies undertaken by the department to promote and embed the Charter for children in out-of-home care.

Following feedback from service providers, the Commission also encouraged DFFH to:

- develop specific guidance on expectations regarding supports provided to children and young people first entering the out-of-home care system
- consider a flexible brokerage model for children and young people's clothing and luggage.

The final report was provided to the Minister for Child Protection and Family Services in May 2023.

The Minister has since responded to the report, noting the \$548.4 million from the 2023–24 State Budget dedicated to improvements for children in residential care and advising that the report's findings will be considered in the department's current review of the *Program Requirements for Residential Care in Victoria*.

## Approaches from the public

The Commission responds to a wide variety of approaches and complaints from the community, mostly about the safety and wellbeing of children and young people known to Child Protection. Without the legislative authority to investigate these matters, the Commission provides an information and referral response with a focus on the rights of children.

This year the Commission responded to 404 approaches for assistance, slightly higher than the previous year (378).

Approximately one third of the incoming approaches for the Commission's assistance related to Aboriginal families and/or children. The majority of approaches came from family members (66 per cent) and 19 approaches came directly from children or young people. The most common themes were about placement and safety of children and issues involving Child Protection case management.

## Progress against previous inquiries

In 2020–21, the Commission began to publish additional detail about action taken in response to our recommendations. We are committed to continuing this on an annual basis. For this annual report, the Commission requested an update from DFFH in relation to the following inquiries as at 30 June 2023:

- *Lost, not forgotten: Inquiry into children who died by suicide and were known to Child Protection*, 2019
- *In our own words: Systemic inquiry into the lived experience of children and young people in the Victorian out-of-home care system*, 2019
- *Keep caring: Systemic inquiry into services for young people transitioning from out-of-home care*, 2020
- *Out of sight: Systemic inquiry into children and young people who are absent or missing from residential care*, 2021.

## *Lost, not forgotten*



The Commission's *Lost, not forgotten* inquiry report, tabled in the Victorian Parliament on 30 October 2019, reviewed 35 child death inquiries where the children had died by suicide between 1 April 2007 and 1 April 2019. Despite the children and young people being exposed to often serious and multiple risks, the inquiry revealed a pattern of early and repeated case closure by Child Protection, and a failure to follow up with disengaged families, who were not connected with the help they needed.

*Lost, not forgotten* contained six recommendations to improve service system responses that promote early identification and intervention of children at risk of harm.

Key reforms recommended in *Lost, not forgotten* included:

- the development and implementation of a whole-of-system investment model and strategy for the child and family service system
- a set of standard analytical data sets for Child FIRST/ The Orange Door and Integrated Family Services to monitor and report on the timeliness and effectiveness of Child Protection's referrals to these services, and the services' engagement with children and families
- a review of practice, training and tools to embed children's participation in decision-making

## Oversight and monitoring of out-of-home care continued

- practice advice in relation to children involved with Child Protection who are identified as at risk of suicide
- a suicide prevention strategy for children known to Child Protection.

The Victorian Government accepted three recommendations in full and three in principle. A full table showing the original recommendations and DFFH's progress on each one is available on the Commission's website<sup>29</sup>. Two of the recommendations are now complete, including a recommendation to resource ChildLINK and ensure its commencement, which was acquitted in 2021–22. Of the remaining four recommendations, the Commission has assessed two as being in progress and two as planned for implementation.

The Commission welcomes the work that has occurred through the implementation of SAFER to give stronger guidance to practitioners and embed the participation of children and young people in Child Protection decision-making. Ongoing training and reinforcement through supervision will be important to drive this much-needed change in practice.

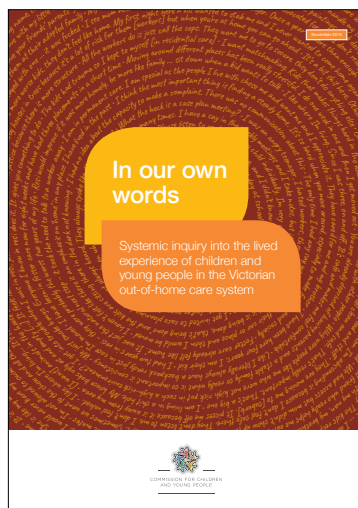
Recent updates from DFFH indicate that demand modelling and the development of an investment strategy for the child and family service system will progress in 2023. This work, first recommended by the Commission in the 2017 inquiry '*...safe and wanted...*',<sup>30</sup> is vital if Victoria is to develop a fit-for-purpose service system that can intervene early to stop harms to children, support families, prevent unnecessary removals and adequately care for children who cannot stay safely at home.

Also in train, but not substantially progressed, is action to enable DFFH to monitor Child Protection's referrals to other services and the timeliness and effectiveness of those referrals. Through our child death inquiry function, we continue to identify many cases that have been closed on referral to The Orange Door or another service, despite

those services having no capacity to help the family or previous referrals not being effective. The Commission hopes this work will be actioned urgently.

The remaining recommendations – a suicide prevention strategy for children known to Child Protection and specific practice advice to improve Child Protection's capacity to identify and support children at risk of suicide – are also pressing. Six children died by apparent suicide after Child Protection involvement in 2022–23 (Table 5, page 50). Updates indicate that Victoria's new suicide prevention and response strategy will be released later in 2023 and will address the first recommendation. Child Protection will progress a review of practice guidance following that. The Commission urges DFFH not to delay this work further.

### *In our own words*



The Commission's *In our own words* inquiry report, tabled in the Victorian Parliament on 27 November 2019, examined what it is like to be a child or young person in the out-of-home care system.

<sup>29</sup> Further information about the differing views on action taken against recommendations can be found on the Commission's website. <https://ccyp.vic.gov.au/inquiries/systemic-inquiries/lost-not-forgotten/>.

<sup>30</sup> CCYP, '*...safe and wanted...*': *Inquiry into the implementation of the Children, Youth and Families Amendment (Permanent Care and Other Matters) Act 2014, 2017, Recommendation 1*, <https://www.dhhs.vic.gov.au/publications/safe-and-wanted-inquiry-implementation-permanency-arrangements>.

*In our own words* found a pressured, poorly resourced system that repeatedly failed to take the views of children and young people into account when deciding where they should live, what they needed from their workers and carers, what was happening to them in care, and the contact they had with friends, family and community.

*In our own words* made 17 recommendations calling for whole-of-system change and sufficient resourcing to achieve important reforms, including:

- an integrated, whole-of-system investment model and strategy for the child protection system
- measures to support connection to culture for Aboriginal children and young people in care
- tools and resources to embed children and young people's participation in decision-making
- mechanisms to ensure that workers can have regular face-to-face contact with children and young people in care
- therapeutic options for children and young people with complex trauma to transition over time from residential placements to more family-like care environments
- mechanisms to track and report on outcomes for children in out-of-home care.

The Victorian Government accepted six recommendations in full and 11 in principle. A full table showing the original recommendations and DFFH's progress on each one is available on the Commission's website.

The 17 recommendations cover 42 proposed actions. The Commission has identified eight as complete, and 20 where some progress has been made, noting that ongoing systemic efforts are required in relation to nine actions. There remain five actions which are still in the planning phase.<sup>31</sup>

The Commission has welcomed the Victorian Government's reform efforts to date, including investment in new two- and three-bedroom residential care homes, the expansion of Keep Embracing Your Success (KEYS)

therapeutic, multi-disciplinary homes, a trial of the wraparound Care Hub model and expansion of the Family Preservation and Reunification Response. The Commission also acknowledges the major, and much-needed, investment in the 2023–24 State Budget to ensure all residential care homes are funded to have a therapeutic component.

Many of the issues children and young people raised with us during the *In our own words* inquiry related to a stretched and pressured child protection workforce. It seems clear that these issues will not be addressed without major reform of the Child Protection operating model. The Commission is therefore pleased that a review of the Child Protection operating model has commenced. The Commission stresses the importance of achieving a model that supports an appropriate workload for practitioners to enable them to spend time with children and young people.

Activities designed to improve practice with children and young people were progressed during 2022–23, including the publication and dissemination of the framework for trauma-informed practice to the child and family services sector and family violence services in February 2023. We understand that updating the program requirements for home-based care in Victoria to strengthen trauma-informed responses will follow. The Child Protection Learning Hub was launched in September 2022 to provide child protection practitioners with access to the latest practice evidence, and the redeveloped Child Protection induction program is also said to be on track for delivery in 2023.

Paralleling DFFH's response to *Lost, not forgotten*, DFFH reported slow progress in relation to the development of an overarching investment strategy. The Commission considers the strategy to be vital not only in relation to early intervention, but also to guide system improvements more generally.

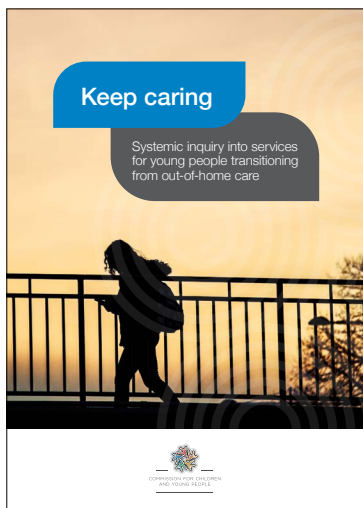
<sup>31</sup> Further information about the differing views on action taken against recommendations can be found on the Commission's website. <https://ccyp.vic.gov.au/inquiries/systemic-inquiries/in-our-own-words/>.

## Oversight and monitoring of out-of-home care continued

The Commission was concerned that some seemingly simple recommendations had not progressed. For example, *In our own words* recommended clear guidance to case workers from Child Protection, CSOs and ACCOs about the need to ask children and young people in care about their safety while they are not in the presence of their carers. We also recommended that advice be revised to include a requirement for there to be planned activity towards reuniting separated sibling groups in care or to clearly state the rationale for why this should not occur. No work has occurred to update advice in these areas. These issues were repeatedly raised by children and young people in *In our own words* as matters that significantly impacted their safety and wellbeing.

The Commission will continue to monitor progress made in relation to the implementation of this inquiry and engage in discussions with DFFH about key areas of reform.

### Keep caring



The Commission's *Keep caring* inquiry report, tabled in the Victorian Parliament on 9 December 2020, considered what happens to young people when they leave care and

whether young people in out-of-home care get enough help to make the transition to adult life.

*Keep caring* highlighted poorer outcomes for young people leaving care compared with other young people, including higher levels of homelessness, involvement with youth justice and admission to hospitals and mental health services. We found that the out-of-home care system is not doing enough to help young people in care to plan and prepare for their lives after care.

*Keep caring* made 15 recommendations and 21 actions that built on the recommendations made in the *In our own words* inquiry report. This included implementing a new model of care that embeds a young person's life aspirations, talents and goals into everyday case management, planning and their day-to-day care. It also recommended a significant increase in the availability of post-care supports, an enforceable right for all young people who have left care to post-care supports and the universal extension of the Home Stretch program.

DFFH's initial response to the Commission in 2020–21 indicated acceptance of six of the inquiry's recommendations in full and nine in principle. The Commission welcomed the universal extension of the Home Stretch program, significant investment allocated to care leavers and the commitment to ensuring a legal entitlement to care supports for young people. A subsequent response from DFFH in 2021–22 indicated that it accepted 17 actions in full and four actions in principle.

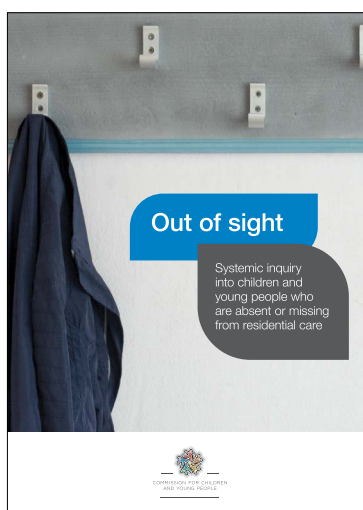
For this annual report, DFFH provided an update on its progress against the outstanding actions. The Commission reviewed the update and assessed four to be complete, two where significant progress has been made, 10 where some progress has been made, and four that are planned for implementation.<sup>32</sup> One recommendation was noted as complete in last year's annual report. A full table showing the original

<sup>32</sup> Further information about the differing views on action taken against recommendations can be found on the Commission's website. <https://ccyp.vic.gov.au/inquiries/systemic-inquiries/keep-caring/>.

recommendations and DFFH's progress on each one is available on the Commission's website.

The Commission welcomes the investments from Victorian State Budgets to support new accommodation options and other supports for young people leaving care. However, the Commission also notes that considerable work is needed to better support young people while they are in care, including through active, strength-based leaving care planning. This work has yet to be progressed.

### **Out of sight**



The Commission's *Out of sight* inquiry report, tabled in the Victorian Parliament on 24 June 2021, examined how often children and young people are absent or missing from residential care, why they are absent or missing, what happens when they are and what can be done to better respond to the issue.

*Out of sight* found reporting of children going missing from care is inconsistent and as a result no-one knows the full extent of the problem. Despite this under-reporting, the Commission noted there were 7,431 warrant applications over an 18-month period. During those 18 months, 955 children spent time in residential care.

When away from care, children and young people experience a range of serious harms. The Commission found that sexual exploitation of children is a serious concern and that many efforts previously in place to protect children from this abuse had ceased. Overall, the inquiry found that the current model of residential care is not meeting children and young people's need for human connection or, in many cases, safety. Consequently, many children and young people leave care to find connection elsewhere, with family, friends or through sexually or criminally exploitative relationships.

*Out of sight* made 18 recommendations to support children and young people to remain in care, to safeguard them when they are absent or missing and to support them when they return. The recommendations built on our previous inquiries and included:

- driving cultural change to tackle stigma and criminalisation
- implementing a relationships-based, trauma-informed residential care model
- developing training, tools and guidance to support frontline workers across all relevant agencies, including Victoria Police, to deliver a trauma-informed approach.

We also recommended urgent reforms to better protect children and young people, including:

- the roll-out of statewide, cross-agency responses to child sexual and criminal exploitation
- reduced reliance on police and other measures that are experienced as punitive or stigmatising by children and young people
- improvements in information collection, monitoring and oversight.

The 18 recommendations captured 35 proposed actions. The Commission reviewed DFFH's update and assessed two to be complete, three where significant progress has been made, 27 where some progress has been made, and three planned for implementation.<sup>33</sup> A full table

<sup>33</sup> Further information about the differing views on action taken against recommendations can be found on the Commission's website. <https://ccyp.vic.gov.au/inquiries/systemic-inquiries/out-of-sight-systemic-inquiry-into-children-and-young-people-who-are-absent-or-missing-from-residential-care/>.

## Oversight and monitoring of out-of-home care *continued*

showing the original recommendations and DFFH's progress on each one is available on the Commission's website.

This year, the Commission notes that there have been some practical improvements, such as strengthened monitoring and reporting on the operation of secure care services, which has occurred through monthly and more detailed quarterly reporting to operational executives.

DFFH has advised that the framework to reduce criminalisation of young people in residential care is now being implemented, and that an 18-month action plan to support the implementation of the framework was approved in March 2023. The Commission notes the urgency of this work, given the framework was finalised in 2020. It is crucial that this work progresses at pace, so that the plan translates into tangible action.

The Commission welcomed 2023–24 State Budget investment to support DFFH to target child sexual exploitation. Coordinated, ongoing, targeted efforts in this area are needed. As discussed on page 70, children continue to be victims of sexual abuse and exploitation at alarming rates when they are absent from care. The Commission will closely monitor the efforts of DFFH and other key stakeholders, including Victoria Police, who play a critical role in targeting offenders who prey on children in residential care.

The Commission will continue to monitor progress against the recommendations from the *Out of sight* inquiry. We will advocate for broader systemic change to redesign the residential care system, as well as urgent action on reforms to prevent children in out-of-home care being subject to physical violence, criminalisation, sexual abuse and exploitation when they are away from placement.

### Other inquiries

The Commission continued to monitor action against a number of recommendations made in the following inquiries:

- *Neither seen nor heard: Inquiry into issues of family violence in child deaths*, 2016
- *Always was, always will be Koori children: Investigation into the circumstances of Aboriginal children and young people in out-of-home care in Victoria*, 2016
- *In the child's best interests: Systemic review of the Victorian child protection system's compliance with the Aboriginal Child Placement Principle*, 2016
- *'...safe and wanted...': Inquiry into the implementation of amendments to the Children Youth and Families (Permanent Care and Other Matters) Act 2014*, 2017.

The Commission also monitored action against recommendations made in another five inquiries that were provided directly to government:

- inquiry into issues of cumulative harm and suicide in child deaths, 2018
- inquiry into services provided to vulnerable children and young people with complex medical needs and/or disability, 2018
- individual inquiry into services provided to 'Jamie', an Aboriginal child living in residential care with a history of child protection involvement, 2019
- individual inquiry into services provided to 'Jane', a child known to Child Protection who was admitted to hospital suffering severe neglect, 2021
- inquiry into services provided to 'Sarah' and 'Ben', two young people with disability, 2021.



# Influencing policy, services and the law

# Influencing policy, services and the law

The Commission's functions include providing advice to government on improvements to policies, practices and services that affect children and young people, and promoting the interests of children and young people experiencing vulnerability.<sup>34</sup> We do this by engaging with government departments and ministers, writing letters and submissions to government, and responding to consultation opportunities in reviews and inquiries. The commissioners also speak in the media and give speeches to advocate for action to improve the lives of children and young people. Our advocacy covers a range of issues impacting the rights, safety and wellbeing of children and young people.

In 2022–23, our work in this area included:

- advocating for improvements to youth justice and criminal justice policy
- participating in the review of Victoria's Reportable Conduct Scheme
- advocating for improvements to the safety of children and young people with disability
- advocating for better responses to the impact of family violence on children and young people
- contributing to reforms to improve the mental health and wellbeing of children and young people
- engaging with South Sudanese Australian young people on youth justice issues
- highlighting the impacts of COVID-19 on children and young people
- participating in joint advocacy with the Australian and New Zealand Children's Commissioners and Guardians
- engaging with the public through the media and public appearances.

All Commission submissions that are permitted to be published are available on our website.

## Youth justice and criminal justice policy

The Commission made a number of submissions relating to youth justice and criminal justice policy issues during 2022–23.

### Youth justice legislation

The Commission continued to advocate for the rights of children and young people during the development of Victoria's new youth justice legislation. We welcomed continued consultation by DJCS on this vital piece of reform.

### Minimum age of criminal responsibility

The Commission continued to call for Victoria's age of criminal responsibility to be raised to 14 years, as recommended in our 2021 inquiry *Our youth, our way: Systemic inquiry into the over-representation of Aboriginal children and young people in Victoria's youth justice system*. We advocated publicly and directly to the Victorian Government. Our advocacy highlighted the importance of raising the minimum age to 14 to reduce the chronic over-representation of Aboriginal children and young people in the youth justice system and reflect the medical evidence about children's brain development and capacity.

In April 2023, after the Victorian Government announced its decision to raise the minimum age to 12 in 2024, and to 14 with exceptions for certain serious crimes by 2027, subject to the development of an alternative service model, the Commission joined Victoria Legal Aid in restating the need to raise the age to 14 immediately, without exceptions, in line with international standards and evidence.<sup>35</sup> The commissioners also called on the nation's

<sup>34</sup> Sections 8(1)(a) and 8(1)(b) of the CCYP Act.

<sup>35</sup> Joint statement by Victoria Legal Aid and the Commission for Children and Young People, 26 April 2023, *Evidence supports age of criminal responsibility being 14* [media release], 26 Apr 2023, <https://ccyp.vic.gov.au/news/evidence-supports-age-of-criminal-responsibility-being-14/>.

Attorneys-General to act on this evidence, in a joint opinion piece in the *Guardian Australia*.<sup>36</sup>

This year, the Commission has worked with the Victorian Government on changes to implement the first stage of reform, while continuing to advocate for the age to be raised to 14 years as soon as possible.

### Bail reform

In recent years, the Commission has consistently called for changes to Victoria's bail laws and other non-legislative reforms to create an age-appropriate, specialised bail system for children and young people.

Having advocated to the Victorian Government for an after-hours court response to decide children's bail applications outside hours, we welcomed the commencement of the Children's Court Weekend Online Remand Court in September 2022.

We also welcomed the Victorian Government's decision in March 2023 to reform the *Bail Act 1977* following the inquest into the death in custody of a First Nations woman.

The Commission welcomed the government's recognition that the changes to the *Bail Act* in 2018 had a disproportionate impact on children and young people. We have continued to advocate for the legislative changes recommended by *Our youth, our way*, including:

- removing 'reverse onus' bail tests that made it significantly more difficult for children and young people to be granted bail, with punitive consequences
- expanding the considerations that bail decision-makers apply when making decisions for children and young people generally, and Aboriginal children and young people specifically.

### Submission to the United Nations Subcommittee for Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

In August 2022, the Commission made a submission to the United Nations Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) to inform its 2022–23 visit to Australia. The SPT visits countries who have ratified the Optional Protocol to the Convention Against Torture (OPCAT) to examine places of detention and the treatment of people held there.

The Commission's submission highlighted a range of issues in Victoria for the attention of the SPT, including:

- use of force in youth justice centres
- unacceptable levels of isolations and routine lockdowns as a result of staffing issues
- treatment of children and young people in police custody and secure welfare facilities
- placement of children under the age of 18 in adult prisons.

The Commission was disappointed that the SPT's visit to Australia was suspended due to a lack of cooperation by other states.<sup>37</sup>

OPCAT requires independent inspection of places of detention by a network of local inspection bodies, which together constitute a National Preventative Mechanism (NPM). The Commission looks forward to the government's appointment of Victoria's NPM and will continue to advise government that the entity (or entities) must include expertise in working with children and young people.

<sup>36</sup> Liana Buchanan and Meena Singh, 'Lives are at stake. We need Australian governments to heed expert advice and raise the age of criminal responsibility to 14', *Guardian Australia*, 27 Apr 2023, <https://www.theguardian.com/commentisfree/2023/apr/27/childrens-lives-are-at-stake-we-need-governments-to-heed-expert-advice-and-raise-the-age-to-14>.

<sup>37</sup> UN Office of the High Commissioner for Human Rights, *UN torture prevention body suspends visit to Australia citing lack of co-operation* [media release], 23 Oct 2022, <https://www.ohchr.org/en/press-releases/2022/10/un-torture-prevention-body-suspends-visit-australia-citing-lack-co-operation>.

## The review of Victoria's Reportable Conduct Scheme

In November 2022, the Commission provided a detailed submission to the DFFH review of Victoria's Reportable Conduct Scheme (the Scheme).

The Commission welcomed the review, noting that it provided a good opportunity to examine the improvements to child safety generated in the first five years' operation of the Scheme and to consider opportunities to drive further improvements.

The Commission's submission included 49 recommendations related to the following key issues:

- increased funding for the Commission to administer the Scheme
- changes to which organisations and which workers and volunteers are captured by the Scheme
- improvements to strengthen the Commission's ability to share information and alterations to the Scheme to assist the Commission to operate more effectively with other child safety regulators and interstate bodies
- changes in the information that heads of organisations are required to provide to the Commission
- alterations to the systems that heads of organisations need to have in place to support their compliance with the Scheme
- amended powers for the Commission to strengthen its ability to administer the Scheme.

The Commission looks forward to the conclusion of the review and will continue to engage with the department to provide assistance and further support where required.

## Safety of children and young people with disability

During 2022–23, the Commission advocated for improvements to the NDIS to strengthen safeguarding of children and young people with disability, particularly those in contact with Child Protection. This advocacy included two written submissions to the national NDIS review, and engagement with the National Disability Insurance Agency (NDIA) and the NDIS Quality and Safeguards Commission.

Our submissions highlighted a range of issues we have seen across the Commission's work, including our 2022 inquiry into services provided to two young people with disability known to Child Protection. Our recommendations to the NDIS review included:

- improved interaction between the NDIS and child protection systems
- strengthened measures to better protect children known to Child Protection whose parents are unable to make decisions about NDIS supports in their children's best interests
- improved guidance for local area coordinators and NDIA planners to ensure children and young people have an opportunity to be heard directly and participate in decisions that affect them.

Our submissions and engagements also raised the need to better protect all child participants from the risk of abuse or harm from NDIS providers, including through:

- stronger child-specific safeguarding standards that apply to all registered and unregistered providers of NDIS-funded services for children (registered and unregistered)
- guidance for NDIS providers on the National Principles for Child Safe Organisations and their obligations under state and territory child safe standards and reportable conduct schemes.

## The impact of family violence on children and young people

This year, the Commission continued to advocate for improved responses to children and young people as victims of family violence in their own right.

In August 2022, we contributed to the review of Victoria's crisis response to recovery model for victim-survivors by the Family Violence Reform Implementation Monitor. The monitor's report highlighted that the Commission continues to see evidence of inadequate responses that pose a major barrier to children and young people's recovery.<sup>38</sup>

We continued to engage with Family Safety Victoria (FSV) on the development of the Multi-Agency Risk Assessment and Management Framework (MARAM) practice guides for children and young people who are victim-survivors of family violence, and adolescents who use violence in the home. This included a presentation in October 2022 on the *Lost, not forgotten* inquiry by the Principal Commissioner at a consultation focused on responding to suicide risk for children and young people.

In the same month, the federal, state and territory governments released the National Plan to End Violence against Women and Children 2022–2032. The final plan included a strengthened focus on children and young people as victim-survivors of family violence in their own right, as the Commission urged in its feedback on the draft plan. It is critical that this recognition translates into sustained action and investment to achieve systemic change.

Several other public engagements focused on responses to children and young people who experience family violence. In March 2023, the Principal Commissioner

joined young advocates in discussing the importance of building systems responses to children as victim-survivors in their own right at the Monash Gender and Family Violence Prevention Centre's *I believe you* seminar, following the release of the research report of the same name.

### Submission to the national Senate Inquiry into Missing and Murdered First Nations Women and Children

In December 2022, the Commission made a submission to the national Senate Inquiry into Missing and Murdered First Nations Women and Children. We expressed our serious concern about the unacceptable rates of violence endured by Aboriginal women and children, which is rooted in systemic oppression stemming from Australia's colonial history.

Despite tireless efforts by Aboriginal communities, backed by innumerable inquiries and royal commissions, Indigenous women face a 32-fold increased risk of hospitalisation from domestic violence and an 11-fold greater chance of fatal assaults than their non-Indigenous counterparts.<sup>39</sup> Alarmingly, the current removal rates of Indigenous children surpass those of the Stolen Generation era.<sup>40</sup>

The Commission highlighted that the media and public sentiment differ significantly when a non-Indigenous person is subjected to violence compared to a First Nations person. Such disparities not only devalue Aboriginal lives but silence their voices and hamper efforts to rectify embedded systemic racism. Our recommendation to the inquiry committee was that there be a thorough examination of these deep-seated prejudices within media outlets and across wider societal structures.

<sup>38</sup> Family Violence Reform Implementation Monitor (FVRIM), *Monitoring Victoria's family violence reforms: Crisis response to recovery model for victim survivors*, FVRIM, 2022, p. 34.

<sup>39</sup> Australian Human Rights Commission, *Wiji Yani U Thangani Report*, Australian Human Rights Commission, 2020.

<sup>40</sup> Jens Korff, 'A guide to Australia's Stolen Generations', Creative Spirits, <https://www.creativespirits.info/aboriginalculture/politics/stolen-generations/a-guide-to-australias-stolen-generations#more-children-are-being-taken-today-than-during-the-stolen-generations-period>.

The Commission also noted that lack of funding towards culturally safe support systems, especially those led by ACCOs, has contributed to increasing numbers in missing and murdered First Nations women and children. We urged the committee to highlight the pressing need for culturally appropriate support and safety nets for Aboriginal women and children in Victoria and across Australia.

## Children and young people's mental health and wellbeing

Mental health and wellbeing continues to be a major concern for the Commission's Youth Council and many other children and young people we connect with. One of the Commission's 2022–25 strategic priorities is to contribute to the mental health and wellbeing reforms following the Royal Commission into Victoria's Mental Health System to ensure the reforms deliver for children and young people.

### Suicide prevention

This year, we contributed to the development of the Victorian Government's suicide prevention and response strategy. We strongly supported the focus on children and young people in the strategy, and welcomed a proposal to respond to findings and recommendations in our systemic inquiries, *Lost, not forgotten* and *Keep caring*. Our recommendations for the development of the strategy included:

- addressing the needs of children and young people at higher risk of suicide, including those in contact with Child Protection, living in out-of-home care, involved in the youth justice system, and Aboriginal children and young people
- recognising the importance of ensuring children and young people are connected to broader services and supports they may need – such as health, housing, child and family services, and education
- ensuring that children and young people are included in the strategy's development, implementation and evaluation.

We had positive engagement with the Department of Health during the year on the progress of other key reforms, and look forward to ongoing engagement with the department. We will continue to monitor progress and promote the need to prioritise children and young people's voices, experiences and rights as the new service system is created.

### Other health and wellbeing issues

The Commission contributed to other important policy issues and public discussion relating to children and young people's health and wellbeing during 2022–23.

These included development of the Victorian Government's public intoxication reforms. Our advice to relevant departments focused on ensuring that the new public health response is safe for children and young people and meets their needs.

## Additional powers

In June 2023, the Victorian Parliament passed the *Children and Health Legislation Amendment (Statement of Recognition and Other Matters) Act*. The Act gave the Commission new powers, establishing an advocacy function for children and young people in contact with Child Protection or in out-of-home care, and those who have recently left these systems. These important provisions will give children and young people impacted by these systems access to an independent, child- and youth-friendly mechanism to raise issues and concerns.

## South Sudanese Australian young people

The Commission has advocated for some time for concerted action to understand and address the over-representation of young people of South Sudanese and other African backgrounds in the youth justice system.

The Commission welcomed the Victorian Government's South Sudanese Australian Youth Justice Expert Working Group (Expert Working Group) initiative when it was announced in 2022. We are pleased to work in partnership with DJCS to:

- prevent South Sudanese Australian children and young people from entering the youth justice system
- divert South Sudanese Australian children and young people from progressing through Victoria's youth justice system
- address the underlying causes of offending among South Sudanese Australian children and young people who have contact with the criminal justice system.

Our Principal Commissioner is the deputy chair of the Expert Working Group, working alongside the chair, Dr Santino Deng.

In line with the Commission's mandate, the Commission is leading work to make sure the voices of South Sudanese Australian young people are embedded in, and directly inform, the work of the Expert Working Group. This includes:

- establishing an advisory group made up of 15- to 25-year-old South Sudanese Australian and/or African Australian young people with lived experience of the youth justice system
- holding a series of youth forums across more than 12 local government areas within Victoria
- consulting and engaging with young people who are involved in the youth justice system through the life of the project.

### Youth Advisory Group

Recommendations to better support South Sudanese Australian young people and prevent their contact with youth justice must be informed by young people with lived experience. The Youth Advisory Group, hosted by the Commission, will operate alongside an advisory group convened by DJCS. Together, these groups will advise on all aspects of the project and its recommendations to government.

In the first half of 2023, the Commission spent several months visiting South Sudanese Australian young people in youth justice and engaging with youth-led organisations and CSOs to identify young people who might be interested in being involved in this work.

Work is underway to appoint 12 young people to the Youth Advisory Group. The Commission looks forward to working with these impressive young people to develop strong, impactful recommendations for change.

### Youth forums

To give young people of South Sudanese Australian and African Australian heritage an opportunity to meet the Expert Working Group's chair and deputy chair, understand more about the project and share their thoughts on relevant issues, six youth forums will be held across Victoria.

The first forum took place on 4 June 2023. The Commission partnered with young South Sudanese leaders and community members from NextGen Unite to hold a youth forum in the south-east metropolitan region of Victoria. Over 50 young people of South Sudanese and other African Australian heritage participated.



Youth forum participants and members of the South Sudanese Australian Youth Justice Expert Working Group at St Mary's Primary School in Dandenong on 4 June 2023.

In addition to sharing their own experiences and insights about why some young members of the South Sudanese community come into contact with Youth Justice, forum participants heard from esteemed young members of the South Sudanese community in a panel discussion. Panel members included:

- Gai Thok Chuatwea (corporate lawyer at a leading Australian law firm)
- Akec Makur Chuot (professional AFL Women's player at Hawthorn Football Club)
- Nyangak (Lizzy) Kuoth (commissioner at the Victorian Multicultural Commission)
- Abraham Kuol (project manager at Afri-Aus Care).

The chair and deputy chair of the Expert Working Group, and the Youth Justice Commissioner, heard firsthand from young people about their thoughts and views through smaller group discussions that focused on the key drivers that impact a young person's likelihood of having contact with youth justice.

The discussions covered themes of education, youth crime, employment, mental health and alcohol and other drugs. The experiences shared by young people at the forum were extremely powerful, as illustrated below.

*'There are some family members who say they are okay, but you can tell that they are going through something. But because of our culture's pressure to always be strong, it is hard for them to say that they are struggling.'*

*'A lot of parents have trauma from the civil war.'*



*'I'm often finding that our parents forbid us to use alcohol. What I told my mum, was that I had to get someone else in to teach my sister how to responsibly drink. That would give my sister the opportunity to drink safely. When you hide something, it becomes an addiction.'*

*'First time I committed a crime was in school and playing basketball. I didn't have any money. I started stealing chocolates and lollies and it became a gateway to other crimes after I went to bikes, cars and credit cards. It affected me because your conscience tells you it is wrong but as you do it more, it gets harder to stop.'*

*'My teacher asked if I was a part of the Apex gang. They didn't let me hang out in groups at school.'*

## The impact of COVID-19 on children and young people

A key priority for the Commission is advocating to ensure government understands and prioritises the impacts for children and young people when making decisions and creating new laws. The need for this advocacy has been particularly clear during the COVID-19 pandemic.

In 2022–23, the Commission continued to highlight the impacts of COVID-19, and related legislation and regulation, on children and young people. Speaking at the Royal Australian and New Zealand College of Psychiatrists' Faculty of Child and Adolescent Psychiatry conference, the Principal Commissioner highlighted some of these negative impacts, including what we heard from

children and young people. The Principal Commissioner also identified lessons that will improve future decision-making, including the need for a child impact assessment process that requires government to consider impacts on children and young people before making policy decisions.

Our advocacy and engagement with children and young people during the pandemic was highlighted in the Victorian Equal Opportunity and Human Rights Commission's 2021 report on the operation of the Charter of Human Rights and Responsibilities, tabled during 2022–23.<sup>41</sup> We welcomed the report's inclusion of the voices of children and young people we engaged with and its suggestions that decision-makers consult with children and young people and uphold their rights.

## Joint advocacy

Both commissioners are members of the Australian and New Zealand Children's Commissioners and Guardians (ANZCCG). This year, the seven Australian First Nations Commissioners, Guardians and Advocates established a First Nations caucus and agreed to 11 national advocacy priorities to improve the lives of Aboriginal children, young people and families.<sup>42</sup> These priorities were also adopted by the broader group of Australian Commissioners and Guardians.

During 2022–23, joint advocacy by ANZCCG included:

- a statement on the poor treatment and abuse of children and young people in youth detention across Australia, and the harmful impacts of incarcerating children as young as 10
- encouraging the Australian Parliament's Senate Education and Employment References Committee to hear directly from children and young people who can't attend school regularly, for the committee's inquiry into these issues.<sup>43</sup>

<sup>41</sup> Victorian Equal Opportunity and Human Rights Commission (VEOHRC), 2021 Report on the Operation of the Charter of Human Rights and Responsibilities, VEOHRC, 2022, <https://www.humanrights.vic.gov.au/resources/2021-charter-report/>.

<sup>42</sup> Statement from the Australian First Nations Children's Commissioners, Guardians and Advocates – 10 and 11 January 2023, <https://ccyp.vic.gov.au/assets/Uploads/ANZCCG/First-Nations-ANZCCG-statement.pdf>.

<sup>43</sup> Senate Education and Employment References Committee, Report on the national trend of school refusal and related matters, Parliament of Australia, 2023, [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Education\\_and\\_Employment/SchoolRefusal](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/SchoolRefusal).

## Public engagements

This year our commissioners continued their broad engagement with the media, with around 70 media reports across print, online, radio and television, and made many public appearances.

### Media coverage

Evidence given to the Yoorrook Justice Commission by Commissioner Singh on child protection and youth justice was covered in late 2022, including an in-depth radio interview on 3RRR's *The Mission*.

This was followed by coverage of child sexual exploitation in residential care when the Commission released new data in April 2023, updating data released in our 2021 *Out of sight* inquiry report on children who go absent or missing from residential care.

Broader coverage of youth justice issues, including raising the age of criminal responsibility, also featured, along with reporting on child protection workloads, unallocated cases and child death inquiries.

Several stories focused on the new Child Safe Standards from July last year, including welcome regional reach. Comment was sought through the year on the operation of the Reportable Conduct Scheme, particularly in schools, with the Commission providing broad responses on the Scheme, given the restrictions on commenting on individual cases and investigations.

In early 2023, *Guardian Australia* covered education in out-of-home care in the context of the Commission's newly announced inquiry, which is due to be tabled in November 2023.

## Public appearances

This year saw our commissioners engage in more than 70 public appearances to promote the Commission's work, engage with our diverse stakeholders, and advocate for reform across child protection, out-of-home care, youth justice, Child Safe Standards and the Reportable Conduct Scheme. Some of these engagements have been discussed earlier in this chapter.

The commissioners presented individually and jointly throughout the year, in addition to attending numerous meetings with government ministers, agencies, child-related organisations and other commissioners.

# Supporting and regulating child-safe organisations

# Supporting and regulating child-safe organisations

## The Commission as child safety regulator

In 2022–23, we saw another record year of notifications under the Reportable Conduct Scheme (the Scheme) and action by the Commission to oversee the resulting investigations into child abuse and child-related misconduct.

Notifications increased from an average of 67 per month in the first year of the Scheme to 121 per month in 2022–23. Without increased resources, pressure on the Commission remains significant.

A range of initiatives are underway to support Commission staff to manage this situation and prioritise those cases where children are most at risk. In 2022–23, we increased the number of lower-risk reportable conduct investigations that were not fulsomely examined by the Commission before being finalised, and we will expand this approach to a greater range of matters. The Commission is also working to refine its approach to oversight of investigations by organisations while they are underway. This will see the Commission providing little oversight to lower risk investigations.

Implementing risk-based approaches to our functions has always been part of the Commission's regulatory approach and is vital in supporting the Commission to be as effective as it can within limited resources.

Reforms to the Child Safe Standards (the Standards) continued in 2022–23. The Commission and Standards co-regulators focused on implementing the new enforcement and monitoring powers that started on 1 January 2023, and implementing changes to the co-regulatory model. The Commission and Standards co-regulators also continued to support organisations with their understanding of the new Standards that commenced on 1 July 2022.

## New stronger Standards

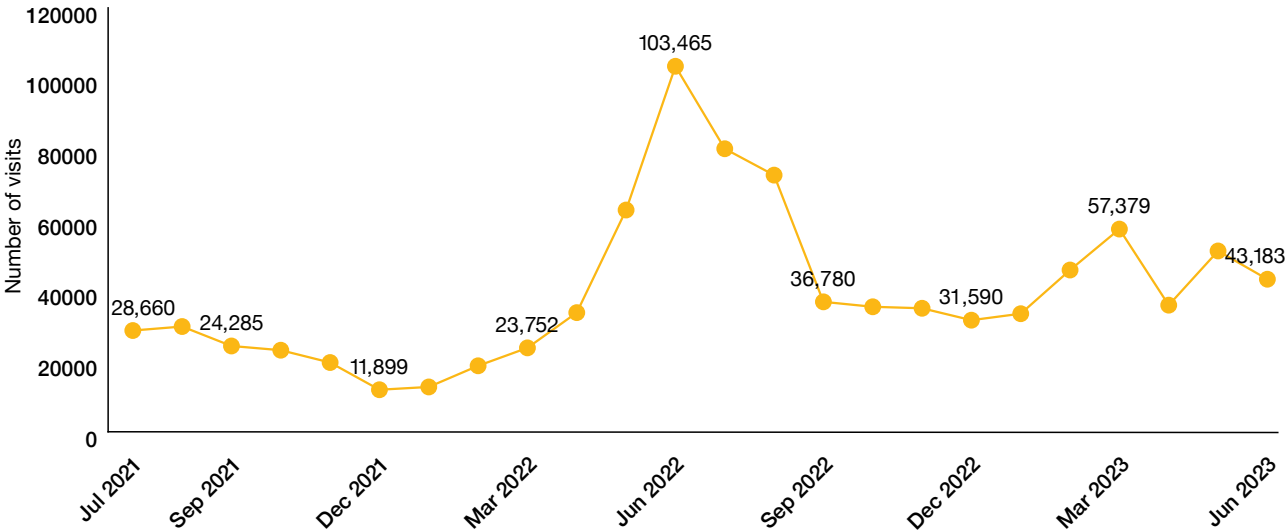
New Child Safe Standards came into force on 1 July 2022. These changes align Victoria's Standards more closely with the National Principles for Child Safe Organisations and provide more clarity for organisations on the minimum requirements they need to meet to comply with their legal obligations.

To raise awareness of the new Standards, the Commission ran a dedicated advertising campaign between May and August 2022. The campaign targeted organisations that are subject to the Standards, parents and carers, and children and young people.

The first phase of the campaign ran in May and June 2022 to raise awareness in the lead-up to the commencement of the new Standards. During the second phase of the campaign, from July to August 2022, social media advertising reached over 4 million people and the campaign videos were viewed over 520,000 times. The campaign generated over 48,000 visits to the Child Safe Standards section of the Commission's website. Guidance materials on the new Standards were downloaded over 15,000 times in July and August, and enquiries about the Standards remained high during the second phase of the campaign.

The impact of the campaign can be seen in the sustained level of visits to the Commission's website and downloads of resources (Figure 5).

**Figure 5. Visits to the Commission’s Child Safe Standards website pages 1 July 2021–30 June 2023**



Year	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
2021–22	28,660	29,791	24,285	23,089	19,602	11,899	12,687	18,676	23,752	33,727	62,774	103,465
2022–23	80,119	72,653	36,780	35,382	34,960	31,590	33,422	45,789	57,379	35,841	51,183	43,183

### New powers to support child safety

On 1 January 2023, the *Child Wellbeing and Safety (Child Safe Standards Compliance and Enforcement) Amendment Act 2021* came into effect. The Act introduced new powers for the Commission and other Standards regulators to monitor and enforce the Standards. Changes include increased powers for officers to inspect organisations’ premises, and the ability to issue official warnings, seek court injunctions and enter into enforceable undertakings. The amendments also introduced new criminal offences and infringement notices with increased maximum penalties for failure to comply with notices and directions issued by the Commission.

Legislative changes substantially altered the Commission’s monitoring and enforcement model. In 2022–23, the Commission trained and appointed six authorised officers so the new enforcement powers can be used, and prepared new procedures to support staff. Given the significant transformation required for the Commission

under the new laws, implementation will continue into 2023–24.

### New co-regulatory model

The *Child Wellbeing and Safety (Child Safe Standards Compliance and Enforcement) Amendment Act* also changed who regulates the Standards and the co-regulatory model.

Since 1 January 2023, there have been six Standards regulators, each with a distinct set of sectors that they regulate. Two different kinds of Standards regulators were created: sector regulators and integrated sector regulators. Sector regulators have a common set of powers and are the Commission for Children and Young People, the Department of Health, Wage Inspectorate Victoria and DFFH. Integrated sector regulators rely on their own distinct powers and are the Department of Education (Quality Assessment and Regulation Division) and the Victorian Registration and Qualifications Authority.

Sector regulators and integrated sector regulators replaced relevant authorities who had previously co-regulated the Standards with the Commission prior to 1 January 2023.

On 1 January 2023, the Commission ceased to be responsible for regulating all of the organisations required to comply with the Standards in Victoria together with co-regulators. From this date, the Commission instead became solely responsible for regulating a set group of sectors comprising of approximately 33,000 organisations. Many of the organisations regulated by the Commission also provide services or facilities that fall within sectors regulated by the other five Standards regulators, so the Commission and other regulators continue to work together.

With these changes, the Commission also received new functions and powers, reflecting a leadership role among Standards regulators. The Commission conducted workshops with Standards regulators and developed a new governance structure to support collaboration between Standards regulators, which started in 2023. We also conducted two training workshops for Standards regulators to share approaches to assessing specific Standards.

The Commission continued to chair the Child Safe Standards Reform Implementation Working Group throughout 2022–23, providing a forum to coordinate reform efforts and share information about the impact of reforms on children and organisations.

## Supporting compliance

The Commission aims to assist individual organisations and sectors to understand and meet the requirements of the Standards and the Scheme, and to keep children safe. We take a holistic approach, focusing attention on the culture and systems of organisations through the Standards, as well as providing oversight to ensure individual allegations of inappropriate or abusive conduct towards children are properly reported and investigated through the Scheme.

In many instances, we can bring about compliance through education and support, with more significant enforcement powers and sanctions being used for organisations that are uncooperative, that have repeated or serious failings in compliance, or where significant risk of harm to children has been identified.

This year, the child safety videos on our website were viewed 50,903 times<sup>44</sup> (a 71 per cent increase on 2021–22) and our publications were downloaded 129,399 times (12 per cent more than 2021–22).

Three additional videos developed in collaboration with Griffith University supporting organisations to interview children and young people in Reportable Conduct Scheme investigations continue to be accessed frequently (86,074 views since they were published in 2019).

### Capacity-building information sessions and webinars

The Commission continued to run free webinars on the Scheme in 2022–23, which attracted high numbers of attendees. This year, four introductory webinars on the Scheme were delivered to 750 participants.

In addition, we delivered presentations on the Standards and the Scheme at meetings and forums run by external bodies from sectors including youth services, early years, Council, disability services, sport, overnight camps, health and religious organisations.

<sup>44</sup> This excludes Commission videos hosted by Griffith University concerning children and young people in investigations.

**Table 13. Attendees at Commission-hosted webinars on the Reportable Conduct Scheme by sector 2022–23**

Sector <sup>45</sup>	Attendees	
	No. <sup>46</sup>	Prop. (%)
Early childhood education	155	22
Education	124	18
Not-for-profit organisation	86	12
Government (or statutory authority)	24	3
Health	67	9
Child protection service	39	6
Other <sup>47</sup>	208	29
Unknown	4	<1
<b>Total</b>	<b>707</b>	<b>100</b>

To further support the commencement of the new Standards, we produced a seven-minute video overview, which has been viewed 10,901 times, and a more detailed 90-minute video information session that is accessible on demand from our website and has been viewed 1,569 times.

In June 2023, the Commission hosted its first face-to-face Child Safe Standards Community of Practice meeting since the start of the COVID-19 pandemic. The 85 participants came together to share their successes implementing the Standards and talk through some of the challenges and barriers they faced. A working group comprised of workers and volunteers from organisations subject to the Standards contributes to the operation of the Community of Practice.

## Resources and guidance

The Commission provides a range of resources to educate and guide organisations about meeting the requirements of the Standards and the Scheme. This year we strengthened our focus on improving accessibility of the resources for diverse audiences.

We released three new plain-language written resources for the Standards and, to better support people with disability, we released an accessible version of a key written resource on the Standards and the Scheme.

The Commission also expanded its translated resources with five key Standards written resources and a summary Standards video now available in 19 community languages. Three written resources on the Scheme are also translated.<sup>48</sup>

We published new information sheets about the Standards and the Scheme that are designed for children and for young people. These resources provide easy-to-understand, plain-language information about child safety laws tailored for children and young people.

At least 3,146 enquiries<sup>49</sup> were made to the Commission in 2022–23 for information and advice across all the Commission’s functions (a 19 per cent increase on 2021–22).

The Commission has a target of 80 per cent of phone and email queries regarding the Scheme or the Standards being resolved within three business days. This year, the target was exceeded, with 94 per cent being resolved within three business days.

<sup>45</sup> Sector type as nominated by attendee.

<sup>46</sup> These numbers are an under-representation, as they only include attendees for whom sector information is available. Multiple people who attended under one registration are only counted once.

<sup>47</sup> ‘Other’ includes the following sectors: local council, disability service provider, religious body or faith community, cultural or recreational service, youth service, counselling or support service, housing and homelessness service, support service for parents and families, transport service, public entity, youth organisation, babysitting, organisation and workplace required to hold a permit to employ children.

<sup>48</sup> Most resources have been translated into 19 languages but some older content is available in 15 languages.

<sup>49</sup> This figure includes 1,950 telephone calls and 1,191 emails.

# Reportable Conduct Scheme



## Overview<sup>50</sup>

- In 2022–23, the Commission received 1,457 notifications<sup>51</sup> of reportable allegations, an 18 per cent increase on the number of notifications received in 2021–22 and an 81 per cent increase since the first year of the Scheme. This was a record number of annual notifications.
- There has been a steady increase in the number of public notifications received since the start of the Reportable Conduct Scheme (the Scheme) (63 per cent increase on 2021–22).
- In 2022–23, as in each of the six years since the Scheme started, the highest number of allegations received (36 per cent) related to physical violence.
- Seventy per cent of all sexual misconduct allegations across all sectors subject to the Scheme were in the education sector. Sexual misconduct is the most common allegation type for the whole education sector (38 per cent of allegations since the start of the Scheme).
- In 2022–23, 10 per cent of unique alleged victims were identified as Aboriginal and/or Torres Strait Islander. This represents a significant over-representation of Aboriginal and Torres Strait Islander children and young people, who only make up two per cent of the Victorian population under 18 years of age.<sup>52</sup>
- Consistent with previous years, 28 per cent of reportable allegations were substantiated in 2022–23.
- The substantiation rate for sexual offence allegations has significantly increased, rising from 15 per cent in 2018–19 to 40 per cent in 2022–23. The reportable conduct investigations for this conduct type may take longer to complete, noting that they often involve criminal investigations undertaken by Victoria Police.<sup>53</sup>
- The substantiation rate for sexual misconduct allegations has also increased in each of the last five years, rising from 21 per cent in 2018–19 to 35 per cent in 2022–23.

<sup>50</sup> Data presented in this chapter was extracted on 1 July 2023 from a live database and is subject to change.

<sup>51</sup> Each mandatory notification can contain multiple reportable allegations and multiple alleged victims.

<sup>52</sup> Data sourced from Australian Bureau of Statistics (ABS), 2021, *TableBuilder*, extracted 29 August 2023.

<sup>53</sup> The substantiation rate is the percentage of allegations that were substantiated after investigation under the Reportable Conduct Scheme. This does not reflect the outcomes of criminal investigations and charges.

## Notifications of reportable allegations

The Scheme requires heads of organisations to notify the Commission of allegations of reportable conduct. Since the commencement of the Scheme on 1 July 2017, the Commission has received 6,231 mandatory notifications. In the period 1 July 2022 to 30 June 2023, the Commission received 1,457 notifications of reportable allegations from heads of organisations. This was an 18 per cent increase on the number of notifications received in 2021–22 (Table 14), and an 81 per cent increase on the number of notifications received in 2017–18.

The CWSA also allows any person – for example, young people, parents or other members of the public – to disclose allegations to the Commission. Since the Scheme started six years ago, the Commission has noted a steady increase in the number of public notifications received with a 63 per cent increase on the number of notifications received in 2021–22, and a 396 per cent increase on the number received in 2017–18.

The further increase in notifications under the Scheme in 2022–23 increases the challenge for the Commission to balance action to support workplace sustainability and staff health and safety, with delivering on the objectives of the Scheme. Funding for administration of the Scheme has not increased since the Scheme commenced.

**Table 14. Reportable conduct matters received by notification type 2020–21 to 2022–23 and Scheme total<sup>54</sup>**

Notification type	2020–21	2021–22	2022–23	Since the start of the Scheme <sup>55</sup>
Mandatory notification	1,006	1,237	1,457	6,231
Public notification <sup>56</sup>	175	232	377	1,152

## Mandatory notifications

The following sections contain information about notifications of reportable allegations received by the Commission from heads of organisations. This data details allegations only; for many of these, findings have not yet been made about whether the alleged conduct occurred.

For the period 1 July 2022 to 30 June 2023, the Commission received 1,457 notifications of reportable allegations.

### Notifications received

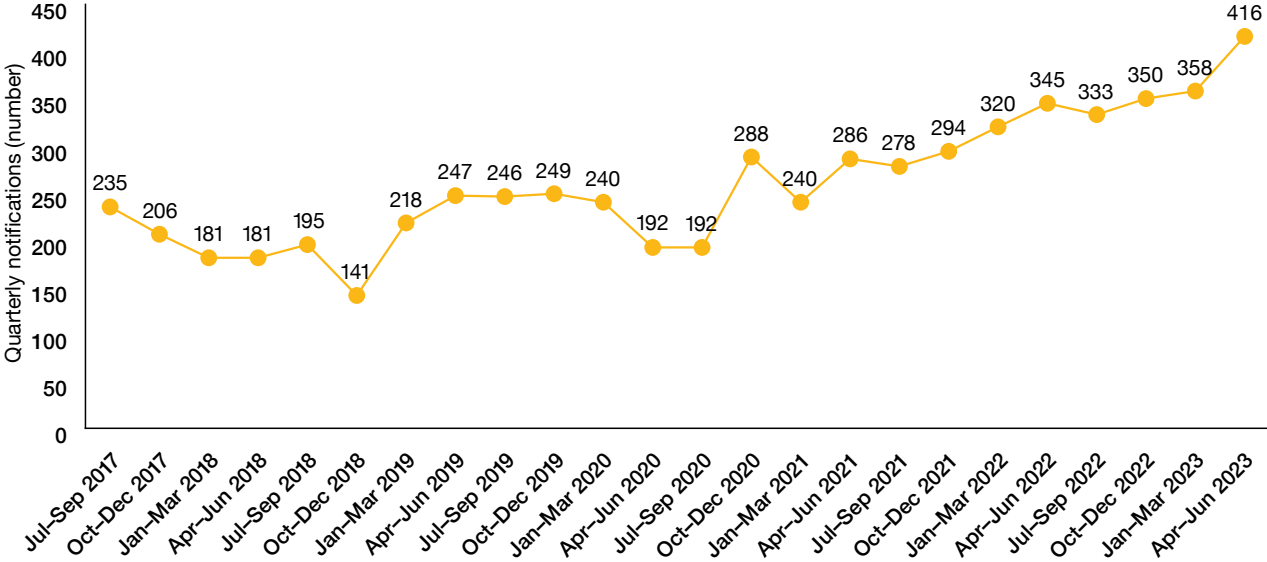
The monthly average of notifications has increased substantially, from 67 in the first year of the Scheme to 121 in 2022–23. The Commission expects the number of notifications will continue to increase in future years as organisations strengthen their reporting processes to ensure the Commission is notified of all reportable allegations and awareness of the Scheme's requirements grows.

<sup>54</sup> In some cases, data from previous financial years expressed in this report is different from that published in previous Commission annual reports. Variations are due to the fact that Scheme data is live and includes open matters, causing some movement of data over time. New information can come to light as a matter progresses that alters previous classifications or results in matters being excluded because they are subsequently determined to be out of the scope of the Scheme. In some cases, data is also consolidated where it is identified that multiple notifications have been made for the same matter and are reclassified accordingly. Data for previous years can be found in previous Commission annual reports available on the Commission's website.

<sup>55</sup> 'Since the start of the Scheme' in this report refers to 1 July 2017 to 30 June 2023.

<sup>56</sup> Public notifications will often result in the head of an organisation submitting a mandatory notification to the Commission. Others will be assessed as being outside the jurisdiction of the Scheme due to not meeting the relevant legislative requirements.

**Figure 6. Mandatory notifications received by the Commission 2017–23**



**Mandatory notifications by sector**

In 2022–23, the education, out-of-home care and early childhood education sectors contributed the highest proportion of notifications (30 per cent, 28 per cent and 26 per cent respectively). There was a 51 per cent increase in notifications in the education sector and a 36 per cent increase in the early childhood education sector (Table 15).

**Table 15. Notifications of reportable allegations received by sector 2020–21 to 2022–23 and Scheme total<sup>57 58</sup>**

Sector	2020–21		2021–22		2022–23		Percentage change 2021–22 to 2022–23	Since the start of the Scheme	
	No.	%	No.	%	No.	%		No.	%
<b>Out-of-home care<sup>59</sup></b>	<b>319</b>	<b>32</b>	<b>486</b>	<b>39</b>	<b>408</b>	<b>28</b>	<b>-16▼</b>	<b>2,142</b>	<b>34</b>
Residential care	112		159		144		-9▼	720	
Foster care	106		170		120		-29▼	694	
Kinship care	91		148		129		-13▼	650	
Employee–other/admin	5		1		8		700▲	32	
Respite and contingency care	4		2		2		–	23	
Lead tenant	1		4		3		-25▼	18	
Permanent care	0		2		2		–	5	
<b>Education<sup>60</sup></b>	<b>271</b>	<b>27</b>	<b>289</b>	<b>23</b>	<b>437</b>	<b>30</b>	<b>51▲</b>	<b>1,655</b>	<b>27</b>
Government school <sup>61</sup>	110		121		199		64▲	619	
Non-government school – Catholic <sup>62</sup>	80		79		93		18▲	500	
Non-government school – Independent <sup>63</sup>	75		83		126		52▲	485	
Senior secondary course/ qualification <sup>64</sup>	5		5		15		200▲	37	
International-student course	1		0		1		–	6	
Student exchange program	0		1		2		100▲	5	
Employee–other/admin	0		0		1		–	3	

<sup>57</sup> In some cases, data from previous financial years expressed in this report is different from that published in previous Commission annual reports. Variations are due to the fact that Scheme data is live and includes open matters, causing some movement of data over time. New information can come to light as a matter progresses that alters previous classifications or results in matters being excluded because they are subsequently determined to be out of the scope of the Scheme. In some cases, data is also consolidated where it is identified that multiple notifications have been made for the same matter and are reclassified accordingly.

<sup>58</sup> The Commission notes that different sectors and service types have different types of engagement with children and young people. Some sectors, including out-of-home care and education have been subject to the Scheme since its commencement on 1 July 2017. Other sectors have been subject to the Scheme for less time. Religious bodies and disability services have been covered since 1 January 2018 and early childhood education have been covered since 1 January 2019. The Commission is concerned there may still be under-reporting of notifications in some sectors and service types.

<sup>59</sup> Includes services provided by DFFH, community service organisations and other organisation types providing out-of-home care.

<sup>60</sup> Summary statistics on Victorian schools published by the Department of Education state that the number of students (FTE) attending Victorian schools in February 2023 was 1,032,180. Of this, 653,976.5 attended a government school, 213,177.8 attended a non-government school – Catholic and 165,025.7 attended a non-government school – independent. Information about the education sector can be found at: <https://www.vic.gov.au/statistics-victorian-schools-and-teaching>.

<sup>61</sup> Includes primary and secondary school.

<sup>62</sup> Includes primary and secondary school.

<sup>63</sup> Includes primary and secondary school.

<sup>64</sup> These are courses and qualifications that are not delivered by registered schools.

**Table 15. Notifications of reportable allegations received by sector 2020–21 to 2022–23 and Scheme total (continued)**

Sector	2020–21		2021–22		2022–23		Percentage change 2021–22 to 2022–23	Since the start of the Scheme	
	No.	%	No.	%	No.	%		No.	%
<b>Early childhood education<sup>65</sup></b>	<b>268</b>	<b>27</b>	<b>284</b>	<b>23</b>	<b>385</b>	<b>26</b>	<b>36▲</b>	<b>1,377</b>	<b>22</b>
Long day care	214		221		288		30▲	1,037	
Preschool / kindergarten	29		29		55		90▲	176	
Outside school hours care	20		21		34		62▲	123	
Family day care	4		8		8		–	35	
Unknown service type	1		5		0		-100▼	6	
<b>Religious body<sup>66</sup></b>	<b>52</b>	<b>5</b>	<b>89</b>	<b>7</b>	<b>68</b>	<b>5</b>	<b>-24▼</b>	<b>365</b>	<b>6</b>
<b>Youth justice<sup>67</sup></b>	<b>18</b>	<b>2</b>	<b>17</b>	<b>1</b>	<b>29</b>	<b>2</b>	<b>71▲</b>	<b>195</b>	<b>3</b>
<b>Disability<sup>68</sup></b>	<b>19</b>	<b>2</b>	<b>25</b>	<b>2</b>	<b>46</b>	<b>3</b>	<b>84▲</b>	<b>182</b>	<b>3</b>
<b>Health<sup>69</sup></b>	<b>12</b>	<b>1</b>	<b>4</b>	<b>&lt;1</b>	<b>10</b>	<b>&lt;1</b>	<b>150▲</b>	<b>49</b>	<b>&lt;1</b>
<b>Child protection<sup>70</sup></b>	<b>9</b>	<b>&lt;1</b>	<b>10</b>	<b>&lt;1</b>	<b>5</b>	<b>&lt;1</b>	<b>-50▼</b>	<b>48</b>	<b>&lt;1</b>
<b>Accommodation<sup>71</sup></b>	<b>5</b>	<b>&lt;1</b>	<b>6</b>	<b>&lt;1</b>	<b>22</b>	<b>2</b>	<b>267▲</b>	<b>39</b>	<b>&lt;1</b>
<b>Victorian Government departments<sup>72</sup></b>	<b>6</b>	<b>&lt;1</b>	<b>10</b>	<b>&lt;1</b>	<b>5</b>	<b>&lt;1</b>	<b>-50▼</b>	<b>33</b>	<b>&lt;1</b>
<b>Other<sup>73</sup></b>	<b>27</b>	<b>3</b>	<b>17</b>	<b>1</b>	<b>42</b>	<b>3</b>	<b>147▲</b>	<b>146</b>	<b>2</b>
<b>Total</b>	<b>1,006</b>	<b>100</b>	<b>1,237</b>	<b>100</b>	<b>1,457</b>	<b>100</b>	<b>18▲</b>	<b>6,231</b>	<b>100</b>

<sup>65</sup> Includes preschool, kindergarten, long day care and other childcare.

<sup>66</sup> Excludes notifications in relation to services provided by religious bodies in other sectors.

<sup>67</sup> Youth justice functions provided by DJCS including custodial and community-based.

<sup>68</sup> Includes registered and non-registered disability service providers, residential services for children with a disability and DFFH disability support services.

<sup>69</sup> Includes hospitals (public and private), mental health services with inpatient beds and inpatient drug and alcohol services.

<sup>70</sup> Includes child protection services provided by DFFH, child protection services provided by organisations pursuant to a DFFH contract and DFFH secure care.

<sup>71</sup> Includes overnight camps and homelessness service providers with overnight beds.

<sup>72</sup> Excludes notifications in relation to state government workers or volunteers contained in other sectors.

<sup>73</sup> In this category, some notifications are included from organisations subsequently deemed outside the scope of the Scheme and some relate to organisations not yet identified. Of those notifications within the scope of the Scheme, these relate to employees not otherwise captured in other sectors, including youth services, aquatic and leisure centre workers, council workers and overnight camps.

### Reportable allegations by type of reportable conduct

Each mandatory notification can contain multiple reportable allegations and multiple alleged victims. The 6,231 notifications received since the Scheme commenced contained 15,070 allegations.

There are five types of 'reportable conduct'<sup>74</sup> listed in the CWSA:

- sexual offences (against, with or in the presence of a child)
- sexual misconduct (against, with or in the presence of a child)
- physical violence (against, with or in the presence of a child)<sup>75</sup>
- behaviour that causes significant emotional or psychological harm
- significant neglect of a child.

In 2022–23, like previous years, the highest number of allegations (36 per cent) related to physical violence (Table 16).

**Table 16. Category of reportable conduct allegations 2020–21 to 2022–23 and Scheme total<sup>76</sup>**

Category	2020–21		2021–22		2022–23		Since the start of the Scheme	
	No.	%	No.	%	No.	%	No.	%
Physical violence <sup>77</sup>	865	33	1,371	38	1,190	36	5,893	39
Behaviour that causes significant emotional or psychological harm to a child	557	21	740	20	726	22	3,002	20
Sexual misconduct <sup>78</sup>	614	23	565	16	589	18	2,896	19
Significant neglect of a child	397	15	717	20	606	18	2,272	15
Sexual offences <sup>79</sup>	180	7	226	6	166	5	1,007	7
<b>Total</b>	<b>2,613</b>	<b>100</b>	<b>3,619</b>	<b>100</b>	<b>3,277</b>	<b>100</b>	<b>15,070</b>	<b>100</b>

### Reportable allegations by sector and type of reportable conduct

Different types of allegations appear to be more prevalent in some sectors. For example, there continues to be a higher proportion of sexual offence allegations in religious bodies than any other sector and the most common allegation type in early childhood education is physical violence.

Overall, and for the last four years, the highest number of allegations in the education sector relate to sexual misconduct (Table 17).

<sup>74</sup> The Commission's website has information sheets that provide a detailed explanation about the different types of reportable conduct <https://ccyp.vic.gov.au/resources/reportable-conduct-scheme/reportable-conduct-scheme-information-sheets/#TOC-2>.

<sup>75</sup> This covers a range of conduct including actual and threatened physical violence. Where physical contact is made with a child, it will be considered 'physical violence' if the contact was capable of causing injury or harm to the child. It is not, however, necessary for injury or harm to have occurred.

<sup>76</sup> In some cases, data from previous financial years expressed throughout this report is different from that published in previous Commission annual reports. Variations are due to the fact that Scheme data is live and includes open matters, causing some movement of data over time. New information can come to light as a matter progresses that alters previous classifications or results in matters being excluded because they are subsequently determined to be out of the scope of the Scheme.

<sup>77</sup> Includes physical violence against, with or in the presence of a child.

<sup>78</sup> Includes sexual misconduct against, with or in the presence of a child.

<sup>79</sup> Includes sexual offences against, with or in the presence of a child.

**Table 17. Reportable allegations by sector and conduct type 2020–21 to 2022–23 and Scheme total**

Sector <sup>80</sup> and conduct type <sup>81</sup>	2020–21		2021–22		2022–23		Since the start of the Scheme	
	No.	%	No.	%	No.	%	No.	%
<b>Out-of-home care</b>	<b>804</b>	<b>100</b>	<b>1,657</b>	<b>100</b>	<b>1,070</b>	<b>100</b>	<b>5,470</b>	<b>100</b>
Physical violence	325	40	714	43	401	37	2,434	44
Significant neglect of a child	222	28	515	31	358	33	1,465	27
Behaviour that causes significant emotional or psychological harm to a child	168	21	330	20	254	24	1,080	20
Sexual misconduct	56	7	60	4	42	4	300	5
Sexual offences	33	4	38	2	15	1	191	3
<b>Education</b>	<b>1,080</b>	<b>100</b>	<b>1,070</b>	<b>100</b>	<b>1,150</b>	<b>100</b>	<b>5,375</b>	<b>100</b>
Sexual misconduct	443	41	412	39	404	35	2,020	38
Physical violence	197	18	261	24	325	28	1,460	27
Behaviour that causes significant emotional or psychological harm to a child	267	25	254	24	278	24	1,260	23
Significant neglect of a child	110	10	80	7	84	7	321	6
Sexual offences	63	6	63	6	59	5	314	6
<b>Early childhood education</b>	<b>442</b>	<b>100</b>	<b>486</b>	<b>100</b>	<b>620</b>	<b>100</b>	<b>2,213</b>	<b>100</b>
Physical violence	272	62	288	59	352	57	1,369	62
Behaviour that causes significant emotional or psychological harm to a child	79	18	84	17	114	18	377	17
Significant neglect of a child	32	7	70	14	88	14	260	12
Sexual misconduct	53	12	28	6	53	9	163	7
Sexual offences	6	1	16	3	13	2	44	2
<b>Religious body</b>	<b>118</b>	<b>100</b>	<b>229</b>	<b>100</b>	<b>155</b>	<b>100</b>	<b>874</b>	<b>100</b>
Sexual offences	47	40	81	35	61	39	324	37
Sexual misconduct	29	25	34	15	42	27	213	24
Physical violence	14	12	59	26	23	15	155	18
Behaviour that causes significant emotional or psychological harm to a child	20	17	44	19	29	19	141	16
Significant neglect of a child	8	7	11	5	0	-	41	5

<sup>80</sup> Some sectors including out-of-home care and education have been subject to the Scheme since its commencement on 1 July 2017, whereas other sectors have been subject to the Scheme for less time. Religious bodies and disability services have been covered since 1 January 2018 and early childhood education have been covered since 1 January 2019. Additionally, this analysis is of reportable allegations, not substantiated incidents of reportable conduct.

<sup>81</sup> Reportable conduct types have been grouped in this table. Physical violence, sexual misconduct and sexual offences includes against, with, or in the presence of a child.

**Table 17. Reportable allegations by sector and conduct type 2020–21 to 2022–23 and Scheme total (continued)**

Sector <sup>80</sup> and conduct type <sup>81</sup>	2020–21		2021–22		2022–23		Since the start of the Scheme	
	No.	%	No.	%	No.	%	No.	%
<b>Youth justice</b>	<b>32</b>	<b>100</b>	<b>39</b>	<b>100</b>	<b>69</b>	<b>100</b>	<b>323</b>	<b>100</b>
Physical violence	12	38	19	49	31	45	199	62
Significant neglect of a child	9	28	8	21	21	30	56	17
Sexual misconduct	6	19	2	5	11	16	39	12
Sexual offences	2	6	6	15	2	3	15	5
Behaviour that causes significant emotional or psychological harm to a child	3	9	4	10	4	6	14	4
<b>Disability</b>	<b>30</b>	<b>100</b>	<b>30</b>	<b>100</b>	<b>76</b>	<b>100</b>	<b>279</b>	<b>100</b>
Physical violence	18	60	13	43	29	38	147	53
Significant neglect of a child	3	10	8	27	19	25	39	14
Sexual misconduct	2	7	2	7	11	14	36	13
Behaviour that causes significant emotional or psychological harm to a child	0	–	1	3	17	22	32	11
Sexual offences	7	23	6	20	0	–	25	9
<b>Child protection</b>	<b>21</b>	<b>100</b>	<b>33</b>	<b>100</b>	<b>11</b>	<b>100</b>	<b>99</b>	<b>100</b>
Physical violence	11	52	9	27	2	18	36	36
Significant neglect of a child	8	38	10	30	5	45	27	27
Sexual misconduct	1	5	6	18	1	9	15	15
Behaviour that causes significant emotional or psychological harm to a child	1	5	8	24	2	18	13	13
Sexual offences	0	–	0	–	1	9	8	8
<b>Health</b>	<b>16</b>	<b>100</b>	<b>8</b>	<b>100</b>	<b>14</b>	<b>100</b>	<b>99</b>	<b>100</b>
Significant neglect of a child	3	19	6	75	8	57	26	26
Sexual offences	5	31	0	–	1	7	23	23
Behaviour that causes significant emotional or psychological harm to a child	3	19	1	13	3	21	20	20
Sexual misconduct	4	25	1	13	1	7	16	16
Physical violence	1	6	0	–	1	7	14	14



**Table 17. Reportable allegations by sector and conduct type 2020–21 to 2022–23 and Scheme total (continued)**

Sector <sup>80</sup> and conduct type <sup>81</sup>	2020–21		2021–22		2022–23		Since the start of the Scheme	
	No.	%	No.	%	No.	%	No.	%
<b>Victorian Government departments</b>	<b>16</b>	<b>100</b>	<b>27</b>	<b>100</b>	<b>10</b>	<b>100</b>	<b>76</b>	<b>100</b>
Sexual offences	11	69	8	30	0	–	26	34
Physical violence	1	6	3	11	7	70	23	30
Behaviour that causes significant emotional or psychological harm to a child	3	19	7	26	2	20	13	17
Sexual misconduct	1	6	5	19	0	–	9	12
Significant neglect of a child	0	–	4	15	1	10	5	7
<b>Accommodation</b>	<b>8</b>	<b>100</b>	<b>11</b>	<b>100</b>	<b>34</b>	<b>100</b>	<b>58</b>	<b>100</b>
Sexual offences	2	25	0	–	12	35	18	31
Significant neglect of a child	0	–	1	9	11	32	12	21
Sexual misconduct	2	25	6	55	4	12	12	21
Behaviour that causes significant emotional or psychological harm to a child	0	–	2	18	6	18	9	16
Physical violence	4	50	2	18	1	3	7	12
<b>Other</b>	<b>46</b>	<b>100</b>	<b>29</b>	<b>100</b>	<b>68</b>	<b>100</b>	<b>204</b>	<b>100</b>
Sexual misconduct	17	37	9	31	20	29	73	36
Physical violence	10	22	3	10	18	26	49	24
Behaviour that causes significant emotional or psychological harm to a child	13	28	5	17	17	25	43	21
Significant neglect of a child	2	4	4	14	11	16	20	10
Sexual offences	4	9	8	28	2	3	19	9
<b>Total</b>	<b>2,613</b>		<b>3,619</b>		<b>3,277</b>		<b>15,070</b>	

### Sexual misconduct

The education sector has contributed the majority (70 per cent) of allegations of sexual misconduct since the Scheme commenced (Table 18).

The Commission's *Strategic Plan 2022–2025* includes a commitment to 'hold organisations to account for their obligation to rigorously investigate, and keep children and young people safe from, grooming and sexual misconduct'. The Commission continues to see instances where organisations misunderstand the scope of 'sexual misconduct' for the purposes of the Scheme, or appear reluctant to characterise behaviour as 'sexual misconduct', despite there being a proven pattern of overly personal and intimate conduct towards a child or conduct that seriously crosses professional boundaries.

The Commission will continue to support and guide organisations to conduct thorough investigations, give appropriate weight to the evidence of affected children, and make sound decisions about whether proven conduct amounts to sexual misconduct.

**Table 18. Reportable allegations of sexual misconduct by sector 2020–21 to 2022–23<sup>82</sup> and Scheme total**

Sector	2020–21		2021–22		2022–23		Since the start of the Scheme	
	No.	%	No.	%	No.	%	No.	%
Education	443	72	412	73	404	69	2,020	70
Out-of-home care	56	9	60	11	42	7	300	10
Religious body	29	5	34	6	42	7	213	7
Early childhood education	53	9	28	5	53	9	163	6
Youth justice	6	<1	2	<1	11	2	39	1
Disability	2	<1	2	<1	11	2	36	1
Health	4	<1	1	<1	1	<1	16	<1
Child protection	1	<1	6	1	1	<1	15	<1
Accommodation	2	<1	6	1	4	<1	12	<1
Victorian Government departments	1	<1	5	<1	0	–	9	<1
Other	17	3	9	2	20	3	73	3
<b>Total</b>	<b>614</b>	<b>100</b>	<b>565</b>	<b>100</b>	<b>589</b>	<b>100</b>	<b>2,896</b>	<b>100</b>

<sup>82</sup> In some cases, data from previous financial years expressed throughout this report is different from that published in previous Commission annual reports. Variations are due to the fact that Scheme data is live and includes open matters, causing some movement of data over time. New information can come to light as a matter progresses that alters previous classifications or results in matters being excluded because they are subsequently determined to be out of the scope of the Scheme.

## Education sector

In 2022–23, there was a 51 per cent increase in mandatory notifications received from the education sector<sup>83</sup> compared with 2021–22. This was contributed to by a 64 per cent increase in notifications from government schools and a 52 per cent increase in notifications from non-government independent schools. Non-government Catholic schools showed an 18 per cent increase in notifications on 2021–22.

The majority of notifications in the education sector were made against registered teachers. However, almost a quarter of education-related notifications in 2022–23 were made against subjects of allegation who are not registered teachers (Table 19).<sup>84</sup>

**Table 19. Mandatory notifications in the education sector by subject of allegation VIT registration 2020–21 to 2022–23 and Scheme total**

Victorian Institute of Teaching registration status of subject of allegation	2020–21		2021–22		2022–23		Since the start of the Scheme	
	No.	%	No.	%	No.	%	No.	%
Registered <sup>85</sup>	200	74	203	70	334	76	1,210	73
Not registered	71	26	86	30	103	24	445	27
<b>Total</b>	<b>271</b>	<b>100</b>	<b>289</b>	<b>100</b>	<b>437</b>	<b>100</b>	<b>1,655</b>	<b>100</b>

Sexual misconduct is the most common allegation type for the whole education sector since the start of the Scheme (38 per cent). The education sector accounts for 70 per cent of all sexual misconduct allegations across all sectors subject to the Scheme.

Sexual misconduct has been the most common conduct type in non-government Catholic and non-government independent schools since the start of the Scheme (37 per cent and 46 per cent respectively) (Table 20).

In 2022–23, physical violence was the most common allegation type in government schools (37 per cent). This contrasts with the previous two years, where the majority of allegations in government schools related to sexual misconduct.

<sup>83</sup> Some information about the education sector can be found at: <https://www.vic.gov.au/statistics-victorian-schools-and-teaching>.

<sup>84</sup> Many roles in schools do not require a person to be a registered teacher.

<sup>85</sup> Includes five notifications for the period 2017–2023 where subjects of allegation ceased to be registered with the Victorian Institute of Teaching after the notification was submitted.

**Table 20. Reportable allegations by education service and conduct type 2020–21 to 2022–23 and Scheme total**

Service and conduct type	2020–21		2021–22		2022–23		Since the start of the Scheme	
	No.	%	No.	%	No.	%	No.	%
<b>Non-government school – Catholic</b>	<b>449</b>	<b>100</b>	<b>439</b>	<b>100</b>	<b>338</b>	<b>100</b>	<b>2,109</b>	<b>100</b>
Sexual misconduct	198	44	130	30	90	27	784	37
Behaviour that causes significant emotional or psychological harm to a child	106	24	122	28	105	31	544	26
Physical violence	68	15	118	27	106	31	539	26
Significant neglect of a child	67	15	58	13	28	8	177	8
Sexual offences	10	2	11	3	9	3	65	3
<b>Government school</b>	<b>394</b>	<b>100</b>	<b>295</b>	<b>100</b>	<b>329</b>	<b>100</b>	<b>1,723</b>	<b>100</b>
Physical violence	89	23	86	29	121	37	588	34
Sexual misconduct	144	37	116	39	91	27	529	31
Behaviour that causes significant emotional or psychological harm to a child	105	27	47	16	55	17	376	22
Sexual offences	36	9	40	14	41	12	170	10
Significant neglect of a child	20	5	6	2	21	6	60	3
<b>Non-government school – Independent</b>	<b>215</b>	<b>100</b>	<b>314</b>	<b>100</b>	<b>455</b>	<b>100</b>	<b>1,423</b>	<b>100</b>
Sexual misconduct	94	44	156	50	208	46	655	46
Behaviour that causes significant emotional or psychological harm to a child	51	24	81	26	116	25	322	23
Physical violence	40	19	50	16	92	20	306	22
Significant neglect of a child	13	6	16	5	33	7	71	5
Sexual offences	17	8	11	4	6	1	69	5
<b>Senior secondary course/qualification<sup>86</sup></b>	<b>21</b>	<b>100</b>	<b>20</b>	<b>100</b>	<b>22</b>	<b>100</b>	<b>95</b>	<b>100</b>
Sexual misconduct	6	29	10	50	11	50	37	39
Physical violence	0	–	7	35	6	27	26	27
Behaviour that causes significant emotional or psychological harm to a child	5	24	3	15	1	5	15	16
Significant neglect of a child	10	48	0	–	2	9	12	13
Sexual offences	0	–	0	–	2	9	5	5
<b>International-student course</b>	<b>1</b>	<b>100</b>	<b>0</b>	<b>–</b>	<b>1</b>	<b>100</b>	<b>12</b>	<b>100</b>
Sexual misconduct	1	100	0	–	1	100	11	92
Sexual offences	0	–	0	–	0	–	1	8

<sup>86</sup> Courses and qualifications not delivered by registered schools.

**Table 20. Reportable allegations by education service and conduct type 2020–21 to 2022–23 and Scheme total (continued)**

Service and conduct type	2020–21		2021–22		2022–23		Since the start of the Scheme	
	No.	%	No.	%	No.	%	No.	%
<b>Student exchange program</b>	<b>0</b>	<b>–</b>	<b>2</b>	<b>100</b>	<b>4</b>	<b>100</b>	<b>10</b>	<b>100</b>
Behaviour that causes significant emotional or psychological harm to a child	0	–	1	50	1	25	3	30
Sexual misconduct	0	–	0	–	3	75	3	30
Sexual offences	0	–	1	50	0	–	2	20
Significant neglect of a child	0	–	0	–	0	–	1	10
Physical violence	0	–	0	–	0	–	1	10
<b>Employee – other/admin</b>	<b>0</b>	<b>–</b>	<b>0</b>	<b>–</b>	<b>1</b>	<b>100</b>	<b>3</b>	<b>100</b>
Sexual offences	0	–	0	–	1	100	2	67
Sexual misconduct	0	–	0	–	0	–	1	33
<b>Total</b>	<b>1,080</b>		<b>1,070</b>		<b>1,150</b>		<b>5,375</b>	

## Alleged victims

This analysis relates to notifications of reportable allegations, not substantiated incidents of reportable conduct. The term ‘alleged victim’<sup>87</sup> is used in this section to reflect this.

The term ‘unique alleged victim’<sup>88</sup> refers to where an alleged victim is known.<sup>89</sup> There have been 6,325 unique alleged victims of reportable allegations identified since the start of the Scheme (55 per cent male and 45 per cent female).<sup>90</sup>

In 2022–23, there were 1,524 unique alleged victims identified relating to 1,241 notifications (seven per cent increase on 2021–22). Fifty-five per cent of these unique alleged victims were male and 44 per cent were female. The remaining one per cent of alleged victims did not identify as either male or female, or their gender was unknown.

As in previous years, alleged victims of sexual misconduct were more likely to be female. This year, 64 per cent of sexual misconduct allegations related to girls or young women (Figure 7). Sexual misconduct accounted for 26 per cent of all allegations involving a female alleged victim in 2022–23 and only 10 per cent of all allegations involving a male alleged victim.<sup>91</sup>

<sup>87</sup> Alleged victims must be aged under 18 years at the time of the alleged conduct to be covered under the Scheme.

<sup>88</sup> ‘Unique alleged victims’ refer to an individual child or young person who has been the victim of a reportable allegation at least once during the Scheme. Where the unique alleged victims are referred to in terms of the financial year, then this refers to the number of individuals who were the victim of a reportable allegation within the financial year referenced. Where a child or young person has been the victim of multiple allegations over multiple years, they are counted once for each financial year. As a result of this, financial year totals will not add up to the whole of Scheme totals, as they are based on different counting methodologies.

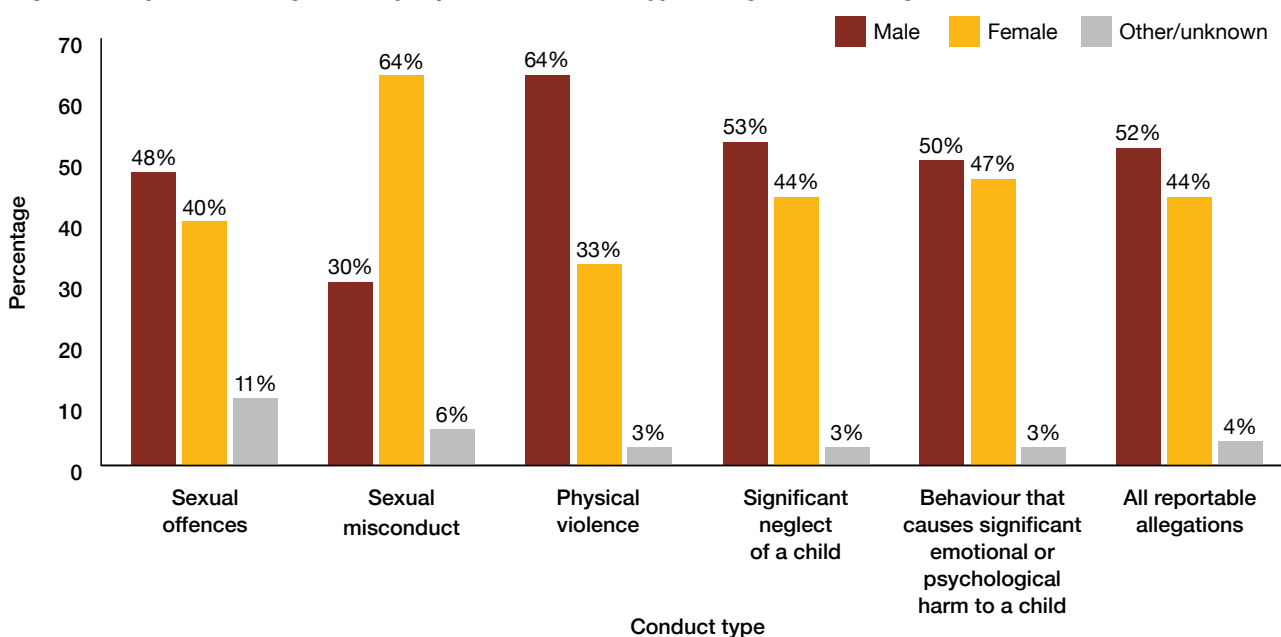
<sup>89</sup> In some notifications, the identity of the alleged victim may be unknown.

<sup>90</sup> Alleged victims with a recorded gender of ‘other’ may identify as non-binary or gender diverse. There have been 30 unique alleged victims (less than one per cent) with a recorded gender of ‘other’ and a further eight whose gender is not known.

<sup>91</sup> This paragraph is based on an analysis of reportable allegations, not unique alleged victims.

Sixty-four per cent of allegations of physical violence involved a male alleged victim. This type of conduct accounted for almost half (45 per cent) of all allegations involving a male alleged victim in 2022–23, and over a quarter (27 per cent) of all allegations involving a female alleged victim.

**Figure 7. Reportable allegations by reportable conduct type and gender of alleged victim 2022–23<sup>92</sup>**



**Aboriginal and/or Torres Strait Islander, cultural background and disability characteristics of alleged victims**

In 2022–23, organisations subject to the Scheme identified:<sup>93</sup>

- 10 per cent of unique alleged victims as being Aboriginal and/or Torres Strait Islander<sup>94</sup> – this is a substantial over-representation of Aboriginal and Torres Strait Islander children and young people, who only make up two per cent of the Victorian population under 18 years of age<sup>95</sup>
- 17 per cent of unique alleged victims identified as being from a culturally and/or linguistically diverse background<sup>96</sup>
- 16 per cent of unique alleged victims as having a disability.<sup>97</sup>

<sup>92</sup> Alleged victims with a recorded gender of ‘other’ may identify as non-binary or gender diverse. ‘Other’ also includes alleged victims with an unknown gender. There were 17 allegations in 2022-23 where the alleged victims had a recorded gender of ‘other’ that account for less than one per cent of allegations and a further 116 allegations had an alleged victim with an unknown gender.

<sup>93</sup> The Commission was not provided with details of characteristics of the alleged victim in a large number of matters. The Commission will continue its efforts to require organisations to turn their minds to these characteristics.

<sup>94</sup> This is consistent with the 10 per cent of unique alleged victims who were identified as Aboriginal and/or Torres Strait Islander since the start of the Scheme.

<sup>95</sup> Data sourced from Australian Bureau of Statistics (ABS), 2021, *TableBuilder*, extracted 29 August 2023.

<sup>96</sup> This is slightly more than the 14 per cent of unique victims who were identified as being from a culturally and/or linguistically diverse background since the start of the Scheme.

<sup>97</sup> This is slightly more than the 13 per cent of unique alleged victims who were identified as having a disability since the start of the Scheme.

### Age of alleged victim and alleged reportable conduct type

Across almost all age groups, physical violence was consistently the most likely type of reportable conduct about which allegations were raised.<sup>98</sup>

In 2022–23, physical violence accounted for 53 per cent of all allegations for children aged zero to four years, 45 per cent for children aged five to nine years, and 32 per cent for children aged 10 to 14 years.<sup>99</sup>

In contrast, the largest category of allegation conduct type for young people aged 15 to 17 years was sexual misconduct (29 per cent), consistent with previous years. Sexual misconduct made up eight per cent of allegations for children aged zero to four years, five per cent for children aged five to nine years, and 20 per cent of allegations for children aged 10 to 14 years.<sup>100</sup>

The average age of unique alleged victims at the time of the first reportable allegation in 2022–23 was nine years.

Consistent with previous years, the largest proportion of unique alleged victims in 2022–23 were in the 10 to 14 year age group (30 per cent), followed by those aged zero to four years (26 per cent) (Table 21).

**Table 21. Age of unique alleged victim at date of first reportable allegation 2020–21 to 2022–23 and Scheme total**

Age <sup>101</sup>	2020–21		2021–22		2022–23		Since the start of the Scheme	
	No.	%	No.	%	No.	%	No.	%
0 to 4 years	270	23	323	23	399	26	1,478	23
5 to 9 years	209	18	294	21	292	19	1,205	19
10 to 14 years	360	31	412	29	451	30	1,761	28
15 to 17 years	255	22	299	21	288	19	1,271	20
18 years <sup>102</sup>	1	<1	4	<1	3	<1	10	<1
Not identified	74	6	88	6	91	6	600	9
<b>Total</b>	<b>1,169</b>	<b>100</b>	<b>1,420</b>	<b>100</b>	<b>1,524</b>	<b>100</b>	<b>6,325</b>	<b>100</b>

<sup>98</sup> This paragraph is based on an analysis of reportable allegations, not unique alleged victims.

<sup>99</sup> This paragraph is based on an analysis of reportable allegations, not unique alleged victims.

<sup>100</sup> This paragraph is based on an analysis of reportable allegations, not unique alleged victims.

<sup>101</sup> Where a child or young person has been the victim of multiple reportable allegations, age is calculated based on the earliest reportable allegation.

<sup>102</sup> These allegations were determined to be out of jurisdiction of the Scheme, or remain under review.

## Subjects of allegations

A worker or volunteer who is alleged to have committed reportable conduct is known as the subject of allegation. A person can be the subject of allegation for more than one notification with multiple reportable allegations involving more than one alleged victim. The following analysis relates to the characteristics of the subjects of reportable allegations, not substantiated incidents of reportable conduct.

In 2022–23, there were 1,364 unique individuals who were the subject of allegations<sup>103</sup> (a 21 per cent increase on 2021–22). Just over half (52 per cent) of these individuals were subject to one allegation and a small proportion (11 per cent) were the subject of five or more allegations.

There were 5,273 unique individuals who were the subject of allegations since the start of the Scheme. Ninety per cent of these individuals were involved in one notification to the Commission since the start of the Scheme and the remainder were involved in two to eight reportable notifications.

### Gender and reportable conduct type

Of the 1,364 individuals who were the subject of the 3,277 reportable allegations made in 2022–23, just over half (56 per cent) were female and 43 per cent were male. The remaining individuals (less than one per cent) did not identify as either male or female.

Physical violence was the largest category of reportable allegations for both women (41 per cent) and men (31 per cent) in 2022–23 (Table 22).<sup>104</sup>

For men, the combined categories of sexual misconduct and sexual offences accounted for 41 per cent of all reportable allegations this year. In 2022–23, 83 per cent of all sexual offence and 79 per cent of all sexual misconduct reportable allegations were made against men (Figure 8).<sup>105</sup>

Women were more likely to be the subject of a reportable allegation of physical violence (62 per cent) or significant neglect of a child (76 per cent) compared to men (38 per cent and 24 per cent respectively).

<sup>103</sup> 'Unique subject of allegation' refers to an individual who has been the subject of a reportable allegation at least once during the Scheme. Where a number of unique subjects of allegation are referred to in terms of the financial year, this refers to the number of individuals who were the subject of a reportable allegation within the financial year referenced. Where an individual has been the subject of multiple allegations over multiple years, they will be counted once in each financial year. As a result of this, financial year totals will not add up to the whole of Scheme totals as they are based on different counting methodologies.

<sup>104</sup> This paragraph is based on an analysis of reportable allegations and not unique subjects of allegation.

<sup>105</sup> This paragraph is based on an analysis of reportable allegations and not unique subjects of allegation.



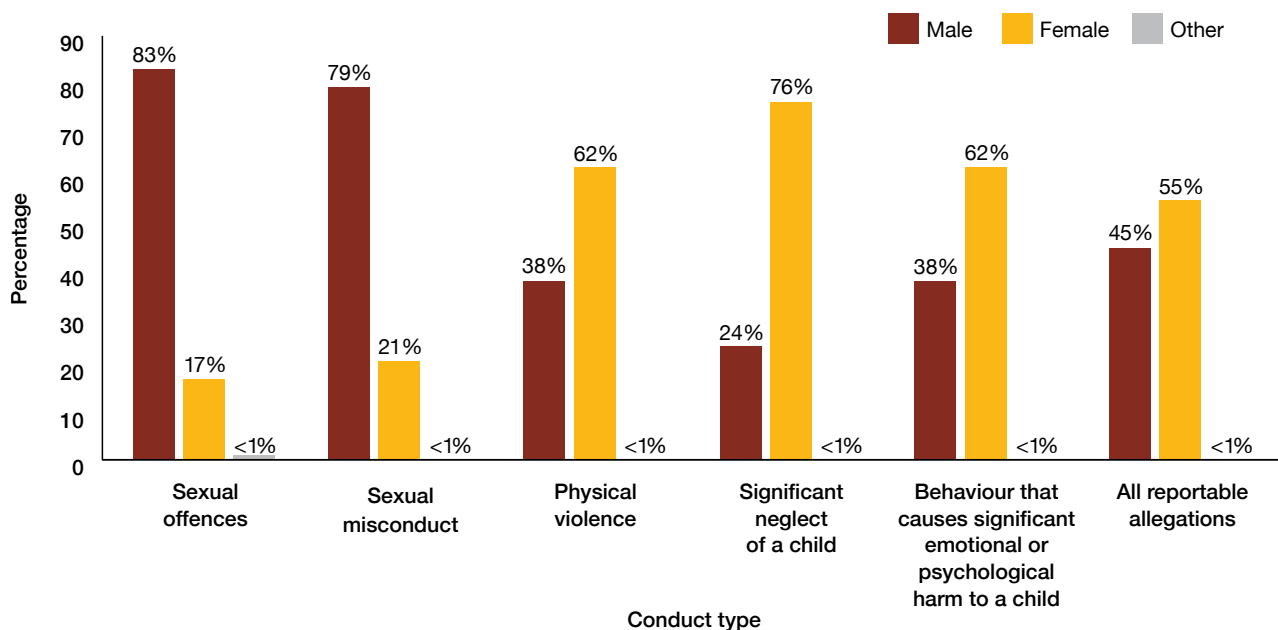
**Table 22. Reportable allegations by gender of subject of allegation and conduct type 2020–21 to 2022–23 and Scheme total**

Gender of subject of allegation <sup>106</sup> and conduct type	2020–21		2021–22		2022–23		Since the start of the Scheme	
	No.	%	No.	%	No.	%	No.	%
<b>Female</b>	<b>1,146</b>	<b>100</b>	<b>1,893</b>	<b>100</b>	<b>1,801</b>	<b>100</b>	<b>7,361</b>	<b>100</b>
Physical violence	533	47	825	44	737	41	3,511	48
Significant neglect of a child	255	22	533	28	462	26	1,644	22
Behaviour that causes significant emotional or psychological harm to a child	266	23	392	21	451	25	1,593	22
Sexual misconduct	72	6	99	5	123	7	474	6
Sexual offences	20	2	44	2	28	2	139	2
<b>Male</b>	<b>1,467</b>	<b>100</b>	<b>1,705</b>	<b>100</b>	<b>1,470</b>	<b>100</b>	<b>7,682</b>	<b>100</b>
Sexual misconduct	542	37	465	27	464	32	2,419	31
Physical violence	332	23	545	32	452	31	2,380	31
Behaviour that causes significant emotional or psychological harm to a child	291	20	344	20	274	19	1,404	18
Sexual offences	160	11	182	11	137	9	867	11
Significant neglect of a child	142	10	169	10	143	10	612	8
<b>Other<sup>107</sup></b>	<b>0</b>	<b>–</b>	<b>21</b>	<b>100</b>	<b>6</b>	<b>100</b>	<b>27</b>	<b>100</b>
Significant neglect of a child	0	–	15	71	1	17	16	59
Behaviour that causes significant emotional or psychological harm to a child	0	–	4	19	1	17	5	19
Sexual misconduct	0	–	1	5	2	33	3	11
Physical violence	0	–	1	5	1	17	2	7
Sexual offences	0	–	0	–	1	17	1	4
<b>Total</b>	<b>2,613</b>		<b>3,619</b>		<b>3,277</b>		<b>15,070</b>	

<sup>106</sup> This table is based on an analysis of reportable allegations and not unique subjects of allegation.

<sup>107</sup> Subjects of allegation with a recorded gender of 'other' may identify as non-binary or gender diverse.

Figure 8. Reportable allegations by conduct type and gender of subject of allegation 2022–23<sup>108</sup>



### Employment status of subject of allegation

The Commission records the employment status of subjects of allegations. The categories are based on the individual's relationship to the organisation that has submitted the mandatory notification. In 2022–23, 79 per cent of subjects of allegation were identified as employees of an organisation and almost one-fifth (17 per cent) were identified as foster or kinship carers (Table 23).

Table 23. Unique subjects of allegation by employment type 2020–21 to 2022–23 and Scheme total

Employment type <sup>109</sup>	2020–21		2021–22		2022–23		Since the start of the Scheme	
	No.	%	No.	%	No.	%	No.	%
Employee	692	75	775	69	1,073	79	3,921	74
Foster or kinship carer	182	20	293	26	232	17	1,082	21
Minister of religion or religious leader	24	3	35	3	28	2	133	3
Volunteer	19	2	19	2	29	2	131	2
Other <sup>110</sup>	1	<1	1	<1	2	<1	6	<1
<b>Total</b>	<b>918</b>	<b>100</b>	<b>1,123</b>	<b>100</b>	<b>1,364</b>	<b>100</b>	<b>5,273</b>	<b>100</b>

<sup>108</sup> Subjects of allegation with a recorded gender of 'other' may identify as non-binary or gender diverse.

<sup>109</sup> An individual can be the subject of allegation in more than one notification and may have different roles in different organisations. Where this has occurred, the employment type referenced in the individual's earliest reportable conduct has been taken.

<sup>110</sup> 'Other' includes contractors.

# Findings from investigations into reportable allegations

The head of an organisation must investigate a reportable allegation and provide findings to the Commission.

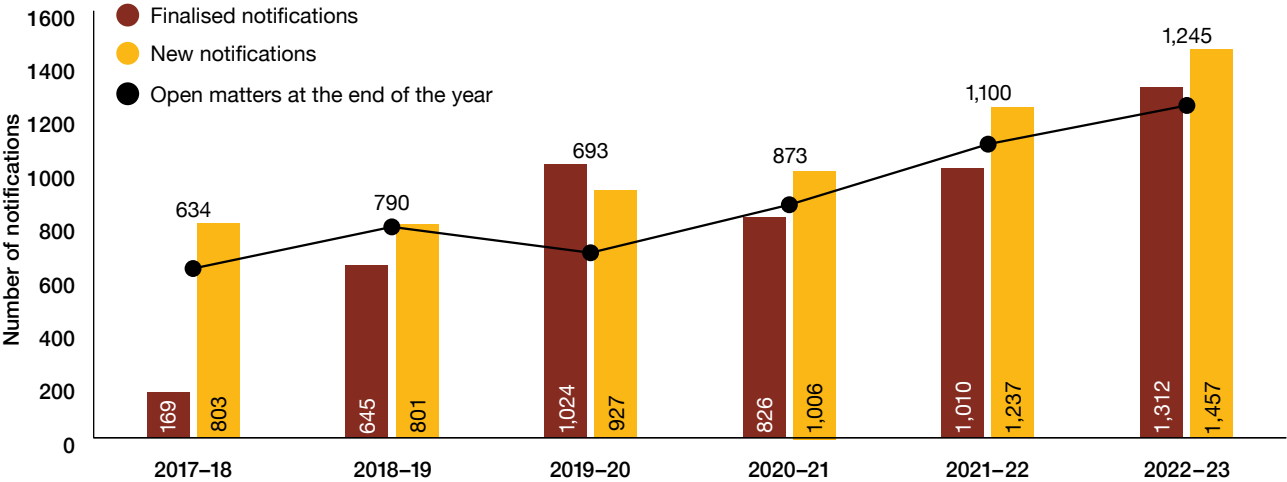
## Finalised mandatory notifications

Out of the 6,231 mandatory notifications received by the Commission since the start of the Scheme, 4,986 (80 per cent) have been finalised, including 318 (six per cent) assessed as being outside the scope of the Scheme as at 30 June 2023.

There were 1,245 open mandatory notifications at 30 June 2023, a 13 per cent increase on the same time last year.

A total of 1,312 notifications of reportable allegations were finalised by the Commission in 2022–23.<sup>111</sup> The finalisation rate<sup>112</sup> for 2022–23 was 90 per cent.

**Figure 9. New notifications each year, matters open and finalised at the end of each financial year 2017–23**



<sup>111</sup> Of these, 55 notifications (four per cent) were assessed by the Commission as being outside the jurisdiction of the Scheme. Three were closed because the subject of allegation was deceased and four were closed following the Commission’s decision to conduct an own motion investigation into the allegations.

<sup>112</sup> This is the rate of finalisation of notifications compared with new notifications being received.

### Reportable conduct findings

The 4,611 notifications<sup>113 114 115</sup> finalised since the Scheme started involved the investigation of 12,438 reportable allegations.

Twenty-eight per cent of reportable allegations were substantiated in 2022–23, which is the same as last year.

**Table 24. Finding per allegation 2020–21 to 2022–23 and Scheme total<sup>116</sup>**

Finding	2020–21		2021–22		2022–23		Since the start of the Scheme	
	No.	%	No.	%	No.	%	No.	%
Substantiated	554	29	757	28	1,186	28	3,532	28
Unsubstantiated – insufficient evidence	571	29	853	31	1,276	30	3,632	29
Unsubstantiated – lack of evidence of weight	396	20	673	25	1,069	25	2,893	23
Unfounded	213	11	215	8	400	9	1,122	9
Conduct outside the Scheme	208	11	213	8	346	8	1,259	10
<b>Total</b>	<b>1,942</b>	<b>100</b>	<b>2,711</b>	<b>100</b>	<b>4,277</b>	<b>100</b>	<b>12,438</b>	<b>100</b>

In 2022–23, sexual offences had the highest substantiation rate of any conduct category, with 40 per cent of these allegations resulting in a substantiated finding, compared with 35 per cent in 2021–22 (Table 25).

The substantiation rate for sexual offence allegations has significantly increased over the life of the Scheme, rising from 15 per cent in 2018–19 to 40 per cent in 2022–23.<sup>117</sup> The reportable conduct investigations for this conduct type may take longer to complete, as they often involve criminal investigations by Victoria Police.

The substantiation rate for sexual misconduct allegations has also steadily increased in each of the last five years, rising from 21 per cent in 2018–19 to 35 per cent in 2022–23.

<sup>113</sup> Excludes mandatory notifications determined to be outside the scope of the Scheme, where the entity has ceased its operations, where an investigation was not completed due to issues including safety concerns for alleged victims and where notifications were closed after the Commission decided to conduct an own motion investigation into the allegations with an organisation not progressing their own investigation.

<sup>114</sup> Includes four matters finalised after completion of an own motion investigation conducted by the Commission under section 160(1) of the CWSA.

<sup>115</sup> Includes allegations where the Commission was notified that a subject of allegation was deceased following the completion of the investigation.

<sup>116</sup> By year of finalisation by the Commission.

<sup>117</sup> This does not reflect the outcomes of criminal investigations and charges.

**Table 25. Findings per reportable conduct category 2020–21 to 2022–23 and Scheme total<sup>118</sup>**

Conduct type and finding	2020–21		2021–22		2022–23		Since the start of the Scheme	
	No.	%	No.	%	No.	%	No.	%
<b>Behaviour that causes significant emotional or psychological harm to a child</b>	<b>381</b>	<b>100</b>	<b>523</b>	<b>100</b>	<b>1,025</b>	<b>100</b>	<b>2,520</b>	<b>100</b>
Substantiated	60	16	117	22	194	19	490	19
Unsubstantiated – insufficient evidence	128	34	184	35	356	35	865	34
Unsubstantiated – lack of evidence of weight	101	27	144	28	272	27	650	26
Unfounded	50	13	55	11	136	13	282	11
Conduct outside the Scheme	42	11	23	4	67	7	233	9
<b>Physical violence</b>	<b>771</b>	<b>100</b>	<b>1,033</b>	<b>100</b>	<b>1,353</b>	<b>100</b>	<b>4,939</b>	<b>100</b>
Substantiated	243	32	246	24	368	27	1,425	29
Unsubstantiated – insufficient evidence	213	28	315	30	424	31	1,401	28
Unsubstantiated – lack of evidence of weight	162	21	308	30	377	28	1,269	26
Unfounded	79	10	67	6	91	7	371	8
Conduct outside the Scheme	74	10	97	9	93	7	473	10
<b>Sexual misconduct</b>	<b>415</b>	<b>100</b>	<b>597</b>	<b>100</b>	<b>876</b>	<b>100</b>	<b>2,505</b>	<b>100</b>
Substantiated	124	30	183	31	304	35	773	31
Unsubstantiated – insufficient evidence	113	27	200	34	198	23	678	27
Unsubstantiated – lack of evidence of weight	69	17	112	19	200	23	482	19
Unfounded	50	12	50	8	69	8	220	9
Conduct outside the Scheme	59	14	52	9	105	12	352	14
<b>Significant neglect of a child</b>	<b>239</b>	<b>100</b>	<b>382</b>	<b>100</b>	<b>840</b>	<b>100</b>	<b>1,818</b>	<b>100</b>
Substantiated	87	36	145	38	246	29	633	35
Unsubstantiated – insufficient evidence	64	27	121	32	240	29	510	28
Unsubstantiated – lack of evidence of weight	37	15	50	13	195	23	328	18
Unfounded	25	10	28	7	82	10	167	9
Conduct outside the Scheme	26	11	38	10	77	9	180	10
<b>Sexual offences</b>	<b>136</b>	<b>100</b>	<b>176</b>	<b>100</b>	<b>183</b>	<b>100</b>	<b>656</b>	<b>100</b>
Substantiated	40	29	66	38	74	40	211	32
Unsubstantiated – insufficient evidence	53	39	33	19	58	32	178	27
Unsubstantiated – lack of evidence of weight	27	20	59	34	25	14	164	25
Unfounded	9	7	15	9	22	12	82	13
Conduct outside the Scheme	7	5	3	2	4	2	21	3
<b>Total</b>	<b>1,942</b>		<b>2,711</b>		<b>4,277</b>		<b>12,438</b>	

<sup>118</sup> By year of finalisation by the Commission.

## Substantiated reportable conduct

In 2022–23, the early childhood education sector and religious bodies sector each had a substantiation rate consistent with that of all sectors since the start of the Scheme (28 per cent). Out-of-home care had a slightly lower substantiation rate of 21 per cent, and education had a slightly higher rate of 35 per cent (Table 26).

**Table 26. Substantiation rate of reportable conduct incidents by sector 2020–21 to 2022–23 and Scheme total<sup>119</sup>**

Sector	2020–21		2021–22		2022–23		Since the start of the Scheme	
	No.	Sub. Rate	No.	Sub. Rate	No.	Sub. Rate	No.	Sub. Rate
Out-of-home care	182	28%	277	29%	336	21%	1,229	27%
Education	209	31%	273	28%	542	35%	1,432	32%
Early childhood education	77	20%	90	20%	189	28%	471	23%
Religious body	23	37%	71	33%	63	28%	184	31%
Disability	3	12%	10	24%	11	26%	47	21%
Youth justice	30	56%	9	53%	13	42%	62	31%
Child protection	8	53%	11	42%	0	–	24	28%
Victorian Government departments	4	33%	1	100%	2	10%	12	27%
Accommodation	1	33%	2	67%	7	30%	11	34%
Health	7	18%	7	64%	6	60%	20	24%
Other	10	32%	6	32%	17	28%	40	26%
<b>Total</b>	<b>554</b>	<b>29%</b>	<b>757</b>	<b>28%</b>	<b>1,186</b>	<b>28%</b>	<b>3,532</b>	<b>28%</b>

### Victims of substantiated findings

During the Scheme's six years of operation, a total of 3,322 allegations have been substantiated, involving 2,004 individual unique victims.<sup>120</sup> A small number (six per cent) of substantiated incidents involved unknown victims.

Of the 2,004 unique victims, over half (55 per cent) were male and 45 per cent were female.<sup>121</sup>

The majority of these 2,004 victims had one substantiated reportable conduct incident (67 per cent) since the start of the Scheme. Just under one-fifth (19 per cent) had two substantiated incidents and nine per cent had between three and four substantiated incidents. The remaining four per cent had five or more substantiated incidents.

<sup>119</sup> No. refers to total number of substantiated reportable conduct incidents. Substantiation rate is the percentage of all findings in the sector that were substantiated by the organisations conducting investigations.

<sup>120</sup> 'Unique victim' refers to an individual child or young person who has been the victim of a substantiated allegation of reportable conduct at least once during the Scheme. Where a child or young person has been the victim of multiple incidents of reportable conduct over multiple years, they are counted once.

<sup>121</sup> A small proportion (less than one per cent) of victims had a recorded gender of 'other' and may identify as non-binary or gender diverse.

Of the substantiated incidents where the victim was known, the largest proportion of victims were aged between 10 and 14 years at the time of the reportable conduct (28 per cent), followed by those aged 15 to 17 years (25 per cent).<sup>122</sup>

### **Persons found to have engaged in substantiated reportable conduct**

Since the start of the Scheme, 1,427 individuals have been found to have engaged in substantiated reportable conduct.<sup>123</sup>

Of the 1,427 adults found to have engaged in substantiated reportable conduct, over half (53 per cent) were female and 47 per cent were male.<sup>124</sup>

Just under three-quarters (71 per cent) of all individuals who engaged in a substantiated reportable conduct incident since the Scheme started were classified as employees of an organisation. A further 25 per cent were foster or kinship carers and the remaining five per cent were ministers of religion, religious leaders, volunteers or had another type of involvement.

Half of those found to have engaged in substantiated reportable conduct had one substantiated allegation. Ninety-five per cent of individuals found to have engaged in substantiated reportable conduct were the subject of one notification, four per cent were the subject of two notifications and the remaining (less than one per cent) were the subject of three notifications.

Twenty-four per cent had two substantiated allegations, 23 per cent had between three and nine substantiated allegations, and the remaining three per cent had 10 or more substantiated allegations.

Almost half (44 per cent) of those found to have engaged in reportable conduct since the start of the Scheme were aged between 40 and 59 years at the time of the reportable conduct and over one-third (38 per cent) were aged between 20 and 39 years.<sup>125</sup>

### **Historical allegations**

A historical allegation is defined as an allegation of reportable conduct where the conduct occurred prior to the start of the Scheme on 1 July 2017.<sup>126</sup>

The Scheme requires certain allegations of past or historical reportable conduct to be reported to the Commission and investigated by organisations. Some historical matters can proceed through an investigation without undue challenge, while others can be significantly impacted by the passage of time.

Since the commencement of the Scheme, 549 (nine per cent) of all mandatory notifications have involved alleged conduct which is historical. These notifications involved 1,606 allegations. Almost one-third (29 per cent) of these historical allegations relate to alleged conduct that occurred in the three years prior to the start of the Scheme. However, 19 per cent of these historical allegations refer to alleged conduct that occurred prior to 1980.

<sup>122</sup> Where a child or young person has been the victim of multiple substantiated reportable allegations, their reported age is based on the earliest substantiated allegation.

<sup>123</sup> 'Person found to have engaged in substantiated reportable conduct' refers to an individual who has been the subject of at least one substantiated reportable allegation during the Scheme. Where an individual has been found to have multiple substantiated allegations over multiple years, they are counted once.

<sup>124</sup> A small proportion (less than one per cent) of persons found to have engaged in substantiated reportable conduct had a recorded gender of 'other' and may identify as non-binary or gender diverse.

<sup>125</sup> Where an individual has been found to have multiple substantiated allegations, age is calculated based on the earliest substantiated allegation.

<sup>126</sup> For example, religious bodies were brought into the Scheme on 1 January 2018. A historical allegation in relation to a religious body concerns conduct alleged to have occurred before 1 January 2018. These allegations will be covered by the Scheme where the allegation was raised after that date, and the subject of allegation was employed or engaged by an organisation covered by the Scheme after that date. For the purposes of this analysis, allegations have been classified as historical if they relate to conduct prior to the start of the Scheme (1 July 2017). This means there will be an underestimation of historical allegations.

Allegations associated with subjects of allegation engaged by religious bodies make up 37 per cent of all historical notifications and 37 per cent of historical reportable allegations. Since the start of the Scheme, 69 per cent of allegations in relation to religious organisations were historical.

Allegations associated with subjects of allegation engaged by the education sector make up 38 per cent of all historical notifications and 40 per cent of historical reportable allegations. This is slightly higher than the overall proportion of reportable allegations, where those in the education sector make up 36 per cent.

Almost half (41 per cent) of reportable allegations involving conduct before 1980 involved sexual offences. For the period 1980 to 2014, almost a third (31 per cent) of the allegations were for sexual offences and almost a third (30 per cent) were for sexual misconduct.

However, for the three years prior to the Scheme commencing (2015 to 2017), over one-third (37 per cent) of all allegations related to sexual misconduct, while sexual offences accounted for 14 per cent.

### **Historical substantiated allegations**

The Commission has received 549 notifications relating to 1,606 allegations of historical reportable conduct. To date, 338 allegations relating to 111 notifications have been found to be substantiated. This is a substantiation rate of 28 per cent,<sup>127</sup> which is consistent with the overall substantiation rate.

Over one-third (37 per cent) of substantiated historical allegations were in the education sector and a further 32 per cent were for religious bodies. Within the education sector, 69 per cent of substantiated historical allegations

related to sexual misconduct and sexual offences (63 per cent and six per cent respectively). Within religious bodies, 76 per cent of substantiated historical allegations related to sexual misconduct and sexual offences (25 per cent and 51 per cent respectively).

## **Sharing information**

The Scheme enables the sharing of information about allegations, findings and other information to assist organisations to take action to support children's safety. The information-sharing provisions in the CWSA are supplemented by the Family Violence Information Sharing Scheme and the Child Information Sharing Scheme in Victoria.

### **Notifications to Victoria Police**

Organisations and the Commission are required to notify Victoria Police of reportable allegations that may involve conduct that is criminal in nature.

Of the 1,457 notifications of reportable allegations made to the Commission in 2022–23, 59 per cent were reported to Victoria Police by either the organisation or the Commission, due to possible criminal conduct.<sup>128</sup>

For the period 1 July 2022 to 30 June 2023, the Commission referred 365 (25 per cent) notifications that had not previously been reported to police. In addition, the Commission referred 35 matters that involved conduct that may be criminal in nature but that were not within the jurisdiction of the Scheme.<sup>129</sup>

### **Referrals to Working with Children Check Victoria**

One of the important ways the Commission contributes to children's safety is by referring substantiated allegations of

<sup>127</sup> Includes four allegations where the Commission was notified that a subject of allegation was deceased following the completion of the investigation.

<sup>128</sup> This section is based on the Commission's analysis of data provided by Victoria Police and its own data. There is a variance of less than one per cent between the figures reported by Victoria Police and the Commission due to different counting methodologies.

<sup>129</sup> This includes one subject of allegation that passed away during the Commission's assessment of the notification. There were an additional 29 notifications that were referred to Victoria Police as the conduct may be criminal in nature. At the end of the financial year, these 29 notifications were under review by the Commission to determine whether they are within the scope of the Scheme, and, if so, whether a mandatory notification is required to be submitted by an organisation.



reportable conduct to the Secretary of the Department of Government Services (DGS).<sup>130</sup> This enables DGS to assess whether the person should retain a Working with Children Check under the *Worker Screening Act 2020*.

In 2022–23, 389 unique individuals found to have committed substantiated reportable conduct were referred to DGS in relation to 1,130 substantiated allegations of reportable conduct.<sup>131</sup>

Since the start of the Scheme, a total of 1,360 unique individuals found to have committed reportable conduct have been referred to DGS in relation to 3,436 substantiated allegations of reportable conduct.

Current legislative restrictions on information-sharing have, until now, prevented DGS from notifying the Commission of the outcome of Working with Children Check (WWCC) assessments following a substantiated finding of reportable conduct. DGS advises that WWCC forms have been updated to seek consent of the WWCC-holder and that this will enable some outcomes to be shared in future.

In the Commission's 2019 and 2023 reviews of the administration of the *Working with Children Act 2005* and the *Worker Screening Act 2020*, the Commission recommended the Victorian Government amend laws to enable DGS to share information with the Commission on the outcomes of all assessments.

### Referrals to Victorian Institute of Teaching

On becoming aware that a registered teacher is the subject of a reportable allegation, the Commission must notify the Victorian Institute of Teaching (VIT) pursuant to the *Education Training and Reform Act 2006*. The Commission must also refer any findings of substantiated reportable conduct to VIT at the completion of an

investigation. In practice, the Commission referred all findings from completed reportable conduct investigations to VIT in 2022–23.

In 2022–23, the Commission advised VIT of 390 notifications of reportable allegations in relation to registered teachers<sup>132</sup> and shared information about the findings in 305 finalised notifications.

Since the start of the Scheme, the Commission has advised VIT of 1,412 notifications<sup>133</sup> relating to 1,333 unique registered teachers and shared information about 1,037 finalised notifications.

### Public notifications

The Commission can be notified of allegations by any person and that person can choose to remain anonymous and have protection under the CWSA if disclosures are made in good faith.

Public notifications come from a range of sources, including workers in organisations subject to the Scheme about the conduct of workers inside their organisation and other organisations, parents or carers, Victoria Police, other regulators and members of the general public.

In 2022–23, the Commission received 377 disclosures of potential reportable allegations from persons other than the head of an organisation. These related to 276 unique organisations.<sup>134</sup> Mandatory notifications were subsequently submitted by organisations in relation to 41 per cent of public notifications. In some cases, multiple public notifications may be made about the same conduct and will result in one mandatory notification being made.

Some public notifications do not disclose a matter within the jurisdiction of the Scheme. The Commission assessed

<sup>130</sup> The Department of Government Services (DGS) was created on 1 January 2023. The Worker Screening Unit, which administers Working With Children Check Victoria, was transferred to DGS. DJCS jointly administers the Working with Children Check with DGS.

<sup>131</sup> This does not include instances where the Commission has exercised discretion under section 16ZD of the CWSA to not refer a substantiated finding to DGS, or instances where the referral had not been sent as at 30 June 2023.

<sup>132</sup> This refers to notifications of reportable allegations, not individual teachers. Individual teachers could have more than one notification of reportable allegations made against them. Registered teachers do not work solely in schools and may work in sectors including early childhood education and out-of-home care.

<sup>133</sup> Data was extracted on 1 July 2023 from a live database and is subject to change.

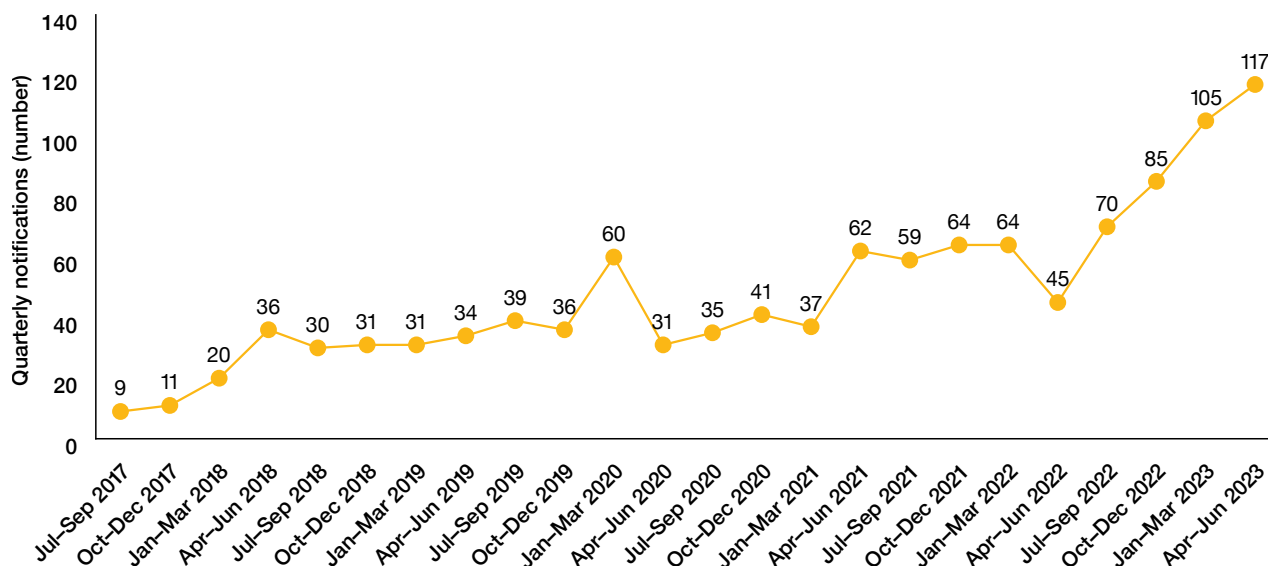
<sup>134</sup> Public notifications are recorded based on the subject of allegation and the organisation they are employed or engaged by.

16 per cent of public notifications in 2022–23 as being outside the jurisdiction of the Scheme.

A further 27 per cent of public notifications were under consideration at 30 June 2023.

Due to the comparatively low numbers, public notifications received by the Commission can vary from quarter to quarter. However, as can be seen in the figure below, the number of public notifications received by the Commission has been rising steadily over the life of the Scheme and there was a 63 per cent increase on the number of notifications received in 2021–22. In 2022–23, the Commission received an average of 94 public notifications per quarter (Figure 10).

**Figure 10. Public notifications 2017–23**



The majority of public notifications in 2022–23 relate to the education sector (44 per cent) and out-of-home care (14 per cent). This is consistent with the Scheme to date (43 per cent and 18 per cent respectively) (Table 27).

**Table 27. Public notifications by sector 2020–21 to 2022–23 and Scheme total<sup>135</sup>**

Sector	2020–21		2021–22		2022–23		Since the start of the Scheme	
	No.	%	No.	%	No.	%	No.	%
Education	74	42	85	37	166	44	498	43
Out-of-home care	40	23	41	18	54	14	195	17
Early childhood education	14	8	31	13	56	15	122	11
Disability	13	7	20	9	19	5	69	6
Religious body	7	4	10	4	13	3	65	6
Child protection	9	5	16	7	5	1	37	3
Accommodation	4	2	7	3	12	3	26	2
Health	1	<1	5	2	8	2	19	2
Victorian Government departments	0	–	1	<1	1	<1	5	<1
Youth justice	0	–	0	–	2	<1	3	<1
Other	13	7	16	7	40	11	112	10
Unknown	0	–	0	–	1	<1	1	<1
<b>Total</b>	<b>175</b>	<b>100</b>	<b>232</b>	<b>100</b>	<b>377</b>	<b>100</b>	<b>1,152</b>	<b>100</b>

## Own motion investigations and other compliance actions

In limited circumstances the Commission may, on its own motion, investigate an allegation of reportable conduct by a worker or volunteer who is, or was, engaged by an organisation subject to the Scheme (CWSA, sections 16O(1) and 16O(2)). The Commission may also conduct an investigation concerning any inappropriate handling of, or response to, a reportable allegation (CWSA, section 16O(3)).

In 2022–23, the Commission commenced 10 new own motion investigations into reportable allegations and progressed 10 current own motion investigations into reportable allegations started in previous years.

As at 30 June 2023, there were 20 own motion investigations into reportable allegations open (Table 28),<sup>136</sup> and no open investigations into the inappropriate handling of, or response to, an investigation into a reportable allegation by an organisation (Tables 29 and 30).

Own motion investigations open as at 30 June 2023 relate to organisations in the accommodation, disability, early childhood education, education, out-of-home care and religious sectors.

<sup>135</sup> In some cases, data from previous financial years expressed in this report is different from that published in previous Commission annual reports. Variations are due to the fact that Scheme data is live and includes open matters, causing some movement of data over time.

New information can come to light as a matter progresses that alters previous classifications.

<sup>136</sup> The 20 open investigations are all undertaken pursuant to sections 16O(1) or 16O(2) of the CWSA.

## Reportable Conduct Scheme

*continued*

The Commission has completed four own motion investigations into reportable allegations since the start of the Scheme.<sup>137</sup>

In addition, in 2022–23, the Commission has completed one own motion investigation into the inappropriate handling of, or response to, an investigation into a reportable allegation by an organisation. This investigation reinforced the importance of organisations having robust systems in place and appropriate training for employees to support organisations to identify allegations that are reportable and to investigate them in accordance with the requirements of the Scheme.

**Table 28. Reportable Conduct Scheme compliance actions 2022–23**

Action type	No.
Section 16K – recommendation for action regarding reportable conduct systems	Nil
Section 16O – own motion investigation concerning a reportable allegation	20 <sup>138</sup>
Section 16ZG – notice to produce	Nil

**Table 29. Reportable Conduct Scheme enforcement actions 2022–23**

Action type	No.
Section 16ZF – prosecution for providing false or misleading information	Nil
Section 16ZH – application for civil penalty – failure to comply with a notice to produce	Nil

**Table 30. Reportable Conduct Scheme decisions reviewed 2022–23**

Action type	No.
Section 16ZI – internal review	Nil
Section 16ZJ – review by VCAT	Nil

<sup>137</sup> Three investigations were pursuant to section 16O(1) of the CWSA and one investigation was pursuant to section 16O(2) of the CWSA.

<sup>138</sup> This captures own motion investigations that were active during 2022–23.

# Child Safe Standards



# Child Safe Standards

## Overview

- In 2022–23 the Commission initiated compliance action in relation to 54 organisations for potential non-compliance with the Child Safe Standards (the Standards). In the same time frame, we also completed compliance activity with 64 organisations.<sup>139</sup>
- In addition to the above activity, in 2022–23 the Commission shared information about a further 60 organisations with co-regulators to support their oversight and compliance action.<sup>140</sup>
- The Commission continued to have a significant focus this year on supporting organisations to transition to the new Standards, which commenced on 1 July 2022.
- The Commission and Standards co-regulators completed a significant amount of activity in 2022–23 to raise awareness about changes to the Standards, provide support to organisations and implement changes resulting from the commencement of the *Child Wellbeing and Safety (Child Safe Standards Compliance and Enforcement) Amendment Act 2021*.

## Action by the Commission about non-compliance

The Standards are mandatory requirements that must be implemented by certain organisations that provide services or facilities for children, or that engage children. They promote children's safety by requiring organisations to take certain steps to prevent, respond to and report allegations of child abuse and to maintain a culture and environment that supports children's safety and wellbeing.

Throughout 2022–23, the Commission continued to focus on encouraging and supporting organisations to implement the new 11 Standards that commenced on 1 July 2022.

The Commission is made aware of potential non-compliance with the Standards in a range of ways, including by members of the public contacting the Commission and through information gathered under the Reportable Conduct Scheme.

We assess concerns about non-compliance, taking into account the seriousness of the concern, the risk profile of the organisation and the strategic significance of engaging the organisation in compliance action.

From 1 January 2023, the Commission started to assess compliance with the Standards with the expectation that organisations should be well progressed in their implementation of the new Standards. New compliance and enforcement tools took effect at the same time, meaning our assessments since January 2023 have involved the use of powers to request and share information and recommend action to address gaps in compliance. We expect increasing use of more significant powers and enforcement tools in future years.

Compliance action was commenced by the Commission in respect of 54 organisations in 2022–23 (Table 31).

<sup>139</sup> This includes the conclusion of compliance cases commenced in prior years.

<sup>140</sup> This is in addition to information shared with co-regulators where action is initiated by the Commission on concerns of non-compliance with the Standards.

**Table 31. Organisations where the Commission started action about potential non-compliance with the Standards by sector 2022–23**

Sector <sup>141</sup>	No.
Sporting and recreation <sup>142</sup>	29
Disability	5
Religious organisations	4
Youth organisations	3
Counselling	2
Government <sup>143</sup>	2
Charity and not-for-profits	2
Other <sup>144</sup>	7
<b>Total</b>	<b>54</b>

Since the Commission started administering the Standards on 1 January 2017, it has commenced action about concerns of non-compliance with the Standards in respect of 304 organisations.

On 1 January 2023, the Commission ceased to be responsible for regulating all organisations required to comply with the Standards. Therefore, throughout 2022–23, there was some focus on concluding compliance cases where the Commission ceased to be the responsible regulator.

Compliance action was concluded by the Commission in respect of 64 organisations in 2022–23. As at 30 June 2023, there were 68 open matters where the Commission

had commenced but not concluded compliance action (Table 32).

**Table 32. Organisations by sector where the Commission has open action as at 30 June 2023 regarding concerns of non-compliance with the Standards<sup>145</sup>**

Sector <sup>146</sup>	No.
Sporting and recreation <sup>147</sup>	35
Religious organisations	9
Government and statutory authorities <sup>148</sup>	6
Youth organisations	3
Education	2
Tutoring services	2
Counselling	2
Entertainment	2
Other <sup>149</sup>	7
<b>Total</b>	<b>68</b>

Common themes identified by the Commission in 2022–23 when addressing concerns about potential non-compliance include:<sup>150</sup>

- some organisations that were yet to implement the Standards at all, and others that had previously implemented the Standards and were yet to take sufficient steps to update to the new Standards
- poor screening and recruitment procedures, particularly when engaging volunteers

<sup>141</sup> Organisations have been grouped into sectors, or included in the ‘Other’ category, to assist with de-identification, given low numbers for some organisation types.

<sup>142</sup> Includes sporting clubs, sporting peak bodies and other recreational clubs and associations.

<sup>143</sup> Includes local government and emergency services.

<sup>144</sup> Includes organisations like cultural organisations, babysitting services, transport services, education and overnight camps.

<sup>145</sup> Transitional provisions in the *Child Wellbeing and Safety (Child Safe Standards Compliance and Enforcement) Amendment Act 2021* enabled to Commission to continue compliance actions open prior to 1 January 2023 after this date, even where the Commission had ceased to be the responsible regulator.

<sup>146</sup> Organisations have been grouped into sectors, or included in the ‘other’ category, to assist with de-identification, given low numbers for some organisation types.

<sup>147</sup> Includes sporting clubs, sporting peak bodies and other recreational clubs and associations.

<sup>148</sup> Includes Victorian Government departments, local councils and authorities established under legislation.

<sup>149</sup> Includes babysitting, camps, disability, out-of-home care and special interest groups.

<sup>150</sup> These themes have been compiled from the Commission’s full range of interactions with organisations concerning non-compliance with the Standards, not just from compliance assessments.

- lack of accessible information for children and families about complaints processes
- failure to meet the needs of children and families in the organisation experiencing family violence
- lack of understanding about cultural safety and its importance to safety in organisations for Aboriginal children or children from culturally and linguistically diverse backgrounds
- a view in some organisations that they should not have to take active steps to create an environment that is safe for Aboriginal children and their families if they were not aware of Aboriginal children attending the organisation
- organisations that struggle to maintain child safety systems when key staff and leaders leave the organisation, due to a lack of child safety policies or procedures
- leaders in organisations who fail to model appropriate conduct with children or prioritise child safety
- organisations not having adequate procedures to manage child abuse risks in services delivered via third-party contract arrangements.

The Commission has seen some organisations take significant steps in their implementation of the Standards in 2022–23, such as:

- conducting comprehensive assessments of the risks of child abuse in their organisation and creating child abuse risk management plans
- developing, distributing and displaying accessible information about child safety for children in the organisation
- clearly articulating the child safety requirements for relevant roles in the organisation and delivering training on child safety for staff and volunteers.

The Commission conducted detailed assessments of compliance with the Standards in respect of ten organisations in 2022–23 (Table 33).<sup>151</sup>

**Table 33. Standards assessed by the Commission and outcomes 2022–23**<sup>152</sup>

Standard	Number of times Standard assessed	Non-compliance identified	No non-compliance identified
1	2	2	0
2	7	6	1
3	3	3	0
4	3	3	0
5	3	3	0
6	6	6	0
7	5	5	0
8	6	6	0
9	5	5	0
10	3	2	1
11	3	2	1

The Commission continues to use a broad range of strategies to address concerns of non-compliance in organisations, including:

- presenting at meetings or in webinars on compliance concerns to sectors or to key personnel in an organisation of concern
- meeting with senior leaders or key personnel in organisations to support them to understand and address compliance failures identified by the Commission
- issuing reminders to comply
- conducting focused compliance assessments that examine implementation of Standards relevant to the

<sup>151</sup> One organisation was assessed twice for different aspects of their activities.

<sup>152</sup> Each Standard has more than one minimum requirement. Reference to a Standard in this table relates to where at least one minimum requirement for that Standard was assessed and recorded as non-compliant, noting not all minimum requirements for that Standard may have been assessed.



identified child safety issues within an organisation and providing guidance on improvements needed

- assessing an organisation's policies and systems for reporting and responding to allegations of abuse or inappropriate conduct where information from oversight activities under the Scheme indicates potential lapses in reporting obligations or inappropriate responses
- identifying patterns of non-compliance in specific sectors, engaging with key organisations within the sector to discuss identified issues and planning the distribution of resources and guidance to organisations to target concerns
- requesting information and documents in preparation for onsite inspections
- monitoring and re-assessing the action taken by organisations to identify if action has addressed non-compliance concerns
- co-ordinating compliance action on individual matters with co-regulators and other authorities, such as Victoria Police.

The Commission has continued to work with a number of sector peak bodies and government departments both at State and Commonwealth levels to coordinate action to support organisations to comply with the Standards.

### Co-regulation by the Commission

Up to 1 January 2023, the Commission shared responsibility for supporting compliance with the Standards with Victorian Government departments,<sup>153</sup> Wage Inspectorate Victoria and the Victorian Registration and Qualifications Authority. These co-regulators, or 'relevant authorities', had a role in promoting compliance with the Standards in organisations they fund or regulate.

Both the Commission and relevant authorities had the ability to respond to concerns of non-compliance with the Standards by an organisation. Where a relevant authority was identified, the Commission was required to consult with the relevant authority about action to address

non-compliance. Sometimes the Commission would refer potential non-compliance to the relevant authority for action.

Between 1 July 2022 and 31 December 2022, the Commission initiated compliance action in respect of six organisations that also had relevant authorities.

Changes to the CWSA commencing 1 January 2023 changed the co-regulatory model and introduced sector regulators and integrated sector regulators in place of relevant authorities. This smaller group of co-regulators includes the Commission, the Department of Health, Wage Inspectorate Victoria, the Department of Education (Quality Assessment and Regulation Division), the Victorian Registration and Qualifications Authority and DFFH.

Sectors subject to the Standards have been allocated to a single regulator. Some organisations that deliver multiple types of services to children, or that have a particular structure (such as a registered charity), may still have more than one regulator.

Between 1 January 2023 to 30 June 2023, the Commission initiated compliance action for three matters where other Standards co-regulators were also identified.

In 2022–23, the Commission shared information about 60 matters of potential non-compliance with co-regulators (Table 34).<sup>154</sup>

<sup>153</sup> Where the relevant department funded or regulated an organisation subject to the Standards.

<sup>154</sup> This refers to information shared about 60 individual matters (some relating to the same organisation) where the Commission was itself not taking compliance action and does not include where information is shared multiple times over the course of an individual matter (this is counted once only).

**Table 34. Information shared by the Commission relevant to Standards compliance in organisations with Standards co-regulators 2022–23**<sup>155 156</sup>

Standards regulator	Number of times the Commission shared information with Standards co-regulator
Victorian Registration and Qualifications Authority	40
Department of Education <sup>157</sup>	11
Department of Families, Fairness and Housing	7
Department of Health	2
<b>Total</b>	<b>60</b>

## Action by sector regulators and integrated sector regulators<sup>158</sup>

This section describes the activities engaged in by sector regulators (other than the Commission) and integrated sector regulators<sup>159</sup> to provide education, information and advice on the Standards and to monitor and enforce compliance in 2022–23. Each co-regulator takes a different approach to their role as a regulator consistent with the co-regulatory model established under the CWSA.

### Department of Families, Fairness and Housing

DFFH has continued to guide and support organisations it regulates regarding the Standards throughout 2022–23. Through its e-news bulletin, newsletters, social media and engagement with organisations, the requirements of the Standards and upcoming changes were promoted.

Actions included:

- providing printed multilingual Standards colouring sheets, fact sheets and Standards posters as requested

- publishing regular e-bulletins to organisations regarding the Standards, with focused spotlights on individual Standards
- promoting DFFH as a sector regulator and publishing updated Standards documents, guidance, and tools on the department’s website (including an information sheet, implementation and compliance guide, self-assessment tool, action planning tool, evidence mapping tool and the compliance and enforcement policy for the Standards)
- promoting the Standards with a coordinated campaign of social media and department newsletters
- maintaining a dedicated enquiry line and email inbox for organisations seeking information and advice about the Standards and distributing information on the Standards to a range of organisations that provide services or facilities to children and young people
- distributing a survey to DFFH’s mailing list to understand levels of awareness of the Standards and the usefulness of available resources to inform future initiatives
- developing profiles for each sector within DFFH’s responsibility as a sector regulator from January 2023.

<sup>155</sup> This year the Commission has changed the information presented about information shared with co-regulators. Between 1 July 2022 and the 31 December 2022, the Commission did not issue any requests for information under the Act to relevant authorities; however, information was shared for relevant authorities to act on if they chose to do so.

<sup>156</sup> In previous years the Commission has reported on referrals made by the Commission to co-regulators and subsequent action taken. With changes to the co-regulatory framework, this is no longer being reported.

<sup>157</sup> This includes information shared with the Quality Assessment and Regulation Division.

<sup>158</sup> This section covers activities of the Department of Health, Wage Inspectorate Victoria, the Department of Education (QARD), VRQA and DFFH as relevant authorities between 1 July 2022 and 31 December 2022, and then as sector regulators and integrated sector regulators between 1 January 2023 and 30 June 2023.

<sup>159</sup> Sector regulators and integrated sector regulators are the Department of Health, Wage Inspectorate Victoria, the Department of Education (QARD), VRQA and DFFH.

DFFH has also conducted the following promotion activities:

- an online seminar to out-of-home care providers to remind them of screening requirements and to answer frequently asked questions
- a combined presentation with the Department of Health to the Victorian Aboriginal Community Controlled Health Organisation and its members
- responded to multiple requests from organisations for meetings and guidance on the implementation and compliance with the Standards
- delivered a social media campaign advising of regulatory changes, intent of the Standards and broad reminder of entity obligations.

DFFH (as a relevant authority) took action with six out-of-home care providers to address concerns of potential non-compliance with the Standards between 1 July and 31 December 2022.

DFFH has also undertaken various compliance related activities (as a sector regulator) since 1 January 2023 including:

- writing directly to the heads of all funded entities advising them that DFFH is a sector regulator, outlining DFFH's regulatory approach and providing links to supporting resources
- reviewing and assessing intelligence referred to DFFH or identified internally for 29 matters, which resulted in varied regulatory responses, including ongoing monitoring and compliance advice
- conducting three compliance activities due to non-conformance with the Human Services Standards by in scope entities (as relates to Child Safe Standards).

DFFH conducted compliance assessments with three organisations between 1 January and 30 June 2023 to assess selected Standards (Table 35).

**Table 35. Standards assessments by DFFH as a sector regulator 1 January 2023–30 June 2023**

Sector	Number of services <sup>160</sup>
Disability services <sup>161</sup>	3
State-funded family violence or sexual assault service providers <sup>162</sup>	1
State-funded providers of housing services or other assistance to homeless persons <sup>163</sup>	1
State-funded child protection services <sup>164</sup>	1
Out-of-home care services <sup>165</sup>	3
<b>Total</b>	<b>9</b>

**Table 36. Standards assessed by DFFH and outcomes 1 January 2023–30 June 2023**

Standard <sup>166</sup>	Number of times Standard assessed	Non-compliance identified	No non-compliance identified
2	3	2	1
6	1	1	0
7	1	0	1
8	2	2	0

<sup>160</sup> This relates to three organisations. Some organisations provide multiple services.

<sup>161</sup> Includes disability service providers within the meaning of the *Disability Act 2006*, and applicable entities, other than a disability service provider within the meaning of the *Disability Act 2006*, that provides disability services.

<sup>162</sup> Includes applicable entities that receive funding under a state contract to provide services in relation to family violence or sexual assault.

<sup>163</sup> Includes applicable entities that receive funding under a state contract to provide housing services or other assistance to homeless persons.

<sup>164</sup> Includes applicable entities that receive funding under a state contract to provide child protection services.

<sup>165</sup> Includes out-of-home care services within the meaning of the *Children, Youth and Families Act 2005*.

<sup>166</sup> Where a standard is not listed in the table, this means no assessments of this Standard were conducted.

### Department of Health

The Department of Health completed activities to support compliance, educate and build capacity of organisations they regulate for the Standards, including:

- sending an electronic letter to 492 organisations informing them of regulatory changes for the Standards and information relating to compliance
- sending a number of email updates to staff from organisations subject to the Standards promoting the Standards, promoting resources to assist with implementation and compliance with the Standards and regulatory changes, providing information on how to access resources and including a focus on Standards 3 and 4
- generating 2,795 visits to the Department of Health's Standards webpage<sup>167</sup>
- publishing several new resources on the Department of Health's dedicated Standards webpage including an information sheet, implementation and compliance guide, self-assessment tool, action planning tool, evidence mapping tool and the compliance and enforcement policy for the Standards, with 4,710 visits to the webpage to access information and resources and a total of 1,917 downloads of resources
- engaging approximately 86 organisations in education and capacity-building activities
- promoting the Standards to approximately 500 people as an online exhibitor at the Municipal Association of Victoria's Maternal and Child Health Conference held on 3 March 2023
- delivering a combined presentation with DFFH, to the Victorian Aboriginal Community Controlled Health Organisation and its members
- delivering a combined presentation with the Commission in April 2023 to the Australian Primary Health Care Nurses Association via their monthly webinar
- delivering presentations and attending forums with relevant peak bodies for regulated sectors and entities

including Municipal Association Victoria, Victorian Healthcare Association, Victorian Aboriginal Community Controlled Health Organisation, Victorian Alcohol and Drugs Association Inc., Day Hospitals Victoria, Australian Private Hospitals Association and Mental Health Victoria

- responded to multiple requests from organisations for meetings and discussion on the implementation and compliance of the Standards
- the department is planning for the first meeting of its Community of Practice to occur in August 2023 (an expression of interest has been received from 23 organisations).

The Department of Health continues to consider other health reforms alongside the continued recovery and impact of health entities responding to COVID-19 in its education and capacity-building activities. The department seeks input from relevant internal program areas to assist in the planning of activities.

In partnership with the Commission, the Department of Health is working to re-establish the Standards Regulators Community of Practice, with the first meeting scheduled for July 2023.

The Department of Health commenced action with 24 organisations between 1 January and 30 June 2023 making a request for information for organisations to conduct a self-assessment against the Standards (Table 37). Organisations were selected as a cross-section of the 10 sectors that the department regulates for the Standards.<sup>168</sup> At the time of reporting, these assessments were still underway.<sup>169</sup>

<sup>167</sup> Department of Health, 'Child Safe Standards', <https://www.health.vic.gov.au/childsafestandards>.

<sup>168</sup> For some sectors, multiple organisations were selected to represent different sizes and locations of the organisations.

<sup>169</sup> One organisation was determined to be out of scope of the Standards.

**Table 37. Organisations where DH started action about potential non-compliance with the Standards by sector 1 January 2023–30 June 2023<sup>170</sup>**

Sector	Number of services <sup>171</sup>
Public hospital <sup>172</sup>	1
Private hospital <sup>173</sup>	5
Denominational hospital <sup>174</sup>	1
Day procedure centre <sup>175</sup>	2
Multipurpose service <sup>176</sup>	2
Public health service <sup>177</sup>	3
Community health centre <sup>178</sup>	1
Maternal and child health centre	7
Mental health service provider <sup>179</sup>	8
State-funded drug or alcohol treatment service <sup>180</sup>	5
<b>Total</b>	<b>35</b>

## Department of Education<sup>181</sup>

### Quality Assessment and Regulation Division

The Department of Education's Quality Assessment and Regulation Division (QARD) regulates early childhood education services for the Standards. QARD undertook the following activities to provide information, educate and promote compliance with the Standards in 2022–23:

- publishing articles about the Standards and reminders about the changes to the Standards in the sector newsletter
- delivering 57,073 *Protecting children: Mandatory reporting* eLearning courses to staff in early childhood education services
- providing two sector information sessions, five information sessions for QARD staff and covering the Standards at the QARD staff forum
- publishing internal weekly QARD staff newsletters containing a weekly article on the changes to the Standards
- conducting 'check in' sessions with authorised officers about the Standards
- delivering training on the Standards for authorised officers.

QARD assesses compliance with the Standards as part of its broader regulatory visits to services, as well as through investigations and assessments.

QARD took action with three organisations to address concerns of potential non-compliance with the Standards between 1 July and 31 December 2022.

<sup>170</sup> The number of cases commenced includes data for organisations that offer more than one service that is in scope for the Child Safe Standards. A total of 24 organisations were sent a request for information covering 35 different services.

<sup>171</sup> This relates to 24 organisations. Some organisations provide multiple services.

<sup>172</sup> Includes hospitals listed in Schedule 1 to the *Health Services Act 1988* as a public hospital.

<sup>173</sup> Includes an applicable entity that operates a private hospital within the meaning of the *Health Services Act 1988*.

<sup>174</sup> Includes hospitals listed in Schedule 2 to the *Health Services Act 1988* as a denominational hospital.

<sup>175</sup> Includes an applicable entity that operates a day procedure centre within the meaning of the *Health Services Act 1988*.

<sup>176</sup> Includes multipurpose services within the meaning of the *Health Services Act 1988*.

<sup>177</sup> Includes public health services within the meaning of the *Health Services Act 1988*.

<sup>178</sup> Includes registered community health centres within the meaning of the *Health Services Act 1988*.

<sup>179</sup> Includes mental health service providers within the meaning of the *Mental Health Act 2014*.

<sup>180</sup> Includes applicable entities that receive funding under a Victorian Government contract to provide drug or alcohol treatment services.

<sup>181</sup> The Department of Education and Training was the relevant authority for early childhood education and care from 1 July to 31 December 2023. Following a machinery of government process on 1 January 2023, it became the Department of Education.

From 1 January 2023, QARD became an integrated sector regulator with improved powers to regulate the Standards. Between 1 January and 30 June 2023, QARD considered the Standards and identified non-compliance during 1,976 visits to 1,744 early childhood education services in Victoria.<sup>182</sup> There were 29 non-compliances recorded against the Standards during these visits.

**Table 38. Number of non-compliances with the Standards assessed by QARD 1 January 2023–30 June 2023**<sup>183</sup>

Standard	Number of times non-compliance with Standard identified
1	2
2	7
3	0
4	0
5	0
6	4
7	1
8	2
9	2
10	0
11	15

### Victorian Registration and Qualifications Authority

The Victorian Registration and Qualifications Authority (VRQA) is the Standards regulator for registered schools and school boarding premises, school-sector student exchange programs and organisations that conduct school-sector courses to students from overseas, senior secondary and foundation secondary courses or

qualifications and registered training organisations at post-secondary institutions or providers.<sup>184</sup>

Registered schools and school boarding premises are required to comply with Ministerial Order 1359 concerning the management of the risk of child abuse.<sup>185</sup> The VRQA has appointed two review bodies with responsibility for regularly reviewing their schools' compliance with the Standards. These are the Department of Education in respect of government schools and the Catholic Education Commission of Victoria in respect of non-government Catholic schools.<sup>186</sup>

During 2022–23, the VRQA's guidance and stakeholder engagement focused on assisting organisations to transition to the new Standards and Ministerial Order 1359.

The VRQA developed new Standards webpages in conjunction with the Department of Education.<sup>187</sup> They were developed and respond to improvement opportunities identified in the June 2019 Victorian Auditor-General's Office report into school compliance with the previous Victorian Standards. In the first half of 2023 the Standards webpages had the highest user satisfaction ratings across all vic.gov.au webpages, with 96.2 per cent of users finding the website 'helpful'.<sup>188</sup>

In July and September 2022, the VRQA held information sessions for schools, staff, contracted school reviewers and review body staff. Information sessions were also held for registered training organisations. In addition, VRQA's 2022 Annual Client and Stakeholder Research measured use and usefulness of new Standards resources across all VRQA-regulated education providers. This information will be used to support enhancements to the VRQA's

<sup>182</sup> Not all Standards are assessed during each visit or other compliance activity.

<sup>183</sup> Each Standard has more than one minimum requirement. Reference to a Standard in this table relates to where at least one minimum requirement for that Standard was assessed and recorded as non-compliant, noting not all minimum requirements for that Standard may have been assessed.

<sup>184</sup> See items 1, 3, 4, 5, 6, 7 and 8 of schedule 1, CWSA. These provisions commenced 1 January 2023.

<sup>185</sup> This is in addition to being required to comply with the gazetted Standards as per section 19 of the CWSA.

<sup>186</sup> Appointed under section 4.3.2 of the *Education and Training Reform Act 2006*. See VRQA, 'School reviews', <https://www.vrqa.vic.gov.au/schools/Pages/school-reviews.aspx>.

<sup>187</sup> Victorian Government, 'Schools and school boarding premises', <https://www.vic.gov.au/child-safe-standards-schools-and-school-boarding-premises>.

<sup>188</sup> Advice provided by Digital Government Services to the VRQA.

Standards webpages and guidance for schools and other education providers.

The VRQA has commenced development of an assessor guide to the minimum standards for school registration including Ministerial Order 1359. This seeks to drive consistency of assessment within and across registered school sectors by providing a comprehensive guide on what compliance looks like and evidence required to demonstrate compliance. It will also be published on the VRQA's website.

The VRQA has a Community of Practice together with its appointed review bodies for registered schools. Community of Practice meetings have included a focus on assessment against Ministerial Order 1359 helping to drive consistency of assessment and understanding across the three registered school sectors.

Guidance on the Standards and promoting the importance of creating a child safe culture was also provided by the VRQA through business-as-usual stakeholder engagement, including school review and school registration information sessions, Ministerial Order 1359 training for school staff and reviewers, auditor information sessions for registered training organisations, international education events, TAFE Network Leaders meeting and presentations to school principals at events held by Independent Schools Victoria, the Department of Education and Christian Education Network.

In 2022–23 a range of work was completed by the VRQA to monitor the compliance of organisations it regulates for

the Standards.<sup>189</sup> VRQA's assessment of compliance with the Standards occurs through:

- registration activity for schools and school boarding premises, including re-approval of Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) providers
- school and school boarding premises reviews<sup>190</sup> and investigations
- approval and re-approval activity for student exchange organisations, non-school senior secondary and foundation secondary providers and registered training organisations
- complaint investigations in relation to the Standards.<sup>191</sup>

The VRQA, Department of Education and Catholic Education Commission of Victoria conducted 611 compliance assessments and enforcement activities in relation to registered schools and their boarding premises in 2022–23.<sup>192</sup> Following rectification, the VRQA reported that all 611 organisations were compliant with the Standards or relevant Ministerial Order (Table 39).

In 2022–23, approximately 25 per cent of government schools,<sup>193</sup> 24 per cent of non-government independent schools<sup>194</sup> and 20 per cent of non-government Catholic schools<sup>195</sup> were assessed for compliance with the Standards.

The VRQA has advised that, as the 2022–23 financial year was a transitional year, with assessments conducted against both Ministerial Order 870 and Ministerial Order 1359 for school and school boarding premises and a move to a more comprehensive reporting framework,

<sup>189</sup> Compliance data provided by the VRQA includes information provided by appointed review bodies: the Department of Education and the Catholic Education Commission of Victoria Ltd.

<sup>190</sup> Some reviews are conducted by appointed school reviewers: the Department of Education and the Catholic Education Commission of Victoria Ltd.

<sup>191</sup> These may include investigations as a result of information shared by the Commission.

<sup>192</sup> The VRQA, the Department of Education and Catholic Education Commission of Victoria Ltd conduct cyclical and out-of-cycle reviews of registered schools against the minimum standards for registration of schools, including Ministerial Order 1359. Ministerial Order 1359 was introduced in July 2022 to reflect the changes to the Standards and replaced Ministerial Order 870. School reviews commenced prior to 1 July 2022 assessed schools' compliance with Ministerial Order 870, so data at the standard level has not been reported in relation to these reviews.

<sup>193</sup> Assessments of government schools were conducted by the Department of Education.

<sup>194</sup> Assessments of non-government independent schools were conducted by the VRQA.

<sup>195</sup> Assessments of non-government Catholic schools were conducted by the Catholic Education Commission of Victoria Ltd.

compliance data has been aggregated for the new Standards. In 2023–24, the Commission will publish more detailed data on non-compliance detected in assessments for the Standards conducted by the VRQA, the Department of Education and CECV for Government schools, non-Government Catholic Schools and non-Government independent schools.

**Table 39. Standards assessed for registered schools, school boarding premises and CRICOS providers and outcomes 2022–23<sup>196</sup>**

Standard	Number of assessments	Non-compliance identified	Assessed as compliant following rectification
1	401	138	401
2	402	215	402
3	402	192	402
4	402	177	402
5	401	132	401
6	402	214	402
7	402	99	402
8	402	167	402
9	401	138	401
10	401	21 <sup>197</sup>	401
11	126 <sup>198</sup>	21	126

VRQA assessed one registered training organisation in 2022–23 and recorded no non-compliances with the Standards. VRQA assessed two student exchange

organisations in 2022–23. One of these organisations was assessed as compliant with all 11 Standards. The other organisation was assessed as not compliant with any of the Standards but was assessed as compliant following rectification.

### Wage Inspectorate Victoria

Wage Inspectorate Victoria (the Wage Inspectorate) created a new Standards webpage and made several posts to Facebook, LinkedIn and Twitter informing the public of the Standards and the Wage Inspectorate's role as a regulator. Articles educating employers on the Wage Inspectorate's role enforcing the Standards were published in the August and December 'Working Better' newsletters.

Child employment laws changed on 1 July 2023 from a permit to licensing system. Prior to this change the Wage Inspectorate conducted various education activities which included promotion of the Standards.

- Emails were sent to 43 key stakeholder organisations and 399 employers in February 2023 notifying them of the Standards and Wage Inspectorate's regulatory role.
- The Wage Inspectorate conducted various presentations and meetings promoting the Standards, attended by regulated employers, community and stakeholder groups comprising employer representatives and unions.
- In April 2023, 47 employers were visited in metropolitan Melbourne and provided with education material on the Standards and their obligation to comply. In addition, 46 businesses not yet employing children were notified of their ability to employ children under 15 and their obligations under the *Child Employment Act 2003* and

<sup>196</sup> Assessments in this table under Ministerial Order 1359 were conducted by the VRQA, the Department of Education and Catholic Education Commission of Victoria Ltd. This table consolidates the data for registration activity for schools and school boarding premises, including re-approval of CRICOS providers, school and school boarding premises reviews, school and school boarding premises investigations and assessments following a complaint made to VRQA. This table includes data for Government and non-Government Catholic schools. All reviews of non-Government independent schools and for CRICOS re-approvals by VRQA completed during 2022-23 were commenced prior to 1 July 2022 and therefore involved assessment against Ministerial Order 870 and individual Standard data was not collected and is not reported here.

<sup>197</sup> 221 government schools were given an assessment of N/A because this standard relates to review and improvement, which under Ministerial Order 1359 is required to be undertaken every 2 years or following a significant incident.

<sup>198</sup> Government schools were not specifically and separately assessed against Standard 11 as part of the cyclical review process and for the investigation of complaints, as the requirements of Standard 11 were assessed as part of the assessment against other Standards. Standard 11 was separately assessed through registration activity for government schools and school boarding premises.



the Standards. In June 2023, four employers were visited in Mildura and provided with education material on the Standards and their obligation to comply. In addition, 15 businesses within Mildura not yet employing children were notified of their ability to employ children under 15 and their obligations under the Child Employment Act and the Standards.

In addition to its responsibilities under the CWSA, Wage Inspectorate Victoria is responsible for granting child employment permits under, and monitoring compliance with, the *Child Employment Act*. The permit application process aligns in several areas with the Standards, including requirements for:

- employers to acknowledge their responsibility to comply with the Standards
- employers to seek parental consent before employing a child
- supervisors to hold a valid employee Working with Children Clearance unless they are exempt.

Between April and June 2023, the Wage Inspectorate conducted a compliance review of 14 employers in the entertainment, hospitality and farming industries. This review focused on determining whether employers had appropriate child wellbeing and safety policies. In all instances, based on the Wage Inspectorate's Compliance and Enforcement Policy, the most appropriate regulatory outcome was education.

## Enforcement action by all Standards regulators

The Commission is required to report on enforcement action taken by all Standards co-regulators.<sup>199</sup> Between 1 January 2023, when new enforcement powers commenced, and 30 June 2023, the only enforcement action taken was the issuing by QARD of one notice to comply.

<sup>199</sup> Section 41K(3), CWSA.

<sup>200</sup> Activities of relevant authorities who became sector regulators or integrated sector regulators are reported above.

All Standards co-regulators reported taking an educative approach in 2022–23 to support organisations continuing to transition to the new Standards.

## Action by relevant authorities

The *Child Wellbeing and Safety (Child Safe Standards Compliance and Enforcement) Amendment Act 2021* changed who regulates the Standards and the co-regulatory model. Prior to 1 January 2023, 'relevant authorities', which included Victorian Government departments, had a role in promoting compliance with the Standards for organisations they funded or regulated.

The Commission was advised of a range of activities undertaken by relevant authorities<sup>200</sup> to educate, raise awareness and promote compliance with the Standards between 1 July and 31 December 2022. A key focus was advising organisations about the changes to the Standards and the changes in who regulates the Standards.

### Department of Education

The Department of Education delivered workshops to support schools to understand the new requirements under the Standards and Ministerial Order 1359 and to update their policies and processes to align with the requirements of the new Standards. A total of 10 workshops were held between July and December 2022, with participation from 299 school staff.

The department updated the information and guidance on the Standards on the PROTECT website and the Policy and Advisory Library, which are accessible by all schools, and the School Policy Template Portal, which is available to government schools.

In 2022–23, the department delivered:

- 5,957 *Information Sharing* eLearning modules and webinars
- 42,623 *Protecting children: Mandatory reporting* eLearning courses to staff in government schools

- 67,240 *Protecting children: Mandatory reporting* eLearning courses to staff in non-government schools
- 57,073 *Protecting children: Mandatory reporting* eLearning courses to staff in early childhood education and care services.

The department has also provided training to school leaders on the Standards via a new child safety and minimum standards session delivered through the Victorian Academy of Teaching and Leadership's 'Law and Order' program. This session was first run in March 2023 and repeated in June 2023.

The department's Improving School Governance training package outlines the role and responsibilities of school councils in relation to the Standards. Training is available to all Victorian Government school councillors, and information can be downloaded from the department's Policy and Advisory Library.

The department provides training presentations for school councils on the Victorian Government's website, to help them understand their obligations under the Standards. The department informs school councils of the Standards and their obligations, by reviewing the presentation annually with the principal.

On 4 April 2023, school leaders (including principals, assistant principals, business managers and school council presidents) were reminded via the Schools Update (the department's weekly email to government school leaders) that appropriate training and guidance must be provided to school councils at least annually in relation to the Standards.

Additionally, school procurement training is offered to all teaching staff including the requirements of the Standards.

To ensure ongoing focus and attention on the Standards, the department published articles in its 'School Update' (a weekly email to government school leaders) focusing on different elements of the Standards. The text for these articles was shared with the Catholic Education

Commission Victoria and Independent Schools Victoria for use in their sectors.

The department's School Compliance Unit also shared data and insights on child safety trends, themes and risk areas with regional executive teams at quarterly meetings to support regional staff to promote the Standards to schools, and at the department's Family Violence and Child Safety Project Control Board.

In 2022–23, the department conducted verification of compliance with the Standards for new community language schools as part of their accreditation/re-accreditation process.

#### **Department of Justice and Community Safety**

In 2022–23, DJCS provided information and resources to Victoria Legal Aid to support its understanding of and compliance with the Standards. This included three training sessions for Victoria Legal Aid staff and a session for the Victoria Legal Aid Board.

The department wrote to 118 organisations for which they were a relevant authority advising them of the new Standards and reminding them of their obligations. A subsequent letter was sent to the same organisations providing them with information about new Standards resources made available by the Commission. Information and training sessions were also delivered to community organisations funded through the Youth Engagement Grants program to build their awareness of the Standards.

#### **Department of Transport and Planning<sup>201</sup>**

The Department of Transport and Planning informed each organisation it regulated or funded in 2022–23 about the changes to the Standards and the changes to the regulation of the Standards.

#### **Department of Treasury and Finance**

The Department of Treasury and Finance informed organisations and agencies in their portfolio of changes to regulators of the Standards.

<sup>201</sup> On 1 January 2023, the Department of Transport was changed to the Department of Transport and Planning.

### **Department of Energy, Environment and Climate Action**<sup>202</sup>

The Department of Energy, Environment and Climate Action (DEECA) took action (as a relevant authority) with one organisation to address concerns of potential non-compliance with the Standards between 1 July and 31 December 2022.

To raise awareness with its portfolio organisations, during the reporting period 1 July 2022 to 31 December 2022, DEECA conducted a review of its existing child-safe policies and procedures to align with the new requirements under the Standards. Updated policy documents were released in July 2022 and shared with the department's portfolio organisations.

DEECA awards grants to a wide range of organisations to deliver educational and recreational programs which involve families with children and young volunteers. The Standards are included in the funding arrangements.

In October 2022, the department collaborated with the Youth Affairs Council of Victoria (YACVic) to explore government's role in supporting and empowering young Victorians to volunteer for nature. The findings are summarised in a publicly available report. The department also engaged YACVic to deliver two workshops for environmental volunteer managers on working with young people. The training included best practice on youth engagement and covered the Standards.

### **Department of Jobs, Skills, Industry and Regions**<sup>203</sup>

In 2022–23 the Department of Jobs, Skills, Industry and Regions disseminated two rounds of communications to its funded organisations to spread awareness of the changes to regulation of the Standards and updates to Commission resources in relation to the new Standards. Changes were also discussed with funded organisations as a standing agenda item in the department's quarterly child-safe working group meetings.

<sup>202</sup> On 1 January 2023, the Department of Environment, Land, Water and Planning was changed to the Department of Energy, Environment and Climate Action.

<sup>203</sup> On 1 January 2023, the Department of Jobs, Precincts and Regions was changed to the Department of Jobs, Skills, Industry and Regions.

# Corporate services and financial summary

On 20 July 2016, under section 53 of the *Financial Management Act 1994*, the Minister for Finance approved Commission financial statements to be included in the accounts of the former DHHS (now DFFH) in its annual report.

Table 40 provides a summary of the Commission's expenditure for 2022–23.

**Table 40. Commission expenditure 2020–21 to 2022–23**

Expenditure	2022–23 (\$)	2021–22 (\$)	2020–21 (\$)
Salaries and on costs	11,999,315	11,337,470	10,592,544
Grants and other transfers	–	–	–
Operating expenses	2,952,272	2,121,876	2,109,868
Depreciation	–	–	–
<b>Total expenditure</b>	<b>14,951,587</b>	<b>13,459,346</b>	<b>12,702,412</b>

**Asset Management Accountability Framework  
(AMAF) maturity assessment**

The Commission does not have any assets for the purposes of the AMAF.

# Appendices

# Appendix 1. Disclosure index

Commission for Children and Young People financial statements are now included in the accounts of DFFH and, therefore, disclosures under 'Financial statements required under Part 7 of the *Financial Management Act 1994*', 'Other requirements under Standing Direction 5.2' and 'Other disclosures are required by financial reporting directions (FRD) in notes to the financial statements' are referenced in DFFH's report of operations and disclosure index.

**Table 41. Commission disclosures**

Legislation	Requirement	Page
<i>Standing Directions and Financial Reporting Directions</i>		
<i>Report of operations</i>		
<b>Charter and purpose</b>		
FRD 22	Manner of establishment and the relevant Ministers	9, 14
FRD 22	Purpose, functions, powers and duties	14–15
FRD 22	Key initiatives and projects	16–19
FRD 22	Nature and range of services provided	14
<b>Management and structure</b>		
FRD 22	Organisational structure	144
<b>Financial and other information</b>		
FRD 10	Disclosure index	141
FRD 12	Disclosure of major contracts	153
FRD 15	Executive officer disclosures	143, 150
FRD 22	Employment and conduct principles	145
FRD 22	Occupational health and safety policy	144
FRD 22	Summary of the financial results for the year	139
FRD 22	Significant changes in financial position during the year	N/A
FRD 22	Major changes or factors affecting performance	N/A
FRD 22	Subsequent events	N/A
FRD 22	Application and operation of the <i>Freedom of Information Act 1982</i>	153
FRD 22	Compliance with building and maintenance provisions of <i>Building Act 1993</i>	154
FRD 22	Statement on National Competition Policy	N/A
FRD 22	Application and operation of the <i>Public Interest Disclosures Act 2012</i>	154
FRD 22	Application and operation of the <i>Carers Recognition Act 2012</i>	155
FRD 22	Details of consultancies over \$10,000	151–52
FRD 22	Details of consultancies under \$10,000	152
FRD 22	Disclosure of government advertising expenditure	151
FRD 22	Disclosure of information and communication technology expenditure	152
FRD 22	Statement of availability of other information	154

## Appendix 1. Disclosure index

*continued*

Legislation	Requirement	Page
<i>Standing Directions and Financial Reporting Directions</i>		
FRD 22	Asset Management Accountability Framework maturity assessment	139
FRD 22	Disclosure of emergency procurement	156
FRD 24	Environmental reporting	156
FRD 25	Local Jobs First	151
FRD 29	Workforce data disclosures	146–48
SD 5.2	Specific requirements under Standing Direction 5.2	1–156
<b>Compliance attestation and declaration</b>		
SD 5.4.1	Attestation for compliance with Ministerial Standing Direction	156
SD 5.2.3	Declaration in report of operations	1
<b>Legislation</b>		
<i>Freedom of Information Act 1982</i>		153
<i>Building Act 1993</i>		154
<i>Public Interest Disclosures Act 2012</i>		154
<i>Carers Recognition Act 2012</i>		155
<i>Disability Act 2006</i>		155
<i>Local Jobs First Act 2003</i>		151
<i>Financial Management Act 1994</i>		156



# Appendix 2. Governance and organisational structure

## Commissioners

### Principal Commissioner

Liana Buchanan was appointed Principal Commissioner for Children and Young People in April 2016 and was re-appointed for an additional five-year term in April 2021. The Principal Commissioner has all the functions and powers of the Commission and any other powers or functions conferred on her by the CCYP Act or any other Act.

### Commissioner for Aboriginal Children and Young People

In April 2022, Meena Singh was appointed to the role of Commissioner for Aboriginal Children and Young People for a five-year term. The Commissioner for Aboriginal Children and Young People is responsible for leading the functions of the Commission relating to Aboriginal children and young people.

## Executive officers

### Leanne Barnes

In February 2022, Leanne Barnes commenced as the Chief Executive Officer of the Commission for a five-year term. Ms Barnes provides operational leadership to the Commission and ensures its effective and efficient management.

### Emily Sanders

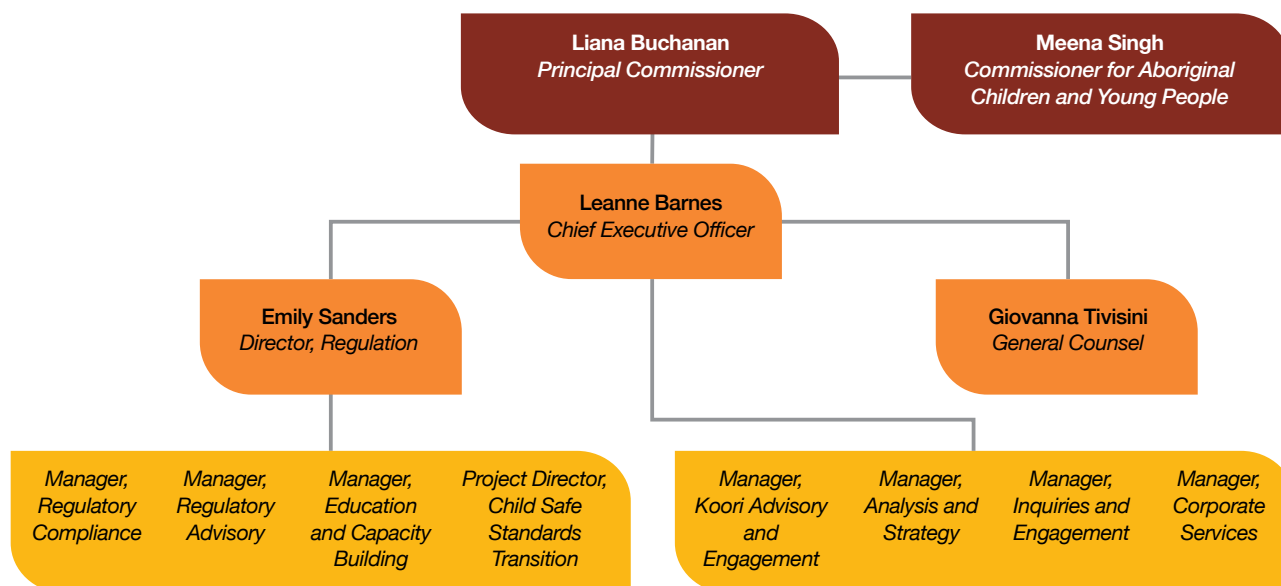
Emily Sanders was appointed Director, Regulation in February 2018 and has been reappointed to the role until February 2026. Ms Sanders is responsible for managing the operational components and regulatory functions of the Reportable Conduct Scheme and Child Safe Standards.

### Giovanna Tivisini

Giovanna Tivisini was appointed to the Executive role of General Counsel in 2019 and is responsible for the delivery of legal and investigation services across the Commission's portfolios.

## Organisational structure as at 30 June 2023

Figure 11. Organisational chart



### Audit and Risk Committee membership and roles

The Audit and Risk Committee consists of the following members:

- Fiona Green, Chairperson
- Tony Nippard, Independent Member
- Mary Polis, Independent Member.

The primary role of the Audit and Risk Committee is to review and advise the executive of the Commission on matters of financial accountability, internal financial and non-financial controls, and risk management.

The Audit and Risk Committee provides oversight and advice to the executive of the Commission in relation to:

- the Commission’s financial performance
- the Commission’s financial reporting processes
- the effective operation of the Commission’s risk management framework

- the charter, scope of work, performance and independence of the Commission’s internal audit function
- recommendations made by the internal auditor and the implementation of actions to resolve issues raised
- matters of accountability and internal control affecting the financial operations of the Commission
- the effectiveness of management information systems and other systems of internal financial and non-financial controls
- the acceptability, disclosure of, and correct accounting treatment for, significant transactions that are not part of the Commission’s normal course of business.

### Occupational health and safety

The Commission is committed to ensuring all staff remain safe and healthy at work in accordance with its obligations under the *Occupational Health and Safety Act 2004* and the *Occupational Health and Safety Regulations 2007*.

In 2022–23, the Commission continued its ongoing internal safety reporting process, ergonomic assessments for staff and a tailored employee wellbeing program. Many of these processes and programs were tailored to support staff working both in the office and at home (hybrid working). All staff were also required to complete mandatory ergonomic self-assessments of their home workstation set-up. Any issues raised in these self-assessments were then addressed with the staff member's manager.

The Commission continued its engagement with Medibank Health Solutions to deliver expert wellbeing support to all staff at the Commission. The employee wellbeing program consists of bi-monthly telephone-based counselling for staff to discuss any issues they may be experiencing, either as a result of the subject matter they deal with at work, other work-related issues or any personal concerns. The frequency of counselling sessions can be increased if required.

Uptake of the employee wellbeing program continued to increase from previous years.

New starters at the Commission receive an occupational health and safety induction program that includes a health and safety related tour of the Commission's office and demonstration of the evacuation process.

New staff are also required to complete a dedicated workplace health and safety e-learning module.

### **Occupational Health and Safety Committee meetings**

The Commission has an Occupational Health and Safety Committee. The committee consists of elected management and staff representatives, the Commission's Health and Safety representatives and Secretariat. The committee is chaired by the Commission's Manager, Corporate Services.

Four occupational health and safety committee meetings were held in 2022–23.

### **Injuries and incident management**

There was one reported injury in 2022–23. This is consistent with 2021–2022, where there was also one reported injury. The injury in 2022–23 was classified as a 'hazard' (rather than an 'incident').

The reported hazard by a staff member related to exposure to a strong odour (enamel-based paint fumes) at the Commission's office due to the recent refurbishment of another floor at 570 Bourke Street. Impacted staff were directed to leave the office and work from home for the remainder of the day.

The low number of reported injuries over the past two years can largely be attributed to the fact that staff are working both in the office and at home rather than just in an office-based environment. However, staff have been reminded regularly that any injuries incurred at home while working for the Commission are reportable injuries.

In 2022–23, no matters resulted in WorkCover claims.

### **Employment and conduct principles**

The Commission is committed to applying merit and equity principles when appointing staff. The Commission's selection processes ensure that applicants are assessed and evaluated fairly and equitably based on the key selection criteria and other accountabilities without discrimination.

Employees have been correctly classified in workforce data collections.

### **Our commitment to child safety**

The Commission is committed to providing a child-safe and child-friendly environment, where children and young people with whom the Commission has contact with are safe, feel safe and are able to participate in decisions that affect their lives.

The Commission's Child Safe Policy and Child Safe Code of Conduct apply to the commissioners, staff, contractors, volunteers and authorised persons engaged by the Commission.

# Appendix 3. Workforce data

## Public sector values and employment principles

The Code of Conduct for Victorian Public Sector Employees of Special Bodies applies within the Commission.

## Comparative workforce data

The Commission employed 80 people as at 30 June 2023, which is an increase of six employees from the same time last year (Tables 42a and 42b). There has also been a total increase of nine VPS 5 and VPS 6 employees since the previous financial year. Fixed-term employees have also increased from 14 as at 30 June 2022 to 23 as at 30 June 2023. The total number of women employed by the Commission increased by eight from 30 June 2022.

**Table 42a. Workforce data as at 30 June 2023**

30 June 2023		All employees		Ongoing			Fixed-term and casual	
		Number (headcount)	FTE	Full-time (headcount)	Part-time (headcount)	FTE	Number (headcount)	FTE
Demographic data	<b>Gender</b>							
	Men	13	13	8	0	8	5	5
	Women	67	62.4	35	14	45.3	18	17.1
	Self-described	nil	nil	nil	nil	nil	nil	nil
	<b>Age</b>							
	15–24	2	1.4	0	0	0	2	1.4
	25–34	13	13	8	0	8	5	5
	35–44	22	20	9	7	14	6	6
	45–54	25	23.9	14	3	16.2	8	7.7
	55–64	13	12.1	7	4	10.1	2	2
65+	5	5	5	0	5	0	0	
Classification data	<b>VPS 1–6 grades</b>	<b>77</b>	<b>72.4</b>	<b>43</b>	<b>14</b>	<b>53.3</b>	<b>20</b>	<b>19.1</b>
	VPS 2	0	0	0	0	0	0	0
	VPS 3	1	0.4	0	0	0	1	0.4
	VPS 4	15	14	8	2	9	5	5
	VPS 5	32	30.6	20	7	25.6	5	5
	VPS 6	29	27.4	15	5	18.7	9	8.7
	<b>Senior employees</b>	<b>3</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>3</b>
	Executives	3	3	0	0	0	3	3
	Other	0	0	0	0	0	0	0
<b>Total employees</b>	<b>80</b>	<b>75.4</b>	<b>43</b>	<b>14</b>	<b>53.3</b>	<b>23</b>	<b>22.1</b>	

## Appendix 3. Workforce data

continued

**Table 42b. Workforce data as at 30 June 2022**

30 June 2022		All employees		Ongoing			Fixed-term and casual	
		Number (headcount)	FTE	Full-time (headcount)	Part-time (headcount)	FTE	Number (headcount)	FTE
Demographic data	<b>Gender</b>							
	Men	13	12.8	11	1	11.8	1	1
	Women	61	57.1	35	13	45.3	13	11.8
	Self-described	nil	nil	nil	nil	nil	nil	nil
	<b>Age</b>							
	15–24	1	0.6	0	0	0	1	0.6
	25–34	14	13.7	11	1	11.9	2	1.8
	35–44	20	18.1	13	7	18.1	0	0
	45–54	23	22	11	3	13.6	9	8.4
	55–64	13	12.7	9	2	10.7	2	2
65+	3	2.8	2	1	2.8	0	0	
Classification data	<b>VPS 1–6 grades</b>	<b>71</b>	<b>66.9</b>	<b>46</b>	<b>14</b>	<b>57.1</b>	<b>11</b>	<b>9.8</b>
	VPS 2	0	0	0	0	0	0	0
	VPS 3	2	1.6	0	2	1.6	0	0
	VPS 4	17	16.1	11	1	11.8	5	4.3
	VPS 5	28	26.8	20	6	24.9	2	1.9
	VPS 6	24	22.4	15	5	18.8	4	3.6
	<b>Senior employees</b>	<b>3</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>3</b>
	Executives	3	3	0	0	0	3	3
	Other	0	0	0	0	0	0	0
<b>Total employees</b>	<b>74</b>	<b>69.9</b>	<b>46</b>	<b>14</b>	<b>57.1</b>	<b>14</b>	<b>12.8</b>	

The figures in Tables 42a and 42b exclude those on leave without pay or absent on secondment, external contractors/consultants, temporary staff employed by employment agencies, and a small number of people who are not employees but are appointees to a statutory office, as defined in the *Public Administration Act 2004*.

All figures reflect employment levels during the last full pay period of each year.

‘Ongoing’ employees means people engaged on an open-ended contract of employment and executives engaged on a standard executive contract who are active in the last full pay period of June.

## Workforce inclusion

Equal opportunity and workforce diversity and inclusion are highly valued at the Commission.

In 2021–22, the Commission undertook a workplace review under the *Gender Equality Act 2020*, and in 2022, the Commission developed and submitted its Gender Equality Action Plan 2022–25.

The Commission's four-year Gender Equality Action Plan included an analysis of available workforce data to identify and address any inequities evident from the data. A number of strategies and actions were then developed to assist and further strengthen the Commission as a workplace that celebrates and promotes employee diversity and inclusion.

During 2022–23, the Commission continued to work on the strategies outlined in its Gender Equality Action Plan and has now completed a number of actions.

The Commission will report progress in relation to specific strategies and actions to the Commission for Gender Equality in the Public Sector in early 2024.

In 2022–23 the Commission also finalised a draft of its first Reconciliation Action Plan. It is anticipated that after a consultation process with Reconciliation Australia, the Commission will release its Reconciliation Action Plan in late 2023.

## Appendix 3. Workforce data

continued

### Executives and other non-executive senior staff

Table 43 discloses the annualised total salary for senior employees of the Commission, categorised by classification. The salary amount is reported as the full-time annualised salary.

**Table 43. Annualised total salary by \$40,000 bands for executives and other senior non-executive staff as at 30 June 2023**

Income band (salary)	Executives	Other
\$200,000 – \$239,999	2	0
\$240,000 – \$279,999	0	1
\$280,000 – \$319,999	1	1
<b>Total</b>	<b>3</b>	<b>2</b>

#### Executive officer data

The number of executive officers employed by the Commission is provided in Table 44, which also provides a reconciliation of executive officers and non-executive senior staff numbers in 2022–23 and 2021–22.

**Table 44. Total number of executive officers (non-commissioners) for the Commission, by gender (as of 30 June 2023)**

Class	Total		Men		Women		Self-described	
	No.	Var.	No.	Var.	No.	Var.	No.	Var.
SES-1	2	0	0	0	2	0	nil	nil
SES-2	1	0	0	0	1	0	nil	nil
<b>Total</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>0</b>	<b>nil</b>	<b>nil</b>

Table 45 below lists the actual number of executives, non-executive senior staff (Commissioner for Aboriginal Children and Young People) and accountable officers (Principal Commissioner) over the reporting period. Separations are those that have left the Commission during the reporting period.

**Table 45. Reconciliation of executive and non-executive senior staff numbers**

	2022–23	2021–22
Executives	3	4
Non-executive senior staff	1	2
Accountable officer	1	1
Separations	0	2
<b>Total executive and non-executive senior staff as at 30 June 2023</b>	<b>5</b>	<b>5</b>



# Appendix 4. Other disclosures

## Local jobs first

The *Local Jobs First Act 2003* introduced in August 2018 brings together the Victorian Industry Participation Policy and Major Project Skills Guarantee policy, which were previously administered separately.

Departments and public sector bodies (which includes special bodies such as the Commission) are required to apply the Local Jobs First policy in all projects valued at \$3 million or more in metropolitan Melbourne, or, for statewide projects, \$1 million or more for projects in regional Victoria.

The Major Project Skills Guarantee applies to all construction projects valued at \$20 million or more.

The Commission did not engage in any applicable tenders or projects during the reporting period.

## Advertising expenditure

In 2022–23 the Commission engaged Omnicom Media Group Australia Pty Ltd to continue the media campaign for the new Child Safe Standards. The total cost of the engagement was \$149,356.

## Consultancy expenditure

### Consultancies \$10,000 or greater

In 2022–23 the Commission engaged sixteen consultancies with individual costs greater than \$10,000. The total value of those consultancies was \$1,019,147 (Table 46).

## Appendix 4. Other disclosures

continued

**Table 46. Consultancies valued at \$10,000 or greater**

Consultant	Purpose of consultancy	Total approved project fee (excl. GST)	Expenditure 2022–23 (excl. GST)	Future expenditure (excl. GST)
Allens Linklaters	Advice	\$250,000	\$169,324	–
Allens Linklaters	Advice	\$40,306	\$40,306	–
Cube Group	Operating model design and development	\$245,075	\$245,075	–
Demetrius Consulting	Advice	\$24,727	\$24,727	–
Dever's List	Advice	\$40,000	\$40,000	–
Ernst & Young	Assessment of the administration of the <i>Worker Screening Act 2020</i>	\$120,000	\$120,000	–
Grange Advisory	Investigation	\$18,315	\$18,315	–
Lauren Hodes	Consultancy services – Systemic inquiry into the educational experiences of children and young people in out-of-home care	\$28,500	\$28,500	–
Minter Ellison	Advice	\$18,049	\$18,049	–
Minter Ellison	Advice	\$11,716	\$11,716	–
Minter Ellison	Advice	\$12,320	\$12,320	–
Minter Ellison	Advice	\$167,244	\$167,244	–
Victorian Government Solicitor's Office	Advice	\$47,892	\$47,892	–
Victorian Government Solicitor's Office	Advice	\$44,634	\$44,634	–
Victorian Government Solicitor's Office	Advice	\$18,604	\$18,604	–
Vision Australia	Website accessibility audit	\$12,441	\$12,441	–
<b>Total</b>		<b>\$1,099,823</b>	<b>\$1,019,147</b>	<b>–</b>

### Consultancies less than \$10,000

In 2022–23, the Commission engaged 15 consultants with individual costs less than \$10,000. The total value of those consultancies was \$96,232.

### Information and communication technology expenditure

For the 2022–23 reporting period, the Commission had a total information and communication technology expenditure of \$228,671 (Table 47).

Non-business-as-usual information and communication technology expenditure was \$60,179. This related to case management system enhancements and website functionality improvements. Business-as-usual expenditure predominantly related to system licences and hosting fees.

**Table 47. Commission ICT expenditure**

Business-as-usual	Non-business as usual	Operational expenditure	Capital expenditure
(Total)	(Total = Operational expenditure and capital expenditure)		
<b>\$168,492</b>	<b>\$60,179</b>	<b>\$60,179</b>	<b>\$0</b>

**Disclosure of major contracts**

The Commission did not enter into any contracts greater than \$10 million in value.

**Freedom of information**

The *Freedom of Information Act 1982* (FOI Act) allows the public a right of access to documents held by the Commission. The purpose of the FOI Act is to extend as far as possible the right of the community to access information held by government departments, local councils, Ministers and other bodies subject to the FOI Act.

An applicant has a right to apply for access to documents held by the Commission. This comprises documents both created by the Commission or supplied to the Commission by an external organisation or individual, and may also include maps, films, microfiche, photographs, computer printouts, computer discs, tape recordings and videotapes. Information about the type of material produced by the Commission is available on the Commission’s website under its Part II Information Statement.

The FOI Act allows the Commission to refuse access, either fully or partially, to certain documents or information. Examples of documents that may not be accessed include cabinet documents; some internal working documents; law enforcement documents; documents covered by legal professional privilege, such as legal advice; personal information about other people; and information provided to the Commission in-confidence and information that is confidential under another Act.

Under the FOI Act, the FOI processing time for requests received is 30 days. However, when external consultation is required under sections 29, 29A, 31, 31A, 33, 34 or 35 of the FOI Act, the processing time is 45 days. Processing time may also be extended by periods of 30 days, in consultation with the applicant. With the applicant’s agreement this may occur any number of times. However, obtaining an applicant’s agreement for an extension cannot occur after the expiry of the timeframe for deciding a request.

If an applicant is not satisfied by a decision made by the Commission, under section 49A of the FOI Act, they have the right to seek a review by the Office of the Victorian Information Commissioner within 28 days of receiving a decision letter.

**Making a freedom of information request**

Freedom of information requests can be made using the options available on the Commission’s website. An application fee of \$30.60 applied in 2022–23. Access charges may also be payable if the document pool is large, and the search for material, time consuming.

Access to documents can also be obtained through a written request to the Commission, as detailed in section 17 of the FOI Act.

When making a freedom of information request, applicants should ensure requests are in writing, and clearly identify the documents sought.

## Appendix 4. Other disclosures

*continued*

Requests for documents in the possession of the Commission should be addressed to:

Chief Executive Officer  
Commission for Children and Young People  
Level 18, 570 Bourke St  
Melbourne Victoria 3000.

Alternatively, email [contact@ccyp.vic.gov.au](mailto:contact@ccyp.vic.gov.au) and attention it to the Commission's Chief Executive Officer.

### Freedom of information statistics

During 2022–23, the Commission received eight applications from members of the public.

Of the eight applications received, seven decisions were made within the statutory 30-day period. One decision was made within 45 days. For all eight applications, access to documents was denied in full.

During 2022–23, two decisions made by the Commission were reviewed by the Office of the Victorian Information Commissioner. One decision made by the Commission was referred to the Victorian Civil and Administrative Tribunal.

### Further information

Further information regarding the operation and scope of freedom of information can be obtained from the FOI Act, regulations made under the Act and <https://ovic.vic.gov.au/>.

## Compliance with the *Building Act 1993*

The Commission does not own or control any government buildings and is exempt from notifying its compliance with the building and maintenance provisions of the *Building Act 1993*.

## Compliance with the *Public Interest Disclosures Act 2012*

The *Public Interest Disclosures Act 2012* encourages and assists people in making disclosures of improper conduct by public officers and public bodies. The *Public Interest Disclosures Act* provides protection to people who make disclosures in accordance with the *Public Interest Disclosures Act* and establishes a system for the matters disclosed to be investigated and rectifying action to be taken.

The Commission does not tolerate improper conduct by employees, nor the taking of reprisal action against those who come forward to disclose such conduct. It is committed to ensuring transparency and accountability in its administrative and management practices and supports the making of disclosures that reveal corrupt conduct, conduct involving a substantial mismanagement of public resources, or conduct involving a substantial risk to public health and safety or the environment.

The Commission will take all reasonable steps to protect people who make such disclosures from any detrimental action in reprisal for making the disclosure. It will also afford natural justice to the person who is the subject of the disclosure to the extent it is legally possible.

### Reporting procedures

Disclosures of improper conduct or detrimental action by the Commission or any of its employees may be made to the Independent Broad Based Anti-corruption Commission:

Level 1, North Tower 459 Collins Street  
Melbourne VIC 3000  
Phone: 1300 735 135  
Website: [www.ibac.vic.gov.au](http://www.ibac.vic.gov.au).

### Public interest disclosures statistics

During 2022–23, no disclosures were made to the Independent Broad Based Anti-corruption Commission by individuals regarding the Commission and/or its staff that the Commission is aware of.

## Compliance with the *Carers Recognition Act 2012*

The Commission supports the principles of the *Carers Recognition Act 2012* and demonstrate this through a commitment of providing flexible working arrangements for staff to support their roles as carers.

Flexibility was awarded to staff during 2022–23 and Commission staff were permitted and supported to adopt hybrid working arrangements and worked both at home and the office to support work-life balances.

## Additional Commission information available on request

In compliance with the requirements of the Standing Directions of the Minister for Finance, details in respect of the items listed below have been retained by the Commission and are available on request, subject to the provisions of the FOI Act and any other relevant laws and Commission policies.

- a) a statement that declarations of pecuniary interests have been duly completed by all relevant officers
- b) details of shares held by a senior officer as nominee or held beneficially in a statutory authority or subsidiary
- c) details of publications produced by the entity about itself, and how these can be obtained
- d) details of changes in prices, fees, charges, rates and levies charged by the entity
- e) details of any major external reviews carried out on the entity
- f) details of major research and development activities undertaken by the entity
- g) details of overseas visits undertaken including a summary of the objectives and outcomes of each visit
- h) details of major promotional, public relations and marketing activities undertaken by the entity to develop community awareness of the entity and its services

- i) details of assessments and measures undertaken to improve the occupational health and safety of employees
- j) a general statement on industrial relations within the entity and details of time lost through industrial accidents and disputes
- k) a list of major committees sponsored by the entity, the purposes of each committee and the extent to which the purposes have been achieved
- l) details of all consultancies and contractors including:
  - i) consultants/contractors engaged
  - ii) services provided
  - iii) expenditure committed to for each engagement.

The information is available on request from:

Chief Executive Officer  
Commission for Children and Young People  
Level 18, 570 Bourke Street  
Melbourne VIC 3000

## Compliance with the *Disability Act*

The Commission acknowledges the importance of strengthening the rights of people with a disability and is committed to creating and maintaining an accessible and inclusive environment for all people with a disability. This includes Commission employees, stakeholders or members of the public.

The Commission supports the whole-of-Victorian government Inclusive Victoria: State Disability Plan 2022–2026, a four-year plan that outlines the actions the Victorian Government will take to ensure the Victorian community is inclusive and accessible.

In 2022, the Commission also released its first Gender Equality Action Plan 2022–2025, which has a focus on intersectionality, including disability. A number of actions have been developed in this four-year plan to address potential gaps, pending the collection of improved data on experience of disability.

## **Disclosure of emergency procurement**

The Commission did not activate any emergency procurement activities in 2022–23.

## **Environmental reporting**

The Commission minimises the use of electricity and water by using efficient appliances and office equipment, including energy-efficient lighting. The Commission creates and stores records electronically and printing is generally discouraged. However, when printing documents, the Commission uses 100 per cent recycled paper and encourages double-sided printing.

The Commission also separates waste systems into recycled, landfill and compost, and bins are cleared periodically. Takeaway coffee cups are also separated and recycled through a dedicated coffee cup recycling system.

In 2022–23, Commission staff adopted hybrid working arrangements and worked both at home and the office. During this time, plug-in electrical appliances were turned off at the power point when not in use and office lights were set on timers to automatically turn off outside regular business hours.

As a benefit of staff working from home in some capacity during 2022–23, the Commission has also minimised water usage in the office and has significantly reduced the creation of waste.

Finally, the Commission does not have government fleet vehicles assigned to it. Staff are encouraged to use public transport when undertaking business activities.

## **Attestation for financial management compliance with Standing Direction 5.1.4**

### **Commission for Children and Young People Financial Management Compliance Attestation Statement**

I, Liana Buchanan, certify that the Commission for Children and Young People has no Material Compliance Deficiency with respect to the applicable Standing Directions under the *Financial Management Act 1994* and Instructions.



Liana Buchanan

*Principal Commissioner*

*Commission for Children and Young People*





COMMISSION FOR CHILDREN  
AND YOUNG PEOPLE