

# Victoria

Aboriginal community-controlled organisations in Victoria, including the Victorian Aboriginal Child Care Agency (VACCA) and members of the Victorian Aboriginal Children & Young People's Alliance (the Alliance) are deeply concerned that the over-representation of Aboriginal children in care in Victoria continues to escalate year after year. While the Victorian Government's commitment to advance self-determination and reduce the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care has been welcomed, there is no evidence to suggest that current legislative, policy and program settings in Victoria will see the goal of eliminating over representations by 2040 achieved. On the contrary, the level of over-representation in 2020 is worse than when the Family Matters campaign was launched.

Of equal concern is that rather than the continued and worsening level of over-representation driving a sense of urgency, there is a reluctance to confront the deepening malaise in child protection within Victoria.

Victoria is currently developing further amendments to the *Child Youth and Families Act 2005* (Vic), which are intended to strengthen and extend self-determination reforms and embed all elements of the Child Placement Principle in legislation. Aboriginal self-determination reforms have been led and driven by ACCOs.

Earlier legislative reforms focused on Aboriginal guardianship and enabled child protection authorities to delegate the care and case management of Aboriginal children in care to Aboriginal agencies. This second stage of reforms are likely to further enable Aboriginal agencies to exercise direct control over decisions regarding the best interests of Aboriginal children.

The government's commitment to have 100% of Aboriginal children on protection orders, case managed by an ACCO (TAC), by the end of 2021 requires an updated approach. Approximately 49% of Aboriginal children in care on protection orders are currently case managed by an ACCO, with 57% in kinship care. ACCOs have remonstrated that there are considerable complexities, barriers and practical implications to the approaches of transitioning Aboriginal children to ACCOs, particularly those in foster care. In order to achieve our collective objective, the Department of Health and Human Services (DHHS) and community services organisations need to renew their commitment and act on transitioning children to ACCOs. As a sector we need to consider and address identified issues and barriers – only then can we truly align with Aboriginal self-determination and ACCO self-management.

Despite progress, unless the drivers of over-representation are addressed, Aboriginal self-determination reforms focused on the care of removed children risk being overwhelmed. A key argument from the Victorian Government in its response for *The Family Matters Report 2020* is that Victoria is tracking well; as evident through the increase in the number of Aboriginal children accessing family services.

In 2018-19, there were approximately 2,181 Aboriginal children in care and a total of 2,377 Aboriginal children accessed family services. The number of Aboriginal children in care in the year closely mirrored the number receiving a family service response. In the same period there were 6,309 non-Aboriginal children in care and 24,248 non-Aboriginal children accessed family services.

These figures suggest non-Aboriginal children access family services on average four times per year, whereas for an Aboriginal child it is once. While there has been an increase in

access for Aboriginal children this comes off a historically low base, and a major disparity between Aboriginal children and non-Aboriginal children remains.

It is important to note these family support services cannot reasonably be considered a form of early intervention and prevention. Access to these services typically occurs after Child Protection has become formally involved with a family. These services provide a form of intervention early in the formal child protection system, not early in the occurrence of issues that are undermining child and family wellbeing. We know that a child's first contact with Child Protection places them at greater risk of future involvement.

Family support services need to be re-oriented to models that respond to families escalating support needs, as early as possible, and they need to be made equally available to Aboriginal families and children.

Another matter of great concern is the failure to drive and embed the policy of Aboriginal self-determination in the family support services sector. Victoria urgently requires a self-determination reform strategy, akin to the reforms in out-of-home care, that shifts family support services and programs into Aboriginal community control.

In relation to family reunification rates, it is misleading to claim any significant improvement in family reunification across the system for Aboriginal children. According to the *Victorian Government Aboriginal Affairs Report 2019*, reunification rates over the past 10 years have ranged between 78% in 2008, to a low of 72% and sat at 74% in 2018 (State Government of Victoria 2019). Reporting on family reunification needs to go beyond reunification with a parent or parents. Ensuring that siblings removed from family are placed together in care, or that they are reunified with each other where this has not initially been possible, is an important aspect of family reunification. Data on the placement of siblings together and their reunification needs to be published and monitored.

Operating within the broader family reunification system, the Aboriginal Children in Care (ACAC) and the Transfer of Aboriginal Children (TAC) Section 18 initiatives have made positive impacts. Aboriginal community control is leading to improved rates of family reunification with the cohort of children and families accessing those initiatives. If not for these initiatives, family reunification rates would be even lower. As of June 2020, 49% of Aboriginal children on contractible orders were case managed by ACCOs either through ACAC or TAC. Since December 2019 there has been an increase of 50 Aboriginal children authorised to an ACCO under ACAC, which is a 50% increase.

Since 2016, number of children contracted to an ACCO has grown by 250%, yet the funding has not reflected this growth. Based on the actual reunification rates from 2017-19, reunification rate of ACCOs for TAC was higher (5%) than the reunification rate for CSOs (2.2%). Based on the actual reunification rates from 2017-19, reunification rate for VACCA's Nugel program in the Hume Moreland and north east metro area of Victoria was higher (22%) than the reunification rate for the DHHS at 5%.

The development and implementation of quality cultural plans remains a challenge, despite their importance in keeping Aboriginal children and young people connected to their culture, Country and community. ACCOs have found when there is a good relationship between Child Protection and ACCOs, the completion and implementation of cultural plans is successful, and that the quality and accuracy of information in a cultural plan is better when developed by the ACCO which knows their local families and communities. There remains a state-wide lack of compliance, with only 44% of Aboriginal children and young people in care having a cultural plan. We know culture is a protective factor for our children and essential to their health, wellbeing and development, and more needs to be done to ensure they have access to high-quality cultural plans.

There has also been an alarming spike in adoptions of Aboriginal children, none of which were by an Aboriginal or Torres Strait Islander person. VACCA is a gazetted Aboriginal agency under section 50 of the Victorian 1984 Adoption Act, however the circumstances in which the State is required under the legislation to consult or seek advice are too limited. No consultations occurred with VACCA regarding these adoptions. In 2017, the Victorian Law Reform Commission recommended the modernisation of Victoria's adoption legislation, including stronger provisions in relation to Aboriginal children and self-determination. Over four years later and the Victorian Government has failed to bring forward any legislation to implement recommended changes.

One of the targets of the new *National Agreement on Closing the Gap* is to reduce the number of Aboriginal children in out-of-home care by 45% by 2031. We know in Victoria we have a considerable task at hand to be able to achieve this target. The level of over-representation of Victorian Aboriginal children in out-of-home care is increasing and is much higher in Victoria than any other part of Australia. The removal rate for Aboriginal children in Victoria is 90 per 1,000 and has been increasing every year; for all Aboriginal children in Australia, it's 54.2 per 1,000. It would seem imperative for Victoria that there is a targeted strategy, investment and reform developed. To effectively address the issue of over representation, Victoria should be aiming to reduce by more than 45%; otherwise, relative to other jurisdictions, Victoria will still be tracking worse. To do this, VACCA recommends that Victoria, in partnership with a research institute like the University of Melbourne, undertake its own modelling, to sit alongside the modelling that SNAICC undertook recently, so that we can adequately assess and implement appropriate reform.

For the future, we want to see the Victorian Government focus its efforts on working with local Aboriginal communities to ensure culturally safe and appropriate solutions, early intervention and intensive work on reunifying Aboriginal families. ACCOs will never be able to safely care for and return children home at the same rate that children are being brought into care through the child protection system, and so the number of Aboriginal children in out-of-home care continues to grow. Victoria needs a reformed approach to child protection and reformed systems for prevention, early intervention and family support. These reforms must be based on Aboriginal self-determination and drive the transfer of resources and authority from mainstream organisations and departments to Aboriginal community control.