

**Investigation into the financial support
provided to kinship carers**

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The Victorian Ombudsman respectfully acknowledges the Traditional Owners of the lands throughout Victoria and pays respect to them, their culture and their Elders past, present and future.

Letter to the Legislative Council and the Legislative Assembly

To

The Honourable the President of the Legislative Council

and

The Honourable the Speaker of the Legislative Assembly

Pursuant to sections 25 and 25AA of the Ombudsman Act 1973, I present to Parliament my *Investigation into the financial support provided to kinship carers.*



Deborah Glass OBE

Ombudsman

12 December 2017

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Foreword

It is a core part of an Ombudsman's job to be investigating issues affecting the most disadvantaged in our society, and this investigation concerns not only the disadvantaged, but a group of people to whom we owe a debt of gratitude. Kinship carers – members of a child's family or social group – take on the care of children who are unable to live safely with their parents. They do so often in difficult and challenging circumstances, and at a fraction of the cost to the public purse of other forms of out-of-home care.

Kinship care is, rightly, the fastest growing form of out-of-home care in the State; over 5,500 children live in kinship care, compared with 1,515 in foster care and 439 in residential care. It is usually in the child's best interests to be cared for by a member of their family or social group, particularly for Aboriginal and Torres Strait Islander children, for whom connection to culture is vital.

This investigation looked into the financial support received by kinship carers. Financial support by the State – whether to kinship carers or foster carers – is not payment for looking after a child, but to assist the carer with the additional costs they incur because of the placement – food, fuel, household provisions and so on, to ensure they are not disadvantaged by the arrangement. Yet despite this admirable principle, kinship carers are almost invariably the poor relation.

As foster and kinship carers provide the same service in our community, it stands to reason that the financial support provided by the State should be similar. Yet despite the enormous service they render to us all, kinship carers receive a fraction of the support, at a greater bureaucratic burden, than foster carers. The system is not only inequitable; kinship carers are further disadvantaged by frequently lengthy delays in assessing the level of payment.

Kinship carers are typically grandparents on low incomes, who take children in times of crisis, often because of family violence or substance abuse affecting the child's parent. Many are courageous individuals, who care for their own family members, at times at the expense of relations with their own troubled sons or daughters. The children they care for may be impacted by trauma and have behavioural issues, requiring supports that erode yet further the carer's modest income.

Lack of financial support to carers can destroy the sustainability of kinship placements – at vastly greater cost to the system. If the placement fails, children end up in other parts of the Child Protection system, in unsafe environments, or on the depressing treadmill to youth justice facilities and prison.

The department's failure to act in the best interests of the child, as required by both the Children, Youth and Families Act and Victoria's Charter of Human Rights, exposes an alarming weakness in our Child Protection system.

Most shameful of all is the disproportionate impact this has on Aboriginal and Torres Strait Islander children and their kinship carers. It is a worrying enough statistic that 22 per cent of children in out-of-home care are Aboriginal and Torres Strait Islander, although Aboriginal and Torres Strait Islander peoples make up less than one per cent of the Victorian population. This reflects the continued traumatic legacy of the Stolen Generations, whose children and grandchildren are paying the price of their loss of connection to culture and country.

Kinship care is a necessity to rebuild these connections – recognised in practice by the growth in numbers of these carers, yet appallingly neglected when it comes to financial support. This neglect is discriminatory, unjust – and wrong.

Deborah Glass OBE
Ombudsman

Glossary

Aboriginal Child Placement Principle	A nationally agreed standard in determining the placement of Aboriginal children in out-of-home care, which is mandated by the <i>Children, Youth and Families Act 2005 (Vic)</i> . It aims to enhance and preserve Aboriginal children's cultural identity by ensuring that they maintain strong connections with family, community and culture.
ACCO	Aboriginal Community Controlled Organisation.
Best Interests Principles	The <i>Children, Youth and Families Act 2005 (Vic)</i> states that the best interests of a child must always be paramount when making a decision, or taking action. When determining whether a decision or action is in the child's best interests, there are several principles that must be considered, which are outlined in section 10 of the CYFA.
Case contract	A case contract is a formal written agreement between the Department of Health and Human Services and a funded service provider regarding the case management of a child's file by a funded service provider or the provision of case management on behalf of the department.
Charter	The <i>Charter of Human Rights and Responsibilities Act 2006 (Vic)</i> is a law that sets out the basic rights, freedoms and responsibilities of people in Victoria. The Charter requires public authorities, like the department, and agencies delivering services on behalf of government, like Community Service Organisations, to act consistently with the human rights contained in the Charter.
CRIS	Client Relationship Information System used by the department to record case management information.
CYFA	The <i>Children, Youth and Families Act 2005 (Vic)</i> is the Victorian legislation that governs the way the Children's Court, Child Protection and funded service providers must make decisions in relation to the care of children.
Funded service provider	An organisation funded by the department to deliver services to kinship carers and the children they support.
Ombudsman	Refers to the Victorian Ombudsman and her delegates.

Executive summary

1. There are over 8,000 children in Victoria who are unable to live with their parents owing to economic disadvantage, family violence, drug and alcohol abuse and mental health issues in the family. These children are supported by the Department of Health and Human Services' (the department's) out-of-home care system.
2. Kinship carers are the back-bone of this system. They are relatives or people in the child's social network who care for the child. Alternatively, children may be supported by a trained and accredited foster carer or approved lead tenant, or they may live in a community-based residential facility. Aboriginal and Torres Strait Islander children are significantly over-represented; being 12.9 times more likely to be in out-of-home care than non-Aboriginal and Torres Strait Islander children.
3. The Child Protection system has significantly evolved over the last two centuries. Different approaches to supporting children in need of protection have been tried and tested. It is now widely accepted, and reflected in legislation, that kinship care is the best placement option for the most vulnerable children in the state.
4. The demand for kinship placements has more than doubled in the past five years. Foster carers in Victoria cannot meet this demand. The department relies on kinship carers for the current Child Protection system to remain sustainable.
5. Kinship placements, like foster care placements, also save the State money. The majority of these placements cost the department up to \$14,812 per year in care allowance payments, which partially reimburse the carer for the cost of providing for the child. In comparison, residential care placements cost the department \$279,808 per year.
6. Many kinship carers experience financial hardship. This is further exacerbated by their responsibility to provide food, shelter, furniture, education, child care and healthcare to the child or young person in their care.
7. To minimise the financial burden on kinship carers, the department provides a fortnightly care allowance and access to client support funding for one-off recurring expenses such as counselling, petrol or child care. The financial support provided by the department contributes to these costs and is not a full reimbursement.
8. Since 2015, the Ombudsman has received many complaints from kinship carers about financial support and eligibility for a higher care allowance. In response, the Ombudsman commenced an investigation to determine whether the department considers a child's best interests and individual needs when deciding applications for financial support; processes applications and makes payments in a timely manner, and ensures kinship carers are not disadvantaged by departmental delays; and provides accurate information to kinship carers on their eligibility for financial support.
9. The investigation identified significant concerns with the administration of financial support to kinship carers. Twelve complaints examined during the investigation resulted in more than \$170,000 being reimbursed to kinship carers owing to departmental errors. An additional two complaints led to the department waiving over \$37,000 in debt. This is likely to reflect only a fraction of the issues experienced by the 5,577 kinship carers in Victoria.

Best interests

10. When making decisions that affect a child, the department is required to consider the child's best interests. The *Children Youth and Families Act 2005* (Vic) sets out best interests principles and provides that the best interests of a child must always be paramount.
11. In addition, the Victorian *Charter of Human Rights and Responsibilities Act 2006* (Vic) makes it unlawful for a public authority to act in a way that is incompatible with a human right, or in making a decision, fail to give proper consideration to a relevant human right.
12. Kinship carers are automatically eligible for a level one (base level) care allowance. If the child has additional needs, a Child Protection Practitioner may initiate an application for a higher care allowance. The needs of the placement are identified through a three-part kinship assessment process.
13. The investigation found that Child Protection Practitioners do not always complete the necessary kinship assessments that identify the individual needs of the placement. When these assessments are completed, very few result in the Child Protection Practitioner initiating an application for a higher care allowance.
14. Failure to complete assessments and, when necessary, initiate applications for a higher care allowance means that a child's best interests are not reflected in the care allowance level awarded. A failure to adequately support the placement can lead to the placement breaking down.

Inequity

15. Foster and kinship carers provide the same service in our community. They take in children or young people who cannot live with their parents. It stands to reason that the financial support provided by the State should be similar.
16. The investigation found that kinship carers receive less financial support than foster carers. The main reason is that the process for determining a care allowance level for foster carers is different. The level afforded is not automatic; it is determined after a negotiation process and in consideration of the child's needs. The inequity is demonstrated by the statistics which reveal 96.8 per cent of kinship carers receive a level one allowance compared with only 40 per cent of foster carers.
17. In addition, foster carers are supported by community-based organisations funded by the department (funded service providers). Funded service providers are given \$1,000 per child to support the placement. Foster carers can also access high-cost placement support through Placement Support Brokerage for which kinship carers are not eligible. In 2016-17, over \$3 million was spent on high-cost placement support for foster and lead tenant placements.
18. The inequity is particularly striking given the vulnerability of kinship carers, who are more likely than foster carers to experience greater welfare dependency, lower levels of education and employment, and poorer health.

Delay

19. The investigation found that kinship carers were disadvantaged by departmental delays between the placement starting and care allowance payments commencing, with 50 carers waiting more than 50 days for their care allowance to commence.
20. Kinship carers were further disadvantaged by the failure of Child Protection Practitioners to apply for a higher allowance and by the department's process of escalation of requests for a higher allowance. Requests go through the divisions to central office and, in some cases, took many months to resolve.

Information provision

21. The Child Protection system is complex. Kinship carers receive information on their eligibility for financial support in many ways including from publications produced by the department, kinship carer support groups, and information and advice services delivered by funded service providers.
22. The investigation found that while there are many useful publications, there is a lack of information available to kinship carers about the application process and eligibility for a higher care allowance.

Recommendations

23. Addressing the current inequity in the system will require significant change and investment. A failure to address these issues may compromise the stability of kinship placements and the wellbeing of kinship carers and children who need support and protection.
24. The Ombudsman recommends the department review the administration of financial support to kinship carers, so kinship and foster carers receive equitable financial support. The transparency of decisions relating to higher care allowance levels for kinship carers should be improved.
25. The Ombudsman has also made several recommendations to ensure timely completion of assessments so the best interests of children are met.

Background

26. This investigation was prompted by three key factors. First, kinship care is the fastest growing form of out-of-home care for children in Australia. Approximately 61 per cent of Victorian children in out-of-home care live with a kinship carer.¹ While the out-of-home care system is increasingly dependent on kinship carers, we know that kinship carers are often disadvantaged. Kinship carers are more likely to be older, single, female, experience poorer health, have lower incomes and have completed lower levels of education.²
27. Second, complaints from kinship carers to the Ombudsman in 2015 and 2016 showed:
 - carers complained of being financially disadvantaged due to delays or errors in the Department of Health and Human Services' (the department's) processing of kinship payments and requests for increased care allowances
 - carers believed that if they complained about departmental decisions they risked having the child removed from their care
 - it was unclear how the needs of children in kinship placements are assessed and how this informs the level of allowance provided to the kinship carer by the department.
28. Third, while the department finalised changes to the care allowance structure for out-of-home care and created a new funding framework in July 2016,³ complaints to the Ombudsman continued to raise concerns about the administration of financial support for kinship carers.
29. On 3 March 2017, the Ombudsman wrote to the Minister for Families and Children, the Hon Jenny Mikakos MP and the Secretary of the Department of Health and Human Services, Ms Kym Peake notifying of her intention to conduct an own motion investigation into the administration of financial support provided to kinship carers.
30. On 6 March 2017, the investigation was publicly announced and the community was invited to provide information to assist the investigation.
31. The investigation examined whether the department:
 - considers a child's best interests and individual needs when deciding applications for financial support
 - processes applications and makes payments in a timely manner, and ensures kinship carers are not disadvantaged by departmental delays
 - provides accurate information to kinship carers on their eligibility for financial support.
32. The investigation was undertaken pursuant to section 16A of the *Ombudsman Act 1973* (Vic), which provides that the Ombudsman may conduct an own motion investigation into any administrative action taken by or in an authority, the definition of which includes a department. Individual complaints about the department were enquired into separately. Some of these complaints appear as case studies in this report.

Jurisdiction

1 Paper from Department of Health and Human Services ('DHHS') Director, Children and Families Policy to Roadmap Implementation Ministerial Advisory Group, 5 July 2017.

2 Heather Boetto, 'Kinship Care: A review of issues' (2010) 6 *Family Matters* 85, 60-67.

3 DHHS, *Financial Support Guide for Home-Based Carers* (2015); DHHS, *Statewide Client Support Funding Framework* (2016) ('DHHS Funding Framework').

33. Under section 13(2) of the Ombudsman Act, the Ombudsman also has the power to enquire into or investigate whether any administrative action is 'incompatible with a human right set out in the *Charter of Human Rights and Responsibilities Act 2006*' (the Charter).

34. The Ombudsman has jurisdiction to consider kinship placements where the department has intervened owing to protection concerns for the child. The Ombudsman does not have jurisdiction to consider kinship care placements which have not been instigated by the department. These placements are usually brought about by a private agreement between the child's parents and the kinship carer.

35. The investigation was unable to obtain direct evidence from children living in kinship placements. Changes to the Ombudsman Act in 2012 prevent the Ombudsman from interviewing people under 16 years of age during an investigation, regardless of whether their parent or guardian is present during the interview.⁴

Approach

36. The investigation involved:

- inviting and receiving 54 submissions (both orally and authorised in writing) from kinship carers, funded service providers and their staff, academics and the Commission for Children and Young People
- attending three kinship carer support groups and meeting with kinship carers from metropolitan and rural areas of Victoria

- meeting with 13 funded service providers and key stakeholder groups in Melbourne and participating in one teleconference with a funded service provider
- attending a Kinship Services Forum chaired by the Centre for Excellence in Child and Family Welfare Inc
- reviewing the Ombudsman's complaint data with respect to kinship care which included 58 complaints between July 2015 and August 2017
- receiving 48 new complaints after announcing the investigation in March 2017, and separately enquiring into 31 complaints during the investigation
- analysing the Charter, the *Children, Youth and Families Act 2005* (Vic) and the department's policies and procedures with respect to kinship carers
- auditing 116 kinship placement files on the department's case management system, CRIS
- reviewing data and information provided by the department relating to kinship carers, children in kinship care placements and the foster care system
- conducting voluntary interviews with 27 witnesses including:
 - i. twenty-five divisional department employees, and senior and executive staff in central office
 - ii. two subject matter experts, Mr Andrew Jackomos, Commissioner for Aboriginal Children and Young People; and Dr Meredith Kiraly, Research Fellow at the University of Melbourne.

⁴ *Ombudsman Act 1973* s 18E(2)(b).

37. The Ombudsman's opinion and the reasons for that opinion are being reported to the Secretary of the department pursuant to section 23(2) of the Ombudsman Act.
38. On 24 October 2017, the department was given the opportunity to respond to the Ombudsman's draft report. The department provided a response and changes have been made to this report in light of the response.
39. In accordance with section 25A(3) of the Ombudsman Act, any individual who is identifiable, or may be identifiable in this report, is not the subject of any adverse comment or opinion. They are named or identified in this report as:
- the Ombudsman is satisfied that it is necessary or desirable to do so in the public interest; and
 - the Ombudsman is satisfied this will not cause unreasonable damage to those persons' reputation, safety or wellbeing.

Anonymity

40. Throughout this report, case studies are used to detail grievances of individual kinship carers. These case studies derive from:
- complaints from carers made directly to the Ombudsman
 - the investigation's review of information provided by the department
 - submissions from key stakeholder groups and funded service providers with respect to the kinship carers they support.
41. The names used throughout this report are not the real names of the kinship carers involved and reference to evidence that may identify a child or carer has been removed, where possible.

Relevant legislation and policies

42. The following legislation is applicable to kinship care in Victoria:
- *Carers Recognition Act 2012* (Vic)
 - *Child Wellbeing and Safety Act 2005* (Vic)
 - *Children, Youth and Families Act 2005* (Vic)
 - *Charter of Human Rights and Responsibilities Act 2006* (Vic)
 - *Family Law Act 1975* (Cth)
 - *Working with Children Amendment Act 2016* (Vic).
43. The following policies and procedures are applicable to kinship care in Victoria:
- Department of Health and Human Services, *Assessments and Monitoring of the Suitability of Kinship Care Placements – Parts A, B and C* (undated)
 - Department of Health and Human Services, *Care allowances policy and procedures* (2017)
 - Department of Health and Human Services, *Carer Reimbursement Miscellaneous Policy Updates* (2011)
 - Department of Health and Human Services, *Central Payment of Caregiver Reimbursements Handbook – December 2012*
 - Department of Health and Human Services, *Child Protection Manual* (online)
 - Department of Health and Human Services, *Charter for Children in Out-of-Home Care* (2011)

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- Department of Health and Human Services, *Financial Support Guide for Home-Based Carers* – March 2015
 - Department of Health and Human Services, *Guidelines for Central Payment of Caregiver Reimbursement* - July 2008
 - Department of Health and Human Services, *Instatement or Reinstatement of Carer Reimbursement Policy – Effective 1 July 2012*
 - Department of Health and Human Services, *Special Negotiated Adjustments Kinship Care, Permanent Care and Local Adoption* – March 2011
 - Department of Health and Human Services, *Statewide Client Support Funding Framework* – June 2016.
 - Families Australia, *Inquiry into Children in Institutional Care* (2011)
 - *Senate Inquiry into Out of Home Care* (2014)
 - *Senate inquiry into Grandparents who take primary responsibility for raising their grandchildren* (2014)
 - The Hon Philip Cummins, Dorothy Scott, Bill Scales, *Protecting Victoria's Vulnerable Children Inquiry report* (2012)
 - Victorian Auditor-General's Office, *Carer Support Programs* (2012)
 - Victorian Ombudsman, *Own motion investigation into Child Protection – out of home care* (2010).

Key inquiries into kinship care

44. The following inquiries into kinship care have informed the investigation:

- Australian Human Rights Commission, *Bringing them home* (1997)
- Commission for Children and Young People, *Always was, Always will be Koori Children* (2016)
- Commission for Children and Young People, *In the child's best interests: inquiry into compliance with the intent of the Aboriginal Child Placement Principle in Victoria* (2016)
- Commission for Children and Young People, *'They need that connection' – Kinship carers and support staff speak about contact between children and families* (2012)

Historical context

45. Over the last two centuries, there have been significant changes in the State's role and policies with respect to caring for children.
46. Between 1910 and 1970 many Aboriginal and Torres Strait Islander children were forcibly removed from their families and communities to 'inculcate European values and work habits in children, who would then be employed in service to the colonial settlers'.⁵
47. In contrast, governments were historically reluctant to remove non-Aboriginal and Torres Strait Islander children from their parents. This was perceived as invasive and interfering in the 'private' domain of family life.⁶
48. Between 1887 and 1954 children who had been removed by police or made state wards were placed in church-based and privately-run institutions. It was not until 1956 that the first two government institutions for children opened in Victoria.⁷
49. In the 1960s, most children who were unable to live with their parents lived in institutions. It was not until the 1970s that institutions were gradually closed and the out-of-home care system evolved.⁸
50. Throughout the 1980s and 1990s, the provision of care in the home by a suitable adult, sanctioned by the State, became the preferred method of placement.
51. These changes ushered in a shift towards the Victorian Child Protection system we have today, which emphasises:
- that the rights and best interests of children are to be protected
 - it is the responsibility of the State to intervene in family life when children are at risk⁹
 - it is important for children to maintain connections to their kin and culture.¹⁰

5 Australian Human Rights Commission, *Bringing them home* (1997) 22, 35.

6 Australian Institute of Family Studies, *History of Child Protection* (January 2015) <<https://aifs.gov.au/cfca/publications/history-child-protection-services>>.

7 Australian Human Rights Commission, above n 5, 55.

8 The Hon Philip Cummins, Dorothy Scott, Bill Scales, *Protecting Victoria's Vulnerable Children Inquiry report* (2012) 235 ('*Vulnerable Children Report*').

9 Ibid 55.

10 *Children, Youth and Families Act 2005* (Vic) ('CYFA') s 10(3)(h).

History of financial supports

52. While the State began providing financial support to foster carers in the 1950s and 1960s,¹¹ it rarely provided financial support to kinship carers, even when the department arranged the placement and the children involved had similar needs to those placed with foster carers.¹²

53. It was not until 1996 that the department decided to fund kinship carers in Victoria. The *Kinship Care Guidelines* stated:

Formalising the Kinship Care Program within the continuum of home-based care gives recognition of the importance of family relationships in achieving positive outcomes for children. A greater emphasis is now placed on the role that the extended family can contribute to achieving these outcomes.¹³

54. Today, the kinship care model in Victoria continues to transform. In a briefing to the Roadmap Implementation Ministerial Advisory Group (RIMAG) in August 2017, the Deputy Secretary, Children and Families Reform, Department of Health and Human Services proposed the development of a new model focused on:

... better assessing and supporting the needs of kinship carers, which will support children and young people to be safe and supported to reach their potential.¹⁴

55. This new kinship care model is being developed by the department.

11 Though DHHS advised the Victorian Ombudsman it had done so, it was unable to identify the policy that underpinned why and when it began funding for foster care placements in Victoria. The department advised that in the 1950s and 1960s foster care emerged as an alternative to placing children in residential care and for this reason, the department made payments for individual wards of the state (under school age) who were placed in non-government foster care places.

12 DHHS, *A new kinship care program model for Victoria* (2009) 3.

13 Department of Health and Family Services, *Kinship Care Guidelines* (1996) 1.

14 Paper from DHHS Deputy Secretary, Children and Families Reform to the Roadmap Implementation Ministerial Advisory Group, 17 August 2017.

The kinship care system

Out-of-home care in Victoria

56. Today, responsibility for protecting Victorian children from harm is a responsibility shared by parents, the community and the State.
57. The State's role is enshrined in the *Children, Youth and Families Act 2005* (Vic). Through the Secretary of the department and the Minister, the State is responsible for protecting and supporting children who have suffered abuse and neglect.¹⁵
58. The Secretary receives reports from people with significant concerns for a child or unborn child and decides how to respond to such reports.¹⁶ This may include investigating the concerns to determine if the child needs protection. If the Secretary is satisfied on reasonable grounds that the child needs protection, they may make a protective application in respect of the child to the court.¹⁷
59. Where a child is unable to live with their family owing to protective concerns, the Secretary may place the child in out-of-home care:
- by a voluntary arrangement with the family if legal protection is not required
 - by written agreement with the child's parents
 - in response to an order of the Children's Court where the Secretary is given parental responsibility of the child.
60. When the Secretary is given parental responsibility of a child, the Secretary may place the child in an out-of-home care service, secure welfare service, up for adoption (where the Secretary has exclusive parental responsibility and the child is available for adoption under the *Adoption Act 1984* (Vic)) or in any other suitable situation, such as kinship care or foster care.¹⁸
61. Out-of-home care means care of a child by a person other than a parent of the child.¹⁹ The out-of-home care system predominately comprises home-based care including kinship care, foster care, residential care and lead tenant placements. Secure welfare is a service with lock-up facilities for children who are at a substantial or immediate risk of harm.
62. Kinship care is care provided to a child by a member of their family or social group. Kinship care is a vital component of the Child Protection system. It is the fastest growing out-of-home care placement type in Victoria.
63. The policies and procedures which guide the relationship between the department and kinship carers is based on the kinship care service model developed in 2009.²⁰ The model provides that kinship care will be delivered by the department, funded service providers and Aboriginal Community Controlled Organisations (ACCOs).²¹

15 CYFA s 16, 164.

16 Ibid s 28-30, 34, 185, Pt 4.4 Div 2.

17 Ibid s 240.

18 Ibid s 173(2).

19 Ibid s 3 (definition of 'out-of-home-care').

20 Department of Human Services ('DHS'), *A new kinship care program model for Victoria* (2009).

21 KPMG, *Review of the kinship care model* (2016) 12.

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64. In the 2016–17 budget, 750 kinship cases were contracted to funded service providers for case management. In addition, 88 kinship placements for Aboriginal and Torres Strait Islander children were contracted to ACCOs. The remaining 4,739 kinship placements were supported by the department’s Child Protection program.
65. Foster care is the ‘temporary care of children by trained, assessed and accredited foster carers’.²² Foster care may be provided in the short or long term depending on the needs of the child.
66. Residential care is provided in community-based residential facilities for children and young people aged mainly 12–17 years who are unable to be placed in foster or kinship care.²³
67. A lead tenant placement provides accommodation and support to young people aged 16–18 years who have been placed away from the care of their families by Child Protection. In a lead tenant placement, the young person is supported by one or two approved adult volunteers, who provide day-to-day support and act as role models, and a case manager from a funded service provider.²⁴
68. The demand for out-of-home care placements has increased steadily over the past five years from 6,434 in 2011–12²⁵ to 8,752 in 2015–16.²⁶ The demand for kinship care placements has more than doubled; from 2,546 in 2011 to 5,584 in 2016.²⁷ The department has attributed the increase in demand to:
- increased community awareness of child abuse and family violence; increase in the prevalence of risk factors contributing to child protection problems, including parental mental illness or substance abuse, family violence and childhood disability; and population increase.²⁸
69. The importance of kinship carers in meeting this increased demand is demonstrated by:
- the limited number of foster care placements: just 1,953 registered foster carers in March 2017 – far fewer than the demand for placements in the State²⁹
 - the cost to the State of having children in residential care: \$279,808 per child.³⁰

22 DHHS, *Foster care* (24 November 2017) <<http://services.dhhs.vic.gov.au/foster-care>>.

23 DHHS, *Residential care* (30 June 2017) <<http://services.dhhs.vic.gov.au/residential-care>>.

24 DHHS, *Program requirements for lead tenant services in Victoria* (2014) 1.

25 DHS, *DHS Report of Annual Operations* (2011).

26 DHHS, *Annual Report 2015–16* (2016) 51.

27 Paper from DHHS Director, Children and Families Policy, DHHS to Roadmap Implementation Ministerial Advisory Group, 5 July 2017.

28 DHHS, above n 26, 25.

29 Foster Care Association of Victoria, *Foster Carer Snapshot 2017* (2017) <<https://www.fcav.org.au/images/documents/CSS2017.pdf>>.

30 Email from DHHS Assistant Director, Out-of-home care, Children and Families Policy, Children, Families, Disability and Operations Branch to the Victorian Ombudsman, 16 August 2017. This figure does not include any additional funding arrangements for individual clients or case management costs.

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70. The following table shows the number of children in each placement type in February 2017.

Table 1: Number of children in out-of-home care placements – February 2017³¹

Placement type	Number of children
Kinship care	5,577
Foster care	1,515
Residential care	439
Lead tenant placement	40

Who are kinship carers?

71. Children are placed in out-of-home care for several reasons. The 2015 *Senate Inquiry into Out of Home Care* reported that the most common reasons are economic disadvantage, family violence, drug and alcohol abuse and mental health issues in the family.³²
72. Kinship carers often take children into their care in circumstances of crisis, which can create conflict between their family members.³³ Submissions to the investigation highlighted the complex and unique stressors a kinship carer faces because of familial connections.

One grandmother said:

the immediate emotional impact on the grandparent is being torn between their own child and the safety of their grandchildren. Their child is suffering from self abuse or mental health problems and they need help too. It can take years of suffering on behalf of the grandparent to finally let go of their own child and place their undivided attention to their grandchildren only.³⁴

³¹ Data extracted for 28 February 2017 by DHHS.

³² The Senate Community Affairs References Committee, Parliament of Australia, *Out of home care* (2015) 63 (*'Out-of-Home Care Report'*).

³³ Submission 33, Victorian Council of Social Services, 28 April 2017.

³⁴ Submission 3, kinship carer, 6 March 2017.

73. Kinship carers are typically grandparents and 'are usually older' than foster carers.³⁵ The department's data on the relationship between the child and kinship carer is incomplete because the relationship field is not mandatory in the case management system, CRIS.³⁶ The data available indicates that:

- maternal grandmothers are the most common kinship carers³⁷
- 53 per cent of the total recorded carers were grandparents or great-grandparents
- 19 per cent of the total recorded carers were aunts.

Financial position and education

74. Research indicates that kinship carers in Victoria often have low incomes and experience financial hardship.

75. A 70-year old grandmother caring for her grandchild told the investigation:

I have and [am] still spending my [r]etirement money on setting up a Nursery, Cot, change table, wardrobe linen, car seat pusher clothes etc ...I have 14 grandchildren & 1 great granddaughter. I feel that they are being disadvantaged by my time and resources spent on [Child A].³⁸

76. In 2009, a research project into kinship care by the University of Western Sydney compared the income and education levels of a sample of kinship and foster carers, and found:

- kinship carers were significantly likely to be less formally educated than foster carers³⁹
- 82.5 per cent of kinship carers earned less than \$1,000 gross per week compared with 46.9 per cent of foster carers.⁴⁰

77. Dr Marilyn McHugh, Research Fellow at the University of New South Wales, reported in 2014 that kinship carers are more likely than foster carers to experience poorer health, lower levels of employment and education and greater welfare dependency.⁴¹

78. Dr McHugh also noted:

Indigenous kinship carers are particularly vulnerable: most in strained financial circumstances have generally high levels of material disadvantage, including poor or inadequate housing. Many have sibling groups in their care.⁴²

79. In 2015, Dr Meredith Kiraly, Research Fellow at the University of Melbourne, reviewed kinship carer surveys in Australia, New Zealand and the United Kingdom to identify the characteristics and support needs of kinship care families. Dr Kiraly reported that financial hardship was experienced by one third or more of kinship carers in each survey.⁴³

35 *Out-of-Home Care Report*, above n 32, 165; Association of Children's Welfare Agencies NSW, Submission No 94 to Senate Standing Committee on Community Affairs, Parliament of Australia, *Out of home care*, 1 December 2014, 1.

36 The relationship field in the CRIS database is not mandatory. Only 60 per cent of kinship placements created between 1 March 2016 and 1 March 2017 had the relationship field completed.

37 878 out of 3554 placements recorded.

38 Submission 10, kinship carer, 16 March 2017.

39 Ainslie Yardley, Jan Mason, Elizabeth Watson, 'Kinship care in NSW: Finding a way forward' (Research Paper, University of Western Sydney, November 2009) 92.

40 Ibid 102.

41 *Out-of-Home Care Report*, above n 32, 165; Association of Children's Welfare Agencies NSW, Submission No 94 to Senate Standing Committee on Community Affairs, Parliament of Australia, *Out of home care*, 1 December 2014, 1.

42 Ibid.

43 Meredith Kiraly, 'A review of kinship carer surveys: The "Cinderella" of the care system?' *Child Family Community Australia (CFCA) information exchange*, Australian Institute of Family Studies (2015) 31, 1.

Over-representation of Aboriginal and Torres Strait Islander children

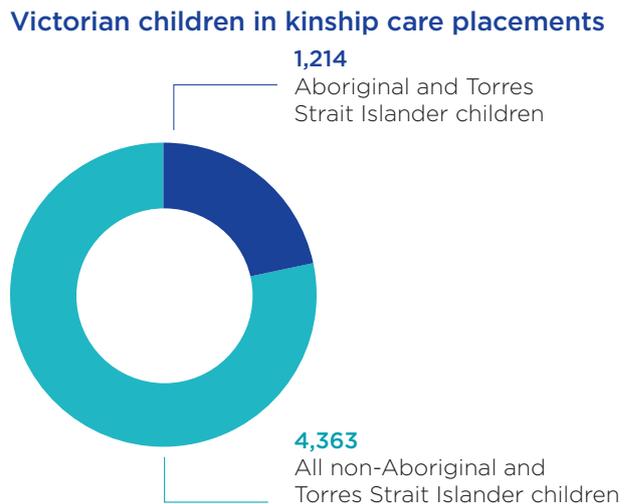
80. Aboriginal and Torres Strait Islander children are significantly over-represented in the Child Protection system. Aboriginal and Torres Strait Islander children in Victoria are 12.9 times more likely to be in out-of-home care than non-Aboriginal and Torres Strait Islander children.⁴⁴

Figure 1: Proportion of the population aged 18 years and under⁴⁵



82. In February 2017, there were 1,214 Aboriginal and Torres Strait Islander children in kinship placements in Victoria.⁴⁷ There were also 366 Aboriginal and Torres Strait Islander children in foster care or lead tenant placements⁴⁸ and 79 Aboriginal or Torres Strait Islander children in residential care placements.⁴⁹

Figure 2: Proportion of kinship care children



81. *The Protecting Victoria's Vulnerable Children Inquiry* stated:

The history of Aboriginal communities in Victoria directly impacts on Aboriginal children and families today. Past actions by government and non-government agencies have impacted negatively on Aboriginal families and the result is a continuing experience of trauma in the Aboriginal community.⁴⁶

44 Commission for Children and Young People ('CCYP'), *Always was, Always will be Koori Children* (2016) 26.

45 Data from Figure 1 and Figure 2' compares current kinship care data from DHHS with 2016 Census community profile data from the Australian Bureau of Statistics (excludes indigenous status not stated).

46 *Vulnerable Children Report*, above n 8.

47 Email from DHHS to the Victorian Ombudsman, 31 March 2017.

48 Email from DHHS to the Victorian Ombudsman, 10 August 2017.

49 Email from DHHS to the Victorian Ombudsman, 14 July 2017.

83. The Commission for Children and Young People's 2016 inquiry into out-of-home care, *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* (the CCYP Inquiry), examined the reasons for this overrepresentation and concluded:

[t]here are systemic failures and inadequacies that have contributed to the vast overrepresentation of Aboriginal children in child protection and out-of-home care systems, and that there are practice deficits that have led to the degradation of Aboriginal culture for Aboriginal children who are placed in out-of-home care.⁵⁰

84. In 2006, Victoria's legislative framework for the protection of children and young people was amended. A key aim of the new *Children, Youth and Families Act 2005* (Vic) (CYFA) was to 'strengthen service responses to Aboriginal and Torres Strait Islander children and families and better maintain Aboriginal children's connection to their community and culture'.⁵¹

85. The CYFA contains the Aboriginal Child Placement Principle (the ACPP) which provides that, wherever possible, an Aboriginal and Torres Strait Islander child must be placed within the Aboriginal extended family or with relatives.⁵² The ACPP also outlines decision-making principles for Aboriginal children which include, among other things, that a decision in relation to the placement of an Aboriginal child, or other significant decisions, should involve a meeting convened by an Aboriginal convener and involving the child, the child's family and appropriate members of the child's Aboriginal community.⁵³

86. The Commission for Children and Young People's 2016 systemic inquiry into the department's compliance with the ACPP, *In the Child's Best Interests*, highlighted issues with the application of the ACPP including:

- incorrect and untimely identification of Aboriginality
- lower than expected numbers of Aboriginal Family-Led Decision-Making Meetings
- kinship placement decisions not considering all potential Aboriginal extended family carers.⁵⁴

50 CCYP, above n 44, 11.

51 Victoria, *Parliamentary Debates*, Legislative Assembly, 8 June 2006, 1860 (Sherryl Garbutt).

52 CYFA s 13.

53 Ibid s 12.

54 CCYP, *In the Child's Best Interests Inquiry Report* (2016) 18-22.

87. In response to a draft of this report, the department advised:

A significant amount of work has been completed by child protection to improve the timeliness of identification of Aboriginality identified by the Commission in their report, with the support and input of operational child protection divisions and funded Aboriginal Community Controlled Organisations (ACCOS). Importantly it is now a requirement that the Aboriginality of a child be recorded in CRIS following the investigation. Recording 'unknown' field post investigation is no longer an option.

Further work undertaken to address the untimely identification of Aboriginality includes:

- Development of practice guidance which provides information to child protection practitioners on the importance of proactively asking about a child's cultural identity to achieve early identification, to uphold the child's cultural rights, link the child to culturally appropriate services, and meet legislative and policy requirements.
- Development of a procedure which provides the child protection workforce with a step by step guide on how to ask the question throughout child protection involvement.
- Development of an information sheet for families explaining why the question regarding their cultural identity is asked and the importance of keeping a child and family connected to their culture and protecting their cultural rights.

Considerable work has also been completed regarding changing the status of an Aboriginal and Torres Strait Islander child, which includes a robust process requiring the endorsement of the Office of Professional Practice in consultation with the Commissioner for Aboriginal Children and Young People.

Aboriginal family-led decision making

A review of the AFLDM model and program guidelines has been undertaken, recognising it is not operating in accordance with the program guidelines and expectations, noting families currently reserve the right to refuse to participate in an AFLDM meeting.

This review included consideration and implementation of, all accepted recommendations from the Commissioner for Children and Young People's inquiries concerning the AFLDM program, and its recommendations also addressed issues identified in the Victorian Ombudsman's report.

Best interests of the child

88. A key objective of the investigation was to determine whether the department considers a child's best interests and individual needs when deciding applications for financial support by kinship carers. To reach a conclusion on this issue, the investigation compared the administration of financial support for kinship and foster carers.

Legislative context

89. When making decisions that affect a child, the department is required to consider the child's best interests. The CYFA sets out best interests principles and provides that the best interests of a child must always be paramount.⁵⁵

90. Section 17(2) of the Charter also provides that:

Every child has the right, without discrimination, to such protection as in his or her best interests and is needed by him or her by reason of being a child.

91. Section 38(1) of the Charter states:

...it is unlawful for a public authority to act in a way that is incompatible with a human right, or in making a decision, to fail to give proper consideration to a relevant human right.

92. The *Carers Recognition Act 2012* (Vic) was introduced to recognise the role and value of carers.⁵⁶ The Act contains care relationship principles including:

- carers should be recognised for their efforts and dedication as a carer and for the social and economic contribution to the whole community arising from their role as a carer⁵⁷
- those being cared for in a 'care relationship',⁵⁸ including children or young people, should have their needs and best interests considered in how they are cared for.⁵⁹

Care allowance

93. To assist with the costs of care, kinship carers and foster carers may be eligible to receive a care allowance until the child turns 18 years of age. Eligibility is dependent on the placement being assessed and approved by the department.⁶⁰

94. The care allowance 'assists with the ordinary costs of care, that is, food, fuel, household provisions, clothing, gifts, pocket money and entertainment'.⁶¹ There are five care allowance levels to reflect the additional expenses that may be incurred by some carers.

95. For a child up to 7 years, the rates of reimbursement, for 2017-18, range from \$386.04 per fortnight (level one) to \$1,573 per fortnight (level five). Details are available at Appendix A (page 63).

56 *Carers Recognition Act 2012* (Vic) s 1.

57 *Ibid* s 7(c).

58 *Ibid* s 4.

59 *Ibid* s 8(b).

60 DHHS, *Guidelines for Central Payment of Caregiver Reimbursements – Kinship Care, Permanent Care and Local Adoption* (2008) 4.

61 DHHS, *Guidelines for Central Payment of Caregiver Reimbursements – Kinship Care, Permanent Care and Local Adoption* (2008) 5.

55 CYFA s 10.

Figure 3: Level of allowance paid to kinship carers

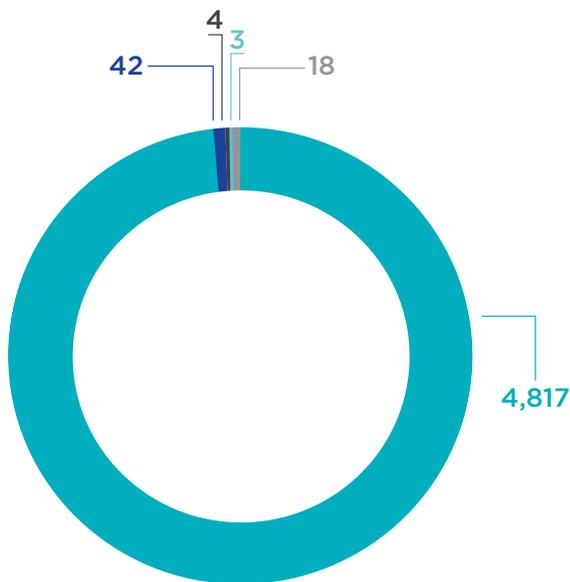
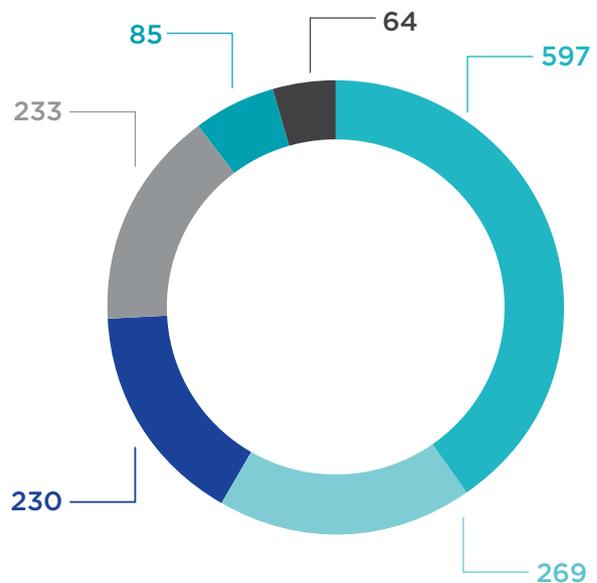


Figure 4: Level of allowance paid to foster carers



96. The importance of the care allowance in supporting kinship carers was revealed in submissions to the investigation. A grandmother caring for her six-year old grandchild said:

...my husband and I have been caring for our 6 year old granddaughter for 3 years ...To do this I had to give up my part time employment and my husband cut back to part time to help. He eventually went on Centrelink benefits as I also had to look after my ill daughter and my parents who both had cancer. Financially it was a struggle ...we have had to use some of our superannuation.⁶²

97. Almost all kinship carers receive a 'level one' care allowance (as shown in Figure 3 above). The level of care allowance received by foster carers varies (as shown in Figure 4 above).

Deciding the care allowance level

98. Under the 2008 *Guidelines for Central Payment of Caregiver Reimbursement* (the Guidelines) at the time of placement, an assessed and approved kinship carer automatically receives a level one care allowance. The individual needs and best interests of the child do not affect the care allowance level at the time of placement.

⁶² Email from kinship carer to the Victorian Ombudsman, 3 April 2017.

99. After the commencement of the placement, kinship carers may apply for an increased allowance to reflect the child's care needs. The Guidelines state that if there are 'exceptional circumstances' where the base rate is insufficient to meet the needs of the child a higher rate of reimbursement may be appropriate.⁶³ This involves two stages:

- i. identifying the needs of the placement
- ii. applying for a higher care allowance. This is governed by an application process called the Special Negotiated Adjustment process (SNA process).⁶⁴

100. In contrast, at the time of placement foster carers are represented by a funded service provider which negotiates the level of care allowance, based on the individual needs of the child, with the Placement Coordination Units (PCU) in the divisions of the department. The PCU is responsible for matching children requiring placement in foster or residential care.⁶⁵ The level of care allowance can also be negotiated throughout the placement if required.⁶⁶

101. In August 2017, in the final stages of our investigation, the department released a new consolidated policy for financial supports. The *Care Allowance Policy and Procedures* (the consolidated policy) made the following changes:

- foster carers providing a voluntary placement, with Child Protection involvement, receive a level one care allowance at the commencement of placement⁶⁷
- foster carers providing a court-ordered placement will continue to negotiate the care allowance level at the commencement of the placement, based on the needs of the child
- kinship and foster carers can both receive a care allowance advance to establish a placement in emergency circumstances.⁶⁸

Identifying the needs of the kinship placement

102. Kinship placements may be planned or in response to an emergency, where a child can no longer remain in the care of their parents. Regardless of how the placement is initiated, the Child Protection Manual states that an assessment of the carer and the placement must be undertaken when Child Protection intervention occurs.⁶⁹

103. The department advised that Child Protection Practitioners are responsible for ensuring that the carer and placement are adequately supported through the following assessments:

The Part A, Part B and Part C assessments provide a formal mechanism to document the suitability of the placement in meeting the needs of the child and the supports required for the kinship carer, including the financial support needs of the carer.⁷⁰

63 DHHS, *Guidelines for Central Payment of Caregiver Reimbursements – Kinship Care, Permanent Care and Local Adoption* (2008) 5; DHHS, *Special Negotiated Adjustments: Kinship Care, Permanent Care and Local Adoption* (2011) 1.

64 DHHS, *Special Negotiated Adjustments: Kinship Care, Permanent Care and Local Adoption* (2011).

65 DHHS, *Placement coordination unit* (11 January 2017) <<http://www.cpmanual.vic.gov.au/advice-and-protocols/service-descriptions/out-home-care/placement-coordination-unit>>.

66 DHHS, *Placement Coordination and Placement Planning Manual* (2012) 7.

67 DHHS, *Care Allowance Policy and Procedures* (2017) 14.

68 Ibid 29.

69 DHHS, *Child Protection Manual – Kinship care assessment – advice* (1 December 2016) <<http://www.cpmanual.vic.gov.au/advice-and-protocols/advice/out-home-care/kinship-placement/kinship-care-assessment>>.

70 Email from DHHS to the Victorian Ombudsman, 1 May 2017.

104. The following table outlines the stages of the assessment process and the requirements of each stage:

Table 2: The assessment process and requirements

Stage	Financial focus	Requirements
Preliminary Part A assessment (one week)	Assesses the immediate financial support needs. Includes application for the care allowance (automatic level one).	Goal is to ascertain whether the placement is 'safe and suitable'. ⁷¹ The information gathered is recorded in the Part A assessment report template.
Comprehensive Part B assessment (six weeks)	Focus on financial concerns of the carer for the next 12 months.	Questionnaire completed by the carer, followed by a meeting with the practitioner to discuss the answers. The information gathered is recorded in the Part B assessment report template. Focus on the kinship carer's ability to meet the ongoing needs of the child and long-term planning for the child. ⁷²
Annual Part C assessment (12 months)	Focus on financial concerns of the carer for the next 12 months.	Review the progress of the placement to: <ul style="list-style-type: none"> determine whether it is meeting the child's safety, stability and development needs identify what supports may be required to maintain the placement.⁷³ The information is recorded in the Part C assessment report template.

105. While these assessments may identify a need for the Child Protection Practitioner to apply for a higher care allowance for the carer, there are no references in the assessment templates to 'exceptional circumstances' that may prompt the completion of, or form the basis of, an SNA request. Nor is there a reference in the assessments to the SNA process or the availability of a higher care allowance.

106. Furthermore, evidence obtained by the investigation suggests that the assessments are not always completed, or are often delayed.

⁷¹ DHHS, *Assessment and monitoring of suitability of kinship placements: Part A Preliminary assessment* (undated) 1.

⁷² DHHS, *Assessment and monitoring of suitability of kinship placements: Part B (comprehensive assessment)* (undated).

⁷³ DHHS, *Assessment and monitoring of suitability of kinship placements: Part C (annual assessment)* (undated) 1.

107. At interview, a Child Protection Practitioner said:

I don't think they [Part A and Part B assessments] are filled out extensively... I think it's because people are time poor so if they can get away with putting a couple of lines in people see that as sufficient. But I don't actually... We need to be delving deep into the person who has put their hand up to care for the child.⁷⁴

108. In 2015, KPMG completed its *Review of the Kinship Care Model* (the KPMG review) for the department. The objectives of the review included to assess the effectiveness of the statutory kinship care service model and make recommendations for improvement.

109. The KPMG review identified deficiencies in the Part A and Part B assessments:

The Part A and Part B assessment templates require revision to ensure that the tools are more effective in assisting case workers to understand the complex family dynamics, trauma and placement histories to the depth required to make an informed assessment as to the kinship carer's ability to provide the child or young person with a stable placement.

...

Part A and Part B assessment forms are not being completed in a timely manner, in part due to the workloads of Child Protection staff.⁷⁵

110. The KPMG review highlighted that a key goal of the case contracting model was to lower the workload of Child Protection Practitioners. However, this has not been achieved because the department's target for the number of kinship placements managed by funded service providers has remained the same, despite an increase in the number of overall placements.

111. To develop an understanding of these assessments, and to determine whether the non-compliance identified by the KPMG review was still an issue, the investigation reviewed 116 kinship files on the CRIS database in May 2017.⁷⁶

112. The review concluded:

- Part A assessments had not been completed for 12 placements⁷⁷
- Part B assessments had not been completed for 36 placements.⁷⁸

113. The department has since advised it is:

- currently considering ways to extract data from CRIS to monitor compliance⁷⁹
- piloting a new approach in the East Division of the department to identify and assess the needs of a child in a kinship placement and provide access to family service and brokerage as required. The pilot commenced in September 2017 and involves two funded service providers⁸⁰ completing all Part B assessments for new placements.

114. The failure to complete the Part A and B assessments means that a Child Protection Practitioner may not understand the needs associated with the placement or identify if a level one care allowance is insufficient.

76 The kinship files reviewed were for placements commencing in December 2016, that were still open on 31 March 2017.

77 After the investigation's initial review and prior to finalising, Part A assessments were completed for 16 placements. These assessments were completed up to five months after the placement commenced.

78 After the investigation's initial review and prior to finalising, Part B assessments were completed for 30 placements. These assessments were completed up to five months after the placement commenced.

79 Email from DHHS to the Victorian Ombudsman, 7 July 2017.

80 Rumbalara Aboriginal Cooperative and Berry Street.

74 Interview with DHHS Team Manager (Telephone, Tuesday 16 May 2017).

75 KPMG, *Review of the kinship care model* (2016) 28.

115. In the following case study, the department failed to assess the needs of the child. This resulted in the carer receiving \$600 less per fortnight than she was entitled to.



Case study: Department increases care allowance and provides a \$17,000 one-off payment after failing to complete needs assessments

Margaret* commenced caring for her two grandchildren in August 2014. In September 2015, she complained to the Ombudsman about the care allowance level she received for her granddaughter who has 'significant developmental delays'. Margaret was in receipt of a general rate care allowance [equivalent to a level one allowance] and complained that the department never advised her of the different levels of payment for which she may be eligible.

In her complaint, Margaret offered insight into her granddaughter's additional needs and the impact on her daily routine:

We have had to lock all doors in our house with childproof locks – internally and externally and raise the height of our back fence as she is a serial absconder. She has no sense of danger so bathrooms, laundry and toilet are all danger zones. She is non verbal, in nappies (at 4½ years of age) and has several anxiety issues. We have to lock the fridge and pantry due to some of these anxieties. Diagnosis of Autism has now been made, occupational therapy, paediatric appointments, blood and hearing tests all at our expense. [Our granddaughter] is now attending day care but due to the level of care required and the associated funding, her hours there are capped so I have had to go from full time employment to part time which has resulted in a significant decrease in my income.⁸¹

Margaret said that despite submitting reports from medical professionals demonstrating her granddaughter's disabilities, the department allocated her a level one care allowance.

Margaret said:

At no time did anyone ever discuss with us the eligibility criteria or qualifications for a higher rate of carer reimbursement, in fact we continued to get mixed messages. At one point I was asked to indicate additional impact to our finances but also told the fact my income had decreased was not a consideration.⁸²

The Ombudsman's enquiries with the department confirmed that Margaret's grandchildren had experienced significant trauma and that her granddaughter had complex needs which require long-term substantial care and constant supervision.

The department advised that it had no evidence the kinship assessments – Part A and Part B – were completed. Further, it acknowledged it had received three previous complaints from Margaret (February 2015, July 2015 and September 2015) about the level of her care allowance. Despite these complaints, the department did not approve her application for a higher allowance until 3 September 2015.

The department identified 'significant practice deficits' by Child Protection Practitioners directly involved with the original placement of the grandchildren in Margaret's care. As a result, the department amended the care allowance from \$285.50 to \$923.12 per fortnight and provided a one-off payment of \$17,000 to Margaret, which was the difference between the general and complex carer rates for the time the child had been in her care.

**not her real name*

81 Letter from 'Margaret' to the Victorian Ombudsman, 7 September 2015.

82 Ibid.

116. In the case study below, the department's failure to complete needs assessments deprived a kinship carer of a care allowance for almost two years.



Case study: Department provides grandmother a \$15,000 reimbursement after failing to complete needs assessments

Tina* is the kinship carer of her granddaughter, Amanda*. Tina said that in February 2015 Victoria Police made a report to the department about Amanda's mother's ability to care for her. Tina said the department was going to place Amanda in foster care but she asked to be considered as a kinship carer. Tina said:

DH[H]S came to visit me... They were happy for [the child] to stay with me as they were confident she was being cared for by her grandmother. Life continued on then I received a call from... my case worker at DH[H]S in 2016 to say my case had been closed. I did not know what that meant.

In March 2017, Tina complained to the Ombudsman that she did not receive a care allowance from the department, despite its previous involvement with Amanda.

The Ombudsman made enquiries and the department advised:

During the intervention that commenced [in]... September 2015, kinship assessments (Parts A and B) should have occurred. A care allowance should also have been considered.⁸³

Subsequently, the department completed an assessment for Tina and deemed her a suitable carer. It commenced providing a level one care allowance to Tina from 26 April 2017.

The division originally advised the Ombudsman that Tina was not eligible for a back-payment, stating care allowances cannot be made to kinship carers without the Part A and Part B assessments being completed. As those assessments did not occur in September 2015, the department said a back-payment to Tina was not possible.

Following a meeting between department and Ombudsman staff in July 2017, the department reconsidered its decision and determined that Tina should be reimbursed for the period she did not receive financial support. Tina received a \$15,442.88 back-payment.

**not her real name.*

⁸³ Email from DHHS to the Victorian Ombudsman, 28 April 2017.

117. In the following case study, the department cancelled a kinship carer's allowance without explanation. The department's file did not record the reasons for the decision or how this was consistent with the children's needs. The carer was without an allowance for 21 months.



Case study: Department reimburses carer \$34,293.90 after cancelling her care allowance without explanation

Molly* is a kinship carer of her two grandchildren. She received a level one care allowance from February to September 2015 after which time the department stopped her payments without explanation. Molly told the investigation:

The DH[H]S Case Worker... told me that... I would remain getting DH[H]S payments for them [two grandchildren]... Back in the middle of 2015 the payments ceased and [I] was not sure why so when I question[ed] as to why these payments stopped I was told because they [the children] were no longer on [court] orders.⁸⁴

The department could not explain to the Ombudsman how it made the decision to cease Molly's care allowance because the children's CRIS files did not record the reasons for the termination. The existence of a court order is not a prerequisite for the care allowance.

The department back-paid the grandmother \$34,293.90 and reinstated the care allowance for both grandchildren.

In October 2017, as the investigation was being finalised, Molly called the Ombudsman distressed that the care allowance for one of her grandchildren had again been terminated. The Ombudsman made enquiries with the department and was advised that the care allowance was terminated because Molly had not completed a Victorian 'Working With Children Check' (WWCC).

The department acknowledged that Molly was not informed of the WWCC requirement because it had the wrong mailing address in CRIS. The care allowance was reinstated and Molly was back-paid for the second period she was without an allowance.

**not her real name*

⁸⁴ Email from 'Molly' to the Victorian Ombudsman, 5 April 2017.

Applying for a higher care allowance

118. The department's SNA document outlines the process for applying for, and approval of, a higher care allowance for a kinship carer. The document states:

Consideration will be given to adjusting the carer reimbursement where a child has a particular need for access to services to promote their health and wellbeing.

...

Particular need for access to services might be associated with trauma related behaviour, delayed developmental or diagnosed disabilities, severe chronic health conditions and complex medical needs.⁸⁵

119. The relevant Child Protection Practitioner is required to complete a memorandum in support of the SNA request. In this memorandum, the Child Protection Practitioner must outline the actual or estimated cost for every additional expense and the amount of funding the carer is receiving from other sources, such as the National Disability Insurance Scheme. The memorandum is included as Appendix B (pages 64-65).

120. The department's 2017 consolidated care allowance policy, introduced in the final stages of the investigation, now includes the SNA procedure. It does not contain any substantive changes to the process.⁸⁶

121. Evidence shows the SNA process is not used often:

- only 30 SNA requests were received by the department's Out-of-home care unit between March 2016 and March 2017; 27 were approved and the relevant division did not proceed with three requests⁸⁷
- only 67 kinship carers out of 4,884 received an allowance above level one at February 2017.⁸⁸

122. The investigation reviewed all SNA requests between March 2016 and March 2017 (the SNA review). The review identified three applications where the carers' total out-of-pocket expenses fell in the middle of two higher care allowance levels, and the lower care allowance level was recommended and approved. This meant the carers continued to be out-of-pocket for extraordinary expenses despite producing receipts in line with the requirements of the memorandum.

123. In response to a draft of this report, the department explained:

The department approves the allowance level that is closest to the expenses incurred whilst caring for the child. In these three cases, the costs incurred were closer to the lower level than the higher level.

124. In contrast to kinship carers, foster carers do not have to provide invoices or receipts to receive a higher care allowance. The *Placement Coordination and Placement Planning Manual* (the PCU manual) states that further discussions in relation to classification may occur throughout the placement if there are changes to the circumstances of the placement.⁸⁹

85 DHHS, *Special Negotiated Adjustments: Kinship Care, Permanent Care and Local Adoption* (2011) 1.

86 DHHS, *Care Allowance Policy and Procedures* (2017) 36.

87 Email from DHHS to the Victorian Ombudsman, 15 June 2017.

88 Email from DHHS to the Victorian Ombudsman, 22 May 2017.

89 DHHS, *Placement Coordination and Placement Planning Manual* (2012) 8.

125. The process for increasing the care allowance level for foster carers during the placement is governed by local operating procedures. Each division of the department has its own procedures.⁹⁰ To move from a general rate to the intensive or complex rate the PCU considers factors such as:

- behavioural management issues
- dependency needs
- alcohol or drug use.

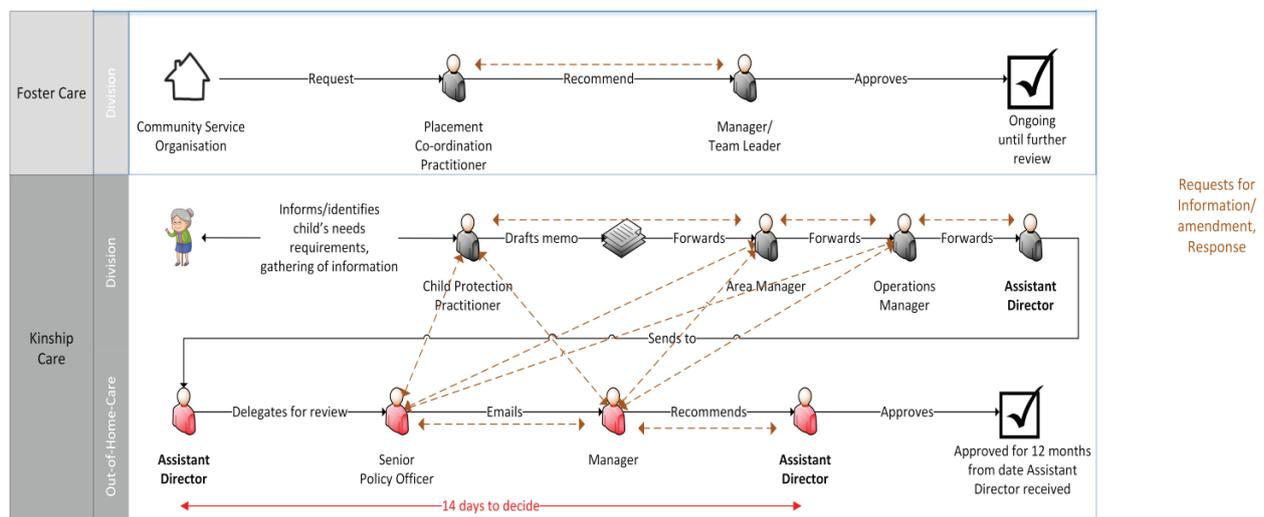
126. The department's 2017 consolidated care allowance policy states that if a child in a foster placement has higher support needs and additional expenses a higher care allowance may be needed to support the placement. It does not require the production of a memorandum in support of the request: it requires a discussion in the care team.⁹¹

127. The SNA review showed that for a kinship placement, the SNA request requires approval from the Area Manager, Operations Manager and Assistant Director of the division and then from the Assistant Director of Out-of-home care in central office. The SNA review also showed that the Assistant Director of Out-of-home care unit delegates responsibility to the Senior Policy Officer and Manager, Out-of-home care to ensure the SNA request contains all relevant information.

128. In contrast, for foster carers the decision to approve a higher care allowance is made by the PCU Child Protection Practitioner and their manager in the division.⁹²

129. The below flow chart shows the kinship SNA process in comparison with the foster care process for increasing a care allowance if the need is identified after a placement.

Figure 5: Application process for a higher care allowance



90 DHHS (East Division and West Division), *Home Based Care Reclassification Guide and Application Process* (2017); DHHS (North Division), *Request change in agency caregiver reimbursement* (2010); DHHS (South Division), *Home Based Funding Model* (2012).

91 DHHS, *Care Allowance Policy and Procedures* (2017) 36.

92 DHHS, *Placement Coordination and Placement Planning Manual* (2012) 8.

130. The Centre for Excellence in Child and Family Welfare Inc. told the investigation that it is easier for foster carers to receive a higher level of reimbursement as:

- often assessments and diagnosis for children and young people have been completed prior to them entering foster care, which makes it easier to determine their support needs
- foster placements are generally contracted to an agency where the case is actively worked and the care team is well established and meets regularly
- kinship care cases are often unallocated in Child Protection. Once a placement is established there are no resources allocated to establishing or maintaining a care team, visiting the child and carers, completing assessment Part B or case planning.⁹³

131. Departmental documents show that the department has identified 'the process of applying for higher kinship carer allowances can be complex and difficult to access by kinship carers'.⁹⁴ This is consistent with Child Protection Practitioners' and Team Managers' evidence:

A Team Manager from a regional office said:

[I]t is a difficult and time consuming process that we rarely use because it is so difficult...⁹⁵

A Senior Child Protection Practitioner from a metropolitan office said:

[T]he memo [SNA] is a huge amount of work for child protection because we have to account for every little expense... It [the memo] is really detailed... takes a lot of time because they get rejected and get sent back and forth and I think the process could be streamlined and I don't know why we are sending it to central office and then it's not back paid, then we have to do it again after 12 months... It feels laborious.⁹⁶

Foster placements transferring to kinship placements

132. The different processes for determining and adjusting the care allowance levels for foster and kinship carers have perplexing consequences when children move between placement types.

133. In reviewing the SNA requests between March 2016 and March 2017, the investigation identified two applications where kinship carers did not receive the same higher allowance as the child's previous foster carers.

93 Submission 45, Centre for Excellence in Child and Family Welfare Inc, 26 May 2017.

94 Paper from DHHS Director, above n 27.

95 Interview with DHHS Team Manager (Bendigo, Wednesday 10 May 2017).

96 Interview with DHHS Team Manager (Melbourne, Wednesday 3 May 2017).

134. The following case study is an example of one of these situations. In this case, the placement broke down owing to the inadequacy of the financial support provided.



Case study: Child transferred into residential care after financial hardship breaks down kinship placement

Billy* is 13 years old and has a significant Child Protection history, dating back to 2004 when Billy was four months old. Both of Billy's parents have significant mental health issues and intellectual disabilities. Billy's father is a convicted sex offender.

Billy has an intellectual disability and significant behavioural challenges.

In 2008, Billy was placed in foster care with the Smiths*. The department considered the placement offered Billy '... a loving and caring environment. The [Smiths] are committed to ensuring all [Billy's] needs are met and have expressed their wish to care for him as permanent carers'.⁹⁷ The foster carers received a level four care allowance for Billy - \$941.58 per fortnight.

In November 2015, Billy and his foster carers moved interstate. The foster carers' registration did not extend interstate so the placement was changed by the department from a foster care placement to a kinship placement so Billy could stay with the Smiths.

The care allowance received by Billy's carers subsequently dropped from a level four to a level one rate - \$425.27 per fortnight in accordance with the Guidelines.

In November 2015, Billy's Child Protection Practitioner identified a need for a higher allowance and commenced an SNA process. The memorandum from the Acting Director, Child Protection in the division supporting the SNA request was not sent to central office until 31 March 2016. The SNA memorandum requested an adjustment to a level four allowance in line with the previous foster placement.

The Out-of-home care unit at the department's central office required further information to approve the adjustment such as a breakdown of the expenses incurred by the carers, and whether the division had considered Billy eligible to receive disability support funding elsewhere.

In September 2016, the division provided an amended SNA request incorporating the central office feedback. The division advised central office that the placement was at significant risk of breaking down under the current financial arrangements.

In November 2016, 12 months after the SNA was initiated the Out-of-home care unit 'received a call from [division]... the carers are not resuming care of [child]'. Consequently, Billy was transferred to residential care.

⁹⁷ Memorandum from DHHS Acting Director, Child Protection, [Division] to DHHS Assistant Director, Out-of-home care, Children and Families Policy, Children, Families, Disability and Operations Branch, 31 March 2016.

In January 2017, Billy's case came to the attention of the Minister for Families and Children and the department made enquiries into the matter. As a result, the department considered that:

... ongoing payments can also be offered should the [previous kinship] carers be willing to have [Billy] return to their care. [Billy] is currently in residential care and has been assaulted by a co-resident. There was a potential HBC [home based care] placement however this is unable to proceed due to the carers not feeling that they can meet all of [Billy's] needs after meeting [Billy] last week.⁹⁸

After four months residing in residential care, Billy was transferred to a Treatment Foster Care Oregon (TFCO) program managed by a funded service provider. Billy did not return to live with the Smiths because the department could not meet their additional requests including a five-year advance on the care allowance and moving Billy to New Zealand, away from his biological family.

However, the department endorsed a level four care allowance and back-paid the Smiths \$14,489.09: the difference between the level one allowance and level four allowance for the period of time he was in their care.

**not his real name*

⁹⁸ Email from DHHS Acting Area Manager Divisional Services, [Division] to DHHS Assistant Director, Child Protection [Division], 9 January 2017.

135. In the case below, three siblings lived in a foster care placement for six years, while their foster carer received a level two care allowance for each child. When the children's placement converted to a kinship care arrangement with their grandfather, the care allowance dropped to a level one care allowance. The department considered the grandfather was not eligible for a higher care allowance as the children did not present as having higher needs, and the grandfather could not show the level of out-of-pocket expenses to support payment of a higher allowance.



Case study: Kinship carer not entitled to a higher care allowance as he is a 'relative providing kinship care, not a foster carer providing out-of-home care'

Darren* has been the kinship carer of his eldest granddaughter since 2005 and her three younger siblings since October 2016. All children entered Darren's care through the department's involvement.

In March 2017, Darren complained to the Ombudsman about receiving a level one care allowance for each of his three younger grandchildren, despite the children's previous foster carer receiving a level two care allowance for each child. The three younger siblings were placed in foster care from 2010 to October 2016 before Darren commenced caring for them.

Darren said that at the time of his three younger grandchildren's kinship placement, the allocated Child Protection Practitioner told him that he was not entitled to a higher care allowance as he is a:

... relative providing kinship care, not a foster carer providing out-of-home care.⁹⁹

The department confirmed with the Ombudsman that the previous foster carer for the three younger children received a level two care allowance because it was negotiated with the foster care agency prior to placing the children. The department said that the PCU in the division had a practice of placing all sibling groups in foster care automatically on a level two allowance.

The department said that under the SNA process, Darren was not entitled to a level two allowance as the children did not require the support of additional services to promote their health and wellbeing.¹⁰⁰

**not his real name*

⁹⁹ Telephone call between 'Darren' and the Victorian Ombudsman, 15 March 2017.

¹⁰⁰ Telephone call between DHHS Child Protection Operations Manager [Division] and the Victorian Ombudsman, 21 June 2017.

Automatic reversion of care allowance to level one after 12 months

136. If an SNA request for a kinship carer is successful, the higher rate is approved for one year. After this time, Child Protection Practitioners are required to submit another SNA request, otherwise the care allowance will revert to level one.¹⁰¹ The consolidated policy has not changed this requirement.

137. This is not the case for foster carers. The Assistant Director, Out-of-home care said at interview that a higher care allowance for a foster carer is ongoing; it is not reviewed and re-applied for every 12 months.

138. As the following case study demonstrates, the automatic reversion may not be appropriate when a child has ongoing and life-long medical conditions.



Case study: Higher care allowance ceases owing to departmental error; carer reimbursed \$4,500

Edna* is a formal kinship carer for her granddaughter, who was diagnosed with significant medical problems at birth. Edna said she spends approximately \$21,000 per year on medical expenses for her granddaughter.

Edna complained to the Ombudsman about her care allowance payments being reduced by \$632 per fortnight, without notice.

The department explained that its policy only allows for adjustments to be approved for 12 months at a time. If an additional SNA request is not submitted by the Child Protection Practitioner, the complex rate decreases to a level one after the approved period.¹⁰²

The department advised that Edna's care allowance reverted to level one due to an administrative error when the department transferred case management of the granddaughter's file between two divisions. The department recognised its oversight and reimbursed the grandmother the amount she would have received if her payments were not reduced - approximately \$4,500.

Edna stated:

I would also like to further add that as a carer of a child with a complex medical history, that will be life long, that this payment should be ongoing as long as she lives in my home. Not subjected to review every 12 months.¹⁰³

**not her real name*

¹⁰¹ DHHS, *Special Negotiated Adjustments: Kinship Care, Permanent Care and Local Adoption* (2011).

¹⁰² Email from DHHS to the Victorian Ombudsman, 10 December 2015.

¹⁰³ Email from 'Edna' to the Victorian Ombudsman, 27 October 2015.

Interstate care arrangements

139. The Child Protection Manual anticipates that a Victorian child may be placed with kin interstate. The manual provides advice to Child Protection Practitioners about interstate placements; movement of a child interstate who is not on a Child Protection Order but is subject to Child Protection involvement; and transferring cases where Child Protection Orders are in place.¹⁰⁴

140. The following case study highlights the unclear status of a kinship placement when a Victorian child is placed interstate in the absence of a Child Protection Order. In this case, the department placed a child with a carer in New South Wales and subsequently used the location of the placement as the basis for terminating care allowance payments.



Case study: \$26,000 back payment for grandmother to ensure placement viability

Naomi* is the kinship carer of her Victorian born grandson, who has lived with her interstate since the commencement of a kinship placement in 2013. From May 2013 to June 2014, Naomi received a level one care allowance from the department.

In June 2014, the department stopped Naomi's care allowance after closing her grandson's Child Protection File. Naomi provided letters to the Ombudsman that showed the department:

- closed the grandson's file because he was placed outside of Victoria
- submitted a report to the NSW Department of Community Services (NSW DOCS) and received advice from NSW DOCS that it could financially assist Naomi.

Naomi said that when she contacted NSW DOCS it said it had not heard of her grandson's case as the department had not transferred his file. Naomi also said she never received a care allowance from NSW DOCS. In response to the draft report, the department advised:

Case notes reflect that the NSW Department of Family and Community Services contacted Naomi to advise of their position and discuss proceeding through the Family Law court as an option. However, Naomi stated that she felt comfortable and able to contact DHS [Victoria] regarding a protection order for her grandchild.¹⁰⁵

In response to the Ombudsman's enquiries, the department provided a case note reflecting that the department was going to await advice from Naomi that NSW DOCS had commenced payment so the department could cease payment and close her grandson's case. Notwithstanding the case note, the department closed the grandson's case without receiving the confirmation.¹⁰⁶

Following a meeting between department and Ombudsman staff on 26 July 2017, the department responded:

At the time of case closure, it was assessed that the NSW Department of Community Services (DOCS) was the most appropriate jurisdiction for any future child protection involvement.

The department was advised that DOCS would assess the placement for financial assistance.

A re-assessment has since occurred and it has been determined that payments should be reinstated given [the child] continues to reside with [Naomi] and financial support is considered necessary in order to ensure the viability of the placement. It is recommended that general caregiver reimbursement payments [a level one care allowance] are reinstated and backdated¹⁰⁷

Naomi received \$26,916.62 in backdated level one care allowances from the department.

**not her real name*

¹⁰⁴ DHHS, *Child Protection Manual - Interstate and New Zealand case transfers* (1 December 2016) <<http://www.cpmanual.vic.gov.au/advice-and-protocols/advice/case-transfers/interstate-and-new-zealand-case-transfers>>.

¹⁰⁵ Letter from DHHS Acting Secretary to the Victorian Ombudsman, 8 November 2017.

¹⁰⁶ Email from DHHS to the Victorian Ombudsman, 13 June 2017.

¹⁰⁷ Email from DHHS to the Victorian Ombudsman, 1 August 2017.

Client support funding

141. In addition to the care allowance, kinship carers may receive funding for one-off costs incurred in the placement.
142. In June 2016, the department introduced a new *Statewide client support funding framework* (the Framework) that applies to both kinship and foster placements. Its purpose is to ensure carers have fair and consistent access to additional funding to meet extraordinary expenses.¹⁰⁸
143. Notwithstanding the purpose of the framework, kinship carers are not eligible for the same amount of discretionary funding as foster carers.
144. The following analysis demonstrates that although kinship and foster carers overall receive comparatively the same amount of Client Expenses Funding, foster carers and lead tenants were eligible for, at a minimum, an additional \$4.5 million in funding in 2016–17.¹⁰⁹

Table 3: Stream of funding under the Framework

Funding	Type	Kinship care	Foster care
Client Expenses Funding	Discretionary funding	✓	✓
Placement Support Brokerage	\$1000 brokerage per child	X	✓
	High-cost placement support	X	✓

¹⁰⁸ DHHS *Funding Framework*, above n 3, 6.

¹⁰⁹ Email from DHHS to the Victorian Ombudsman, 28 July 2017.

Client Expenses Funding

145. Under the Framework, kinship carers and foster carers may be eligible for Client Expenses Funding to meet high cost expenses such as accommodation, baby goods, child care or transport.¹¹⁰
146. The investigation reviewed expenses funding for 2016–17 to determine if there were any inequalities between kinship and foster carers. The department could not provide information on the exact distribution of the funding due to the way data is captured.
147. In 2016–17, the department spent \$18.3 million on Client Expenses Funding across the State.¹¹¹ Due to the high number of approvals, the department was not able to break down the costs by placement type (i.e. kinship, foster, residential) without the significant investment of resources.
148. The department could provide information on the approval of extraordinary expenses (one-off or cumulative costs greater than \$3,000). This information suggests that funding requests for extraordinary expenses are approved proportionality at the same rate for foster and kinship placements.

Placement Support Brokerage

149. Foster carers and lead tenants are eligible for 'Placement Support Brokerage' (PSB) to provide carers with assistance to commence, maintain or sustain a placement.¹¹² According to the Framework, PSB can be used to cover the costs associated with establishing a placement and support activities to assist a child or young person to integrate into the carer household or be involved with the family.¹¹³
150. Lead tenant placements are eligible for PSB. There were 40 lead tenant placements and 1,515 foster care placements in February 2017.¹¹⁴
151. Kinship carers are not eligible for PSB, as shown in Table 3 (previous page).
152. Funded service providers administer the PSB and are provided with \$1,000 per target per annum. A target may represent more than one child because a foster or lead tenant placement may be less than one year in duration. The PSB is not attached to each child but is a pool of funds which may be accessed based on the needs of the placement.¹¹⁵
153. If a foster carer requires more than the PSB provided to the funded service provider, the Placement Coordination Unit at the divisions can approve 'high cost placement support brokerage' for one-off purchases over \$3,000 per child or cumulative costs related to single expenses greater than \$3,000 in a 12-month period.
154. In 2016–17, the department spent \$3.06 million on 'high cost placement support brokerage' for foster and lead tenant placements.

¹¹⁰ *DHHS Funding Framework*, above n 3, 31.

¹¹¹ Email from DHHS to the Victorian Ombudsman, 28 July 2017.

¹¹² *DHHS Funding Framework*, above n 3, 7.

¹¹³ *Ibid* 8.

¹¹⁴ Email from DHHS to the Victorian Ombudsman, 11 August 2017; Email from DHHS to the Victorian Ombudsman, 23 November 2017.

¹¹⁵ *Ibid* 9.

Delay

155. Research indicates that many kinship carers have low incomes. People with low incomes often live pay cheque to pay cheque and rely on allowances being made promptly. Delay in receiving payments can impact their lives significantly.
156. The impact of delay was demonstrated in Billy's case study (pages 34 and 35). Delay in the SNA request was a contributing factor in the placement breaking down because Billy's carers were unable to get him access to the services he needed.
157. The investigation sought to examine whether the department processes applications for financial support and makes payments in a timely manner, ensuring kinship carers are not disadvantaged by department delays.
160. The Guideline states that a Child Protection Practitioner must complete the *Form B – Commence or Commence and Cease Caregiver Reimbursement* (commence forms) within three days of the placement starting, to commence the care allowance.¹¹⁶ The 2017 consolidated policy provides the same timeframe.¹¹⁷
161. The investigation obtained a copy of a spreadsheet which registers the date a Form B was submitted to the Helpdesk and the date corresponding payments commenced to the kinship carer.¹¹⁸ The spreadsheet records forms received from September 2015 onwards.
162. The investigation reviewed the data in the spreadsheet for 816 commence forms submitted between 1 May 2016 and 31 May 2017.¹¹⁹ The review found that 50 people out of 816 waited more than 50 days for the care allowance to commence. On the next page, Table 4 shows the number of days elapsed between the forms being submitted to the Helpdesk and the placement commencing.

Commencing the care allowance

158. Child Protection Practitioners are responsible for commencing and ceasing the care allowance for kinship carers by submitting forms to the Care Allowance Helpdesk (the Helpdesk) at the department.
159. Delays in the payment of the care allowance can occur in two ways:
- forms to commence the care allowance are submitted after the required timeframe
 - kinship carers are not recognised by Child Protection Practitioners at the commencement of the placement.

¹¹⁶ DHHS, *Guidelines for Central Payment of Caregiver Reimbursements – Kinship Care, Permanent Care and Local Adoption* (2008) 9.

¹¹⁷ DHHS, above n 91, 28..

¹¹⁸ Email from DHHS to the Victorian Ombudsman, 8 June 2017.

¹¹⁹ Analysis of commence forms only, not commence and cease forms.

Table 4: Delay in forms being submitted

Number of days elapsed	Number of forms
None	9
0-7 business days	479
8-14 business days	134
15-20 business days	58
21-30 business days	40
31-50 business days	46
51-100 business days	28
More than 100 business days	22

163. Delay in the receipt of a care allowance was the subject of three complaints to the investigation. The following case study is an example of such a complaint.

164. The Commission for Children and Young People submitted the following case studies to the investigation.



Case study: Ombudsman enquiries lead to reinstatement of care allowance and \$8,000 in back-payment to pensioner

Erin* is a formal kinship carer of her three grandchildren. She complained to the Ombudsman about a four-month delay in the department providing her with a care allowance for each child. Erin is on a pension, she said she struggled to meet the needs of the children and resorted to borrowing money from other people.

In response to enquiries, the department explained that payments were not provided to Erin due to issues relating to the children's change in address not being updated on the department's CRIS system.

To address its shortcomings, the department commenced a level one care allowance for each grandchild placed in Erin's care. The department also reimbursed Erin approximately \$8,000 in back-payment.

**not her real name*



Case study: Commission for Children and Young People assists kinship carer in getting care allowance reinstated

In 2015, the Commission was contacted by a woman who had been a kinship carer for her niece from when her niece was a baby until she ran away from home at age 15. The carer advised the department and carer payments were ceased and the case closed.

In February 2015 the niece returned to the aunt's home, pregnant and with her boyfriend. The carer made nine calls over a month seeking to reinstate the carer payments, and was referred to two family support agencies and three internal sections of the department without success. She had emphasised the need for the funding to help prepare for the baby and believed a leaving care package for her niece was vital.

Following the Commission's intervention in March 2015, carer payments were reinstated to the aunt in April 2015.



Case study: Commission for Children and Young People assists kinship carer when care allowance abruptly stopped without reason

In July 2015, a grandmother who cared for her severely autistic grandson had her carer payments stopped. No reason was given. When the placement began, the grandmother had received a letter which indicated that she would continue to receive payments until her grandson reached 18 years of age.

The grandmother had structured her finances accordingly, including leaving her job to care for this child. When the grandmother attempted to have the payments reinstated, she was provided with the contact details for multiple department staff, but eventually gave up when she could not get an explanation or have the payments reinstated.

She then wrote a formal letter to the department to state her case and an agency suggested she approach the Commission to expedite the process.

The Commission notified the department of this complaint and six weeks later the department contacted the carer and completed the relevant paperwork that backdated payments for 2.5 years.

Delay in the SNA process

165. The investigation reviewed 30 SNA requests over a 12-month period. From this review, the investigation identified three cases where there was a delay between the placement of a child with diagnosed disabilities or complex needs and an SNA request being initiated by the Child Protection Practitioner. For example, in June 2013, two children with cerebral palsy commenced a kinship placement; the Child Protection Practitioner did not start an SNA request until August 2016.
166. The review also identified five cases where there was delay by the division and central office in submitting an SNA application to the Assistant Director of Out-of-home care. For example, one SNA was created by the Child Protection Practitioner in the division on 20 May 2014 and the application was not approved until 20 February 2017.
167. In the following case study the carer received a level one allowance for seven years, despite the complex needs of the child. It also took six months for the SNA request to be approved.



Case study: Carer receives increased level four care allowance seven years after kinship placement commenced

In July 2009, Nancy* commenced a kinship placement with her aunt following a disclosure that Nancy had been sexually abused. Prior to the placement, Nancy had been exposed to her mother's alcohol and drug abuse and mental health issues. Nancy also displayed behavioural problems, intellectual disability, post-traumatic stress disorder, Autism spectrum disorder, developmental delays, obesity and incontinence. Despite this, Nancy's aunt received a level one care allowance.

In December 2016, an SNA memorandum¹²⁰ requesting the aunt's care allowance be adjusted from level one to level four was created by the division. In addition to Nancy's complex needs, the SNA noted the aunt lived 65 kilometres away from Nancy's school and medical appointments, and travelled 70 kilometres per week to engage Nancy in sporting and social activities to address her disabilities and socialisation issues.

The SNA also noted:

[the carer] has requested more intensive support as she is committed to caring for [Nancy] long term, however she is finding [it] a financial burden to provide support for [Nancy].

The Out-of-home care unit requested further information from the division on a number of occasions, including a breakdown of the out-of-pocket expenses incurred by the aunt to meet Nancy's health and wellbeing, such as travel costs, and costs associated with the aunt engaging Nancy in sporting activities.¹²¹

The Out-of-home care unit also advised that the sporting activities:... are out of scope for SNA, and if the division is seeking acceptance of these activities for the SNA, verification from the medical practitioner must be provided.¹²²

In response, the division provided the opinion of a paediatrician who supported the division's view of the benefit of physical activity for Nancy's health and wellbeing.¹²³

The Assistant Director of the division also noted the inequity between kinship and foster carers, noting that Nancy:

... has a significant disability and complex needs. [If] she was placed in home based care foster care she would qualify for a complex level care allowance. [Nancy] has been placed with her current carer since 2009 and her care needs are becoming more complex as she enters adolescence.

There are a number of questions you raise regarding accessing the client support funding framework to offset the costs [of] travel to appointments and family contact currently incurred by the carer. We would not be asking carers to submit invoices for petrol to travel to appointments and family contact and believe an increase in the care allowance in this instance is the appropriate approach. The division could support the carer with accommodation for family contact, however note this has previously been accepted as a cost for in a SNA request.¹²⁴

On 5 April 2017, the Out-of-home care unit approved the SNA request for the aunt to receive a level four allowance. The out-of-home care unit noted:

There has been considerable delay in progressing this due to the division's response to requests for further information. The adjustment will therefore be backdated to the application date (December 2016).¹²⁵

**not her real name*

120 Memorandum from DHHS Assistant Director, Child Protection [Division] to DHHS Assistant Director, Out-of-home care, Children and Families Policy, Children, Families, Disability and Operations Branch, 21 December 2016.

121 Email from DHHS Senior Program Officer, Home-Based Care Team, Out-of-home care to DHHS Assistant Director Child Protection [Division], 31 January 2017.

122 Email from DHHS Senior Program Officer, Home Based Care Team, Out-of-home care to Advanced Child Protection Practitioner, Child Protection [Division], 21 March 2017.

123 Email from Paediatrician to DHHS Advanced Child Protection Practitioner, Child Protection [Division], 27 March 2017.

124 Email from DHHS Assistant Director, Child Protection [Division] to Senior Program Officer, Home Based Care Team, Out-of-home care, 18 January 2017.

125 Email from DHHS Manager, Home Based Care Team. Out-of-home care to DHHS Assistant Director, Out-of-home care, Children and Families Policy, Children, Families, Disability and Operations Branch, 4 April 2017.

168. In the following complaint to the Ombudsman, the department failed to advise the carer of the SNA process when she complained about struggling

financially. It also took the department three months to process the higher allowance, after the application apparently got 'stuck in the system'.



Case study: Department fails to advise struggling carer of process for seeking higher allowance; takes three months to provide increase

Sally* is a kinship carer for her niece and nephew. Sally told the Ombudsman that her nephew has an intellectual disability and complex health needs, and her niece has trauma related behaviours.

Sally received a level one care allowance for her nephew who was placed with her via a formal kinship placement initiated by the department in 2004. Sally received no allowance for her niece as she assumed responsibility for her via an informal arrangement. Sally said that her niece '... was left on my door step one day literally... how could I not care for the child in need?'.¹²⁶

Sally told the investigation that '[b]asically, every-day in my household is ground hog day. Both children need constant care, attention and firm boundaries to keep the house remotely sane'.¹²⁷

In response to enquiries the department advised:

In 2014, Sally contacted the department to advise that she was struggling to care for the children financially. In response, the department referred her to the Family Information Referral and Support Team (ChildFIRST) to be linked into community based family services.

In 2016, Sally contacted the department again to advise that she was struggling financially as her nephew has an intellectual disability and additional support needs.

Regarding Sally's nephew, the department acknowledged that it should have advised Sally about the SNA process in 2016 when she complained of struggling financially.

In light of its oversight, in May 2017, the division submitted an SNA application for a level two care for her nephew to the department's Out-of-home care unit.

Regarding Sally's niece, the department advised that, while it had not placed the niece into her aunt's care, it had now assessed the child's safety needs and recognised Sally as her niece's formal kinship carer. The department provided Sally with a level one care allowance for her niece from 1 May 2017.

In late July 2017, Sally rang the Ombudsman and said that she had yet to receive an increase in the care allowance for her nephew as the department advised the application 'got stuck in the system'.¹²⁸ Sally also complained that the department told her the SNA for her nephew needs to be reapplied for every 12 months. Sally deemed this unfair and told the investigation that 'his brain is not going to change'.¹²⁹

The Ombudsman made additional enquiries with the department regarding the status of the SNA application. In response, the department advised the division received advice on 5 June 2017 that the SNA had been approved by the Assistant Director, Out-of-home care.

The department explained the delay in adjusting Sally's care allowance was influenced by the division's delay in submitting paperwork to the helpdesk. The division submitted the paperwork and Sally received her first payment of a level two care allowance on 23 August 2017 - approximately three months after the nephew's SNA was submitted to the Out-of-home care unit.

**not her real name*

¹²⁶ Email from 'Sally' to the Victorian Ombudsman, 9 March 2017.

¹²⁷ Ibid.

¹²⁸ Voicemail from 'Sally' to the Victorian Ombudsman, 27 July 2017.

¹²⁹ Telephone call from 'Sally' to the Victorian Ombudsman, 27 July 2017.

169. Funded service providers made submissions to the investigation about their experience using the SNA process for kinship placements for which they provide case management. They revealed carers have waited for over a year to receive increased allowances.



Case study: Funded service provider: Carer still waiting for increased care allowance after 15 months¹³⁰

In February 2016, a funded service provider confirmed with the department that they had received an SNA request for one of its carers. The funded service provider followed up again in July 2016.

They were advised in August 2016 that the department required further information about the expenses incurred by the kinship carer. Seven days later the funded service provider emailed the department with a list of expenses.

In October 2016 and January 2017, the funded service provider emailed the department seeking an update. In May 2017, at a case planning review meeting, the carer was advised that the case would be moving to permanent care and they would not be eligible for a higher care allowance.

At the time of writing, the application is yet to be completed.



Case study: Funded service provider receives approval for increased care allowance after nine months¹³¹

Two young children with significant disabilities and developmental delays were placed with their grandmother when they were three and six years old, and their case was transferred to a funded service provider for case management.

The grandmother was required to take the children to multiple medical appointments each month. Subsequently, she ceased full-time paid employment. To ease the burden on the kinship carer, the funded service provider took the children to as many medical appointments as possible.

The carer received a level one care allowance. The funded service provider submitted an SNA application to the division for a higher allowance in June 2016. The application was returned by the division three times between September and November 2016 because further information was required.

On the third occasion, in November 2016, the funded service provider was told they 'need to demonstrate that the carer is incurring additional cost of \$xxx in total in direct response to the intensive care needs of the two children'. In response, the funded service provider met with the Deputy Area Manager to gain advice and support in completing the application. This was followed by a telephone meeting with a Senior Program Officer in the division.

The funded service provider submitted the final application in January 2017. The application was approved for 12 months in March 2017.

¹³⁰ Submission 48, funded service provider, 4 July 2017 (confirmation of meeting 18 April 2017).

¹³¹ Submission 44, funded service provider, 25 May 2017 (confirmation of meeting 21 March 2017).

Back-payments

170. The SNA document states that 'there is no provision for back-pay on adjustments [approval of a higher allowance]'; when an SNA request is approved, the higher level is paid from the date of the request.¹³²
171. The SNA review identified that the date of the request was taken to be the date of the memorandum (SNA request) to the Assistant Director, Out-of-home care. The memorandum is often updated each time additional information is requested by either the division or central office of the department.
172. In instances where SNA requests were 'rejected and... sent back' at divisional level¹³³ the adjusted care allowance was paid to the kinship carer from the date of the revised request. For example:
- an SNA request for a sibling group was commenced by the Child Protection Practitioner on 20 September 2016 but the memorandum to central office was dated 8 December 2016 and the increased care allowance was paid from this date.
 - an SNA request for a child with complex needs was commenced by the Child Protection Practitioner on 20 May 2014 but the memorandum to central office was dated 4 January 2017 and the increased care allowance was paid from this date.

173. The consolidated policy makes no changes to the back-payments provision.

Delay in Client support funding

174. The investigation examined whether the department processes applications for client support funding in a timely manner.
175. While the investigation did not identify any systemic causes for delay in the payments of client expenses funding, the following case studies demonstrate that delay was an issue in complaints to the Ombudsman's office.

¹³² DHHS, *Special Negotiated Adjustments: Kinship Care, Permanent Care and Local Adoption* (2011).

¹³³ Interview with DHHS Team Manager (Melbourne, Wednesday 3 May 2017).



Case study: Kinship Care Case Manager waits eight months for a kinship carer's application for Client Support Funding to be approved

Sarah* is a Kinship Care Case Manager of a funded service provider. She complained to the Ombudsman on behalf of her client Ellen* who provides kinship care to her three grandchildren.

Sarah complained about an eight-month delay by the department in actioning an application for Ellen* to receive a bungalow, which was required to accommodate the children in the family home.

Sarah also complained about a Team Manager's decision to reject a request for Client Expenses Funding for bedroom furniture. Sarah said she complained to multiple managers within the department but had not been able to resolve Ellen's complaint.

The Ombudsman asked the department to confirm the status of the bungalow application and funding request, and to provide information on the factors contributing to the department's delay in progressing both.

The department escalated the complaint to an Operations Manager who reviewed the file. This resulted in the department:

- approving the application for the grandmother to receive a bungalow
- reversing the Team Manager's decision to refuse the request for funding for bedroom furniture as the individual circumstances of the grandmother and her grandchildren had not been considered and granting the grandmother \$4,786
- acknowledging the unreasonable delays in the grandmother's case, which were caused by human errors and a lack of attention to detail
- managing the performance of one of the staff involved.

**not her real name*



Case study: Four-year delay in reimbursing childcare fees

Tanya and Tony* provide kinship care to their three grandchildren. They complained about the department's:

- four-year delay in reimbursing the children's childcare fees, stating a Child Protection Practitioner advised them the department would cover these fees
- nine-month delay in processing an invoice for special glasses that one of the grandchildren required for health reasons.

Tanya and Tony said they were told, only after accumulating \$4,830 in fees, the department would not cover the costs. Tanya and Tony initially sought

reimbursement from November 2013; the issue was yet to be resolved in March 2017.

In response to enquiries, the department acknowledged that it had provided incorrect advice in respect to childcare costs being covered by the department. In good faith, the department agreed to process the reimbursement to cover the outstanding childcare costs in this case. The department:

- reimbursed the grandparents all childcare costs between 2013 and 2016, which totalled \$15,968.66
- processed the invoice for special glasses, which totalled \$424.

**not their real names*

176. In a submission to the investigation, the Commission for Children and Young People provided the following case study about delay.



Case study: Commission for Children and Young People assists kinship carer who waited five months for reimbursement

The Commission was contacted by a kinship carer from interstate who had been asked by the department to come to Victoria to accept care of a young baby.

The aunt travelled to Victoria for the court hearing after receiving approval for reimbursement of travel and accommodation costs.

Over subsequent months, the carer became increasingly frustrated as the matter of reimbursement of costs was referred to different staff. Documents were requested to be resubmitted and agreement for reimbursement was disputed.

The intervention of the Commission resulted in the costs being reimbursed in full in October 2016, five months after the costs were incurred by the kinship carer.¹³⁴

¹³⁴ Submission 52, CCYP, 1 August 2017; Email from the CCYP to the Victorian Ombudsman, 28 September 2017.

Information provision

177. The investigation examined whether the department provides accurate information to kinship carers about their eligibility for financial support.

178. The KPMG review found that most kinship carers have limited support in managing the kinship placement. The review found:

... [m]ost kinship carers are faced with confronting and managing the challenges and complexities that come from being a statutory kinship carer with the limited availability of support that Child Protection practitioners can provide.¹³⁵

179. In the absence of advocacy or support from Child Protection Practitioners, kinship carers need to rely on publicly available and easily accessible information about their eligibility for financial support.

180. Information about financial entitlements or eligibility for financial support is communicated to kinship carers in two ways:

- by Child Protection Practitioners and funded service providers during case management
- by funded service providers funded to provide information and advice services.

Information provided during case management

181. Child Protection Practitioners are responsible for ensuring that the placement is adequately resourced. This includes financial resources.¹³⁶

182. As discussed previously, very few Child Protection Practitioners have utilised the SNA process in the last year. The SNA process is not referred to in the Child Protection Manual or related procedures, including the *Kinship care procedure*,¹³⁷ the *Care allowance procedure*,¹³⁸ the *Financial allowances and resources – advice*,¹³⁹ or the *Kinship care assessment advice*.¹⁴⁰

183. Child Protection Practitioners said that they provide the kinship carer, at the commencement of a placement, with the *Kinship Carer's Handbook* (the Handbook) produced by Kinship Care Victoria.¹⁴¹ The Handbook is a comprehensive document that provides information on health and wellbeing, the role of the department, cultural connections, legal matters, financial assistance and education and learning. The Handbook provides an overview of financial supports that may be available for a kinship carer including at both Commonwealth and State levels. There is no mention of the SNA process or eligibility for a higher allowance in the Handbook.

¹³⁶ DHHS, *Child Protection Manual: Support of kinship carers – advice* (24 November 2016) <http://www.cpmanual.vic.gov.au/advice-and-protocols/advice/out-home-care/kinship-placement/support-kinship-carers#h3_1>.

¹³⁷ DHHS, *Kinship care procedure* (1101) (29 August 2017) <<http://www.cpmanual.vic.gov.au/policies-and-procedures/out-home-care/kinship-care>>.

¹³⁸ DHHS, *Care allowance procedure* (1116) (20 June 2016) <<http://www.cpmanual.vic.gov.au/policies-and-procedures/out-home-care/care-allowance>>.

¹³⁹ DHHS, *Financial allowances and resources – advice* (2127) (30 November 2016) <<http://www.cpmanual.vic.gov.au/advice-and-protocols/advice/out-home-care/administration/financial-allowances-and-resources>> .

¹⁴⁰ DHHS, *Kinship care assessment advice* (2120) (1 December 2016) <<http://www.cpmanual.vic.gov.au/advice-and-protocols/advice/out-home-care/kinship-placement/kinship-care-assessment>>.

¹⁴¹ Kinship Care Victoria, *Kinship Carer's Handbook* (2014).

¹³⁵ KPMG, *Review of the kinship care model* (2016) 5.

184. The handbook is produced in hard copy form and is also available to download on the KCV website.¹⁴² The department recently updated the handbook and launched the update on 24 November 2017. The updated handbook contains very little information about the SNA process.

185. The Part A, preliminary kinship care assessment requires that a carer be given a copy of the Child Safety Commissioner's booklet *Financial support for grandparents and other relatives*. The Commission for Children and Young People (which subsumed the Child Safety Commissioner) advised that the document was created in April 2015 but never made publicly available and therefore could not be provided to kinship carers by Child Protection Practitioners.¹⁴³

186. A funded service provider said that kinship carers have been asking for a simple brochure or booklet which explains the different types of financial supports available.¹⁴⁴

187. The department's website contains several helpful fact sheets about the care allowance and client support funding framework. However, the care allowance fact sheet does not outline the SNA application process. A kinship carer submitted:

The levels and payment amounts are published however DHHS do not publish and refuse to publish information on or criteria to be met for how the levels are assessed ...

There is a major policy issue here in that DHHS avoids scrutiny and openness in the application or payments to carers and there is no way the level of payment can be understood, challenged nor the Department or any worker held to account or scrutinized in the assessment of a child ... or the decision making process.¹⁴⁵

188. The Foster Care Association of Victoria (FCAV) and a funded service provider submitted to the investigation that many kinship carers are not provided with adequate information about their financial entitlements:

FCAV said:

The FCAV supports hundreds of foster carers every year to navigate the out-of-home care system, including providing information about the financial supports they are entitled to, liaising with community service organisations and the Department of Health and Human Services (DHHS), and advocating for further resources where required. In our experience this is an even harder task for kinship carers ...

[M]any carers are not provided with accurate, or sometimes any, information about their eligibility for financial supports by DHHS. Carers are also sometimes provided with incorrect information about their eligibility.¹⁴⁶

A funded service provider said:

Often when a child is placed in a kinship arrangement, it is done in a time of crisis and we acknowledge that this is not the right time to speak with carers about financial supports. However, we find that follow-up visits from DHHS, where discussion about additional supports can occur, are lacking, resulting in carers experiencing unnecessary financial burden.¹⁴⁷

142 Email from DHHS to the Victorian Ombudsman, 22 May 2017.

143 Email from CCYP Communication and Engagement Adviser to the Victorian Ombudsman, 21 June 2017.

144 Submission 47, funded service provider, 23 June 2017.

145 Submission 5, kinship carer, 6 March 2017.

146 Submission 34, Foster Care Association of Victoria, 28 April 2017.

147 Submission 29, funded service provider, 27 April 2017.

Information provided by funded service providers

189. As part of the kinship care service model, the department funds 21 service providers to provide information and advice about the community resources available to kinship carers.¹⁴⁸ In 2016–17, the department provided over \$1 million in funding.¹⁴⁹
190. The relationship between the funded service providers and the department is managed through a Service Agreement and the *Department of Health and Human Services Policy and Funding Guidelines 2017*.¹⁵⁰ The Service Agreement sets out ‘key obligations, objectives, rights, and responsibilities of the organisation delivering services’.¹⁵¹

191. Service delivery expectations are not included in the Service Agreement. The department told the investigation that the expectations are outlined in a 2009 paper *A new kinship care program model for Victoria*. The paper states that the components of the information and advice program are:
- providing kinship-specific information resources
 - being the primary point of contact for training opportunities
 - providing information about community resources and services which may be needed by kinship carers
 - facilitating or coordinating kinship carer groups
 - building links with existing state-wide information services.¹⁵²

¹⁴⁸ DHS, *A new kinship care program model for Victoria* (2009) 9; Email from DHHS to the Victorian Ombudsman, 22 May 2017.

¹⁴⁹ \$1,086,684; Email from DHHS to the Victorian Ombudsman, 22 May 2017.

¹⁵⁰ DHHS, *Department of Health and Human Services Policy and Funding Guidelines 2017, Volume 3: Human Services Policy and Funding Plan 2015–19* (update 2017-18).

¹⁵¹ *Ibid* 7.

¹⁵² DHS, *A new kinship care program model for Victoria*, June 2009, 9.

192. The investigation randomly selected six funded service providers to gain an overview of the information and advice services they provide to kinship carers. The following table summarises the responses:

Table 5: Overview of information and advice services provided by six funded service providers

Agency	Funding	Information and advice activities
Baptcare Ltd	\$30,466	<ul style="list-style-type: none"> • provision of information by telephone • attendance at training and network meetings.
Bethany Community Support Inc.	\$61,312	<ul style="list-style-type: none"> • provision of telephone information and advice • facilitation of kinship carer self-help groups and training • dissemination of community information • 60 hours per month spent on service delivery
Gippsland and East Gippsland Aboriginal Cooperative	\$31,971	<ul style="list-style-type: none"> • provision of an information pack and client information booklet to all new kinship carers
Rumbalara Aboriginal Cooperative	\$23,075	<ul style="list-style-type: none"> • provide first point of contact for kinship carers • hold community events
Upper Murray Family Care	\$62,112	<ul style="list-style-type: none"> • information and advice provided through Child FIRST service • phone support, distribution of resource packs • coordination of support groups
Wimmera Uniting Care	\$60,931	<ul style="list-style-type: none"> • visits with clients to assess their needs • provision of the kinship carer's handbook • production of a seasonal newsletter • facilitation of a monthly kinship support group

193. A funded service provider raised concerns about the level of awareness in the kinship community about the information and advice services:

We acknowledge that the availability of the Kinship Care Information and Advice component of the program is valuable to support any enquiries from carers in the community, however for those not within the Bethany program they may not be aware of the service. Many of the carers who use this aspect of our service are not subject to Child Protection involvement and are therefore not eligible for DHHS carer reimbursements.¹⁵³

194. Ms Anne McLeish, Director of KCV stated that kinship carers require advocacy services ‘to assist them in receiving appropriate information about their rights and eligibility for payments’. Ms McLeish said that the department has been ‘resistant’ to this idea.¹⁵⁴

Role of peak bodies

195. The department funds two peak bodies in out-of-home care, KCV and FCAV.
196. Both bodies are funded to provide Child Protection, Placement and Family Services (Activity code: 31301); however, each body has different funding.

Table 6: Funding for Financial Year 2017-18

Body	Ongoing	One-off funding	Total
Kinship Care Victoria	\$61,872.78	\$200,000	\$262,872.78 ¹⁵⁶
Foster Care Association of Victoria	\$512,820.81	\$414,480	\$927,300.81 ¹⁵⁷

¹⁵³ Email from Manager at a funded service provider to the Victorian Ombudsman, 4 August 2017.

¹⁵⁴ Meeting minutes, Victorian Ombudsman and Kinship Care Victoria, 4 April 2017.

¹⁵⁶ Variation to Service Agreement between State of Victoria as represented by DHHS and Grandparents Victoria Inc, 5 June 2017, 7.

¹⁵⁷ Service Agreement between State of Victoria as represented by DHHS and Foster Care Association of Victoria, 22 June 2017.

197. Significantly, FCAV is tasked to provide input into policy development and to identify four priorities annually that represent foster carers' interests. There is no such requirement for KCV. The following table provides an overview of the performance targets as outlined in the department's service agreements.

Table 7: Funding for Financial Year 2017-18

Body	Performance targets
Kinship Care Victoria	<ul style="list-style-type: none"> • identify and support 30 kinship carers annually • publicise and distribute monthly newsletter • conduct site visits to a minimum of three regional and three metropolitan kinship care services annually • meet with six other stakeholders annually to understand and advocate the needs of kinship carers • attend bi-monthly liaison meetings with the department and provide an annual report to the department detailing KCV activities • coordinate one event annually • conduct one survey annually.
Foster Care Association of Victoria	<ul style="list-style-type: none"> • provide input into policy development • attend six formal liaison meetings with the department • identify two priorities every six months for representing carers' interests • participate in four department led initiatives • establish and maintain regular contact with Kinship Care Victoria, Commission for Children and Young People and Centre for Excellence in Child and Family Welfare • host six forums for carers • attend 16 carer advisory groups • publish and distribute 12 communiques to carers • review annually and update all information sheets • respond to all calls and online enquiries from carers with a target of 400 contacts (increased to 640 in 2017-18) • provide the department with a bi-annual report on key issues picked up in responding to calls and enquiries • increase carer membership • communicate with funded service providers quarterly to encourage and promote FCAV membership • increase number of recorded email addresses • promote and establish two user-driven communication tools • coordinate, develop and deliver the 2017 Foster and Kinship Carer Conference • coordinate the delivery of a new Kinship and Foster Care Learning and Development Strategy • complete a project to build the capacity of FCAV.

Conclusions

198. The investigation identified a compelling need for the department to improve the financial support provided to kinship carers. The system must be reviewed to provide greater equity between foster and kinship carers, to ensure financial support is provided in accordance with the best interests of the child, and to prevent kinship carers experiencing delays accessing financial support.
199. A failure to address these issues may compromise the stability of kinship placements and the wellbeing of kinship carers and children who need support and protection.

Inequitable financial support between kinship and foster carers

200. Foster and kinship carers provide the same service in our community. They take in children or young people who cannot live with their parents. It stands to reason that the financial support provided by the State should be similar.
201. The importance of equitable financial supports has been recognised in two Senate inquiries. In October 2014, the Senate Community Affairs and Reference Committee tabled its report *Grandparents Raising Grandchildren* in which it recommended that the state and territory governments address the disparity in financial support between foster carers and grandparents raising grandchildren.

202. In August 2015, the Senate Community Affairs References Committee tabled its report into *Out of home care* in which it expressed concerns about the financial supports provided to kinship carers:

The committee is also concerned that the complex needs of children in relative/kinship care are not recognised, meaning relative/kinship carers are not able to access higher rates of financial allowances.¹⁵⁷

203. Kinship carers also believe the financial supports for foster and kinship carers should be equitable. As one kinship carer told our investigation:

As kinship carers we are not seeking financial gain but a level of financial assistance and processes that more equate to foster care that will enable us to properly provide for the emotional, educational and welfare needs of the children who have been placed in our care. Most of us rely on pension payments or drawing on the limited superannuation we may be lucky enough to have.¹⁵⁸

¹⁵⁷ The Senate Community Affairs References Committee, Parliament of Australia, *Out of home care* (2015) 289.

¹⁵⁸ Submission 49, kinship carer, 22 June 2017.

204. The evidence reveals continuing and unjustifiable inequity in the financial support provided to kinship and foster carers. This is demonstrated by:

- the automatic provision of a level one allowance to kinship carers, while foster carers' allowances are negotiated prior to placement and throughout
- the statistics which reveal 96.8 per cent of kinship carers receive a level one allowance compared with only 40 per cent of foster carers
- the requirement for kinship carers to evidence out of pocket expenses for a higher allowance, while foster carers need only demonstrate that the child's circumstances have changed
- the requirement for increased kinship allowances to be approved by central office, while foster care allowances are approved by the local division of the department
- evidence that foster carers received higher allowances than kinship carers who cared for the same children
- the requirement for kinship carers to re-apply every 12 months for an allowance higher than level one, while higher allowances for foster carers are provided until the child turns 18 years old
- the ineligibility of kinship carers to receive Placement Support Brokerage, which is available to foster carers and lead tenant placements, and worth over \$4.5 million last year.

205. The inequity is particularly striking given the vulnerability of kinship carers, who we know are more likely than foster carers to experience greater welfare dependency, lower levels of education and employment, and poorer health.

206. The inequity is further perpetuated by the fact that most kinship carers are supported by Child Protection Practitioners with high workloads; not funded service providers, as envisaged by the new kinship care service model introduced in 2009.

Best interests of a child

207. When making decisions that affect a child, the department is required to take into account the child's best interests. This requirement is articulated in the Charter and the Carers Recognition Act.

208. The best interests of the child are relevant to departmental decisions regarding financial support for kinship carers. Such decisions should take into account the individual needs of the child, including any disabilities; medical, mental health and trauma needs; behavioural issues; education; and the need for family access.

209. The investigation identified that the department's practice of providing kinship carers with an automatic level one allowance upon placement does not take into account the individual needs or best interests of the child.

210. In contrast, the determination of statutory foster care allowances more closely reflects a best interests model that caters for the unique and individual needs of each child.

211. The department's revised consolidated policy does not address this issue. Instead it expands the scope of carers who are subjected to automatic provisions to include voluntary foster carers.

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212. While the best interests of the child may be taken into account subsequent to kinship placement, this is contingent on the Child Protection Practitioner identifying the needs and interests post placement and taking the time to complete an application for a higher allowance.
213. Preliminary, comprehensive and annual assessments are not completed on a routine basis, and the SNA process for higher allowances is rarely used: only 30 applications for a higher allowance were made in 2016-17; and of the 4,884 kinship carers in Victoria receiving an allowance, only 67 kinship carers receive an allowance higher than level one.
214. The impact of the department's failure to complete assessments and identify a child's individual needs can be devastating. In some cases, the placement breaks down which may result in the child being placed in residential or foster care. The failure may contribute to significant financial hardship for carers and to poor outcomes for some of the most vulnerable children in Victoria. Inadequate financial support may also contribute to a lack of Aboriginal and Torres Strait Islander carers, which compromises the system's ability to preserve Aboriginal and Torres Strait Islander children's cultural identity.
215. The department's practice of re-assessing the need for a higher care allowance every 12 months is excessively burdensome for some placements, particularly when a child has life-long disabilities or medical conditions which will not change.
216. The department's policy is silent on the payment of a care allowance when a kinship carer and a child transfer interstate and no court order is in place.

Delay

217. Kinship carers were disadvantaged by departmental delays between the placement starting and the care allowance payments commencing; and in the escalation of requests for a higher allowance through the divisions and to central office. In the latter case, back-payments were only provided from the date that the final memorandum was submitted to central office, notwithstanding that in some cases the application had been initiated months earlier.
218. The impact of these delays on children and their kinship carers, many of whom have low incomes, is significant.
219. For one child in this report, Billy (pages 34-35), the department's delay was particularly devastating. After being removed from his parents owing to their mental health and intellectual disabilities, and his father's sexual offending, Billy had been living with his carers for some years. Departmental delays in processing a request for a higher allowance, after the placement converted from foster to kinship, caused the placement to break down. After Billy had been in residential care for four months, the Minister's intervention led to the higher care allowance being approved. However, Billy never returned to his carers and is now living in another home-based foster placement.

Information provision

220. Kinship carers, who are not case managed by a funded service provider, rely on their Child Protection Practitioner to provide them with information about their financial entitlements and eligibility to receive a higher allowance. However, there is no information in the department's case management policies and procedures about the process for obtaining a higher allowance.
221. In the absence of advice from a Child Protection Practitioner, kinship carers rely on the department's website and information in the Kinship Carers' Handbook to inform them of their financial entitlements. There is limited information available to carers on the department's website, and in the Handbook, about the process for obtaining a higher allowance.
222. There is also inequity in the performance targets of each peak body. FCAV is funded to provide more services to foster carers. Inequities in funding mean that the capacity of KCV to generate awareness, contribute to policy development and educate the kinship community is far smaller than FCAV's capacity.

Opinion

223. Pursuant to section 23(1) of the Ombudsman Act and based on the evidence obtained by the investigation, the Ombudsman is of the opinion that:
- the inequity in the financial support arrangements for kinship and foster carers is unjust and wrong
 - the practice of paying foster carers more than kinship carers is discriminatory and unjust because it disproportionately impacts Aboriginal and Torres Strait Islander people and older Victorians
 - the department's failure to take into account the best interests of the child when making decisions with respect to financial support for kinship carers is contrary to section 38 of the Charter and section 8 of the Carers Recognition Act 2012 (Vic)
 - delays in the provision of the care allowance and consideration of a higher allowance create an unnecessary financial burden on the kinship carer and are wrong
 - the department's failure to provide information to kinship carers about their eligibility for a higher care allowance through the Special Negotiated Adjustment process is wrong.

Recommendations

This report has demonstrated a compelling need for the department to improve the financial support provided to kinship carers to provide greater equity between foster and kinship carers, to ensure financial support is provided in accordance with the best interests of the child, and to prevent kinship carers experiencing delays accessing financial support.

Addressing the current inequity in the system will require significant change and investment. A failure to address these issues may compromise the stability of kinship placements and the wellbeing of the kinship carers and children it seeks to support and protect.

The investigation recommends the department:

1. Review the administration of financial support to kinship carers. In particular, to:
 - improve the transparency of decisions relating to higher care allowance levels by developing and publishing criteria for each level
 - reduce the number of decision-makers in the higher care allowance application process for kinship carers
 - allow back-payments to kinship carers from the date an application for a higher care allowance begins
 - provide discretion to allow higher care allowances for kinship carers to be approved for more than a 12 month period where the medical condition of the child, and impact on the placement, is life-long
 - allow kinship carers to access Placement Support Brokerage.

The kinship care assessment process should ensure the best interests of the child are met by identifying and responding to the needs of each placement. The investigation highlighted that these assessments are not always completed or completed in a timely manner, nor do they routinely inform decisions about financial support.

The investigation recommends the department:

2. Improve the kinship care assessment process to ensure it adequately identifies the needs of each carer, as well as those of each child, as the care needs may affect the level of financial assistance required to support the placement.
3. Ensure kinship care assessments inform the application process for a higher care allowance.
4. Create a quality assurance system that checks for the completion of kinship care assessments.
5. Update the department's *Care allowance policy and procedures* (2017) to include specific advice to Child Protection Practitioners about the continuance of the care allowance when a kinship carer moves interstate and there is no court order in place.

Kinship carers require easily accessible information about their eligibility for a care allowance and the application process for a higher care allowance. However, the investigation found there is limited information available to both Child Protection Practitioners and kinship carers on the application process for a higher care allowance. Inequities in funding for FCAV and KCV mean the capacity of KCV to contribute to policy development and educate its community is far smaller than FCAV's capacity.

The investigation recommends the department:

6. Enhance the capacity of the kinship care sector to participate in policy development and promote awareness of the department's processes for financial support.
7. Update the materials provided by the department, including the Child Protection Manual, to ensure they include information about how kinship carers can apply for increased financial support, and are in accessible formats.

Department's response:

The department accepts all seven recommendations of your report, and remains committed to improving supports for kinship carers through a number of initiatives:

- On 24 November 2017, a new Manual for Kinship Carers was launched for distribution to all kinship carers statewide. The manual has been developed in close consultation with Kinship Carers Victoria and is a key resource to support kinship carers in providing care for vulnerable children and young people.
- A new approach to support kinship placements is being trialled in the Department of Health and Human Services' East Division, with Berry Street Victoria and Rumbalara Aboriginal Cooperative as the trial sites. The trial provides more timely needs assessments and referral to family services and will inform a new model of kinship care currently in development.
- Work is underway for development of a new kinship care model. Key elements of the model include: earlier identification of kinship networks; access to supports and brokerage at the time of placement establishment; access to ongoing and flexible supports and a strengthened focus on reunification or permanent care, where appropriate.

The Victorian Government's *Roadmap for Reform: Strong families, safe children* agenda is putting a greater emphasis on strengthening home-based care and improving supports for carers. The department values the significant contribution of kinship carers to our community. Improving outcomes for all children in care, and their carers, is at the centre of the department's focus. Thank you for highlighting opportunities to strengthen our service and outcomes for kinship carers.

Appendices

Appendix A

Care allowance structure and payment rates 2017-2018.¹⁵⁹

Level	Age	Fortnightly rate	Annual rate
Level 1	0-7 years	\$386.04	\$10,071
	8-10 years	\$399.49	\$10,422
	11-12 years	\$442.46	\$11,543
	13+ years	\$557.76	\$14,812
Level 2	0-7 years	\$407.50	\$10,631
	8-10 years	\$442.85	\$11,553
	11-12 years	\$523.58	\$13,659
	13+ years	\$718.87	\$18,754
Level 3	0-7 years	\$531.60	\$13,868
	8-10 years	\$574.60	\$14,990
	11-12 years	\$685.13	\$17,874
	13+ years	\$944.85	\$24,650
Level 4	0-7 years	\$1,021	\$26,638
	8-10 years	\$1,021	\$26,638
	11-12 years	\$1,021	\$26,638
	13+ years	\$1,021	\$26,638
Level 5	0-7 years	\$1,573	\$41,035
	8-10 years	\$1,573	\$41,035
	11-12 years	\$1,573	\$41,035
	13+ years	\$1,573	\$41,035
New placement loading (fortnightly for six months)	All ages	\$61.34	
School attendance allowance	5-11 years		\$347.14
	12-18 years		\$520.71

¹⁵⁹ DHHS, Care allowance structure and payment rates 2017-2018 (7 September 2017) <<https://services.dhhs.vic.gov.au/support-home-based-carers-victoria>>.

Appendix B



Department of
Health & Human Services

Memorandum

Special Negotiated Adjustment Memorandum

<reference no>

To: Assistant Director, Out of Home Care
From: <Insert sender position, Branch/Area/Division>
Date:

Note that details of more than one child (in the same placement) may be included in one SNA request memo, but out-of-pocket costs for each individual child must be summarised separately.

Client name(s):

Client(s) date of birth:

Carer name(s):

Care type: Kinship Care Permanent Care Local Adoption (Special Needs)

Adjusted allowance rate being requested:

Adjusted allowance level being requested:

Timeframe:

(Adjustments will be approved for any period within a 12-month timeframe ie for three, six or twelve months)

Note that the maximum period of adjustment allowable is 12 months.

Application is required on an annual basis following review of the child's needs and circumstances including any changes to the level of support available to the carer via other sources. Review and re-application must be completed in a timely way to ensure payments do not lapse.

What other supports are the carer(s) / client(s) in receipt of (for example Commonwealth Care Allowance from Centrelink, Disability Services Individual Support Package, etc):

Other supports must be explored and put in place before application is made for an increase to the care allowance.

Summary of client needs and carer support that equate to an extraordinary level of care:

Detailed history of CP involvement is not required.

The summary of client needs should be brief and is required for the purposes of illustrating complex needs that result in a requirement for additional supports that have an associated financial cost.

The main purpose of this summary is to highlight health and well being needs that require an extraordinary level of support that is over and above the daily requirements that the Level 1 rate care allowance is provided for.

Summary of additional expenses incurred by the carers(s) which equate to the rate being requested:

Document additional expenses that relate directly to the provision of support necessary in response to the complex needs of the child as articulated in the ‘summary of client needs’. These can be substantiated by medical or allied health professionals involved with the child/ young person.

An actual or estimated cost must be provided for every item. Where the cost is recurring, the frequency and total cost over the SNA period should be clearly indicated. For example:” medical visit - once per quarter - \$200 per visit - cost over 12 months = \$800”.

The total of the additional expenses must be greater than the difference between the level 1 care allowance rate and the adjusted care allowance rate requested.

Do not include items that are reasonably covered by the level one care allowance or can be accessed through the client support funding framework.

	Child's additional support needs	Additional expense/s required to meet needs	Estimated annual cost
1.			\$
2.			\$
3.			\$
4.			\$
5.			\$

Recommendation:

Must be signed by the Assistant Director, Child Protection.

Signed

ASSISTANT DIRECTOR, CHILD PROTECTION	
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References:

- *Statewide client support funding framework – guidelines about the allocation of client expenses for children in foster care and kinship care placements. Includes information about other financial supports available to assist children, young people, families and carers.*
- *Fact sheet care allowance and other financial support for carers – provides a ready reckoner about the purpose of the care allowance and broadly what it should contribute to.*
- *Victorian handbook for carers – which includes a copy of the care allowance fact sheet.*
- *VMIA – voluntary caregiver’s property insurance*

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