

every child every chance

a good childhood is in everyone's best interests

The Best Interests framework for vulnerable children and youth

Best interests series



A Victorian
Government
initiative



The Best Interests framework for vulnerable children and youth

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Contents

Preamble	v
1. Introduction	1
2. The Victorian Government’s commitments	3
2.1 Promoting positive outcomes for all children	3
2.2 The <i>Child Wellbeing and Safety Act 2005</i>	3
2.3 The Victorian children’s outcomes framework	4
Figure 1 - Key features	4
3. Acting in the best interests of vulnerable children	6
3.1 Rationale for a targeted approach	6
3.2 The <i>Children, Youth and Families Act 2005</i>	6
3.3 The Best Interests principles of the CYFA	7
3.4 Related principles and provisions of the CYFA	8
4. The Best Interests framework for vulnerable children and youth	9
4.1 The child’s experience	9
4.2 Parent/carer capability	12
4.3 Family composition and dynamics	12
4.4 Community participation, social and economic environment	13
4.5 Supports and services - service system responses	13
Figure 2 - The Best Interests framework	16
5. Using the framework	18
6. Conclusion	19
Appendix 1 <i>Children, Youth and Families Act 2005</i>	20
Appendix 2 Provisions guiding service planning, development and delivery in children’s best interests	22
Notes	25

Preamble

The Victorian community's vision is that every child has the best possible start in life and thrives, learns and grows, is valued and respected, becoming an effective adult.

The *every child every chance* reforms are about achieving these aspirations for all children and young people,¹ including the most vulnerable. The creation of the Office for Children has signalled the Government's commitment to whole of government action to promote positive child outcomes. An important milestone in these reforms has been the passage of two pieces of legislation by the Victorian Parliament in 2005.

- The *Child Wellbeing and Safety Act 2005* (CWSA) provides an overarching framework for promoting positive outcomes for all children and identifies a set of principles as the basis for development and provision of services. It places clear responsibilities with the providers of child and family services to respond according to need and in culturally appropriate and inclusive ways. It recognises the importance of the right mix of places, professionals and high quality programs in order to meet the changing needs of children and families, provide opportunities, promote positive outcomes, intervene early and prevent harm.
- The *Children, Youth and Families Act 2005* (CYFA) builds on the foundations of the CWSA to provide guidance on additional considerations in promoting positive outcomes for children who are vulnerable as a result of their family circumstances. This Act will commence in April 2007 and guide the actions of family services, child protection and placement services across the state.

This paper supports the implementation of the CYFA. At the heart of CYFA is a unifying set of 'best interests principles' that requires family services, child protection and placement services to protect children from harm, protect their rights and promote their development in culturally and age appropriate ways. This 'Best Interests framework for vulnerable children and youth' has been developed to support a consistent understanding of the Best Interests principles and their practice ramifications. It notes how the Best Interests principles and other key provisions of the Act reflect and build on the CWSA and the Victorian children's outcomes framework, which describes key aspects of all children's health and wellbeing, learning and development and safety.

Other resources on acting in children's best interests

This paper should be read in conjunction with other resources produced by the Office for Children, which describe Victoria's approach to promoting positive outcomes for all Victorian children, including the most vulnerable.

A forthcoming publication from the Office for Children will describe the key features of the CWSA and the use of the Outcomes framework in guiding government action and service development and delivery for all child and family services.

1. Throughout this paper the terms 'child' and 'children' are used to describe children and young people.

For professionals working under the CYFA, a set of introductory papers will assist practitioners to apply the Best Interests principles of that Act. These papers are:

- Best Interests principles: a conceptual overview
- Cumulative harm: a conceptual overview
- Stability: a conceptual overview.

These introductory papers will be followed by practice guidance and tools, which will provide more detail about the implications of the Best Interests framework for the way that all staff in family services, child protection and placement services go about their day-to-day work with children and families.

1. Introduction

This paper describes how the Best Interests principles and related provisions of the Children, Youth and Families Act 2005 (CYFA) attend to the particular needs of children who are vulnerable as a result of their family's circumstances, dynamics and social isolation. It sets out a Best Interests framework, to assist professionals working in family services, child protection and placement services to apply the new Act in making a difference to these children's lives. This framework will support a consistent understanding of the CYFA and inform the development of more detailed practice guidance and tools.

Working in the best interests of vulnerable children is not new. Promoting positive outcomes for vulnerable children and families is reflected in organisational mission statements, objectives, policies and programs across Victoria. For generations, local communities and universal and targeted services have supported vulnerable families and helped children to grow, thrive and succeed in the world. Local partnerships have helped to strengthen pathways and collaboration between universal, secondary and tertiary child and family services to more effectively provide vulnerable families with the help they need. Statewide initiatives such as Best Start, Municipal Early Years Planning, the Family Support Innovations Projects and Looking After Children have supported these directions.

The development of this *Best Interests framework for vulnerable children and youth* is the next step in supporting a coherent approach to privileging and promoting children's best interests across the program areas of family services, child protection and placement services. It provides a foundation from which we can establish a common language and build a shared understanding.

The objectives of this Best Interests framework are as follows:

- To create a shared understanding, a common language and a consistent approach to ensuring the best interests of vulnerable children, youth and their families across the three core work functions involved with vulnerable children, youth and their families, namely:
 - assessment - which informs
 - planning - which guides
 - action - that benefits the child.
- To assist family services, child protection and placement services to respond to a child's needs for safety, stability and development, in coherent and holistic ways that recognise and strengthen the links between a child and family and their local community resources.
- To give the needs and interests of Aboriginal children and their families appropriate attention and prominence and drive the development of more coherent, integrated and culturally aware service responses.

- To provide a shared framework for reviewing the outcomes of our work with a child and their family.
- Consistent with the Victorian Government outcomes framework, provide a basis for evaluating the effectiveness of child and family support services in protecting and promoting the best interests of vulnerable children and families.

2. The Victorian Government's commitments

2.1 Promoting positive outcomes for all children

The Victorian community's vision is for a Victoria in which every child thrives, learns and grows, is valued and respected, becoming an effective adult. The community is one in which the safety, health, development, learning and wellbeing of children are protected and promoted throughout childhood. It is also a Victoria in which:

- Parents and families are enabled to care effectively for their child and supported to act in their best interests.
- Communities recognise and respect children, value their diversity and culture, and build their connectedness and resilience.
- There is the right mix of places, professionals and high quality programs to meet the changing needs of children and families, to provide opportunities, promote positive outcomes, intervene early and prevent harm.²

Through its policy statements *Growing Victoria Together, a vision for Victoria to 2010 and beyond*; *A Fairer Victoria- creating opportunity and addressing disadvantage*; *Putting Children First...the next steps* and *Protecting Children...the next steps*, the Victorian Government has made a real and continuing commitment to enacting this vision to improve the wellbeing of children across the state.

From this vision, the government has initiated the every child every chance reforms, committing to a whole of government approach to promoting positive outcomes for all children. These reforms are based on a rich body of local, national and international research evidence, and are informed by the practice wisdom of those who work with children and families around:

- the key circumstances and factors that impact on children
- the challenges that children may face
- the ways in which governments and the broader community can make a difference to children's lives and life changes.

2.2 The *Child Wellbeing and Safety Act 2005*

In late 2005, the Victorian Parliament passed new legislation for children, which embodies the government's commitment to place children at the forefront of the policy and service agenda.

The Child Wellbeing and Safety Act 2005 (CWSA) provides an overarching framework for promoting positive outcomes for all children, emphasising that:

- all children should be given the opportunity to reach their full potential and participate in society, irrespective of their family circumstances and background
- while parents are the primary nurturers of a child, society as a whole shares responsibility for children's wellbeing and safety
- planning and delivery of services should focus on sustaining and improving children's outcomes, promoting and protecting a child's safety, health, development, learning and wellbeing.

The CWSA mandates the establishment, constitution and functions of the Victorian Children’s Council and the Children’s Services Coordination Board. With support from the Office for Children, these bodies will help to focus and coordinate government actions to translate the principles of the CWSA into tangible improvements for children.

2.3 The Victorian children’s outcomes framework

The development of the Victorian children’s outcomes framework will provide a common basis for setting objectives and planning across the whole of government. Its key features are outlined below.³

Figure 1 - Key features



3. Office for Children (in press) ‘Victorian children’s outcomes framework’

The outcomes framework sets out 35 aspects of child health and wellbeing, learning and development and safety that are essential to all children.

This framework also recognises that children do not achieve positive outcomes in these areas, without the support of confident, capable parents, a strong community and a society which provides the services they need. For this reason, the outcomes framework relates to both the individual child and their social and family context. Each outcome area has a number of associated indicators that will be tracked through the Victorian Child and Adolescent Monitoring System within the Office for Children.

3. Acting in the best interests of vulnerable children

3.1 Rationale for a targeted approach

All families need help from time to time to support their children's health, learning, development and wellbeing. Some families require more targeted and, in some respects, qualitatively different service responses to the services and supports aimed at the general population. Where children are vulnerable as a result of family circumstances and social isolation, their parents' capacity to protect them from harm and ensure their wellbeing may be compromised and their family functioning may represent a potential source of harm.

In these circumstances, extended family, local communities, community services and the State play a more active role in supporting parents and alternative carers to meet children's needs. Where parents are not able to provide an adequate level of care for their child, family services, child protection and placement services will augment direct care arrangements that ensure the child's needs can be met. In some instances this will require statutory intervention.

The aim of intervention by family and placement services and Child Protection is to strengthen family functioning, build sustainable networks of support around the family and assist them in promoting their child's healthy development. It is expected that this approach will enable most families to ensure their child's safety, stability and development. In some situations, a child's best interests can only be met by an alternative carer. The emphasis remains on the child experiencing 'a good childhood', within a family, and wherever possible without ongoing State intervention.

Government action to support vulnerable children and families will include:

- promoting strong and inclusive communities
- funding universal and targeted services to meet the changing needs of today's families
- direct intervention to protect children from harm
- supporting families and alternative carers to independently provide a safe and nurturing environment for their children.

3.2 The *Children, Youth and Families Act 2005*

The Children, Youth and Families Act builds on the CWSA, to guide the actions of community services and the State in the best interests of vulnerable children.

The CYFA promotes:

- Children's 'best interests' driving all planning, decisions and service delivery.
- Earlier intervention and prevention and greater targeting of secondary services to families most in need.

- Improved planning, coordination and delivery of services to families by increased emphasis on partnership and collaboration across and within the service systems.
- A stronger focus on children's cultural identity and cultural competence in all service delivery.
- A commitment to maintaining Aboriginal children's cultural connectedness.

3.3 The Best Interests principles of the CYFA

The CYFA is unequivocal that the best interests of the child must always be paramount (s.10). Family services, child protection and placement services must take action to:

- protect children from harm
- protect children's rights
- promote children's development in age appropriate ways.

From this foundation, the Best Interests principles provide additional guidance on critical considerations in achieving the outcomes described in the Victorian children's outcomes framework for this group of vulnerable children. The content of the Best Interests principles is provided in Appendix 1. Eleven specific considerations are listed and these can be grouped into three themes:

- supporting and assisting families to keep children safe and meet their needs
- promoting children's stability
- promoting children's cultural identity and connectedness.

The principles echo the United Nations Convention on the Rights of the Child - recognising that this group of vulnerable children, like all children, has a right to grow up safe from harm, to have a relationship with their parent and family members and to have their wishes and perspectives heard and considered in any decision or service intervention. The Best Interests principles are reflected in the Charter of Rights for Children in Out-of-Home Care and the whole of government Charter of Human Rights.

All of the considerations emphasised in the Best Interests principles are relevant to the lives and outcomes of every child. These considerations are dealt with at a higher level in the whole of population outcomes framework, because for most children and families there is less of a role for communities, services and government to promote children's connection to their culture and the places and people who are significant in their lives.

3.4 Related principles and provisions of the CYFA

The Best Interests principles focus on key considerations in determining what actions are required to protect children from harm and to promote their rights and healthy development. Other principles and provisions of the Act (set out in Appendix 2) build on the CWSA to guide the design and development of services for vulnerable children, and to guide family, placement and child protection service providers in their business and professional activity.

Sections 16 and 61 spell out the responsibilities of Child Protection and registered community services. These principles reinforce that the promotion of children's best interests is the prime purpose of services, and indicate that services will be prioritised on the basis of need. These principles emphasise the importance of evidence-based service responses and provide a concrete basis for collaboration amongst those services operating under the CYFA and with other professionals who promote children's health, learning, development and wellbeing.

Decision making principles set out at sections 11 and 12 provide guidance on how to work with families. These principles emphasise that all assessment and planning should be fair and transparent, empower child and family participation in decision making and promote Aboriginal self-management and self-determination.

4. The Best Interests framework for vulnerable children and youth

To assist professionals to apply these key provisions of the CYFA, a Best Interests framework has been developed to present the Best Interests principles and associated provisions of the Act in a coherent policy framework.

In line with the Victorian children's outcomes framework and the focus of the Best Interests principles of the CYFA, the framework reflect an ecological understanding, placing children's experiences at the centre, while recognising that the course of childhood is affected by the context in which children live and grow, by their families and communities and by the availability of services and supports.

4.1 The child's experience

Informed by research and practice evidence of the impacts of trauma, interrupted attachment and inadequate care, the Best Interests principles draw attention to four critical dimensions of a child's experience, which may be affected by their family dynamics and circumstances. The principles guide practitioners to attend more specifically to children's safety, stability and development, through the lens of their age and stage of life and their culture and gender.

Putting a child's experience first will mean that:

- Children's safety is the foremost consideration for everyone working with vulnerable children and families. Safety should be understood to include the provision of basic care, as well as the protection from harm. However, focusing solely on safety (or indeed solely on any single dimension of a child's experience) is never sufficient. For example, a child may be routinely safe, but lacking in a strong connection with their parent and the stimulation they require for their stability and development.
- Greater focus is given to promoting children's stability. Stability encompasses positive relationships with a primary carer, as well as children's connectedness to places and friends, siblings and other significant adults in their lives. All of these connections are critical to a child's development and should be a common focus - for family services working with parents, all planning by Child Protection, and for placement services applying the Looking After Children framework in preparing care and placement plans.
- Any assessment of a child needs to be developmentally astute, and informed by knowledge of typical developmental trends. In defining child development, the CYFA reflects the seven Looking After Children (LAC) domains - health and growth, emotional and behavioral development, education and learning, family and social relationships, identity, social presentation and self-care skills. A strong focus on children's development is important in identifying and assessing cumulative harm, in working with other professionals to help children overcome the effects of trauma, abuse and neglect, and in supporting families and other carers to meet children's future developmental needs.

In assessing, planning and acting to promote children's safety, stability and development, Child Protection and family and placement services need to take account of a child's age and stage of life, and their culture and gender. Together these considerations provide a lens through which to view safety, stability and development and understand the unique circumstances and experiences of a child. The Best Interests principles recognise:

- The protective qualities of a strong cultural identity and involvement in cultural life need to be acknowledged and promoted. The Canadian Government funded an international research project, the International Resiliency Project, which outlined some of the key aspects of attributes, traits and circumstances which lead to resilience.⁴ They range from individual traits such as self-awareness, a positive outlook, empathy and showing a balance between independence and dependence on others and a sense of humour; to contextual factors such as positive relationships, meaningful sense of community and a strong sense of culture. Adherence to cultural traditions and participation in cultural and religious activities can enhance child wellbeing, contributing to children's resilience, social confidence, secure cultural identity and protection from prolonged isolation, emotional trauma or exclusion.
- Engaging families and broader community networks is pivotal to promoting positive outcomes for children. The dynamics of power between cultures need to be recognised in engaging Aboriginal and Culturally and Linguistically Diverse families and kinship and community networks. American child psychologist, James Garbarino, talks of socially toxic environments and their impacts on the raising of children. Reflecting on Garbarino's analysis in the context of Indigenous children and families, The Victorian Aboriginal Child Care Agency recently published a paper arguing that:

In order to look at ways in which we can keep Indigenous children resilient, we need to begin by understanding that for Indigenous people, a toxic environment (is one in which mainstream cultures) talk down to adults and children and is premised on 'doing for' rather than empowering Indigenous people.⁵

- A gender analysis is a critical component of good practice when working with families and identifying issues of abuse. The dynamics of power, hierarchy and gender also need to be assessed by workers who are mindful of the disproportionate nature of gender-based violence such as family violence on females, sexual assault on children,⁶ the differential responses to family violence by boys and girls and the need for a gender specific response to the needs of boys and girls by workers as appropriate.

4. International Resilience Project, School of Social Work, Dalhousie University, Nova Scotia, Canada.

5. Speaking up not talking down: doing the 'rights' thing by strengthening culture for Indigenous children, Muriel Bamblett, CEO, and Peter Lewis, Senior Policy Officer, Victorian Aboriginal Child Care Agency 2006.

6. Paper for the 'Honouring the Child, Honouring Equity' Conference, Melbourne November 2006.

The CYFA specifically identifies the need to protect and promote the cultural and spiritual identity and development of an Aboriginal child. Additional decision making principles are identified in Division 4 of the Act (S 12-14).

As the Victorian Aboriginal Child Care Agency emphasises:

Culture in many ways defines who we are, how we think, how we communicate, what we value and what is important. Culture constantly evolves and adapts and is always a significant and changing influence on us.⁷

Understanding Aboriginal values and how they relate to Aboriginal child-rearing practices is critical. 'To understand the issues affecting Aboriginal people today, it is not only a matter of knowing the past but appreciating its impact on the present and future. Aboriginal values reflect everything that has occurred in the past. They have evolved over thousands of years of traditional life and over two centuries of colonialism. Aboriginal people, to varying degrees, still live their lives in terms of caring, sharing, love of and obligations to the land and a sense of belonging to each other.

The central place of culture for every Aboriginal child must be understood and every attempt made to appreciate the significance and implications for a child and their family. 'Aboriginality lies in identification with one's people - their grannies, cousins, brothers and aunts. It lies in the meaningful way in which they interact with these people, with their feelings about their people and their home, with the way they think, work and talk.'⁸

Aboriginal children require cultural knowledge and cultural information that relates to their own community and tribal group. The CYFA requires compliance with the Aboriginal Child Placement Principle, in recognition of children's right to be raised in their own culture and the critical role of extended family, kinship networks, culture and community in raising - 'growing up' - Aboriginal children.⁹ Family members, elders and other significant persons from the Aboriginal community must pass on cultural knowledge to the child. A child's participation in cultural events is centrally important.

Children's safety, stability and development are inextricably intertwined and cannot be separated in a child's day-to-day experience. The CYFA encourages a holistic approach, based on a careful consideration of the many issues and factors that make up the totality of a child's experience. A key imperative (and challenge) throughout all assessment, planning and action is to weigh up considerations relevant to the more specific needs of a vulnerable child, whilst also maintaining a focus on the broader aspects of their health and wellbeing, cultural identity, learning and development. The complex circumstances of life mean that from time to time there may be apparently conflicting priorities of the child's need for safety

7. Victorian Aboriginal Child Care Agency Co-Op Ltd, 2000 'Aboriginal Resource and Cultural Guide' p 6.

8. Victorian Aboriginal Child Care Agency Coop Ltd. 2000, 'Aboriginal Resource and Cultural Guide'.

9. Department of Human Services August 2002 'Aboriginal Child Placement Principle Guide'.

and meeting all their stability or developmental needs. For example, placing a child in out-of-home care to ensure their safety may impact negatively on their stability by affecting their connection with their family and local community. A holistic approach to working in a child's best interests authorises and invites attention to the issues that matter to children. In the above example a child may move suburbs to live with extended family or an alternative carer, but opportunities may exist to promote their experience of stability by retaining connections with friends, clubs, school and cultural events.

4.2 Parent and carer capability

A child's experience is integrally connected with and, to a large extent, determined by their parent or carer's capabilities. A child's family, however constituted, provides a child's first social environment and has a profound impact on them.

Consistent with the CWSA, the Best Interests principles and the decision making principles of the CYFA recognise that parents are of primary importance in helping a child to understand relationships and ensuring growth and development. Strong focus is therefore given to engaging parents in culturally appropriate ways and providing the widest possible protection and assistance to the parent and child as the fundamental group unit of society (s.10(3)(a)).

Careful consideration also needs to be given to parents' own history and any factors that diminish their capabilities. Where a child has experienced harm as a result of abuse or neglect, their parent or carer's response to this is a critical issue. The degree to which the opportunities for future harm can be removed or minimised is a key consideration in assessing future risks to a child.

4.3 Family composition and dynamics

The family's composition, relationships between family members and family dynamics all help to shape a child's experience. The role of extended family members in a child's life will often be an important considerations in assessments, planning and service responses. Extended families often provide the most trusted networks of support. It is essential that those who work with vulnerable Aboriginal children and families understand how concepts of safety, stability and development are applied within Aboriginal communities. For example, aunts, uncles and other family or community members will generally play a significant role in child rearing.

Where children cannot live safely at home, the principles prioritise the placing of the child with an appropriate family member and siblings and maintaining connections between the child and the child's parents, siblings and other family members.

4.4 Community participation, social and economic environment

Child and family experiences are strongly influenced by family income, housing and access to community networks and resources.

Communities enable parent and children to build connections and draw on informal assistance. How children and families link with their community, how they access universal services¹⁰ and how they participate in community life are all key determinants of wellbeing for a child.

A family's economic and social context is both an indicator of and a means of reducing vulnerability. Action at a community level, as well as through services to individuals, can make a powerful difference in the lives of children and families. That is why the Best Interests principles emphasise continuity, where possible, of children's education, training or employment and the importance of supporting children to participate in appropriate social opportunities.

4.5 Supports and services - service system responses

Acting in children's best interests will often involve a combination of activities along a continuum from 'promotion' to 'treatment', and a combination of place-based and program-based approaches. The CYFA describes the role and responsibilities of family services, child protection and placement services in helping families to access and navigate this service continuum. It provides guidance on how services and supports for children and families should be organised and delivered to promote positive outcomes.

4.5.1 A reliable network of services that intervene earlier and provide additional help

The new legislation marks a shift away from service responses focused on minimal intervention into family life (*Children and Young Persons Act 1989*) to an approach to assessment, planning and action, that is driven by what a child needs to protect and promote their healthy development. While echoing the CSWA in acknowledging parental primacy, the CYFA authorises judgments to be made about what actions and interventions are necessary to assist families and to secure children's safety and wellbeing.

Through the every child every chance reforms, the government is working with early childhood and community services to build a reliable network of services that collaborate to connect families to the services and supports they need.

Building on the Family Support Innovations Projects, new Child FIRST arrangements will provide a visible point of entry into a strengthened and more integrated secondary service platform. These teams are authorised under the CYFA to receive referrals from anyone in the community who has significant concerns about the wellbeing of a child.

10. Universal services include maternal and child health services, community health services, pre-schools and schools.

The CYFA envisages family services, child protection and placement services actively engaging families to provide them with the widest possible assistance. Intervention may be focused at parents – from actively engaging families in community settings through to the state evoking more significant statutory authority to assume custody or guardianship responsibilities.¹¹ The CYFA also recognises that there may be a need for services to take action directly focused on a child. For example, the Act encourages a stronger focus on therapeutic models of care and assisting young people to make the transition from care arrangements to independent living. The *Family and Placement Services Sector Development Plan* spells out a forward plan for workforce and sector development to continue to build high quality and viable community services, that are well placed to meet the changing needs of today’s families.

Action will not always take the form of direct intervention. Acting in a child’s best interests is also likely to involve facilitation, advocacy and leadership. For example, access to universal services is usually initiated by parents on behalf of their child. Most universal services are organised around this, anticipating that parents will seek out assistance when needed and, as service consumers, make choices regarding services and supports that best meet their needs. Some families need additional support to access formal and informal supports. The CYFA reinforces the responsibilities of the family services, child protection and placement services to facilitate access to universal services and maximise opportunities for participation in community life for the families and children we work with.

The CYFA does not seek to prescribe what actions should be taken. It is a matter of professional judgment to gauge how best to protect and promote any child’s safety, stability and development. That judgment will be based on the needs of and risks to the child, taking account of the child’s age and stage of life, child and family perspectives, the pattern and history of child and family experiences, family strengths and vulnerabilities and available community and service resources.

The Best Interests principles provide guidance on the factors that make a real difference to children’s lives and life chances, to provide a starting point for these judgments to be made.

4.5.2 Service collaboration

Building a reliable network of services that make a positive difference to vulnerable children and families requires professionals to align their effort and support new forms of action within their local community.

As noted above, many professionals have actively been building relationships and coordinating service responses for many years to meet the changing needs of today’s families. The *Integrated Strategy for Child Protection and Placement Services* highlighted the complex needs of families involved with Child Protection – a finding reinforced by subsequent evaluations of Family Services Innovations Projects.

11. Guidance on the operation and relationship between Child FIRST and Child Protection services is available on the every child every chance website: www.dhs.vic.gov.au/everychildeverychance

The Best Interests principles and other provisions of the CYFA reinforce the importance of service collaboration. Providing the widest possible assistance to families and promoting children’s stability and cultural connectedness, as well as their health, learning, development and wellbeing will depend on shared responsibility and cooperation by a range of professionals.

The Children’s Services Coordination Board will provide leadership in coordinating government policies, programs and investment. Regional alliances will provide an important mechanism to support the development of clear pathways between universal, secondary and tertiary child and family services. These alliances will also provide a mechanism to build on the Outcomes Report and existing local planning processes to ensure the needs of vulnerable children and families are reflected in service planning, service models and ongoing service development.

4.5.3 High quality, evidence-based service responses

The CYFA promotes an integrated approach to quality, focused on quality assurance and quality improvement. Quality assurance, through a requirement to meet set quality standards, provides a foundation for assuring strong and professional organisations and practice that is child-centred and family-sensitive. Quality improvement involves organisations continually strengthening performance by reviewing their services against emerging evidence and action-based research.

4.5.4 Empowering children and families in decision making processes

The CYFA emphasises the central importance of the voice of the child and actively supporting families in identifying risk, reaching decisions and planning actions to promote children’s best interests. The Act reinforces the importance of empowering families in all decision making processes.

The Best Interests framework is set out in Figure 2.

Figure 2 - The Best Interests framework

The child's experience

Age & stage of life, culture and gender

Age and stage of life:

Infancy and pre-school years

Primary school years

Adolescence

Cultural considerations:

Aboriginal and Torres Strait Islander culture

Culturally and linguistically diverse groups

Safety

Basic care provided

Protected from harm

Stability

Connection to primary caregiver

Connection to family

Connection to school and friends

Connection to community

Connection to culture

Development

Health and growth

Family and social relationships

Education and learning

Identity

Emotional and behavioural development

Self-care skills

Social presentation

Parent/carer capability

Providing basic care

Ensuring safety

Emotional warmth and responsiveness

Guidance and boundaries

Consistency and reliability

Stimulating learning and development

Family composition and dynamics

Family composition and relationships

Family history and dynamics

Involvement of extended family with the child

Community participation, social and economic environment

Housing

Employment

Income

Family's community participation

Community resources

Supports and services (service system responses)

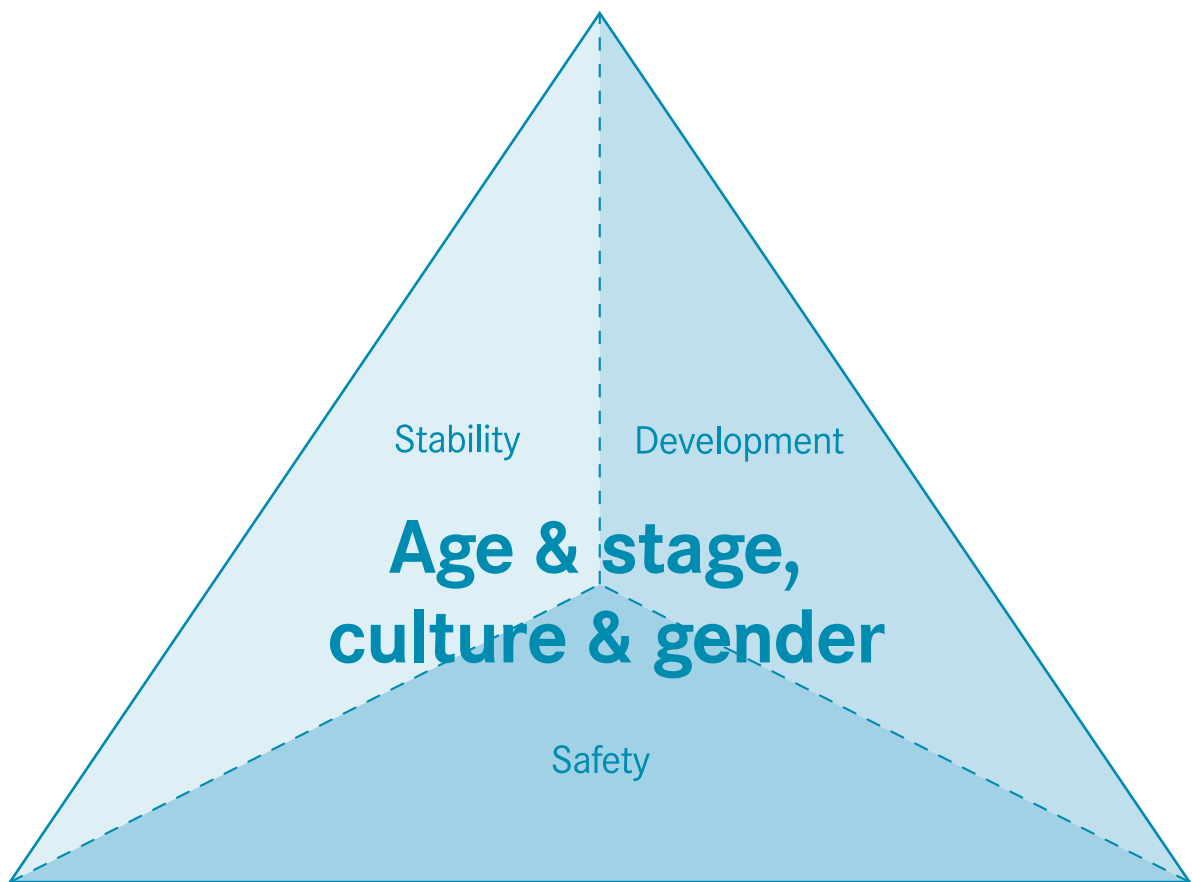
A reliable network of services that intervene earlier and provide additional help

Service collaboration

High quality, evidence based service responses

Empowering children and families in decision making processes





5. Using the framework

The CYFA requires that family services, child protection and placement services work in ways that reflect the Best Interests principles and associated provisions of the CYFA. The Best Interests framework set out in this paper will provide a common basis for professionals to work together and with local communities and other services to meet the needs of vulnerable children and families, by encouraging a consistent focus on the following:

- Each of the four dimensions of a child's experience:
 - age and stage of life, culture and gender
 - safety
 - stability
 - development.
- Key considerations relating to the child's family and social context, including:
 - parent/carer capability to protect and promote a child's best interests
 - the relevance of the broader family composition and dynamics to a child's best interests
 - the impact of community participation, social and economic environment on the protection and promotion of a child's best interests.
- The role and responsibilities of these services and how they should be organised and delivered to promote children's best interests.

6. Conclusion

The ecological and developmental focus of the CWSA and the Best Interests principles of the CYFA represent a profound shift from the previous legislative base for children. The new legislation for children provides a strong foundation for universal, secondary and tertiary child and family services to work together to meet the needs of all children - including the most vulnerable children in Victoria.

This document provides a common policy framework for family services, child protection and placement services to apply the Best Interests principles of the CYFA and promote positive outcomes for vulnerable children and families. It authorises and encourages practitioners to combine a focus on keeping children safe with a focus on the broader considerations for their wellbeing - promoting their stability, development and cultural identity. At the same time, the framework recognises the central importance of a child's family context and the difference that communities can make to children's lives.

This framework will provide a foundation for the development of more detailed policies, practice guidelines and procedures. These resources will assist the child and family support system to work in ways that can fulfil our aspiration to always protect and promote the best interests of vulnerable children and families.

Appendix 1

Children, Youth and Families Act 2005

Section 10. Best Interests Principles

- (1) For the purpose of this Act the best interests of the child must always be paramount.
- (2) When determining whether a decision or action is in the best interests of the child, the need to protect the child from harm, to protect his or her rights and to promote his or her development (taking into account his or her age and stage of development) must always be considered.
- (3) In addition to sub-sections (1) and (2), in determining what decision to make or action to take in the best interests of the child, consideration must be given to the following, where they are relevant to the decision or action.
 - (a) the need to give the widest possible protection and assistance to the parent and child as the fundamental group unit of society and to ensure that intervention into that relationship is limited to that necessary to secure the safety and wellbeing of the child; and
 - (b) the need to strengthen, preserve and promote positive relationships between the child's parent, family members and persons significant to the child;
 - (c) the need, in relation to an Aboriginal child, to protect and promote his or her Aboriginal cultural and spiritual identity and development by, wherever possible, maintaining and building their connections to their Aboriginal family and community;
 - (d) the child's views and wishes, if they can be reasonably ascertained, and they should be given such weight as is appropriate in the circumstances;
 - (e) the effects of cumulative patterns of harm on a child's safety and development;
 - (f) the desirability of continuity and stability in the child's care;
 - (g) that a child is only to be removed from the care of his or her parent if there is an unacceptable risk of harm to the child;
 - (h) if the child is to be removed from the care of his or her parent, that consideration is to be given first to the child being placed with an appropriate family member or other appropriate person significant to the child, before any other placement option is considered;
 - (i) the desirability, when a child is removed from the care of his or her parent, to plan the reunification of the child with his or her parent;
 - (j) the capacity of each parent or other adult relative or potential care giver to provide for the child's needs and any action taken by the parent to give effect to the goals set out in the case plan relating to the child;
 - (k) access arrangements between the child and the child's parents, siblings, family members and other persons significant to the child;

- (l) the child's social, individual and cultural identity and religious faith (if any) and the child's age, maturity, sex and sexual identity;
- (m) where a child with a particular cultural identity is placed in out of home care with a care giver who is not a member of that cultural community, the desirability of the child retaining a connection with their culture;
- (n) the desirability of the child being supported to gain access to appropriate educational services, health services and accommodation and to participate in appropriate social opportunities;
- (o) the desirability of allowing the education, training or employment of the child to continue without interruption or disturbance;
- (p) the possible harmful effect of delay in making the decision or taking the action;
- (q) the desirability of siblings being placed together when they are placed in out of home care;
- (r) any other relevant consideration

Appendix 2

Provisions guiding service planning, development and delivery in children's best interests

Section 16 Responsibilities of the Secretary

The Secretary has the following responsibilities -

- (a) To promote the prevention of child abuse and neglect
- (b) To assist children who have suffered abuse and neglect and to provide services to their families to prevent further abuse and neglect from occurring
- (c) To work with community services to promote the development and adoption of common policies and risk and need assessment for vulnerable children and families
- (d) To implement or promote the implementation of appropriate requirements for checks to ensure that all persons employed, engaged or appointed by a community service to work with children -
 - i. are and continue to be suitable to work with children; and
 - ii. comply with appropriate ethical and professional standards
- (e) to work with other government agencies and community services to ensure that children in out of home care receive appropriate educational, health and social opportunities
- (f) to publish and promote a Charter for children in out of home care to provide a framework of principles to promote the wellbeing of those children
- (g) to provide or arrange for the provision of services to assist in supporting a person under the age of 21 years to gain the capacity to make the transition to independent living where the person -
 - i. has been in the custody or under the guardianship of the Secretary
 - ii. on leaving the custody or guardianship of the Secretary is of an age to, or intends to, live independently
- (h) to conduct research on child development, abuse and neglect and to evaluate the effectiveness of community based and protective interventions in protecting children from harm, protecting their rights and promoting their development
- (i) to lead the ongoing development of an integrated child and family service system
- (j) to give effect to any protocol existing between the Secretary and an Aboriginal agency

Section 61

Responsibilities of registered community services

A registered community service must -

- (a) provide its services in relation to a child in a manner that is in the best interests of the child
- (b) ensure that the services provided by the services are accessible to and made widely known to the public, recognizing that prioritization of provision of services will occur based on need; and
- (c) participate collaboratively with local service networks to promote the best interests of children

Section 11

Decision making principles

In making a decision or taking an action in relation to a child, the Secretary or a community service must also give consideration to the following principles-

- (a) the child's parent should be assisted and supported in reaching decisions and taking actions to promote the child's safety and wellbeing;
- (b) where a child is placed in out of home care, the child's care giver should be consulted as part of the decision-making process and given an opportunity to contribute to the process;
- (c) the decision-making process should be fair and transparent;
- (d) the views of all persons who are directly involved in the decision should be taken into account;
- (e) decisions are to be reached by collaboration and consensus, wherever practicable;
- (f) the child and all relevant family members (except if their participation would be detrimental to the safety or wellbeing of the child) should be encouraged and given adequate opportunity to participate fully in the decision-making process;
- (g) the decision-making process should be conducted in such a way that the persons involved are able to participate in and understand the process, including any meetings that are held and decisions that are made;
- (h) persons involved in the decision-making process should be-
 - (i) provided with sufficient information, in a language and by a method that they can understand, and through an interpreter if necessary, to allow them to participate fully in the process; and
 - (ii) given a copy of any proposed case plan and sufficient notice of any meeting proposed to be held; and

- (iii) provided with the opportunity to involve other persons to assist them to participate fully in the process; and
- (i) if the child has a particular cultural identity, a member of the appropriate cultural community who is chosen or agreed to by the child or by his or her parent should be permitted to attend meetings held as part of the decision-making process.

Section 12

Additional decision making principles

- (1) In recognition of the principle of Aboriginal self-management and self-determination, in making a decision or taking an action in relation to an Aboriginal child, the Secretary or a community service must also give consideration to the following principles-
 - (a) in making a decision or taking an action in relation to an Aboriginal child, an opportunity should be given, where relevant, to members of the Aboriginal community to which the child belongs and other respected Aboriginal persons to contribute their views;
 - (b) a decision in relation to the placement of an Aboriginal child or other significant decision in relation to an Aboriginal child, should involve a meeting convened by an Aboriginal convener who has been approved by an Aboriginal agency or by an Aboriginal organisation approved by the Secretary and, wherever possible, attended by-
 - (i) the child; and
 - (ii) the child's parent; and
 - (iii) members of the extended family of the child; and
 - (iv) other appropriate members of the Aboriginal community as determined by the child's parent;
 - (c) in making a decision to place an Aboriginal child in out of home care, an Aboriginal agency must first be consulted and the Aboriginal Child Placement Principle must be applied.
- (2) The requirement under sub-section (1)(c) to consult with an Aboriginal agency does not apply to the making of a decision or the taking of an action under Part 3.5.
- (3) In this section "Aboriginal organisation" means an organisation that is managed by Aboriginal persons and that carries on its activities for the benefit of Aboriginal persons.

