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| Statement of Recognition Act 2023 |
| Information for Department of Families, Fairness and Housing and the funded sector |
| OFFICIAL |

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# Overview

The *Children and Health Legislation Amendment (Statement of Recognition, Aboriginal Self-Determination and Other Matters) Act 2023* (‘Statement of Recognition Act’) was passed in Victoria on 20 June 2023.

The Statement of Recognition Act, including amendments to the *Children, Youth and Families Act* (2005), come into effect from 1 July 2024.

The Statement of Recognition Act is an important step in Victoria’s journey towards recognition, respect and commitment to Aboriginal people and their right to self-determination.

# Purpose

This document outlines the Department of Families, Fairness and Housing’s role in implementing the Act.

The policy in this document explains the responsibilities of the Secretary and delegates when working with Aboriginal children and families under the *Children, Youth and Families Act* (2005).

These responsibilities extend to staff involved in designing and delivering departmental child and family services for Aboriginal children, families and communities.

# Statement of Recognition

The Act introduces a Statement of Recognition and binding principles for all decision-makers involved with Aboriginal children and their families in the child protection system.

In the Act, the Victorian Parliament formally recognises that the child protection system played a key role in the dispossession, colonisation and assimilation of Aboriginal people. This led to the forced removal of Aboriginal children from their families, culture and Country in an effort to assimilate and extinguish their culture, language and identity.

## Section 7A

The Statement of Recognition is a formal acknowledgment from the Victorian Government that:

* Aboriginal people were harmed by the laws, policies and practices of past child protection systems.
This harm led to intergenerational trauma, disadvantage and marginalisation of Aboriginal people and communities.
* Aboriginal people continue to experience inequality and racism. As a result, Aboriginal children are over-represented in the child protection and statutory care systems.

The Victorian Government commits to better supporting Aboriginal people. This includes:

* upholding rights to culture, community, language and Country
* negotiating a treaty to transfer power and resources and achieve self-determination
* increasing understanding of Aboriginal culture and Australian history in the broader community
* ensuring Aboriginal people take part in decision making on community needs, policy, service delivery and funding.

Central to this approach is a commitment to equity for Aboriginal people. Recognition principles (s 7E of the Act) underpin this commitment. Victoria is addressing systemic disparities and establishing governance where Aboriginal people are recognised, valued and in control of matters that affect them. This will be achieved through:

* collaborative initiatives
* child protection reforms
* whole of government reform and reprioritisation
* targeted support for Aboriginal-led decision making.

This crucial change to the *Children, Youth and Families* *Act* (2005) recognises the Victorian Government must do better to improve the lives of Aboriginal children at risk of entering, or coming into contact with, the child protection system. In making decisions regarding Aboriginal children, decision-makers must uphold the cultural rights of Aboriginal children and sustain their connections to culture, community, Country and language.

The participation of Aboriginal families, community Elders and Aboriginal-led organisations at all points of decision making is critical to ensuring Aboriginal perspectives, knowledge and culture are represented. The Act formally recognises that Aboriginal people are best placed to make decisions and deliver services that protect the best interests of Aboriginal children and requires that their views must be considered. The *Children, Youth and Families Act* (2005) expands the role of Aboriginal agencies delivering child and family services, with the goal of reducing the over-representation of Aboriginal children in care.

# Recognition principles

Section 7E of the Statement of Recognition Act contains the 11 recognition principles. The principles establish obligations on the Children’s Court, the departmental Secretary and community service organisations. These obligations will affect all decisions and actions in relation to Aboriginal children. The recognition principles address the need for Aboriginal self-determination as a requirement for Aboriginal children to thrive and be protected from harm.

The recognition principles (s 7E) ensure:

* distinct cultural rights of Aboriginal children and families are respected
* Aboriginal families and the right of Aboriginal people to self-determination is recognised, respected and supported
* self-determination and connection to Aboriginal culture are embedded as foundations.

**The principles must be applied subject to the child’s best interests (s 10).**

# Aboriginal Child Placement Principle and Further principles for placement of Aboriginal child

The Statement of Recognition Act expands the Aboriginal Child Placement Principle (s 13) to introduce further principles for placement of a Aboriginal child (s 14). This now includes all 5 elements of the Aboriginal Child Placement Principle. The 5 principles must now be regarded for all decisions and actions taken. This includes all decisions about child placement. In addition to the existing ‘Placement element’ (s 13), the Act expands on what decision-makers must consider (s 14(1A) to (1E)).

The additions include:

* prevention
* partnership
* participation
* connection.

These principles emphasise the importance of preserving Aboriginal families by preventing child removal. It prioritises actively reunifying children who are removed. The principles intend to ensure all decisions about Aboriginal children involve family, Elders, Aboriginal-led community services and community.

The Aboriginal Child Placement Principle recognises the significance of connection to culture, family, and community for Aboriginal children. This connection must be maintained at all points of involvement with the child protection and family services systems.

# Requirements

Under the *Children, Youth and Families Act* (2005), the Secretary and community service organisations must uphold the recognition principles (s 7E). This includes in the planning and delivery of services (where relevant) for Aboriginal children and families. It also includes the design and service delivery of children and family services.

The principles guide the administration of the *Children, Youth and Families Act* (2005) to ensure the following are respected, supported and recognised:

* the distinct cultural rights of Aboriginal children and Aboriginal families
* the right of Aboriginal people to self-determination.

The recognition principles (s 7E) apply subject to the best interest principles (s 10).

Under the *Children, Youth and Families Act* (2005), the Secretary and community service organisations acting on behalf of the Secretary must consider all 5 elements of the Aboriginal Child Placement Principle and further principles for placement of a Aboriginal child (ss 13–14). Consideration of the Placement Principle must be applied at all points of decision making throughout a child’s involvement with Child Protection. This includes when taking actions in the best interests of the child.

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