

## **EXPLANATORY STATEMENT**

### **Issued by the Authority of the Minister for Finance**

*Financial Framework (Supplementary Powers) Act 1997*

*Financial Framework (Supplementary Powers) Amendment  
(Social Services Measures No. 2) Regulations 2024*

The *Financial Framework (Supplementary Powers) Act 1997* (the FFSP Act) confers on the Commonwealth, in certain circumstances, powers to make arrangements under which money can be spent; or to make grants of financial assistance; and to form, or otherwise be involved in, companies. The arrangements, grants, programs and companies (or classes of arrangements or grants in relation to which the powers are conferred) are specified in the *Financial Framework (Supplementary Powers) Regulations 1997* (the Principal Regulations). The powers in the FFSP Act to make, vary or administer arrangements or grants may be exercised on behalf of the Commonwealth by Ministers and the accountable authorities of non-corporate Commonwealth entities, as defined under section 12 of the *Public Governance, Performance and Accountability Act 2013*.

The Principal Regulations are exempt from sunseting under section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015* (item 28A). If the Principal Regulations were subject to the sunseting regime under the *Legislation Act 2003*, this would generate uncertainty about the continuing operation of existing contracts and funding agreements between the Commonwealth and third parties (particularly those extending beyond 10 years), as well as the Commonwealth's legislative authority to continue making, varying or administering arrangements, grants and programs.

Additionally, the Principal Regulations authorise a number of activities that form part of intergovernmental schemes. It would not be appropriate for the Commonwealth to unilaterally sunset an instrument that provides authority for Commonwealth funding for activities that are underpinned by an intergovernmental arrangement. To ensure that the Principal Regulations continue to reflect government priorities and remain up to date, the Principal Regulations are subject to periodic review to identify and repeal items that are redundant or no longer required.

Section 32B of the FFSP Act authorises the Commonwealth to make, vary and administer arrangements and grants specified in the Principal Regulations. Section 32B also authorises the Commonwealth to make, vary and administer arrangements for the purposes of programs specified in the Principal Regulations. Section 32D of the FFSP Act confers powers of delegation on Ministers and the accountable authorities of non-corporate Commonwealth entities, including subsection 32B(1) of the FFSP Act. Schedule 1AA and Schedule 1AB to the Principal Regulations specify the arrangements, grants and programs.

Section 65 of the FFSP Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The *Financial Framework (Supplementary Powers) Amendment (Social Services Measures No. 2) Regulations 2024* (the Regulations) amend Schedule 1AB to the Principal Regulations to establish legislative authority for government spending on activities administered by the Department of Social Services.

Funding is provided for the:

- Support for Trafficked People Program to reflect recent enhancements to better meet the needs of victims and survivors in response to the *National Plan to End Violence against Women and Children 2022-2032* and the *National Action Plan to Combat Human Trafficking and Slavery 2020-25* (\$24.3 million over four years from 2023-24 and \$5.9 million per year ongoing);
- Australian Orphanage Museum to support the Care Leavers Australasia Network to complete capital works necessary to finalise the establishment of the Museum and to ensure its continued operation (\$1.0 million over three years from 2023-24);
- Improving parenting confidence and supporting and promoting shared care program to strengthen community support and improve outcomes for children (\$13.9 million over two years from 2024-25); and
- Forced Marriage Specialist Support Program to support prevention and early intervention initiatives and tailored supports to people who are reasonably suspected of being victims, and people who are reasonably considered to be at risk of becoming victims, of forced marriage (\$12.1 million over five years from 2023-24 and \$3.8 million per year ongoing).

Details of the Regulations are set out at [Attachment A](#). A Statement of Compatibility with Human Rights is at [Attachment B](#).

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulations commence on the day after registration on the Federal Register of Legislation.

### **Consultation**

In accordance with section 17 of the *Legislation Act 2003*, consultation has taken place with the Department of Social Services.

A regulatory impact analysis is not required as the Regulations only apply to non-corporate Commonwealth entities and do not adversely affect the private sector.

**Details of the *Financial Framework (Supplementary Powers) Amendment (Social Services Measures No. 2) Regulations 2024***

**Section 1 – Name**

This section provides that the title of the Regulations is the *Financial Framework (Supplementary Powers) Amendment (Social Services Measures No. 2) Regulations 2024*.

**Section 2 – Commencement**

This section provides that the Regulations commence on the day after registration on the Federal Register of Legislation.

**Section 3 – Authority**

This section provides that the Regulations are made under the *Financial Framework (Supplementary Powers) Act 1997*.

**Section 4 – Schedules**

This section provides that the *Financial Framework (Supplementary Powers) Regulations 1997* are amended as set out in the Schedule to the Regulations.

**Schedule 1 – Amendments**

***Financial Framework (Supplementary Powers) Regulations 1997***

This instrument amends two table items and adds two new table items to Part 4 of Schedule 1AB to provide legislative authority for government spending on activities administered by the Department of Social Services (the department).

**Item 1 – Part 4 of Schedule 1AB (cell at table item 344, column headed “Objective(s)”)**

**Table item 344 – Support for Trafficked People Program**

Table item 344 in Part 4 of Schedule 1AB provides legislative authority for government spending on the Support for Trafficked People Program (STPP).

Item 1 amends table item 344 by omitting the word “Code” and substituting with “Code, including where those people are referred from a community service provider or from the Australian Federal Police” in the column headed “Objective(s)”. The amendment reflects the additional referral pathway and restructure of the STPP to better meet the needs of victims and survivors of offences under Divisions 270 or 271 of the *Criminal Code*.

The STPP was originally established under the Fourth Action Plan of the *National Plan to Reduce Violence against Women and their Children 2010-2022*, which sets out an ambitious but practical agenda to achieve change and reduce domestic, family and sexual violence against women and their children across five priority areas.

The amended table item 344 is required to align the STPP with the updated *National Plan to End Violence against Women and Children 2022-2032* (National Plan) and support the commitments under the *National Action Plan to Combat Human Trafficking and Slavery 2020-25* (National Action Plan).

The National Plan (<https://www.dss.gov.au/the-national-plan-to-end-violence-against-women-and-children/the-national-plan-to-end-violence-against-women-and-children-2022-2032>) commits to ten years of sustained action, effort and partnership across all relevant sectors and levels of government towards the vision of ending gender-based violence in one generation. It also commits to ongoing engagement with victims and survivors in the development of policies and solutions. The vision of the National Plan will be achieved, in part, by building the workforce, growing the evidence base and strengthening data collection systems, while delivering holistic, coordinated and integrated person-centred responses.

The National Action Plan (<https://www.ag.gov.au/crime/publications/national-action-plan-combat-modern-slavery-2020-25>) is founded on the need to actively prevent and combat all forms of modern slavery, wherever it occurs, including by supporting, protecting and empowering victims and survivors and it provides the strategic framework for Australia's response to modern slavery. The National Action Plan is made up of five National Strategic Priorities and the STPP responds to the National Strategic Priority 3: Support and Protect, which is aimed at protecting victims and survivors by providing holistic and tailored victim-centred support and protection.

The STPP is currently delivered by the Australian Red Cross who provides a national response 24/7, 365 days a year within all states and territories in Australia. It provides assistance to all eligible victims of human trafficking, slavery and slavery-like practices (including people in or at risk of forced marriage) referred to the program. Case managers at the Australian Red Cross work with victims and survivors, who are known as clients, to meet their safety, security, health, and wellbeing needs, and to develop options for their future life once they leave the program.

Clients receive individualised, tailored, case managed support, including:

- safe and secure accommodation that can include, if required, suitable and secure hotel accommodation, allowances providing cover for bond and some weeks rent costs;
- access to medical or dental treatment and counselling through appropriate providers, as required;
- referral to legal and migration advice services that can include costs associated with citizenship application, travel costs where a matter cannot be dealt with by phone or by obtaining documents by registered post;
- skills development, including English-language classes and vocational guidance to be delivered online or in-person; and
- social support that can include preparing victims and survivors for life after their period in the STPP, managing victims' and survivors' expectations about staying in Australia or returning to their country of origin.

Currently, the only way for eligible victims and survivors to access the STPP is through an assessment and referral by the Australian Federal Police (AFP). The enhanced STPP will better meet the needs of victims and survivors through the provision of an Additional Referral Pathway (ARP), which was announced on 16 May 2023, as part of the Government's commitment to combat modern slavery (<https://ministers.dss.gov.au/media-releases/11236>).

The ARP will introduce an additional pathway to enable eligible victims and survivors to access the STPP through a direct referral from a community service provider, without engagement with the AFP for referral. The ARP is designed to increase accessibility to the STPP for victims and survivors who are reluctant to engage with law enforcement for support.

The ARP supports the National Action Plan's priority 'to provide holistic and tailored support and protection that meets the needs of victims and survivors of modern slavery'. The ARP will increase the visibility of victims and survivors and the support offered to them. With adequate support, victims and survivors who were initially reluctant may feel empowered to then participate in a criminal justice process.

The ARP incorporates recommendations to de-link access to assistance from the criminal justice process, including from:

- the National Roundtable on Human Trafficking and Slavery's STPP Additional Referral Pathway Working Group;
- the Parliamentary Joint Standing Committee on Foreign Affairs, Defence and Trade inquiry into establishing a Modern Slavery Act in Australia, Hidden in Plain Sight;
- the Parliamentary Joint Committee on Law Enforcement inquiry into human trafficking, slavery and slavery-like practices;
- the annual United States Department of State Trafficking in Persons global reports;
- the Special Rapporteur on trafficking in persons, especially women and children; and
- the House of Representatives Standing Committee on Social Policy and Legal Affairs Report: Inquiry into family, domestic and sexual violence.

The ARP also aligns with the initiative that forms part of the National Plan's objectives. Funding of activities for the STPP supports the National Plan's comprehensive approach to addressing violence through recovery and healing, which are ongoing processes that enable victims and survivors of human trafficking, slavery and slavery-like practices to be safe, healthy and resilient and to have economic security and post-traumatic growth.

Victims and survivors require support to recover from the financial, social, psychological, emotional and physical impacts of violence. Recovery also includes addressing the short-term, long-term and lifelong health impacts for victims and survivors, which may include physical injuries, reproductive and sexual health issues and poor mental health. Recovery also relates to the rebuilding of a victim and survivor's life, their ability to return to the workplace and community, as well as obtaining financial independence and economic security. However, it must be acknowledged that victims and survivors recover and heal in different ways, with some people requiring access to ongoing support.

An evaluation will be undertaken to assess the STPP design, its effectiveness in delivering outcomes, and whether it remains fit for purpose, including early findings from the ARP and other enhancements introduced as part of the 2023-24 Budget. The results of this evaluation will inform if any future enhancements need to occur.

*Funding amount and arrangements, merits review and consultation*

Funding of \$24.3 million (and \$5.9 million per year ongoing) for the STPP was included in the 2023-24 Budget under the measure ‘Women’s Safety’ for a period of four years commencing in 2023-24. Details are set out in *Budget 2023-24, Budget Measures, Budget Paper No. 2* at page 88.

Funding for this item will come from Program 2.1: Families and Communities, which is part of Outcome 2. Details are set out in the *Portfolio Additional Estimates Statements 2023-24, Social Services Portfolio* at page 51.

The STPP will be delivered through a suite of grants and procurements depending on its activities.

Grants activities may include:

- delivery of a high quality case management and support service (either face-to-face or remotely) in all states and territories, 24 hours a day, seven days a week, including public holidays, including provision of food, accommodation, financial assistance, referral to legal and migration advice, and referral for mental and physical health support and continued wellbeing, providing services based on an assessment of the individual needs and risks; or
- screening eligible victims and survivors for legal, physical, and psychological indicators of modern slavery practices outlined in relevant Australian legislation, standards and good practice while delivering a safe, confidential, person-centred, culturally sensitive, trauma-informed entry point to the STPP.

All grants will be administered in accordance with the Commonwealth resource management framework, including the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and the *Commonwealth Grants Rules and Guidelines 2017/1* (CGRGs). Information about the grant will be made available on the GrantConnect website ([help.grants.gov.au](http://help.grants.gov.au)), and the grant will be administered by the Community Grants Hub, which is part of the department.

Funding may also be delivered through procurement arrangements. Where procurement arrangements are used, decisions will be made in accordance with the Commonwealth resource management framework, including the PGPA Act and the *Commonwealth Procurement Rules* (CPRs). Information about the tender and resulting contracts will be made available on AusTender ([www.tenders.gov.au](http://www.tenders.gov.au)) once the contracts are signed. Procurement decisions will be based on value for money, including capability and capacity to deliver, and price and risk considerations.

Final funding decisions for the procurement and grant will be made by the Minister for Social Services’ (the Minister) delegate at the Senior Executive Service (SES) level within the Ending Gender-Based Violence Group with relevant knowledge and experience on modern slavery topics. Final decisions will be made publicly available on GrantConnect or AusTender.

Funding decisions relating to the grant opportunities and procurement for the STPP are not considered suitable for independent merits review. This is because the decisions relate to the allocation of finite resources, from which all potential claims for a share of the resource cannot be met. In addition, any funding that has already been allocated would be affected if the original decision were overturned. The Administrative Review Council (ARC) has recognised that it is justifiable to exclude merits review in relation to decision of this nature (see paragraphs 4.11 to 4.19 of the guide, *What decisions should be subject to merit review?* (ARC guide)).

In addition, the remaking of a decision after entry into a contractual arrangement with a successful provider is legally complex, impractical, and could result in delays to providing services. The *Government Procurement (Judicial Review) Act 2018* enables suppliers to challenge some procurement processes for alleged breaches of certain procurement rules. This legislation might provide an additional avenue of redress (compensation or injunction) for dissatisfied providers or potential providers, depending on the circumstances.

The review and audit process undertaken by the Australian National Audit Office (ANAO) also provides a mechanism to review Government spending decisions and report any concerns to the Parliament. These requirements and mechanisms help to ensure the proper use of Commonwealth resources and appropriate transparency around decisions relating to making, varying or administering arrangements to spend relevant money.

The program is informed by consultation with key stakeholders including: the STPP Service Provider (currently Australian Red Cross), the Attorney-General's Department, AFP, Australian Border Force, the Department of Home Affairs, the Department of Foreign Affairs and Trade, other member agencies of the Australian Government's Interdepartmental Committee on Human Trafficking and Slavery Operational Working Group, state and territory law enforcement, Child Protection agencies, the civil society sector with an interest in modern slavery, and members of the National Roundtable on Human Trafficking.

Key areas identified and addressed through the enhanced STPP align with the Government's broader objectives to strengthen responses to modern slavery, including:

- the introduction of an ARP to access the STPP without having to engage the AFP and criminal justice processes to better meet the needs of victims and survivors;
- increased initial support for all victims and survivors from 45 days to 90 days, and improve support for victims and survivors with dependent children located in Australia;
- increased ongoing base appropriation to ensure program sustainability and the ability to meet projected levels of demand; and
- the implementation of post-program monitoring at intervals of 3, 6 and 12 months to reduce the risk of re-trafficking and maintain the benefits of recovery, including in relation to education and employment goals, mental health, and community connection by providing information, supporting identification and referral to other services.

### Statement of relevant constitutional considerations

Noting that this is not a comprehensive statement of relevant constitutional considerations, the objective of the item references the following powers of the Constitution:

- the social welfare power (section 51(xxiiiA));
- the aliens power (section 51(xix));
- the immigration and emigration power (section 51(xxvii));
- the external affairs power (section 51(xxix)); and
- the territories power (section 122).

#### *Social welfare power*

Section 51(xxiiiA) of the Constitution empowers the Parliament to make laws with respect to the provision of certain social welfare benefits, including unemployment benefits and medical services.

Funding for the STPP will be directed to supporting individuals affected by human trafficking, slavery, and slavery-like practices to access various social welfare services and benefits, including medical services and the Pharmaceutical Benefits Scheme, available income support, and a Health Care Card if eligible.

#### *Aliens power*

Section 51(xix) of the Constitution empowers the Parliament to make laws with respect to naturalization and aliens.

Funding under the STPP will be used for activities that provide financial support and assistance to eligible temporary visa holders, migrants and refugees referred to the program.

#### *Immigration and emigration power*

Section 51(xxvii) of the Constitution empowers the Parliament to make laws with respect to immigration and emigration.

Funding for the STPP will continue to be directed to supporting people who are new migrants to Australia. Support and services will be delivered in culturally sensitive ways.

#### *External affairs power*

Section 51(xxix) of the Constitution empowers the Parliament to make laws with respect to 'external affairs'.

The external affairs power supports legislation implementing Australia's international obligations under treaties to which it is a party, including the following:

- the *United Nations Convention Against Transnational Organized Crime*;
- the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*;
- the *Convention on the Elimination of All Forms of Discrimination against Women*;
- the *Convention on the Rights of the Child*;



- the *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*;
- the *International Covenant on Civil and Political Rights*;
- the *International Covenant on Economic, Social and Cultural Rights*;
- the International Labour Organization's *Convention Concerning Forced or Compulsory Labour*;
- the *International Convention to Suppress the Slave Trade and Slavery*; and
- the *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery*.

*United Nations Convention Against Transnational Organized Crime (CTOC)*

Australia has obligations relating to the serious harm caused by transnational organised crime under the CTOC. In particular:

- Article 1 of the CTOC states that the Convention seeks to 'promote cooperation to prevent and combat transnational organized crime more effectively'.
- Article 25 of the CTOC requires the States Parties to provide assistance and protection to victims, and also enable views and concerns of victims to be presented at criminal proceedings in a manner not prejudicial to the rights of the defence.
- Article 26 of the CTOC requires the States Parties encourage persons who have participated in organised criminal groups to supply information useful to competent authorities for investigative and evidentiary purposes.
- Article 27 of the CTOC requires the States Parties enhance the effectiveness of law enforcement action to combat the offences covered by the CTOC.
- Article 31 of the CTOC requires the States Parties establish national projects, best practices and policies to prevent transnational organised crime.

Transnational organised crime may comprise human trafficking, slavery and slavery-like practices in some cases; that is, where a criminal group with three or more persons is trafficking a person across national boundaries for financial or other material benefit. Funding under the STPP will ensure ongoing support is available to victims and survivors of human trafficking, slavery and slavery-like practices, including support to victims contributing to criminal investigations or prosecutions.

*Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Trafficking Protocol)*

Australia has obligations under the Trafficking Protocol relating to the prevention and combat of trafficking in persons, especially women and children. In particular:

- Article 1 of the Trafficking Protocol states that this Protocol supplements the CTOC.
- Article 6 of the Trafficking Protocol requires the States Parties to protect the privacy of trafficked victims; provide for the 'physical, psychological and social recovery of victims' and cooperate with non-governmental organisations and other relevant organisations where required; provide for the physical safety of victims; and ensure support is tailored.
- Article 9 of the Trafficking Protocol requires the States Parties to establish comprehensive policies, programs and other measures to prevent and combat

trafficking in persons and to prevent victims of trafficking in persons, especially women and children from revictimisation.

Funding under the STPP provides for assistance to eligible victims of human trafficking, slavery and slavery-like practices. This includes people who have been affected by human trafficking, slavery, forced labour, deceptive recruiting for labour or services, servitude, debt bondage, forced marriage, harbouring and/or organ trafficking.

A non-government organisation, the Australian Red Cross, will continue to deliver the STPP nationally. Funding will ensure eligible victims, including victims of trafficking, can access tailored case management support. In particular, the Australian Red Cross provides for the physical, psychological and social recovery of victims by providing access to secure accommodation, financial assistance, assistance with accessing medical treatment and counselling, referrals for legal and migration services, as well as developing options for life after they leave the program. Case managers are responsible for ensuring the appropriate delivery of support services to meet clients' individual needs.

*Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*

Australia has international obligations regarding the promotion of equal rights for women and girls under the CEDAW, particularly Articles 2, 3, 5 and 16:

- Article 2 of the CEDAW provides that the States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women.
- Article 3 of the CEDAW provides that the States Parties shall take in all fields, particularly in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.
- Article 5 of the CEDAW provides that the States Parties shall take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.
- Article 16 of the CEDAW requires the States Parties to take 'all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women'.

Gender-based violence, including domestic and family violence, is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men.

Funding under the STPP will provide ongoing support to eligible victims and survivors of human trafficking, slavery and slavery-like practices. The majority of victims and survivors on the STPP have been women who have experienced sexual or labour exploitation in a commercial setting, or alternatively been victim to, or at risk of, forced marriage.

*Convention on the Rights of the Child (CRC)*

Australia has international obligations regarding the recognition of the civil, political, economic, social and cultural rights of every child under the CRC, particularly Articles 4, 19, 32, 34, 35 and 36. Further:

- Article 4 of the CRC requires the States Parties to undertake all appropriate legislative, administrative, and other measures for the implementation of the rights in the CRC.
- Article 19 of the CRC requires the States Parties to ‘take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child’.
- Article 32 of the CRC requires the States Parties to protect children from economic exploitation and from performing any work that is likely to be hazardous or harmful to the child (specifically their education, health, or physical, mental, spiritual, moral or social development).
- Article 34 of the CRC requires the States Parties to protect the child from all forms of sexual exploitation and sexual abuse, including to take appropriate measures to prevent ‘the inducement or coercion of a child to engage in any unlawful sexual activity’ and the ‘exploitative use of children in pornographic performances and materials’.
- Article 35 of the CRC requires the States Parties to take all appropriate measures to ‘prevent the abduction of, the sale of or traffic in children for any purpose or in any form’.
- Article 36 of the CRC requires the States Parties to protect the child against all other forms of exploitation prejudicial to any aspects of the child’s welfare.

Funding under the STPP will provide ongoing support to eligible victims and survivors of human trafficking, slavery and slavery-like practices, including victims and survivors of forced marriage (often children).

*Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (OPSC)*

Australia has international obligations regarding the protection of children under the OPSC. In particular:

- Article 8 of the OPSC requires the States Parties to protect the rights and interests of child victims, and ensure appropriate training is provided to persons who work with victims.
- Article 9 of the OPSC requires the States Parties to take all feasible measures to provide appropriate assistance to child victims, and ensure they can seek compensation from those legally responsible.

Funding under the STPP will provide ongoing support to eligible victims and survivors of human trafficking, slavery and slavery-like practices, including victims and survivors of forced marriage (often children).

*International Covenant on Civil and Political Rights (ICCPR)*

Australia has obligations under the ICCPR to promote universal respect for, and observance of, human rights and freedoms. In particular:

- Article 2 of the ICCPR requires that each State Party to the ICCPR ‘undertakes to respect and ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status’.
- Article 7 of the ICCPR states that no one shall be subject to torture or to cruel, inhuman or degrading treatment or punishment, and in particular, to medical or scientific experimentation without providing their free consent.
- Article 8 of the ICCPR states that ‘no one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited’, ‘no one shall be held in servitude and ‘no one shall be required to perform forced or compulsory labour’.
- Article 23 of the ICCPR recognises families as being ‘entitled to protection by society and the State’, and requires the States Parties to ‘take appropriate steps to ensure quality of rights and responsibilities of spouses as to marriage, during marriage and its dissolution’.

Funding under the STPP will provide ongoing support to eligible victims and survivors of human trafficking, slavery and slavery-like practices, including victims and survivors of forced marriage (often young women and girls).

*International Covenant on Economic, Social and Cultural Rights (ICESCR)*

Australia has international obligations regarding the protection of economic, social and cultural rights under Articles 2, 6, 10 and 11 of the ICESCR. Further:

- Article 2 of the ICESCR requires the States Parties to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
- Article 6 of the ICESCR requires the States Parties to safeguard the right of people to gain their living by work that they freely choose or accept.
- Article 10 of the ICESCR requires the States Parties protect and assist families, noting that ‘marriage must be entered into with the free consent of the intending spouses’ and also that ‘children and young persons should be protected from economic and social exploitation’.
- Article 11 of the ICESCR requires the States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.

Funding under the STPP will provide critical support to clients through tailored support in identifying their needs including their participation in the workforce to enable them to gain a living.

*International Labour Organization's Convention Concerning Forced or Compulsory Labour (Labour Forced Labour Convention)*

The Forced Labour Convention 1930 aims to suppress the use of forced or compulsory labour in all its forms. In particular, Article 1 mandates that all ratifying parties seek to suppress the use of forced or compulsory labour in all its forms within the shortest possible period.

Funding under the STPP will provide ongoing support to eligible victims and survivors of human trafficking, slavery and slavery-like practices, including victims of forced labour, servitude and forced marriage, which often includes children. The STPP will aim to provide this support alongside the implementation of the National Action Plan, which provides the strategic framework for Australia's response to end human trafficking, slavery and slavery-like practices.

*International Convention to Suppress the Slave Trade and Slavery (Slavery Convention)*

The Slavery Convention 1962 establishes rules to advance the suppression of slavery and the slave trade. In particular, Article 2 requires action be taken to 'prevent and suppress slave trade' and bring about 'the complete abolition of slavery in all its forms'.

Funding under the STPP will ensure it can meet rising demand by continuing to deliver critical support for all identified victims of human trafficking and slavery.

*Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (Abolition of Slavery and Slave Trade Convention)*

Australia has international obligations regarding the recognition of the prohibition of slavery and servitude under the Abolition of Slavery and Slave Trade Convention. In particular, Article 1 requires the States Parties to implement measures to allow for the abolition of debt bondage, serfdom, forced marriage and child marriage.

Funding under the STPP will ensure it can meet rising demand by continuing to deliver critical support for all identified victims of human trafficking and slavery. This includes forced labour, servitude, debt bondage and forced marriage.

*Territories Power*

Section 122 of the Constitution empowers the Parliament to 'make laws for the government of any territory'.

Funding under the STPP will provide ongoing support to eligible victims and survivors of human trafficking, slavery and slavery-like practices, including victims and survivors of forced marriage (often young women and children), including in the Northern Territory and the Australian Capital Territory.

**Item 2 – Part 4 of Schedule 1AB (paragraph (e) of the cell at the table item 344, column headed “Objective(s)”)**

Item 2 amends table item 344 in Part 4 of Schedule 1AB by repealing paragraph (e) in the column headed “Objective(s)”. This is a technical amendment to update the operational provisions which support spending activities under the STPP. The amendment is minor and does not alter the delivery of the STPP.

**Item 3 – Part 4 of Schedule 1AB (cell at table item 375, column headed “Objective(s)”)**

Table item 375 – Australian Orphanage Museum

Table item 375 in Part 4 of Schedule 1AB provides legislative authority for government spending on the Australian Orphanage Museum (Museum).

Item 3 amends table item 375 by repealing and substituting the full text of the cell under the column headed “Objective(s)”. The amendment to table item 375 is required to facilitate the permanent establishment of the Museum and to cover the new capital works and operational expenditure of the Museum.

The Museum is a nationally significant exhibit, displaying a large collection of historic artefacts and memorabilia to record and display the history of children who grew up in orphanages, institutions and out-of-home care throughout Australia. It contributes to the objectives of the national *Find and Connect Support Services* (an ongoing measure) which aims to improve social outcomes for Forgotten Australians/Care Leavers and Former Child Migrants by assisting them to reconcile with their life stories and restore family relationships where possible.

The Australian Government made a one-off commitment of \$2.0 million in 2019 to the Care Leavers Australasia Network (CLAN) for the purchase of a property at 351 Ryrie Street, Geelong Victoria to establish the Museum. Funding was also included to meet the City of Greater Geelong Council (City Council) requirements such as design and fit out, repairs, disability access, fire safety, and other establishment work.

CLAN is a not-for-profit registered charity and a survivor-led independent peak membership body providing support, advocacy, and research for survivors of past abuse in child welfare systems in Australia and New Zealand. CLAN has been operating since 2000 and has approximately 1,000 members, with the objective to raise community awareness and campaign for government assistance to provide redress for survivors of abuse in the care system. This includes former state wards, foster children, and children raised in orphanages and other institutions.

In 2001, CLAN established the Museum to collect, document and present objects and materials from orphanages, children’s homes and other institutions from across Australia. CLAN maintained hundreds of items within their collection, including plaques, signs, badges, photos, crockery, diaries and personal effects, such as suitcases or clothing.

The original funding agreement did not include the scope or estimated cost of works required to make the property compliant with relevant building codes to meet commercial building requirements and obtain a permanent certificate of occupancy. Subsequently, CLAN obtained

a Temporary Occupancy Permit (TOP) from the City Council to allow the use of the front four rooms of the property for up to 12 months.

This enabled the Museum to open on a temporary basis from April 2023, while work was conducted to identify and plan for remediation works required by the City Council to secure a Class 9B permit and develop a business sustainability plan to assist CLAN to open and operate the Museum permanently as a commercial property. The TOP was extended and currently expires on 30 June 2024.

Additional funding of \$1.0 million was provided in the 2024-25 Budget to enable CLAN to complete capital works and support essential operational costs.

Capital works funding is required for maintenance and other improvements to ensure it is fit for purpose, including:

- compliance capital works required by the City Council to update and maintain the building to be commercially compliant, including power, fire protection, external works on fencing, footpaths, paved areas and landscaping, and works required for disability access;
- building maintenance including repairs to the roof, external walls, windows, stormwater and sewer draining, and minor repairs and refinishing of walls, floors and ceilings; and
- workplace improvements, as CLAN is seeking to ensure the building is fit for purpose, and ensure visitor, staff and volunteer safety, including landscaping, and the replacement of a gas boiler for heating.

Operational funding will cover necessary costs to support the operation and administration of the Museum, including insurance, rates, utilities, equipment, advertising, communication, security and overheads (excluding salaries and additional staff costs).

*Funding amount and arrangements, merits review and consultation*

Funding of \$1.0 million for the Museum was included in the 2024–25 Budget under the measure 'Australian Orphanage Museum – additional funding' for a period of three years commencing in 2023-24. Details are set out in the *Budget 2024-25, Budget Measures, Budget Paper No. 2* at page 165.

Funding for this item will come from Program 2.1: Families and Communities (2.1.1 – Component 1-Families and Children), which is part of Outcome 2. Details are set out in the *Portfolio Budget Statements 2024-25, Budget Related Paper No. 1.14, Social Services Portfolio* at pages 25 and 51.

Funding for the Museum will be delivered through a closed non-competitive grant process to CLAN in accordance with the Commonwealth resource management framework, including the PGPA Act and the CGRGs.

The grant will be delivered through two rounds:

- Capital Works Grant Opportunity (2023-24); and
- Operational Grant Opportunity (2024-25).

CLAN has been identified as the grant recipient as it holds the title of the Museum in Geelong and is the sole custodian of a significant collection of historic artefacts, memorabilia and documents related to orphanages, children's homes, foster care and other institutions. The current collection contains over 1,000 items. Other Australian museums have been engaged too, such as the National Museum of Australia, the National Library of Australia (NLA) which have provided support over the past decade. Additionally, the NLA has provided training and support, and the collection has been professionally catalogued and insured. CLAN has established expertise in understanding the history and needs of Forgotten Australian, which is essential to the delivery of the grants. Moreover, no other organisation has expressed interest in establishing or running a national orphanage museum.

Information about the grants, including grant opportunity guidelines will be made available on the GrantConnect website ([help.grants.gov.au](http://help.grants.gov.au)), and the grant will be administered by the Community Grants Hub, which is part of the department.

Final funding decisions for the grants will be made either by the Minister or by a delegate at the SES level with relevant knowledge and experience.

Merits review of decisions made in connection with the grants would not be considered appropriate because these decisions relate to the provision of one-off grants to a certain service provider, over other service providers. In addition, any funding that has already been allocated would be affected if the original decision was overturned. The ARC has recognised that it is justifiable to exclude merits review in relation to decisions of this nature (see paragraphs 4.16 to 4.19 of the ARC guide).

The review and audit process undertaken by the ANAO also provides a mechanism to review Australian Government spending decisions and report any concerns to the Parliament. These requirements and mechanisms help to ensure the proper use of Commonwealth resources and appropriate transparency around decisions relating to making, varying or administering arrangements to spend relevant money.

Persons affected by spending decisions would also have recourse to the Commonwealth Ombudsman where appropriate.

The department have undertaken several consultations in the development of the proposal to complete capital works necessary to finalise the establishment of the Museum and its continued operation. Since the initial funding was provided in 2019 the Museum has also been supported by a Museum Advisory Group including community, government and members with museum expertise. Furthermore, CLAN was consulted on their proposal for funding to support the Museum capital work and operations. A capital works project manager, contracted by CLAN, developed a detailed capital works Cost Plan. The capital works Cost Plan was assessed and confirmed as reasonable by an independent capital works expert on behalf of the department.

Additionally, a financial consultancy organisation, also contracted by CLAN, reviewed and considered the sustainability of the Museum, in a detailed operational budget.



*Statement of relevant constitutional considerations*

Noting that it is not a comprehensive statement of relevant constitutional considerations, the objective of the item references the express incidental power and the executive power (sections 51(xxxix) and 61) of the Constitution, including the nationhood aspect.

*Implied nationhood power*

The express incidental power in section 51(xxxix) of the Constitution empowers the Parliament to make laws with respect to matters incidental to the execution of any power vested in Parliament, the executive or the courts by the Constitution. Section 61 of the Constitution supports activities that are peculiarly adapted to the government of a nation and cannot be carried out for the benefit of the nation otherwise than by the Commonwealth.

Providing funding to CLAN to establish, undertake capital works at, and operate, the Museum will contribute to the preservation and accessibility of a nationally significant collection of historic artefacts, memorabilia and documents relating to orphanages and children's homes. This could not be carried out for the benefit of the nation otherwise than by the Commonwealth.

**Item 4 - In the appropriate position in Part 4 of Schedule 1AB (table)**

This item adds two new table items to Part 4 of Schedule 1AB to establish legislative authority for government spending on activities to be administered by the department.

*Table item 661 – Improving parenting confidence and supporting and promoting shared care*

New **table item 661** establishes legislative authority for government spending on a program to improve parenting confidence and support and promote shared care (the program). The program aims to support all parents and other caregivers of children to have the confidence and skills they need to provide nurturing, safe and healthy environments.

Spending activities under the program represent a key pillar within the Parenting Support Package, implemented through the Australian Government's *Early Years Strategy 2024-2034* (the Strategy). The Strategy is an election commitment of the Australian Government which seeks to enhance the future of Australian children and families through a new, integrated and holistic approach to the early years. The Strategy was launched on 7 May 2024 (<https://www.dss.gov.au/families-and-children-programs-services/early-years-strategy>).

The Strategy includes Guiding Principles to inform how the Australian Government will work to support children and families in the early years through its actions, decisions and behaviour by:

- embedding the voices of children and their families in the policies and decisions that affect them;
- focussing on the abilities, knowledge and capacities of young children and their families;
- respecting and valuing the roles that parents, kin, careers, community, language and culture play for children;

- ensuring supports and services are equitable, inclusive, and accessible and value all forms of diversity including in relation to gender, culture, language, place and disability; and
- continually build on and then draw on the latest available data, evidence and insights to design, develop and review supports and services for children and families.

The Strategy is also designed to increase women's economic participation and boost broader support for other parents and parent-like figures. Providing greater support for all parents and care givers to enable greater gender-balance in parenting, and a better balance of caring responsibilities, can support women's economic participation.

The Strategy is intended to be implemented through primary action plans over a 10-year period and comprises four key focus areas:

- (1) *Value the early years*: raising awareness with parents, families, caregivers and the broader community about why early childhood matters to improve children's health and wellbeing; and elevating children and family voices to better support the needs of children and their families.
- (2) *Empower families, parents and caregivers*: building skills, knowledge and capabilities for families, parents and caregivers to help their children develop and learn; building informal support networks to find information or get help, and ensure greater access to supports, services and early childhood education for children and families.
- (3) *Support and work with communities*: place-based tailored and targeted approaches to ensure supports and services provided to children from a range of different communities are appropriate and provide what they need to thrive; and empowering communities in designing and delivering local solutions.
- (4) *Strengthen accountability and coordination*: breaking down silos across Australian Government departments for better coordination and collaboration on the Strategy; measuring and reporting on progress to the community through improved data, research and evaluation approaches.

The program contributes to the delivery of the first three focus areas of the Strategy and aims to ensure that all parents and caregivers, including non-birthing parents and parent-like figures, have access to information, services and supports that empower and enhance their parenting capacity and promote shared care in parenting by:

- delivering evidence-based parenting online web-based information and resources, to parents and caregivers to support improved outcomes for children in Australia;
- supporting activities to build the confidence of all parents and caregivers to thrive in their caregiving role through the expansion of information into other delivery channels (such as social media and increasing video content) and increase outreach to Culturally and Linguistically Diverse (CALD), First Nations, and rural and remote communities, with tailored content to support parents and carers in those cohorts. This will include fathers and father-like figures, grandparents as carers, kin and foster carers, and other non-birth primary caregivers supporting community connection, including through father groups, hubs and pop-up sites in disadvantaged communities;
- providing targeted supports around building the capacity of families and caregivers of children with development concerns and disability. This includes better access to social supports for parents and caregivers to build their parenting capacity. This will lead to improved outcomes for children, a better balance of caring responsibilities, and greater economic participation by women. This will also include outreach supports and additional resources to priority cohorts, including those in regional and

remote areas, to improve parenting ability, skills and confidence, and strengthen community capacity to better support child and family outcomes:

- this contributes to the vision of the *Working for Women: A Strategy for Gender Equality* (the Gender Equality Strategy), which has unpaid and paid care as one of its five key areas for action; and
- it also complements the recent changes to Paid Parental Leave which seek to incentivise both birth and non-birth parents to access parental leave to achieve a more balanced approach to paid and unpaid work within families; and
- investing in programs designed to help young parents connect with existing support services to strengthen their parenting skills, achieve their educational goals and participate more fully in the workforce.

Commencing from 1 July 2024, four existing grant activities will be extended or expanded to ensure that all parents and caregivers, including non-birthing parents and parent-like figures, have access to information, services and supports that empower and enhance their parenting capacity and promote shared care in parenting. These will improve child outcomes in the early years by supporting all parents and caregivers to have the confidence and skills they need to provide nurturing, safe and healthy environments for children in the early years.

The grant activities are:

#### *Raising Children's Network (RCN)*

Grant funding of \$4.6 million over two years from 2024-25 is provided to build parenting skills, knowledge and improve equitable access to information. The project funding for the RCN's website, which provides free, accessible, comprehensive and credible web-based parenting information, will:

- enhance the dissemination of parenting information through various delivery channels by expanding the existing RCN's online and content delivery into social media and increasing video content. This information will have a focus on reaching CALD, First Nations, and rural and remote communities, providing tailored content to be developed in consultation with key sector representatives, including peak bodies and Aboriginal Community-Controlled Organisations. This work will also include exploration of partnerships to reduce misinformation on developmental delay and disability within these cohorts. It will also be an important feeder into, and promoter of, a National Front Door (once established); and
- extend funding for disability and developmental delay-specific content development for an additional year in 2025–26 to continue to develop and promote content on disability and developmental delay. This includes information for families on early intervention options and how to identify evidence-based therapy. This aligns with the National Autism Strategy's goal of improving access to quality information and supports, and combat misinformation. The current funding for this content lapses on 30 June 2025.

The RCN is a trusted and credible online information source for parents and professionals. It provides free, accessible, comprehensive and credible web-based parenting information. The core funding for RCN has been provided by the department since 2006. Separately, the department has also provided funding to RCN since 2022 under the National Early Childhood Program for Children with Disability and Developmental Concerns to provide

disability-specific online information and resources to support parents, carers, professionals and the wider public in supporting young children with disability or developmental concerns.

### *The Fathering Project (TFP)*

TFP educates and supports fathers and families, through research-based prevention and early intervention programs and resources that engage and support fathers, families, schools, corporates and community-based organisations.

TFP is a national organisation which delivers services and supports across Australia to fathers and male caregivers of children. It seeks to build the confidence and engagement of fathers and father-like figures to school aged-children through the provision of targeted supports. The service has been funded since 2018-19 and current funding provided to TFP expires on 30 June 2024.

Grant funding of \$4.8 million over two years from 2024-25 is provided to allow the organisation to maintain current service offerings, including:

- father groups which aim to connect and empower fathers;
- hosting a national platform of fathering resources; and
- establishing hub and pop-up sites in disadvantaged communities to promote positive fathering behaviours and practices.

Moreover, TFP regularly surveys participants of its program, which consistently demonstrates positive impacts on fathers. In 2022, the survey found that:

- 77 per cent of participants felt very supported, which allows them to effectively engage with their child;
- 85 per cent of participants experienced a positive change in how important they saw their role as a father; and
- 87 per cent of participants experienced a positive change in their knowledge of child development and fathering.

### *Supporting Expecting and Parenting Teens (SEPT)*

Funding of \$4.3 million over two years from 2024-25 will be provided to the Brave Foundation to continue delivering the SEPT program.

The Government has supported SEPT since 2018. SEPT delivers one-on-one mentor and case management supports for young parents which aims to help young (predominantly teenage) parents strengthen their parenting skills, achieve their educational goals and participate more fully in the workforce.

SEPT has trusted mentors who work intensively with expectant or teenage parents to link them to the support they need to achieve their goals. Young parents have access to a flexible funding package that they can use prior to the birth of the baby and during the early stages of parenthood. The funding goes towards supports that help to address their individual barriers, and that better prepare them to return to education or search for a job. A national online platform also provides information and links to local support services.

Funding activities under the program will ensure that all families, including First Nations families, have access to information and supports to help them support their children grow and reach their potential.

*Funding amount and arrangements, merits review and consultation*

Funding of \$13.9 million for the program was included in the 2024-25 Budget under the measure ‘Early Years Strategy – aligning investment’ for a period of two years commencing in 2024-25. Details are set out in the *Budget 2024-25, Budget Measures, Budget Paper No. 2* at pages 168 - 169.

Funding for this item will come from Program 2.1: Families and Communities, which is part of Outcome 2; and Program 3.1: Disability and Carers, which is part of Outcome 3. Details are set out in the *Portfolio Budget Statements 2024-25, Budget Related Paper No. 1.14, Social Services Portfolio*, at page 26.

Grants funding under the program will be made through the relevant grant variations or new grant agreement. This includes:

- grant agreement variation with RCN for extension;
- grant agreement variation with RCN for expansion;
- grant agreement variation with TFP for extension; and
- new grant agreement with the Brave Foundation for extension of SEPT.

The funding will be administered in accordance with the Commonwealth resource management framework, including the PGPA Act and the CGRGs. The intended recipients of the grants are RCN, TFP and Brave Foundation. After a due diligence process, RCN and TFP were determined to be appropriate organisations to pursue the grant variations to extend their funding, and the Brave Foundation was determined to be the appropriate organisation to extend existing funding to through a new grant agreement.

This process involved assessment of performance under existing grant activity and consideration of the suitability of other providers to provide the required services at the scale currently achieved by the organisations. This process verified that these organisations were the only organisations with a proven capacity and ability to deliver these activities, reducing planning and delivery risk.

Final funding decisions for the grants will be made by an SES delegate of the Secretary of the department with relevant knowledge and experience under the *Financial Framework (Supplementary Powers) Act 1997* and will be responsible for approving Commonwealth funding provided to the grant recipients.

Information about the variations and new grant awarded (closed non-competitive) will be made available on the GrantConnect website (<https://help.grants.gov.au>), and the grants will be administered by the Community Grants Hub, which is part of the department.

Merits review of decisions made in connection with the grant activities would not be considered appropriate because these decisions are not directed towards the circumstances of particular persons, but which apply generally to the community.

Further, the ARC has recognised that it is justifiable to exclude merits review in relation to the allocation of finite resources, from which all potential claims for a share of the resources cannot be met. In particular, decisions to provide one-off payments to certain service providers, over other service providers (see paragraphs 4.16 to 4.19 of the ARC guide).

The Government undertook significant public consultation in the development of the Strategy. This consultation process included:

- a National Early Years Summit on 17 February 2023, with over 100 attendees;
- a survey on the Strategy, which received 2,243 responses;
- a submission process, which received more than 350 written submissions;
- a series of expert roundtables and community consultations across Australian;
- consultations with 115 children aged 3-5 years;
- a consultation on the draft Strategy via an online survey, with 405 responses; and
- deeper research sessions with 230 parents and carers from December 2023 to January 2024.

The development of the Strategy was also informed by an Advisory Panel consisting of 14 members with expertise in early childhood development. The Advisory Panel includes two First Nations members.

Across all consultation forums, stakeholders highlighted the importance of empowering parents and caregivers, and the need for accessible information and support for all families. While no specific implementation options were put forward for consultation, stakeholders reiterated the importance of supporting new measures to improve parenting confidence and support shared care between all parents and caregivers to unlock women's economic participation. This feedback is reflected in the Strategy's four priority focus areas.

Consultation was also undertaken across the Commonwealth on the merits of the grant activities. The results of this process validated the three organisations as having a demonstrated track record in delivering improved outcomes for children and their families.

#### *Statement of relevant constitutional considerations*

Noting that it is not a comprehensive statement of relevant constitutional considerations, the objective of the item references the following powers of the Constitution:

- the communications power (section 51(v)); and
- the external affairs power (section 51(xxix)).

#### *Communications power*

Section 51(v) of the Constitution empowers Parliament to make laws with respect to 'postal, telegraphic, telephonic and other like services'.

Funding will be used to expand RCN's existing service offering to help build parenting skills, knowledge and improve equitable access to information. For example, online content will be created and promoted for parents and carers of children, including with a focus on priority cohorts.

### *External affairs power*

Section 51(xxix) of the Constitution empowers the Parliament to make laws with respect to ‘external affairs’. The external affairs power supports legislation implementing Australia’s international obligations under treaties to which it is a party.

Funding under the program implements Australia’s obligations under Articles 4, 6, 18 and 19 of the *Convention on the Rights of the Child* (CRC) and these activities are sufficiently specific to enliven the external affairs power.

In particular:

- Article 4 of the CRC requires the States Parties to ‘undertake all appropriate legislative, administrative, and other measures for the implementation of the rights’ in the CRC.
- Article 6(2) of the CRC provides the States Parties ensure to the maximum extent possible the survival and development of the child.
- Article 18(2) of the CRC requires the States Parties to render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities.
- Article 19 requires the States Parties to take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

Funding under the program will be used on the proposed grant activities to the TFP and the Brave Foundation. Funding of the grant activities to these organisations provides needed assistance to parents and legal guardians in the performance of their child-rearing responsibilities.

### *Table item 662 – Forced Marriage Specialist Support Program*

New **table item 662** establishes legislative authority for government spending for the Forced Marriage Specialist Support Program (FMSSP).

On 3 December 2023, the Government announced new supports for victims and survivors of modern-day slavery in Australia, which included funding of \$12.1 million over five years for the new FMSSP. The media release is available at <https://ministers.dss.gov.au/media-releases/13356>.

The Government is committed to establishing the FMSSP from 1 January 2025, to provide long-term prevention and early-intervention specialist support to people in or at risk of forced marriage, particularly young people, that will place a greater emphasis on prevention and provide targeted long-term support incorporating engagement with families and communities to help address drivers of forced marriage.

The FMSSP supports the priority actions of the *First Action Plan* under *The National Plan to End Violence against Women and Children 2022-2032*, particularly in supporting children and young people as victims and survivors and providing timely support to those at risk of violence in a culturally safe and trauma-informed way and align with the *National Action Plan to Combat Modern Slavery 2020-25*.

The FMSSP aims to improve engagement with state and territory child protection authorities to address needs of children at risk of forced marriage and mitigate potential risks to their safety and wellbeing given that a significant proportion of people at risk of forced marriage are under 18 years old.

The FMSSP will operate on an ongoing basis and will provide individually tailored support services to meet the health, wellbeing, physical, and social needs of people who have experienced or are at risk of forced marriage. The intention is that the eligibility for the program will be assessed by the service provider for those who are at risk of, or who have experienced, forced marriage, within the meaning of section 270.7A of the *Criminal Code Act 1995*.

Specifically, the FMSSP proposed expenditure is for a community-based service provider to deliver education, counselling services and where appropriate, mediation support, in addition to tailored support services as required, in a culturally sensitive way to build understanding and prevent a forced marriage. The manner in which this is intended to operate is provided below.

- An individual caseworker will be assigned to a victim and survivor acting as the primary contact to assess their needs, creating a tailored support plan with a model of care that is culturally, gender and age appropriate, and to engage with their family and community.
- The individual caseworker will provide referrals to other services to enable victims and survivors to access health and mental health support, counselling, coordinate care arrangements with other agencies including child protection services (where appropriate), schools (where appropriate) and facilitate access to accommodation support in cases where it is no longer safe to remain in their current residence.
- Referrals would be made to external service providers, with the costs met by the FMSSP through the service provider. The expenditure relates to providing the necessary supports in addressing the clients' experience of forced marriage.

Funding will support a caseworker to provide needs based emotional, moral and mental health support, and facilitate engagement with the family and community. It is anticipated that support services will be delivered through a mix of online, telephone and face-to-face engagement. The details of the engagement will be informed by service delivery plans in submissions to the grant process and in negotiations with the successful FMSSP provider.

Funding will also support coordination of care arrangements with other services. This will include temporary accommodation, financial support, and child protection services (as above) to assist the target cohort, particularly in situations where it is no longer safe for them to remain in their current residence.

Support is available for victims' and survivors' general and immediate needs, consistent with the levels of support provided to the STPP victims and survivors. This includes accommodation support to relocate if it is not safe for the person to remain within the family



home, and financial support, including a living allowance, and (where appropriate) education allowance, dependents allowance, and household assistance.

The costs would be met by the FMSSP through the service provider. The costs of which would directly relate to the clients' experience of forced marriage.

The FMSSP will be delivered by an appropriately qualified community organisation (or a group of organisations operating in a consortium) that meet the eligibility criteria set out in the grant opportunity guidelines and will be selected through an open and competitive grant process. The assessment criteria may include the ability to:

- identify indicators of forced marriage and other forms of modern slavery;
- provide a description of a proposed framework and model to deliver the program; and
- demonstrate experience, expertise and capacity to deliver the program.

An evaluation will be undertaken to determine if the FMSSP has provided appropriate support to people at risk or forced marriage, particularly young people, and to inform any potential future reform or redesign of the program. The results of this evaluation will inform future enhancements of the framework itself, as well as implementation arrangements.

#### Funding amount and arrangements, merits review and consultation

Funding of \$12.1 million (and \$3.8 million per year ongoing) for the FMSSP was included in the 2023-24 Mid-Year Economic and Fiscal Outlook under the measure 'Increasing Support for Victim-Survivors of Domestic Violence and Modern Slavery' for a period of five years commencing in 2023-24. Details are set out in the *Mid-Year Economic and Fiscal Outlook 2023-24, Appendix A: Policy decisions taken since the 2023-24 Budget* at page 288.

Funding for this item will come from Program 2.1: Families and Communities, which is part of Outcome 2. Details are set out in the *Portfolio Additional Estimates Statements 2023-24, Social Services Portfolio* at page 51.

Activities under the FMSSP will be delivered through a suite of grant and/or procurement processes depending on the nature of the activity.

All grants will be administered in accordance with the Commonwealth resource management framework, including the PGPA Act and the CGRGs. Information about the grant will be made available on the GrantConnect website (<https://help.grants.gov.au>), and the grant will be administered by the Community Grants Hub, which is part of the department.

The department is responsible for developing the grant opportunity guidelines, in consultation with the Attorney-General's Department, the Australian Federal Police, the Department of Foreign Affairs and Trade, the Department of Home Affairs and the Australian Border Force. Whilst grant opportunity guidelines are still being developed, it is envisioned that the activities delivered through the grant may include:

- Direct client support activities that deliver support to meet the general and immediate needs of clients, such as:
  - accommodation and financial support;
  - individual caseworkers providing intensive case management support;
  - assistance to navigate the service system;

- organising referrals for clients to access health, mental health and other specialised support services; and
- coordination of care arrangements with other services.
- Prevention education and awareness raising activities, such as:
  - building individuals, family and community understanding of forced marriage and the FMSSP;
  - continuing education about coercive control, consent and human rights; and
  - awareness that under Australia's legal framework, forced marriage is a crime.

Funding may also be delivered through procurement arrangements. Where procurement arrangements are used, decisions will be made in accordance with Commonwealth resource management framework, including the PGPA Act and the CPRs. Information about the tender and resulting contracts will be made available on AusTender ([www.tenders.gov.au](http://www.tenders.gov.au)) once the contracts are signed. Procurement decisions will be based on value for money, including capability and capacity to deliver, and price and risk considerations.

Final funding decisions for the grants and/or procurements will be made by the Minister's delegate at the SES level within the Families and Communities Group with relevant knowledge and experience on forced marriage topics.

Funding decisions relating to the FMSSP are not considered suitable for independent merits review. This is because the decisions relate to the allocation of finite resources, from which all potential claims for a share of the resource cannot be met. In addition, any funding that has already been allocated would be affected if the original decision were overturned. The ARC has recognised that it is justifiable to exclude merits review in relation to decision of this nature (see paragraphs 4.11 to 4.19 of the ARC guide).

In addition, the remaking of a decision after entry into a contractual arrangement with a successful provider is legally complex, impractical, and could result in delays to providing services. The *Government Procurement (Judicial Review) Act 2018* enables suppliers to challenge some procurement processes for alleged breaches of certain procurement rules. This legislation might provide an additional avenue of redress (compensation or injunction) for dissatisfied providers or potential providers, depending on the circumstances.

The review and audit process undertaken by the ANAO also provides a mechanism to review Government spending decisions and report any concerns to the Parliament. These requirements and mechanisms help to ensure the proper use of Commonwealth resources and appropriate transparency around decisions relating to making, varying or administering arrangements to spend relevant money.

The FMSSP will be informed by targeted consultation with key stakeholders and primarily via online engagement. Amongst the key stakeholders are the STPP Service Provider (currently Australian Red Cross) and the civil society sector with an interest in forced marriage, including members of the National Roundtable on Human Trafficking and Child Protection agencies.

In addition to the above, the department will facilitate targeted consultations with key organisations who are engaged in service delivery, advocacy, education and raising awareness among people affected by forced marriage and the community. Examples of these key organisations include:

- Anti-Slavery Australia;
- The Salvation Army;
- Taldumande Youth Services;
- The Lighthouse Foundation;
- HerSpace;
- NSW Anti-Slavery Commissioner;
- Australian Muslim Women’s Centre for Human Rights (AMWCHR); and
- the Australian Catholic Religious Against Trafficking in Humans (ACRATH) organisation.

#### Statement of relevant constitutional considerations

Noting that this is not a comprehensive statement of relevant constitutional considerations, the objective of the item references the external affairs power (section 51(xxix)) of the Constitution.

#### *External affairs power*

Section 51(xxix) of the Constitution empowers the Parliament to make laws with respect to ‘external affairs’.

The external affairs power supports legislation implementing Australia’s international obligations under treaties to which it is a party, including the following:

- the *Convention on the Elimination of All Forms of Discrimination against Women*;
- the *Convention on the Rights of the Child*;
- the *International Covenant on Civil and Political Rights*; and
- the *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery*.

#### *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*

Australia has obligations relating to the elimination of all forms of discrimination against women under the CEDAW. In particular:

- Article 2 of the CEDAW requires the States Parties to ‘condemn discrimination against women in all its forms’ and ‘agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women’.
- Article 3 of the CEDAW requires the States Parties to take ‘all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men’.
- Article 16(1)(b) of the CEDAW requires the States Parties to ‘take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations’.

Funding under the FMSSP will include a range of tailored support services that will be aimed at eliminating discrimination against women in all matters relating to marriage and family matters to allow them to freely choose a spouse and to enter into marriage only with their full and free consent. This includes the provision of specific prevention and early intervention support to those at risk of forced marriage, and where safe, engage with their families and communities to assist them have their wishes respected and break intergenerational cycles of forced marriage and the associated discrimination.

*Convention on the Rights of the Child (CRC)*

Australia has international obligations regarding the rights of the child under the CRC. In particular:

- Article 4 of the CRC requires the States Parties to ‘undertake all appropriate legislative, administrative, and other measures for the implementation of the rights in the CRC.
- Article 32 of the CRC requires the States Parties to ‘recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development’.
- Article 34 of the CRC requires the States Parties to take appropriate measures to prevent ‘the inducement or coercion of a child to engage in any unlawful sexual activity’ and the ‘exploitative use of children in pornographic performances and materials’.
- Article 35 of the CRC requires the States Parties to take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form,
- Article 36 of the CRC requires the States Parties to protect the child against all other forms of exploitation prejudicial to any aspects of the child’s welfare.

Funding under the FMSSP will extend to the protection of the child from sexual and other exploitation prejudicial to the child’s welfare, including the protection of the child against the risks of exploitation associated with forced marriage.

*International Covenant on Civil and Political Rights (ICCPR)*

Australia has obligations under the ICCPR to promote universal respect for, and observance of, human rights and freedoms. In particular:

- Article 2 of the ICCPR states each State Party ‘undertakes to respect and ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status’.
- Article 7 of the ICCPR states that no one shall be subject to torture or to cruel, inhuman or degrading treatment or punishment, and in particular, to medical or scientific experimentation without providing their free consent.
- Article 9 of the ICCPR recognises the right to liberty and security of person.
- Article 23(3) of the ICCPR provides that no marriage shall be entered into without the free and full consent of the intending spouses.

Funding under the FMSSP will ensure at-risk groups benefit from protections to ensure that no marriage shall be entered into without the free and full consent of intending spouses.

For example, funding will support early intervention and prevention activities through the provision of individually tailored support services to those at-risk of forced marriage, or to those who have experienced forced marriage, to enable those supported by the program to have their wishes respected and only enter into a marriage if they are fully able to consent.

The FMSSP will also provide specialised education and counselling services, in a culturally sensitive way, to respond to health, wellbeing, physical, and social needs of people who have experienced or are at risk of forced marriage.

*Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (Supplementary Convention on Slavery)*

Australia has obligations under the Supplementary Convention on Slavery to secure the abolition of slavery and of the slave trade, and to ban debt bondage, serfdom, child marriage, servile marriage, and child servitude. In particular:

- Article 1 of the Supplementary Convention on Slavery requires the States Parties to take all practicable and necessary legislative and other measures to bring about progressively and as soon as possible the abolition or abandonment of any institution or practice whereby:
- Article 1(c)(i) provides that a woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parents, guardian, family or any other person or group; or
- Article 1(c)(ii) provides that the husband of a woman, his family, or his clan, has the right to transfer her to another person for value received or otherwise.

Funding under the FMSSP will cover activities that bring about the abandonment of forced marriage practices in supporting female victims or at-risk women in providing support to those at-risk of forced marriage and breaking intergenerational trends that result in forced marriage practices. Where safe, the program will also engage with the families and communities in order reduce the instances of forced marriage through education and mutual understanding.

## **Statement of Compatibility with Human Rights**

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

### ***Financial Framework (Supplementary Powers) Amendment (Social Services Measures No. 2) Regulations 2024***

This disallowable legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the legislative instrument**

Section 32B of the *Financial Framework (Supplementary Powers) Act 1997* (the FFSP Act) authorises the Commonwealth to make, vary and administer arrangements and grants specified in the *Financial Framework (Supplementary Powers) Regulations 1997* (the Principal Regulations) and to make, vary and administer arrangements and grants for the purposes of programs specified in the Regulations. Schedule 1AA and Schedule 1AB to the Principal Regulations specify the arrangements, grants and programs. The powers in the FFSP Act to make, vary or administer arrangements or grants may be exercised on behalf of the Commonwealth by Ministers and the accountable authorities of non-corporate Commonwealth entities, as defined under section 12 of the *Public Governance, Performance and Accountability Act 2013*.

The *Financial Framework (Supplementary Powers) Amendment (Social Services Measures No. 2) Regulations 2024* (the Regulations) amend Schedule 1AB to the Principal Regulations to establish legislative authority for government spending on certain activities administered by the Department of Social Services.

This disallowable legislative instrument makes the following amendments to Part 4 of Schedule 1AB:

- amends table item 344 ‘Support for Trafficked People Program’;
- amends table item 375 ‘Australian Orphanage Museum’;
- adds table item 661 ‘Improving parenting confidence and supporting and promoting shared care’; and
- adds table item 662 ‘Forced Marriage Specialist Support Program’.

#### **Amended table item 344 – Support for Trafficked People Program**

The amended table item 344 establishes legislative authority for government spending on the Support for Trafficked People Program (STPP). The STPP aims to provide holistic and tailored victim centred support and protection to people who are reasonably suspected of being, or at risk of becoming, victims and survivors of offences under Division 270 or 271 of the *Criminal Code*.

The STPP supports the updated *National Plan to End Violence against Women and Children 2022-2032* and the commitments under the *National Action Plan to Combat Human Trafficking and Slavery 2020-25*.

Currently, the only way for eligible victims and survivors to access the STPP is through an assessment and referral by the Australian Federal Police (AFP).

The enhanced STPP will introduce an Additional Referral Pathway (ARP) to enable eligible victims and survivors to access the program through a direct referral from a community service provider, without engagement with the AFP for referral. The ARP is designed to increase engagement with the STPP for victims and survivors who are reluctant to engage with law enforcement for support.

Funding of \$24.3 million over four years from 2023-24 (and \$5.9 million per year ongoing) is available for the STPP.

### **Human rights implications**

Amended table item 344 engages the following rights:

- the rights of women not to be discriminated against based on gender – Articles 3, 5, 6 and 16 of the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW), read with Article 2;
- the rights to protection against exploitation, violence and abuse – Articles 19, 34 and 36 of the *Convention on the Rights of the Child* (CRC), read with Article 4;
- the rights to freedom from cruel, inhuman or degrading treatment; slavery; and forced marriage located – Articles 7, 8 and 23 of the *International Covenant on Civil and Political Rights* (ICCPR), read with Article 2; and
- the rights to protection against exploitation, violence and abuse – Article 19 of the CRC, and Articles 16 and 23 of the *Convention on the Rights of Persons with Disabilities* (CRPD), read with Article 4.

#### *Rights of women not to be discriminated against based on gender*

The CEDAW provides the States Parties must ensure the effective protection of women against acts of discrimination. Gender-based violence, including family, domestic and sexual violence, is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men.

- Article 2 of the CEDAW provides the States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women.
- Article 3 of the CEDAW provides the States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.
- Article 5 of the CEDAW provides the States Parties shall take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.
- Article 6 of the CEDAW requires the States Parties to take all appropriate measures to suppress all forms of trafficking of women.

- Article 16 of the CEDAW requires the States Parties to take ‘all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women’.

Table item 344 promotes the elimination of human trafficking, slavery and slavery-like practices by providing individualised case management support and access to a tailored range of support services to the victims and survivors of in their recovery. Over 70 per cent of clients on the STPP are women, with this figure climbing further for those who have experienced sexual servitude or forced marriage.

As table item 344 provides a path for victims and survivors to leave their situation of exploitation, it assists clients in meeting their safety, security, health and wellbeing needs and to develop options for life after they leave the STPP. In meeting the needs of survivors, the STPP also empowers the voices of victims and survivors by supporting the voices of those who wish to raise awareness of modern slavery, including the restrictions this places upon the rights of women.

Table item 344 promotes these rights by enabling the Government to fund services designed to protect female victims of trafficking, including forced marriage, to assist in their recovery, and to participate in investigations or prosecutions of these offences.

#### *Rights to protection against exploitation, violence and abuse*

The rights of vulnerable cohorts will be promoted under the CRC, in particular:

- Article 4 of the CRC requires the States Parties to ‘undertake all appropriate legislative, administrative, and other measures for the implementation of the rights in the CRC.’
- Article 19 of the CRC requires the States Parties ‘take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence ... including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child’.
- Article 34 of the CRC requires the States Parties ‘undertake to protect the child from all forms of sexual exploitation and sexual abuse’.
- Article 36 of the CRC requires the States Parties ‘protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare’.

Table item 344 promotes the right to protection against exploitation, violence and abuse by enabling the Government to promote the safety and wellbeing of children and young people through supporting victims and survivors and for providing assistance to children at risk of forced marriage. Furthermore, the STPP provides support to all victims and survivors for the duration of the time in which they participate in the judicial process, supporting the prosecution of, and deterrence of exploitation of exploitation violence and abuse.

Examples of such activities funded under the STPP that promotes this right include:

- Recognising the need to elevate the voices of children and young people as victims and survivors, and to ensure appropriate supports and services that will meet their safety and recovery needs through high quality case management and support service, including provision of food, accommodation, financial assistance, referral to legal and



migration advice, and referral for mental and physical health support and continued wellbeing.

- Ensuring clients receive appropriate compassionate and practical supports, including referral to independent medical and/or psychological assessment if required, and professional, independent medical and psychological support services nationwide.

*Rights to freedom from cruel, inhuman or degrading treatment, slavery and forced labour*

Article 2 of the ICCPR requires that each State Party to the ICCPR ‘undertakes to respect and ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status’.

Article 7 of the ICCPR provides that no one shall be subjected to torture or to cruel, inhuman or degrading treatment, including to medical or scientific experimentation without free consent. Article 8 of the ICCPR provides that no one shall be held in slavery, servitude or required to perform forced or compulsory labour. Article 23 of the ICCPR sets out the human right to respect for the family, including that no marriage will be entered into without the free and full consent of the intending spouses.

Table item 344 upholds and promotes these rights by enabling the Government to fund supports and services for people who are victims and survivors of human trafficking, slavery or slavery-like offences, including victims of organ trafficking, forced labour and forced marriage. The objective of the program is to support and aid victims and survivors in their recovery from trafficking, slavery and slavery-like offences.

Table item 344 is consistent with Australia’s obligations to prevent cruel, inhuman or degrading treatment, slavery, and forced marriage. The STPP is delivered in connection with the AFP, and provides specific, intensive support for victims who are assisting with investigations and prosecutions of these offences. The STPP will also be extended to enable victims and survivors to access the STPP through a direct referral from a community service provider.

*Rights to protection against exploitation, violence and abuse*

Article 19 of the CRC imposes an obligation on countries to take measures to protect children from all forms of physical or mental violence, injury or abuse, and to prevent such violence occurring.

Article 4 of the CRPD requires the States Parties to ensure and promote the full realisation of all human rights and fundamental freedoms for all people with disability without discrimination of any kind on the basis of disability. Article 4(a) provides that the States Parties undertake to adopt appropriate legislative, administrative and other measures to implement the rights in the Convention.

The right to protection against exploitation, violence and abuse for all persons with disability is also found in Article 16 of the CRPD. Article 23 of the CRPD also recognises the rights of persons with disability in respect for home and the family. It recognises the elimination of discrimination against persons with disability by ensuring that those who are of marriageable age marry and find a family on the basis of free and full consent of the intending spouses.

Table item 344 promotes the human rights of children and people with disability to be free from all forms of exploitation, violence and abuse by allowing the government to fund programs that assist victims to recover, and to additionally participate in investigations or prosecutions of human trafficking, slavery or slavery-like offences.

The amended table item 344 is compatible with human rights because it promotes the protection of human rights.

#### Amended table item 375 – Australian Orphanage Museum

The amended table item 375 establishes legislative authority for government spending for the Australian Orphanage Museum (Museum) to provide funding to the Care Leavers Australasia Network (CLAN) for capital works and operational costs of the Museum.

The Museum funding objective is to enable CLAN to complete compliance capital works necessary for the City of Greater Geelong Council to issue a Change of Use permit from a Class 1 residential building to a Class 9B commercial premises and finalise the establishment of the Museum. As well as, to support essential operational costs such as essential costs including insurances, utilities, equipment, advertising and communications (excluding staff salaries).

Funding of \$1.0 million over three years from 2023-24 will be provided to CLAN through two grant rounds.

#### **Human rights implications**

Amended table item 375 engages the following rights:

- the right to take part in cultural life – Article 15 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), read with Article 2; and
- the rights of the child – Article 39 of the *Convention on the Rights of the Child* (CRC), read with Article 4.

#### Right to take part in cultural life

Article 2 of the ICESCR requires the States Parties to take steps to progressively achieve the full realisation of the rights recognised in the ICESCR by all appropriate means.

Article 15 of the ICESCR recognises the right of everyone to take part in cultural life and provides that the States Parties will take appropriate steps to achieve the full realisation of this right, including those necessary for the conservation, development, and diffusion of culture.

Table item 375 supports the right to take part in cultural life by providing for the conservation of nationally significant artefacts that represent a period in our nation's history. The purpose of the Museum to make history visible and acknowledge the neglect and its painful legacy on Care Leavers and their families, caused by past policies and practices. The exhibits and

narratives are presented in ways that respect the rights of Care Leavers to present their own forthright accounts in the way that they want them told through the various artifacts:

- donated objects such as toys resonate with the stories of Care Leavers and help people to understand the childhoods of thousands of Australians.
- collection of artworks includes art and craft pieces by Care Leavers, as well as works by established artists created in honour of Care Leaver issues and experiences.

The funding to CLAN will support the establishment and operational costs of the Museum to ensure continued access to visitors to the Museum to learn and benefit from exhibitions dedicated to the history of child welfare in Australia, Care Leavers Activism, and the Children's Voices.

The capital works will ensure the long-term structural viability of the building, so that it is fit for purpose and ensures visitor, staff, and volunteer comfort and safety. There is a 'designated use' period for the property in place for a period of 15 years once established to ensure the property is used solely for the purpose of the Museum.

The Museum is accessible to all, especially to Care Leavers and their families, but including people who need to know about past practices, such as policy makers, educators and young people.

### *Rights of the Child*

Article 4 of the CRC requires the States Parties to 'undertake all appropriate legislative, administrative, and other measures for the implementation of the rights' in the CRC.

Article 39 of the CRC provides the States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of recognised forms, which includes abuse.

Table item 375 is dedicated to documenting and exhibiting the past experiences of growing up in Orphanages, Children's Homes, Missions and other institutions, including foster care, in Australia. The Children's Voices room is a themed exhibition centred around direct quotes from adults explaining their childhood in 'Care', including artefacts and photos from many Orphanages, Children's Homes, and Missions. Listening to the voices of Care Leavers, their memories of their lived experiences, and challenging the version of the past, allows their perspectives to be heard, rather than relying on records that provide a limited and distorted views of their past experiences.

The Museum acknowledges and commemorates the experiences of children, now adults, who grew up in orphanages, children's homes and other institutions and foster care up until 1989 (Forgotten Australians, also known as care leavers).

Table item 375 aims to improve social outcomes by assisting them to reconcile with their life stories and restore family relationships where possible. It houses a collection of historic artefacts, memorabilia and documents related to orphanages, children's homes, foster care and other institutions. CLAN has established expertise, understanding of, and commitment to the experiences, history and needs of Forgotten Australians/Care Leavers and Former Child Migrants.

The Museum holds exhibits that reflect the lived experience of Australian children who grew up in state-based care in the last century. It aims to ensure Australians do not forget the past and are reminded of our responsibility to protect all children in our community. It also intends to operate as a resource centre and library for relevant stakeholder groups.

The amended table item 375 is compatible with human rights because it promotes the protection of human right.

*Table item 661 – Improving parenting confidence and supporting and promoting shared care*

Table item 661 establishes legislative authority for government spending on a program to improve parenting confidence and support and promote shared care (the program). The program aims to support all parents and other caregivers of children to have the confidence and skills they need to provide nurturing, safe and healthy environments.

The program responds to the Australian Government implementation of the *Early Years Strategy 2024-2034* (the Strategy), which seeks to enhance the future of Australian children and families through a new, integrated and holistic approach to the early years.

Grants funding of \$13.9 million over two years from 2024-25 will be available to expand and extend existing grant activities under the program, which aim to ensure that all parents and caregivers, including non-birthing parents and parent-like figures, have access to information, services and supports that empower and enhance their parenting capacity and promote shared care in parenting. These will improve child outcomes in the early years by supporting all parents and caregivers to have the confidence and skills they need to provide nurturing, safe and healthy environments for children in the early years.

The existing grant activities are:

- to build parenting skills, knowledge and improve equitable access to information. The project funding for the Raising Children’s Network website, which provides free, accessible, comprehensive and credible web-based parenting information, will be extended and expanded;
- to extend current funding for The Fathering Project, a national organisation which seeks to build the confidence and engagement of fathers and father-like figures to school aged-children through the provision of targeted supports; and
- to extend current funding for the Brave Foundation to administer the Supporting Expecting and Parenting Teens (SEPT) Program. SEPT delivers one-on-one mentor and case management supports for young parents and aims to help young (predominantly teenage) parents strengthen their parenting skills, achieve their educational goals and participate more fully in the workforce.

### **Human rights implications**

Table item 661 engages the following rights:

- the rights of the child to serve in their best interests – Articles 3, 18, 19, and 23 of the *Convention on the Rights of the Child* (CRC), read with Article 4; and
- the rights of people with disability – Article 7 of the *Convention on the Rights of Persons with Disabilities* (CRPD), read with Article 4.

*Rights of the child to serve in their best interests*

Article 4 of the CRC requires the States Parties to ‘undertake all appropriate legislative, administrative, and other measures for the implementation of the rights’ in the CRC.

Article 3 of the CRC requires the States Parties when considering the best interests of the child shall ensure that the child such protection and care as is necessary for his or her wellbeing, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

Article 18(2) of the CRC requires the States Parties to render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities.

Article 19 of the CRC requires the States Parties to take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

Article 23 of the CRC requires the States Parties recognise that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

The Strategy seeks to enhance the future of Australian children and families through a new, integrated, and holistic approach to the early years. The Strategy promotes the obligation that all children, regardless of where they grow up or who is responsible for their primary care, should be able to live in a supportive and inclusive environment that supports their healthy development and helps them feel a sense of belonging, regardless of their parent or carer status. The Strategy aligns with the *Australia's Disability Strategy 2021-2031* vision that people with disability can participate as equal members of the community.

In addition, the program promotes the rights of all children, including children that have or acquire a disability or developmental delay, by promoting the best interests of the child as a primary consideration; and supporting the child's right to life, survival and development. This includes the child's physical, mental, spiritual, moral, psychological and social development for an inclusive society in which all children have equitable opportunities to participate and learn by:

- rendering appropriate assistance to parents and legal guardians by providing information and targeted supports to parents and caregivers to build their parenting capacity, leading to improved outcomes for children;
- supporting and increasing women’s economic participation which aligns with the CRC’s recognition of the importance of economic rights for children. When women have the opportunity to participate in the workforce, it can benefit their families and the broader community, ultimately contributing to the wellbeing and development of children;
- supporting shared and balanced care between parents, enabling women to participate in the workforce at their preferred levels. This aligns with the Convention’s recognition of the common responsibilities of parents for the upbringing and

development of the child, ensuring the best interests of the child are a primary concern;

- protecting children from violence and exploitation while fostering a nurturing environment for their development. This includes delivering evidence-based parenting information, building caregiver confidence, and investing in programs to help young parents strengthen their parenting skills and participate more fully in the workforce; and
- investing in programs designed to help young parents connect with information to strengthen their parenting skills on disability and developmental delay, including information for families on early intervention options and how to identify evidence-based therapy, aligns with Article 23 of the CRC in promoting the exchange of appropriate information to improve the capabilities and skills in addressing the needs of disabled children.

### Rights of persons with disabilities

Article 4 of the CRPD requires the States Parties to ensure and promote the full realisation of all human rights and fundamental freedoms for all persons with disability without discrimination of any kind on the basis of disability. Article 4(a) provides the States Parties undertake to adopt ‘appropriate legislative, administrative and other measures’ to this end.

Article 7(1) of the CRPD requires the States Parties to take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.

Article 7(2) of the CRPD states that in all actions concerning children with disabilities, the best interests of the child shall be a primary consideration.

The Strategy recognises that the foundations of ensuring the rights of children with disability are continuing to be met under new or established Government initiatives. The Strategy places children in the centre of all decision making and recognises the further obligation that children with disability need to be recognised in the heart of programs to ensure their full and equal participation.

Table item 661 promotes the rights of children with disability to have the full enjoyment of all human rights and fundamental freedoms, and have their best interests considered by:

- investing in programs designed to help young parents connect with information to strengthen their parenting skills on disability and developmental delay, including information for families on early intervention options and how to identify evidence-based therapy;
- seeking to promote uplifting family capability and recognise support for children with disabilities as a primary consideration in implementing successful and targeted initiatives;
- ensuring demand is met for families supporting children with disabilities. This program seeks to expand funding under the *National Early Childhood Program for Children with Disability and Developmental Concerns* which provides disability-specific online information and resources to support parents, carers, professionals and the wider public in supporting young children with disability or developmental concerns;

- supporting the expansion of information currently available and increasing outreach to Culturally and Linguistically Diverse, First Nations, and rural and remote communities, with tailored content to support parents and carers in those cohorts:
  - this tailored content will be developed in consultation with key sector representatives, including peak bodies and Aboriginal Community-Controlled Organisations to ensure it meets the needs of these cohorts;
  - this work will also include exploration of partnerships to reduce misinformation on developmental delay and disability within these cohorts; and
- addressing disability and developmental delay specific content to allow the development and promotion of information for families, including a focus on early intervention options and how to identify evidence-based therapy.

Table item 661 is compatible with human rights because it promotes the protection of human right.

Table item 662 – Forced Marriage Specialist Support Program

Table item 662 establishes legislative authority for government spending on the Forced Marriage Specialist Support Program (FMSSP).

The FMSSP supports the priority actions of the *First Action Plan* under *The National Plan to End Violence against Women and Children 2022-2032*, particularly in supporting children and young people as victims and survivors and providing timely support to those at risk of violence in a culturally safe and trauma informed way and align with the *National Action Plan to Combat Modern Slavery 2020-25*.

The FMSSP aims to provide specialist support to people in or at risk of forced marriage, particularly young people, that will place a greater emphasis on prevention and early intervention and provide targeted long-term support incorporating engagement with families and communities to help address drivers of forced marriage. The FMSSP also aims to improve engagement with state and territory child protection authorities to address needs of children at risk of forced marriage and mitigate potential risks to their safety and wellbeing given that a significant proportion of people at risk of forced marriage are under 18 years old.

Funding of \$12.1 million over five years from 2024-25 (and \$3.8 million per year ongoing) is available for the FMSSP.

### **Human rights implications**

Table item 662 engages the following rights:

- the rights of women not to be discriminated against based on gender – Articles 3, 5 and 16 of the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW), read with Article 2; and
- the rights of the child to serve in their best interests – Articles 19, 34 and 36 of the *Convention on the Rights of the Child* (CRC), read with Article 4.

*Rights of women not to be discriminated against based on gender*

The CEDAW provides the States Parties must ensure the effective protection of women against acts of discrimination. Gender-based violence, including family, domestic and sexual

violence, is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men.

- Article 2 of the CEDAW provides the States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women.
- Article 3 of the CEDAW provides the States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.
- Article 5 of the CEDAW provides the States Parties shall take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.
- Article 16 of the CEDAW provides the States Parties to take 'all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women'.

Table item 662 promotes the elimination of discrimination against women by providing funding for a suite of activities across the continuum from prevention, early intervention and response to prevent and/or support those women who are in or at risk of forced marriage, for example through:

- enabling their access support more targeted at prevention and over a longer period, reflecting the ongoing risk of forced marriage clients may face. Forced marriage often occurs in a different context to other forms of human trafficking and modern slavery, and as a result, the support required to meet their needs varies significantly; and
- providing specific prevention and early intervention support to those at risk of forced marriage to assist them break intergenerational cycles and have their wishes respected. This support will be needs based, targeted towards young women and girls, and would deliver education and mediation to a client and family in order to build understanding around expectations and would be provided to a client as long as it would be required to prevent a forced marriage.

### *Rights of the child to serve in their best interests*

The rights of the child will be promoted under the CRC. In particular:

- Article 4 of the CRC requires the States Parties to 'undertake all appropriate legislative, administrative, and other measures for the implementation of the rights' in the CRC.
- Article 19 of the CRC imposes an obligation on the States Parties 'take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
- Article 34 of the CRC provides the States Parties 'undertake to protect the child from all forms of sexual exploitation and sexual abuse'.
- Article 36 of the CRC provides the States Parties 'protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare'.



Since the criminalisation of forced marriage under federal law in Australia in 2013, approximately 40 per cent of forced marriage cases identified have been 17 years or under, and therefore, the prevention and early intervention support will allow children at risk of forced marriage complete their development and prevent them from sexual abuse and violence.

Table item 662 promotes the rights of the child in ensuring their holistic development through the provision of tailored support and services, which will promote their safety and wellbeing and protect them against exploitation, violence and abuse, in working in the best interest of the child.

Funding will be provided under the FMSSP on activities to protect the child who may be in, or at risk of forced marriage through tailored support services. These tailored support services will promote their safety and wellbeing and protect them against exploitation, violence and abuse. The FMSSP will also offer specialist understanding and support across the continuum of victim and survivor experiences in relation to forced marriage.

Examples of such activities funded under the FMSSP that promotes the rights of the child include:

- recognising the need to elevate the voices of children as victims and survivors, and to ensure appropriate supports and services that will meet their safety and recovery needs through high quality case management and support service, including provision of food, accommodation, financial assistance, referral to legal and migration advice, and referral for mental and physical health support and continued wellbeing;
- coordinating care arrangements with other services such as temporary accommodation, child protection services and financial support to assist the client particularly in situations where it is no longer safe for the client to remain in their current residence; and
- ensuring clients receive appropriate compassionate and practical supports, including referral to independent medical and/or psychological assessment if required, and professional, independent medical and psychological support services nationwide.

Table item 662 is compatible with human rights because it promotes the protection of human rights.

## **Conclusion**

This disallowable legislative instrument is compatible with human rights because it promotes the protection of human rights.

**Senator the Hon Katy Gallagher  
Minister for Finance**