



Commissioner for Children and Young People
Western Australia



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Dear Senator

Inquiry into Out of Home Care

As A/Commissioner for Children and Young People in Western Australia I am pleased to make this submission to the Inquiry into Out of Home Care (the Inquiry).

Under the *Commissioner for Children and Young People Act 2006* the Commissioner has a statutory role to promote and monitor the wellbeing of all children and young people under the age of 18 years in Western Australia and to advocate for what is in their best interests.

While I do not have a specific role to monitor the child protection system in WA, under my legislation I must give priority to Aboriginal and Torres Strait Islander children and young people, and children and young people who are vulnerable or disadvantaged for any reason. In this regard, children and young people in Out of Home Care (OOHC) are considered a priority focus in the work of my office and this submission addresses the Inquiry's Terms of Reference accordingly.

Terms of Reference

- a. Drivers of the increase in the number of children placed in out of home care, types of care that are increasing and demographics of the children in care.

As at 30 June 2014 there were 4237 children in the care of the state in Western Australia (WA), more than 50 per cent of these children were Aboriginal or Torres Strait Islanders.¹ In the four years to June 2013 the numbers of children in OOHC

¹ Department for Child Protection and Family Support, Western Australia. Annual Report 2013/14. www.dcp.wa.gov.au

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increased nationally by nearly 20 per cent.² This increase was also reflected in the number of children in OOHC in WA. WA has the highest rate ratio of Aboriginal to non-Aboriginal children in OOHC in Australia with 53 Aboriginal or Torres Strait Islander children in OOHC for every 3 non-Aboriginal children.³

A summary of children in care statistics indicates that, 'The rise in children who are living in out-of-home care is a reflection of the number of admissions outnumbering discharges and remaining in out-of-home care.'⁴ The increase is also largely a result of increasing numbers of Aboriginal and Torres Strait Islander children coming into care.⁵

The Department for Child Protection and Family Support in WA (the Department) has indicated that, while still increasing, the rate of growth has slowed in recent years.⁶ The Department indicates that this is a result of increased permanent placements under the Special Guardianship provisions and also an increase in the application of the Signs of Safety framework providing more support to families to address the issues placing their children at risk of being taken into care.

Kinship care, where children and young people taken into the care of the state are placed with relatives such as grandparents, aunts or uncles, has seen the greatest increase in the type of care provided for those in OOHC and is now the single largest category of care comprising 43 per cent of placements in WA, and 48 percent of placements for Aboriginal and Torres Strait Islander children in care.⁷

Of particular concern is the increasing number of children and young people who are identified as having complex needs. The WA Department indicates that this group of children and young people has increased by 33 per cent since 2011. These children demonstrate challenging behaviours that put themselves and others in the community at risk and require specialised placement arrangements. I am of the view that more needs to be done to understand the aetiology of these behaviours in order to prevent children from developing such complex needs. Often the journey to developing these behaviours is preceded by a series of distressing or serious incidents that are traumatic not only for the child but also for their carer, with the resulting need for a long term, specialised placement that often sees the children involved increasingly marginalised from mainstream society and has a significant financial cost to the state.

- b. The outcomes for children in out of home care (including kinship care, foster care and residential care) versus staying in the home.

² Australian Institute of Health and Welfare 2014. Child protection Australia: 2012–13. Child Welfare series no.58. Cat. no.CWS 49. Canberra: AIHW. Pp 55

³ Australian Institute of Health and Welfare 2014. Child protection Australia: 2012–13. Child Welfare series no.58. Cat. no.CWS 49. Canberra: AIHW. Pp pp52

⁴ Australian Institute of Family Studies 2013. Child Abuse and Neglect Statistics. Fact Sheet May 2013. Child Family Community Australia, Australian Government.

<https://www3.aifs.gov.au/cfca/publications/child-abuse-and-neglect-statistics>

⁵ Australian Institute of Health and Welfare 2014. Child protection Australia: 2012–13. Child Welfare series no.58. Cat. no.CWS 49. Canberra: AIHW. Pp 55

⁶ Department for Child Protection and Family Support, Western Australia. Annual Report 2013/14. www.dcp.wa.gov.au pp 17

⁷ Department for Child Protection and Family Support, Western Australia. Annual Report 2013/14. www.dcp.wa.gov.au pp18

While many children and young people in OOHC are doing well, research indicates that children and young people with experience of OOHC have consistently poorer outcomes across a range of indicators including, education, social and emotional functioning and mental health⁸.

In 2011 my office released the Report of the Inquiry into the mental health and wellbeing of children and young people in Western Australia.⁹ This report highlighted the particular needs of children in OOHC in regard to mental health and wellbeing, identifying their higher prevalence of mental health problems and the need to address the underlying factors through access to necessary services in a timely and effective fashion.

This higher prevalence appears to be associated with exposure to abuse and trauma and multiple other risk factors such as poverty, inadequate housing, poor engagement with education.

Placement stability is also a factor with children and young people experiencing ongoing placement instability more likely to have poorer outcomes. In turn, high levels of placement instability are associated with children who have significant trauma and abuse experiences.^{10, 11} Having a stable living environment was identified by young people in care as important to their good mental health and wellbeing.¹²

Disruption to education directly associated with child protection intervention, placement instability, and behavioural difficulties is also a significant contributor to the poorer academic outcomes for children in OOHC.¹³

The higher risk of Fetal Alcohol Spectrum Disorders (FASD) for children in OOHC would also be a contributing factor to their poorer outcomes, and appropriate assessment, diagnosis and management of FASD should be implemented as a matter of priority.¹⁴

I note particularly the Ombudsman of Western Australia's report¹⁵ on care planning for children in care which found that, despite improved collaboration between the relevant government agencies, many children in care had not received appropriate health care and education planning with only 35 per cent and 22 per cent of the case plans

⁸ Clarke M & Gwynne K. 2011 Health needs and outcomes for children in out of home care. The NSW Doctor, March 2011. Australian Medical Association NSW.

⁹ Commissioner for Children and Young People, 2011. Report of the Inquiry into the mental health and wellbeing of children and young people in Western Australia. www.ccyp.wa.gov.au

¹⁰ Bromfield L & Osborn A 2007 'Getting the big picture': A synopsis and critique of Australian Out of Home Care research. National Child Protection Clearinghouse, Issues No. 26, Australian Institute of Family Studies (AIFS).

¹¹ CREATE Foundation, 2006. Report card on Education 2006. Sydney, NSW.

¹² Commissioner for Children and Young People, 2011. Report of the Inquiry into the mental health and wellbeing of children and young people in Western Australia. Pp 83 www.ccyp.wa.gov.au

¹³ Bromfield L & Osborn A 2007 'Getting the big picture': A synopsis and critique of Australian Out of Home Care research. National Child Protection Clearinghouse, Issues No. 26, AIFS.

¹⁴ Department of Health, Western Australia. Fetal Alcohol Spectrum Disorder Model of Care. Perth: Health Networks Branch, Department of Health, Western Australia; 2010. Pp27

¹⁵ Ombudsman of WA (2011) Planning for children in care: An Ombudsman's own motion investigation into the administration of the care planning provisions of the Children and Community Services Act 2004. www.ombudsman.wa.gov.au

reviewed having had the required health assessment or education plan prepared, respectively.

Intervening early with the required resources to address the impact of trauma and abuse¹⁶, providing placements appropriate to meet the needs of the child,¹⁷ ensuring engagement with education and supporting young people as they transition out of care are essential to ensuring that children and young people in OOHC have the same outcomes as those children and young people who are not in care.

Importantly, there is a need to have systems in place to monitor outcomes for children in OOHC, to ensure compliance with standards of care and policy requirements. To be effective these systems need to be external and independent from the responsible agencies, with the necessary authority to provide a rigorous scrutiny of operational and systemic matters on an ongoing basis.

- c. Current models for out of home care, including kinship care, foster care and residential care.

That relative and kinship care is the fastest growing and now the predominant form of OOHC for children and young people in Australia has already been stated. In some ways this is very encouraging as it is preferable that children live in a stable family environment and remain connected to their family.

However the circumstances that bring children into the care of their relative carers are often traumatic and create complex relationships between family members and not enough is understood about the outcomes for children and young people placed in kinship care.¹⁸

While there is a paucity of data and research in this area, the available research shows that children in kinship care often have complex physical and mental health needs – yet despite this, it would appear that, along with their relative carers, many have poor access to appropriate health/mental health support and other resources to provide appropriate care for these children.¹⁹

The over-representation of kinship carers from lower socio economic groups and from the Aboriginal and Torres Strait Islander community is further indication that these communities may be bearing the brunt of supporting these children with inadequate resources and, despite their willingness to care for these children, they may not have the capacity to provide the level of care necessary, particularly without additional assistance.

¹⁶ Bromfield L & Osborn A 2007 'Getting the big picture': A synopsis and critique of Australian Out of Home Care research. National Child Protection Clearinghouse, Issues No. 26, AIFS.

¹⁷ Department of Communities, Child Safety & Disability Services, 2005. Placing children in out of home care – principles and guidelines for improving outcomes.
<http://www.communities.qld.gov.au/childsafety/child-safety-practice-manual/practice-papers>

¹⁸ Paxman M, 2006. Outcomes for children and young people in Kinship care. Centre for Parenting and Research. www.communities.nsw.gov.au

¹⁹ Brennan D, Cass B, Flaxman S, Hill T, Jenkins B, McHugh M, Purcal, C & Valentine K (2013) Grandparents raising grandchildren: Towards recognition, respect and reward (SPRC Report 14/13). Social Policy Research Centre (SPRC), University of New South Wales.

In my submission to this Committee's *Inquiry into grandparents who take primary responsibility for raising their grandchildren* I highlighted a number of issues that I believe require attention in order to ensure that in situations where children and young people are primarily cared for by grandparents, or other relative carers, they are not disadvantaged and achieve the same outcomes as their contemporaries. These issues include:

- the need for practical assistance such as financial support, access to health care and education
- contemporary parenting information and support – particularly with older grandchildren where additional challenges may arise
- the need for specialist support to deal with the challenges particular to this area such as legal advice and support, counselling and mediation services to assist with family conflict, and pathways to emergency services in high risk situations
- consideration of those with additional needs such as managing disability, geographical isolation and the need for cultural sensitivity for Aboriginal and Torres Strait Islanders and those from culturally and linguistically diverse backgrounds.

For some children and young people with more complex needs alternative models of care may well be more appropriate.²⁰ In Western Australia the creation of a Secure Care facility in July 2009 has provided an option for detaining a child or young person in the care of the state, where they are deemed to be at serious risk of harm to themselves or someone else. Given the serious implications of detaining a person against their will it is important that the monitoring and evaluation of such facilities is robust and independent to ensure they are used appropriately and the best interests of the child are paramount. Additionally, such models should not be relied upon as a result of our failure to provide appropriate care at an earlier point in the child's life, or as a substitute for dedicated mental health services for children and young people.

The nexus between child abuse and neglect, and criminal behaviour needs increased attention. Research clearly indicates that there is an overlap between child abuse and neglect, homelessness and criminal activity and yet there is limited data to understand the prevalence of this issue in proper detail.²¹ Research does show that for those children and young people in care who also become involved in the juvenile justice system are more likely to receive more punitive treatment such as being refused bail due to lack of appropriate supervised accommodation.²² Placement stability and lack of support on exiting the OOHC system also impact on involvement in criminal activity.

My office has had a strong focus on the need for increased support in the early years of a child's life and for appropriate parenting and other programs to ensure that problems are detected and acted upon at the earliest opportunity. I note that the

²⁰ Bromfield L & Osborn A, 2007. 'Getting the big picture': A synopsis and critique of Australian Out of Home Care research. National Child Protection Clearinghouse, Issues No. 26, AIFS.

²¹ Australian Institute of Health and Welfare. 2012 Children and young people at risk of social exclusion. Links between homelessness, child protection and juvenile justice. Data Linkage Series No. 13, Cat. no. CSI 13. Canberra: AIHW.

²² Cashmore J. 2011. The link between child maltreatment and adolescent offending. Family Matters 2011 No. 89 Australian Institute of Family Studies.

increased demand for child protection services has seen more attention being paid to a family service orientation and other 'grass roots' models for addressing child protection concerns.²³ I would encourage further examination of evidence-based and evaluated models that may be utilised in supporting families and communities to keep children and young people safe from abuse and neglect and to respond to their needs efficiently and effectively where it does occur.

I note also that the over-representation of Aboriginal and Torres Strait Islander children and young people in care, primarily for reasons of neglect,²⁴ suggests that more needs to be done to understand this issue and respond with culturally sensitive and appropriate models that work with the Aboriginal community to address the underlying issues to this over-representation. I note the development of the Winangay Resources²⁵ in New South Wales as an example of culturally secure resources developed specifically to work in the child protection sphere.

d. Current cost of Australia's approach to care and protection.

The Productivity Commission state that the total recurrent expenditure on child protection and OOHHC services in Australia was \$3.2 billion in 2012–13, with the majority of this spent on OOHHC. This expenditure has increased on average by seven per cent each year for the past five years.²⁶ Expenditure on family support services has increased substantially in more recent years but remains a relatively small portion of the overall expenditure.

As a party to the UN Convention on the Rights of the Child, Australia has obligations to protect children from harm and exploitation and to ensure that they receive special protection where their parents are unable to care for them. Our failure to protect children and young people from abuse and neglect and to not meet the needs of those who experience trauma and abuse, is not only a breach of children's rights under the Convention, but also has long term consequences, for not only the individual and their immediate family, but to the broader community as a whole. The economic costs of child protection responses must be weighed against the costs of failing to act with an increased burden on health, welfare, criminal justice and other services in the longer term.²⁷

It has been suggested²⁸ that the increasing reliance on kinship and relative care models is motivated by cost savings to jurisdiction's child protection expenditure. I have already expressed my concerns that reliance on kinship and relative care has increased the burden on some of our poorest citizens, and would advocate that any

²³ Price-Robertson R, Bromfield L & Lamont A, 2014. International Approaches to Child Protection. What can Australia learn? CFCA Paper No. 23 2014. AIFS

²⁴ Australian Institute of Health and Welfare 2014. Child protection Australia: 2012–13. Child Welfare series no.58. Cat. no.CWS 49. Canberra: AIHW. Pp 26

²⁵ Winangay Resources Inc. www.winangay.com

²⁶ Productivity Commission Report on Government Services 2014, Vol. F Community Services, Chapter 15 Child Protection Services. Australian Government, Canberra. Pp 15.16.

²⁷ Bromfield L, Holzer P & Lamont A. The economic cost of child abuse and neglect. NCPC Resource Sheet, June 2010. AIFS, Australian Government.

²⁸ Senator Dean Smith, Transcript of evidence, 24 September 2014, Inquiry into grandparents who have primary care of their grandchildren. Senate Standing Committee on Community Affairs – References Committee, Parliament of Australia.

'cost savings' should be used to provide the resources necessary to support these families to meet the needs of the children in their care.

My office would also advocate for increased investment in models of child protection that are based on evidence of what works and for increased investment in monitoring the outcomes for children and young people in OOHC to ensure we remain on track in meeting their needs. Increased investment in prevention, early intervention and family support services is critical to reduce the future financial burden of child protection intervention and OOHC services, and while this cannot occur at the expense of current funding to OOHC services, will ultimately reduce future demand for costly specialist placement arrangements.²⁹

e. Consistency of approach to out of home care around Australia.

My office is precluded under legislation from investigating or otherwise dealing with individual matters. However, I do receive a number of calls each year, mainly in regard to complaints about child protection services. I also spend considerable time each year meeting with children and young people, their families and service providers. Where families are involved with child protection issues across jurisdictions it is clear that problems can arise as a result of the different approaches applied.

I appreciate that under the National Framework for Protecting Australia's Children 2009 – 2020 progress has been made to improve consistency between jurisdictions in developing standards for out of home care and in improving information sharing. Maintaining the momentum of jurisdictions working together to develop and implement consistent or complementary strategies is important to keeping children and young people safe and providing the care and placement stability they need.

f. What are the supports available for relative/kinship care, foster care and residential care.

Services such as Wanslea Family Services, CREATE, and the Foster Care Association of WA provide an important means of support, information and service delivery to children and young people in out of home care and to their carer's. Ensuring children and young people and their carer's are linked to services and supports is very important to meeting their needs and to reduce the potential for isolation from networks of support in situations where problems may arise in an individual placement.

My office receives a number of calls each year from individuals who are having difficulty navigating and accessing appropriate information and services. I have previously listed a number of service needs in relation to kinship or relative care and would reiterate that assistance with financial support, legal advice and health care services are critical and not enough resources appear to be provided to meet this demand.

I am currently conducting a project on implementing child safe principles and practices in organisations. As a part of this project my office has been consulting with children and young people about their views on what makes them feel safe and able to raise any problems if they occur. One of the issues children and young people raise is the

²⁹ Bromfield L, Holzer P & Lamont A. The economic cost of child abuse and neglect. NCPIC Resource Sheet, June 2010. AIFS, Australian Government.

importance of choice in accessing services and supports. Therefore I would encourage the development of a range of services and supports to facilitate choice for children and young people in selecting a service that best meets their needs.

- g. Best practice in out of home care in Australia and internationally & j. Best practice solutions for supporting children in vulnerable family situations including early intervention.

The National Standards for Out of Home Care have been developed in consideration of best practice principles and provides a base line of care. Ongoing implementation and monitoring to ensure that these standards are implemented and achieving their intended outcomes, is important.

My office has published a series of reports regarding the monitoring of the wellbeing of children and young people. One of these reports, *Building Blocks – Best Practice Programs that Improve the Wellbeing of Children and Young People*³⁰, describes a range of best practice and promising programs and services that impact the wellbeing of children and young people, including family programs. Building Blocks can be used by agencies to identify evidence-based programs that may be suitable, with adaption for local needs, to address areas where children and young people's wellbeing is of concern.

- h. Consultation with individuals, families and communities affected by removal of children from the home, and i. The extent of children in out of home care remaining connected to their family of origin.

The impact of the stolen generation on Aboriginal and Torres Strait Islander people has been well documented and continues to impact on many Aboriginal and Torres Strait Islander people today, including in the way in which they experience and respond to contemporary child protection services.^{31 32}

The impact of the removal of children from the home on other individuals, families and communities can have ramifications for the child in terms of ongoing contact, the possibility of reunification and the capacity of the family and community to meet the needs of the child at a later date.

The need for services that support extended family members and communities to remain engaged with children placed in care is important. Issues for families involved in kinship care arrangements can be particularly difficult due to the complex family dynamics.

Models of service delivery need to engage with the Aboriginal and Torres Strait Islander community in culturally sensitive ways that acknowledge the historical and

³⁰ Commissioner for Children and Young People. 2014. *Building Blocks – Best Practice Programs that Improve the Wellbeing of Children and Young People*. Wellbeing Monitoring Framework www.ccyip.wa.gov.au

³¹ Vicenti H & Dickman D 2007. *Too Many Tears – An Autobiographical account of stolen generations*. St Albans, Victoria : Meme Media 2008

³² Human Rights and Equal Opportunity Commission. 1997. *Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families*. Commonwealth of Australia.

contemporary issues that arise with the removal of children from families and communities. Ongoing work to improve the application of the Aboriginal Placement Principles to ensure the safety and protection of vulnerable children and connection to community is vital.

I am pleased to be able to offer these comments in regard to the Inquiry's Terms of Reference and would also like to take this opportunity to acknowledge the committed and excellent work being undertaken by those in government and non-government agencies to provide services to children and young people in OOHC. Protecting children and young people from harm and supporting those who are at risk, have suffered abuse or been neglected should be the very highest priority of our community. Those working specifically to achieve this should be given the support and resources to undertake this work and be recognised for their efforts.

I would also encourage the Inquiry to consult directly with children and young people in out of home care if it has not already done so. Hearing directly from children and young people with lived experience of OOHC will assist the Committee to better understand the issues and challenges they face and provide invaluable insight on the solutions and ideas they have to improve the provision of OOHC services. Organisations such as the CREATE Foundation may be able to provide assistance in accessing and supporting children and young people to provide evidence to the Inquiry.

I look forward to seeing the outcomes from this Inquiry contribute to the ongoing development of a safer and happier Australia for all of our children and young people.

Yours sincerely

JENNI PERKINS

A/Commissioner for Children and Young People WA

 October 2014