Chapter 2

Out-of-home care frameworks

2.1   This chapter provides background on the current Commonwealth, state and territory legislative and non-legislative frameworks for out-of-home care across jurisdictions.

2.2   In particular, it assesses the implementation of the *National Framework for Protecting Australia's Children 2009–2020* (National Framework). The National Framework was developed in 2009 by the Council of Australian Governments (COAG) in partnership with the community sector in an attempt to provide a shared, national agenda for changing the way Australia manages child protection issues.[1]

2.3   The National Framework is being implemented by a series of three year action plans. The first action plan (2009–2012) focused on improving collaboration between government and non-government sectors and developing an evidence base through improved data collection. The second action plan (2012–2015) focused on raising awareness of child protection issues across government and non-government services and developing local partnerships to address child protection issues.[2]

2.4   This chapter assesses the efficacy of the National Framework and its action plans in achieving their stated goals. It identifies a number of issues and concerns including a lack of accountability, funding and local responses, and suggests changes to improve its operation.

Current out-of-home care framework

A system in crisis

2.5   The committee heard from a number of submitters and witnesses that Australia's child protection systems are 'in crisis', 'broken' and 'crisis driven'.[3] Mr Julian Pocock from Berry Street told the committee at its Melbourne hearing that 'our

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1   Department of Social Services (DSS), *Submission 78*, p. 3; DSS, *Protecting Children is Everyone's Business: National Framework for Protecting Australia's Children 2009–2020*, https://www.dss.gov.au/our-responsibilities/families-and-children/publications-articles/protecting-children-is-everyones-business (accessed 22 April 2015).

2   See: DSS, *National Framework for Protecting Australia's Children 2009–2020: Second Action Plan 2012–2015* and *National Framework for Protecting Australia's Children: Implementing the first three-year action plan 2009–2012,* https://www.dss.gov.au/our-responsibilities/families-and-children/publications-articles (accessed 30 July 2015).

3   See, for example: Mr Matthew Gardiner, Executive Director, Benevolent Society, *Committee Hansard,* Sydney, 18 February 2015, p. 51; Mr Julian Pocock, Berry Street, *Committee Hansard*, Melbourne, 20 March 2015, p. 6; Child Wise, *Submission 31*, p. 13; Anglicare, *Submission 87*, p. 1; Emeritus Professor Freda Briggs, *Submission 67*, p. 1.

out-of-home care and child-protection systems are constantly and always in crisis. They are crisis-driven systems'.[4]

2.6   Deputy Director of the Australian Centre for Child Protection, Professor Leah Bromfield, recently described Australia's child protection systems as 'in crisis and struggling to cope with unsustainable demand'.[5] Similarly, the child abuse prevention organisation Child Wise noted in its submission:

> [T]he state of OOHC [out-of-home care] in Australia is largely crisis-driven and under-capacity. This means that children's needs – stability, developmental, educational and therapeutic – are largely unmet, and despite best intentions, are treated as secondary needs.[6]

2.7   The committee recognises that over the past decade, all states and territories have undertaken a series of extensive inquiries into child protection systems to improve outcomes for children, often in response to a crisis or highly publicised case of neglect or abuse. The key reports in each jurisdiction are outlined in Table 2.1 below.

2.8   The committee also recognises the work of the Commonwealth's current *Royal Commission into Institutional Responses into Child Sexual Abuse,* including investigations into institutions and organisations responsible for delivering out-of-home care services.[7]

4   Mr Julian Pocock, Director, Public Policy, Berry Street, *Committee Hansard*, Melbourne, 20 March 2015, p. 6.

5   Leah Bromfield, Abuse and neglect: Australia's child protection 'crisis', *The Conversation*, 23 October 2014, http://theconversation.com/abuse-and-neglect-australias-child-protection-crisis-32664 (accessed 20 May 2015).

6   Child Wise, *Submission 31*, p. 13.

7   See: Royal Commission into Institutional Responses to Child Sexual Abuse, http://childabuseroyalcommission.gov.au/ (accessed 13 August 2015). The Royal Commission held a public hearing in Sydney in March and June 2015 that examined preventing child sexual abuse in out-of-home care and responding to allegations of child sexual abuse occurring in out-of-home care. See: *Case Study 24, June 2015, Sydney*, http://www.childabuseroyalcommission.gov.au/case-study/cde18d1b-fade-43f4-83f4-46e9af48b543/case-study-24,-march-2015,-sydney (accessed 13 August 2015).

Table 2.1 – State and territory child protection inquiries

Jurisdiction	Year	Inquiry
New South Wales	2008	Special Commission of Inquiry into Child Protection Services in NSW[8]
Victoria	2012	Protecting Victoria's Vulnerable Children Inquiry[9]
Queensland	2013	Child Protection Commission of Inquiry[10]
Western Australia	2007	Review of the Department for Community Development [11]
South Australia	2008	Children in State Care Commission of Inquiry[12]
	2015	Child Protection Systems Royal Commission[13]
Tasmania	2011	Select Committee of Enquiry into Child Protection[14]
Australian Capital Territory	2013	Auditor General's Performance Audit Report of the Care and Protection System[15]
Northern Territory	2010	Inquiry into the Child Protection System in the Northern Territory[16]

Source: Refer to footnotes.

2.9   The committee heard these inquiries often respond to crisis rather than evidence. Mr Paul McDonald, CEO of Anglicare Victoria told the committee at its Melbourne hearing:

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8   NSW Government, *Report of the Special Commission of Inquiry into Child Protection Services in NSW: Executive Summary and Recommendations*, http://www.dpc.nsw.gov.au/__data/assets/pdf_file/0008/33794/Executive_Summary_and_Recommendations_-_Special_Commission_of_Inquiry_into_Child_Protection_Services_in_New_South_Wales.pdf (accessed 21 April 2014).

9   Victorian Government, *Protecting Victoria's Vulnerable Children Inquiry*, http://www.childprotectioninquiry.vic.gov.au/ (accessed 23 April 2015).

10   Queensland Government, *Child Protection Commission of Inquiry*, http://www.childprotectioninquiry.qld.gov.au/publications (accessed 20 April 2015).

11   Prudence Ford, *Review of the Department for Community Development*, Western Australia, January 2007.

12   South Australian Government, *Children in state care*, https://www.sa.gov.au/topics/crime-justice-and-the-law/mullighan-inquiry/children-in-state-care (accessed 23 April 2015).

13   South Australian Government, *Child Protection Systems Royal Commission*, http://www.childprotectionroyalcommission.sa.gov.au/ (accessed 25 March 2015).

14   Parliament of Tasmania, *Select Committee on Child Protection*, http://www.parliament.tas.gov.au/ctee/House/Reports/Final%20Report%20CP.pdf (accessed 1 May 2015).

15   ACT Community Services Directorate, *Out of Home Care Strategy 2015-2020*, http://www.communityservices.act.gov.au/ocyfs/out-of-home-care-strategy-2015-2020/out-of-home-care-strategy-2015-2020 (accessed 1 May 2015).

16   NT Government, *Inquiry into the Child Protection System in the Northern Territory*, http://www.childprotectioninquiry.nt.gov.au/ (accessed 5 March 2015).

> We often grow the system in innovation because of crisis. The Cummins inquiry and all around the states, the Queensland Carmody inquiry, the New South Wales inquiry were all led by incidents. Wouldn't it be great if we reformed the system, led by research and effectiveness and evidence?[17]

2.10   During the course of this inquiry, the committee saw further evidence of crisis-driven inquiries. For example, in April 2015 the South Australian Coroner released a report into the death of Chloe Valentine described Families SA as 'broken and fundamentally flawed' and recommended significant changes to the child protection system.[18]

2.11   Researchers Dr Patricia Hansen and Dr Frank Ainsworth noted the conclusions of these many inquiries into child protection systems are 'always the same': the system is 'overstretched' and 'more resources' are needed. They argue child protection in Australia is a 'game without end' as responses to these reports take 'action at the wrong level' and fail to prioritise action to relieve social disadvantage, which are significant factors in cases of abuse and neglect.[19]

2.12   Australia's current child protection framework is outlined below.

Child protection in Australia

2.13   In Australia, statutory child protection is the responsibility of state and territory governments. Each state and territory department responsible for child protection provides assistance to vulnerable children who have been, or are at risk of being, abused, neglected, or otherwise harmed, or whose parents are unable to provide adequate care or protection. Children and young people are defined as aged under 18 years. This includes unborn children in jurisdictions where they are covered under the child protection legislation.

2.14   A number of government and non-government organisations share a common duty of care towards the protection of children and young people. Departments responsible for child protection investigate, process and oversee the handling of child protection cases. According to the Australian Institute of Health and Welfare (AIHW), assistance is provided to children and their families through the provision of, or referral to, a wide range of services, including out-of-home care.[20]

2.15   The Commonwealth government has a relatively minor role in child protection, including funding services that focus on prevention and early intervention

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17   Mr Paul McDonald, CEO Anglicare Victoria, *Committee Hansard*, Melbourne, 20 March 2015, p. 37.

18   Mr Mark Johns, State Coroner, South Australia, 'Inquest into the death of Chloe Lee Valentine,' 9 April 2015, http://www.courts.sa.gov.au/CoronersFindings/Pages/default.aspx (accessed 10 April 2015).

19   Patricia Hansen & Frank Ainsworth, *Submission 89, Attachment 2,* 'Viewpoints: Australian child protection services: a game without end,' *International Journal of Social Welfare*, vol. 22, 2013, pp 106–107.

20   Australian Institute of Health and Welfare (AIHW), *Child Protection Australia 2013–14*, Canberra: AIHW, 2015, p. 1.

to complement state and territory government services. Following the development of the National Framework, the Commonwealth has taken on a more active role in providing national coordination of child protection services (see below).

Legislative framework

International obligations

2.16   As a party to the United Nations Convention on the Rights of the Child (UNCRC), Australia is obliged to respect, protect and fulfil children's rights. As the National Children's Commissioner, Ms Megan Mitchell, told the committee, 'children and young people in out-of-home care are especially vulnerable to having their rights violated'.[21]

2.17   Ms Mitchell told the committee the following articles of the UNCRC are particularly relevant for children in out-of-home care:

- Article 3 – in all matters concerning children their best interests should be the primary consideration;

- Article 12 – children have the right to have their views considered in decisions that affect them;

- Article 19 – states are obliged to take measures to ensure children are protected from violence, abuse and neglect; and

- Article 20 – a child temporarily or permanently deprived of their family and whose best interests cannot be served in that environment are entitled to special protection and assistance.[22]

2.18   In 2012 the United Nations Committee on the Rights of the Child (UN committee) considered Australia's fourth progress report under the Convention and issued its concluding observations, including recommendations on Australia's implementation of child rights.[23]

2.19   Ms Mitchell noted the UN committee raised concerns about the increase in the number of children placed in care in Australia and the absence of data documenting the criteria and decisions leading to placements. The UN Committee raised particular concerns about reports of inadequacies and abuse occurring in out-of-home care, including:

- inappropriate placements;

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21   Ms Megan Mitchell, National Children's Commissioner, *Committee Hansard*, Sydney, 18 February 2015, p. 1.

22   Ms Megan Mitchell, *Committee Hansard*, Sydney, 18 February 2015, p. 1. See also: United Nations Convention on the Rights of the Child, 20 November 1989, http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx (accessed 5 March 2015).

23   United Nations Committee on the Rights of the Child, 'Concluding observations: Australia,' (CRC/C/AUS/CO/4), 28 August 2012, http://www2.ohchr.org/english/bodies/crc/docs/co/CRC_C_AUS_CO_4.pdf (accessed 5 March 2015).

- inadequate screening, training, support and assessment of carers;

- shortage of care options;

- outcomes for children in care compared with the general population;

- abuse and neglect of children in care; inadequate preparation for children leaving care; and

- placement of Aboriginal and Torres Strait Islander children outside their communities and the need for more Aboriginal carers.[24]

2.20   As noted by Ms Mitchell, the UN committee:

> …recommended Australia take all necessary efforts to examine the root causes of the extent of child abuse and neglect and provide general data on the reasons children are placed in care. It also recommended measures to strengthen programs for family support by targeting the most vulnerable families.[25]

State and territory legislation

2.21   States and territories are responsible for the administration and funding of statutory child protection, out-of-home care and family support services. These services are delivered by both government and non-government organisations across jurisdictions.

2.22   A 2008 study by the Australian Institute of Family Studies (AIFS) noted, in terms of child protection legislation and policy:

> Australian jurisdictions have adopted broadly similar positions on critical issues facing the child protection sector, namely the delivery of early intervention services, the desirability of stability of care, and the utmost importance of child-centred practice.[26]

2.23   The principal legislation for out-of-home care and relevant department in each state and territory is outlined in Table 2.2.

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24   Ms Megan Mitchell, *Committee Hansard*, Sydney, 18 February 2015, p. 1.

25   Ms Megan Mitchell, *Committee Hansard*, Sydney, 18 February 2015, p. 1. See: United Nations Committee on the Rights of the Child, 'Concluding observations: Australia', 28 August 2012.

26   Leah Bromfield & Prue Holzer, *A National Approach for Child Protection: Project report*, Australian Institute of Family Studies, National Child Protection Clearinghouse, 2008, p. ix.

Table 2.2 – Out-of-home care legislative framework

Jurisdiction	Principal Act	Responsible department
Commonwealth	*Family Law Act 1975*	Department of Social Service
Australian Capital Territory	*Children and Young People Act 2008*	Community Services Directorate
New South Wales	*Children and Young Persons (Care and Protection) Act 1998*	Department of Family and Community Services
Northern Territory	*Care and Protection of Children Act 2007*	Department of Children and Families
Queensland	*Child Protection Act 1999*	Department of Communities, Child Safety and Disability Services
South Australia	*Children's Protection Act 1993* *Family and Community Services Act 1972*	Department for Education and Child Development
Tasmania	*Children, Young Persons and their Families Act 1997*	Department of Health and Human Services
Victoria	*Children, Youth and Families Act 2005* *Child Wellbeing and Safety Act 2005*	Department of Human Services
Western Australia	*Children and Community Services Act 2004* *Family Court Act 1997* *Child Care Services (Child Care) Regulations 2006*	Department for Child Protection and Family Support

Source: Australian Institute of Family Studies, 'Australian child protection legislation,' Child Family Community Australia Fact Sheet, August 2014, https://www3.aifs.gov.au/cfca/publications/australian-child-protection-legislation (accessed 31 March 2015); Productivity Commission, Report on Government Services 2015, p. 15.5.

Entry into child protection system

2.24   Across Australia, jurisdictions follow a similar process for reporting and responding to child protection concerns. A simplified version of the key processes as identified by AIHW is outlined in Figure 2.1.

Figure 2.1 – The child protection process in Australia
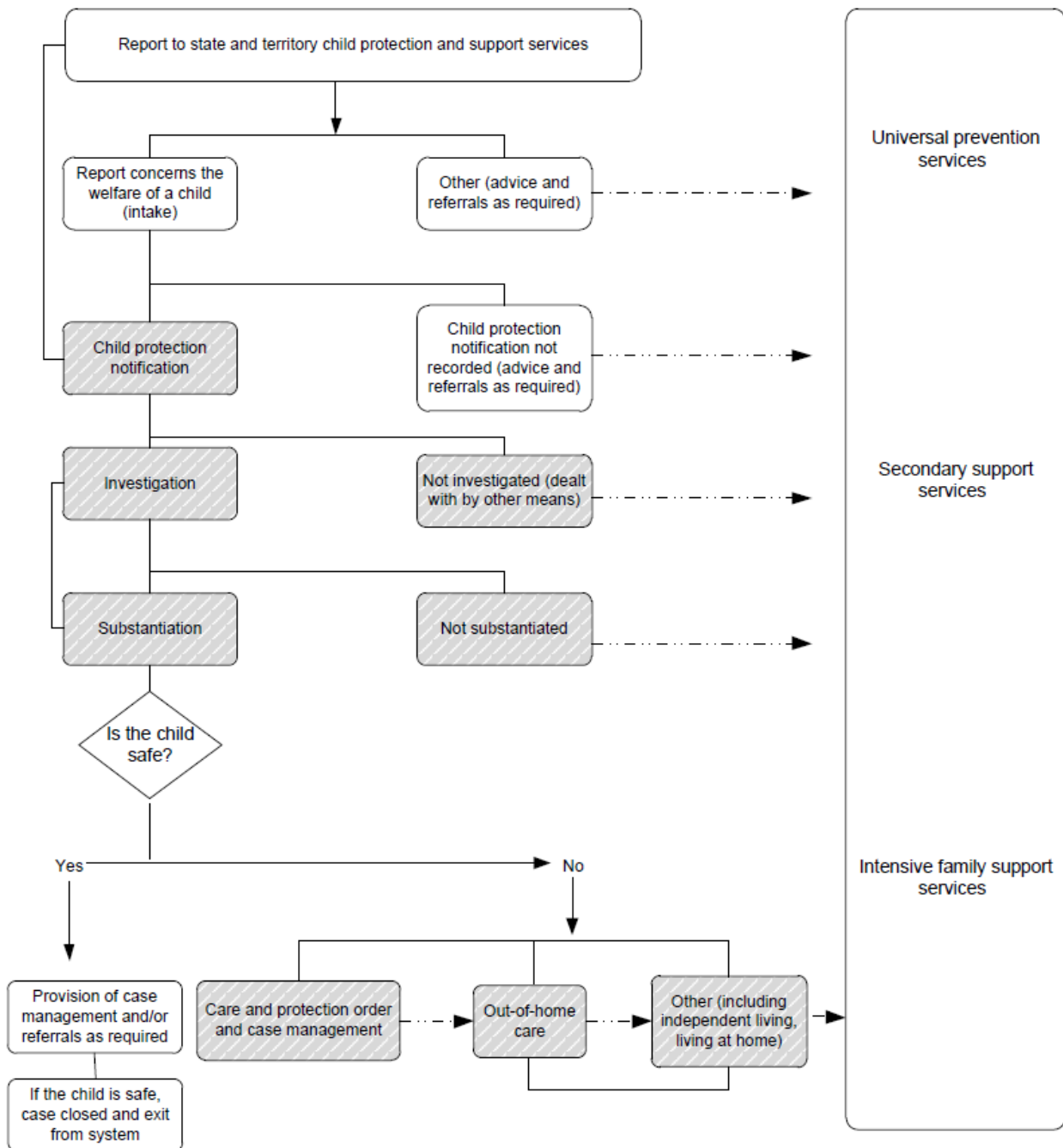
Notes

1. Shaded boxes are items for which data are collected nationally.

2. Dashed lines indicate that clients may or may not receive these services, depending on need, service availability, and client willingness to participate in what are voluntary services.

3. Support services include family preservation and reunification services provided by government departments responsible for child protection and other agencies. Children and families move in and out of these services and the statutory child protection system, and might also be in the statutory child protection system while receiving support services.

Source: AIHW, Child Protection Australia 2013–14, Figure 1.1.

Child concern reports

2.25   Children and young people come to the attention of departments responsible for child protection through child concern reports. These reports may be made by community members, professionals (for example, police or health practitioners), organisations, or the children themselves and their families. Reports may relate to abuse and neglect or to broader family concerns such as economic problems or social isolation.[27]

Mandatory reporting

2.26   As AIHW notes, all jurisdictions have legislative requirements for the reporting of suspected child abuse, known as 'mandatory reporting'. These requirements differ across jurisdictions. In some jurisdictions, individuals in selected professions are required to report suspected child abuse or neglect, whereas in others anyone who suspects child abuse or neglect is legally obliged to report it. Commonwealth legislation also contains provisions requiring certain court officials to report suspected child abuse.[28]

Definitions of notifications

2.27   Across jurisdictions, child protection services assess child concern reports to determine whether further action is required. The defined threshold for intervention varies across jurisdictions. AIHW notes this can lead to jurisdictional differences in the responses taken to initial reports. Reports that are deemed to require further action are generally classified as either a 'family support issue' or a 'child protection notification'. Reports classified as requiring family support are further assessed and may be referred to support services.[29]

Substantiation threshold

2.28   Each jurisdiction has a legislated threshold for what constitutes a substantiation of a child protection notification. The threshold differs across jurisdictions. In some jurisdictions, it may be evidence of harm to a child, and in others, risk of harm to a child. AIHW notes in considering harm to the child, the focus of the child protection systems in many jurisdictions has shifted away from the actions of parents to the outcomes for the child.[30] The key reasons for substantiations of child protection notifications are examined in Chapter 3.

Types of protection orders

2.29   In situations where further intervention is required, the relevant state or territory department may apply to the relevant court to place the child on a care and

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27   AIHW, *Child Protection Australia 2013–14*, pp 3–4.

28   AIHW, *Child Protection Australia 2013–14*, p. 4.

29   AIHW, *Child Protection Australia 2013–14*, p. 4.

30   AIHW, *Child Protection Australia 2013–14*, pp 4–5.

protection order. The level of departmental involvement mandated by a care and protection order will vary depending on the type of order.[31]

2.30   Box 2.1 outlines the AIHW definitions of the different types of judicial or administrative care and protection orders states and territories may issue.

Box 2.1 – Types of judicial or administrative care and protection orders

Finalised guardianship or custody orders: guardianship orders involve the transfer of legal guardianship to the relevant state or territory department or non-government agency. These orders involve considerable intervention in the child's life and that of their family, and are sought only as a last resort. Custody orders generally refer to orders that place children in the custody of the state or territory department responsible for child protection or non-government agency. These orders usually involve the child protection department being responsible for the daily care and requirements of the child, while the parent retains legal guardianship.

Finalised third-party parental responsibility: orders transferring all duties, powers, responsibilities and authority parents are entitled to by law, to a nominated person(s) considered appropriate by the court. The nominated person may be an individual such as a relative or an officer of the state or territory department.

Finalised supervisory orders: under these orders, the department supervises and/or directs the level and type of care that is to be provided to the child. Children under supervisory orders are generally under the responsibility of their parents and the guardianship or custody of the child is unaffected.

Interim and temporary orders: orders covering the provisions of a limited period of supervision and/or placement of a child. Parental responsibility under these orders may reside with the parents or with the department responsible for child protection.

Administrative arrangements: agreements with the child protection departments, which have the same effect as a court order of transferring custody or guardianship. These arrangements can also allow a child to be placed in out-of-home care without going through the courts.

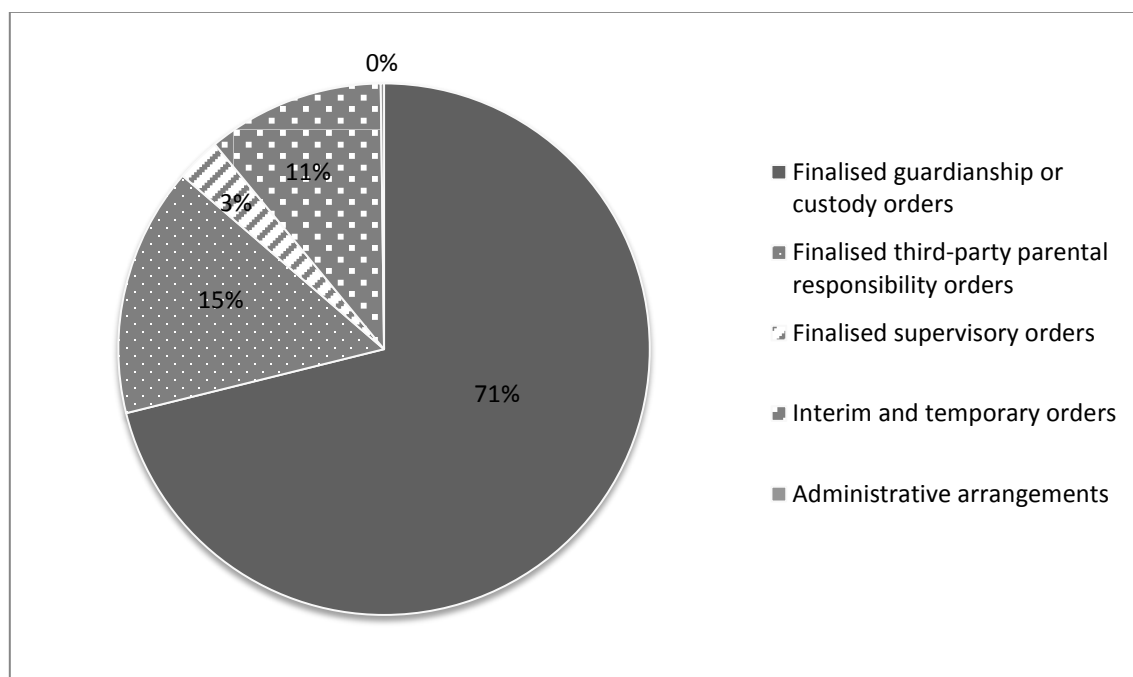*Source: AIHW, Child Protection Australia 2013−14, Box 4.2.*

2.31   AIHW reports on the number of children on care and protection orders in its *Child Protection Australia* report. At 30 June 2014, 45 746 children were on a care and protection order—a rate of 8.7 per 1000 children aged 0–17 years.[32] The majority of children on care and protection orders were on either finalised guardianship or custody orders (71.2 per cent) or finalised third party parental responsibility orders (15.2 per cent).[33] Figure 2.2 outlines the proportion of children on different types of care and protection orders across jurisdictions.

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31   AIHW, *Child Protection Australia 2013–14*, p. 4.

32   AIHW, *Child Protection Australia 2013–14*, p. 33.

33   AIHW, *Child Protection Australia 2013–14*, Table A24.

Figure 2.2 – Proportion of children on care and protection order at 30 June 2014 by type of order

Source: AIHW, Child Protection Australia 2013–14, Table A24.

### *Entry to out-of-home care*

2.32   Out-of-home care represents the most extreme end of the statutory child protection continuum and is considered the intervention of last resort where all other options for care have been exhausted. Although there are provisions for children to be placed in out-of-home care voluntarily by parents (such as respite), most children in out-of-home care are placed according to an order made by the relevant court.[34]

2.33   According to AIHW, in 2013–14, 93 per cent of children in out-of-home care were also on care and protection orders. The Northern Territory requires all children in out-of-home care to be on a care and protection order. In all other jurisdictions, the numbers of children in out-of-home care on care and protection orders ranged from 86.2 per cent in Victoria to 98.5 per cent in Tasmania. In SA and the ACT, a small proportion of children were on other orders (such as offence orders). Figure 2.3 highlights the proportion of children in out-of-home care on care and protection orders across jurisdictions.[35]

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34   Australian Institute of Family Studies, 'Australian child protection legislation,' *Child Family Community Australia Fact Sheet*, August 2014, https://www3.aifs.gov.au/cfca/publications/australian-child-protection-legislation (accessed 31 March 2015).

35   AIHW, *Child Protection Australia 2013–14*, pp 49–50.

Figure 2.3 – Proportion of children in out-of-home by type of order across jurisdictions, 30 June 2014
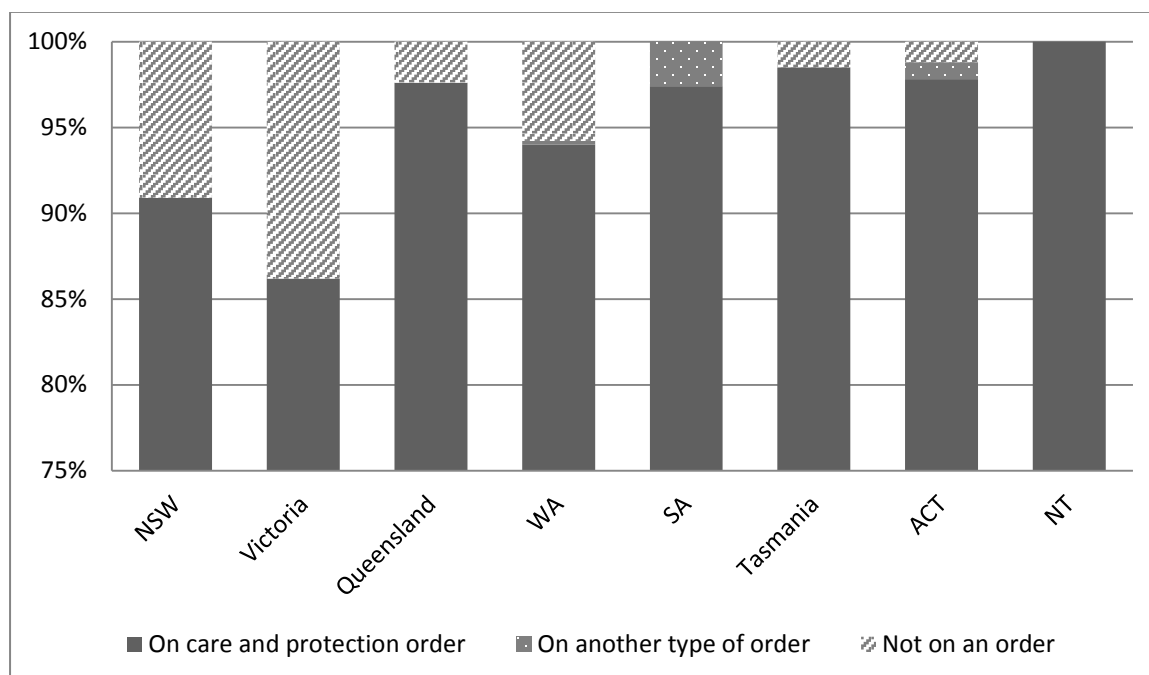
Source: AIHW, Child Protection Australia 2013–14, Table 5.3.

2.34   No national data are available on the reasons children are placed in out-of-home care.[36]

State and territory frameworks

New South Wales

2.35   In 2009, the NSW Government launched its five-year action plan (2009-2014), *Keep Them Safe: A shared approach to child wellbeing*, to re-shape the way family and community services are delivered in NSW to improve the safety, welfare, and wellbeing of children and young people.[37] The NSW Government noted:

> At the heart of these reforms is placing *children* back at the centre of the child protection system. This will require us, as a community and sector, to really focus on *children's* rights and parental obligations.[38]

2.36   As part of the *Keep Them Safe* plan, key changes to out-of-home care service delivery include:

•   transition of out-of-home care service delivery to the non-government sector;

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36   AIHW, *Child Protection Australia 2013–14*, p. 3.

37   NSW Government, *Keep Them Safe*, http://www.keepthemsafe.nsw.gov.au/ (accessed 21 April 2015).

38   NSW Department of Family and Community Services, *A Safe Home for Life: Report on the outcomes of public consultation on the child protection legislative reforms discussion paper 2012*, p. 1, http://www.facs.nsw.gov.au/safehomeforlife (accessed 7 May 2015).

- appointment of out-of-home health coordinators to provide health assessments to children and young people entering out-of-home care; and

- appointment of out-of-home care education coordinators to implement educational support planning for children.[39]

2.37   Following the *Keep Them Safe* plan, the NSW government undertook an extensive consultation project, *A Safe Home for Life*, on proposed reforms to child protection legislation.[40] These reforms were introduced in 2014 with an aim to move towards providing a less legalistic, process-driven child protection system by focusing on three areas:

- building parenting capacity and increasing parental responsibility;

- providing greater permanency for children and young people in care; and

- delivering and developing a more modern, responsive and child-focused system.[41]

2.38   As part of the *A Safe Home for Life* consultation process, many stakeholders expressed the view:

> that the current child protection system is overly legalistic, adversarial and process-driven. Most young people interviewed indicated that it is also too parent-focused. The need for greater parental accountability and consequences for poor parental behaviour was a strong message coming from young people who provided feedback.[42]

2.39   Two key differences in the NSW reforms compared with other jurisdictions is the focus on non-government agencies and permanent placements, particularly adoption. The committee heard NSW is moving towards a model whereby all out-of-home care services will be delivered by the non-government sector and the role of the Department of Family and Community Services:

> …as a direct provider of out-of-home care services will significantly decrease and its role in funding and supporting non-government organisation out-of-home care service providers will increase.[43]

2.40   The reforms also raise adoption 'within the hierarchy or in terms of permanency…as an option for many children' to encourage and support adoption by carers.[44] These reforms will be discussed in more detail in Chapter 7.

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39   NSW Government, *Keep Them Safe*, 'Out-of-home care', http://www.keepthemsafe.nsw.gov.au/initiatives/out-of-home_care (accessed 21 April 2015).

40   NSW Department of Family and Community Services, *Safe Home for Life: Report on the outcomes of public consultation on the child protection legislative reforms discussion paper 2012*, http://www.facs.nsw.gov.au/safehomeforlife (accessed 7 May 2015).

41   Ms Maree Walk, Deputy Secretary, Programs and Service Design, Department of Family and Community Services NSW, *Committee Hansard*, Sydney, 18 February 2015, p. 62.

42   *Safe Home for Life*, p. 10.

43   Ms Maree Walk, *Committee Hansard*, Sydney, 18 February 2015, p. 63.

Victoria

2.41   In May 2013, the Victorian Government launched the *Vulnerable Children Strategy 2013–2022* (strategy). The strategy aims to prevent abuse and neglect, act earlier when children are vulnerable and improve outcomes for children in statutory care.[45]

2.42   As part of the strategy, in March 2014, the Victorian Government launched *Out-of-home care: a five year plan* (plan). The plan presents immediate and longer-term actions to achieve improved outcomes, reduced demand and sustainable delivery, including:

- a new funding model that supports more innovative services and promotes a stronger focus on the outcomes we achieve for children and young people;

- a process to establish a more integrated service delivery platform that better supports placement prevention and reunification, and responds better to the needs of children and young people in or exiting care;

- a tender process for the allocation of new funding to trial new approaches to therapeutic care;

- trial of a new outcomes framework for all children and young people in care; and

- development of a complementary plan for Aboriginal children and young people that identifies specific actions to address the over representation of Aboriginal children and young people in out-of-home care and improve outcomes.[46]

Queensland

2.43   The Queensland Government is currently progressing a wide-ranging reform agenda, *Stronger Families*, to improve the effectiveness of the child protection and family support service system.[47] The reforms include additional investment of $406 million over five years (beginning in 2014–15) and aims to design better client pathways and build service capacity.[48]

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44   Ms Maree Walk, *Committee Hansard*, Sydney, 18 February 2015, p. 66.

45   Department of Human Services, Victoria, *Victoria's Vulnerable Children – Our Shared Responsibility Strategy 2013–2022*, http://www.dhs.vic.gov.au/about-the-department/plans,-programs-and-projects/plans-and-strategies/children,-youth-and-family-services/victorias-vulnerable-children-strategy-2013 (accessed 23 April 2015).

46   Department of Human Services, Victoria, *Out-of-home care: a five year plan*, http://www.dhs.vic.gov.au/__data/assets/pdf_file/0010/864793/Out-of-home-care_a_five_year_plan.pdf (accessed 23 April 2015).

47   Queensland Government response to the Queensland Child Protection Commission of Inquiry final report, December 2013, http://www.communities.qld.gov.au/resources/reform-renewal/qg-response-child-protection-inquiry.pdf (accessed 20 April 2015).

48   Queensland Government, *Submission 69*, p. 4.

2.44   Through the *Stronger Families* reforms, the Queensland Government has undertaken to:

- create dual pathways for reporting child protection concerns;

- ensure that meaningful work is undertaken to safely return children home as soon as possible or, if that is not an option, plan for the child's long-term care needs; and

- address the over-representation of Aboriginal and Torres Strait Islander families by implementing a range of supports and services (and projects) specifically aimed at meeting their needs.[49]

Western Australia

2.45   The WA child protection system has undergone significant reform since the 2007 Review of the former Department for Community Development, including:

- healthcare, education and permanency planning for children in care;

- introduction of three tiers of service for residential care, including a facility for secure care for children and young people at extreme risk;

- introduction of Foster Care Partnership and Residential Care (Sanctuary) Framework which provides sound theoretical and practical bases to guide work with abused children whose trauma severely impacts their behaviour and development; and

- increased support for transition from care, including clearer processes for accessing funding.[50]

2.46   In December 2014, the WA Department for Child Protection and Family Support released a discussion paper for public consultation, *Out-of-Home Care Strategic Directions in Western Australia 2015–2020.* The discussion paper proposes five key strategic directions to guide the development of an out-of-home care system that:

- is driven by the needs of the child;

- values and promotes stability and certainty for children;

- is responsive and sustainable with capacity;

- is accountable (including the development of an Outcomes Framework for Children in Out-of-Home Care); and

- is consistent across locations and types of care.[51]

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49   Queensland Government, *Submission 69*, p. 16.

50   AIHW, *Child Protection Australia 2012–13*, Appendix G, pp 27–28.

51   Department for Child Protection and Family Support, *Out-of-home Care Strategic Directions for Western Australia 2015–2020 Discussion Paper*, December 2014, http://www.dcp.wa.gov.au/ChildrenInCare/Pages/OOHCReform.aspx (accessed 4 May 2015).

South Australia

2.47   Commencing in 2013, the South Australian department responsible for child protection, Families SA, has undergone a significant restructure. Families SA has adopted Solution Based Casework as the practice approach for child protection case work which combines solution-focused techniques with relapse prevention strategies in an effort to help families focus on their strengths, supports and protective factors.[52]

2.48   As part of its restructure, Mr Tony Harrison, Chief Executive of the Department for Education and Child Development, advised that the key changes to child protection service delivery in South Australia include:

> …more specialist service delivery hubs which look at specialist investigation assessment, family preservation, guardianship support and other areas, and we have built and are building in levels of decision making to ensure that social workers who find themselves with responsibility in the area of family preservation are not unnecessarily dissuaded from taking firm and decisive action in the interests of children, so we have different layers of decision making in relation to the appropriateness of removing children from their biological families.[53]

Tasmania

2.49   In 2014, the Tasmanian Government launched an implementation plan for a radical reform of its out-of-home care system. The rationale for the whole of service system reform was based on an assessment that the current out-of-home care system was stretched to capacity, unsustainable, and lacked a strategic plan for its future.

2.50   According to the Tasmanian Government, a trauma-informed framework will provide the foundation of the new out-of-home care service system which will ensure trauma-based intervention options in line with a comprehensive needs assessment for all children in care. Introduction of appropriate therapeutic interventions along the continuum of care will provide for increased placement stability and improved outcomes for children and young people.

2.51   Key features of the proposed new out-of-home care system are:

- capacity to comprehensively respond to the assessed needs of the child in an ongoing manner;

- placement options and services that are matched to the assessed needs of every child;

- clear planning and transition pathways between placement types;

- flexibility of service delivery to meet the needs of the client group and service demands;

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52   South Australian Government, 'Children in state care,' https://www.sa.gov.au/topics/crime-justice-and-the-law/mullighan-inquiry/children-in-state-care (accessed 23 April 2015).

53   Mr Anthony Harrison, Chief Executive, Department for Education and Child Development, South Australia, *Committee Hansard,* Canberra, 16 April 2015, p. 59.

- funding agreements will have scheduled reporting with data used to monitor the delivery, safety, quality and effectiveness of all services; and

- service providers will be supported through consultation, data collection tools and clear commissioning specifications.[54]

Australian Capital Territory

2.52   On 22 January 2015, the ACT Government launched a new five-year strategy for out-of-home care, *A Step Up for Our Kids – One Step Can Make a Lifetime of Difference*.[55] Key reforms of the new strategy include:

- renewed focus on diverting children and young people from entering care;

- speedy reunification of children and parents wherever possible; and

- new and enhanced services to improve outcomes for children and young people in care.[56]

2.53   Under the new strategy the ACT plans to introduce:

- annually reviewed therapeutic assessments and plans for all children soon after they enter care;[57] and

- professional foster care arrangements, where foster carers would be classified as an employee.[58]

Northern Territory

2.54   In August 2014, the Northern Territory finalised the 'Continuum of out-of-home care' that provides a blueprint of out-of-home care service types and establishes a set of definitions and expectations.[59]

2.55   Representatives from the Department of Children and Families told the committee the continuum 'was a blueprint for the department so that we could plan the types of services that needed to be delivered to meet the need of children in out-of-home care.' This included recognition of:

- need for more therapeutic residential care services;

- complexity of needs of children in residential care;

- need to recruit and retain carers; and

- consideration of professional carer system.[60]

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54   Tasmanian Government, *Submission 1, Attachment 1*, 'Out of home care reform in Tasmania'.

55   'A Step Up for Our Kids – One Step Can Make a Lifetime of Difference,' *ACT Government Community Services*, http://www.communityservices.act.gov.au/ocyfs/out-of-home-care-strategy-2015-2020 (accessed 1 April 2015).

56   ACT Government, *Submission 16*, p. 2.

57   ACT Government, *Submission 16*, p. 7.

58   ACT Government, *Submission 16*, p. 8.

59   NT Government, *Submission 23*, p. 6.

Independent bodies

2.56   All states and territories have established independent commissions or bodies that have differing regulatory roles in state and territory based out-of-home care systems. All states and territories have also established a charter of rights for children and young people in out-of-home care.[61] The key roles of each independent body are outlined in Table 2.3. The role of the official visitor (in New South Wales, Queensland and the Australian Capital Territory) will be examined in Chapter 4.

60   Ms Simone Jackson, Executive Director, Out-of-Home Care, Northern Territory Department of Children and Families, *Committee Hansard*, Darwin, 1 April 2015, pp 3–4.

61   Productivity Commission, *Report on Government Services 2015*, pp 15.6–15.8.

Table 2.3 – State and territory independent bodies

Jurisdiction	Name of body	Key out-of-home care responsibilities
Commonwealth	National Children's Commissioner	• Advocate nationally for the rights and interests of children and young people
New South Wales	Office of the Children's Guardian	• Accredit and monitor out-of-home care and adoption agencies • Administer the Working with Children Check
New South Wales	NSW Ombudsman	• Administer an Official Community Visitor scheme for residential accommodations for children, young people and people with a disability
Victoria	Commission for Children and Young People	• Promote continuous improvement and innovation in policies and practices • Piloting an independent visitor scheme for residential out-of-home care
Victoria	Commissioner for Aboriginal Children and Young People	• Address issues specific to Aboriginal children and young people, including overseeing the Five Year Plan for Aboriginal Children in Out of Home Care
Queensland	Office of the Public Guardian	• Provide individual advocacy for children in the child protection system • Administer community visitor program for all children in out-of-home care
Western Australia	Commissioner for Children and Young People	• Promote and monitor the wellbeing of all children and young people
Western Australia	WA Advocate for Children in Care	• Provide advocacy and complaints management services for children in care
South Australia	Office of the Guardian	• Monitor and assess out-of-home care arrangements • Advocate for, and advise on, the circumstances and needs of children in care
Tasmania	Commissioner for Children	• Promote the rights and wellbeing of all children and young people
ACT	Public Advocate of the ACT	• Monitor, protect and advocate for rights of children and young people
ACT	Public Trustee of the ACT	• Administer the Official Visitor Scheme places of care, of detention or protection • Investigate complaints about the care provided to children and young people
Northern Territory	Office of the Children's Commissioner	• Promote interests of vulnerable children, including investigating and dealing with complaints about services provided to children in out-of-home care

Source: Productivity Commission, Report on Government Services 2015, pp 15.6–15.8.

Commonwealth framework

National Framework for Protecting Australia's Children 2009-2020

2.57   In addition to the state and territory frameworks, all state and territories and the Commonwealth   have agreed to the *National Framework for Protecting Australia's Children 2009–2020* (the National Framework). The National Framework is a partnership between the Commonwealth, state and territory governments and the community sector that aims to use a public health approach to place children's interests at the centre of all policy and legislative development.[62]

2.58   The National Framework is a cooperative document that aims to provide a shared, national agenda for change in the way Australia manages child protection issues. The framework seeks to resolve the differences that exist across state and territory jurisdictions. While there has been no nationally consistent legislation implemented at the state or territory level, there is work at a policy and practice level that aims to address these discrepancies.[63]

2.59   The Department of Social Services (DSS) noted in its submission that the National Framework:

> …is a long-term approach to protecting vulnerable children that seeks to deliver a substantial and sustained reduction in child abuse and neglect over time. The National Framework articulates an approach that focuses on prevention and early intervention, rather than just responding to abuse and neglect, and involves parents, families, and governments at all levels and the community sector. It sets out strategies, to be implemented through a series of three-year action plans for achieving these outcomes.[64]

2.60   Input to the National Framework from the community and academia is coordinated by Families Australia through the Coalition of Organisations Committed to the Safety and Wellbeing of Australia's Children. Families Australia told the committee the drive to develop the National Framework:

> …began in the community with non-government organisations and academia joining forces to seek the commitment of all Australian governments to address the abuse and neglect of children.[65]

2.61   There are six broad supporting outcome areas under the National Framework:

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62   Department of Social Services (DSS), *Submission 78*, p. 3; DSS, *Protecting Children is Everyone's Business: National Framework for Protecting Australia's Children 2009–2020*, https://www.dss.gov.au/our-responsibilities/families-and-children/publications-articles/protecting-children-is-everyones-business (accessed 22 April 2015).

63   Australian Institute of Family Studies, 'Australian child protection legislation,' *Child Family Community Australia Fact Sheet*, August 2014, https://www3.aifs.gov.au/cfca/publications/australian-child-protection-legislation (accessed 31 March 2015).

64   DSS, *Submission 78*, p. 6.

65   Families Australia, *Submission 77*, p. 5.

- children live in safe and supportive communities;

- children and families access adequate support to promote safety and intervene early;

- risk factors for child abuse and neglect are addressed;

- children who have been abused or neglected receive the support and care they need for their safety and wellbeing;

- Indigenous children are supported and safe in their families and communities; and

- child sexual abuse and exploitation is prevented and survivors receive adequate support.[66]

2.62   The National Framework applies a public health model to care and protection. Under a public health model, priority is placed on having universal supports available for all families (such as health and education). More intensive (secondary) prevention interventions are provided to those families that need additional assistance with a focus on early intervention. Tertiary child protection services (such as out-of-home care) are a last resort, and the least desirable option for families and governments.

2.63   Under the National Framework, the Commonwealth, states and territories are working towards reforms to improve early intervention and universal supports for families and children.[67]

2.64   Figure 2.4 shows the public health model for protecting children, highlighting the major reform areas of early intervention services and universal preventative initiatives.

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66   DSS, *Protecting Children is Everyone's Business: National Framework for Protecting Australia's Children 2009–2020*, https://www.dss.gov.au/our-responsibilities/families-and-children/publications-articles/protecting-children-is-everyones-business (accessed 22 April 2015).

67   DSS *Protecting Children is Everyone's Business: National Framework for Protecting Australia's Children 2009–2020*.

Figure 2.4 – A public health model for child protection
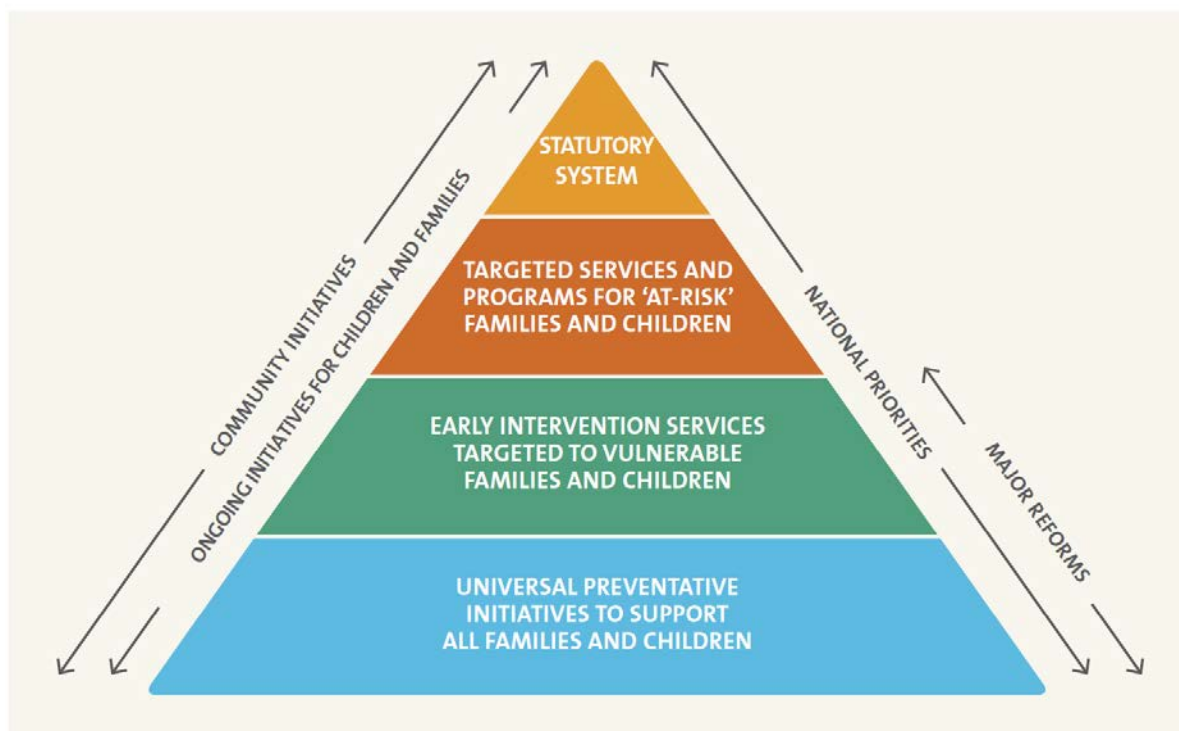
Source: *An Outline of National Standards for Out-of-home Care*, 2011.

2.65 The National Framework is implemented through a series of three-year plans. DSS is responsible for leading the development and implementation of the action plans, in cooperation with states and territories.

2.66 In its submission, DSS noted that the key achievements of the first (2009-2012) and second (2012-2015) action plans to date include:

- the development of national standards for out-of-home care to improve the quality of out-of-home care and promote a nationally consistent approach;

- the appointment of the first national children's commissioner;

- the child protection national minimum datasets, which allow comparability of child protection data across jurisdictions and support the monitoring of child protection services, programs and policies;

- development of transitioning from care resources and support including an increase to transition to independent living allowance to assist young people leaving formal care arrangements with the costs associated with transitioning to independent living arrangements;

- a child awareness approach to address risk factors for child abuse and neglect; and

- the establishment of the national research agenda for protecting Australia's children.[68]

2.67   The focus of the second plan is 'working together' across governments and non-government sectors to improve the safety and wellbeing of Australia's children and builds on, and strengthens delivery of, the identified national priorities from the first action plan.[69] The committee heard DSS are currently in the initial stages of consultation on the development of the third action plan (2015-2018).[70]

2.68   Families Australia suggested the third action plan (2015-2018) on the National Framework provides a vehicle through which the committee should seek to progress its recommendations.[71]

National standards for out-of-home care

2.69   One of the key initiatives of the National Framework was the development and implementation of the *National Standards for Out-of-home Care* (National Standards). The overall aim of the National Standards is to deliver a more consistent response for children and young people in out-of-home care.

2.70   There are thirteen national standards with agreed and defined measures. The measures are being progressively introduced from 1 July 2011. The 2012-13 annual report on the National Standards reported on seven measures relating to six of the standards.[72] The National Standards and associated measures are outlined in Table 2.4.

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68   Ms Barbara Bennett, Deputy Secretary, DSS, *Committee Hansard*, Canberra, 16 April 2015, p. 1.

69   DSS, *Submission 78*, p. 6.

70   Ms Barbara Bennett, Deputy Secretary, DSS, *Committee Hansard*, Canberra, 16 April 2015, p. 5.

71   Families Australia, *Submission 77*, p. 6.

72   DSS, *Submission 78*, p. 7.

Table 2.4 – Out-of-home care standards and measures

	Standard		Measures (existing or for future development)
1	Children and young people will be provided with stability and security during their time in care.	1.1	The proportion of children and young people exiting out-of-home care during the year who had 1 or 2 placements, by length of time in continuous care preceding exit.
		1.2	The rate and number of children in out-of-home care who were the subject of a child protection substantiation and the person believed responsible was living in the household providing out-of-home care.
		1.3	The proportion of children and young people in out-of-home care who report feeling safe and secure in their current placement.
2	Children and young people participate in decisions that have an impact on their lives.	2.1	The proportion of children and young people who report that they have opportunities to have a say in relation to decisions that have an impact on their lives and that they feel listened to.
3	Aboriginal and Torres Strait Islander communities participate in decisions concerning the care and placement of their children and young people.	3.1	The proportion of Indigenous children and young people in out-of-home care placed with the child's extended family, with the child's Indigenous community, or with other Indigenous people, by carer type.
4	Each child and young person has an individualised plan that details their health, education and other needs.	4.1	The proportion of children and young people who have a current documented case plan.
5	Children and young people have their physical, developmental, psychosocial and mental health needs assessed and attended to in a timely way.	5.1	The number and proportion of children and young people who have an initial health check of their physical, developmental, psychosocial and mental health needs within a specified period of entering out-of-home care.
6	Children and young people in care access and participate in education and early childhood services to maximise their educational outcomes.	6.1	The proportion of children and young people achieving national reading and numeracy benchmarks.

		6.2	The number and proportion of 3 and 4 year old children who participate in quality early childhood education and child care services.
7	Children and young people up to at least 18 years are supported to be engaged in appropriate education, training and/or employment.	7.1	The proportion of young people who complete year 10 and the proportion who complete year 12 or equivalent Vocational Education and Training.
8	Children and young people in out-of-home care are supported to participate in social and/or recreational activities of their choice, such as sporting, cultural or community activity.	8.1	The proportion of children and young people who report they may choose to do the same sorts of things (sporting, cultural or community activities) that children and young people their age who aren't in care do.
9	Children and young people are supported to safely and appropriately maintain connection with family, be they birth parents, siblings or other family members.	9.1	The proportion of children and young people in out-of-home care who are placed with relatives and kin.
		9.2	The proportion of children and young people who report they have an existing connection with at least one family member which they expect to maintain.
		9.3	The proportion of children (as age-appropriate) and young people who report having contact with family members, by the reported frequency of contact, by their reported satisfaction with contact arrangements.
10	Children and young people in out-of-home care are supported to develop their identity, safely and appropriately, through contact with their families, friends, culture, spiritual sources and communities and have their life history recorded as they grow up.	10.1	The proportion of Aboriginal and Torres Strait Islander children and young people who have a current cultural support plan.
		10.2	The proportion of children (as age-appropriate) and young people who demonstrate having a sense of connection with the community in which they live.
11	Children and young people in out-of-home care are supported to safely and appropriately identify and stay in touch, with at least one other person who cares about their future, who they can turn to for support and advice.	11.1	The proportion of children and young people who are able to nominate at least one significant adult who cares about them and who they believe they will be able to depend upon throughout their childhood or young adulthood.

12	Carers are assessed and receive relevant ongoing training, development and support, in order to provide quality care.	12.1	The number of foster carer households with a placement at 30 June, by number of foster children placed, and number of foster carer households with a placement during the year.
		12.2	The number of foster carers at 30 June, and the number of new approvals of persons as foster carers and the number of persons who cease to be approved foster carers during the twelve months to 30 June.
		12.3	The proportion of foster carers and kinship carers (who had at least one placement during the year) who report feeling supported in their role and who feel their developmental needs relevant to their role are catered for.
13	Children and young people have a transition from care plan commencing at 15 years old which details support to be provided after leaving care.	13.1	The proportion of young people aged 15 years and over who have a current leaving care plan.
		13.2	The proportion of young people who, at the time of exit from out-of-home care, report they are receiving adequate assistance to prepare for adult life.

Source: Department of Social Services, Table 1: National Standards for Out-of-home care, and related measures, tabled 16 April 2015.

Available data on National Standards measures

2.71   The committee acknowledges that as part of the second action plan of the National Framework, the Commonwealth, states and territories are working with AIHW to implement two key data collection projects to report against the National Standards.[73] The Productivity Commission also reports some out-of-home care indicators in its annual *Report on Government Services*.[74]

2.72   The first is the development and implementation of the Child Protection National Minimum Data Set (CP NMDS). In its submission, AIHW noted the CP NMDS aims to enhance the evidence base for child protection.[75] In its working paper on the CP NMDS, AIHW noted the development of the data set marks:

> …a major step towards improving the comparability of child protection data across jurisdictions, and positions Australia alongside only a handful of other countries with access to this type of national resource to support the monitoring of child protection services, programs and policies.[76]

2.73   AIHW noted in its submission that planned future work includes linking the CP NMDS with other data sets including NAPLAN education data and youth justice data to assist in measuring outcomes for children and young people in care.[77]

2.74   AIHW noted data relating to the outcomes for children in out-of-home care are not currently available from the CP NMDS. Planned future work will enable some outcomes-related data to be available, but currently data are only available for seven of the 22 National Standards measures.[78] These data are outlined in Table 2.5.

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73   DSS, *Submission 78*, p. 6.

74   The Productivity Commission noted its out-of-home care performance indicator framework already includes and reports upon several performance indicators identified in the National Framework and National Standards. The Productivity Commission noted it will align further developments in its out-of-home care performance indicator framework with developments in the National Framework and National Standards. See: Productivity Commission, *Report on Government Services 2015*, p. 15.60.

75   AIHW, *Submission 22*, p. 2.

76   AIHW, *A new approach to national child protection data: implementation of the Child Protection National Minimum Data Set*, Child Welfare Series no. 59, 2014, p. vi.

77   AIHW, *Submission 22*, p. 2.

78   AIHW, *Submission 22*, p. 2.

Table 2.5 – Available data on measures for National Standards for out-of-home care

No.	Measure	2011/12 data (during 2011/12 or at 30 June 2012)
1.1	Proportion of children and young people exiting OOHC during the year who had 1 or 2 placements, by length of time in continuous care preceding exit.	• 1–2 placements: 63 per cent; • < 4 placements: 85 per cent; • > 5 placements: 15 per cent.
1.2	Rate and number of children in OOHC who were the subject of a child protection substantiation and the person believed responsible was living in the household providing out-of-home care.	• 522 children out of 46 973 children in care (1.1 per cent).
3.1	Proportion of Aboriginal and Torres Strait Islander children and young people in OOHC care placed with the child's extended family, with the child's community, or with other Aboriginal and Torres Strait Islander people, by carer type.	• 69 per cent Aboriginal Torres Strait Islander children placed with extended family, Aboriginal and Torres Strait Islander community, or with other Aboriginal Torres Strait Islander people, including: • 38 per cent placed with Aboriginal and Torres Strait Islander relatives.
4.1	Proportion of children and young people who have a current documented case plan.	• Estimated 90 per cent of children (data from QLD, WA, TAS and the ACT).
9.1	Proportion of children and young people in out-of-home care who are placed with relatives and kin.	• 47 per cent of all children placed with relatives/kin: • 52 per cent of ATSI children placed with relatives/kin; and • 45 per cent of non-ATSI children placed with relatives/kin.
12.1	Number of foster carer households with a placement at 30 June, by number of foster children placed, and number of foster carer households with a placement during the year.	• At 30 June 2012, 8824 households with >1 foster care placements: 1 child (49 per cent); 2-4 children (46 per cent); >5 children (4 per cent). • During 2011/12, 11664 households with >1 foster care placements.
13.1	The proportion of young people aged 15 years and over who have a current leaving care plan.	• Estimated 77 per cent (data for VIC, QLD and WA only).

Source: AIHW, Submission 22, pp 7 – 12.

2.75   The other data collection project is a national survey of children and young people in out-of-home care. The survey will report on seven of the National Standards and eight associated measures.[79] AIHW told the committee that it will be the first survey that produces national comparable data and is expected to be released in December 2015.[80] Some states and territories have undertaken surveys of children and young people in out-of-home care, but the collected data are not comparable across jurisdictions and often not publicly reported.[81]

2.76   AIHW noted its survey is based heavily on the Viewpoint tool used in Western Australia.[82] At its Perth hearing, the committee heard the WA Advocate for Children in Care (WA Advocate) introduced the Viewpoint Audio Computer-Assisted Self-Interviewing (ACASI) tool in 2011 to be used by young people when preparing their annual care plan review. The WA Advocate, Ms Judith Garsed, told the committee:

> …Viewpoint ACASI is used to elicit views and wishes from young people to increase their opportunities for meaningful participation individually, but, beyond this, the system also aggregates individual responses into anonymous management reports across the same domain so that it is possible to access the views of groups of young people in teams, offices or across the state and on specific demographic details, such as age, ethnic background and placement type.[83]

2.77   DSS told the committee that the first full report on national standards, including the national survey data and data collected by AIHW, will be completed later in 2015.[84]

2.78   The committee also heard the Australian Institute of Family Studies (AIFS) is leading a consortium of academics with the Pathways of Care Study, a large-scale longitudinal study of children and young people in New South Wales who enter out-of-home care on a court order for the first time.[85] The Pathways of Care study, commenced in March 2011, aims to:

> …collect detailed information about the wellbeing of children placed in OOHC in NSW and the factors that influence their wellbeing. It will provide a strong evidence base to inform policy and practice, and in turn

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79   DSS, *Submission 78*, p. 7.

80   Ms Justine Boland, Acting Group Head, Community Services and Communication Group, AIHW, *Committee Hansard*, Canberra, 16 April 2015, p. 43.

81   AIHW, answer to question on notice, 16 April 2015 (received 20 May 2015).

82   AIHW, answer to question on notice, 16 April 2015 (received 20 May 2015).

83   Ms Judith Garsed, Advocate for Children in Care, Western Australian Department for Child Protection and Family Support, *Committee Hansard*, Perth, 16 February 2015, p. 52.

84   Ms Barbara Bennett, Deputy Secretary, DSS, *Committee Hansard*, Canberra, 16 April 2015, p. 6.

85   AIFS, *Submission 41*, p. 2.

improve decision making about how best to support children and young people who have experienced abuse and neglect.[86]

2.79   The committee notes that while the currently available data does not yet provide sufficient information to make an assessment of the outcomes for children and young people in out-of-home care, once fully developed, these new data sources offer the potential to provide more comprehensive data on outcomes for children in out-of-home care. Dr Daryl Higgins, Director of AIFS, told the committee:

> We are hoping that new data will emerge that will be able to tell us better who does do well and who does not within the system, and what the drivers or predictors are of better outcomes for those better trajectories, and what predictors there are for those children who continue to decline.[87]

Need for improved data collection

2.80   A number of submissions noted there is currently a significant lack of data on the outcomes for children and young people in out-of-home care.[88] Ms Michelle Waterford from Anglicare Australia told the committee that due to the lack of data, services are 'operating blind':

> [W]e certainly had anecdotal evidence to say that not only were the numbers increasing but the numbers of young people coming in and staying longer are increasing and also that that churn for young people coming in and going out and coming back in is increasing. All of that is anecdotal because we do not have the reliable data to be able to make those kinds of policy decisions or service decisions about how we support young people … at the moment I think the services are operating blind in terms of how that process actually happens.[89]

2.81   The committee heard that due to the lack of data, policies and practices to improve out-of-home care services are not currently informed by reliable evidence. Dr Nicholas Halfpenny from MacKillop Family Services told the committee:

> [O]ur experience is that a lot of public policy initiatives in this space are not evidence informed. There is not a great deal of attention paid to good evaluation and good decision making on the basis of evidence.[90]

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86   Marina Paxman, Lucy Tully, Sharon Burke and Johanna Watson, 'Pathways of Care: Longitudinal study on children and young people in out-of-home care in New South Wales,' *Family Matters,* No. 94, 2014, p. 16.

87   Dr Daryl Higgins, Deputy Director, Research, AIFS, *Committee Hansard*, Melbourne, 20 March 2015, p. 2.

88   See: Anglicare Australia, *Submission 87*, p. 5; RANZCP, *Submission 17*, p. 9; Mr Paul McDonald, CEO, Anglicare Victoria, *Committee Hansard*, Melbourne, 20 March 2015, p. 24.

89   Ms Michelle Waterford, Director, Research and Policy, Anglicare Australia, *Committee Hansard*, Canberra, 16 April 2015, p. 14.

90   Dr Nicholas Halfpenny, Director of Policy and Quality, MacKillop Family Services, *Committee Hansard*, Melbourne, 20 March 2015, p. 9.

2.82   Noting AIHW's data projects are still in the early stages of development, the committee identified a number of gaps in the current and planned national data collections for assessing the outcomes of children and young people in out-of-home care. In particular, these data projects do not compare outcomes for children and young people in out-of-home care with children and young people in the general population.[91]

2.83   In its submission AIHW identified the following data gaps in its collections about the needs of children and young people in out-of-home care across jurisdictions:

- specific relationship of relative/kin carers to the child (i.e. grandparent carers);

- permanency planning for children and young people;

- types of permanent placement options utilised (including adoption); and

- consistency of jurisdictional approaches to service delivery in out-of-home care (including outsourcing of out-of-home services to the NGO sector and funding/professionalisation of foster carers).[92]

2.84   While AIHW is working closely with state and territory child protection authorities, Families Australia highlighted the importance of incorporating 'service provider outcomes data from the community sector' into the CP NMDS and AIHW's future projects. Families Australia recommended the Commonwealth, through AIHW, work with state and territory governments to ensure data from the community sector is captured and incorporated.[93]

2.85   Submissions also highlighted the need for data on the specific needs of children and young people with disability, and how outcomes for these children compare with outcomes for other children and young people in out-of-home care. These submissions acknowledged collection of this data is difficult due to different definitions of disability across jurisdictions.[94] The specific needs of children and young people with disability are examined in Chapter 9.

2.86   Similarly, submissions highlighted the need for data on children from culturally and linguistically diverse backgrounds. These submissions supported incorporating information about children's backgrounds into national data collection.[95] The specific needs of children and young people from culturally and linguistically diverse (CALD) backgrounds are examined in Chapter 9.

2.87   The need for data on children transitioning from care will be examined in Chapter 4.

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91   Anglicare Australia, *Submission 87*, p. 5; RANZCP, *Submission 17*, p. 9; Mr Paul McDonald, CEO, Anglicare Victoria, *Committee Hansard*, Melbourne, 20 March 2015, p. 24.

92   AIHW, *Submission 22*, p. 2.

93   Families Australia, *Submission 77*, p. 4.

94   See: National Disability Services, *Submission 54*, p. 2.

95   See: Jatinder Kaur, *Submission 107*, p. 4.

Committee view

2.88   The committee acknowledges the work currently underway by AIHW and the states and territories under the National Framework to improve national data collection on the needs and outcomes for children and young people in out-of-home care. The committee particularly supports those projects that seek the views of children and young people in out-of-home care.

2.89   The committee recognises the importance of this data in contributing to the development of evidence-based programs and services to best meet the needs of children and young people and their families.

2.90   However, the committee notes there remain significant data gaps, particularly in regard to children with disability, children in kinship care arrangements, permanency planning and the role of community organisations, and how these impact on outcomes for children and young people.

Efficacy of the National Framework and National Standards

2.91   Most submissions and witnesses expressed general support for the National Framework and welcomed Commonwealth coordination and support.[96] Mr Chris Twomey from the Western Australian Council of Social Service (WACOSS) told the committee:

> We think the national framework is particularly important; that aligning quality standards and sharing information across jurisdictions is really helpful; and that some Commonwealth coordination is important to ensure that we are learning from best practice in other jurisdictions; and to ensure that particular areas in Australia—due to scale, history, whatever is happening—do not necessarily fall behind because they have not got the capacity.[97]

2.92   Mr Andrew McCallum from the Association of Children's Welfare Agencies highlighted the importance of Commonwealth involvement in addressing the key social issues that contribute to children entering out-of-home care:

> …given the federal nature of these sorts of inquiries, I think we need to look very clearly at what is happening at the national framework level and what it means in terms of the big structural levers that federal governments have the capacity to pull. This is a social cohesion problem. It is not just a welfare problem. It is not just a child protection problem. It is about the drivers.[98]

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96   See for example: MacKillop Family Services, *Submission 70*; Families Australia, *Submission 77*; Berry Street, *Submission 92*.

97   Mr Chris Twomey, Director of Policy, Western Australian Council of Social Service (WACOSS), *Committee Hansard*, Perth, 16 February 2015, p. 8.

98   Mr Andrew McCallum AM, CEO, Association of Children's Welfare Agencies, *Committee Hansard*, Sydney, 18 February 2015, p. 49.

2.93   Similar support was expressed for the National Standards. Ms Noelle Hudson from the CREATE Foundation, an organisation that advocates for children and young people in care, noted:

> …consistency and best practice around Australia can be achieved by the continuation of the National Framework for Protecting Australia's Children and the National Standards for Out of Home Care to deliver better quality outcomes for children in out-of-home care.[99]

2.94   The committee heard the National Standards are particularly important in those jurisdictions without an existing framework. David Pugh, Chief Executive Officer of Anglicare in the Northern Territory noted that:

> …without the national out-of-home care standards, we would have been stranded with an unregulated environment for delivering out-of-home care. More recently, the Northern Territory government has adopted the national out-of-home care standards, adapted them slightly and called them the Northern Territory out-of-home care standards—slightly watered down.[100]

2.95   However, while there was general support for the National Framework and the National Standards, the committee heard there are a number of issues affecting the ability of the framework to achieve their stated goals. As the National Children's Commissioner, Ms Mitchell, told the committee, the National Framework:

> …has been a very positive development resulting in basic standards for out-of-home care, improvements to data collection and the establishment of a national survey of children in care. However, the collective work of the states, territories and the Commonwealth in this area I believe must continue and intensify if the experience and opportunities of children in need of care and protection are to mirror that of other children.[101]

2.96   The key concerns raised by submissions and witnesses with regard to the National Framework are explored below.

Interaction with other frameworks

2.97   Families Australia told the committee of the importance of linking the National Framework to other existing national frameworks that address significant social issues.[102] In particular, Families Australia noted the significance of the *National Plan to Reduce Violence against Women and their Children 2010–2022* that outlines

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99   Ms Noelle Hudson, National Policy and Advocacy Manager, CREATE Foundation, *Committee Hansard,* Brisbane, 17 April 2015, p. 17.

100   Mr David Pugh, CEO, Anglicare NT, *Committee Hansard*, Darwin, 2 April 2015, pp 2–3.

101   Ms Megan Mitchell, National Children's Commissioner, *Committee Hansard*, Sydney, 18 February 2015, p. 1.

102   Ms Helen Bedford, Policy Officer, Families Australia, *Committee Hansard,* Canberra, 16 April 2015, p. 49.

the Commonwealth, state, territory and community plan to reduce violence against women and their children.[103]

2.98   The National Children's Commissioner, Ms Mitchell, told the committee these two national frameworks:

> …need to be working together in lock-step in order to reduce violence in the community. That goes right to teaching kids that it is not okay in school, in curriculum type settings, that violence is not a way to solve problems, right through to dealing with perpetrators and victims in different ways.[104]

2.99   Similarly, Ms Emma White, Director General of the WA Department for Child Protection and Family Support, told the committee of the importance of linking together related national frameworks:

> [F]amily and domestic violence being a key driver for child protection is a national experience. It is very hard to talk about child protection, or in fact sexual abuse, without talking about family and domestic violence. There is a certain assumed starting point within those two national frameworks about how they fit together. The challenge going forward is how to make that operational into every interface with families and children.[105]

Accountability

2.100   The committee heard one of the most significant issues with both the National Framework and National Standards is the lack of accountability to ensure government and non-government agencies are applying and meeting the standards and principles in the delivery of out-of-home care services. A number of submissions noted one of the weaknesses of the National Framework and standards is the lack of enforceable measures.[106]

2.101   As Ms Connie Salamone, Executive Director of the Victorian Aboriginal Child Care Agency (VACCA), told the committee, 'we have a national framework that really does not have enough teeth':

> We have got a national framework where there is agreement across the fundamentals that we want for Aboriginal children, and the national

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103   DSS, *The National Plan to Reduce Violence Against Women and their Children 2010-2022*, https://www.dss.gov.au/our-responsibilities/women/programs-services/reducing-violence/the-national-plan-to-reduce-violence-against-women-and-their-children-2010-2022 (accessed 20 May 2015).

104   Ms Megan Mitchell, National Children's Commissioner, *Committee Hansard*, Sydney, 18 February 2015, p. 5.

105   Ms Emma White, Director General, Department for Child Protection and Family Support, *Committee Hansard*, 16 February 2015, p. 64; Families Australia, *Submission 77*, p. 3.

106   See: Berry Street, *Submission 92*; Barnardos Australia, *Submission 20*; and MacKillop Family Services, *Submission 70*.

framework is beyond Aboriginal children. It is the capacity to actually implement that has been, I think, quite poor. [107]

2.102   The committee heard the National Framework and National Standards are not legislated in any state or territory and there is no external oversight to ensure compliance and no means to investigate or penalise breaches. Mr Michael Geaney, Chair of the Alliance for Children at Risk, noted the child protection system is responsible:

> …to account for its adherence to good practice principles. That is the problem with our legislative process: it does not require it. It is an endeavour; it is not a requirement. There is no external view to that. People should be watching us. People should be inquiring into what benefit we are providing the children. We should not be our own judge and jury about how good we are. [108]

2.103   In the Northern Territory, Ms Wendy Morton, Executive Director of the Northern Territory Council of Social Service noted recent changes to funding by the NT Government are not consistent with the principles of the National Framework:

> …everybody signed up to it [the National Framework], and yet, clearly, going through the recent funding processes or the focus of the Northern Territory government, I do not think that it could be said that that is complying or fits well with the framework that they have signed up to. [109]

2.104   Due to the lack of enforceable measures, Barnardos Australia argued the National Standards have become little more than 'failed data collection exercises'. Barnardos recommended that out-of-home care services delivered by both government and non-government bodies should be subject to a national accreditation system, similar to the process in place in NSW whereby an independent body (such as the Children's Guardian) assesses, monitors and audits agencies delivering out-of-home care services. [110]

2.105   In its submission, Berry Street also supported the introduction of mechanisms to ensure implementation and compliance with National Standards, including development of a performance framework to measure compliance at state and territory level. [111]

2.106   In addition to the lack of accountability, the committee heard concerns about which level of government was taking leadership to progress the action plans under

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107   Mrs Connie Salamone, Executive Director, VACCA, *Committee Hansard,* Melbourne, 20 March 2015, p. 39.

108   Mr Michael Geaney, Chair, Alliance for Children at Risk, *Committee Hansard*, Perth, 16 February 2015, p. 22.

109   Ms Wendy Morton, Executive Director, NTCOSS *Committee Hansard*, Darwin, 2 April 2015, p. 10.

110   Barnardos Australia, *Submission 20*, pp 5-6.

111   Berry Street, *Submission 92*, p. 3.

the National Framework and National Standards.[112] The first two action plans under the National Framework were progressed by the Standing Council on Community and Disability Services. At its meeting on 13 December 2013, COAG agreed to collapse its 22 councils into eight new councils.[113] The committee understands responsibility for progressing and implementing projects under the National Framework now sit with the Children and Families Secretaries Group (CAFS).[114]

Local response

2.107   The committee also heard the high-level principles outlined in the National Framework and National Standards did not necessarily translate into tangible actions at the organisational level for government and non-government agencies. In the Northern Territory, the committee heard agencies like Anglicare have been working to adapt the National Standards for workers at the service delivery level:

> …so that workers on the ground understand that, when the national standard talks about cultural practice, the worker knows what that means in practical terms about how their day-to-day work with the young person keeps the child connected to culture and family.[115]

2.108   While the National Standards are developed and implemented by the Commonwealth, state and territory governments and non-government sector at the national level, there is no equivalent governance structure at the state and territory level to ensure the standards are applied at a local level. To counter this, Mr David Pugh from Anglicare in the Northern Territory suggested:

> …at the NT level, the national framework could have a consortium, like they have at the national level—it is a consortium of federal, states and NGOs. That needs to happen … That would make a huge difference, even just to get it to a place based or local level.[116]

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112   MacKillop Family Services, *Submission 70*, p. 6.

113   Council of Australian Governments (COAG), *COAG Councils*, http://www.coag.gov.au/coag_councils (accessed 12 May 2015).

114   The Children and Families Secretaries Group (CAFS) comprise heads of departments responsible for children and families. At the 2014–15 Additional Estimates Hearings, the Department of Social Services advised that CAFS oversees the National Forum for Protecting Australia's Children (the Forum). The Forum comprises representatives from Commonwealth, state and territory governments, and the non-government sector represented by members of the Coalition of Organisations Committed to the Safety and Wellbeing of Australia's Children. The Forum is responsible for progressing and implementing selected actions under the National Framework that require collaboration between jurisdictions and the NGO sector. The Forum held its first meeting on 3 December 2014. See: Department of Social Services, answer to question on notice no. SQ15-000214 and SQ15-000216, received 7 April 2015, Senate Community Affairs Legislation Committee, 2014–2015 Additional Estimates Hearings, http://www.aph.gov.au/Parliamentary_Business/Senate_Estimates/clacctte/estimates/add1415/Social%20Services/index (accessed 18 August 2015).

115   Mr David Pugh, CEO, Anglicare NT, *Committee Hansard*, Darwin, 2 April 2015, p. 3.

116   Mr David Pugh, CEO, Anglicare NT, *Committee Hansard,* Darwin, 2 April 2015, p. 10.

Funding

2.109   The committee heard that one of the key challenges for addressing accountability for the National Framework and the National Standards is the lack of associated funding. Witnesses noted that although National Partnership agreements are in place between the Commonwealth, state and territory governments for issues such as homelessness and early childhood, there is no similar funding arrangement for child protection. Ms Patricia Murray, Chief Executive Officer of Wanslea Family Services in Western Australia noted:

> …this framework had no funding attached to it. It was all principle...If we are going to do it seriously there has to be some funding attached to it so that it gets the resources it needs; otherwise, you are waiting for buy-in and states to commit to it. And states have other priorities.[117]

2.110   In addition, evidence to the committee suggested that state and territory funding models are not structured to support the National Framework and that out-of-home care funding is crisis driven and shaped in response to major government inquiries. Mr Matthew Gardiner, Executive Director of the Benevolent Society expressed concern:

> …that reforms, inquiries and program funding seems to follow election cycles rather than some really decent planning and commitment to it…Those of us who have been around long enough have just seen that this is all cyclical. There is the national framework, and so we are committing to early intervention. Every time there is a major incident, the state conducts an inquiry. They are all crisis driven.[118]

2.111   Likewise, Mr Julian Pocock, Director Public Policy, Berry Street agreed that:

> …if we do not fundamentally fix the way the system is funded and change the funding to a demand-based model so that, as the number of children coming into the system grows, the level of funding available to support and place those children grows commensurate with that growth. Then the gains we will make in improving the system will only ever be marginal.[119]

Committee view

2.112   The committee is strongly concerned by evidence that suggests child protection systems continue to be crisis driven. While acknowledging the initiatives undertaken by state and territory governments in response to a range of child protection inquiries, the committee is concerned that the number of children in out-of-home care continues to increase and the significant issues raised by these inquiries remain unresolved.

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117   Ms Patricia Murray, CEO, Wanslea Family Services, *Committee Hansard*, Perth, 16 February 2015, p. 29.

118   Mr Matthew Gardiner, Executive Director, Community Services, Benevolent Society, *Committee Hansard,* Sydney, 18 February 2015, p. 51.

119   Mr Julian Pocock, Director, Public Policy, Berry Street, *Committee Hansard*, Melbourne, 20 March 2015, p. 6.

2.113   The committee acknowledges the commitment by Commonwealth, state and territory governments, through the National Framework, to improving the outcomes for children and young people in statutory care. However, the committee is concerned that at the half-way point of the implementation of the National Framework, there appears to be little progress in improving outcomes for children and young people in out-of-home care and their families. The continued increase in the number of children and young people entering and remaining in out-of-home care over the past five years since the National Framework has been in place indicates the high level principles espoused in the National Framework and its action plans are not translating into positive improvements for children and young people.

2.114   The committee considers the third action plan (2015–2018) for the National Framework as the most appropriate means to progress the committee's recommendations, to harness the commitment by Commonwealth, state and territory governments to improve outcomes for children and young people.

2.115   The committee recognises the National Framework lacks 'teeth' and there is limited oversight under the new COAG structure to ensure governments of all levels comply with its principles and objectives. The committee supports reinvigorating the National Framework to include measures to increase accountability, funding and local responses, as well as integrating it with other frameworks including the *National Plan to Reduce Violence against Women and their Children 2010–2022* and the *National Drug Strategy 2010–2015*.