



Commissioner for Children and Young People
Western Australia

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The Hon. Justice Peter McClellan AM
Chair
Royal Commission into Institutional Responses to Child Sexual Abuse
GPO Box 5283
SYDNEY NSW 2001

Dear Justice McClellan

Issues Paper 4: Preventing Sexual Abuse of Children in Out of Home Care

As the Commissioner for Children and Young People in Western Australia (WA) I have a statutory responsibility to advocate for what is in the best interests of all children and young people under the age of 18 in WA. In undertaking my responsibilities I must have special regard to the interests and needs of Aboriginal and Torres Strait Islander children and young people and those children and young people who are vulnerable or disadvantaged in some way.

In WA there are nearly 4000¹ children and young people in the care of the Department for Child Protection and Family Support (DCPFS), most of whom are living in Out of Home Care (OOHC) arrangements. International and national studies consistently show that children and young people in OOHC experience high levels of disadvantage and have exceptionally poor mental health and social competence relative to the general population.²

My previous submissions to the Royal Commission in regard to Issues Paper 3 – Child Safe Institutions, covers many of the core strategies that are required to keep children and young people in OOHC safe such as, rigorous recruitment practices for carers, appropriate policies and procedures relevant to the care environment, valuing and empowering children and young people, and ensuring access to avenues to raise concerns where they arise. In addition I would draw the following specific issues to the Royal Commission's attention in relation to the particular needs of children and young people in OOHC.

Vulnerability of children and young people in out of home care

Ordinarily children and young people rely on trusted adults, usually their parents, to protect them from harm and to assist them to raise concerns about their welfare. It is well recognised that children and young people placed in OOHC are more vulnerable to

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further abuse for a range of reasons, including, the impact of past abuse and limited access to trusted adults to advocate on their behalf.³

The rates of abuse of children in OOHC are difficult to establish due to differences in data collection and reporting.⁴ However The *National Standards for Out of Home Care*⁵ include measures that will provide some nationally consistent data on abuse of children in OOHC and their feeling of safety and security.

The vast majority of children in OOHC are in home-based care such as foster or kinship care arrangements. The exceptional work undertaken by carers who provide loving and nurturing environments for children and young people who are placed in their care must be acknowledged. However, the rapid growth in this type of care in recent years has placed many pressures on the recruitment and availability of carers and a number of inquiries^{6,7} in Australia have drawn attention to cases of abuse of children in home-based care.

As previously stated, many of the principles of child safe organisations can be applied to home-based care arrangements however tailoring of strategies will be required to ensure they are suitable and not overly intrusive or compromising of the home environment.

Consideration of the application of child-safe principles to home-based OOHC arrangements to strengthen the safety of children and young people is required in addition to providing greater support to carers to reduce stress, and improve their skills and capabilities in the management of children and young people affected by abuse.

The significance of placement stability, the challenges of meeting the needs of children and young people who have been impacted by abuse and the overrepresentation of Aboriginal and Torres Strait Islander children and young people are also critical issues in the vulnerability of children and young people in OOHC.

All children and young people in OOHC including those in home-based and residential facilities require:

- access to relevant services to ensure that the mental health and other needs of children and young people are met to reduce their vulnerability and improve their outcomes
- regular, satisfying visits from their caseworker, and,
- awareness of, and access to, advocates who can support them to raise issues of concern when they arise.

In addition systems should ensure that caseworkers are trained in cultural awareness and culturally sensitive child protection practice to ensure that the needs of Aboriginal and Torres Strait Islander children and young people, and children and young people from a migrant or refugee background, are appropriately identified and managed.

External monitoring and oversight

Inquiries⁸, both in Australia and internationally, indicate that external, independent monitoring systems and services is a fundamental part of ensuring children and young people are protected from abuse. A range of different models for the external oversight of OOHC arrangements exist around Australia and provide a degree of

external scrutiny for some children living in OOHC. These include community visitor schemes, case file audit systems and inspectorate functions in various jurisdictions. Oversight functions such as that performed by the NSW Ombudsman to scrutinise the actions of specified agencies in regards to the management of employment related child abuse also provide a level of transparency and reassurance that legislation, policies and procedures are being appropriately implemented.

Further work is required to establish the relative merits and effectiveness of different models, however, a comprehensive, systematic approach for independent scrutiny of OOHC arrangements should be developed in each jurisdiction, if not nationally, to ensure that all vulnerable children and young people are adequately protected and provided for by the relevant authorities.

Importantly, obtaining the views of children and young people and their carers should be a critical part of any monitoring system.

In conclusion, every effort should be made to ensure that the systems in place to support and protect children and young people who have been subject to abuse are safe and effective. OOHC provides some unique challenges that need to be addressed and adequate resources should be allocated to this important area.

I would be happy to provide further comment as required.

Yours sincerely



MICHELLE SCOTT

Commissioner for Children and Young People WA

25 October 2013

¹ As at 31 December 2012 – source DCPFS website key statistics – retrieved 23 October 2013

<http://www.dcp.wa.gov.au/Resources/Pages/StatisticsForMedia.aspx>

² Osborn A & Bromfield L 2007, *Young people leaving care*, Child Protection Clearing House, Australian Institute of Family Studies.

³ Utting, Sir W., 1997, *People Like Us: The Report of the review of safeguards for children living away from home*, DoH, UK) in Stuart, M & Baines, C (2004) *Progress on safeguards for children living away from home: A review of actions since the People Like Us report*. Joseph Rowntree Foundation, UK.

⁴ AIHW 2006. *Child protection and out-of-home care performance indicators*. Cat. no. CWS 29. Canberra: AIHW. Viewed 23 October 2013 <<http://www.aihw.gov.au/publication-detail/?id=6442467910>>.pp xi

⁵ Commonwealth of Australia 2011 *An Outline of National Standards for Out-of-Home-Care*. www.dss.gov.au

⁶ Northern Territory Government 2010, *Growing them Strong, Together: Promoting the safety and wellbeing of the Northern Territory's children*, Summary Report of the Board of Inquiry into the Child Protection System in the Northern Territory 2010, M.Bamblett, H. Bath and R. Roseby, Northern Territory Government, Darwin.

⁷ Ombudsman Victoria. *Own motion investigation into Child Protection – out of home care*. May 2010.

www.ombudsman.vic.gov.au

⁸ Cummins, P. Scott D & Scales B (2012) *Report of the Protecting Victoria's Vulnerable Children Inquiry*. Department of Premier and Cabinet, State of Victoria.