



Commissioner for Children and Young People
Western Australia

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Senator Rachel Siewart
Chair
Standing Committee on Community Affairs - References Committee
Parliament of Australia

Submitted by email to community.affairs.sen@aph.gov.au

Dear Senator Siewart

Inquiry into grandparents who take primary responsibility for raising their grandchildren

As Acting Commissioner for Children and Young People in Western Australia I am pleased to provide the Standing Committee on Community Affairs – References Committee (the Committee) with a submission in response to the current Inquiry into grandparents who take primary responsibility for raising their grandchildren (the Inquiry).

Under the *Commissioner for Children and Young People Act 2006* it is my role to advocate for what is in the best interests of all children and young people under the age of 18 years in Western Australia (WA) and to promote and monitor their wellbeing. It is also a function of my office to promote the participation of children and young people in the making of decisions that affect their lives.

In undertaking my functions I must give priority to Aboriginal and Torres Strait Islander children and young people and children and young people who are vulnerable or disadvantaged for any reason. I must also have regard for the United Nations Convention on the Rights of the Child.

I am pleased that the Committee is undertaking this Inquiry into this important area. The number of children and young people who are unable to live with their parents, mostly due to child abuse and neglect, and have been formally placed in out-of-home care has almost doubled in Australia since 2003¹. The majority of these children and

¹ Australian Institute of Family Studies (AIFS) (2013) Children in Care. Fact Sheet. June 2013. www.aifs.gov.au/cfca/pubs/factsheets/a142092/index.html

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young people are living in relative or kinship care, primarily with grandparents² and this is the fastest growing form of out-of-home care across Australia.³

Further there are an unknown number of children and young people who are primarily in the care of their grandparent/s, under informal arrangements where there is no court or statutory authority intervention and they are not necessarily reflected in the published statistics on children in out-of-home care. Their needs must also be considered in response to this Inquiry. For the purposes of this submission I will use the term 'out-of-home care' to refer to children in both formal and informal arrangements.

I would also like to acknowledge the dedicated efforts of the many foster families and residential care workers who also strive to provide the best of care for the children and young people placed in other out-of-home care arrangements. However it is important that, in this instance, grandparents as provider of out-of-home care remain the focus.

My office, since its inception in 2007, has had considerable contact with children and young people, their families and service providers across WA, including children and young people in out-of-home care. In 2009 my office conducted research into what children and young people saw as most important to their wellbeing and the support of a loving family was considered the most significant factor by children and young people, regardless of their circumstance, background, geographic residence or ethnicity.⁴

For children and young people who are not able to live with their parents, feeling loved, safe, supported, and having a sense of belonging that children and young people describe as important in a family, are still valid, regardless of the nature of the composition of their family or living arrangements.

In undertaking all my work I advocate strongly for the participation of children and young people and promote the engagement of decision makers with children and young people to hear their views and ideas about matters that concern them. In this regard I strongly encourage the Committee to create opportunities to speak with children and young people with experience of living in out-of-home care to hear, first hand, about their needs and what is important to their wellbeing.

I appreciate the sensitivities of consulting with children and young people in out-of-home care and organisations such as Wanslea Family Services in WA who provide specific services to families where grandparents are caring for their grandchildren are well placed to assist the Committee undertake such a consultation appropriately. My office has also produced guidelines to assist organisations undertake activities to include the participation of children and young people. The *Involving children and*

² Brennan, D., Cass, B., Flaxman, S., Hill, T., Jenkins, B., McHugh, M., Purcal, C., & valentine, k. (2013) Grandparents raising grandchildren: Towards recognition, respect and reward (SPRC Report 14/13). Social Policy Research Centre (SPRC), University of New South Wales, p. 1.

³ Boetto, H. (2010) Kinship Care: A review of the Issues. *Family Matters 2010 No. 85*. Australian Institute of Family Studies, p. 60 – 67.

⁴ Commissioner for Children and Young People (2011) *Speaking out about wellbeing: children and young people speak out about families*. www.ccp.wa.gov.au

young people: Participation Guidelines are available to download from my website at www.ccyp.wa.gov.au.

Additionally, I encourage the Committee to consider policy, service and program development and delivery based on evidence and thorough evaluation of what works in achieving the intended outcomes.

In responding to this Inquiry I will address the Terms of Reference referring to the views of children, young people and their families and the evidence base where appropriate.

a) The practical challenges facing grandparents raising their grandchildren, and their support needs.

Recent research into this subject indicates that grandparent carer's face challenges across a broad range of issues including, financial, health, housing, employment and relationships.⁵ Consistent with this the families that have been in contact with my office are also concerned with a broad range of issues, however they have been primarily concerned with:

- accessing sufficient income to support the children in their care
- resolving legal issues
- accessing appropriate services such as counselling, health care and education
- obtaining information and support with 'parenting' issues, particularly once their grandchildren become teenagers.

Whilst grandparent carers come from a broad range of backgrounds and circumstance research has indicated that they are more likely to be older, single, female, have lower incomes and experience poorer health.⁶

Commonly the grandparents who do contact my office focus on the needs of the children in their care and are less forthcoming about their own needs however I also understand that many of them struggle with meeting their own health needs, preserving their partner relationships, and become increasingly isolated from their social networks due to their caring responsibilities. Significantly, placement stability⁷ is a key factor in the positive outcomes for children and young people who experience out-of-home care and it is incumbent on government to ensure that grandparent carers receive the support and resources they need to adequately provide for the children and young people in their care.

⁵ Op cit. Brennan, et al (2013) p. 2 – 4.

⁶ Op cit. Boetto, (2010) p. 62.

⁷ Osborn, A. & Bromfield, L. (2007) Outcomes for children and young people in care. *Research Brief No. 3, 2007*. National Child Protection Clearinghouse, Australian Institute of Family Studies, p. 6 – 7.

Whilst accurate figures are difficult to establish it is generally accepted that children and young people with disability are overrepresented in the child protection system.⁸ In 2013 my office undertook a consultation with more than 200 children and young people with disability from a broad range of backgrounds. The report⁹ of that consultation highlights the importance of having a stable and loving home life but also clearly indicates the additional demands placed on family structures where a child or young person has disability.

*"Having a disability affects the whole family. My family get tired and need a break. My needs come first every day because I need so much help."
13 year old boy*

Ensuring that the additional care requirements are met and adequate supports are available to grandparents caring for a child with disability is essential.

Systems of support need to cater for the variety of needs and provide a flexible service that is guided by the needs of the carer's and the children and young people they are caring for rather than impose rigid, generic services and programs across the board.

The geographic vastness of WA also presents considerable challenges to the provision of services and supports and consideration of the particular challenges of grandcarers living in regional and remote locations is essential.

b) The role and contribution of grandparents raising their grandchildren, and how this should be acknowledged.

The extensive contribution of grandparents caring for their grandchildren has already been noted in their growing involvement for the majority of children now in out-of-home care who would otherwise be in other forms of government provided care. This represents a considerable cost saving to governments that could be channelled into providing the aforementioned services and supports required by grandparents. Providing such services and supports is, in itself, an important recognition of the contribution they make and acknowledgement of the challenges that come with being the primary carer for their grandchildren.

For those with informal care arrangements providing access to the same services and supports would also provide such recognition.

Importantly the inclusion of grandparents in decision making processes in relation to the children when they are under statutory care arrangements is critical to recognising and respecting their contribution.

⁸ CREATE Foundation (2012) *Supporting children and young people with a disability living in out-of-home care in Australia*. Literature review. CREATE Foundation, Queensland.
www.create.org.au

⁹ Commissioner for Children and Young People (2013) *Speaking Out About Disability: The views of Western Australian children and young people with disability*. www.ccyp.wa.gov.au

(c) Other challenges that grandparents raising their grandchildren face in undertaking their role, including circumstances complicated by family conflict, mental illness, substance abuse, homelessness, child abuse or neglect, or family violence.

The circumstances that lead to a child requiring out-of-home care are usually a combination of distressing and volatile factors of an ongoing nature, such as mental illness and/or alcohol and drug abuse. Grandparents who have spoken to my office have communicated the distress and grief attached to seeing their child experience the devastating consequences of such problems in addition to their concerns for the wellbeing of their grandchildren. Mediating parental access to the children and young people in their care, and managing financial issues over access to payments are often sources of conflict between grandparent carers and the parent/s of the children in their care, and at times can be the source of threats, harassment and violence. Access to services to assist grandparent carers understand their rights, negotiate contentious issues, provide safety strategies and respond in emergency situations are essential.

Importantly a collaborative and coordinated approach should be undertaken by services and agencies involved with the different parties to ensure that complementary and effective strategies are employed. Case management or other mechanisms to provide a central point for the grandcarer to seek assistance, access information and coordinate care decisions as appropriate could be considered.

Whilst it is important that more is done across the board to assist grandparent carers with all of these challenges identified I would particularly draw the Committee's attention to the issue of access to appropriate support services to assist in the management of the mental health needs of the children and young people in their care. Children and young people being moved into care have usually experienced considerable trauma and disruption in addition to any matters of abuse or neglect they have experienced and it is well recognised that children in care have poorer mental health outcomes.¹⁰

In 2011 my office published the *Report of the Inquiry into the Mental Health and Wellbeing of Children and Young People in Western Australia*.¹¹ This Report identified the specific needs of children and young people in care and their increased vulnerability to mental health issues. The importance of a stable living environment, proper assessment of mental health needs and access to the necessary treatment services were all identified as critical to the wellbeing of these children and young people. Ensuring this is addressed in supporting grandparent carers should be a priority matter.

I also note that the mental health of grandparents as carers has been identified as an issue, often associated with the stress and worry in dealing with the challenges identified, and attention could be made to providing appropriate access to counselling, support and respite for grandparent carers.

¹⁰ Op cit. Osborn et al (2007) p. 12

¹¹ Commissioner for Children and Young People (2011) *Report of the Inquiry into the Mental Health and Wellbeing of Children and Young People in Western Australia*. www.ccyp.wa.gov.au p. 83

(d) The barriers that grandparents raising their grandchildren face in acquiring legal recognition of their family arrangements, including Legal Aid entitlements for grandparents seeking to formalise their custodial arrangements through the Family Law Courts.

I understand from the literature¹² that grandparent carers experience at times complex, and costly, legal processes. Grandparent carers have expressed their frustration at the lack of information, poor communication, lengthy delays and perceived unnecessary complexities of legal processes.

Whilst it is important that the legal entitlements of parents are also respected, consideration could be given to the nature of the legal challenges experienced by grandparent carers, both informal and formal, and the required information, systems of support and legislative frameworks required to ensure the best interests of children and young people are afforded and the role and status of grandparent carers is respected and given due status.

(e) The practical measures that can be implemented by the Commonwealth, state and territory governments and the community sector to better support grandparents raising their grandchildren, including key priorities for action.

Article 20 of the Convention on the Rights of the Child¹³ requires that children who cannot be looked after by their parents have a right to special protection and assistance by the State.

I acknowledge recent work undertaken in Western Australia by the State Government to introduce an annual payment for grandcarers in January 2013 through the Grandcarer Support Scheme¹⁴. Additionally I am aware of the WA Department for Communities (now Department for Local Government and Communities) publication *Grandfamilies: A Resource for Western Australian Grandparents raising Grandchildren*¹⁵ published to assist grandparents to access relevant information, programs and services that are available to them.

It is important to recognise that for most lay people the jurisdictions of the various agencies is a source of confusion and frustration. My office has heard from people frustrated by the challenges of working across state and territory jurisdictions when children and young people in the care of one jurisdiction are residing in a different jurisdiction. Therefore it is my view that improved coordination and collaboration between the different jurisdictions and the establishment of clear pathways to access services and supports could be a central consideration of all future development of services and supports to grandcarers.

¹² Op cit. Boetto (2010) p. 63

¹³ Office of the High Commissioner for Human Rights. (1990) Convention on the Rights of the Child. www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx

¹⁴ Grandcarer Support Scheme. www.wanslea.asn.au

¹⁵ Department for Communities (2012) *Grandfamilies: A Resource for Western Australian Grandparents raising Grandchildren*. 4th Edition 2012. Government of Western Australia. www.communities.wa.gov.au/Documents/Seniors/Grandfamilies%20booklet_FINAL3-8-2012.pdf

I have nominated some suggested key priorities at the end of this submission.

(f) The specific needs of particular groups with the caring population.

Aboriginal and Torres Strait Islander children and young people are significantly over-represented in the child protection system and, in Western Australia, are 15 times more likely to be in out-of-home care than non-Aboriginal children and young people.¹⁶ Nearly 70 per cent of Aboriginal children and young people in out-of-home care are placed with relatives¹⁷ and research has shown an increased willingness of Aboriginal families to care for children who have been removed from their parents.¹⁸ However this increased willingness is not without its challenges:

'Although studies have suggested that many Aboriginal and Torres Strait Islander peoples are willing to care for Aboriginal and Torres Strait Islander children removed from their families, these children are over-represented in out-of-home care. This means many Aboriginal and Torres Strait Islander parents are unable to care for their own children (let alone another person's child). Material disadvantage and trauma associated with past welfare practices such as the removal of children from their parents (the "stolen generation") may lead to an unwillingness to be associated with the formal out-of-home care service system and may also mean Aboriginal and Torres Strait Islander adults are less able to care for children. A tension between a cultural commitment to community and an aversion to formal child welfare among Aboriginal and Torres Strait Islander peoples appears to be a fundamental issue in enhancing culturally appropriate placements for Indigenous children.

While Indigenous children continue to be over-represented in out-of-home care, maintaining the availability of a viable, appropriate and well-supported cohort of placements for Indigenous children is critical to the wellbeing of Indigenous children in care and the sustainability of the care system.¹⁹

Understanding, respecting and working with the unique cultural differences of Aboriginal and Torres Strait Islander communities is critical to ensuring access to appropriate systems of support for the wellbeing of their children and young people.

¹⁶ Australian Institute of Health and Welfare 2013. Child protection Australia: 2011–12. Child Welfare series no. 55. Cat. no. CWS 43. Canberra: AIHW, p. 42

¹⁷ Ibid. p.42

¹⁸ Higgins, D., Bromfield, L. & Richardson, N. (2005) *Enhancing out-of-home care for Aboriginal and Torres Strait Islander young people*. A report to the Australian Council of Children and Parenting commissioned by the Australian Government, Department of Family and Community Services. National Child Protection Clearinghouse, Australian Institute of Health and Welfare.

¹⁹ Ibid. Higgins et al (2005) p. 3

Similarly the needs of families from culturally and linguistically diverse backgrounds require careful consideration in regard to the role of extended family members and the differences in child rearing practices.²⁰

(g) Other related matters.

Little is known about how well children and young people fare in relative or kinship care²¹, including placements with grandparents, in terms of outcomes in comparison to other types of out-of-home care or to children and young people who have not spent time in care. Previous inquiries into child protection systems highlight the extreme vulnerability of children and young people taken into care and their potential to suffer further abuse and neglect even in relative and kinship care placements. It is important that further research is undertaken to inform policy and practice in this area and ensure that assessment of placement suitability and systems of ongoing monitoring are effective in promoting and protecting the wellbeing of children and young people in out-of-home care wherever they are placed.

In summary I provide the following key points for consideration by the Committee in undertaking this Inquiry:

- I recommend that the Committee consider options for including the views of children and young people with experience of living in out-of-home care in their consultations.
- Grandcarers should be provided with access to services and supports necessary to meet the needs of caring for grandchildren for whom they are the primary carers under both formal statutory and informal arrangements including access to:
 - adequate financial support
 - mental health and treatment
 - parenting information and advice
 - services for dealing with conflict, harassment and violence – including in emergency situations
 - access to legal advice and support.
- The needs of specific groups, as identified above, are considered in the development of services, programs, policies and practices designed for grandparents with a primary care of a grandchild or grandchildren.
- Further research is undertaken to understand the outcomes for children and young people placed in relative or kinship care to inform policy and practice frameworks to ensure the best outcomes for children and young people.

²⁰ Kaur, J. (2012) *Cultural Diversity and Child Protection: Australian research review on the needs of culturally and linguistically divers (CALD) and refugee children and families*. Queensland, Australia.


²¹ Australian Institute of Family Studies (AIFS) (2013) Children in Care. Fact Sheet. June 2013. www.aifs.gov.au/cfca/pubs/factsheets/a142092/index.html

I appreciate the opportunity to provide these comments to the Committee and would be happy to provide further information as required.

Yours sincerely

JENNI PERKINS

A/Commissioner for Children and Young People WA

 February 2014