



**SUBMISSION TO THE  
SENATE COMMUNITY AFFAIRS  
REFERENCE COMMITTEE**

**INQUIRY INTO GRANDPARENTS WHO  
TAKE PRIMARY RESPONSIBILITY FOR  
RAISING THEIR GRANDCHILDREN**

14 March 2014



## Introduction

The Commission for Children and Young People (the Commission) has particular legislated responsibilities under the *Commission for Children and Young People Act 2012*. The overarching objective of the Commission is to promote continuous improvement and innovation in policies and practices relating to the safety and wellbeing of 'vulnerable' children and young persons, and children and young persons generally; and the provision of out of home care services for children. 'Vulnerable' children and young persons are specifically defined in section 5, as those who are or were a child protection client, a youth justice client, a person attending a youth justice unit in accordance with an order of the Children's Court, a child who is receiving or has received services from a registered community service, a child whose primary family carer is receiving or has received services from a registered community service, a child who has died from abuse or neglect, or a person under the age of 21 years who is leaving, or who has left, the custody or guardianship of the Secretary to live independently.

It is in this context, that the Commission is making a submission in response to the terms of reference of the Senate Standing Committee on Community Affairs Inquiry and will attempt to address the issues raised in the seven Inquiry criteria.

## The context

The Commission has long been a champion for family members providing kinship care for children and young people, as demonstrated in the Annual Reports<sup>1</sup> of the Commission and its forerunner, the Office of the Child Safety Commissioner. This group goes beyond grandparents, to older siblings, aunts, uncles and others. As much of the literature in this domain covers all kinship carers, including grandparents, this submission covers both the broad kinship carer cohort, as well as grandparent specific, where appropriate.

The Commission acknowledges that kinship carers provide a vital role in the out of home care system. For grandparents, care is frequently provided sacrificing their own career, as they need to leave the workforce suddenly; or forgoing retirement and years in which to enjoy the position of grandparent, returning to a role of parenting. This in itself is confronting.

Some kinship carers seek support from services; other shy away fearing the children will be placed away from their family. For Aboriginal kinship and grandparent carers, anxiety about children within their family being cared for outside of the family or community bounds mirrors the Stolen Generation, a lived experience for many Aboriginal grandparents. This is further exacerbated by grossly disproportionate rates of Aboriginal children being notified to Child Protection and experiencing an out of home care placement.

***At current levels, the rate of Aboriginal child removal in Victoria exceeds levels seen at any time since white settlement<sup>2</sup>***

The Commission has heard firsthand the anguish, guilt and isolation felt by

### Case examples

*A grandmother seeks assistance to address the behaviour of her 4 year old granddaughter. The child was placed with her grandmother following sexual abuse being substantiated. The child exhibited trauma based behavioural difficulties, however, no assistance or counselling was provided and the grandmother was at breaking point. If she had been a foster carer, it is likely she would have received more assistance.*

<sup>1</sup> <http://www.ccyp.vic.gov.au/publications/index.htm>

<sup>2</sup> *Koorie kids: Growing Strong in their Culture Five year plan for Aboriginal children in out of home care*, a joint submission from Victorian Aboriginal Community Controlled Organisations and Community Service Organisations November 2013 <http://www.ccyp.vic.gov.au/downloads/submissions/submission-koorie-kids-growing-strong-in-their-culture-nov13.pdf>

many grandparent carers together with their unwavering feelings of love, joy, duty and responsibility. In 2009, 2010 and 2011, the Commission held Kinship Care Forums, in collaboration with a number of other organisations to enable kinship carers to come together to voice their views and concerns to relevant government departments – to be heard.

The Commission has also partnered with the University of Melbourne in the development of four reports in the *Family Links: Kinship Care and Family Contact Research Series*<sup>3</sup>. These are provided as attachment 1 to this submission.

When listening to grandparent carers, one of the things that becomes evident is the diversity and individuality of their needs; ranging from needing assistance to manage highly traumatised children, to assistance to navigate bureaucratic structures to the need for financial assistance to meet the cost of caring for their grandchild/children, to the desire for recognition. Their stories ranged from joyful and uplifting to soul destroying.

*“When listening to grandparent carers, one of the things that becomes evident is the diversity and individuality of their needs....”*

The Commission is of the belief that best practice in planning and service provision should encompass the needs of all, holistically providing the capacity for individual and tailored responses, whilst acknowledging the role of specialist resources and supports.

Following conversations with grandparent and kinship carers, the Commission developed a suite of three resources, covering parenting, legal and financial issues, to assist them in their role of caregiver. These resources are referenced in the Commission’s response to the terms of reference below.

Despite acknowledging and valuing the role of carers, the Commission’s prime focus is the best interest of children and young people. Not always is a grandparent or family member the best person to care for a child. The Commission is concerned about an apparent lack, or inconsistent application, of appropriate assessment of kinship carers. Often this appears to result from them being used at times of crisis.

This is a challenging environment but one that must always have the child as its focus. Well assessed, matched, financially and professionally supported and supervised kinship placements are in a child’s best interest.

### **A placement with an inappropriate person, whether they**

<sup>3</sup> *Breaking the rules – Children and young people in kinship care speak about contact with their families*, Child Safety Commissioner, Melbourne, Australia 2011

*‘It is the story of all of us’ – Learning from Aboriginal communities about supporting family connection*, Child Safety Commissioner, Melbourne, Australia 2011

*‘Look at it from the parent’s view as well’ – Messages about good practice from parents of children in kinship care*, Child Safety Commissioner, Melbourne, Australia 2011

*‘They need that connection’ – Kinship carers and support staff speak about contact between children and their families*, University of Melbourne and Child Safety Commissioner, Melbourne, Australia 2012

*Following the breakdown of her placement with her aunt, a 15 year old girl was quickly placed with her maternal grandmother by Child Protection, although concerns about the suitability of this placement existed. Subsequent to the placement, an alert was found on the girl’s file alleging her grandmother’s current partner had sexually assaulted the girl’s mother when she was a child.*

*Aboriginal siblings were hurriedly placed with their grandparents without adequate planning or preparations having occurred. This left the grandparents with insufficient food, bedding, linen or car seats in which to safely (and legally) transport the children.*

**are a family member or not, can have disastrous consequences for a child.**

We must find a stronger way for the voice of the child to inform our thinking, planning and decision making. This must occur in a consistent, meaningful and systemic manner, rather than the pockets of good practice we witness today.

It is vital that systemically, we strive to ensure that any out of home care placement for children is safe and one in which they will thrive. Despite this, it is stressed that the major emphasis should be placed upon prevention and early intervention initiatives to minimise the risk of the child and family experiencing hardship and abuse in the first place. In this context, the Commission adopts a strong human rights approach to promoting the safety and wellbeing of children.

The foundation for the human rights approach taken by the Commission can be found in the United Nations Convention on the Rights of the Child (UNCROC)<sup>4</sup>, to which Australia is a signatory. UNCROC states that 'governments should recognise the vulnerability of children 'who have been neglected or abused' and that they should receive 'special help' to restore their self-respect (Article 39). Children who reside away from their parents can be especially vulnerable to a risk and abuse given that they have by definition a history of trauma, consequent behaviours which may place them at higher risk, and living arrangements which may involve changes of carer, residence and school. Therefore, to keep children safe, it is necessary that core strategies build upon a rights framework and an "open" system of care that is transparent and accountable, and witnessed by external bodies.

## Children and young people living in out of home care

In Victoria, there are a broad range of out of home care placement types contained within the statutory and non-statutory (informal) system, including within the child's own extended family (kinship care), or friends and social networks (kith care), other home based family placements (foster care, adolescent community placements, shared family care and therapeutic foster care) lead tenant and residential care with rostered, professional staff (generalist or therapeutic care models). Grandparent carers are a subset of Kinship carers.

The *Report of the Protecting Victoria's Vulnerable Children Inquiry*<sup>5</sup> states that the number of children and young people admitted to foster care placements decreased from 3,731 in 1999-2000 to 1,751 in 2009-10 - a decline of 53 per cent, while the number placed in kinship care increased from less than 20 in 1994-95 to 1,211 in 2009-10 and the number placed in residential care declined from 668 in 1994-95 to 546 in 2009-10.

In anticipation of the Victorian Department of Human Services proposed *Five Year Plan for Out of Home Care*, a consortium of Victorian out of home care Community Service Organisations commented in their submission, that kinship care is the largest and fastest growing type of out of home care, and that there is no indication this increase is stabilising<sup>6</sup>.

There appears to be little data in regard to non-statutory or informal kinship care placements. Anecdotal evidence suggests that the size of the cohort of children and young people cared for by kinship carers in a non-statutory capacity is four to five times that of those placed by the statutory system. Based upon the figure above of 2,832 Victorian children and young people residing in statutory kinship care, it can be

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<sup>4</sup> United Nations, 1989, *Convention on the Rights of the Child (UNCROC)*, New York.

<sup>5</sup> Report of the Protecting Victorian's Vulnerable Children Inquiry, Department of Premier and Cabinet, 1 Treasury Place, Melbourne, Victoria, Australia January 2012

<sup>6</sup> *Submission from Victorian out of home care Community Services Organisations July 2013*  
[http://www.cfecfw.asn.au/sites/www.cfecfw.asn.au/files/5\\_Year\\_OOHC\\_Plan.pdf](http://www.cfecfw.asn.au/sites/www.cfecfw.asn.au/files/5_Year_OOHC_Plan.pdf)

extrapolated that between 11,328 and 14,160 children and young people are potentially residing in informal kinship care placements.

The Department of Human Services' policy and procedures dictates options when placing children in out of home care. If there is no suitable placement option within the family, then home based care of some type is the next preferred option, especially for younger children. Residential care is seen as the least preferable option given the complexities for children in having multiple caregivers, residing with other traumatised children who may be undertaking risk taking behaviours, and the undesirability of institutional care.

There has been significant policy development and program implementation in Victoria with regard to the fast growing category of out of home care by kinship carers. The Department of Human Services has developed a distinct framework to support kinship care and has implemented a state-wide kinship care program which is the subject of an external evaluation. Informal or non-statutory care arrangements also need to have adequate access to services to ensure the child prospers and the carer feel well supported.

The Commission has promoted the need for 'gold card', or priority access, for children and young people in out of home care. The notion that a placement may breakdown whilst a child remains on a waiting list for support, or a grandparent carer placement is not seen as viable due to housing issues, appears to be inconsistent with the principles of the best interest of the child and one that government must coordinate and resolve. These children require our very best efforts, and not sit on waiting lists.

As increasing demand and expansion of kinship care has occurred at a rapid rate and it remains unclear if policy, procedure, transparency and scrutiny designed to protect children placed within this category of out of home care and support their carers, has kept pace. The Commission is particularly concerned that as the numbers of children in care continue to escalate and the pool of carers dwindles, the care system is under increased pressure. The stated aim that children in care will be carefully matched to carers, including kinship carers, who have been appropriately assessed for suitability, becomes much more difficult to achieve in reality. This raises issues in relation to much greater reliance being placed upon recruitment of kinship carers and their need for adequate support. Concern exists regarding how robustly Child Protection applies and follows up on standards for kinship care placements.

In Victoria, under Section 13 of the *Children Youth and Families Act 2005*, there is a requirement that Child Protection seek a placement within the child's family network as the first option when a child or young person must be placed in out of home care. The Aboriginal Child Placement Principle legally specifies that Aboriginal children and young people must be placed subject to the advice of the relevant Aboriginal agency, in order of preference within their own or other extended family or relatives, the local Aboriginal community living close to the natural family, an Aboriginal family from another community, and as a last resort a non Aboriginal family living close to the child's natural family who will ensure maintenance of the child's culture and identity through contact with the child's community.

It must be noted however, that Victoria is not compliant in meeting this statutory requirement. Department of Human Services data published in *Koorie Kids: Growing Strong in their Culture* indicates:

- **only eight per cent of Aboriginal children in care requiring a cultural support plan had a completed plan in place (as required under Section 176 of the Children Youth and Families Act for those on a Guardianship Order) and is a strong indicator of overall compliance with Section 13 of the Act which anecdotally we know is low.**
- **only seven per cent of Aboriginal children are in out of home care placements provided by Aboriginal Community Controlled Organisations. The remaining 93 per cent are in placements provided by mainstream Community Service Organisations or the Department of Human Services.**

Clearly this is unacceptable.

A range of culturally diverse community groups who also come from a collectivist cultural background, such as Polynesian/Pacific islanders and African communities, have regularly expressed a desire for similar consultation and placement preference rules, emphasising the need for cultural connection to be maintained. Ironically, challenges presented by cultural and language differences may exacerbate difficulties in locating these extended family members and community members, decreasing the likelihood of appropriate placements being located.

It is widely acknowledged that there is a scarcity of, or poor quality data in the domain of kinship care. The following data was made available to the Commission by the Victorian Department of Human Services<sup>7</sup>:

As at 30 June 2012, in Victoria there were 6,147 children and young people living in statutory out of home care. Of these children and young people, there were 2,832 (46%) residing in kinship care placements, and 1,437 (23%) were in foster care, a similar number of 1,400 (23%) were in permanent care and the very low 478 (8%) were in residential care. Therefore, equal numbers of children and young people were residing in kinship care when compared to those in foster care and permanent care combined.

Of the total number of children and young people in Victoria living in out of home care 1,028 (17%) identified as being of Aboriginal or Torres Strait Islander background, which represents 19% of the total number of Aboriginal children and young people in Victoria aged under 18 years. In comparison, non-Aboriginal children and young people in out of home care represent only 0.5% of the total non-Aboriginal children and young people in Victoria aged under 18 years. The total Victorian Aboriginal population is also skewed towards a younger demographic, with 42% of the total Aboriginal population aged under 18 years compared to much lower 22% of the total non-Aboriginal population.

## Inquiry Terms of Reference

On Monday 9 December, the Senate referred the inquiry *Grandparents who take primary responsibility for raising their grandchildren* to the Community Affairs References Committee for inquiry and report. The committee invited individuals and organisations to provide submissions (by 14 March 2014) for their consideration. The reporting date is 30 September 2014.

The following terms of reference have been provided by the Senate Standing Committees on Community Affairs:

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<sup>7</sup> Department of Human Services data (October 2013) Excel spreadsheet, *Aboriginal Children in Out of Home Care, Snapshot provider type worksheet*, as published in *Koorie Kids: Growing Strong in their Culture* Five year plan for Aboriginal Children in Out of Home Care – A joint submission from Victorian Community Controlled Organisations and Community Service Organisations November 2013 <http://www.cryp.vic.gov.au/aboutus/news/koorie-kids-growing-strong.htm>

Grandparents who take on the primary responsibility for raising their grandchildren when parents are unable or unwilling to do so, through a formal or informal care arrangement, including:

- a) the practical challenges facing grandparents raising their grandchildren, and their support needs;
- b) the role and contribution of grandparents raising their grandchildren, and how this should be recognised;
- c) other challenges that grandparents raising their grandchildren face in undertaking their role, including in circumstances complicated by family conflict, mental illness, substance abuse, homelessness, child abuse or neglect, or family violence;
- 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;
- 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;
- f) the specific needs of particular groups within the caring population, including Aboriginal and Torres Strait Islander grandparent carers, grandparents caring for grandchildren with disability, grandparents from culturally and linguistically diverse backgrounds, grandparents with mental health needs and grandparents with an informal care arrangement for their grandchildren; and
- g) other related matters.

## **Response to the Terms of Reference**

### **a) the practical challenges facing grandparents raising their grandchildren, and their support needs;**

Grandparent carers face a range of personal challenges when caring for their family member including their own ageing, isolation and disruption of social networks, discrimination, changed parenting expectations and at times, financial hardship. At this time of their life, the commitment to provide care may be long term or unpredictable in nature and duration, effectively putting their retirement plans on hold. Some people may need to re-enter the workforce to meet financial demands. Frequently, grandparent carers inform that they do not feel as though they have a choice but assume the role of carer

### **Financial**

Having financially dependent grandchildren is not likely to have been planned for by grandparents and as such, some may require assistance. Many carers find it difficult to find information on, and navigate a complex system of supports. The Commission, as the prior entity the Office of the Child Safety Commissioner, developed a resource booklet titled *Financial supports for grandparents and other relative carers*<sup>8</sup> to assist grandparents and other relative carers to decide on the government assistance for which they may be eligible. Information is provided on financial assistance for the carer, ranging from the age pension, carer allowances, parenting payments and caregiver reimbursements for statutory kinship care, through to how Family Tax Benefits, Medicare payments and Child Care Benefits operate when a child is

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<sup>8</sup> *Financial supports for grandparents and other relative carers*, Office of the Child Safety Commissioner, Melbourne Australia, November 2009

in their care. Further sections of the resource cover assistance available for the child such as Youth Allowance. However, it must be noted that this financial environment changes frequently.

Please find *Financial supports for grandparents and other relative carers* as attachment 2.

## Health

Many kinship carers have their own complex and multiple needs. This is especially evident in the ageing and health domains. Of particular note is the significance of ageing in the Aboriginal carer population for whom the term *elderly* equates to the age of 60 years, in contrast to 80 years of age for the non-Aboriginal population.

Age and health in and of itself should not be a barrier to providing care, but as part of a holistic assessment of the needs of the child and caregiver it is a domain to be addressed and planned support, such as access to respite and other supports, is put in place.

## Access to training and parenting support

Generally, community norms relating to parenting have changed since grandparents raised their own children. We have significant new information about safely sleeping babies, behaviour management strategies and understanding of the impact of childhood trauma. For example, as a society, generally we no longer support smacking as a suitable or productive strategy when caring for a child.

The broader child protection system has acknowledged the need for more therapeutic residential care and therapeutic foster care supported by enhanced skill development for traumatised children. It is planned that this will gradually lead to a carer workforce with improved knowledge and skills. This same level of support and training is not evident in kinship care compared to foster care, despite the children and young people being placed in kinship care having similar support and care needs.

Those providing kinship care, are able to access support from peak bodies such as Kinship Care Victoria, Grandparents Victoria or may be linked into the Kinship Care program operating from their local child and family support agency. Unfortunately Aboriginal kinship carers do not access these services. The focus of these services has tended to be assisting carers to access practical resources such as Centrelink benefits and the coordination of emotional support groups, with the aim of providing the minimum level of professional intervention from the formal service system. This focus has meant that carers have not routinely been exposed to extensive training or resources on how to care for children, many of whom may have experienced family violence, the impact of their parent's drug and alcohol or mental health issues or been abused themselves. Kinship carers are also often managing very difficult relationships with the children's parents, navigating family dynamics and having to face the reality of their own possible family dysfunction.

To assist grandparent and other relative carers, the Commission, as the former Office of the Child Safety Commissioner developed a resource *Parenting for grandparents and other relative carers*<sup>9</sup>. This resource provides contemporary information relating to parenting strategies, children's services and other resources.

Please find *Parenting for grandparents and other relative carers* as attachment 3.

## Placement practicalities

Basic practicalities must also be taken into account by those who place children with grandparents or other kinship carers. As placement may occur quickly, due to the child having been found to be at risk or due to the breakdown of another placement, at times little attention is paid to logistical or emotional

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<sup>9</sup> *Parenting for grandparents and other relative carers*, Child Safety Commissioner, Melbourne Australia, May 2011



preparation for placement. For the child this can mean the immediate severing of friendships, school ties and the loss of their local community. For kinship carers, indicators of this can be a lack of a placement support plan, insufficient appropriate or unsafe furniture/bedding for children, access to car seats or even a car that can fit the number of children. Carers may also be unprepared for the expectations of their role and responsibilities in engaging with the children's early childhood setting or school.

The Commission produce a series of resources, published by the former entity Office of the Child Safety Commissioner, regarding supporting children and young people in education:

- *Calmer classrooms – A guide to working with traumatised children*<sup>10</sup>
- *Caring classrooms – A guide to understanding traumatised children and young people – for parents and the school community*<sup>11</sup>
- *Great Expectations – Supporting children and young people in out-of-home-care to achieve at school*<sup>12</sup>

These resources are provided as attachment 4 for the Standing Committee's information.

### Technology and child safe environments

Grandparent and other kinship carers may not have previously had to consider issues to do with cyber safety and selecting child-safe environments for children in the context of today's modern world.

The cyber world is changing rapidly and although offering great opportunities, can contain dangers, particularly for vulnerable children and young people. As a generalisation, this is an area many grandparent kinship carers may have little understanding of, or at least, their understanding may not match that of the child or young person placed in their care.

To support all parents and carers to identify child-safe activities and services for children, the Commission, as the former Office of the Child Safety Commissioner, developed a range of resources that are available in both hard copy or online. These include:

- *Information for parents - Things to look at when selecting child-safe activities or services for your child*<sup>13</sup>
- *Proper care when you're not there*<sup>14</sup>
- *Wise choices: safe children*<sup>15</sup>, a DVD that has eight language options to choose from (English, Arabic, Cantonese, Dinka, Farsi, Mandarin, Somali and Vietnamese).

Please find the above resources as attachment 5.

### Support for informal carers

In Victoria, informal carers have only limited access to the statewide Kinship Care Support Service, as statutory arrangements take priority.

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<sup>10</sup> *Calmer classrooms – a guide to working with traumatised children*, Child Safety Commissioner, Melbourne, Australia, 2007

<sup>11</sup> *Caring classrooms – A guide to understanding traumatised children and young people – for parents and the school community*, Child Safety Commissioner, Melbourne, Australia, 2010

<sup>12</sup> *Supporting children and young people in out-of-home-care to achieve at school*, Child Safety Commissioner, Melbourne Australia, December 2007

<sup>13</sup> *Information for parents - Things to look at when selecting child-safe activities or services for your child*, Child Safety Commissioner, Melbourne Australia, July 2006

<sup>14</sup> *Proper care when you're not there*, Office of the Child Safety Commissioner, Melbourne Australia, May 2007

<sup>15</sup> *Wise Choices: safe children*, Office of the Child Safety Commissioner  
[http://www.ccp.vic.gov.au/childsafetycommissioner/publications/cald\\_strategy.htm](http://www.ccp.vic.gov.au/childsafetycommissioner/publications/cald_strategy.htm)

When a child or young person is placed with grandparent or kinship carer on an informal basis, it can be hard for the carer to access appropriate information about the child in their care, or access services, as they don't have official documentation demonstrating they are the child's primary carer.

To improve this situation, the Commission, as the former Officer of the Child Safety Commissioner, in conjunction with a range of government departments, developed *Statutory Declaration for Informal Carers Information Booklet*.<sup>16</sup>

The Statutory Declaration form contained within the booklet enables informal carers to verify they have care of the child for times when consent of the guardian is not required. Appropriate situations may include engaging the child in sporting or other activities, enrolling a child at school or kindergarten, and when making a health care appointment.

Please find the *Statutory Declaration for Informal Carers Information Booklet* as attachment 6.

**b) *the role and contribution of grandparents raising their grandchildren, and how this should be recognised;***

Respect, or more appropriately, a lack of respect by service providers and decision makers, in particular, Child Protection, is a feature that grandparent and other kinship carers frequently raise with the Commission. Inherently linked to the desire to ensure your family member is safe and well is a societal perception that the children in need are the grandparent or other kinship carer's responsibility. This frequently results in the kinship carer being taken for granted.

In the Commission's submission to the Victorian Protecting Vulnerable Children Inquiry<sup>17</sup>, the following was provided:

*Many carers, including those who are statutory kinship carers and those who are 'informal' kinship carers have expressed to us their concerns about:*

- *The inadequacy of information provided to them about the needs of the children placed in their care and the lack of sufficient support to meet those needs;*
- *Their feelings of powerlessness in 'the system' and in particular the sense that their voice is not heard, for example by being given insufficient opportunities to participate in case planning*
- *The continuing harm suffered by the children in their care because of long waiting lists.*

Kinship carers regularly state that their views are not given suitable weight, as they may not be the child's guardian. This view is loudly affirmed by kinship carers describing their interaction with Child Protection. Whilst on the one hand, there is somewhat of an assumption that they should care for their family member, the kinship carer is often not central to, or involved in, planning and decision making.

Section 11 of the Victorian *Children, Youth and Families Act 2005* concerns decision-making principles and states:

*(b) where a child is placed in out of home care, the child's care giver should be consulted as part of the decision-making process and given an opportunity to contribute to the process;*

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<sup>16</sup> *Statutory Declaration for Informal Carers Information Booklet*, Office of the Child Safety Commissioner, Melbourne, Australia, 2009

<sup>17</sup> <http://ccyp.vic.gov.au/childsafetycommissioner/downloads/submission-protecting-vulnerable-children-inquiry.pdf>

From the Commissions involvement with kinship carers, it does not appear that this principle is frequently adhered, to or achieved.

Kinship carers tread the fine line between ensuring the safety and wellbeing of the child and managing difficult family dynamics, often being 'the meat in the sandwich' between statutory authorities and the child's parent.

In the context of voluntary placements, kinship carers also advise that they live with the fear that the child's parent will return to take the child, an action that may not be in the best interests of the child, possibly requiring the kinship carer to make further notification to Child Protection, perhaps in a crisis situation.

As an absolute bottom line, as a society we need to acknowledge the role that grandparent and other kinship carers provide, recognise that they play a vital role in the child's life and treat them with the respect that they deserve.

Once these fundamental understandings are in place, our attention must turn to more pragmatic support and assistance, such as access to education, training and advice; it may be a long time since they have parented a child and they may also find themselves in the role of caregiver for a child or children who have been abused and present with trauma related behaviour. A comprehensive support system for kinship carers is required to ensure they are able to access the same level of support as foster carers.

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

As discussed in other sections of this submission, grandparent and other kinship carers become involved in caring for children due to an inability of the child's parents to provide care. Although this can have a wide range of causal factors, family conflict, mental health, substance abuse, homelessness, child abuse, neglect or family violence can all be a component of complex and multi need families, resulting in the need for the child to be safely cared for by someone other than their parent. There may be particular issues when a parent is incarcerated, resulting in the carer needing to negotiate prison visits. Similarly, when a parent is deceased, the kinship carer must contend with their own grief issues, as well as those of the child.

This can be confronting for grandparents who may question their own previous parenting capacity and as a result have limited confidence to tackle the difficult times ahead. Holistically looking at the child's needs in the context of their family and community and responding in a meaningful way to support the placement will strengthen the placement and it's likelihood of success.

As raised within this submission, it is vital that grandparents or other kinship carers are not seen as an easy, quick fix and that the placement is well assessed and supported, with the child's safety and wellbeing treated as paramount.

***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;***

The Commission does not have expertise in the legal matters outlined in this term of reference and as such, will limit its comment.

There are a host of potential legal issues for grandparent carers and the Commission has provided general information about how the law operates in this domain in a resource titled *Legal issues for grandparent and other relative carers*<sup>18</sup> that was developed in partnership with the West Heidelberg Community Legal Service and the Law School of La Trobe University. This resource is not legal advice but seeks to bridge the knowledge gap for many grandparent carers and direct them to appropriate resources and supports. As discussed above, the Statutory Declaration was developed to assist the day to day activities of the child and their grandparent carer.

Grandparents and other carers have told the Commission of the many challenges they face in navigating the Family Court system when they have concerns for the safety and welfare of children in their care. The intersecting jurisdictions of the Family Court, Children's Court and Child Protection practice raise an array of complex legal, financial and commonwealth/state issues. A common scenario involves Child Protection placing an abused or rejected child with a grandparent or kinship carer and then completing their protective involvement as the child is no longer at risk of significant harm. However, to achieve stability and legal guardianship, the kinship carer must fund the matter in the Family Court. Specific eligibility criteria for legal funding in recognition of their special circumstances would be beneficial.

Please find the resource *Legal issues for grandparent and other relative carers* as attachment 7.

**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;***

In addressing this term of reference, it is the intention of the Commission, whilst clearly acknowledging the support needs of grandparent carers, to focus on the safety and wellbeing of children.

### **Assessment and screening**

As noted in the Victorian *Protecting Victoria's Vulnerable Children Inquiry Report*, there appears to be substantial differences in both practices and attitudes relating to the screening of kinship carers. The report states that these differences have become more problematic as the Department of Human Services has increased its reliance on kinship placements.

Kinship cares are recruited on the basis of having a family linkage to the child. Planned placement may be possible, but often the child is placed with them during a crisis, when the primary caregivers are unable or unwilling to care for the child.

Consequently, there may only be the opportunity for the child protection practitioner to complete a preliminary assessment in such emergency situations, which focuses primarily on assessing safety through criminal record checking and a brief assessment of the suitability of the carer.

Part of the Commission's functions under the Commission for Children and Young People Act 2012 include conducting inquiries into the services provided or omitted relating to:

- children who have died and were known to child protection at the time of their death or 12 months before their death;
- the safety and wellbeing of an individual or group of vulnerable children or young people; and

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<sup>18</sup> *Legal issues for grandparent and other relative carers*, Child Safety Commissioner, Melbourne, Australia, March 2009

- a health service, human service or school where there are persistent or recurring systemic issues and a review done within the Commission's resources would assist in the improvement of the provisions of those services to either an individual or group of vulnerable children and young people.

In conducting these inquiries concerning vulnerable children, the Commission has repeatedly identified shortfalls in the assessment of kinship carers, resulting in children being placed at risk. This is particularly evident when placements are made hastily and family members are viewed as a 'fall back' option.

As highlighted in the Commission's submission to the Royal Commission into Institutional Response to Child Sexual Abuse Issues Paper 4 – Preventing sexual abuse of children in out of home care<sup>19</sup>, at present in Victoria, it would appear that the assessment process undertaken by child protection practitioners of kinship carers is less rigorous than that undertaken for foster carers, who nominate themselves as carers, and are subjected to an exhaustive assessment process by the relevant Community Service Organisation (CSO), which includes mandatory training.

A key component of the assessment process must be listening to and 'hearing' the child or young person and valuing their views and choices, ensuring that assessment, analysis and matching underpin all decisions. Again, Inquiries undertaken by the Commission do not demonstrate that this is achieved often.

Victorian Child Protection procedural documentation demonstrates an expectation is held that a comprehensive assessment will be conducted for all statutory kinship care placements likely to extend beyond three weeks. However, the Commission has received feedback from many kinship carers, that follow up assessment and support were not forthcoming after the emergency placement of a child in their care. This is seemingly due to demands upon the time and resources of child protection staff. Kinship carers have stated to the Commission they were left with the impression that because they were related to the child, they did not receive priority attention for scrutiny or support "as they would hang in there".

Kinship care placements may have many benefits, including the ability for pre-existing relationships to assist in easing a child into a placement away from their primary caregivers, with carers who may share a family history, culture and/or identity. However, these benefits should not serve to indicate that a less comprehensive assessment of the capacity to provide ongoing care is required, than would be for a foster care placement. But rather, a much more detailed and nuanced assessment is essential for taking into consideration the family dynamics. Kinship care may present very complex challenges such as tensions and hostilities within family relationships, which pose ongoing or new risks of abuse to the child and/or their carer, especially during activities such as supervised access.

## Registration of kinship carers

Foster carers and residential care workers are also subject to registration, which means that their contact details are kept on the Victorian Department of Human Services Carer Register, and if they are ever disqualified, their registration as a carer is removed and their Working with Children Check card is cancelled. However, kinship carers are not subject to the same registration processes, and perhaps lesser scrutiny of their care, which raises concerns about an increased risk that those potentially looking at placing a child with this individual might remain unaware of previous care issues. Consistent with the Commission's submission to the *Royal Commission into Institutional Responses to Sexual Abuse*, it is proposed that this domain requires further consideration and development.

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<sup>19</sup> CCYP submission can be found at <http://www.childabuseroyalcommission.gov.au/view-submissions-to-issues-paper-4-preventing-sexual-abuse-of-children-in-out-of-home-care/>

## Needs based care giver payment and access to support

Caregiver payments, where they apply, currently do not take into consideration the varying needs of children and young people. Where multiple and complex needs are present, resulting in additional costs for carers, these must be recognised and responded to by government. It is important that kinship carers also receive payments.

Children and young people also have a right to be safe and nurtured, as they grow, and to be given the opportunity to develop to their full potential, regardless of where they are living. The Commission has repeatedly raised the view that children and young people who are not able to live with their families should have priority and fast tracked access to service and supports, including therapeutic support, as opposed to the current reality in which access to services and supports can be an ongoing struggle. This is 'gold card' approach should be a particular priority for government services such as health, education and housing.

It is also acknowledged that the 'seniors' service system is not currently designed to support senior members of our society who take on a caring role for grandchildren. Given the increasing number of grandparent carers, this is an area that warrants both Commonwealth and State attention.

## Training

At present, kinship carers are not eligible to participate in training to equip them to provide for children's care needs in the same ways that a foster carer does. The rationale often cited for this is that kinship carers may have experience raising their own children and see such training as redundant, yet the same could be said for many foster carers. However, the foundational training provided to foster carers equips them with basic information and skills for handling physical care needs of children, which they can build upon with more specialist training. Kinship carers may actually require extra skills and training to manage complex family dynamics which foster carers do not have to contend with.

## Support and Supervision

Unlike other home based care placements, caseworkers are not allocated to provide support and supervision in kinship care placements in Victoria. Case management responsibility usually remains with the child protection practitioner (except in some cases when the case has been contracted to a CSO), whose role it is to ensure such placements are adequately monitored and supported, aside from their usual, and primary investigative role. The Commission has come to question the appropriateness of 'stretched' child protection practitioners being expected to be able to adequately provide an ongoing support role for the child and their kinship carer throughout the duration of the placement, and develop good working relationships with other care team members, in the midst of undertaking forensic investigations and given the issues of staff turnover.

It would seem that kinship carers would particularly benefit from having the support that dedicated caseworkers from a CSO are more able to provide, as demonstrated through home based care arrangements. It would seem essential that resources are provided to the rapidly growing kinship care sector to remove the current inequity, in recognition of the importance of investment in enduring placements.

The need for all Aboriginal children in out of home care to be placed under the care, authority and case contracting/management of an Aboriginal Community Controlled Organisation is highlighted and discussed in the joint submission from the Victorian Aboriginal Community Controlled Organisations and Community Service Organisation's submission to the Department of Human Services in response to the development of the *Five year plan for Aboriginal children in out of home care*. This submission, *Koori Kids: Growing Strong in their Culture*, followed a series of workshops convened by the Victorian Aboriginal Commissioner for Children and Young People.

## **Victorian Commission for Children and Young People's recommendations for priority actions for practical measures to better support grandparents raising their grandchildren**

1. That consistent, comprehensive assessment processes are applied to all kinship care placements.
2. That consideration is given to the potential to establish a register of all kinship carers.
3. That non-statutory kinship carers have greater access to support and services to strengthen and preserve these placements and minimise the likelihood for progression into the statutory system.
4. Adequately and transparently fund caregiver payments for kinship carers based on the child and young person's needs, including consideration of a 'gold card' system for access to health, education and housing services in particular. These should be equal to payments to foster carers.
5. That a training needs analysis be undertaken through direct engagement with kinship carers, and a training program developed and implemented to meet the needs identified.
6. That the role of providing ongoing support and supervision to kinship carers be transferred to CSOs to provide the full range of support, monitoring and advocacy functions, consistent with the way this operates for foster carers and other home based carers.
7. Transfer all Aboriginal kinship care case management to Aboriginal Community Controlled Agencies, Community Service Organisations or partnerships of same.

### **f) *the specific needs of particular groups within the caring population, including Aboriginal and Torres Strait Islander grandparent carers, grandparents caring for grandchildren with disability, grandparents from culturally and linguistically diverse backgrounds, grandparents with mental health needs and grandparents with an informal care arrangement for their grandchildren; and***

Kinship care has always been provided within extended family networks when parents have been unable to provide primary care for their children. The Commission is of the belief that culturally inclusive strategies to assist the above groups should be embedded in best practice for all kinship carers, however, it acknowledges the particular vulnerabilities of some children. Holistic assessment and support that is culturally sensitive and competent, ensuring people talk to the right people, using interpreters and translators as required and ensuring the right culturally relevant supports are in place are vital in any instance in which a child is being cared for out of home.

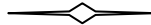
Communities who operate on a collectivist model, such as Aboriginal communities, Pacific Islander communities and many African groups have traditionally relied upon kinship care to keep children cared for within the community and will often find foster care and residential care quite unfamiliar and challenging concepts. In recognition of the importance to children's development of maintaining connection with their family and community, when an out of home care placement is required, kinship care options must be investigated and exhausted before any other placement option is considered.

*Koorie kids: Growing Strong in their Culture - Five year plan for Aboriginal children in out of home care*, a joint submission from Victorian Aboriginal Community Controlled Organisations and Community Service Organisations contains sobering information that must be "a call to action" for both the government and community and underpin development to strengthen the safety and wellbeing of Aboriginal children and young people:

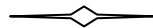
- In 2011-12, one in eleven Aboriginal children in Victoria experienced an out of home care placement, compared to one in 164 for non-Indigenous children
- **At current levels, the rate of Aboriginal child removal in Victoria exceeds levels seen at any time since white settlement**
- The Victorian rate of Aboriginal children in out of home care is now amongst the highest in Australia and significantly higher than comparable international jurisdictions.

The *Koori Kids: Growing Strong in their Culture* submission provides recommendations and priorities for action. The seven priorities to inform the Five Year out of home care Plan; are:

1. Develop an Aboriginal child and youth focused outcomes framework from entry to exit which embeds Aboriginal children's rights around self determination
2. Create a comprehensive approach to address the cultural needs of Aboriginal children in out of home care
3. Build the capacity of Aboriginal families and communities to care for their children
4. Place all Aboriginal children in out of home care under the care, authority and case contracting/management of an Aboriginal Community Controlled Organisation
5. Extend and enhance the coverage of Aboriginal child and welfare sector so Aboriginal children can access early intervention, home based, residential and permanent care within the broader suite of out of home care services in the area they live
6. Grow and better support Aboriginal carers
7. Ensure compliance to meet the intent of legislative requirements in the *Children, Youth and Families Act 2005* as it relates to Aboriginal children.



*'Family needs family. And if their mother can't be there, well then I'm there. I will not let strangers bring up my grandchildren. So until they are all grown up, I will care for my "grannies". They keep me young and fit at heart (Indigenous carer).'*<sup>20</sup>



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<sup>20</sup> *They need that connection' Kinship carers and support staff speak about contact between children and families* University of Melbourne and Office of the Child Safety Commissioner, Melbourne, Victoria, Australia October 2012.