



## PRESENTATION

### Senate Community Affairs Reference Committee

#### Inquiry into Grandparents who take primary responsibility for raising their grandchildren

1.50 am – 12 pm, 10 June 2014

Room G3

55 St. Andrews Place

Parliament of Victoria Melbourne

The Committee will be Chaired by Senator Rachel Siewart and Membership is Senator Carol Brown, Senator Dean Smith and Senator Claire Moore.

### **BERNIE**

Thank you Chair, and thank you for the invitation to present to the Committee today.

I am Bernie Geary, Principal Commissioner from the Commission for Children and Young People. With me are:

- Mr **Andrew Jackomos**, Commissioner for Aboriginal Children and Young People;
- Mr **Ray Carroll**, Manager, Monitoring Programs and Services; and
- Ms **Pam Boag**, Principal Policy Adviser.

### **Opening remarks**

- I **acknowledge the Traditional owners** on whose land we are meeting today, the Wurundjeri people of the Kulin nation and pay my respects to Elders, past and present.

- **I appreciate** the opportunity to address the committee today on a matter that is a vital component of ensuring quality care for children.

The Commission recognises that grandparent and other kinship carers provide a **vital role** in Victoria's out of home care system, supporting vulnerable children. We also acknowledge that this task is not as easy as it may seem and we strongly advocate for high quality assessment, support and supervision of placements to ensure the best outcomes for children and their family members.

- I know that the Committee's brief is grandparent carers, however, I will be referring to all relative and family members providing care to children and young people – this group of kinship carers includes **grandparents but also siblings, aunts, uncles and others.**
- As you may be aware, on 1 March 2013, the **Commission for Children and Young People** was created. I feel privileged to be the inaugural Principal Commissioner, working alongside, Mr Andrew Jackomos, Victoria's inaugural Commissioner for Aboriginal Children and Young People – an Australian first.
- The Commission operates under the mandate of the *Commission for Children and Young People Act 2012*, which includes and builds upon the functions previously undertaken by the Victorian Office of the Child Safety Commissioner.
- **The Commission's written submission** provides more detail, but I would like to briefly provide an overview of the key issues and recent announcements of **new Victorian child safety**

**measures.** I will then hand over to Mr Andrew Jackomos who will focus on prominent issues within the Victorian Aboriginal community. We then hope to answer any questions you may have and discuss your particular areas of interest.

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- Kinship care, which encompasses grandparent carers, is a rapidly growing type of out of home care placement for children and includes **both statutory and non-statutory, or informal,** placements. Grandparent and other kinship carers do a fabulous job, often unheralded.
- Concern exists however, that policy, procedures and scrutiny measures designed to protect children in these placements do not appear to have kept pace with the **rapid expansion** of kinship care.
- The Commission is of the view, that there are key components currently missing, or inadequately and inconsistently applied to kinship care placements, and that action is required across these domains to provide **greater protection** for children. The domains include:
  - **assessment and screening**
  - **access to training and support**
  - **placement supervision; and**
  - **adequate financial support.**

- Despite acknowledging and valuing the role of kinship carers, the Commission's prime focus is **the best interest of children and young people.**

**A grandparent or family member is not always the best person to care for a child.**

- Kinship care placements frequently commence at a time of crisis and a relative can be seen as a safe and familiar option for a child.
- However, **families are complex**, particularly those families involved with Child Protection. Highly skilled and **nuanced assessment** is required to ensure the best option for the child is identified – not just the quickest or most convenient.
- When children are removed from their parent it is incumbent upon us – the state and the community, to ensure they are placed in a safe, appropriate and well supported placement – **there is no excuse!**
- The recent *Protecting Victoria's Vulnerable Children Inquiry* found **differences in both practices and attitudes** relating to the screening of kinship carers, and that the consequences of this has increased, due to the Department of Human Services **increasing reliance on kinship carers.**
- Inquiries undertaken by the Commission in regard to services provided to a child, have also frequently identified **deficits in assessment of kinship care** placements, and, at times, this has had devastating results.

- On this basis, the Commission submits that consideration needs to be given to the **registration of kinship carers** – just as is required for foster care or residential carers. As a society, **we know better** than to think that children in kinship care deserve less of a safety net than other children, based upon the type of placement they are in. These are vulnerable, often traumatised children – **they deserve our very best efforts.**
- When reviewing case practice in relation to these placements, the Commission has repeatedly identified shortfalls in how children are engaged in this process – how their feelings, views, wants and requests are heard by those who are making decisions, and how decisions are communicated to the child in a way that they can connect with, and by a person who they have a relationship with and trust. **Children need to play a more prominent role in decision making.**
- Following a robust assessment, based on the best interest of the child, and not what is quick or easy, **planned support, access to training, and supervision of the placement** is vital.
- The Commission submits that carers providing both statutory and non-statutory kinship care require access to these components.
- It is increasingly evident that following placement by Child Protection, further **support can be limited** due to this role being undertaken by statutory child protection workers who have **competing demands** on their time. This can leave carers without sufficient support, training and supervision – **and the child without a safety net.**

- The Department of Human Services *Out of Home Care: a Five Year Plan* acknowledges in some instances kinship care placements require greater levels of support than can be provided by government child protection practitioners and recommends a **reform process** of funding non – government services to provide support for 750 kinship care placements, and other supports.
- The Commission will watch with interest as this reform unfolds. I certainly hope that it doesn't take 5 years.
- As I previously mentioned, children who are removed from their parents present with a range of complex behaviours and needs. It can be a very difficult task for a carer to know how to best respond – particularly if they have not been a parent for many, many years and if they have been challenged in an earlier parenting role. As Andrew will reinforce for members of the Stolen Generations they may not have had suitable parent to model their own nurturing and child rearing upon.
- We live in a world of rapidly evolving technology and have different societal norms on how to raise children. Interventions and healing processes such as a greater focus on therapeutic care for children is common practice. **We can't expect that kinship carers have experience with new technologies and ways of thinking, let alone access to therapeutic knowledge and skills.** We need to support them in the same manner we do foster carers, who receive training, support and supervision.

- 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 disability or health 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**. Government must coordinate and resolve issues affecting the safety and wellbeing of children in out of home care. These children require our very best efforts, and **not sit on waiting lists**.
- In the context of voluntary or non-statutory placements; I often hear the fear expressed by kinship carers that the child's parent will demand the child be returned to their care– something that may not in the child's best interests and may provoke further involvement with Child Protection or the Family Court.
- Kinship carers often are the buffer zone or mediator between the parent and child protection – they tread the fine line between the child's safety and wellbeing and managing difficult family dynamics. I see many instances of kinship carers subject to a dreadful form of emotional blackmail, pressure and threats.
- The world of the carers can be further complicated by their own ageing and health needs, coupled with potential isolation, and disruption to their own plans for career or retirement. This is particularly evident in Aboriginal communities in which ageing and chronic health issues are more profound and experienced earlier in the life course.

- We all, but Child Protection in particular, need to reconsider how kinship carers are engaged in both statutory and non-statutory case management, and treat them with the respect they deserve.
- Kinship carers advise that they **lack relevant information needed to provide appropriate care**, their views are not given suitable weight, and they are **not included in planning and decision making** about the child – this is **inconsistent** with legislative requirements under the Victorian *Child, Youth and Families Act 2005* but does not appear to attract significant attention or acknowledgement.
- This aspect of the legislation appears to be disregarded by some within the Department. In fact it is treated with disdain.
- The final domain I would like to raise is the **financial cost to kinship carers**. The Commission submits that the financial burden kinship carers are under is **not reasonable, viable or sustainable**.
- We know that the clear majority of non-residential out of home care is provided by kinship carers and that this trend is increasing -
  - As of 30 June 2013, the total number of children and young people in out of home care in Victoria was approximately 6,500 – 50% in kinship care, 21% in foster care, 22% in permanent care and 7% in residential care.



- When I look at these figures I am perplexed as to why funding, for both carer giver payments, and for support of placements, is disproportionately **weighted against** kinship carers.
- It also appears that only in exceptional circumstances, requiring senior Department of Human Services ratification, are kinship carers reimbursed more than the 'general base rate' of between **\$7,000 and \$11,000 per year**. This is **inconsistent** with foster care reimbursement rates.
- Caregiver reimbursement rates, do not take into account particular needs of the child and what we hear from carers and organisations, is that it is extremely difficult to mount a case to receive a higher level of payment.
- These generous, caring, committed people feel that they never get off their knees, when it comes to reasonable requests.
- It is noteworthy that Victoria sits at the bottom of the national comparison of carer reimbursements. As an example, Victorian carers can expect to receive:
  - \$100 less per week than their counterpart in the ACT when caring for a 6 year old; and
  - \$95 less per week than their counterpart in the Northern Territory when caring for a 10 year old.
- It is expensive to look after a child, and this is unlikely to have been planned for by a kinship carer. Reimbursement rates **do not take into consideration** the broad range of needs and costs particular children may incur.

- The system cruelly takes advantage of the sense of immediacy of the issue and the generosity of grandparents and other kinship carers to respond.
- The discrepancy with foster care in this regard is highly apparent and unjust. Andrew Jackomos will provide further comparative figures on this later in our presentation as they relate to Aboriginal families.
- Within this low level of reimbursement, many kinship carers try to navigate a complex and expensive legal system in an attempt to achieve the best outcomes for the child. I hear from carers who cannot afford to gain the legal advice they need or take the legal action they believe is warranted.
- The lack of an adequately funded Peak Body to support kinship carers is evident. Looking at the annual report of the Victorian Foster Care Association – which does a great job with relatively little funds – I can't help noting their level of funding is significantly greater than that provided to Kinship Carers Victoria – over \$400,000 per annum in comparison to \$50,000 per annum - even this level of funding for Kinship Carers Victoria **took extensive lobbying** by this Commission and others. The need for support and training is great – clearly **this level of funding for Kinship Care Victoria cannot begin to meet the existing, and the impending growing need.**
- This is despite:
  - the majority of carers are kinship carers;
  - the trend in rapid growth in kinship care is expected to continue;
 and

- the knowledge that foster care is a shrinking type of care.

The equation is inverted!

- As a society and as a government, we must remember the cost difference between residential care and kinship care – both in the short and longer term. We must see the **support of kinship carers as an investment that reaps significant benefits in the longer term.**
- The discrepancy in care giver payments between kinship carers and foster carers is a further indication of our **undervaluing the role kinship carers.**
- Recently, at the roundtable on preventing sexual abuse in Out of Home Care convened by the Royal Commission, I raised the prospect of **tax incentives** being made available for carers – we need to make it financially easier for them to be able to care – to give them a reasonable income, rather than the ‘reimbursement’ they may receive.
- Currently, if a carer earns more than the tax free threshold of approximately \$18,000 per year, this modest income for providing care for a vulnerable child is subject to tax. Not only is this a disincentive, it can result in the loss of potential carers purely for financial reasons.
- At this point of time, only a foster carer is able to attract funds to the level of a taxable income.

- I was told by federal representative at the roundtable that tax is a complex beast – surely this is no answer to an option that could assist – we need to work it out.
- Why shouldn't a person be able to step out of the workforce to look after a child within their family, most likely a traumatised and high need child, and be paid a reasonable wage to do so?
- Ladies and gentlemen, if this Inquiry achieves anything, please ensure that our tax system remedies this shameful inequity.
- There is **greater awareness** today of the need to take a proactive approach to keeping children safe from abuse.
- A **suitable kinship care placement** may potentially abate a child's progression into the statutory system, resulting in significant cost savings to the State. Financial compensation in the way of a fair and reasonable carer payment, the same as we do for foster carers, would still result in considerable cost savings for the State in comparison to other forms of out of home care.
- Let us again stress that in Victoria, \$100 million is spent on the 7 percent of children who find themselves in residential care.
- Moving on, I would like to focus for a moment on **new initiatives**.
- Following the Victorian Senate Inquiry into the Handling of Child Abuse by Religious and Other Non-Government Organisations '**Betrayal of Trust**', the Victorian government announced further measures to protect vulnerable children.

- Included in these new strategies, is the **introduction of minimum child safe standards for organisations** that have direct and regular contact with children, as well as a role for the **Commission to scrutinise organisations' responses** to allegations of abuse, and their **systems for keeping children safe**.
- I am very pleased that a proposed **Reportable Conduct Scheme** would be supplemented and strengthened, by the proactive, prevention based approach, of improving policy and systems to keep children safe – we all want to focus on preventing harm, **not** just ensuring robust processes exist to deal with issues once they have occurred.
- Organisations arranging or providing care for children need to shoulder the prime responsibility for keeping children safe from abuse. But the powerful testimony that has been heard in the Royal Commission from victims of abuse and their families has shown that organisations **sometimes fail** in this responsibility.
- Embedding support, supervision, and a culture of child focussed, family centred scrutiny within kinship care, is a further more sophisticated step, in the ongoing task of protecting children.
- I don't want the Committee to walk away with the view that the Commission is not in support of kinship and grandparent carers – we are and in this State, are their champion.
- The huge majority of kinship and grandparent carers have nothing but the child's best interest at heart – they are selfless, they put their lives on hold to provide care, often with limited

support and frequently experiencing family disharmony and financial hardship – but – the safety of children must remain our unwavering focus.

- The Commission has frequently acted as champion for kinship carers, hearing from them firsthand about the issues they face.
- The Commission’s written submission outlines work we have done with carers, and resources that we have developed to assist them.

#### • **Story to highlight issues**

- I must reiterate - we are the *Commission for Children and Young People*, and the most noteworthy way to ensure their best interests are upheld is to appropriately assess and support grandparent and other kinship carers and potentially minimise the likelihood of progression further into the statutory system.
- **I will hand over to Andrew Jackomos who will highlight particular issues relevant to Aboriginal families in Victoria.**

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## **ANDREW**

### Acknowledge Traditional Owners

Thank you for this opportunity to speak directly with the Committee on this matter particularly as it relates to Aboriginal babies, children, youth and families.

What was reaffirmed by the 1996 *Royal Commission into Aboriginal Deaths in Custody* and the 1997 *Bringing them Home Inquiry* is that removal from family and kin can and does have devastating and intergenerational effects on children.

AS Bernie noted, there are more than 6400 children and young people in Out of Home Care in Victoria; approximately 1050 of these are Aboriginal children. The alarming thing is that our children are over-represented and in doing so are losing their culture. If children are removed from their families it is essential that they maintain and develop their Aboriginal identity and connection to culture and kin.

Kinship carers, including grandparents, are an important component of a culturally appropriate child protection and out of home care response. Our children are also in care over longer periods of time and kinship carers are often left with little support to fulfil their role as primary carer keeping the child connected to kith and kin for many years.

The Victorian government has legislated through the *Children Youth and Families Act 2005* to maintain connection to culture, however monitoring of the Act and implementation seems to be inconsistent.

All Aboriginal children in OOHC under the guardianship of the Secretary Department of Human Services are legislated to have a (Section 176) **Cultural Support Plan** to keep them connected to family, kin and culture. Last year there was found that only eight

per cent of eligible children had one and sadly of those that I have reviewed recently the quality is left wanting.

(Section 13) The **Aboriginal Child Placement Principle** requires the best interest of the child and maintenance of their culture in out of home care placements. As Bernie has indicated often kinship placements take place in crisis situations. The principle requires that Aboriginal representatives are consulted and involved in decision making regarding out of home care arrangements for the child. *Victoria's Vulnerable Children's Strategy Baseline Report* (2013) confirms that approximately 55 per cent of children are placed with family, not necessarily Aboriginal family.

More needs to be done to understand the application of the principle and to monitor its implementation and intent. The Commission has commenced an inquiry into this in Victoria.

Kinship carers have told me that they, including grandparents, have no voice with decision makers and no direct line to raise their concerns and advocate for change about their grandchildren.

Aboriginal carers do not have access to a Victorian Aboriginal peak body for support and the vast majority of placements are provided by mainstream community service organisations and not Aboriginal Community Controlled Organisations. Bernie has already told you about the disparity in funding between Foster Carers Association (\$400K) compared to Kinship Carers Association (\$50K). These organisations would not be the first place that a Koorie carer would go to. It would be their local Aboriginal Organisation. Perhaps with



more support Kinship Carers Association can develop more ways to connect with the Koorie carers and grandparents.

Aboriginal communities need to be involved in every part of the decision-making process regarding Koorie children as legislated in the *Children Youth and Families Act* as well as the *UN Declaration on the Rights of Indigenous Peoples*. Self-determination is the right of First Peoples families and communities to retain shared responsibility for the upbringing, training, education and wellbeing of their children, consistent with the rights of the child.

Aboriginal babies, children, youth and kinship carers have the right to access culturally appropriate services; and the best of these are run by and for Aboriginal people.

If children cannot return to their parents- communities tell me that the security and relief of a placement being made permanent is undermined by a lack of financial support.

Building on what Bernie has told you -There is discrimination between caregiver reimbursements to foster carers and kinship carers. The highest annual rate for a kinship care is \$11,454 compared to \$36,187 for foster carers. Tailored care packages for children with complex needs receive a similar reimbursement of \$36,187. I would suggest that most Koorie children in care will have multiple and complex needs and the payments to kinship carers is inadequate. (Source: Foster Carers Association Victoria 2013-14)

This can be further exacerbated by entrenched poverty and

housing overcrowding for Aboriginal people.

The unemployment rate for Aboriginal people in Victoria is 19 per cent and the median Aboriginal household has a weekly income in the range of \$800–\$999 compared to the median non-Aboriginal household which is in the range of \$1,000–\$1,249. (Source: Aboriginal Economic Strategy 2013-2020)

In addition to income - Aboriginal households tend to be bigger. 17 per cent of Aboriginal households have 5 or more people living in them compared to only 10 per cent of non-Aboriginal households.

#### STORY/EXAMPLE

- *Lake Tyres example where grandparents were interstate and contacted by DHS to take children in with no notice, planning, insufficient resources.*
- *Story highlights a norm rather than an exception.*

I am also consistently told that Aboriginal Family Led Decision Making meetings designed to engage the family are often held after decisions have been made; if they take place at all, and they may not include the right family members. Grandparents do not necessarily attend these meetings. Once a placement has occurred, there is a view that the job is done – when in reality, a new job has just begun.

Aboriginal kinship carers need support to care for children who have complex needs and to navigate a child protection system that they are likely to mistrust based on past policies and experiences.

Kinship carers require access to culturally competent and relevant information and support on contemporary child rearing practices and assistance to understand the impact of trauma on the child. It is vital that this is delivered within their community. Currently kinship carers in Victoria do not have access to the same level of training, especially related to trauma that foster carers receive.

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.

Most of our children are case managed by Community Service Organisations - all Aboriginal kinship care case management should be transferred to Aboriginal Community Controlled Agencies.

Ensuring cultural safety for the carer, whole of community support and holistic responses for the family improving outcomes for the child.

The number of **child protection substantiations** for Aboriginal children is continuing to increase. (2012-2013) There are 67.4 per 1000 Aboriginal children in care compared to non-Aboriginal 7.2 per 1000 in Victoria.

This is along with the **unacceptable high rate of placements in Out of Home Care** compared to non-Aboriginal children. The highest placement rate in Victoria (inner Gippsland) for Aboriginal children is 114.1 compared to 11.2 non-Koorie. This compares with a national rate of about 45.

The growth rate for Koorie children in out of home care has been 9.5% per annum (0-17 year olds) compared to all children at 5.3% per annum.

What this tells us is that **Aboriginal kin and grandparents will continue to be needed to provide safe homes for our children and that there is a need to plan for this involvement and their support.** We need to grow and better support Aboriginal carers. There is no proactive kinship care body for Koorie carers.

The whole of the kinship carer system needs significant investment; but the overrepresentation of Aboriginal children in care and the risk of a new Stolen Generation disconnected from family should be sending alarm bells to governments to act immediately.

There is a lot to do to create a robust and culturally safe system for Aboriginal carers and children – however at a minimum **we must ensure compliance to meet the intent of legislative requirements** in the *Children, Youth and Families Act 2005* as it relates to Aboriginal children.

Thank you.

**BERNIE**

In closing, I would like to reaffirm my view that kinship carers selflessly provide much needed care to vulnerable children however, placements are often **lacking in robust assessment**, are **under supported** and are **lacking in robust supervision** and are **without sufficient financial provision**. This is not in a child's best interest or that of a carer.

For a highly traumatised, vulnerable child in the wrong placement, it can be destructive and life shattering.

I reiterate and endorse the Commission's key recommendations, as contained in our written submission, on actions to develop and grow protection for children in kinship care placements. They are:

1. That consistent, comprehensive **assessment processes are applied to all kinship care placements**.
2. That consideration is given to establishing a **register of all kinship carers**.
3. That **non-statutory kinship carers have greater and equal access to support and services** to strengthen and preserve these placements and minimise the likelihood for progression into the statutory system.
4. **At a minimum ensure that caregiver reimbursements for kinship carers and foster carers are equal**. Adequately and transparently fund caregiver payments for kinship carers based on the child and young person's needs, together with:
  - consideration of a 'gold card' system for access to health, education and housing services in particular; and

- implementation of tax incentives for 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. **Reiterating Andrew's call to transfer all Aboriginal kinship care case management** to Aboriginal Community Controlled Agencies, Community Service Organisations or partnerships of same, with adequate and equitable resourcing, in keeping with the needs of the child.

This is an exciting time in Victoria and across the country, with significant innovative development underway. Our task is to maximise this window of opportunity to develop and strengthen systems designed to keep children safe.

I am adamant that **we need to learn** from the sickening tales of the abuse of children by those who are meant to care and look after them that we have heard as part of the Royal Commission.

I am alarmed at the potential for similar issues to arise in kinship care – **if we don't get our act together.**

I am hopeful that strategic action will mean we are not having another Royal Commission about harm to vulnerable children

resulting from the lack of appropriate, robust assessment and supervision of kinship care placements.

I thank the Committee members for your time and for allowing the Commission to comment on this very important issue.

My colleagues and I would be pleased to take any questions that you may have.