

The Senate

Community Affairs
References Committee

Out of home care

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44th Parliament

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ABBREVIATIONS

| | |
|---------|--|
| AbSec | Aboriginal Child, Safety, Family and Community Care State Secretariat (NSW) |
| ACCA | Aboriginal community controlled agency |
| ACTCOSS | ACT Council of Social Service |
| ACWA | Association of Child Welfare Agencies |
| ADACAS | ACT Disability, Aged and Carer Advocacy Service |
| AFLSWA | Aboriginal Family Law Services Western Australia |
| AIHW | Australian Institute of Health and Welfare |
| ALSWA | Aboriginal Legal Service of Western Australia |
| CAFS | Children and Families Secretaries Group |
| CALD | Culturally and Linguistically Diverse |
| CCYPV | Commission for Children and Young People Victoria |
| CDA | Children with Disability Australia |
| CECFW | Centre for Excellence in Child and Family Welfare |
| CFWAA | Child and Family Welfare Association of Australia |
| COAG | Council of Australian Governments |
| CSD | Community Services Directorate (ACT) |
| CSO | Community Service Organisation |
| CV | Community Visitor |
| CYFAA | Children's Youth and Families Agency Association |
| DCCSDS | Department of Communities, Child Safety and Disability Services (Queensland) |
| DCF | Department of Children and Families (NT) |
| DCPF | Department for Child Protection and Family (WA) |

| | |
|--------------------|--|
| DECD | Department for Education and Child Development (SA) |
| DHHS | Department of Health and Human Services (Tasmania) |
| DHS | Department of Human Services (Victoria) |
| DSS | Department of Social Services (Commonwealth) |
| FACS | Department of Family and Community Services (NSW) |
| FASD | Foetal Alcohol Spectrum Disorder |
| FCAT | Foster Care Association of Tasmania |
| FCAV | Foster Care Association of Victoria |
| Fin WA | Family Inclusion Network of Western Australia |
| FINT | Family Inclusion Network Townsville |
| FINV | Family Inclusion Network Victoria |
| FVPLS | Aboriginal Family Violence Prevention and Legal Service Victoria |
| GMAR | Grandmothers Against Removals |
| IDRS | Intellectual Disability Rights Service |
| ISS | International Social Service |
| Jumbunna | Jumbunna Indigenous House of Learning, University of Technology Sydney |
| NAAJA | North Australia Aboriginal Justice Agency |
| National Framework | National Framework for Protecting Australia's Children 2009-2020 |
| National Standards | National Standards for out-of-home care |
| NDS | National Disability Services |
| NFVPLS | National Family Violence Prevention Legal Services Forum |
| NGO | Non-government organisation |
| NPY Council | Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council |
| NTCOSS | Northern Territory Council of Social Service |
| OOHC | Out-of-home care |

| | |
|--------|--|
| PDA | People with Disability Australia |
| RANZCP | Royal Australian and New Zealand College of Psychiatrists |
| SCAMC | South Coast Aboriginal Medical Corporation |
| SNAICC | Secretariat of National Aboriginal and Islander Child Care |
| SPRC | Social Policy Research Centre, University of NSW |
| SSI | Settlement Services International |
| UNCRC | United Nations Convention on the Rights of the Child |
| UNCRPD | United Nations Convention on the Rights of Persons with Disabilities |
| WACOSS | Western Australian Council of Social Service |

LIST OF RECOMMENDATIONS

Recommendation 1

10.11 The committee recommends that the Council of Australian Governments (COAG) include the following measures in the third action plan (2015-2018) for the National Framework:

- accountability for Commonwealth, state and territory governments to ensure compliance with the objectives of the National Framework;
- practical guidance for state and territories for implementing the *National Standards for out-of-home care* at a local level;
- integrating all projects under the National Framework with related frameworks including the *National Plan to Reduce Violence against Women and their Children 2010–2022* and the *National Drug Strategy 2010–2015*; and
- associated funding to assist the National Framework achieve its stated objectives.

Recommendation 2

10.15 The committee recommends that the Australian Institute of Health and Welfare (AIHW) work with states and territories to address data gaps in Child Protection National Minimum Data Set (CP NMDS) and other data sets of children in out-of-home care regarding:

- children and young people with disability;
- children and young people from culturally and linguistically diverse backgrounds;
- relationship between children and young people and their kinship carers;
- role of permanency planning and permanent care placements for children and young people;
- data collected by community service organisations; and
- how outcomes for children and young people in out-of-home care compare with the general population.

Recommendation 3

10.17 The committee recommends that AIHW work with states and territories to develop and implement a data collection project that would provide general data on the reasons children are placed in out-of-home care, consistent with the recommendation by the United Nations Committee on the Rights of the Child.

Recommendation 4

10.19 The committee recommends that COAG review the National Framework to address recommendations by the United Nations Committee on the Rights of Persons with Disabilities that the National Framework include provisions to protect the rights of children, particularly those with disability.

Recommendation 5

10.22 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to improve participation by children and young people in decision making processes, including:

- entry into care (where appropriate);
- placement decisions;
- family contact and reunion; and
- transition from care.

10.23 This project should draw from the findings of AIHW's national survey into views of children and young people in out-of-home care.

Recommendation 6

10.24 The committee recommends that COAG develop and implement nationally consistent powers for independent child commissioners and guardians to:

- review individual out-of-home care cases;
- address complaints and concerns by children and young people;
- ensure the voice of children and young people is heard in all decision-making processes about placements and case planning; and
- provide community visitors to visit all out-of-home care placements.

Recommendation 7

10.29 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework, a project to develop and implement:

- national therapeutic care standards; and
- an evaluation of best practice models of therapeutic care across all types of care (drawing from best practice models in Australia and overseas), with a view to implementing therapeutic models across all jurisdictions.

Recommendation 8

10.30 The committee recommends that states and territories increase resources available to fund therapeutic models of care, based on evidence-based evaluations of existing and proposed models.

Recommendation 9

10.32 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to develop and implement a nationally consistent approach to integrating child protection and disability services to ensure children are screened for disability and complex health needs (such as FASD) and referred to appropriate services, and have access to disability services throughout their time in care.

Recommendation 10

10.34 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to develop and implement specific supports for children and families in UHMs and international kinship care placements.

Recommendation 11

10.36 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to develop and implement a nationally consistent approach to permanency planning. This should include adding a measure on permanency planning into the National Standards for out-of-home care.

Recommendation 12

10.42 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to develop a nationally consistent approach to legal forms of permanence (including guardianship orders and adoption) that ensure children maintain connection to their families and carers continue to receive financial and practical support.

Recommendation 13

10.43 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to consider how to improve access to legally permanent placements (including guardianship orders and adoptions) for children and young people in out-of-home care, where these arrangements may provide the safest and most stable placements.

Recommendation 14

10.45 The committee recommends that the Department of Social Services, Department of Human Services and Department of Immigration and Border Protection review parental consent requirements for identity documents (including passports, Medicare cards and citizenship) to remove barriers to accessibility for children and young people in out-of-home care.

Recommendation 15

10.47 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to develop and implement strategies to improve health outcomes for children and young people in care, including:

- access to health services, particularly youth mental health treatment and support services; and
- consideration of health outcomes in case planning.

Recommendation 16

10.48 The committee recommends that the Department of Health introduce a separate Medicare item for children in out-of-home care to improve access to health assessments and treatment, including mental health.

Recommendation 17

10.51 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to develop and implement a nationally consistent approach to:

- additional education support for children and young people in out-of-home care; and
- increasing participation by young people in out-of-home care in education and training opportunities.

Recommendation 18

10.52 The committee recommends that states and territories ensure all children in out-of-home care have updated education plans.

Recommendation 19

10.56 The committee recommends that AIHW work with states and territories to develop a data set on outcomes for young people transitioning from care up to 21 years of age, including the following indicators:

- connection to family and/or carers;
- education and employment;
- housing; and
- health (including mental health).

Recommendation 20

10.57 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to develop and implement a nationally consistent framework for transitioning from care, with a focus on improving:

- health outcomes;
- access to higher education;
- employment options; and
- access and support for securing suitable housing.

Recommendation 21

10.58 The committee recommends that the Australian Government increase the Transition to Independent Living Allowance (TILA) for young people transitioning from care. The committee further recommends that the Department of Social Services review existing post-care support programs to identify opportunities to assist young people transitioning from care.

Recommendation 22

10.59 The committee recommends that states and territories raise the age to which young people continue to receive ongoing post-care support to 21 years of age.

Recommendation 23

10.64 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to develop and implement a nationally consistent family support framework addressing:

- universal services targeted at improving the wellbeing of all children and young people;
- secondary interventions to support children and families at risk of child protection interventions;
- respite services and 'shared cared' models of support aimed at family preservation;

- evidence-based evaluations of family support services to determine best practice models; and
- equitable funding models for family support services.

10.65 The committee further recommends that this family support framework should consider the specific needs of Aboriginal and Torres Strait Islander communities, families and children with disability and CALD communities.

Recommendation 24

10.67 The committee recommends that COAG consider a nationally consistent approach to funding advocacy and support groups for parents with children in or at risk of entering out-of-home care.

Recommendation 25

10.69 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to develop and implement a nationally consistent approach to improving participation by children and families in decision making processes, including Family Group Conferencing and other alternative dispute resolution measures.

Recommendation 26

10.71 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework the development of nationally consistent mechanisms, such as independent bodies, for managing complaints from families and investigating individual cases.

Recommendation 27

10.72 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework the introduction of national accreditation and registration of child protection workers, including those employed by government departments and NGOs.

Recommendation 28

10.74 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to develop and implement nationally consistent family support services including support for families with contact and reunification.

Recommendation 29

10.75 The committee recommends that the Commonwealth Government provide increased resources for family support services.

Recommendation 30

10.78 The committee recommends that the Commonwealth Government improve access to legal and other advice and support available to families in child protection matters both before and during court proceedings, including through increased funding for relevant legal assistance providers. The committee further recommends particular consideration be given to improving access to legal and other advice and support for Aboriginal and Torres Strait Islander families experiencing family violence.

Recommendation 31

10.81 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to develop and implement a nationally consistent approach to building the capacity of Aboriginal community controlled agencies (ACCAs) to become integrated into all aspects of the child protection system for Aboriginal and Torres Strait Islander children, including:

- training Aboriginal and Torres Strait Islander support workers;
- providing family support services;
- implementation of the Aboriginal Child Placement Principle;
- involvement and responsibility for all decision making processes; and
- delivering out-of-home care services.

10.82 The committee further recommends that state and territory governments review Aboriginal and Torres Strait Islander overrepresentation in out-of-home care as a matter of priority and provide additional resources for family support services to address the causes of social disadvantage.

Recommendation 32

10.83 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to develop and implement mandatory cultural competence training for all services working with Aboriginal and Torres Strait children and families. This training should be delivered by specialised local Aboriginal and Torres Strait Islander services, including those with expertise working in remote communities.

Recommendation 33

10.86 The committee recommends that the National Disability Insurance Agency (NDIA) review the adequacy and availability of funding for children with disability at National Disability Insurance Scheme (NDIS) trial sites, including:

- early intervention funding to support children with disability remaining at home in the care of their parents; and
- case management support for children with disability and families with disability to access family support services to assist children remaining at home in the care of their parents

Recommendation 34

10.90 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to develop and implement nationally consistent financial and practical (including training and case-worker) support for statutory and informal relative/kinship carers. This should include:

- establishment of a national peak body for relative/kinship carers;
- accreditation and training of relative/kinship carers;
- increasing allowances available to relative/kinship carers; and
- evaluation and development of nationally consistent best practice models of supported relative/kinship care.

Recommendation 35

10.91 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to improve the capacity for emergency respite placements to determine best placements for children and young people.

Recommendation 36

10.93 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to better support Aboriginal and Torres Strait Islander children in relative/kinship care, including:

- streamlining accreditation and assessment process for Aboriginal and Torres Strait Islander kinship carers; and
- implementing the Winangay kinship resources to improve relationship between carers and child protection authorities.

Recommendation 37

10.96 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a nationally consistent strategy to support and accredit foster carers to improve recruitment and retention. This should also address nationally consistent rates of financial support, case-worker support and training of foster carers.

Recommendation 38

10.97 The committee recommends that COAG implement a nationally consistent, best practice model of professional foster care.

Recommendation 39

10.100 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to develop and implement a nationally consistent approach to:

- mandatory training for all residential care workers;
- training qualifications and allowances for carers (including increasing allowances for carers); and
- an evaluation how the role of NGOs in service delivery affects the outcomes for children in care.

Chapter 1

Introduction

1.1 In 2013, the first report to the Australian Parliament by the National Children's Commissioner highlighted serious concerns about Australia's out-of-home care system, particularly the significant increase in the number of children placed in out-of-home care, including disproportionate numbers of Aboriginal and Torres Strait Islander children.¹

1.2 Over the past fifteen years, the number of children and young people entering and remaining in statutory out-of-home care (including relative/kinship care, foster care and residential care arrangements) has more than doubled. Aboriginal and Torres Strait Islander children and young people are almost ten times more likely to be placed in out-of-home care than their peers.

1.3 Evidence suggests that children and young people in out-of-home care experience poor outcomes across a range of indicators. When the leave care, they are more likely to experience homelessness, drug and alcohol problems and physical and sexual abuse than their peers.

1.4 This inquiry addresses the intractable and complex issues facing current Commonwealth, state and territory governments to improve Australia's child protection systems to ensure they facilitate positive outcomes for all children and families affected by out-of-home care.

Establishment of the inquiry

1.5 On 17 July 2014, the Senate referred the following matter to the Senate Community Affairs References committee (committee) for inquiry and report by the second sitting week in February 2015:

Out of home care, including;

- (a) drivers of the increase in the number of children placed in out of home care, types of care that are increasing and demographics of the children in care;
- (b) the outcomes for children in out of home care (including kinship care, foster care and residential care) versus staying in the home;
- (c) current models for out of home care, including kinship care, foster care and residential care;
- (d) current cost of Australia's approach to care and protection;
- (e) consistency of approach to out of home care around Australia;
- (f) what are the supports available for relative/kinship care, foster care and residential care;
- (g) best practice in out of home care in Australia and internationally;

1 National Children's Commissioner, *Children's Rights Report 2013*, Australian Human Rights Commission, 5 November 2013, pp 25–26.

- (h) consultation with individuals, families and communities affected by removal of children from the home;
- (i) extent of children in out of home care remaining connected to their family of origin; and
- (j) best practice solutions for supporting children in vulnerable family situations including early intervention.²

1.6 On 4 December 2014, the Senate granted an extension of time for reporting until 13 May 2015.³ On 12 May 2015, the Senate granted an additional extension of time for reporting until 12 August 2015.⁴ On 11 August 2015 and 18 August 2015, the Senate granted further extensions to 18 August 2015 and 19 August 2015.⁵

The committee's areas of interest

1.7 The committee has a long-standing commitment to investigating statutory and informal child protection systems to improve outcomes for all Australians. The committee's previous inquiries into past practices of forced adoptions and child institutionalisation and current practices of grandparents caring for grandchildren have highlighted and addressed significant issues in the way governments support children entrusted to state care.⁶

1.8 In this report, the committee examines why so many children and young people, particularly from Aboriginal and Torres Strait Islander communities, are entering and remaining in out-of-home care. The committee examines how children and young people can be better supported to remain with their families, where possible.

1.9 The committee acknowledges the significant challenge in addressing the complex and difficult problems facing the out-of-home care system. By bringing together evidence from across Australia, the committee assesses the size and scope of the problems in out-of-home care, and possible options to improve the outcomes for children and young people, their families and their carers.

1.10 The committee examines what works and what doesn't in Australia's existing out-of-home care systems, and what can be learned from successful models across Australia and overseas.

Structure of report

1.11 This report has 10 chapters:

2 *Journals of the Senate*, No. 45–17 July 2014, p. 1239.

3 *Journals of the Senate*, No. 74–4 December 2014, p. 1986.

4 *Journals of the Senate*, No. 92–12 May 2015, p. 2555.

5 See: *Journals of the Senate*, No. 104 – 22 August 2015, p. 2898; *Journals of the Senate*, No. 108–18 August 2015, p. 2612.

6 See: Senate Community Affairs Committee, *Completed inquiries and reports*, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/completed_inquiries (accessed 10 August 2015).

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- chapter 2 outlines the current out-of-home care framework in Australia;
 - chapter 3 examines the drivers for the growth in number of children and young people in out-of-home care;
 - chapter 4 examines the outcomes for children in out-of-home care and the standards by which outcomes are measured;
 - chapter 5 explores the outcomes for families affected by child removal, including early intervention programs;
 - chapter 6 examines the current models and supports across jurisdictions for foster care, relative/kinship care and residential care, including best practice models;
 - chapter 7 assesses the suitability of other permanent care options for children and young people outside, including permanent care orders and adoption;
 - chapter 8 examines the particular needs of Aboriginal and Torres Strait Islander children and their communities, including best practice models;
 - chapter 9 examines the particular needs of specific groups, including children and families with disabilities and migrant or other minority cultural groups;
 - chapter 10 summarises the committee's recommendations.

Conduct of the inquiry

1.12 The committee advertised the inquiry in *The Australian* on 17 September 2014. Details of the inquiry were placed on the committee's website and the committee wrote to over 80 organisations, inviting submissions by 31 October 2014. Submissions continued to be accepted after that date.

1.13 The committee received 108 submissions from a range of individuals and organisations, including children and parents, foster carers, support organisations, peak bodies, researchers and state and territory governments. In addition, the committee received 151 responses to a submission template prepared by Australian Legislative Ethics Commission. A list of the individuals and organisations that made submissions is provided at Appendix 1.

1.14 The committee held seven public hearings throughout Australia:

- Perth on 16 February 2015;
- Sydney on 18 February 2015;
- Hobart on 12 March 2015;
- Melbourne on 20 March 2015;
- Darwin on 1 and 2 April 2015;
- Canberra on 16 April 2015; and
- Brisbane on 17 April 2015.

1.15 Transcripts of the hearings are available on the committee's website,⁷ and a list of the witnesses who gave public evidence at the hearings is provided at Appendix 2.

Acknowledgements

1.16 The committee is grateful to all individuals, organisations and governments that have assisted the committee with its inquiry.

1.17 The committee extends its sincere thanks to those children and young people, parents and carers who shared their personal accounts and experiences of the child protection system.

1.18 The committee is also particularly grateful for the cooperation of Commonwealth, state and territory government departments and the non-government sector in providing assistance to address this significant national issue.

Key concepts

Definition of out-of-home care

1.19 For the purposes of this report, the committee defines out of home care as services that provide care for children and young people aged 0–17 years who are placed away from their parents or family home for reasons of safety or family crisis.⁸

Types of care

1.20 Box 1.1 outlines the five main types of statutory out-of-home care, as defined by the Australian Institute of Health and Welfare (AIHW).

7 See: Senate Community Affairs Committee, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs, (accessed 7 August 2015).

8 Productivity Commission, *Report on Government Services*, 2015, Chapter 15: Child protection, p. 15.3.

Box 1.1 – Types of statutory out-of-home care

- **Home-based care:** placement in the home of a carer who is reimbursed (or who has been offered but declined reimbursement) for expenses for the care of the child. This is broken down into the three subcategories:
 - **relative/kinship care**—where the caregiver is a relative (other than parents), considered to be family or a close friend, or is a member of the child or young person’s community (in accordance with their culture) who is reimbursed (or who has been offered but declined reimbursement) by the state or territory for the care of the child;
 - **foster care**—where the care is authorised and carers are reimbursed (or were offered but declined reimbursement) by the state or territory and supported by an approved agency; and
 - **other home-based out-of-home care:** home-based care which does not fall into either of the above categories.
- **Residential care:** where placement is in a residential building whose purpose is to provide placements for children and where there are paid staff;
- **Family group homes:** homes for children provided by a department or community-sector agency which have live-in, non-salaried carers who are reimbursed and/or subsidised for the provision of care;
- **Independent living:** including private board and lead tenant households; and
- **Other:** includes placements that do not fit into the above categories and unknown placement types. This includes boarding schools, hospitals, hotels/motels and the defence forces.

Source: AIHW, *Child Protection Australia 2013–14*, AIHW: Canberra, 2013, Box 5.2.

Informal care

1.21 The committee acknowledges that in addition to children and young people in statutory out-of-home care placements, a large number of Australian children are cared for in informal arrangements with relatives and kin.⁹ Ms Meredith Kiraly from the University of Melbourne estimated that there are at least three times as many children in informal relative/kinship arrangements than statutory relative/kinship placements.¹⁰ Dr Marilyn McHugh from the Social Policy Research Centre (SPRC) at the University of NSW submitted that in relation to informal care arrangements, 'we

9 Mirabel Foundation, *Submission 36*, pp 4–6.

10 Ms Kiraly notes this estimate, based on international comparisons, is likely to underestimate the actual number of children in informal care placements. See: Ms Meredith Kiraly, A review of kinship carer surveys: the 'Cinderella' of the care system? *Child Family Community Australia*, Paper No. 31, 2015, p. 2.

know very little about the circumstances of the overall number of informal (private) kinship carers or the children in their care'.¹¹

1.22 Consistent with the findings of the committee's 2014 inquiry, *Grandparents who take primary responsibility for raising their grandchildren*, the committee acknowledges that informal kinship carers play a significant role in the lives of children for whom they care, but do not receive an adequate level of recognition or financial and practical support.¹² Support for children and young people in relative/kinship placements will be examined in detail in Chapter 6.

Key out-of-home care trends and statistics

Increase in number of children in out-of-home care

1.23 According to AIHW's *Child Protection Australia 2013–14* report, at 30 June 2014, there were 43 009 Australian children in out-of-home care. This equates to a rate of 8.1 per 1000 children in the population aged 0–17 years.¹³

1.24 Over the past fifteen years, the number of children in out-of-home care has more than doubled. Statistics compiled by the Australian Institute of Family Studies (AIFS) show that from 1999–2000 to 2013–14 the total number of children in out-of-home care has increased from 16 923 to 43 009.¹⁴ Figure 1.1 shows the sharp increase in the number of children in out-of-home care over the past decade.

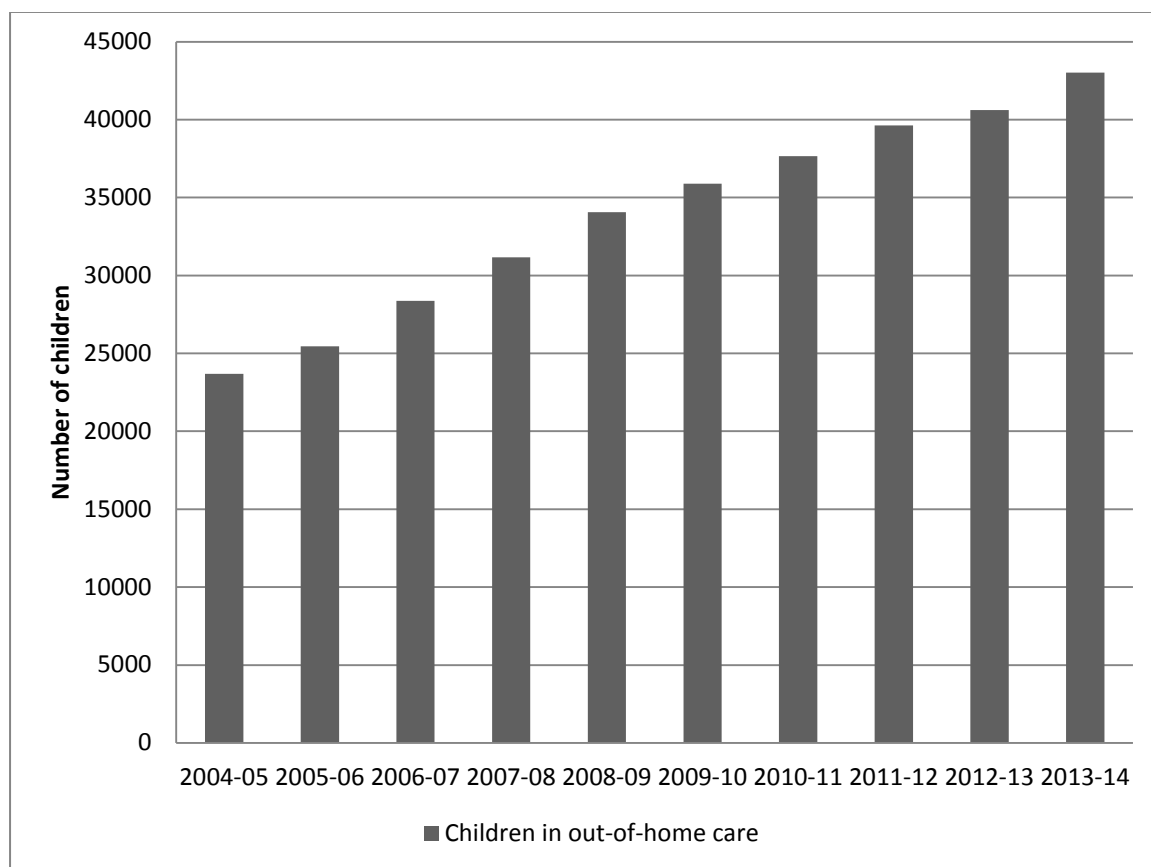
11 Quoted in: Association of Child Welfare Agencies (ACWA), *Submission 94*, p. 2.

12 See: Senate Community Affairs References Committee, *Grandparents who take primary responsibility for raising their grandchildren*, October 2014.

13 AIHW, *Child Protection Australia 2013–14*, Canberra: AIHW, 2015, p. 9. See also: Productivity Commission, *Report on Government Services 2015*, Table 15A.18.

14 AIFS, *Trends in child protection notifications and children living in out-of-home care in Australia: 1989–90 to 2013–14*, tabled 20 March 2015.

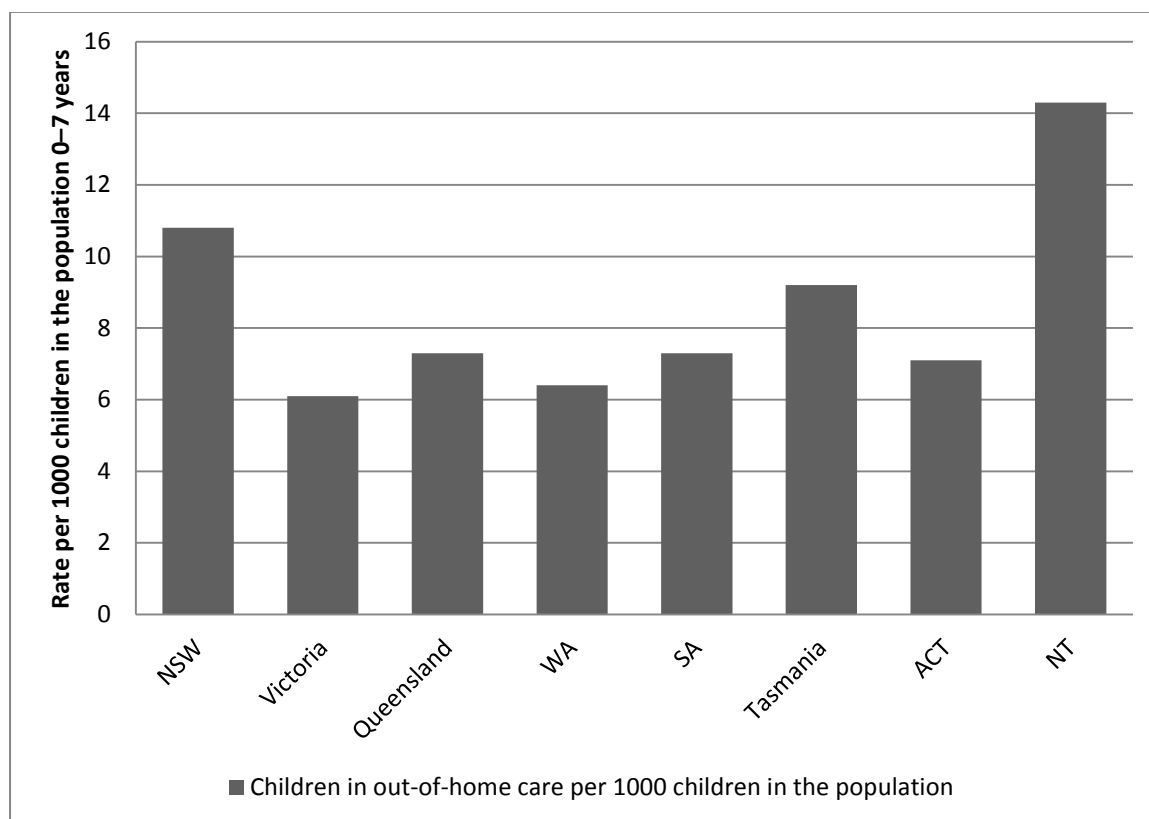
Figure 1.1 – Number of children in out-of-home care, 2004–05 to 2013–14



Source: Productivity Commission, *Report on Government Services 2015*, Table 15A.18.

1.25 At 30 June 2014, across jurisdictions the rate of children in out-of-home care per 1000 children in the population aged 0–17 years was highest in the Northern Territory (14.3) and New South Wales (10.8) and lowest in Victoria (6.1) and Western Australia (6.4). Figure 1.2 shows the rate of children in out-of-home care per 1 000 children in the population across jurisdictions.

Figure 1.2 – Rate of children in out-of-home care per 1000 children aged 0-17 years in the population across jurisdictions at 30 June 2014



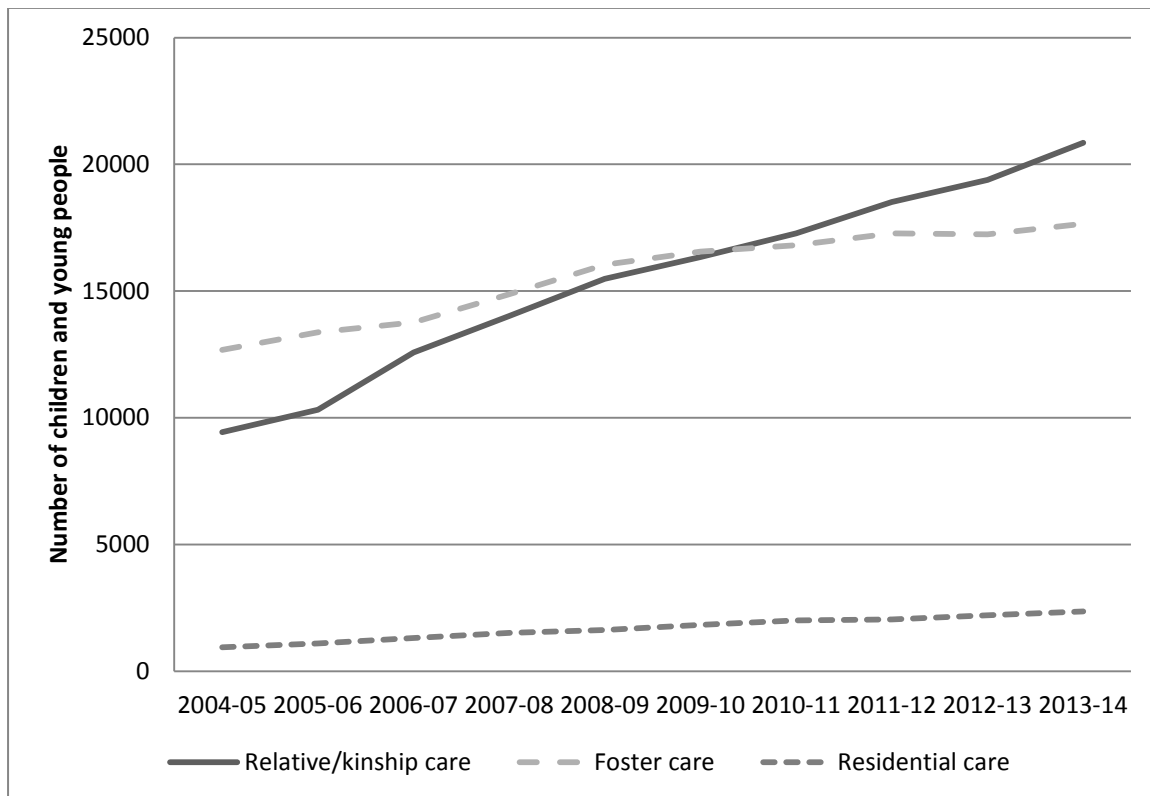
Source: Productivity Commission, *Report on Government Services 2015*, Table 15A.18.

Increase in relative/kinship care

1.26 Relative/kinship care placements account for the largest proportion of out-of-home care placements. According to AIHW, in 2012–13, 93.4 per cent of children in out-of-home care were in home-based placements, including 47.9 per cent placed with relatives or kin.¹⁵

1.27 Over the past decade, the number of children in relative/kinship placements has continued to increase. Figure 1.3 shows the increase in the number of placements by the three main types of care since 2004–05, highlighting the growth in kinship care.

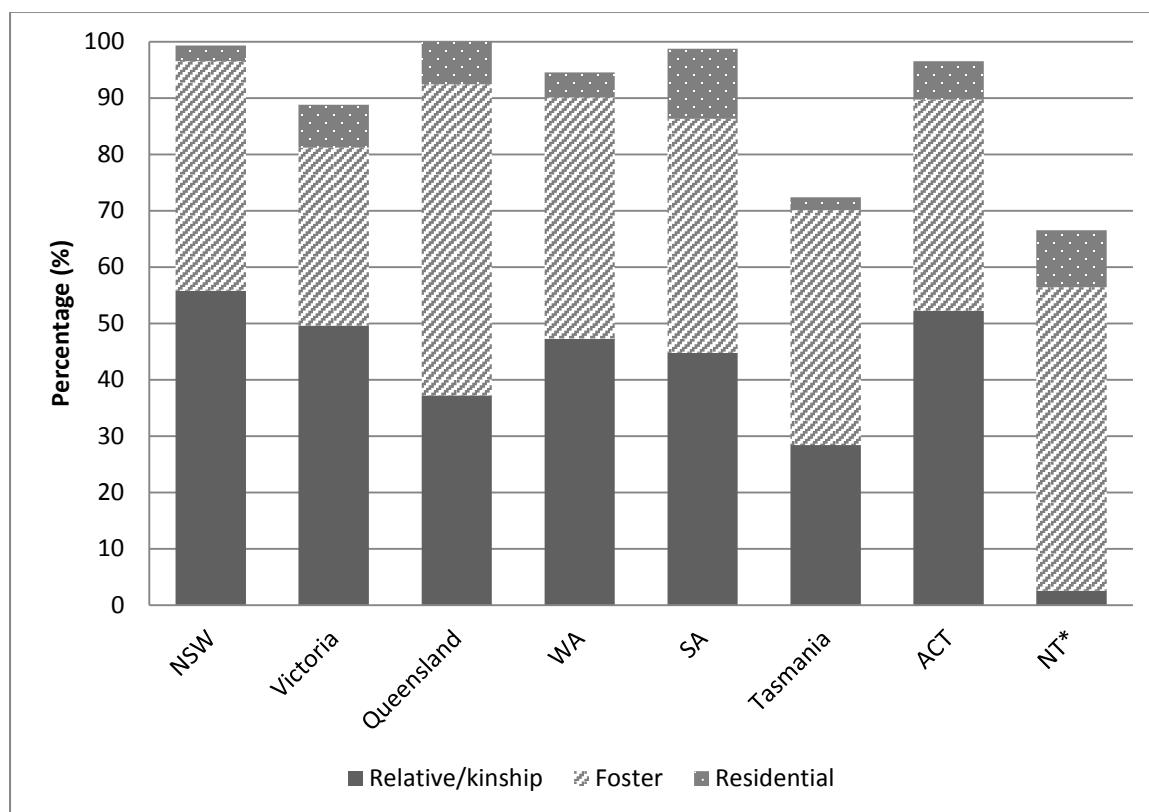
Figure 1.3 – Number of children in out-of-home care by placement type, 2004–05 to 2013–14



Source: Productivity Commission, *Report on Government Services 2015*, Table 15A.19; AIHW, answer to question on notice, 16 April 2015 (received 20 May 2015).

1.28 Across jurisdictions, relative/kinship placements account for the largest proportion of out-of-home care placements in New South Wales, Victoria, Western Australia, South Australia and the ACT.¹⁶ Figure 1.4 shows the proportion of placements types at 30 June 2013 across jurisdictions.

Figure 1.4 – Proportion of children in main types of care across jurisdictions, 30 June 2013



* In the NT's client information system, the majority of children in a relative/kinship placement are captured in the foster care placement type.

Source: AIHW, Submission 22, Table 6.

Over-representation of Aboriginal and Torres Strait Islander children

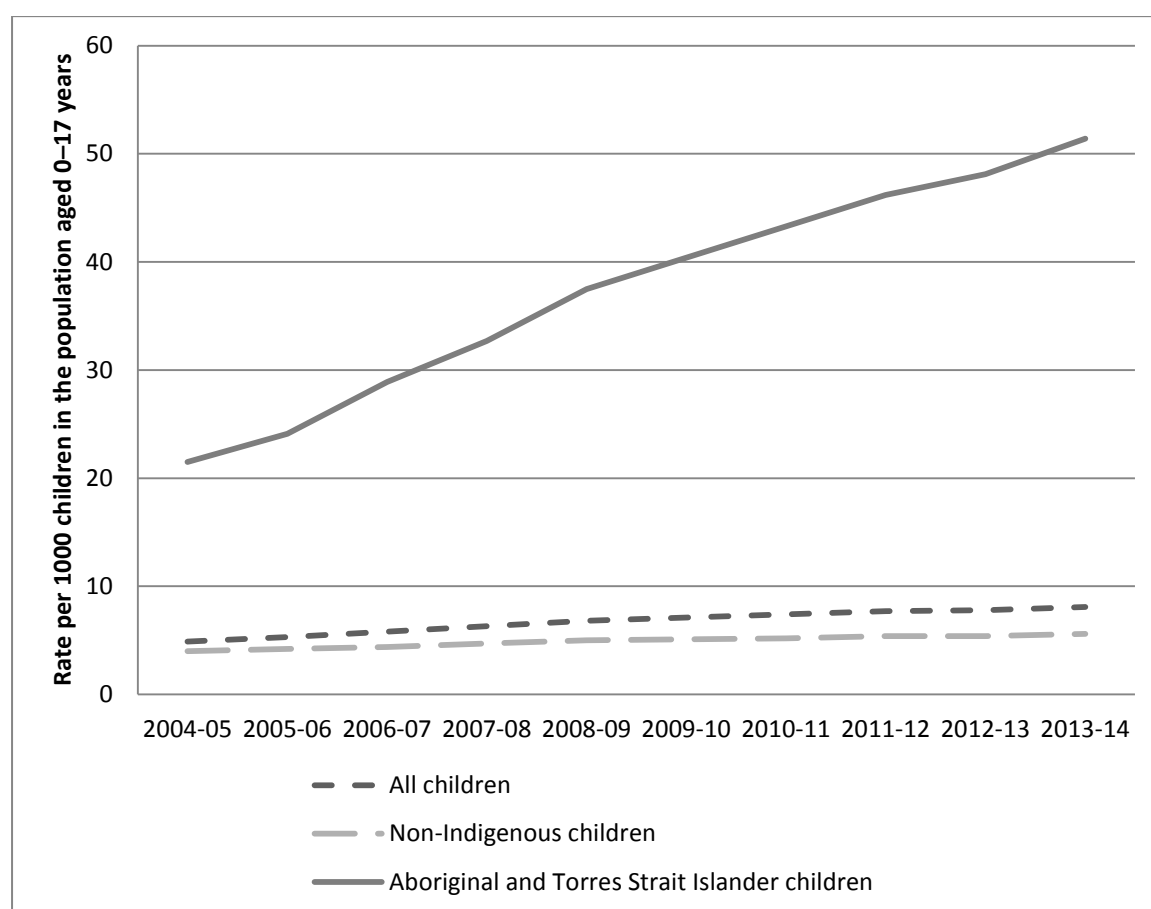
1.29 Aboriginal and Torres Strait Islander children are significantly over-represented in the out-of-home care system. Aboriginal and Torres Strait Islander children and young people account for less than five per cent of all Australian children and young people, but account for almost 35 per cent of the out-of-home care population.¹⁷ According to the latest figures from the Productivity Commission, Aboriginal and Torres Strait Islander children are over nine times more likely to be in out-of-home care than non-Indigenous children.¹⁸

17 According to the Australian Bureau of Statistics (ABS), in 2006 Aboriginal or Torres Strait Islander children and young people accounted for an estimated 4.2 per cent of all Australian children and young people. The Productivity Commission reported at 30 June 2014 Aboriginal or Torres Strait Islander children and young people accounted for 34.8 per cent of all children in out-of-home care. See: ABS, *Aboriginal and Torres Strait Islander Wellbeing: a focus on children and youth*, April 2011, and Productivity Commission, *Report on Government Services 2015*, Table 15A.18.

18 Productivity Commission, *Report on Government Services 2015*, Table 15A.18.

1.30 Between 2004–05 and 2013–14, the rate of Aboriginal and Torres Strait Islander children in out-of-home care per 1 000 children in the Aboriginal and Torres Strait Islander population aged 0–17 years has more than doubled from 21.5 to 51.4 compared to 4.9 to 8.1 for non-Indigenous children.¹⁹ Figure 1.5 highlights how the rate of Aboriginal and Torres Strait Islander in out-of-home care has dramatically increased at a disproportionate rate to non-Indigenous children.

Figure 1.5 – Proportion of children in out-of-home care at 30 June per 1000 children aged 0–17 in the population by Indigenous status, 2004–05 to 2013–14

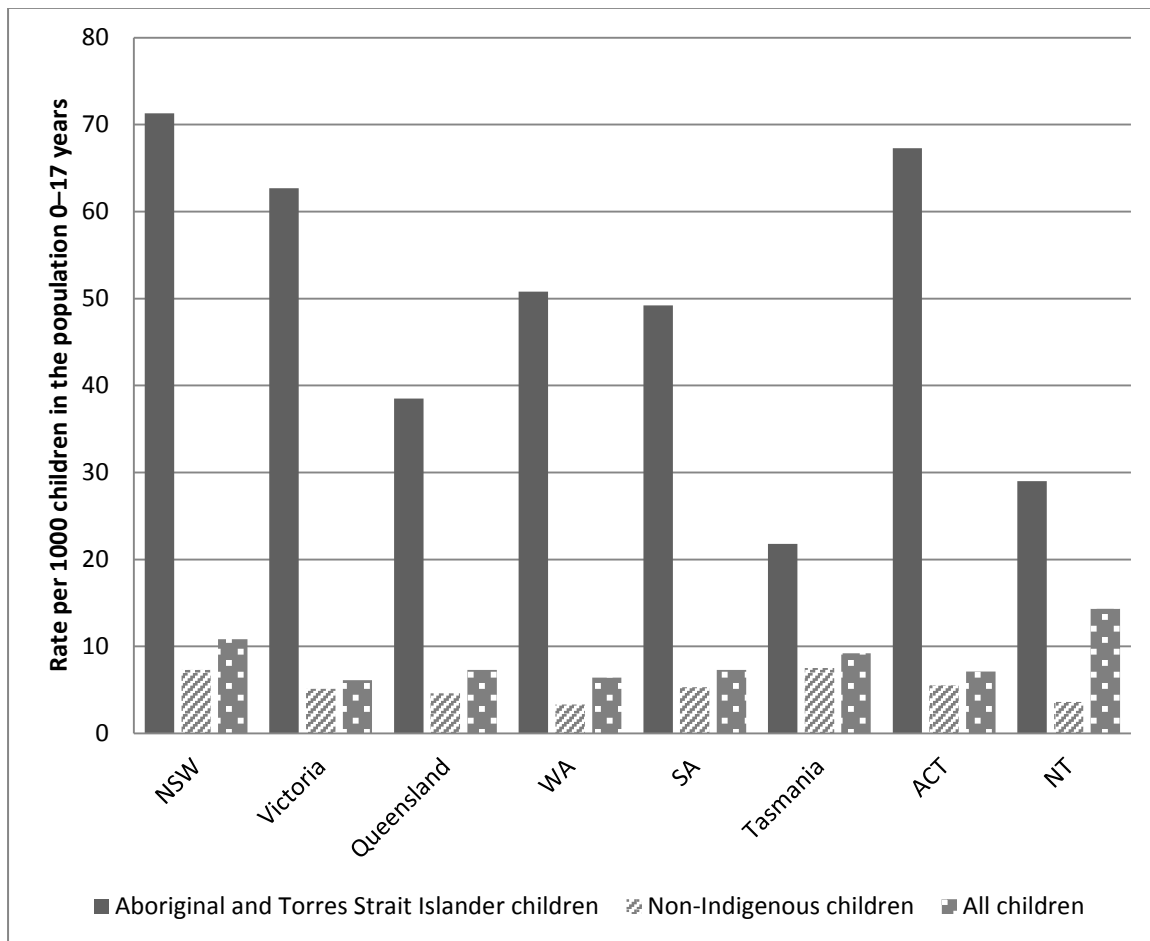


Source: Productivity Commission, *Report on Government Services 2015*, Table 15A.18.

1.31 Across jurisdictions, the rate of Aboriginal and Torres Strait Islander children in out-of-home care per 1000 children is highest in NSW (71.3), the ACT (67.3) and Victoria (62.7). Figure 1.6 shows how the rate of Aboriginal and Torres Strait Islander children in out-of-home care per 1000 children differs across jurisdictions.

19 Productivity Commission, *Report on Government Services 2015*, Table 15A.18.

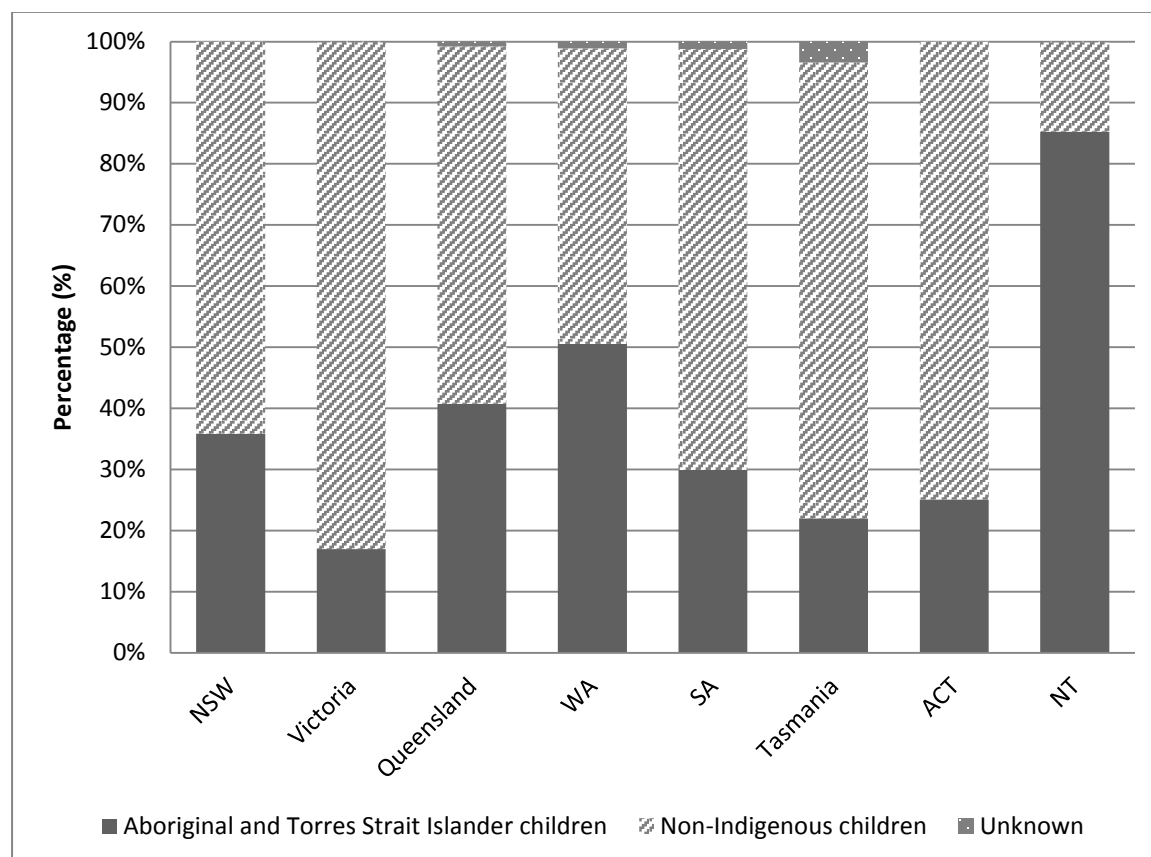
Figure 1.6 – Rate of children in out-of-home care by Indigenous status across jurisdictions, per 1000 children in the population, 30 June 2014



Source: Productivity Commission, *Report on Government Services 2015*, Table 15A.18.

1.32 Across jurisdictions, the proportion of Aboriginal and Torres Strait Islander children and young people in out-of-home is highest in the Northern Territory (85 per cent), Western Australia (51 per cent) and Queensland (40 per cent). Figure 1.7 shows the proportion of Aboriginal and Torres Strait Islander and non-Indigenous children and young people in out-of-home care at 30 June 2014.

Figure 1.7 – Proportion of children in out-of-home care by Indigenous status and jurisdiction, 30 June 2014



Source: Productivity Commission, *Report on Government Services 2015*, Table 15A.18.

Relative/kinship placements for Aboriginal and Torres Strait Islander children

1.33 According to the Productivity Commission, at 30 June 2014, 68.7 per cent of Aboriginal and Torres Strait Islander children were placed in accordance with the Aboriginal Child Placement Principle (see Box 1.2), including:

- 37.8 per cent with Indigenous relatives/kin;
- 15.1 per cent with non-Indigenous relatives/kin; and
- 15.8 per cent with other Indigenous carers or in Indigenous residential care.²⁰

20 Productivity Commission, *Report on Government Services 2015*, Table 15A.24.

Box 1.2 – Aboriginal Child Placement Principle

All jurisdictions have adopted the Aboriginal Child Placement Principle in both legislation and policy.

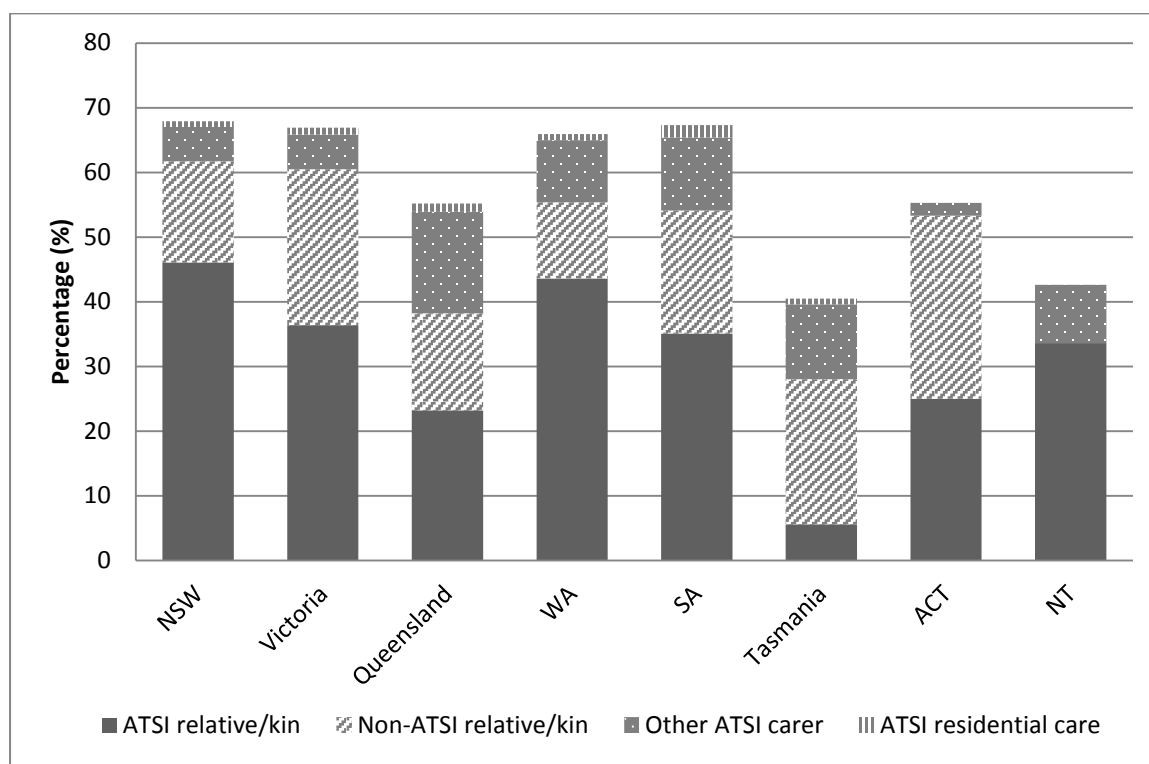
According to the principle the following hierarchy of placement options should be pursued in protecting the safety and welfare of Aboriginal and Torres Strait Islander children:

- placement with the child’s extended family (which includes Aboriginal and Torres Strait Islander and non-Indigenous relatives/kin);
- placement within the child’s Aboriginal and Torres Strait Islander community; and
- placement with other Aboriginal and Torres Strait Islander people.

Source: Productivity Commission, *Report on Government Services*, Figure 15.11, pp 15.37–15.38

1.34 Across jurisdictions, placement consistent with the principle was highest in NSW (81.4 per cent) and lowest in Tasmania (40.5 per cent). Figure 1.8 shows the proportion of placements made in accordance with the Aboriginal Child Placement Principle across jurisdictions.

Figure 1.8 – Aboriginal and Torres Strait Islander children placed in accordance with the Aboriginal Child Placement Principle by type of care, 30 June 2014



Source: Productivity Commission, *Report on Government Services 2015*, Table 15A.24.

1.35 Further examination of the Aboriginal Child Placement Principle will be discussed in Chapter 8.

Expenditure on out-of-home care

1.36 Dr Marilyn McHugh from the Social Policy Research Centre at the University of NSW estimates that the total cost of child abuse and neglect to Australian, state and territory governments is around \$6 billion. This includes the costs of out-of-home care now, and the future costs to the community in healthcare, education, housing and justice systems, as well as 'productivity and deadweight losses associated with ongoing welfare payments for those ill-equipped to participate in mainstream society as a result of their early trauma and neglect'.²¹

1.37 The Productivity Commission reports on the real recurrent expenditure by states and territories on out-of-home care services. 'Real' expenditure refers to expenditure adjusted for general price movements over time, so that comparisons across years are not affected by inflation.²²

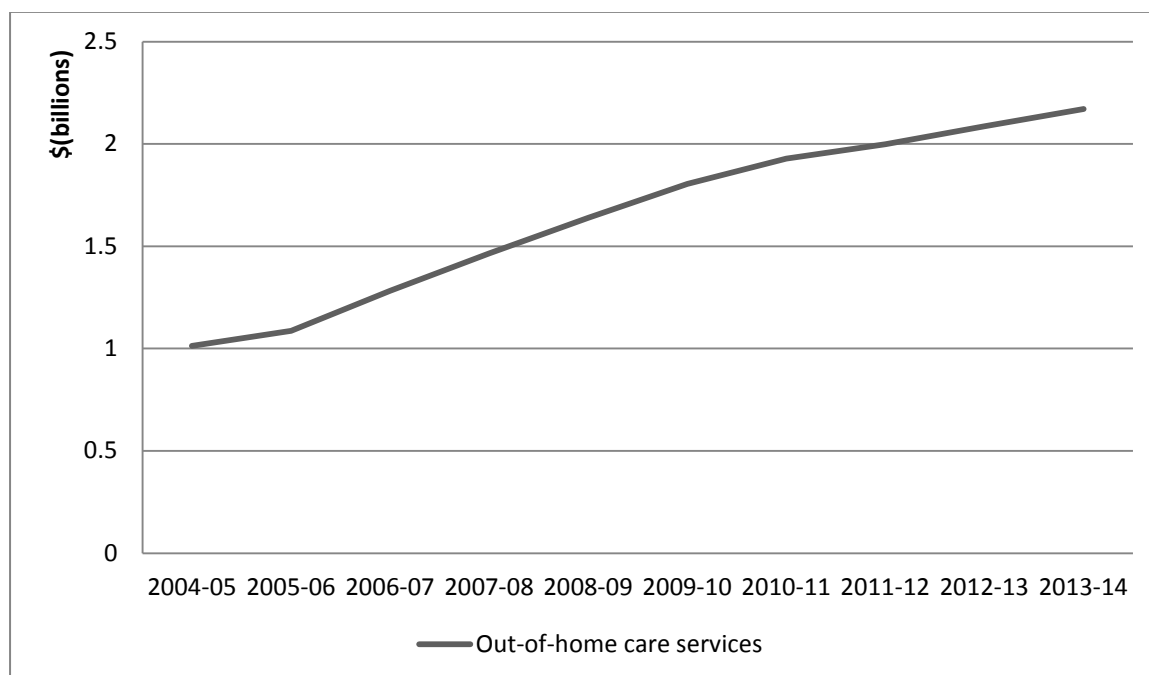
1.38 Over the past decade, expenditure on out-of-home care services has more than doubled, from \$1 billion in 2004–05 to \$2.2 billion in 2013–14.²³ Figure 1.9 shows the increase in real expenditure on out-of-home care services from 2004–05 to 2013–14.

21 Dr Marilyn McHugh, 'A Stitch in Time: Projected downstream savings to governments: foster care integrated model', University of NSW Social Policy Research Centre. See: Berry Street, *Submission 92, Attachment 3*, p. 6.

22 Productivity Commission, *Report on Government Services 2015*, pp 15.13–15.14.

23 Productivity Commission, *Report on Government Services 2015*, Table 15A.1.

Figure 1.9 – Real expenditure on out-of-home care services, 2004–05 to 2013–14

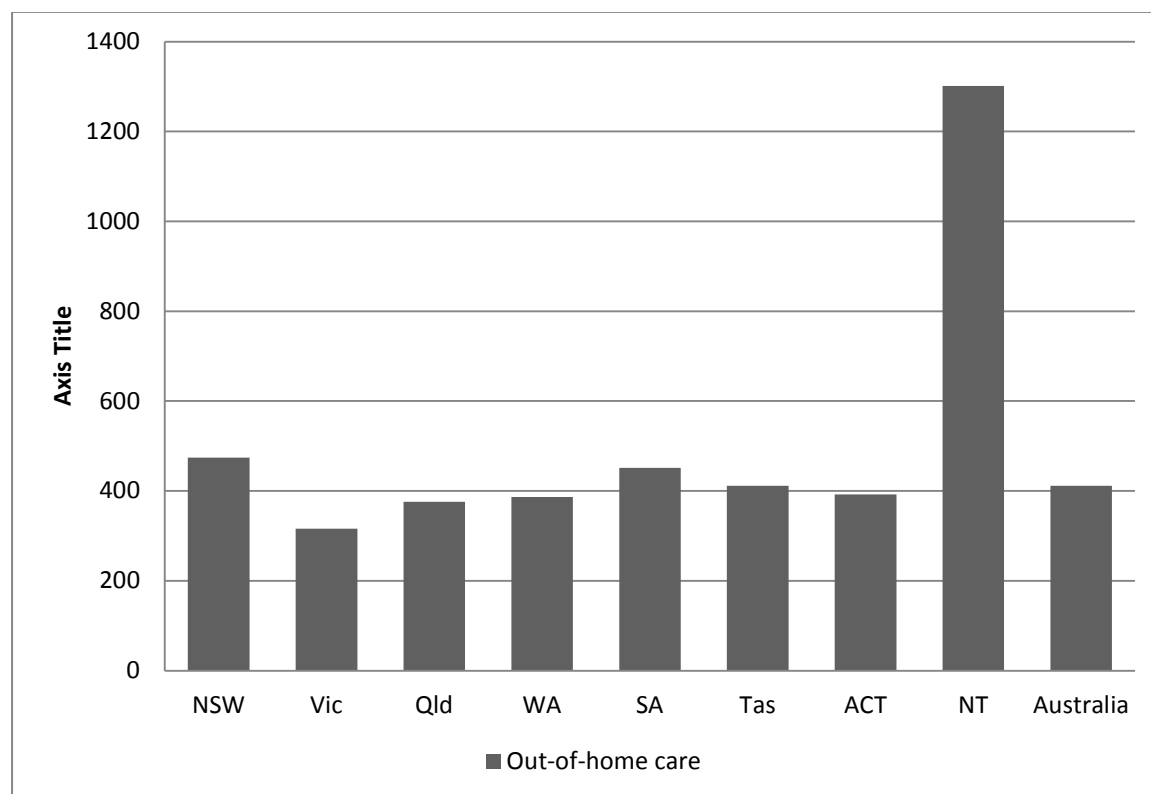


Source: Productivity Commission, *Report on Government Services 2015*, Table 15A.1.

1.39 The average expenditure on out-of-home care services per child was \$411.24 nationally for 2013–14. Across jurisdictions, the cost per child on out-of-home care differs widely from \$315.92 in Victoria to \$1301.16 in Northern Territory.²⁴ Figure 1.10 shows the real expenditure on out-of-home care services per child across jurisdictions.

24 The Productivity Commission warns data relating to annual real expenditure per child in out-of-home care need to be interpreted with care as they do not represent a measure of unit costs. Expenditure per child in care at 30 June 2014 overstates the cost per child because significantly more children are in care during a year than at a point in time. In addition, the indicator does not reflect the length of time that a child spends in care. See: Productivity Commission, *Report on Government Services 2015*, p. 15.51.

Figure 1.10 – Real expenditure per child (\$), out-of-home care services, 2013–14.



Source: Productivity Commission, *Report on Government Services 2015, Table 15A.1.*

1.40 The drivers for these trends will be examined in Chapter 3.

Committee view

1.41 Like the National Children's Commissioner, the committee is concerned that the number of children in out-of-home care across jurisdictions has continued to increase. The committee is particularly concerned by the disproportionate number of Aboriginal and Torres Strait Islander children in the out-of-home care system across jurisdictions.

1.42 The continued increase in the number of children and young people entering out-of-home care and associated costs to government indicates significant systemic failings at Commonwealth, state and territory levels to support at-risk families and prevent children entering the child protection system.

Chapter 2

Out-of-home care frameworks

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

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

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

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

Current out-of-home care framework

A system in crisis

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

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

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

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

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

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

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

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

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

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

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

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

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

Table 2.1 – State and territory child protection inquiries

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

Source: Refer to footnotes.

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

-
- 8 NSW Government, *Report of the Special Commission of Inquiry into Child Protection Services in NSW: Executive Summary and Recommendations*, http://www.dpc.nsw.gov.au/data/assets/pdf_file/0008/33794/Executive_Summary_and_Recommendations_-_Special_Commission_of_Inquiry_into_Child_Protection_Services_in_New_South_Wales.pdf (accessed 21 April 2014).
- 9 Victorian Government, *Protecting Victoria's Vulnerable Children Inquiry*, <http://www.childprotectioninquiry.vic.gov.au/> (accessed 23 April 2015).
- 10 Queensland Government, *Child Protection Commission of Inquiry*, <http://www.childprotectioninquiry.qld.gov.au/publications> (accessed 20 April 2015).
- 11 Prudence Ford, *Review of the Department for Community Development*, Western Australia, January 2007.
- 12 South Australian Government, *Children in state care*, <https://www.sa.gov.au/topics/crime-justice-and-the-law/mullighan-inquiry/children-in-state-care> (accessed 23 April 2015).
- 13 South Australian Government, *Child Protection Systems Royal Commission*, <http://www.childprotectionroyalcommission.sa.gov.au/> (accessed 25 March 2015).
- 14 Parliament of Tasmania, *Select Committee on Child Protection*, <http://www.parliament.tas.gov.au/ctee/House/Reports/Final%20Report%20CP.pdf> (accessed 1 May 2015).
- 15 ACT Community Services Directorate, *Out of Home Care Strategy 2015-2020*, <http://www.communityservices.act.gov.au/ocys/out-of-home-care-strategy-2015-2020/out-of-home-care-strategy-2015-2020> (accessed 1 May 2015).
- 16 NT Government, *Inquiry into the Child Protection System in the Northern Territory*, <http://www.childprotectioninquiry.nt.gov.au/> (accessed 5 March 2015).

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

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

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

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

Child protection in Australia

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

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

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

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

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

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

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

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

Legislative framework

International obligations

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

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

- Article 3 – in all matters concerning children their best interests should be the primary consideration;
- Article 12 – children have the right to have their views considered in decisions that affect them;
- Article 19 – states are obliged to take measures to ensure children are protected from violence, abuse and neglect; and
- Article 20 – a child temporarily or permanently deprived of their family and whose best interests cannot be served in that environment are entitled to special protection and assistance.²²

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

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

- inappropriate placements;

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

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

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

- inadequate screening, training, support and assessment of carers;
- shortage of care options;
- outcomes for children in care compared with the general population;
- abuse and neglect of children in care; inadequate preparation for children leaving care; and
- placement of Aboriginal and Torres Strait Islander children outside their communities and the need for more Aboriginal carers.²⁴

2.20 As noted by Ms Mitchell, the UN committee:

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

State and territory legislation

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

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

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

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

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

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

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

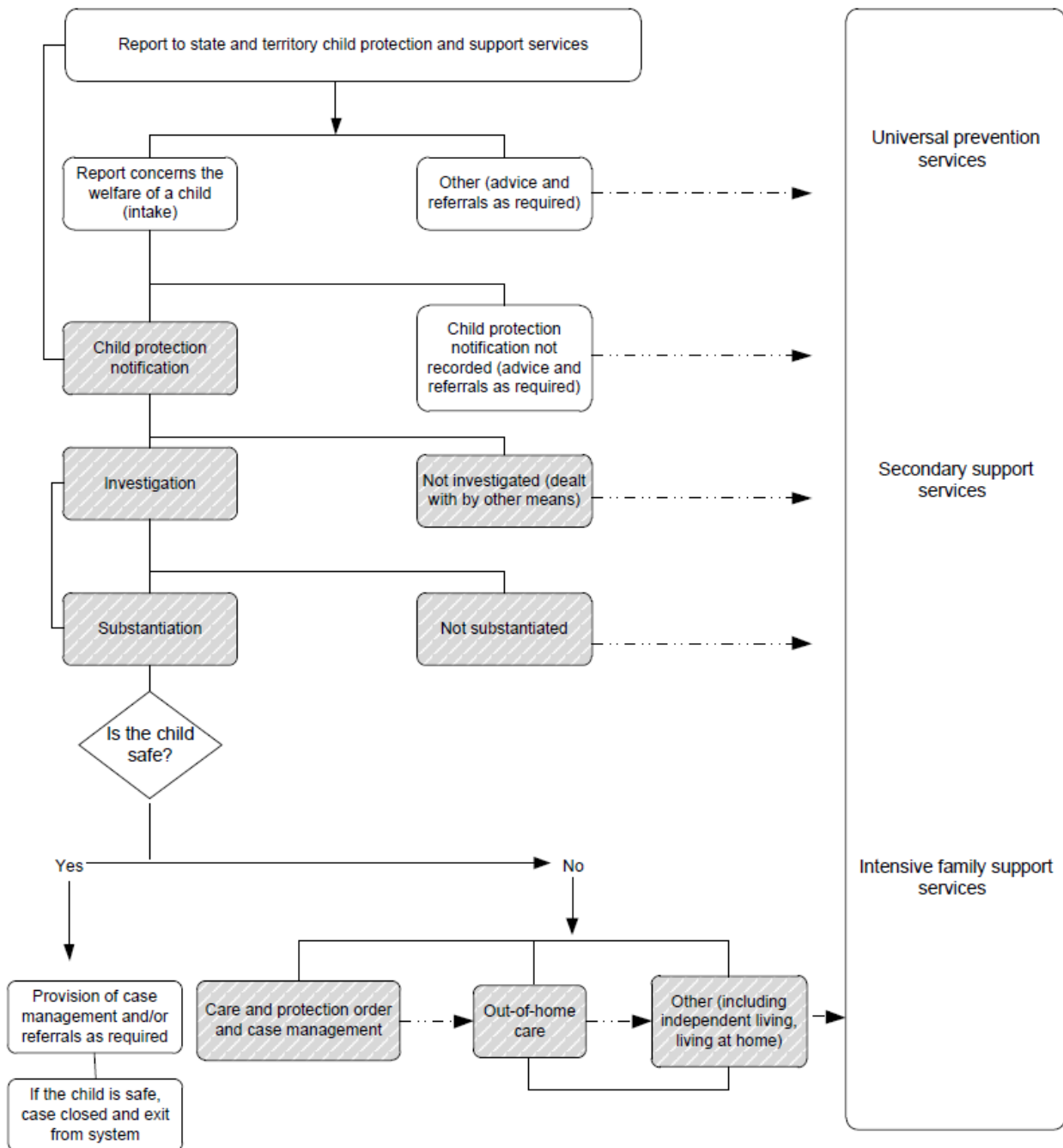
Table 2.2 – Out-of-home care legislative framework

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

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

Entry into child protection system

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

Figure 2.1 – The child protection process in Australia**Notes**

1. Shaded boxes are items for which data are collected nationally.
2. Dashed lines indicate that clients may or may not receive these services, depending on need, service availability, and client willingness to participate in what are voluntary services.
3. Support services include family preservation and reunification services provided by government departments responsible for child protection and other agencies. Children and families move in and out of these services and the statutory child protection system, and might also be in the statutory child protection system while receiving support services.

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

Child concern reports

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

Mandatory reporting

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

Definitions of notifications

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

Substantiation threshold

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

Types of protection orders

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

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

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

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

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

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

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

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

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

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

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

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

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

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

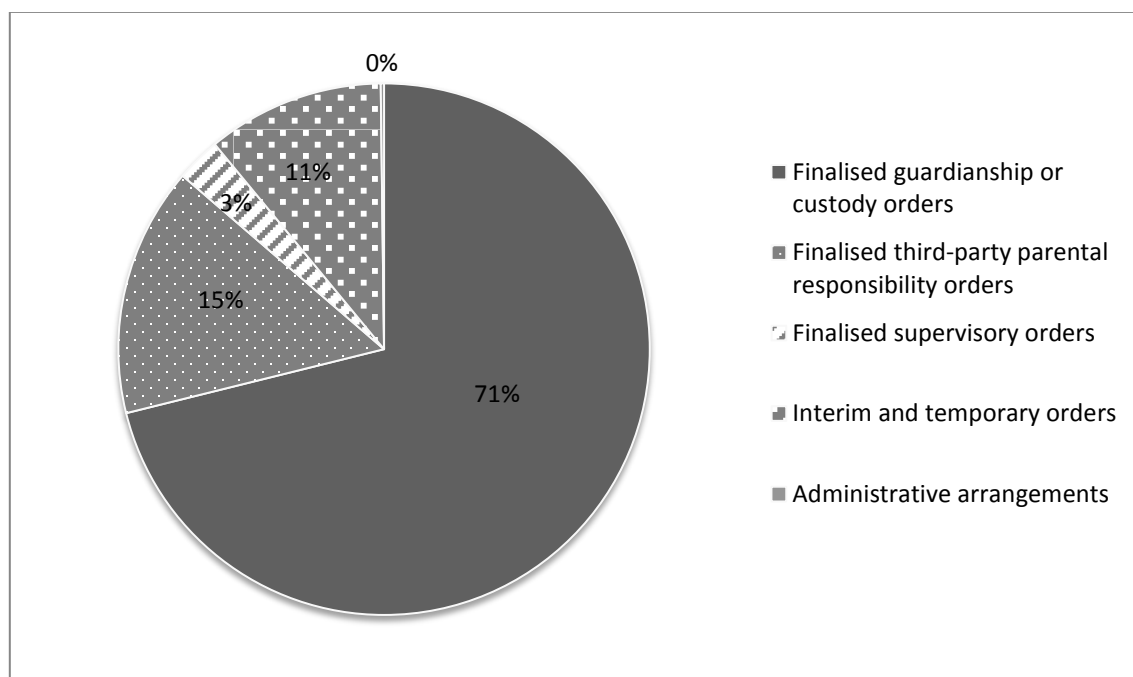
2.31 AIHW reports on the number of children on care and protection orders in its *Child Protection Australia* report. At 30 June 2014, 45 746 children were on a care and protection order—a rate of 8.7 per 1000 children aged 0–17 years.³² The majority of children on care and protection orders were on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

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

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

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

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



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

Entry to out-of-home care

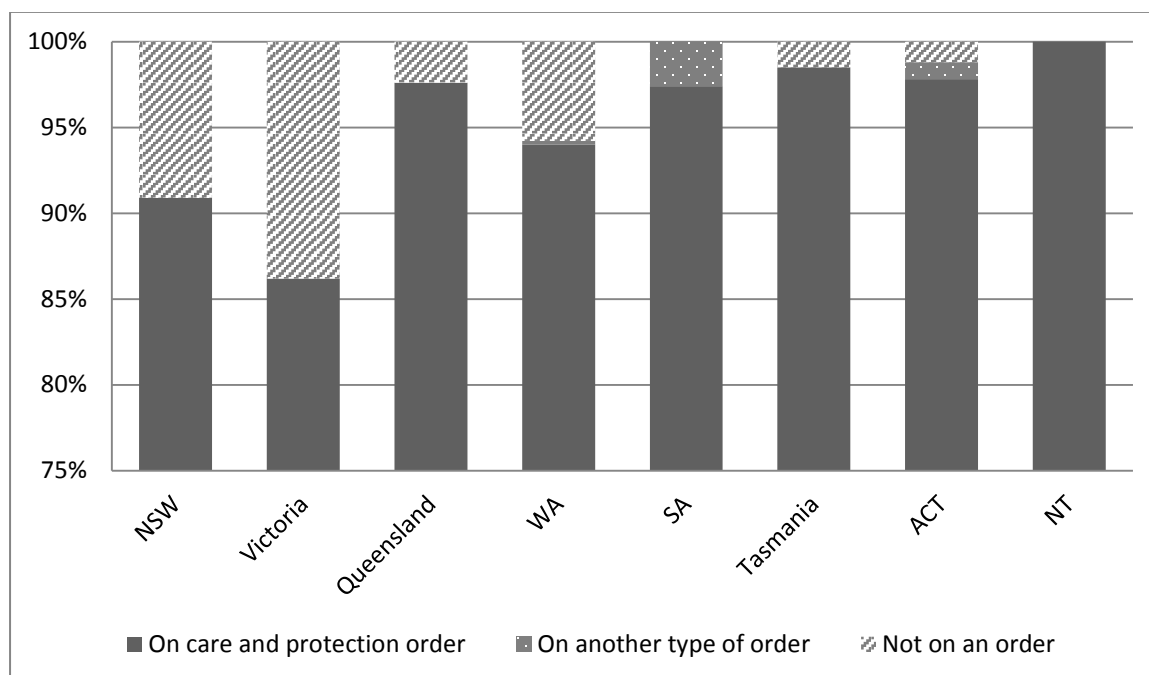
2.32 Out-of-home care represents the most extreme end of the statutory child protection continuum and is considered the intervention of last resort where all other options for care have been exhausted. Although there are provisions for children to be placed in out-of-home care voluntarily by parents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

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

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

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

Figure 2.3 – Proportion of children in out-of-home by type of order across jurisdictions, 30 June 2014



Source: AIHW, *Child Protection Australia 2013–14*, Table 5.3.

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

State and territory frameworks

New South Wales

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

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

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

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

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

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

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

- appointment of out-of-home health coordinators to provide health assessments to children and young people entering out-of-home care; and
- appointment of out-of-home care education coordinators to implement educational support planning for children.³⁹

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

- building parenting capacity and increasing parental responsibility;
- providing greater permanency for children and young people in care; and
- delivering and developing a more modern, responsive and child-focused system.⁴¹

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

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

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

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

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

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

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

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

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

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

Victoria

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

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

- a new funding model that supports more innovative services and promotes a stronger focus on the outcomes we achieve for children and young people;
- a process to establish a more integrated service delivery platform that better supports placement prevention and reunification, and responds better to the needs of children and young people in or exiting care;
- a tender process for the allocation of new funding to trial new approaches to therapeutic care;
- trial of a new outcomes framework for all children and young people in care; and
- development of a complementary plan for Aboriginal children and young people that identifies specific actions to address the over representation of Aboriginal children and young people in out-of-home care and improve outcomes.⁴⁶

Queensland

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

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

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

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

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

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

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

- create dual pathways for reporting child protection concerns;
- ensure that meaningful work is undertaken to safely return children home as soon as possible or, if that is not an option, plan for the child's long-term care needs; and
- address the over-representation of Aboriginal and Torres Strait Islander families by implementing a range of supports and services (and projects) specifically aimed at meeting their needs.⁴⁹

Western Australia

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

- healthcare, education and permanency planning for children in care;
- introduction of three tiers of service for residential care, including a facility for secure care for children and young people at extreme risk;
- introduction of Foster Care Partnership and Residential Care (Sanctuary) Framework which provides sound theoretical and practical bases to guide work with abused children whose trauma severely impacts their behaviour and development; and
- increased support for transition from care, including clearer processes for accessing funding.⁵⁰

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

- is driven by the needs of the child;
- values and promotes stability and certainty for children;
- is responsive and sustainable with capacity;
- is accountable (including the development of an Outcomes Framework for Children in Out-of-Home Care); and
- is consistent across locations and types of care.⁵¹

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

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

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

South Australia

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

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

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

Tasmania

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

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

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

- capacity to comprehensively respond to the assessed needs of the child in an ongoing manner;
- placement options and services that are matched to the assessed needs of every child;
- clear planning and transition pathways between placement types;
- flexibility of service delivery to meet the needs of the client group and service demands;

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

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

- funding agreements will have scheduled reporting with data used to monitor the delivery, safety, quality and effectiveness of all services; and
- service providers will be supported through consultation, data collection tools and clear commissioning specifications.⁵⁴

Australian Capital Territory

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

- renewed focus on diverting children and young people from entering care;
- speedy reunification of children and parents wherever possible; and
- new and enhanced services to improve outcomes for children and young people in care.⁵⁶

2.53 Under the new strategy the ACT plans to introduce:

- annually reviewed therapeutic assessments and plans for all children soon after they enter care;⁵⁷ and
- professional foster care arrangements, where foster carers would be classified as an employee.⁵⁸

Northern Territory

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

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

- need for more therapeutic residential care services;
- complexity of needs of children in residential care;
- need to recruit and retain carers; and
- consideration of professional carer system.⁶⁰

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

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

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

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

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

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

Independent bodies

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

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

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

Table 2.3 – State and territory independent bodies

| Jurisdiction | Name of body | Key out-of-home care responsibilities |
|---------------------|---|--|
| Commonwealth | National Children’s Commissioner | <ul style="list-style-type: none"> • Advocate nationally for the rights and interests of children and young people |
| New South Wales | Office of the Children’s Guardian | <ul style="list-style-type: none"> • Accredite and monitor out-of-home care and adoption agencies • Administer the Working with Children Check |
| | NSW Ombudsman | <ul style="list-style-type: none"> • Administer an Official Community Visitor scheme for residential accommodations for children, young people and people with a disability |
| Victoria | Commission for Children and Young People | <ul style="list-style-type: none"> • Promote continuous improvement and innovation in policies and practices • Piloting an independent visitor scheme for residential out-of-home care |
| | Commissioner for Aboriginal Children and Young People | <ul style="list-style-type: none"> • Address issues specific to Aboriginal children and young people, including overseeing the Five Year Plan for Aboriginal Children in Out of Home Care |
| Queensland | Office of the Public Guardian | <ul style="list-style-type: none"> • Provide individual advocacy for children in the child protection system • Administer community visitor program for all children in out-of-home care |
| Western Australia | Commissioner for Children and Young People | <ul style="list-style-type: none"> • Promote and monitor the wellbeing of all children and young people |
| | WA Advocate for Children in Care | <ul style="list-style-type: none"> • Provide advocacy and complaints management services for children in care |
| South Australia | Office of the Guardian | <ul style="list-style-type: none"> • Monitor and assess out-of-home care arrangements • Advocate for, and advise on, the circumstances and needs of children in care |
| Tasmania | Commissioner for Children | <ul style="list-style-type: none"> • Promote the rights and wellbeing of all children and young people |
| ACT | Public Advocate of the ACT | <ul style="list-style-type: none"> • Monitor, protect and advocate for rights of children and young people |
| | Public Trustee of the ACT | <ul style="list-style-type: none"> • Administer the Official Visitor Scheme places of care, of detention or protection • Investigate complaints about the care provided to children and young people |
| Northern Territory | Office of the Children’s Commissioner | <ul style="list-style-type: none"> • Promote interests of vulnerable children, including investigating and dealing with complaints about services provided to children in out-of-home care |

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

Commonwealth framework

National Framework for Protecting Australia's Children 2009-2020

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

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

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

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

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

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

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

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

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

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

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

-
- children live in safe and supportive communities;
 - children and families access adequate support to promote safety and intervene early;
 - risk factors for child abuse and neglect are addressed;
 - children who have been abused or neglected receive the support and care they need for their safety and wellbeing;
 - Indigenous children are supported and safe in their families and communities; and
 - child sexual abuse and exploitation is prevented and survivors receive adequate support.⁶⁶

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

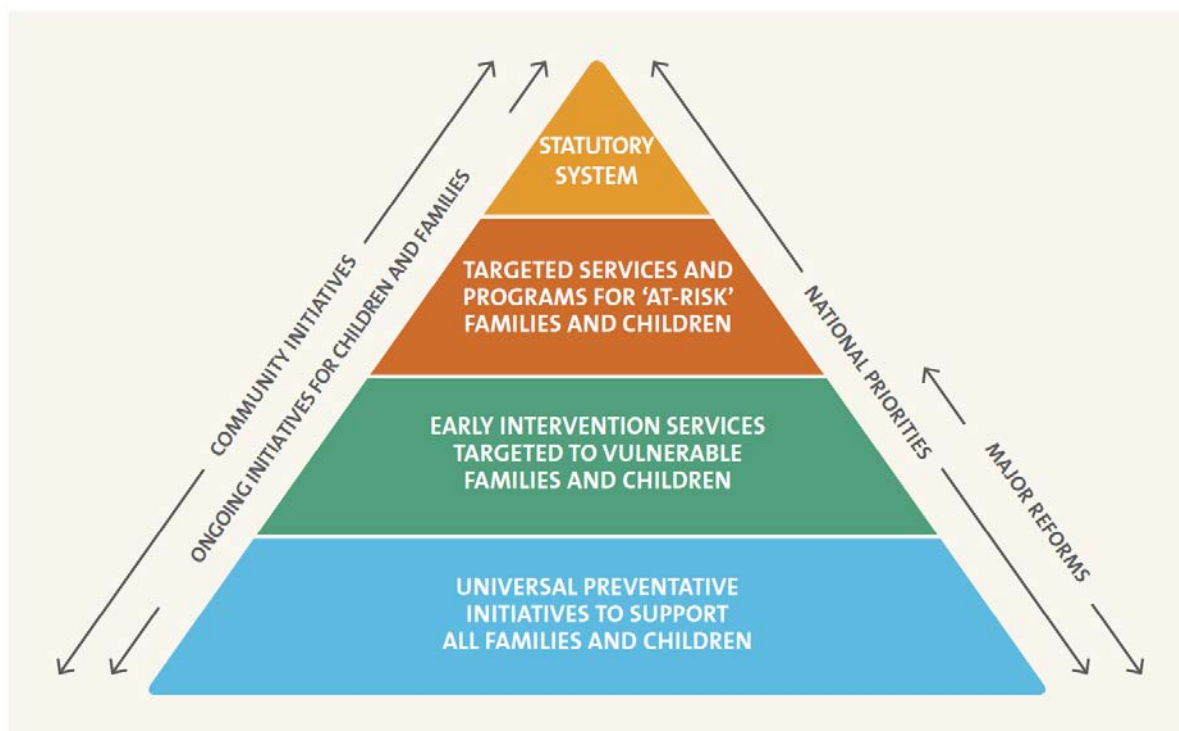
2.63 Under the National Framework, the Commonwealth, states and territories are working towards reforms to improve early intervention and universal supports for families and children.⁶⁷

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

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

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

Figure 2.4 – A public health model for child protection



Source: *An Outline of National Standards for Out-of-home Care*, 2011.

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

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

- the development of national standards for out-of-home care to improve the quality of out-of-home care and promote a nationally consistent approach;
- the appointment of the first national children's commissioner;
- the child protection national minimum datasets, which allow comparability of child protection data across jurisdictions and support the monitoring of child protection services, programs and policies;
- development of transitioning from care resources and support including an increase to transition to independent living allowance to assist young people leaving formal care arrangements with the costs associated with transitioning to independent living arrangements;
- a child awareness approach to address risk factors for child abuse and neglect; and

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

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

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

National standards for out-of-home care

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

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

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

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

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

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

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

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

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

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

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

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

Available data on National Standards measures

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

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

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

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

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

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

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

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

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

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

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

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

| No. | Measure | 2011/12 data (during 2011/12 or at 30 June 2012) |
|------|--|---|
| 1.1 | Proportion of children and young people exiting OOHC during the year who had 1 or 2 placements, by length of time in continuous care preceding exit. | <ul style="list-style-type: none"> • 1–2 placements: 63 per cent; • < 4 placements: 85 per cent; • > 5 placements: 15 per cent. |
| 1.2 | Rate and number of children in OOHC who were the subject of a child protection substantiation and the person believed responsible was living in the household providing out-of-home care. | <ul style="list-style-type: none"> • 522 children out of 46 973 children in care (1.1 per cent). |
| 3.1 | Proportion of Aboriginal and Torres Strait Islander children and young people in OOHC care placed with the child’s extended family, with the child’s community, or with other Aboriginal and Torres Strait Islander people, by carer type. | <ul style="list-style-type: none"> • 69 per cent Aboriginal Torres Strait Islander children placed with extended family, Aboriginal and Torres Strait Islander community, or with other Aboriginal Torres Strait Islander people, including: • 38 per cent placed with Aboriginal and Torres Strait Islander relatives. |
| 4.1 | Proportion of children and young people who have a current documented case plan. | <ul style="list-style-type: none"> • Estimated 90 per cent of children (data from QLD, WA, TAS and the ACT). |
| 9.1 | Proportion of children and young people in out-of-home care who are placed with relatives and kin. | <ul style="list-style-type: none"> • 47 per cent of all children placed with relatives/kin: • 52 per cent of ATSI children placed with relatives/kin; and • 45 per cent of non-ATSI children placed with relatives/kin. |
| 12.1 | Number of foster carer households with a placement at 30 June, by number of foster children placed, and number of foster carer households with a placement during the year. | <ul style="list-style-type: none"> • At 30 June 2012, 8824 households with >1 foster care placements: 1 child (49 per cent); 2-4 children (46 per cent); >5 children (4 per cent). • During 2011/12, 11664 households with >1 foster care placements. |
| 13.1 | The proportion of young people aged 15 years and over who have a current leaving care plan. | <ul style="list-style-type: none"> • Estimated 77 per cent (data for VIC, QLD and WA only). |

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

2.75 The other data collection project is a national survey of children and young people in out-of-home care. The survey will report on seven of the National Standards and eight associated measures.⁷⁹ AIHW told the committee that it will be the first survey that produces national comparable data and is expected to be released in December 2015.⁸⁰ Some states and territories have undertaken surveys of children and young people in out-of-home care, but the collected data are not comparable across jurisdictions and often not publicly reported.⁸¹

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

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

2.77 DSS told the committee that the first full report on national standards, including the national survey data and data collected by AIHW, will be completed later in 2015.⁸⁴

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

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

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

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

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

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

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

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

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

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

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

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

Need for improved data collection

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

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

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

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

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

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

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

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

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

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

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

- specific relationship of relative/kin carers to the child (i.e. grandparent carers);
- permanency planning for children and young people;
- types of permanent placement options utilised (including adoption); and
- consistency of jurisdictional approaches to service delivery in out-of-home care (including outsourcing of out-of-home services to the NGO sector and funding/professionalisation of foster carers).⁹²

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

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

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

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

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

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

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

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

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

Committee view

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

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

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

Efficacy of the National Framework and National Standards

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Interaction with other frameworks

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

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

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

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

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

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

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

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

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

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

Accountability

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Local response

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

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

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

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

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

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

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

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

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

Funding

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

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

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

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

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

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

Committee view

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

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

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

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

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

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

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

Chapter 3

Drivers for out-of-home care trends

3.1 This chapter examines the drivers for the increase in the number of children placed in out of home care, types of care that are increasing and demographics of the children in care.¹

3.2 The committee heard that there is no single reason children enter and remain in out-of-home care, but a 'myriad of complex structural constraints, system issues and social factors'.² Mr Andrew McCallum AM from the Association of Children's Welfare Agencies told the committee at its Sydney hearing:

...out-of-home care is a symptom of a whole range of other things that happen...The notion of looking at the system in its totality and at the things that have gone wrong that have driven the out-of-home care system is, I think, where we need to focus our attention.³

3.3 Drivers identified by submitters and witnesses for the increased numbers of children in out-of-home care, particularly Aboriginal and Torres Strait Islander children, include:

- children remaining longer in care;
- social factors linked to disadvantage (including family violence, drug and alcohol misuse, poverty and homelessness); and
- systemic factors (including risk averse approaches to child removal and lack of family support services).

3.4 These drivers are examined in detail below.

Reasons children enter out-of-home care

3.5 The committee notes there are no national data available on the reasons children are placed in out-of-home care.⁴ Representatives from the Australian Institute of Health and Welfare (AIHW) told the committee that data on the reasons children enter care are challenging to identify and measure due to their complex and inter-related nature:

From our perspective...this type of national unit record collection...is not something we would generally be able to unravel. It is probably something you would do more on a case-by-case basis.⁵

1 See: Terms of Reference, (a).

2 Salvation Army, *Submission 40*, p. 3.

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

4 Australian Institute of Health and Welfare (AIHW), *Submission 22*, p. 2.

5 Ms Justine Boland, Acting Group Head, Community Services and Communication Group, AIHW, *Committee Hansard*, Canberra, 16 April 2015, pp 42 – 43.

3.6 Concerns about the 'the absence of data documenting the criteria and decisions leading to placements' across Australia were raised by the United Nations Committee on the Rights of the Child (UN Committee) in its 2012 concluding observations.⁶ The National Children's Commissioner, Ms Megan Mitchell, told the committee that the UN Committee recommended:

Australia take all necessary efforts to examine the root causes of the extent of child abuse and neglect and provide general data on the reasons children are placed in care.⁷

3.7 AIHW suggested some reasons children may be placed in out-of-home care include: where children require a more protective environment as a result of a substantiated child protection notification; where parents are incapable of providing adequate care; or where alternative accommodation is needed during times of family conflict.⁸

3.8 While AIHW does not collect data on the reasons children enter out-of-home care, it does report on the reasons for substantiations of child protection notifications. As noted in Chapter 2, 91 per cent of children in out-of-home care are subject to substantiated child protection notifications. Substantiations refer to child protection notifications that are investigated and found to have reasonable cause to 'believe that the child had been, was being, or was likely to be, abused, neglected or otherwise harmed'.⁹ AIHW's definitions of these reasons are outlined in Box 3.1.

Box 3.1 – Definitions of reasons for substantiations

AIHW reports on the following categories of reasons for child protection notification substantiations:

Neglect – Any serious acts or omissions by a person having the care of a child that, within the bounds of cultural tradition, constitute a failure to provide conditions that are essential for the healthy physical and emotional development of a child.

Emotional abuse – Any act by a person having the care of a child that results in the child suffering any kind of significant emotional deprivation or trauma. Children affected by exposure to family violence would also be included in this category.

Physical abuse – Any non-accidental physical act inflicted upon a child by a person having the care of a child.

Sexual abuse – Any act by a person, having the care of a child, that exposes the child to, or involves the child in, sexual processes beyond his or her understanding or contrary to accepted community standards.

Source: AIHW, Child Protection Australia 2013–14, pp 126–133.

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

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

8 AIHW, *Child Protection Australia 2013–14*, Canberra, 2015, p. 4.

9 AIHW, *Child Protection Australia 2013–14*, p. 17.

3.9 In 2013–14, AIHW reported that emotional abuse (39.5 per cent) and neglect (27.5 per cent) were the two most significant reasons for substantiations across jurisdictions. A smaller proportion of substantiations were due to physical abuse (19.4 per cent) and sexual abuse (13.7 per cent).¹⁰

Aboriginal and Torres Strait Islander children

3.10 The committee heard in some jurisdictions, particularly the Northern Territory, Western Australia and Queensland, the overall increase in the numbers of children in out-of-home care is largely due to an increase in Aboriginal and Torres Strait Islander children and young people entering and remaining in care.

3.11 In Western Australia, for example, Ms Emma White, Director-General, Department for Child Protection and Family Support told the committee that:

despite the total number of children in care in this state continuing to rise, the rate at which they have come into care has halved since 2006. In 2006, there was about 13 per cent growth each year. We are now around six per cent. The critical thing is that if you look at Aboriginal children versus non-Aboriginal children, non-Aboriginal children are really coming in at a rate around population growth, which is what you would probably expect. But, in fact, the exponential growth is with Aboriginal children and families.¹¹

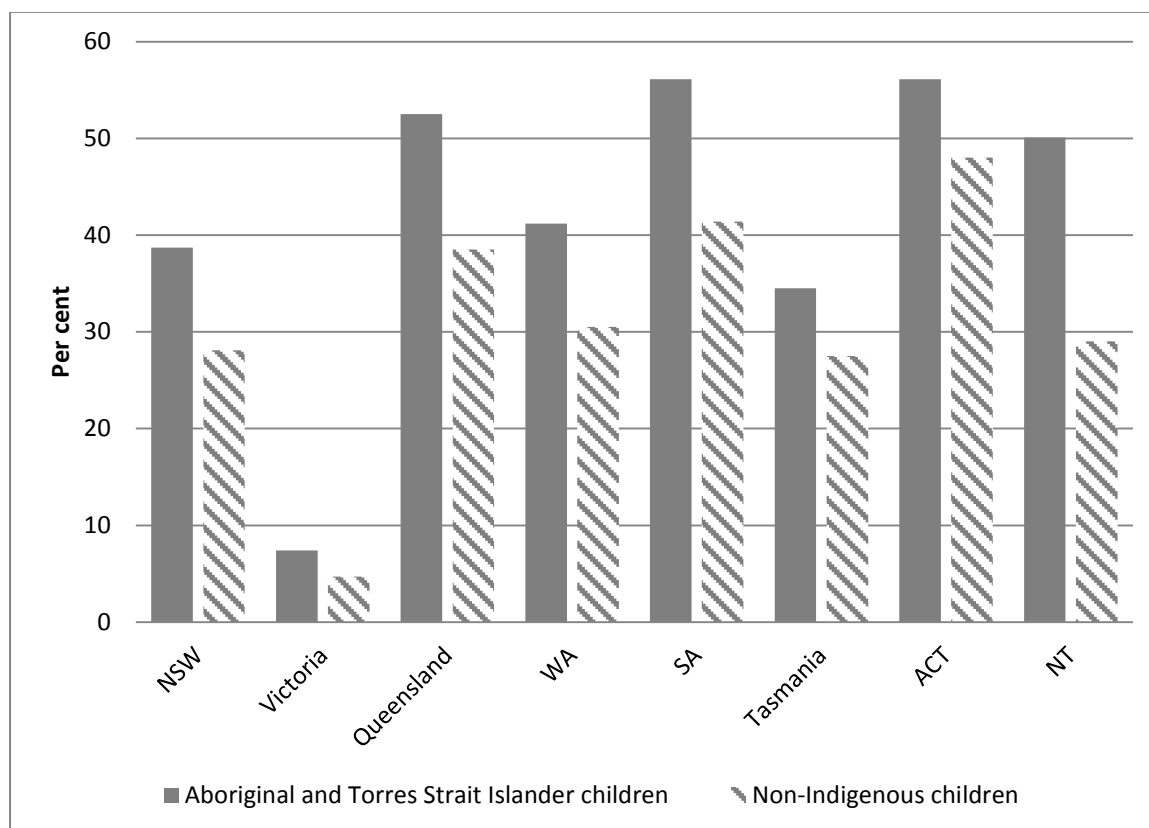
3.12 AIHW reports that neglect is the most common type of substantiated abuse for Aboriginal and Torres Strait Islander children. Nationally, neglect accounted for 41 per cent of child protection substantiations, compared with 22 per cent for non-Indigenous children.¹² The proportion of Aboriginal and Torres Strait Islander children subject to neglect substantiations differs across jurisdictions, and is as high as around 50 per cent in South Australia, Queensland and the Northern Territory. Figure 3.1 shows the proportion of children who were subject to a substantiation of neglect across jurisdictions. The reasons for the high proportion of neglect substantiations for Aboriginal and Torres Strait Islander children are examined in detail below.

10 AIHW, *Child Protection Australia 2013–14*, Table A11.

11 Ms Emma White, Director-General, Department for Child Protection and Family Support, *Committee Hansard*, Perth, 16 February 2015, p. 62.

12 AIHW, *Child Protection Australia 2013–14*, p. 26.

Figure 3.1 – Percentage of children who were subject to a substantiation of neglect by jurisdiction and Indigenous status



Source: AIHW, *Child Protection Australia 2013–14*, Table A11.

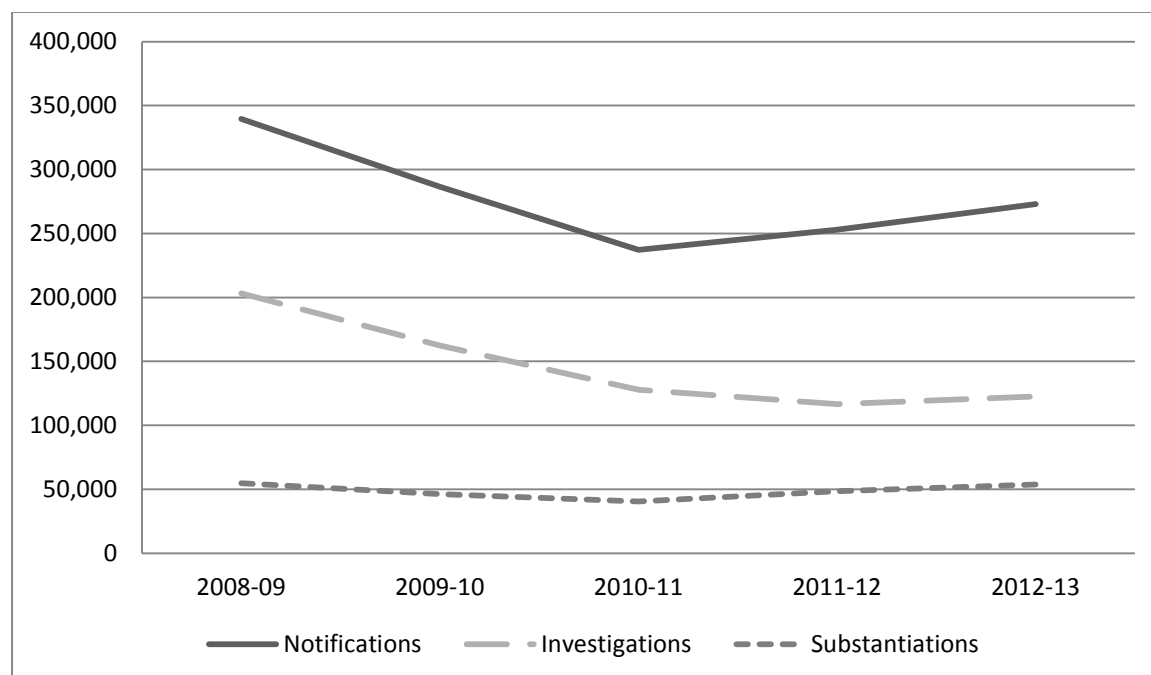
Children remaining longer in care

3.13 A number of submitters and witnesses suggested that the number of children in out-of-home care is increasing due to increased reporting of child protection notifications and substantiations of claims.¹³

3.14 However, the available data shows the number of substantiated child protection concerns has remained steady over the past five years, with the number of children in substantiations continuing to increase. AIHW reports that the number of child protection notifications and investigations has been increasing since 2011–12, following a decline since 2008–09, whereas substantiations have remained relatively stable (54 621 for 32 641 children in 2008–09 compared with 53 666 for 40 571 children in 2013–14). Figure 3.2 shows the number of substantiations compared with the number of child protection notifications, investigations and substantiations between 2008–09 and 2012–13.

13 See, for example: Australian Childhood Trauma Group, *Submission 9*, p. 4.

Figure 3.2 – Number of child protection notifications, investigations and substantiations, 2008-09 to 2012-13



Source: AIHW *Child Protection Australia 2012–13*, Table A36.

3.15 Rather than the number of substantiations increasing, AIHW suggested the key driver for the increased number of children in care may be due to the cumulative impact of children being admitted to, and remaining longer in, out-of-home care.¹⁴

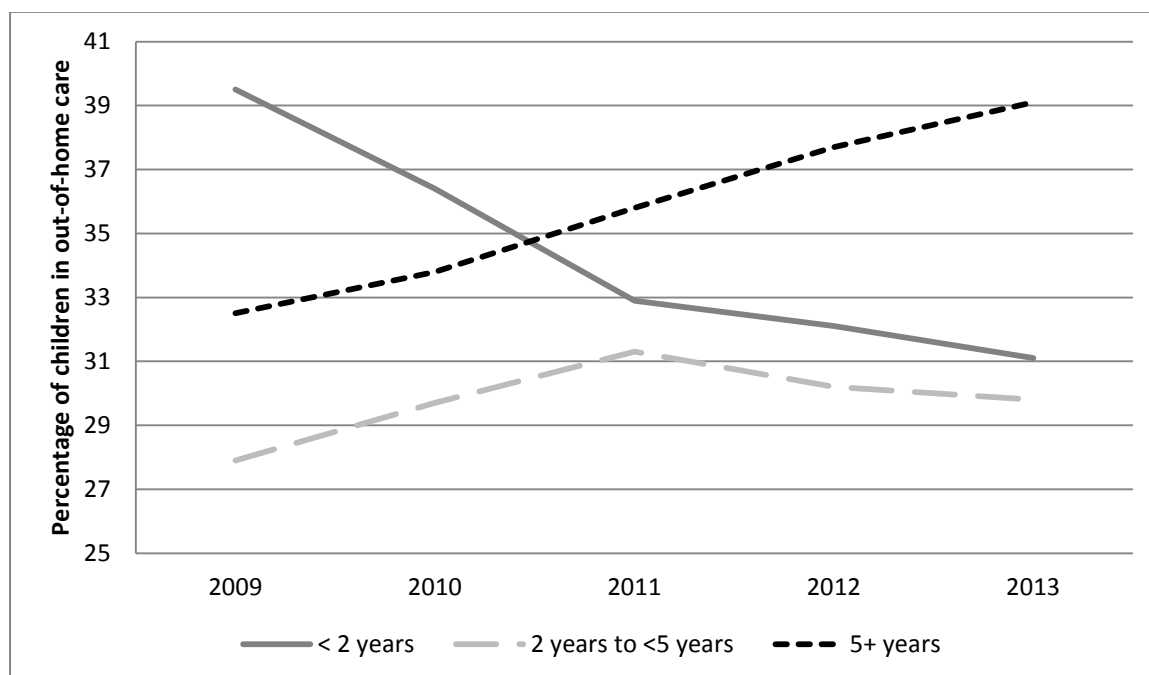
3.16 While the overall number of children in care has continued to increase, AIHW submitted that the numbers of children admitted to out-of-home care has actually decreased between 2011–12 and 2012–13, with the number of admissions consistently outnumbering discharges (by almost 2 000 in 2012–13).¹⁵

3.17 AIHW further demonstrated that children are remaining longer in care. Figure 3.2 compares the length of time children spend in continuous placements, and shows since 2009 the percentage of children spending over five years in care has increased (from 32.5 per cent in 2009 to 39.1 per cent in 2013), while placements of less than five years have decreased.

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

15 AIHW, *Submission 22*, Table 2.

Figure 3.3 – Percentage of children by length of time in continuous placement, 2009–2013.



Source: AIHW, *Submission 22, Table 3*.

3.18 AIHW also noted that an increasing proportion of children are entering care at a younger age and being discharged at an older age. Between 2008–09 and 2012–13, the proportion of children aged less than one year entering care increased (from 16.1 per cent to 17.4 per cent) and the proportion of children aged 15–17 years discharged from out-of-home care also increased (from 27.8 per cent to 33.8 per cent).¹⁶

3.19 Dr Daryl Higgins from the Australian Institute of Family Studies (AIFS) told the committee that while the number of child protection notifications was beginning to plateau, this was not reflected in the numbers of children remaining in out-of-home care:

What we know is that one of the biggest drivers of the number of children in out-of-home care is, broadly, the number of children coming to the concern of statutory child protection authorities. Obviously, one of the most important issues in addressing any concerns about the out-of-home care system, the quality of care, the wellbeing for young people in care and whether or not different forms of care are good has to be premised on whether we can reduce the number who are coming into care in the first place. The problem is that while we might have had some turnaround in terms of slowing the rise of notifications, that is not yet translating into a slowdown of children entering into or, more importantly, staying in the out-of-home care system.¹⁷

¹⁶ AIHW, *Submission 22*, p. 5.

¹⁷ Dr Daryl Higgins, Deputy Director, Research, AIFS, *Committee Hansard*, Melbourne, 20 March 2015, p. 1.

3.20 The committee notes Professor Clare Tilbury's evidence to the Queensland Child Protection Commission of Inquiry in 2013:

[I]t's not that the entry rate to care is increasing, it's that the length of time children spend in care is increasing. So in other words, children are going in and then there's a big ballooning effect going on because children are exiting at this lower rate and staying longer.¹⁸

3.21 Families Australia, citing a Victorian government report, noted that the proportion of children remaining in non-permanent out-of-home for over five years has doubled in the past decade.¹⁹ Similarly, PeakCare Queensland argued that the issue is not the increasing numbers of children entering care:

[T]he 'problem' is that once in the system, children predominantly age out of care having not been reunified with the family from whose care they were removed.²⁰

Social disadvantage

3.22 The committee heard the most significant drivers for children and young people entering and remaining longer in out-of-home care are socio-economic factors linked to disadvantage, particularly family violence, drug and alcohol abuse and mental health issues. These issues are compounded by the increasing complexity of intergenerational disadvantage.²¹

3.23 The committee heard families involved with child protection authorities are among the most disadvantaged and vulnerable. Dr Patricia Hansen and Dr Frank Ainsworth provided the committee with their 2013 study, which found that families involved with the child protection system commonly share the following characteristics:

...they live on welfare benefits, often in stressed public housing environments, and are socially isolated. In addition, many have poor education achievements, are frequently unemployed and have low job skills. They themselves are often the product of poor parenting and may be in less than ideal personal relationships. For some, there is the added issue of a low-level criminal record, poor mental health (including drug and alcohol usage) and/or intellectual disability factors. In other words, these parents represent the most vulnerable and most needy section of Australian society.²²

18 Child and Family Welfare Association of Australia (CFWAA), *Submission 65*, p. 2.

19 Families Australia, *Submission 77*, p. 13

20 PeakCare Queensland, *Submission 84*, p. 13.

21 See, for example: ALSWA, *Submission 25*, pp 7–9, Child Wise, *Submission 31*, p. 6; Wanslea Family Services, *Submission 60*, p. 3; Berry Street, *Submission 92*, p. 8; AASW, *Submission 18*, p. 3.

22 Patricia Hansen & Frank Ainsworth, *Submission 89, Attachment 2*, 'Viewpoints: Australian child protection services: a game without end,' *International Journal of Social Welfare*, vol. 22, 2013, p. 108.

Family violence, drug and alcohol abuse, mental health

3.24 The National Children's Commissioner, Ms Mitchell, told the committee that:

...the three main drivers for kids coming into care—and often they appear together—are: domestic violence, substance abuse and mental health issues. What causes what is debatable, but they are the three main ones. That is the troika. Those factors account for 80 to 90 per cent of all cases.²³

3.25 These three factors were also identified as the key drivers by child protection authorities across jurisdictions. In Queensland, Mr Matthew Lupi, Executive Director from the Queensland Department of Communities, Child Safety and Disability Services told the committee:

...our evidence and our analysis of parental risk factors and presenting factors of families coming to child protection, domestic and family violence, drug and alcohol use and misuse and mental health issues are certainly very high in the constellation of families. That is not to say they are the only causal factors in parental abuse and neglect, but they are certainly present in many cases.²⁴

3.26 In Western Australia, Ms Emma White told the committee:

[T]he biggest drivers for children coming into care in this state are family and domestic violence, drug and alcohol misuse, and mental health. Family and domestic violence features in 80 per cent of all our open cases in this state. We often talk about neglect as a separate identity and, in some instances, it is long-term absence of medical care, nutrition, educational opportunities et cetera. In fact, neglect is often a feature in families where there is critical family domestic violence or other structural issues of caring.²⁵

3.27 A number of non-government service providers also noted the prevalence of family violence, drug and alcohol abuse and mental health issues in out-of-home care cases.²⁶ Wanslea Family Services, which provides a grandparent support scheme for 1 000 'grandcarers' in Western Australia noted the most common factors grandparents cited for children being placed in care were:

...substance abuse, mental health issues, imprisonment, domestic violence, unstable accommodation or homelessness and family breakdown...it appears that not only are illicit drugs becoming more prevalent in a number

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

24 Mr Matthew Lupi, Executive Director, Department of Communities, Child Safety and Disability Services, *Committee Hansard*, Brisbane, 17 April 2015, p. 62.

25 Ms Emma White, Director-General, Department for Child Protection and Family Support, *Committee Hansard*, Perth, 16 February 2015, p. 62.

26 See, for example: Melbourne City Mission, *Submission 76*, p. 7; Salvation Army, *Submission 40*, p. 3; Western Australia Council of Social Service (WACOSS), *Submission 51*, p. 2; Northern Territory Council of Social Service (NTCOSS), *Submission 72*, p. 30.

of regional towns but the types of drugs used tend to be 'harder', for example methamphetamines.²⁷

3.28 In particular, a number of submissions noted the causal effect of family violence on homelessness and other issues that contribute to the removal of children and placement in out-of-home care.²⁸ Ms Susan Heylar from the ACT Council of Social Service told the committee that there are few housing options available for women fleeing family violence:

[W]omen leaving violence having nowhere to go, living in their car with their children, and Care and Protection Services then taking their children into care because it is not a suitable environment for their children—but not offering them a place to live!²⁹

3.29 Submitters also identified the 'increased prevalence of parental drug and alcohol abuse and exposure to accepted drug culture'.³⁰ The Mirabel Foundation, an organisation that supports children and kinship carers affected by parental drug use in Victoria, told the committee that the number of children referred to its programs has grown by at least 20 per cent each year over the past five years.³¹ In its submission, the Mirabel Foundation noted that drug use affects families from all socio-economic and cultural backgrounds:

It does not discriminate. When drug use is present, there is commonly the coexistence of mental health issues that further complicate the situation and the parent's ability to parent their children.³²

3.30 A 2013 study by researchers from Monash University found parental substance misuse was present in 51 per cent of Victorian child protection cases sampled and concluded children living with parents using illicit drugs are at greater risk of removal compared with drug-free households.³³ The study recommended prompt recognition of substance misuse and associated compliance/engagement issues in order to refer appropriate cases for further assessment and treatment in specialist drug treatment services.³⁴

27 Wanslea Family Services, *Submission 60*, p. 4.

28 See, for example: National Family Violence Prevention Legal Service (NFVPLS), *Submission 29*, p. 7. The impact of family violence on Aboriginal and Torres Strait Islander communities is discussed in detail below.

29 Ms Susan Heylar, Director, ACTCOSS, *Committee Hansard*, Canberra, 16 April 2015, p. 15.

30 Salvation Army, *Submission 40*, p. 3.

31 Mirabel Foundation, *Submission 36*, p. 1.

32 Mirabel Foundation, *Submission 36*, p. 2.

33 Lillian de Bortoli, Jan Coles and Mairead Dolan, 'Parental substance misuse and compliance as factors determining child removal: A sample from the Victorian Children's Court in Australia', *Children and Youth Services Review*, no. 35, 2013, p. 1323.

34 De Bortoli et al, 'Parental substance misuse', p. 1319.

Intergenerational disadvantage

3.31 Evidence to the committee highlighted that these social factors were compounded by the increasing complexity of the needs of both children and families as a result of intergenerational disadvantage, particularly for kinship carers.³⁵ This supports one finding from the committee's previous inquiry into grandparent carers, which was that the lack of support for increasingly complex families contributes to the number of children entering care.³⁶

3.32 The committee heard that intergenerational disadvantage is not adequately addressed in current models of care. Mr Tony Kemp, Deputy Secretary of the Department of Health and Human Services in Tasmania told the committee:

I think one of the things that has changed is the complexity and the enduring nature of the types of needs these families have, and the types of support that they now need, I think, are simply not there.³⁷

3.33 Witnesses suggested the experience of care itself was a significant factor in perpetuating the cycle of social disadvantage. A number of parents with children in care noted they, and sometimes even their parents, had experienced out-of-home care. Ms Teegan Bain, whose child was the third generation of children placed in care, told the committee of the cyclical impact the experience of care:

I have been in foster care myself, and I had a mother who was a drug addict as well. I guess there is also that generational history repeating itself: people who do not know another way will not go another way.³⁸

3.34 The committee notes there is no data currently collected on the intergenerational impact of care, including whether the parents of children in care had experienced out-of-home care.³⁹

Aboriginal and Torres Strait Islander children

3.35 It was put to the committee that the reasons for the disproportionate number of Aboriginal and Torres Strait Islander children in care are complex and interrelated. The National Children's Commissioner, Ms Mitchell, told the committee that:

The issue for Indigenous communities and families is a very complex one...it includes the combination of factors, such as: socioeconomic disadvantage; experiences of substance abuse and domestic violence; and a

35 See: Australian Association of Social Workers, *Submission 18*, p. 3; Baptcare, *Submission 50*, p. 2.

36 See: Senate Community Affairs References Committee, *Grandparents who take primary responsibility for raising their grandchildren*, October 2014, pp 8–11.

37 Mr Tony Kemp, Deputy Secretary, Department of Health and Human Services, *Committee Hansard*, Brisbane, 17 April 2015, p. 69.

38 Ms Teegan Bain, Committee Member, Family Inclusion Strategies Hunter, *Committee Hansard*, Sydney, 18 February 2015, p. 14.

39 Ms Kirsty Raithel, Acting Unit Head, Child Welfare and Prisoner Health Unit, AIHW, *Committee Hansard*, Canberra, 16 April 2015, p. 46.

history of removal and the trauma that has come with that, impacting generations of people and their capacity to parent safely.⁴⁰

3.36 As discussed above, a large proportion of Aboriginal and Torres Strait Islander children are placed into out-of-home care due to substantiations of neglect. However, the committee heard the definition of 'neglect' can be highly subjective and linked closely the prevalence of social disadvantage in Aboriginal and Torres Strait Islander communities. Ms Natalie Lewis, CEO of the Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP) told the committee that parental 'neglect' in Aboriginal and Torres Strait Islander communities may be due to broader social factors:

[W]hen unpacking the concept of neglect in Aboriginal families, it is apparent that the key drivers include poverty, poor housing and lack of equitable access to appropriate services. Both poverty and poor housing are arguably outside of the domain of parental influence, so it is unlikely that a family, while being in the child protection system, could effectively redress these risks in the absence of other social investments and strategies to alleviate poverty and improve access to appropriate housing.⁴¹

3.37 In particular, neglect may result from complex social factors such as family violence. Ms Mary Cowley, CEO of Aboriginal Family Law Services in Western Australia explained:

Sometimes it is hard to actually say what 'neglect' means, because it is so broad ... we would anticipate that there is a large percentage of children in out-of-home care who come out of a family violence situation. And out of the family violence situation arises a whole raft of different things—and neglect is one of them. There are other things that occur with neglect. It could be physical and emotional abuse. That is all part of neglect. When we start to break it down, it can be broken down into a whole raft of different things that we are talking about.⁴²

3.38 Witnesses also suggested that the definition of 'neglect' by child protection authorities may not recognise issues affecting Aboriginal and Torres Strait Islander communities, such as crowding of large family groups into limited housing options. Mr Neil Anderson from the Aboriginal Legal Service of Western Australia (ALSWA) told the committee:

I think what some people might see as harm or neglect others might not necessarily see as neglect. Overcrowding might be a good example of that. The question of harm to the child becomes quite complex. Is there an ongoing issue of harm if the child remains in the home environment? But what is the extent of harm that is being done if we take that child away from

40 Ms Megan Mitchell, National Children's Commissioner, *Committee Hansard*, Sydney, 18 February 2015, pp 5–6.

41 Ms Natalie Lewis, CEO, QATSICPP, *Committee Hansard*, Brisbane, 17 April 2015, p. 48.

42 Ms Mary Cowley, CEO, Aboriginal Family Law Services, *Committee Hansard*, Perth, 16 February 2015, p. 39.

family of origin? They are getting very limited contact with parents, siblings and extended family and they start to experience that loss of identity crisis. There is question as to what sort of harm is being done over the next 10 or 20 years to that person that results in a lifelong disturbance. You may have the situation where, okay, it is not great at home but, if the child remains at home with their family and there is some added support—more room, more stuff for school and that sort of thing—you might be avoiding a huge amount of harm in the future. So it becomes quite complicated.⁴³

3.39 These issues are particularly acute for families in remote communities. Ms Melissa Kean from the NPY Women's Council in central Australia told the committee that people in remote communities:

...are dealing with systemic issues such as overcrowding, poverty, lack of employment options, low educational attainment, poor health. All of those things are precursors for issues such as domestic violence, neglect and child protection issues. It is very hard to overcome cases of child protection concern without addressing those bigger systemic factors.⁴⁴

3.40 Addressing neglect therefore means addressing a broad range of complex social factors such as poverty and housing that are beyond child protection services alone. Ms Andrea Smith from the Aboriginal Family Law Services WA (AFLSWA) highlighted:

...if we are talking about poverty as a factor in relation to Aboriginal communities, we are talking about a structural issue that is bigger than a family. It is also bigger than the community services sector. That is an issue that goes back to whole of government. So we have some issues here that need to be addressed not just by, for example, the Department for Child Protection or by services that are funded to provide early intervention—that goes back to the Commonwealth government or the state government—but also through other ways to make sure that people have enough money to support their families. Here we are talking about housing and the quality of that housing, their ability to pay rent, their ability to buy enough food for their families and their ability to maintain employment. Those things are attached to poverty and the link then to their physical conditions. Attached then to the poverty are all those other things—for example, education and health. It is not easy. It is clearly very complex when you are talking about neglect. I guess that is the nature of the definition and the broadness of the definition. That is why it is difficult to pin down and difficult to address.⁴⁵

43 Mr Neil Anderson, Managing Solicitor, Aboriginal Legal Service of Western Australia, *Committee Hansard*, Perth, 16 February 2015, p. 39.

44 Ms Melissa Kean, Child and Family Wellbeing Service Manager, Ngaanyatjarra Pitjantjatjara Yankunytjatjara (NPY) Women's Council, *Committee Hansard*, Darwin, 1 April 2015, p. 15.

45 Ms Andrea Smith, Policy and Compliance Coordinator, AFLSWA, *Committee Hansard*, Perth, 16 February 2015, p. 39.

3.41 Witnesses highlighted that addressing these social determinants is beyond the capacity of child protection authorities alone. In Queensland, Mr Matthew Lupi noted that:

...the tertiary child protection system should not have and cannot have a different threshold of what is safe and appropriate care, regardless of your culture or your gender. So it is a difficult thing for us alone, outside of all of the other levers of human services, housing, poverty and the complex factors that affect Indigenous families, over decades and generations, to address over-representation alone from the tertiary child protection system.⁴⁶

Impact of trauma

3.42 The committee heard the intergenerational trauma linked to past practices of child removal and entrenched social disadvantage significantly affects the numbers of children placed in out-of-home care.⁴⁷ The National Family Violence Prevention Legal Service noted that:

[T]he over-representation of Aboriginal and Torres Strait Islander children in child protection and out-of-home care cannot be separated from past policies of forced removals and intergenerational trauma. This history is not in the past. As removals continue, albeit under contemporary laws, so too does trauma continue, and so too does Aboriginal and Torres Strait Islander children's dislocation from family, community and culture continue.⁴⁸

3.43 The ongoing impact of this trauma was highlighted by Mr Frank Hytten, CEO of the Secretariat of National Aboriginal and Islander Child Care (SNAICC):

The impact on those communities—not just for the kids moving now, but for the kids that have been removed over the last 100 years—has a compounding effect that continues to have fairly grave consequences for communities as well as for individuals.⁴⁹

3.44 Witnesses suggested 'what child protection systems call risk factors', such as family violence, mental health issues, substance misuse and intergenerational child protection issues are products of trauma caused by the past practices of forced child removal of the Stolen Generations. Mr Frank Spry, CEO of the Northern Territory Stolen Generation Aboriginal Corporation told the committee:

There is evidence around now that is pointing to trauma as underlying this whole business of what is happening in our communities. Yes, people drink. Is that a symptom of something deeper underneath? People gamble

46 Mr Matthew Lupi, Executive Director, Child and Family Services, Department of Communities, Child Safety and Disability Services *Committee Hansard*, Brisbane, 17 April 2015, p. 62.

47 See: Healing Foundation, *Submission 7*; SNAICC, *Submission 93*; Grandmothers Against Removal, *Submission 64*.

48 NFVPLS, *Submission 29*, p. 6.

49 Mr Frank Hytten, CEO, Secretariat of National Aboriginal and Islander Child Care, *Committee Hansard*, Melbourne, 20 March 2015, p. 43.

and there is violence. What is it that is driving all of that? People are suiciding. What is driving that? It really is the trauma that people have faced. We know from evidence that, whether it is colonisation, whether it is people having been removed—whatever it is—it is driving people's symptoms, which are destructive to the community and to themselves.⁵⁰

3.45 These witnesses suggested that existing child protection frameworks do not address this underlying trauma for Aboriginal and Torres Strait Islander communities. Ms Lisa Hillan from the Healing Foundation told the committee:

Few child protection systems across this country have a focus on trauma, let alone the level of trauma faced by Aboriginal and Torres Strait Islander communities. As a result, the systems that are utilised to respond are experienced by Aboriginal people as punishing, not supportive.⁵¹

Family violence

3.46 A number of submissions and witnesses noted family violence was the key driver for the increase in the numbers of Aboriginal and Torres Strait Islander children entering out-of-home care.⁵² AFLSWA highlighted that Aboriginal women are 45 times more likely to experience family violence than non-Aboriginal women.⁵³ In its submission, the Family Violence Prevention Legal Service (FVPLS) Victoria noted in 2013–14 it experienced a 66 per cent increase in its child protection casework for survivors of family violence compared to the previous year.⁵⁴ Ms Antoinette Braybrook, CEO of the FVPLS Victoria told the committee:

The causes of Aboriginal and Torres Strait Islander children's overrepresentation in out-of-home care are undoubtedly complex. However, it must be recognised that family violence is one of the biggest drivers. We simply cannot produce out-of-home care rates for Aboriginal and Torres Strait Islander children without addressing family violence.⁵⁵

3.47 As discussed above, the experience of family violence contributes significantly to other problems such as drug and alcohol abuse. FVPLS Victoria highlighted in its submission the strong link between family violence and drug, particularly methamphetamine, abuse:

50 Mr Frank Spry, CEO, Northern Territory Stolen Generation Aboriginal Corporation, *Committee Hansard*, Darwin, 2 April 2015, p. 27.

51 Ms Lisa Hillan, Programs Director, Healing Foundation, *Committee Hansard*, Canberra, 16 April 2015, p. 34.

52 See: Aboriginal Family Law Services, *Submission 46*, p; NFVPLS, *Submission 29*, p. 7; Ms Musk, North Australia Aboriginal Justice Agency (NAAJA), *Committee Hansard*, Darwin, 2 April 2015, p. 16.

53 AFLSWA, *Submission 46*, p. 4.

54 FVPLS, *Submission 24*, p. 5.

55 Ms Antoinette Braybrook, CEO, Aboriginal Family Violence Prevention and Legal Service Victoria, *Committee Hansard*, Brisbane, 17 April 2015, p. 42.

...our clients' experiences indicate that family violence is often an underlying factor for ICE use ... many women use drugs and alcohol as a way to cope with their experience of family violence. Anecdotal reports also suggest that ICE or other drugs may increase the regularity and severity of family violence. Our lawyers see and hear daily of existing family violence being exacerbated by alcohol and/or drug abuse and of clients self-medicating with alcohol and drugs in an attempt to cope with family violence-related trauma.⁵⁶

3.48 A recent review of 222 Aboriginal and Torres Strait Islander out-of-home care cases by the Victorian Commissioner for Aboriginal Children and Young People (Commission), Mr Andrew Jackomos, found that male perpetrated family violence is the 'primary driver' of about 95 per cent of cases and 'is often coupled by alcohol and other drug misuse by parents'.⁵⁷ Ms Janette Kennedy from the Commission told the committee that the Commissioner is currently reviewing each child in out-of-home care in Victoria as part of the Taskforce 1000 project, taking its name from figure of approximately 1 000 Aboriginal children in out-of-home care in Victoria in 2014.⁵⁸ Ms Kennedy highlighted the prevalence of family violence in Aboriginal and Torres Strait Islander communities had a significant impact on the attempts to return children to their families.⁵⁹

3.49 Based on the Victorian data, Ms Smith from AFLSWA estimated similar outcomes for Western Australia:

I guess that for WA we can perhaps surmise something similar—that up to 90 per cent of our kids are in care because of family violence, which is an alarming statistic.⁶⁰

3.50 The committee notes its significant concern that Aboriginal women are viewed by some child protection authorities as 'enablers' of family violence, contributing to decisions to remove children and place in out-of-home care. Ms Sandra Nelson, Executive Officer at the Katherine Women's Information and Legal Service (KWILS) told the committee:

[I]n a case where the Department of Children and Families is considering the removal of children from a parent or parents, the history of domestic violence is a deciding factor, and that is as it should be. But more often we

56 FVPLS, *Submission 24*, p. 6.

57 Ms Janette Kennedy, Manager Aboriginal Strategy and Policy, Commission for Children and Young People Victoria, *Committee Hansard*, Melbourne, 20 March 2015, p. 34.

58 Ms Janette Kennedy, *Committee Hansard*, Melbourne, 20 March 2015, p. 34; FVPLS, *Submission 24*, p. 5. Since the commencement of the Taskforce 1000 project, the number of Aboriginal and Torres Strait Islander children in Victoria has risen to 1 308 (as at 30 June 2014 – see Productivity Commission, *Report on Government Services 2015*, Table 15A.18).

59 Ms Janette Kennedy, Aboriginal Strategy and Policy, Commission for Children and Young People Victoria, *Committee Hansard*, Melbourne, 20 March 2015, p. 35.

60 Ms Andrea Smith, Policy and Compliance Coordinator, AFLSWA, *Committee Hansard*, Perth, 16 February 2015, p. 37.

are seeing children being removed from the home of a single parent who has been a victim of domestic violence and more often we are hearing that these victims of domestic violence are considered as enablers of domestic violence because they failed to protect their children from being exposed to acts of domestic violence.⁶¹

3.51 Ms Kate Lightfoot, a solicitor at KWILS, told the committee of an extreme example where a client was accused of 'enabling' family violence and the subsequent neglect of her child:

I remember sitting in the courtroom watching her in the witness box, and she was absolutely pummelled. Not only was she pummelled in the information provided, in affidavits provided by the department in the decisions of neglect, that she was enabling a violent household. She was pummelled in the courtroom, and the perpetrator was sitting in the courtroom probably even closer than you are sitting to where I am now. It is a situation where she is victimised for her position. In this case I think it was accepted by all parties that there was an ongoing environment that was not healthy for the children, but it was not healthy for her either. So for the department to have been so intense in their victimisation of her as an enabler was quite shocking.⁶²

3.52 Ms Lightfoot emphasised that being labelled an enabler re-traumatises victims of family violence and affects family relationships:

...when the woman is then further victimised and told that she is doing something wrong, it only creates negatives within the family and for the children...it should not be that a woman is a victim in one courtroom and then an enabler in the next...⁶³

Homelessness and housing

3.53 The committee heard that the prevalence of family violence in some Aboriginal and Torres Strait Islander communities contributes to a number of other social factors, particularly homelessness. According to the National Family Violence Prevention Legal Service, Aboriginal and Torres Strait Islander women are 15 times more likely to seek assistance from crisis homelessness services. In 2012-13, one in ten Aboriginal and Torres Strait Islander women used a specialist homelessness service.⁶⁴

3.54 Evidence to the committee suggested that the lack of housing options for Aboriginal and Torres Strait Islander women escaping family violence contributes

61 Ms Sandra Nelson, Executive Officer, KWILS, *Committee Hansard*, Darwin, 2 April 2015, p. 12.

62 Ms Kate Lightfoot, Outreach Services Solicitor, KWILS, *Committee Hansard*, Darwin, 2 April 2015, p. 14.

63 Ms Kate Lightfoot, Outreach Services Solicitor KWILS, *Committee Hansard*, Darwin, 2 April 2015, p. 14.

64 NFVPLS, *Submission 29*, p. 12.

significantly to homelessness and subsequently the removal of children. The National Family Violence Prevention Legal Service submitted that the:

[L]ack of safe and adequate housing is a significant barrier for Aboriginal and Torres Strait Islander parents, particularly mothers fleeing family violence, to continue or resume caring for their children after child protection involvement.⁶⁵

3.55 The lack of housing support for Aboriginal and Torres Strait Islander is particularly acute for those women in regional and remote communities. Ms Melissa Kean from the NPY Women's Council, which provides services for remote communities in central Australia, told the committee:

...a lot of families who when they come to town are homeless or they move between town camps, hostels, visitors' parks, various family members or nowhere, as in parks or sleeping in the back of their car or out the front of NPY Women's Council.⁶⁶

3.56 The issue of homelessness is particularly significant in Western Australia where, due to current housing policy, 'people are being evicted because of domestic violence situations'.⁶⁷ The Aboriginal Legal Service (WA) submitted that the Department of Housing's 'three strikes policy' for disruptive behaviour in public tenancies means that women may be evicted due to domestic violence. The committee heard this, coupled with the waiting times for public housing (almost 21 per cent of people wait over five years for placement), results in 'homelessness and/or overcrowding for many Aboriginal families. This, in turn, may become the basis for determining that parents are unable to properly care for their children'.⁶⁸

3.57 Mr Anderson from Aboriginal Legal Service (WA) told the committee, evictions due to domestic violence or other reasons lead to overcrowding and possible intervention by child protection authorities:

...families start to congregate in properties that are average to small size, so you end up with maybe 10 or 12 children and a number of adults living in a home that is really designed for a family of five or maybe six people. This becomes a problem from the child protection perspective because the department will start to investigate usually in our experience and will say overcrowding is an example of neglect. There are basically not enough places for people to sleep. There might be a perception of unruliness and people coming and going because you have a household full of up to maybe 20-odd people all doing different things and having different needs. There is a general impression of chaos, I suppose, and that is really good at being picked up under the relevant legislation as a form of neglect and therefore a

65 NFPVPLS, *Submission 29*, p. 12.

66 Ms Melissa Kean, Child and Family Wellbeing Service Manager, NPY Women's Council, *Committee Hansard*, Darwin, 16 April 2015, p. 16.

67 Ms Mary Cowley, CEO, AFLSWA, *Committee Hansard*, Perth, 16 February 2015, p. 40.

68 ALSWA, *Submission 25*, p. 7.

child protection concern leading to possible apprehension of children. It is something we see quite often.⁶⁹

Systemic factors

3.58 Evidence suggested there are also a number of systemic factors contributing to the increased number of children in out-of-home care.

Mandatory reporting and awareness of abuse

3.59 As discussed in Chapter 2, all jurisdictions have legislative requirements for mandatory reporting of suspected cases of child abuse and neglect. As Figure 3.2 shows, the number of child protection notifications received by state and territory authorities has been increasing since 2010-11.

3.60 Submitters suggested the increased level of identification and reporting of child abuse and neglect may contribute to the increasing number of children entering care. The Australian Childhood Trauma Group submitted that:

...the increase [of children in out-of-home care] is due to greater pressures on families and a heightened awareness of abuse. In essence, the community is more alert to vulnerable children and there is a growing acceptance that it is better to report and discuss such things.⁷⁰

Narrow approach and aversion to risk

3.61 A number of submitters and witnesses expressed concern that Australia's child protection systems are too narrowly focussed on legislative requirements to stop child abuse rather than the overall outcomes for children and young people. The National Children's Commissioner, Ms Mitchell, explained that:

The issue for the child protection system is that we have a piece of legislation that we have to abide by. That means removing children from unsafe situations. But that is not all about a child's wellbeing. In fact that act in itself can cause trauma and distress, depending on the child's circumstances and age. So there is a larger piece of work here to think about: what is the best long-term outcome from this for this child. We should be thinking about that right from the beginning, not delay and delay and delay that holistic thinking about a child's needs.⁷¹

3.62 Research by Dr Patricia Hansen and Dr Frank Ainsworth suggests Australia's current child protection framework is characterised by a narrow focus on stopping child abuse, including:

...an over-reliance on mandatory reporting legislation, a forensic investigative prosecutorial model of practice, a risk-averse organisational

69 Mr Neil Anderson, Managing Solicitor, ALSWA *Committee Hansard*, Perth, 16 February 2015, p. 41.

70 Australian Childhood Trauma Group, *Submission 9*, p. [4].

71 Ms Megan Mitchell, National Children's Commissioner, *Committee Hansard*, Sydney, 18 February 2015, pp 4–5.

culture and zero-tolerance of any imperfections in parenting practices which are defined as child abuse and neglect regardless of their severity.⁷²

3.63 Dr Hansen and Dr Ainsworth submitted that these factors are compounded by political imperatives to respond to high-profile cases of abuse, where 'the imperative becomes stopping child abuse and neglect and a zero tolerance approach prevails'.⁷³

3.64 Evidence suggests the impact of this 'zero tolerance' approach is an increasingly risk averse approach to child protection decisions that favour removal from potentially unsafe situations. The committee notes similar conclusions have been drawn by recent state based inquiries into child protection. In Queensland, the 2013 Child Protection Commission of Inquiry found evidence of:

...a widespread risk-averse culture that focuses too heavily on coercive instead of supportive strategies and overreacts to (or overcompensates for) hostile media and community scrutiny.⁷⁴

3.65 A 2008 study by AIFS indicated the prevalence of risk management in child protection systems across Australia and internationally:

[A]s a consequence of intense scrutiny and the fear of the public fall-out if a 'wrong' decision is made, risk management has become a core component of child protection practice in nations that possess a child protection orientation.⁷⁵

3.66 The Queensland Child Protection Commission of Inquiry concluded the risk averse 'better safe than sorry' culture was the 'root cause' of

...an overcrowded out-of-home care system struggling to provide safe and stable placements for children with multiple and complex needs who could, with proper support, be cared for safely at home by a still-loved parent.⁷⁶

3.67 Witnesses suggested complete risk aversion was not possible and child protection authorities and service providers need to 'learn to manage risk more sophisticatedly'.⁷⁷ Anglicare suggested that in out-of-home care, 'people are working with relativities':

72 Patricia Hansen & Frank Ainsworth, *Submission 89, Attachment 2*, 'Viewpoints: Australian child protection services: a game without end,' *International Journal of Social Welfare*, vol. 22, 2013, p. 104.

73 Patricia Hansen & Frank Ainsworth, *Submission 89, Attachment 1*, 'Children in out-of-home care: what drives the increase in admissions and how to make a change,' *Children Australia*, vol. 33, no. 4, 2008, pp 15–17.

74 Queensland Government, *Taking Responsibility: A roadmap for Queensland Child Protection*, June 2013, p. xi.

75 Leah Bromfield & Prue Holzer, *A National Approach for Child Protection: Project report*, Australian Institute of Family Studies, National Child Protection Clearinghouse, 2008, p. 14.

76 Queensland Government, *Taking Responsibility*, xiii.

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

[T]here are no absolutes in the out of home care system and as such the absolute avoidance of risk is counter-intuitive to good practice.⁷⁸

3.68 These witnesses further suggested that, as part of this new approach to risk, child protection authorities need to consider a broader range of alternative care options focused on the needs of children and young people. The National Children's Commissioner, Ms Mitchell, told the committee that, in her view:

...the headlines will happen regardless of what you do ... Yes, you have to take immediate measures to keep a child safe. That does not mean that that has to be a permanent removal. That is about working with the families and saying: 'What is the best option here? What is the possibility for you if you get support and help? We will keep this child safe over here for a while, while we see what you can manage and what supports you might need to get your act. But let us put you on notice: if you cannot after a period of time, it is going to be in this child's interests to be in another arrangement.' I do not see that the two are incompatible, but we know that harm happens to children inside the system as well as outside the system.⁷⁹

Lack of family support programs

3.69 Many submissions noted that the increase in children in out-of-home care was due to a lack of support services for vulnerable families.⁸⁰ Ms Glenys Wilkinson, CEO of the Australian Association of Social Workers told the committee:

...we need to be able to prevent children from coming into care, we need to maintain children within their families and we need to have family support type arrangements to allow the family to do their work, which is to care for children. We need to get family support services and then some more targeted services such as drug and alcohol or family violence services to intervene and prevent. That way, if we are keeping the child safe within their family then it is an economic factor as well. The family can do what they are there to do, which is raise their children, but we can also try and break that generational cycle of children and families struggling.⁸¹

3.70 The need for increased early intervention programs across jurisdictions is examined in Chapter 5.

Families and children with disability

3.71 As noted in Chapter 2, there are limited national data on the number of children with disability placed in out-of-home care. However, evidence to the

78 Anglicare, *Submission 87*, p. 4.

79 Ms Megan Mitchell, National Children's Commissioner, *Committee Hansard*, Sydney, 18 February 2015, pp 3–4.

80 See: Alliance for Forgotten Australians, *Submission 34*, p. 3; Women's Legal Service NSW, *Submission 86*, p. 8; Centre for Excellence in Child and Family Welfare, *Submission 99*, p. 10; Jan Barham MLC, *Submission 98*, pp 2 – 3; Anglicare, *Submission 87*, p. 11; Berry Street, *Submission 92*, p. 9; Wesley Mission, *Submission 104*, p. 3.

81 Ms Glenys Wilkinson, CEO, Australian Association of Social Workers, *Committee Hansard*, Canberra, 16 April 2015, p. 51.

committee suggested that children with disability are over-represented in the out-of-home care system, particularly those children of parents with intellectual disability.⁸²

3.72 Witnesses and submitters noted that families and children with disability enter the out-of-home care system either through relinquishment or removal by child protection authorities due to the incidence or risk of neglect or abuse. Families with intellectual disability are particularly susceptible to having their children removed and placed into out-of-home care. In NSW, Ms Marissa Sandler from the Intellectual Disability Rights Service (IDRS) told the committee that families with an intellectual disability make up just one to two per cent of all families with children aged 0–17, but account for around nine per cent of child protection cases before the NSW Family Court.⁸³

3.73 In both cases, the committee heard existing child protection systems do not provide adequate support for families with disability or families of children with disability to keep their children.⁸⁴ These supports are examined in detail in Chapter 9.

Aboriginal and Torres Strait Islander children

3.74 Evidence to the committee suggested that the over-representation of Aboriginal and Torres Strait Islander children in care is due in part to the lack of support services tailored to the specific needs of Aboriginal and Torres Strait Islander communities.⁸⁵ In Queensland, Mr Lupi suggested there was no significant policy change that had contributed to the increase in numbers of Aboriginal and Torres Strait Islander children in care, rather a failure of early intervention services to assist families:

...the attempts to address the over-representation have possibly in the past not been effective because of the inability to address that wide, complex range of issues such as housing, employment, standards of education. So I do not believe there has been a policy shift. I think it is just a fact that our commission found that the early intervention services, the strategies to try to address those issues, had been ineffective and more ineffective because they did not recognise the massive complexity of the issues.⁸⁶

3.75 The available models and supports for Aboriginal and Torres Strait Islander communities, including family support programs, are explored in detail in Chapter 8.

82 See: National Disability Services, *Submission 54*.

83 Ms Marissa Sandler, Intellectual Disability Rights Service, *Committee Hansard*, Sydney, 18 February 2015, p. 37.

84 See: Intellectual Disability Rights Service, *Submission 21*; Endeavour Foundation, *Submission 43*; National Disability Services, *Submission 54*; ACT Disability, Aged and Carer Advocacy Service (ADACAS), *Submission 71*; People with Disability Australia (PWDA), *Submission 74*; Children with Disability Australia (CDA), *Submission 80*.

85 Mr Neil Anderson, Managing Solicitor, ALSWA, *Committee Hansard*, Perth, 16 February 2015, p. 36.

86 Mr Matthew Lupi, Executive Director, Department of Communities, Child Safety and Disability Services, *Committee Hansard*, Brisbane, 17 April 2015, pp 61–62.

Committee view

3.76 The committee notes the reasons why children enter and remain in care are complex and closely linked to social disadvantage, particularly for Aboriginal and Torres Strait Islander children. The committee acknowledges that Aboriginal and Torres Strait Islander communities face significantly higher levels of social disadvantage than non-Indigenous communities, contributing to the overrepresentation of Aboriginal and Torres Strait Islander children and young people in out-of-home care. The committee acknowledges that to properly address the increasing numbers of children entering care means addressing a broad range of social issues, particularly family violence, alcohol and drug abuse and mental health.

3.77 The committee notes there are also certain systemic factors that may contribute to children entering and remaining in out-of-home care. In particular, the risk averse approach by child protection authorities and the lack of early intervention and prevention supports mean there are limited options for families at risk of having their children placed into care. The lack of available supports and understanding of the specific needs of Aboriginal and Torres Strait Islander families, and families with disability also contribute to an overrepresentation of these groups in out-of-home care.

3.78 The committee also recognises the role of mandatory reporting of child abuse concerns and heightened community awareness of abuse in contributing to the number of children entering care. The committee recognises that placement in out-of-home care may be the best option for many children to protect their safety and wellbeing. The committee therefore acknowledges that reducing the number of children in out-of-home care is not an end in itself, and that it is vitally important to ensure existing systems provide the highest standard of care possible.

3.79 The committee shares the concerns expressed by the United Nations Committee on the Rights of the Child about the lack of data on the reasons children are placed in out-of-home care. While acknowledging the difficulty in collecting this data on a national scale, the committee notes such data is vitally important to identifying and addressing the key reasons children are placed in care. The committee supports the recommendation of the UN Committee to improve the collection of data about the reasons why children are placed in care.

Chapter 4

Outcomes for children and young people in out-of-home care

My name is Julia and I am 17 years old. I came into care at the age of two. I have lived in 36 different homes. These homes included residential care, foster care, kinship care and self placement. There was a failed reunification when I was 12. I was then returned into care. I have been to eight schools, two tertiary colleges and two behaviour management programs ...

This is only an overview of my time in care; it in no way shows the hardships I endured in foster care or residential care, but it gives you an outlook on what can happen to a kid in the system who is meant to be protected. There are so many problems in the care system.¹

Julia, Brisbane hearing, 17 April 2015

4.1 As Chapter 2 noted, the *National Standards for out-of-home care* (National Standards) provide a framework for measuring and assessing the outcomes for children and young people in out-of-home care. However, the committee acknowledges that current data collection projects to report against the National Standards are not yet sufficiently developed to provide an assessment of outcomes for children and young people in care.

4.2 Drawing from evidence collected during the inquiry, this chapter assesses the outcomes for children and young people in out-of-home care against the key themes of the National Standards across the three main types of care (kinship care, foster care and residential care), including:

- safety and stability (standards 1 and 12);
- participation in decision making (standards 2 and 3);
- access to health and education (standards 4 to 7);
- connection to family and community (standards 8 to 11); and
- transition from care (standard 13).

4.3 Overwhelmingly, the committee found that outcomes for children and young people in out-of-home care across these indicators remain poor.² Based on a series of

1 Julia, Young Consultant, CREATE Foundation, *Committee Hansard*, Brisbane, 17 April 2015, pp 12–13.

2 See, for example: Elizabeth Fernandez, 'Children's wellbeing in care: Evidence from a longitudinal study of outcomes,' *Children and Youth Services Review*, vol. 31, 2009, pp 1092–1100; Philip Mendes, 'Abuse and Neglect in Care – Then and Now', *Centre for Policy Development*, October 2008, <http://cpd.org.au/2008/10/abuse-and-neglect-in-care-then-and-now/> (accessed 18 June 2015); Judy Cashmore and Marina Paxman, *Longitudinal Study of Wards Leaving Care*, Social Policy Research Centre, University of New South Wales, 2006.

research projects undertaken by the Australian Institute of Family Studies (AIFS),³ Dr Daryl Higgins told the committee:

...we know that the out-of-home care system as it currently works is incredibly expensive...and we do not have good evidence for it having good outcomes. If you look at the research evidence, there is very little empirical data to say that children do well as a result of out-of-home care.⁴

4.4 This chapter examines why these outcomes remain poor across all types of care and highlights best practice models to help improve outcomes for children and young people.

4.5 Chapters 8 and 9 will examine specific outcomes for Aboriginal and Torres Strait Islander children and young people and children with disability.

Safety and stability

Placement safety

4.6 Submitters and witnesses supported a child-first approach to child protection that focusses on ensuring the safety and wellbeing of children. The National Children's Commissioner, Ms Megan Mitchell, expressed concern that current child protection frameworks do not focus on the needs of children:

I really do not think they [child protection authorities] put children at the centre of their thinking, even though the system is actually for them. I think that needs to be a cultural change.⁵

4.7 The committee considers that the safety and wellbeing of children and young people must be the paramount consideration in all decision-making processes for children placed in out-of-home care. Some of the most alarming evidence the committee heard related to children being placed in unsafe out-of-home care placements where their basic needs are not met. In some cases, children continue to suffer physical, emotional and sexual abuse while in care.

Inappropriate placement decisions

4.8 As discussed in Chapter 2, across jurisdictions the demand for out-of-home care services far outweighs the capacity of child protection systems and service providers. Due to these demand pressures, evidence suggests decisions about

3 See: Leah Bromfield, Daryl Higgins, Alexandra Osborn, Stacey Panozzo & Nicholas Richardson, *Out-Of-Home Care in Australia: Messages from Research*, National Child Protection Clearinghouse, June 2005; Alexandra Osborn & Leah Bromfield, 'Getting the big picture': A synopsis and critique of Australian out-of-home care research', *National Child Protection Clearinghouse Issues*, no. 26, October 2007; Alexandra Osborn & Leah Bromfield, 'Outcomes for children and young people in care,' Australian Institute of Family Studies, *Research Brief*, no. 3, 2007.

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

5 Ms Megan Mitchell, National Children's Commissioner, *Committee Hansard*, Sydney, 18 February 2015, p. 4.

appropriate placements for children and young people are often based on availability rather than need. Ms Michelle Waterford from Anglicare Australia noted:

There is a lot of pressure, I think, from departments just to get a young person into a placement. The services call them 'bums in beds'.⁶

4.9 A number of service providers highlighted that the necessity to place 'bums in beds' means that often children and young people are not placed with carers best suited to their particular needs. Mr Julian Pocock from Berry Street, a service provider in Victoria, told the committee that due to demand pressures:

...we have children being inappropriately placed into residential care when that is not the right option for them, or we have carers asked to take on more and more kids when really that carer household is at its capacity in terms of what it can do. We have siblings who cannot be placed together, separated in the care system—with all the outcomes we know from the royal commission and other places.⁷

4.10 Evidence suggests the prevalence of a 'bed availability driven' system which forces providers to accept placements that may not be suitable for the child or young person, particularly in residential care.⁸ Anglicare Victoria noted in its submission, residential care providers are:

...too often pressured into accepting placements that do not take appropriate account of a given child or young person's stage of development, gender, mental health, behavioural tendencies and overall potential to be a perpetrator and/or victim of harm in context of the mix of other children and young people in the prospective residential care unit. Put bluntly, the need to ensure that children's safety, care and development needs are met is often compromised for the sake of demand pressures.⁹

Allegations of abuse

4.11 As discussed in Chapter 3, the most common reasons children are placed on care and protection orders and subsequently in out-of-home care is due to abuse or neglect. A number of witnesses and submitters highlighted the effect of this abuse on the development of children and young people in out-of-home care.¹⁰ Mr Basil Hanna,

6 Ms Michelle Waterford, Director, Research and Policy, *Committee Hansard*, Canberra, 16 April 2015, p. 15.

7 Mr Julian Pocock, Director, Public Policy, Berry Street, *Committee Hansard*, Melbourne, 20 March 2015, p. 11.

8 See: Commission for Children and Young People Victoria (CCYPV), *Submission 45*, p. 4; Child Wise, *Submission 31*, p. 9; Mr David Fox, Director of Operations, MacKillop Family Services, *Committee Hansard*, Melbourne, 20 March 2015, p. 12; Mr Jerry Ham, Senior Manager, Children Youth and Families, Wesley Mission Victoria, *Committee Hansard*, 20 March 2015, p. 12.

9 Anglicare Victoria, *Submission 101*, p. 7.

10 See, for example: Australian Childhood Trauma Group, *Submission 9*; Royal Australian and New Zealand College of Psychiatrists (RANZCP), *Submission 17*; OzChild, *Submission 19*; Child and Family Welfare Association of Australia, *Submission 65*.

Chairman of the Community Sector Roundtable for NGOs and Government, told the committee that:

Child abuse begins with the destruction of that most basic right that children have to be cared for and loved by those entrusted with their care ... [they] are not in this position by choice, by accident or by some horrible biological act of fate; they are in this position because they were physical, sexually and/or emotionally abused by adults in whom they placed their love and trust. That action, singular or repetitive, has changed their lives. These children are voiceless and vulnerable.¹¹

4.12 Most alarmingly, the committee heard in some cases children and young people continue to experience abuse while they placed in out-of-home care. At its Brisbane hearing, the committee heard from a range of young consultants from the CREATE Foundation, the peak body representing the voices of all children and young people in out-of-home care.¹² One CREATE consultant told the committee of physical and emotional abuse she suffered during her time in care from age two from foster parents, other children in foster care and residential placements, and from her birth father during a failed reunification. She was physically abused throughout a nine year placement with a foster family before she was moved to a new foster family after a failed reunification:

One afternoon we got into an argument. I cannot really remember what it was about, but I ducked and they asked me why. I told them that my previous foster carers would hit me. We had a very long and serious talk about all the things that they did and that they would have to tell the department about all the stuff because it was wrong. I then told them about the abuse that my dad had inflicted on me during the failed reunification.¹³

4.13 The committee heard from two experienced foster carers who noted the high incidence of sexual abuse among children in foster care:

Our own experience is that two of the three children we have fostered experienced prolonged and severe sexual abuse from a range of family members or 'friends of the family'. We know of at least twenty paedophiles who routinely raped these children over many years of their childhood but were never taken to court. These men are consequently at liberty to continue to prey on vulnerable children...The lack of action increases the number of victims of these paedophiles and it sends a clear message to the

11 Mr Basil Hanna, Chairman, Community Sector Roundtable for NGOs and Government, *Committee Hansard*, Perth, 16 February 2015, p. 44.

12 In 2013, the CREATE Foundation undertook a survey of over 1000 children and young people in out-of-home care. The findings of the survey are published as the CREATE Report Card 2013 and formed the basis of CREATE's submission to the committee. See: Joseph McDowall, *Experiencing out-of-home care in Australia: the view of children and young people* (CREATE Report Card 2013), CREATE Foundation, 2013.

13 Julia, Young Consultant, CREATE Foundation, *Committee Hansard*, Brisbane, 17 April 2015, p. 12.

children that their stories are not important, and that the social structures in which they live, to some extent condone this abuse.¹⁴

4.14 Submitters suggested abuse and trauma are particularly prevalent in residential care facilities. Mr Bernie Geary, the Victorian Commissioner for Children and Young People told the committee of particular concerns about the incidence of sexual abuse in residential care:

Sometimes they were [exploited] by organised people in the community, sometimes they were just bad buggers in the community who were assaulting our kids, but so often it was the kids on each other and that speaks to that funnel where we are tipping kids and their dreadful issues on top of each other.¹⁵

Addressing trauma

4.15 The committee heard that existing models of care, particularly residential care, do not adequately address issues of ongoing trauma for children and young people in care. Brooke, another CREATE young consultant, told the committee her experience of residential care varied between 'good and not so good', with the worst examples reflecting an institutional environment:

I was placed in placements where there was a 6 pm curfew and no-one was allowed in or out. However, the youth workers would not finish their shift until 10 pm. There were placements where they would not drive the young people anywhere at all after school or to do any activities on the weekends. They would not even pick the young people up. There are also placements out there that have very limited food. One situation was so bad that my dad had to go and buy groceries for the placement that I was in at the time. One placement I was in made me feel like I was institutionalised due to the physical appearance of the property. The bedroom doors were metal. All the doors had locks on them and even the beds were bolted to the floor.¹⁶

4.16 Brooke told the committee that such institutional settings are not appropriate to ensure the safety and stability of children and young people in care:

All of these things should not happen if you are trying to make a child feel safe, comfortable and nurtured. On one occasion when the department could not find me a placement, they actually admitted me to hospital. I had nothing physically wrong with me; there was just a shortage of placements. I stayed there overnight and a placement was found for me the next day.¹⁷

14 Name withheld, *Submission 42*, p. [1].

15 Mr Bernie Geary, Commissioner for Children and Young People, Victoria, *Committee Hansard*, 20 March 2015, p. 45.

16 Brooke, Young Consultant, CREATE Foundation, *Committee Hansard*, 17 April 2015, p. 14.

17 Brooke, Young Consultant, CREATE Foundation, *Committee Hansard*, 17 April 2015, p. 14.

4.17 A number of submissions were highly critical of existing models of residential care that do not provide support services to address trauma.¹⁸ Mr Gregory Nicolau provided the committee with photographs of residential facilities in Victoria that his organisation, Australian Childhood Trauma Group, was reviewing on behalf of the relevant department. Mr Nicolau explained to the committee:

[Y]ou can see a photo of a refrigerator with hardly anything in it. Often the food is kept within the office and children have to ask permission to get food and have the door unlocked. There are some organisations that have only recently taken locks off doors and there are some that have put locks back on doors. The office is locked. There are signs up. They do not always say 'No clients past this point', but some will say that young people may not come into the office space and so forth ... Some of these houses have a window, like a nurses station, where they can look out into the main community areas. It is prehistoric—or at least 1800s. It is no way to care for children who have been harmed or have come out of really deprived circumstances and it does not create a healing environment.¹⁹

4.18 These submissions suggested the lack of trauma treatment in existing models of residential care facilitate particularly poor outcomes for children. Dr Phil West, a former residential care worker, submitted the following example:

Recently, I worked in a unit where two of the children (teenage boys) wet their beds, and in another, where a fifteen-year-old boy defecates in his pants. They are not receiving any counselling/trauma-healing programs related to these physiological manifestations of their emotional pain. Instead, our care is that they are not going to school, allowed to go to bed at any time, sleep in till 12 or 2 pm and are smoking weed or taking ice three-four times per week! This is not care, it is State-sanctioned neglect.²⁰

Investigating out-of-home care complaints

4.19 To assist children and young people in addressing safety concerns and reporting allegations of abuse, the CREATE Foundation recommended that independent children's commissioners or guardians be given powers to investigate individual complaints from children and young people in care.²¹

4.20 As noted in Chapter 2, all jurisdictions have established independent children's commissioners or guardians.²² The role and responsibility of these offices differs across jurisdictions based on the relevant state and territory legislation.

18 See: CCYPV, *Submission 45*; Dr Phil West, *Submission 102*, Australian Childhood Trauma Group, *Submission 9*, Salvation Army, *Submission 50*.

19 Mr Gregory Nicolau, CEO, Australian Childhood Trauma Group, *Committee Hansard*, Canberra, 16 April 2015, pp 25–26.

20 Dr Phil West, *Submission 102*, p. 21.

21 Ms Noelle Hudson, National Policy and Advocacy Manager, CREATE Foundation, *Committee Hansard*, Brisbane, 17 April 2015, p. 16.

22 See: Chapter 2, Table 2.3.

Ms Noelle Hudson from the CREATE Foundation noted the inconsistencies across jurisdictions in investigating individual complaints:

is a serious limitation. In jurisdictions where children and young people are not able to have individual complaints acted upon, they are left without an independent representative to hear their voice and stand up for them when they are at their most vulnerable.²³

4.21 Brooke, a CREATE young consultant, highlighted the importance of a complaints mechanism for children in care that is independent from the department:

When a young person raises an issue they have about a carer or a youth worker with the department, normally a visit is arranged. When this happens a carer or youth worker has time to clean up their mistakes whereas if it is unannounced they cannot hide anything. When a child raises an issue of alleged abuse, more investigation needs to be done. In my experience, both the police and the department listen to and believe what the carer says rather than what the child says and the case just gets brushed off. Maybe there needs to be an investigation team set up separately from the department to look into such issues. After all, it is about protecting the child and safety of the child, and that should be the most important concern because it is all about the children.²⁴

4.22 In addition to investigative powers, the committee heard that the ability of commissioners or guardians to visit children in care differs widely across jurisdictions. In most jurisdictions with an 'official visitor' program, the visitor is limited to supervising children in residential care facilities. The committee heard the independent visitor model administered by the Queensland Office of the Public Guardian is unique in that the visitor may visit children in all forms of care, including foster care and relative/kinship care. This provides children in these forms of care with an opportunity to report any issues or concerns directly to a representative of the Office of the Public Guardian for investigation (see Box 4.1).

23 Ms Noelle Hudson, National Policy and Advocacy Manager, CREATE Foundation, *Committee Hansard*, Brisbane, 17 April 2015, p. 16.

24 Brooke, Young Consultant, CREATE Foundation, *Committee Hansard*, Brisbane, 17 April 2015, p. 14.

Box 4.1 – Best practice – Queensland Community Visitor Program

The Queensland Office of the Public Guardian (OPG) administers a Community Visitor Program for children in residential care and home-based care. Programs in other jurisdictions only visit residential care facilities (NSW, Victoria, ACT).

In 2004, following a recommendation by the Queensland Crime and Misconduct Commission, the then official visitor program was extended to all children in care.

In 2013, the Commission of Inquiry found a range of issues with the program, including that by visiting all children in the out-of-home care system, much time, money and effort was necessarily wasted in visiting children and young people who were relatively happy with their placements. The Commission of Inquiry recommended regular visits be continued to those children considered the most vulnerable.

OPG told the committee it now seeks to classify the degree of vulnerability of children and young people to determine the frequency of visits. Each decision as to the vulnerability and frequency of visiting is unique to the particular needs of the child or young person.

The key roles of the community visitor include:

- develop a trusting and supportive relationship with the child as far as possible, which is seen as critical in being able to perform the function of the community visitor;
- advocate on behalf of the child by listening to, giving voice to and facilitating resolution of their concerns and grievances;
- seek information about and to facilitate that child or young person's access to support services; and
- acquire and report on the adequacy of information given to the child about their rights.

The community visitor also acquires information and reports on the physical and emotional wellbeing of the child and the appropriateness of the home or facility to ensure the child's needs are being met.

Source: Ms Catherine Moynihan, Office of the Public Guardian, Committee Hansard, Brisbane, 17 April 2015, pp 58 – 59.

4.23 The committee heard that the Queensland community visitor model provides an important service to children in care. Adina, a CREATE young consultant, noted that the community visitor were more effective in resolving issues than the community service organisation (CSO) providing the care service:

I had a lot of CSOs and they were all different in the way that they worked. They always said they were going to come out and they never did. They were really dodgy. I felt like I could not rely on them. I never made a strong relationship with them, whereas my CV [community visitor] came once a month always when she said she would. She knew everything about the department and she was able to always tell me what my rights were and what I was entitled to. She was always there for support. She was so reliable. She was just lovely.²⁵

25 Adina, Young Consultant, CREATE Foundation, *Committee Hansard*, Brisbane, 17 April 2015, p. 20.

4.24 The committee also heard support for the introduction of independent visitor models in those jurisdictions that do not have them. Mr David Pugh from Anglicare in the Northern Territory, which does not have an independent visitor program, told the committee at its Darwin hearing:

When a child is placed in care in the Northern Territory, as in most jurisdictions, the only people who can ever scrutinise the quality of that care are the funding body—in this case the Department of Children and Families—or the agency themselves. In the area of disability, we do not see this. We see a strong independent visitor program, where others can come in and provide a voice for the person in care, but not in out-of-home care. It just shocks me that, in out-of-home care, the most vulnerable of citizens have no independent arbitrator for them.²⁶

Placement stability

4.25 While all jurisdictions acknowledge the importance of stability and security for children in out-of-home care, the committee heard this is not adequately addressed in practice across jurisdictions. The National Children's Commissioner, Ms Megan Mitchell, told the committee:

I think our care and protection systems have historically been somewhat remiss in looking at the long-term stability and safety of the child. They generally respond to incidents, or they did in the past. I do think the states and territories are trying to amend that and enhance legislation and practice so that there is a focus on a permanent pathway from the beginning. However, that is not as common as it should be.²⁷

4.26 As noted in Table 2.5, AIHW's 2011–12 data on the number of placements for children upon exiting out-of-home care indicates that the longer children spend in care, the more likely they are to have multiple placements.²⁸ According to AIHW, of the children exiting care in 2011–12, 63 per cent had one to two placements, 22 per cent had three to four placements and 15 per cent had more than five placements.²⁹

4.27 While AIHW's statistics only measure up to five placements, the committee heard this number can be significantly higher for children in long-term care. At its Brisbane hearing, one CREATE consultant noted during her time in care between the ages of nine and seventeen, she went through 50 placements.³⁰ At its Hobart hearing,

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

27 Ms Megan Mitchell, National Children's Commissioner, *Committee Hansard*, 18 February 2015, pp 2–3.

28 AIHW, *Submission 22*, Table 7.

29 AIHW, *Submission 22*, Table 3.1.

30 Brooke, Young Consultant, CREATE Foundation, *Committee Hansard*, Brisbane, 17 April 2015, p. 13.

Ms Jarcinta Short, who was in out-of-home care for 18 years, told the committee the numbers of placements she experienced were 'too many to count'.³¹

4.28 CREATE's 2013 Report Card indicated a great variation in the number of placements prior to exiting care across jurisdictions. Across Australia, CREATE found 57 per cent of children and young people reported having one or two placements. In NSW this proportion was as high as 70 per cent whereas in the Northern Territory this proportion was significantly less, indicating children generally experienced a greater number of placements.³² CREATE found that while 83 per cent of children and young people were 'quite' or 'very happy' in their current placement, many were not as satisfied with their placement history due mostly to instability and moving.³³

4.29 The committee heard placement stability was one of the most important aspects contributing to positive outcomes for children and young people in care.³⁴ Ms Patricia Murray, CEO of Wanslea Family Services told the committee:

If you get the placement right early and they are not churning through the system, then the chances of getting it right later are much higher. It does make a difference.³⁵

4.30 Adina, a young consultant with CREATE, told the committee her positive experience in care was due to the stability of her placement arrangement:

In my opinion, the biggest reason that I [thrived] in foster care is simple: I had—and still have, even though I have turned 18—a stable, loving family. I was not shifted from family to family, I never moved schools and I have only just moved out of the town I grew up in.

My family and I forget that I am not their biological child. This is what every foster child deserves. This is an issue for so many children and young people in care. They do not ever get a chance to build up stable relationships with the adults around them, there is no chance to make friends and they cannot trust anyone.³⁶

4.31 Ms Short, who experienced many placements breakdowns, told the committee of the importance of a stable placement on providing long-term stability once a young person ages out of the care system:

31 Ms Jarcinta Short, *Committee Hansard*, 12 March 2015, p. 7.

32 CREATE Foundation, *Submission 96*, pp 17–18.

33 CREATE Foundation, *Submission 96*, p. 17.

34 See, for example: Australian Association of Social Workers, *Submission 18*; Wanslea Family Services, *Submission 60*; Association of Children's Welfare Agencies, *Submission 94*.

35 Ms Patricia Murray, CEO, Wanslea Family Services, *Committee Hansard*, Perth, 16 February 2015, p. 21.

36 Adina, Young Consultant, CREATE Foundation, *Committee Hansard*, Brisbane, 17 April 2015, p. 15.

The only connection I ever made was with my last carers; I was with them for six years. It took me a while to realise that they were not going to give up on me, no matter how naughty I was. They were my family and they will always be, and I even still see them to this day—and I am 21.³⁷

4.32 A number of submitters were critical of the 'churn' many children and young people experience through a large number of placements.³⁸ Noting the difficulties faced by child protection authorities in finding suitable placements for all children in care, Mr Basil Hanna, CEO of Parkerville Children and Youth Care in Western Australia, referred to this 'churn' as 'system abuse':

It is very difficult for the child protection-family services department to be able to place all of their children. It is extremely difficult. Their mandate is to provide children with a safe home. However, because that is their mandate, often children are placed in placements that are not safe—not clinically safe—for those children. And what happens is that the placements break down and children bounce around. One wonders, if we were sitting here in 20 years time, if there would be a royal commission about system abuse that is occurring today?³⁹

4.33 Jurisdictional approaches to achieving placement stability are examined in more detail in Chapter 7.

Participation in decision making and planning

4.34 As noted in Chapter 2, all states and territories have a charter of rights for children and young people in care that establishes the rights of children and young people to be involved in the decisions that affect them while in care. However, the committee heard the role of children and young people in this process was not adequately addressed.

4.35 The National Children's Commissioner, Ms Mitchell, told the committee that all state and territory departments have policies and practices in place to involve children and young people in the decision making process, but that:

It is really important to understand that children have agency; they can understand a lot of things. I am so impressed by kids as I go across the nation talking to them. Really young kids understand stuff if you engage with them. I think for children in these circumstances it is really critical. I am not saying that they are going to get what they want necessarily; it is about having a dialogue.⁴⁰

37 Ms Jarcinta Short, *Committee Hansard*, Hobart, 12 March 2015, p. 9.

38 See, for example: Barnardos Australia, *Submission 20*; Berry Street, *Submission 92*.

39 Mr Basil Hanna, CEO, Parkerville Children and Youth Care *Committee Hansard*, Perth, 16 February 2015, p. 17.

40 Ms Megan Mitchell, National Children's Commissioner, *Committee Hansard*, Sydney, 18 February 2015, p. 4.

4.36 A number of submitters and witnesses highlighted the importance of ensuring the voice of the child is heard in decision making processes that affect them.⁴¹ In its submission, the CREATE Foundation asserted that 'listening and responding to the views of children and young people in the care system should be a cornerstone of best practice'.⁴² Ms Noelle Hudson from the CREATE Foundation told the committee that CREATE's research supported the findings of the 2013 Queensland Child Protection Commission of Inquiry:

...although the principle of children being able to have a say about their decisions, about coming into care and about their lives is more recognised in Australian policy and practice, in reality, children's voices are often not heard in court and decisions are generally made for them without their input.⁴³

4.37 Evidence suggested that the benefits of including children and young in decision making processes were far reaching. Ms Catherine Moynihan from the Queensland OPG told the committee the expected benefits include:

- more confidence in court that the child or young person has been involved in decision making;
- more stable placements as the child or young person is in a position to take ownership of placement decisions and less likely to be resentful or resistant;
- resolving school issues for children and young people and negotiating continued school attendance;
- a greater stake for children and young people in their case plans and contact decisions; and
- reduced risk of mental health problems as they are less likely to consider themselves powerless victims of the whims of adults.⁴⁴

Placement decisions

4.38 A number of submitters noted the importance of involving children and young people in decision making about placements. Mr Justin Cooper, program manager for the Salvation Army's Therapeutic Youth Residential Service in Tasmania, emphasised the impact of participation on achieving good outcomes:

The biggest concern is the voice of the child, what service they want to enter—not being told, 'This is option A, and option B is the streets; so you

41 See: Centre for Excellence in Child and Family Welfare, *Submission 99*; Mr Michael Geaney and Ms Gail White, Alliance for Children at Risk, *Committee Hansard*, Perth, 16 February 2015, p. 15–18; Ms Sarah Isip, St Luke's Anglicare, Bendigo, *Committee Hansard*, Melbourne, 20 March 2015, pp 26 – 27.

42 CREATE Foundation, *Submission 96*, p. 8.

43 Ms Noelle Hudson, National Policy and Advocacy Manager, CREATE Foundation, *Committee Hansard*, Brisbane, 17 April 2015, p. 16.

44 Ms Catherine Moynihan, Official Solicitor, Office of the Public Guardian, *Committee Hansard*, Brisbane, 17 April 2015, p. 60.

need option A.' It is about actually hearing the voice of the child. That includes when they are going into a different model of care. Whether it be therapeutic care, whether it be foster care or whether it be...college care, the child actually has to be involved in the process, not just told, 'That's where you're going.' It is their life. They need to control some portion of it, because control has been taken away; they are in chaos. So they need to control that: 'Yes, I will give therapeutic resi a go.' Otherwise, it makes the job 10 times harder, to try and support them and move them forward as well.⁴⁵

4.39 However, the committee heard young people are not often included in this process. At the committee's hearing in Melbourne, representatives from the Youth Movement Initiative in Bendigo highlighted the lack of involvement for young people in case planning discussions:

We feel like zoo animals because we cannot – there are so many workers in the room and we may, if we are lucky, know two or three of them. Then they get to hear our life stories and make decisions on our lives that we do not really get a say in a lot of the time.⁴⁶

4.40 Likewise, Ms Jarcinta Short told the committee in Hobart she would have appreciated having greater involvement in placement decisions during her time in care:

I would like to have been thought of, instead of my case worker just placing me in places they thought I should be. Was it necessary for me to be removed? If it was not, then I should not have been removed. So my solution would be to ask the child, to put them first and have them be involved in the consideration and in the decision-making. With matching kids to care, I think it is a really good idea for case workers to do a tick sheet with children—the things that they like to do and what makes them them—and then pass it on to a carer that they think would be suitable for that child.⁴⁷

4.41 At its Brisbane hearing, the committee asked CREATE young consultants for their views on how and at what age children should be involved in the decision making process. Julia told the committee that children all ages should be listened to in making decisions about placements and other issues:

...children should be listened to from three years old. I know that sounds really young, but there are different ways you can engage with children. You can have them draw a picture of what they want. You can have a casual conversation with them. Obviously, what they are saying will not be taken on as much, but everyone should be listened to no matter what. I

45 Mr Justin Cooper, Program Manager, Therapeutic Youth Residential Service, Salvation Army, *Committee Hansard*, Hobart, 12 March 2015, p. 12.

46 Ms Sarah Isip, St Luke's Anglicare, *Committee Hansard*, Melbourne, 20 March 2015, p. 27.

47 Ms Jarcinta Short, *Committee Hansard*, Hobart, 12 March 2015, p. 9.

think that, as they get older, their opinion should weigh a lot more but when they are younger they should still be listened to, even if it is not as much.⁴⁸

4.42 Julia noted, based on her own experience:

I did not even know I had a CSO [child safety officer] until I was 12, until I reunified, and I did not have a CV [community visitor]. If I had either one of those I could have told them that I was being abused in the foster home that I was in for nine years. Obviously, I would have been able to tell them if I was getting hit. Without anyone there to listen to me and talk to me about that, I could not tell anyone. So I think everyone should be listened to, no matter what age. It is just a different level of engagement and also a different level of how much information you take on from them.⁴⁹

Case planning

4.43 One key opportunity to involve children and young people in the decision making process is through development of their individual case plan. According to AIHW, a case plan is an individualised, dynamic, written plan or support agreement for children in care, outlining the goals of ongoing intervention and the outcomes and actions required to achieve these goals. It usually includes information on needs assessments, relative/kin contact arrangements and living arrangements.⁵⁰

4.44 As noted in Table 3.1, based on data from Queensland, Western Australia, Tasmania and the ACT only, an estimated 90 per cent of children in care had a current documented and approved case plan at 30 June 2012. Data for other jurisdictions is not currently available.⁵¹ In its submission, the Northern Territory Department of Children and Families noted that at 31 March 2014, 76 per cent of children had a current care plan.⁵² The Productivity Commission reports similar proportions of children with current documented case plans across jurisdictions. Excluding NT and SA, 82.1 per cent of children nationally had case plans (80.5 per cent of Aboriginal and Torres Strait Islander children, and 83.1 per cent of non-Indigenous children) at 30 June 2014.⁵³

4.45 However, these statistics do not give any indication of the level of engagement children and young have in the development of these case plans. CREATE's 2013 Report Card found that less than one third of respondents knew anything about their case plans and only one third of those who knew about a plan knew something of its contents and had been involved in its preparation. Similarly,

48 Julia, Young Consultant, CREATE Foundation, *Committee Hansard*, Brisbane, 17 April 2015, p. 20.

49 Julia, Young Consultant, CREATE Foundation, *Committee Hansard*, Brisbane, 17 April 2015, p. 20.

50 AIHW, *Submission 22*, p. 10.

51 AIHW, *Submission 22*, Table 10.

52 NT Government, *Submission 23*, p. 7.

53 Productivity Commission, *Report on Government Services*, Table 15A.17.

only 25 per cent of children were aware of having an individual education plan.⁵⁴ CREATE recommended:

Involving children and young people in their case planning, including the development of care plans, is necessary to improve the participation of children and young people in the important decisions that affect their lives.⁵⁵

4.46 The committee heard concerns about the level of involvement children and young people have in the case planning process. The National Children's Commissioner, Ms Mitchell, noted:

Many pieces of legislation require that case planning and reviews ensure that children's voices are heard, that they are engaged in the process, but in practice it does not happen as much as I would like.⁵⁶

4.47 The CREATE Foundation noted in practice, 'the participation of children and young people in decision-making is mediated by caseworkers and carers' and suggested participation of children and young people in decision making 'is enhanced through well-developed relationships with both carers and caseworkers'.⁵⁷ CREATE noted in its 2013 Report Card that only 65 per cent of children and young people reported being able to contact caseworkers when they wanted to. CREATE also identified the high turnover of caseworkers as a barrier to establishing and maintaining good relationships.⁵⁸

4.48 The committee heard that approaches to case planning differ across jurisdictions. In Western Australian, the WA Ombudsman is currently undertaking a follow up report to test the recommendations from its 2011 own motion investigation into case planning for children in care.⁵⁹ The 2011 report found that while the Department of Child Protection had developed a series of policies and procedures for care planning and that care plans had been prepared for nearly all children, many plans had not been reviewed and many children had not received appropriate health care and education planning.⁶⁰

54 CREATE Foundation, *Submission 96*, p. 19.

55 CREATE Foundation, *Submission 96*, p. 18.

56 Ms Megan Mitchell, National Children's Commissioner, *Committee Hansard*, Sydney, 18 February 2015, p. 4.

57 CREATE Foundation, *Submission 96*, p. 18.

58 CREATE's 2013 Report Card found that 35 per cent of children had five or more caseworkers during their time in care, and 29 per cent reported having one or two. CREATE Foundation, *Submission 96*, p. 18.

59 Mr Chris Field, Ombudsman Western Australia, *Committee Hansard*, Perth, 16 February 2015, p. 3.

60 Ombudsman Western Australia, *Planning for children in care: An Ombudsman's own motion investigation into the administration of the care planning provisions of the Children and Community Services Act 2004*, November 2011, p. 9.

4.49 The Commissioner for Children and Young People Western Australia noted in its submission that despite improved collaboration between the relevant government agencies, only 35 per cent of case plans reviewed by the Ombudsman Western Australia in 2011 had the appropriate health assessment plan, and 22 per cent had the required education assessment.⁶¹

4.50 In Victoria, the Youth Movement Initiative provided the committee with its 2014 report on 'best interest' case planning by the Department of Human Services. The report, prepared by young people in care, expressed significant concerns about the 'poor' experience of case planning, noting 'it negatively impacts on how young people are supported in their education'. The report recommended that the department engage more closely with young people in developing case plans that focus on long-term stability, education and housing outcomes.⁶²

Documentation and identification

4.51 The committee heard that a significant challenge for children in care was accessing identity documents. The committee notes that this issue was also raised during the committee's 2014 inquiry *Grandparents who take primary responsibility for raising their grandchildren*.⁶³ The National Children's Commissioner, Ms Mitchell, advised that at both the state and federal level there are proof of identity and parental consent requirements that are unable to be met in some cases for obtaining identity documents, passports and Medicare cards. Ms Mitchell notes this may mean:

...that a child is unable to receive timely treatment for health conditions, they miss out on sporting and other opportunities, can have difficulties enrolling at school, families are prevented from taking overseas holidays together, or the child in care is left in Australia when they do.⁶⁴

4.52 In additional documentation provided to the committee, Ms Mitchell recommended:

- the relaxation of proof of identity and parental consent requirements for children in care;
- the prioritisation and centralisation of passport and identity document sourcing within child protection departments; and

61 Commissioner for Children and Young People Western Australia, *Submission 15*, p. 3.

62 Youth Movement Initiative, *Spaghetti Bolognese on a Tuesday Night: Reflections on the DHS Child Protection Best Interest Plan Process*, May 2014, http://www.cfecfw.asn.au/sites/default/files/Spaghetti%20Bolognese%20on%20a%20Tuesday%20Night%20May%2028th%202014_0.pdf (accessed 3 August 2015). See: CFECFW, *Submission 99*, p. 25; Ms Sarah Isip, St Luke's Anglicare Bendigo, *Committee Hansard*, Melbourne, 20 March 2015, p. 27.

63 Senate Community Affairs References Committee, *Grandparents who take primary responsibility for raising their grandchildren*, October 2014, p. 21.

64 Additional Information, National Children's Commissioner, received 4 May 2015, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Out_of_home_care/Additional_Documents (accessed 14 August 2015).

- identifying points of specialist contact within the Departments of Health, Foreign Affairs and Trade, and Immigration and Border Protection supported by an agreement to fast track the recognition of citizenship, issuing of Medicare cards and issuing of passports for children in care.⁶⁵

4.53 Similarly, Professor Fiona Arney, Chair of the Council for the Care of Children in South Australia, advised the committee of issues in obtaining Australian citizenship that 'potentially affects many vulnerable children and young people, and in particular, children and young people in out of home care'.⁶⁶ Professor Arney noted two cases from February 2015 of young Aboriginal people in South Australia experiencing difficulties in gathering enough evidence to apply for 'Proof of Citizenship' to obtain an Australian passport. The young people were informed by the Department of Immigration and Border Protection (DIBP) that 'Proof of Aboriginality' was insufficient evidence to apply for 'Proof of Citizenship'. Professor Arney noted these hurdles 'reflect a systemic issue facing other children and young people in Australia who are vulnerable through no fault of their own'.⁶⁷

4.54 The committee heard that in addition to identity documents, carers had difficulties in obtaining permission for children in care where the relevant department is designated the child's guardian. At its Brisbane hearing, Xena from the CREATE Foundation told the committee permissions and approvals for children in care is 'too bureaucratic – the process takes too long and it means kids miss out on opportunities'.⁶⁸ In one example Xena shared with the committee, she was unable to attend a school trip to New Zealand because she was unable to get signatures from both parents for the passport application. In another example:

I had an opportunity to go on a special camp for kids in care. It included horse-riding, team bonding and learning about who you are as a person. Because some of the kids, including me, did not have permission from the department, no-one could go horse-riding. We were only allowed to sit on the horses... The department did not give permission because they said that the activity was too high-risk and too dangerous. This experience was a big blow to my confidence. I loved horses and the fact that I could not take part

65 Additional Information, National Children's Commissioner, received 4 May 2015, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Out_of_home_care/Additional_Documents (accessed 14 August 2015).

66 Additional Information, Council for the Care of Children SA, received 1 July 2015, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Out_of_home_care/Additional_Documents (accessed 14 August 2015).

67 Additional Information, Council for the Care of Children SA, received 1 July 2015, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Out_of_home_care/Additional_Documents (accessed 14 August 2015).

68 Xena, Young Consultant, CREATE Foundation, *Committee Hansard*, Brisbane, 17 April 2015, p. 10.

in the activity just did not make sense to me and made me really angry at the time.⁶⁹

4.55 Xena expressed the view that the current requirements for identification documents for children in care:

...creates a situation where children and young adults are unable to fully integrate or participate and do things that other young people who are not in care can do.⁷⁰

4.56 The committee notes that the issue of identification documents is currently under active consideration by the Australian Children's Commissioners and Guardians (ACCG) and the subject of dialogue with the Department of Social Services in the context of the National Framework.⁷¹

Access to health and education

Education outcomes

4.57 The available evidence indicates that education outcomes for young people in care are generally worse than for the general population across jurisdictions. The Commission for Children and Young People Victoria noted in its submission, based on data from the Victorian Child and Adolescent Monitoring System, 'children in out of home care generally have lower levels of educational achievement than the general student population'.⁷²

4.58 While the committee notes that the integration of NAPLAN data with the CPNMDS will assist to improve the available data on outcomes for school aged children, the currently available data on these outcomes is limited. Anglicare Victoria's 2014 *Children in Care Report Card* found children in care are much less likely to attend preschool compared to their peers (18.8 per cent compared with 2.1 per cent), and more likely to experience bullying (35.0 per cent compared with 23.5 per cent).⁷³ The CREATE 2013 Report Card also highlighted a number of negative

69 Xena, Young Consultant, CREATE Foundation, *Committee Hansard*, Brisbane, 17 April 2015, pp 10–11.

70 Xena, Young Consultant, CREATE Foundation, *Committee Hansard*, Brisbane, 17 April 2015, p. 11.

71 In May 2015, the ACCG agreed to write to the Minister for Social Services in May 2015 raising its concerns and encouraging the inclusion of the issue in the Third National Action Plan 2015-2018 for the National Framework. See: Australian Children's Commissioners & Guardians, *Meeting Communique*, 20-21 May 2015, <https://www.humanrights.gov.au/our-work/childrens-rights/publications/australian-children-s-commissioners-and-guardians-communicu-0> (accessed 2 July 2015). See also: Additional Information, National Children's Commissioner, received 4 May 2015, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Out_of_home_care/Additional_Documents (accessed 14 August 2015).

72 CCYPV, *Submission 45*, p. 13.

73 Anglicare Victoria, *Children in Care Report Card*, Report No. 2, 2014, p. 3, www.anglicarevic.org.au (accessed 4 August 2015).

education outcomes for school aged children, particularly 'disrupted schooling due to changing primary schools, with those in residential care reporting more changes'.⁷⁴

Effect of stigma and low expectations

4.59 The committee heard that young people in care were not supported to achieve academically based on negative assumptions about their ability and ambition by child protection authorities. Mr Paul McDonald, CEO of Anglicare Victoria, noted that negative assumptions can in some cases lead to negative outcomes:

Maybe that is our narrative about these kids—that we in fact do not believe that they will get that far; we lack ambition.⁷⁵

4.60 Ms India Spicer, a care leaver from the Youth Movement Initiative in Victoria, told the committee that the stigma of being a 'foster kid' limits educational opportunities for children in care:

There is such stigma attached to foster kids and to kids who are in care or who have had a care experience. We are automatically seen as people who come from a low socioeconomic status and that we are always going to be in that status; we are not going to get out of it, we are not going to achieve anything. So when we do, there is such surprise – and it is offensive. I never had any doubt that I would go to university, and it is just horrifying that everyone else does.⁷⁶

4.61 Similarly, Ms Kate Finn, another care leaver, told the committee that young people in care have to 'fight' negative assumptions to get resources to access education:

I had to fight to finish year 12 because I was not supported. I turned 18 before year 12 started. The department did not want to pay for my books to go to school. I had to argue with them to get that for a start. Then the agency – I was very lucky that they gave me supported accommodation for the year, but I was on my own there. I had nobody there helping me get through that last year and I very nearly failed. I see this as a repetitious process.⁷⁷

4.62 Ms Finn suggested that the stigma attached to out-of-home care continues to affect young people after leaving care and going into tertiary education:

...the fact that I managed to fight to get there and did eventually get in was a shock, because it is so unheard of. And that would be nationwide. The expectation is so low from a community standpoint, from the departmental

74 CREATE Foundation, *Submission 96*, p. 19.

75 Mr Paul McDonald, CEO, Anglicare Victoria, *Committee Hansard*, Melbourne, 20 March 2015, p. 27.

76 Ms India Spicer, St Luke's Anglicare, *Committee Hansard*, Melbourne, 20 March 2015, p. 27.

77 Ms Kate Finn, St Luke's Anglicare, *Committee Hansard*, Melbourne, 20 March 2015, p. 28.

standpoint, from the agencies and the wider general public. It is so low; there is no expectation that you would.⁷⁸

4.63 Witnesses suggested there is 'a need for cultural change, particularly around expectations and aspirations' for young people in care, to combat the negative assumptions and stigma.⁷⁹

Health outcomes

4.64 Evidence to the committee suggests that health outcomes for children in care across a range of indicators are generally poor. The Commission for Children and Young People Victoria, drawing from data collected by Anglicare's Child in Care Report and CREATE, noted 'children in care experience poor health compared to their peers in the general population'.⁸⁰

4.65 CREATE's Report Card found that 80 per cent of children in care reported having good or excellent health, with those in the 15-17 year old age group reporting 'feeling less healthy than the younger age groups'. However, the committee notes that this data should be interpreted with caution as it relies on self-reporting.⁸¹

4.66 Particular health outcomes for Aboriginal and Torres Strait Islander children will be examined in Chapter 8.

Chronic health issues

4.67 Children in care are more likely to experience chronic health issues. Anglicare Victoria's 2014 *Children in Care Report Card* found that 63.2 per cent of children and young people in care experienced a greater incidence of chronic health problems or disabilities, compared to 37.0 per cent of their peers in the general population.⁸²

4.68 A number of submitters noted that the high incidence of chronic health issues among children was due to a lack of access to healthcare services.⁸³ The Victorian Commission for Children and Young People (CCYP) suggested in its submission the Commonwealth consider measures to reduce the cost of health care services for children in care that would 'give priority access for general and specialist healthcare' services, such as:

...creating a specific out of home care medicare item number that would enable priority access to treatment without costs.⁸⁴

78 Ms Kate Finn, St Luke's Anglicare, *Committee Hansard*, Melbourne, 20 March 2015, pp 27-28.

79 See: Dr Andrew Harvey, Director, Access and Achievement Research Unit, La Trobe University, *Committee Hansard*, Melbourne, Melbourne, 20 March 2015, p. 25.

80 CCYPV, *Submission 45*, p. 12.

81 CREATE Foundation, *Submission 96*, p. 19.

82 Anglicare Victoria, *Children in Care Report Card*, Report No. 2, 2014, p. 3.

83 See: Families Australia, *Submission 77*; Berry Street, *Submission 92*; Association of Children's Welfare Agencies, *Submission 94*.

84 CCYPV, *Submission 45*, p. 13.

4.69 Another suggested measure to improve access to healthcare services was the establishment of specific programs that target children in care. The committee heard that as part of Victoria's *Vulnerable Children's Out of Home Care Five Year Plan*, that the Victorian Government has developed the 'Pathways to Good Health' program that aims to link up health and community services to develop health management plans for children in care (see Box 4.2). The Victorian CCYP suggested that this program may provide a model for other jurisdictions to help improve access to healthcare services.⁸⁵

Box 4.2 – Best practice – Pathways to Good Health

The Pathways to Good Health Project aims to provide a comprehensive healthcare approach that is based on the *National Clinical Assessment Framework for Comprehensive Health Assessments for Children and Young People in Out of Home Care*. The project commenced in November 2012 as an initiative led by the Department of Health (DoH) in partnership with the Department of Human Services (DHS), based in the North and West metropolitan areas of Melbourne.

The program includes an initial health check by a general practitioner, referral as required for a multi-disciplinary assessment (involving a paediatrician, mental health clinician and speech pathologist) and the development of a health management plan. Brokerage funds are available to purchase specialist services and equipment where public services cannot be accessed in a timely way.

According to the Victorian CCYP, the April 2014 DHS Update of Progress indicates that of the 385 children eligible for the program, only 41 per cent (160) have had an initial health check, 32 per cent (1240) have attended a multi-disciplinary team clinic and only 30 per cent (115) have health management plans that have been completed.

An evaluation of the project is being proposed.

Source: Commission for Children and Young People (Victoria), Submission 45, pp 12–13; Victorian Government, Submission 106, p. 8.

4.70 The Victorian CCYP submitted that the 'Pathways to Good Health' project has been slow to demonstrate improved health outcomes and suggested instead the development of a pilot program based on other established health care schemes, such as the Australian defence personnel scheme, to improve access to healthcare services.⁸⁶

Mental health issues

4.71 Children in care are more likely to experience mental health issues, and associated emotional and behavioural problems. A 2007 review by AIFS found that children and young people in care experience relatively negative outcomes when compared to the general population in regard to mental health. It also highlighted a strong coincidence of early trauma and abuse and subsequent placement instability for children and young people with high support needs.⁸⁷ Anglicare's 2014 report found

85 CCYPV, *Submission 45*, p. 13.

86 CCYPV, *Submission 45*, p. 13.

87 Alexandra Osborn & Leah Bromfield, 'Outcomes for children and young people in care,' Australian Institute of Family Studies, *Research Brief no. 3*, 2007, p. 13.

one of the most striking differences between children and young people in care and their peers is their experience of emotional and behavioural difficulties (53.4 per cent compared to 13.3 per cent).⁸⁸

4.72 As noted in Chapter 3, children in care are likely to come from backgrounds of significant social disadvantage and experience multiple forms of trauma, abuse and neglect. A number of submitters noted the significant link between trauma and mental health issues.⁸⁹ The Royal Australian and New Zealand Council of Psychiatrists emphasised that:

the importance of stable, attuned care-giving adults cannot be overstated. Infants who experience extremes of abuse or neglect are at risk of failure to thrive, reduced brain size, impaired development and even death; even when their basic physical requirements are met. All this can lead to ongoing mental health issues.⁹⁰

4.73 As with chronic health issues, the committee heard that children in care do not have access to the mental health services they need. Dr Sara McLean from the Australian Centre for Child Protection told the committee that a South Australian study into children who needed professional help for their mental health concerns found 54 per cent of children in care were identified as needing support, and only 26 per cent had obtained some support over the last six months.⁹¹

4.74 Submitters and witnesses supported improving access to mental health services for children in care.⁹² For example, the Victorian Government recommended the Commonwealth introduce a specialised Medical Benefits Schedule item for children in out-of-home care to address the inequity for children in care to access healthcare services.⁹³

Connection with family

4.75 The committee heard connection with family, including parents, siblings and extended family is integral to the development of positive outcomes for children and young people, particularly in Aboriginal and Torres Strait Islander communities.⁹⁴

88 Anglicare Victoria, *Children in Care Report Card 2014*, p. 3.

89 See, for example: Australian Childhood Trauma Group, *Submission 9*; RANZCP, *Submission 17*; OzChild, *Submission 19*; Child and Family Welfare Association of Australia, *Submission 65*.

90 RANZCP, *Submission 17*, p. 3.

91 Dr Sara McLean, Research Fellow, Australian Centre for Child Protection, University of South Australia, *Committee Hansard*, Canberra, 16 April 2015, p. 31.

92 See: Dr Sara McLean, Research Fellow, Australian Centre for Child Protection, University of South Australia, *Committee Hansard*, Canberra, 16 April 2015, p. 31; CCYPV, *Submission 45*; Victorian Government, *Submission 106*.

93 Victorian Government, *Submission 106*, pp 11–12.

94 See: SNAICC, *Submission 93*; AbSec, *Submission 97*; NPY Women's Council, *Submission 61*; Grandmothers Against Removal, *Submission 64*; Jumbunna Indigenous House of Learning, University of Technology Sydney (Jumbunna), *Submission 79*.

The importance of family connection for Aboriginal and Torres Strait Islander communities will be examined in detail in Chapter 8.

4.76 Professor Cathy Humphreys from Melbourne University told the committee that research indicates that maintaining positive connection with family is important for ensuring positive outcomes for children:

The research is clear that good quality contact between children in out-of-home care and their parents, and in the context of good professional supports, promotes positive outcomes for children. Importantly, research shows that continued contact between children in care and at least one biological parent is positively correlated with children's current wellbeing and that high levels of externalising behaviours are evident where there is no contact.⁹⁵

Kinship care

4.77 One of the key means of supporting connection with family for children and young people in out-of-home care is placement in relative/kinship arrangements. As noted in Chapter 1, across jurisdictions more children are placed in relative/kinship placements than other forms of care.⁹⁶

4.78 A number of submitters highlighted the benefits of relative/kinship care for assisting children in care maintain connection with family. Professor Cathy Humphreys and Ms Meredith Kiraly from the University of Melbourne noted in their submission that research indicates:

Kinship care provides for greater stability of care, maintains children's wider family connections, and improves the chances of brothers and sisters being kept together.⁹⁷

4.79 However, evidence to the committee suggested children in relative/kinship care arrangements do not have access to the same supports and services as other forms of care, particularly for those children with complex needs.⁹⁸ Research commissioned by the Benevolent Society highlighted 'the need for a specific, well-resourced practice framework to support kinship carers and their families'.⁹⁹

4.80 Current models of relative/kinship care and supports available to children and carers are examined in Chapter 6.

95 Professor Cathy Humphreys, Professor of Social Work, University of Melbourne, *Committee Hansard*, Melbourne, 20 March 2015, p. 51.

96 See: Chapter 1.

97 University of Melbourne Department of Social Work, Child, Youth and Families Research Cluster, *Submission 66*, p. 11.

98 See, for example: University of Melbourne Department of Social Work, Child, Youth and Families Research Cluster, *Submission 66*; AASW, *Submission 18*; OzChild, *Submission 19*, Barnardos, *Submission 20*; Benevolent Society, *Submission 30*; Child Wise, *Submission 31*; Mirabel Foundation, *Submission 36*; Salvation Army, *Submission 40*; Bapcare, *Submission 50*; OzChild, *Submission 19*.

99 Benevolent Society, *Submission 30*, p. 5.

Siblings

4.81 The committee heard that, despite efforts by jurisdictions to place sibling groups together, many sibling groups are separated in care. The CREATE Foundation noted 36 per cent of respondents reported being placed in split arrangements, separated from siblings. CREATE urged 'that siblings in out-of-home care, wherever possible, must be supported to stay together; and where co-placement is not possible, they must be enabled to maintain regular contact with each other while in care'.¹⁰⁰

4.82 The committee heard directly from sibling groups who were separated in care. At its Hobart hearing, sisters Jarcinta and Sarah Short told the committee they were placed in care separately and had to rely on their foster carers to arrange contact:

We did not get told the reasons why. So we lost contact for a few years. Then Jarcinta's last foster carers reunited us, and we basically had to get to know each other all over again.¹⁰¹

Maintaining connection with families

4.83 The committee notes there is not currently sufficient data to measure how many children in care maintain contact with birth families, or leave care to return to birth families. In Victoria, Anglicare estimated that 50 per cent of children who come into care return back to the family home within six months.¹⁰² However, similar estimates are not available nationally.

4.84 Submissions emphasised the importance of incorporating the views of children and young people in decisions about connection to family. CREATE noted in its submission:

...connection with birth family is an emotive issue that is complex, but it is very important to young people that caseworkers and carers involve them in the decision-making and not assume that they know what's best for them. They have said they want to participate in decisions not only about the frequency of contact but also how it is supervised and where contact occurs.¹⁰³

4.85 However, witnesses noted that incorporating the views of children in these decisions can be particularly challenging when placement with family may not be in the child's best interest. Mr Basil Hanna, CEO of Parkerville Children and Youth Care in Western Australia, told the committee:

My experience in dealing closely with kids who come into care, no matter how much abuse that they have suffered, they all want to go back to biological their mum or dad. That is a hard thing, because when you say, 'Listen to the voice of the child,' and the child says, 'I don't want to be here;

100 CREATE Foundation, *Submission 96*, p. 28

101 Ms Sarah Short, *Committee Hansard*, Hobart, 12 March 2015, p. 8.

102 Anglicare Victoria, *Submission 101*, p. 3.

103 CREATE Foundation, *Submission 96*, p. 27.

I want to go home. I want to go back to mum and dad.' You know it is not safe for that child to go home to mum and dad.¹⁰⁴

4.86 At its Brisbane hearing, Adina from CREATE told the committee:

[W]hen I first went into foster care, which was when I was age 11, I really wanted to go back to my parents, because I thought that was what was normal and I was comfortable there. I was never allowed to. Now, thinking back, I am just glad that I never did. So it just shows that it is a hard thing. I think you should sometimes listen to the kids, but sometimes it is not always in their best interests.¹⁰⁵

4.87 In his submission, Rev Graham Guy, who was removed from his family and placed in foster care as a child, noted the need for alternative options for children and the importance of considering the views of the child, saying that he did not want to be 'forcibly removed', and would have preferred to have been placed with extended family rather than placed in foster care.¹⁰⁶

4.88 Noting these challenges, the committee heard that there is scope to improve the ways children are consulted on connection with families. Mr Hanna noted:

As a sector, we are not always totally honest with the child. We are also not timely with the child. When the child comes into care, do we sit down with that child, age appropriate, and tell them why they are in care? Sometimes we do, sometimes we don't. It is very difficult to talk about the voice of the child when every child says, 'I don't want to be in care.' The fact is that they need to be in care, and it is a difficult conversation to have. As a sector, I do not think we do it well enough.¹⁰⁷

4.89 Support for families to maintain contact with children in care is examined in Chapter 5.

Transition from care

4.90 The committee heard that one of the most significant gaps in current service provision for young people is the transition from care at age 18. A review by AIFS into transition from care found young people leaving care are 'one of the most vulnerable and disadvantaged social groups,' with the vast majority of care-leavers suffering from, or at a great risk of suffering, negative outcomes in their social and psychological functioning, financial status, and educational and vocational pursuits.¹⁰⁸

104 Mr Basil Hanna, CEO, Parkerville Children and Youth Care, *Committee Hansard*, Perth, 16 February 2015, p. 21.

105 Adina, Young Consultant, CREATE Foundation, *Committee Hansard*, Brisbane, 17 April 2015, p. 20.

106 Rev. Graham Guy, *Submission 39*, p. [1].

107 Mr Basil Hanna, CEO, Parkerville Children and Youth Care, *Committee Hansard*, Perth, 16 February 2015, p. 21.

108 Alexandra Osborn & Leah Bromfield, 'Young people leaving care', Australian Institute of Family Studies, *Research Brief no. 7*, 2007, p. 8.

4.91 These risks are particularly acute for young people with disability transitioning from care. The needs of young people with disability are examined in Chapter 9.

Data on transition

4.92 There is a significant dearth of data on the numbers of children transitioning from care, and outcomes for them once they leave the child protection system.¹⁰⁹ According to AIHW, in 2012-13, 9 360 children were discharged from out-of-home care, of which 34 per cent were aged 15-17 years. This includes children and young people returning to families or other placements and does not distinguish young people transitioning to independence.¹¹⁰ Data collected by the committee from states and territories indicates that most jurisdictions do not collect data on the numbers of children transitioning to independence.¹¹¹

4.93 The committee heard there is no national data collected on outcomes for children once they leave care. The committee notes AIFS is undertaking a study into transition from care, *Beyond 18*, funded by the Victorian Department of Health and Human Services which will explore the experiences of young people in out-of-home care and their experiences transitioning from care in Victoria.¹¹² Dr Daryl Higgins told the committee that while the study is still in its early stages, it aims to provide 'better information about what it was that can predict those better outcomes and what it was that can predict some poorer outcomes that will help inform service system improvements'.¹¹³

4.94 The limited available data suggests that outcomes for children transitioning from care are particularly poor. The CREATE Foundation's 2013 Report Card found that of the respondents who had left care:

- 35 per cent were homeless in the first year after leaving care;
- 35 per cent completed Year 12;
- 29 per cent were unemployed (compared to the national average at the time of 9.7 per cent); and
- 70 per cent were dependent on Centrelink for some form of income support.¹¹⁴

4.95 Few jurisdictions monitor the outcomes of children transitioning from care. The Western Australian Department for Child Protection and Family Support noted its

109 See: Associate Professor Philip Mendes, *Submission 6*.

110 AIHW, *Child Protection Australia 2012-13*, pp 45–47.

111 See: State and territory governments, answers to questions on notice, 30 April 2015 (received May-June 2015).

112 AIFS, *Submission 41*, p. 2; AIFS, *Beyond 18: the longitudinal study of leaving care*, <https://aifs.gov.au/projects/beyond-18-longitudinal-study-leaving-care> (accessed 4 June 2015).

113 Dr Daryl Higgins, AIFS, *Committee Hansard*, Melbourne, 20 March 2015, p. 4.

114 CREATE Foundation, *Submission 96*, p. 5.

Out-of-Home Care Reform Plan will be implemented from January 2016 and includes established indicators for the measurement of outcomes for children leaving care.¹¹⁵

4.96 Associate Professor Philip Mendes from Monash University, whose research focuses on the needs of care leavers, told the committee:

[W]e do not have any informed data in Australia at all on what happens to young people beyond 18...We do not have that information here; we desperately need it.¹¹⁶

4.97 The committee acknowledges that data on children and young people once they leave care is not addressed by current data collection projects under the National Framework. Associate Professor Mendes brought the committee's attention to a model used by the Department of Education in the United Kingdom, and recommended a similar model be adopted in Australia:

It traces all care leavers in England, segregated by each local government until they are 21; shows how they are going with employment, housing, education, higher ed access ... and involvement; if it is happening with youth justice and so on. Policy makers can make an informed judgment about what is being done well, and equally what needs to be done better...getting a national database up like that would greatly inform knowledge of policy and practice and where we need to go¹¹⁷

Transition planning

4.98 The committee heard that across jurisdictions, young people begin preparation for transition from care at 15 years old. All states and territories require young people to have a 'leaving care' or 'transition from care' plan. The New South Wales Department of Families and Communities (FACS) advised the committee a leaving care plan:

...addresses accommodation, employment and income, education and training, knowledge of personal history including cultural background, contact with family members, legal issues, and independent living skills including financial management and health and lifestyle issues. Plans also detail which services and supports will be provided by who. Both the age and capacity of the young person are considered and it is acknowledged in the FACS guidelines that younger care leavers are likely to need more support than 18 year olds.¹¹⁸

4.99 The committee heard that as part of the National Framework, states and territories have developed the *Transitioning from out-of-home care to Independence: A Nationally Consistent Approach to Planning*.¹¹⁹ The resource aims to provide a

115 WA Government, answer to question on notice, 30 April 2015 (received 18 May 2015).

116 Associate Professor Philip Mendes, Department of Social Work, Monash University, *Committee Hansard*, Melbourne, 20 March 2015, p. 17.

117 Associate Professor Philip Mendes, *Committee Hansard*, Melbourne, 20 March 2015, p. 17.

118 NSW Government, answer to question on notice, 30 April 2015 (received 14 May 2015, p. 7).

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

nationally consistent approach to planning for young people transitioning from out-of-home care.¹²⁰

4.100 Where planning occurs early, and adequate support is provided by case workers, the committee heard that transition from care can be a positive experience. Ms Sarah Short told the committee in Hobart:

My transition from care was pretty breezy actually. It was really good. I had the support of my case worker and my foster carers. My case worker went through everything that I needed to go through when moving out and where I could get extra support, just getting everything lined up, so that, when I did turn 18, it was easier to move in and I had everything planned out. So mine was quite easy.¹²¹

4.101 In many cases, young people do not have a transition from care plan. As Table 3.1 shows, the available data indicates across three jurisdictions, an estimated 77 per cent of young people had a transition from care plan at 30 June 2012. Similarly, CREATE's 2013 Report Card indicates 64 per cent of young people surveyed did not have a leaving care plan.¹²²

4.102 In some case, transition planning does not occur until just prior to leaving care. Ms Short's sister, Jacinta, noted her transition was more difficult as she was not transitioned into the 'Moving on Program' until two weeks before her eighteenth birthday. As a result, she told the committee '[t]he first few months were hard because I was not used to all of it'.¹²³

4.103 Similarly, Ms Brooke Gregson, another care leaver in Tasmania, told the committee that her transition was not planned far enough in advance: 'I think it was too late...it was only a couple of months before we turned 18 that the subject really came up.' She further noted: 'I actually missed quite a number of months of school due to that fact—that it was so stressful trying to find somewhere to live'.¹²⁴ Ms Angela Adams from UnitingCare Burnside emphasised the importance of beginning transition planning as early as possible:

...we need to be thinking about it earlier. Past practice has been that young people have had hurried leaving-care plans prepared at the 17 or 17 ½ that are not suitable.¹²⁵

120 Department of Social Services, *Transitioning from out-of-home care to Independence: A Nationally Consistent Approach to Planning*, October 2011, <https://www.dss.gov.au/our-responsibilities/families-and-children/publications-articles/transitioning-from-out-of-home-care-to-independence-a-nationally-consistent-approach-to-planning-2011> (accessed 19 June 2015).

121 Ms Sarah Short, *Committee Hansard*, Hobart, 12 March 2015, pp 8 – 9.

122 CREATE Foundation, *Submission 96*, p. 5.

123 Ms Jacinta Short, *Committee Hansard*, Hobart, 12 March 2015, p. 9.

124 Ms Brooke Gregson, *Committee Hansard*, Hobart, 12 March 2015, p. 18.

125 Ms Angela Adams, Practice Manager, Out-of-home care, UnitingCare Burnside, *Committee Hansard*, Sydney, 18 February 2015, p. 40.

4.104 Where planning does occur, the committee heard in some case young people are not supported by child protection authorities to identify suitable options. Ms Brooke Gregson told the committee of her experience leaving care:

I found the transition quite difficult. The man from the department who was supposed to help me did not help as much as I think he should have. He made numerous appointments, but every time he called up with another excuse to say he could not come. At the end of it, he basically gave me the choice of going to the Moving On program or being homeless ... That put a lot of pressure on me and my carers at the time because I was running out of time and needed somewhere to live. After a couple of months, we finally found a place to live, but it was a lot more difficult than I think it should have been and I hope that other children have a much easier experience with it.¹²⁶

4.105 Without this support, leaving care can be a significant shock. Mr Bryan Seymour, who was placed in out-of-home care in NSW for 18 years noted in his submission of the 'shock' and 'severe emotions that followed' leaving care:

The main challenge was fear. Suddenly the safety net was gone – after having to file an invoice for every expense in my life there was suddenly no security – financial, psychological, practical support was instantly all gone.¹²⁷

4.106 The committee heard even the terminology of 'leaving care' can be daunting for young people planning for their transition from care. Ms Angela Adams from UnitingCare Burnside told the committee that feedback from young people is that:

...even the terminology 'leaving care' is scary. For some of them, they have only just started to settle into a permanent placement, if they have been lucky, with a carer and then we say, 'Right, let's talk about leaving care.'¹²⁸

4.107 Witnesses suggested that the term 'leaving care' should be replaced with one that emphasises the need for ongoing support. Mr John Avent from the Salvation Army's Westcare in Melbourne told the committee they use the term 'continuing care':

...because we continue to care for the young people after they leave the service. The service intervention formally may stop, but engagement with the young people continues, so we do not use the term 'leaving care'; we use the term 'continuing care'. I think even the language you use can define the way you think about an issue.¹²⁹

126 Ms Brooke Gregson, *Committee Hansard*, Hobart, 12 March 2015, p. 8.

127 Mr Bryan Seymour, *Submission 33*, p. 1.

128 Ms Angela Adams, Practice Manager, Out-of-home care, UnitingCare Burnside, *Committee Hansard*, Sydney, 18 February 2015, p. 40.

129 Mr John Avent, Manager (Retired), Westcare, Salvation Army, *Committee Hansard*, Canberra, 16 April 2015, p. 16.

Transition support

4.108 Most jurisdictions provide formal programs for young people transitioning from care (such as the 'Moving on Program' in Tasmania).¹³⁰ Some service providers, such as UnitingCare Children, Young People and Families, noted they are also 'currently developing a good practice trauma informed framework for leaving care planning. This includes a focus on training for caseworkers and carers to better support young people leaving care'.¹³¹

4.109 The committee heard that the Victorian Government has also trialled more intensive support for care leavers. The Springboard Program aims to link care leavers to community organisations to assist in engaging in education and employment (see Box 4.3).

Box 4.3 – Best practice – Springboard Program

The Springboard program, established by the Victorian Government in 2012, provides intensive support for young people transitioning from residential out-of-home care who are not engaged in education, training or employment.

Springboard is part of the existing suite of transition and post-care services funded by the Victorian Government. The program is delivered by community-based organisations with specialist skills supporting young people with education, training and/or employment, including:

- individually tailored and responsive assessment, planning and services;
- flexible outreach case work to engage, or re-engage, in education, training and/or employment to prepare them for long-term sustainable employment;
- strong links with the department, residential out-of-home care providers, post-care support information and other relevant services; and
- a culturally competent service responsive to the needs of Aboriginal young people and those from diverse cultural backgrounds.

The Victorian Government noted a recent evaluation found that the program is achieving outcomes for young people in line with the expected trajectory of education and employment outcomes including:

- all participants had recorded addressing one or more barriers that inhibit their engagement in education and employment; and
- 40 per cent of participants had achieved sustained participation in education or employment.

Source: Victorian Government, answer to question on notice, 30 April 2015 (received 22 May 2015).

4.110 The Stand By Me Program, also trialled in Victoria, aims to provide more general support for young people leaving care, and has indicated initial positive results (see Box 4.4).

130 See: State and territory governments, answers to questions on notice, 30 April 2015 (received May-June 2015).

131 Ms Toni Beauchamp, Principal Policy Officer, UnitingCare Children, Young People and Families, *Committee Hansard*, Sydney, 18 February 2015, p. 41.

Box 4.4 – Best practice – Stand By Me program

In 2012, Berry Street developed the *Stand By Me* pilot program to provide an intensive generalist case work support service that targets young people leaving the care system to better support a successful transition to independent adult living. The program is based on broad elements of the UK Personal Adviser Model. As at July 2014, there were twelve young people participating in the pilot program in Victoria.

The program builds a relationship with the young person before they leave the care system, extending into the period post care, and the service follows the young person and is able to offer medium to long term support in the post care period through an assertive outreach model that matches resources to the young person's identified need at the time.

An initial evaluation by Monash University suggests the program 'is developing effective ways of working with young care leavers and other program stakeholders'. The evaluation found the program offers potential benefits in:

- reducing the likelihood of homelessness;
- addressing trauma and improving access to mental health support;
- accessing specialist leaving care, employment, education and training supports;
- re-establishing family contact;
- enhancing stability of placements while in care; and
- maintaining links with out-of-home care supports.

Source: Berry Street, Submission 92, p. 15; Sue Meade and Philip Mendes, Interim Evaluation Report for the Berry Street Pilot Program – Stand By Me, Social Inclusion and Social Policy Research Unit, Monash University, July 2014, pp 5–6.

4.111 However, the committee notes these pilot programs are only available to a limited number of young people on a voluntary basis. For the majority of young people who are not eligible for these programs, support is limited. Mr Justin Cooper from the Salvation Army in Tasmania told the committee that limited supports were available for young people outside of the formal transition programs:

We are extremely limited in what we can access for them, to the point that we have had to go out and create our own independent living program—at a cost to our therapeutic residential program because we have had to manipulate our limited resources and budgets. That is because we have found that there is basically nothing for our kids to transition into if they do not meet the requirements of the MOP [Moving on Program] or another program. They do not have options here, so we see them go back to couch-surfing, we see them to go back to family situations that are high risk, we see them regress back into crime because they find safety in being incarcerated...¹³²

4.112 Submitters highlighted the significant disparity between funding for after-care services and out-of-home care services.¹³³ Once young people leave care, there is

132 Mr Justin Cooper, Program Manager, Therapeutic Youth Residential Service, Salvation Army, *Committee Hansard*, Hobart, 12 March 2015, p. 11.

133 See: Associate Professor Philip Mendes, *Submission 6*, p. 4.

limited capacity to provide specialised after-care supports. Mr Cooper noted that the existing resources of service providers to provide after-care support are already stretched:

We have a part-time role, but it is only part-time, and he has to cover ten clients. That makes it very difficult when he is trying to link them into Centrelink, do their financial budget for them, get the Hydro bill paid, get their groceries in. Usually we find they are running out of options, and the placement breaks down, they are evicted and they are back on the street. It has really made life difficult.¹³⁴

Housing and homelessness

4.113 The transition and lack of after-care support means a large proportion of young people leaving care experience homelessness. A recent survey of homeless young people in Victoria, Western Australia, New South Wales, the Australian Capital Territory, South Australia and Queensland, *The Cost of Youth Homelessness in Australia Study*, found nearly two-thirds of homeless youth surveyed (63 per cent) had been placed in some form of out-of-home care by the time they turned 18 years old. Of the young people who were placed in out-of-home care, 63 per cent had been placed in residential care, 45 per cent in kinship care and 33 per cent in foster care.¹³⁵

4.114 However, evidence suggests there is a significant lack of data on the number of care leavers experiencing homelessness. Ms Jessica Fielding, from Yfoundations, a peak body representing young people at risk of experiencing homeless, estimated that '50 per cent of young people leaving care will experience homelessness at some point in their lives'.¹³⁶ Ms Fielding noted some of the challenges in calculating the number of young people from care experiencing homelessness:

...because so many young people are couch surfing and are hidden, essentially, we actually do not know the real figure of how many young people are experiencing it. We do know that a lot of young people are coming from the out-of-home care system, though.¹³⁷

4.115 The committee heard the Commonwealth provides support through the Transition to Independent Living Allowance (TILA) payment of up to \$1 500 for young people between 15 and 25 years old leaving out-of-home care to meet the costs of moving to independent living. As part of the National Framework, the TILA was

134 Mr Justin Cooper, Program Manager, Therapeutic Youth Residential Service, Salvation Army, *Committee Hansard*, Hobart, 12 March 2015, p. 11.

135 Swinburne University, Institute for Social Research, *The Cost of Youth Homelessness in Australia Study, Snapshot Report 1: The Australian Youth Homeless Experience*, 2015, p. 8;

136 Ms Jessica Fielding, Policy Officer, Yfoundations, *Committee Hansard*, Sydney, 18 February 2015, p. 40.

137 Ms Jessica Fielding, Policy Officer, Yfoundations, *Committee Hansard*, Sydney, 18 February 2015, p. 45.

increased from \$1 000 to \$1 500. DSS noted that from 1 January 2015 to 1 September 2015, 211 young people had received a TILA.¹³⁸

4.116 Witnesses suggested that while the payment was useful, it does not adequately support young people exiting care. Associate Professor Mendes told the committee:

[T]he general view in the field would be that, yes, that payment is helpful. But what you find with young people leaving care, a lot our research would show between 18 and 21, they are likely to move four, five or even 10 times. There are stories, yes, they might be able to buy the furniture, the fridge, the bed, although emphasising that money does not actually go directly to the young person anyway; it goes to an agency which is registered in the particular state or territory to buy the goods for them. Regardless, even if they do get a lot of really necessary furniture with that payment, it is unlikely to meet their needs in an ongoing way.¹³⁹

4.117 The CREATE Foundation further noted the availability of the TILA differed across jurisdictions and suggested 'the administrative arrangements of the state and territory child protection agencies must ensure TILA is uniformly available to eligible young people'.¹⁴⁰

4.118 A number of submitters supported increased financial and practical support in providing safe and secure housing for all young people leaving care, structured around the experience of leaving care as an ongoing process.¹⁴¹ Associate Professor Mendes noted that leaving care is not a 'one-off' event:

...mostly we are talking about this construction of leaving care as being this one-off event: you have turned 18 and, like a racehorse that turns two— all the racehorses at the same time—you are suddenly an adult, suddenly independent and you are ready to live on your own. It just does not work out that way. I think the Commonwealth government, in looking at that money, should be thinking about what the real situation is, as opposed to what they are providing.¹⁴²

4.119 The committee heard a number of organisations are working on developing community-based programs to assist young people leaving care into safe and secure housing. At its Melbourne hearing, Ms India Spicer, a recent care leaver, told the committee she is part of a group that has set up a peer support program for young people leaving care to provide support:

Once you leave care, you do not really have anyone to turn to. There is no-one who you can go to for the little things...We are trying to provide

138 DSS, *Submission 78*, p. 19.

139 Associate Professor Philip Mendes, *Committee Hansard*, Melbourne, 20 March 2015, p. 18.

140 CREATE Foundation, *Submission 96*, p. 5.

141 Associate Professor Philip Mendes, *Submission 6*, p. 4; Ms Jessica Fielding, Policy Officer, Yfoundations, *Committee Hansard*, Sydney 18 February 2015, p. 40.

142 Associate Professor Philip Mendes, Department of Social Work, Monash University, *Committee Hansard*, Melbourne, 20 March 2015, pp 18 – 19.

support and just make the system better because we have all had a really crappy, hard time of it.¹⁴³

4.120 In its submission, YFoundations recommended supporting the reform of state and territory children and youth service systems to an integrated community of schools and services approach 'which recognises the diverse support, needs of young people will ensure young people are adequately supported and can transition into adulthood'.¹⁴⁴ YFoundations noted a whole-of-community approach to supporting young people transitioning from care had recently been trialled in Geelong (see Box 4.5) and could be taken as a model for implementation.

Box 4.5 – Best practice – The Geelong Project

The Geelong Project (TGP) began in 2012 to test the effectiveness of a proactive 'whole of community' approach to early intervention over a period of three years.

TGP is supported by Commonwealth and Victorian Governments and led by Time for Youth in partnership with Swinburne University, Barwon Youth and Geelong Region Local Learning and Employment Network. TGP is grounded in community collaboration and is 'a world-first innovation that can identify early youth at-risk of homelessness, school drop-out and other complex inter-related issues'.

TGP links schools and community services to identify young people who are at risk of becoming homeless. TGP reports that during the pilot phase, it proactively identified and intervened with 95 young people and 43 family members, where homelessness and school disengagement were identified at high risk. As a result of TGP's intervention:

- 100 per cent of the young people have remained engaged in school, increased engagement or returned to school; and
- 100 per of the young people supported have retained or obtained safe sustainable accommodation, including:
 - 86.2 per cent remained in or returned home (after leaving or regularly couch-surfing)
 - 13.8 per cent supported into alternative accommodation when home was not appropriate.

Source: YFoundations, *Submission 85*, pp 12–13; *The Geelong Project*, <http://www.thegeelongproject.com.au/> (accessed 26 June 2015).

Higher education and training opportunities

4.121 The committee heard one of the most significant barriers for care leavers was accessing higher education and training opportunities. A recent report by LaTrobe University, *Out of care, into university: Raising higher education access and achievement of care leavers*, found care leavers 'rarely transition to higher

143 Ms India Spicer, St Luke's Anglicare Bendigo, *Committee Hansard*, Melbourne, 20 March 2015, p. 23.

144 YFoundations, *Submission 84*, p. 14.

education'.¹⁴⁵ Ms Spicer told the committee at its Melbourne hearing the her school assumed she would not go to university based on her experience in care:

They just decided that because I was a foster kid it meant that I must want to not be at school, that I did not want to go to university.¹⁴⁶

4.122 The *Out of care into university* report aimed to provide the basis for a national agenda for improving education outcomes for care leavers by 'highlighting the nature and extent of the problem, and suggesting practical solutions within both the education and community service sectors'. The report recommended three key reforms to improve the access and achievement of care leavers in higher education (also outlined in a submission to the inquiry by Dr Andrew Harvey, Director of the Access and Achievement Research Unit, La Trobe University):

- collection of nationally consistent data on higher education access and outcomes;
- revising the 1990 national equity framework to recognise the out-of-home care cohort in as a disadvantaged cohort; and
- extending legislative support for young people in out-of-home care beyond 18 years old.¹⁴⁷

4.123 Dr Harvey noted the lack of data on education outcomes for young people in care once they turn 18 years old had a significant effect on assessing how to improve education outcomes for young people in care:

...we do not know how many people from out-of-home care are in higher education—no universities collect data on it, the Department of Education does not collect data on it—and consequently there is no pressure from that source for universities to act specifically around this category.¹⁴⁸

4.124 The committee heard that the United Kingdom has undertaken a range of reforms to increase the proportion of care leavers entering higher education that may be applicable to Australia (see Box 4.6). Dr Harvey told the committee this initiative was based on an extensive research report that 'created a policy initiative that has led to massive change and massive increase in populations within higher education'.¹⁴⁹

145 Dr Andrew Harvey, Dr Patricia McNamara, Lisa Andrewartha & Michael Luckman, *Out of care, into university: Raising higher education access and achievement of care leavers*, Access & Achievement Research Unit, La Trobe University, March 2015, p. 5

146 Ms India Spicer, St Luke's Anglicare Bendigo, *Committee Hansard*, Melbourne, 20 March 2015, p. 27.

147 Harvey et al, *Out of care, into university: Raising higher education access and achievement of care leavers*, p. 5; See: La Trobe University, *Submission 83*, pp 3–4.

148 Dr Andrew Harvey, Director of the Access and Achievement Research Unit, La Trobe University, *Committee Hansard*, Melbourne, 20 March 2015, p. 25.

149 Dr Andrew Harvey, Director of the Access and Achievement Research Unit, La Trobe University, *Committee Hansard*, Melbourne, 20 March 2015, p. 25.

Box 4.6 – Best practice – UK Education Support

In 2000, the Frank Buttle Trust sponsored the first major report into the experiences of care leavers in higher education in the UK, *By Degrees: Going from Care to University*, which aimed to increase the university participation rates and achievement levels of care leavers.

Following this report, the UK has initiated a number of policy and legislative changes:

- care leavers recognised as an under-represented group in higher education and participation monitored;
- 'Quality Mark' awards introduced to recognise higher education providers that demonstrate a commitment to young people in care;
- care leavers recognised as a distinct university target group;
- institutional level provision of bursaries, accommodation, personalised support, outreach, admissions policies, and the employment of dedicated staff for the care leaver group;
- statutory requirement for local authorities to support young people aged 16 to 24 in education (*Children (Leaving Care Act 2000)*);
- statutory £2 000 local authority bursary for young care leavers (*Children and Young Persons Act 2008*); and
- regulations to strengthen transition planning, extend the right to have a personal advisor to the age of 25 and recognise the central role that further education and training personnel should take in planning ongoing educational transitions for young people beyond compulsory schooling.

As a result of these changes, the proportion of 19 year old care leavers in higher education has increased from one per cent in 2003 to six per cent by 2013.

Source: Dr Andrew Harvey, Committee Hansard, 20 March 2015, p. 25; Harvey et al, Out of care, into university: Raising higher education access and achievement of care leavers, pp 13–14.

Extending leaving care age to 21

4.125 A number of submissions suggested that transitioning from care at 18 year old was inappropriate for most young people, particularly those who had experienced trauma, abuse and neglect. Recent care leaver Ms Jarcinta Short told the committee: 'I think 18 is a bit too early to be chucked out into the world.'¹⁵⁰ Similarly Mr Basil Hanna told the committee that there is a double standard for children in care, compared to children who live with families:

Times have changed and most people who have teenaged children do not exit them at the age of 18. But we do. It is a hard world to be exited into at the age of 18 without proper supports. Do we give proper supports to children who exit care at the age of 18? Absolutely, categorically not, but we expect them to survive. These are children who have come from a vulnerable childhood. My kids, when they got to 18, fortunately came from a stable home and they stayed long after 18. A lot of these kids have had

¹⁵⁰ Ms Jarcinta Short, *Committee Hansard*, Hobart, 12 March 2015, p. 9.

multiple placements and we still abandon them after 18. We do not adequately arm them to take on the world.¹⁵¹

4.126 To improve outcomes for housing, education and healthcare, the committee heard significant support for extending the statutory age for support to 21 years old.¹⁵² Based on his extensive research, Associate Professor Mendes strongly recommended providing support to young people leaving care until at least 21 years old:

...we have got to move from discretionally to mandatory support beyond 18 to at least 21. At the moment, every state and territory, I think that is correct, has some legislation, or at least policy, talking about support until 21 or even 25 in a number of states, but unfortunately the resources allocated to this group of young people is minimal. It does not meet the needs. It is well below where it needs to be.¹⁵³

4.127 The committee notes that following recommendations by the 2013 Queensland Child Protection Commission of Inquiry, the Queensland Government has already agreed to provide a coordinated program of post-care support for young people until at least the age of 21, and to fund non-government services to provide 'a continuum of transition to independence services, including transition planning and post-care management and support'.¹⁵⁴

Committee view

4.128 As discussed in Chapter 2, while the committee notes there is a lack of national data on the outcomes for children and young people in care, evidence collected during this inquiry suggests current out-of-home care frameworks facilitate poor outcomes across a range of indicators. The committee is concerned that despite the establishment of the National Framework and a number of state and territory inquiries, outcomes for children and young people in out-of-home care remain poor.

4.129 The committee acknowledges the importance of listening to the voice of children and young people in discussions about placements and care planning. The committee also recognises the importance of providing independent mechanisms for investigation of complaints by children and young people while in care. The committee suggests nationally consistent powers for independent child guardians and commissioners could provide an effective mechanism for these complaints to be heard.

4.130 The committee acknowledges that demand pressures for all types of care across jurisdictions means children and young may not enter placements that are best suited to their particular needs. The demand to put 'bums in beds' compromises the

151 Mr Basil Hanna, CEO, Parkerville Children and Youth Care *Committee Hansard*, Perth, 16 February 2015, p. 21.

152 See: La Trobe University, *Submission 83*; Associate Professor Philip Mendes, *Submission 6*; YFoundations, *Submission 84*; Ms Jan Barham MLC, *Submission 98*.

153 Associate Professor Philip Mendes, *Committee Hansard*, Melbourne, 20 March 2015, p. 16.

154 Queensland Government, *Submission 69*, p. 13.

safety and stability of placements and affects the ability for children and young people to achieve positive outcomes while in care.

4.131 The committee acknowledges the difficulties faced by children and young people in care in obtaining parental consent for identity documents at the Commonwealth, state and territory level. The committee supports the recommendations by the National Children's Commissioner and Professor Fiona Arney for the Commonwealth to address how to streamline these processes for children and young people in care.

4.132 The committee recognises the importance of family connection for children and young people in out-of-home care. Strategies for improving the connection between children and their families are examined in Chapter 5.

4.133 The committee particularly recognises the need to improve education and health outcomes for children and young people in out-of-home care. The committee recognises the effect of stigma on 'foster kids' and the need to improve the level of community and institutional expectation for these children.

4.134 One of the most significant gaps identified by the committee is the support available to young people transitioning from out-of-home care. The committee recognises the terminology of 'leaving care' incorrectly implies that young people no longer require care once they turn 18 years old. The committee supports the terminology 'continuing care' to highlight the need to provide ongoing support to young people through the transition period and afterward.

4.135 The committee notes while there is a significant lack of national data on the outcomes for young people once they leave care, evidence collected during this inquiry indicates young people are more likely to experience homelessness and be exposed to drug and alcohol misuse and physical and sexual abuse. The committee is strongly concerned by the lack of support available to young people transitioning from care and supports lifting the age young people can receive support to 21 years of age. The committee also supports the development of strategies to assist young people transitioning from care access education and employment opportunities.

Chapter 5

Support for families

5.1 This chapter examines the following terms of reference:

(h) consultation with individuals, families and communities affected by removal of children from the home;

(i) extent of children in out of home care remaining connected to their family of origin; and

(j) best practice solutions for supporting children in vulnerable family situations including early intervention.

5.2 As noted in Chapter 3, some of the most significant drivers for children entering and remaining in out-of-home are social factors linked to poverty and disadvantage, including family violence, alcohol and substance abuse and mental health issues.

5.3 The National Children's Commissioner, Ms Megan Mitchell, highlighted that one of the keys to reducing the number of children in out-of-home care is providing support to families to address these underlying social issues. Ms Mitchell told the committee at its Sydney hearing:

...building and supporting safe, resilient families where children can grow and thrive is fundamental to ensuring children's rights are upheld and giving them the opportunities they deserve, stemming the further growth of the out-of-home care system and breaking the cycle of intergenerational disadvantage.¹

5.4 During the inquiry the committee heard from a range of families and individuals affected by the removal of children by child protection authorities, and a number of organisations representing parents with children in care.² Mrs Denise Smith, secretary and treasurer of Family Inclusion Network Victoria (FINV), a support group for parents with children in care, told the committee that parents with children in out-of-home care 'are often an invisible population, about whom unspoken and unchallenged assumptions are made'.³

5.5 Submitters and witnesses emphasised the pain and trauma caused by child removal, and expressed concerns about the lack of support available to maintain contact with their children and, where appropriate, regain parental responsibility. This

1 Ms Megan Mitchell, National Children's Commissioner, Australian Human Rights Commission, *Committee Hansard*, Sydney, 18 February 2015, p. 1.

2 See: Family Inclusion Network Townsville, *Submission 13*; Family Inclusion Strategies Hunter, *Submission 32*; Family Inclusion Network Victoria, *Submission 75*; Family Inclusion Network Western Australia, *Submission 82*; Australian Legislative Ethics Commission, *Submission 91*.

3 Mrs Denise Smith, Secretary and Treasurer, Family Inclusion Network Victoria, *Committee Hansard*, Melbourne, 20 March 2015, p. 53.

evidence highlighted the need for a range of ongoing supports for parents and families beyond 'early intervention' and extending across a continuum of needs.

5.6 This chapter examines available support for parents with children who are in out-of-home care, or at risk of entering out-of-home care, and suggests areas for additional support for families and their children prior to entering care, entry into care and during care.

5.7 Specific supports for Aboriginal and Torres Strait Islander families and communities are examined in Chapter 8. Supports for families with disability are examined in Chapter 9.

Building safe and resilient families

Responsibilities of parents

5.8 The committee acknowledges that parents and families have a responsibility to provide safe and nurturing environments for their children, free from abuse and neglect. Recent consultations by the NSW Government highlighted the need to increase community awareness about the responsibilities of parents to their children:

We need to make sure parents understand the great value our community places on their role in raising children – but also that there may be consequences when they place their children at risk of significant harm. Parents also need to understand that they will be held accountable when they fail to meet their responsibilities as parents.⁴

5.9 Evidence to the committee highlighted that for some families may not be meeting these responsibilities, and placement in out-of-home care may be the safest and most stable option for their children. Barnardos Australia (Barnardos) submitted that 'children rarely enter care unnecessarily' due to issues of abuse and neglect.⁵

5.10 However, a large number of witnesses and submitters suggested there is not enough available support for families, particularly those from disadvantaged backgrounds, to meet their parental responsibilities and build safe and resilient families for their children.⁶

Early intervention and prevention

5.11 Overwhelmingly, evidence to the committee from service providers and families called for increased 'early intervention and prevention' to prevent child abuse and neglect.⁷ The National Children's Commissioner, Ms Mitchell, expressed

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

5 Barnardos Australia, *Submission 20*, p. 1.

6 See, for example: Benevolent Society, *Submission 30*; Berry Street, *Submission 92*.

7 See, for example: Australian Association of Social Workers, *Submission 18*; Salvation Army, *Submission 40*; Wanslea Family Services, *Submission 60*; Alliance for Forgotten Australians, *Submission 34*, p. 6.

particular concern 'that Australia's current approach to child protection is narrow in scope and designed to respond to harm rather than prevent it in the first place'.⁸

5.12 A number of witnesses highlighted the importance of early intervention strategies and programs in ultimately reducing the numbers of children in out-of-home care. Ms Wendy Norton from the Northern Territory Council of Social Services (NTCOSS) told the committee that:

...if we do not invest more in the early intervention and prevention space, then we will not stop the large number of children entering the system. As a long-time worker in the child and family area once said to me, 'We will never fix the child protection system. All we can do is stop children from entering it.'⁹

5.13 The committee heard that early intervention is widely recognised as having the potential to reduce the likelihood of poor long-term outcomes for children. Research commissioned by the Benevolent Society found that the benefits of early intervention range from reduced contact with juvenile and adult justice systems, reduced notifications of child abuse and neglect, through to improved school performance and better employment outcomes.¹⁰

5.14 In addition, early intervention is considered to be more cost effective than the current models of care. The Benevolent Society submitted that:

it is far better to intervene early to prevent problems from occurring, or escalating, than to try to address them once they have become entrenched. It also showed that it is far more cost effective.¹¹

5.15 However, Barnardos argued it is 'a myth to put in tons of early intervention'. Citing a 2010 evaluation by the Social Policy Research Centre (SPRC) into the NSW Government's Brighter Futures early intervention program, Barnardos suggested early intervention does not prevent children entering care.¹²

5.16 While the SPRC evaluation found a substantial proportion of families, particularly those who were more disadvantaged (including Aboriginal and Torres Strait Islander families, families with drug and alcohol problems, experience of domestic violence or intellectual disability), 'did not benefit from the program',¹³ it

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

9 Ms Wendy Morton, Executive Officer, NTCOSS, *Committee Hansard*, Darwin, 2 April 2015, p. 1.

10 Dr Tim Moore & Dr Myfanwy McDonald, *Acting Early, Changing Lives: How prevention and early action saves money and improves wellbeing* (prepared for The Benevolent Society). Parkville, Victoria: Centre for Community Child Health at The Murdoch Children's Research Institute and The Royal Children's Hospital, 2013, p. 2.

11 Benevolent Society, *Submission 30*, p. 6.

12 Ms Louise Voight, Barnardos Australia, *Committee Hansard*, Sydney, 18 February 2015, p. 57.

13 Social Policy Research Centre (SPRC), *The Evaluation of Brighter Futures, NSW Community Services' Early Intervention Program: Final Report*, Report 13/10, September 2010, pp 3–4.

concluded that overall, the Brighter Futures program had a 'positive impact' on the out-of-home care system by reducing the upward trend in out-of-home care placements.¹⁴

Definition of early intervention (family support and building good families)

5.17 The committee heard that 'early intervention' is a problematic definition that may refer to a range of services and programs. Ms Mitchell told the committee that 'early intervention' is a 'fuzzy term' and suggested it should broadly encapsulate 'family support and building good families'.¹⁵ One of the key challenges in defining 'early intervention' is determining how 'early' interventions should be targeted at vulnerable families. Ms Emma White, Director General of the Western Australian Department of Child Protection and Family Support, told the committee early intervention and prevention can be a 'catch-all term':

...we often think of that [early intervention] as preventing the next step of intervention along what is already a tertiary system. We have lots of discussions with partners on this; it is a whole orientation of a service system and community around vulnerable children and families. So I think that we would support the notion that if you can do more earlier, then you prevent, but where do you start the do more earlier?¹⁶

5.18 'Early intervention' may be used to refer to any service provided to families prior to child removal. This may refer to both universal and secondary interventions. According to the Australian Institute of Family Studies (AIFS), universal services target 'whole communities in order to build public resources and attend to the social factors that contribute to child maltreatment'. Secondary interventions target families of children who are at-risk of abuse or neglect and generally involve 'early screening to identify children who are most at risk or targeting vulnerable families, followed by a combination of interventions'.¹⁷

5.19 As discussed in Chapter 2, under a public health model of out-of-home care services, the *National Framework for Protecting Australia's Children 2009–2020* (National Framework) aspires to a pyramid model of out-of-home care services, with emphasis on universal interventions for children and families, followed by secondary interventions, with tertiary interventions as a last resort.¹⁸ During the development of the National Framework, the Council of Australian Governments (COAG)

14 SPRC, Report 13/10, p. 115.

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

16 Ms Emma White, Director General, Department for Child Protection and Family Support, *Committee Hansard*, Perth, 16 February 2015, p. 60.

17 Australian Institute of Family Studies, 'Defining the public health model for the child welfare services context,' *Child Family Community Australia Resource Sheet*, December 2014, <https://www3.aifs.gov.au/cfca/publications/defining-public-health-model-child-welfare-servi> (accessed 28 April 2015).

18 See: Chapter 2.

acknowledged that Australia's child welfare service systems 'more closely resemble an hourglass than a pyramid', with a focus on universal and tertiary services, with few secondary interventions targeted at vulnerable families.¹⁹

5.20 Evidence to the committee suggested that despite the aspirations of the National Framework and the work undertaken so far, there remains a significant disparity between resourcing for tertiary interventions and secondary and universal interventions.²⁰

Funding for secondary child protection interventions

5.21 The Productivity Commission reports on state and territory expenditure for some secondary child protection interventions, known as intensive family support services and family support services (see Box 5.1 for definitions).

Box 5.1 – Child protection services

The Productivity Commission measures real expenditure by states and territories on the following categories of child protection services:

Intensive family support services — specialist services that aim to prevent the imminent separation of children from their primary caregivers as a result of child protection concerns and to reunify families where separation has already occurred.

Family support services — activities associated with the provision of lower level (that is, non-intensive) services to families in need, including identification and assessment of family needs, provision of support and diversionary services, some counselling and active linking and referrals to support networks. These services are typically delivered via voluntary arrangements (as distinct from court orders) between the relevant agency and family.

Out-of-home care services – care for children placed away from their primary caregivers for protective or other family welfare reasons.

Child protection services – functions of government that receive and assess allegations of child abuse and neglect, and/or harm to children and young people, provide and refer clients to family support and other relevant services, and intervene to protect children.

These do not include all early intervention programs in all jurisdictions, and do not include services funded by the Commonwealth.

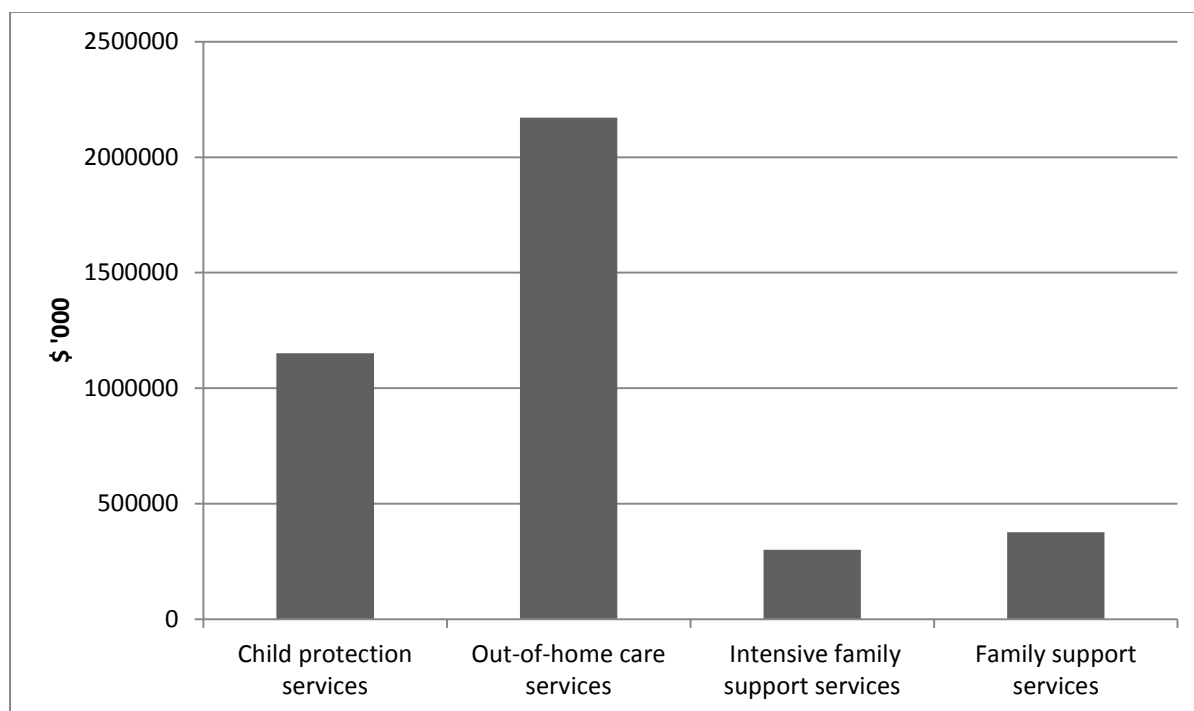
Source: Productivity Commission, Report on Government Services 2015, pp 15.1–15.2.

5.22 In 2013–14, combined real expenditure on intensive family support and family support programs was \$6.7 million, compared to \$2.1 billion for out-of-home care services. Figure 5.1 shows the real expenditure nationally on secondary interventions compared with out-of-home care and child protection services.

19 Council of Australian Governments (COAG), *Protecting children is everyone's business: National Framework for Protecting Australia's Children 2009-2020*, 2009, p. 8, <https://www.dss.gov.au/our-responsibilities/families-and-children/publications-articles/protecting-children-is-everyones-business> (accessed 22 April 2015).

20 See, for example: Benevolent Society, *Submission 30*; Salvation Army, *Submission 40*; Commission for Children and Young People Victoria, *Submission 45*; Child and Family Welfare Association of Australia, *Submission 65*; MacKillop Family Services, *Submission 70*, Northern Territory Council of Social Services, *Submission 72*.

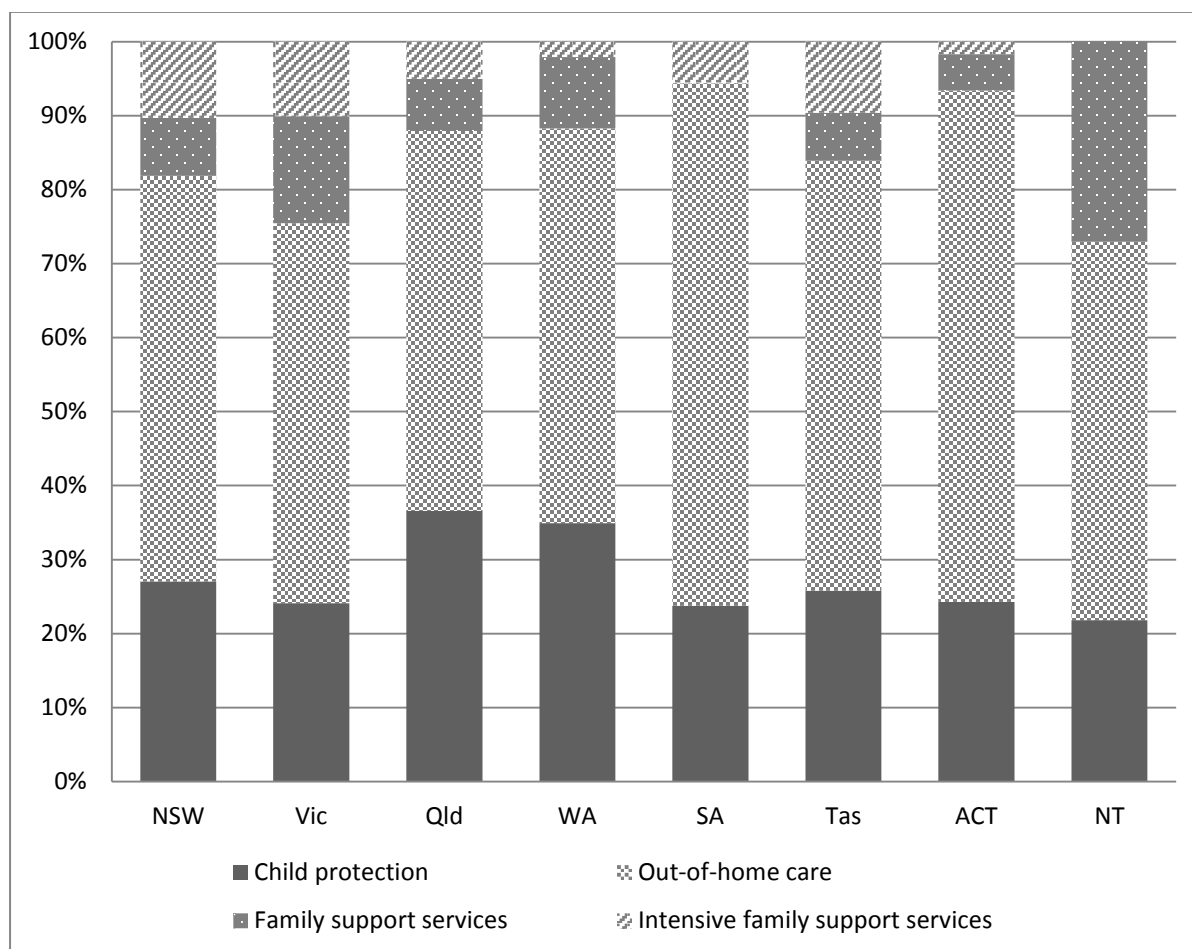
Figure 5.1 – Real expenditure on child protection services, by type of service, 2013-14



Source: Productivity Commission, Report on Government Services 2015, Table 15A.1

5.23 Across jurisdictions (where data is available), the proportion of funding for out-of-home care far exceeds the proportion of spending on secondary intervention services. Figure 5.2 shows the proportion of spending across jurisdictions on early intervention services, compared with out-of-home care and child protection services.

Figure 5.2 – Proportion of real expenditure on child protection services by jurisdiction, 2013/14



Source: Productivity Commission, *Report on Government Services 2015*, Table 15A.1.

5.24 The Productivity Commission noted that while development work is currently underway to report on performance data for family support services and intensive family support services, this data is not yet available.²¹ In 2013–14, 21 903 children commenced intensive family support services. Reporting for family support services is limited to expenditure data only.²² The committee notes that this data does not show the proportion of spending on universal services by state, territory and Commonwealth governments accessed by families who may be at risk of entering the child protection system.

5.25 The Australian Institute of Health and Welfare (AIHW) reported that in 2013-14 there were 296 intensive family support service providers nationally, delivering services across 320 locations. Of these, 80 per cent were in capital cities or

21 The Productivity Commission's 'Pathways Project' aims to provide performance data on a range of child protection services. This data is still in the development phase. See: Productivity Commission, *Report on Government Services 2015*, p. 15.2.

22 Productivity Commission, *Report on Government Services 2015*, Table 15A.31.

other urban centres.²³ Of the 21 903 children commencing services (excluding SA and the NT), 88.3 per cent were living with parents, and 7.6 per cent were in out-of-home care. This proportion differed across jurisdictions. For example, in Queensland, over 25 per cent of children in out-of-home care were receiving intensive family support services.²⁴

5.26 In addition, the Commonwealth provides some funding for secondary interventions. Through the National Framework, the Commonwealth has committed to provide funding for early intervention and prevention services in parallel with those services provided by state and territories.²⁵ Specific programs either funded or delivered by the Department of Social Services (DSS), including expenditure, are outlined below:

- **Communities for Children Facilitating Partners (CfC FPs)** – a whole of community approach to support and enhance early childhood development of children up to 12 years old, including funding other organisations to provide parenting support, group peer support, case management and other support services (\$250 million over five years from 2014-15);
- **Children and Parenting Support (CPS) activity** – funds early intervention and prevention services and resources aimed at improving children's development and wellbeing and supporting parents (up to \$140 million from 1 January 2015 to 30 June 2018);
- **Child Aware Local Initiative (CALI)** – a capacity building initiative which supports communities to work collaboratively and focus on early intervention and prevention approaches in eight sites across Australia (\$800 000); and
- **Intensive Family Support Service** – provides practical parenting education and support to parents and caregivers for approximately 12 months to help improve the health, safety and wellbeing of the child.²⁶

5.27 Responsibility for funding and delivering early intervention services is shared across the Commonwealth and states and territories; however, the proportion of spending differs across jurisdictions. For example, in the Northern Territory, Mr David Pugh from Anglicare told the committee that most early intervention

23 Australian Institute of Health and Welfare (AIHW), *Child Protection Australia 2013-14*, p. 61.

24 AIHW, *Child Protection Australia 2013-14*, Table A37, p. 104.

25 Ms Barbara Bennett, Deputy Secretary, Department of Social Services, *Committee Hansard*, Canberra, 16 April 2015, p. 2.

26 DSS, *Submission 78*, p. 13; Ms Barbara Bennett, Deputy Secretary, Department of Social Services, *Committee Hansard*, 16 April 2015, Canberra, p. 2. Recent changes to the DSS grants funding process is currently the subject of another inquiry by this committee. See: Senate Community Affairs References Committee, *Impact on service quality, efficiency and sustainability of recent Commonwealth community service tendering processes by the Department of Social Services*, www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Grants (accessed 17 August 2015).

services are funded by the Commonwealth, rather than by the Northern Territory Government:

...the Northern Territory government will clearly say, 'That early intervention is a federal responsibility. We won't do it. We're running a department of child protection.' Effectively, that is what they will say, and all the other stuff is federal responsibility. So what is only a small contribution in other states is the major component of early intervention in the Northern Territory.²⁷

5.28 The committee heard particular concerns in the Northern Territory that funding for early intervention was contingent on the funding available for out-of-home care services. As the cost of these services has increased commensurate with the increased numbers of children remaining in the system, funding for early intervention has declined. NTOCSS noted:

This should not have to be a discussion about taking money out of the statutory end of the system to fund early intervention programs. However, that has been the reality of the discussion in the Northern Territory in the last few years.²⁸

5.29 The available data suggest that across most jurisdictions, secondary intervention services are targeted at families whose children have not yet entered out-of-home care, with limited services available for families whose children have already entered care. Witnesses suggested that secondary interventions are not generally available to families with children in out-of-home care. Ms Teegan Bain, whose children were removed from her care, told the committee:

...when your child is removed, there is no support services that will assist you to liaise with FACS [Department of Family and Community Services] and their services. And there are no intensive family support programs available for people who do not have children in their care. I think if there were more of those available—or if there were some available—there would be a better success rate, as well as putting those things in place when children are restored and making sure that people have support outside of what they used to have.²⁹

5.30 Overall, spending on secondary interventions is disproportionately lower than spending on out-of-home care services. Noting this disparity, a number of submissions highlighted the need for equity in funding and resources for families at risk to keep their children at home.³⁰ Ms Susan Heylar from the ACT Council of Social Service highlighted the importance of equity in funding across the continuum of care:

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

28 Ms Wendy Morton, Executive Officer, NTCOSS, *Committee Hansard*, Darwin, 2 April 2015, p. 1.

29 Ms Teegan Bain, Committee Member, Family Inclusion Strategies Hunter (FISH), *Committee Hansard*, Sydney, 18 February 2015, p. 15.

30 See: Ms Karen Crossley, Parent Representative, Family Inclusion Network of Western Australia (Fin WA), *Committee Hansard*, Perth, 16 February 2015, p. 34.

It is a really fundamental equity issue that we should invest the same level of support and resources in a family trying to maintain a healthy and safe environment for their children as we do in taking a child away from their family, which costs thousands of dollars in court processes and then we have to fund another family to have access to resources to support those children. It is really important that we think about the equity of that.³¹

Secondary intervention models

5.31 The committee heard that due to resourcing constraints, there are limited examples of secondary interventions across jurisdictions. Most of the examples discussed below are in the initial pilot stage and are often localised to certain areas and regions.

5.32 The Victorian Government, in partnership with a range of non-government agencies, delivers a long-term intervention, Cradle to Kinder. The program offers tailored support to young women and their families from pregnancy until the child commences pre-school and promotes the health, safety and wellbeing of children and assists parents to make positive changes to their lives (see Box 5.2).³²

Box 5.2 – Best practice – Cradle to Kinder

The Cradle to Kinder program is an ante and post-natal support service in Victoria that provides intensive family and early parenting support to vulnerable young mothers and their children. The service commences during pregnancy and continues until the child is four years old. The target group for the service is young pregnant women under 25 years of age.

The Victorian Government noted in its submission that ten Cradle to Kinder programs, including two Aboriginal Cradle to Kinder programs, are currently being delivered across Victoria. The program aims to build the capacity of parents to provide for their children's health, safety and development and to build and maintain their self-reliance through access to education, vocational training and employment.

AIFS noted in its submission it is currently undertaking a comprehensive evaluation of the program in partnership with the Centre for Community and Child Health and funded by the Department of Human Services. AIFS noted this evaluation includes:

... six-monthly interviews with a group of the mums who are experiencing that program across a number of the sites. We will have four waves of data over two years to be able to track their progress over that time, as well as drawing on administrative data and information about the service-delivery aspects, particularly around the professional development and learning opportunities provided to those case workers who are working very closely with the mums.

Source: AIFS, Submission 41, p. [3]; Dr Daryl Higgins, Committee Hansard, Melbourne, 20 March 2015, p. 5; AIFS, 'Cradle to Kinder program evaluation', <https://aifs.gov.au/projects/cradle-kinder-program-evaluation> (accessed 1 July 2015).

31 Ms Susan Heylar, Director, ACTCOSS, *Committee Hansard*, Canberra, 16 April 2015, p. 12.

32 Melbourne City Mission (MCM), *Submission 76*, p. 31.

5.33 Another Victorian example of secondary interventions aimed at older children is the Finding Solutions Plus program delivered by Melbourne City Mission, a mediation service for children aged 10–15 years (see Box 5.3).³³

Box 5.3 – Best practice – Finding Solutions Plus

Finding Solutions Plus, funded by the Victorian Government and delivered by Melbourne City Mission, provides young people aged 10–15 years old and/or family with timely and intensive support to contain the family conflict issues being experienced, and to reduce the likelihood of placement in out-of-home care.

The program provides the following services:

- **Family Support** – intensive family-focused support for up to 12 months for young people and their families to nurture, strengthen and promote family relationships; strengthen broader community connections and link with education or training opportunities.
- **Individual Support** – for young people to help meet their safety, stability and developmental needs through identifying/resolving underlying issues and behaviours impacting on their relationship with their parents and other family members.
- **Family Mediation** – providing mediation to address underlying issues and provide strategies for resolution of conflict.
- **Parental support** – working with parents to assist them to identify and explore underlying issues and behaviours that are impacting on their parenting and relationship with their child.

All referrals to the program come from the Department of Human Services.

Source: MCM, *Submission 76*, p. 35; *Finding Solutions Plus*, Melbourne City Mission, <http://www.melbournecitymission.org.au/services/program-detail/finding-solutions-plus> (accessed 7 July 2015).

5.34 In Western Australia, the Department for Child Protection and Family Support provided the committee with details of its Family Support Network (FSN) program that provides secondary intervention services to vulnerable families (see Box 5.4). A 2014 review of the model by KPMG found that it 'significantly improved wrap-around services for families' and calculated a cost benefit ratio of \$3.65 for each dollar invested in the FSN program.³⁴

33 MCM, *Submission 76*, p. 35.

34 WA Department for Child Protection and Family Support, answer to question on notice, 16 February 2015 (received 12 April 2015), pp [1 – 2].

Box 5.4 – Best practice – Western Australian Family Support Networks

Western Australian Family Support Networks (FSNs) provide a common entry point to deliver targeted support to vulnerable children and families. FSNs are delivered by the Department for Child Protection and Family Support (DCPFS) in partnership with the community services sector (Parkerville Children and Youth Care and MercyCare). DCPFS noted FSN services 'can prevent a family situation deteriorating to the point where children enter the child protection system'.

Three FSN services have been implemented in WA since 2012 in Armadale, the Midwest and Mirrabooka. A fourth service is currently subject to a tender process and is expected to be operating in Fremantle from August 2015.

A 2014 review of the model by KPMG found FSNs had 'positively influenced improvements in circumstances for vulnerable children and their families'.

Source: WA Department for Child Protection and Family Support, answer to question on notice, 16 February 2015 (received 12 April 2015), pp [1 – 2].

Identifying vulnerable families

5.35 One of the most significant challenges for child protection authorities in delivering effective secondary interventions is the limited capacity to identify vulnerable families prior to concerns reaching the threshold for an investigation or substantiation. Mr Matthew Lupi, Executive Director of the Queensland Department of Communities, Child Safety and Disability Services told the committee:

[T]he most significant drivers for Queensland in the growth of out-of-home care in the last 10 years, like many other states, include limited capacity to respond to vulnerable families through mechanisms of early intervention.³⁵

5.36 As noted in Chapter 2, child protection notifications are assessed by child protection authorities for a response which may include an investigation, referral to support services or not acted upon.³⁶ AIHW reports in 2013-14, of the 304 097 child protection notifications, only 45 per cent (137 585) were investigated. The remaining 55 per cent were 'dealt with by other means', which may mean referral to support services.³⁷ The committee notes that it is not clear how these notifications are dealt with across jurisdictions.

5.37 Evidence provided to the committee by families with children in care indicated that in some cases, children at risk are known to authorities, but that no support is offered prior to child removal. Ms Felicity Kime from Family Inclusion Strategies Hunter (FISH) told the committee that her situation was well known to authorities in New South Wales:

I had lots of different issues around the removal and my parenting. I could not parent, and I did not know how to parent; at this time, I did not realise

35 Mr Matthew Lupi, Executive Director, Child and Family Services, Department of Communities, Child Safety and Disability Services, *Committee Hansard*, Brisbane, 17 April 2015, p. 57.

36 See: Chapter 2.

37 AIHW, *Child Protection Australia 2013-14*, p. 17.

this. I just thought, 'Yes, I have given birth; I know how to be a mother.' I gave birth at 16, nearly 17 years old, with no mother around, no father around, and an abusive partner—which the department was quite aware of ...as soon as somebody comes to light to the department, I believe they need to go and investigate straightaway, not leave it until they get multiple, multiple reports.³⁸

5.38 Similarly, Ms Teegan Bain, also from FISH, told the committee that although authorities were aware of her situation, no support was offered prior to removal:

The department was aware of what my situation was for several months—for nearly nine months of my pregnancy—and I did not have contact, and my son was removed at birth. I think it would be better if the department had come in earlier, rather than not allocating things that are high risk; they could work with parents rather than just coming in at the very last second when there are absolutely catastrophic things happening, and with a long history of that stuff happening. If the department came in earlier and wanted to work with families it would be better. In my situation, that would have been better.³⁹

5.39 In particular, there is a lack of support to address the underlying social issues that place the family and child at risk, including family violence. Ms Bain told the committee she was not offered any assistance in dealing with family violence:

I was in a domestic violent [DV] relationship. At no point did they confront him or help me escape that. They were just saying, 'You can leave.' When someone is in a DV relationship, it is not as simple as just getting up and leaving.⁴⁰

5.40 The committee also heard that in some jurisdictions, mandatory reporting requirements result in child protection authorities being overwhelmed with notifications, hindering their ability to provide each with an appropriate response.⁴¹ In June 2015, the South Australian Attorney-General announced that the high number of notifications were 'clogging' the investigative process in South Australia with only 6 500 out of 44 000 notifications being investigated.⁴²

5.41 The high numbers of reports received by child protection authorities means that many cases are not investigated, and families are referred away with limited

38 Ms Felicity Kime, Committee Member, FISH, *Committee Hansard*, Sydney, 18 February 2015, p. 13.

39 Ms Teegan Bain, Committee Member, FISH, *Committee Hansard*, Sydney, 18 February 2015, p. 11.

40 Ms Teegan Bain, Committee Member, FISH, *Committee Hansard*, Sydney, 18 February 2015, p. 12.

41 See: Ms Mary Moore, Alliance for Family Preservation and Restoration, *Committee Hansard*, Brisbane, 17 April 2015, p. 38.

42 Angelique Donnellan, 'Excessive number of child protection reports' clogging system, SA Government says, *ABC News*, 29 June 2015, <http://www.abc.net.au/news/2015-06-29/too-many-child-protection-reports-clog-system-overhaul/6581548> (accessed 7 July 2015).

support. In Queensland, only 19 per cent of the 128 534 child protection notifications in 2012-13 reached the statutory threshold for investigation. Cases that did not meet the statutory threshold for a child protection notification were recorded as Child Concern Reports, with the result that families were directed away from the child protection system with little or no support.⁴³

5.42 As noted in Chapter 2, most jurisdictions have a single pathway for reporting child protection concerns, which produces a high number of child concern reports. These reports cover a wide spectrum of concerns, from those requiring an immediate response to serious allegations of abuse, to less serious cases where family support services could be provided.⁴⁴

5.43 To better identify those families that would benefit from family support services, and reduce the number of child concern notifications received, the Queensland government has recently introduced changes to allow for differential pathways to report child protection concerns (see Box 5.5). The committee notes that although it is too soon to evaluate the effectiveness of this model in referring families to appropriate services, this approach may provide an innovative example for those jurisdictions that have a single reporting pathway.

Box 5.5 – Best practice – Queensland – differential response pathways

The 2013 Queensland Child Protection Commission of Inquiry recommended the Queensland Government establish a differential response that provided alternatives for responding to child protection notifications including:

- an investigation response by government of the most serious cases of child maltreatment;
- a family service assessment response by a non-government organisation where there is a low to moderate risk; and
- a family violence response by a non-government organisation where a child has been exposed to violence.

In its submission, the Queensland Government noted it has recently introduced legislative changes to allow for dual pathways to report child protection concerns, and differentiated responses to how concerns are responded to, with a greater capacity to refer to support services, including a family service assessment or family violence response.

Source: Queensland Government, Submission 69, pp 14–17.

43 Queensland Government, *Submission 69*, pp 14–17.

44 See: Chapter 2.

Respite services and 'shared care'

Respite services

5.44 A number of submitters and witnesses noted the importance of respite services for families to provide short term care while families resolve issues.⁴⁵ This includes 'respite from placement, where a child spends regular, short and agreed periods of time with another carer other than their primary carer'.⁴⁶

5.45 The committee heard that due to current demand for long-term care placements, existing models of care have limited capacity to provide respite services. Mr John Avent from the Salvation Army told the committee:

Because our foster care services are so overwhelmed by demands for protective placements, we do not have the capacity to work with family support agencies and provide respite placements. This is something that I think is a real shortfall, and if we were able to provide respite we would be better able to work with family support agencies to keep children at home.⁴⁷

5.46 Most jurisdictions do not have a framework or model for respite care which provides short-term assistance to families. The Commission for Children and Young People noted in Victoria:

...there is no formalised model of respite care. A few agencies have developed respite accommodation models through philanthropic funding, as an early intervention option before situations reach crisis. Agencies report that the respite trials have been successful, but cannot be sustained without ongoing funding.⁴⁸

5.47 One agency that provides a model of respite care is Kennerley Children's Homes in Tasmania. Mrs Carleene O'Brien from Kennerley Children's Homes told the committee of the benefits of the respite model:

That is a fantastic program because it is really proactive. Many of the children go into that program. We set it up as a holiday sort of thing. We always send the children back to the same carer and they have that for a block of time—up to about 28 days a year they can use it. It is about supporting families in the community who really need something to get them over the hurdle. Often, we are not the answer; we are part of the puzzle. We have agencies working with those families and then we just do that. Sometimes it is about having the child come out to give them a break

45 See: OzChild, *Submission 19*, p. 7; Wanslea Family Services, *Submission 60*, p. [8]; MCM, *Submission 76*, p. 6; Ms Kelly Stanton, General Manager Services, Wesley Mission Victoria, *Committee Hansard*, Melbourne, 20 March 2015, p. 14; Mr John Avent, Manager (Retired), Westcare, Salvation Army, *Committee Hansard*, Canberra, 16 April 2015, p. 13.

46 AIHW, *Child Protection Australia 2012-13*, pp 131 – 132.

47 Mr John Avent, Manager (Retired), Westcare, Salvation Army, *Committee Hansard*, Canberra, 16 April 2015, pp 13 – 14.

48 CCYPV, *Submission 45*, p. 18.

from it—they need a break while the parents are trying to interact together, I suppose—or it is getting the resources and the supports that they need.⁴⁹

5.48 However, in some jurisdictions, emergency respite programs do not fall within existing funding frameworks. Mr Barry Titmus from Kennerley Children's Homes told the committee that under Tasmania's funding structures, the emergency respite program:

...is not under the continuum of care, so the tendering that is coming up will not include emergency respite; we are hoping that that will be picked up somewhere.⁵⁰

5.49 The committee heard that emergency respite programs have been trialled and discontinued in other jurisdictions. Life Without Barriers drew the committee's attention to the 'Aunts and Uncles' planned respite program that operated on the NSW north coast in the 1990s by Centracare. The monthly respite-mentoring program aimed to relieve the pressure on families by providing opportunities for regular time out and new experiences for children, as well as support for care givers through positive mentoring relationships.⁵¹ Ms Jessica Cocks from FISH told the committee that:

...essentially, it provided a fostering families service, where families and foster families remained in close contact throughout the children's lives—or, throughout their childhoods.⁵²

Shared care

5.50 Witnesses suggested models of shared care that would 'foster the family' and not just the child. One example was the 'mirror families' model proposed by Professor Judy Cashmore from the University of Sydney, which, according to Ms Cocks, could 'happen quite easily' and have a positive impact on at risk families (see Box 5.6).⁵³

49 Mrs Carleene O'Brien, Operations Manager, Kennerley Children's Homes, *Committee Hansard*, Hobart, 12 March 2015, p. 16

50 Mr Barry Titmus, General Manager, Kennerley Children's Homes, *Committee Hansard*, Hobart, 12 March 2015, p. 15.

51 Debbie Brennan & Meredith Crowe, 'Aunts and Uncles: Working to Reduce Risks for Children and Young People in Taree through Planned Respite Care,' *Developing Practice: the Child, Youth and Family Work Journal*, n 4, 2002, pp 34–38.

52 Ms Jessica Cocks, Convener, FISH, *Committee Hansard*, Sydney, 18 February 2015, p. 11.

53 Ms Jessica Cocks, Convener, FISH, *Committee Hansard*, Sydney, 18 February 2015, p. 11.

Box 5.6 – Best practice – Shared family care or 'mirror families'

Shared family care involves fostering of whole families by community members who act as mentors and work with a team of professionals.

Professor Judy Cashmore, Professor of Socio-Legal Research and Policy at the University of Sydney notes shared family care:

...may be useful in providing another pool of carers, using the time and skills of older parents and professional carers, without requiring them to take over the full-time care of the child. This provides another option when there is a shortage of foster carers and adoption is unlikely to be an option. These 'shared care' or 'mirror family' arrangements may be suitable in some cases, especially for teenage and young mothers who do not have the skills or means to care for their child and need longer term supportive relationships themselves. It could also be used to support parents when children are returned home.

Shared family care has been explored in the US, UK and also previously by Barnados in NSW under their Temporary Family Care model. There has been limited evaluation and trialling of this approach. Evidence from some US states indicate the shared family care approach is 'very good' at locating housing and assisting families with making the transition to independent living as well as assisting families to 'budget and save money, become more stable and independent, get their children back, find employment, become better parents, maintain their recovery, get back on their feet, and start a new life'.

Professor Cashmore suggests there may be some value in trialling such approaches in Australia. If successful, it could diffuse some of the tension between 'protecting' children and providing for 'permanent' relationships that maintain their identity and family ties.

Source: Judy Cashmore, 'Children in the out-of-home care system', in Families, Policy and the Law: Selected essays on contemporary issues for Australia, Australian Institute of Families Studies, May 2014, pp 148–149.

5.51 Ms Cocks told the committee that while shared care 'has never been adequately funded', FISH are aware of examples of informal shared care arrangements in New South Wales where:

...the outcomes for those kids would have been far worse than what has been able to be achieved, because there was a foster family that fostered the whole family, not just the children.⁵⁴

5.52 Ms Cocks gave the following example:

I know of a family where there are four children, who now range in age from about seven to about 15. They have been working with a foster family for about the last five years and have a relationship. The foster family have a very close relationship with the mother. They regularly care for those children—I think it is one weekend a month, and then at other times if needed. So they have a very flexible arrangement with this family. It has reached the point where the relationships between the parties are very close, very informal and very flexible, which has only happened because of the

54 Ms Jessica Cocks, Convener, FISH, *Committee Hansard*, Sydney, 18 February 2015, p. 10.

initial support provided by an out-of-home care agency to support voluntary respite care for that family.⁵⁵

Integrated universal services

5.53 A number of submissions suggested that 'early intervention' should focus on universal, rather than secondary, interventions to address the broader social issues that lead to neglect and abuse.⁵⁶ Mr Andrew McCallum, CEO of the Association of Children's Welfare Agencies, emphasised that early intervention should address issues before they become child protection issues and need to have a 'non-welfare colour to it'.⁵⁷

5.54 It was put to the committee that where families reach the point of accessing secondary interventions, it is often too late to have a positive impact as these services are provided as 'last chance' option for families with complex and entrenched issues. Referring to the DSS funded intensive family support services offered in the Northern Territory, Ms Melissa Kean from the NPY Women's Council noted that for families in remote communities:

We do not always see positive outcomes in the work that we do, and that has been seen pretty much across the Territory in the rollout of intensive family support services. I think that once you start working right at the pointy end, at the tertiary end of the child protection spectrum, you cannot always effect change or work with families to overcome problems, and certainly not in a short time.⁵⁸

5.55 The committee heard that at-risk families need support to address a range of social issues associated with disadvantage that are beyond the capacity of child welfare authorities to address. Mr Tony Kemp, Deputy Secretary of the Department of Health and Human Services in Tasmania, noted the effects of a lack of support:

What we do find is that, in the absence of those supporting architectures to help families get back on their feet or at least resolve the risks that they have got, children stay longer in care, because families are not getting the level of intervention that they need and they are specialist supports. They are not things that child protection services offer; they are things that need to be resolved at a clinical, therapeutic, medical, housing, education level.⁵⁹

55 Ms Jessica Cocks, Convener, FISH, *Committee Hansard*, Sydney, 18 February 2015, p. 10.

56 See: Ms Emma White, Director General, Department for Child Protection and Family Support, *Committee Hansard*, Perth, 16 February 2015, p. 60.

57 Mr Andrew McCallum AM, CEO, Association of Children's Welfare Agencies, *Committee Hansard*, Sydney, 18 February 2015, p. 57.

58 Ms Melissa Kean, Child and Family Wellbeing Service Manager, Ngaanyatjarra Pitjantjatjara Yankunytjatjara (NPY) Women's Council, *Committee Hansard*, Darwin, 1 April 2015, p. 17.

59 Mr Tony Kemp, Deputy Secretary, Children and Youth Services, Department of Health and Human Services, Tasmania, *Committee Hansard*, Brisbane, 17 April 2015, p. 69.

5.56 A number of witnesses supported the development of universal services targeted at the wellbeing of the child. Ms Kelly Stanton from Wesley Mission Victoria told the committee:

I think universal services in the Australian community need to be more firmly focused on the safety and wellbeing of children, no matter the service. I think universal systems need to support our carers. For example, the Medicare and health systems, where there are many things that can be done in that space to support carers. I think our employment and education systems again need to have a particular focus on children in care and children leaving care.⁶⁰

5.57 For at-risk parents, the opportunity to identify and address issues early increases the likelihood of maintaining custody of their children. Ms Teegan Bain from FISH told the committee she wasn't offered any support until shortly before the birth of her child:

I guess I would have liked someone to come in and let us know that they were aware of our situation, that they would be monitoring it and that they would give us support services to go to or rehab—like give me a support plan to ensure that my baby would be safe and that I would be able to keep him in my care rather than place him in care straightaway. They left it until three or four days before he was born before they came and saw me.⁶¹

5.58 However, the committee heard there are significant challenges in developing targeted universal services. These services cover a broad range of state, territory and Commonwealth portfolios including health, employment, education and community services and are not generally integrated or targeted at particular groups, including children and families at risk of entering the statutory out-of-home care system. Dr Daryl Higgins from AIFS told the committee that 'we have both jurisdictional and siloed responsibilities for many of these other service delivery systems':

If you are really going to be dealing with prevention as well as early intervention, it means that you need to have engagement from those people who are responsible for running what you would call the universal services systems, be it schools, early childhood care and education or housing—any of those kind of broad platforms—so you can start to address problems as early as possible that provide supports for all families, so that all parents can improve their parenting so there is less chance of them needing to have the intense secondary services, less chance of needing the statutory system and therefore less chance of children coming into care.⁶²

60 Ms Kelly Stanton, General Manager Services, Wesley Mission Victoria, *Committee Hansard*, Melbourne, 20 March 2015, p. 8.

61 Ms Teegan Bain, Committee Member, FISH, *Committee Hansard*, Sydney, 18 February 2015, p. 12.

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

5.59 Dr Higgins told the committee that the significant challenge was in integrating these services to 'break down the silos':

How do we get all those different parts of the broad service-delivery systems on board—not just grudgingly doing a few little things on the side, but actually seeing it as central to their work to say: 'I am an important part of the child safety and wellbeing system in Australia'—by providing better housing or care and education for vulnerable young people.⁶³

5.60 Mr Chris Twomey from the Western Australian Council of Social Service (WACOSS) suggested the introduction of 'proportionate universality' through mechanisms of identifying vulnerable families:

across your community you have universal services but, for those areas where you have got particular children, families and cohorts who are most at risk, you ensure those services are flexible enough to put more resources in where they are most needed. There is a greater opportunity where you have universal services if you build into those assessments, that early intervention, the signals around who is most at risk. You then ensure that you have an integrated service system so that there is that supported referral to actually help people who are identified within your universal services most at risk get the kind of follow-up supports that they need to prevent problems developing or to intervene early where those problems are.⁶⁴

5.61 It was put to the committee that the Child Aware Local Initiative (CALI) program, which is one of the key action items of the second action plan of the National Framework, provides an example of a community-based initiative to integrate universal services at the community level. Families Australia submitted that CALI is 'ground-breaking prevention and early intervention work of child aware approaches' which addresses 'parental risk factors that are associated with child abuse and neglect' (see Box 5.7).⁶⁵ The committee notes that the third annual CALI conference was held in Melbourne in May 2015.⁶⁶

63 Dr Daryl Higgins, Deputy Director, Research, AIFS, *Committee Hansard*, Melbourne, 20 March 2015, p. 5.

64 Mr Chris Twomey, Director of Policy, Western Australian Council of Social Service (WACOSS), *Committee Hansard*, Perth, 16 February 2015, p. 12.

65 Families Australia, *Submission 77*, p. 7.

66 *Child Aware Conference*, <http://www.childawareconference.org.au/> (accessed 17 July 2015).

Box 5.7 – Best practice – Child Aware Local Initiative (CALI)

Families Australia, in partnership with the Australian Centre for Child Protection (ACCP) at the University of South Australia, provide national leadership for the Child Aware Local Initiative (CALI). CALI is a central priority under the National Framework and receives \$800 000 from the Commonwealth government.

CALI is a capacity-building initiative that supports communities to undertake early intervention and prevention activities that contribute to keeping children safe and well. Families Australia and the ACCP aim to deliver CALI across 8 sites.

Families Australia noted communities will be supported to develop and implement sustainable local plans of action by bringing together existing resources and networks within communities. In each community a lead organisation will be identified to partner with a range of agencies, groups and individuals such as national, state and local government agencies, community leaders, community sector organisations and groups, corporate and small business, health and education institutions, child protection services and children, parents and families.

Source: DSS, Submission 78, pp 12–13; Australian Centre for Child Protection, Child Aware Local Initiative, <http://www.unisa.edu.au/Research/Australian-Centre-for-Child-Protection/Training-and-Coaching/Child-Aware-Local-Initiative/> (accessed 6 May 2015).

Early intervention framework

5.62 The committee notes that the CALI program is only in its early stages, but may provide a model for integration of universal services at the community level. The committee heard there is a need to address this integration at a broader, national level.

5.63 Witnesses noted the need for a nationally coordinated framework for 'early intervention'.⁶⁷ The National Children's Commissioner told the committee that a 'coordinated and strategic national investment in early intervention and prevention' should be the focus of third action plan of the National Framework.⁶⁸ Ms Mitchell summarised this view:

There are lots of good models around the country. But it is very patchy. There is no systematic evidence based investment. I think we need to do the research on what works for families in what kinds of different situations. What are the good drug and rehab programs, or substance abuse programs? What are the good domestic violence programs? What are the things that we know will work in a reasonable period of time that will support the child to gain a permanent and stable arrangement.⁶⁹

5.64 Similarly, Families Australia proposed a new joint commitment by the Australian, state and territory governments to a national early intervention and prevention framework that would:

67 See: Ms Helen Bedford, Families Australia, *Committee Hansard*, Canberra, 16 April 2015, p. 49.

68 Ms Megan Mitchell, National Children's Commissioner, *Committee Hansard*, Sydney, 18 February 2015, pp 1–2.

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

...focus effort, avoid duplication, coordinate planning and implementation and ensure sharing of information and innovation to reduce child abuse and neglect.⁷⁰

Committee view

5.65 The committee recognises that for some children, placement in out-of-home care, at least temporarily, may be the safest option to prevent abuse and neglect. The committee acknowledges that parents have a responsibility to provide a safe and nurturing home for their children.

5.66 However, evidence to the committee suggested many parents would benefit from additional assistance and support to help build safe and resilient families for their children. The committee recognises that governments of all levels have an obligation to assist parents in caring for their children.

5.67 The committee recognises that 'early intervention' is a broad term used to describe a range of different universal and secondary interventions to assist families and children. The committee suggests the term 'family support' provides a clearer definition of the range of services available to families prior to interventions by child protection authorities, and more fully encapsulates the intention of these services.

5.68 The committee acknowledges the difficulties faced by child protection authorities in identifying vulnerable families before they reach the threshold of a child concern notification. The committee notes that the way these child concern notifications are handled differs across jurisdictions and that a large proportion of families are referred away with limited support. The committee notes the introduction of a differential response pathway in Queensland, which may provide a good example for ensuring that families receive the support they require.

5.69 The committee recognises that there is a need for increased family support services across all jurisdictions prior to intervention by child protection authorities, including the use of integrated universal services, secondary interventions, respite services and shared care models. In particular, the committee sees the potential benefits of 'proportionate universality' in developing targeted universal services that can help to identify vulnerable families and children.

5.70 Noting the lack of national coordination and consistency on how family support services are developed, funded and evaluated, and on how universal services are integrated to focus on the needs of children, the committee suggests the development of a family support framework as part of the National Framework. This framework should develop equitable funding models for all forms of family support, and evidence-based evaluations to determine the best and most effective family support models.

Support for families with children in care

5.71 While many submitters focussed on early intervention, the committee also heard that there is significant need for support for parents with children in care,

70 Families Australia, *Submission 77*, p. 24.

particularly those parents who wish to maintain contact or regain parental responsibility for their children.

Building relationships with child protection authorities

5.72 The committee heard that one of the key challenges for families with children in care was establishing positive and constructive relationships with child protection authorities. Across jurisdictions, the relationship between parents and child protection authorities is largely adversarial, with a significant level of distrust on both sides.⁷¹

5.73 The committee heard that parents with children in care feel a strong sense of powerlessness in dealing with child protection authorities. A 2008 study commissioned by Anglicare WA and undertaken by the Centre for Vulnerable Children and Families at the University of WA, 'The Experiences of Parents and Families' found parents experience:

...deep sense of grief, loss, despair and isolation following the removal of their children, and a significant amount of helplessness, powerlessness and hopelessness held toward statutory authorities.⁷²

5.74 Based on interviews with 42 participants affected by child removal, the study summarised that:

...parents and families of children who have been taken into the care system by statutory authorities constitute a population of people whose ongoing stress is palpable and often chronic. Most of them live with unresolved anger, guilt, shame and despair — and their experiences have left them feeling powerless and fearful of seeking assistance. They represent a group of people who have been judged as failing their children or grandchildren and they all spoke poignantly of what that 'sentence' means to them and their families.⁷³

5.75 A recent project by Family Inclusion Network WA (Fin WA), called the 'Parent Voice Project', found 'parents identified being shut out and not listened to' in dealing with child protection authorities.⁷⁴ Mrs Denise Smith from FINV noted while much attention is paid to 'care drift' for children churning through multiple placements:

...parents are often caught in a similar 'system drift': dealing with constantly shifting goalposts or a lack of monitoring of their progress, and constant changes of caseworker.⁷⁵

71 See: Family Inclusion Network Townsville, *Submission 13*; Family Inclusion Strategies Hunter, *Submission 32*; Family Inclusion Network Victoria, *Submission 75*; Family Inclusion Network Western Australia, *Submission 82*; Australian Legislative Ethics Commission, *Submission 91*.

72 Quoted in: Family Inclusion Network WA (Fin WA), *Submission 82*, p. 9.

73 Maria Harries, *The Experiences of Parents and Families of Children and Young People in Care*, Report Commissioned by Anglicare WA, August 2008, p. 34.

74 Fin WA, *Submission 82*, p. 8.

75 Mrs Denise Smith, Secretary and Treasurer, FINV, *Committee Hansard*, Melbourne, 20 March 2015, p. 53.

5.76 Similarly, research by the Australian National University's Regulatory Institutions Network examined community workers' views of the needs of families who are involved with the ACT child protection system. The research found that parents feel a deep sense of 'powerlessness and despair' when working with child protection authorities:

...parents and families in contact with community workers are dealing with complex needs, are socially marginalised and stigmatised. They are observed by community workers to have little to no trust that they will be treated equitably by child protection workers ... For both families and community workers engaged with child protection authorities there was a sense of powerlessness and despair: stigma was so great that parents were fighting against the odds to win respect from child protection workers for the steps they took to be better parents, and to convince the child protection authorities that their lives had changed and they were able to care for their children.⁷⁶

5.77 These research findings were strongly supported in evidence provided to the committee. Ms Karen Crossley, whose children were removed from her care in Western Australia, expressed the view that there is a power imbalance between parents and child protection authorities:

There is a lot of inequity of power in the current child protection process. Every time any child is taken away from their immediate family environment the parents feel totally powerless and hopeless and despair. They are robbed of the capacity to be a parent, and heaps of times the case workers will not involve them in trying to sort out a care plan that actually allows them to have meaningful relationships, regardless of whether they live at home or not. We, as parents, get totally jealous of the way in which foster carers are funded for resources to manage our kids when those resources were not chucked at us in the first place to keep our kids in our home environment. The inequity that we as parents have to deal with is considerable.⁷⁷

5.78 The Australian Legislative Ethics Commission (Alecomm), a volunteer organisation that 'provides help and support to children and parents involved with the child protection industry', provided the committee with collated data from 151 submissions by parents and families affected by child removal.⁷⁸ The submissions

76 Regulatory Institutions Network, Australian National University, *Submission 81 Attachment 6*, 'Complex Lives, Complex Needs, Complex Service Systems: Community worker perspectives on the needs of families involved with ACT Care and Protection Services', Regulatory Institutions Network, *Occasional Paper*, n 21, July 2014, pp i–ii.

77 Ms Karen Crossley, Parent Representative Fin WA, *Committee Hansard*, Perth, 16 February 2015, p. 32.

78 See: Alecomm, *Submission 91*, p. 4. The majority of the 151 submissions were received in confidence. Of these, 16 submitters gave permission for their submissions to be made public. These submissions were published on the inquiry's website. See: http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Out_of_home_care (accessed 1 August 2015).

highlighted the significant emotional, physical and psychological effect of child protection interventions, with around 90 per cent of respondents reporting feelings stress, grief and frustration caused by child removal and subsequent court proceedings. A further 73 per cent of respondents reported family separation or breakdown, with some even reporting family suicides and deaths attributed to the removal process.⁷⁹ One submission stated:

I was told immediately after my [child's] removal that a person's past represents their future and that my baby would never be coming home. Never ever was I offered any hope, encouragement, options or support.⁸⁰

5.79 Significantly, these submissions highlighted a high level of distrust felt by parents towards child protection authorities, reportedly compounded by a lack of participation in decision-making processes, and a lack of available support. The majority of submissions reported that child protection authorities 'did not work with them for a better outcome for their children and family'.⁸¹ The Alecomm submissions strongly argued for alternatives to child removal:

...the family should have been offered support to remain together, the allegations should have been investigated for validity prior to removal, and the department should have communicated with the family first as there was no consultation and families felt they were never given a chance or opportunity to know what was required of them to get their children back or given enough time, support or opportunity to make the required changes.⁸²

5.80 This evidence suggests that child protection authorities need to engage more effectively with the parents of children in care to provide services that meet their specific needs. Professor Valerie Braithwaite from the Regulatory Institutions Network told the committee that the relationship between at risk families and their children is often interpreted 'swinging pendulum and just have to settle on some level that is optimal'. However, Professor Braithwaite challenged this assumption and suggested that:

...in fact there is no one optimal level. We need many different options. Sometimes we need to be tough; sometimes we need to be soft. We need an approach to child protection which allows us to choose the right option for the right child, the right family and the right situation. Our work suggests that we would do better if we seriously included those people and organisations most affected by child protection decisions in our processes

79 Alecomm, *Submission 91*, pp 14–15.

80 Ms Susan Coleman, *Additional submission 4*, p. 3, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Out_of_home_care/Additional_Submissions (accessed 10 August 2015).

81 Alecomm, *Submission 91*, p. 7.

82 Alecomm, *Submission 91*, p. 7.

and deliberations. This is not happening at the moment by and large; neither has it happened in the past.⁸³

Community-based advocacy

5.81 The committee heard a number of community organisations have implemented strategies to improve the channels of communication between parents and child protection authorities. Specific advocacy groups for Aboriginal and Torres Strait Islander families are discussed in detail in Chapter 8.

5.82 In New South Wales, Family Inclusion Strategies Hunter (FISH) was formed in 2014 as 'a group of practitioners and family members who are concerned with trying to improve and increase family inclusion in out-of-home care and child protection practice' in the Hunter Valley region of NSW.⁸⁴ The necessity of organisations such as FISH to assist in improving relationships between parents and authorities was put to the committee by parents with first-hand experience of the removal of a child from their care. Ms Teegan Bain told the committee the importance of accessing services for parents:

...when your child is removed, there is no support services that will assist you to liaise with FACS and their services. And there are no intensive family support programs available for people who do not have children in their care. I think if there were more of those available—or if there were some available—there would be a better success rate, as well as putting those things in place when children are restored and making sure that people have support outside of what they used to have.⁸⁵

5.83 Ms Jessica Cocks, convenor of FISH, noted one of the key outcomes of the first family inclusion practice forum held in July 2014 was the need for better partnerships between carers, families and child protection authorities.⁸⁶ Ms Felicity Kime, whose children were removed from her care, told the committee that while the relevant department was aware of her situation, she was offered no assistance or advice to address her issues with alcohol abuse:

I never had the department come and speak to me constantly or really let me know that there was a problem. I grew up in a family of alcohol abuse and drug abuse, and when my children were getting removed I did not even realise that I had a problem with alcohol.⁸⁷

83 Professor Valerie Braithwaite, Regulatory Institutions Network, Australian National University, *Committee Hansard*, Canberra, 16 April 2015, p. 24.

84 Ms Jessica Cocks, Convenor, FISH, *Committee Hansard*, Sydney, 18 February 2015, p. 7.

85 Ms Teegan Bain, Committee Member, FISH, *Committee Hansard*, Sydney, 18 February 2015, p. 15.

86 Tabled document, Family Inclusion Strategies Hunter, *Building Better Relationships: Outcomes of the family inclusion practice forum 18 July 2014*, received 18 February 2015, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Out_of_home_care/Additional_Documents (accessed 18 August 2015).

87 Ms Felicity Kime, Committee Member, FISH, *Committee Hansard*, Sydney, 18 February 2015, p. 13.

5.84 Another important part of relationship building is assisting child protection authorities to assist parents to overcome their issues, rather than pass judgement. Ms Teegan Bain noted:

I admitted to using while I was pregnant and, basically, as soon as I said that they were not willing to help me. They were not willing to look at restoration or having my son returned to me. They were not giving me any clear guidelines as to what I needed to do to have him returned.⁸⁸

5.85 Another example of community based initiatives is being led by the Family Inclusion Network Australia (FINA), established in 2010. Throughout the inquiry, the committee heard from FINA branches in Western Australia, Townsville and Victoria.⁸⁹ FINA is one of the few community groups made up of parents with children in care that focuses on building relationships with child protection authorities. Family Inclusion Networks have been described by Ms Mary Ivec, a researcher at the ANU's Regulatory Institutions Network, as part of an international 'geography of hope' for improving child protection systems.⁹⁰

5.86 Evidence suggested that the impact of Family Inclusion Networks across jurisdictions was generally positive and assisted developing better relationships with child protection authorities, with WA raised as a potentially best practice model. Family Inclusion Network WA (Fin WA) told the committee that it is the only organisation in Australia funded by state or territory governments to advocate for parents whose children are in care or are at risk of entering care (see Box 5.8).⁹¹ Fin WA recommended establishing similar government funded advocacy services in all other states and territories to:

...help address the experience of imbalance of power between families and statutory authorities which by its very nature is adversarial and does not allow for a collegial working relationship.⁹²

88 Ms Teegan Bain, Committee Member, FISH, *Committee Hansard*, Sydney, 18 February 2015, p. 11.

89 See: FINV, *Submission 75*; FINT, *Submission 13*; Fin WA, *Submission 82*.

90 Quoted in: FINV, *Submission 75*, p. 4.

91 Fin WA, *Submission 82*, p. 1; Ms Debbie Henderson, Executive Officer, Fin WA, *Committee Hansard*, Perth, 16 February 2015, p. 30.

92 Fin WA, *Submission 82*, p. 9.

Box 5.8 – Best practice – Family Inclusion Network WA

Family Inclusion Network WA (Fin WA) was formally established in 2008 as an advocacy service for parents involved with the child protection system. Fin WA is funded by the WA Department of Child Protection and Family Services (DCPFS) to provide 'services to parents and family members who are in crisis following the removal and placement of their children', as well as working with families who have been identified at risk of having their children removed.

Fin WA began as an informal support group established by a community development worker from Anglicare WA in response to a number of parents who were expressing a lot of distress and seeking additional help and support because their children had been removed from their care.

Fin WA's mission is 'to have a child protection system that is respectful and inclusive of parents, family and community as key stakeholders'. Fin WA services include advocacy and information in a model of case management and crisis intervention. The strategic objectives of Fin WA are to:

- empower parents and families to participate meaningfully in the child protection system;
- foster a collaborative and inclusive child protection system;
- enhance the valuable role and intrinsic value of parents and families within the child protection system; and
- develop and sustain a viable, effective organisation based on best practice.

Fin WA noted in its submission that it also works systemically to promote a child protection system that is fair and equitable and works collaboratively and respectfully with the DCPFS to advise and advocate for the delivery of 'more inclusive and respectful' policies and practices.

Source: Family Inclusion Network WA, Submission 82; Ms Debbie Henderson, Executive Officer, Fin WA, Committee Hansard, 16 February 2015, pp 30–35.

5.87 Ms Debbie Henderson, Executive Officer of Fin WA, told the committee of the benefits of Fin WA's work for families:

I absolutely believe that the work we are doing has been at least somewhat helpful, if not very helpful, for a lot of families. That might be from assisting in ensuring the family has participated really rigorously in assessment and decision making and in the process around reunification or it might be around assisting a family to be able to sit at the table—come into a room and participate in a meeting—with the department. Sometimes there is so much hostility and anger that we will be a mediator and then eventually a negotiator. We work to assist families to develop their own skills and strength to manage alone. It is a really skilled and delicate piece of work.⁹³

5.88 The committee also heard from parents who were assisted by Family Inclusion Networks across jurisdictions. Sarah, a member of FINV, told the committee that prior to seeking assistance from FINV:

I did not get listened to. My workers do not listen to what I have to say concerning my children and kinship care. Now that I have actually got help

93 Ms Debbie Henderson, Executive Officer, Fin WA, *Committee Hansard*, Perth, 16 February 2015, p. 32.

of my own, they are starting to realise the points I am trying to get across in regards to my children.⁹⁴

5.89 Sarah highlighted the assistance FINV was able to provide regarding reunification:

...working to help me reunite with my children so I can get them to know them better and work on giving them a life that they deserve. They are just trying to help me get a better life for my children.⁹⁵

5.90 Ms Karen Crossley, a member of Fin WA whose child was removed from her care, told the committee of the positive impact of Fin WA's advocacy work:

Having someone come in and bat for you, especially when you are on the receiving end of being assessed by psychologists who wrote lots of damning reports about you in the beginning in pretrial conferences, means the world. It gives you the courage to speak and deal civilly with people who slammed you and criticised you to the hilt. You have to show that you have changed. Sometimes parents have a really tall order to go through all of the hoops the department expects of them in a constructive way.⁹⁶

Participation in decision making

5.91 In addition to improving relationships with child protection authorities, the committee heard strong support for greater involvement of parents in the decision-making processes once children are subject to child protection notifications.

Entry into care

5.92 As noted in the previous section, a number of submitters and witnesses expressed concern that parents are rarely involved in the decision-making process prior to a child being placed in out-of-home care. A number of submissions which were accepted in-confidence contained allegations that child protection authorities and courts had acted improperly and the justification removal was either inaccurate or misleading. These submitters alleged their children were forcibly removed in circumstances that amount to 'kidnap'.⁹⁷

5.93 As discussed in Chapter 2, each jurisdiction has its own legislated criteria for child removal, ranging from risk of harm to evidence of abuse and neglect. Families who had experienced child removal expressed concern that these criteria are not adequately investigated or substantiated, particularly in jurisdictions in which the risk of harm is taken into account.⁹⁸

94 Sarah, Member, FINV, *Committee Hansard*, Melbourne, 20 March 2015, p. 57.

95 Sarah, Member, FINV, *Committee Hansard*, Melbourne, 20 March 2015, p. 57.

96 Ms Karen Crossley, Parent Representative, Fin WA, *Committee Hansard*, Perth, 16 February 2015, p. 31.

97 See: Alecomm, *Submission 91, Attachment 1*.

98 See: Alecomm, *Submission 91*, pp 16–17.

5.94 Distrust and animosity was allegedly further compounded by the limited recourse to contribute to or challenge decisions by child protection authorities made about child removal. A number of witnesses stated that they felt there was little accountability for child protection authorities and few avenues to make complaints or raise concerns.⁹⁹ Ms Wightman from Grandmothers Against Removals told the committee at its Sydney hearing:

Quite often what happens is, when you make a complaint through the complaints line, it is referred back to the office where the case is being handled, and quite often it is referred back to the person you are making the complaint about. That is common. The organisation you are complaining about is investigating itself, so there is no overarching body.¹⁰⁰

5.95 Within and between jurisdictions, the level of involvement of parents in the decision making process differs widely. Ms Meredith McLaine from the Shoalcoast Community Legal Centre noted the differences:

we do see inconsistent practices between different out-of-home-care agencies in terms of how inclusive they will be in involving parents, and often there appears to be a lack of communication and parents feeling frustration. I think, similarly to the early intervention phase, that there is not really a culture amongst the out-of-home-care workers of actively inviting or supporting advocacy, and particularly legal advocacy, for the parents and families.¹⁰¹

5.96 A number of submitters recommended that parents and families be involved in the decision-making process, with child protection authorities.¹⁰² Ms Crossley from Fin WA emphasised that:

if we are consulted and involved in respectful manner, we will take ownership of the solutions to the problems a lot more keenly and with a lot less stress and trauma than if we are excluded.¹⁰³

5.97 One example that was raised as a best practice model by several witnesses was the New Zealand model of Family Group Conferencing (FGC) that involves families, children and child protection authorities (see Box 5.9).

99 See: Alecomm, *Submission 91*, p. 7.

100 Ms Wightman, Grandmothers Against Removals, *Committee Hansard*, Sydney, 18 February 2015, p. 24.

101 Ms Meredith McLaine, Solicitor, Shoalcoast Community Legal Centre, *Committee Hansard*, Sydney, 18 February 2015, p. 9.

102 See: Michelle Parker, *Submission 95*, p. [4]; Alecomm, *Submission 91*, pp 62–70.

103 Ms Karen Crossley, Parent Representative, Fin WA, *Committee Hansard*, Perth, 16 February 2015, p. 34.

Box 5.9 – Best practice – New Zealand Family Group Conferencing

Family Group Conferences (FCGs) were established in New Zealand in 1989 to 'provide families with a greater say in the resolution of both child protection and juvenile justice matters'. FCGs are mandatory for all children prior to entry into the out-of-home care system.

According to AIFS, conferences are arranged and facilitated by specialist 'Care and Protection Co-ordinators', employed by the New Zealand child protection authority and usually involve the child or young person, their advocate and/or legal representative; the parents, extended family members and any other support person the family wishes; and the referring care and protection worker. Other professionals may also provide information but are not involved in decision making.

The purpose of the conference is for the family to hear the child protection concerns, to decide whether the child is in need of care and protection, and to make plans that can address these concerns. All participants must agree for a conference agreement to come into effect. According to AIFS, conferences take place in the following three stages:

- sharing of information by child protection workers and other professionals with the family;
- family having time on their own to deliberate and agree on possible solutions; and
- arrive at agreement on whether the child is in need of care and protection, and a plan that will address these concerns.

An early evaluation of the program showed that approximately 2 000 conferences were convened in the first year of its introduction, with only a very low percentage of conferences failing to achieve agreement. Estimates in 2006 suggest that over 50 000 conferences have been convened since 1989, reflecting the central role that conferences play in New Zealand's child protection system.

Source: Nathan Harris, 'Family group conferencing in Australia 15 years on', National Child Protection Clearinghouse Issues, no. 27, February 2008, <https://aifs.gov.au/cfca/publications/family-group-conferencing-australia-15-years> (accessed 1 July 2015).

5.98 A 2008 review by AIFS on the use of FGC in Australia found that with the exception of South Australia and Tasmania, the use of family group conferencing was 'fairly limited' and concluded that 'while conferences have had an impact on practice, they have not yet become part of mainstream practice in most of Australia'.¹⁰⁴ FGCs were piloted in NSW in 2011, and another pilot is planned for four test sites. A 2012 evaluation by the Australian Institute of Criminology (AIC) of NSW's 2011 FGC pilot found that FGCs 'provided an important opportunity to resolve child protection matters and build support networks for families outside of the court process'.¹⁰⁵ However, the AIC also noted the small scale of the pilot and the voluntary basis for referrals.¹⁰⁶

104 Nathan Harris, 'Family group conferencing in Australia 15 years on', *National Child Protection Clearinghouse Issues*, n. 27, February 2008, <https://aifs.gov.au/cfca/publications/family-group-conferencing-australia-15-years> (accessed 1 July 2015).

105 Hayley Boxall et al, 'Evaluation of the Family Group Conferencing pilot program', *Australian Institute of Criminology Reports, Research and Public Policy Series*, no.121, 2012, pp xiii–xiv.

106 Boxall, 'Evaluation of the Family Group Conferencing pilot program', pp xii–xiii.

5.99 The North Australia Aboriginal Justice Agency (NAAJA) suggested that FGCs could be particularly effective for Aboriginal and Torres Strait Islander families. A research report by NAAJA suggested the Northern Territory is 'fertile ground' for implementing FGCs and other alternative dispute resolution mechanisms. The report proposed the development of a model of FGC 'specifically tailored to the characteristics of the Northern Territory' should be adopted as a matter of urgency.¹⁰⁷

5.100 Similarly, a number of submitters suggested FGCs be used in decision-making processes for parents with disability as an alternative to engagement with the court system.¹⁰⁸

5.101 Another alternative to the court system which was put to the committee is the concept of restorative justice. Professor Valerie Braithwaite from the Regulatory Institutions Network described restorative justice as:

...a process that acknowledges a harm has been done and works to understand the causes, the consequences and what can be done to repair or heal the harm that has occurred. All those affected have a voice and come together to find a solution and commit to an action plan...¹⁰⁹

5.102 A number of witnesses expressed support for the Practice First pilot in NSW, a restorative justice approach to 'group supervision' (see Box 8.10).¹¹⁰ The Women's Legal Service of NSW (WLSNSW) welcomed the development of approaches such as Practice First 'which seeks to engage and support families, rather than be focused on what our clients have often experienced as surveillance and a punitive response'. However, WLSNSW acknowledged that many clients continued to experience difficulties in their engagement with the department.¹¹¹

107 The report noted a successful pilot of FGCs in Alice Springs in 2012 provided evidence for the 'transformative power of FGCs' in the Northern Territory. See: Additional Information, North Australia Aboriginal Justice Agency (NAAJA), *The Northern Territory – Fertile Ground For Family Group Conferencing In Child Protection Matters*, received 2 April 2015, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Out_of_home_care/Additional_Documents (accessed 10 August 2015).

108 See: ADACAS, *Submission 71*, p. 7.

109 Professor Valerie Braithwaite, Regulatory Institutions Network, Australian National University, *Committee Hansard*, Canberra, 16 April 2015, p. 25.

110 Ms Mary Ivec, Researcher, Regulatory Institutions Network, Australian National University, *Committee Hansard*, Canberra, 16 April 2015, p. 23.

111 WLSNSW, *Submission 86*, pp 6–7.

Box 5.10 – Best practice – Practice First pilot

Ms Maree Walk from the NSW Department of Family and Community Services told the committee the Practice First approach is 'a relationship based way of working with children and families'. The Practice First model encourages 'group supervision' as a way to avoid risk aversion, and 'to enable a child protection worker to not feel that they are carrying the risk on their own'.

A 2014 report by the NSW Ombudsman noted that the Practice First pilot:

has a strong focus on enhancing practice culture through active engagement with very vulnerable and high risk families, based on building respectful relationships and preserving families where appropriate.

The pilot was first trialled in Bathurst and Mudgee in 2012, and was extended to 24 sites in 2013. On 9 July 2014, the then NSW Minister for Family and Community Services announced an expansion of the model to an additional 13 sites. The Minister noted early indicators from the initial 24 sites suggest 'the program is having a positive impact on families, workplace culture and service delivery'.

The NSW Ombudsman noted early results from a formal review of the program are positive, suggesting the program has led to:

- an increase in the number of home visits in trial regions;
- a decrease in the number of 'risk of significant harm' reports for families whose case-plan goals were achieved; and
- widespread support among front-line caseworkers and managers.

*Source: Ms Maree Walk, Deputy Secretary, Programs and Service Design, NSW Department of Family and Community Services, Committee Hansard, 18 February 2015, p. 69; Minister for Family and Community Services, the Hon Gabrielle Upton MP, 'Cutting edge child protection – expanding practice first across NSW', 9 July 2014, <https://members.nsw.liberal.org.au/news/state-news/cutting-edge-child-protection-%E2%80%93-expanding-practice-first-across-nsw> (accessed 1 July 2015); NSW Ombudsman, *Review of the NSW Child Protection System: Are things improving?* April 2014, p. 15.*

Legal assistance

5.103 As noted in Chapter 2, decisions about the placement of children in out-of-home care is determined by the relevant court in each jurisdiction. A number of submitters and witnesses expressed concern about the lack of support for families prior to and during the court process, especially in cases where the parents dispute the grounds for removal.¹¹²

5.104 The committee heard that for parents who attempt to challenge the decision by child protection authorities to remove children, the process can be lengthy and expensive. Mr Adam Fraser told the committee that is had taken four months and

112 See: Macarthur Legal Centre, *Submission 58*; Shoalcoast Community Legal Centre, *Submission 63*; WLSNW, *Submission 86*; Alecomm, *Submission 91*. In particular, submitters noted the lack of legal assistance for Aboriginal and Torres Strait Islander families. This will be examined in detail in Chapter 8. See: Family Violence Prevention and Legal Service Victoria, *Submission 24*; Aboriginal Legal Service of WA, *Submission 25*; National Aboriginal Family Violence Prevention Legal Services Forum, *Submission 29*.

significant legal expenses to have his children reunited, during which time he alleges that his children were neglected in care:

They went through four different foster carers and kinship carers over a period of four months. While in care, my children were neglected. They were sent to school without shoes or a proper lunch. They had staph infections on their arms after injuring themselves while in foster care. They were never seen by a doctor. They were not given any medical assessment for three months.¹¹³

5.105 As discussed in Chapter 3, most families who come into contact with the child protection system do not have the resources to fund expensive legal challenges in court. For these families, there is limited financial support available. Ms Mary Moore, convenor of the Alliance for Family Preservation and Restoration (AFPR), told the committee, that most child protection cases do not qualify for legal assistance:

[W]ith the legal aid solicitors, you have a situation where the vast majority say they are underfunded. I have been told by some solicitors: 'Look, I only get \$400 to defend your matter, so don't call me. Don't email me. We haven't got time to do an affidavit.' Realistically, what solicitor is going to do much for you for \$400? In addition to that, because there is no money in defending parents, and also it is extremely hard to find, in the years that I have been involved in support, I can count on my hand, probably, the number of solicitors that have actually gone out and fought for parents. In the vast majority of cases, they pressure parents into consenting to the orders of the department on the basis that it is the department and you just cannot win. Unfortunately, that is the way the system is.¹¹⁴

5.106 In addition, families experiencing the trauma of child removal are often not equipped, either financially or practically, to find adequate legal representation. Ms Crossley from Fin WA told the committee:

The moment we have our kids taken away, we lose all of our parenting allowances from Centrelink, we are in a state of shock, despair and grief, we cannot function properly at work and our income goes down to very minimal. And you expect us to find representation at a court hearing in a process that we are not familiar with? And you expect equitable outcomes when we are not resourced to get legal representation at such hearings?¹¹⁵

5.107 For disadvantaged families in particular, the court process can be particularly daunting. Ms Crossley told the committee that:

...because it is about court orders, you are an adversary to the department. You are opposing factions. They do not want to make friends with you; they just want you to sign a consent order for wardship until 18 and be done

113 Mr Adam Fraser, *Committee Hansard*, Hobart, 12 March 2015, p. 13.

114 Ms Mary Moore, Convenor, Alliance for Family Preservation and Restoration, *Committee Hansard*, Brisbane, 17 April 2015, p. 35.

115 Ms Karen Crossley, Parent Representative, Fin WA, *Committee Hansard*, Perth, 16 February 2015, p. 32.

with it. They do not want to engage with you, apart from getting your consent to get out of a trial. The affidavits that they come up with are sometimes 500 pages long. They get access to reports and information that we have never seen in our lives half the time. It can be hugely distressing to the families to read through all this stuff and not be familiar with the court processes and to have to behave in a sane, coherent manner while trying to deal with magistrates, the departmental workers and with family and friends. What do you say to friends when your kids have been taken away?¹¹⁶

5.108 A number of support organisations, such as FINA, Alecomm and AFPR provide ad hoc legal advice to parents on a voluntary basis. Ms Moore gave the example of a case where AFPR provided assistance, which resulted in reunification:

...a couple of months ago we had a situation where four Indigenous children were removed on a Friday night by police. It was extremely traumatic, as is a common occurrence. In this case the parents actually had not harmed their children; it was a possible future risk of harm not from the parents but someone who lived nearby. They qualified for legal aid and the day before they were to attend court, legal aid was dropped. They contacted me, and I then worked on their case. I subpoenaed all the evidence; I wrote their affidavits; I attended all the department meetings and attended court with them. I cannot speak for the parents. I am not a solicitor and that is problematic in itself: when you have no legal aid, you cannot even get an advocate to speak for you. In that case we were successful in having those four children returned. That case did have merit. You have someone in a legal aid office who is judge, jury and decision maker on whether a case has merit or not, whether you have a chance of winning. That case was an example of getting the children home, because I assisted the family in doing that.¹¹⁷

5.109 Submitters noted that where legal assistance may be available, it is often not provided to families until proceedings have commenced in court. It was suggested that legal advice which is provided as early as possible has the potential to assist families in settling matters before they proceed to court, and where they do proceed, increase the likelihood of parents continuing care of their children.¹¹⁸ Ms McLaine from the Shoalcoast Community Legal Centre expressed support for early legal assistance:

...if parents were provided with legal advice when Community Services is coming to see them and working with them about their options, their rights and how serious their situation is, it might make a difference. I feel there tends to be a lack of awareness in the families that this is a legal issue—that

116 Ms Karen Crossley, Parent Representative, Fin WA, *Committee Hansard*, Perth, 16 February 2015, p. 31.

117 Ms Mary Moore, Convenor, Alliance for Family Preservation and Restoration, *Committee Hansard*, Brisbane, 17 April 2015, pp 35–36.

118 See: Macarthur Legal Centre, *Submission 58*; Shoalcoast Community Legal Centre, *Submission 63*.

there is a legal framework—or about the likelihood of their children being removed in court proceedings starting.¹¹⁹

5.110 Without legal assistance or other financial supports, children may be removed and placed in care more often than may be necessary. One submission alleged that the financial status of a person may affect the outcome of a placement decision:

I've had workers tell me that if I had the money that my son would be home. It's so very sad to all involved that my son, myself, his brothers and all family members are suffering due to a lack of finance. A child is not a piece of property to own and control. I would like my son home.¹²⁰

5.111 The committee heard that families that oppose child protection authorities are not often successful. Dr Frank Ainsworth and Dr Patricia Hansen provided the committee with a 2012 study into the characteristics and outcomes of 117 completed applications for variation of care orders in NSW (known as section 90 applications) in 2006-07.¹²¹ The study found that 'there is a significant association between DoCS [Department of Community Services] being the applicant and the outcome being orders in favour of DoCS', whereas parents were less likely to have their applications approved.¹²²

5.112 A number of submitters supported providing legal assistance to parents prior to and during court proceedings.¹²³ Ms McLaine from the Shoalcoast Community Legal Centre suggested that in those cases where the best interests of the child could be met through remaining at home:

...if parents were provided with legal advice when Community Services is coming to see them and working with them about their options, their rights and how serious their situation is, it might make a difference. I feel there tends to be a lack of awareness in the families that this is a legal issue—that there is a legal framework—or about the likelihood of their children being removed in court proceedings starting.¹²⁴

119 Ms Meredith McLaine, Solicitor, Shoalcoast Community Legal Centre, *Committee Hansard*, 18 February 2015, p. 8.

120 Ms Susan Coleman, *Additional submission 4*, p. 19, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Out_of_home_care/Additional_Submissions (accessed 10 August 2015).

121 Under section 90 of the NSW *Children and Young Persons (Care and Protection) Act 1998*, parents seeking restoration of their children placed in out-of-home care on a care order can apply to the Children's Court change the care order. See: Ainsworth & Hansen, *Additional Documents*, 19 February 2015; Patricia Hansen, 'Rescission or Variation of Children's Court Orders: A Study of Section 90 Applications in New South Wales', *Children Australia*, vol. 37, no. 2, 2012, p. 69.

122 Hansen, 'Rescission or Variation of Children's Court Orders', p. 71.

123 See: Shoalcoast Community Legal Centre, *Submission 63*, p. 2.

124 Ms Meredith McLaine, Solicitor, Shoalcoast Community Legal Centre, *Committee Hansard*, 18 February 2015, p. 8.

Building relationships with children and carers

Contact services

5.113 As noted in Chapter 4, the National Standards recognise the significance of maintaining links between children in care and their families, particularly for children from Aboriginal and Torres Strait Islander communities. This will be examined in more detail in Chapter 8.

5.114 'Contact' refers to meetings arranged between families and children while in care. These can involve carers and/or supervision by child protection workers where required. The committee heard that these visits could be difficult and traumatic for both children and parents, particularly around family celebrations:

When you lose your kids, the whole scenario of family celebration goes out the window. If you do not have a supportive caseworker and you do not get to the stage of unsupervised access, you never get to see your kids on their birthdays or at Christmas because of the lack of resources and supervisors. Can you imagine the trauma for a kid not being able to celebrate their birthday with their family? Yet some caseworkers, who will not be named, reckon that it is in the best interests of kids for them to be with their foster carers instead of their birth families on their birthdays.¹²⁵

5.115 Submitters suggested that positive relationships established between parents and carers could contribute to positive outcomes for the child:

One of the myths that I think social workers believe is that the stability of a foster placement depends solely on the foster carer and how we resource the foster carer. In my view, the stability of the placement is also influenced strongly by whether that foster carer speaks respectfully about the birth family of the child and whether or not they realise and recognise the importance of maintaining and encouraging respectful contact and communication channels between the birth family and the foster carer.¹²⁶

5.116 Ms Crossley argued for greater support for parents during contact visits with their children, in order to develop a stronger relationship:

Either we threw more resources into paying for supervisors or we throw more resources at foster carers for fostering a family so that the family and the foster carer do not need supervision at times of access. Special days are very, very difficult for people who do not have their kids living with them.¹²⁷

125 Ms Karen Crossley, Parent Representative, Fin WA, *Committee Hansard*, Perth, 16 February 2015, p. 35.

126 Ms Karen Crossley, Parent Representative, Fin WA, *Committee Hansard*, Perth, 16 February 2015, p. 31.

127 Ms Karen Crossley, Parent Representative, Fin WA, *Committee Hansard*, Perth, 16 February 2015, p. 35.

5.117 UnitingCare Connections submitted a model for therapeutic contact support in Victoria that, in their view, may provide advice to other jurisdictions about how to better support parents and children during contact visits (see Box 5.11).¹²⁸

Box 5.11 – Best practice – Enhanced Therapeutic Contact Service

In June 2013, Connections UnitingCare implemented the Enhanced Therapeutic Contact Service (ETCS) to deliver therapeutic contact and transportation services to children in out-of-home care and their families in select locations in Victoria.

The program differs from traditional models of ‘supervision’ and ‘monitoring’ based contact, where contact is observed with minimal support. Instead ETCS dynamically transforms the contact environment into a physically and psychologically safe, child-centred environment for children, young people and families to connect using a coaching and empowerment based therapeutic approach. ETCS is staffed by a qualified and trained team of allied health professionals and support staff. Contacts and contact environments are tailored around the individual needs of children and families. The program is designed to complement other specialist services servicing the child, young person and family including home based care, Child Protection, reunification and other therapeutic services.

Connections Uniting Care reports the program has had a positive impact on children’s social, emotional and psychological development, the quality of contact has supported reunification of children to home care (along with input from other specialist supports), has empowered families through goal setting and planning activities, and finally has involved the community to support children, young people and families.

Source: Connections UnitingCare, Submission 10, pp 3–7.

5.118 The committee heard that an important part of improving contact visits for children and parents, is to build positive relationships with the child's carer. Ms Mary Ivec from the Regulatory Institutions Network outlined a number of programs used in the US, which are aimed at parents and carers in the US (see Box 5.12). Ms Ivec told the committee:

All of these could be trialled and evaluated in Australia if child protection authorities were committed to authentic community engagement through participatory and inclusive processes and to share their power. Heavily weighted formal systems of authority which utilise muscular regulatory activity and responses without widespread engagement, commitment and trust are destined for disaster and a never-ending cycle of crises.¹²⁹

128 Connections UnitingCare, *Submission 10*, pp 3 – 7.

129 Ms Mary Ivec, Researcher, Regulatory Institutions Network, Australian National University, *Committee Hansard*, Canberra, 16 April 2015, p. 23.

Box 5.12 – Best practice – Carer and parent contact

Ice-breaker meetings

Ice-breaker meetings are facilitated child focused meetings held shortly after a child is placed in out-of-home care to provide an opportunity for birth parents and foster parents or other caregivers to meet each other and share information about the child's needs. These meetings aim to promote easier adjustments for children and help form relationships of mutual respect between carers and foster parents.

Visit coaching

Visit coaches assist parents to prepare for contact visits and encourage communication to facilitate co-parenting between birth parents and foster parents. US child welfare authorities report that coached visits are more effective than supervised visits because 'coaching and support aims to directly address the issues that brought the child into care, build on family strengths and guide improved parenting' and 'can help families make significant changes within short time frames'.

Birth parent mentors and peers

Birth parent mentors and peers are employed by foster care agencies to help engage parents whose children are entering the foster care system. The US Foster Family-Based Treatment Association has identified parent engagement and support as critical to successful child outcomes and established seven programs that recognise positive connections between birth and foster families.

Source: Ms Mary Ivec, Researcher, Regulatory Institutions Network, Australian National University, Committee Hansard, Canberra, 16 April 2015, p. 23.

Reunification

5.119 Developing stronger relationships with children and carers is significant for families seeking to have children return to their care. A number of submitters noted there was no clearly defined pathway or support for parents seeking to regain parental responsibility for their children. Ms Kime from FISH told the committee that when her children were removed, she was not offered any ongoing assistance or advice to assist her in reunification:

No-one told me what I needed to do to help change my life, to better my children and to be able to parent my children. It was simply down to a parenting program I had to find out from other mothers going through the program, counsellors telling me what to do. I really believe these people removing children need to explain to the parents what they can do to try to better themselves, because until we better ourselves we cannot help our children. That is what the kids need: parents and carers coming together as one, being able to help the whole way around.¹³⁰

5.120 Where there was a pathway, many parents raised concerns about constantly 'shifting goalposts' and 'hoops' they needed to jump through to satisfy the requirements of child protection authorities. Ms Crossley from Fin WA told the committee that these changing requirements have a corrosive effect on parents:

130 Ms Felicity Kime, Committee Member, FISH, *Committee Hansard*, Sydney, 18 February 2015, p. 13.

Parents do not lose hope when the kids still want to keep in touch with them after they have been taken. You dare not lose hope of ever being reunified if your kids let you know that they still love you and they still think you are a central part of their lives. You would move heaven and hell to do whatever you needed to do to get those kids back home. But if you were working within a system that says, 'These are the goalposts we want you to jump through. There's long waiting lists for them all. We understand that, but we expect you to jump through them in two years or less.' And this is when you cannot access mental health counselling because the services are overstretched or you cannot afford it or whatever. And the goalposts keep changing. Every changed goalpost destroys part of your hope as a parent. Caseworkers must not be allowed to change goalposts. They must be taught that, if somebody dares to show a change, and a constructive change, in the family unit, that needs to be taken notice of. Do not stay in the old reports, of assessments saying, 'This person is useless.' Acknowledge what change has been happening and move on from there and move a lot closer to reunification.¹³¹

5.121 In some cases, parents who fulfil all the requirements are still not able to regain custody. Ms Teegan Bain told the committee:

My son has been in care for 2½ years. I filed a section 90 12 months ago, which the department supported until January. A month ago the department withdrew their support because my son's attachment to his carers was quite strong. So now, even though the restoration is meant to be supported where parents make the appropriate change, in my case it is not happening...Once there are 18-year orders they will not look at it again until you file the section 90, rather than people working together. It would [be] good if they could work together when they can see appropriate change, rather than the parent having to go through that section 90, getting legal aid and getting a solicitor to take it on.¹³²

5.122 Child protection authorities told the committee that it can be difficult to judge when children should be returned. Mr Tony Kemp, Deputy Secretary of the Tasmanian Department of Health and Human Services told the committee:

[W]hat I see both here and internationally is this extraordinary dilemma between the reunification of children when it is patently obvious that they should not be going home—we have a shifting environment in the courts, whereby very often applications for long-term orders are turned down and you end up going from multiple one-year orders. Yet we are trying to get children home that should not be going home, and that is a significant problem.¹³³

131 Ms Karen Crossley, Parent Representative, Fin WA, *Committee Hansard*, Perth, 16 February 2015, p. 33.

132 Ms Teegan Bain, Committee Member, FISH, *Committee Hansard*, Sydney, 18 February 2015, p. 12.

133 Mr Tony Kemp, Deputy Secretary, Children and Youth Services, Department of Health and Human Services, Tasmania, *Committee Hansard*, Brisbane, 17 April 2015, p. 68.

5.123 The committee heard that some service providers have developed programs specifically designed to assist parents with reunification, such as UnitingCare's Newpin Restoration Model (see Box 5.13).

Box 5.13 – Best practice – Newpin Restoration Model

Newpin (New Parent and Infant Network) is an intensive child protection and parent education program that works therapeutically with families under stress to break the cycle of destructive family behaviour and enhance parent-child relationships.

Newpin was established in the United Kingdom in response to the needs of new mothers experiencing issues such as isolation, mental illness, family violence, social disadvantage, low self-esteem and for those who were at risk of physically or emotionally harming their child or children.

Following the purchase of the Newpin licence from National Newpin UK, UnitingCare Burnside established Australia's first centre at Bidwill in Sydney's outer western suburbs in April 1998, focusing on the needs of parents or carers with children under five years of age. In addition to the original Bidwill program, Burnside operates a Newpin Fathers program and programs at Doonside and St Marys in Sydney. Other Newpin programs have since opened under licence in Victoria, Western Australia, Tasmania, ACT and South Australia.

The Newpin program specialises in the development of emotional maturity and wellbeing and promotes the skills that parents need to manage practical as well as emotional challenges. The Newpin process refers to the stages of empowerment and support that all parents who enter the program are encouraged to participate in. It reflects the core values of support, empathy, respect, equality and self-determination and the key elements that underpin the Newpin program. UnitingCare notes this process has been developed with the understanding that the individual needs and rate of engagement of each family is respected at all times.

The aim of the Newpin program is that parents attend for up to nine months prior to restoration and then for a further nine months post restoration. The post restoration period in Newpin is critical to facilitating the smooth transition of children from care. In addition parents are assisted as they integrate the knowledge and skills developed at Newpin into their home environment. The pre and post restoration periods involve the same commitment from families including the centre based attendance, home visits and parenting groups.

Source: Additional Information, UnitingCare, Newpin Restoration Model, received 2 March 2015, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Out_of_home_care/Additional_Documents (accessed 14 August 2015). See also: Newpin Australia, <http://www.newpin.org.au/> (accessed 1 July 2015).

5.124 The Salvation Army also runs a 15 week training program in Tasmania:

where parents are provided with the opportunity to explore their own past and the issues that have emerged in their current situation, where their children have been taken from their care.¹³⁴

5.125 The Salvation Army notes that this program is based on the Empowering Parents, Empowering Communities (EPEC) mode of parental support used in the United Kingdom (see Box 5.14). Mr Leith Cowley from the Salvation Army noted participation in the program had assisted parents in reuniting with their children:

134 Mr Leith Cowley, Manager, Children and Family Stream, Salvation Army Tasmania Division, *Committee Hansard*, Hobart, 12 March 2015, p. 12.

While I cannot give you figures for success rates, we are aware of many families that have participated and have been able to regain access to their children over a period of time.¹³⁵

Box 5.14 – Best Practice – Empowering Parents, Empowering Communities (UK)

Empowering Parents, Empowering Communities (EPEC) is a peer-to-peer programme that trains parents to deliver the ‘Being a Parent’ (BAP) course in their communities.

The BAP course aims to help parents develop positive communication and parenting skills, emotional literacy, and to encourage parents to be mindful of how their words and actions can impact on children’s wellbeing. The BAP program is aimed at parents or carers of children aged between 2 and 12 years old from disadvantaged backgrounds.

The EPEC program was developed in the United Kingdom by the Centre for Parent Child Support. A pilot of the EPEC was trialled in Tasmania by the Murdoch Children's Research Institute in 2012.

A 2013 evaluation of the EPEC model in Tasmania found the program improved 'confidence and self-esteem' for parent facilitators and recommended expanding the program across the state.

Source: Australian Institute of Family Studies, Child Family Community Australia, Communities for Children Facilitating Partners Evidence-based programme profiles, 'Empowering Parents, Empowering Communities', <https://apps.aifs.gov.au/cfca/guidebook/programs/empowering-parents-empowering-communities-epec> (accessed 16 July 2015).

Committee view

5.126 The committee recognises the importance of providing a range of family support services across a continuum of needs to assist children to remain with their families, where it is safe for children to do so.

5.127 The committee strongly asserts that the safety and wellbeing of children must be the primary consideration for child protection authorities, and any support for families must not come at the expense of children's safety. The committee recognises that in some cases, placement in out-of-home care and removal from their family may be appropriate to protect children from abuse and neglect.

5.128 The committee acknowledges that parents with children in out-of-home care often feel overlooked and ignored by child protection authorities. The committee acknowledges there is a power imbalance between families and child protection authorities and that families feel powerless in dealing with these authorities. The committee supports the introduction of services and advocacy groups that aim to build relationships between parents and child protection authorities to improve outcomes for children and young people. The committee also supports greater integration of families into the decision making processes about their children, and greater independent oversight of decisions affecting children and young people.

5.129 In particular, the committee recognises the lack of practical support and legal assistance available to families seeking to maintain parental responsibility for their

135 Mr Leith Cowley, Manager, Children and Family Stream, Salvation Army Tasmania Division, *Committee Hansard*, Hobart, 12 March 2015, p. 12.

children. The committee is concerned that families are unable to access legal assistance when challenging decisions by child protection authorities.

Chapter 6

Out-of-home care models and supports

There is a particular onus on us, as an Australian society when we have taken over responsibility for that child...it is important to make sure that we take that responsibility for fewer children because we have invested a lot more a lot earlier to prevent that large number—an increasingly large number—coming into the care and responsibility of the State but, when we do, it then becomes absolutely imperative that we provide the best quality care, which really is dependent on having the best supports for those carers.¹ Dr Daryl Higgins, Melbourne hearing, 20 March 2015

6.1 This chapter examines the following terms of reference:

- (c) current models for out of home care, including kinship care, foster care and residential care;
- (e) consistency of approach to out of home care around Australia;
- (f) what are the supports available for relative/kinship care, foster care and residential care; and
- (g) best practice in out of home care in Australia and internationally.

6.2 As discussed in Chapter 4, children and young people in out-of-home care have a range of complex needs, requiring a greater level of support. The committee heard that across jurisdictions, the existing models of care do not consistently support these needs.

6.3 This chapter assesses models of delivery and support for the three main forms of care (foster, relative/kinship and residential care) across jurisdictions and makes suggestions for changes based on best practice examples. It assesses specific issues for each type of care, as well as cross jurisdictional issues that affect all care types.

6.4 Specific models of care for Aboriginal and Torres Strait Islander children will be examined in Chapter 8. Specific models of care for children with disability and other groups will be examined in Chapter 9.

Types of care

Numbers of children and young people

6.5 As noted in Chapter 1, the three main types of out-of-home care are relative/kinship care, foster care and residential care. In 2012-13, these three types of care accounted for around 96 per cent of children and young people in out-of-home care. Most children were in relative/kinship (47.9 per cent) and foster care (42.6 per cent) placements, with a significantly smaller proportion in residential care (5.5 per cent).² Table 6.1 shows the breakdown of children and young people by type of care

1 Dr Daryl Higgins, Deputy Director, Research, Australian Institute of Family Studies (AIFS), *Committee Hansard*, Melbourne, 20 March 2015, p. 3.

2 Australian Institute of Health and Welfare (AIHW), *Submission 22*, Table 6.

at 30 June 2013. Table 6.2 shows the proportion of children in the three main types of care across jurisdictions at 30 June 2013.

Table 6.1 – Children in out-of-home care, by type of placement, states and territories, 30 June 2013

| Type of placement | NSW | Vic | Qld | WA | SA | Tas | ACT | NT | Total |
|------------------------------|---------------|--------------|--------------|--------------|--------------|--------------|------------|------------|---------------|
| Foster care | 7,091 | 2,069 | 4,492 | 1,465 | 1,102 | 445 | 209 | 399 | 17,272 |
| Relative/kin | 9,730 | 3,248 | 3,026 | 1,619 | 1,190 | 303 | 291 | 19* | 19,426 |
| Other home-based care | 0 | 695 | 0 | 0 | 6 | 235** | 20 | 202 | 1,158 |
| <i>Total home-based care</i> | <i>16,821</i> | <i>6,012</i> | <i>7,518</i> | <i>3,084</i> | <i>2,298</i> | <i>983</i> | <i>520</i> | <i>620</i> | <i>37,856</i> |
| Family group homes | 19 | 0 | 0 | 191 | N/A | 22 | 0 | 4 | 236 |
| Residential care | 480 | 495 | 618 | 150 | 330 | 25 | 38 | 75 | 2,211 |
| Independent living | 93 | 33 | 0 | 0 | 29 | 5 | | 2 | 162 |
| Unknown | 9 | 2 | 0 | 0 | N/A | 32 | 0 | 41 | 84 |
| Total | 17,422 | 6,542 | 8,136 | 3,425 | 2,657 | 1,067 | 558 | 742 | 40,549 |

* In the NT's client information system, the majority of children in a relative/kinship placement are captured in the foster care placement type.

** In Tasmania, children under third party guardianship orders are counted under 'other-home based care'.

Source: AIHW, Submission 22, Table 6.

Table 6.2 – Proportion of children in main types of care, 30 June 2013

| | NSW | Vic | Qld | WA | SA | Tas | ACT | NT | Total |
|------------------|------|------|------|------|------|------|------|------|-------|
| Foster care | 40.7 | 31.6 | 55.2 | 42.8 | 41.5 | 41.7 | 37.5 | 53.8 | 42.6 |
| Relative/kin | 55.8 | 49.6 | 37.2 | 47.3 | 44.8 | 28.4 | 52.2 | 2.6* | 47.9 |
| Residential care | 2.8 | 7.6 | 7.6 | 4.4 | 12.4 | 2.3 | 6.8 | 10.1 | 5.5 |
| Other | 0.7 | 11.2 | 0.0 | 5.5 | 1.3 | 27.6 | 3.5 | 33.5 | 4.0 |

* In the NT's client information system, the majority of children in a relative/kinship placement are captured in the foster care placement type.

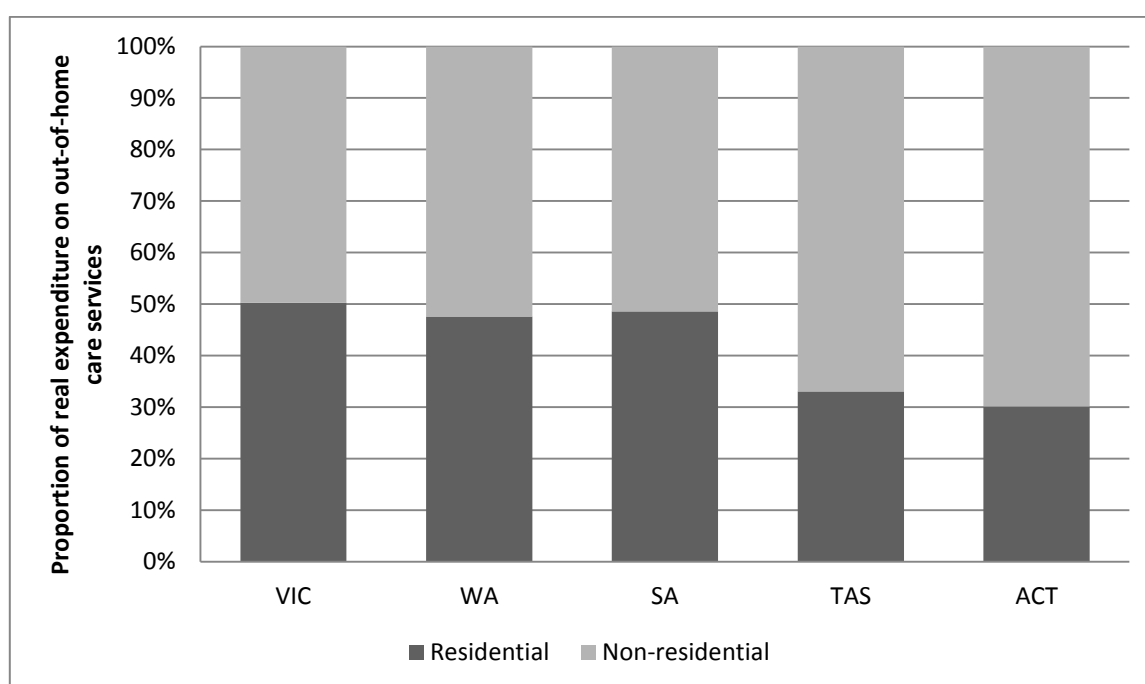
Source: AIHW, Submission 22, Table 6.

Funding for types of out-of-home care

6.6 Despite residential care placements accounting for just 5.5 per cent of children in care nationally, in some jurisdictions, expenditure on residential care accounts for over half of all expenditure on out-of-home care services.³

6.7 Data collected by the Productivity Commission on annual real expenditure by type of care (available for Victoria, WA, SA, Tasmania and the ACT only) indicates that expenditure on residential care is significantly higher than non-residential care (relative/kinship care and foster care). Figure 6.1 shows the proportion of spending on residential and non-residential out-of-home care across jurisdictions for 2013–14.

Figure 6.1 – Proportion of real expenditure on residential and non-residential care, 2013/14



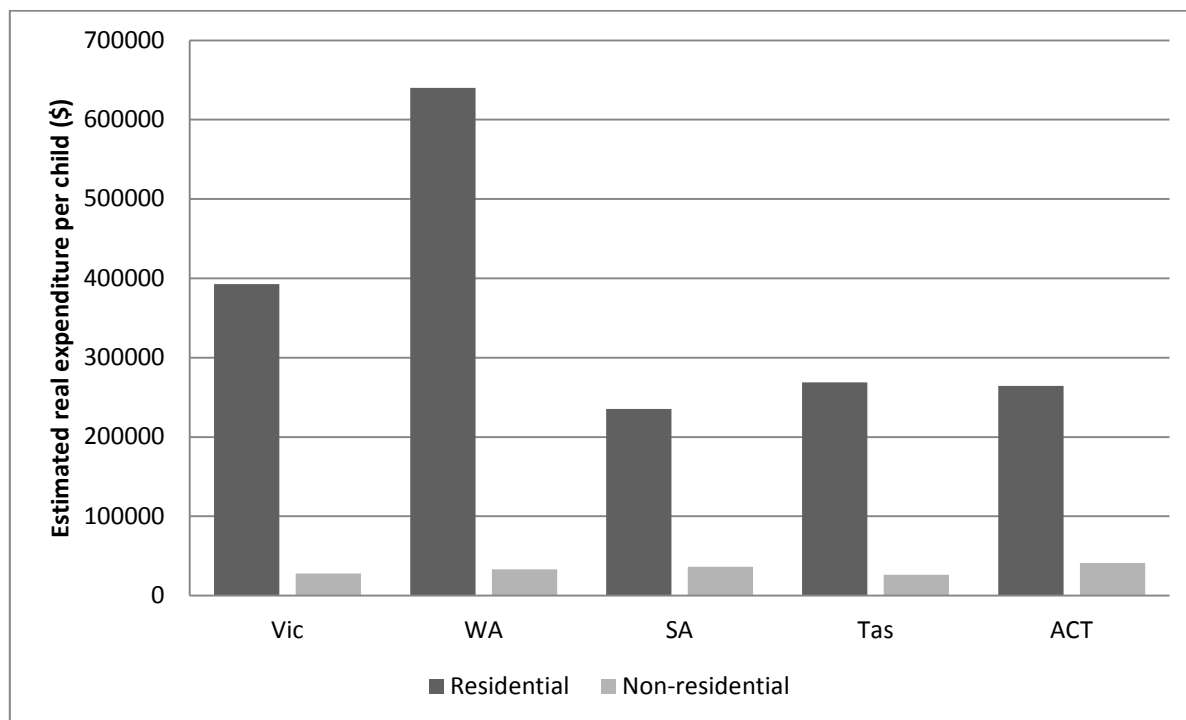
Source: Productivity Commission, *Report on Government Services*, Table 15A.3.

6.8 States and territories spend a significantly higher amount per child on residential care than non-residential care. Across jurisdictions, estimated real expenditure per child for residential care is between 6 and 19 times higher than

3 The Productivity Commission notes that data on the breakdown of expenditure by type of care is not available for all jurisdictions. Data measuring the annual real expenditure on residential and non-residential out-of-home care are not comparable across jurisdictions. See: Productivity Commission, *Report on Government Services 2015*, p. 15.51.

non-residential care.⁴ Figure 6.2 shows the estimated real expenditure per child for residential and non-residential care across jurisdictions for 2013–14.⁵

Figure 6.2 – Estimated real expenditure per child for residential and non-residential out-of-home care services, 2013/14



Source: Productivity Commission, *Report on Government Services*, Table 15A.3.

Relative/kinship care

6.9 As discussed in Chapter 4, relative/kinship care has the potential to provide greater stability and more positive long-term outcomes for children and young people than other forms of care.⁶

6.10 All jurisdictions support statutory relative/kinship care as the preferred form of care for children and young people. As noted in Table 6.2, in most jurisdictions children are placed in relative/kinship care more than any other type of care.⁷

4 Productivity Commission, *Report on Government Services*, Table 15A.3.

5 The Productivity Commission notes that these are proxy indicators and must be interpreted with care as they do not represent a measure of unit costs. Expenditure per child in care at 30 June overstates the cost per child because significantly more children are in care during a year than at a point in time. In addition, the indicator does not reflect the length of time that a child spends in care. See: Productivity Commission, *Report on Government Services 2015*, Box 15.23.

6 See: Ms Meredith Kiraly, Research Fellow, Department of Social Work, University of Melbourne, *Committee Hansard*, Melbourne, 20 March 2015, p. 23.

7 AIHW, *Submission 22*, Table 6.

Relative/kinship care is the preferred option for Aboriginal and Torres Strait Islander children, consistent with the Aboriginal Child Placement Principle.⁸

6.11 The committee notes that many of the issues experienced by relative/kinship carers discussed below were also identified in the committee's 2014 inquiry, *Grandparents who take primary responsibility for raising their grandchildren*.⁹

Support for relative/kinship care placements

6.12 The committee heard that relative/kinship carers are more likely to be disadvantaged than other types of carers.¹⁰ A report by the Social Justice Social Change Research Centre found that relative/kinship carers were predominantly female, older, more likely to have lower incomes, to be in public rental accommodation, less likely to be employed, or to have a university qualification than foster carers.¹¹ Relative/kinship carers were more likely to have an income from a Centrelink pension or benefit with a gross weekly income between \$80 and \$1 000. One third of the relative/kinship carers had a weekly income of less than \$500.¹²

6.13 Dr Marilyn McHugh, a research fellow from the University of New South Wales, found that compared to foster carers, relative/kinship carers:

...are usually older, in poorer health, on lower incomes, and more reliant on income support payments...are less likely to be employed or have university degrees or to receive training, case planning or supervision. Indigenous kinship carers are particularly vulnerable: most in strained financial circumstances have generally high levels of material disadvantage, including poor or inadequate housing. Many have sibling groups in their care.¹³

6.14 Berry Street, an out-of-home care service provider in Victoria, also highlighted that the often complicated relationship between relative/kinship carers and the parents of children can add stress and complexity compared with other types of care:

...kinship carers have a very different relationship with the birth parents – family relationships can be fraught, contributing to stress and mental health

8 AIHW, *Child Protection Australia 2012–13*, p. 4.

9 See: Senate Community Affairs References Committee, *Grandparents who take primary responsibility for raising their grandchildren*, October 2014, p. 21.

10 Additional Information, Ms Meredith Kiraly, 'A review of kinship carer surveys: the 'Cinderella' of the care system?' *Child Family Community Australia Paper*, no. 31, 2015, p. 7, received 24 March 2015, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Out_of_home_care/Additional_Documents (accessed 10 August 2015).

11 Ainslie Yardley, Jan Mason & Elizabeth Watson, *Kinship Care in NSW: Finding a way forward*, Social Justice Social Change Research Centre, University of Western Sydney, 2009, pp 31 – 36.

12 Yardley, Mason & Watson, *Kinship Care in NSW*, p. 35.

13 Quoted in: Association of Children's Welfare Agencies, *Submission 94*, p. 2.

problems. In some cases kinship carers may be ill equipped for their role due to a range of complex factors. These vulnerabilities can pose additional risk for the children and young people in care.¹⁴

6.15 The committee heard that the current model of relative/kinship care do not adequately support carers to meet the increasingly complex needs of children entering care. Berry Street noted submitted that the:

...current approach to kinship care and level of resourcing does not adequately recognise or acknowledge that the kinship clients essentially have similar profiles and needs to those of other clients of the home based care system.¹⁵

6.16 A large number of submitters and witnesses called for increased financial and practical supports for relative/kinship care across jurisdictions, including increases to reimbursements and allowances and access to training, case workers and support groups.¹⁶ The Commission for Children and Young People Victoria (CCYPV) submitted that relative/kinship care is the fastest growing form of out-of-home care placement, but that 'the development of a considered and robust model of kinship care has not kept pace with the growing demand'.¹⁷

6.17 In particular, submitters highlighted the need for increased supports for informal relative/kinship carers that do not receive any support from statutory child protection authorities. Ms Meredith Kiraly noted the need for ongoing support 'is critical to the wellbeing of children and carers in both statutory and informal kinship care'.¹⁸

6.18 A recent study into kinship care by the Benevolent Society, in partnership with the Social Policy and Research Centre (SPRC) and the Aboriginal Child, Safety, Family and Community Care State Secretariat (AbSec), found that kinship carers lack adequate support and appropriate, accessible services for them and their children, including counselling, medical, educational and financial or case worker support. The study highlighted the need for a well-resourced practice framework to support relative/kinship carers and their families.¹⁹

14 Berry Street, *Submission 92*, p. 7.

15 Berry Street, *Submission 92*, p. 7.

16 See: AASW, *Submission 18*; OzChild, *Submission 19*, Barnardos Australia, *Submission 20*; Benevolent Society, *Submission 30*; Child Wise, *Submission 31*; Mirabel Foundation, *Submission 36*; Salvation Army, *Submission 40*; Karen Lizasoain, *Submission 48*; Bapcare, *Submission 50*; Wanslea Family Services, *Submission 60*; Western Australian Council of Social Service (WACOSS), *Submission 51*; University of Melbourne Department of Social Work, Child, Youth and Families Research Cluster, *Submission 66*; PeakCare, *Submission 84*.

17 CCYPV, *Submission 45*, p. 16.

18 Kiraly, 'A review of kinship carer surveys', p. 25.

19 Benevolent Society, *Submission 30*, p. 4; Marilyn McHugh, *A Framework of Practice for Implementing a Kinship Care Program* (report for The Benevolent Society). Social Policy Research Centre, University of New South Wales, July 2009.

Specialist support for relative/kinship care placements

6.19 The committee heard that specialist support services for relative/kinship carers and children in relative/kinship care placements are limited. Across most jurisdictions, relative/kinship care placements are approved and supervised by government.²⁰ Unlike foster care, where community service organisations (CSOs) are funded to provide case management support to carers, relative/kinship carers rely on government departments for ongoing support, including allocation of caseworkers.²¹

6.20 The committee heard that ongoing support for carers is limited due to resourcing constraints, and in some cases, carers are not allocated caseworkers to provide additional support:

...many of these children's cases sit on a list of 'unallocated' cases. Where cases are allocated, workloads only allow for a minimum level of casework driven by urgent need.²²

6.21 Witnesses expressed concerns about the impact of the lack of ongoing support provided to relative/kinship carers. Mr Julian Pocock, Director of Public Policy at Berry Street, told the committee at its Melbourne hearing:

...it is not tolerable for the system in Victoria and elsewhere to proceed on a basis where we have some children and young people in placements which are subject to external monitoring and scrutiny and where external auditors come in and ask questions and review files and see what is happening to kids; and we have another part of the system—and in Victoria it is half of the system now—still run by the department in kinship care, which is not subjected to any external monitoring or any standards—no-one comes in to review what is happening to those kids. From the perspective of the child, it should not be a lottery as to whether or not you end up in the placement that has some benefit of external monitoring or a placement that does not.²³

6.22 In some jurisdictions, organisations are funded to provide some support to relative/kinship placements. However, this differs across jurisdictions and depends on the capacity of the organisations to deliver services. The committee heard that the Victorian government funds 25 CSOs to provide Kinship Care Support Programs to approximately 750 children (around 25 per cent of children in relative/kinship care

20 In WA, SA, Tasmania and NT, relative/kinship carers are assessed and supported by government departments only.

21 State and territory governments, answers to questions on notice, 30 April 2015 (received May-June 2015).

22 University of Melbourne Department of Social Work, Child, Youth and Families Research Cluster, *Submission 66*, p. 19.

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

placements). The remaining children are managed by government child protection authorities.²⁴

6.23 The committee heard that the implementation of supported relative/kinship care programs across jurisdictions is inconsistent. In the committee's view, specialist relative/kinship care organisations, such as the Mirabel Foundation in Victoria, may provide a good example of supported relative/kinship care placements (see Box 6.1).

Box 6.1 – Best practice – Mirabel Foundation – Kinship carer support

The Mirabel Foundation (Mirabel) was established in Victoria in 1998 to assist children living in kinship care arrangements due to parental drug use. Mirabel stated that it is currently supporting more than 1300 disadvantaged children throughout Victoria and New South Wales. More than 65 per cent of these children are placed in statutory out-of-home care kinship placements, with the remainder placed informally.

Mirabel noted it was established to fill a gap in services available to kinship carers and their children and has developed a series of programs in response to growing need and a body of tailored research. The programs Mirabel has identified as most needed and beneficial to kinship families include:

- Assessment of needs and referral to specialist services
- Telephone counselling and support
- Crisis support and assistance
- Kinship carer support groups and therapeutic children's groups
- Recreation program
- Educational support
- Individual child/youth support
- Children and family events and camps
- Respite care and family holidays
- Youth ambassador outings
- Advocacy

Source: Mirabel Foundation, Submission 36, p. 4.

6.24 The committee heard that there are few best practice models for supported relative/kinship care in Australia or internationally. Professor Cathy Humphreys and Ms Meredith Kiraly from the Department of Social Work at the University of Melbourne submitted that:

dedicated kinship care support programs are in their infancy everywhere, as is the exchange of information about policy and practice. No Western country has yet developed a coherent model of protective kinship care and associated support services. Many jurisdictions regard kinship care as a form of foster care that can operate more independently. This leads to difficulty in appreciating the need of children and carers for casework and

24 Rachel Breman, 'Peeling back the layers – kinship care in Victoria', Bapcare Research Unit, October 2014, p. 8; University of Melbourne Department of Social Work, Child, Youth and Families Research Cluster, *Submission 66*, p. 19.

other support and also in establishing appropriate standards of carer assessment, supervision and monitoring.²⁵

6.25 Professor Humphreys and Ms Kiraly recommend further research be undertaken to:

...develop a model of statutory kinship care using local and international knowledge that may underpin the development of policy and practice to support children in kinship care, their carers and their parents.²⁶

Financial support

6.26 The committee heard that in some jurisdictions, relative/kinship carers receive lower rates of financial reimbursement than foster carers. Evidence suggested that although relative/kinship carers are eligible for the same carer allowances as foster carers, in practice, relative/kinship carers do not receive the higher allowances available for complex placements.²⁷

6.27 In Western Australia, Ms Judith Wilkinson from Key Assets stated that children in relative/kinship care placements have a range of complex needs:

Kinship carers look after children right across the spectrum—that is, from what might be called 'low needs', although there really are no low-needs children who come into care, to extremely high-needs children who, if they were not in kinship care, might be looked after by specialised fostering services or residential care.²⁸

6.28 A 2014 report into kinship care in Victoria by Baptcare found that the complexity of kinship placements is often not acknowledged.²⁹ Baptcare suggested that 'the current funding model, based on the presumption that most placements only require low level of support, is inadequate to meet the needs of these kinship care families'³⁰ and recommended that:

...the kinship program model be reviewed, accompanied by a better funding structure and allocation of resources so that children placed in kinship care receive equitable care compared to children in other out of home care programs.³¹

25 University of Melbourne Department of Social Work, Child, Youth and Families Research Cluster, *Submission 66*, p. 20.

26 University of Melbourne Department of Social Work, Child, Youth and Families Research Cluster, *Submission 66*, p. 23.

27 See: Baptcare, *Submission 50*, p. 4; Child Wise, *Submission 31*, p. 21.

28 Ms Judith Wilkinson, State Director, Key Assets WA, *Committee Hansard*, Perth, 16 February 2015, p. 14.

29 Graham Dangerfield & Rachel Breman, 'Policy Briefing Paper: Complexity in Kinship Care in Victoria', October 2014. See: Baptcare, *Submission 50, Attachment 1*, pp 1–4.

30 Baptcare, *Submission 50*, p. 4.

31 Baptcare, *Submission 50*, p. 4.

6.29 The CCYPV noted in its submission that in Victoria, relative/kinship carers are only reimbursed more than the 'general base rate' (between \$7 000 and \$11 000 per year) in exceptional circumstances.³² The CCYPV noted the difference between caregiver reimbursements for relative/kinship carers and foster carers could be as much as \$25 000 (based on the difference between the base rate for relative/kinship carers of \$11 454 per year compared to the complex placement rate for foster carers of \$36 187). The CCYP submitted that:

the financial burden to kinship carers are under is not reasonable, viable or sustainable. At present kinship carers receive less than the base rate for foster carers – it is an inequitable system and ultimately, the children miss out.³³

Assessment process

6.30 Relative/kinship carers are required to be assessed by child protection authorities, including police, criminal, child protection and working with children background checks. In some cases, this is similar to the assessment process for foster carers, but with some flexibility. For example, in Queensland, the assessment process for relative/kinship carers is 'less structured due to the family connection that already exists between the relative/kinship carer applicant, the child and the child's parents'.³⁴

6.31 However, owing to resourcing constraints, relative/kinship carers may not be fully assessed for suitability prior to being placed with a child.³⁵ In some cases, children may remain in placements with carers who have not been assessed:

[O]ften it is a police check that is done and that is it. There is a pre-assessment that is supposed to be done within two weeks. Pressures on protective workers often mean that that spins out for a number of weeks, and the proper assessment that is supposed to be done within eight weeks often spins out for many months.³⁶

6.32 Once a child enters a relative/kinship placement, resourcing pressures mean that the child is unlikely to be moved, regardless of whether it is the most appropriate placement:

By the time the child has been in placement for weeks or months, systemic factors bias the assessment towards ratification of the status quo unless it is patently dangerous to the child. Among these are reluctance to disrupt the

32 CCYPV, *Submission 45*, p. 19.

33 CCYPV, *Submission 45*, p. 19.

34 Queensland Government, answer to question on notice, 30 April 2015 (received 19 May 2015).

35 University of Melbourne Department of Social Work, Child, Youth and Families Research Cluster, *Submission 66*, p. 19

36 Ms Meredith Kiraly, Research Fellow, Department of Social Work, University of Melbourne, *Committee Hansard*, Melbourne, 20 March 2015, p. 23.

existing care arrangement, and frequently, a lack of alternative care options.³⁷

6.33 As discussed in Chapter 4, the pressure to put 'bums in beds' may result in children being placed in unsuitable placements. Ms Kiraly noted that the lack of assessment for relative/kinship carers created a double standard compared with foster carers:

I do think if the state mandates a placement as out-of-home care, then we are saying it is a safe place and providing a care allowance is also indicating that we would not dream of placing a child with a foster carer without them being fully assessed.³⁸

Training support

6.34 The committee heard that relative/kinship carers have limited access to training and ongoing support, especially compared with foster care.³⁹ The Benevolent Society's study found relative/kinship carers receive much less training than foster carers, with the majority saying that they hadn't received any training.⁴⁰

6.35 Across most jurisdictions, there was no mandatory relative/kinship training. Although carers had access to voluntary training, many courses were not specific to relative/kinship carers. Table 6.4 outlines the key differences between training and ongoing support for relative/kinship carers and foster carers across jurisdictions.

37 University of Melbourne Department of Social Work, Child, Youth and Families Research Cluster, *Submission 66*, p. 19

38 Ms Meredith Kiraly, Research Fellow, Department of Social Work, University of Melbourne, *Committee Hansard*, 20 March 2015, p. 30.

39 State and territory governments, answers to questions on notice, 30 April 2015 (received May-June 2015).

40 Yardley, Mason & Watson, *Kinship Care in NSW*, p. 35.

Table 6.3 – Ongoing training support for relative/kinship carers

| Jurisdiction | Relative/kinship care | Foster care |
|--------------------|--|---|
| NSW | Mandatory course must be completed within three months Voluntary relative/kinship specialist training | Mandatory training |
| Victoria | Voluntary relative/kinship specialist training | Mandatory pre-service training Specialist training as required |
| Queensland | Voluntary No specific relative/kinship training | Mandatory pre-service and in-service training |
| WA | Voluntary No specific relative/kinship training | Mandatory 'Fostering with Skill and Care' course (workbook and 19 hours of workshops) |
| SA | Mandatory courses (Infant Care and Child Safe Environment) Voluntary No specific relative/kinship training | Mandatory training |
| Tasmania | Voluntary No specific relative/kinship training | Mandatory (non-legislated) training |
| Northern Territory | Mandatory course (six modules) Voluntary abuse and abuse prevention training | Mandatory course (six modules) Voluntary abuse and abuse prevention training |

Source: State and territory governments, answers to questions on notice, 30 April 2015 (received May-June 2015).

6.36 The committee heard that a small number of jurisdictions offer specialist relative/kinship care training. For example, the Victorian Government funds support sessions for relative/kinship carers, which are delivered by the Australian Childhood Trauma Group, Anglicare Victoria and Berry Street. This training aims to assist carers to understand and manage complex behaviours and issues using a trauma-informed approach. Victoria also launched culturally appropriate training for relative/kinship carers of Aboriginal and Torres Strait Islander children and professionals in 2014-15.⁴¹

Peak body

6.37 There is no national peak body for relative/kinship carers to advocate and work with government. In other jurisdictions, peak bodies represent both

41 Victorian Government, answers to questions on notice, 30 April 2015 (received 22 May 2015).

relative/kinship carers and foster carers. NSW advised ongoing support for foster carer and relative/kinship carers is provided through two peak carer organisations: Connecting Carers NSW (CCNSW) and Aboriginal State-wide Foster Carer Support Service (ASFCSS). Both CCNSW and ASFCSS are funded to provide advice, information and support.⁴²

6.38 Some jurisdictions have specific peak bodies for relative/kinship carers, for example the Kinship Carers Victoria, established in 2010 as an extension of Grandparents Victoria (see Box 6.2).⁴³

Box 6.2 – Best practice – Kinship Carers Victoria

The Victorian Department of Human Services (DHS) funds Kinship Carers Victoria (KCV), the peak body for kinship carers.

KCV's aim is to have kinship carers in Victoria supported in their role according to their needs and the needs of the children they care for. KCV's roles include:

- identify, promote and represent the views of kinship carers in decision making processes;
- inform carers to enable them to better perform their role as carers;
- advocate the needs of kinship carers with decision makers; and
- promote and assist in the delivery of programs designed to support kinship carers.

KCV received funding from DHS to develop a *Kinship Carers Handbook* which has been used as a support guide for kinship carers, including grandparents, to provide them with information on a range of areas including financial assistance, legal matters, cultural connections, health and well-being and education and learning.

Source: Victorian Government, *answers to questions on notice, 30 April 2015* (received 22 May 2015); Kinship Carers Victoria, <http://kinshipcarersvictoria.org/> (accessed 25 May 2015).

6.39 The committee heard there are a number of support organisations across jurisdictions that provide assistance to relative/kinship carers. However, funding to these bodies differs across jurisdictions, creating uncertainty and inconsistency.⁴⁴ Professor Humphreys and Ms Kiraly from the University of Melbourne recommended Commonwealth funding be allocated:

for a national peak body for kinship care in Australia that has sufficient resources to collect relevant data, commission research, advocate for appropriate services for kinship carers and children in their care, and coordinate State and Territory kinship care peak bodies as they are established.⁴⁵

42 NSW Government, answer to question on notice, 30 April 2015, (received 14 May 2015).

43 *Kinship Carers Victoria*, <http://kinshipcarersvictoria.org/> (accessed 25 May 2015).

44 University of Melbourne Department of Social Work, Child, Youth and Families Research Cluster, *Submission 66*, p. 24.

45 University of Melbourne Department of Social Work, Child, Youth and Families Research Cluster, *Submission 66*, p. 24.

Committee view

6.40 The committee notes that evidence received by the committee concerning the lack of financial and practical support for relative/kinship care supports the findings of the committee's previous inquiry into grandparent carers.

6.41 The committee acknowledges that relative/kinship carers are assuming greater responsibility for an increasing number of children who have increasingly complex needs in statutory out-of-home care. As discussed in Chapter 4, the committee acknowledges the benefits for the wellbeing of children and young people in being placed with and connected to their families.

6.42 The committee is concerned statutory and informal relative/kinship carers are not able to access the same financial and practical supports (including training and case workers) as foster carers. In particular, the committee is concerned that the complex needs of children in relative/kinship care are not recognised, meaning relative/kinship carers are not able to access higher rates of financial allowances.

6.43 The committee notes the lack of supported kinship care placement models across jurisdictions for statutory and informal carers. Models provided by some service providers, such as the Mirabel Foundation, which attempt to improve the level of support for children in relative/kinship placements were of particular interest to the committee.

6.44 The committee supports increasing the capacity of emergency respite services to allow child protection authorities to properly assess relative/kinship carers prior to placement, rather than placing 'bums in beds'. This would help to improve safety and stability for children and facilitate more positive outcomes.

6.45 The committee also supports the establishment of a national peak body to represent statutory and informal relative/kinship carers across jurisdictions, including individual and collective advocacy. The committee consider the establishment of a national peak body would benefit children and carers in relative/kinship placements.

Foster care

6.46 The committee heard there are significant issues with Australia's volunteer based model of foster care. Berry Street and the University of New South Wales argued that foster care in Australia is in a 'state of crisis' due to out-dated policies and practices, inadequate resources, difficulties in preventing rapid staff turnover, and difficulties in recruiting and retaining volunteer foster parents.⁴⁶

46 Berry Street, *Submission 92, Attachment 1*, Dr Marilyn McHugh & Ms Anita Pell, 'A New Model of Support, Education and Payment for Foster parents: Call to Action for State and Federal Governments and Community Sector Organisations', September 2013, p. 4.

Recruitment and retention

6.47 Submitters and witnesses argued that there are significant challenges in recruiting and retaining appropriately skilled volunteer foster carers across jurisdictions, particularly for specialist foster care services.⁴⁷

6.48 In 2013–14, AIHW reported that across most jurisdictions (except WA and the NT), more households exited foster care than commenced foster care, highlighting that the attraction and retention of appropriately skilled foster carers is a high priority across Australia.⁴⁸

6.49 The Foster Care Association of Victoria submitted that in Victoria, there has been a significant increase in non-active carers (approved carers not actively caring for children), indicating that experienced foster carers may be choosing not to provide foster care placements.⁴⁹

Financial support

6.50 It was put to the committee that a key reason for the difficulties in recruiting and retaining appropriately skilled foster carers is the inadequate level of financial support. Mr Bernie Geary, the Victorian Commissioner for Children and Young People, told the committee that the issue of foster carer allowances had been discussed over a long period:

[T]en years ago when I first came into the job as child safety commissioner I talked to the bureaucrats about what was happening with foster care, why was it diminishing? It is diminishing because foster carers are saying to me 'I would be a foster carer but I can't afford it.'⁵⁰

6.51 The committee heard that foster care allowances have been in decline for some time across jurisdictions. Dr Marilyn McHugh from the Social Policy Research Centre (SPRC) at the University of New South Wales highlighted that across jurisdictions, the weekly subsidy for parents is generally less than the cost of caring for a child. This assessment is based on estimates of the cost of caring for a child developed by the SPRC, known as the foster care estimate (FCE).⁵¹

47 See: Foster Care Association of Victoria (FCAV), *Submission 11*, p. 3; Dr Kim Backhouse, CEO, Foster Care Association of Tasmania, *Committee Hansard*, Hobart, 12 March 2015, p. 10.

48 For jurisdictions where data were available, 2 208 households commenced foster care and 1 755 households exited foster care. AIHW, *Child Protection Australia 2013-14*, p. 58.

49 The number of non-active carers in Victoria increased from 302 in 2013 to 428 by March 2014. See: FCAV, Carer snapshot trend 2010-2014, *Submission 11, Attachment A*, p. 1.

50 Mr Bernie Geary, Commissioner for Children and Young People Victoria, *Committee Hansard*, 20 March 2015, p. 41.

51 Dr McHugh notes that the calculation of FCEs should be considered as estimates only due to inconsistencies in payment regimes across jurisdictions, including supplementary allowances and age categories. See: Berry Street, *Submission 92, Attachment 5*, Dr Marilyn McHugh, 'Victoria's declining foster care allowances: a comparative analysis,' University of New South Wales, Social Policy Research Centre, August 2014, p. 1.

6.52 Mr Andrew McCallum, CEO of the Association of Children's Welfare Agencies, argued that foster carers should be paid commensurate to the support they provide:

A major issue associated with this is that we are still expecting volunteers in many cases to do some of the most difficult work within the system...So there is an issue around how we resource a system that is built around known therapeutic care models for out-of-home care, foster care, residential care and so forth that will mean more resources for fewer kids, because we would hope to build a system that would not be driving itself. At the moment we have a system that is self-perpetuating.⁵²

6.53 Similarly, Ms Judith Wilkinson, Chair of the Children's Youth and Families Agency Association in WA, told the committee of the importance of providing incentives for volunteer carers:

There is a lot to be said—and foster carers will say this themselves—for maintaining volunteer carers, but they have to be properly supported financially, and there has to be an element of reward in the allowance they get which does not then attract the attention of the ATO in terms of paying tax on that element.⁵³

6.54 A number of submitters and witnesses, including the Foster Care Associations of Victoria and Tasmania, recommended increasing the subsidies available to foster carers to cover the actual cost of supporting children in foster care, taking into account education, medical, allied health and recreational expenses.⁵⁴ In addition to increased subsidies, these witnesses suggested the Commonwealth government provide tax exemptions and incentives to foster carers. Mr Geary also told the committee that tax incentives were needed:

[I]t belies good sense to think that we do not properly support our foster carers. Give them a break. If that is a tax break, if that is what is needed, give it to them.⁵⁵

6.55 For example, in the UK, foster parents receiving a Foster Parent Fee are regarded as self-employed for tax purposes and carers earning up to a maximum of £10 000 (AUD \$15 365) plus allowances, do not pay tax on their income from fostering.⁵⁶

52 Mr Andrew McCallum, CEO, Association of Children's Welfare Agencies (ACWA), *Committee Hansard*, Sydney, 18 February 2015, p. 58.

53 Ms Judith Wilkinson, Chair, Children's Youth and Families Agency Association (CYFAA), *Committee Hansard*, Perth, 16 February 2015, p. 14.

54 See: FCAV, *Submission 11*, p. 3; Dr Kim Backhouse, Foster Care Association of Tasmania, *Committee Hansard*, Hobart, 12 March 2015, p. 10; Ms Katie Hooper, *Committee Hansard*, 20 March 2015, p. 28; Ms Judith Wilkinson, *Key Assets*, *Committee Hansard*, Perth, 16 February 2015, p. 14; Mr Bernie Geary, *Committee Hansard*, Melbourne, 20 March 2015, p. 41.

55 Mr Bernie Geary, Commissioner for Children and Young People Victoria, *Committee Hansard*, Melbourne, 20 March 2015, p. 41.

56 Berry Street, *Submission 92, Attachment 1*, p. 50.

6.56 The Foster Care Associations of Victoria and Tasmania also suggested improved access to 'ongoing training, practical support and regular respite for carers',⁵⁷ as well as funding for individual and collective support and advocacy.⁵⁸

6.57 The committee heard that the volunteer model of foster care does not attract the highly skilled carers required to address the complex needs of children and young people. Ms Anita Pell from Berry Street told the committee:

The children are more challenging, the families that they come from are more complex and our system is much more complex than it was. The carers that we are trying to recruit are a very different profile of carer that we need.⁵⁹

6.58 The differences in foster care allowance rates across jurisdictions will be discussed in more detail below.

Professional foster care

6.59 To address the challenges in recruiting, supporting and retaining foster carers and addressing the complex needs of children in care, a number of submitters and witnesses recommended introducing a model of professional foster care.⁶⁰ The Child and Family Welfare Association of Australia submitted that:

...foster care is an increasingly difficult model to sustain as many children's needs can only be met by having a full-time at home carer and the voluntary nature of the work precludes sufficient income being available.⁶¹

6.60 One of the key advantages to a professional foster care model would be to provide a home-based care option for children and young people with complex needs who would otherwise be admitted to residential care. According to MacKillop Family Services, 'professional foster care has the potential to fill a gap between foster care provided by volunteers and residential care'.⁶²

57 FCAV, *Submission 11*, p. 3.

58 Dr Kim Backhouse, CEO, Foster Care Association of Tasmania, *Committee Hansard*, 12 March 2015, pp 9 – 10.

59 Ms Anita Pell, Senior Adviser, Berry Street, *Committee Hansard*, Melbourne, 20 March 2015, p. 14.

60 See, for example: Child and Family Welfare Association of Australia (CFWAA), *Submission 65*, CCYPV, *Submission 45*; Berry Street, *Submission, 92*; Ms Judith Wilkinson, Chair, Children's Youth and Families Agency Association, *Committee Hansard*, Perth, 16 February 2015, p. 14.

61 CFWAA, *Submission 65*, p. 6.

62 Mackillop Family Services, *Submission 70*, p. 5.

6.61 Support for the implementation of a professional foster care model included reforms at the Commonwealth level to taxation and industrial law.⁶³ Anglicare Victoria argued that current taxation and industrial policy:

...works against the employment of a full time professional to allow the employment of a professionalised 'in-home care' service option for children and young people as an alternative to residential care when volunteer foster care placements are not available.⁶⁴

6.62 The removal of barriers at the Commonwealth level to allow the introduction of a professional foster care model was supported by the Victorian and ACT Governments.⁶⁵

Cost savings

6.63 Dr McHugh argued that a professional foster care model would deliver significant cost savings to government by diverting children away from residential care. In a professional foster care model, children with complex needs who would otherwise be placed in residential care could be supported by a full-time, professional foster carer.⁶⁶ Dr McHugh estimated that a proposed professional foster care model developed by the SPRC and Berry Street (see Box 6.6) would cost \$86 900 per placement, significantly less than the maximum funding allocation per placement for residential care services in Victoria of \$233 448 per placement.⁶⁷

63 Ms Mary McKinnon, National Director of Practice and Quality, Life Without Barriers, *Committee Hansard*, Sydney, 18 February 2015, p. 49; Mr David Pugh, CEO Anglicare NT, *Committee Hansard*, Darwin, 2 April 2015, p. 2.

64 Anglicare Victoria, *Submission 101*, p. 6.

65 See: ACT Government, *Submission 16*; Victorian Government, *Submission 106*.

66 Association of Children's Welfare Agencies NSW, *Submission 94*, p. 5.

67 Berry Street, *Submission 92, Attachment 3*, Dr Marilyn McHugh, *A Stitch in Time: Projected Downstream Savings to Government: Foster Care Integrated Model*, Social Policy Research Centre, University of NSW, 2013, p. 7.

Box 6.3 – Best practice – Foster Care Integrated Model

The Foster Care Integrate Model (FCIM), developed by Berry Street and the SPRC, consists of four interlinked components:

- foster parent recruitment, training and assessment;
- placement support;
- foster parent network support; and
- financial resources.

Dr Marilyn McHugh suggests implementation of FCIM's therapeutic model 'is not only likely to result in better outcomes for children and young people in care, but will also result in significant cost savings for government at all levels'.

A report by the SPRC commissioned by Berry Street estimates the implementation of the FCIM model will require an initial substantial cost to establish, but by improving outcomes for children will result in significant cost savings for all levels of government expenditure, including social welfare, health services, juvenile justice, education and homelessness.

Source: Berry Street, Submission 92, pp 5–6; Berry Street Submission 92, Attachment 3, pp 6–7.

ACIL Allen Consulting review of professional foster care

6.64 As part of the second action plan (2012-15) of the National Framework, the then Department of Families, Housing, Community Services and Indigenous Affairs engaged ACIL Allen Consulting on behalf of the Standing Council on Community and Disability Services Advisory Council to undertake a review of the barriers and opportunities for developing models of professional foster care. The review defined professional foster care as:

[H]ome-based care; targeted at children and young people not able to be placed in more traditional forms of home-based care; providing intensive care integrated with specialist support services; receiving a salary commensurate with level of skill; and participating in ongoing competency based training.⁶⁸

6.65 The review was presented in October 2013 and found there was a clear and demonstrated need and demand for a professional out-of-home care service system that could result in significant cost savings to states and territories. The review noted the National Framework and the National Standards provide an 'important enabling environment' to progress the implementation of professional foster care models.⁶⁹

6.66 The review recommended two options for consideration by state and territory community and disability services ministers:

- national agreement be sought on the policy parameters to enable professional foster care in Australia (including the preferred model of professional foster

68 ACIL Allen Consulting, *Professional Foster Care: Barriers, opportunities and options*, Report to the Department Of Families, Housing, Community Services And Indigenous Affairs, October 2013, p. v.

69 ACIL Allen Consulting, *Professional Foster Care*, p. vi – vii.

care and subsequent clarification of taxation and industrial relations issues required to enable the model), and the subsequent development and endorsement of a Framework for Professional Foster Care under the Second Action Plan; or

- agreement to the development of a nationally consistent set of skills, competencies and (over time) accreditation for professional foster carers, underpinned by national workforce development and planning.⁷⁰

6.67 The committee notes this review has not yet been considered by COAG. The committee notes the Australian Children's Commissioners and Guardians agreed to write to the Minister for Social Services in May 2015 commending the report and seeking an update on the government's response.⁷¹ Several submitters recommended the 'prompt consideration' of the review and 'determination of a plan to remove barriers to the implementation of professional foster care'.⁷²

Committee view

6.68 The committee recognises the importance of volunteer foster carers in the statutory out-of-home care system. The committee is concerned about the long-standing challenges in recruiting and retaining suitable foster carers to meet the increasingly complex needs of children and young people entering out-of-home care. The committee supports the consideration of a national approach to supporting foster carers, including the accreditation of carers.

6.69 The committee acknowledges that professional foster care has significant support across jurisdictions and that it may provide an opportunity to deliver better outcomes for children in care, particularly those children with complex needs. While noting the complex issues and barriers involved in introducing a model of professional foster care, the committee considers these can be overcome. The committee notes the importance of tailoring a professional foster care model that will best meet the needs of Australian children and young people, such as the FCIM model proposed by Berry Street.

6.70 The committee notes the ACIL Allen Consulting review of professional foster care models. It is the committee's view that the recommendations of this review should be considered as a matter of priority with a view to introducing a best practice professional foster care model across all jurisdictions.

Residential care

6.71 The committee heard there are a variety of residential care facilities across jurisdictions. The Australian Association of Social Workers noted that models of

70 ACIL Allen Consulting, *Professional Foster Care*, p. vi – vii.

71 Australian Children's Commissioners and Guardians (ACCG), *Meeting Communiqué*, 20-21 May 2015, <https://www.humanrights.gov.au/our-work/childrens-rights/publications/australian-children-s-commissioners-and-guardians-communication-0> (accessed 2 July 2015).

72 See: MacKillop Family Services, *Submission 70*, p. 6; CECFW, *Submission 99*, p. 19.

residential care vary from 'small to larger settings, with full time carers or shift work carers, for children in transitional or permanent care'.⁷³ For example, in Victoria, the average size of residential care facilities is four occupants, and has declined from an average of 6-8 occupants.⁷⁴

6.72 Most residential care facilities are administered by NGOs, rather than directly by state and territory child protection authorities. Information provided to the committee by state and territory governments indicated that most jurisdictions outsource responsibility for managing residential care facilities to NGOs, including data collection and training of staff.⁷⁵

6.73 Across all jurisdictions, young children are generally placed in home-based care. However, older children with complex needs are more likely to be placed in residential care. Anglicare submitted that for children with complex and challenging behaviours, residential care becomes the 'default option'.⁷⁶ The Victorian Auditor-General's 2014 report into residential care provided the following profile of children entering residential care:

[C]hildren in residential care have generally been exposed to multiple traumas in the form of family violence, alcohol and drug abuse, or sexual, physical and emotional abuse since they were very young. They may have a parent who is in prison or a struggling single parent with mental health issues. Some have been born to mothers who were very young, often with a violent partner. They usually have other siblings in care, and one of their parents may also have been in care as a child. They are usually known to child protection at an early age. They come to residential care typically as a young adolescent, having experienced a number of placements in home-based care that have since broken down or were only available for short periods of time. They often come to residential care with little warning and with few belongings. On their 18th birthdays, if not before, they leave the protection of the state.⁷⁷

6.74 In some cases, children may be placed in residential care because of breakdowns in foster care or relative/kinship placements. The Western Australian Government told the committee that of the 4 237 children in care at 30 June 2014, 82 had entered residential care from a foster care breakdown and 46 from a relative/kinship breakdown.⁷⁸

73 AASW, *Submission 18*, p. 15.

74 Anglicare Victoria, *Submission 101*, p. 7.

75 See: State and territory governments, answers to questions on notice, 30 April 2015 (received May–June 2015).

76 Anglicare Australia, *Submission 87*, p. 15.

77 Victorian Auditor-General, *Residential Care Services for Children*, 26 March 2014, p. ix, http://www.audit.vic.gov.au/reports_and_publications/latest_reports/2013-14/20140326-residential-care.aspx (accessed 10 August 2015).

78 WA Government, answers to questions on notice, 30 April 2015 (received 18 May 2015).

Funding models and costs

6.75 As noted in Chapter 4, outcomes for children in residential care are significantly worse than other forms of care. A number of submitters noted that despite the high costs of delivering residential care services, particularly therapeutic programs that require additional levels of staffing and support services, outcomes for children in residential care are poor.⁷⁹

6.76 As Figure 6.2 shows, the cost of residential care per child is significantly higher than other forms of care. In Victoria, the average cost per placement for residential care is \$392 631 per year, compared with \$27 980 for non-residential care. In Western Australia, the cost is much higher, with an average of \$640 244 per child for residential care, compared with \$33 307 for non-residential care.⁸⁰ The Victorian Auditor General's 2014 report noted that placements for some children with significant and extreme needs cost close to \$1 million per year.⁸¹

6.77 The committee heard that despite the high level of expenditure on residential care, current funding models are not adequate to meet the high demand for residential placements. In March 2014, the Victorian Auditor-General found that Victoria's residential care system was 'unable to respond to the level of demand and growing complexity of children's needs' and had been operating beyond capacity since 2008.⁸²

6.78 Declining numbers of foster carers was said to be a contributing factor to the demand for residential care. For children with complex needs, Berry Street noted for children with complex needs:

placement in residential care becomes a default placement option. Children who might have been placed with trained and supported foster carers face the prospect of being placed in residential care alongside highly traumatised young people who are still recovering from their own childhood trauma and may pose a risk to other children.⁸³

6.79 Support for a range of flexible funding models that focuses on the needs of the child was expressed by Mr David Fox from MacKillop Family Services:

What we need is funding that is able to allow the sector to be innovative in developing new models of service delivery that are responsive, not to the fiscal environment, but to the needs of the child or young person in care. What we need is a suite of flexible models that are responsive to the needs of young people.⁸⁴

79 See: CCYPV, *Submission 45*, p. 10; Baptcare, *Submission 50*, p. 4; Families Australia, *Submission 77*, p. 18; Berry Street, *Submission 92*, pp 6–7.

80 Productivity Commission, *Report on Government Services*, Table 15A.3.

81 Victorian Auditor-General, *Residential Care Services for Children*, 26 March 2014, p. xi.

82 Victorian Auditor-General, *Residential Care Services for Children*, 26 March 2014, p. x.

83 Berry Street, *Submission 92*, p. 5.

84 Mr David Fox, Director of Operations, MacKillop Family Services, *Committee Hansard*, Melbourne, 20 March 2015, p. 12.

Training support

6.80 A number of submitters and witnesses noted the need for trained staff who had the capacity to address the complex needs of children and young people placed in care. The Salvation Army explained:

Residential workers and residential care is not about a house with some people who look after kids; it is about an environment where day in and day out staff have the capacity to influence the behaviour the wellbeing and the future trajectory of young people.⁸⁵

6.81 The committee heard that one outcome of the existing funding structures is lack of adequate training and development for residential care workers.⁸⁶ Anglicare suggested that 'the funding structure in place dictates that the people who provide support in these settings are among the least qualified and are the least paid.'⁸⁷ Similarly, the Tasmanian Government noted that staffing in some residential care arrangements:

...is characterised by staff that do not have specialist professional training or accreditation (which is currently unavailable), inadequate supervision and limited access to training. This has resulted in situations where the only service provided to the most chaotic and vulnerable children, is adult monitoring rather than specific care intervention.⁸⁸

6.82 The Victorian government has recently introduced a unique approach to address the lack of training for residential care workers. The Residential Care Workforce Quality Initiative is in the early stages of development (see Box 6.4). The committee considers that an evaluation will need to be undertaken to assess whether this initiative may provide a best practice model for other jurisdictions.⁸⁹

85 Mr John Avent, Manager (Retired), Westcare, Salvation Army, *Committee Hansard*, Canberra, 16 April 2015, p. 14.

86 See: RANZCP, *Submission 17*; AASW, *Submission 18*; Salvation Army, *Submission 40*; Commission of Children and Young People, Victoria, *Submission 45*; Anglicare, *Submission 87*.

87 Anglicare, *Submission 87*, p. 11 & 18.

88 Department of Health and Human Services, Tasmanian Government, *Submission 1*, p. 9.

89 Victorian Government, *Submission 106*, p. 10.

Box 6.4 – Best practice – Residential Care Workforce Quality Initiative

The 2014 Victorian Auditor-General's Report into residential care found the lack of qualifications, skills and training for carers in residential care facilities contributed to poor outcomes for children. The report noted therapeutic models of care showed better outcomes for children largely because these models focus on building staff capacity.

In response to recommendations from the Auditor-General, the Victorian Government introduced the Residential Care Workforce Quality Initiative in 2015.

The initiative involves:

- development of a future capability framework, including consideration of the introduction of a minimum qualification for residential care workers; and
- piloting of a professional support program which comprises training and specialist support to embed theory into practice.

Source: Victorian Government, Submission 106, p. 10; Victorian Auditor-General, Residential Care Services for Children, 26 March 2014, p. x.

Committee view

6.83 The committee is concerned that outcomes for children and young people in residential care are poor compared with other forms of care. The committee acknowledges that the way residential care is funded and delivered facilitates these poor outcomes, and that a disproportionate amount of funding is allocated to a model that does not support children and young people.

6.84 As discussed in relation to relative/kinship carers, the committee notes demand pressures affect the ability of child protection authorities to place children in appropriate placements. However, evidence to the committee suggests that available residential care facilities do not provide appropriate accommodation or support for children and young people.

6.85 The committee acknowledges the importance of having trained specialist staff to assist children and young people in residential care, particularly those with complex needs. The committee supports the development of nationally consistent training for all residential care staff.

Cross-jurisdictional issues

6.86 In addition to the specific issues discussed throughout this chapter, the committee identified a number of cross-jurisdictional issues that affect relative/kinship, foster and residential care placements, including:

- implementation of therapeutic models;
- financial support;
- carer qualifications and
- role of the non-government sector.

Therapeutic care

6.87 A number of submitters and witnesses expressed strong support for the introduction or expansion of 'therapeutic models' of care to address the trauma many

children and young people experience as a result of separation from family, abuse or other issues.⁹⁰ The importance of culturally appropriate therapeutic care was highlighted as particularly significant for Aboriginal and Torres Strait Islander communities, particularly relative/kinship carers.⁹¹

6.88 The committee heard that 'therapeutic care' is not clearly defined and can be applied across a range of different types of care. A 2011 study by the Australian Institute of Family Studies (AIFS) into residential care noted that therapeutic models of care respond to:

...the complex impacts of abuse, neglect and separation from family. This is achieved through the creation of positive, safe, healing relationships and experiences informed by a sound understanding of trauma, damaged attachment, and developmental needs.⁹²

6.89 AIFS noted that because there is no clear definition of therapeutic care, it is difficult to identify how many therapeutic models currently operate around Australia.⁹³ Mr Julian Pocock from Berry Street told the committee:

[T]his tag of therapeutic care and trauma-informed practice, in our view, is being slapped on things right across the out-of-home care system without a sector-wide and a nationally agreed robust framework of: what is therapeutic care and what are the essential elements that make care therapeutic and deliver good outcomes for kids?⁹⁴

6.90 Some jurisdictions have implemented, or plan to implement, therapeutic models across residential care and foster care placements.⁹⁵ Queensland is currently trialling four therapeutic residential care facilities.⁹⁶ Victoria is piloting and

90 See: OzChild, *Submission 19*; Child Wise, *Submission 31*; Salvation Army, *Submission 40*; Commission for Children and Young People, Victoria, *Submission 45*; Baptcare, *Submission 50*; Child and Family Welfare Association of Australia, *Submission 65*; Life Without Barriers, *Submission 68*; MacKillop Family Services, *Submission 70*; Family Inclusion Network, Victoria, *Submission 75*; Berry Street, *Submission 92*; Association of Children's Welfare Agencies, *Submission 94*.

91 Aboriginal Family Law Services, WA, *Submission 46*; NPY Women's Council, *Submission 61*; Northern Territory Council of Social Services, *Submission 72*; Indigenous Issues Committee of the Law Society of NSW, *Submission 73*.

92 Sara McLean, Rhys Price-Robertson & Elly Robinson, 'Therapeutic residential care in Australia: taking stock and looking forward,' *National Child Protection Clearinghouse Issues*, no. 35, 2011, p. 2.

93 McLean, Price-Robertson & Robinson, 'Therapeutic residential care in Australia,' p. 6; Child and Family Welfare Association of Australia, *Submission 65*, p. 4.

94 Mr Julian Pocock, Director, Public Policy, Berry Street, *Committee Hansard*, Melbourne, 20 March 2015, p. 11.

95 See: Department of Health and Human Services, Tasmanian Government, *Submission 1*; ACT Government, *Submission 16*; Queensland Government, *Submission 69*; Victorian Government, *Submission 106*.

96 Queensland Government, *Submission 69*, pp 4-6.

implementing therapeutic models of foster care and residential care.⁹⁷ Under its five year out-of-home care plan, the Victorian Government aims to increase the number of therapeutic residential care places to 140 by the end of 2015, with a long-term view that all residential placements will be therapeutic.⁹⁸ Similarly, as part of its five year out-of-home care strategy, the ACT Government plans to introduce annually reviewed therapeutic assessments and plans for all children upon entering care.⁹⁹

6.91 A range of CSOs, including Berry Street, Bapcare, the Salvation Army and Connections Uniting Care also deliver a range of therapeutic services, from early intervention to residential care.¹⁰⁰ Berry Street submitted children and young people in out-of-home care have a 'right' to therapeutic treatment.¹⁰¹

6.92 However, the committee heard that the majority of children in care do not have access to therapeutic supports. A 2011 study by the Centre for Excellence in Child and Family Welfare estimated that just four per cent of children and young people are placed in an 'articulated and adequately resourced therapeutic framework'.¹⁰² Mr Basil Hanna, Chairman of the Community Sector Roundtable for NGOs and Government in Western Australia, told the committee that although all jurisdictions recognise the importance of therapeutic models, few have been implemented:

We know that providing them with a home and a safe place and love and nurture, for a large majority of these children, is not enough. And we know that is because a trauma from abuse causes impairments of the development pathways of a child's brain. We know the effects of that, and we know what will happen to these children's lives if we leave them untreated. We know that there will be a massive cost to society as they become adults, whether in prisons or in relationships or in mental health, or just the fact that, cognitively, they cannot function as well as other children will function in schooling. Yet when they come into out-of-home care, with all this knowledge that we have, we still have a system that, whilst acknowledging it is an issue, does not really address it.¹⁰³

97 Victorian Government, *Submission 106*, p. 7.

98 Victorian Government, *Out-of-home care: a five year plan*, March 2014, p. 33.

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

100 See: Connections Uniting Care, *Submission 10*; Salvation Army, *Submission 40*; Bapcare, *Submission 50*; Berry Street, *Submission 92*.

101 Berry Street, *Submission 92*, p. 7.

102 Centre of Excellence in Child and Family Welfare (CECFW), 'Their Needs: improving outcomes, options and systems in out-of-home care', *Issues Paper Two – Protecting Victoria's Vulnerable Children Inquiry 2011*, p. 11.

103 Mr Basil Hanna, Chairman, Community Sector Roundtable for NGOs and Government, *Committee Hansard*, Perth, 16 February 2015, p. 17.

6.93 A number of witnesses recommended the establishment of a nationally agreed practice framework for trauma informed therapeutic care to assist governments and service providers in implementing a broader range of therapeutic supports.¹⁰⁴

Relative/kinship care

6.94 As discussed throughout this chapter, the complex needs of children in relative/kinship care placements are often not recognised. As a result, carers are not supported to address the trauma and abuse experienced children in these placements. A number of submissions supported the introduction of a supported model of relative/kinship care that better supports children and carers.¹⁰⁵

6.95 The committee notes there are few best practice models for therapeutic relative/kinship care in Australia or internationally.¹⁰⁶

Foster care

6.96 A number of submissions highlighted the importance of specialist or therapeutic foster care programs to address the needs of children in out-of-home care.¹⁰⁷ The committee heard that all jurisdictions provide both a 'general' and 'specialist' model of foster care, depending on the needs of children.¹⁰⁸ For example, Key Assets provides general and specialised models of care in WA, SA, Queensland and NSW.¹⁰⁹ Key Assets told the committee that its specialist model of care is informed by a therapeutic 'team parenting framework' to stabilise placements for children with complex needs (see Box 6.5).

104 See: Mr Gregory Nicolau, *Committee Hansard*, Canberra, 16 April 2015, p. 27; Mr Julian Pocock, Director, Public Policy, Berry Street, *Committee Hansard*, Melbourne, 20 March 2015, p. 11; Berry Street, *Submission 92*, p. 7.

105 See: University of Melbourne Department of Social Work, Child, Youth and Families Research Cluster, *Submission 66*; AASW, *Submission 18*; OzChild, *Submission 19*, Barnardos, *Submission 20*; Benevolent Society, *Submission 30*; Child Wise, *Submission 31*; Mirabel Foundation, *Submission 36*; Salvation Army, *Submission 40*; Karen Lizasoain, *Submission 48*; Bapcare, *Submission 50*; Wanslea Family Services, *Submission 60*; WACOSS, *Submission 51*.

106 University of Melbourne Department of Social Work, Child, Youth and Families Research Cluster, *Submission 66*, p. 20.

107 See: OzChild, *Submission 19*, p. 7; Ms Sonia Brown, *Submission 38*; Berry Street, *Submission 92*.

108 See: State and territory governments, answers to questions on notice, 30 April 2015 (received May–June 2015).

109 Key Assets, *Submission 88*, p. 5.

Box 6.5 – Best Practice – Key Assets Team Parenting Framework

Team Parenting provides a systemic framework for stabilising foster care placements. The framework consists of four key phases:

Phase 1 – Stabilising the placement within the agency

Phase 2 – Providing appropriate response to the young person's needs

Phase 3 – Modelling appropriate emotional responses

Phase 4 – Building resilience

Key Assets reports that based on evidence from the initial application of the framework in the United Kingdom and Australia, Team Parenting has demonstrated its effectiveness in positively impacting both trauma and attachment related disturbances and the challenges associated with children in foster care placements.

Source: Key Assets, Submission 88, pp 7–10.

6.97 There is no national data on the numbers of children accessing the specialist programs that operate in all Australian jurisdictions.¹¹⁰ The committee notes that there are also no comprehensive examinations of therapeutic foster care across jurisdictions.¹¹¹

6.98 Mr Rob Ryan, State Director for Key Assets in Queensland, told the committee that:

[T]here is no magic bullet in any one location. The key to it is putting the resources in place for all carers...Anyone who is managing and supporting children in care requires wraparound support...¹¹²

6.99 The Victorian Government supports two models of therapeutic foster care: the Take Two program (see Box 6.6) and the Circle Program (see Box 6.7). The committee heard that because of funding restrictions in Victoria, fewer than 10 per cent of children in out-of-home care receive support through the Take Two program, and only seven per cent of children in foster care in Victoria have access to the Circle Program.¹¹³ Berry Street submitted that the Circle Program has not been expanded, despite positive evaluations of the benefits of the program.¹¹⁴

110 Berry Street, *Submission 92, Attachment 1*, p. 11

111 In 2011, the then Queensland Department of Communities undertook a review of specialist foster care models as part of a discussion paper on professional foster care. The review identified examples of 'enhanced' foster care in NSW, Victoria, Queensland, Western Australia and South Australia. See: Queensland Department of Communities, *Specialist Foster Care Review: Enhanced foster care literature review and Australian programs description*, 2011, <https://www.communities.qld.gov.au/resources/childsafety/foster-care/sfc-literature-review-australian-programs-description.pdf> (accessed 27 May 2015).

112 Mr Rob Ryan, State Director, Key Assets, *Committee Hansard*, Brisbane, 17 April 2015, p. 26.

113 Margarita Frederico et. al., *The Circle Program: an Evaluation of a therapeutic approach to Foster Care*, Centre for Excellence in Child and Family Welfare, Melbourne, 2012, p. 14.

114 Berry Street, *Submission 92*, p. 12.

Box 6.6 – Best Practice – Take Two Program – Berry Street

The Take Two program is a developmental therapeutic program for children and young people in the child protection system in Victoria. It has operated since 2004.

The Take Two program is led by Berry Street in partnership with:

- La Trobe University Faculty of Health Science;
- Mindful Centre for Training and Research in Developmental Health; and
- Victorian Aboriginal Child Care Agency (VACCA).

The Take Two program is funded by the Department of Human Services and accredited by the Australian Council on Healthcare Standards until 18 February 2018.

The Take Two program is an intensive therapeutic service for children who have suffered trauma, neglect and disrupted attachment. The program aims to provide high quality therapeutic services for children of all ages and those important in their lives. It also aims to contribute to improving the service system that provides care, support and protection for these children.

In its submission, Berry Street noted 'the impact of the Take Two program and availability of therapeutic care has been profound'. A 2010 review of the Take Two program found it accepted 1063 referrals between January 2004 and June 2007. The highest percentage of children referred were over 12 years old. Aboriginal and Torres Strait Islander children made up 167 (16 per cent) of referrals. The central message of the review was the 'positive and meaningful changes in the lives of children who receive Take Two intervention'.

Berry Street notes limitations on funding mean that less than 10 per cent of children and young people in out-of-home care in Victoria receive support through the Take Two program.

Source: Berry Street, Submission 92, p. 12; 'Therapeutic care', Berry Street, <http://www.berrystreet.org.au/Therapeutic> (accessed 25 June 2015).

Box 6.7 – Best practice – The Circle Program

The Circle Program was introduced by the Victorian Department of Human Services in 2007 within the context of ongoing reform to improve outcomes for children and young people who have experienced abuse and/or neglected and were placed in out-of-home care. 97 placements in The Circle Program are available across Victoria.

The Circle Program has five key program components:

- enhanced training;
- intensive and well-integrated foster care support;
- therapeutic service to family members;
- specialist therapeutic support; and
- support network for the child and young person.

These components surround the child or young person in placement. As the child or young person benefits from these components, so the carer also engages and develops as an informed and confident therapeutic care provider.

The Circle Program is delivered by range of non-government agencies, including MacKillop Family Services, Anglicare Victoria and Salvation Army Westcare. Training for carers and professionals was developed and delivered by Australian Childhood Foundation and Berry Street Take Two.

A 2012 evaluation of The Circle Program by the Centre for Excellence in Child and Family Welfare found there are positive outcomes for children and young people referred to The Circle Program. The findings of the evaluation suggest The Circle Program can achieve excellent early intervention results for children and young people at risk to prevent them from becoming entrenched in the care system and experiencing developmental harm, and can also achieve excellent results where children and young people in out-of-home care experience complex and entrenched difficulties.

The review recommends the Circle Program be expanded to be an option for all children and young people entering foster care.

Source: Margarita Frederico et. al., 'The Circle Program: an Evaluation of a therapeutic approach to Foster Care,' Centre for Excellence in Child and Family Welfare, Melbourne, 2012, pp 7 – 19.

6.100 It was put to the committee that one of the key challenges to implementing therapeutic models of foster care is the high cost involved compared with existing models of care. Mr Rob Ryan from Key Assets told the committee that:

The problem is that economically it is challenging. It is not a cheap exercise to support all children in foster care the way that they should be.¹¹⁵

6.101 However, a number of submitters suggested that although therapeutic care is expensive, it may be more cost effective than placing children in residential care. Mr Ryan told the committee that:

...where you invest money to support families and carers with a wraparound support model you have a better chance of success. The money that we save initially here is a false economy when these kids are churned

115 Mr Rob Ryan, State Director, Key Assets, *Committee Hansard*, Brisbane, 17 April 2015, p. 27.

through the system and end up in residential care costing half a million dollars a year.¹¹⁶

Residential care

6.102 A number of submitters expressed strong support for therapeutic models of residential care, noting the benefits of a therapeutic model in supporting and improving long-term outcomes for children and young people.¹¹⁷ The Salvation Army submitted that 'a comprehensive and therapeutic response is critical to support and improve long term outcomes for children and young people in out of home care'.¹¹⁸ MacKillop Family Services submitted that therapeutic residential care was well-resourced:

...allowing for more innovative and responsive staffing arrangements, higher staffing ratios, better training for staff and carers and access to therapeutic professionals.¹¹⁹

6.103 A number of submitters supported the implementation of nationally consistent therapeutic care models for all residential care facilities.¹²⁰ MacKillop Family Services recommended that 'all residential care should be funded and delivered from a therapeutic perspective' accompanied by increased funding commensurate to delivering enhanced therapeutic services.¹²¹

6.104 The committee heard that Victoria's therapeutic care model offers a good example for other jurisdictions (see Box 6.8). An independent evaluation undertaken by Verso Consulting of Victoria's therapeutic care pilot program found that the model provides better outcomes for children and young people than standard residential care.¹²² Dr Nicholas Halfpenny from MacKillop Family Services told the committee of the benefits of the Victorian model:

For a very long time, residential care has been the end of the line. I think it has been a place where young people who have been too hard to place anywhere else have been and the system has waited for them to turn 18, so they age out of the system. I think that the model in Victoria—therapeutic

116 Mr Rob Ryan, State Director, Key Assets, *Committee Hansard*, Brisbane, 17 April 2015, p. 27.

117 See: Life Without Barriers, *Submission 68*; CFWAA, *Submission 65*; AASW, *Submission 18*; NTCOSS, *Submission 72*; Salvation Army, *Submission 40*, p. 6; Baptcare, *Submission 50*.

118 Salvation Army, *Submission 40*, p. 6.

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

120 See: Salvation Army, *Submission 40*, p. 14.

121 MacKillop Family Services, *Submission 70*, p. 5.

122 Verso Consulting, *Evaluation of the Therapeutic Residential Care Pilot Programs: Final Summary & Technical Report*, 4 November 2011, pp 4 – 5, <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/reports-publications/evaluation-of-the-therapeutic-residential-care-pilot-program> (accessed 10 August 2015).

care model—has been a great development. It has really reanimated residential care as a better care option for young people.¹²³

Box 6.8 – Best practice – Therapeutic Residential Care model, Victoria

In 2007, the Victorian Department of Human Services piloted the therapeutic residential care model. The pilot was extended to 12 sites in 2008 and is delivered by Community Service Organisations (CSOs). Therapeutic residential care provides a therapeutic specialist linked to each home, an increased number of staff, mandatory trauma-informed training, planned care transitions including matching of clients, and provision of a more home-like environment.

An independent evaluation conducted by Verso Consulting in 2011 of Victoria’s therapeutic residential care model found that the model achieved better outcomes than standard residential care. These improved outcomes included:

- improvements in placement stability;
- improvement in quality of relationships and contact with family;
- significant improvement over time in quality of contact with their residential workers;
- increased community connection;
- improvements in sense of self;
- increased healthy lifestyle and reduced risk taking;
- enhanced mental and emotional health;
- improved physical health; and
- improved relationships with school.

The Victorian Auditor-General’s 2014 report into residential care noted 80 placements have been funded under this model. CSOs delivering a therapeutic placement receive a loading of \$74 850 on top of their current funding level. The Commission for Children and Young People noted therapeutic placements accounted for around 17 per cent of residential care placements in Victoria.

Source: Victorian Government, Submission 106, p. 7; Centre for Excellence in Child and Family Welfare, Submission 99, p. 19; CCYPV, Submission 45, pp 17–18.

6.105 Mr Gregory Nicolau, CEO of the Australian Childhood Trauma Group, suggested that the Jasper Mountain Centre in the United States provided the best example of therapeutic residential care in the world (see Box 6.9).¹²⁴ Mr Nicolau explained that, in the Jasper Mountain model:

children are sent away from the home in which they have been abused and live in a large residence on the top of a mountain. It provides an intensive residential treatment program with a therapeutic school; a short-term residential centre; a treatment foster care program; a community based “wraparound” program and crisis response services. The facility offers a

123 Dr Nicholas Halfpenny, Director of Policy and Quality, MacKillop Family Services, *Committee Hansard*, Melbourne, 20 March 2015, p. 8.

124 Mr Gregory Nicolau, CEO, Australian Childhood Trauma Group, *Committee Hansard*, Canberra, 16 April 2015, p. 26.

combination of traditional psychological and psychiatric interventions with innovations in treating abused and emotionally disturbed children.¹²⁵

Box 6.9 – Best practice – Jasper Mountain residential care

Jasper Mountain, established in 1982 and based in Oregon in the United States, provides a continuum of programs that meets the complex needs of children and their families. Jasper Mountain's programs are aimed at children aged 3 to 12 with backgrounds of abuse and neglect.

Programs offered by Jasper Mountain include intensive residential treatment, an integrated therapeutic school, a short-term residential centre, treatment foster care, community based wraparound and crisis response services.

The Stabilisation, Assessment and Family Evaluation (SAFE) Centre provides an alternative to psychiatric hospitalisation. The length of time children stay in the program ranges from 3 to 90 days. Placements are generally supported by child protection and mental health authorities.

An outcome data report by Jasper Mountain on 13 children discharged from the intensive residential treatment program in 2013 indicated:

- most of the problem behaviours children entered the program with were eliminated;
- all children experienced an average 59 per cent improvement in clinical goals and objectives; and
- 75 per cent of children showed an improvement in relationship skills and ability to attach and bond.

Source: Jasper Mountain Centre, <http://www.jaspermountain.org/index.htm> (accessed 27 May 2015).

Committee view

6.106 The committee recognises the potential of therapeutic models of care that address trauma and abuse to improve outcomes for children and young people in out-of-home care. The committee is of the view that therapeutic foster care and residential care models has contributed to better outcomes for children and young people than existing forms of care. However, the committee is concerned these models are undertaken on a relatively small scale and are only available to a small proportion of children and young people.

6.107 Although there is a high cost in the short-term to deliver therapeutic models, the committee considers that it is essential to ensure children and young people receive the support to address trauma and abuse. The committee also recognises the potential long-term benefits for children and young people, and significant cost savings for all levels of government.

6.108 The committee also notes no consistent definition or application of the way 'therapeutic care', as it is currently applied and sees benefit in the development of national standards and guidelines for therapeutic care.

Financial support for home-based carers

6.109 Most financial support for home-based carers is provided by state and territory governments via carer allowances, which differ based on the age of the child

125 Australian Childhood Trauma Group, *Submission 9*, p. [6].

and the assessed complexity of their needs. Direct Commonwealth funding specifically for carers is generally limited to family assistance and income support payments.¹²⁶

6.110 The committee heard that the allowances for home-based carers differ widely across jurisdictions. For example, the 'general' allowance rate for a child aged under five years old in the Northern Territory is \$225 per fortnight, whereas in Queensland, it is \$463 per fortnight.¹²⁷

6.111 Table 6.3 outlines the estimated carer allowances available for relative/kinship and foster carers. As discussed above, while relative/kinship carers are eligible for the same base rate allowances as foster carers, few relative/kinship carers are able to access the additional special needs allowances. This data was only received from some jurisdictions and does not include additional allowances and reimbursements available for specific purposes (for example, school fees, birthday presents, pocket money).

126 The most commonly claimed Commonwealth family assistance and income support payments for which foster carers and relative/kinship carers are eligible include the Foster Child Health Care Card; Double Orphan Pension; Family Tax Benefit; Schoolkids Bonus; Carer Payment; Childcare Benefit; Grandparent Child Care Benefit; Childcare Rebate; Parenting Payment; and Newstart Allowance. See: DSS, *Submission 78*, pp 9–10.

127 See: NT and Queensland Governments, answers to questions on notice, 30 April 2015 (received May-June 2015).

Table 6.4 – Relative/kinship and foster carer allowances

| Jurisdiction | Fortnightly allowance | Additional special needs allowances |
|---------------------|------------------------------|---|
| NSW | \$455 - \$688 | Special needs + 1: \$683 - \$1031 Special needs + 2: \$903 - \$1360 |
| VIC | \$285.50 - \$456.74 | Intensive: \$344.97 - \$851.31 Complex: \$923.12 - \$1,443 |
| QLD | \$463 - \$542 | High support needs: \$162 Complex support needs: \$210 - \$632 |
| WA | \$363.15 - \$492.05 | \$72.63 - \$393.64 |
| TAS | \$383.00 - \$507.00 | Level 1: \$619.50 - \$744.00 Level 2: \$935.50 - \$1060.00 |
| NT | \$225.30 - \$966.60 | Higher rates for children with complex needs Remote area loading for parents in remote locations |

Source: Responses to Questions on Notice, May-June 2015

6.112 A number of submitters recommended that the committee consider 'the role the federal government might play in working with the states and territories to encourage national consistency to home-based care reimbursements.'¹²⁸

Carer qualifications and training

6.113 The committee heard that there is a lack of consistency in qualifications and training for carers in all types of care across jurisdictions.

6.114 All carers are required to complete a range of checks prior to being approved as carers, including 'working with children' checks, administered by state and territory authorities.¹²⁹ Witnesses recommended the introduction of a national working with children check to allow carers to transition more easily between jurisdictions. Mr David Pugh from Anglicare in the Northern Territory told the committee, that in relation to foster carers:

128 See: Ms Maria Scott, General Manager, Bapcare, *Committee Hansard*, Melbourne, 20 March 2015, p. 6; University of Melbourne Department of Social Work, Child, Youth and Families Research Cluster, *Submission 66*, p. 23; OzChild, *Submission 19*, p. 6; CFWAA, *Submission 65*, p. 9.

129 See: State and territory governments, answers to questions on notice, 30 April 2015 (received May–June 2015).

...when we recruit people from other states to come and work with us, it can take up to three months for their working-with-children clearance to be made, even though they have a clearance in another state. That is unnecessary red tape and it is a further barrier to employment.¹³⁰

6.115 Some consistency across jurisdictions has been achieved through the adoption of the *Step by Step* assessment package and the *Shared Families, Shared Lives* training program developed by the Association of Children's Welfare Agencies and the *Our Carers Our Kids* course for carers of Aboriginal and Torres Strait Islander children.¹³¹

6.116 In June 2011, a national program for training foster parents, *Community Services Training Package CHCO8: Foster Care Skill Set*, was developed by the Community Services and Health Industry Skills Council. Completing units in the skill set package may provide credit towards Certificate IV in Child, Youth and Family Intervention, and Certificate III or Certificate IV in Children's Services.¹³² However, submitters highlighted that there are no available data on how many foster parents have participated in or completed this training.¹³³

6.117 There is no equivalent nationally consistent training for relative/kinship carers and workers in residential care facilities. The committee heard that in most jurisdictions, residential care is outsourced to the non-government agencies which are responsible for training carers.¹³⁴

6.118 A number of submitters suggested establishing a national database for authorised carers across different types of care, which would include information on demographics, qualifications and experience.¹³⁵

Role of the non-government sector

6.119 The committee heard the role of NGOs in the delivery and management of out-of-home care services varies widely across jurisdictions. Services may be delivered by CSOs (non-profit societies, associations or clubs established for community service purposes) or NGOs (non-profit non-government agencies).

6.120 Recent state and territory inquiries into child protection systems have suggested that the involvement of NGOs in delivering out-of-home care services may

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

131 University of Melbourne Department of Social Work, Child, Youth and Families Research Cluster, *Submission 66*, p. 17.

132 Training package details: CHCO8 - Community Services Training Package, <https://training.gov.au/Training/Details/CHCO8> (accessed 13 May 2015).

133 Berry Street, *Submission 92, Attachment 1*, p. 16.

134 See: State and territory governments, answers to questions on notice, 30 April 2015 (received May–June 2015).

135 See, for example: Ms Alison Kearns, Expert Witness, Australian Association of Social Workers, *Committee Hansard*, Canberra, 16 April 2015, p. 55.

be beneficial.¹³⁶ Under the *Keep Them Safe* framework, NSW is moving towards using non-government organisations to deliver all out-of-home care services.¹³⁷ The proportion of children in out-of-home care provided by NGOs in NSW increased from 26.1 per cent in 2011-12 to 50.9 per cent in 2013-14. In 2013-14, care arrangements for 2 061 children were transferred to NGOs.¹³⁸

6.121 The committee sought advice from all states and territories on the current role of the non-government sector in delivering out-of-home care services across the relative/kinship, foster and residential care. Table 6.4 outlines the differences between jurisdictions in the way services are delivered, including the number of NGOs accredited/authorised to deliver services.

136 See: Queensland Government, *Taking Responsibility: A roadmap for Queensland Child Protection*, June 2013, p. 192; *Report of the Special Commission of Inquiry into Child Protection Services in NSW: Executive Summary and Recommendations*, November 2008, p. xx.

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

138 NSW Government, answer to question on notice, 30 April 2015 (received 14 May 2015).

Table 6.5 – Role of non-government sector in delivering out-of-home care services across types of care

| Jurisdiction | Foster care | Relative/kinship care | Residential care |
|--------------------|--|-----------------------|--|
| NSW | 14 NGOs (28 NGOs for foster and residential care) | Not available | 18 NGOs accredited (28 NGOs for foster and residential care) |
| Victoria | Not available | | All NGOs (except 2 facilities) |
| Queensland | 22 NGOs Government/CSO co-delivery | | 26 NGOs |
| WA | 11 NGOs Government/ NGO co-delivery | Government only | 12 NGOs Government/ NGO co-delivery |
| SA | NGOs | Government only | Government/NGO co-delivery |
| Tasmania | 3 NGOs | Government only | 3 NGOs – therapeutic 2 NGOs – cottage care 3 NGOs – emergency and respite care |
| Northern Territory | Government only | | Government/ NGO co-delivery 3 NGOs – residential care 4 NGOs – community-base care |

Source: State and territory governments, answers to questions on notice, 30 April 2015 (received May-June 2015).

6.122 The role of government in foster care services delivered by NGOs differs across jurisdictions. For example, in Queensland, the government retains responsibility for approving carers, licensing care services, case management and referring all clients, funding services and monitoring service performance. In NSW, the government is responsible for funding, but most other services are undertaken by NGOs.¹³⁹

6.123 Some jurisdictions, like NSW and Victoria, use a case management model where NGOs provide case management and a range of services for children, young people and their families and carers and other stakeholders. In other jurisdictions, case

139 See: NSW and Queensland Governments, answers to questions on notice, 30 April 2015 (received May-June 2015).

management is the responsibility of government agencies, and NGOs provide support services or case coordination.¹⁴⁰

6.124 The WA Government advised the committee that 35 per cent of children in out-of-home care were supported by CSOs.¹⁴¹ The Western Australian Council of Social Services (WACOSS) noted services delivered by CSOs have 'dropped down to about 10 per cent from about 25 per cent 15 years ago'.¹⁴²

6.125 The committee heard that inconsistencies in the role of NGOs provide challenges for NGOs working across jurisdictions. Life Without Borders submitted that:

[I]f a placement broke down in NSW, Life Without Barriers would be able to continue to support the child or young person following a placement breakdown if an alternative relative/kin option was able to be secured. Under the same scenario in the NT, Life Without Barriers would not normally be able to arrange alternate placements with relative/kin for children and young people as the funding agreement in place is individualised and linked to the placement and not to the child.¹⁴³

6.126 The Alliance for Children at Risk, a representative group of non-government agencies in WA, noted it has developed a set of principles aimed at 'building the capacity of the community sector and also ensuring a better focus on trauma and also strengthening the regulation of the sector'.¹⁴⁴ One of the key principles is to increase the proportion of out-of-home care services delivered by CSOs to 50 per cent.¹⁴⁵

6.127 Some submitters, however, did not support increasing the role of NGOs in delivering out-of-home care services. For example, Mr George Potkonyak, a solicitor with experience of child protection in NSW, submitted that 'private interests will always prevail over the interests of children if the system is in private hands'.¹⁴⁶

6.128 The committee also notes there is no national performance framework for NGOs engaged in out-of-home care services. The National Children's Commissioner, Ms Mitchell, highlighted the positive impact of performance based contracting in the United States in reducing the overall numbers of children in out-of-home care.¹⁴⁷

140 Life Without Barriers, *Submission 68*, p. 6.

141 WA Government, answer to question on notice, 30 April 2015 (received 18 May 2015).

142 Mr Chris Twomey, Director of Policy, WACOSS, *Committee Hansard*, Perth, 16 February 2015, p. 8.

143 Life Without Barriers, *Submission 68*, p. 6.

144 Mr Chris Twomey, Director of Policy, WACOSS, *Committee Hansard*, Perth, 16 February 2015, p. 8.

145 WACOSS, *Submission 51*, p. 4.

146 Mr George Potkonyak, *Submission 27*, p. [7].

147 Ms Megan Mitchell, National Children's Commissioner, *Committee Hansard*, Sydney, 18 February 2015, p. 2.

Committee view

6.129 The committee notes the lack of national consistency across a range of issues related to support for children and carers, including carer allowances, carer qualification and support and the role of NGOs in delivering out-of-home care services. The committee is concerned that these differing approaches may have a negative impact on children and young people placed in care.

6.130 The committee is particularly concerned that there is a wide discrepancy in the amount that home-based carers are reimbursed across jurisdictions. The committee supports increasing the rates of allowances to a nationally consistent amount, commensurate with the actual costs of caring for children.

Chapter 7

Permanent models of care

7.1 The committee also examined alternative long-term placement options available for children and young people in out-of-home care, including:

- permanent care orders;
- other orders that transfer guardianship of the child to the child's carers; and
- adoption.

7.2 As discussed in Chapter 4, long-term stability is a significant factor in determining positive outcomes for children and young people in out-of-home care. The committee heard widespread support for measures to increase stability for children and young people in out-of-home care.

7.3 Particular support was expressed for 'permanency' in out-of-home care placements, particularly for those children unable to return to their families. The committee found multiple definitions of 'permanency', and a range of views on how this could be achieved, including forms of legal permanency.

7.4 This chapter examines the role of permanent care and adoption arrangements within the statutory child protection system. Culturally appropriate permanent care arrangements for Aboriginal and Torres Strait Islander children will be examined in Chapter 8.

Permanent care options

7.5 Although all jurisdictions acknowledged the importance of providing stable out-of-home care placements, the committee heard that approaches to 'permanency' are largely inconsistent. The National Children's Commissioner, Ms Megan Mitchell highlighted that permanency planning models are in the process of development:

I think our care and protection systems have historically been somewhat remiss in looking at the long-term stability and safety of the child. They generally respond to incidents, or they did in the past. I do think the states and territories are trying to amend that and enhance legislation and practice so that there is a focus on a permanent pathway from the beginning. However, that is not as common as it should be.¹

7.6 The concept of 'permanency' in child placements is often conflated with legally permanent arrangements such as guardianship orders or adoption. Recent reforms in NSW, Victoria and the Northern Territory have focussed on improving 'permanency' for children in care through introducing new pathways to legal permanency:

1 Ms Megan Mitchell, National Children's Commissioner, *Committee Hansard*, Sydney, 18 February 2015, pp 2–3.

- NSW – introduced provisions to remove barriers to adoption by carers and the introduction of a new long-term guardianship order;²
- Victoria – introduced timelines to achieve reunification with birth families, after which permanent alternative care options will be sought;³ and
- Northern Territory – introduced a permanent care order that transfers guardianship of children in care to the carer.⁴

7.7 However, a number of witnesses noted that 'permanency' can be achieved through multiple types of care and does not exclusively refer to the removal of children for placement in legally permanent arrangements.⁵ Ms Mitchell explained that:

Generally permanency can be achieved by supporting the birth family to care for the child and provide stability for that child. It can mean a guardianship order. It can mean the supervision of a family in the community for a period of time or it can mean adoption. But basically all the research is very clear that stability and proper attachment to carers in the early years is critically important for a child's positive development.⁶

7.8 Similarly, Ms Noelle Hudson from the CREATE Foundation told the committee that stability and permanency can be achieved in the existing types of out-of-home care:

[S]tability can be achieved by having a minimisation of placements, and it can be achieved by looking at better matching and involving young people in that decision making up-front rather than placing someone very quickly and then discovering afterwards that it is not working out and quickly repeating that cycle over and over again.⁷

2 Ms Maree Walk, Deputy Secretary, Programs and Service Design, NSW Department of Family and Community Services, *Committee Hansard*, Sydney, 18 February 2015, p. 65.

3 Department of Human Services Victoria, 'Changes to child protection law,' <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/changes-to-child-protection-law> (accessed 15 May 2015).

4 Ms Simone Jackson, Executive Director, Out-of-home Care, NT Department of Community and Family, *Committee Hansard*, Darwin, 1 April 2015, p. 9; NT Department of Children and Families, *FAQ Sheet – Permanent Care Order*, <http://www.childrenandfamilies.nt.gov.au/> (accessed 8 April 2015).

5 Ms Judith Wilkinson, Chair of the Children's Youth and Families Agency Association, told the committee: 'permanency can mean permanent return to parent, permanency can mean return to family'. See: Ms Judith Wilkinson, *Committee Hansard*, 16 February 2015, p. 18; Additional Information, Life Without Barriers, received 13 March 2015, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Out_of_home_care/Additional_Documents (accessed 10 August 2015).

6 Ms Megan Mitchell, National Children's Commissioner, *Committee Hansard*, Sydney, 18 February 2015, p. 2.

7 Ms Noelle Hudson, National Policy and Advocacy Manager, CREATE Foundation, *Committee Hansard*, Brisbane, 17 April 2015, p. 19.

Permanency planning

7.9 According to a 2006 study by Professor Clare Tilbury from Griffith University, permanency planning is 'the process of making long-term care arrangements for children with families that offer lifetime relationships and a sense of belonging' and has been a guiding principle in child protection since the mid-1970s. A permanent placement is 'more than a long-term placement; it is a placement that meets a child's social, emotional and physical needs'.⁸

7.10 Planning for a permanent placement may include family reunion and long-term care arrangements. Data collected by the committee from states and territories indicates all jurisdictions attempt reunification of children with their parents as a permanent option. However, this data indicates there is no national consistency in the models used across jurisdictions for permanency planning.⁹

7.11 For example, there is no nationally consistent legislation requiring permanency planning to be considered as soon as a child enters the out-of-home care system. The National Children's Commissioner, Ms Mitchell, advised that legislative changes in the United States which focussed on permanency had contributed to a 30 per cent decline in the number of children in care between 1998 and 2012. Ms Mitchell suggested the focus on permanency creates a 'paradigm shift' in the perception of out-of-home care services:

I think what is interesting about the US experience is they have put in legislation that foster care is a temporary experience and should not happen for more than, say, two years. That does not mean that there are not kids in foster care but they have significantly changed the paradigm such that foster care be seen as a temporary solution while you take the child and put them in a safe situation for a period of time and you work out what is going to be the long-term solution for that child, whether that be going back to their family—and you put the family [on] strict notice that that is what will be happening but you support them to get through whatever it is they are struggling with—or it might be going to another permanent solution either through a guardianship or a kinship arrangement or an adoption arrangement.¹⁰

7.12 Witnesses identified a lack of research into permanency planning in Australia and the effectiveness of individual models.¹¹ A 2013 review of evidence for out-of-home care by the Parenting Research Centre of the University of Melbourne

8 Professor Clare Tilbury & Dr Jennifer Osmond, 'Permanency planning in foster care: a research review and guidelines for practitioners,' *Australian Social Work*, v 59, n 3, 2006, pp 265-280.

9 See: State and territory governments, answers to questions on notice, 30 April 2015 (received May-June 2015).

10 Ms Megan Mitchell, National Children's Commissioner, *Committee Hansard*, Sydney, 18 February 2015, pp 2–3.

11 See: Additional Information, Life Without Barriers, p. 1, received 13 March 2015, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Out_of_home_care/Additional_Documents (accessed 10 August 2015).

noted that there is 'little or no substantial research' on permanency planning in Australia.¹² AIHW submitted that early scoping work has been undertaken to investigate the feasibility of reporting on approaches to permanency across jurisdictions, but that further development is required.¹³

7.13 The committee heard from a number of organisations about different models of permanency planning currently implemented across jurisdictions. For example, concurrent planning is a process of planning for alternative permanent care options practiced by Mackillop Family Services and UnitingCare in Victoria and was suggested as a model that could be implemented across jurisdictions (see Box 7.1).

Box 7.1 – Best practice – Concurrent planning

Concurrent permanency planning is a process of working towards a primary permanent plan, such as family reunification, while developing at least one alternative permanency plan at the same time, such as long-term foster care.

Concurrent planning was first developed as a placement option in North America in the 1970s and is now used as a third stream of out-of-home care (with foster care and kinship care) in several countries worldwide, including the UK.

A 2012 review of the UK Coram Concurrent Planning Program (established in 1999) found despite children carrying multiple serious risks into placements, none of the 28 cases studied had broken down.

Connections Uniting Care and MacKillop Family Services have developed a concurrent care program of integrated carer recruitment, training and support called 'Breaking down the silos'. The program is delivered in Victoria and aims to enhance and expand the existing continuum of care for infants and toddlers under three years old residing in out of home care.

The process combines intensive parental support towards a primary goal of reunification, while also planning for the possibility of the foster placement becoming a permanent care outcome, with the carer being dually trained and accredited for both potential outcomes. The program is aimed at children under 3 years of age who are unlikely to remain in the care of their birth parents and have no suitable relative/kinship placement options.

Source: Connections UnitingCare, Submission 10, pp 8 – 16.

7.14 Some witnesses expressed concern that family reunification attempts may be undermined if not adequately resourced in concurrent planning models. The Women's Legal Service of New South Wales suggested that 'serious consideration' be given to:

...identifying strategies to avoid the risk that concurrent planning may undermine attempts at reunification, particularly if services 'are not adequately resourced to provide comprehensive or intensive services to families'.¹⁴

7.15 Similarly, the Aboriginal Child, Family and Community Care State Secretariat NSW (AbSec) expressed concern that:

12 Parenting Research Centre, *Evidence review: Analysis of the evidence for Out-of-Home Care Final Report*, commissioned by the ACT Community Services Directorate, August 2013, p. 11.

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

14 Women's Legal Service NSW (WLSNSW), *Submission 86*, p. 13.

...restoration measures that apply concurrent planning are properly resourced, to help set up a child's return safely home, as well as ensuring an equitable placement system.¹⁵

7.16 Rather than concurrent planning, Barnardos Australia (Barnardos) recommended that foster care be split into two streams: one for restoration care that undertakes crisis work to reunite children with families through short-term care, and one for long-term care where reunification with families is unlikely. Barnardos delivers two differentiated models of permanency planning aimed at stopping the 'drift of children' through the out-of-home care system. These include:

- Temporary Family Care program, which works intensively with younger children (mainly under 12 years of age) during a crisis to help reunite the child with their parents; and
- Find-a-Family program, which offers permanent family care and adoption to children aged up to 12 years old, and long-term carers for adolescents.¹⁶

Permanent care orders / transfer of guardianship arrangements

7.17 Most jurisdictions have mechanisms to allow long-term carers to assume legal guardianship for children on long-term care and protection orders. These arrangements are generally considered where children are subject to care and protection orders until they are 18 years old, or for those children who have no prospect of reuniting with their families. These arrangements may be called 'permanent care orders' or other guardianship orders. Unlike adoption orders, permanent care orders do not change the legal status of the child, and they expire when the child turns 18 or marries. An application may also be made to revoke or amend these orders.¹⁷

7.18 In most cases, children under 'permanent care orders' or other guardianship orders are no longer supervised by the relevant department. In some cases, carers may still have access to financial and practical supports, subject to their individual circumstances. Table 7.1 outlines the key differences between permanent care orders/transfer of guardianship orders across Victoria, New South Wales, Queensland and the Northern Territory.¹⁸

15 AbSec, *Submission 97*, p. 28.

16 Barnardos, *Submission 20*, 'Promoting restoration of children to their families,' p. 5.

17 AIHW, *Adoptions Australia 2013-14*, pp 45–46.

18 See also: Centre for Excellence in Child and Family Welfare, 'Children Youth and Families (Permanent Care and Other Matters),' Fact Sheet, 14 August 2014, <http://www.cfecfw.asn.au/know/publications/fact-sheets> (accessed 12 August 2015); Department of Health and Human Services, Tasmania, 'Transfer of Guardianship', http://www.dhhs.tas.gov.au/children/adoption/permanency_services/transfer_of_guardianship (accessed 12 August 2015); NT Department of Children and Families, 'FAQ Sheet – Permanent Care Order', <http://www.childrenandfamilies.nt.gov.au/> (accessed 12 August 2015); WA Department of Child Protection, 'Special Guardianship Orders', <https://www.dcp.wa.gov.au/> (accessed 12 August 2015); Families SA, 'Other Person Guardianship Fact Sheet', <http://www.decd.sa.gov.au/docs/documents/1/OPCFactsheet1.pdf> (accessed 12 August 2015).

Table 7.1 – Permanent care arrangements across selected jurisdictions

| Jurisdiction | Type of order | Legal requirements | Available supports | Statistics |
|---------------------|------------------------------|---|--|--|
| New South Wales | Permanent care order | Report on steps taken to support reunification Consultation with child (where over 12 years) Compliance with Aboriginal Child Placement Principle | Ongoing financial supports available (carer payment) | Orders for 2 000 children granted since introduction in October 2014 |
| Victoria | Permanent care order | Stability and cultural plan prepared Report on steps taken to support reunification Compliance with Aboriginal Child Placement Principle Recommendation from Aboriginal agency | Ongoing financial supports available (where recommended) | 2013-14: 302 orders granted Since 1992: 3 686 orders granted |
| Queensland | Long-term guardianship order | Significant work undertaken to support reunification Meets child's emotional security and stability needs | No ongoing financial supports (carer payments cease) | 2013-14: 1 380 children on long-term guardianship order |
| Tasmania | Long-term guardianship order | Recommendation from department | Ongoing financial supports available (carer payments) | Over 200 guardianship transfers |
| Northern Territory | Permanent care order | Order considered the best means of safeguarding the wellbeing of the child | One-off \$5000 payment (carer payments cease) | No data available. |
| Western Australia | Special guardianship order | Carer demonstrated suitability Compliance with Aboriginal Child Placement Principle and Culturally and Linguistically Diverse Placement Guidelines | Ongoing financial supports available (where recommended) | 2013-14: 69 orders |
| South Australia | Other person guardianship | Carer demonstrated suitability Compliance with Aboriginal Child Placement Principle | Ongoing financially supports available (where recommended) | 2013-14: 111 orders |

Source: State and territory governments, answers to questions on notice, 30 April 2015 (received May–June 2015).

National consistency of permanent care arrangements

7.19 The requirements for legal permanent care arrangements and supports available to carers vary across jurisdictions, particularly with regard to ongoing financial supports.

7.20 A number of submitters expressed concern that reforms aimed at permanency would disproportionately affect Aboriginal and Torres Strait Islander families. Ms Laura Vines from the Aboriginal Family Violence Prevention Legal Service (FVPLS) in Victoria, told the committee recent changes to time limits for family reunification in Victoria:

...will disproportionately impact Aboriginal children and families, who are statistically more likely to experience complex trauma, such as family violence, that cannot be quickly resolved according to an abbreviated time line. In addition, we are concerned that these legislative changes will damage the care, cultural connection and wellbeing of Aboriginal children by significantly reducing departmental accountability towards Aboriginal children in care.¹⁹

7.21 The NSW peak body for Aboriginal and Torres Strait Islander communities, AbSec, expressed concern about the lack of supports and services available for children placed in legally permanent arrangements:

The more services and supports that are withdrawn, such as assistance with maintaining contact, cultural support, recreational activities or other supports that help keep children and young people on track and connected, the more risk of placement breakdown, mainly due to pressures on children, their families and on carers.²⁰

7.22 In particular, the committee heard concerns about the impact of the new permanent care orders in the Northern Territory on Aboriginal and Torres Strait Islander communities. Unlike the NSW and Victorian orders, the NT does not require compliance with the Aboriginal Child Placement Principle or consultation with Aboriginal child care agencies, and carers are not able to access ongoing financial support.²¹

7.23 The North Australian Aboriginal Justice Agency (NAAJA) and Northern Territory Legal Aid Commission (NTLAC) provided the committee with their joint submission to the Northern Territory Government on its permanent care legislation.

19 Ms Laura Vines, Senior Policy Officer, Aboriginal FVPLS, *Committee Hansard*, Brisbane, 17 April 2015, p. 45.

20 AbSec, *Submission 97*, pp 7–8.

21 See: Mr Jared Sharp, Law and Justice Projects Manager, North Australian Aboriginal Justice Agency (NAAJA), *Committee Hansard*, Darwin, 2 April 2015, p. 24; Ms Sandra Nelson, Executive Officer, Katherine Women's Information and Legal Service (KWILS), *Committee Hansard*, Darwin, 2 April 2015, p. 13; Ms Wendy Morton, Executive Director, NTCOSS, *Committee Hansard*, Darwin, 2 April 2015, p. 6; Ms Sally Bolton, Acting Manager, Family Law Section, Northern Territory Legal Aid Commission (NTLAC), *Committee Hansard*, Darwin, 2 April 2015, p. 21.

The submission contained concerns that the legislation did not have sufficient safeguards to ensure that permanent care orders are made only as a last resort and Aboriginal children are able to maintain their connection with family and culture.²² Representatives from NAAJA and NTLAC told the committee these concerns and recommendations were not considered in the final legislation.²³

7.24 It was put to the committee that permanent care orders can be granted without consultation with the child's family or community. Mr Paddy Gibson from the Jumbunna Indigenous House of Learning told the committee that:

there is no obligation on the department to actually serve papers on the family. All they will need to do is send papers to the last known address of the parents that are there. So people's children could be being completely severed from them legally and they do not even know the matter is on in court, let alone have representation.²⁴

7.25 At the committee's Darwin hearing, the NT Department of Children and Families (DCF) confirmed there was no requirement for non-Aboriginal carers to ensure that Aboriginal and Torres Strait Islander children in their care maintain contact with their family:

When a permanent care order is evoked, formalised and completed, the holder of the permanent care order is the parent—I need to say that very clearly—so they will make the determinations about whether there is contact. They are the parent; they get to make those decisions.²⁵

Adoption

7.26 One of the most contentious permanent care options examined by the committee was adoption. The committee heard both support and opposition to encouraging adoption as an option for children in out-of-home care.

7.27 AIHW defines adoption as:

[A] legal process where rights and responsibilities are transferred from a child's parent(s) to their adoptive parent(s). When an adoption order is granted, the legal relationship between the child and their parent(s) is severed. The legal rights of the adopted child become the same as they would be if the child had been born to the adoptive parent(s).²⁶

22 See: NAAJA and NTLAC, *Joint Submission – Care and Protection of Children Amendment Bill 2014*, 2014, pp 13 – 14, <http://www.naaja.org.au/wp-content/uploads/2014/05/Care-of-Children-and-Protection-Act-12-2-15.pdf> (accessed 6 July 2015).

23 See: Mr Jared Sharp, NAAJA and Ms Sally Bolton, NTLAC, *Committee Hansard*, Darwin, 2 April 2015, p. 22.

24 Mr Padraic Gibson, Senior Researcher, Jumbunna Indigenous House of Learning Research Unit, University of Technology Sydney, *Committee Hansard*, Sydney, 18 February 2015, p. 23.

25 Ms Simone Jackson, Executive Director, Out-of-Home Care, DCF, *Committee Hansard*, Darwin, 1 April 2015, p. 9.

26 AIHW, *Adoptions Australia, 2013–14*, p. 1.

7.28 The committee recognises the complex history of adoption in Australia, particularly past practices of forced removal of children for adoption highlighted in the committee's 2012 report on the *Commonwealth Contribution to Former Forced Adoption Policies and Practices*. The committee acknowledges the trauma and pain that past forced adoption policies and practices caused to thousands of Australians.²⁷

7.29 The committee particularly recognises the impact of adoption on the Stolen Generations of Aboriginal and Torres Strait Islander people. The committee acknowledges the conclusions of the 1997 *Bringing Them Home* report that: 'adoption is contrary to Aboriginal custom and inter-racial adoption is known to be contrary to the best interests of Aboriginal children in the great majority of cases'.²⁸

7.30 A number of submitters noted the devastating effect that adoption and forced removals have had on Aboriginal and Torres Strait Islander communities.²⁹ The Secretariat of National Aboriginal and Islander Child Care (SNAICC) noted in its submission:

...for reasons detailed by the *Bringing them home* report, adoption is not an appropriate consideration for our children. In line with the intent and processes set out by the Aboriginal and Torres Strait Islander Child Placement Principle, placements and permanency options must support the maintenance of safe connections to family, community and culture for our children, and should only be considered with careful consultation with appropriate Aboriginal and Torres Strait Islander community representatives.³⁰

7.31 Barnardos, one of the strongest advocates for adoption of children from care, told the committee that it did not support the formal adoption of Aboriginal children:

We have had experience in that area, and we are persuaded by our Aboriginal colleagues about the devastation that many people experienced in [sic] by being alienated from their culture. At the present time that is certainly our opinion. We subscribe to this. This is what our colleagues want.³¹

27 See: Senate Community Affairs References Committee, *Commonwealth Contribution to Former Forced Adoption Policies and Practices*, 29 February 2012, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Completed_inquiries/2010-13/commcontribformerforcedadoption/index (accessed 6 August 2015).

28 Human Rights and Equal Opportunity Commission, *Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families*, 1997, Chapter 22.

29 See: Dr Virginia Marshall, Committee Member and Acting Chair, Indigenous Issues Committee, Law Society of New South Wales, *Committee Hansard*, Sydney, 18 February 2015, p. 21

30 SNAICC, *Submission 93*, pp 6–7.

31 Mrs Louise Voight, CEO and Director of Welfare, Barnardos Australia, *Committee Hansard*, Sydney, 18 February 2015, p. 60.

7.32 More culturally appropriate forms of permanent care for Aboriginal and Torres Strait Islander children and young people are discussed in Chapter 8.

Definition of adoption

7.33 The key difference between adoption and guardianship is the severing of legal rights between the child and parents. Ms Louise Voight from Barnardos told the committee that adoption is more than just a care arrangement:

[A]doption alters identity for life. It is not a way of caring for children during childhood. One of our judges here said it very well when the argument was whether the carers who were in front of him should actually have a guardianship order rather than an adoption order. He said, 'We are who society thinks we are,' and it is important later when you apply for your driving licence, when you get married. It is not a gesture in childhood, and I think that really needs to be thought about.³²

7.34 Unlike past practices, all jurisdictions now facilitate 'open adoptions' whereby children may maintain contact with parents; however, the degree to which this occurs varies across the jurisdictions.³³ According to AIHW, since 1998 the proportion of local adoptions where birth families and adoptive families have agreed to allow some form of contact or information exchange has generally been above 80 per cent.³⁴

Key statistics

7.35 In 2013–14, out of a total of 317 adoptions (including intercountry adoptions), 89 adoptions were by known carers, such as foster carers. The number of known carer adoptions has fluctuated since 1999 and has steadily increased over the past decade. In 2013–14, the number of known carer adoptions was the highest on record.³⁵ Figure 7.1 outlines the rising number of known carer adoptions in Australia since 1999.

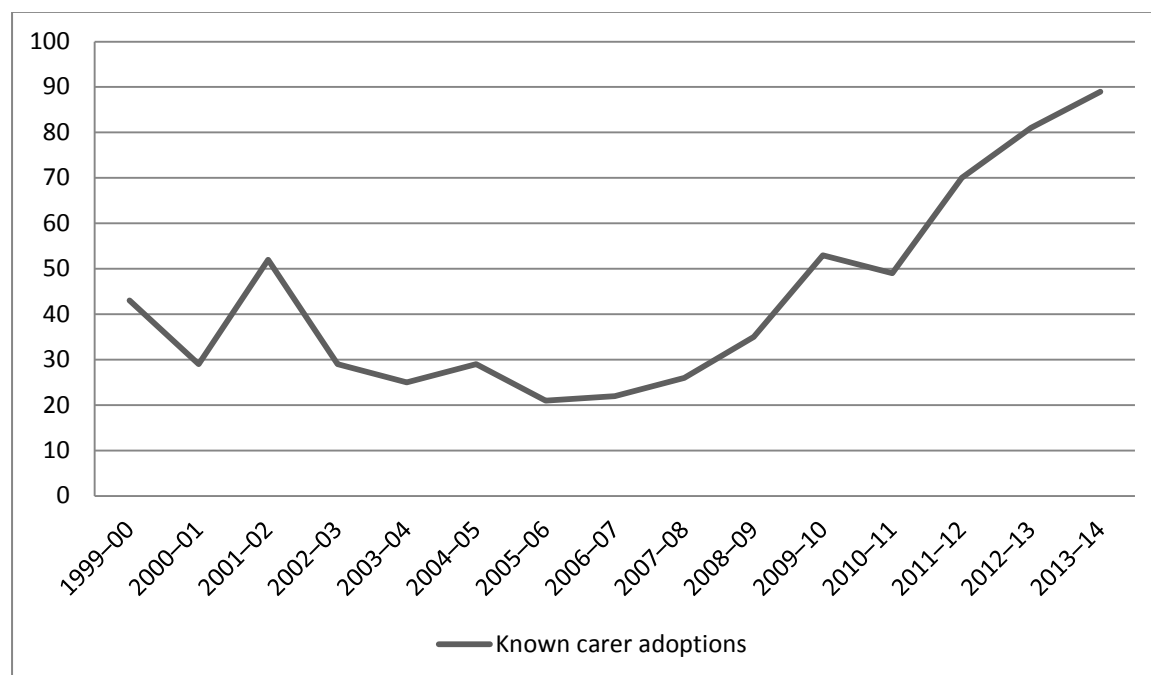
32 Ms Louise Voight, CEO and Director of Welfare, Barnardos Australia, *Committee Hansard*, Sydney, 18 February 2015, p. 54.

33 AIHW, *Adoptions Australia 2013–14*, p. 1.

34 AIHW, *Adoptions Australia 2013–14*, p. 25.

35 AIHW, *Adoptions Australia 2013–14*, Table A22.

Figure 7.1 – Number of known carer adoptions across jurisdictions 1999-2000 to 2013-14



Source: AIHW, *Adoptions Australia 2013/14*, Table A22.

7.36 According to AIHW, children adopted by known carers are generally older than five years, with a large proportion aged more than 10 years. In 2013–14, 47.2 per cent of known carer adoptions were of children aged between five and nine years old, and 41.6 per cent of children older than 10 years.³⁶

7.37 AIHW reports that the number of Aboriginal and Torres Strait Islander children adopted each year is small. There have been 49 adoptions of Aboriginal and Torres Strait Islander children in Australia since 2003–04. In 2013–14, seven Aboriginal or Torres Strait Islander children were adopted. All these adoptions were known child adoptions by adoptive parents who were either non-Indigenous or whose Indigenous status was unknown.³⁷

National consistency

7.38 In 2013-14, almost all known carer adoptions (84 of 89) were finalised in NSW. This follows legislative changes as part of the Safe Home for Life reforms that considers adoption as an option for children in out-of-home care when they enter care.³⁸

36 AIHW, *Adoptions Australia 2013–14*, Table A23.

37 AIHW, *Adoptions Australia 2013–14*, p. 45.

38 See: NSW Government, *A Safe Home for Life: Report on the outcomes of public consultation on the child protection legislative reforms discussion paper 2012*, p. 7.

7.39 The NSW Government's *A Safe Home for Life* consultation paper found widespread support for greater stability for children, but that there was significant debate about the place of adoption. The report noted that:

Young people interviewed as part of the consultation process (who had had experience of OOHC [out-of-home care] but not adoption) indicated that they preferred the option of adoption over long-term foster care. However, many private individuals and community members opposed adoption in any form given the destructive consequences of the Stolen Generation and past forced adoption policies and practices.³⁹

7.40 Ms Maree Walk from the NSW Department of Families and Communities told the committee that many of these concerns were based on the views of adults, rather than a consideration of the needs of children:

[S]ome of our professional workers tend to be more focused on the adults around the issue of adoption than possibly focused on the children. And that is understandable given our history in Australia around adoption. It will take some time. Particularly for very young children—children under five or under three—it is about their long-term needs.⁴⁰

7.41 Most jurisdictions emphasise keeping children with families where possible and do not prioritise adoption; however, the committee heard several jurisdictions were considering reviewing their approach to adoption. Mr Tony Harrison, Chief Executive Officer of the South Australian Department of Education told the committee that adoption is 'very topical in our state at the moment'. South Australia has commenced a review of its Adoption Act (expected to report in the second half of 2015) and the current state-based royal commission is also investigating adoption as an option for children in out-of-home care.⁴¹

7.42 The place of adoption in South Australia was also raised by the SA Coroner's April 2015 report into the death of Chloe Valentine, a four-year-old child who died as a result of injuries caused by being forced by her parents to repeatedly ride a motorbike in 2012. The Coroner, Mr Mark Johns, recommended significant changes to the child protection system in South Australia to protect children from abuse and neglect, including removing barriers to adoption for children in care.⁴² The SA Coroner's recommendation drew on a report by Dr Jeremy Sammut from the Centre

39 NSW Government, *A Safe Home for Life*, p. 11.

40 Ms Maree Walk, Deputy Secretary, Programs and Service Design, NSW Department of Family and Community Services, *Committee Hansard*, Sydney, 18 February 2015, p. 66.

41 Mr Etienne Scheepers, Deputy Chief Executive, Child Safety, Department for Education and Child Development South Australia, *Committee Hansard*, Canberra, 16 April 2015, p. 65.

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

for Independent Studies (CIS) that argues for early statutory intervention and permanent removal by means of adoption by suitable families.⁴³

7.43 In Queensland, Mr Matthew Lupi, Executive Director of the Department of Communities, Child Safety and Disability Services told the committee:

[W]e have the mechanisms to consider adoption and pathways to consider adoption, and we are implementing practice improvements to try to overcome any practice or ideological barriers that might be in place to routinely considering it as a permanency option.⁴⁴

7.44 Mr Tony Kemp, Deputy Secretary for the Department of Health and Human Services in Tasmania, highlighted the need for approaches to adoption to be discussed at the national level:

[T]he issue is about whether adoption becomes a part of the child protection response. We [Department of Health and Human Service] do have an adoption department here and we recently adopted a child from care, but that does not happen very often...We are certainly keen to have a much larger conversation at both the Commonwealth level and the state level about the role of adoption in the child protection system.⁴⁵

Adoption and out-of-home care

7.45 While most submitters agreed that adoption should have a place in the continuum of care, the committee heard a range of views on what emphasis should be placed on adoption and whether it should be prioritised over other forms of care, including early intervention.⁴⁶ The National Children's Commissioner, Ms Mitchell, suggested open adoption practices could encourage a more positive assessment of the role of adoption:

[A]doption has had a chequered history and press in the Australian context. We have in the past closed adoption. I think the advent of open adoptions—where people know who their parents [are] and still have connection if they want to with their family—actually provides another opportunity to think about adoption in a more positive way. It really is case by case.⁴⁷

43 See: Johns, 'Inquest into the death of Chloe Lee Valentine,' p. 114; Dr Jeremy Sammut, 'Still Damaging and Disturbing: Australian Child Protection Data and the Need for National Adoption Targets,' *Centre for Independent Studies Issues Analysis*, no. 145, 16 April 2014, <http://www.cis.org.au/publications/issue-analysis/article/5140-still-damaging-and-disturbing-australian-child-protection-data-and-the-need-for-national-adoption-targets> (accessed 10 August 2015).

44 Mr Matthew Lupi, Executive Director, Child and Family Services, Department of Communities, Child Safety and Disability Services, *Committee Hansard*, Brisbane, 17 April 2015, p. 64.

45 Mr Tony Kemp, Deputy Secretary, Children and Youth Services, Department of Health and Human Services, Tasmania, *Committee Hansard*, Brisbane, 17 April 2015, p. 69.

46 Mr Paul McDonald, Anglicare Victoria, *Committee Hansard*, Melbourne, 20 March 2015, p. 29

47 Ms Megan Mitchell, National Children's Commissioner, *Committee Hansard*, Sydney, 18 February 2015, p. 3.

7.46 Ms Mitchell suggested in circumstances where the best interests of the child would be served, adoptions should be made 'easier'.⁴⁸

7.47 Barnardos, one of the largest care providers in NSW, recommended that the adoption legislation in NSW should be implemented throughout Australia, with open adoptions considered for all children committed to care until 18 years of age. Barnardos argued 'children's wellbeing is not served well by staying in long-term foster care because of the inherent instability of the system'.⁴⁹

7.48 Barnardos told the committee that it has organised around 250 adoptions in NSW and supports the stability adoption gives to children.⁵⁰ Ms Louise Voight from Barnardos told the committee that although adoption may not be suitable for all children, it should be considered as an option.⁵¹

7.49 However, most submitters and witnesses gave more cautious support to adoption where it was in the child's best interest and considered as part of a suite of options.⁵² Mr Tony Kemp, Deputy Secretary from the Tasmanian Department of Health and Human Services, told the committee:

...adoption has a role to play in the suite of opportunities and options we have. But we need to make sure that we do not fall into the same traps that our predecessors have done, which is that it is all-in or nothing. It has to be seen as part of a continuum and not seen as a standalone facility for a cohort of care givers who have other issues that they need to resolve.⁵³

7.50 The CREATE Foundation submitted that it was important to consider the views of children and young people themselves in any decision about adoption, noting that permanency can be achieved through existing types of care:

[P]ermanency and living in a family environment will contribute to children and young people being happy and maximising their life outcomes. This type of stability is possible within the current kinship and foster care systems and it is not essential for states and territories to prioritise adoption over foster care. The circumstances of all children and young people in care are different and decisions about placement should aim for stability but must be made on a case-by-case basis, taking into account the views of

48 Ms Megan Mitchell, *Committee Hansard*, Sydney, 18 February 2015, p. 3.

49 Barnardos Australia, *Submission 20*, p. 4.

50 Ms Louise Voight, CEO and Director of Welfare, Barnardos Australia, *Committee Hansard*, Sydney, 18 February 2015, p. 54.

51 Ms Louise Voight, *Committee Hansard*, Sydney, 18 February 2015, p. 54.

52 See, for example: Mr Michael Geaney, Alliance for Children at Risk, *Committee Hansard*, Perth, 16 February 2015, p. 18; Ms Meredith McLaine, Shoalcoast Community Legal Centre, *Community Affairs*, Sydney, 18 February 2015, p. 9; Ms Toni Beauchamp, UnitingCare Children, Young People and Families, *Committee Hansard*, Sydney, 18 February 2015, p. 44.

53 Mr Tony Kemp, Deputy Secretary, Children and Youth Services, Department of Health and Human Services, Tasmania, *Committee Hansard*, Brisbane, 17 April 2015, p. 70.

children and young people themselves and having regard to best practice principles to support all of the people involved in the adoption.⁵⁴

7.51 Ms Noelle Hudson from the CREATE Foundation also argued that children and young people should be involved in the decision making process about adoption and other permanent care arrangements:

[W]e need to allow that flexibility to meet the wishes and desires of children and young people in care. So, if someone is very willing and has a family arrangement and a care arrangement that is working out really well, then, yes, that should happen. But it should always involve the young person's decision.⁵⁵

7.52 The committee heard concerns about adoption being singled out as a cost-effective means to reducing the numbers of children in care. Ms Mary McKinnon from Life Without Barriers told the committee that:

[W]e have to keep engaging with the complexity of the situation from the drivers in the community through poverty and all of that and look for a breadth of response across the continuum from community development in impoverished communities, placement prevention, improving the system and better adoption. I think they all have to be on the table. I think the danger is to select one.⁵⁶

7.53 Mr Michael Geaney, from the Alliance for Children at Risk in Western Australia, echoed concerns that adoption may be preferred as the 'cheaper' option for governments:

The big fear...is that, because there are fiscal challenges in the system, the adoption process is an easy way. 'Yep! 12 months and we're out of this'—flick. It is off the books. The risk in that is that it is hidden and then the cost goes somewhere else and so do all of the issues that are not going to be resolved. There is plenty of evidence that adoption is not always a successful strategy. I agree that there needs to be caution around this approach. It is certainly not 'no' but rather to explore it and to make sure that it is there for the right reasons—that is, in the child's best interests.⁵⁷

7.54 A number of witnesses raised concerns about adoption being considered as an alternative to other forms of existing care. Ms Judith Wilkinson, Chair of the Children's Youth and Families Agency Association and State Manager for Key Assets in WA, told the committee that they:

54 CREATE Foundation, *Submission 96*, p. 25.

55 Ms Noelle Hudson, National Policy and Advocacy Manager, CREATE Foundation, *Committee Hansard*, Brisbane, 17 April 2015, p. 19.

56 Ms Mary McKinnon, National Director of Practice and Quality, Life Without Barriers, *Committee Hansard*, Sydney, 18 February 2015, p. 55.

57 Mr Michael Geaney, Chair, Alliance for Children at Risk, *Committee Hansard*, Perth, 16 February 2015, p. 17.

...we agree that there has to be permanency planning and that we have to do it a lot better in this state. There has to be certainty for children. There has to be the stopping of drifting in care. The solution to that is not to jump straight into adoption. The solution starts way back with preventing children coming into care in the first place and then properly assessing their needs when they do come in and putting them in the right place.⁵⁸

7.55 The committee heard particular concerns about the conflation of the concept of permanency with legal adoption. Life Without Barriers advised that there is little evidence to suggest that the legal permanence created by adoption was a significant factor in achieving actual permanence and stability for the vast majority of children in out-of-home care.⁵⁹ Life Without Barriers argued that:

we should focus on the needs of individual children and young people in care and whether or not adoption, from a suite of alternatives, should be considered. We consider that adoption is only likely to be suitable for a small number of children relative to the overall numbers of children in out of home care in Australia.⁶⁰

7.56 Similarly, Ms Jessica Cocks of Family Inclusion Strategies Hunter (FISH) told the committee that permanency depends on non-legal factors such as 'the age of the child at adoption, the number of siblings in the family and the needs of the child' more so than legal arrangements:

[W]e need to be really careful to distinguish between legal permanence and actual permanence...adoptions do not necessarily equate to permanence and that the factors that do lead to permanence are those that are not necessarily legal.⁶¹

7.57 As noted earlier, the committee heard concerns that families who adopt children from care would no longer have access to ongoing financial supports.⁶² Research from the US and UK provided to the committee by the Tasmanian Department of Health and Human Services highlighted that permanence and stability in adoption arrangements depend on the ongoing supports provided to carers. A 2009 UK study of 130 children recommended for adoption found that 38 per cent of children failed to achieve a stable adoption. The study concluded that support services

58 Mr Judith Wilkinson, State Director, Key Assets WA, *Committee Hansard*, Perth, 16 February 2015, p. 18.

59 Additional Information, Life Without Barriers, received 13 March 2015, p. 3, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Out_of_home_care/Additional_Documents (accessed 18 August 2015).

60 Additional Information, Life Without Barriers, received 13 March 2015, p. 7, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Out_of_home_care/Additional_Documents (accessed 18 August 2015).

61 Ms Jessica Cocks, Convenor, Family Inclusion Strategies Hunter (FISH), *Committee Hansard*, Sydney, 18 February 2015, p. 10.

62 See: Ms Karen Lizasoain, *Submission 48*, p. 1; Mr Gregory Nicolau, *Committee Hansard*, Canberra, 16 April 2015, p. 28.

for adoptive families to address the 'complex legacy of deprivation and abuse' must be acknowledged and adequately resourced.⁶³ Similarly, a 2015 study into outcomes for children adopted in the US highlighted the need to 'tailor post-adoption services to specific types of adoptive families which are at high risk for re-involvement in the child welfare system' to improve outcomes for adopted children.⁶⁴

Committee view

7.58 As discussed in Chapter 4, the committee recognises the importance of permanency and stability in facilitating good outcomes for children and young people in out-of-home care. The committee notes that there is a lack of national data on permanency planning and permanent care placements for children in out-of-home care.

7.59 The committee acknowledges the importance of a nationally consistent approach to permanency planning across jurisdictions, including consideration of different models that aim to improve stability for children and young people in out-of-home care. However, the committee is concerned that the National Standards do not include a measure to indicate how permanency planning is applied across jurisdictions.

7.60 The committee recognises that 'permanency' can be achieved through a range of different placement options, including stable relative/kinship or foster care. In some cases, the committee acknowledges that legally permanent placement options, including guardianship orders and adoption, may be appropriate placement options for children and young people in long-term out-of-home care placements. However, the committee notes that there is little evidence to suggest legally permanent forms of care are effective in reducing the number of children and young people in out-of-home care, and that the focus for child protection authorities should remain on supporting families.

7.61 The committee is concerned that in some jurisdictions, children and carers in adoption and guardianship order arrangements do not receive the same level of financial and practical support as those in foster care and relative/kinship care placements. If these placement options are to be utilised more often, more resources need to be made available to ensure children and carers continue to be supported.

7.62 The committee is also concerned about the lack of national consistency on how and when permanent care orders may be made, particularly for Aboriginal and

63 C.A. Rees and J. Selwyn, Non-infant adoption from care: lessons for safeguarding children, *Child: care, health and development*, vol. 35, no. 4, 2009, pp 561–567. See: Additional Information, DHHS Tasmania, received 1 May 2015, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Out_of_home_care/Additional_Documents (accessed 18 August 2015).

64 Rebecca Orsi, 'Predicting re-involvement for children adopted out of a public child welfare system,' *Child Abuse & Neglect*, n 39, 2015, p. 183. See: Additional Information, DHHS Tasmania, received 1 May 2015, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Out_of_home_care/Additional_Documents (accessed 18 August 2015).

Torres Strait Islander children maintaining contact with family. The committee notes there is a wide discrepancy in the factors that must be taken into account when making these orders across jurisdictions.

Chapter 8

Aboriginal and Torres Strait Islander communities

8.1 As noted in Chapter 3, the overrepresentation of Aboriginal and Torres Strait Islander children in care is largely due to factors related to social disadvantage, compounded by the intergenerational trauma of past practices of child removal.

8.2 To address these complex issues, the committee heard strong support for solutions that engage and empower Aboriginal and Torres Strait Islander communities to provide support for children and families across the continuum of care.¹ The National Children's Commissioner, Ms Megan Mitchell, suggested engaging with Aboriginal and Torres Strait Islander communities is central to improving outcomes for children:

That includes things like improving the number of Aboriginal people that are in the child-protection and home-care workforce so that you can have effective engagement with families so that they become part of the solution and so that they are driving and owning the problem and the solution. If we keep disempowering these communities and families, we will just create more of the same intergenerational disadvantage.²

8.3 This chapter examines existing supports for Aboriginal and Torres Strait Islander families to maintain links to kin, culture and country, and identifies opportunities to empower Aboriginal and Torres Strait Islander communities to improve outcomes for children in out-of-home care.

Supporting Aboriginal and Torres Strait Islander families

8.4 Across jurisdictions, evidence to the committee from a range of Aboriginal and Torres Strait Islander organisations and individuals highlighted the importance of connection to family, community and culture to the wellbeing of Aboriginal and Torres Strait Islander children.³ The national peak body for Aboriginal and Torres

1 See: Healing Foundation, *Submission 7*; Aboriginal Family Violence Prevention and Legal Service (FVPLS) Victoria, *Submission 24*; National Family Violence Prevention Legal Services Forum (NFVPLS), *Submission 29*; Aboriginal Family Law Services WA (AFLSWA), *Submission 46*; Western Australian Council of Social Service (WACOSS), *Submission 51*; Ngaanyatjarra Pitjantjatjara Yankunytjatjara (NPY) Women's Council, *Submission 61*; Grandmothers Against Removals (GMAR), *Submission 64*; Northern Territory Council of Social Service (NTCOSS), *Submission 72*; Indigenous Issues Committee of the Law Society of NSW, *Submission 73*; Secretariat of National Aboriginal and Islander Child Care (SNAICC), *Submission 93*, pp 2–3.

2 Ms Megan Mitchell, National Children's Commissioner, *Committee Hansard*, Sydney, 18 February 2015, pp 5–6.

3 See: SNAICC, *Submission 93*; AbSec, *Submission 97*; NPY Women's Council, *Submission 61*; Grandmothers Against Removal, *Submission 64*; Jumbunna Indigenous House of Learning, University of Technology Sydney (Jumbunna), *Submission 79*.

Strait Islander communities, the Secretariat of National Aboriginal and Islander Child Care (SNAICC) submitted that:

For Aboriginal and Torres Strait Islander children who are placed in out of home care outside of their families and communities, efforts to support and maintain connections are especially vital to their ongoing wellbeing and safety.⁴

8.5 A number of witnesses highlighted the importance of connection to family and culture for the wellbeing of all Aboriginal and Torres Strait Islander communities. Ms Wendy Hermeston from the NSW Aboriginal Child, Family and Community State Secretariat (AbSec) told the committee:

The biggest thing—just as much for me back then as for a seven-year-old child in care now—is to be able to walk down the street and when someone sees you and says 'Hey sis' or 'Hey cuz', you know who they are and how you are connected to them. That gives a sense of belonging that no education, no upbringing—not even with a stable non-Aboriginal people, no matter how encouraging they have been to you—can give you. It helps you to become a whole person.⁵

8.6 However, the committee heard concerns that existing Commonwealth, state and territory frameworks do not support Aboriginal and Torres Strait Islander children to maintain strong links to their families and communities.⁶ Mr Frank Hytten, CEO of SNAICC, told the committee there is need for increased support for Aboriginal and Torres Strait Islander children and families across a continuum of care, including:

far more investment in prevention; far more investment in working with families so families are supported before children are removed, while children are being removed, after they have been removed and until they are reunified and after they are reunified.⁷

Cultural competence

8.7 The committee heard one of the key barriers to providing appropriate cultural support is a lack of 'cultural competence' within child protection authorities about Aboriginal and Torres Strait Islander family, culture and traditions.⁸ Ms Eileen Cummings, Chair of the Northern Territory Stolen Generation Aboriginal Corporation told the committee of the importance of valuing these systems:

Children have always been loved and respected and nurtured and taught in the Aboriginal way. It is important that these values and systems are encouraged and that Aboriginal people are empowered to ensure the

4 SNAICC, *Submission 93*, p. 15.

5 Ms Wendy Hermeston, Adviser, Aboriginal Child, Family and Community State Secretariat (AbSec) NSW, *Committee Hansard*, Sydney, 18 February 2015, p. 21.

6 See: SNAICC, *Submission 93*, p. 5; AbSec, *Submission 97*, p. 24.

7 Mr Frank Hytten, CEO, SNAICC, *Committee Hansard*, Melbourne, 20 March 2015, p. 43.

8 See, for example: NPY Women's Council, *Submission 61*; NTCOSS, *Submission 72*; SNAICC, *Submission 93*.

systems are once again taught to their children to bring back pride and dignity to the Aboriginal people and communities. Too often the focus is wholly on the negative, not the positive, of Aboriginal child rearing and the Aboriginal practices which give young people their identity, their values, their role and their purpose in life.⁹

8.8 A number of witnesses highlighted that in some cases child protection authorities and workers do not understand how Aboriginal families function, particularly the extended family network. Ms Hermeston from AbSec told the committee at its Sydney hearing:

A fundamental part of the problem is that there are people in the system who have never met any Aboriginal people in their life. So when they walk into a house and see some kids running through the house, and people going to the cupboard and that sort of thing, they see that as chaos. They do not see that as a caring Aboriginal family. That is normal—sharing and lots of people around. That is what I missed out on. Yes, there are a lot of problems. But it is very hard to describe that to a non-Aboriginal worker who walks into a house for the first time and is making decisions about whether it is safe for an Aboriginal child to stay in that environment.¹⁰

8.9 The committee heard this lack of understanding may result in child protection workers making assumptions that may result in the child entering care. Ms Hannah Stanley from the Ngaanyatjarra Pitjantjatjara Yankunytjatjara (NPY) Women's Council noted:

There are cultural strengths that exist in communities which sometimes maybe are not taken into account. Workers, without a lot of experience or cultural competency training, potentially are making decisions for families that do not go in their interest and do not recognise their strengths and potentially do not engage all of the supports and things required before a child is taken into care.¹¹

8.10 These assumptions may impact on decisions about whether children are determined to be 'neglected'. As discussed in Chapter 3, 'neglect' is the key reason Aboriginal and Torres Strait Islander children are placed on care and protection orders. Ms Janette Kennedy from the Commission for Children and Young People Victoria (CCYPV) shared one example where children were removed due to a lack of understanding about the communal nature of Aboriginal families:

...a community was very distressed that children were taken away after a child protection visit around neglect. The worker visited and had a look in the cupboards and there was no food, and there was no food in the fridge, and, of course, the children were neglected!...The worker was without the

9 Ms Eileen Cummings, Chair, Northern Territory Stolen Generation Aboriginal Corporation, *Committee Hansard*, Darwin, 2 April 2015, p. 28.

10 Ms Wendy Hermeston, AbSec, *Committee Hansard*, Sydney, 18 February 2015, p. 21.

11 Ms Hannah Stanley, Child Advocacy Officer, NPY Women's Council, *Committee Hansard*, Darwin, 1 April 2015, p. 15.

thought, understanding and knowing that everyone eats [at] Auntie Elsie's place and that no-one else needs to have the food in the house because they live as a communal family.¹²

8.11 Due to this lack of understanding, a number of witnesses suggested child protection systems inadvertently disadvantage and discriminate against Aboriginal and Torres Strait Islander families. Mr Paddy Gibson from the Jumbunna Indigenous House of Learning at the University of Technology Sydney (Jumbunna) told the committee this discrimination is closely linked to past practices of child removal:

When you look inside the departments and how they operate, I would argue that there is a discrimination that is actually built into the child protection system and the way that it operates. It is something that has developed historically. These whole apparatuses have developed through the Aboriginal child welfare board and those sorts of things. They have never been systematically reformed. They are discriminatory. The attitudes that are held by a lot of the caseworkers that are going out there are discriminatory attitudes.¹³

8.12 Jumbunna submitted several case studies of Aboriginal families whose children were placed in care in the Northern Territory. In one example, a grandmother suggested child protection workers may not understand Aboriginal cultural practices:

They say I don't supervise the kids properly, but they don't understand that we are always making sure the kids are safe. They say family members coming to stay makes the house 'chaotic' and means the children have 'no routine'.

But this contact with my extended family is very important for the kids. They love their family and are always very happy to see them. Being raised with the extended family is important for their identity...¹⁴

8.13 A number of witnesses expressed concern about the level of cultural competency within child protection departments making decisions about Aboriginal and Torres Strait Islander children. Mr Craig Ardler from the South Coast Aboriginal Medical Corporation expressed concern:

...about the perceptions held by those who go and carry out those acts of removing the children. It could be simple things...Kids could be have good nutrition, be well-schooled, there might be a drug problem or something like that with one of the two parents, so is it necessary that the kids be so suddenly and dramatically removed like they are? It is highly questionable.

12 Ms Janette Kennedy, Aboriginal Strategy and Policy, Commission for Children and Young People Victoria (CCYPV), *Committee Hansard*, Melbourne, 20 March 2015, p. 63.

13 Mr Padraic Gibson, Senior Researcher, Jumbunna Indigenous House of Learning Research Unit, University of Technology Sydney, *Committee Hansard*, Sydney, 18 February 2015, p. 31.

14 Jumbunna Indigenous House of Learning, University of Technology Sydney, *Submission 79*, p. [5].

Even though workers within departments get cultural awareness training, I think it needs to be more in depth that.¹⁵

8.14 The committee heard in some jurisdictions cultural care is not at the centre of decision making processes about Aboriginal and Torres Strait Islander children. Mr Neil Anderson, from the Aboriginal Legal Service of Western Australia noted child protection authorities are unable to:

...adequately understand and cater for Aboriginal people and the subtleties of their traditions, culture, customs and practices and to place proper cultural understanding at the centre of all their dealings with Aboriginal families rather than it being an additional consideration which we too often find is the case.¹⁶

8.15 The committee heard that assumptions may have a detrimental effect on the ability of Aboriginal and Torres Strait Islander families to support their children. Ms Dana Clarke, Chairperson of AbSec, told the committee:

...there is often a sweeping brush put across assessment of families and assessment of grandmothers as being capable of caring for their grandchildren. Whether you want to class it as racist or whether we are deemed as not being capable of looking after our own children—and I am really not sure what that is—but in findings recently we have been able to identify that this is a problem.¹⁷

8.16 To address issues of cultural competence, all jurisdictions employ Aboriginal and Torres Strait Islander liaison officers or cultural workers. The committee sought advice from all jurisdictions on the number of Aboriginal and Torres Strait Islander workers in out-of-home care. NSW and Queensland jurisdictions provided the total proportion of Aboriginal and Torres Strait Islander workers in the relevant department (4.5 per cent in NSW and 3.26 per cent in Queensland).¹⁸ In Western Australia, nine per cent of staff in service delivery (including out-of-home care) identified as Aboriginal or Torres Strait Islander. In South Australia, of the 100 Aboriginal and Torres Strait Islander staff in the relevant department, 18 provided out-of-home care services.¹⁹

15 Mr Craig Ardler, CEO, South Coast Medical Service Aboriginal Corporation, *Committee Hansard*, Canberra, 16 April 2015, p. 37.

16 Mr Neil Anderson, Managing Solicitor, Family Law Unit, Aboriginal Legal Service of Western Australia (ALSWA), *Committee Hansard*, Perth, 16 February 2015, p. 36.

17 Ms Dana Clarke, Chairperson, AbSec, *Committee Hansard*, Sydney, 18 February 2015, p. 19.

18 See: NSW Department of Family and Community Services, *Annual Report 2013–14*, vol. 1, pp 52–53; Queensland Government, answer to question on notice, 30 April 2015 (received 19 May 2015), p. 7.

19 See: WA Government, answer to questions on notice, 30 April 2015 (received 18 May 2015), p. [6]; SA Government, answer to questions on notice, 30 April 2015 (received 18 May 2015), p. 5.

8.17 The Northern Territory had the highest proportion of Aboriginal and Torres Strait Islander workers in out-of-home care (22.4 per cent or 22 workers).²⁰ Ms Simone Jackson, Executive Director of the NT Department of Children and Families' out-of-home care division, told the committee while the proportion of Aboriginal workers is 'not huge', the NT is 'quite well placed' compared with other jurisdictions to assist Aboriginal and Torres Strait Islander communities.²¹ Ms Jackson noted there is a particular need to provide support for Aboriginal child protection workers:

It is difficult...for an Aboriginal person to provide advice, particularly if they are related, if they are from the community. That is a difficulty. We have to shape up this work and manage this work and support this individual to have that separation, to have an ability to give frank and fearless advice so that we make terrific decisions for children versus a personal impact that can, on occasion, happen for them.²²

8.18 However, a number of witnesses suggested there are not enough Aboriginal and Torres Strait Islander workers to meet demand, especially in the Northern Territory where Aboriginal and Torres Strait Islander children make up 85 per cent of children in out-of-home care.²³ Ms Melissa Kean from the NPY Women's Council told the committee 'we are not seeing enough Aboriginal people in a decision-making capacity'.²⁴ Similarly, Ms Sandra Nelson from the Katherine Women's Information and Legal Service (KWILS) asserted there were not enough Aboriginal and Torres Strait Islander workers, especially in regional centres like Katherine.²⁵

Another 'Stolen Generation'

8.19 As discussed in Chapter 3, a number of submissions noted the significant impact of intergenerational trauma on Aboriginal and Torres Strait Islander communities as a result of past practices of child removal. The committee heard from a number of Aboriginal and Torres Strait Islander mothers and grandmothers who were removed as children and were now seeing their children and grandchildren placed in care.²⁶

20 NT Government, answer to questions on notice, 30 April 2015 (received 19 June 2015), p. 3.

21 Ms Simone Jackson, Executive Director, Out-of-Home Care, NT Department of Children and Families (DCF), *Committee Hansard*, Darwin, 1 April 2015, p. 10.

22 Ms Simone Jackson, NT DCF, *Committee Hansard*, Darwin, 1 April 2015, p. 10.

23 See: Ms Regina Bennett, Manager, Darwin Aboriginal and Islander Women's Shelter Incorporated, *Committee Hansard*, Darwin, 2 April 2015, p. 28.

24 Ms Melissa Kean, NPY Women's Council, *Committee Hansard*, Darwin, 1 April 2015, p. 15.

25 Ms Sandra Nelson, Katherine Women's Information and Legal Service, *Committee Hansard*, Darwin, 2 April 2015, p. 22.

26 See: Ms Wightman, Grandmothers Against Removals, *Committee Hansard*, Sydney, 18 February 2015, p. 17; Aunty Suzanne Blacklock, Chairperson, Winangay Resources, *Committee Hansard*, Sydney, 18 February 2015, p. 18.

8.20 Some witnesses suggested that the current practices that have resulted in an overrepresentation of Aboriginal and Torres Strait children in care risks creating another 'Stolen Generation'.²⁷ Ms Regina Bennett, Manager of the Darwin Aboriginal and Islander Women's Shelter, told the committee:

We need to be very careful about the same practices happening to the children in home care today versus what happened with the stolen generation. Therefore, it is imperative that Aboriginal families then have more say of what happens to the children.²⁸

8.21 Mr Paddy Gibson from the Jumbunna House of Indigenous Learning suggested another Stolen Generation was not just a risk, but a reality:

We are not at risk of a new stolen generation. I have heard this is what has been said. We are at risk. If the numbers keep going up, we are at risk. We have one, mate. There are thousands of Aboriginal kids out there who have been taken from their families—forcibly—when there was absolutely no need for them to have been taken from their families. They have been forcibly separated from their Aboriginal culture. They are losing their language, and it is because of the punitive and discriminatory attitude taken by these departments.²⁹

8.22 The committee notes these arguments highlight the importance of ensuring Aboriginal and Torres Strait Islander communities are engaged and supported in the development of out-of-home care policies and practices.

Support for children

8.23 As identified in Chapter 4, children and young people in care require a range of supports to address trauma and abuse. For Aboriginal and Torres Strait Islander children, the committee heard there is an additional need for cultural support and trauma counselling to assist in maintaining links to their family and culture.³⁰

8.24 Most jurisdictions have legislative or policy requirements to prepare cultural care plans for Aboriginal and Torres Strait Islander children to ensure they maintain close links to their families and communities. For example, the Victorian Government recently amended legislation to require that all Aboriginal children have cultural support plans.³¹ Ms Clarke from AbSec told the committee that effective cultural care

27 See: Ms Eileen Cummings, Chair, Northern Territory Stolen Generation Aboriginal Corporation, *Committee Hansard*, Darwin, 2 April 2015, p. 29.

28 Ms Regina Bennett, Manager, Darwin Aboriginal and Islander Women's Shelter, *Committee Hansard*, Darwin, 2 April 2015, p. 28.

29 Mr Paddy Gibson, Jumbunna Indigenous House of Learning, *Committee Hansard*, Sydney, 18 February 2015, p. 23.

30 See, for example: FVPLS Victoria, *Submission 24*, p. 8; University of Melbourne Department of Social Work, Child, Youth and Families Research Cluster, *Submission 66*, p. 22; AbSec, *Submission 97*, p. 27.

31 Prior to the legislation change in Victoria, cultural support plans were only required for Aboriginal children on guardianship orders. See: Ms Janette Kennedy, Commission for Children and Young People Victoria, *Committee Hansard*, Melbourne, 20 March 2015, p. 49.

plans can have a positive impact on the wellbeing of Aboriginal and Torres Strait Islander children:

If those really strong cultural care plans can identify every family member in that child's life, they can stop in the tracks the placement of children into the out-of-home care sector. Suitable family members can be identified and, until such time as the parents can have their children back in their care, they are still staying on their community, are still staying in their belonging place and are still staying with their families.³²

8.25 However, the committee heard cultural care plans are often 'vague and meaningless' and provide only superficial plans for maintaining connection to family and culture.³³ Ms Janette Kennedy told the committee that a recent review of cultural support plans in Victoria by the Commission for Children and Young People's Taskforce 1000 project found that most 'lacked integrity':

Certainly there were some that were okay and exceptional. You could see in the task force where that was strong, the connection was strong and children's outcomes were good. What we found was that the plans focused on things like cultural events, cultural days and genealogy and had very little focus on relationships, which is really what mattered in the plan for the child. They also were very much the same, a little bit cut-and-paste style across, so a plan for a three-month-old child and a plan for a 13-year-old child looked the same. You would ask, developmentally, how that was okay, let alone culturally.³⁴

8.26 Similarly, a 2009 audit of 194 cases by the Family Violence Prevention Legal Service in Victoria found that only 15 children (eight per cent) had a cultural plan in place.³⁵ Ms Kennedy emphasised that for cultural support plans to be effective 'real effort needs to be placed into relationship building'.³⁶

8.27 Submitters and witnesses suggested there was limited cultural support for Aboriginal and Torres Strait Islander children in care across jurisdictions. In the Northern Territory, Mr Jared Sharpe from the North Australia Aboriginal Justice Agency (NAAJA) told the committee:

...there are few instances of children remaining truly connected to their families once they are placed in a foster care placement. More often we see families becoming frustrated, with DCF advising families that they do not have the resources to arrange access. In particular this is where families are

32 Ms Dana Clarke, Chairperson, AbSec, *Committee Hansard*, Sydney, 18 February 2015, p. 20

33 See: Mr Neil Anderson, ALSWA, *Committee Hansard*, Perth, 16 February 2015, p. 36.

34 Ms Janette Kennedy, Commission for Children and Young People Victoria (CCYPV), *Committee Hansard*, Melbourne, 20 March 2015, p. 49.

35 FVPLS Victoria, *Submission 24*, p. 9.

36 Ms Janette Kennedy, CCYPV, *Committee Hansard*, Melbourne, 20 March 2015, p. 65.

in a separate location and have to travel a considerable distance to see their children.³⁷

8.28 It was put to the committee that there is little continuity of care for Aboriginal and Torres Strait Islander children who enter the child protection system. Mr Frank Hytten from SNAICC told the committee:

At the moment the system chops and changes with support. It comes in, removes kids, the support dies away and the family is left with further grieving and further business—if you like, sorry business—to do. Then when something else happens the department reintervenes, does something else and then disappears again. There is no continuity of care.³⁸

8.29 A number of submitters recommended strengthening existing provisions for Aboriginal and Torres Strait Islander children and young people to ensure they are provided with appropriate cultural support while in care.³⁹ The National Family Violence Prevention Legal Services submitted that:

Some legislative and procedural provisions specific to the best interests of Aboriginal and Torres Strait Islander children are in place, yet require strengthening. In addition, the National Forum is aware that the implementation of existing measures is not occurring as it should, and that mechanisms for accountability also require strengthening and more consistent application.⁴⁰

Support for families

Early intervention and prevention

8.30 The committee heard the lack of support available to vulnerable families to address the root causes of social disadvantage identified in Chapter 5 is particularly acute for Aboriginal and Torres Strait Islander communities. The Healing Foundation's 2013 discussion paper, *Our Children Our Dreaming*, argued that failure to invest in prevention and early intervention services results in more children and families unnecessarily entering the child protection system.⁴¹ The discussion paper highlights that:

...the safety and wellbeing of Aboriginal children cannot be achieved without addressing the broader issues of disadvantage. Whilst statutory child protection services can ameliorate the impact of disadvantage, they cannot address its causes.⁴²

37 Mr Jared Sharp, Law and Justice Projects Manager, NAAJA, *Committee Hansard*, Darwin, 2 April 2015, p. 19.

38 Mr Frank Hytten, CEO, SNAICC, *Committee Hansard*, Melbourne, 20 March 2015, p. 43.

39 See: FVPLS Victoria, *Submission 24*, p. 9.

40 NFVPLS, *Submission 29*, p 13.

41 Healing Foundation, 'Our Children Our Dreaming: a call for a more just approach for Aboriginal and Torres Strait Islander children and families,' *Submission 7, Attachment 1*, p. 3.

42 'Our Children Our Dreaming', *Submission 7, Attachment 1*, p. 4.

8.31 A number of submitters and witnesses suggested existing child protection frameworks do not provide adequate support for Aboriginal and Torres Strait Islander families prior to the removal of children for placement in out-of-home care.⁴³ Ms Patricia Murray, CEO of Wanslea Family Services, told the committee at its Perth hearing:

...there has to be a stronger focus on early intervention at both the secondary and the tertiary ends—in particular, addressing drug and alcohol, family and domestic violence, and poverty and homelessness issues, because they are the reasons that children come into care, whether they be Aboriginal or non-Aboriginal.⁴⁴

8.32 In Western Australia, the Aboriginal Legal Service (WA) submitted that the application of the department's risk management framework for assessing child protection notifications (known as 'Signs of Safety'), 'is not always conducive to maximising child safety and/or enabling Aboriginal children to remain with their family' and instead:

...in some instances the primary focus is to ensure that the affected adult members of the family understand the reasons for state intervention rather than focussing on what is required to enable the child to remain or return to the family home.⁴⁵

8.33 The committee heard the lack of support services to address underlying social issues is the key reason children are being assessed as neglected. Mr Michael Geaney, Chair of the Alliance for Children at Risk in WA told the committee:

...they [Aboriginal communities] are telling us very, very strongly that drugs and alcohol, particularly hard drugs, are a significant problem that they have no control over. So the issue for them is that they are now finding that they do not have the influence that they wish—and we are talking to elders—around their own families to influence what is going on in their own families. There are just no processes in place that touch that and provide attention to that issue. That is one of the biggest reasons that children in the Aboriginal community are being assessed as being neglected and needing to come into care and as being at risk, so it is a really serious problem.⁴⁶

8.34 Under the Second Action Plan of the *National Framework for Protecting Australia's Children 2009-2020* (National Framework), all projects are required to focus on the needs of Aboriginal and Torres Strait Islander children and their families. The Department of Social Services (DSS) noted in its submission it is currently

43 See, for example: Mr Chris Twomey, WACOSS, *Committee Hansard*, Perth, 16 February 2015, p. 9; Broadway Glebe Catholic Social Justice, *Submission 57*; SNAICC, *Submission 93*.

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

45 ALSWA, *Submission 25*, p. 8.

46 Mr Michael Geaney, Chair, Alliance for Children at Risk, *Committee Hansard*, Perth 16 February 2015, p. 15.

working with the Department of the Prime Minister and Cabinet (PM&C) and SNAICC to develop a 'roadmap' identifying priorities for government and non-government organisations to improve the safety and wellbeing for Aboriginal and Torres Strait Islander children and families.⁴⁷

8.35 However, while the National Framework recognises the need for Aboriginal and Torres Strait Islander children to be supported and safe in their families and communities, DSS noted it does not currently fund any Aboriginal and Torres Strait Islander specific family support programs.⁴⁸

8.36 As identified in Chapter 3, evidence to the committee suggested improving family violence support services for Aboriginal and Torres Strait Islander families. The committee heard from a number of family violence legal services that assist women affected by family violence to find housing, provide legal representation and other essential services.⁴⁹ The National Family Violence Prevention Legal Services (NFVPLS) recommended:

Supporting the legal and non-legal needs of victims/survivors of family violence and other activities that assist in addressing family violence are essential precursors to reducing the over-representation of Aboriginal and Torres Strait Islander children in the child protection system.⁵⁰

8.37 Throughout its inquiry, the committee identified few best practice examples of family support services aimed specifically at Aboriginal and Torres Strait Islander communities.⁵¹ In the Northern Territory, DSS provides funding for Intensive Family Support Services, as part of an integrated package supporting Child Protection Income Management.⁵²

8.38 However, the committee heard concerns that other family support services in the NT have recently been defunded by DSS, including the Pandanus program (an antenatal care program for vulnerable young Aboriginal women at risk of homelessness or of their children entering out-of-home care), and a number of other

47 DSS, *Submission 78*, p. 13.

48 DSS, *Submission 78*, p. 13. DSS notes Aboriginal and Torres Strait Islander families are able to access a range of other services provided by DSS (outlined in Chapter 5).

49 See: FVPLS Victoria, *Submission 24*, NFVPLS, *Submission 29*.

50 NFVPLS, *Submission 29*, p. 8.

51 As discussed in Chapter 5, the Cradle to Kinder program in Victoria has a specific stream for Aboriginal and Torres Strait Islander families, but currently only supports a small number of families (see Chapter 5, Box 5.2).

52 DSS, *Submission 78*, p. 13.

antenatal programs due to changes in DSS funding for early childhood development.⁵³ Mr David Pugh, CEO of Anglicare NT, told the committee the Pandanus program:

...has been incredibly successful at supporting young mums to connect to each other to do parenting programs, antenatal classes et cetera and to parent confidently.⁵⁴

8.39 In Queensland, a pilot is currently underway of the Australian Nurse-Family Partnership, an antenatal program aimed at Aboriginal and Torres Strait Islander families (see Box 8.1). The committee notes while it is too early to judge the effectiveness of this program in preventing children entering out-of-home care, evaluations of overseas models indicate the program may assist in reducing family violence.⁵⁵

53 Mr David Pugh, CEO, Anglicare NT, *Committee Hansard*, Darwin, 2 April 2015, p. 4. Recent changes to the DSS grants funding process is currently the subject of another inquiry by this Committee. See: Senate Community Affairs References Committee, *Impact on service quality, efficiency and sustainability of recent Commonwealth community service tendering processes by the Department of Social Services*, www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Grants (accessed 11 August 2015).

54 Mr David Pugh, *Committee Hansard*, Darwin, 2 April 2015, p. 4.

55 Ms Karen Harmon, Abt JTA, *Committee Hansard*, Brisbane, 17 April 2015, p. 49.

Box 8.1 – Best practice – Australian Nurse-Family Partnership Program

The Australian Nurse-Family Partnership Program (ANFPP) is a nurse home-visiting program for Aboriginal families funded by the Department of Health and delivered by Aboriginal community controlled health services with support provided by Abt JTA. The program provides home visits by registered nurses and midwives to first-time mothers of Aboriginal and Torres Strait Islander children, beginning during their pregnancy up to the child's second birthday.

The ANFPP is based on the US Nurse-Family Partnership model developed by Professor David Olds at the University of Colorado. The program has been rolled out in 48 US states as well as the UK; two provinces in Canada; the Netherlands; and is about to be implemented in Norway and Bulgaria.

The Australian model has been adapted to meet the needs of Aboriginal and Torres Strait Islander children and has three key goals:

- to improve pregnancy outcomes by promoting health related behaviours;
- to improve child health development and safety by promoting competent caregiving; and
- to enhance parent life course development by promoting pregnancy planning, educational achievement and employment

The program commenced in 2009 across three test sites in Victoria, the Northern Territory and Far North Queensland. As part of the Closing the Gap initiative, the Commonwealth has committed to extending the total number of sites to 13. While it is still too early to adequately judge the efficacy of the Australian pilot programs, early indications are that overall health outcomes for families are improving, including reductions in smoking and preterm births and increases in breastfeeding and immunisations.

Ms Karen Harmon from Abt JTA, which supports delivery of the ANFPP, noted a recent randomised controlled trial in the Netherlands found the model is effective in reducing intimate partner violence during pregnancy and in the two years after the birth of the child. A 15-year follow-up study of the first randomised controlled trial of the US model demonstrated that prenatal and early childhood home visits by nurses reduced serious antisocial behaviour in young people, including running away from home, fewer arrests and convictions and reduced smoking and alcohol consumption.

Source: Ms Karen Harmon, Abt JTA, Committee Hansard, Brisbane, 17 April 2015, pp 49–51.

Support while in care

8.40 As discussed in Chapter 5, once children are placed in care, there is limited support available to families to assist in regaining parental responsibility. The committee heard this lack of support particularly affects Aboriginal and Torres Strait Islander communities. Aunty Suzanne Blacklock, whose grandchildren were removed and placed in out-of-home care, told the committee:

When they take the children off the parents, there is no support there for the parents—nothing whatsoever. They are not offered support when they try to talk to the department. Of course the parents are going to be abusive—they are going to go off their heads because their child has been taken. All the department does is run out and put an AVO [Apprehended Violence Order]

out on them saying 'you're bad'. Where is the support? They should be supporting the parents.⁵⁶

8.41 The 'shifting goalposts' for families in care, as discussed in Chapter 5, have a particular impact on Aboriginal and Torres Strait Islander families. Ms Wendy Hermeston from AbSec told the committee for Aboriginal families, the child protection system is:

a system that is made up of goalposts that keep moving. Nobody knows what to do. Really take that point: there is nobody there for parents ... It is symptomatic of a system that is not child-centred and is not about children's rights; it is about a bureaucracy and a justification for a bureaucracy.⁵⁷

8.42 Ms Mary Cowley, CEO of the Aboriginal Family Law Service (WA), noted the importance of supporting the family not just the child:

We can protect the child, but we can actually protect the family too. That is what we need to be looking at. We need to be looking at both parameters and not just dealing with the child. We can do both and we can do it quite comfortably by having some understanding of the cultural environment and that kinship system within the Indigenous community.⁵⁸

8.43 The committee recognises a number of community groups have been established in response to the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care. In NSW, Grandmothers Against Removal (GMAR), was established in 2012 to advocate for greater support for Aboriginal and Torres Strait Islander children and their families, including grandparents.⁵⁹ Similarly, the Brisbane Sovereign Grannies Group represents Aboriginal grandparents and advocates for greater support for children to be cared for within their families, rather than the out-of-home care system.⁶⁰

8.44 Ms Suellyn Tighe from GMAR told the committee at its Sydney hearing GMAR recommended a 'national reunification program' to bring Aboriginal children in the out-of-home care system back to their families:

The priority should be that the maintenance of the family, whoever or however, should be the first priority. Basically, we demand that: we cease all removals; we cease all mandatory reporting, because they are based on hearsay; a burden of proof is put forward to Family and Community Services, as they need to prove the allegations that they are making; the national reunification program, which is a strategy and a program to bring

56 Aunty Suzanne Blacklock, *Committee Hansard*, Sydney, 18 February 2015, p. 26.

57 Ms Wendy Hermeston, AbSec, *Committee Hansard*, 18 February 2015, Sydney, p. 26.

58 Ms Mary Cowley, CEO, AFLSWA, *Committee Hansard*, Perth, 16 February 2015, p. 39.

59 See: Grandmothers Against Removals, *Submission 64*.

60 See: Ms Karen Fusi, Ms Toni McPherson, Mr Sonny Williams and Mrs Cephia Williams, Brisbane Sovereign Grannies Group, *Committee Hansard*, Brisbane, 17 April 2015, p. 33.

Aboriginal kids who are in the system now back into their families and communities, happens sooner rather than later.⁶¹

8.45 In particular, GMAR advocates for greater consultation with families on decisions about Aboriginal and Torres Strait Islander children:

we are saying that when the removal is imminent, or looks about to happen, they need to then consult with the family first and then the community as to where there is an appropriate place for these children to be placed within family and within community. If that happens, there is no need for the court system to flow on from that. But it is about supporting the families. It is about recognising that a family is in crisis and you do not just drag them through the court system and then leave them to linger with no support mechanism there to support the parents, the broader extended family and the community.⁶²

8.46 The committee heard the NPY Women's Council has established a pilot advocacy program aimed at assisting families with children in care (see Box 8.2). Ms Hannah Stanley, who runs the pilot advocacy service, told the committee:

there are so many occasions where families just really do not know why or cannot understand all of the reasons for which children have been removed or are at risk of being removed. A lot of my role is also in ensuring that they have access to legal provisions and supporting them to attend meetings. I have spoken to people countless times after meetings with child protection where they really cannot articulate what the outcomes were or what was expected. I see the role as valuable for families but, to be honest, the feedback from child protection staff has been really great as well. They can see the value of having someone that has a bit more autonomy and flexibility to work with clients outside of their commitments to help them get that legal advice and understand the requirements to work through the processes of reunification to support that reunification, if it occurs and, if it cannot, then supporting and identifying kin carers.⁶³

61 Ms Suellyn Tighe, GMAR, *Committee Hansard*, Sydney, 18 February 2015, p. 30.

62 Ms Suellyn Tighe, GMAR, *Committee Hansard*, Sydney, 18 February 2015, p. 30.

63 Ms Hannah Stanley, NPY Women's Council, *Committee Hansard*, Darwin, 1 April 2015, p. 21.

Box 8.2 – Best practice – NPY Women's Council Advocacy Service

In 2014, the NPY Women's Council began a pilot child advocacy service. Over seven months, the service has worked with 18 families across the central Australian region.

The program advocates for:

- access to be prioritised;
- assists families to negotiate the CP system;
- supports referrals to other services; and
- assists with the identification of kinship carers.

So far the service has conducted two kinship care assessments on behalf of the NT Government, assisted with the reunification of three children with their mothers, and assisted with the transition of two children from foster care to kinship care.

The NPY Women's Council noted, without this program 'it is unlikely these children would have been reunified, or that assessment tasks for kinship carers would have been completed in a timely fashion'.

Source: NPY Women's Council, Submission 61, pp 13–14.

8.47 For children already been placed in care, a number of submitters suggested providing contact and reunification support for Aboriginal and Torres Strait Islander families, where appropriate.⁶⁴ Mrs Gillian Bonser from Winangay Resources described the current situation for Aboriginal children in care as a 'sentence for life':

There has to be a system where we can restore kids, because now it is a sentence for life. You are in until you are 18. There is no concept of getting them home. If we do not support the young mums and the people who are losing these children, how can we ever expect to get the kids home in a really meaningful way?⁶⁵

8.48 It was put to the committee that there is a particular lack of available legal assistance available for families to challenge care and protection orders in court. Ms Clarke from AbSec noted this legal assistance, together with cultural care planning, could assist in children entering care:

There is no legal representation or support for families about lodging section 90s to get children restored. There is nothing there to help them do that or to help them understand what that entails. Right at the beginning when an Aboriginal child becomes known to the child protection system, there should be at that time a full cultural care plan developed so that they know who they are talking about, they know who the child is and they know where their connections are. If we do that initially before there are

64 Ms Suellyn Tighe, GMAR, *Committee Hansard*, Sydney, 18 February 2015, p. 17.

65 Mrs Gillian Bonser, Board Member, Winangay Resources, *Committee Hansard*, Sydney, 18 February 2015, p. 29.

any court proceedings, 90 per cent of these kids would not be coming into care.⁶⁶

8.49 Ms Tighe from GMAR noted the lack of legal services mean Aboriginal and Torres Strait Islander families are automatically disadvantaged as soon as they enter the court room:

So it is inequity within the court system when you actually walk in. We are not receiving equal treatment when we get within the courtroom itself, because we are going up against a machine that the government funds and pays good money for, where it gets lawyers who deal in this constantly over and over.⁶⁷

8.50 The lack of legal services is particularly significant for people in remote communities. Ms Sally Bolton from the Northern Territory Legal Aid Commission told the committee that for people in remote communities, decisions can be made in court without their knowledge:

...legislation requires personal service of court documents on parents, and that can be dispensed with if it is not practical. The reality is that parents tend to be served, if they are served personally, by a DCF [Department of Children and Families] worker giving them a copy of documents, often very shortly before court. I mean between one and three days before the court date. When that parent is in a remote Aboriginal community, particularly over 500 kilometres away from court, and those documents are in English, there is universally no interpreter provided and there is no assistance to explain what this document is, what the consequences are and what the person needs to do. That is just incredibly inadequate.⁶⁸

8.51 People in remote communities are also at a disadvantage when it comes to accessing services or supports with contact visits or reunification with their children. Ms Hannah Stanley from the NPY Women's Council told the committee:

If they want reunification with or access to their children, they need to be in Alice Springs to facilitate that, but that is so problematic because of accommodation and all the additional risk factors of being in town. In order to maintain a relationship or potentially be reunified, town is where they need to be.⁶⁹

8.52 These witnesses emphasised the need for more localised support for Aboriginal and Torres Strait Islander families closer to country:

It is critical that we look at pilots and whether the central government can support that but support out-of-home care services to operate closer to

66 Ms Dana Clarke, Chairperson, AbSec, *Committee Hansard*, Sydney, 18 February 2015, p. 30.

67 Ms Suellyn Tighe, GMAR, *Committee Hansard*, Sydney, 18 February 2015, p. 28.

68 Ms Sally Bolton, NTLAC, *Committee Hansard*, Darwin, 2 April 2015, p. 20.

69 Ms Hannah Stanley, NPY Women's Council, *Committee Hansard*, Darwin, 1 April 2015, p. 16.

country, closer to home. There have been some examples of the development of that, but they have been short lived.⁷⁰

8.53 Submitters noted one of the key aspects to addressing disadvantage includes greater access to legal assistance for Aboriginal families, particularly family violence prevention legal services.⁷¹ The NFVPLS Forum recommended:

...sustained commitments to culturally safe Aboriginal and Torres Strait Islander services that provide dedicated child protection legal assistance to Aboriginal and Torres Strait Islander children in and at risk of entering the care and protection system.⁷²

Relative/kinship care

8.54 As discussed in Chapter 6, placement with relatives or kin is the preferred option for Aboriginal and Torres Strait Islander children across all jurisdictions.

Aboriginal Child Placement Principle

8.55 One of the key measures of the *National Standards for out-of-home care* (National Standards) is compliance with the Aboriginal Child Placement Principle (ACPP). As discussed in Chapter 1, all jurisdictions have adopted the ACPP in both legislation and policy. The ACPP aims to ensure that when Aboriginal and Torres Strait Islander children enter care, placement with family and kin is prioritised. At 30 June 2014, approximately 69 per cent of Aboriginal and Torres Strait Islander children were placed in accordance with the ACPP.⁷³ SNAICC noted in its submission:

[F]amily is the cornerstone of Aboriginal and Torres Strait Islander culture, spirituality and identity. This is articulated in the Aboriginal and Torres Strait Islander Child Placement Principle, which acknowledges the importance of family, cultural and community connections to the identity and wellbeing of Aboriginal and Torres Strait Islander children.⁷⁴

8.56 However, the committee heard concerns about the consistency of the application of the ACPP across jurisdictions.⁷⁵ Ms Janette Kennedy from the CCYPV, told the committee its current inquiry into the ACPP found variation in 'how people saw and interpreted the principle':

70 Mr David Pugh, Anglicare NT, *Committee Hansard*, 2 April 2015, p. 3.

71 See: Broadway Glebe Catholic Social Justice, *Submission 57*; Macarthur Legal Centre, *Submission 58*, FVPLS Victoria, *Submission 24*.

72 NFVPLS Forum, *Submission 29*, p. 20.

73 See: Chapter 1.

74 SNAICC, *Submission 93*, p. 8.

75 See: Dr Virginia Marshall, Acting Chair, Indigenous Issues Committee, Law Society of NSW, *Committee Hansard*, Sydney, 18 February 2015, p. 21; Aunty Suzanne Blacklock, *Committee Hansard*, Sydney, 18 February 2015, p. 18; Ms Andrea Smith, AFLSWA, *Committee Hansard*, Perth, 16 February 2015, p. 38.

There were as many different interpretations of what the legislation was saying as there were people we spoke to. Practitioners have a different view of what the principle looks like and what it means.⁷⁶

8.57 One of the key issues with the ACPP is the focus on the hierarchy of placement options for Aboriginal and Torres Strait Islander children. SNAICC suggested the ACPP:

has been narrowly conceptualised in legislation and child protection practice with a focus only on a hierarchy of out-of-home care placement options, undermining its broader intent.⁷⁷

8.58 It was put to the committee that the conception of the ACPP as a hierarchy may undermine its aim of placing Aboriginal and Torres Strait Islander children within families. Ms Hermeston from AbSec noted there is no requirements or guidelines about what steps must be taken in order to comply with the ACPP:

Quite often, they say that they satisfy the Aboriginal child placement principle. They can tick the box, because it is a hierarchy of placements. They try and place the child within family and if not within family or extended family then within an Aboriginal family within that community or with an Aboriginal family outside the community, and as a last resort a non-Aboriginal person. If you get to 'last resort' and you say that you have gone through the hierarchy, there is no actual casework practice guidelines to say, 'Here is what you need to do.' There is no standard. It is very individual. They call it 'street level bureaucracy' where it can actually be an individual caseworker that makes a decision about how good enough the job is that they have done to locate family at the beginning. You can still be classed as satisfying the Aboriginal child placement principle if you say that you have gone through all those hierarchies.⁷⁸

8.59 Many witnesses suggested the core goal of the ACPP, to place children within family and community groups, is not being complied with. SNAICC suggested most jurisdictions have made an 'inadequate commitment' to the ACPP, noting a recent Queensland audit suggested only 15 per cent of the cases sampled fully complied with it.⁷⁹ In NSW, Ms Suellyn Tighe from GMAR suggested the ACPP is circumvented by other policies such as placing children with siblings or by using the justification of placement 'in the best interests' of the child (described as a 'get out jail free' card):

We have the Aboriginal placement principle, which states that you must follow this hierarchical system for placement of the children. That is not being adhered to at all—or only in very, very few cases. I do not think that I know anywhere it has been adhered to. I have not met anyone yet. The fact is that that is happening and it is law. The department is continually superseding that. The Department of Family and Community Services

76 Ms Janette Kennedy, CCYPV, *Committee Hansard*, Melbourne, 20 March 2015, pp 48–49.

77 SNAICC, *Submission 93*, p. 8.

78 Ms Wendy Hermeston, AbSec, *Committee Hansard*, Sydney, 18 February 2015, p. 25.

79 SNAICC, *Submission 93*, p. 9.

supersedes the law of the Aboriginal placement principle with sibling placement policies. That is a departmental policy; it is not legislation.⁸⁰

8.60 The lack of investigation into suitable family or community placements may result in children being placed with carers outside of the cultural or language group. Mr Frank Hytten, CEO of SNAICC noted when the child's cultural care is not considered:

...children are removed and they are not placed anywhere remotely near culture, as often as not. Sometimes children, particularly in the more remote areas, are removed 300 or 400 or 500 kilometres away from their family...quite often into language groups that are different from their own. So suddenly a child finds themselves with a family that does not necessarily have the same first language, which further isolates and marginalises the child.⁸¹

8.61 Some witnesses expressed concern about placing children with Aboriginal and Torres Strait Islander carers far removed from their community. Ms Clarke from AbSec stressed 'not all Aboriginal people are the same' and suggested the importance of connection to community is not considered in making placements in accordance with the ACPP:

I recently sat on a panel where it was almost like child lotto—'We'll take two down in Cootamundra,' and 'We'll take two up in Tamworth.' I said: 'These are children and they have a belonging place and they have a country. Don't you think we should return them to their country?' Community Services found that a bit odd. All they wanted was an Aboriginal placement. So there is a bit of a bastardisation of Aboriginal placement. You must weigh up whether you place an Aboriginal child with an Aboriginal carer off country, where they have no cultural contact, or with an Aboriginal agency, where there are Aboriginal carers but they are not on country. That is a big dilemma at the moment.⁸²

Support for kinship carers

8.62 One of the key barriers to fully complying the ACPP is identifying suitable Aboriginal and Torres Strait Islander relative/kinship carers. Across jurisdictions, there is limited data on the number of Aboriginal and Torres Strait Islander relative/kinship carers.⁸³

8.63 The committee heard there is a particular shortage of Aboriginal kinship carers in the Northern Territory where Aboriginal children make up 85 per cent of the out-of-home care population. The Northern Territory Department of Children and Families (DCF) noted in its submission for the 522 children in foster or kinship care,

80 Ms Suelyn Tighe, GMAR, *Committee Hansard*, Sydney, 18 February 2015, p. 25.

81 Mr Frank Hytten, CEO, SNAICC, *Committee Hansard*, Melbourne, 20 March 2015, p. 43.

82 Ms Dana Clarke, Chairperson, AbSec, *Committee Hansard*, Sydney, 18 February 2015, p. 20.

83 AIHW does not report on the number of Aboriginal and Torres Strait Islander relative or kinship carers. See: AIHW, *Submission 22*.

there are 194 authorised kinship carers. Due to the lack of kinship carers, DCF noted 'we are increasingly relying on expensive, external service providers to meet this demand'.⁸⁴ This includes 'purchased home based care arrangements' (supervised group homes) for 264 children.⁸⁵

8.64 It was put to the committee that the lack of kinship carers does not reflect unwillingness by Aboriginal and Torres Strait Islander families to become carers, rather a lack of support to be assessed as carers. Mr Hytten from SNAICC noted 'Aboriginal people wanting to be kinship carers are often prevented from doing so by fairly arduous obstacles being put in their way'.⁸⁶

8.65 Some witnesses suggested that in attempting to identify kinship carers, child protection authorities do not consult with the family or the relevant Aboriginal or Torres Strait Islander community groups.⁸⁷ Aunty Suzanne Blacklock told the committee:

They said the Aboriginal placement principles would mean kids would stay with kin and family. But too often they say they cannot find suitable kin. But they do not ask the elders or grannies where they come from, where their tribe is, where they belong, where their roots are.⁸⁸

8.66 One obstacle identified by submitters was the reluctance by some Aboriginal and Torres Strait Islander communities to engage with those authorities responsible for past and present practices of child removal. Ms Eileen Cummings told the committee:

...we need to be aware that Aboriginal people are suspicious [sic] of government bureaucracy from their past traumatic experiences. That is why a lot of them are not taking on the role of being carers for our children. Aboriginal people are fearful of being judged by Western social norms that are not better but are merely different. This affects people's choice to become carers.⁸⁹

8.67 The reluctance to engage with child protection authorities means many Aboriginal and Torres Strait Islander carers do not receive financial and other supports. Ms Mary McKinnon from Life Without Barriers told the committee this particularly affects grandparent carers:

A number of grandmothers said to me when I was in Victoria that they did not get payments. I said, 'You can get payments through the department.'

84 Ms Simone Jackson, Executive Director, NT DCF, *Committee Hansard*, Darwin, 1 April 2015, pp 1–2.

85 NT Government, *Submission 23*, p. 4.

86 Mr Frank Hytten, CEO, SNAICC, *Committee Hansard*, Melbourne, 20 March 2015, p. 43.

87 See: AbSec, *Submission 97*, p. 24.

88 Aunty Suzanne Blacklock, Winangay Resources, *Committee Hansard*, Sydney, 18 February 2015, p. 18.

89 Ms Eileen Cummings, NT Stolen Generation Aboriginal Corporation *Committee Hansard*, Darwin, 2 April 2015, p. 30.

You just have to go and tell the department you're minding the children. It doesn't necessarily have to go to court, but then you can receive money.' And they said, 'That's the department that removed me from my parents, so I'm not going anywhere near them.'⁹⁰

8.68 Another key obstacle identified was the process involved to become a kinship carer, particularly in the Northern Territory. While the committee notes that DCF is working to improve kinship training for kinship carers⁹¹ evidence to the committee by organisations working in the NT suggest the process is 'too cumbersome' and not suited to the needs of Aboriginal and Torres Strait Islander people, particularly in remote communities.⁹² The North Australia Aboriginal Justice Agency (NAAJA) shared a case study with the committee about grandparents wanted to be carers but as they lived in a remote community were not supported by department to be assessed as suitable.⁹³ Mr Sharpe, Law and Justice Projects Manager at NAAJA, told the committee:

The checks that DCF impose are extremely cumbersome. There are very little supports provided to kinship carers in order to ensure that the assessment process can take place as quickly and as efficiently as possible. We are told routinely by DCF that once the paperwork for kinship and foster care applications are received it will take a further 12 weeks to complete the assessment but that is a conservative time estimate. That is a minimum of three months but some take as long as six months. In that period of time a young person from Katherine or a remote community is then placed so far away from family, usually in Darwin and sometimes even interstate.⁹⁴

8.69 The committee heard support for the simplification of the assessment process for relative/kinship carers, particularly in remote communities. Ms Sally Bolton from the NT Legal Aid Commission told the committee:

There is such bureaucracy in that process. There needs to be either a simplification of that process or more support given to help people navigate that process. It is not enough just to send a whole lot of forms in English to someone in a remote place, and then somehow expect that they would be able to the navigate that process.⁹⁵

90 Ms Mary McKinnon, National Director of Practice and Quality, Life Without Barriers, *Committee Hansard*, Sydney, 18 February 2015, p. 59.

91 Ms Simone Jackson, Executive Director, Out-of-home care, DCF, *Committee Hansard*, Darwin, 1 April 2015, p. 2.

92 See: Mr Jared Sharp, Law and Justice Projects Manager, NAAJA, *Committee Hansard*, Darwin, 2 April 2015, p. 18; Ms Bolton, Darwin, p. 21.

93 See: Briefing Paper, tabled by North Australian Aboriginal Justice Agency, at Darwin public hearing 2 April 2015, pp 6–7.

94 Mr Jared Sharp, NAAJA, *Committee Hansard*, 2 April 2015, pp 17–18.

95 Ms Sally Bolton, Northern Territory Legal Aid Commission, *Committee Hansard*, Darwin, 2 April 2015, p. 21.

8.70 As discussed in Chapter 6, once kinship carers are assessed as suitable, there are limited ongoing supports compared to other types of care. For Aboriginal and Torres Strait Islander relative/kinship carers, this lack of support may be more significant due to the level of disadvantage in some communities. Professor Humphreys and Ms Meredith Kiraly submitted that:

All the disadvantages that accrue to kinship carers pertain in even greater measure to Indigenous kinship carers: as a cohort they are older, poorer, in poorer health, with lower education and more crowded housing than other kinship carers. They also care for larger numbers of children.⁹⁶

8.71 A number of witnesses and submissions expressed strong support for increased ongoing practical and financial support for Aboriginal and Torres Strait Islander carers, including informal carers. In particular, these witnesses expressed support for models of kinship care that promote Aboriginal ways of caring for children and connection to family and culture.⁹⁷

8.72 One example of a kinship care model that provides support to Aboriginal and Torres Strait Islander carers and child protection authorities is the Winangay Aboriginal Kinship Care Assessment Tool (see Box 8.3). The committee notes its 2014 inquiry, *Grandparents caring for grandchildren*, saw merit in the potential use of the Winangay Resources in placing Aboriginal and Torres Strait Islander children with relatives and kin.⁹⁸

96 University of Melbourne Department of Social Work, Child, Youth and Families Research Cluster, *Submission 66*, p. 15.

97 See: Winangay Resources Inc., *Submission 62*; AbSec, *Submission 97*.

98 See: Senate Community Affairs References Committee, *Grandparents who take primary responsibility for raising their grandchildren*, October 2014, pp 115–116 and p. 122.

Box 8.3 – Best practice – Winangay Aboriginal Kinship Care Assessment Tools

Winangay is a collaborative assessment tool which involves carers and workers using a conversational yarning interview format to assess key aspects of kinship care.

The Winangay resources create a climate in which power is shared more equally between workers and carers and is an enabling process in which kinship carer knowledge and insights are valued. Kinship carers are partners taking ownership of the process recording their responses, identifying strengths needs and concerns and strategies to address unmet needs. Workers facilitate the assessment process maximising opportunities for kinship carers and child/children to be heard.

Winangay tools require a paradigm shift from a worker driven process to a more equal and shared relationship marked by mutual respect and shared planning. The tools are underpinned by principles that assist workers to build strong relationships that are characterised by respect and trust and help to create cultural safe and culturally appropriate practice

Winangay resources have been endorsed by SNAICC and AbSec. The Australian Institute of Family Studies suggests Winangay 'shapes best practice in the development of culturally appropriate resources and training'. Winangay tools are currently being rolled out in Queensland, in cooperation with the Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP).

An evaluation of the tool is being undertaken by Winangay in cooperation with the Australian Centre for Child Protection and the Institute of Child Protection Studies, funded by the Sidney Myer Foundation.

Source: Winangay Resources, Submission 62, pp [15 – 23].

8.73 Auntie Suzanne Blacklock, Chairperson of Winangay Resources, told the committee the impetus to develop the resources came after her grandchildren were removed and placed into out-of-home care. Auntie Suzanne told the committee the tools:

...let workers yarn with families about their strengths, empowering families and giving them and kids a say about what was needed. The tool we invented met their academic criteria and many factors that were identified as important in Australia and overseas but, more importantly, it was simple for families to use and understand. It was done our way—the Aboriginal way.⁹⁹

8.74 The tools assist child protection authorities to develop cultural competence in the 'Aboriginal way' of family support. Auntie Suzanne stressed to the committee, that embracing an approach tailored to the needs of Aboriginal and Torres Strait Islander communities is central to improving outcomes for children in care:

...still they are taking the kids away because the partners are using mainstream tools and ways that they were not seeing the strength in families or the importance of culture and community. They do not understand our ways and the tools they use do not work for us.¹⁰⁰

99 Auntie Suzanne Blacklock, Chairperson, Winangay Resources, *Committee Hansard*, Sydney, 18 February 2015, p. 19.

100 Auntie Suzanne Blacklock, *Committee Hansard*, Sydney, 18 February 2015, p. 19.

8.75 The committee heard support for implementing the Winangay tools across jurisdictions. The Queensland Government noted in its submission it is currently participating in a national trial of the Winangay tools for assessing Aboriginal and Torres Strait Islander kinship carers and will 'consider adopting these (or similar) tools following the outcome of the trial's evaluation'.¹⁰¹

Committee view

8.76 The committee acknowledges that connection to family is integral to wellbeing of Aboriginal and Torres Strait Islander children and young people. The committee is concerned existing frameworks do not adequately facilitate this connection and more needs to be done to support Aboriginal and Torres Strait Islander children and young people.

8.77 The committee shares concerns that current practices risk creating a 'Stolen Generation'. The committee acknowledges the context in which children are removed today is different to that of past practices, but that the result is similar if adequate supports and services for Aboriginal and Torres Strait Islander communities and families are not provided.

8.78 The committee is particularly concerned about the lack of culturally appropriate support available to Aboriginal and Torres Strait Islander parents once children are placed into care, including services aimed at supporting family reunification.

8.79 The committee recognises the importance of the ACCP in ensuring Aboriginal and Torres Strait Islander children are placed with relative/kinship carers, where possible. The committee is concerned there is no national consistency on how the ACCP is applied across jurisdictions.

8.80 The committee is also concerned about the lack of support for Aboriginal and Torres Strait Islander relative/kinship carers to become accredited, and lack of ongoing support to provide adequate support for children and young people. The committee supports the recommendation from its previous inquiry into grandparent carers that the Winangay kinship resources be implemented nationally.

Empowering Aboriginal and Torres Strait Islander communities

8.81 The committee heard strong support for measures to empower Aboriginal and Torres Strait Islander communities to take responsibility for the development and delivery of family support and out-of-home care services. SNAICC suggested 'Aboriginal and Torres Strait Islander community-controlled organisations are the most effective and best-placed organisations to support our children and families'.¹⁰² SNAICC supported the introduction of 'holistic, integrated Aboriginal controlled services' across all jurisdictions.¹⁰³

101 Queensland Government, *Submission 69*, p. 8.

102 SNAICC, *Submission 93*, p. 7.

103 SNAICC, *Submission 93*, p. 9.

8.82 The Healing Foundation's 2013 discussion paper, *Our Children Our Dreaming*, argued for the need to engage Aboriginal and Torres Strait Islander communities in addressing child protection issues:

The continuing tendency to identify issues and solutions from a non-Indigenous perspective remains a major impediment to progress. Approaches that not only hold individuals and communities accountable for factors beyond their control but also fail to ensure community control, empowerment and responsibility, also corrode the foundations for effective change and improving outcomes.¹⁰⁴

8.83 A number of witnesses noted that the need for Aboriginal control of child welfare services was one of the key recommendations of the 1997 *Bringing Them Home* report.¹⁰⁵ These witnesses expressed concerns that across jurisdictions, these recommendations have not been progressed consistently across jurisdictions. Mr Paddy Gibson told the committee:

You have to understand that *Bringing them home* was when the crisis was nowhere near the proportion we are talking about today. There were two and half thousand kids in care in *Bringing them home*. We now have more than 15,000. In *Bringing them home* it was nowhere near as bad as it is today. They were saying this system is discriminatory, it does not work. What they were calling for, and we support this demand, was for Aboriginal control over Aboriginal child welfare.¹⁰⁶

8.84 Witnesses and submitters argued that Aboriginal and Torres Strait Islander communities should be given responsibility for addressing child abuse and neglect. Ms Clarke from AbSec noted:

We are never going to reduce the amount of our children coming into care unless we look at a whole family approach and unless we look at the insidious cancer that grew within our communities when our families were disempowered, our children were taken away and we were never allowed to have those parenting skills.¹⁰⁷

8.85 Witnesses suggested empowering communities would assist in improving outcomes for Aboriginal and Torres Strait Islander children in care. Mrs Bonser from Winangay Resources told the committee:

Even though there is an awful lot of distrust and an awful lot of upset in the community, there is a genuine desire for the best interests of the child. So the Aboriginal community will come together, and Aboriginal

104 Healing Foundation, 'Our Children Our Dreaming: a call for a more just approach for Aboriginal and Torres Strait Islander children and families,' *Submission 7, Attachment A*, p. 4.

105 See: Australian Human Rights Commission, *Bringing Them Home: National inquiry into the separation of Aboriginal and Torres Strait Islander children from their families*, 1997, Recommendation 43a.

106 Mr Padraic Gibson, Senior Researcher, Jumbunna Indigenous House of Learning, *Committee Hansard*, Sydney, 18 February 2015, p. 23.

107 Ms Dana Clarke, Chairperson, AbSec, *Committee Hansard*, Sydney, 18 February 2015, p. 19.

grandmothers and elders will stand and work together to try and change things for these kids. If we could just break that adversarial system out and have some Aboriginal independent control of agencies, where they were actually accountable for the decisions, where there had to be elders, and community ... but genuine consultation, then the community will do it. We are looking at deficit-driven systems, not strength-based systems. So all they are seeing is the problems. They are not seeing the capacity in these people to do things.¹⁰⁸

8.86 The National Children's Commissioner, Ms Megan Mitchell, highlighted the positive example of community empowerment set by the Bourke Justice Reinvestment project in rural New South Wales (see Box 8.4). According to the Australian Human Rights Commission, justice reinvestment is 'a powerful crime prevention strategy that can help create safer communities by investing in evidence based prevention and treatment programs'. Justice reinvestment diverts a portion of the funds for imprisonment to local communities to reinvest into services that address the underlying causes of crime in these communities.¹⁰⁹

8.87 Ms Mitchell noted the Bourke project:

...is a long process to re-engage a community that is highly cynical and has lots of issues, but they are at the point now where they are naming problems like child protection, wanting to do something about it, and knowing that they have the power and wherewithal to influence what happens to the resources in that town, as opposed to a whole lot of people coming in with services that people do not want and do not use. It really is challenging everybody, including service providers that have been there doing what they have done for years and years.¹¹⁰

8.88 According to Ms Mitchell, the project is more than justice reinvestment in crime prevention:

...it is reinvestment from the tertiary end of the system into the front-end of the system and into things like family support, preschool for kids, child care, infant mental health, home visiting, playgroups and all of those sorts of things that the community want and are, at the moment, coming together to plan for. I think that that is another example of where you can empower the community and change the way you use resources.¹¹¹

108 Mrs Gillian Bonser, Board Member, Winangay Resources, *Committee Hansard*, Sydney, 18 February 2015, p. 28.

109 Justice reinvestment in Australia five years on, excerpt from the Social Justice and Native Title Report 2014, from the National Children's Commissioner, received 13 April 2015.

110 Ms Megan Mitchell, National Children's Commissioner, *Committee Hansard*, Sydney, 18 February 2015, p. 6.

111 Ms Megan Mitchell, *Committee Hansard*, Sydney, 18 February 2015, p. 6.

Box 8.4 – Best practice – Bourke Justice Reinvestment Project

In 2012, the Bourke Aboriginal Community Working Party approached Just Reinvest NSW about trialling justice reinvestment to 'try and break the intergenerational cycle of offending and incarceration'.

Starting in March 2014, for a two-year period a consortium of partners will work with, and alongside, the Bourke community to develop a social and economic case for justice reinvestment in Bourke. This case will be presented to the NSW Government for response and action.

The Australian Human Rights Commission notes there are two key differences with the Bourke project compared with other innovative examples of communities taking control for positive change, including:

- the project is community-based, rather than government initiated and will be built on achievements not just aspirations; and
- the major funding and pro bono services come from philanthropic and corporate sources.

Source: Justice reinvestment in Australia five years on, excerpt from the Social Justice and Native Title Report 2014, from the National Children's Commissioner, received 13 April 2015.

Role of Aboriginal community controlled agencies

8.89 One of the key recommendations from a number of submitters and witnesses was transferring control of child protection services, including decision making and service delivery, to Aboriginal community controlled agencies (ACCAs) in all jurisdictions.¹¹²

8.90 The current role of ACCAs in child protection systems differs across jurisdictions. SNAICC submitted that recent reviews have identified that existing ACCAs are generally either underutilised in decision making processes, such as 'recognised entities' in Queensland, or underfunded to provide services, such as in Victoria.¹¹³ Ms Suellyn Tighe from GMAR argued the role of ACCAs is 'not working' to support Aboriginal and Torres Strait Islander families:

These Aboriginal bodies have been in place on a state level and on a national level. We have more Aboriginal workers within Family and Community Services and out-of-home care services than we have ever had in the past, and yet we are still grossly overrepresented in the system. There are issues that relate to why that is the case, but the fundamental thing is that these systems are not working.¹¹⁴

Decision making

8.91 In some jurisdictions, ACCAs have a role in the decision-making process about placements of children in care. Table 9.1 outlines the different roles of ACCAs

112 See: NTCOSS, *Submission 72*, p. 6; SNAICC, *Submission 93*, pp 17–18; Jumbunna Indigenous House of Learning, *Submission 79*, p. [11].

113 SNAICC, *Submission 93*, p. 14.

114 Ms Suellyn Tighe, GMAR, *Committee Hansard*, Sydney, 18 February 2015, p. 24.

across jurisdictions. Some jurisdictions have legislated or policy obligations to consult with ACCAs prior to making placement decisions about Aboriginal or Torres Strait Islander children (South Australia, Queensland, Victoria and Tasmania), whereas other jurisdictions rely on consultation with Aboriginal child protection workers, rather than independent ACCAs (Northern Territory and NSW).

Table 8.1 – Role of Aboriginal organisations across jurisdictions

| Jurisdiction | Aboriginal organisation | Consultation |
|--------------------|--|--|
| NSW | Individual Aboriginal NGOs | Individual NGOs responsible for placement decisions. Absec (peak body) leading project to build the capacity of Aboriginal NGOs to deliver out-of-home care services. |
| Victoria | Aboriginal Child Specialist Advice and Support Service | Obligation to consult on significant decisions including placement of child. Family-led decision making conference to be held for each Aboriginal child following substantiation of child protection concerns. |
| QLD | Recognised entities | Legislated requirement to consult on all decisions made about an Aboriginal or Torres Strait Islander child or young person. |
| WA | Individual Aboriginal NGOs Kinship Connections | Individual NGOs responsible for placement decisions. Two Aboriginal NGOs currently responsible for small number of placement decisions in the Perth and Pilbara regions. Kinship Connections consulted on communicating with Aboriginal families. |
| SA | Recognised organisation | Legislated requirement to consult prior to making a decision or order about Aboriginal or Torres Strait Islander child. |
| Tasmania | Relevant service organisation | Relevant service organisation (as determined by location and child's specific Aboriginal community membership) are contacted for advice. If child is known to organisation, they are consulted on placement considerations and cultural care plans. |
| Northern Territory | None | No obligation to specifically consult with any Aboriginal organisation |

Source: State and territory governments, answers to questions on notice, 30 April 2015 (received May–June 2015).

8.92 However, witnesses suggested in some jurisdictions there is a disconnect between ACCAs and the communities they represent. Ms Toni McPherson from the Brisbane Sovereign Grannies Group suggested the recognised entities in Queensland 'are tightly controlled by the departments that fund them and who do not actually work very well, or even well, with families'.¹¹⁵ Similarly, Ms Mary Moore from the Alliance for Family Preservation and Restoration suggested recognised entities do not represent individual Aboriginal communities:

...these recognised entities are being paid millions and millions in funding and someone from Child Protection rings the recognised entity and says, 'We are going to take this Indigenous baby,' and they say, 'Yeah, sure, that

115 Ms Toni McPherson, Brisbane Sovereign Grannies Group, *Committee Hansard*, Brisbane, 17 April 2015, p. 38.

is fine.' That is where the system is breaking down in the Indigenous community, from what I see. That recognised entity should be a person who knows the child and the family, and they are the go-between. That is in the legislation, from the *Bringing Them Home* report. Instead of that we have someone sitting in an office and saying, 'Yes, you can take that Indigenous baby,' when they do not know anything about them. It would be like Germany—getting paid to tick a box to take a child from China. That is how different it is.¹¹⁶

8.93 A number of witnesses and submitters supported the approach to consultation with Aboriginal and Torres Strait Islander organisations outlined in the joint submission by the Victorian Aboriginal community controlled organisations and community service organisations, *Koorie Kids: growing strong in their culture*.¹¹⁷ However, Mrs Connie Salamone from the Victorian Aboriginal Child Care Agency (VACCA) suggested while VACCA may be consulted on the initial placement, the decision to place a child outside their family group is not revisited:

In fact there are often many family members who would be able to care for the child—if only someone had made the effort to go back, re-examine and re-ask.¹¹⁸

8.94 In NSW, Ms Clarke from AbSec told the committee that Aboriginal child protection workers may not best placed to provide advice on placements for children:

When they talk about consultation in the Aboriginal placement principles, they talk about consultation with Aboriginal people but they are Aboriginal community services workers. In a lot of cases those people do not come from the area where the kids are. They do not know the local community. They do not know the family connections. So really what they are doing is consulting with themselves, and therefore what they do then is tick the box on that process.¹¹⁹

8.95 Ms Wightman from GMAR also suggested there is a lack of connection between Aboriginal child protection workers and individual communities:

We do not hear from the Aboriginal people who work in these systems. As far as I am concerned, they are Jackey Jackeys.¹²⁰

116 Ms Mary Moore, Alliance for Family Preservation and Restoration, *Committee Hansard*, Brisbane, 17 April 2015, p. 40.

117 Victorian Aboriginal Community Controlled Organisations and Community Service Organisations, *Koorie Kids: Growing Strong in their Culture: Five year plan for Aboriginal children in out-of-home care*, November 2013, <http://www.ccyp.vic.gov.au/aboutus/news/koorie-kids-growing-strong.htm> (accessed 18 August 2015). See: Families Australia, *Submission 77*, p. 4; CCYPV, *Submission 45*, pp 11–12; Mr Rod Jackson, Deputy Chairperson, Victorian Aboriginal Child and Young People's Alliance, *Committee Hansard*, Brisbane, 17 April 2015, p. 45.

118 Mrs Connie Salamone, Executive Director, VACCA, *Committee Hansard*, Melbourne, 20 March 2015, p. 48.

119 Ms Dana Clarke, Chairperson, AbSec, *Committee Hansard*, Sydney, 18 February 2015, p. 25.

120 Ms Wightman, GMAR, *Committee Hansard*, Sydney, 18 February 2015, p. 18.

8.96 In the Northern Territory, witnesses expressed concerns about the lack of funding for Aboriginal child care agencies in the NT, particularly following a recent decision by the NT Government to defund SAF-T, the peak body for Aboriginal child and family safety and wellbeing.¹²¹ The committee notes that SAF-T was established in response to the 2010 Report of the Board of Inquiry into the NT Child Protection System to address the need for greater involvement by Aboriginal communities in child placement decision making.¹²²

Service delivery

8.97 The committee heard the roles of ACCAs in delivery of early intervention and out-of-home care services, including reunification and contact services, differs across jurisdictions.¹²³

8.98 A number of witnesses suggested NSW provides a best practice model for developing state-wide capacity for ACCAs to deliver out-of-home care services.¹²⁴ As the peak body for Aboriginal and Torres Strait Islander communities, AbSec, is responsible for building capacity to transition out-of-home care services delivered by the department to transfer to Aboriginal community controlled agencies (see Box 8.5).

121 See: Ms Regina Bennett, Darwin Aboriginal and Islander Women's Shelter, *Committee Hansard*, Darwin, 2 April 2015, p. 31; Ms Melissa Kean, NPY Women's Council, *Committee Hansard*, Darwin, 1 April 2015, p. 20.

122 Mr Robert Dalton, Policy Advisor, Northern Land Council, *Finance and Public Administration References Committee Hansard*, 10 March 2015, p. 22.

123 See: State and territory governments, answers to questions on notice, 30 April 2015 (received May-June 2015).

124 See: SNAICC, *Submission 93*, p. 12; Mr David Pugh, CEO, Anglicare NT, *Committee Hansard*, Darwin, 2 April 2015, p. 3.

Box 8.5 – Best practice – AbSec – capacity building

The Aboriginal Child, Family and Community Care State Secretariat (AbSec) is the peak Aboriginal body in New South Wales. AbSec is funded by the Department of Families and Community Services and provides advice to government and the care and protection sector on issues affecting Aboriginal children, young people and families involved in child protection and out-of-home care.

As part of recent reforms in NSW to transfer responsibility for the delivery of out-of-home care services to the non-government sector, AbSec is responsible for developing statewide capacity for Aboriginal community organisations to deliver out-of-home care services.

SNAICC notes this approach involves AbSec providing the following services:

- statewide mapping of community needs, service capacity and development support needed;
- support for agencies to build capacity and meet accreditation requirements;
- facilitation of community consultations and development of community-based governance structures;
- involvement in high level service management and policy development forums with government to ensure decisions reflect community service development needs;
- facilitation of partnerships between mainstream agencies and Aboriginal and Torres Strait Islander organisations; and
- support from mainstream agencies to build capacity of Aboriginal and Torres Strait Islander community organisations.

Between 2012 and 2014, AbSec has helped to increase the number of ACCAs providing out-of-home care services from seven to 11, as well as eight partnerships with mainstream agencies.

Source: SNAICC, Submission 93, p. 12; AbSec, Submission 97, p. 6.

8.99 However, AbSec submitted that current funding models for out-of-home care do not allow ACCAs to provide more than basic services, and limits the provision of additional services, such as contact support and transport for children in residential care.¹²⁵ SNAICC also noted while the NSW model provided a good example of giving ACCAs control of the delivery of some out-of-home care services, 'a concurrent commitment to build the capacity for preventative and early intervention supports is needed'.¹²⁶

8.100 An evaluation by SNAICC of five intensive family support services run by ACCAs found significant value in having Aboriginal control over the development and delivery of early intervention and prevention services:

these community-controlled services play a vital role, both in assisting families who face multiple challenges, and in increasing community ownership of child protection issues. It is crucial to support their further development, and to build on their practice, community and cultural knowledge in responding to the over-representation of Aboriginal and

125 AbSec, *Submission 97*, p. 6.

126 SNAICC, *Submission 93*, p. 12.

Torres Strait Islander children and families in Australia's child protection system.¹²⁷

8.101 In other jurisdictions, Aboriginal and Torres Strait Islander peak bodies suggested ACCAs provide family support and out-of-home care services. Ms Natalie Lewis, CEO of the Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP), told the committee that the focus of recent reforms in Queensland is to break down the 'silo approach to services' to provide a 'balanced package of interventions':

Unless the orientation becomes one of prevention and early intervention, then the longer-term outcome is a substantially more costly enterprise for the community to fund.¹²⁸

8.102 In Victoria, Mrs Connie Salamone from VACCA told the committee of the importance of investing in programs delivered by ACCAs aimed at reunification:

If we invested significantly and made Aboriginal children a priority in terms of reunification, looked at how we restructure our reunification services so that they are clearer about the Aboriginal sort of kinship network, community, cultural imperatives, we would have children going home much earlier.¹²⁹

8.103 Mrs Salamone told the committee VACCA is currently piloting an Aboriginal-led program to assist with the reunification of Aboriginal and Torres Strait Islander children with their families that has yielded positive results:

...of the 13 children that were in that pilot—all of whom had been in care for five years or more, all of whom had no reunification plans—we were able to get three of those children home and we had two children who were no longer on any child protection orders. For me that is about saying we can get kids home but we have to do it differently than how generally child protection would view it.¹³⁰

8.104 However, in other jurisdictions, the capacity for ACCAs to deliver services is limited. In the Northern Territory, Mr David Pugh from Anglicare noted that while there are a number of strong, effective ACCAs providing medical services throughout the NT, there is limited capacity for ACCAs to take on child protection responsibilities as most services are delivered directly by government.¹³¹

127 Professor Clare Tilbury, *Moving to Prevention research report: Intensive family support services for Aboriginal and Torres Strait Islander children*, SNAICC, 2014, p. 31.

128 Mrs Natalie Lewis, CEO, Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP), *Committee Hansard*, Brisbane, 17 April 2015, p. 48.

129 Mrs Connie Salamone, VACCA, *Committee Hansard*, Melbourne, 20 March 2015, p. 44.

130 Mrs Connie Salamone, VACCA, *Committee Hansard*, Melbourne 20 March 2015, p. 33.

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

Partnerships with mainstream services

8.105 In some jurisdictions, the committee heard examples of partnerships between ACCAs and child protection authorities or mainstream providers to deliver some out-of-home care services.

8.106 Mr Ross Councillor told the committee of a recently established partnership between Wirraka Maya medical service and the MacKillop Family Services in Port Headland in the Pilbara region of WA. The partnership currently supervises 10 out-of-home care placements, with Wirraka Maya aiming to build its capacity to assume responsibility for supporting carers. Mr Councillor, who has extensive experience working for the WA government, suggested the benefits of involving ACCAs is being able to reintegrate children in care back into their communities:

Every kid who comes into care has the evidence to come into care, but they do not have the evidence to go back out of care. We believe that we can do that as an Aboriginal agency, by supporting Wirraka Maya to do that, if they are able to work with the families. We do not have case responsibility over there, but if we work with the carers, the child and the department and we collect that evidence and we can support them to look at cultural plans and all that type of stuff, which will benefit the kid in long-term, it will give the department an opportunity to work with the mothers and the fathers.¹³²

8.107 While the partnership has only recently received its first placement, Mr Councillor noted the project has been 'pretty well received' by the department and by the community:

We believe we can do it better. It is about bringing our expertise, our beliefs, because you have to fight for the kids. Culture fails kids. Society fails kids. Parents fail kids. We cannot allow that to happen when we work with kids. We should not fail them. We have to give them an opportunity.¹³³

8.108 Another example of a partnership between MacKillop Family Services and the South Coast Aboriginal Medical Corporation operates in the south coast region of NSW (see Box 8.6). The committee notes these partnerships provide unique examples of how to build capacity of existing ACCAs to take on responsibility for out-of-home care services.

132 Mr Ross Councillor, Services Development Manager, Western Australia, MacKillop Family Services, *Committee Hansard*, Canberra, 16 April 2015, p. 32.

133 Mr Ross Councillor, *Committee Hansard*, Canberra, 16 April 2015, p. 33.

Box 8.6 – Best practice – South Coast Aboriginal Medical Corporation

South Coast Aboriginal Medical Corporation (SCAMC) works in partnership with MacKillop Family Services to deliver out-of-home care services to Aboriginal children in the south coast region of NSW from Shoalhaven to the Victorian border.

As part of the NSW reform process, SCAMC was approached by AbSec to build its capacity to deliver out-of-home care services for 25 children. Children currently supervised by MacKillop Family Services will be progressively transferred to SCAMC as they build the capacity to train and supervise carers.

Mr Craig Ardler told the committee SCAMC aims place children, where possible, in kinship care arrangements: 'we really emphasise the connection to identity and culture and involvement in community events and things like that. It is also a matter of maintaining the safety of the child within the placement'.

Source: Mr Craig Ardler, CEO, South Coast Aboriginal Medical Corporation, Committee Hansard, Canberra, 16 April 2015, pp 32–41.

Committee view

8.109 The committee recognises the importance of empowering Aboriginal communities to take responsibility for child protection issues, including decision-making processes and delivery of services. The committee considers ACCAs should be introduced across all jurisdictions and should be involved in the full range of family support services for Aboriginal and Torres Strait Islander families, not just out-of-home care, and must be supported by flexible funding models.

8.110 The committee supports examples of partnerships between the government and non-government sector to empower ACCAs to take responsibility for some out-of-home care services, particularly in NSW and Western Australia. The committee notes these partnerships are in the early stages of implementation and that more work needs to be done to develop them across jurisdictions, and expand capacity of ACCAs to develop and deliver services across the continuum of care.

Chapter 9

Specific needs of particular groups

9.1 Particular groups have additional needs to those experienced by all families and children affected by out-of-home care. This chapter examines the specific needs of families and children with disability and complex health issues and those from culturally and linguistically diverse (CALD) backgrounds.

Families and children with disability and complex health issues

9.2 Throughout this inquiry, the committee heard from a number of organisations representing families and children with disability. These organisations emphasised the importance of providing specific supports tailored to the needs of those families and children with disability at risk of entering and those already placed in out-of-home care.¹

Need for improved data collection

9.3 As discussed in Chapter 2, a number of witnesses and submissions highlighted the need for improved national data on the number and the needs of children with disability in out-of-home care.² Ms Ngila Bevan, Human Rights Adviser with People with Disability Australia (PDA), told the committee:

we do not really know how many children with disability there are in out-of-home care. It is very hard to estimate how many children that would be. Different states and territories use different statistical models to come up with data around how many children with disability are in out-of-home care. So we just do not know the extent of this problem.³

9.4 A number of submissions and witnesses suggested that children with disability are significantly overrepresented in out-of-home care.⁴ A 2012 report by the CREATE Foundation found that estimates of the prevalence of children with disability in out-of-home care varied from 4 per cent to over 60 per cent, depending on

1 See: Intellectual Disability Rights Service (IDRS), *Submission 21*; Endeavour Foundation, *Submission 43*; National Disability Services, *Submission 54*; ACT Disability, Aged and Carer Advocacy Service (ADACAS), *Submission 71*; People with Disability Australia (PDA), *Submission 74*; Children with Disability Australia (CDA), *Submission 80*.

2 National Disability Service, *Submission 54*, p. 10; Ms Wendy Morton, Executive Director, Northern Territory Council of Social Service (NTCOSS), *Committee Hansard*, Darwin, 2 April 2015, p. 9; Ms Tessa Thompson, National Policy Manager, National Disability Services (NDS), *Committee Hansard*, Melbourne, 20 March 2015, p. 22.

3 Ms Ngila Bevan, Human Rights Adviser. People with Disability Australia (PDA), *Committee Hansard*, Sydney, 18 February 2015, p. 34.

4 See: Ms Philippa Angley, Executive Officer, National Disability Services (NDS), *Committee Hansard*, Melbourne, 20 March 2015, p. 17; CDA, *Submission 80*, p. 4.

the method of data collection and definition of disability.⁵ Children with Disability (CDA) Australia, the national peak body for children with disability, cited a 2011 report by the Victorian Equal Opportunity and Human Rights Commission that found 14 per cent of children in out-of-home care in Victoria had a disability, more than double the proportion of children with disability in the total Australian population (6.8 per cent).⁶

9.5 It was put to the committee that these estimates are likely to underestimate the actual number of children with disability in out-of-home care, as many children with disability are not recognised or identified. CDA suggested 'at times the knowledge and expertise is not available within the out of home care system to identify if a child has a disability'.⁷ Further, these estimates do not include placements made through disability services, justice, medical or psychiatric services. Taken together, Ms Philippa Angley from National Disability Services (NDS), the peak body for non-government disability service organisations, suggested 'the number of children with disability in out-of-home care is disproportionately large'.⁸

9.6 A number of witnesses suggested that families, particularly those with intellectual disability, are also over-represented in out-of-home care. Like children with disability, there is no national data available on the number of families with disability who have children placed in out-of-home care.⁹

9.7 In NSW, Ms Marissa Sandler from the Intellectual Disability Rights Service (IDRS) told the committee families with an intellectual disability make up just one to two per cent of all families with children aged 0-17, but account for around nine per cent of child protection cases before the NSW Family Court. Ms Sandler suggested one in six children in care has a parent with an intellectual disability.¹⁰

National Disability Insurance Scheme

9.8 A number of witnesses and submitters expressed support for the National Disability Insurance Scheme (NDIS) and its potential to improve support for families and children with disability at risk of entering out-of-home care. However, these witnesses noted the details of the NDIS are still being finalised the specific supports

5 CREATE Foundation, *Supporting children and young people with a disability living in out of home care in Australia: Literature Review*, 2012, p. 11, <http://create.org.au/what-we-do/research-and-advocacy/our-research-articles/> (accessed 10 August 2015).

6 CDA, *Submission 80*, p. 4.

7 CDA, *Submission 80*, p. 4.

8 Ms Philippa Angley, Executive Officer, NDS, *Committee Hansard*, Melbourne, 20 March 2015, p. 17

9 See: Ms Fiona May, CEO, ACT Disability Aged and Carer Advocacy Service (ADACAS), *Committee Hansard*, Canberra, 16 April 2015, pp 10 – 11; PDA, *Submission 74*, p. 7.

10 Ms Marissa Sandler, Intellectual Disability Rights Service (IDRS), *Committee Hansard*, Sydney, 18 February 2015, p. 37.

that will be available to children and families are not yet known.¹¹ Ms Angley from NDS told the committee the NDIS:

...will be a large part of the answer as it will support and strengthen families through the provision of individualised and tailored supports. It will be able to intervene early and will be able to be flexible in how it works with families. But it is not a total solution...¹²

9.9 Similarly, Ms Sandler from IDRS told the committee it is not yet known what services will be available under the NDIS:

I think the NDIS does give lots of opportunity, but there needs to be a way to really understand what each service in the NDIS is going to offer to make best use of it.¹³

9.10 Two key concerns raised by submitters about the implementation of the NDIS were the extent to which families will be able to access early intervention support and the interaction between the NDIS and other services, including child protection and family support services.

9.11 Submitters emphasised the need for the NDIS to provide an appropriate level of early intervention support to families of children with disability. Mr Simon Nugus from the Endeavour Foundation told the committee that evidence from the South Australian NDIS trial site indicates early intervention is capped at \$16 000 and is 'insufficient to have a meaningful impact on many families'.¹⁴ The Endeavour Foundation, Australia's largest disability service provider, recommended early intervention funding packages for children under the NDIS should be based on assessment of individual need, similar to those available to adults under the NDIS.¹⁵

9.12 Submissions also highlighted the need for the NDIS to be integrated with universal support services, particularly family support services, in order to provide appropriate support to families and children with disability at risk of having children removed or relinquished into care.¹⁶ Dr Nicholas Halfpenny from MacKillop Family Services which has provided by out-of-home care and disability services at one of the NDIS test sites told the committee that 'there is a bit more work to be done in

11 See: CDA, *Submission 80*, p. 5; PDA, *Submission 74*, p. 10; Endeavour Foundation, *Submission 43*, pp 5 – 7; NDS, *Submission 54*, p. 9.

12 Ms Philippa Angley, Executive Officer, NDS, *Committee Hansard*, Melbourne, 20 March 2015, p. 18.

13 Ms Marissa Sandler, Solicitor, Intellectual Disability Rights Service (IDRS), *Committee Hansard*, Sydney, 18 February 2015, p. 35.

14 Mr Simon Nugus, National Business Manager, Children, Youth and Education Services, Endeavour Foundation, *Committee Hansard*, Brisbane, 17 April 2015, p. 30.

15 Endeavour Foundation, *Submission 43*, p. 6.

16 See: NDS, *Submission 54*; PDA, *Submission 74*; ADACAS, *Submission 71*.

acknowledging the needs of children with a disability and in terms of supporting their family, not just supporting and responding to the individual disability'.¹⁷

9.13 The Endeavour Foundation submitted that the interaction between the NDIS and a range of universal services, including community services, has not been fully developed. The Endeavour Foundation recommended the NDIS include provision for case management support to coordinate support and planning for children with disability to identify family support needs with a view to family preservation.¹⁸ Similarly, Ms Philippa Anglely from NDS noted the importance of providing case management support to children with complex needs:

We need to make sure as the NDIS rolls out, but even before that, we identify those families who do have children with very challenging behaviour or very complex medical needs and make sure we put additional support into those services. Many of them will need a good case management or care coordination service to enable them to navigate the system to find the respite options that are available.¹⁹

9.14 Importantly, these witnesses emphasised that the NDIS will take some time to implement and in the meantime there are issues that need to be addressed to improve outcomes for children in care. Ms Anglely told the committee:

We need to remember that the NDIS is some years away. We cannot do nothing while we wait for better disability support services to be available.²⁰

9.15 Particular issues raised by submitters and witnesses are outlined below.

Supporting families with disability and families of children with disability

9.16 As discussed in Chapter 5, the committee identified a significant need for increased supports for at risk families to prevent their children entering out-of-home care. A number of submitters and witnesses highlighted that for families of children with disability, and particularly for parents with disability, the need for increased support is especially important.²¹

Lack of understanding of disability

9.17 It was put to the committee that existing child protection systems across jurisdictions do not adequately address the specific needs of families with disability, particularly those with an intellectual disability. Ms Fiona May from the ACT Disability, Aged and Carer Advocacy Service (ADACAS) told the committee the

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

18 Endeavour Foundation, *Submission 43*, p. 7.

19 Ms Philippa Anglely, Executive Officer, NDS, *Committee Hansard*, Melbourne, 20 March 2015, p. 18.

20 Ms Philippa Anglely, Executive Officer, NDS, *Committee Hansard*, Melbourne, 20 March 2015, p. 18.

21 See: NDS, *Submission 54*; CDA, *Submission 80*.

child protection system has a 'disproportionate impact' on parents with a mental health or intellectual disability:

...because it does not cater for their needs. It does not differentiate in the way they are treated or make any adjustment for their mental health issues or the intellectual disability they have been living with.²²

9.18 A number of submitters and witnesses expressed concern that Australia's approach to out-of-home care for families with disability does not comply with Australia's international obligations under the *United Nations Convention on the Rights of Persons with Disabilities* (UNCRPD).²³ As a signatory to the UNCRPD Australia is obliged to 'take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others', including providing appropriate assistance to people with disabilities with their child-rearing responsibilities.²⁴ PDA submitted that Australia's ability to meet its obligations under the UNCRPD is undermined by the lack of family supports available to parents with disability.²⁵

9.19 Several witnesses expressed concern that the removal of children from parents with disability may be in part due to negative assumptions about the capacity of people with disability to parent.²⁶ Dr Susan Barnes from People with Disability Australia (PDA), the peak body for people with disability, alleged in some cases child protection workers remove children at birth based on the assumption people with disability won't be 'good' parents:

On occasions, they are waiting in the maternity ward to remove that child when it is born. They have not made any assessment around the parenting skills of the parent or any other assessments, and there has not been any conversation with families or others about pulling people together into a kind of case conference around any concerns that they might have or others might have, or how this is going to work if you have concerns. The child is removed...There is no abuse; there is nothing except an assumption that they will not be a good parent.²⁷

Integration of family support and disability services

9.20 To address the lack of understanding of disability, a number of witnesses and submitters suggested better integration between family support and disability services 'to both ensure adequate support to children with disability, and to prevent children

22 Ms Fiona May, CEO, ADACAS, *Committee Hansard*, Canberra, 16 April 2015, pp 10–11.

23 See: ADACAS, *Submission 71*, p. 2; PDA, *Submission 74*, p. 3.

24 ADACAS, *Submission 71*, p. 2.

25 PDA, *Submission 74*, p. 8.

26 See: PDA, *Submission 74*, p. 8; ADACAS, *Submission 71*, p. 2; Mrs Fiona May, ADACAS, *Committee Hansard*, Canberra, 16 April 2015, p. 11.

27 Dr Susan Barnes, Manager Individual and Group Advocacy NSW, PDA, *Committee Hansard*, Sydney, 18 February 2015, p. 35.

with disability experiencing segregation, congregation and institutionalisation'.²⁸ This includes support for training of child protection workers 'to sustain skills for communicating and interacting with people with disabilities, which is both respectful and meets their learning needs'.²⁹ Ms Marissa Sandler from IDRS told the committee:

...often the family will have a disability support worker or a family support worker. Often the disability support worker cannot assist with parenting and the family support worker is not trained in providing services to a person with a disability.³⁰

9.21 It was put to the committee better integration of child protection and disability services would ensure children and families have access to early intervention and therapeutic disability services. NDS suggested the failure of some intensive family support services is that children and families were not identified and referred soon enough.³¹

9.22 The committee heard some individual advocacy groups assist families to bring together family support and disability services to facilitate positive outcomes for children with disability. IDRS submitted that it runs a program to assist parents who are at risk of having their children placed in out-of-home care (see Box 9.1).

Box 9.1 – Best practice – The Parent's Project

The Parent's Project is a specialist service for parents with intellectual disability who are at risk of having their children removed from their care or who are involved in care and protection proceedings. The Parent's Project, established in 2007, is administered by Intellectual Disability Rights Service (IDRS), a specialist legal advocacy service for people with intellectual disability in NSW.

The Parent's Project provides specialist advocacy, support and legal assistance to parents with intellectual disability, including:

- legal advice, case work and representation in the Children's Court;
- early intervention support, advice and referral for parents and their partners who are pregnant;
- support and assistance through the Children's Court process;
- community legal education to a wide range of stakeholders on assisting clients with intellectual disability; and
- a range of law reform activities where it is perceived changes in law may be required.

Ms Marissa Sandler from IDRS told the committee that when child protection and disability services and brought together, 'that is when we have had, hands down, the best outcomes in cases'.

28 See: PDA, *Submission 74*, p. 10.

29 ADACAS, *Submission 71*, p. 7.

30 Ms Marissa Sandler, Solicitor, Intellectual Disability Rights Service, *Committee Hansard*, Sydney, 18 February 2015, p. 33.

31 NDS, *Submission 54*, p. 3.

Source: *Intellectual Disability Rights Service, Submission 21, pp 1 – 2; Ms Marissa Sandler, Solicitor, Intellectual Disability Rights Service, Committee Hansard, Sydney, 18 February 2015, p. 35.*

9.23 However, IDRS noted the work undertaken as part of the Parent's Project 'takes much time and effort on the part of the advocate to source and coordinate the disability and parenting support for the family' and that this combination support should be easily accessible to all families with disability.³² Ms Sandler noted the integration of child protection and disability support services should not rely 'on a tiny advocacy service that is in Sydney to be doing that for clients all over', and requires systemic changes to the way cases for children with disability are managed.³³

9.24 Another key issue is the lack of a referral process from other universal services to the Parent's Project.

9.25 Ms Sandler told the committee the referral process is largely ad hoc and relies on families being aware of the service, and shared one example where IDRS assisted in reuniting a parent with an intellectual disability with her child after a neighbour contacted their service:

...we got a call from a woman who said, 'My neighbour is in hospital. She's just given birth and she's called me to say her baby's been removed. Can you help?' She has an intellectual disability. She has never had a service in her life; she is completely independent. The baby was born, and the hospital social worker was really uncomfortable with the situation and called DoCS [Department of Community Services]. DoCS came, and they took the woman, at that point straight after having a caesar, to another hospital to do an IQ test on her and decided she failed that and removed the baby. Then we fought so hard and we got the baby back into her care. We are still in touch with this woman. The baby is four years old now, and it is a travesty to think that she might not be with her mum had her neighbour not googled and found our service and called us.³⁴

9.26 It was put to the committee access to similar services can be 'hit and miss'. Dr Susan Barnes from PDA told the committee the referral process to support services is largely ad hoc as 'there is no central clearing house for pregnant women with intellectual disability where they might get linked in'.³⁵

Support for families with disability

9.27 A number of witnesses noted the importance of family support services for families with disability. Ms Sandler from IDRS told the committee positive outcomes are more likely to be achieved where support is provided as early as possible:

32 IDRS, *Submission 21*, p. 3.

33 Ms Marissa Sandler, Solicitor, IDRS, *Committee Hansard*, Sydney, 18 February 2015, p. 35.

34 Ms Marissa Sandler, Solicitor, IDRS, *Committee Hansard*, Sydney, 18 February 2015, p. 36.

35 Dr Susan Barnes, Manager Individual and Group Advocacy, PDA, *Committee Hansard*, Sydney, 18 February 2015, p. 37.

When we are involved with a family as soon as the DoCS [Department of Community Services] is involved with them, as soon as they are knocking at their door, the outcome is much better. If there is early intervention work it changes everything.³⁶

9.28 A number of submitters and witnesses expressed strong support for the development of early intervention programs tailored for parents with disability (including parenting courses), as well as ongoing supports such as co-parenting, shared care and home respite services as an alternative to long term placement in care.³⁷

9.29 Submitters also suggested improving ongoing supports to assist families with disability in providing care for their children. Mrs Fiona May from ADACAS told the committee of one example of how support services assisted a parent with an intellectual disability to take his daughter to the park:

He started with a doll and with just packing the pram. What do I need to take? Then he took the walk without the doll and then with the doll and the pram. Eventually, he actually took his daughter to the park. But it is a long, slow process to learn that skill for a person whose cognitive function is impaired in some way. Yes, it is intensive and, yes, it is expensive, but I would propose that it is less expensive than out-of-home care for 18-year orders for that baby.³⁸

9.30 The committee heard there are limited early intervention supports targeted at families with disability across jurisdictions. In its submission, the Department of Social Services (DSS) noted the Commonwealth funds a range of programs aimed at parents and carers of children with disability, but no specific programs aimed at parents with disability.³⁹

9.31 A number of witnesses expressed concern that one Commonwealth-funded early intervention support service, the Healthy Start initiative at the Parenting Research Centre at the University of Sydney, has recently been defunded by DSS.⁴⁰ Healthy Start is a national capacity building strategy that supports individuals and organisations to access and share resources about how to best support parents with

36 Ms Marissa Sandler, Solicitor, IDRS, *Committee Hansard*, Sydney, 18 February 2015, p. 37.

37 See: IDRS, *Submission 21*, p. 4; CDA, *Submission 80*, p. 5; ADACAS, *Submission 71*, p. 7.

38 Ms Fiona May, CEO, ADACAS, *Committee Hansard*, Canberra, 16 April 2015, p. 19.

39 The Department of Social Services noted it funds a series of programs including the Respite Support for Carers of Young People with Severe or Profound Disability, the Outside School Hours Care for Teenagers with Disability, MyTime Peer Support Groups for Parents and Carers of Children with Disability or Chronic Medical Condition, Helping Children with Autism and Better Start for Children with Disability. See: DSS, *Submission 78*, p. 14.

40 See: Dr Susan Barnes, Manager Individual and Group Advocacy, PDA, *Committee Hansard*, Sydney, 18 February 2015, p. 36; Ms Fiona May, CEO, ADACAS, *Committee Hansard*, Canberra, 16 April 2015, p. 11.

learning difficulties and their children.⁴¹ Mrs Fiona May from ADACAS told the committee one Healthy Start program in WA provides a best practice example where workers are trained by the Parenting Research Centre and 'are supported in an ongoing way by that centre to work in a one-on-one and at-home environment with the parent with intellectual disabilities'.⁴²

Support for families of children with disability

9.32 The need for early intervention and ongoing supports is particularly important for families of children with disability. Citing a 2011 report by the Victorian Equal Opportunity and Human Rights Commission, Ms Philippa Angley from NDS told the committee that for families relinquishing the care of their children with disability:

...the families invariably said that what they were offered was too little too late and they had really got to the end of their tether.⁴³

9.33 The committee heard there are few early intervention support services for families of children with disability. CDA noted in its submission, families and carers of children with disability 'are finding it increasingly difficult to meet the needs of their children due to the inability to access adequate services and supports within the community'.⁴⁴

9.34 Where services are available, submitters and witnesses suggested that children may still be placed into care if they are not provided support tailored to their specific needs. NDS suggested there is a particular need for tailored services for young people with challenging behaviour related to autism. NDS noted in WA, there has been a 33 per cent growth since 2011 in 'specialised and individualised' placements of children with complex and challenging behaviours'.⁴⁵

9.35 The Endeavour Foundation brought the committee's attention to one best practice example of an early intervention service for families of children with disability run by the Carpentaria Disability Services in the Northern Territory (see Box 9.2).

41 See: Parenting Research Centre, *Healthy Start*, <http://www.healthystart.net.au/> (accessed 28 July 2015).

42 Ms Fiona May, CEO, ADACAS, *Committee Hansard*, Canberra, 16 April 2015, p. 19.

43 Ms Philippa Angley, Executive Officer, NDS, *Committee Hansard*, Melbourne, 20 March 2015, p. 20.

44 CDA, *Submission 80*, p. 7.

45 NDS, *Submission 54*, p. 3.

Box 9.2 – Best practice – Carpentaria Disability Services

Carpentaria Disability Services (CDS), based in Darwin in the Northern Territory, administers an early intervention program for families of children with disability up to six years of age. The program is funded by the NT Department of Health and children are referred to CDS by medical and developmental services, or through self-referral.

For children with disability, a developmental delay or who are traumatised, the typically occurring connecting processes between adult and child are disrupted. CDS works with parents to better read the verbal and non-verbal cueing systems of their children to improve attachment and connection. Mr John Callanan, program manager and psychologist, described this process as 'recalibrating' parent and child to recognise and respond to the cues as they would in a typically developing context.

CDS also runs a similar program using the same practice for carers of children in out-of-home care. Mr Callanan noted anecdotal evidence suggests: 'very complex, difficult children have very good outcomes with carers who...were feeling like they were not able to manage because of the complexities, and who subsequently made great gains and have maintained care of the child'.

Mr Callanan told the committee the outcomes of this program has resulted in a significant decrease in access to respite services as parents are able to better equipped to understand and respond to their child's needs. Anecdotal evidence suggests the program is 'creating a different prognosis for these kids as they get older, and therefore of their parents keeping them in the family context'.

Source: Mr John Callanan, Program Manager and Psychologist, Early Intervention Services, Carpentaria Disability Services, Committee Hansard, Brisbane, 17 April 2015, pp 23–32.

9.36 However, the committee heard access to similar services is consistent across jurisdictions. Dr Barnes from PDA noted there needs to be more support for families of children with disability, particularly those in crisis situations who are not coping and who are at risk of relinquishing their children into care:

...an adequate level of support for a family, based on their needs and the needs of the child and the broader family, really needs to be in place—the whole circle around that. It is painful to see a child having to go to live with strangers. It does not always work well.⁴⁶

9.37 The Endeavour Foundation highlighted the importance of developing an effective early intervention strategy and specialised child-led programs to develop the repertoire of families in responding to their children.⁴⁷ Mr Simon Nugus, National Business Manager from the Endeavour Foundation, noted an emphasis on early intervention means:

...ensuring that these families and carers are afforded adequate supports to combat the increased levels of stress and anxiety often experienced when caring for a child with a disability, and that these supports be embedded

46 Dr Susan Barnes, Manager Individual and Group Advocacy, PDA, *Committee Hansard*, Sydney, 18 February 2015, p. 39.

47 Endeavour Foundation, *Submission 43*, p. 8.

before such stressors and anxieties become the catalyst for relinquishment to or intervention by the child protection system.⁴⁸

Supporting children with disability in care

9.38 As discussed in Chapter 4, the outcomes for children in out-of-home care are generally poor across a range of indicators. For children with disability in care, outcomes are likely to be worse, especially where appropriate disability support services are not provided. Mr Simon Nugus from the Endeavour Foundation highlighted that for children with disability, the issues that affect children in out-of-home care 'are magnified, and, as such, thought must be given to additional robust supports to face these issues'.⁴⁹

9.39 Submitters expressed concerns the *National Framework for Protecting Australia's Children 2009-2020* (National Framework) does not support children with disability. PDA expressed concern the National Framework does not include a 'robust understanding' of social model of disability, or a focus on the best interests of children with disability, and focusses instead on 'disability' as a cause for a potential lack of safety and stability.⁵⁰

9.40 In 2013, the United Nations Committee on the Rights of Persons with Disabilities (UN Committee) expressed concerns that the National Framework focusses on child protection against violence, abuse and neglect and that there is:

...no comprehensive national policy framework for children, including children with disabilities, that articulates how the rights of children should be implemented, monitored and promoted.⁵¹

9.41 The UN Committee recommended Australia incorporate the UNCRPD into legislation and policies that apply to all children and young people, and establish policies and programs that will ensure the right of children with disabilities to express their views on all matters concerning them.⁵²

Assessment of needs

9.42 As discussed above, many children and young people with disability in out-of-home care, particularly those with an intellectual disability, are not recognised. Associate Professor Philip Mendes from the Department of Social Work at Monash University, told the committee:

...often intellectual disability services do not pick up an assessment until the child is virtually about to leave care. It is far too late. There should be

48 Mr Simon Nugus, National Business Manager, Children, Youth and Education Services, Endeavour Foundation, *Committee Hansard*, Brisbane, 17 April 2015, p. 24.

49 Mr Simon Nugus, *Committee Hansard*, Brisbane, 17 April 2015, p. 24.

50 PDA, *Submission 74*, p. 6.

51 United Nations Committee on the Rights of Persons with Disabilities (UNCRPD), 'Concluding observations on the initial report of Australia', 2-13 September 2013, CRPD/C/AUS/CO/1, p. 3.

52 UNCRPD, 'Concluding observations', p. 3. See: PDA, *Submission 74*, p. 3.

an assessment much earlier on and, if they then are shown to have a disability, the specialist supports can be in place a lot earlier, not just when they are turning 17 and about to leave care.⁵³

9.43 Across jurisdictions, children with an identified disability are generally placed in a specialist stream of care with access to a range of disability support services. However, the committee heard due to the lack of awareness of disability issues within child protection departments, and the rigidity of disability programs, the needs of children with disabilities are not always met. PDA noted in its submission, due to

...both the poor recognition of disability, and the potential unwillingness to place a child in a 'disability stream' of the child protection system, the child protection system as a whole lacks a robust understanding of how to ensure the rights of children with disability.⁵⁴

9.44 The need for disability support services for children in foster care is essential to ensuring positive outcomes for children in care. Ms Ngila Bevan from PDA told the committee that if supports are not available for parents, they are often not available for foster carers:

If a child with disability has adequate disability support then that will not only support that child but also support that family to remain together. Again, for a person with disability, if they have adequate disability supports that they need, that will also support their family to remain as a unit and to function in a healthy way, because the family then has those disability supports. What we see is that if the child, the parent or a member of the family does not have those supports, if those supports are not able to be created or delivered in that environment and then a child is removed or relinquished and they go into foster care, for example, why would it suddenly work in that environment? If those disability supports are not available for that family, how are they going to be available for a foster family, for example?⁵⁵

9.45 A number of witnesses highlighted the need for flexible services to best meet the specific needs of young people with disability, particularly those with intellectual disability. For example, Ms Fiona May told the committee of one homeless young person with intellectual disability ADACAS had supported who did not meet the requirements for a range of supports:

What we found then was that his disability needs meant that he was too difficult for the youth homelessness sector to respond to, that he was considered to have too high a level of functioning for the disability sector to respond to and that the care and protection sector was essentially saying, 'Well, we're not really interested in him because he's already 15, so he's

53 Associate Professor Philip Mendes, Department of Social Work, Monash University *Committee Hansard*, Melbourne, 20 March 2015, pp 21–22.

54 PDA, *Submission 74*, p. 6.

55 Ms Ngila Bevan, Human Rights Adviser, PDA, *Committee Hansard*, Sydney, 18 February 2015, p. 38.

going to be ageing out of our system in no time.' ... The system expected him to fit into those kinds of outputs, if you like: 'A care plan is made in this year, blah blah.' It does not take into account the needs or the life experience of the young person themselves. If we really want our system to respond to the needs of young people, we need to do that in a way that actually takes into account where they are at.⁵⁶

9.46 The Endeavour Foundation suggested introducing an assessment or referral pathway for all children entering care to ensure the needs of children with disability can be properly recognised and addressed.⁵⁷

Connection to family

9.47 As noted in Chapter 4, maintaining connection to family is particularly important for all children in care. The committee heard that for children with disability, maintaining this connection to family can be difficult. CDA noted that families who have relinquished children to child protection authorities have particular difficulties:

For example, a family reported that in order to relinquish, they had to inform child protection officials that they were at risk of harming their child if they could not get any support. This can lead to parents being treated like they have abused and neglected their children, causing further isolation and profound stress to children, young people and their families.⁵⁸

9.48 Submitters and witnesses expressed support for services that allow children with disability to remain connected to their families, including shared-care, regular respite, intensive support coordination and outreach services. NDS noted that for cases where there is no abuse or neglect, outcomes are better 'if the level and flexibility of support enable children with disability to stay in their family home at least part-time'.⁵⁹

Alternatives to residential care

9.49 As discussed in Chapter 6, home-based care is the preferred placement option for children and young people in care and is widely regarded as facilitating the best outcomes. However, for children and young people with disability, identifying suitable home-based care arrangements is 'very difficult' or 'non existent'.⁶⁰ NDS suggested more children with disability are being housed in longer-term residential respite, transitory or emergency services, creating 'a cycle of crisis by reducing support options for families not [yet] in crisis'.⁶¹

56 Ms Fiona May, CEO, ADACAS, Committee Hansard, Canberra, 16 April 2015, p. 16.

57 Endeavour Foundation, *Submission 43*, p. 10.

58 CDA, *Submission 80*, p. 6.

59 NDS, *Submission 54*, p.4.

60 NDS, *Submission 54*, p. 4.

61 NDS, *Submission 54*, p. 4.

9.50 It was put to the committee that children with disability are more likely to be in residential care facilities than their peers in out-of-home care.⁶² These residential facilities often congregate people with disability together, segregated from the rest of the community and 'frequently lead to high levels of abuse, neglect and exploitation'.⁶³

9.51 The difficulty in identifying home-based options for children with disability is particularly acute for older children. Dr Barnes from PDA told the committee:

Getting other kinds of living arrangements for those children proves to be extremely difficult to the point—it appears to be 12 years of age in New South Wales—at which we recognise that we are not going to find a foster carer or others for this child. Then they move into a permanent group home type arrangement, which may be set up as best a family arrangement as can be done, but it is certainly not an outcome that we as an organisation see as benefiting that child.⁶⁴

9.52 The committee heard in Victoria, Bapcare runs a program called Family Options that provides training for carers of children with complex needs (see Box 9.3). Ms Angley from NDS noted Family Options also provides an effective model of shared care for families of children with complex needs, where caring responsibilities can be shared between families and carers.⁶⁵

62 NDS, *Submission 54*, p. 2.

63 PDA, *Submission 74*, p. 9.

64 Dr Susan Barnes, Manager Individual and Group Advocacy, PDA, *Committee Hansard*, Sydney, 18 February 2015, p. 39.

65 Ms Philippa Angley, Executive Officer, NDS, *Committee Hansard*, Melbourne, 20 March 2015, p. 21.

Box 9.3 – Best practice – Family Options

Family Options is a small program run by Baptcare in Victoria for carers of children with complex disability and health needs. The program is funded by the Victorian Department of Human Services disability stream.

Family Options assesses and trains carers using the same assessment and training tools as foster carers, but specifically matched to children or young people with complex disability and health needs. The program provides a home-based care option for children who would otherwise be placed in a residential care facility.

Ms Hayley Robinette from Baptcare told the committee the program has recently assisted children with disability (including those who are wheelchair users, nasal-feeding, non-verbal, have epilepsy, intellectual disabilities and cerebral palsy) to transition from residential care to permanent home-based care. Under the program, the permanent carers continue to receive a foster care allowance, as well as a package to support the young person beyond 18 years of age.

Source: Ms Hayley Robinette, Operations Manager, Baptcare, Committee Hansard, Melbourne, 20 March 2015, pp 9–10.

Transition from care

9.53 As discussed in Chapter 4, transitioning from care presents risks for all young people including homelessness, drug and alcohol abuse and poor educational and health outcomes. Associate Professor Philip Mendes told the committee young people with disability transitioning from care are 'particularly at risk of homelessness, abuse, sexual exploitation and the like'.⁶⁶

9.54 The Endeavour Foundation suggested specific disability supports (including financial and practical supports) be provided to young people with disability during and after the transition from care process up to 25 years old.⁶⁷ The Endeavour Foundation noted from its experience:

young people with a disability take longer to settle and develop the regulatory patterns, skills and resilience that allow them to live well as adults within our community.⁶⁸

Children with foetal alcohol spectrum disorder (FASD)

9.55 The committee heard that children with foetal alcohol spectrum disorder (FASD) and their families require specific supports to address and recognise their children's specific needs.⁶⁹

9.56 As with children with disability, there are no national data on the proportion of children with FASD in out-of-home care. Dr Sara McLean from the Australian Centre for Child Protection told the committee a recent meta-analysis of studies in out-of-home settings across the world found that the prevalence of children affected

66 Professor Philip Mendes, *Committee Hansard*, Melbourne, 20 March 2015, p. 21.

67 Endeavour Foundation, *Submission 43*, p. 14.

68 Endeavour Foundation, *Submission 43*, p. 14.

69 See: Russell Family Fetal Alcohol Disorders Australia (RFFADA), *Submission 105*.

by foetal alcohol spectrum disorder was around 17 per cent on average, ranging from 11 to 24 per cent across all out-of-home care settings.⁷⁰

9.57 Anecdotally, witnesses suggested there are a high proportion of children with FASD in out-of-home care in Australia. Ms Wendy Morton from the Northern Territory Council of Social Service (NTCOSS) told the committee:

Often FASD is something that is not picked up for many years...Anecdotally, there is a very high number of children in the care system who have FASD.⁷¹

9.58 Children with FASD have specific needs that are often not recognised under existing child protection frameworks. The Russell Family Fetal [sic] Alcohol Disorders Association, a charity and advocacy organisation for children and families with FASD, submitted that:

Children with FASD are very difficult to parent and can create difficulties for whole family units if the condition is not understood and interventions and strategies adopted by the family. The need for OOHC [out-of-home care] may spring from the lack of understanding by family members of the reason for the behaviours of the children with FASD and the additional stress placed on family.⁷²

9.59 The committee heard support for mechanisms to assess and recognise children with FASD, and programs to support their families and carers to address their specific needs.⁷³ The committee also heard support for early intervention strategies to incorporate information about FASD and effects on children. NTCOSS noted the need for greater interaction between family support services and the Australian Guidelines to Reduce Health Risks from Drinking Alcohol and other national initiatives aimed at reducing the incidence of FASD.⁷⁴

Committee view

9.60 The committee is concerned that children and young people with disabilities are over represented in the out of home care system and that they experience poorer outcomes than other children in out-of-home care.

9.61 The committee recognises that under the UNCRPD, Australia is obliged to ensure all children and families with disability are supported, and their specific needs are met. In particular, Australia is obliged to ensure families with disability are supported in their child rearing responsibilities.

70 Dr Sara McLean, Research Fellow, Australian Centre for Child Protection, University of South Australia, *Committee Hansard*, Canberra, 16 April 2015, p. 31.

71 Ms Wendy Morton, Executive Director, NTCOSS, *Committee Hansard*, Darwin, 2 April 2015, p. 6.

72 RFFADA, *Submission 105*, p. [6].

73 See: RFFADA Australia, *Submission 105*; NTCOSS, *Submission 72*.

74 NTCOSS, *Submission 72*, p. 22.

9.62 The committee recognises that children and families with disability have particular needs that are not currently addressed under existing child protection frameworks. In particular, the committee recognises the need for more home-based care options for children with disability, and increased family support for families with disability and families of children with disability to keep their children in the home, at least on a part-time basis.

9.63 The committee notes the NDIS provides an opportunity to improve the available supports for children and families with disability. However, the committee acknowledges the specific services that will be available to children and families is not yet clear, particularly in regard to early intervention and integration with other services.

9.64 The committee recognises there are important steps that can be taken now to improve outcomes for children and families with disability by 'breaking down the silos' between child protection and disability services. Better integration of these services will ensure children with disability and FASD that enter the child protection system will have access to the appropriate disability support services, and families with disability will have access to family support services.

Children from culturally and linguistically diverse backgrounds

9.65 A small number of submissions highlighted the need to address the specific needs of children from culturally and linguistically diverse (CALD) backgrounds.⁷⁵

9.66 As discussed in Chapter 2, there is no national data on the number of children in out-of-home care from CALD communities. Settlement Services International (SSI) estimated in NSW, approximately 25 per cent of children in out-of-home care are from CALD backgrounds, including strong representation of children from Vietnamese, Arabic speaking, Turkish, Maori and Pacific Islander, and African backgrounds.⁷⁶

Supporting CALD communities

9.67 As discussed in Chapter 5, the committee identified a significant need for increased support services for families to prevent children entering out-of-home care. SSI suggested that early intervention family supports and foster carer recruitment strategies should be targeted at CALD communities, particularly recently arrived migrants and refugee families.⁷⁷ Mr Joseph Ferrer from SSI told the committee the key barriers for CALD communities include:

...a low level of English literacy, mental health issues, barriers to employment, education and training, social isolation, access to affordable housing, family relationship pressures associated with settlement change

75 See: Settlement Services International, *Submission 55*; Jatinder Kaur, *Submission 107*; ISS, *Submission 49*.

76 Settlement Services International, *Submission 55*, p. [3].

77 Settlement Services International, *Submission 55*, p. [3].

and the lack of awareness of laws and processes in particular regarding child protection and the care of children and young people.⁷⁸

9.68 The committee heard SSI delivers a unique foster care services aimed at CALD communities that provides a best practice model of how to meet the needs of children and carers from CALD backgrounds (see Box 9.4).

Box 9.4 – Best practice – Multicultural Foster Care Service

The Multicultural Foster Care Service was launched by Settlement Services International (SSI) in early 2013. The MFCS is the first of its kind in NSW where a migrant service delivery organisation has been accredited and funded to deliver a foster care model specifically designed for children and carers from CALD backgrounds.

Key features of the MFCS include:

- three way matching of the cultural background of the child, carer and caseworkers;
- bilingual caseworkers from Vietnamese, Arabic, Turkish, and African backgrounds;
- focus on supporting children to remain connected with their culture and heritage;
- access to bilingual Cultural Aides who can assist with cultural support work;
- strong engagement with community and religious organisations and leaders;
- supervision of contact visits with birth families in community languages;
- foster carer recruitment, assessment, training and support in community languages; and
- counselling and support for children from refugee backgrounds in care.

Mr Joseph Ferrer from SSI told the committee it currently works with 118 children and young people from a diverse range of cultural, religious and linguistic backgrounds in the Sydney, Newcastle and Central Coast regions.

Source: Settlement Services International, Submission 55, p. [2]; Mr Joseph Ferrer, SSI, Committee Hansard, Sydney, 18 February 2015, pp 51–52.

Unaccompanied humanitarian minors

9.69 It was put to the committee that there are few home-based care options for children and young people entering Australia as unaccompanied humanitarian minors (UHM). In most cases, UHMs are placed in residential care facilities.⁷⁹ SSI recommended developing home-based foster care placement options for UHMs, and ensuring that service providers are subject to the same standards as other out-of-home care providers and recommended the introduction of national standards.⁸⁰

78 Mr Joseph Ferrer, Manager, Business and Community Development, Settlement Services International (SSI), *Committee Hansard*, Sydney, 18 February 2015, p. 52.

79 SSI noted it manages two residential services for unaccompanied minors that can accommodate up to 1 200 children and young people. See: SSI, *Submission 55*, p. [5]; Mr Joseph Ferrer, Settlement Services International, *Committee Hansard*, Sydney, 18 February 2015, p. 51.

80 SSI, *Submission 55*, p. [5].

International kinship arrangements

9.70 International Social Service (ISS) Australia noted the potential for international kinship arrangements to support children living overseas and those in Australia to maintain connection to their family and culture.⁸¹

9.71 ISS provided the committee with the initial findings of its research project into the specific needs of children who are sponsored by relatives to enter Australia on an Orphan Relative Visa. ISS noted these children fall into two main groups: those who have lost their parents due to circumstances of displacement, conflict or other humanitarian crisis, and those who are unable to be cared for by their parents due to intervention by statutory child protection authorities in the overseas country. These children are not generally supported by child protection authorities in Australia.⁸²

9.72 ISS noted 2 759 children and young people have arrived on Orphan Relative Visas over the past decade. ISS expressed concerns about the lack of information on the needs and wishes of orphan children and young people before they enter Australia, the ability of carers to provide adequate support once they arrive, and the outcomes for children in these care arrangements.⁸³

9.73 ISS expressed further concerns that international kinship carers 'receive little of the support available to children in formal domestic kinship care arrangements'.⁸⁴ ISS suggested children entering Australia on Orphan Relative Visas and their carers should be able to access the same benefits and supports as other children placed in kinship care.⁸⁵

9.74 ISS supported providing culturally appropriate case-management services and financial support for international kinship carers.⁸⁶ Ms Helen Freris from ISS told the committee:

...international kinship care arrangements can offer a worthwhile opportunity for children to benefit from the permanency and stability of a family while maintaining connections to country and culture of origin provided that appropriate investment is made into pre- and post-placement psychosocial and financial support to children and their carers.⁸⁷

81 See: International Social Service (ISS) Australia, *Submission 29*.

82 ISS, *Submission 49*, p. 2.

83 ISS, *Submission 49*, p. 6.

84 Ms Helen Freris, National Services Manager, ISS Australia, *Committee Hansard*, Melbourne, 20 March 2015, p. 9.

85 ISS, *Submission 49*, p. 10.

86 ISS, *Submission 49*, p. 10.

87 Ms Helen Freris, National Services Manager, ISS Australia, *Committee Hansard*, Melbourne, 20 March 2015, p. 9.

Committee view

9.75 The committee recognises children and families from CALD backgrounds have specific needs that are not supported by current child protection frameworks. In particular, the committee recognises that children in international kinship care arrangements and unaccompanied humanitarian minors do not receive the same level of support and are not subject to the same standards as other children in out-of-home care.

9.76 The committee supports models of care that address the needs of children and families from CALD communities. The committee notes as part of the second action plan (2012-2015) of the National Framework, states and territories agreed to consider the needs of CALD communities in all new reforms, including that financial support and training for carers be extended to CALD grandparent and kinship carers.⁸⁸ However, as noted in Chapter 2, it is not clear how the recommendations and reforms of the second action plan have progressed, and how far considerations of the needs of CALD communities have been embedded in child protection systems across jurisdictions.

88 See: Council of Australian Governments (COAG), *Protecting children is everyone's business: Second three year action plan, 2012–2015*, 2012, p. 23, <https://www.dss.gov.au/our-responsibilities/families-and-children/publications-articles> (accessed 10 August 2015).

Chapter 10

Conclusion and recommendations

10.1 Governments of all levels have a responsibility to ensure that all children and young people removed from their families and placed in out-of-home care are provided with safe and nurturing living arrangements. The committee is deeply concerned by evidence that suggests out-of-home care placements are not safe or stable and that children and young people experience significantly poorer outcomes than their peers. The committee supports the view of Associate Professor Philip Mendes from the Department of Social Work at Monash University that governments of all levels have a moral and legal obligation to children placed in their care:

If we as a community are going to give our government the power to coercively intervene in families where alleged significant abuse or neglect has occurred, then our government has both the moral and legal obligation to devote sufficient resources to ensure that the outcomes for those children are far better than if they had remained with their family of origin.¹

10.2 The committee recognises that parents and families have a responsibility to provide nurturing homes for their children safe from abuse and neglect. The committee is deeply concerned by the increasing number of children entering and remaining longer in out-of-home care. The committee recognises that for some children, placement in out-of-home care may provide the safest and most stable environment, at least in the short-term. However, evidence to the committee suggests families and carers need greater support and assistance to provide safe and stable homes for children and young people, particularly those from disadvantaged communities.

10.3 The committee recognises that addressing the significant challenges facing Australia's out-of-home care systems means addressing a range of complex and inter-related social issues linked to social disadvantage, including family violence, drug and alcohol abuse and mental health issues. The committee acknowledges and is concerned that Aboriginal and Torres Strait Islander communities face significantly higher levels of social disadvantage than non-Indigenous communities, contributing to the over-representation of Aboriginal and Torres Strait Islander children and young people in out-of-home care.

10.4 However, the committee also recognises there are certain systemic factors that contribute to the high number of children entering and remaining in out-of-home care. In particular, the lack of family support services means there is limited scope for at-risk parents to get the support they need to build safe and resilient families for their children. The lack of available supports and understanding of the specific needs of Aboriginal and Torres Strait Islander families, and families with disability also contribute to an overrepresentation of these groups in out-of-home care.

1 Associate Professor Philip Mendes, *Submission 6*, p. 1.

10.5 The committee heard evidence that addressing these systemic issues in the United States and United Kingdom has resulted in positive steps towards decreasing the number of children in out-of-home care by introducing a range of child-centred reforms. The National Children's Commissioner, Ms Megan Mitchell told the committee the US achieved a 30 per cent reduction between 1998 and 2012 through key policy changes including:

- performance based contracting with non-government organisations;
- subsidised adoption and guardianship placements; and
- focussing on child wellbeing, including investing in the therapeutic recovery of children who have been abused, neglected or suffered trauma.²

10.6 The committee suggests a similar combination of reforms in Australia, as outlined below, would have a significant impact on reducing the number of children entering care, and improving outcomes for those children leaving care.

National Framework for Protecting Australia's Children 2009–2020

10.7 The committee strongly supports the aims and principles of the *National Framework for Protection Australia's Children 2009-2020* (National Framework), particularly its focus on providing universal and secondary supports for all families to prevent child abuse and neglect.

10.8 However, the committee is deeply concerned that at the half-way point of the implementation of the National Framework, there appears to be little progress in improving outcomes for children and young people in out-of-home care and their families. Despite the commitment from Commonwealth, state and territory governments to the principles of the National Framework, evidence suggests child protection systems continue to be crisis driven.

10.9 The committee acknowledges the positive progress made by some jurisdictions in improving models of care and support for children, families and carers, many of which are highlighted throughout this report. However, the committee is concerned that there is no national consistency in how these models and supports are applied.

10.10 The continued increase in the number of children and young people entering and remaining in out-of-home care since the National Framework has been in place indicates that a public health model of child protection, with a focus on universal and secondary interventions for at-risk families, will take time to implement and require significant reforms at all levels of government and has not yet translated into positive improvements for children and young people. As discussed in Chapter 2, the

2 Ms Megan Mitchell, National Children's Commissioner, *Committee Hansard*, Sydney, 18 February 2015, p. 2. See: Bryan Samuels, Executive Director, Chapin Hall, University of Chicago, 'Redefining success for vulnerable children through public systems,' *Rights Talk*, Australian Human Rights Commission, 19 September 2014, <http://www.humanrights.gov.au/sites/default/files/PRC-Bryan%20Samuels%20Australian%20Presentation%20External.pdf> (accessed 6 August 2015).

committee supports reinvigorating the National Framework to include measures to increase accountability, funding and local responses, as well as integrating it with other relevant frameworks.

Recommendation 1

10.11 The committee recommends that the Council of Australian Governments (COAG) include the following measures in the third action plan (2015-2018) for the National Framework:

- **accountability for Commonwealth, state and territory governments to ensure compliance with the objectives of the National Framework;**
- **practical guidance for state and territories for implementing the *National Standards for out-of-home care* at a local level;**
- **integrating all projects under the National Framework with related frameworks including the *National Plan to Reduce Violence against Women and their Children 2010–2022* and the *National Drug Strategy 2010–2015*; and**
- **associated funding to assist the National Framework achieve its stated objectives.**

Data collection

10.12 The committee is also concerned by the progress of the National Framework's projects to improve data collection on outcomes for children and young people. The committee recognises the importance of data in contributing to the development of evidence-based programs and services to best meet the needs of children and young people.

10.13 While acknowledging the work currently underway by the Australian Institute of Health and Welfare (AIHW), together with the state and territory governments, the committee is concerned that data is currently only available on 7 of the 22 measures identified in the National Standards for out-of-home care.

10.14 The committee recommends these data collection projects be expanded to address significant data gaps in regard to children with disability, children in kinship care arrangements, permanency planning and the role of community organisations, and how these impact on outcomes for children and young people.

Recommendation 2

10.15 The committee recommends that the Australian Institute of Health and Welfare (AIHW) work with states and territories to address data gaps in Child Protection National Minimum Data Set (CP NMDS) and other data sets of children in out-of-home care regarding:

- **children and young people with disability;**
- **children and young people from culturally and linguistically diverse backgrounds;**
- **relationship between children and young people and their kinship carers;**

- **role of permanency planning and permanent care placements for children and young people;**
- **data collected by community service organisations; and**
- **how outcomes for children and young people in out-of-home care compare with the general population.**

10.16 The committee shares the concerns expressed by the United Nations Committee on the Rights of the Child about the lack of data on the reasons why children are placed in out-of-home care. While acknowledging the difficulty in collecting this data on a national scale, the committee notes such data is vitally important to identifying and addressing the key reasons children are placed in care. The committee supports the recommendation of the UN Committee to improve the collection of data about the reasons why children are placed in care.

Recommendation 3

10.17 The committee recommends that AIHW work with states and territories to develop and implement a data collection project that would provide general data on the reasons children are placed in out-of-home care, consistent with the recommendation by the United Nations Committee on the Rights of the Child.

10.18 The committee also shares concerns expressed by the United Nations Committee on the Rights of Persons with Disabilities that the National Framework focusses on the prevention of child abuse and neglect, rather than protecting the rights of children in out-of-home care, particularly those with disability.

Recommendation 4

10.19 The committee recommends that COAG review the National Framework to address recommendations by the United Nations Committee on the Rights of Persons with Disabilities that the National Framework include provisions to protect the rights of children, particularly those with disability.

Support for children

10.20 The committee is concerned by evidence that suggests children and young people in out-of-home care continue to experience poor outcomes across a range of indicators, including health, education and homelessness. The committee strongly supports a child-first approach in all decision-making processes regarding children and young people in out-of-home care. The outcomes for children and young people must inform and guide all decisions about placements, supports and possible family reunification, where appropriate.

Voice of children and young people

10.21 The committee acknowledges the importance of listening to the voice of children and young people in discussions about placements and care planning. The committee also recognises the importance of providing independent mechanisms for investigation of complaints and concerns by children and young people while in care. The committee recognises that some states and territories have these processes in place, but is concerned there is no national consistency in how the views of children

and young people are heard and addressed. The committee suggests nationally consistent powers for independent child guardians and commissioners could provide an effective mechanism for these complaints to be heard.

Recommendation 5

10.22 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to improve participation by children and young people in decision making processes, including:

- **entry into care (where appropriate);**
- **placement decisions;**
- **family contact and reunion; and**
- **transition from care.**

10.23 This project should draw from the findings of AIHW's national survey into views of children and young people in out-of-home care.

Recommendation 6

10.24 The committee recommends that COAG develop and implement nationally consistent powers for independent child commissioners and guardians to:

- **review individual out-of-home care cases;**
- **address complaints and concerns by children and young people;**
- **ensure the voice of children and young people is heard in all decision-making processes about placements and case planning; and**
- **provide community visitors to visit all out-of-home care placements.**

Therapeutic care

10.25 The committee recognises that children and young people in out-of-care have complex needs that require specialist support. The committee acknowledges the need for models of care that address the impact of trauma as a result of child abuse and neglect.

10.26 The committee recognises the potential of trauma-informed therapeutic models of care to improve outcomes for children and young people in out-of-home care. The committee acknowledges the commitment from some states and territories to increase the number of therapeutic placements, particularly for children with complex needs in foster care and residential care. The committee is encouraged by evidence that suggests therapeutic foster and residential care models contribute to more positive outcomes for young people than other models.

10.27 However, the committee is concerned that existing therapeutic models are limited to relatively small-scale programs and are only available to a small proportion of children and young people. The committee is also concerned by the lack of national consistency in the way the term 'therapeutic' is currently applied to a range of support services that may not address issues of trauma.

10.28 While recognising the high short-term cost in delivering therapeutic models, the committee recognises that the implementation of these models has the potential to improve long-term outcomes for children and young people, and deliver significant cost savings to all levels of government.

Recommendation 7

10.29 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework, a project to develop and implement:

- **national therapeutic care standards; and**
- **an evaluation of best practice models of therapeutic care across all types of care (drawing from best practice models in Australia and overseas), with a view to implementing therapeutic models across all jurisdictions.**

Recommendation 8

10.30 The committee recommends that states and territories increase resources available to fund therapeutic models of care, based on evidence-based evaluations of existing and proposed models.

Children with specific needs

10.31 The committee is concerned by evidence that suggests that children and young people with disability are over represented in the out-of-home care system and that they experience poorer outcomes. In particular, the committee is concerned by evidence that suggests a high proportion of children in out-of-home care have undiagnosed disabilities or chronic health issues such as Foetal Alcohol Spectrum Disorder (FASD).

Recommendation 9

10.32 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to develop and implement a nationally consistent approach to integrating child protection and disability services to ensure children are screened for disability and complex health needs (such as FASD) and referred to appropriate services, and have access to disability services throughout their time in care.

10.33 The committee recognises children and families from culturally and linguistically diverse (CALD) backgrounds have specific needs that are not supported by current child protection frameworks. In particular, the committee recognises that children in international kinship care arrangements and unaccompanied humanitarian minors (UHMs) do not receive the same level of support and are not subject to the same standards of care as children in statutory out-of-home care.

Recommendation 10

10.34 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to develop and implement specific supports for children and families in UHMs and international kinship care placements.

Permanency and stability

10.35 As discussed in Chapter 4, the committee recognises the importance of stability in facilitating positive outcomes for children and young people in out-of-home care. The committee is concerned by evidence that suggests that the longer children remain in care, the more placements and instability they experience. The committee is also concerned that there is no nationally consistent approach to permanency planning, and that the National Standards for out-of-home care (National Standards) do not include a measure to indicate how permanency planning is to be applied across jurisdictions.

Recommendation 11

10.36 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to develop and implement a nationally consistent approach to permanency planning. This should include adding a measure on permanency planning into the National Standards for out-of-home care.

10.37 The committee recognises that 'permanency' can be achieved through a range of different placement options, including stable relative/kinship or foster care, or through reunification with family. The committee acknowledges that legally permanent arrangements, including guardianship orders and adoption, may be the most appropriate and stable placement option some for children and young people on long-term care and protection orders.

10.38 The committee shares concerns that there is no national consistency in the decision-making processes about legally permanent placements. The committee considers that decisions about legally permanent placement options, including adoption, should only be considered where it can be demonstrated this will provide a safe and stable placement for the child or young person, and they have an active role in the decision-making process.

10.39 The committee recognises the significant ongoing trauma and pain suffered by children and parents by past practices of forced adoptions, where children were placed for adoption without the consent of their parents, as examined in the committee's 2012 report *Commonwealth Contribution to Former Forced Adoption Policies and Practices*. The committee acknowledges the strong opposition to adoption in some segments of the community, particularly those affected by past practices of forced adoptions. The committee also recognises the conclusions of the *Bringing Them Home Report* that adoption is not an appropriate placement option for Aboriginal and Torres Strait Islander children.

10.40 However, the committee also recognises that for some children, legally permanent arrangements may provide the safest and most stable long-term placements. Where children are placed in legally permanent arrangements, the committee notes the importance of ensuring children remain connected to their families and communities, taking into consideration their cultural background. The committee is concerned about the lack of national consistency in legislation and practice to ensure children in these placements are supported to maintain a connection

to their family and culture, particularly for Aboriginal and Torres Strait Islander children.

10.41 The committee also shares concerns that in some jurisdictions, children and carers in adoption and guardianship order arrangements do not have access to the same financial and practical supports as other forms of care. If these placement options are to be utilised more often, more resources need to be made available to ensure children and carers continue to be supported.

Recommendation 12

10.42 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to develop a nationally consistent approach to legal forms of permanence (including guardianship orders and adoption) that ensure children maintain connection to their families and carers continue to receive financial and practical support.

Recommendation 13

10.43 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to consider how to improve access to legally permanent placements (including guardianship orders and adoptions) for children and young people in out-of-home care, where these arrangements may provide the safest and most stable placements.

Identity documents

10.44 The committee acknowledges the difficulties faced by children and young people in care in obtaining parental consent for identity documents at the Commonwealth level (including passports, citizenship and Medicare cards). The committee supports the recommendations by the National Children's Commissioner and the South Australian Council for the Care of Children that the Commonwealth streamline these processes for children and young people in care.

Recommendation 14

10.45 The committee recommends that the Department of Social Services, Department of Human Services and Department of Immigration and Border Protection review parental consent requirements for identity documents (including passports, Medicare cards and citizenship) to remove barriers to accessibility for children and young people in out-of-home care.

Health and education outcomes

10.46 The committee particularly recognises the need to improve education and health outcomes for children and young people in out-of-home care. The committee is concerned by evidence that suggests children in out-of-home care are more likely to experience chronic health and mental health conditions, and less likely to receive necessary treatment, than children in the general population.

Recommendation 15

10.47 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to develop and implement strategies to improve health outcomes for children and young people in care, including:

- access to health services, particularly youth mental health treatment and support services; and
- consideration of health outcomes in case planning.

Recommendation 16

10.48 The committee recommends that the Department of Health introduce a separate Medicare item for children in out-of-home care to improve access to health assessments and treatment, including mental health.

10.49 The committee is also concerned by evidence that suggests children in out-of-home care are less likely to complete school and transition into higher education and training. The committee recognises the importance of these educational opportunities in assisting young people to break the cycle of disadvantage.

10.50 The committee also recognises the effect of stigma on 'foster kids' and the need to improve the level of community and institutional expectation for these children to achieve positive educational outcomes.

Recommendation 17

10.51 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to develop and implement a nationally consistent approach to:

- additional education support for children and young people in out-of-home care; and
- increasing participation by young people in out-of-home care in education and training opportunities.

Recommendation 18

10.52 The committee recommends that states and territories ensure all children in out-of-home care have updated education plans.

Transition from care

10.53 One of the most significant gaps identified by the committee is the support available to young people transitioning from out-of-home care. The committee recognises the terminology of 'leaving care' incorrectly implies that young people no longer require care once they turn 18 years old. The committee supports the terminology 'continuing care' to highlight the need to provide ongoing support to young people through the transition period and afterward.

10.54 The committee notes while there is a significant lack of national data on the outcomes for young people once they leave care, evidence collected during this inquiry indicates young people are more likely to experience homelessness, drug and

alcohol misuse, and physical and sexual abuse. The committee is strongly concerned by the lack of support available to young people transitioning from care and supports lifting the age young people can receive support to 21 years of age.

10.55 The committee also supports the development of nationally consistent, best practice model of transition planning. This planning should be started as soon as possible and focus on access to education and employment opportunities, healthcare services where required and link-up services to other available supports and programs.

Recommendation 19

10.56 The committee recommends that AIHW work with states and territories to develop a data set on outcomes for young people transitioning from care up to 21 years of age, including the following indicators:

- connection to family and/or carers;
- education and employment;
- housing; and
- health (including mental health).

Recommendation 20

10.57 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to develop and implement a nationally consistent framework for transitioning from care, with a focus on improving:

- health outcomes;
- access to higher education;
- employment options; and
- access and support for securing suitable housing.

Recommendation 21

10.58 The committee recommends that the Australian Government increase the Transition to Independent Living Allowance (TILA) for young people transitioning from care. The committee further recommends that the Department of Social Services review existing post-care support programs to identify opportunities to assist young people transitioning from care.

Recommendation 22

10.59 The committee recommends that states and territories raise the age to which young people continue to receive ongoing post-care support to 21 years of age.

Support for families

Family support services

10.60 The committee recognises that for some children, placement in out-of-home care, at least temporarily, may be the safest option to prevent abuse and neglect. The

committee acknowledges that parents have a responsibility to provide a safe and nurturing home for their children.

10.61 However, evidence to the committee suggested many parents would benefit from additional assistance and support to help build safe and resilient families for their children. The committee considers that child removal should be the last resort for child protection authorities and there should be a greater focus on family support services, including integrated universal services, secondary interventions, respite services and shared care models. In particular, the committee recognises the potential benefits of 'proportionate universality' in developing targeted universal services that can help to identify vulnerable families and children.

10.62 The committee also recognises the need for equity in funding between family support services and out-of-home care services to ensure resources are directed at supporting families to keep children at home, where it is safe for the child to do so.

10.63 The committee suggests the development of a family support framework to develop equitable funding models for all forms of family support, and evidence-based evaluations to determine the best and most effective family support models.

Recommendation 23

10.64 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to develop and implement a nationally consistent family support framework addressing:

- **universal services targeted at improving the wellbeing of all children and young people;**
- **secondary interventions to support children and families at risk of child protection interventions;**
- **respite services and 'shared cared' models of support aimed at family preservation;**
- **evidence-based evaluations of family support services to determine best practice models; and**
- **equitable funding models for family support services.**

10.65 The committee further recommends that this family support framework should consider the specific needs of Aboriginal and Torres Strait Islander communities, families and children with disability and CALD communities.

Advocacy for families

10.66 The committee recognises parents with children in out-of-home care often feel overlooked and ignored by child protection authorities. The committee supports the introduction of services and advocacy groups that aim to build relationships between parents and child protection authorities to improve outcomes for children and young people. The committee acknowledges the positive benefits volunteer based advocacy groups have had on improving these relationships.

Recommendation 24

10.67 The committee recommends that COAG consider a nationally consistent approach to funding advocacy and support groups for parents with children in or at risk of entering out-of-home care.

Involvement of families in decision-making processes

10.68 The committee also shares concerns with parents and families about their lack of involvement in the decision-making process about the removal of children and placement in out-of-home care. The committee recognises evidence that long-term stability for children and young people can be improved where parents are involved in the decision-making process. The committee recognises the opportunity that alternative dispute resolution measures, such as Family Group Conferences, provide in involving parents and families in this process.

Recommendation 25

10.69 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to develop and implement a nationally consistent approach to improving participation by children and families in decision making processes, including Family Group Conferencing and other alternative dispute resolution measures.

Accountability of child protection authorities

10.70 The committee acknowledges that many parents and families feel powerless in engaging with child protection authorities and case workers. The committee shares concerns that families whose children are removed or at risk of being removed have limited scope to appeal decisions by child protection authorities, or take steps to enable children to be returned, where it is safe for the child to do so. The committee recognises there is no national consistency of independent oversight of child protection decisions or complaints mechanisms for parents and families with children in or at risk of entering out-of-home care.

Recommendation 26

10.71 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework the development of nationally consistent mechanisms, such as independent bodies, for managing complaints from families and investigating individual cases.

Recommendation 27

10.72 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework the introduction of national accreditation and registration of child protection workers, including those employed by government departments and NGOs.

Reunification and contact support

10.73 For families with children in out-of-home care, the committee recognises the lack of available support to assist in overcoming barriers preventing children being returned home, or where this is not appropriate, support to develop a positive

relationship with their child. The committee heard in many cases, families are not aware of what is required to have their children returned, and seldom supported to do so. The committee is particularly concerned about the lack of culturally appropriate support available to Aboriginal and Torres Strait Islander families, including services aimed at preventing family violence and alleviating social disadvantage.

Recommendation 28

10.74 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to develop and implement nationally consistent family support services including support for families with contact and reunification.

Recommendation 29

10.75 The committee recommends that the Commonwealth Government provide increased resources for family support services.

Legal assistance for families

10.76 The committee also recognises the lack of legal assistance available to families seeking to maintain parental responsibility for their children (including grandparent or other relative/kinship carers). The committee is concerned by evidence that families are unable to access legal assistance prior to and during the commencement of court proceedings. This lack of assistance means families are not able to contest decisions made about child placement, particularly where orders are made until 18 years of age. The committee considers the provision of legal assistance is integral to ensuring children can remain with families where appropriate.

10.77 The committee is particularly concerned by evidence that Aboriginal and Torres Strait Islander women may be viewed as 'enablers' of family violence in child protection court proceedings.

Recommendation 30

10.78 The committee recommends that the Commonwealth Government improve access to legal and other advice and support available to families in child protection matters both before and during court proceedings, including through increased funding for relevant legal assistance providers. The committee further recommends particular consideration be given to improving access to legal and other advice and support for Aboriginal and Torres Strait Islander families experiencing family violence.

Aboriginal and Torres Strait Islander communities

10.79 The committee recognises the importance of empowering Aboriginal communities to take responsibility for child protection issues, including decision making processes and delivery of services. The committee acknowledges some states and territories work with Aboriginal community controlled agencies (ACCAs) in some aspects of child protection matters, but that there is no national consistency how ACCAs are integrated into these processes. The committee considers ACCAs should be introduced across all jurisdictions and should be involved in the full range of

family support services for Aboriginal and Torres Strait Islander families, including out-of-home care, and must be supported by flexible funding models.

10.80 The committee supports examples of partnerships between the government and non-government sector to empower ACCAs to take responsibility for some out-of-home care services, particularly in NSW and Western Australia. The committee notes these partnerships are in the early stages of implementation and that more work needs to be done across jurisdictions to expand the capacity of ACCAs to develop and deliver services across the continuum of care.

Recommendation 31

10.81 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to develop and implement a nationally consistent approach to building the capacity of Aboriginal community controlled agencies (ACCAs) to become integrated into all aspects of the child protection system for Aboriginal and Torres Strait Islander children, including:

- **training Aboriginal and Torres Strait Islander support workers;**
- **providing family support services;**
- **implementation of the Aboriginal Child Placement Principle;**
- **involvement and responsibility for all decision making processes; and**
- **delivering out-of-home care services.**

10.82 The committee further recommends that state and territory governments review Aboriginal and Torres Strait Islander overrepresentation in out-of-home care as a matter of priority and provide additional resources for family support services to address the causes of social disadvantage.

Recommendation 32

10.83 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to develop and implement mandatory cultural competence training for all services working with Aboriginal and Torres Strait children and families. This training should be delivered by specialised local Aboriginal and Torres Strait Islander services, including those with expertise working in remote communities.

Families with disability

10.84 The committee recognises that children and families with disability have particular needs that are not currently addressed under existing child protection frameworks. The committee notes that the National Disability Insurance Scheme (NDIS) provides an opportunity to improve the available supports for children and families with disability. However, the committee acknowledges the specific services that will be available to children and families is not yet clear, particularly in regard to early intervention and integration with other services.

10.85 The committee recognises there are important steps that can be taken now to improve outcomes for children and families with disability by 'breaking down the silos' between child protection and disability services. Better integration of these

services will ensure children with disability and FASD that enter the child protection system will have access to appropriate disability support services, and families with disability will have access to family support services.

Recommendation 33

10.86 The committee recommends that the National Disability Insurance Agency (NDIA) review the adequacy and availability of funding for children with disability at National Disability Insurance Scheme (NDIS) trial sites, including:

- **early intervention funding to support children with disability remaining at home in the care of their parents; and**
- **case management support for children with disability and families with disability to access family support services to assist children remaining at home in the care of their parents**

Support for carers

Relative/kinship care

10.87 The committee acknowledges relative/kinship carers are assuming greater responsibility for an increasing number of children with complex needs in out-of-home care. The committee is concerned that statutory relative/kinship carers are not able to access the same financial and practical supports (including training and case workers) provided by child protection authorities to foster carers. The committee is also concerned that the complex needs of children in relative/kinship care are not recognised, meaning relative/kinship carers are not able to access higher rates of financial allowances.

10.88 The committee is particularly concerned that informal relative/kinship carers receive little financial and practical support. The committee recognises there are significantly more informal relative/kinship carers than those in the statutory system. The committee acknowledges evidence provided to the committee about the lack of financial and practical support for relative/kinship carers, particularly informal carers, supports the findings of the committee's previous inquiry into grandparent carers.

10.89 The committee supports increasing the capacity of emergency respite services to allow child protection authorities to properly assess relative/kinship carers prior to placement, rather than making expedient placements that may not be suitable for the child or young person. This would help to improve the stability of placements for children and facilitate more positive outcomes.

Recommendation 34

10.90 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to develop and implement nationally consistent financial and practical (including training and case-worker) support for statutory and informal relative/kinship carers. This should include:

- **establishment of a national peak body for relative/kinship carers;**
- **accreditation and training of relative/kinship carers;**
- **increasing allowances available to relative/kinship carers; and**

- **evaluation and development of nationally consistent best practice models of supported relative/kinship care.**

Recommendation 35

10.91 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to improve the capacity for emergency respite placements to determine best placements for children and young people.

10.92 The committee is particularly concerned about the lack of support for Aboriginal and Torres Strait Islander relative/kinship carers to become accredited, and the lack of ongoing support to provide adequate support for children and young people. The committee supports the findings from its previous inquiry into grandparent carers that the Winangay kinship resources be implemented nationally.

Recommendation 36

10.93 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to better support Aboriginal and Torres Strait Islander children in relative/kinship care, including:

- **streamlining accreditation and assessment process for Aboriginal and Torres Strait Islander kinship carers; and**
- **implementing the Winangay kinship resources to improve relationship between carers and child protection authorities.**

Foster care

10.94 The committee recognises the importance of volunteer foster carers in the statutory out-of-home care system. The committee is concerned about the long-standing challenges in recruiting and retaining suitable foster carers to meet the increasingly complex needs of children and young people entering out-of-home care. The committee supports the consideration of a national approach to supporting foster carers, including accreditation of carers.

10.95 The committee acknowledges that the concept of professional foster care has significant support across jurisdictions and that it may provide an opportunity to deliver better outcomes for children in care, particularly those children with complex needs. While noting the complex issues and barriers involved in introducing a model of professional foster care, the committee considers these can be overcome. The committee suggests the recommendations of the ACIL Allen Consulting review should be considered as a matter of priority with a view to introducing a best practice professional foster care model across all jurisdictions.

Recommendation 37

10.96 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a nationally consistent strategy to support and accredit foster carers to improve recruitment and retention. This should also address nationally consistent rates of financial support, case-worker support and training of foster carers.

Recommendation 38

10.97 The committee recommends that COAG implement a nationally consistent, best practice model of professional foster care.

Residential care

10.98 The committee is concerned that outcomes for children and young people in residential care are poor compared with other forms of care. The committee is concerned by evidence that indicates a disproportionate amount of funding is allocated to a model that results in these poor outcomes.

10.99 The committee recognises that older children with the most complex needs are the most likely to be placed in residential care. The committee acknowledges the importance of having trained specialist staff to assist children and young people in residential care, particularly those with complex needs. The committee supports the development of nationally consistent training for all residential care staff and use of therapeutic care models as outlined in other recommendations.

Recommendation 39

10.100 The committee recommends that COAG include in the third action plan (2015-2018) of the National Framework a project to develop and implement a nationally consistent approach to:

- **mandatory training for all residential care workers;**
- **training qualifications and allowances for carers (including increasing allowances for carers); and**
- **an evaluation how the role of NGOs in service delivery affects the outcomes for children in care.**

Senator Rachel Siewert

Chair

Additional Comments—Coalition Senators

1.1 Coalition Senators believe that the bias against adoption in Australia needs to end.

1.2 We wish to place on the record that while the committee undertook important and valuable work as part of this inquiry, statistics provided in evidence and submissions make it clear that there is a bias against adoption as a viable option for children in the out-of-home care system long-term and we believe the committee Report (the Report) fails to give proper regard to this reality.

1.3 Coalition Senators acknowledge the complexity of out-of-home care and note the good work of the committee in pursuing this inquiry. Coalition Senators further acknowledge and thank the many organisations and individuals who made submissions and presented evidence in hearings so that a full and wide-ranging inquiry could take place.

1.4 However, Coalition Senators wish to draw attention to the challenges around children who have been in the out-of-home care system long term. It is clear that children need stability and that adoption needs to be available as an option to far more children than is currently the case as one important means of providing stability.

1.5 The Report states that 27 924 children had been in out-of-home care for two years or more at 30 June 2013 while there were only 210 local adoptions in 2012-13, accounting for less than one per cent of children in long term care. It is clear from those numbers, and from evidence given to the committee, that any efforts to reduce the numbers of children in out-of-home care must include addressing the bias against adoption in Australia.

1.6 Barnardos Australia noted in their submission that:

The growing number of children in care is primarily driven by the fact that children are staying in care too long and entering care earlier. There is a failure to consider ensuring 'exit' from long-term care which leaves too many young people in unstable and damaging foster care. A proven way of doing so is through open adoption...Open adoption is valued highly by many children and Barnardos Australia has published extensively on our experience and can provide evidence from young people speaking themselves on the importance of this option. Both the USA and UK have a high number of children adopted from care.¹

1.7 In evidence given by Louise Voight, CEO of Barnardos Australia, it was clear that a lack of permanency is a significant issue for children in the out-of-home care system:

When research looks at the permanency of children in the out-of-home care system it is a deeply non-permanent experience for very many of them. Six

1 Barnardos Australia, *Submission 20*, p. 2.

to eight placements is normal. If you can just imagine what it means for a child who has already had a pretty horrible time one way or another at home and then is in something where they just get to know people and they move. They are not woken up, for instance, by the same person that put them to bed.²

1.8 The 'Still Damaging and Disturbing: Australian Child Protection Data and the Need for National Adoption Targets' study from the Centre for Independent Studies (CIS) noted that:

In the United States, more than 50 000 children are adopted from care each year. If Australian children in care were adopted at the same rate as in the United States, there would be around 5,000 adoptions each year, nationally. That there were 210 'local' adoptions in Australia in 2012–13 is pitifully low, especially given the rising numbers of children in care. But the situation is actually bleaker than this. There were only 54 adoptions where the child was not previously 'known' to the adoptive parents, and in all these cases the birth mother and/or birth father consented to the adoption.³

1.9 Barnardos Australia noted in their submission that in the UK, six per cent of children in out-of-home care for more than two months were adopted. By 2011, this proportion had increased to eight per cent, with 30 per cent of children who enter care before age one adopted before the age of four. This is compared with a care to adoption rate of less than one per cent in Australia for children who have been in out-of-home care for more than 2 years.⁴

1.10 Ms Maree Walk from the NSW Department of Families and Communities told the committee in evidence that, in relation to the need for adoptions:

You probably heard the research from the US and the UK about making decisions for those children early in their lives so that they have a sense of belonging. I have to say, adoption is a very difficult discussion to have in Australia because all of the history around adoption. But some of the most moving applications and discussion points around this were actually from children who grew up in care who said, 'I wish my third from family had adopted me.'(sic) At the forum that we had, young people who grew up in care were very strong and very pro adoption.⁵

1.11 Ms Walk further noted in evidence the problems with finding pathways to permanency:

2 Ms Louise Voight, CEO and Director of Welfare, Barnardos Australia, *Committee Hansard*, Sydney, 18 February 2015, p. 50.

3 Dr Jeremy Sammut, 'Still Damaging and Disturbing: Australian Child Protection Data and the Need for National Adoption Targets,' Centre for Independent Studies Issues Analysis, no. 145, 16 April 2014, p. 16, <http://www.cis.org.au/publications/issue-analysis/article/5140-still-damaging-and-disturbing-australian-child-protection-data-and-the-need-for-national-adoption-targets> (accessed 18 August 2015).

4 Barnardos Australia, *Submission 20*, p. [28].

5 Ms Maree Walk, Deputy Secretary, Programs and Service Design, NSW Department of Family and Community Services, *Committee Hansard*, Sydney, 18 February 2015, p. 66.

You have children under five, in particular, or under three, very little children, who we get 18-year orders for in New South Wales and are then living in foster care and who have no sense then of permanency. Some of those children are adopted by their foster carers, but that is up to the luck of the gods, really.⁶

1.12 In this context, the CIS study goes on to advocate for a National Adoption Target and notes that the new NSW model is one that could be implemented in all states and territories. Under the NSW regime:

it will be mandatory to decide (within 6 months of entering care for children under two years of age and within 12 months of entering care for children aged two years and older) whether restoration to the parents is feasible. Once it is determined that a child cannot safely go home, application will then be made in the Supreme Court for an order to legally free them for adoption by their new family.⁷

1.13 The NSW model presents a clear hierarchy for achieving greater permanency for children and young people in out-of-home care by:

Incorporating permanency into the objects of the Care Act and including a preferred hierarchy of permanency, being:

1. Family preservation/restoration
2. Long-term guardianship to relative or kin
3. Adoption
4. Parental responsibility to the Minister

Legislating that the Court can only make an order for parental responsibility to the Minister if long-term guardianship and adoption have been considered inappropriate

Requiring permanency plans not involving restoration to include a proposal for pursuing guardianship or adoption (as appropriate) or a reason as to why these will not be pursued

Legislating timeframes for decisions about the feasibility of restoration – within six months for children less than two years old and within twelve months for children older than two year.⁸

1.14 Coalition Senators point to this model as a way forward for adoption reform in Australia.

1.15 While adoption is not always going to be appropriate for children in out-of-home care, it is clear that too few have the opportunity to be adopted. Indeed, it

6 Ms Maree Walk, Deputy Secretary, Programs and Service Design, NSW Department of Family and Community Services, *Committee Hansard*, Sydney, 18 February 2015, p. 66.

7 Dr Jeremy Sammut, 'Still Damaging and Disturbing', p. 17.

8 NSW Department of Family and Community Services, *Safe Home for Life: Report on the outcomes of public consultation on the child protection legislative reforms discussion paper 2012*, p. 7, <http://www.facs.nsw.gov.au/safehomeforlife> (accessed 18 August 2015).

is difficult to see how out-of-home care outcomes can be improved without opening up pathways to adoption so that children can have stability returned to their lives.

1.16 Coalition Senators further note that one of the important first steps to reforming the adoption system is to ensure that the out-of-home care system, at all levels, takes a 'child-first' approach to decision making and policy development.

1.17 Coalition Senators note the important work of the NSW Government whose report *A Safe Home for Life* outlined an important shift in understanding the child protection system and, by extension, the mechanisms for out-of-home-care for at risk children. The NSW Government report stated that:

Many stakeholders...were of the view that the current child protection system is overly legalistic, adversarial and process-driven. Most young people interviewed indicated that it is also too parent-focused [emphasis added]. The need for greater parental accountability and consequences for poor parental behaviour was a strong message coming from young people who provided feedback.⁹

1.18 *A Safe Home for Life* further noted:

At the heart of these reforms is placing children back at the centre [emphasis added] of the child protection system. This will require us, as a community and sector, to really focus on children's rights and parental obligations. Vulnerable children and young people need us to be proactive and timely in making this transition.¹⁰

1.19 Coalition Senators stress that improving outcomes for at risk children is only possible if the safety and wellbeing of the child is place at the centre of all decision making. Coalition Senators note that the Report devotes significant space to issues such as legal aid for parents whose neglect, and in some cases abuse, has led to a child needing out-of-home care.

1.20 While there is a critical place for frontline services to help disadvantaged people, efforts to combat poverty, disadvantage and the underlying causes of family dysfunction should not be conflated with decisions about the immediate and long-term safety and wellbeing of an at risk child.

1.21 Evidence was too often presented to the committee that too much focus was put on parents needs and demands at the expense of their children's safety.

1.22 Ms Maree Walk from the NSW Department of Families and Communities told the committee that:

In response to the point about it being a child focused rather than an adult focused system here, some of our professional workers tend to be more focused on the adults around the issue of adoption than possibly focused on the children. And that is understandable given our history in Australia around adoption. It will take some time. Particularly for very young

9 NSW Department of Family and Community Services, *Safe Home for Life*, p. 10.

10 NSW Department of Family and Community Services, *Safe Home for Life*, p. 1.

children—children under five or under three—it is about their long-term needs.¹¹

1.23 Coalition Senators were deeply troubled by the case of Chloe Valentine from South Australia who died after Families SA failed to remove her from her parents who were drug addicted and abusive. The Coroner's report into Chloe's death stated that:

Families SA took the path of least resistance and the whole history of its dealing with Ashlee (Chloe's mother) is a history of drift, irresolution and aimlessness.¹²

1.24 The Coroner further stated that:

At times it seemed Chloe's interests had been forgotten completely while the focus was on Ashlee and her demands. A child's interests can and do sometimes conflict with the parents.¹³

1.25 With this in mind, Coalition Senators stress the need for state and territory governments and relevant organisations to understand and promote the need for parents to take seriously the responsibility of raising a child and, where they fail that responsibility, to expect to be held accountable.

1.26 The Coroner in the Chloe Valentine case could not have been more clear in his remarks that:

In my opinion adoption should have a place in the alternative placement options in the child protection system. I do not purport to be in a position to offer a settled model of what the role of adoption in the child protection system should look like. However, the evidence of the scarcity of alternative placement options and the notorious under supply of suitable and willing foster parents leads me to the very firm opinion that permanent removal to adoptive parents must have a place in the child protection system and I propose to recommend accordingly [emphasis added].¹⁴

1.27 Coalition Senators reaffirm the good work of the committee and the important recommendations of the Report in dealing with this complex and highly charged issue. There are many ways in which the out-of-home care system could be improved and the committee has undertaken some important work towards this end.

1.28 However, Coalition Senators also acknowledge that greater focus needs to be put on a 'child first' approach to out-of-home care so that the safety and wellbeing of at-risk children is always front and centre of decisions in this space.

11 Ms Maree Walk, Deputy Secretary, Programs and Service Design, NSW Department of Family and Community Services, *Committee Hansard*, Sydney, 18 February 2015, p. 66.

12 Mr Mark Johns, State Coroner, South Australia, 'Inquest into the death of Chloe Lee Valentine,' 9 April 2015, p. 146, <http://www.courts.sa.gov.au/CoronersFindings/Pages/Findings-for-2015.aspx> (accessed 18 August 2015).

13 Mr Mark Johns, State Coroner, South Australia, 'Inquest into the death of Chloe Lee Valentine,' 9 April 2015, p. 147.

14 Mr Mark Johns, State Coroner, South Australia, 'Inquest into the death of Chloe Lee Valentine,' 9 April 2015, p. 117.

1.29 Furthermore, Coalition Senators stress the importance of making every effort to remove the bias against adoptions in the out-of-home care sector. While reunification of families is important, a 'child first' approach should always acknowledge that reunification may not be the best option and so a child needs a system that can help provide stability and a way forward, rather than being left in limbo.

Recommendation 1

Coalition Senators recommend that COAG take a national approach to out-of-home care based on the NSW model so that more children under long-term care have the opportunity for adoption and permanency.

Recommendation 2

That the Commonwealth Government, in line with its stance on intercountry adoptions, use its leadership of COAG to promote policies which will make local adoption a more viable pathway.

Senator Zed Seselja

Senator Joanna Lindgren

APPENDIX 1

Submissions and additional information received by the Committee

Submissions

- 1** Department of Health and Human Services, Tasmanian Government (plus an attachment)
- 2** Confidential
- 3** Ms Sharon Glen
- 4** Confidential
- 5** Confidential
- 6** Associate Professor Philip Mendes
- 7** Healing Foundation (plus three attachments)
- 8** Confidential
- 9** Australian Childhood Trauma Group
- 10** Connections UnitingCare
- 11** Foster Care Association of Victoria (plus twenty four attachments)
- 12** Confidential
- 13** Family Inclusion Network Townsville (Inc)
- 14** Confidential
- 15** Commissioner for Children and Young People Western Australia
- 16** ACT Government (plus an attachment)
- 17** Royal Australian and New Zealand College of Psychiatrists
- 18** Australian Association of Social Workers
- 19** OzChild (plus an attachment)
- 20** Barnardos Australia
- 21** Intellectual Disability Rights Service
- 22** Australian Institute of Health and Welfare

- 23 Northern Territory Government
- 24 Aboriginal Family Violence Prevention and Legal Service Victoria
- 25 Aboriginal Legal Service of Western Australia (Inc.)
- 26 Confidential
- 27 Mr George Potkonyak (plus three attachments)
- 28 Confidential
- 29 National Family Violence Prevention Legal Services Forum
- 30 The Benevolent Society
- 31 Child Wise
- 32 Family Inclusion Strategies Hunter
- 33 Mr Bryan Seymour
- 34 Alliance for Forgotten Australians
- 35 Confidential
- 36 The Mirabel Foundation
- 37 FamilyVoice Australia
- 38 Mrs Sonia Brown
- 39 Institute of Child Protection Studies, Australian Catholic University, The University of Melbourne
- 40 The Salvation Army National Secretariat
- 41 Australian Institute of Family Studies (plus an attachment)
- 42 Name Withheld
- 43 Endeavour Foundation
- 44 Confidential
- 45 Commission for Children and Young People Victoria
- 46 Aboriginal Family Law Services (WA)
- 47 Confidential
- 48 Ms Karen Lizasoain

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- 49 International Social Service Australia
 - 50 Baptcare (plus an attachment)
 - 51 Western Australian Council of Social Service
 - 52 Name Withheld
 - 53 Confidential
 - 54 National Disability Services
 - 55 Settlement Services International
 - 56 Confidential
 - 57 Broadway Glebe Catholic Social Justice
 - 58 Macarthur Legal Centre
Response from Children's Court of NSW
 - 59 Rev Graham Guy
 - 60 Wanslea
 - 61 NPY Women's Council
 - 62 Winangay Resources Inc
 - 63 Shoalcoast Community Legal Centre
 - 64 Grandmothers Against Removals NSW (plus two attachments)
 - 65 Child and Family Welfare Association of Australia
 - 66 University of Melbourne Department of Social Work, Child, Youth and
Families Research Cluster (plus three attachments)
 - 67 Emeritus Professor Freda Briggs AO
 - 68 Life Without Barriers (plus four attachments)
 - 69 Queensland Government
 - 70 MacKillop Family Services
 - 71 ACT Disability Aged Carer and Advocacy Service
 - 72 Northern Territory Council of Social Service Inc
 - 73 Indigenous Issues Committee of the Law Society of NSW (plus a
supplementary submission)

- 74 People with Disability Australia Inc (plus an attachment)
- 75 Family Inclusion Network Victoria Inc.
- 76 Melbourne City Mission
- 77 Families Australia
- 78 Department of Social Services
- 79 Jumbunna Indigenous House of Learning, University of Technology Sydney
Response from Northern Territory Government Department of Children and Families
- 80 Children with Disability Australia
- 81 Ms Mary Ivec and Professor Valerie Braithwaite (plus eleven attachments)
- 82 Family Inclusion Network of Western Australia Inc
- 83 Access and Achievement Research Unit, La Trobe University (plus an attachment)
- 84 PeakCare Queensland
- 85 Yfoundations
- 86 Women's Legal Services NSW
- 87 Anglicare Australia
- 88 Key Assets (plus five attachments)
- 89 Dr Frank Ainsworth and Dr Patricia Hansen (plus twelve attachments)
- 90 Children's Youth and Families Agency Association
- 91 Australian Legislative Ethics Commission (plus two attachments)
- 92 Berry Street (plus six attachments)
- 93 Secretariat of National Aboriginal and Islander Child Care (plus four attachments)
- 94 Association of Children's Welfare Agencies NSW
- 95 Ms Michelle Aldam
- 96 CREATE Foundation (plus an attachment)
- 97 Aboriginal Child, Family and Community Care State Secretariat
- 98 Ms Jan Barham MLC

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- 99 Centre for Excellence in Child and Family Welfare
 - 100 Confidential
 - 101 Anglicare Victoria (plus an attachment)
 - 102 Dr Phil West
 - 103 Anglicare NT
 - 104 Wesley Mission Victoria
 - 105 Russell Family Fetal Alcohol Disorders Association (plus an attachment)
 - 106 Victorian Government
 - 107 Ms Jatinder Kaur
 - 108 Name Withheld

Additional Submissions
(Australian Legislative Ethics Committee survey respondents)

- 1 Ms Jeanette Barrie
- 2 Ms Marilyn Bryant
- 3 Ms Jonelle Clifford
- 4 Ms Susan Coleman
- 5 Mr Graeme Curnuck
- 6 Mr Robert Emiliani
- 7 Ms Lorraine Marriot
- 8 Ms Toni McPherson
- 9 Mr Gregory Morris
- 10 Ms Angela Richards
- 11 Ms Michelle Rigby
- 12 Ms Bec Stennett

- 13 Ms Karina Vodden
- 14 Mr Jason Williams
- 15 Ms Matilda Bawden
- 16 Ms Carolyn Minhinnick
- 17 Ms Tracy Jagger
- 18 Ms Marney MacDonald
- 19 Ms Mary Moore
- 20 Confidential
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Additional Information

- 1 Rescission or Variation of Children's Court Orders: A Study of Section 90 Applications in NSW, from Dr Frank Ainsworth, received 19 February 2015
- 2 Newpin Restoration Model, January 2013, from UnitingCare Children, Young People and Families, received 2 March 2015
- 3 Children's perspectives of different care settings: Foster care, adoption and kinship care, Research Paper, from UnitingCare Children, Young People and Families, received 2 March 2015
- 4 Young people transitioning from out-of-home care to adulthood, Policy Paper, March 2014, from UnitingCare Children, Young People and Families, received 2 March 2015
- 5 Good Practice in Reducing the Over-Representation of Care Leavers in the Youth Justice System, Leaving Care and Youth Justice: Phase Three Report, September 2014, from Associate Professor Philip Mendes, received 21 March 2015
- 6 Young People with a Disability Leaving State Care, Phase Two Report, from Associate Professor Philip Mendes, received 21 March 2015
- 7 A review of kinship carer surveys, Child Family Community Australia paper No. 31 2015, from Ms Meredith Kiraly, received 24 March 2015
- 8 A public health approach to enhancing safe and supportive family environments for children, publication by Daryl Higgins, from Australian Institute of Family Studies, received 20 March 2015
- 9 Trends in child protection notifications and children living in out-of-home care in Australia: 1989-90 to 2013-14, from Australian Institute of Family Studies, received 20 March 2015
- 10 Child Abuse and Neglect Prevention flyer, from Australian Institute of Family Studies, received 25 March 2015

- 11 Further information, from Life Without Barriers, received 13 March 2015
- 12 The Northern Territory - Fertile Ground for Family Group Conferencing in Child Protection Matters, from the North Australian Aboriginal Justice Agency, received 2 April 2015
- 13 Safeguarding Children's Rights in Child Protection: The Use of Family Group Conferencing in the Family Court, from the North Australian Aboriginal Justice Agency, received 2 April 2015
- 14 Justice reinvestment in Australia five years on, excerpt from the Social Justice and Native Title Report 2014, from the National Children's Commissioner, received 13 April 2015
- 15 Prospective Cost Benefit Analysis of Healing Centres report, July 2014, from Healing Foundation, received 16 April 2015
- 16 Healing Centres final report, December 2012, from Healing Foundation, received 16 April 2015
- 17 Estimated prevalence and living circumstances of parents with intellectual disability in Australia from selected national surveys, Technical report 1, July 2014, from ACT Disability Aged Carer and Advocacy Service, received 20 April 2015
- 18 The number and characteristics of parents with intellectual disability from Centrelink income support administrative data, Technical report 2, October 2014, from ACT Disability Aged Carer and Advocacy Service, received 20 April 2015
- 19 Predicting re-involvement for children adopted out of a public child welfare system, article by Rebecca Orsi, from the Tasmanian Department of Health and Human Services, received 1 May 2015
- 20 Non-infant adoption from care: lessons for safeguarding children, article by C.A. Rees and J. Selwyn, from the Tasmanian Department of Health and Human Services, received 1 May 2015
- 21 Information relating to the issue of access to identity documents and passports for children in care, from the National Children's Commissioner, received 4 May 2015
- 22 Closing statement from Brisbane public hearing 17 April 2015, from Key Assets, received 5 May 2015
- 23 Supplementary information, from the Regulatory Institutions Network, received 11 May 2015

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- 24** Information regarding Proof of Citizenship requirements for Australian passports and record keeping for children and young people under guardianship of the Minister, from South Australian Government's Council for the Care of Children, received 1 July 2015

Answers to Questions on Notice

- 1** Answers to Questions taken on Notice during 16 February public hearing, received from the Ombudsman Western Australia, 9 April 2015
- 2** Answers to Questions taken on Notice during 16 February public hearing, received from Wanslea, 9 April 2015
- 3** Answers to Questions taken on Notice during 16 February public hearing, received from Key Assets, 16 April 2015
- 4** Answers to Questions taken on Notice during 16 February public hearing, received from Western Australian Government Department for Child Protection and Family Support, 16 April 2015
- 5** Answers to Questions taken on Notice during 18 February public hearing, received from NSW Department of Family and Community Services, 20 April 2015
- 6** Answers to Questions taken on Notice during 16 April public hearing, received from Department of Social Services, 11 May 2015
- 7** Answers to Questions taken on Notice during 16 April public hearing, received from Productivity Commission, 11 May 2015
- 8** Answers to Questions taken on Notice during 16 April public hearing, received from the South Australian Government Department of Education and Child Development, 12 May 2015
- 9** Answers to Questions taken on Notice during 16 April public hearing, received from Australian Institute of Health and Welfare, 21 May 2015
- 10** Answers to Questions taken on Notice during 17 April public hearing, received from Key Assets, 5 May 2015
- 11** Answers to Questions taken on Notice during 17 April public hearing, received from Abt JTA, 5 May 2015

- 12 Answers to Questions taken on Notice during 17 April public hearing, received from Queensland Office of the Public Guardian, 7 May 2015
- 13 Answers to written Questions on Notice, received from the Tasmanian Government, 13 May 2015
- 14 Answers to written Questions on Notice, received from the NSW Government, 14 May 2015
- 15 Answers to written Questions on Notice, received from the WA Government, 18 May 2015
- 16 Answers to written Questions on Notice, received from the SA Government, 18 May 2015
- 17 Answers to written Questions on Notice, received from the Queensland Government, 19 May 2015
- 18 Answers to written Questions on Notice, received from the ACT Government, 21 May 2015
- 19 Answers to written Questions on Notice, received from the Victorian Government, 22 May 2015
- 20 Answers to written Questions on Notice and Questions taken on Notice during 1 April public hearing, received from the NT Government, 19 June 2015

Tabled Documents

- 1 Annual Report 2013, tabled by Aboriginal Legal Service of Western Australia, at Perth public hearing 16 February 2015
- 2 'Services at the Aboriginal Legal Service of Western Australia' booklet, tabled by Aboriginal Legal Service of Western Australia, at Perth public hearing 16 February 2015
- 3 'Child Protection' booklet, tabled by Aboriginal Legal Service of Western Australia, at Perth public hearing 16 February 2015
- 4 'Young People and the Law' booklet, tabled by Aboriginal Legal Service of Western Australia, at Perth public hearing 16 February 2015

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- 5 Strategic Plan 2013-2018, tabled by Aboriginal Family Law Services, at Perth public hearing 16 February 2015
 - 6 Annual Report 2013-14, tabled by Aboriginal Family Law Services, at Perth public hearing 16 February 2015
 - 7 Corporate Profile, tabled by Aboriginal Family Law Services, at Perth public hearing 16 February 2015
 - 8 Aboriginal Family Law Services Corporate Services News, March 2014, tabled by Aboriginal Family Law Services, at Perth public hearing 16 February 2015
 - 9 Aboriginal Family Law Services Corporate Services, June 2014, tabled by Aboriginal Family Law Services, at Perth public hearing 16 February 2015
 - 10 Principles for a partnership-centred approach for NGOs working with Aboriginal organisations and communities in the Northern territory, tabled by Western Australian Council of Social Service, at Perth public hearing 16 February 2015
 - 11 Building Better Relationships – Family Inclusion Strategies Hunter, tabled by Family Inclusion Strategies Hunter, at Sydney public hearing 18 February 2015
 - 12 Communique from Grandmothers Against Removals and the Aboriginal Tent Embassy rally on the anniversary of the National Apology - February 13 2015, tabled by Grandmothers Against Removals, at Sydney public hearing 18 February 2015
 - 13 The Scope Model, tabled by Winangay Resources, at Sydney public hearing 18 February 2015
 - 14 Kinship Carers Assessment Tools (New Carers' version), tabled by Winangay Resources, at Sydney public hearing 18 February 2015
 - 15 Statement read on behalf of Vice Chair Karen Menzies, tabled by Winangay Resources, at Sydney public hearing 18 February 2015
 - 16 The Cost of Youth Homelessness in Australia Study, Snapshot Report 1, tabled by Yfoundations, at Sydney public hearing 18 February 2015
 - 17 About UnitingCare Children, Young People and Families, tabled by UnitingCare Children, Young People and Families, at Sydney public hearing 18 February 2015
 - 18 A Strong Future for Young People Leaving Out-of-home Care, Policy paper, July 2014, tabled by UnitingCare Children, Young People and Families, at Sydney public hearing 18 February 2015

- 19 Additional information, tabled by Salvation Army, at Hobart public hearing 12 March 2015
- 20 Therapeutic Youth Residential Care Service Client Outcomes, tabled by Salvation Army, at Hobart public hearing 12 March 2015
- 21 Opening statement, tabled by Kennerley Childrens Homes, at Hobart public hearing 12 March 2015
- 22 Peeling back the layers—kinship care in Victoria, tabled by Wesley Mission Victoria, at Melbourne public hearing 20 March 2015
- 23 Policy Briefing Paper—Complexity in Kinship Care in Victoria, tabled by Wesley Mission Victoria, at Melbourne public hearing 20 March 2015
- 24 2014 Election Statement, tabled by Centre for Excellence in Child and Family Welfare, at Melbourne public hearing 20 March 2015
- 25 Training Guide 2015, tabled by Centre for Excellence in Child and Family Welfare, at Melbourne public hearing 20 March 2015
- 26 Children and Families in Focus, May 2014 Edition #1, tabled by Centre for Excellence in Child and Family Welfare, at Melbourne public hearing 20 March 2015
- 27 Their voice: Involving children and young people in decisions, services and systems, tabled by Centre for Excellence in Child and Family Welfare, at Melbourne public hearing 20 March 2015
- 28 Foster Care 2014 Log of Claims, tabled by Foster Care Association of Victoria, at Melbourne public hearing 20 March 2015
- 29 Foster Care Association of Victoria Position on Passports, tabled by Foster Care Association of Victoria, at Melbourne public hearing 20 March 2015
- 30 A review of kinship carer surveys, tabled by Ms Meredith Kiraly, at Melbourne public hearing 20 March 2015
- 31 Kinship Care: 'The Cinderella of the care system?', tabled by Ms Meredith Kiraly, at Melbourne public hearing 20 March 2015
- 32 Victorian Aboriginal Child Care Agency Annual Report 2013/2014, tabled by Victorian Aboriginal Child Care Agency Co-Op Ltd, at Melbourne public hearing 20 March 2015
- 33 Aboriginal Cultural Competence Framework, tabled by Victorian Aboriginal Child Care Agency Co-Op Ltd, at Melbourne public hearing 20 March 2015

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- 34 Aboriginal Cultural Competence Matrix, tabled by Victorian Aboriginal Child Care Agency Co-Op Ltd, at Melbourne public hearing 20 March 2015
 - 35 Caring for Aboriginal and Torres Strait Islander Children in Out of Home Care, tabled by Victorian Aboriginal Child Care Agency Co-Op Ltd, at Melbourne public hearing 20 March 2015
 - 36 Policy briefing paper—Who am I? Making records meaningful for Children in care, tabled by Institute of Child Protection Studies, at Melbourne public hearing 20 March 2015
 - 37 Our Forgotten Families: Issues and challenges faced by parents with a disability in Victoria, tabled by Family Inclusion Network Victoria, at Melbourne public hearing 20 March 2015
 - 38 Charter for Children in Out-of-home Care, tabled by Commissioner for Children and Young People Victoria, at Melbourne public hearing 20 March 2015
 - 39 Briefing Paper, tabled by North Australian Aboriginal Justice Agency, at Darwin public hearing 2 April 2015
 - 40 Paper: The bottom line we need to keep families together to stop the creation of another generation of lost Children, tabled by Northern Territory Stolen Generations Aboriginal Corporation, at Darwin public hearing 2 April 2015
 - 41 Eileen Cumming's Recommendations, tabled by Northern Territory Stolen Generations Aboriginal Corporation, at Darwin public hearing 2 April 2015
 - 42 National Framework For Protecting Australia's Children 2009-2020, tabled by Department of Social Services, at Canberra public hearing 16 April 2015
 - 43 National Standards for Out-of-home Care, tabled by Department of Social Services, at Canberra public hearing 16 April 2015
 - 44 Being a/part, State of the Family report, october 2014, tabled by Anglicare Australia, at Canberra public hearing 16 April 2015
 - 45 Pictures from Residential Homes 2014-2015, tabled by Australian Childhood Trauma Group, at Canberra public hearing 16 April 2015
 - 46 Opening statement, tabled by Regulatory Institutions Network (RegNet), Australian National University, at Canberra public hearing 16 April 2015

- 47 Leeds City Council Inspection of services for children in need of help and protection, children looked after and care leavers report; and Review of the effectiveness of the local safeguarding children board report, by Ofsted, March 2015, tabled by Regulatory Institutions Network (RegNet), Australian National University, at Canberra public hearing 16 April 2015
- 48 Statement, tabled by Abt JTA, at Brisbane public hearing 17 April 2015
- 49 Effect of Nurse Home Visits vs. Usual Care on Reducing Intimate Partner Violence in Young High-Risk Pregnant Women: A Randomized Controlled Trial, article from Plos One, October 2013, tabled by Abt JTA, at Brisbane public hearing 17 April 2015
- 50 Preventing Child Abuse and Neglect: A Randomized Trial of Nurse Home Visitation, article from Pediatrics, July 1986, tabled by Abt JTA, at Brisbane public hearing 17 April 2015
- 51 Enduring Effects of Nurse Home Visitation on Maternal Life Course, article from Jama, April 2000, tabled by Abt JTA, at Brisbane public hearing 17 April 2015
- 52 Nurse-Family Partnership is the First Early Intervention to Find Reductions in Maternal and Child Mortality, July 2014, tabled by Abt JTA, at Brisbane public hearing 17 April 2015
- 53 Long-term Effects of Nurse Home Visitation on Children's Criminal and Antisocial Behavior, article from Jama, October 1998, tabled by Abt JTA, at Brisbane public hearing 17 April 2015

Correspondence

- 1 Correspondence clarifying evidence given at Sydney public hearing on 18 February, from Settlement Services International, received 20 April 2015
- 2 Correspondence clarifying evidence given at Brisbane public hearing on 17 April, from the Tasmanian Department of Health and Human Services, received 7 May 2015

APPENDIX 2

Public hearings

Monday, 16 February 2015

Pan Pacific Hotel, Perth

Witnesses

Ombudsman Western Australia

FIELD, Mr Chris, Ombudsman

LAZENBY, Ms Kim, Assistant Ombudsman (Administrative Improvement)

WEST, Ms Belinda, Assistant Ombudsman (Monitoring)

Western Australian Council of Social Service

TWOMEY, Mr Chris, Director of Policy

Children's Youth and Families Agency Association

WILKINSON, Ms Judith Loraine, State Director, Key Assets WA; and Chair

Alliance for Children at Risk

GEANEY, Mr Michael, Chair

WHITE, Ms Gail, Secretariat

Wanslea Family Services and Child and Family Welfare Association of Australia

MURRAY, Ms Patricia, Chief Executive Officer, Wanslea Family Services; and
Chair, Child and Family Welfare Association of Australia

Parkerville Children and Youth Care

HANNA, Mr Basil Martin, Chief Executive Officer

Family Inclusion Network of Western Australia Inc.

CROSSLEY, Ms Karen May, Private capacity and Parent Representative on
Management Committee of Family Inclusion Network of Western Australia Inc

HENDERSON, Ms Debbie May, Executive Officer

Aboriginal Legal Service of Western Australia Inc.

ANDERSON, Mr Neil David, Managing Solicitor, Family Law Unit

Aboriginal Family Law Services (WA)

COWLEY, Ms Mary, Chief Executive Officer

SMITH, Ms Andrea, Policy and Compliance Coordinator

Community Sector Roundtable for NGOs and Government

HANNA, Mr Basil Martin, Chairman

Western Australian Department for Child Protection and Family Support

GARSED, Ms Judith Anne, Advocate for Children in Care

Department for Child Protection and Family Support

WHITE, Ms Emma, Director General

Wednesday, 18 February 2015

The Portside Centre, Sydney

Witnesses

Australian Human Rights Commission

MITCHELL, Ms Megan, National Children's Commissioner

Shoalcoast Community Legal Centre

McLAINE, Ms Meredith, Solicitor

WRIGHT, Ms Kerry, Coordinator

Family Inclusion Strategies Hunter

COCKS, Ms Jessica, Convenor

BAIN, Ms Teegan, Committee Member

KIME, Ms Felicity, Committee Member

AbSec

CLARKE, Ms Dana, Chairperson

Indigenous Issues Committee, Law Society of New South Wales

MARSHALL, Dr Virginia, Committee Member and Acting Chair

Jumbunna Indigenous House of Learning Research Unit, University of Technology Sydney

GIBSON, Mr Padraic John, Senior Researcher

Winangay Resources

BLACKLOCK, Aunty Suzanne, Chairperson

BONSER, Mrs Gillian, Board Member, Co-founder and Developer

HAYDEN, Ms Paula Marie, Public Officer

Grandmothers Against Removals

SWAN, Ms Debra, Representative
TIGHE, Ms Suellen, Representative
WIGHTMAN, Ms, Member

Aboriginal Child, Family and Community State Secretariat (NSW)

HERMESTON, Ms Wendy, Adviser

Intellectual Disability Rights Service

SANDLER, Ms Marissa, Solicitor

People with Disability Australia

BARNES, Dr Susan, Manager Individual and Group Advocacy New South Wales
BEVAN, Ms Ngila, Human Rights Adviser

Yfoundations

FIELDING, Ms Jessica, Policy Officer

UnitingCare Children, Young People and Families

BEAUCHAMP, Ms Toni, Principal Policy Officer
ADAMS, Ms Angela, Practice Manager Out-of-Home Care, UnitingCare Burnside

Association of Children's Welfare Agencies Inc.

McCALLUM, Mr Andrew George, AM, Chief Executive Officer

Barnardos Australia

VOIGT, Mrs Louise, Chief Executive Officer and Director of Welfare

Benevolent Society

GARDINER, Mr Matthew Gerard, Executive Director, Community Services
WHEATLEY, Mrs Marie, Director, Out of Home Care

Life Without Barriers

McKINNON, Ms Mary Elizabeth, National Director of Practice and Quality

Settlement Services International

FERRER, Mr Joseph, Manager, Business and Community Development
NGUYEN, Mr Thanh, Manager, Early Intervention and Capacity Building

Department of Family and Community Services, New South Wales

WALK, Ms Maree, Deputy Secretary, Programs and Service Design
HERIOT, Dr Sandra, Acting Executive Director, Child Safety and Permanency

Thursday, 12 March 2015

Parliament of Tasmania, Hobart

Witnesses

Commissioner for Children Tasmania

MORRISSEY, Mr Mark, Commissioner

Salvation Army Tasmania Division

FOSTER, Mr Stuart, Divisional Social Program Secretary

COOPER, Mr Justin, Program Manager, Therapeutic Youth Residential Service

COWLEY, Mr Leith, Manager, Children and Family Stream

Foster Care Association of Tasmania

FLACK, Mr John, President

BACKHOUSE, Dr Kim, Chief Executive Officer

GREGSON, Ms Brooke, Private capacity

SHORT, Ms Jarcinta, Private capacity

SHORT, Ms Sarah, Private capacity

Kennerley Children's Homes Inc.

TITMUS, Mr Barry, General Manager

O'BRIEN, Mrs Carleene, Operations Manager

FRASER, Mr Adam, Private capacity

Friday, 20 March 2015

Monash Conference Centre, Melbourne

Witnesses

Australian Institute of Family Studies

HIGGINS, Dr Daryl, Deputy Director, Research

Mirabel Foundation

CHATTEY, Ms Ruth, Family Support Coordinator

McCREA, Ms Elizabeth, Advocacy and Family Support

International Social Service Australia

FRERIS, Ms Helen, National Services Manager

Baptcare

ROBINETTE, Ms Hayley, Operations Manager

SCOTT, Ms Marita, General Manager Family and Community Services

Berry Street

POCOCK, Mr Julian, Director, Public Policy

PELL, Ms Anita, Senior Adviser, Home Based Care

MacKillop Family Services

FOX, Mr David, Director of Operations

HALFPENNY, Dr Nicholas, Director of Policy and Quality

Wesley Mission Victoria

STANTON, Ms Kelly, General Manager Services

HAM, Mr Jerry, Senior Manager, Children Youth and Families

MENDES, Associate Professor Philip, Department of Social Work, Monash University

National Disability Services

ANGLEY, Ms Philippa, Executive Officer to the Chief Executive

THOMPSON, Ms Tessa, National Policy Manager

Centre for Excellence in Child and Family Welfare

TSORBARIS, Ms Deborah Mary Elaine, Chief Executive Officer

WEBSTER, Ms Marilyn Jane, Director, Social Policy and Research

FINN, Ms Kate

ISIP, Ms Sarah

SPICER, Ms India

Foster Care Association of Victoria

HOOPER, Ms Katie, Chief Executive Officer

University of Melbourne Department of Social Work, Child, Youth and Families Research Cluster

KIRALY, Ms Meredith, Research Fellow

Access and Achievement Research Unit, La Trobe University

HARVEY, Dr Andrew Charles, Director, Access and Achievement Research Unit, La Trobe University

Melbourne City Mission

CHUDIAK, Ms Sonia, Senior Manager, Homelessness and Accommodation Services
FEWSTER, Ms Deborah, Head of Policy and Government Relations

Anglicare Victoria

McDONALD, Mr Paul, CEO

Secretariat of National Aboriginal and Islander Child Care

HYTTEN, Mr Frank Isidore, Chief Executive Officer

Victorian Aboriginal Child Care Agency Co-Op Ltd

SALAMONE, Mrs Connie, Executive Director, Strategy and Services

Commission for Children and Young People Victoria

KENNEDY, Ms Janette Elizabeth, Manager Aboriginal Strategy and Policy
PRATT, Ms Debra Bronwyn, Senior Child Protection Advisor (Aboriginal Unit)

Connecting Home Ltd

DOMMETT, Mr John Robin, Chief Executive Officer, Connecting Home Ltd, and Co-Chair—non-Aboriginal

Institute of Child Protection Studies, Australian Catholic University and University of Melbourne

HUMPHREYS, Professor Cathy, Professor of Social Work, University of Melbourne
KERTESZ, Dr Margaret, Research Fellow, School of Social Work, University of Melbourne

Connections UnitingCare

MILANI, Ms Lisa, Acting Assistant Regional Manager

Ozchild

MITCHELL, Dr Gaye, Research and Practice Enhancement Manager

Family Inclusion Network Victoria Inc.

SMITH, Mrs Denise Kelly, Secretary and Treasurer
FITT, Ms Kate, Committee Member
Sarah, Member

Commission for Children and Young People

GEARY, Mr Bernie, Principal Commissioner

KENNEDY, Ms Janette Elizabeth, Manager, Aboriginal Strategy and Policy

Wednesday, 1 April 2015

Rydges Darwin Airport Resort, Darwin

Witnesses

Northern Territory Department of Children and Families

BRADFORD, Ms Anne, Chief Executive Officer

JACKSON, Ms Simone Louise, Executive Director, Out-of-Home Care

Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council

STANLEY, Ms Hannah, Child Advocacy Officer

KEAN, Ms Melissa Anne, Child and Family Wellbeing Service Manager

Thursday, 2 April 2015

Rydges Darwin Airport Resort, Darwin

Witnesses

Northern Territory Council of Social Service Incorporated

MORTON, Ms Wendy, Executive Director

Anglicare NT

PUGH, Mr David, Chief Executive Officer

North Australian Aboriginal Justice Agency

COLLINS, Ms Priscilla, Chief Executive Officer

SHARP, Mr Jared, Law and Justice Projects Manager

MUSK, Ms Shahleena, Senior Youth Lawyer, Criminal Section

Northern Territory Legal Aid Commission

BOLTON, Ms Sally, Acting Manager, Family Law Section

Katherine Women's Information and Legal Service

NELSON, Ms Sandra, Executive Officer

LIGHTFOOT, Ms Kate, Outreach Services Solicitor

Darwin Aboriginal and Islander Women's Shelter Incorporated

BENNETT, Ms Regina, Manager

Northern Territory Stolen Generation Aboriginal Corporation

CUMMINGS, Ms Eileen, Chair

SPRY, Mr Frank, Chief Executive Officer

Thursday, 16 April 2015

Parliament House, Canberra

Witnesses

Department of Social Services

BENNETT, Ms Barbara, Deputy Secretary

BROWN, Mr Philip, Acting Group Manager

BYRNE, Mrs Melek, Director, Care Policy and Evidence

Anglicare Australia

WATERFORD, Ms Michelle, Director, Research and Policy

Australian Capital Territory Disability, Aged and Carer Advocacy Service

MAY, Mrs Fiona, Chief Executive Officer

Australian Capital Territory Council of Social Service

HELYAR, Ms Susan, Director

Salvation Army

AVENT, Mr John, Manager (Retired), Westcare

Australian Childhood Trauma Group

NICOLAU, Mr Gregory, Chief Executive Officer

Regulatory Institutions Network, Australian National University

BRAITHWAITE, Professor Valerie, Professor

IVEC, Ms Mary, Researcher

Australian Centre for Child Protection, University of South Australia

McLEAN, Dr Sara, Research Fellow

MEIKSANS, Ms Jenna, Research Assistant and PhD Candidate

South Coast Medical Service Aboriginal Corporation

ARDLER, Mr Craig, Chief Executive Officer

MacKillop Family Services

JONES, Mr Gerard, Deputy Chief Executive Officer and Director of Innovation and Business Development

COUNCILLOR, Mr Ross, Aboriginal Services Development Manager, Western Australia

Aboriginal and Torres Strait Islander Healing Foundation

HILLAN, Ms Lisa, Programs Director

Australian Institute of Health and Welfare

BOLAND, Ms Justine, Acting Group Head, Community Services and Communication Group

RAITHEL, Ms Kristy, Acting Unit Head, Child Welfare and Prisoner Health Unit

Productivity Commission

QUINLIVAN, Mr Daryl, Head of Office

GARNER, Mr David, Research Manager, Social Infrastructure Branch

Families Australia

BEDFORD, Ms Helen, Policy Officer

Australian Association of Social Workers

WILKINSON, Ms Glenys, Chief Executive Officer

KEARNS, Ms Alison, Expert Witness

Department for Education and Child Development, South Australia

HARRISON, Mr Anthony, Chief Executive

SCHEEPERS, Mr Etienne, Deputy Chief Executive, Child Safety

Friday, 17 April 2015

Royal on the Park Hotel, Brisbane

Witnesses

Australian Legislative Ethics Commission

MacDONALD, Miss Marney, President

CREATE Foundation

HUDSON, Ms Noelle, National Policy and Advocacy Manager

Miss Adina, Private capacity

Miss Brooke, Private capacity

Miss Julia, Private capacity

Miss Xena, Private capacity

Key Assets

RYAN, Mr Rob, State Director

Endeavour Foundation

NUGUS, Mr Simon, National Business Manager, Children, Youth and Education Services

Carpentaria Disability Services

CALLANAN, Mr John, Program Manager and Psychologist, Early Intervention Services

Brisbane Sovereign Grannies Group

McPHERSON, Ms Toni Susan, Member Spokesperson

FUSI, Ms Karen May, Member Spokesperson

WILLIAMS, Mr Sonny, Member Spokesperson

WILLIAMS, Mrs Cephia Maria, Member Spokesperson

Alliance for Family Preservation and Restoration

MOORE Ms Mary, Convenor

Aboriginal Family Violence Prevention and Legal Service Victoria

BRAYBROOK, Ms Antoinette, Chief Executive Officer; and National Convenor, National Family Violence Prevention Legal Services Forum

VINES, Ms Laura, Senior Policy Officer

Victorian Aboriginal Child and Young People's Alliance

JACKSON, Mr Rodney, Deputy Chairperson

Queensland Aboriginal and Torres Strait Islander Child Protection Peak

LEWIS, Ms Natalie Louise, Chief Executive Officer

Kummara Association Inc.

FEATHERSTONE, Mr Gerald, Chief Executive Officer

Australian Nurse-Family Partnership Program

DONNELLY, Ms Julianne, Team Leader

Office of the Public Guardian

MOYNIHAN, Ms Catherine, Official Solicitor

Department of Communities, Child Safety and Disability Services

LUPI, Mr Matthew, Executive Director, Child and Family Services

Department of Health and Human Services, Tasmania

KEMP, Mr Anthony Philip, Deputy Secretary, Children and Youth Services