

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 Angley 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 Angley 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 Angley, Executive Officer, NDS, *Committee Hansard*, Melbourne, 20 March 2015, p. 18.

20 Ms Philippa Angley, 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, Baptcare runs a program called Family Options that provides training for carers of children with complex needs (see Box 9.3). Ms Anglely 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 Anglely, 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).