

## CHAPTER 4

### OUT-OF-HOME CARE – FOSTER CARERS

The foster care/kinship care model relies on voluntary carers who are not adequately provided with reimbursement, training or support to care for Australia's most vulnerable children.<sup>1</sup>

#### Introduction

4.1 As noted in chapter 3, many situations and experiences in the foster care sector impact on foster carers as well as the children and young people. This chapter provides information about contemporary issues related to foster carers and other people and organisations who provide out-of-home care to children and young people in Australia. Included in discussion is information on carer numbers, difficulties for carers including those associated with the cost of providing care, and mechanisms to ensure that people who care for children and young people are monitored.

#### Caregivers

Foster care is a highly stressful sector, which is amongst the lowest paid professions and consequently attracts less experienced staff for shorter periods of time. This devaluing of the professionals involved in the sector only further devalues the very children being cared for...resources should be invested into the skilling up of workers for training, assessment, placement and post-placement support of foster carers and children. All workers should receive regular professional development and supervision for their work with families and children. All workers involved in foster care should have skills in working with children as well as adults.<sup>2</sup>

#### *Number of caregivers*

4.2 There are approximately 11 000-13 000 carers in Australia though no authoritative figures are available.<sup>3</sup> While the number of children and young people in need of care is increasing, carer numbers are in decline.<sup>4</sup>

4.3 The Victorian report, *Public Parenting*, provided information on caregivers in that State. In 2001-03 there were around 5500 caregivers providing out-of-home care. This was an increase of 25 per cent from 1997-98. The number of caregivers

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1 *Submission 226*, p.3 (Anglicare Australia).

2 *Submission 45*, p.10 (NSW Committee on Adoption & Permanent Care).

3 Orr Bev, 'Surviving the allegation of abuse investigation process', Presentation to Victorian Foster Care Conference, Melbourne, Victoria, 2003, p.4.

4 Australian Foster Care Association (AFCA), *Securing a safe and effective foster care system*, Priorities and position statements, 2004, p.2 (Forward by Bev Orr, AFCA President).

providing kinship and permanent care increased, while the number of foster carers declined. In relation to foster carers it was found that:

- new recruits to foster care declined by over 40 per cent from 1997-98 to 2001-02;
- in 2001-02 there was a large increase in the number of foster carers who ceased to provide foster care;
- experienced foster carers were leaving the sector, those leaving in 2001-02 had on average almost four years experience compared to only 1.6 years in 1997-98; and
- remaining foster carers provided an average of 286 placement days each in 2001-02 compared to 214 days in 1997-98.<sup>5</sup>

4.4 The Australian Foster Care Association (AFCA) has reported the results of a Commonwealth-funded study of foster, relative and kinship carers which was conducted by AFCA. The study showed that: 42 per cent and 25 per cent of foster carers have been fostering for one to five years and six to 10 years, respectively. Thirty-eight per cent of foster carers were aged 45-54 years, 30 per cent were aged 35-44 years and 20 per cent were aged over 55 years. Of the sample, 41 per cent were professionals, managers, administrators or para professionals while 22 per cent had no breadwinners or were retired or on pensions. The remainder were employed in a range of occupations. The need for support for carers was noted by 84 per cent of the sample, yet only 41 per cent considered that they got 'just enough support to get by'. Foster carers agreed that the financial support provided to cover their expenses is not sufficient.<sup>6</sup>

4.5 Families Australia advised of very little available data on indigenous kinship carer or indigenous foster carer numbers, but that anecdotal evidence suggests a serious shortage of indigenous carers. The organisation noted the difficulties in recruiting non-relative indigenous carers, for a number of reasons: Aboriginal families have greater economic and other pressures and a fear of fostering based on past relationships between government and Aboriginal people; indigenous carer families appear to have more children placed in their care than non-indigenous families and hence are often struggling financially, often with no money for essentials such as food for additional children.<sup>7</sup>

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5 Department of Human Services Victoria, *Public Parenting: A review of home-based care in Victoria*, June 2003, p.40.

6 AFCA, *Securing a safe and effective foster care system*, Priorities and position statements, 2002-2003, p.14.

7 *Submission 175*, p.23 (Families Australia).

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***Foster parents – support for, recruitment, retention, training***

4.6 Given the ever-increasing number of children and young people who require out-of-home care and their complex problems which is resulting in more stressful situations for carers, the Committee is not surprised that foster carer numbers are in decline. The detrimental effects for children of being too long in dysfunctional families was commented upon in a number of submissions:

[children are] entering care too late and, sadly, being terribly damaged. As a result foster care is close to collapse in many, if not all, states.<sup>8</sup>

By the time that most children get to out-of-home placements, they are so damaged that you would need trained people to look after them and I think foster families are just leaving foster care agencies in droves.<sup>9</sup>

4.7 The demands on carers in looking after children are high, and the remuneration and status for foster carers are low. The President of AFCA has noted: some of the very damaged children coming into the system 'have come from an absolute life of hell'.<sup>10</sup> As such, caring for these children is not always easy:

...it is very hard to change the behaviour patterns of children and young people who come from very damaged backgrounds and to keep them attached and connected in a very positive relationship with their carers.<sup>11</sup>

4.8 Apart from recruitment problems, other problems are presenting for carers such as the increasing workloads and the constant need to 'do more with less':

...it is not just a financial cost. It is difficult finding personnel. If you can imagine a husband-and-wife team working with quite dislocated children 24 hours a day seven days a week, you would know that it is not easy, so that is another element. It has become more difficult in the last 10 years anyway.<sup>12</sup>

As the number of suitable placements diminishes, experienced carers are asked by the state to care for more children and as the States' resources are 'downsized' or deployed elsewhere, carers are pressured to take on more financial and practical responsibilities for the children in their care.<sup>13</sup>

4.9 The Committee is aware of problems for foster and kinship carers, many of whom consider that support for them is only 'just enough support to get by' and that

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8 *Submission 44*, p.1 (Professor Goddard).

9 Dowling, Liz, 'Home on the Hill', *Background Briefing*, Radio National, Sunday 7.9.03.

10 Orr, Bev, 'Home on the Hill', *Background Briefing*, Radio National, Sunday 7.9.03.

11 *Committee Hansard* 9.12.03, p.11 (WA Department for Community Development).

12 *Committee Hansard* 9.12.03, p.31 (Mercy Community Care Inc).

13 *Submission 35*, p.4 (NSW Commission for Children and Young People).

financial support provided to cover their expenses is not sufficient.<sup>14</sup> Foster carers take on high workloads and responsibilities for which they receive little remuneration. Foster parents may be at the receiving end of unfounded allegations of abuse from particularly-damaged children wanting revenge on a carer or who may use such actions to deal with their emotional problems. Despite that carers are increasingly being accused of such abuse and being placed in stressful situations, there can be a lack of support for them from care agencies or governments.

4.10 Factors which also hamper opportunities for an effective foster care system include: insufficient training and professional development for carers; too much government emphasis on costs and 'bean counting'; very high turnovers among child protection workers.<sup>15</sup> The NSW Commission for Children and Young People expressed the view that:

Arguably, most foster care today is still partially founded in propositions inherited from a bygone era. At its most fundamental, foster care is considered by the state as an act of charity. Carers are paid a token subsidy to assist them meet the costs of caring for the children in their care – carers in Australia are generally not paid for their skill or labour.<sup>16</sup>

4.11 Many commentators, practitioners and academics are voicing concern about Australia's foster care and for the children in the system. The following comment is a reminder that the move from deinstitutionalisation to foster care has not been entirely successful:

...we threw the baby out with the bathwater when we completely deinstitutionalised child welfare, and we now have overloaded a fragile foster care system to a point that it's actually breaking under the strain...<sup>17</sup>

4.12 It must be recognised however that there are many dedicated hard-working carers in the system and as such, in face of some negativity at times about foster carers, one welfare agency representative told the Committee that 'they are all motivated by the desire to help children in need and they do a magnificent job'.<sup>18</sup>

### ***Foster care payments***

4.13 Most foster carers receive a subsidy and partial reimbursement for costs and access to some services for the child in their care. Relative and kinship carers sometimes receive a subsidy and access to selected support services, but most struggle

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14 Information cited in: *Securing a safe and effective foster care system*, Priorities and position statements, 2002-2003, p.14.

15 'Home on the Hill', *Background Briefing*, Radio National, Sunday 7.9.03.

16 *Submission 35*, p.5 (NSW Commission for Children and Young People).

17 Scott, Dorothy, 'Home on the Hill', *Background Briefing*, Radio National, 7.9.03.

18 *Committee Hansard* 4.2.04, p.4 (Wesley Mission Dalmar).

to make ends meet from within the family's own limited resources.<sup>19</sup> Various welfare organisations called for better financial payments for carers, particularly given the demands in caring for children with special needs or difficult behaviour:

...foster carers, and agencies (both government and non-government) can be perceived as requesting more resources for their own needs. The resources are requested for the needs of children. The current care system is not designed around meeting the individual needs of children, it is designed for rationing a strained resource across an increasing number of children in care.<sup>20</sup>

The remuneration that foster carers get is inadequate for the job they do. I also believe that more training is necessary for foster carers. Perhaps we should be moving to less a volunteer model and more a professional foster care model, particularly for the more difficult to place young people. I am involved in operating what we call 'one to one' home-based care programs for high-risk adolescents in which the carers' remuneration is higher and we work with them as paraprofessionals, which, in a sense, we can ask of these people because we give them higher remuneration. I think that if we are going to attract more people to manage the more difficult young children they would need to be more appropriately remunerated and trained, and treated as co-workers.<sup>21</sup>

4.14 A major study of foster care payments in Australia conducted by Ms Marilyn McHugh of the University of NSW has confirmed that foster carers receive low levels of standard subsidy from the States. The study showed that foster carers have concerns about many factors including the inability to obtain reimbursement for additional services, lengthy delays and debates with departmental workers about expenses and inconsistent policy advice about reimbursements. Foster carers in rural and regional areas have additional expenses for transport and other necessities. Kinship carers experience inequities in subsidies and reimbursement. The study cited many costs paid by carers, though not taken into account in budgets, including for personal-care items, foods to meet children's special needs, damage to property and household goods caused by foster children, increased energy and water needs and a wide range of leisure activities and goods for children of all ages. In addition, carers may have to purchase clothes for children who arrive at a new home with no clothing or at best, very old, worn-out items.<sup>22</sup>

4.15 The McHugh study delivered recommendations on major foster care issues. Of particular interest are those related to costs and payments, including:

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19 AFCA 2002-2003, p.2.

20 *Submission* 61, p.17 (Mercy Community Services Inc).

21 *Committee Hansard* 12.11.03, p.76 (Berry Street Victoria).

22 McHugh, Marilyn, *The costs of caring: a study of appropriate foster care payments for stable and adequate out of home care in Australia*, Social Policy Research Centre, University of NSW, February 2002.

That consideration be given by the Commonwealth and States for a national framework for payments that would address issues of adequacy and equity for all foster carers across Australia and better reflect the real costs of caring (recommendation 1).

That all States review their level of standard subsidy (including higher payments for specified categories of need) paid to carers and increase levels to reflect the direct costs of fostering. The review process should include consultation with NGO agencies and carer associations (recommendation 2).

That the additional allowances for initial clothing and footwear requirements and for gifts should be mandatory payments for all children in medium to long-term care (recommendation 6).

That all States systematically update the level of weekly subsidy paid to carers to correspond with regular changes in the CPI (recommendation 8).

That in the case of carers of pre-school aged children, good quality child care on a regular basis, should be made available and paid for by the department at no cost to the carer (recommendation 10).

That all (indigenous and non-indigenous) kinship carers receive the same level of standard subsidies paid to other carers (recommendation 24).

That all (indigenous and non-indigenous) kinship carers receive the same level of support and access to services for children in care as other carers (recommendation 25).

4.16 Among the study's other recommendations are those related to reimbursements to carers for specialist counselling to assist recovery from family violence, other expenses and children's medications; funding for regular respite care for all carers; policies and procedures for the issue of private health or Medicare cards and additional subsidy loadings for carers in remote and regional areas.<sup>23</sup>

4.17 Other studies from Ms McHugh relate to foster care in Britain, Canada and the United States where moves have occurred to professionalise foster care, including via higher pay, employment contracts, re-training and extra worker support. Such moves are at different stages of implementation and development and their benefits are not known. Findings from small-scale studies of professional foster care programs in England cite positive outcomes such as easier carer recruitment, better retention rates, higher quality services and less offending by young people. Similar findings have been recorded in Scotland and the United States. In the United Kingdom, national standards and core competency frameworks have linked carer ability and competence to fee payments. However, evidence of the progress for equity issues of similar payment levels for all carers in the UK is not reassuring. A survey of payment

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23 McHugh 2002, pp.xi-xvii.

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schemes by the Fostering Network (UK) indicated that over half of local authorities' allowances are below the recommended level.<sup>24</sup>

4.18 The issue of paying foster carers in Australia has been debated. On the one hand payments are said to depersonalise caring, attract the wrong people and undermine the voluntary spontaneous nature of parenting that occurs in the home. Contrary views are that professionalism entails providing a recognised valuable service that requires experience, education and knowledge and that foster parents have the common sense not to treat children as 'clients' in their own homes. Ms McHugh's research notes that professionalising foster care in Australia would require an enormous paradigm shift by governments, workers and carers including in regard to moving labour from the care to mainstream economy and would have implications for women who tend to be the main providers of unpaid care.<sup>25</sup>

4.19 The NSW Commission for Children and Young People has argued that 'there is considerable scope for augmenting the current options of "charitable" foster care and almost unsupported kinship care' and that the latter should be based on adequate assessment, support and monitoring. The Commission further noted that 'professional' foster care, or caring as a form of employment, should be available as an option in all jurisdictions.<sup>26</sup>

4.20 Given that high levels of expertise are required by carers to deal with difficult children, there is a need for professional training and salaries for such carers. As well, it is often difficult to find carers, particularly specifically trained personnel who can care for high-risk children. Therefore, it may be that paying carers is the only realistic option. In that regard it is perhaps worth citing Ms McHugh's further comments:

The monetary costs would be substantial but the benefits in positive outcomes for children and society could be significant and well worth the financial costs...The tentative conclusion to be drawn...it is time for governments to give serious consideration to rethinking policies and practices in the out-of-home care sector to better reflect and acknowledge the changing role of women as foster carers and the diverse needs of children coming into care.<sup>27</sup>

4.21 The Australian Foster Care Association (AFCA) has recommended a Commonwealth and State-Territory approach to foster care regarding national standards for recruitment, training and accreditation and recompense.<sup>28</sup>

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24 McHugh Marilyn, 'Paying for care: the state of affairs in fostering', Paper presented at 8<sup>th</sup> Australian Institute of Family Studies Conference, Melbourne, 12-14 February 2003, pp.7-9.

25 McHugh 2003, pp.9-10.

26 *Submission 35*, p.21 (NSW Commission for Children and Young People).

27 McHugh 2003, p.11.

28 AFCA 2004, pp.25-26.

### ***Departmental staff and foster carer contact***

4.22 Many witnesses emphasised the importance of having good relationships among foster carers, agencies and departments for a child's best interests. However, relationships between carers and departmental workers are not always satisfactory. One experienced foster parent outlined situations of high staff turnovers in departments and staff who although 'lovely', seemed ill equipped to deal with complex child relationship issues:

...we were often dealing with young girls who did not have families of their own and were very limited in their experience with regard to child care and relationships...they were not very experienced in life. I found that difficult sometimes. I found myself, quite an educated person, being counselled by these young girls.

...We and this little fellow had five or six different workers, just with DHS [Department of Human Services]...DHS were the guardians, and if he went on a camp we had to send in the documentation and they had to sign it to say he could go...but they never really bothered. They never asked to see any of his school reports, for example.

...we received no information about vaccinations status, past illness, hospitalisation, dental history etc. We only found out, by chance when our child's mother died...this lady also suffered from bipolar and major eating disorders. This is important information and yet neither ourselves or the school were privy to it...it took us a long time to work out that our child had been physically abused...once we had this information we were better able to address his needs and fears and understand his behaviours.<sup>29</sup>

4.23 Similar concerns about the lack of information from a government department about a foster child's medical and behaviour history were expressed by a very experienced carer:

The only information she was given to her acceptance of the foster child was that she suffered from epilepsy. She was not warned or prepared for...extreme behaviours or arson and she became...the second long-term foster carer without being aware of her sexual activities, false allegations and the risks to the two males in her household.<sup>30</sup>

4.24 Negative comments and concerns were expressed about State welfare departments. For example, a number of experienced foster carers in South Australia were critical of the department:

The department's case workers are not sufficiently well educated to be able to give advice and support to foster carers who experience unmanageable behaviour, such as setting fire to the foster carers' home, drug and alcohol abuse, offering sex to residents and visitors, exhibiting sexualised

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29 *Committee Hansard* 11.11.03, pp.72,74 (Mrs Ziino) and *Submission* 12, p.3.

30 *Confidential Attachment*, pp.16-17.

behaviours, molesting other foster children or accusing them or foster carers of sexual abuse.

The defence mechanism used by incompetent case workers and supervisors is to denigrate the foster carer with accusations that they are either (a) too emotionally involved with the child or (b) not coping. The foster carer is then threatened with de-registration and the loss of all foster children.<sup>31</sup>

4.25 The Committee was provided with a comprehensive survey on foster carers'/support workers' views about their relationships with a community services department. While this contained positive feedback, overall, the responses were negative, describing departmental staff as 'unpredictable', 'in denial when there are problems', 'distant, uncaring and think they are superior', and 'frustrating, demoralising, unhelpful, and fob you off when a child shows emotional problems'. Asked about the departmental workers' understanding of day-to-day foster care, only two carers responded positively (one of whom also had negative experiences). Among the survey's conclusions were that:

Some children are left in damaging homes for so long that they become too emotionally and sexually disturbed for fostering by partially trained, well meaning volunteers. The breakdown of foster placements and the inability of [the department] to provide practical support suggests that the State should provide residential therapeutic accommodation staffed by appropriately qualified and experienced therapists.

It would appear that the department's workers focus on family reunification even when children have been sexually abused and are being sexually abused on access visits. Foster carers are concerned that the safety of children is not the department's priority.

Carers sense that their expertise is devalued, bearing in mind that some respondents had cared for more than a hundred children over periods up to 20 years.

It would appear that children are deprived of counselling and special education services because of lack of funding.

Neither juvenile sex offenders nor victims are receiving treatment when it is requested and there seems to be a lack of understanding about child sexual abuse in general among [the department's] staff. It would also appear that there are long delays for counselling and treatment services.<sup>32</sup>

4.26 Mercy Community Services considered that in any focus on the needs of children in care by the State and Commonwealth governments, a national project to address the instability of staffing within statutory child welfare agencies would be worthwhile.<sup>33</sup>

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31 *Submission 220*, p.1.

32 *Confidential Submission*.

33 *Submission 61*, p.20 (Mercy Community Services Inc).

4.27 The WA Department for Community Development noted the difficulties experienced by government child protection departments, including their additional responsibilities imposed by legislative provisions. The Department made some comparisons with the non-government sector, including that the government often has heavy workloads and takes on the more complex cases. As a researcher with wide experience of several non-government organisations as well as the government stated:

...working in the non-government sector, the situation working with children and families is a lot more contained. We are able to say: 'No, we will not take this family. We will not take this child'. We can be a lot more selective...We are more able to manage our caseloads. There is definitely a lot more containment around it than in the government where we really do have to take on every family and every child that is in need.

...one of the reasons the department has created a new system called placement services is to try and work with that group of very difficult children and young people. They are difficult to place and difficult to keep in one setting...They are damaged when they come to us. It is very difficult for us to keep them on one placement because of the strain and pressure on carers. Therefore that syndrome of multiple placements is created and unfortunately and tragically many actually leave still as damaged. Not all – we have done some fantastic work – but it is very hard to change the behaviour patterns of children and young people who come from very damaged backgrounds and to keep them attached and connected in a very positive relationship with their carers.

We deal with 48 000 contacts a year or something like...it is always going to be difficult when you have had to remove someone's children from them...we get into disputes with parents around the planning for the children, which is one of the reasons we have the case review board there.<sup>34</sup>

### ***Ratio of workers to numbers of children in care***

4.28 The Committee is concerned about the ability of departments to provide services and address needs particularly in the light of increases in notifications and substantiated cases of abuse and neglect. Some groups highlighted the importance of caseworkers' capacities to provide good quality relationships and support. Centacare noted that relationships need to be well resourced so that the capacity is there for children to be given the time to spend with their significant extended networks, 'whether that be family or other agencies and institutions that they are part of'.<sup>35</sup>

4.29 However, some welfare groups expressed concern that high caseloads meant that they were not able to take the time to support or listen to the concerns of the foster carers and children in care:

...many caseworkers believe that they do not spend enough time...with foster care, visiting the placement with the child...The level of scrutiny,

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34 *Committee Hansard* 9.12.03, pp.11-12 (WA Department for Community Development).

35 *Committee Hansard* 4.2.04, p.19 (Centacare Catholic Community Services).

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support, supervision and assistance will vary according to how often the caseworker in an agency can visit that household to support the carer and see and listen to the child. I do not think that many people would believe that we have got to the point where that is adequate across the board.<sup>36</sup>

4.30 Research by Cashmore and Paxman and the Victorian Department of Human Services has shown that all parties are impacted upon by high staff turnovers. Children need to have the opportunity to develop a relationship with their worker if they are to feel confident and safe to disclose any abuse or difficulties within the placement.<sup>37</sup>

4.31 There has been concern that increasing caseloads and complexity of problems for individuals, and staffing issues in child welfare departments are taking a toll. A community legal service emphasised the tasks facing case workers:

...the complexity of the role and stress must be understood but they must also make sure they act validly and they need to be backed by resources to assist families who struggle with parenting. Separation of a child from its parents should occur with good reason especially as the state which becomes the guardian upon removal is very often not a good parent.<sup>38</sup>

4.32 As well, departments are said to often be in crisis mode which results in resources being diverted from the children who are seemingly 'safe'. Consequently, departmental officers may have less time to support foster placements until a crisis occurs rather than being in the position of providing ongoing support before any crisis arises.<sup>39</sup> Similar observations and comments have been made in recent State reviews leading to extensive departmental reorganisations in some States. However, the issues that are raised seem to be endemic and it is flaws within the system itself that still need addressing.

4.33 Submissions argued that State and Commonwealth Governments should work to ensure a focus on the needs of children in care and that this would be assisted by a national project to address the instability of staffing within statutory child welfare agencies.<sup>40</sup>

### **Checks and monitoring of staff working with children and young people**

4.34 The Committee has noted information about screening, monitoring and other mechanisms in Australia to protect children from abuse, particularly in out-of-home care.

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36 *Committee Hansard* 4.2.04, p.15 (Association of Children's Welfare Agencies).

37 *Submission* 45, p.9 (NSW Committee on Adoption & Permanent Care) – citing DHS survey.

38 *Submission* 127, p.2 (West Heidelberg Community Legal Service).

39 *Submission* 45, p.9 (NSW Committee on Adoption & Permanent Care).

40 *Submission* 61, p.16 (Mercy Community Services Inc).

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***Monitoring of staff/following up allegations – out-of-home care***

4.35 Various organisations provided information about their protocols to ensure that reports of abuse of children in care are investigated and followed up.

4.36 The Association of Children's Welfare Agencies (ACWA), which conducts foster carers' professional development courses, commented on the particular onus on carers and their responsibility in processes to ensure that children are safe:

No carer in New South Wales would be unaware of the responsibilities they have or of the processes that would go into place if there were allegations. They would be aware of the importance of listening to children and making sure that every step is taken to investigate an allegation so that children are protected, even if that means some risk of disruption to the foster carers.<sup>41</sup>

4.37 UnitingCare Burnside noted that contemporary arrangements in non-government organisations contrast with practices of earlier eras when there were no guidelines<sup>42</sup> and other similar groups expressed confidence in their systems to weed out abusers of children in care:

Our own protocols were in place before the reviewed ones of the Department of Human Services. If it is of a non-criminal nature, we would generally advise the individual concerned that they should lodge a complaint with the organisation and we would be willing to support them in the lodgement of that complaint.<sup>43</sup>

I am not saying that we never miss anything in our agency, but I am beginning to be more confident that when staff observe something they are unhappy or uncomfortable with they will pick up the phone and ring the helpline themselves...if inappropriate events take place or there are any concerns at any level.<sup>44</sup>

4.38 A number of agencies advised that their policies to deal with abuse allegations included the standing down of accused people from work pending investigations and removing children from the care of the alleged offender.<sup>45</sup> Some organisations emphasised the importance of having comprehensive pre-employment checks on people who work with children:

CWAV's position is that it is essential for such pre-employment checks to adopt a holistic approach and look beyond mere police clearance, if they are to succeed in protecting our vulnerable children from potential harm.<sup>46</sup>

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41 *Committee Hansard* 4.2.04, p.17 (Association of Children's Welfare Agencies).

42 *Committee Hansard* 4.2.04, p.17 (UnitingCare Burnside).

43 *Committee Hansard* 12.11.03, p.65 (Anglicare Victoria).

44 *Committee Hansard* 4.2.04, p.15 (Youth Off The Streets).

45 *Committee Hansard* 12.11.03, pp.56 & 60 (Centacare Catholic Family Services); *Committee Hansard* 9.12.03, p.34 (Mercy Community Services Inc).

46 *Submission* 115, p.7 (Children's Welfare Association of Victoria).

4.39 The WA Department for Community Development (DCD) cited findings of inquiries from that State regarding deaths or abuse of children in out-of-home care, including the 1992 Harries Inquiry. Further, in reporting about issues surrounding the 1993 Duty of Care Inquiry which had identified a breakdown in departmental case management, the department noted that many issues arising from the inquiries 'continue to be addressed' and that any allegations of abuse against children are brought to the attention of the State Police.<sup>47</sup>

### ***Governments' laws and policies – accreditation and screening***

4.40 Many groups advised of a preference to have a national, comprehensive system around Australia rather than eight sets of standards for the accreditation of people who work with children and young people. The Australian Council for Children and Youth Organisations reminded the Committee that while accreditation processes are in place for staff in public hospitals and residential aged care and for child care through the National Childcare Accreditation Council, no such framework exists for children and young people in out-of-home care.<sup>48</sup> The Australian Council for Children and Youth Organisations suggested the introduction of nationally consistent 'suitability checks' legislation for staff and volunteers working with children based on the NSW model and cited a recommendation from South Australia's Layton Report that such checks should be a prerequisite for receipt of government grants.<sup>49</sup> There has been strong support for the introduction nationally of the Working With Children Check which is presently operating or in the process of being introduced in various jurisdictions.<sup>50</sup> As it stands, across Australia variations exist regarding governments' screening requirements for people who come in contact with children and young people via their work and voluntary or caring activities. Below is a very brief overview of State and Territory screening requirements.

4.41 In Queensland, under the *Commission for Children and Young People Act 2000*, screening applies to employees, self-employed persons and volunteers in defined categories of child-related employment, taking account of convictions and charges for serious sexual and violent offences. It also includes consideration of professional disciplinary proceedings before bodies such as the Teachers Registration Board. Following assessment, a person is issued with either a positive suitability notice, commonly referred to as a 'blue card', or a negative notice. A review of the Queensland scheme in 2004 saw the addition of categories of professional disciplinary proceedings (including nurses and other health professionals) under the *Commission*

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47 *Submission 55*, pp.13-15 (WA Department for Community Development).

48 *Committee Hansard* 12.11.03, pp.48-49 (Australian Council for Children & Youth Organisations).

49 *Submission 54*, p.6 (Australian Council for Children & Youth Organisations).

50 *Committee Hansard* 9.12.03, p.36 (Mercy Community Services Inc).

for *Children and Young People and Child Guardian Amendment Act 2004*.<sup>51</sup> The Queensland Commission for Children and Young People advised that under the Working with Children Check in Queensland, the Commissioner for Children and Young People can access a person's complete criminal history including charges and convictions regardless of when or where they occurred in order to screen people's suitability, and penalties can be imposed on employers who do not have the appropriate clearances for their staff.<sup>52</sup>

4.42 Established under the *Commission for Children and Young People Act 1998* and the *Child Protection (Prohibited Employment) Act 1998*, the New South Wales scheme contrasts with that of Queensland as it only screens employees. However, as well as convictions and charges for serious sexual offences, it takes account of Apprehended Violence Orders where children are involved, and general employment information such as where an employer has terminated an employee for alleged sexual misconduct. The outcome of the NSW Check is also different to the Queensland Check, with an employer being provided with a 'risk assessment' of the potential employee. It is then up to the employer to decide whether to employ that person and in what capacity. The NSW scheme is currently being reviewed.<sup>53</sup>

4.43 A Victorian model to enable the screening of people who work or volunteer with children is presently under discussion. As the *Working with Children Bill 2005*, it would allow for screening of people who wish to work with children for relevant criminal offences, charges and professional disciplinary proceedings. Its proposed application is broad and includes self-employed persons and volunteers. Under the Victorian model, if a person has a relevant criminal record or an adverse finding made against them by a professional disciplinary body, this information would be assessed to determine their suitability for working or volunteering with children. For a person with no relevant history, or with history which is deemed irrelevant, an 'assessment notice' would be issued, allowing them to work or volunteer with children, though this notice does not guarantee that a person is 'safe' but merely a declaration that the person has been assessed and declared eligible on the basis of their criminal, or professional disciplinary, history. Overall, the Victorian scheme would entail employers and volunteer organisations sharing responsibility to determine people's suitability including through referee checks, character assessments and practices. The scheme will be phased in over five years. The scheme has emphasised considerations of interests relating to natural justice, fairness, sensitivity, privacy, and encouraging volunteering for people working or volunteering with children and ensuring the protection of children.<sup>54</sup>

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51 Department of Justice (Victoria), *Working with Children Bill 2005*, Discussion paper, December 2004, p.4.

52 *Submission 72*, p.3 (Queensland Commission for Children and Young People).

53 Department of Justice (Victoria), p.4.

54 Department of Justice (Victoria), pp.3-5.

4.44 Under the Western Australian *Working With Children (Criminal Record Checking) Act 2004*, from 1 January 2006 certain people, including employers, employees and volunteers working with children in that State are required to undergo a confidential, national criminal record check. The process will entail checking an applicant's national criminal record to ensure that the person does not have a history of offences that may place children at risk of harm. However, people will not necessarily be prevented from working with children because of a criminal record as screening for criminal records will consider the circumstances of convictions or certain recorded charges and their relevance to children's safety. Checks will result in either an Assessment Notice, accompanied by a photographic card and identity number or a Negative Notice prohibiting a person from applying for or continuing to work with children. Included in the checking processes will be those on criminal convictions including spent and juvenile convictions. Assessments will examine many factors relating to records such as the nature, circumstances and pattern of charges or convictions and an offender's age at the time of an offence. The check will be required by many people working with or having contact with children.<sup>55</sup>

4.45 The Northern Territory Government has released a discussion paper on its proposed *Care and Protection of Children and Young People Act 2005*, including provisions in Part 3 for the screening of people in child-related employment. The draft bill provides that where persons wish to enter child-related employment, they must first obtain a notice of suitability before applying for a job. The bill also requires the employer to ensure that people are deemed suitable prior to employing them to work with children and child-related employment and it applies to a wide range of types and places of employment with children, including voluntary work.<sup>56</sup>

4.46 In January 2005, the Tasmanian Commissioner for Children released for public comment *Screening of Individuals Who Work with Children in Tasmania*, proposing a new model for government and non-government organisations in Tasmania that also acknowledges the importance of ensuring natural justice for persons who are the subject of screenings. Among the model's proposals are those regarding information on a person's criminal history and previous employment. All persons working with children would be the subject of a Working With Children Check and outcomes of a check would see the issue of a Tascard which people could use to undertake work that includes voluntary work with other organisations, without further screening. Screenings would mostly be undertaken by the organisations themselves, many of which already have processes in place. The Central Screening Authority would assess self-employed persons. While the system would exclude persons previously convicted of serious offences against children, it would allow some people with less serious or old offences to work with children, with screening requests assessed on their merits. The proposal has emphasised wider approaches than just

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55 WA Department for Community Development – [www.dcd.wa.gov.au](http://www.dcd.wa.gov.au)

56 Northern Territory Government (Department of Health and Community Services), Consultation paper and response sheet on the discussion draft for a proposed Act – *Care and Protection of Children and Young People Act 2005* – [www.children.nt.gov.au](http://www.children.nt.gov.au)

checking people's criminal histories since most people who are a threat to children have never been convicted of a relevant offence. The Central Screening Authority would also be the repository for information relating to complaints and disciplinary action against persons if they relate to working with children.<sup>57</sup>

4.47 The South Australian Department for Families and Communities' policy on screening and criminal history checks applies to employees, volunteers and funded non-government organisations where the department retains a duty of care. Its underlying principles include the paramountcy of children's and young people's safety, natural justice tenets in decisions about people's suitability to work with children and young people, employers' responsibility in taking reasonable steps to establish that their employees are suitable for such work and the importance of relevant information on employees, volunteers or prospective employees, for employers to have, in order to keep children and young people safe.<sup>58</sup> The policy's associated guidelines and procedures are comprehensive including details of officers designated to undertake the screening procedures. Among factors to be considered in assessments are applicants' previous offences, the nature of the offence, the scope of an individual's criminal history and the degree of rehabilitation. All processes are undertaken acknowledging the rules of confidentiality and review mechanisms available for applicants.<sup>59</sup>

4.48 In the Australian Capital Territory, government departments taking on new employees to work with children and young people, undertake police checks on prospective employees. The ACT's Vardon Report discussed the establishment of a statutory commissioner for children and young people in the Territory whose responsibilities would include a review role in connection with people planning to work in a job associated with young people.<sup>60</sup> An independent review of child abuse cases in the ACT conducted by Ms Gwenn Murray, has recommended that investigations be undertaken to develop systems for employment screening in the Territory, similar to the Working With Children Check used by the NSW Commission for Children and Young People.<sup>61</sup>

### ***Effectiveness of screening processes***

4.49 The Committee is not entirely convinced that non-government agencies' screening procedures are effectively keeping track of people who are abusing children

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57 Tasmanian Commissioner for Children, 'Screening of individuals who work with children in Tasmania', *Media Release*, 7 January 2005.

58 Department for Families and Communities (South Australia), *Screening and criminal history checks policy*, 1.2.2005, pp.1-3.

59 Department for Families and Communities (South Australia) 2005, pp.1-11.

60 ACT Commissioner for Public Administration, *The territory as parent: review of the safety of children in care in the ACT and of ACT child protection management*, May 2004 (Vardon Report 2004), p.187.

61 Murray G, *The territory's children: ensuring safety and quality care for children and young people*, Report on the audit and case review, July 2004, p.xxvii.

in care. The NSW Ombudsman has reported that the Catholic Commission for Employment Relations (CCER) had failed to ensure that Catholic schools, child-care centres, foster carers and other agencies working with children are properly investigating abuse allegations, training staff in child protection laws and notifying the Ombudsman of investigations. The Ombudsman noted instances where the system was letting children down, concluding that if abuse is occurring in one school, it could be occurring in others.<sup>62</sup> It is concerning that police checks on staff and volunteers who work with children do not necessarily screen out paedophiles. According to the non-government body, Child Wise, only five to 10 per cent of child sex offenders entering children's organisations have criminal convictions for child abuse. Child Wise considers that a broader approach than police or other background checks as the main measure to detect child-sex offenders in institutions is necessary, including educating organisations in child protection measures, rigorous recruitment and selection practices, and close supervision of all staff and volunteers who work with children and young people.<sup>63</sup>

4.50 Similarly, while the Working with Children Check and other mechanisms to examine the suitability of certain people to work safely with children and young people are comprehensive and often very effective, it is also evident that they are not necessarily foolproof. For example, the NSW Committee on Adoption and Permanent Care noted that while in NSW the Working with Children Check is the only criminal record check on foster carers and workers in child-related employment, its application is very limited and that some organisations would support a more thorough check including a government-funded national fingerprint check by police.<sup>64</sup> UnitingCare Burnside advised about the Check in NSW:

It certainly does not solve all the problems, but its intent is to weed out the predatory, where it is possible to do so because of known police records...All of us are required to apply a Working With Children Check to any staff or volunteers who work with us.<sup>65</sup>

4.51 Moreover, recent events in Queensland involving raids related to child pornography have revealed situations where men charged with possessing pornography had in fact been cleared by the Queensland Government to work with children. These incidents had raised serious doubts about the effectiveness of the blue card system under which the Queensland Commission for Children provides accreditation to people who are deemed as suitable to work with children.<sup>66</sup>

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62 Horin A, 'Weak watchdog raises abuse risk: report', *The Sydney Morning Herald*, 27.10.04, p.6.

63 McMenamin B, 'Police checks not enough to protect our children' [Letters Page], *The Age*, 29.10.04.

64 *Submission 45*, p.10 (NSW Committee on Adoption & Permanent Care).

65 *Committee Hansard 4.2.04*, p.16 (UnitingCare Burnside).

66 Townsend, Ian, 'Child pornography raids conducted in Qld', *ABC PM*, Friday 11.2.05.

## **Allegations of abuse against foster carers**

4.52 Foster carers are often the subject of allegations of abuse of children in their care. They are reported more often for alleged abuse than other members of society for many reasons including that higher standards are expected of them. It may be that they have children in their care who have previously accused carers of abuse and perhaps 'make a habit' of making such accusations. As well, children may genuinely misinterpret behaviour and be confused with normal parenting possibly as a result of earlier abuse or they may have an intellectual disability and give confusing or inaccurate information. If carers are new to fostering they may not know how to deal with emotionally-disturbed children, often about whom they know very little.<sup>67</sup>

4.53 Certainly abuse of children by foster carers does occur, the most common forms being physical (hitting) and sexual abuse. Some overseas research shows that the carers' children or foster siblings perpetrate 25 per cent of instances of abuse.<sup>68</sup> However false accusations are made. An example of unfounded allegations of sexual abuse was provided to the Committee by a very experienced foster mother where a child with a long history of accusing other males of abuse, accused the carer's husband of sexual abuse. While the child later retracted the statement, the saga involved enormous bitterness between many parties including the carer and departmental case workers. It encompassed people having their names sullied and a lack of departmental support for the foster mother, ending in tragedy when the teenager died.<sup>69</sup>

4.54 Therefore, foster carers can be vulnerable, including to unfounded allegations and regardless of the veracity of any allegations, the result for carers can be difficult. In practical terms, they stand to lose significantly if they are so accused including a loss of self esteem and identity as carers. They also lose the children for whom they have been caring, an occupation and income, and trust from their partner or control over their own lives. Given the many constraints on carers, they may need to consider changes to their lifestyle and personal behaviours for themselves and their families, in order to minimise the risk of being the subject of allegations. Such a strategy needs to be all encompassing even to the point of where carers need to be able to anticipate ways to deal with any allegations in practical terms.<sup>70</sup>

## **Conclusion**

4.55 The best interests of children in foster care can only be met if the framework is working and there are adequate numbers of foster carers. The evidence received by the Committee indicates that large numbers of foster carers are leaving and few are

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67 Orr, Bev, 'Surviving the allegation of abuse investigation process', Presentation to Victorian Foster Care Conference, Melbourne, Victoria, 2003, pp.1-6.

68 Orr, Bev 2003, p.4.

69 *Confidential Attachment*, pp.11-34.

70 Orr, Bev 2003, pp.2, 6-10.

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entering the sector. Accurate identification of the trend in foster carer numbers is difficult as little national data is available. However, what is clear is that many foster carers are finding it increasingly difficult to care for children with more complex needs, increasing demands from State and Territory child protection services and inadequate support.

4.56 A range of reforms may be needed including an injection of funds into the State and Territory child protection systems for better financial assistance to carers to adequately cover the costs of looking after a child, particularly high needs children. In addition, governments should provide incentives to encourage more carers, such as better training. Further, there needs to be better recognition of carers' professional skills and the pressures under which they and their families operate in caring for children. In other words, it is important to cease undervaluing this group of people who take on demanding workloads and priorities, often with very limited training and support.

4.57 To be accredited, foster carers need training which may include advice on assisting carers to handle the issues encountered when looking after foster children, making decisions in conjunction with parties such as the child and natural parents and knowledge of their legal obligations.

4.58 As noted above, each State and Territory has screening processes for people who work or volunteer with children and young people. However, it may be that a broader approach than police or other background checks to detect child-sex offenders in institutions is necessary. This could include an education process about measures to protect children including for recruiting and ongoing monitoring of staff who work and volunteer with children and young people. Since foster carers often have false accusations made against them, they also need back-up and protection so that they are aware of their legal rights and obligations and what caring for a 'high-risk' child can entail.

4.59 Many arguments exist about the merits or otherwise of professionalising the work of foster carers where they would be paid salaries and achieve a professional status. A pragmatic approach to the recruitment and training of foster carers may be required if carers are to be found for the ever-increasing number of children needing out-of-home care. However, there is a need for a continuum of carers – ranging from volunteers to the highly trained professional carers who are retained to provide care for the most high needs children.

4.60 The National Plan for Foster Children, Young People and their Carers has identified key areas for action. However, the Committee considers that it is important that carers concerns are adequately identified and addressed under the Plan. In particular, the Committee is concerned that the continued loss of carers and inadequate recruitment will impact adversely on the provision of care to children in need. While the Plan is to examine ways of supporting relative/kinship carers, this is not extended to foster carers. The collection of data should also include information about foster carers, including numbers, age of carers and length of time in the sector.

The Committee considers that such data would be of great use in identifying trends in the retention of foster carers and for planning purposes.

4.61 While the National Plan is an important instrument in improving the foster care system, the Committee considers that there needs to be a mechanism to ensure that the reforms to the sector are implemented as quickly as possible, in the most effective way across all jurisdictions.

4.62 The Committee comments on the need for a national approach in chapter 7.

### **Recommendation 9**

**4.63 That the National Plan for Foster Care, Young People and their Carers be extended to include the following:**

- **Training –**
  - **investigate the implementation of national carer specific accredited training qualifications, for example, through Vocational Education Training;**
- **Uniform Data Collection –**
  - **collection of data on the carer cohort;**
- **Support –**
  - **examine ways of improving carer support including national standards for reimbursement of costs to cover the real costs of caring and payment of allowances;**
  - **examine ways of improving foster carer retention; and**
  - **develop models of response to allegations of abuse against foster carers and workers based on international best practice including articulation of carer's rights.**