

Ms Madeleine Foley
Director
General Purpose Standing Committee 2
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Ms Foley

I welcome the General Purpose Standing Committee's (the Committee) inquiry into child protection and appreciate the opportunity to provide this submission in response to Terms of Reference e) and f) which are directly relevant to my functions as the NSW Children's Guardian, those TORs being:

e) the support, training, safety, monitoring and auditing of carers including foster carers and relative/kin carers, and

f) the structure of oversight and interaction in place between the Office of the Children's Guardian, Department of Family and Community Services, and non-government organisations regarding the provision of services for children and young people at risk of harm or in out of home care.

I have made a number of directly relevant submissions to other Inquiries, both current and past, which address a number of similar issues. Those submissions along with a number of other relevant documents are referenced and annexed to the OCG's submission for the Committee's information.

Care has been taken to minimise duplication of the annexed information while still providing a coherent overview in response to TORs e) and f). A full index of annexed documents is also attached to this letter, grouped in relation to the relevant TOR.

I would also like to confirm my attendance at the Committee's first hearing on 16 August 2016 and would be pleased to provide more detail into any of the issues raised in the attached submission at the hearing.

Yours sincerely

Kerryn Boland
NSW Children's Guardian

31 July 2016

NSW Office of the Children's Guardian

Submission to

The NSW Legislative Council's

General Purpose Standing Committee No 2

Inquiry into Child Protection

JULY 2016

Table of Contents

1	Executive summary	3
2	The Role and functions of the Children's Guardian	4
3	The OOHC Accreditation system.....	4
3.1	NSW Child Safe Standards for Permanent Care	5
3.2	The OCG's Accreditation and Monitoring Framework.....	5
4	Regulatory tools to promote compliance.....	6
5	Current activity in the OOHC sector.....	7
5.1	NGO service providers.....	7
5.2	Aboriginal services.....	8
5.3	FACS.....	8
6	Support, training, safety, monitoring and auditing of carers.....	9
7	The NSW Carers Register.....	9
7.1	One year on, what do the statistics reflect?	10
7.2	WWCC Bars.....	10
7.3	Data integrity.....	11
7.4	Accreditation and monitoring of compliance with the NSW Carer's Register	11
8	Proposed interjurisdictional carer information sharing system (National Carers Register).....	12
9	Challenges	12

1 Executive summary

The Out of Home Care (OOHC) system in NSW is a well-regulated sector, with a number of significant improvements over the last decade that have contributed to improved oversight arrangements. The Children's Guardian's role with respect to young people at risk of harm in OOHC is multi-pronged. It is through oversight of the systems in place by OOHC service providers to respond to children in their care, the primary means of which is through the Guardian's accreditation and monitoring functions of OOHC providers, operating the NSW Carers Register and by exercising crucial functions related to the Working with Children Check (WWCC). These functions are outlined in this submission and the annexed documents.

In NSW both the Children's Guardian and the NSW Ombudsman provide oversight of the OOHC system. Duplication has been minimised through each having distinct functions in relation to scrutinizing and ensuring that children and young people are protected from abuse. FACS in addition to its role as lead child protection agency, also plays a role in oversight through contract management of non-Government organisations providing statutory OOHC.

The *Royal Commission into Institutional Responses to Child Sexual Abuse Child* noted that NSW is the only jurisdiction that vests responsibility for accreditation of OOHC service providers with a body independent of the lead department, and that this arrangement helps protect children from child sexual abuse. The Commission went further and identified the current system operating in NSW with regards to sharing of information (under chapter 16A of *Child And Young Persons Care and Protection Act 1998*), the register of authorised Carers (the Carers Register), the WWCC and the reportable conduct scheme as effective oversight mechanisms that present a model for other jurisdictions.

Despite the robust systems in place, the Guardian's interactions with FACS and NGO's in the OOHC sector have highlighted a number of challenges which are discussed in this submission, both in the current environment and emerging out of policy and administrative directions that are shaping the sector.

This includes how best to monitor vulnerable children who are not captured under existing arrangements and present challenges for oversight bodies and service providers alike. In relation to the Guardian's accreditation functions there are real challenges in ensuring that requirements of accreditation apply equally to non-Government OOHC providers and the Government provider. Additionally, streamlining the reporting and compliance requirements on service providers who are subject to accreditation requirements to the OCG, contractual requirements to FACS and reporting requirements to the NSW Ombudsman is an ongoing challenge.

Apart from these ongoing issues there are also a number of important changes underway in the OOHC sector which has presented new and emerging challenges and point to the need for continued role clarity between oversight agencies.

2 The Role and functions of the Children's Guardian

The office of the Children's Guardian is established under the *Children and Young Persons (Care and Protection) Act 1998 (the Care Act)* as an independent statutory office that reports directly to the Minister for Family and Community Services (FACS) and to Parliament¹. The Guardian's principal functions are provided for at s181 of the Care Act and reproduced as **TAB 8. TAB 11** OCG Submission to the *Special Commission of Inquiry into Child Protection Services in New South Wales*, provides a historical perspective on the evolution of the Children's Guardian's functions and the changes in the OOHC regulatory environment for contextual reference.

The Children's Guardian's role with respect to young people at risk of harm is through oversight of the systems in place by OOHC service providers to respond to children in their care, the primary means of which is through the Guardian's accreditation and monitoring functions of OOHC providers, operating the NSW Carers Register and by exercising crucial functions related to the WWCC.

We note that in NSW both the Children's Guardian and the NSW Ombudsman provide oversight of the OOHC system. Each has distinct functions in relation to scrutinizing and ensuring that children and young people are protected from abuse. The role of the NSW Ombudsman is integral to understanding the oversight of the OOHC system particularly with respect to information sharing under the WWCC system (specifically the Reportable Conduct scheme) and through Notifications of Concern which contribute to the comprehensive nature of information available to the Children's Guardian to carry out her functions. This information contributes to more rigorous recruitment and screening of carers, informed decisions in relation to the WWCC, and informs FACS' decision making in relation to removing a child at risk of sexual abuse in a particular OOHC placement.

3 The OOHC Accreditation system

NSW introduced a compulsory accreditation scheme for statutory OOHC providers in July 2003. The accreditation scheme is the principal means by which the Children's Guardian exercises her functions in respect of children and young people in OOHC.

The principal functions of the Children's Guardian include the registration of organisations that provide or arrange voluntary out-of-home care (VOOHC) and to monitor their carrying out of their responsibilities under the Care Act. VOOHC is arranged between a parent and an organisation when there are no child protection concerns and for this reason is not discussed further here as it falls outside the TORS of the Committee.

An outline of the OOHC system is attached at **TAB 10** Background Paper: NSW Accreditation System, June 2016.

The accreditation scheme was a recommendation of the Usher Committee² and the Parkinson³ Review. Both reviews recommended the establishment of an independent body

¹ While the Office of the Children's Guardian (the OCG) sits within the FACS cluster for administrative purposes, it is in all other respects independent of the principal department and its related agencies.

² Review of Substitute Care Services in NSW (the Usher Report), January 1992

to provide for the separation of the government funder of OOHC services from the body responsible for ensuring the quality of those services.

The Parkinson Review further recommended the establishment of a standards-based accreditation scheme and that the then government provider, the Department of Community Services ("DoCS") as the largest provider of OOHC services, should be subject to the same regulatory regime. **TAB 11** OCG Submission to the *Special Commission of Inquiry into Child protection services in NSW* provides a detailed background to these recommendations and the development of standards for accrediting designated agencies.

3.1 NSW Child Safe Standards for Permanent Care

Section 138 of the Care Act provides that only accredited government or non-government agencies may arrange the provision of statutory or supported OOHC. Accredited OOHC providers are referred to as 'designated agencies'.⁴

Non-government OOHC providers must be accredited in order to receive funding to provide OOHC services and accreditation therefore operates as a license to provide statutory or supported OOHC.

In order to be accredited, OOHC providers must demonstrate to the Children's Guardian that they meet the NSW *Child Safe Standards for Permanent Care* (the Standards) attached at **TAB 9**. OOHC Standards were introduced in 2003 to support the accreditation scheme and have been reviewed in response to legislative reform, changing policy settings and emerging research regarding the needs of children and young people in OOHC. The most recent iteration of the Standards was released by the Minister for Family Services on November 2015⁵ to support child protection reforms. They represent the culmination of significant work by the OCG in consultation with the OOHC sector and the Australian Council for Educational Research.

The Standards align the previously distinct OOHC and adoption accreditation schemes. These schemes had separate standards that have been streamlined into a single accreditation process for OOHC providers who also wish to provide adoption services. They are underpinned by child safe principles and informed by contemporary research, child focused and supports a risk-based approach to regulation of the OOHC sector. Importantly, they emphasise and support the permanency planning hierarchy introduced by the NSW Government through the Safe Home for Life Reforms (and set out at s10A of the Care Act).

All designated agencies in NSW must transition to the new Standards by 1 December 2016 in order to continue to be accredited to provide OOHC in NSW.

3.2 The OCG's Accreditation and Monitoring Framework

The objectives of the NSW accreditation program are to:

³1997 Review of the *Children (Care and Protection) Act 1987*

⁴ Section 138 of the *Children and Young Persons (Care and Protection) Act 1998*

⁵ The *Children and Young Persons (Care and Protection) Regulation 2012* (Care and Protection Regulation) provides for the Minister for Family and Community Services to approve, on the recommendation of the Children's Guardian, standards and other criteria for use in determining whether to grant an application for accreditation as a designated agency, and what accreditation period will be granted.

- promote the best interests of children and young people in OOHC;
- ensure that children and young people in OOHC receive quality services and care
- assist designated agencies to meet standards of care and services for children and young people in OOHC;
- identify gaps between best practice and actual practice;
- provide a fair and transparent regulatory framework; and
- be viewed by the OOHC sector as a valuable process⁶.

Accreditation focuses on the policies, procedures and practices of an agency over time. While the OCG's accreditation processes do not look at the care provided to each child or young person placed with an agency, OCG assessors consider an agency's practice in respect of individual children and young people in order to assess the efficacy of an agency's systems. This may include ensuring that an agency has appropriate reporting mechanisms, ability to respond to the needs of the child including making referrals to appropriate services where required. Feedback on individual matters is used to address systemic issues and improve agency practice.

As part of the accreditation processes, the OCG monitors agency practice over the course of the accreditation period through either the compliance and monitoring program, or the provisional accreditation process. OCG assessors conduct on-site assessments of provisionally accredited agency practice, approximately four times per year over the course of the three-year accreditation period. At each assessment the agency's practice in relation to certain standards is reviewed and the OCG provides detailed feedback as to any gaps in practice. The agency is reassessed against these standards during future assessments.

A comprehensive discussion of the previous standards and the improvements made in the accreditation and monitoring framework over time is provided at **TAB 12** OCG Submission to the Royal Commission's *Issues Paper 4 Preventing sexual abuse of children in OOHC*, December 2013.

4 Regulatory tools to promote compliance

Where issues are identified with a designated agency's capacity to meet minimum compliance with the Standards, the OCG has a range of approaches for responding. The particular circumstances of the designated agency and the best interests of children and young people is considered in any actions that are undertaken. Examples of regulatory tools employed include:

- The designated agency developing an action plan, which outlines the areas of concern and strategies to address these concerns, within an appropriate timeframe. The OCG will undertake on-site visits to monitor progress in implementing the plan.
- Where the agency does not comply with its own action plan, or where an agency is unable to identify risks and develop appropriate strategies, the OCG will develop a risk management program. Progress will be monitored via on-site assessments.

⁶ Children's Guardian's *Submission to the Special Commission of Inquiry into Child Protection Services in New South Wales*. February 2008.

- The Children's Guardian may impose conditions on the agency's accreditation, including a condition that no further placements are to occur without the approval of the Children's Guardian.
- Where concerns persist and the governing authority are unable to satisfy the Children's Guardian that the agency continues to meet accreditation requirements, the Children's Guardian may suspend or cancel the agency's accreditation.
- A comprehensive explanation of the accreditation criteria articulated in the Standards, against which designated agencies are regulated, including their accreditation and ongoing monitoring, and the progress of the government and NGO providers in the accreditation space is attached at **TAB 12** OCG submission to the Royal Commission's *Issues paper 4, Preventing sexual abuse in children in OOHC*.

5 Current activity in the OOHC sector

There are currently 74 designated agencies accredited to arrange for the provision of OOHC in NSW. Of these, 45 hold five year accreditation, 8 hold three year accreditation, 20 hold provisional accreditation (which applies when an agency has not arranged statutory OOHC within the last 12 months i.e. the agency has had no OOHC placements in the preceding 12 months), and FACS holds interim accreditation. As part of FACS Community Services, the 7 intensive support services located around NSW hold 5 year accreditation.

5.1 NGO service providers

Since commencement of the compulsory accreditation scheme in 2003 to July 2013, the OCG has worked closely with the sector to assist in meeting the requirements of accreditation. The accreditation scheme required all existing OOHC providers to meet OOHC standards by July 2013. All NGOs achieved full accreditation or withdrew from service provision where this was not achievable.

With the transition of OOHC services from FACS to the NGO sector now significantly progressed, there has been a considerable increase in the number of designated agencies within NSW. The OCG has identified an emerging trend of agencies facing challenges in meeting accreditation at the time of their renewal assessment.

When an agency applies to renew their accreditation, the Children's Guardian has a number of options available depending on the circumstances of the agency and the outcome of the OCG assessment. Where appropriate, one option available to the Children's Guardian is to defer the determination of an application from an agency. At 16 November 2015 there were 9 agencies who had their application for accreditation renewal deferred.

The OCG prepared a snapshot of the trends identified across the sector in January 2016 to support the sector which was distributed to all Principal Officers of designated agencies, and is attached at **TAB 14** Snapshot of Issues in OOHC for designated agencies, January 2016. The Children's Guardian also met with the Association of Children's Welfare Agencies (ACWA) in late December 2015 to discuss the trends identified through OCG monitoring. ACWA undertook to take the issues on board and to consider them as part of future training for the OOHC sector, especially around effective governance.

5.2 Aboriginal services

Over 35% per cent of children and young people in OOHC identify as Aboriginal or Torres Strait Islander⁷. The OCG recognises the importance of identity for Aboriginal children and that identity is best preserved and promoted by placements that are culturally appropriate and supervised by Aboriginal agencies working to ensure children remain connected to family and cultural ties.

The Accreditation and Monitoring team within the OCG work closely with Aboriginal agencies to ensure they understand the aims and requirements of the Standards. OCG staff have a strong commitment to communicating these requirements clearly and assisting agencies to develop practices to meet these requirements.

However, of the current 74 designated agencies, only 13 of these are Aboriginal agencies. 8 of these have five year accreditation and 5 have provisional accreditation. Notably, there are also currently seven Aboriginal agencies in capacity building partnerships with four accredited agencies with a view to those agencies being accredited over time. The OCG would like to see more Aboriginal agencies in a position to provide services to Aboriginal children in OOHC.

This is particular priority given that the majority of Aboriginal children and young people in OOHC remain in FACS care, pending transition to the NGO sector. We note that while FACS has interim accreditation (discussed further below), this category of accreditation was granted by regulation rather than as a result of meeting accreditation requirements.

5.3 FACS

FACS is the only government provider of OOHC services. For a number of reasons since commencement of the compulsory accreditation system which are outlined in **TAB 10** Background paper: NSW Accreditation System, not all of FACS' services have been able to demonstrate that they wholly or substantially meet the Standards for accreditation.

However the legislation provides for the Children's Guardian to accredit parts of an organisation and on this basis the Children's Guardian granted full accreditation in July 2013 for FACS Sherwood House Residential Care Program and its Metro Intensive Support Services, for a period of five years.

The remainder of FACS' services are interim accredited to 31 August 2016 under the Children and Young Persons (Savings and Transitional Regulation) 2000 published 29 July 2016.

The transitional regulation was initially introduced to allow OOHC providers who were in the market to progressively work towards meeting accreditation requirements over a 10 year period to 2013. The OCG has provided detailed feedback to FACS since 2003 to assess progress against accreditation criteria through on-site assessments of FACS' offices.

⁷ Based on figures from AIHW, Child Protection Australia 2014-15 at p44 i.e. 6,581 Indigenous children, out of a total of 18,496 children in OOHC in NSW.

Recently the OCG completed its final accreditation assessment of FACS. While some parts of the organisation are meeting the NSW Child Safe Standards for permanent care, the agency has a whole has not demonstrated compliance with the requirements for accreditation. The Children's Guardian is currently considering options for the accreditation of FACS taking into account related organisational changes occurring within FACS.

The limited tools available to the Children's Guardian in responding to FACS' progress with meeting accreditation requirements has been an ongoing challenge. It is heightened by the fact of FACS' statutory responsibility for arranging OOHC for children and young people who are unable to reside with their immediate family, regardless of their accreditation status. It also raises the undesirable prospect of a two tier child protection system in which some children are placed through agencies that are known to meet minimum accreditation standards while others are not. The Children's Guardian continues to explore available regulatory options to create a level playing field that offers at least the same standard of care for all children and young people in care.

6 Support, training, safety, monitoring and auditing of carers

In NSW statutory OOHC can only be provided by an authorised carer. The recruitment, support, training, safety, monitoring and auditing of carers is the responsibility of the designated agency. This includes the requirement to ensure that carers, prospective carers and their adult household members have a Working With Children Check (WWCC) clearance. See **TAB 7** OCG Submission to the Royal Commission *Issues Paper 1: Working with Children Checks*, for a brief overview of the WWCC.

Mandatory suitability assessment requirements for carers are set out in Part 6 the Children and Young Persons (Care and Protection) Regulation 2012. In addition to these the Standards includes requirements regarding the assessment, training, supervision and support of authorised carers.

OCG staff, as part of the accreditation process, considers designated agency employee and carer training and development. This is done through a review of the agency's induction and training materials, annual reviews of training needs and ongoing internal/external training, supervision and support. The OCG also hold discussions with agency management and employees to determine whether knowledge of their child protection responsibilities is evident. See **TAB 15** Response of the OCG to the Royal Commission consultation paper, *Institutional responses to child sexual abuse in OOHC*, for a discussion about the WWCC function of the Children's Guardian in relation to carers and a description of the accreditation and monitoring framework.

7 The NSW Carers Register

On 15 June 2015 the OCG commenced operations of the NSW Carers Register⁸ which acts as a centralised database of those persons who are authorised, or who apply to be authorised to provide OOHC in NSW. The Register operates in a similar way to a licensing tool and should be distinguished from providing a casework tool or a method for assessing the quality of carers. Rather, it is designed to ensure carer and household member suitability

⁸ with the commencement of the Children and Young Persons (Care and Protection) Amendment (Authorised Carers) Regulation 2015.

and to enable designated agencies to identify other designated agencies that have previously had an association with a prospective carer or household member. This assists designated agencies to share information about the suitability of carer applicants and household members under Chapter 16A of *Children and Young Persons (Care and Protection) Act 1998*, to prevent unsuitable carers moving from agency to agency. It also integrates the key functions of the Children's Guardian by allowing data holdings in relation to the key functions of the Children's Guardian to be cross checked against each other.

The Register records the outcomes of carer and household member checks and assessments and does not permit a carer to be fully authorised until the designated agency certifies that all required checks and assessments have been satisfactorily completed.

The information contained on the Register is the minimum level of personal information necessary to support suitability checks and information sharing, with detailed information to be exchanged under Chapter 16A. The Register records the outcomes of carer applications and the surrendering, suspension, or cancellation of authorisations. It will also flag the existence of in progress reportable allegation investigations and maintain a permanent record of reportable conduct findings that meet the threshold set by the NSW Ombudsman.

As prescribed by legislation, all designated agencies were required to enter information as of 15 June 2015 about current authorised carers, carer applicant and their household members. Designated agencies have a discretionary option of entering previously authorised or cancelled carers, their household members and any historical reportable allegations relevant to the ongoing risk to children or young people in out-of-home care. The role of the OCG's Carer's Register is outlined at **TAB 1** NSW Carers Register presentation and TABS 2-5 Carers Register Factsheet 1, 2, 3 and 4.

7.1 One year on, what do the statistics reflect?

- Authorised carers have increased by approximately 1800 since the commencement of the Carers Register (15 June 2015)
- Designated agencies providing statutory foster care has risen by one since the commencement of the Carers Register
- NGOs marginally authorise more carers than FACS
- 13% of authorised carers identify as Aboriginal or Torres Strait Islander
- 63% of authorised carers are female
- 47% of household members are female
- 60% of household members are over 18 years and require a WWCC
- 60% of carer applicants are being managed by FACS, however this number is currently due to historical (outstanding) provisional authorisation being finalised.

7.2 WWCC Bars

- 88 carer applicants, provisionally authorised or authorised carers have had a WWCC bar or interim bar issued.
- 56 household members have had a bar WWCC bar or interim bar issued.

Note:

- Carer authorisations are automatically cancelled if the person no longer has a WWCC clearance or a current application or subject to a bar or interim bar.
- Carer authorisations are automatically suspended if a residing person no longer has a WWCC clearance or a current application or subject to a bar or interim bar.
- The relevant designated agency, must, within 48 hours of becoming aware of a cancellation or suspension, ensure that children or young person in out-of-home care are no longer placed in a household where a person with a WWCC bar or interim bar resides.

A detailed table of Carers Register statistics for the 2015-16 year is attached at **TAB 6**.

7.3 Data integrity

The OCG's processes include cross referencing the Carers Register information with the WWCC data base to ensure data integrity. The records detailed in the WWCC system relating to a person's identification are considered accurate as this information has been verified by the Roads and Maritime Services during the WWCC application process. Scheduled cross referencing of the two systems is an ongoing process to ensure Carers Register data integrity.

7.4 Accreditation and monitoring of compliance with the NSW Carer's Register

The OCG is responsible for the administration, monitoring and auditing of the NSW Carers Register under the *Children and young person (Care and Protection) Act 1998* and the *Children and Young Persons (Care and Protection) Regulation 2012*.

The OCG's assessment and monitoring of all designated agencies accredited to provide statutory or supported out-of-home care in NSW includes an agencies' compliance with requirements of the NSW Carers Register. Assessment seeks to confirm that these requirements are incorporated into agencies' policies and procedures and that all:

- designated agencies are aware of their responsibilities for entering and maintaining carer applicant, authorised carers and household member information onto the Carers Register;
- Carers Register information is current and accurate;
- carers (and their household members) are appropriately authorised to provide statutory foster or supported out of –home care by completing the minimum probity and suitability checks and recording those outcomes on the Carers Register;
- carers authorised as at 15 June 2015 and their household have been entered onto the Carers Register;
- carer applicants post 15 June 2015 (and their household members) are recorded onto the Carers Register;
- reportable allegations that are reportable to the NSW Ombudsman or are an allegation of conduct of a class or kind exemption are recorded on the Carers Register;

- agencies request and exchange relevant information as to the suitability of carer applicants, authorised carers and their household members in a timely and efficient manner.

The OCG is currently evaluating the implementation and uptake of the Register following the first 12 months of its establishment.

8 Proposed interjurisdictional carer information sharing system

Proposals for interjurisdictional sharing of carer information are currently under consideration. This includes an enabling environment to support information sharing about carers including nationally consistent consent and other arrangements to support harmonisation. The OCG supports in principle the proposed carer information sharing framework and an agreed national minimum data set. To assist NSW Department of Family and Community Services in leading this project, the OCG has provided feedback to the business plan informed by the recent implementation of the NSW Carers Register.

9 Challenges

There are a number of challenges that the Children's Guardian has identified through oversight of the OOHC system over the last 14 years, and others that have been identified as emerging within the current policy landscape. Most of these have been previously canvassed in the annexed documents. Of particular relevance to the Committee's TORs are those that relate to:

Monitoring of vulnerable children - Despite the regulated OOHC system which exists in NSW there continue to be certain groups of children and young people who appear to fall through the gaps of oversight systems. See **TAB 15** Response of the OCG to the Royal Commission's consultation paper, *Institutional responses to child sexual abuse in OOHC* where we identified those groups to be:

- Children who exhibit harmful behaviours
- Those that are the subject of harmful behaviours by other children in care
- Those that make allegations about abuse which does not reach a threshold requiring oversight or follow up by any existing body, and
- Those that self-place with carers who are not authorised and therefore are not subject to oversight systems.

Effective regulatory tools to respond to the government provider- As noted earlier the OCG has found that regulatory tools that may be appropriate for responding to compliance issues by NGOs are impractical in addressing performance issues by FACS. This is particularly so given that FACS has a legislative mandate for arranging OOHC as a provider of first instance and last resort, regardless of its accreditation status. The OCG is currently reviewing the regulatory options available to respond to performance issues of the government provider. See **TAB 10** Background paper: NSW Accreditation System.

Appropriate residential services for children with complex needs- The OCG is aware that there are currently a number of children and young people with particularly challenging behaviours who cannot be safely placed in residential care with other children. Where there are no suitable residential care placements, these children and young people are cared-for in motel accommodation, supervised by youth workers and caseworkers. The OCG understands that FACS has been considering options for the provision of therapeutic residential care and will continue to monitor developments in this area. If children and young people with complex behavioural and care needs are to continue to be placed in residential care settings, future funding models should provide for the provision of therapeutic care, provided by appropriately qualified and skilled professionals.

Strains on sector capacity as a result of changes in government policy directions – The increase in demand for OOHC services in the NGO sector that has resulted from the progress of transitioning children in OOHC from FACS to the NGO sector has challenged the sector's capacity to respond in a number of ways. The overall number of children in NGO placements has dramatically increased leaving the sector struggling to find adequate numbers of appropriately trained staff. This has also had an impact on agencies developing and maintaining strong internal governance frameworks. See **TAB 15** Response of the OCG to the Royal Commission's consultation paper, *Institutional responses to child sexual abuse in OOHC*.

We note also that the Government's *Safe Home for Life* policy is changing the nature of OOHC service provision. Provider agencies are now required to undertake restoration, guardianship or adoption work in addition to continuing to provide residential and foster care. This requires a different skillset than that previously required. This is compounded by the difficulties in finding and recruiting adequate numbers of appropriately skilled staff.

Increasing compliance burden – Service providers have raised the issue of the increasing compliance burden being placed on them by the combined requirements of the OCG through its accreditation and monitoring of compliance with accreditation, and by the NSW Ombudsman in relation to reporting and oversight requirements. These place additional strain on the sector, with the risk being that valuable resources may be diverted from frontline service delivery to compliance activities. See **TAB 15** Response of the OCG to the Royal Commission's consultation paper, *Institutional responses to child sexual abuse in OOHC* at paragraph 5.1 for further discussion of this issue. The Children's Guardian continues to collaborate with the NSW Ombudsman in efforts to streamline reporting and oversight requirements placed on agencies in the sector.

The interaction between the Standards and FACS' proposed outcomes based Quality Assurance Framework which the OCG understands will underpin the introduction of an outcomes-based contracting model when contracts with NGO OOHC providers are renewed in 2017 - See **TAB 13** OCG submission to FACS on the NSW Quality Assurance framework and **TAB 10** Background paper: NSW Accreditation System. Careful consideration needs to be taken in avoiding duplication of reporting and data collection requirements which can further impact on service providers.

Additionally, as the sector matures the focus of the OCG's accreditation and monitoring functions is turning to continuous quality improvement. This is occurring at the same time as

FACS develops a framework for measuring long term outcomes for children that will underpin its contracting with the NGO sector. While the OCG acknowledges that the measurement of long term outcomes has long been a need in this sector, there is an increased need to clarify roles and responsibilities between the OCG and FACS in this space. This is particularly so to ensure that the Children's Guardians accreditation functions and FACS' proposed Quality Assurance Framework are complementary in nature. The OCG has been in discussions with FACS to clarify these frameworks.