

**Submission
No 94**

INQUIRY INTO CHILD PROTECTION

Organisation: Association of Children's Welfare Agencies

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ACWA
Association of Children's
Welfare Agencies

CCWT
Centre for Community
Welfare Training

**Inquiry Into Child Protection in NSW:
ACWA Submission**

ACWA acknowledges the Cadigal People of the Eora Nation as the traditional owners of the lands where ACWA stands and wish to pay respect to their elders, past and present.

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1. INTRODUCTION

1.1 Association of Children's Welfare Agencies (ACWA)

The Association of Children's Welfare Agencies (ACWA) is the peak body in New South Wales representing the voice, experience and expertise of non-government community service organisations delivering services to vulnerable children, young people and their families.

With a membership of 100+ agencies, ACWA works with members, partners, government, non-government and other peak bodies to bring about effective reforms that will deliver better outcomes to the lives of vulnerable children, young people and their families.

1.2 Source of Information

ACWA's response to the NSW Inquiry into Child Protection is based on a broad range of sources. These include:

- Organisational experience shared with us by our member agencies alongside their practice wisdom through the following ACWA-led working parties, groups, forums and meetings:
 - ACWA Board meetings and regional Board and Member forums
 - CEO Breakfast Briefings and Best Practice Forums on specific topics
 - Out of Home Care Reforms Forum
 - Regular Member forums in Sydney and Wollongong
 - ACWA Best Practice Unit Statewide Reference Group
 - Fostering NSW Statewide Reference Group
 - Transition to Independence Forum
 - Residential Care Providers Network
- Our internal expertise, including research and involvement in developing legislative and policy responses, in the context of holding a broad overview of the non-government community sector in NSW, and nationally including involvement with the National Framework for Protecting Australia's Children, the bi-annual ACWA conference which attracts participants from across NSW and further afield including a significant number of international speakers, and ACWA's representation on Child and Family Welfare Association of Australia (CAFWAA).
- Our experience as a Registered Training Organisation (RTO) with particular experience in providing child and family welfare training and continual interaction with, and feedback from, a diverse range of practitioners and trainers in the sector.
- We also draw on the knowledge gained through the attendance of ACWA staff and management at a broad range of government, research and other agency meetings, presentations and consultations, many of which touch on matters of relevance to this submission.
- Additional sources include individual conversations with the public including calls to the Fostering NSW enquiry line and interaction on Fostering NSW social media channels as well as member enquiries to our Policy and Membership Team.

1.3 Focus of ACWA's Submission

This submission aims to address issues that are pertinent to ACWA's expertise in its role as a peak body and will focus on:

- The Terms of Reference of the Inquiry into Child Protection in NSW
- The non-government organisations that ACWA represents
- Carer assessments through particular experience gained in our recent review and expansion of ACWA's prospective carer assessment tool, *Step by Step*
- Insights provided through the Fostering NSW project, which aims to assist with carer recruitment, retention and support, particularly for non-government agencies providing OOHC services.
- Longstanding experience and expertise in providing training through ACWA's learning and development arm, CCWT, including embedded learning, development and capacity building across the spectrum of relevant issues in the OOHC sector and more broadly.

ACWA appreciates that our individual member agencies may provide separate submissions and that there are multiple views in the sector in regard to some of the issues raised.

1.4 National Context

The Third Action Plan of the National Framework for Protecting Australia's Children has been released stating the following agreed strategy areas:

- Strategy 1: Early intervention with a focus on the early years, particularly the first 1000 days for a child,
- Strategy 2: Helping young people in out-of-home care to thrive in adulthood,
- Strategy 3: Organisations responding better to children to keep them safe,
- Cross-cutting focus area: Aboriginal and Torres Strait Islander children and families, and
- Cross-cutting focus area: Research and reporting under the Third Action Plan.¹

ACWA contributed to the development of the Third Action Plan and recognises the potential of the National Framework to lead a comprehensive national approach. In line with the National Framework, ACWA also supports a public health approach to child welfare services that includes primary/universal, secondary and tertiary interventions for families and a focus on prevention.²

This submission will detail how these strategies relate to a NSW context, particularly in regard to the experience of young people leaving care, a focus on early intervention to support vulnerable families and the development of approaches to support Aboriginal and Torres Strait Islander children and families.

ACWA also notes that there have been several inquiries into child protection and out-of-home care at a state and national level. These include the recent Senate Inquiry into Out-of-Home Care (OOHC)³, the current Royal Commission into Institutional

¹ *Driving Change: Intervening Early*, National Framework for Protecting Australia's Children – Third Three-Year Action Plan, 2015-18, Commonwealth of Australia (Department of Social Services), 2015.

² The Allen Consulting Group. (2008). *Inverting the pyramid: Enhancing systems for protecting children*.

² The Allen Consulting Group. (2008). *Inverting the pyramid: Enhancing systems for protecting children*. Melbourne: The Allen Consulting Group.

³ *Out of Home Care Report*, The Senate Community Affairs References Committee, Commonwealth of Australia, 2015.

Responses to Child Sexual Abuse, the Wood Report (2008)⁴ and the Bringing Them Home: Stolen Generation Report.⁵ There are many recommendations made as part of these inquiries that relate to child protection in NSW and it is important to measure the progress of their implementation, particularly in times of reform.

1.5 NSW Reforms

There are significant reforms taking place in NSW currently with the Safe Home For Life Reform following legislative amendments proclaimed in October 2014 and the more recent Targeted Earlier Intervention Reform. The transition of OOHC to non-government organisations (NGOs) that commenced in 2012 following recommendations in the Wood Report (2008) has also had a significant impact on the sector. The majority of children and young people in OOHC are now placed with accredited NGO service providers. This submission will discuss the impact of these reform initiatives on the NGO sector and the implications for funding and resourcing.

1.6 Guiding Principles

ACWA supports a principle of promoting stability for children and young people and recognises that decisions need to be made that encourage youth participation and are sensitive to the developmental needs of the child. The Safe Home For Life Reforms provides permanency principles to support placement decisions based on the best interests of the child, whether this be restoration, guardianship, adoption for non-Aboriginal children and young people, or long term parental responsibility to the Minister. Nevertheless, for these placements to be stable, supports are also needed to meet the needs of the child, parents and carers who may require training and support to provide ongoing care and to ensure children have meaningful connections to people, place and culture. As at 30 June 2015, only 63.7% of children and young people experienced less than three placements in the current care period.⁶

Regardless of placement type, finding family members and a child's support network is essential to identifying support for a child or young person once interventions finish or they leave the care system. This involves caseworkers making contact with family to find relatives where information does not exist, supporting contact between the child and their family, talking to the child about the connections that are meaningful to them and, where there is a possibility of preservation or restoration, providing support to birth family.

ACWA also notes that interventions involving children and young people entering OOHC need to be focused on the long-term life trajectories of those children when they leave care. Research shows that young people leaving care can experience poor life outcomes, which can include interaction with the criminal justice system, un/underemployment, homelessness, having their own children at a young age, health problems and limited social supports.⁷ Focusing on the long term outcomes for a child – as well as their immediate needs – requires workers to seek out the meaningful, lifelong connections for a child, support them through education, and involve them in decision making. Quality leaving care planning is also imperative so that a young person is given meaningful opportunities to express their needs, hopes and concerns.

⁴ Wood, J. Report of the Special Commission of Inquiry into Child Protection Services in NSW, 2008.

⁵ *Bringing Them Home*, National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families, Commonwealth of Australia, 1997.

⁶ Family and Community Services, Statistical Report 2014-15, p. 8.

⁷ Mendes, P., Johnson, G., and Modlehuiddin, B., *Effectively preparing young people to transition from out-of-home care, an examination of three recent Australian studies*, 2011

Central to the Wood Report was the key principles that “Child Protection is the collective responsibility of the whole of government and of the community”.⁸ This submission will also focus on the interagency collaboration that is essential to providing effective, joined up support to vulnerable children, young people and families. This includes the involvement of multiple government agencies – like the OOHC Coordinators in Education and Health, the Joint Investigation Response Team, and joint intake and referral services – as well as close collaborative between government and non-government providers.

2. SUBMISSION ADDRESSING TERMS OF REFERENCE

2.1 The capacity and effectiveness of systems, procedures and practices to notify, investigate and assess reports of children and young people at risk of harm

Following the Wood Report (2008), the reporting threshold raised to Risk of Significant Harm (ROSH) to reduce the number of reports to ‘DoCS’, now the Department of Family and Community Services (FACS). There is still a number of children and young people who are reported to the Helpline and do not receive a face-to-face assessment or service. The number of assessments or services provided in response to Helpline reports has increased by 14.7% since 2012-14.⁹ Nevertheless, 40.4% of children were re-reported to the Helpline within 12 months following plan closure with goal achieved.¹⁰ This questions the effectiveness of the interventions put in place for a family and whether they are referred appropriately. Flexibility is needed within the service system to respond to the needs of families at the right time and for the right duration, rather than providing a programmatic response to families when the program with capacity to accept a new referral may not best meet their needs. It is also important that the service models being used are evidence based for the client group they are being provided to.

As at 30 June 2015, there were 3,062 families and 7,174 children engaged or participating in Brighter Futures programs.¹¹ The families eligible for Brighter Future programs changed in 2014 to deliver targeted early intervention services to families with children who are at high risk of entering or escalating within the statutory child protection system. The impact of this more targeted focus for Brighter Futures may mean that families seeking assistance and would have once been eligible for Brighter Futures may not receive early support to prevent problems from escalating to crisis point. Although a ROSH report may be unsubstantiated, according to the threshold, the notification indicates that some level of risk and need is present.¹² This raises the question of what type of support is appropriate for these children, young people and families to avoid escalation into crisis.

Moreover, one member agency reports that crisis Specialist Homeless Services (SHS) are seeing more young people aged 13 and over who may be identified as at ROSH and could benefit from stable OOHC. The Homelessness Youth Accommodation Program (HYAP) and Reconnect program does assist, but this is mainly directed at

⁸ Wood, J. Report of the Special Commission of Inquiry into Child Protection Services in NSW – Executive Summary and Recommendations, 2008, p. v.

⁹ Family and Community Services, Statistical Report 2014-15, p. 9.

¹⁰ Family and Community Services, Statistical Report 2014-15, p. 8.

¹¹ Family and Community Services, Statistical Report 2014-15, p. 7.

¹² Bromfield, L., Arney, F., & Higgins, D. Contemporary issues in child protection intake, referral and family support. In A. Hayes & D. Higgins (Eds.), *Families, policy and the law: Selected essays on contemporary issues for Australia*. Melbourne: Australian Institute of Family Studies, 2014, p. 122.

young people with lower needs who, for example can be restored to family. 13 to 16 year olds who cannot go home are in need of assistance to a greater degree and it is this age group that needs to be strongly considered as part of any review of the systems, procedures and practices related to reports of children and young people at risk of harm.

It should also be noted that the federally funded Reconnect Program was developed before the change in the threshold to ROSH in NSW, so it is timely for an appraisal of service coverage needs in partnership with the FaHCSIA to ensure this is adequate. It should also be noted that the future of the Reconnect Program is unclear after June 2017 as it is a terminating program, which could compromise the NSW response to this at risk cohort.

At a systems level, protection work, both prior to and after children meeting the ROSH threshold, is at its core, work that is multidisciplinary, across departments and NGO and government services. Jurisdictions other than FACS have better access and a line of sight to both established and emerging problems in families. Importantly, non-stigmatised universal service delivery provides invaluable opportunities for real early intervention. Universal nurse home visiting for new borns for example, is an evidence based non stigmatised way for families to get help at the most critical time in a child's development, and to linked into other services. There are many barriers to joined up work – chief among them a lack of joint responsibility to outcomes for these populations. The Ministry of Health and Department of Education are key to achieving child protection outcomes. Jointly held KPIs may assist co operation and co ordination across Departments. These KPI's should be reported on in the current governance structure that has been established – the Safety and Permanency Advisory Group (S&PAG).

Recommendations:

- Implementation and resourcing of flexible approaches to family support and preservation work to meet families' needs at the time of a report and for an appropriate duration.
- Implementation of evidence based service models, where available for specific client groups, and a commitment to supporting the development of this evidence base for new/emerging models.
- Increased funding allocated to non-ROSH programs to prevent escalation to crisis. This could include a review of the geographical coverage of service delivery, like the HYAP and Reconnect program, to meet the needs of young people in homelessness below the ROSH threshold.
- Workforce development and strategies to bring about cultural change in child protection and the wider community with a view to family and community preservation and empowerment.
- The use of joint KPIs across government departments relating to education and health of at risk populations that are reported against at the S&PAG

2.2 The adequacy and reliability of the safety, risk and risk assessment tools used at Community Service Centres

With any assessment tool, the skills of the assessor are important to the reliability and adequacy of the assessment. These are skills needed to assess ROSH reports to the Helpline when a risk has been identified. The capability to identify and assess risk is also needed by caseworkers working with families towards preservation, restoration or at the time of a critical incident. Particularly important are assessment skills where caseworkers consider cultural and individual issues potentially impacting indicators for concern.

Also, a risk assessment on its own is inadequate to ensure children and young people's wellbeing. It is therefore essential that assessments that lead to entry of a child into OOHC incorporate measures of wellbeing, culture and, ideally, appropriate placement-matching criteria.

A significant barrier to effective NGO case management and support for children and young people in care are the barriers to NGOs getting all the information applicable to children and young people when case management is transferred. The assessments that take place at the Community Service Centres can assist NGOs with the ongoing care and support for that child and in joint decision making about birth family contact and case plan goals of restoration.

Recommendations:

- Risk assessment skills are developed within the non-government as well as government sector.
- Improved communication mechanisms between Child Protection and NGOs working in OOHC, particularly in relation to ROSH reports and risk and safety assessments. More broadly, increased ease in sharing information between NGOs from FACS and other government departments.

2.3 The amount and allocation of funding and resources to the Department of Family and Community Services for the employment of casework specialists, caseworkers and other frontline personnel and all other associated costs for the provision of service for children at risk of harm, and children in out of home care

The Wood Report recommended that universal, secondary and tertiary services be delivered by a mixture of non-government and state agencies with 'DoCS' and NSW Police remaining responsible for inventions mandated under the *Children and Young Persons (Care and Protection) Act 1998*.¹³ FACS remains responsible for the statutory Child Protection within child welfare services and NGOs have case management responsibility for the majority of OOHC placements. In light of this split in responsibilities it is vital that seamless collaboration occurs to support joint roles and responsibilities at the interface of child protection and OOHC, including working with birth families and presenting evidence to the Children's Court (or Supreme Court in the case of adoptions). FACS are responsible for and need to be adequately resourced to respond to ROSH reports and work closely with children, families and support agencies prior to removal. This includes identifying family members before a child enters care to explore possible relative/kinship placements. If a child or young person enters OOHC, FACS need to be resourced to provide NGOs with timely, consistent and meaningful information about the child or young person in order for appropriate placements and ongoing supports.

FACS are already in receipt of resources for this work and it would be inconsistent with the transfer of OOHC services to NGOs that more resources would be provided for carer recruitment, OOHC case management and aftercare unless this was funding to provide grants to the NGO sector. Consideration should be given to how FACS can move some existing OOHC resources to the NGO sector at the same time as they move responsibility for service delivery. This could involve the transfer of expertise and specialist units for the sector in relation to legal work, investigations (including reportable conduct) and clinical professionals.

¹³ Wood, J. Report of the Special Commission of Inquiry into Child Protection Services in NSW, 2008

NGOs need to have as much information about a child or young person's history as possible to meet the needs of that child or young person in OOHC. For this reason, prior to children and young people coming into care, it is imperative FACS are resourced appropriately to do comprehensive family work, cultural care plans and other relevant work. If a child or young person comes into care they must have the capacity and ability to provide robust, detailed and meaningful cultural care plans, genograms and other information relevant to the child or young person's wellbeing. The new ChildStory system and other tools under development should help in this regard.¹⁴

The current investment in FACS caseworker staff must be spent more effectively. Innovative and effective responses need to be employed in responding to the identification of risk. We note that there has been encouraging practice that appears to be promising in NSW that reflect joined up and effective responses to inquiries. For example the Central Coast Multi-Agency Response Centre (CC Mark) involves a number of agencies co-located with FACS to ensure early response to the range of issues that require action to be taken.¹⁵

In addition, the promise of Family Group Conferencing and Family Finding¹⁶ are both practice approaches that focus on skills needed to connect families up to their own extended family and other social networks, to form networks that will last a life time. These responses are very promising in that they provide opportunity for effective intervention and the strengthening of community ties and relationships that can keep children safe.

2.4 The amount and allocation of funding and resources to non-government organisations for the employment of casework specialists, caseworkers and other frontline personnel and all other associated costs for the provision of service for children at risk of harm, and children in out of home care

Stability is a critical element of funding and resource allocation. NGOs are currently paid according to a unit cost per placement in line with an assessment of need using the Child Assessment Tool (CAT).¹⁷ The CAT level determined by the assessment is used to decide on the placement type for that child (i.e. general foster care, intensive foster care, residential care, or intensive residential care).¹⁸ However, not all placement needs can be identified through the CAT. Reviews are needed and Exception Supports may need to be put in place.¹⁹ For example, some agencies may be required to provide one-to-one support models for children with complex needs in residential care.

¹⁴ Operating within the broader framework of the Safe Home for Life reform, ChildStory is a project to create an information technology system that places the child at the centre of their story and builds around them a network of family, carers, caseworkers and service providers that work collaboratively, with each other and the child, to keep them safe. A new Care and Cultural Care Plan template is also being developed to ensure comprehensive information about a child is represented to the Court and relevant information is available to service providers.

¹⁵ Information available at, <http://www.facs.nsw.gov.au/reforms/children-young-people-and-families/safe-home-for-life/designing-the-system-with-our-partners/central-coast-co-design>

¹⁶ See <http://www.familyfinding.org/moreaboutfamilyfinding.html> and for an evaluation Vandivere, S. and Malm, K., 2015, Family Finding Evaluations: A Summary of Recent Findings, Child Trends

¹⁷ FACS, Child Assessment Tool Fact Sheet, available at, http://www.community.nsw.gov.au/data/assets/pdf_file/0015/320082/child_assessment_tool_fact_sheet.pdf accessed June 2016.

¹⁸ Out-of-home care contracted care program, available at <http://www.community.nsw.gov.au/agencies-that-work-with-us/our-funding-programs/out-of-home-care-contracted-care-program> accessed June 2016

¹⁹ *ibid*

If a review of the CAT assessment is needed, an NGO must but in a request based on a change in circumstance, which is then subject to FACS approval. There are many examples of where the CAT has been re-categorised through discussion and consultation. However, some NGOs report instances where the CAT has been wrongly applied because of service type restrictions as opposed to being driven solely by the needs of the young person. ACWA understand that assessments can be difficult, especially with limited information. It is therefore vital that the process is consistent, transparent, and has flexibility to reassess and re-catergorise if children and young people are moving between services.

The Family Group Conferencing (FGC) model is evidence based and has shown, when undertaken with integrity, to greatly reduce the amount of children and young people that need to come into care.²⁰ This mechanism is currently recommended, but is implemented inconsistently across districts. These inconsistencies include not undertaking FGM with integrity to the model or not prioritizing the need for all families to engage. It was disappointing the SHFL reforms did not legislate FGC to be compulsory, as it is in New Zealand, who has a similar population to NSW, but where there is half the number of children and young people in care. This should be prioritised and funded sufficiently to ensure all families are given the opportunity to do FGC when appropriate.

Funding and resources need to be adequate to meet the growing number of children and young people entering OOHC.²¹ The recent NSW State Budget outlined \$370 million over four years (\$53 million per year) in new funding to meet increased demand for out-of-home care services. FACS needs to have the funding to provide contracted placements to avoid reliance on Exception Placements, as a temporary measure to meet the number of new entries to care. Contracted placements enable non-government service providers to plan for growth to meet the needs of the care system. An Exception Placement is time limited and there is no guarantee that these placements will be ongoing. This in turn impacts on the agency's ability to employ an additional caseworker to allocate to new placements, for example. Short-term, insecure funding causes instability and does not contribute towards stable care and support for children and young people.

Further, current funding allocation under the unit cost for OOHC does not fully consider the different casework expectations on NGOs to meet the Safe Home For Life reforms. Workforce development and service development is needed to work more closely with birth families to rebuild a parent's relationship with a child and carer and implement and sustain a restoration goal (in particular when this is initiated some time into a child's long term foster care placement). Support and supervision before and after restoration, with workers who have a relationship with the child, carer and parent are also vital. Guardianship and open adoption are other areas of practice that the NGO sector needs to develop in order to provide these permanency options for children and young people where suitable.

Moreover, the Quality Assurance Framework under development and move towards outcomes based contracting in NSW requires a staged and careful transition to be effective in improving outcomes for children, young people and families. ACWA has held a number of Research Forums focused on outcomes and contracting models.

²⁰ See, Boxall, H., Morgan, A. and Terer, K., 2012, Evaluation of the Family Group Conferencing pilot program, *Research and Public Policy Series*, 121.

²¹ AIHW, National framework for protecting Australia's children data, available at <http://www.aihw.gov.au/nfpac/data/>, 2016

There needs to be appropriate capacity building approaches to support agencies and staff to implement any specified tools for measuring outcomes.

Joint roles and responsibilities

At a casework level, interagency collaboration between FACS and NGOs is integral to effective case management and service provision. The revised Case Management Policy and Guidelines outlines the respective roles and responsibilities of FACS and NGOs before and after case management is transferred to the NGO.²² Many of these responsibilities are joint, which highlights the importance of timely two-way communication and information sharing to support the needs of the child and family. With the Safe Home For Life reform, NGOs also have a greater role in working with birth families to support restoration or prepare for a guardianship order or adoption, making information sharing between FACS and NGOs essential. Where this is working well, case plan meetings are held, FACS provides timely and comprehensive documentation to the NGO and the NGO meets timeframes and quality standards for court related work. This collaborative relationship can breakdown when information is withheld, meetings are cancelled and timeframes are missed. There are increasing examples where Community Service Centres are working with NGOs to jointly partner and share information on casework planning, especially when matters before the Children's Court. However, this is not yet consistent and needs significant change management strategies to build better cooperation and understanding between NGO and FACS caseworkers.

Strong governance and leadership is essential within the system where there is a close interaction between statutory government responsibility and non-government service provision. Effective models in the past have included jointly chaired governance meetings at a statewide and regional level with representation from government and the non-government sector. Between 2012-15, the Ministerial Advisory Group and associated Regional Implementation Groups were established to support the transition of OOHC to the non-government sector. These groups provided opportunities to track progress with the transition and develop joint solutions to any challenges faced. Although over 60% of OOHC placement are now with the NGO sector, there is still a need to maintain close collaborative relationships at a governance level. The transition for Aboriginal children and young people was also planned with a longer timeframe of 10 years so this process still requires focus and support.

These governance groups have seen significant change over the past year with the move from FACS regions to FACS districts and the closure in June 2015 of the Transition Program Office within FACS, which resourced these groups. ACWA recognises the value of maintaining local governance structures in the sector where NGOs have an equal voice. Through regularly attending each of these governance groups, ACWA identifies the following elements as leading to productive, child-focused collaboration:

- Joint representation between government and non-government agencies. This has been achieved through designating co-chairs for meetings.
- A strategic focus with engagement from senior staff and District Directors who are able to make decisions about priorities and commit to progressing strategies.
- The provision on stable resourcing.

²² FACS, Out of Home Care Case Management Policy, available at, <http://www.community.nsw.gov.au/data/assets/file/0020/340553/OOHC-Case-Management-Policy.PDF>, 2015, accessed June 2016

- Use of joint working groups that are time limited for specific projects or linking in with other local groups progressing similar work.
- Inclusion of agencies providing a range of services, including residential care, intensive family support as well as Health and Education staff.
- Seeking youth participation.

Therapeutic care

There is currently no coherent framework to support Therapeutic Care that is consistently adopted across the OOHC sector in NSW. ACWA believes the absence of a shared definition for Therapeutic Care means there is no common understanding of what constitutes best practice. Further, there is a gap in how to connect the needs of an individual child with the appropriate level of Therapeutic Care.²³

In response to this, ACWA and FACS initiated a collaborative project to develop a Framework for Therapeutic Care in NSW. This Framework is informed by consultations with residential care providers, AbSec, CREATE, the NSW Ombudsman, NSW Office of the Children’s Guardian, Department of Education and Communities, NSW Health, Juvenile Justice and the Social Policy Research Centre (UNSW). Nearing finalisation, this Framework will be released for public consultation later in the year.

Workforce development

With the transition of OOHC to NGOs and the recent reforms initiatives, continual workforce development needs to be prioritised. This will be particularly important in the implementation of new Therapeutic Care Framework, as this statewide Framework will help guide and drive the professionalisation of the OOHC workforce.²⁴

Within residential care, building internal expertise can become a significant issue with a transient workforce. International research explains that historically low wages and a lack of specialised training can lead to a residential care workforce with inadequate qualification and high turnover rates.²⁵ Funding cycles with varying degrees of stability can compound these dynamics.²⁶ A 2014 residential care consultation with ACWA members found that the vast majority of NGOs employed staff with a minimum Certificate IV qualification in either Community Services or Youth Work with most agencies requiring a diploma or degree as the minimum for supervisory and coordinator roles.²⁷ Indeed, NGOs reported significantly higher levels of education for their staff than what the international research would suggest. This included people with postgraduate qualifications. Agencies in NSW are continuing to professionalise and stabilise the sector.

In addition, many OOHC NGOs provide specialist services to support the children and young people placed with them and also carers and paid staff. This can include clinical professionals, educational staff and other specialist. This supports children and young people to recover from traumatic experiences. It helps carers understand some of the complexities that children and young people in their care can have and assists cares to

²³ The current recommissioning work by FACS is attempting to resolve this issue.

²⁴ The Therapeutic Care Framework is scheduled go out for sector consultation in August 2016.

²⁵ James, S. “Commentary: Engaging the Total Therapeutic Residential Care Program in a Process of Quality Improvement. Learning from the CARE Model,” in *Therapeutic Residential Care For Children and Youth: Developing Evidence Based International Practice*, ed. James K. Whittaker, J.F. del Valle, and Lisa Holmes, London: Jessica Kingsley Publishers, 2015,p. 315; Colton, M and Roberts, S. “Factors That Contribute to High Turnover among Residential Child Care Staff,” *Child & Family Social Work* 12, no. 2 (May 2007): 133–42, doi:10.1111/j.1365-2206.2006.00451.x.

²⁶ ACWA Recommissioning Consultation, 2016

²⁷ ACWA and FACS, Consultation Report: Developing a Framework for Therapeutic Out of Home Care in NSW, p15. Forthcoming

adequately meet these needs. They also invest significant resources into ensuring children and young people in their care have the same opportunities as others. For example, several NGOs have dedicated education staff to support school engagement. One agency has even set up its own educational unit to ensure that children who are excluded from schooling can still access tuition.

To further support the professionalisation of the sector CCWT has developed units of competency towards a proposed Graduate Diploma in OOHC and a Capability Framework.

The Graduate Diploma in OOHC is intended for workers in the OOHC sector that work directly with clients, or provide direction to such workers. Job roles that would benefit from this include:

- Case Worker
- Case Manager
- OOHC Team Leader
- Carer Assessment Officer
- Carer Support Worker

The course is intended to provide participants with a range of knowledge and skills to perform the following functions associated with working in the OOHC sector:

- Supporting children, young people, birth parents, carers and other stakeholders through the legal processes associated with out of home care
- Using a neuroscience informed approach to working with children, young people and their families
- Promoting the best interests of children from culturally diverse backgrounds in out of home care
- Working effectively and appropriately with Aboriginal and/or Torres Strait Islander children, young people and their families in out of home care.
- Fulfilling the requirements of legal processes associated with out of home care work, with a focus on writing affidavits and giving evidence in the Children's Court.
- Conducting assessment of carers for foster care, guardianship, kinship care and open adoption
- Writing skills for reports, assessments and court documents
- Promoting the cultural, social, religious and family identity of a child or young person so that they have a strong sense of identity and belonging
- Interviewing children and young people in a way that builds rapport but enables difficult conversations
- Promoting and managing contact in out of home care
- Creating a child safe workplace environment
- Managing critical incidents and reportable allegations in out of home care
- Using research evidence to improve policy and practice
- Therapeutic care practices for children and young people in out of home care
- Working with children, young people, birth families and carers who are involved in the open adoption process.

Embedded in the qualification are a cluster of units of competency that provide the skills and knowledge needed to carry out assessment of potential foster carers, adoptive parents, kinship/relative carers, guardians and to assess the capability of parents seeking to have children restored to their care. Completion of these units will support the use of the assessment tool used by the agency in which they are employed, or will allow them to act as independent assessors.

Case Study

Recognised Prior Learning

CCWT and a member agency have been collaborating on a pilot project to provide experienced staff with the CHC40313 Certificate IV in Child, Youth and Family Intervention (Residential Care), through a recognition of prior learning process.

Recognition of Prior Learning (RPL) allows individuals to achieve qualifications through having their existing skills and knowledge mapped to the qualification and being recognised for their achievements. The model used at the agency has included fortnightly face to face meetings both individually and as a group. Participants have a range of documents to help them to gather the necessary evidence from their work, and where there are gaps they fill these with activities such as role plays and written questions.

The advantage of using a group process is the motivation that group members receive from each other, and the sharing of wisdom about how to demonstrate competency. While RPL is a shorter and more resource effective process than requiring staff to attend training, it is still a rigorous assessment process and support is necessary.

The agency staff have been supported by their organisation through allowing work time to participate in the process and by paying for the services of the trainer/assessor.

ACWA's Best Practice Unit has developed the OOHC Capability Framework (NSW) as part of their response to the current changes and growth in the sector caused by legislative reform and the transition of OOHC services to non-government organisations. The aim is to give organisations that provide out of home care a structured system by which they can:

- Identify skills required by staff to effectively carry out their work role
- Assess the existing skills of staff
- Assess and address areas of skills gaps in staff
- Plan professional development activities that will contribute to the achievement of organisational goals

Capability Frameworks also have wider benefits beyond the individual staff member. They assist managers to understand the composition of their team and identify gaps in skills in the team, and they can be used as a tool in recruitment and performance management processes. The capabilities address core elements of working in designated roles within the OOHC workforce.

Stage 1 includes the roles of:

- Care Caseworker
- Residential Support Worker

Further work on this will include expanding the types of work roles examined, including management and administration support roles, and refining the lists of skills and knowledge required. The Framework will then be mapped to qualifications and accredited skills sets to provide pathways through formal education opportunities.

Extended care and ongoing supports post 18 years of age

ACWA believes that successful transition from care by young people is a crucial circuit breaker to cyclical family involvement with the care system and should incorporate a strong focus on promoting resilience and self worth as continuing motivators to ensure safety and wellbeing.

Agencies with OOHHC casework delegation have a legal obligation in NSW to follow up support for young people that have been in their care until they reach 25 years of age. However, currently there is no funding attached to this requirement (post 18) and even getting funding for a young person in care until they have finished high school, if the young person turns 18 early, can be resource intensive. Agencies that provide good quality ongoing support rely on bequests or other self funded mechanisms. This makes the service system very uneven.²⁸

There are four specialist aftercare services funded to provide intensive case management for young people with complex needs in NSW. Accessing these services is on a voluntary basis. Such services are under resourced and there are large geographical gaps in service provision. For example, the Aboriginal Aftercare Support Service has two caseworkers to cover NSW. ACWA is currently undertaking service mapping to obtain a fuller picture of the gaps in service provision. In addition some OOHHC agencies provide ongoing support for young people that have been in their care, including case management and ongoing mentoring. However, this more intensive after care support is generally resourced completely by the individual agencies.

ACWA advocates for young people transitioning from care to have priority access to services including: housing, health, education to address service gaps, reduce the risk of homelessness and ensure their continued wellbeing. NSW Housing and Community Housing providers should have targets to meet in relation to vulnerable young people. For example, the current system has approximately 3% of its client base being young people, whereas young people make up about 30-40% of the homeless population. Further, to meet the increasing need of affordable housing there should be quotas for developers to adhere of a minimum 30% affordable housing. Housing support needs to involve case management support as well to assist the young person to address these issues and to support them to move towards maturity and resilience. ACWA notes the current Future Directions for Social Housing in NSW reforms as one process through which to address some of these issues.

Lifting the age that young people can stay in care should be closely examined in NSW and nationally. Internationally, several jurisdictions have increased the age young people can stay in care including England²⁹, Scotland³⁰ and several US states³¹. While increasing the leaving care age is a vital step in a developmentally appropriate supported transition from care, a variety of options and service types should be available to young people as they transition from care.³² There is still a need for specialist aftercare services for young people that, for example, have disengaged from other service providers and/or their carer.

²⁸ ACWA's Royal Commission Consultation forum, April 2016

²⁹ HM Government, *"Staying Put": Arrangements for Care Leavers aged 18 and above to stay on with their former foster carers*, 2013.

³⁰ The Scottish Government, *Staying Put Scotland: Providing Care Leavers with Connectedness and Belonging*, 2013, available at: <http://www.gov.scot/Resource/0043/00435935.pdf>

³¹ Gaughen, K., *Success Beyond 18: Extending Foster Care Beyond 18: Housing options for young adults*, issue brief, Jim Case Youth Opportunities Initiative, 2014

³² Beauchamp, T. *Young People Transitioning from Out-of-Home Care to Adulthood: Review of Policy and Program Approaches in Australia and Overseas*, Uniting Social Justice Unit, 2014.

Recommendations:

- Establishment of client assessment mechanisms that ensure transparency, consistency and flexibility. This could be through the establishment on an independent body to categorise needs based funding and resource allocation.
- Outcomes based funding is implemented carefully and monitored effectively to ensure sector capacity and better outcomes for children and young people.
- An overarching framework of therapeutic care is resourced to underpin service provision within OOHC services in all care settings whether they are residential, foster or kin care and according to the needs of the child.
- Ensure that robust and transparent systems are in place to collect and analyse the effectiveness of programs.
- Workforce development initiatives, like the proposed Graduate Diploma and Capability Framework are supported to reach more services working with vulnerable children young people and their families.
- Improved training on effectively working with birth families in relation to contact visits and restoration.
- Young people with an OOHC experience to be given priority access to wider service provision. For example, affordable and social housing.
- NGOs should be adequately resourced to provide appropriate and flexible support to young people that have been in their care until they reach 25 years of age. Including, for example, ongoing case management and carer allowance.

2.5 The support, training, safety, monitoring and auditing of carers including foster carers and relative/kin carers

OOHC transition has raised challenges in information sharing about carers prior to transfer for FACS – information about previous reportable conduct allegations, for example, has not been routinely provided to NGOs on placement transfer, and accessing this information once known (generally when another allegation is made) is often very difficult.

Nevertheless, a significant recent change in the OOHC sector is the introduction of the Carers Register, responsibility for which lies with the Office of the Children’s Guardian (OCG). The Carers Register importantly provides further opportunity to capture relevant data on carer households and flag when information needs to be shared between agencies.

It is now possible for agencies to check if carers have previously been authorised and de-authorised by other agencies when they apply. Agencies can also check if individuals have applied to other agencies as well. Once they apply, they and all of their household members are entered on the Carers Register.

It is important to note that there are different cluster groups of carers who are authorised within the system – subject to Working With Children Checks (WWCC) and recorded on the Carers Register. This includes unrelated foster carers, their household members, and kinship and relative carers (the majority of who are placed with FACS). The checks but also the training and support that the sector provides to these different groups is important to building a strong, safe system that is focused on protecting children.

A dilemma with these checks is posed by the requirement for young people in care turning 18 to have a WWCC conducted as a ‘Household Member’. Agencies want these young people ‘ageing out’ of OOHC to maintain relationships and be connected to carer families (preferably remaining in placement even though financial support is

no longer provided) yet treating them as an immediate risk to other children who to all intents and purposes are siblings by requiring a WWCC.

Carer training and support

The Children and Young Persons (Care and Protection) Regulations 2012 state that prospective carers must receive training before they become authorised. This is the same for both General Foster Carers and Relative/Kin Carers. The legislation does not specify what this training must include. The training usually delivered is *Shared Stories Shared Lives*³³. However, anecdotally many relative/kin carers do not attend this training prior to authorisation.

ACWA is updating the *Shared Stories Shared Lives* training and the new version will be available early 2017. For the first time there will be a specific version available for relative/kin carers. This will be designed to be delivered in modules that can be incorporated into 'carer coaching' sessions as we know it is often hard for relative/kin carers to attend formal training. The 2016 *Step by Step* also has a comprehensive Carer Review Tool to assist with identifying training and support needs.³⁴ The new training will incorporate information about the permanency options for children in OOHC through Guardianship and OOHC to Adoption.

Ongoing training opportunities are important to develop carers skills. This is particularly critical if a carer is beginning to provide different forms of care or supporting children with more intensive needs. Some agencies provide their own face-to-face or online carer training or encourage carers to attend Connecting Carers NSW events. CCWT, ACWA's learning and development arm, has also developed a new training course called 'Partners in Care' where carers and caseworkers receive joint training on working together with adolescents, looking at different carer/caseworker roles and general skills training. Further, CCWT are running a pilot program with a member agency, on introductory training for immediate carers on trauma informed care and self care. There were four sessions this year and it is likely to continue next year.

Carer Support rests primarily with the service providers and support organisations. Specific, ongoing training for carers is primarily offered through Connecting Carers.³⁵ ACWA's carer recruitment and retention campaign, Fostering NSW, supports in the following ways:

- Hosting a 'Foster Forum' on their website, where existing and prospective carers can have questions answered by experienced carers.
- Sharing helpful articles, research, training information, links to support services and websites and other relevant content via their Facebook page, which has 40,000 followers, and a carer newsletter.
- Developing and disseminating 'Supporting Carers: A Guide for Out-of-Home Care Agencies'.
- Hosting an annual statewide OOHC Recruitment and Retention of Carers Forum.

However, there are many gaps to appropriately support carers. Connecting Carers supports carers and these issues are explored through forums Fostering NSW and other

³³ Shared Stories Shared Lives information available at <http://www.acwa.asn.au/acwa/fostering-nsw/foster-care-resources/shared-stories-shared-lives>, 2015

³⁴ ACWA, Step by Step 2016, available at, <http://www.acwa.asn.au/ccwt/specialist-programs/step-step-2016>, 2016

³⁵ See Connecting Carers Training for all the information available at <http://connectingcarersnsw.com.au/services/training/>

agencies run. The gaps include but are not limited to:

- Carers given incorrect or inadequate information.
- When allegations arise carers have few support mechanisms.
- Carers have limited or no access to respite, babysitting or breaks as required.
- Carers do not always have the skills to deal effectively with the complex, difficult and challenging situations they are expected to manage.

There are different levels of support needs for carers, which will depend on their experience, the type of care they are providing and the specific needs of the child or young person placed with them. To adequately support carers, tailored support plans may be needed to prevent a placement breakdown. This could involve formal respite for the carer or other innovative supports to enable the carer to continue meeting the needs of the child.

Through Fostering NSW, we know that retention of carers is important to keeping experienced carers in the system and also recruiting new carers, as word of mouth is a key part of carer recruitment, particularly for Aboriginal and Culturally and Linguistically Diverse (CALD) carers.

ACWA has undertaken significant work in identifying issues specific to the assessment of relative and kinship carers who make up an increasing proportion of carers in NSW. The safety risks for children who are placed with other family members require special attention in assessments. Relative and kin carers may face additional challenges in needing to manage contact between children and family members. This can lead to tensions within the family and conflict in the family due to conflicting loyalties.

Carers need to be able to demonstrate the ability to place the child's safety, welfare and wellbeing above the wishes of the parent, regardless of negative consequences in family relationships. This is one reason that a separate tool has been developed to assess relative and kinship carers.

Another area of support for the carer and child, which is not currently resourced adequately, is post-adoption or post-guardianship order. Although an assessment of carer capacity has been made and the court decision finalised, there may still be times throughout the life of a child who has experienced severe trauma when additional support is needed. This can particularly be the case as a child becomes older.³⁶ Also, a carer is responsible for maintaining birth family contact following an adoption or long-term guardianship order.

Recommendations:

- FGC resourced to be consistently applied across NSW with integrity.
- Increased support available to carers including flexible supports. For example, respite and flexible training options.
- Common sense approaches and continued 'normalisation' of the family home when other dependent children turn 18. Child safe environments and principles should be embedded throughout the experience.
- Improved training for carers on effectively working in partnership with birth families in relation to contact visits and restoration.

³⁶ Sinclair, I., Baker, C., Lee, J., & Gibbs, I. (2007). *The pursuit of permanence: A study of the English child care system*. London: Jessica Kingsley; Quinton, D. (2012). *Matching in adoptions from care: A conceptual and research review*. London: British Association for Adoption and Fostering.

2.6 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 carers

Quality of care is regulated by the Office of the Children’s Guardian (OCG). All non-government OOHC providers are accredited according to the NSW Child Safe Standards for Permanent Care. The independence of the OCG from the funder (FACS) is valued in this regulatory role. This is a key strength of the NSW care system. Although the majority of OOHC placements are with the non-government sector, it is still important that any child or young person placed with FACS is also provided with the same level of care. ACWA understand that FACS is developing capacity to become an accredited provider on a district-by-district basis.

The responsibilities for reporting to the NSW Ombudsman, FACS and the Office of the Children’s Guardian existed for long established NSW OOHC providers before the transition of OOHC to the non-government sector. The transfer of case management responsibility to NGOs has, however, led to a need to redefine and clarify roles and responsibilities within the sector. For example, the FACS Reportable Conduct Unit has responsibility for coordinating FACS’ response to allegations of reportable conduct made about its own employees and foster carers in the placements they supervise. With well over half of the Statutory Care population placed with NGOs, the reduced number of allegations within FACS provides an opportunity for the Unit to scale down, remembering that the majority of children in NSW OOHC are in foster care, more than half of the children have now transitioned to NGO foster care, and NGOs are responsible for investigating their own reportable conduct allegations made against their employees and foster carers. The Reportable Conduct Unit has contributed to NGO sector development through presenting at forums and offering support during the investigation or review of a critical incident. Nevertheless, the question is raised whether the NGO sector needs an independent body resourced to support this work that will increasingly take place within NGOs.

There are challenges around the legal and investigative capacity of smaller agencies to respond to and conduct often-complex investigations, which sometimes involve a criminal element or serious child protection concerns. These incidents do not occur often enough to employ an investigator in a small agency.

Responsibilities are also brought into question when a report involving an NGO foster carer is reported to the Child Protection Helpline. When FACS has received the report the NGO may not know about the report straight away, particularly if it is assessed as non-ROSH, and yet the NGO under the Ombudsman Act has reportable conduct obligations to investigate the allegation. In the past, this was clearly a role for FACS because most foster care were supervised by the Department however this is now a more complex communication exercise.

OOHC service providers (as with all organisations covered by the NSW Ombudsman Act) must notify the Ombudsman of reportable allegations or convictions within 30 days, and are on paper subject to audits. Reportable Conduct Scheme in NSW provides clear timeframes for notifying the NSW Ombudsman of reportable allegation in relation to staff, carers, volunteers and contractors.

In addition to the NSW Ombudsman’s oversight and records, if the reportable allegation concerns a carer, agencies must also update the Carers Register that is maintained by the Office of the Children’s Guardian and also accessible to the NSW

Ombudsman. FACS and NSW Police Force may also receive a report of the same allegation and may decide to investigate.

This creates a complex reporting environment, however, for NGO service providers who are accountable to these different government bodies in relation to child abuse and reportable conduct. The Carers Register is one way in which the Office of the Children's Guardian have brought together a decentralised service system with an online database that also serves as a tool for decision-making concerning a carer and provides prompts about the follow up actions a worker may need to take.

Nevertheless, when alleged abuse occurs, the OOHC service provider is responsible for reporting through the following systems (depending on the allegation): Carers Register, Working With Children Check, Mandatory Reporting, Reportable Conduct Notification Form Part A and B, reporting conditions as part of accreditation, as well as any reports or notification to the NSW Police Force.

This is a complex system for workers to navigate, particularly as they will be using multiple oversight mechanisms to report the incident while concurrently responding to the immediate child's needs. Winkworth and McArthur's (2016) paper comments further on the principles of child centred practice and the risks posed to the individual child's experience in a complex, procedurally driven care and protection system.³⁷

A worker is presented with difficult decisions about whether to remove the child from their placement, when to interview the child, and may be fearful of contaminating evidence if third party agencies are involved in the investigation.

Having this number of oversight and investigation agencies involved provides important checks in the system and the ability to provide a multi-agency response to an incident if this is well coordinated. There is, however, a potential for gaps in processes and follow up actions by particular agencies to be lost or not communicated.

An awareness of the complexity of the system and the need for responses that are sensitive to the particular incident has lead ACWA to invite the oversight bodies to present the system trends they have observed with the sector through a recent statewide forum on critical incidents that was held in July 2016. This was a follow up to the FACS Transition Program Office forum held in April 2015.

One area for improvement in NSW is to clarify the roles and responsibilities for NGO OOHC providers and FACS. This is particularly pertinent when a reportable conduct matter meets the statutory ROSH reporting threshold. Improved information sharing and communication across agencies at the time of a critical incident is also a development area.

Oversight is only one aspect needed. Strong child safe cultures are arguably more important than increased oversight.³⁸ Good governance and leadership are key factors in ensuring the safety and wellbeing of children in care.³⁹ As part of the transition of OOHC to NGOs, the risks inherent in this work with vulnerable child, young people and families have been transferred, in part, to non-government service providers. This

³⁷ G Winkworth and M McArthur, 'Being "child centred" in child protection: What does it mean?', *Children Australia*, vol 31, no 4, 2006, p 14.

³⁸ Become a child safe organisation, available at <http://www.acwa.asn.au/acwa/members/members-area/members-resources/child-safe-organisations> Office of the Children's Guardian

³⁹ Royal Commission into Institutional Responses to Child Sexual Abuse: Interim Report, available at <http://www.childabuseroyalcommission.gov.au/about-us/our-reports/interim-report.html>, 2014

means that NGOs need developed capability in identifying, assessing and managing risk through their case management of OOHC placements.

Finally, ACWA believes that this part of the child protection system – governance of risk management and the capacity to investigate and generate new learning for the sector - has not been transferred to the NGO system. Funding for these activities are still only located within FACS within the Office of the Senior Practitioner and were not calculated into the Unit Price, neither were they funded in grant allocations to ACWA.

While the majority of placements are now with the NGOs, there has been no equivalent transfer of funding to allow the NGO sector to develop mechanisms to review and reflect on ‘near misses’, critical incidents or other inherent risks. While ACWA can provide information and training, we ask for an additional mandate to develop a systemic approach with agencies to identifying and managing risks internally and also to cooperate with sharing their own learning across the sector. ACWA is well positioned to do this work and to work collaboratively with the Office of the Senior Practitioner within FACS. This appears to be a significant omission in the architecture of the system that needs immediate rectification. One interpretation of this current situation is that the risk of working with this vulnerable population has been outsourced to the NGO sector, but the resources to develop appropriate processes to manage risk has not.

Child safe organisations

The Royal Commission into Institutional Responses to Child Sexual Abuse has drawn out the importance of not only having the right assessment and processes in place but also the cultures in the workplace and in the sector. The focus on child safe organisations encourages agencies to assess environmental risks and employ a range of responses to manage these, in addition to their reporting requirements. We need to maintain and continue to build on the confidence of government in managing the risks that are intrinsic to children in OOHC.

With a focus on ‘sector governance’, ACWA is working with the St James Ethics Centre and a working group of agency representatives to develop a Sector Code of Ethics. A starting point for this work has been to look at the common ground between agencies as a basis for a sector framework, which we believe will be critical to maintain the integrity of a system that comes under scrutiny. We have seen through the Royal Commission the significant impacts of breaches of trust and loss of confidence in the quality of care provided for children.

Recommendations:

- Every child and young person be placed with an accredited provider.
- NGOs receive appropriate support and resourcing to respond to, manage and review critical incidents in OOHC.
- ACWA be funded to establish a unit that works with member agencies to identify and manage risk within organisations and across the sector.

2.7 Specific initiatives and outcomes for at risk Aboriginal and Torres Strait Islander children and young people

With respect, Aboriginal and Torres Strait Islander peoples will be referred to as Aboriginal peoples in this submission in recognition of the fact that they comprise the overwhelming majority and are traditional peoples of NSW. ACWA recognises that the Aboriginal peak body in the sector, the Aboriginal Child, Family and Community Care State Secretariat (NSW), or AbSec, is best placed to respond to the concerns of the Inquiry in regard to Aboriginal children and young people.

ACWA and the majority, if not all, of its member agencies respect the principles of self-determination and recognise that Absec and its member agencies (some of whom are also ACWA members) should be empowered to lead initiatives for their communities. This does not indicate however, any abdication of the responsibility of non-Indigenous organisations to better manage and contribute to assisting to address the overwhelming issues faced by Aboriginal communities, families and their children and young people.

The number of Aboriginal children and young people in care is the major contributing factor in relation to the overall OOHc population rise in NSW. Many Aboriginal children and young people in OOHc in NSW are assigned to non-Indigenous agencies often due to capacity issues faced by Aboriginal NGOs. A number of initiatives have been trialed over the last few years in an attempt to address these capacity issues.

Programs such as the Intensive Family Based Support (IFBS) introduced under Keep Them Safe⁴⁰ can provide for some of these needs but at present there is not geographical coverage of Aboriginal OOHc agencies across NSW so the capacity to offer specialised support programs like this is not consistent.

When a placement is not available for a child in line with the Aboriginal Placement Principle, additional supports are needed to ensure that they are kept connected to country, community and culture. To be able to provide these supports, a culturally competent and safe approach to case management is needed.⁴¹

To meet the needs of the high number of Aboriginal children, young people and families interacting with the child protection and OOHc service system, investment is needed in Aboriginal controlled, community lead approaches to support families at a local level in a way that is tailored to communities.

ACWA firmly believes that many Aboriginal children and young people currently in care should and could be living with their birth families and communities. Shifting social norms, policies, over scrutiny and historical and contemporary systemic racism are all factors contributing to the unacceptably high representation of Aboriginal children and young people in care. Poverty and disadvantage are primary contributors and there needs to be broad social and political change to decrease the amount of children and young people in care. OOHc historically has been ineffective in breaking the cycles of removals and arguably exacerbates the problem.⁴²

Recruitment and retention of staff in the OOHc sector is difficult and particularly difficult in relation to Aboriginal staff. At ACWA forums and meetings members frequently relay the critical roll Aboriginal staff play in building and maintain relationships with Aboriginal communities, which is vital for the cultural care of children in care to receive.

⁴⁰ See AbSec, <http://www.absec.org.au/services/oohc-early-intervention/intensive-family-based-services-ifbs.html>

⁴¹ Australian Human Rights Commission, Social Justice Report, Chapter 4: Cultural safety and security: Tools to address lateral violence, available at <http://www.humanrights.gov.au/publications/chapter-4-cultural-safety-and-security-tools-address-lateral-violence-social-justice>, 2011; See: Arney, F., Iannos, M., Chong, A., McDougall, S., & Parkinson, S. (2015). *Enhancing the implementation of the Aboriginal and Torres Strait Islander Child Placement Principle: Policy and practice considerations* (CFCA Paper No. 34). Melbourne: Child Family Community Australia information exchange.

⁴² Bringing them Home, National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families, available at https://www.humanrights.gov.au/sites/default/files/content/pdf/social_justice/bringing_them_home_report.pdf, 1997

Recommendations

- Resource approaches that focus on addressing underlying causes leading to the increasing number of Aboriginal children and young people in care, including addressing poverty, disadvantage and growing inequality within the state. In relation to Aboriginal communities, foster self-determination and empowerment.
- Risk assessments be broadened to ensure cultural and other essential elements to child and adolescent wellbeing and development are incorporated.

2.8 The amount and allocation of funding and resources to universal supports and to intensive, targeted prevention and early intervention programs to prevent and reduce risk of harm to children and young people.

Under a public health model of child welfare, there is a need to focus on preventative strategies “to address the leading underlying social determinants of child abuse and neglect: domestic violence, mental illness, and substance misuse.”⁴³

Early intervention is a critical part of the support some families need to avoid crisis. Strategy 1 of the National Framework Third Action Plan is focused on the first 1000 days of a child’s life.⁴⁴ The Framework is built on the premise that long-term reform will not be found by doing more of the same. It also provides Australia with a National approach in recognition of the structural causes of disadvantage that reside, in part, at a Federal level. ACWA supports the NSW Government’s continuing engagement in the priorities of the Framework.

The Targeted Earlier Intervention Reforms are an opportunity for redesign of the targeted services provided to families and ACWA encourages ongoing consultation with the sector on this reform agenda. Nevertheless, investment in early intervention and a universal public health approach is important when envisioning a different future with better experiences for children, young people and their families.

The most recent research findings relating to the development to complex problems and in particular disability and the pathway to criminal justice system has found a small number of specific locations such as towns and suburbs, where these problems develop on a population based approach.⁴⁵ This points to the need for place-based approaches that include joined up responses, relating to housing, health, education and welfare. Innovative, joined up, community led approaches have been called for by these research findings.

Recommendations:

- Early intervention and universal services funding should be prioritised to prevent families’ needs escalating to crisis.

⁴³ Bromfield, L., Arney, F., & Higgins, D. Contemporary issues in child protection intake, referral and family support. In A. Hayes & D. Higgins (Eds.), *Families, policy and the law: Selected essays on contemporary issues for Australia*. Melbourne: Australian Institute of Family Studies, 2014, p. 127.

⁴⁴ Arabena, K. *The First 1000 Days of Children, AIFS Seminar*, available at: <https://aifs.gov.au/events/webinars-seminars/first-1000-days-childhood-maximising-protective-factors-aboriginal-and-torres-strait-islander/transcript-first-1000-days-childhood> accessed on 15 July 2016. Also presented at Child Aware Conference (2016): <http://childaware.org.au/wp-content/uploads/sites/3/2016/06/Professor-Kerry-Arabena.pdf> accessed on 15 July 2016.

⁴⁵ See, Cunneen, C. Baldry, E., Brown, D., Schwartz, M., Steel, A. and Brown M., 2016, *Penal Culture and Hyperincarceration: The Revival of the Prison*, New York: Routledge

2.9 Any other related matter

Exclusion from universal services

ACWA notes that many children and young people suffer from exclusion from universal services in NSW. Risk assessments undertaken by psychiatric units can result in young people being excluded from accessing psychiatric assessment and treatment. Similarly, many children and young people who have experienced multiple school moves, family dislocation or/and may have also experienced trauma are in need of special assistance in order to ensure their engagement in school. Sadly, many such children are excluded from public education, including from the special units set up for behaviorally changing students.

ACWA is currently collecting information from services to understand the size of this problem. It is clear however, that there is a need for school principals to provide leadership and teachers require training and support to provide inclusive education to these cohorts of children. A cost benefit analysis applied to the cost of providing additional educational assistance, in comparison to the accumulated costs and lost opportunity resulting from a typical life trajectory (from having little educational attainment, social isolation and few carer options) may provide incentive for an inclusive educational response.⁴⁶

Data limitations

The Senate Inquiry into Out-of-Home Care (2015) highlighted the data gaps within the Child Protection National Minimum Data Set provided by states and territories to the Australian Institute of Health and Welfare (AIHW). There are current limitations in available data on education inclusion and achievement of children and young people in OOHC. Accurate data on children in care with a disability or from culturally and linguistically diverse backgrounds can also be difficult to attain.

CALD Communities

Newly arrived cultural groups, including refugees, and those with culturally specific views on family issues can reportedly face significant barriers to interacting with child protection authorities, the justice system and accessing appropriate support services. In addition, some CALD communities and their children and young people have experienced severe and extended trauma and require comprehensive support services to address this, as well as the range of issues faced by all vulnerable families. In our consultation with member agencies, ACWA was informed that children and young people from CALD backgrounds had particular difficulties accessing information about safe and protective behaviours, normally provided through the education system, due to regular or prolonged absences from school.

ACWA recognises the need for well-resourced specialist services for CALD communities, especially in regard to highly sensitive issues such as child sexual abuse and the need to extend the reach of preventative education beyond normal delivery methods. ACWA commends the work of our specialist CALD agencies and recommends that any strategies to address trauma be sufficiently flexible to enable these agencies to adapt them to suit culturally diverse needs. We also note that this has implications for recruitment of bi-cultural staff, community engagement in the recruitment of carers from different cultures.

Under 12 year olds in residential care

An increasing and worrying trend is younger age groups coming into residential care.

⁴⁶ Appendix 1 is ACWA's Education Policy.

In some instances, and under the right conditions for trauma recovery, this can be appropriate and seen as part of the continuum of care. However, there are unacceptably high risks for this extremely vulnerable group in residential care. This includes the high possibility of being exposed to child on child sexually harmful behaviours.⁴⁷ It is therefore vital that children under 12 are treated with exceptional care when determining placements.

Youth Participation

Youth participation in decisions affecting them is part of the OCG Child Safe Standards for Permanent Care and raised by young people with an experience of OOHC.⁴⁸ CREATE is the peak body that representing young people in care and Youth Action, young people more broadly. Drawing on the information these bodies have in relation to young people's lived experience is important. Children and young people are the experts of their own lived experience and need to be valued accordingly. FACS are currently developing a youth ambassador program⁴⁹ to engage young people in the decision making processes that affects their lives. In addition, many NGOs and FACS districts have youth advisory groups to help feed into decision making. In some instances young people sit on meetings and provide valuable input. The Northern Regional Implementation Group is a good example of this and the feedback our members have given is that it changes the whole structure and focus of the meeting to be far more child and young person focused. Organisations, groups and initiatives like these need to be resourced and promoted effectively to ensure the system can continue to improve. However, it is important that the young people involved are adequately supported and compensated for their involvement.

Case Study

Youth engagement at Regional Implementation Group meetings

In 2014 a young people's reference group was formed within the Northern Region and operated out of Lismore. The intentions of this group was to have a voice of the young people that was heard where it was needed most.

Young people attending this group had the opportunity to undertake training through CREATE and met on a monthly basis to discuss issues. The group has been utilised for many things including a consultation group for diverse issues in OOHC, Foster Care training as well as being information panel members at some valuable and well received training around leaving and aftercare.

At some stage a young person from this group began appearing at the Northern RIG meeting as a spokesperson for them, reporting back on items they had been discussing. This was due to the working parties from the RIG utilising their group to consult on items from their action logs.

What happened through this process is however far more powerful than the formation of the group individually. The mere presence of a young person at these meetings began to change the meetings in so many ways. They would ask the question

⁴⁷ Parenting Research Centre and the University of Melbourne, 2015, *Scoping Review: Evaluations of the Out-of-Home Care Practice Elements that Aim to Prevent Child Sexual Abuse*, Royal Commission into Institutional Responses to Child Sexual Abuse, p.8.

⁴⁸ AIHW, 2015, *The views of children and young people in out-of-home care*.

⁴⁹ FACS, UCChange Flyer, available at

http://www.facs.nsw.gov.au/data/assets/file/0003/373818/3790_FACS_FAC SAR_Youth-Consult-for-Change_doc-cover_FINAL.pdf

that was on everyone's mind and they would give their perspective on items from within the system. Even more importantly their presence within the meetings began to change the meetings themselves. There seemed to no longer be a power imbalance or struggle between government and non-government, because the most important people were in the room. The ways in which young people were spoken about became more child centred, no longer were they commodities, numbers, statistics. The presence served as a reminder of why everyone was there and this is too often forgotten in political climates and for those not on the front line.

The meetings began to take on a richness and depth of discussion with a willingness to share and ask among the participants. The meeting attendance grew and the range of people identified who needed to attend expanded. All of these things occurred because the focus shifted from dashboards and statistics to real questions about real issues. This was a powerful and enriching experience and one that I see as having forever changed the meetings for the better.

What this did require was the commitment of agencies to see the value and to promote the inclusion of young people in participation in youth forums and their attendance, preparation and debriefing after. This is however a small process to pay for the long-term gain.

Recommendations:

- Review implementation of recommendations by the Senate Inquiry into OOHC in relation to data.
- Develop a best practice policy for how young people should be compensated and acknowledged in advisory roles and increase training on effective ways to get meaningful feedback from children and young people.

3. SUMMARY OF RECOMMENDATIONS

1. Implementation and resourcing of flexible approaches to family support and preservation work to meet families' needs at the time of a report and for an appropriate duration.
2. Implementation of evidence based service models, where available for specific client groups, and a commitment to supporting the development of this evidence base for new/emerging models.
3. Increased funding allocated to non-ROSH programs to prevent escalation to crisis. This could include a review of the geographical coverage of service delivery, like the HYAP and Reconnect program, to meet the needs of young people in homelessness below the ROSH threshold.
4. Workforce development and strategies to bring about cultural change in child protection and the wider community with a view to family and community preservation and empowerment.
5. The use of joint KPIs across government departments relating to education and health of at risk populations that are reported against at the S&PAG
6. Risk assessment skills are developed within the non-government as well as government sector.
7. Improved communication mechanisms between Child Protection and NGOs working in OOHC, particularly in relation to ROSH reports and risk and safety assessments. More broadly, increased ease in sharing information between NGOs from FACS and other government departments.
8. Establishment of client assessment mechanisms that ensure transparency,

- consistency and flexibility. This could be through the establishment on an independent body to categorise needs based funding and resource allocation.
9. Outcomes based funding is implemented carefully and monitored effectively to ensure sector capacity and better outcomes for children and young people.
 10. An overarching framework of therapeutic care is resourced to underpin service provision within OOHC services in all care settings whether they are residential, foster or kin care and according to the needs of the child.
 11. Ensure that robust and transparent systems are in place to collect and analyse the effectiveness of programs.
 12. Workforce development initiatives, like the proposed Graduate Diploma and Capability Framework are supported to reach more services working with vulnerable children young people and their families.
 13. Improved training on effectively working with birth families in relation to contact visits and restoration.
 14. Young people with an OOHC experience to be given priority access to wider service provision. For example, affordable and social housing.
 15. NGOs should be adequately resourced to provide appropriate and flexible support to young people that have been in their care until they reach 25 years of age. Including, for example, ongoing case management and carer allowance.
 16. FGC resourced to be consistently applied across NSW with integrity.
 17. Increased support available to carers including flexible supports. For example, respite and flexible training options.
 18. Common sense approaches and continued 'normalisation' of the family home when other dependent children turn 18. Child safe environments and principles should be embedded throughout the experience.
 19. Improved training for carers on effectively working in partnership with birth families in relation to contact visits and restoration.
 20. Every child and young person be placed with an accredited provider.
 21. NGOs receive appropriate support and resourcing to respond to, manage and review critical incidents in OOHC.
 22. ACWA be funded to establish a unit that works with member agencies to identify and manage risk within organisations and across the sector.
 23. Resource approaches that focus on addressing underlying causes leading to the increasing number of Aboriginal children and young people in care, including addressing poverty, disadvantage and growing inequality within the state. In relation to Aboriginal communities, foster self-determination and empowerment.
 24. Risk assessments be broadened to ensure cultural and other essential elements to child and adolescent wellbeing and development are incorporated.
 25. Early intervention and universal services funding should be prioritised to prevent families' needs escalating to crisis.
 26. Review implementation of recommendations by the Senate Inquiry into OOHC in relation to data.
 27. Develop a best practice policy for how young people should be compensated and acknowledged in advisory roles and increase training on effective ways to get meaningful feedback from children and young people.

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5. APPENDIX

ACWA Policy Statement on Education in OOHC

1. Every child in NSW has a right to public education at law, including children and young people who are in Out-of-Home Care (OOHC), however, many are denied access to meaningful education.

Facilitating access to education for children and young people who are in OOHC is considered critical for their future health, welfare and wellbeing. Education is a critical building block that prepares children and young people to be productive and participants in society. Accessible education in this context requires the co-operation of all stakeholders involved in the child or young person's care: foster carers, educators, FACS and NGO OOHC caseworkers.

Good quality early childhood education is also critical for vulnerable children to ensure their developmental trajectory. The participation of children in OOHC in early education two years prior to starting school can assist to reduce issues that emerge at later ages.

2. Culture change in NSW is required to promote social inclusion.

We know from our members that hundreds - possibly more - children and young people are not engaged in education on any one day. The reasons for this will be multifaceted and we know that working with children in OOHC can be challenging. The exclusion from school of traumatised students is rarely a suitable management tool, but it is now routinely relied on by schools. Suspensions and expulsions should be a rare last resort option after more inclusive approaches have been thoroughly explored and supported by additional resources and creative solutions developed and implemented that promote

inclusion and address any underlying factors.

Strong leadership by the Premier of NSW and his Ministers would significantly contribute to culture change. The Premier could demonstrate his commitment to every child accessing education by adding an educational inclusion indicator to his State priorities. Ministers, Secretaries and CEOs in NGOs could also assist with messaging this priority.

ACWA and the DoE have agreed to work jointly to develop an understanding of Best Practice in OOHC educational inclusion in the context of the OOHC transition. A new protocol between NGOs and schools (government and independent) is needed to guide interagency coordination and collaboration. It is important to have consistent, whole of school approaches to trauma and any arising issues.

Currently the OOHC Education Pathways Coordinators are under resourced and there are geographical gaps in regional areas. Improving these provisions would contribute to developing more inclusive educational culture.

3. We need to know more. Reliable data is needed about educational inclusion in public and independent schools. We also need to know where children and young people are receiving no education, or accessing other programs.

The OOHC population is currently only partly visible – ACWA is working with NGOs to investigate the possibility of a data collection method – possibly along the lines of a census report.

Further to that, an oversight and reporting mechanism needs to be developed to ensure that children and young people in OOHC who are suspended, excluded, part attending, or not able to be enrolled in school are visible within the DoE, FACS and the NGO sector. This information could be reported to the cross-sector Safety and Permanency Advisory Group (S&PAG).

Better data on outcomes of education for children in OOHC is essential. And whilst this information is available it is not being made public. FACS is able to report on the NAPLAN results for children and young people in OOHC and can track the process of individual children over the young person's series of NAPLAN tests. While this data is sent to the Australian Institute of health and welfare there is currently no publically available discrete State based reporting on this data.

It is also noted that the Office of the Children's Guardian requires OOHC agencies to record individual's NAPLAN results for accreditation. These sources of information should be exploited to better assist children and young people.

4. Reasonable provision must be made, for children and young people who are transitioning back to school or who will not be attending public education.

a. Transition back to school Each child is provided with the amount of support they need to return to school that is commensurate to the costs of having the child in school/or a special education unit. This could require specialised roles with the expertise to assist in coordinating appropriate responses and support systems, as is currently provided by OOHC Education Pathways Coordinators within their fairly limited capacity.

b. Education made available via NGO Where children and young people in OOHC are not attending school (through suspension, expulsion, part attendance, or refusal to enroll), funding is made available for the provision of educational support in an alternative setting, such as those arranged and managed by OOHC agencies supported by the education plan

