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UNITING CHURCH IN AUSTRALIA

RESPONSE:

ROYAL COMMISSION ISSUES PAPER 4

PREVENTING SEXUAL ABUSE OF CHILDREN IN OUT-OF-HOME CARE

November 2013

Contents

Executive Summary

The Uniting Church in Australia (UCA) appreciates the opportunity to respond to the Royal Commission Issues Paper 4 on preventing child sexual abuse in out-of-home care (OOHC). The Uniting Church and all its synods have welcomed the announcement of the Royal Commission and have pledged our utmost co-operation.

The Commission has asked agencies to reply to a series of 11 Questions, and the UCA has provided a response to all but one of these. We have reordered these questions into five topic areas (as outlined in the table of contents) to allow us to answer the questions and also provide a broader response to the issues that were raised. We have attempted to provide evidence and examples of practice from our networks to support our discussion, and references to any models or materials we discuss.

Child safety is the underlying rationale for OOHC. In this context we feel it is important to note that while regulatory systems and funding of OOHC vary across jurisdictions, a common theme voiced by both Government and non-Government agencies involved in these services is that OOHC programs are in stress, and are struggling to manage the level of demand across all states and territories. This impacts on the ability of the sector to adequately respond to the complexity of need of these children and young people.

Core strategies and evidence for keeping children and young people in OOHC safe from abuse are discussed, but include:

- While internal and external processes and systems are required to keep children safe, the keystone to this safety is an appropriate organisational culture.
- National standards and guidelines in a range of areas are useful in ensuring that children and young people are kept safe from sexual abuse. These need to be a focus of State and Territory regulation and implementation to be effective.
- **UCA recommends that a register of carers should be established in all states and territories, to cover both foster and kinship carers.**
- Education of children and young people in protective behaviours should be a core strategy, universally for all children and young people in care in OOHC
- When thinking about core strategies for keeping children and young people in OOHC safe from sexual abuse, consideration needs to be given to the needs

of Aboriginal and Torres Strait Islander children and children with a disability, as both of these groups are over represented in OOHC and have specific needs and vulnerabilities.

- Clear processes for the sharing of information is essential to ensure the safety of children in OOHC.
- Thorough processes for risk assessment and placement decisions are essential for all children and young people in OOHC. They are particularly critical to keeping children safe when they are accommodated with other children.

In addition to the core strategies outlined above there are additional strategies needed in different care settings. However, no presumptions should be made regarding level of risks across different types of care. As outlined above, a thorough assessment must occur for all children and young people placed in OOHC, which takes into account how services are delivered and the specific risks which may occur in a particular living situation. Of particular note,

- It is essential that caseloads for foster care staff are manageable. National guidelines need to be developed on the ratios of staff to the children and carers they are supporting. This can be further improved by OOHC models being funded to allow for child advocate and carer support workers.
- Clear processes for the sharing of information between and within agencies is also essential to ensure the safety of children in OOHC.
- It is essential that kinship care placements are not presumed '*safe*' because of family connections, and we outline key elements of an effective system for kinship care, including assessment, support and training needs.
- Given the high level of vulnerability of children and young people in residential care the use of a trauma-informed model of therapeutic care is particularly important. It is also essential that staff-to-young person ratios are manageable.
- Ensuring that children and young people have youth caseworkers that they know and trust and that they have regular one-on-one meetings with their key worker. Where residential services are not funded at an appropriate level the risks of abuse in care increase.

There are core training needs for caseworkers and carers, but there is also a need for specific training for education and childcare professionals as children in OOHC have significant contact with these people.

Allegations of sexual abuse by carers must be investigated in a structured, procedurally fair manner which provides the opportunity for the allegations to be considered and assessed. UCA recommends that carers in all jurisdictions should have the right to both internal review and external review by an independent body.

Strong processes for regulation and oversight for OOHC are necessary. It is essential that there is a clear separation of the roles of funder, service provider and regulator. The child protection system needs oversight and advice on its performance from an independent agency that specialises in this area. The UCA recommends that there should be an independent regulator in each state/territory, who is adequately resourced to play a comprehensive regulatory role including conducting face-to-face audits and follow up visits as needed.

While external processes are essential, they are not enough to keep children and young people safe. Appropriate organisational culture and internal practices are also integral, as are clear established professional practices that are monitored and reviewed regularly.

1. Background

The Uniting Church in Australia (UCA) appreciates the opportunity to respond to the Royal Commission Issues Paper 4 on preventing child sexual abuse in out-of-home care (OOHC). The Uniting Church and all its synods have welcomed the announcement of the Royal Commission and have pledged the utmost co-operation.

The UCA provides this submission based on its wide and long experience gained through our extensive network of UnitingCare agencies providing child and family services.

UnitingCare agencies are major providers of OOHC programs across most states and territories, spanning foster care, residential care and kinship or relative care. This means that we are well-placed to observe the strengths and weaknesses of differing regulatory and funding systems for OOHC that are in place across the jurisdictions.

While there are major differences in the regulatory systems and funding of OOHC across jurisdictions, a common theme is that OOHC programs are in stress and are

over-stretched across all states and territories. OOHC services are struggling to meet the level of demand and respond effectively to the high level of need of the children and young people in care within extremely tight budgetary resources. This increases the risks that intergenerational cycles of abuse will be driven by the lack of capacity within OOHC systems as it can be difficult to ensure a focus on good practice and continuous improvement in this environment.

In preparing our submission, it is apparent that there is not a strong evidence base relating to many of the questions posed in the Commission's fact sheet. For example, there is little research relating to the strengths and weaknesses of different regulatory systems for OOHC. Similarly, generally, there is a lack of research on the characteristics of OOHC environments that reduce risk and which facilitate disclosures of abuse by children and young people. This highlights the need for greater investment in robust research and evaluation to inform the development of more effective regulatory and policy frameworks at a national level. In this context, it is particularly concerning that currently the Federal Government may be considering ceasing or reducing funding for the Australian Institute of Health and Welfare (AIHW).[1] The AIHW plays a key role in working with the ABS and other relevant government agencies to improve data collection and build a more comprehensive picture of the experiences of children and families, (including vulnerable children and families).

We also note that in forming our response to the questions in the issues paper, in practice, it is difficult to separate out strategies that our OOHC programs use to prevent risk of sexual abuse from those that we use to prevent risk of abuse more generally. As Dr Darly Higgins from the Australian Institute of Family Studies (AIFS) has identified, a child's previous history of maltreatment (physical or emotional abuse, neglect, family violence) increases their vulnerability to further abuse including sexual assault.[2]

The issue of sexual abuse in OOHC goes to the wider issue of the sexual abuse of children not in OOHC by family members or others. A population based approach to ending child sexual abuse may result in a shift of 'norms' -if the majority of the population condemn child sexual abuse, the bell curve moves towards the majority. Thus, the high profile afforded to this Royal Commission is contributing to a mentality

[1]See www.dailytelegraph.com.au/news/national/commonwealth-agencies-to-be-cut-by-abbott-government/story-fni0xqrc-1226724733088

[2]Irenyi, M., Bromfield, L., Beyer, L., and Higgins, D., 2006, Child maltreatment in organisations: risk factors and strategies for prevention*, Child Abuse Prevention Issues No 25*, Spring 2006, Australian Institute of Family Studies.

of zero tolerance to child sexual abuse. This may in itself achieve greater safety from sexual predators for our most vulnerable children in OOHC. As discussed in Section 2.1.4, it also highlights the need for more education of all children in protective behaviours.

2 Key elements of child safety and security in OOHC (Questions 1 & 2)

2.1 Core strategies and evidence for keeping children in OOHC safe from sexual abuse (Question 1)

Many of these issues are discussed in greater detail in UCA's response to Issues Paper 3 – Childsafe Institutions, but strategies need to be in place in the following areas:

- an appropriate and proactive child safe organisational culture,
- mandatory reporting,
- staff and carer recruitment and screening,
- staff and carer training, supervision and support,
- strengthening children and young people's protective factors,
- appropriate risk assessment and placement processes,
- ensuring stable and safe placements,
- cooperation between agencies,
- appropriate processes for the handling of allegations of abuse, and
- regulation and oversight.

Policy and Procedures should be underpinned by guiding principles, and include clear direction on:

- Personnel roles and conduct
- Recruitment and screening practices
- Staff induction and training

- Supervision and performance appraisals and management
- Involving children and parents in service delivery
- Child abuse reports and allegations
- Supporting a child-safe culture
- Health and safety
- Processes for handling breaches of policies, complaints or allegations of abuse, management of people who have sexually offended and fostering a culture which welcomes and encourages feedback

2.1.1 Organisational Culture

In discussions with UnitingCare agencies across Australia, there was a strong underlying belief that while internal and external processes and systems are required to keep children safe, the keystone to this safety is an appropriate organisational culture.

Organisations need to foster practices that:

- prioritise the needs and safety of children,
- formalise reflective practice and a focus on continuous improvement, and
- have strong processes for reporting and accountability.

2.1.2 Staff and carer recruitment and screening

Pre-employment screening of staff and carers is an essential element of the regulatory and policy system needed to keep children safe and secure in OOHC. As outlined in the UCA's response to the Royal Commission's Issues Paper 1 on Working with Children Checks the UCA fully supports and endorses a national approach to Working with Children Checks.

In NSW, recent amendments to the *Children and Young Persons (Care and Protection) Act* 1998 require the Children's Guardian to establish and maintain a register for the purpose of authorising persons as authorised carers. This is designed to address issues relating to reportable conduct matters. There have been cases where a carer with a reportable conduct history has transferred from one agency to another, or has had their authorisation cancelled by one agency and then applied for authorisation by another. The Carer's Register will address this by ensuring that an

agency knows about a prospective carer's reportable conduct history, including reports that are not finalised, as it will be flagged on the system.

UnitingCare Children Young People and Families, NSW (UnitingCare CYPF) has strongly supported the development of the Carers Register as an essential element in an effective system for probity checks of carers. The Register will ensure all foster and kinship carers in NSW have undergone necessary probity and other assessments and will support agencies in the sharing of information about prospective carers. There is also a carer registration database in Victoria, but it does not include kinship carers managed by the Department of Human Services. **The Uniting Church recommends that a register of carers should be established in all states and territories, to cover both foster and kinship carers.**

It is also important to recognise the limitations of pre-employment screening. As Dr Darryl Higgins from the Australian Institute of Family Studies has identified, '*Having all staff vetted through a WWCC is the first chapter in the book, not the final chapter*.'[3] Research has indicated that, when charged, the majority of perpetrators detected do not have prior convictions for any form of child maltreatment, and thus would not be have been detected by screening processes.[4]There is a risk that over-reliance on pre-employment screening can lead to organisational complacency. The Working with Children Check needs to be coupled with vigilant organisations that actively promote robust child-safe cultures.

Essential to this is the recruitment of people whose values and demonstrated professional practices accord with the protection of children. Workers also need to be appropriately skilled and hold appropriate qualifications to respond to children who are vulnerable, particularly those who may have experienced sexual abuse before coming into OOHC. Organisations need to be appropriately funded to ensure that this can occur.

2.1.3 Supervision, support and training of staff and carers

Close supervision and support of both staff and carers is a key strategy for keeping children and young people in OOHC safe. The child in OOHC needs a strong network of people who care deeply about him or her and takes careful note of the child's behaviour and well-being. Listening to children is an essential part of any

[3] Higgins, D., 2013, Presentation to ACWA Forum, Child-safe environments, Lessons from research about protecting children from abuse in organisational settings, 1 October 2013.
[4]Irenyi, M. et al, 2006, op cit.

caseworker or carer's role. Sometimes, staff and\or carers can become de-sensitized to a child's behaviour over time and this is why supervision is very important.

Supervisors themselves must be well trained and have the ability to ask key questions regarding the practice of their staff and carers. Supervision also needs to actively seek to explore and improve worker's approaches and boundaries relevant to the regulatory environment. Some OOHC agencies have developed resources to support this training, for example, UnitingCare CYPF has produced two key documents – the Principles of Practice, and the Principles of Supervision (available on request). These documents are prominently displayed in all workplaces and are embedded in UnitingCare CYPF's supervision policy.

Services should have a strong model of care that guides the development of trauma informed practice.[5] Further, a crisis intervention model[6] that assists staff to proactively and reactively respond to aggressive or pain-based behaviour should be the basis for program operation and the provision of training to staff and carers.

Strong induction processes with a focus on knowledge of agency policies and procedures is also essential.

Carers and Staff require training in identifying risks and early warning signs of sexual abuse and grooming. This should be part of formalised accredited practice training and refreshed on an annual basis funded by Government. Refresher training ensures that current evidence based learning is maintained.

It is essential for foster carers to feel they are part of a team of professionals helping to support the child or young person. The training, supervision and support they receive are crucial in giving them the skills to identify and work with very challenging behaviours.

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[5]For example:

Anglin, J. (2003). Pain, Normality and the Struggle for Congruence: Reinterpreting Residential Care for Children and Youth. *Child & Youth Services,* 24 (1), pp1-173

Barton, S., Gonzales, R & Tomlinson, P. (2012).*Therapeutic Residential Care for Children and Youth People: An Attachment and Trauma-Informed Model of Practice.* Jessica Kingsley Publishers, London

Holden, M (2009). *Children and Residential Experiences: Creating Conditions for Change.* CWLA Press, Ithaca.

[6]Nunno, M., Holden, M. & Leidy, B. (2003). Evaluating and Monitoring the Impact of a Crisis Intervention System on a Residential Child Care Facility. *Children and Youth Services Review,* 25 (4), pp. 295–315.

2.1.4 Strengthening the capacity of children and young people around protective behaviours

Education of children and young people in protective behaviours should be a core strategy, universally for all children.

This needs to include educating and empowering children and young people to:

- know their rights and responsibilities,
- be aware of signs of sexual grooming and inappropriate behaviour, and
- feel safe and encouraged to speak up about abuse or inappropriate behaviour, including through Advocacy groups.

For example, UnitingCare Gippsland has a model where a Protective Behaviours worker delivers a program that educates children, caregivers and childcare and education staff with the aim of increasing safety for children. The model allows for consistent language and teaches children how to recognise and understand their internal feelings and reactions and develop strategies to keep themselves safe. This program has been trialled with children in care. Caregivers and educational providers have rated this as a significant program and are requesting further roll out. The program is delivered to all children in the care/education setting therefore benefiting a wider group of children and their community. The objective of this program is to reduce the likelihood of children being abused due to an increase in their own safety and protection awareness.

There also needs to be an organisational culture and structures that support disclosure. For children in OOHC, it is important that they are linked to a variety of organisations to ensure opportunities for discussion and disclosure that suit the child or young person. Children and young people in OOHC highly value a stable, secure relationship with their caseworker.[7]Having a trusted relationship with a caseworker or advocate is a protective factor which enables a child or young person to disclose early to their trusted worker any kind of grooming or unwelcome behaviour.

Additionally:

[7]McDowall, J. J. (2013). *Experiencing out-of-home care in Australia: The views of children and young people (*CREATE Report Card 2013). Sydney: CREATE Foundation, www.create.org.au/files/file/report%20cards/CREATE_ReportCard2013(LR).pdf

- Education and empowerment of children and young people could be strengthened by increased funding for children to access therapeutic interventions which reduce vulnerability.

  For example, in Queensland, UnitingCare Community runs the HOPES (Healing Opportunities, Prevention, and Education Sexual Abuse Service) programs at Logan and the Gold Coast. This is a sexual abuse counselling program for children under statutory intervention who have experienced sexual abuse; their carers and/or non offending family members; and children under 12 years subject to statutory intervention who display sexualised or early sexual offending behaviour. Staff of HOPES also train staff in child protection programs in protective behaviours and managing these issues in residential care.

- Children and adolescents with a disability, in particular intellectual disability, are more vulnerable to sexual abuse than other populations. Increased vulnerability is related to many factors, including both the cognitive deficit associated with intellectual disability and limitations in communication. For these reasons, there is a need for specifically designed support and education for people with disabilities.

  For example, the Assessment of Sexual Knowledge (ASK[8]) can be used with people with intellectual disability to help assesses sexual knowledge and attitudes, and then educational programs and human relations counselling can be tailored that meet their specific needs.

  There may be a need to further develop specific curriculum in schools for children with special needs around sexual health and protective behaviours. Support from experts should be sought and consideration given to the nature of the disability.

  It may be necessary to use communication aids with some children and young people with a disability to facilitate the delivery of education. However, for others, particularly those with more severe intellectual disability, training about sexual health and protective behaviours is likely to be too complex even with aids. There is, therefore, a reliance on ensuring that systems and processes

[8]Galea, J., Butler, J., Iacono, T., & Leighton, D. (2004).The assessment of sexual knowledge in people with intellectual disability. *Journal of Intellectual and Developmental Disabilities, 29*, 350-365.

(e.g., such as those outlined in our response to Issues Paper 3) are established, implemented, and routinely reviewed to ensure that people with disability in OOHC are safe from abuse.

It is important to acknowledge that while there needs to be appropriate support and processes in place while a child is in care, children and young people also need to be equipped with strategies to help them deal with risk when they leave care and become independent.

2.1.5 Appropriate risk assessment and placement processes and decisions

Thorough risk assessment and processes for placement decisions are essential for all children and young people in OOHC.

They are particularly critical to keeping children safe when they are accommodated with other children. This includes:

- acknowledgment of risks from other children who have been sexually abused or use violence to achieve power (see case study example relating to residential care in Section 2.2.3, and research on sibling sexual abuse[9]),
- assessments of children being placed together and improved matching of young people within placements,
- physical assessment of the living environment, and
- training of carers and staff in identifying risks and early warning signs (see section 2.1.3 for more details).
- awareness of culturally appropriate care for children and young people from culturally and linguistically diverse backgrounds.

2.1.6 Ensuring stable and safe placements for Aboriginal and Torres Strait Islander children and young people in care

Aboriginal and Torres Strait Islander children and young people are greatly over-represented in OOHC across all jurisdictions. As at 30 June 2012, nationally, the rate of Indigenous children in OOHC was 10 times the rate for non-Indigenous children.[10]

[9]Mary Stathopoulos, Lauren Di Salvia Ed, October 2012, *Sibling Sexual Abuse*, ACSSA Research Summary, Australian Centre for the Study of Sexual Assault, Australian Institute of Family Studies, Contains a comprehensive bibliography.

The 2006 NSW Report of the NSW Aboriginal Child Sexual Assault Taskforce (ACSAT) *Breaking the Silence: Creating the Future: Addressing child sexual assault in Aboriginal communities in NSW*, found that at that time there were few stable OOHC placements available for Aboriginal children and young persons in NSW. Instances where children were not safe in kinship care were cited, as was the need to undertake thorough assessments prior to placing a child in an OOHC placement, and to continue to monitor the child's safety.[11]

In NSW, responsibility for delivery of OOHC services is currently being transferred from Community Services to the NGO sector in line with the recommendations of the 2008 *Special Commission of Inquiry into Child Protection*. This process has included a strong focus on building the capacity of Aboriginal organisations to provide OOHC services. This will ensure that Aboriginal children and young people will be cared for by Aboriginal programs with Aboriginal staff, with support and capacity building by mainstream services with expertise in the provision of OOHC programs. When the transition process began around twelve months ago, there were no Aboriginal providers of OOHC in the Western NSW Region. At this stage of the transition process there are now three Aboriginal partnerships providing OOHC. UnitingCare CYPF and Ngurambang is one of those partnerships. This capacity building work is proving successful although the work is in its early stages and moving slowly. These partnerships are not only resulting in more Aboriginal carers coming forward but early anecdotes reveal that birth parents feel much more able to trust an Aboriginal organisation with the care of their child. In part, this is because Aboriginal people are often wary of Government welfare agencies due to the history of forced removals of Aboriginal children.

As outlined in our response to Question 2 (below, section 2.2.2), Aboriginal and Torres Strait Islander children and young people are more likely to be placed in kinship or relative care than their non-Aboriginal counterparts. The strategies discussed in relation to kinship care are therefore particularly relevant to improving outcomes for Aboriginal and Torres Strait Islander children and young people in care.

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[10]Australian Institute of Health and Welfare 2013.*Child protection Australia: 2011–12*. Child Welfare series no. 55. Cat. no. CWS 43.Canberra, p41.

[11] NSW Aboriginal Child Sexual Assault Taskforce, Breaking the Silence: Creating the Future, Addressing child sexual assault in Aboriginal communities of NSW, Sydney, 2006.

2.1.7 Ensuring stable and safe placements for children and young people with a disability in care.

As with Aboriginal children and young people, people with disabilities are overrepresented in the OOHC system.[12] Although there is a lack of consistency across Australian jurisdictions in recording disability in OOHC, some researchers have reported that at least 20% of children and young people in temporary care had a disability, with intellectual disability being the most frequent.[13]The high rate of people with disability in OOHC is consistent with the Cummins report[14], which identified children with a disability as a cohort who were more likely than children without disability to come into contact with child protection services. Services and supports for this group are, however, perhaps even more fragmented and inadequate than for other groups.

There is also a lack of data about the type of disability that children and young people in OOHC experience, which must be taken into consideration in decisions relating to where they are placed, if placements are to be safe and stable. Staff training about disability and its impact is also necessary so that appropriate services and supports are provided. In order to keep children and young people safe, it is imperative that staff and carers understand that, depending on the nature and severity of the disability, behaviour changes in people with disability that might indicate that their safety is at risk may be different to the behaviour changes typically observed in people without a disability. In some groups, in particular intellectual disability, where communication is be limited, there can be a sole dependency on staff to be able to identify and respond to potential threats to safety, hence staff training is critical. For these reasons, strategies outlined in our response to Issues Paper 3 are crucial for ensuring that placements for children and young people with disability in care are safe.

2.1.8 Importance of therapeutic care to ensure safety for children and young people

International and national research indicates the trauma and neglect experienced by children and young people has significant negative impacts on their development

[12]Baker, C. (2011). Permanence and stability for disabled looked after children. Retrieved 1 November 2013, from Institute for Research and Innovation in Social Services (IRISS) http://lx.iriss.org.uk/content/permanence-and-stability-disabled-looked-after-children-iriss-insights-no11

[13]Victorian Government. (2002). The audit of children and young people in home based care services. Retrieved 1 Nov 2013, from Department of Human Services

[14]Cummins, P., Scott, D., & Scales, B. (2012). Report of the Protecting Victoria's Vulnerable Children Inquiry. Melbourne: Department of Premier and Cabinet.

and behaviours. A therapeutic environment can address these harmful effects and support recovery from trauma.

In Victoria, a particular therapeutic approach to residential care (the TRC model) has been piloted since 2008. The key service elements of the TRC model were collaboratively developed between the Department of Human Services and OOHC providers and includes specialised training, increased staffing levels, consistent rostering and therapeutic specialists attached to units.

An external evaluation[15]confirmed that these service elements were essential to delivering effective therapeutic residential care. The evaluation also found that the TRC model achieves better outcomes for children and young people than standard residential care. These improved outcomes included

- reduced risk-taking,
- improved stability,
- improved emotional and mental health and behaviour,
- improved quality of contact between young people and their family and between young people and their carers,
- greater participation in education and in extra-curricular activities in the community,
- improved academic functioning and
- a significant improvement in sense of self.

Children and young people in a comparison group in general residential care did not show this evidence of positive change. These therapeutic outcomes are critical in terms of building a child or young person's capacity to keep themselves safe and assisting a young person to build trust and talk to others about what they have or are experiencing.

2.1.9 Work with other agencies to ensure safety for children and young people

Appropriate information sharing and collaborative work between the agencies involved with children and young people is critical to ensuring their safety. This is

[15] Evaluation of the Therapeutic Residential Care Pilot Programs, Verso Consulting Pty Ltd 2011

vital to ensure that staff have a comprehensive understanding of a child or young person and their circumstances. In turn, this will increase their capacity to identify when a young person is at risk or has been perpetrated against and to put in place the most effective preventative and/or follow up strategies. In terms of storing and sharing information all processes implemented would need to comply with relevant privacy legislation.

In Victoria, the Department of Human Services and Victoria Police have collaborated to develop local and state-wide responses to prevent children and young people subject to child protection and/or residing in OOHC being sexually exploited. The Child Sexual Exploitation Prevention Project commenced this year and aims to ensure timely information exchange between child protection, OOHC providers and police, building an understanding of offender dynamics and using measures to disrupt offenders, and jointly developed preventative interventions. It has involved data collection, training and collaborative work across child protection, OOHC providers and Victoria Police.

2.2 Additional issues and strategies required for foster care, kinship care and residential care (Question 2)

In addition to the core strategies outlined above there are additional strategies needed in different care settings. However, no presumptions should be made regarding level of risks across different types of care. As outlined above, a thorough assessment must occur for all children and young people placed in OOHC, which takes into account how services are delivered and the specific risks which may occur in a particular living situation.

2.2.1 Foster Care

As discussed previously, clear processes for sharing of information is essential to ensure the safety of children in OOHC. With the current transition process in NSW, the need for open, transparent and timely exchange of information is heightened as case management responsibility for children and young people is transferred from Community Services to NGOs. This enables a full and thorough case plan to be developed which will result in a much stronger and more focussed relationship between the case worker, the carers and children. Strong and supportive links with education, health and other government agencies are essential so that the child or young person has the opportunity to relate to a number of workers within their own ‘care team’. One of the biggest issues in NSW with the transition is the ‘clunky’ processes for information exchange between all Government departments and the

lack of formal protocols around this. Protocols exist between Community Services and other Government departments, but do not yet cover transfer of information from government departments to NGOs. To ensure the maintenance of comprehensive files, files could be centrally retained by a Government department to ensure there is a central repository for information and for retrieval of information particularly where children have been associated with more than one service.

In Victoria the *Children, Youth and Families Act* 2005 provides clear direction on the sharing of information across the sector to ensure that it is in the best interest and safety of a child. Significant consultation with the sector, via forums, training and documentation (including pamphlets for differing professional bodies referring to the Act) has occurred. Sharing of information is more streamlined and enhanced by the State-wide 'Shell Agreement' utilised by Child FIRST and the Integrated Family Services programs. The Child FIRST and Integrated Family Services programs work closely with the OOHC sector, Child Protection and providers of kinship care.

Research by the Australian Centre for Child Protection found that providing foster carers with accurate information about the behaviour of children in their care could help to prevent 'placement drift' and encourage stronger family connections.[16] The research identifies the behaviours that carers find challenging and that threaten placement stability. These behaviours included aggressive and defiant behaviour, anxiety-focused behaviours, and high-risk behaviours including drug and alcohol abuse, and problems relating to cognition, language and memory. These are pain-based behaviours and carers require training and support to understand that these are the result of trauma. By asking carers about the behaviours that they find difficult, there is an opportunity to develop more tailored supports that better respond to carers' needs.

Children need to be supported and educated to understand their own signs of safety. Children need to be provided tools to understand and recognise their bodies' signals and have the language to articulate this. This language needs to be shared by the significant people in the child's life –OOHC staff, carer, educational and care professionals etc.

As outlined in Section 2.1.2, it is essential that there is a robust system of employment screening for all staff and carers working with children and young people in OOHC. However, it is not possible to conduct suitability checks on every person who comes into a foster care home as a visitor (for example, extended

[16]See http://medicalxpress.com/news/2013-10-children-behaviour-key-foster.html

family, family friends and neighbours, some of whom will be under 18 and therefore would not be screened). It is therefore important that foster parents are trained to recognise the signs of grooming behaviour and behaviour changes which may indicate that the child's safety may be at risk. As previously discussed, empowering the child or young person to know their rights, to speak up and to know to whom they should speak when there is a problem is also critically important.

It is also essential that caseloads for foster care staff are manageable, ensuring that children placed in foster care receive regular visits to build up a trusting relationship with this worker. National guidelines need to be developed on the ratios of staff to the children and carers they are supporting. This can be further improved by OOHC models being funded to allow for child advocate and carer support workers. In Victoria, in cases of Quality/Abuse in Care investigations, the current model has the one worker representing and supporting the child that has made a disclosure and the carer of which allegations of abuse have been made against. This can lead the child to question who their support person is as they can see the worker supporting the carer as well as themselves, creating a level of distrust that is difficult to avoid. UnitingCare Gippsland is currently piloting a program which has a separate child advocate and carer support worker and finding it very effective.

2.2.2 Relative or Kinship Care

The Aboriginal and Torres Strait Islander Child Placement Principle has been endorsed in legislation or policy in all Australian states and territories. This is reflected in the higher use of kinship care for Aboriginal and Torres Strait Islander children. In 2011-2012, across Australia, 68% of Aboriginal and Torres Strait Islander children were placed with relatives/kin, other Indigenous caregivers or in Indigenous residential care.[17]It is therefore essential that policy and practice frameworks for Aboriginal and Torres Strait children and young people placed in kinship care are culturally appropriate. This includes, for example, working collaboratively with Aboriginal caseworkers and Aboriginal services to link families to community resources and activities.

Where supported kinship care is a safe option for children the positive outcomes are well-documented, with children benefiting from maintaining family, cultural and

[17]Australian Institute of Health and Welfare, 2013, *Child Protection Australia 2011-2012,* Canberra, www.aihw.gov.au/WorkArea/DownloadAsset.aspx?id=60129542752, p 81.

community connections, and helping them feel '*safe and assured'* in times of uncertainty.[18]

However, it is essential that kinship care placements are not presumed '*safe*' because of family connections. The Victorian Ombudsman's investigation into OOHC in 2010 found that "*there is an inherent tension in the system between minimising intervention to "normalise kinship arrangements" and "the need to provide adequate oversight and support*".[19]

Policy frameworks for assessment, training and support for kinship carers vary widely across states and territories. Western Australia is the only state which requires statutory kinship carers to be fully assessed and trained in the same way as foster carers: in other states and territories assessment and training is often minimal.[20]Regardless of jurisdiction, for informal or non-statutory kinship care placements, there are even fewer controls, less training and less support.

As a provider of kinship care in Victoria, UnitingCare Kildonan's experience is that screening of kinship carers needs greater rigour. The safety and wellbeing of the child or young person needs to be the paramount consideration in the assessment process. However, assessments conducted by the Department can be impacted by other factors including their need to secure a placement quickly and the shortage of alternative placements. This creates difficulties for the NGO OOHC provider where they are required to manage placements which they do not consider to be safe. The establishment of an assessment panel including NGO representatives would help to ensure a more robust process for assessment of kinship carers.

State and territory policies generally provide for some level of case management support to formal kinship carers. However, our experience is that in practice it is not uncommon for kinship carers to receive little or no case management support.

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[18] Bromfield, L. and Osborne, A., 2007, *Kinship Care,* Research brief No.10, National Child Protection Clearinghouse, The Australian Institute of Family Studies, Melbourne; Dunne, E. & Kettler, L. 2006, 'Social and emotional issues of children in kinship foster care and stressors on kinship carers: A review of the Australian and international literature', *Children Australia,* 31(2):22-29 ; Mason, J. Falloon, J. Gibbons, L. Spence, N. & Scott, E. 2002, *Understanding Kinships Care,* NSW Association of Childrens Welfare Agencies Inc and the University of Western Sydney; Greef, R. (ed) 1999 *Fostering Kinship: An International Perspective on Kinship Foster Care,* Ashgate Arena, Aldershot; Cuddeback 2004.

[19]Ombudsman Victoria, 2010, Own Motion Investigation into Child Protection – Out of Home Care, p. 18.

[20]McHugh, M. and Valentine, K., for the Department of Families, Housing, Community Services and Indigenous Affairs, 2010, *Financial and Non-Financial Support to Formal and Informal Out-of-home carers* , Social Policy Research Centre, University of NSW.

NSW Community Service guidelines require statutory kinship carers to be assessed in the same way as foster carers. However, a 2009 study of kinship care arrangements in NSW reported that the stringency, focus and tools used for initial assessments varied significantly between services, and that many assessments took place after the initial placement.[21]

This echoed the findings of the 2008 Special Commission of Inquiry into Child Protection in NSW, which found that 'it is clear that relative/kinship carers have received less training and support than other authorised foster carers.'[22] Moreover, in its submission to the Inquiry Community Services accepted that,

> The level of assessment, training and support provided to statutory relative/kinship carers should be broadly at an equivalent level to that provided to un-related authorised foster carers, although it is acknowledged that there may be points of difference between the two carer groups. For example, although the training need of both groups may have many similarities, relative/kinship carers may require additional input and support around managing family contact issues.[23]

However, it is unclear what action the Department has taken to improve processes for assessment, training and support of kinship carers since 2008. It should also be noted that under the NSW Government's current legislative reform agenda there will be a shift to greater use of kinship care with the introduction of long-term guardianship orders to relatives or kin.[24]

In 2009, UnitingCare CYPF conducted a research review and consultations with OOHC and family support staff as well as members of the Grandparents and Parents Again (GAPA) support group. This research demonstrated the correlation between the support provided to kinship carers and improved outcomes for children and young people.[25]

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[21] McHugh, M. 2009, *A Framework of Practice for Implementing a Kinship Care Program – Final Report,* Social Policy and Research Centre, University of NSW, p. 36, 105.

[22] Wood, J., 2008, Report of the Special Commission of Inquiry into Child Protection Services in NSW, Volume 2, p632

[23] Ibid, p 649.

[24] NSW Government, 2012, op cit.

[25] UnitingCare Burnside, 2010, Grandparent Kinship Care in NSW: UnitingCare Burnside Supporting Grandparent Kinship Carers, UnitingCare Children, Young People and Families,

Kinship carers have to manage complex relationships with the birth parent(s) and other family members. In some cases, the complexities for kinship carers of managing contact arrangements with relatives and the tensions that may stem from family loyalties can impact on the safety of the child.

In our experience, kinship carers want continued access to case work and services. Whilst there is an argument that casework, compulsory support and monitoring can be disempowering and intrusive for families, using strengths-based approaches can achieve positive relationships between case workers and families, as well being an essential tool in ongoing assessment of support needs. A recent study on risks to stability in foster and kinship care in NSW found that kinship carers without caseworkers did not know who to turn to when needing help with children's issues.[26]

Key elements of an effective system for kinship care

A report for the Benevolent Society by the University of NSW Social Policy Research Centre identified key features of an effective kinship care program, which is endorsed by the Uniting Church in Australia. Features include:

- carer assessment and authorisation – including an initial check to make sure children are safe and their immediate needs are being met, followed by a more in-depth assessment,
- ongoing casework support using a family support model which includes support for the whole family, including the carer, child, birth parent and other family members,
- training and opportunities to access peer support groups – informal approaches to training (such as the annual camps run by UnitingCare Community, Queensland, described below) have been found to be the best way to encourage attendance by kinship carers,
- financial support,
- respite care, and
- practical assistance to manage contact and access with birth parents and other family members.[27]

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www.childrenyoungpeopleandfamilies.org.au/info/social_justice/submissions/social_policy_papers_and_briefs//?a=60958>.

[26]McHugh, M. and Valentine, K. op cit, p v.

[27]McHugh, M. 2009, A Framework of Practice for Implementing a Kinship Care Program – Final Report, Social Policy and Research Centre, University of NSW, p 104.

The research suggests that different ‘tiers’ of support should be considered – ongoing case management for those kinship carers that require it and a less intensive service providing a ‘safety net’ for those carers who need support at specific times.

A good relationship between the child’s case worker and the family is critical to maximising the child’s safety in kinship care. As discussed previously, providing as many pathways as possible for young people and carers to connect to other parties can also establish healthy relationships and model healthy behaviours. For example, UnitingCare Community, Queensland runs a program which provides a number of annual camps for grandparent kinship carers and their grandchildren. While the children undertake fun camp activities and develop personal skills, the grandparents have facilitated discussions, access to counselling and support, and time to develop relationships. This process enables the grandparents to obtain knowledge to support their vulnerable children in an informal and fun environment.

2.2.3 Residential care

In general, children and young people placed in residential care are older and have higher levels of vulnerability than the general cohort of children in OOHC.[28] Also, priority is often given to keeping siblings together, which can result in periods of residential care for larger family groups.

Given the high level of vulnerability of children and young people in residential care the use of a trauma-informed model of therapeutic care is particularly important. An example of how this is working in Victoria is provided in section 2.1.8.

It is also essential that staff-to-young person ratios are manageable, ensuring that children and young people have youth caseworkers that they know and trust and that they have regular one-on-one meetings with their key worker.

Where residential services are not funded at an appropriate level we fear that the risks of abuse in care may increase. Particular concerns have been raised about the inadequate level of funding for residential care programs in Western Australia.

There needs to be greater awareness of the possibility of sexual abuse by other children in residential care. Where sibling groups are placed in residential care, a

[28] Australian Institute of Health and Welfare, 2013, op cit. Canberra, www.aihw.gov.au/WorkArea/DownloadAsset.aspx?id=60129542752

child or young person may continue sexualised behaviour and pose a risk to others in the sibling group and to other children. Core strategies should include acknowledgment of risks from other children who have been sexually abused or who use violence to achieve power. This will include assessments of children being placed together, physical assessment of the living environment and training of carers and staff in identifying risks and early warning signs. Other strategies include funding for “awake” night shifts where workers remain awake during the night shift to respond to identified risk factors.

There have been occasions where services are pressured by funding agencies to accept placements, despite raising concerns about risk to other people in the residence.

For children and young people who are living with disability, particularly those who cannot communicate verbally, the risk of abuse in OOHC is great. In residential care the risk for these children and young people becomes greater again. We are concerned that where children with a significant disability are living in residential care and do not have someone who knows them very well, any changes in personality and behaviour may go unnoticed if they have been a victim of abuse.

CASE STUDY

Good practice approaches used by UnitingCare CYPF in residential care programs

UnitingCare Children Young People and Families runs a number of residential programs for young people in the Western Sydney area.

When we receive a referral for a young person requiring placement in one of our residential care programs, the coordinator will immediately begin to gather information on the young person to enable comprehensive assessment of the young person's needs. Important information includes: the reasons why this young person requires care (history of abuse and neglect), identifying presenting issues and how those issues impact on others. This step is important, as to provide safety we need to first identify any risks to the young person and others around them. The domains we look at are: behavioural risks; personal safety; health related risks; and emotional risks. When risks have been identified by speaking to the Community Services caseworker and other professionals involved, we develop a management plan that targets the identified risks.

In a situation where it has been identified that a young person displays sexualised behaviours, we aim to unpack that and get a clear description of: "*what does the behaviour look like?"; "When is the behaviour present and when is it not present?"; "Is there a particular gender, age or situation that the behaviour targets?"; "How frequently does the behaviour occur?" "How does the young person make sense of the behaviour?" "Provide examples of when the behaviour was managed well- what did staff do or say?*" This process allows us to move away from labels including "sex offender or sexual risk" and allows us to have a look at the behaviour in light of that young person's history. The process also allows us to build on what has worked before.

The next step is to look at ways of reducing the likelihood of that behaviour occurring, for example, no young people to enter each other's rooms, staff being on the look-out for any previously identified indicators of risk, and introducing a protection plan for all young people of how to call for help if in need. This conversation would be discussed in general terms given that personal safety and protection is a relevant issue for everyone, but ensuring that the strategies identified in this general scenario can be

3 Training (Questions 5 and 6)

3.1 Core training needs of staff and carers

It is important that caseworkers and carers are trained in trauma-informed practice as many of the children in OOHC have experienced sexual and other forms of abuse prior to entering care.[29]A foster carer training package '*Reparative Parenting'* has been developed by NSW Health.[30]This training has been evaluated and was found to be very effective in helping carers to manage children in their care who have been traumatised by sexual and other forms of abuse. Training in trauma and its effects is crucial.

Other core areas of training for case workers and carers relating to sexual abuse include:

- normative sexual development
- understanding the difference between sexual offending and sexualised behaviour
- understanding professional boundaries, including appropriate touch and professional relationships
- how to manage a disclosure

Core training in the above areas also needs to be provided to educational and care professionals (child care centre staff, primary and secondary teachers, family day care educators etc.). Children in OOHC spend a majority of their time in the care of these professionals. There is a high probability of the child developing a safe and trusting relationship with one of these professionals and therefore an increased likelihood of disclosure to these people.

Existing research material on sexually abusive behaviours often fails to bridge the gap between research and organisational practice. In Victoria, *The Best Interest Child Development and Trauma Guide*[31] is a good example how to translate theory

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[29] For example Perry, B.D (2006) 'Applying principles of neurodevelopment to clinical work with maltreated and traumatized children: the Neurosequential Model of Therapeutics' in Webb, N.B (Eds.) *Traumatized youth in child welfare*, Guildford Press, New York, 27 – 51.

[30]See http://www.aicafmha.net.au/conferences/adelaide2009/files/new_tues.pdf

[31] http://www.bswhn.org.au/attachments/article/199/child-development-and-trauma-guide-2010.pdf and http://www.dhs.vic.gov.au/for-service-providers/children,-youth-and-families/child-protection/specialist-practice-resources-for-child-protection-workers/child-development-and-trauma-specialist-practice-resource

to practice. UnitingCare Gippsland provides copies of the guides and delivers training on their use to kindergarten teachers. This is an outcome of the Victorian Government funding Early Childhood Development Coordinator (ECDC) positions which sit alongside Child FIRST and Integrated Family Services. The ECDC workers provide secondary consultation and support to ensure our most vulnerable children have access to kindergarten.

Case workers who work with kinship carers also need training to support kinship carers in managing contact arrangements and to develop the carer's skills in supporting children who have been abused.

With the transition of OOHC to the NGO sector, as is currently occurring in NSW, caseworkers also need access to (low cost) training on legal issues as a core part of their training. This includes, for example, legal requirements relating to responding to subpoenas, writing affidavits and court processes. This is also relevant in Victoria; where over the past 5 years the role of departmental Child Protection practitioners has changed to one of case coordination due to workload issues. This has resulted in children in OOHC not having a relationship with their Child Protection worker and often not knowing who this person is. The role of the OOHC fieldworker has changed from one of primarily supporting the caregiver to having to provide this role to both the child in care and the caregiver. Caseworkers are providing reports for court and being called on to give evidence (as are caregivers) as they have a knowledge and relationship with the child that the Child Protection practitioner does not have. Training in this area is paramount, as are case planning skills and report writing. This training needs to be ongoing and more widely available to case workers (at low cost).

In addition to these areas, managers of OOHC programs need training in:

- good quality supervision of staff
- leadership skills – if there is an allegation of abuse about a staff member or carer, for example, how the matter is dealt with is critical to both the outcome and the culture of the organisation going forward and strong leadership is needed to obtain the best outcomes.
- Peer review of their professional practice to ensure compliance with strateges

Workers who respond to allegations of abuse need a specialist skill set and current and relevant practice experience. In Victoria only Child Protection and Police can conduct interviews of a sexual and physical abuse nature. In NSW, the NSW Ombudsman reportable conduct process has very strict oversight regarding the

investigation by NGOs of any disclosure of abuse in care. It is essential that investigators who have to interview children and young people as a key part of the investigation are well trained in interviewing children and young people. This is discussed further in Section 4.3.

Funding models for OOHC programs need to provide sufficient resources to enable OOHC non-government agencies to facilitate or access training for all staff and carers in these core areas. Current funding models do not provide for this training, with agencies having to identify funding for child and caregiver consumables and training from other internal funds.

3.2 Training for carers on caring for children who have been sexually abused by other carers

There is a need for the training of those carers who need to support children who have been abused by other carers. [UnitingCare West operates a program for children who have abused other children but the program is only funded to provide one-to-one counselling for the child, not training or support to carers.] **The Uniting Church recommends that the Commission address this matter.**

4 Allegations of sexual abuse by carers (Questions 8 and 9)

4.1 Processes for handling allegations of abuse

Allegations must be investigated in a structured, procedurally fair manner which provides the opportunity for the allegations to be considered and assessed. Of all the information gathered during an investigation the interview with the child or young person is critical. The child must be well-supported by someone they know and trust. Adaptive communication aids may be required for children with disabilities.

As previously discussed, children and young people will also be more likely to make the initial disclosure of abuse where they are supported to build independent and trusting relationships outside of the household. Relationships across services and agencies are critical to providing young people with as many supports as possible and therefore avenues to discuss concerns. Such relationships can be especially useful in Aboriginal and Torres Strait Islander communities and help to overcome local dynamics which might limit avenues for a young person to speak freely. Links should be developed, for example, with health services, schools church congregations and other community organisations.

Currently, in most states or territories, allegations of abuse in OOHC are investigated by the child protection department and non-government agencies do not have a direct role in conducting the investigation. In Western Australia, agencies must report possible abuse by carers to either the statutory child protection department and/ or police. Once reported the matter is then out of the hands of the agency. The experience of UnitingCare West is that this makes it challenging to support both the carer and child while the process is investigated and resolved.

In contrast, in NSW non-government organisations are responsible for conducting investigations of allegations against their employees. However, the experience of UnitingCare CYPF is that the role of Community Services in these investigations remains unclear and the interactions with other agencies can become difficult, for example, if the NGO wants to enter a school to interview a child this is problematic as there is no clear protocol at the moment for this.

The role of investigating allegations requires a specialised skill and an understanding of research evidence on best practice in investigative interviewing. Employing only trained investigators, with recognised qualifications would increase the quality of investigations.

More training also needs to be available for all staff in this area as these investigations require staff to have many difficult conversations with carers. Organisational responsibilities need to be very clearly articulated to carers as there will be times agency staff are investigating allegations that prove to be unfounded or not substantiated and positive communications needs to be maintained with both the children and the carers.

An example of training materials that could be made available and mandatory to all staff in OOHC is the Victorian Child Protection Beginning Practice and Sexual Abuse training.[32]

4.2 Processes for appeal

As noted in the fact sheet, there is currently considerable variation across jurisdictions relating to rights of appeal for carers if their carer's authorisation is revoked or a child is removed from their care. Some states and territories have internal and external administrative review rights, while others have internal review

[32]http://www.dhs.vic.gov.au/for-service-providers/children,-youth-and-families/child-protection/specialist-practice-resources-for-child-protection-workers

rights only. UCA recommends that carers in all jurisdictions should have the right to both internal review and external review by an independent body.

4.3 Independent oversight of the handling of allegations

As outlined in the fact sheet, NSW is currently the only state or territory that has a system of third party monitoring and oversight of the handling of reports of abuse in OOHC.

The *Ombudsman Act 1974* requires the Ombudsman to keep under scrutiny the systems that government and designated non-government agencies have for preventing reportable conduct and responding to allegations involving their employees (including foster and kinship carers). Designated agencies must notify the Ombudsman of all reportable allegations and convictions that arise inside or outside the employee's work.

It is notable that the *Special Commission of Inquiry into Child Protection Services* in NSW identified significant issues in the way in which Community Services handles reportable conduct allegations including:

- lack of consistency and adequacy of the investigation being undertaken in regions
- delays in the completion of these investigations due to caseworkers having other priority work to complete
- a general lack of expertise concerning the management of investigations.[33]

With the transfer of OOHC service delivery to the NGO sector in NSW the involvement of Community Services in handling allegations against employees or carers will reduce over time. Nonetheless, the issues identified by the Special Commission of Inquiry highlight the need for a system of independent oversight of the handling of allegations of reports of abuse.

The requirement to report allegations of any type of abuse and oversight to an independent body by its very nature requires organisations to develop more robust procedures for managing these allegations.

However, it is essential that NGOs are appropriately resourced to carry out the investigation and reporting role effectively. This is not currently the case in NSW. The requirements on NGOs can be challenging as the work involved with the appeal

[33]Wood, J., op cit., Volume 3, p 943

process at the Administrative Decisions Tribunal can be onerous. It is notable that the NSW Department of Families and Communities has its own Reportable Conduct Unit which provides legal advice and coordinates the Department's response to allegations against employees. As outlined in section 3.1, there also needs to be more training available for staff who conduct investigations of allegations of abuse.

5 Regulation and oversight (Questions 10, 3 and 4)

5.1 Oversight mechanisms for keeping children safe from sexual abuse in OOHC

Strong processes for regulation and oversight are necessary, and include monitoring, standards, regulation, visits, audits and reviews. The strengths and weaknesses of some models are discussed below.

It is worth noting that while **external processes are essential**, they are not enough to keep children and young people safe. Appropriate organisational culture and internal practices are also integral.

As outlined previously, organisations need to have an active and articulated commitment to keeping children and workers safe and develop processes and policy for this that fits their specific form of service delivery and model of care. The broader OOHC system needs to support agencies to take responsibility for oversight, and encourage continuous improvement and collaboration.

From a child's perspective, internal processes based upon relationships between the child and identified and a range of trusted people within organisations play an important role in their safety. In the UK, involvement of children in their own care is a much more ingrained and accepted process. It may be interesting to examine any evaluations of this approach.

5.2 The National OOHC Standards, and how they relate to regulation and oversight

National standards give the issue of safety and quality in provision of OOHC greater respect and authority and have the potential to drive improvement in service provision across the sector. However, there is a challenge where states or territories have their own more robust set of standards. The existing National Standards for OOHC are very broad. In practice, more detailed regulation processes have better outcomes, for example, areas such as carer authorisation and registration; accreditation of OOHC agencies; monitoring; and systems for handling allegations of

abuse by staff or carers are generally clear and effective. Also, while this may not be the reality, our agencies feel that no one is driving the implementation of the National Standards within the States. Agreed National Standards should be on the agenda of all State and Territory Child Protection agencies. For example, in Victoria this issue has not been visible on the Government agenda and is not part of the strategic or operational plan.

It is notable that the *National Minimum Standards for Fostering Services* in the United Kingdom are much more specific and detailed in relation to expectations of foster care services.[34] Standard 4 focuses on safeguarding children – the headline outcome statement for this standard is that children feel safe and secure, and understand how to protect themselves and are protected from significant harm, neglect, abuse and accident. The requirements relating to this standard include, for example, that foster carers are trained in appropriate 'safe-care' practice, including skills to care for children who have been abused. For carers who offer placements to children with disabilities, this includes training specifically on issues affecting children with disabilities. It should be noted that caregivers in the UK are employed and are not volunteers. They have a higher recognition in regards to the contribution to assessment and planning for children in OOHC. There is also regulation regarding the training that must be attended annually and re-registration similar to Victorian Institute of Teaching regulations.

The UK standard on supervision and support of carers includes a requirement that each approved carer is supervised by a qualified social worker who has meetings with the carer, including at least one unannounced visit each year. In the UK, the national standards are used by the Office for Standards in Education, Children's Services and Skillswho take them into account in their inspection of fostering services.

5.3 Regulation of OOHC providers: the need for an independent body

It is essential that there is a clear separation of the roles of funder, service provider and regulator to ensure that there is no conflict of interest in relation to these roles. For example, in Victoria, tensions already exist in Kinship Care regarding the suitability of carers and placement trajectories, (where the Department is responsible for the choice and approval of carers and the termination of placements, and agencies are responsible for the ongoing care, support and supervision of these placements). Clear separation of roles also ensures that OOHC

[34]See https://www.gov.uk/government/publications/fostering-services-national-minimum-standards

programs delivered directly by government agencies are subject to the same accountability requirements and processes as non-government providers.

It is notable that in 2008, the *Wood Special Commission of Inquiry into Child Protection* emphasised the importance of independent, external oversight of government agencies and public officials in carrying out functions relating to child protection and OOHC[35].

As Dr Daryl Higgins from the Australian Institute of Family Studies has observed, in the area of financial management we have external, independent auditing systems – why would we not apply the same practices in relation to child safety?[36]

In NSW, the *Children and Young Persons (Care and Protection) Act* 1998 establishes the Office of the Children's Guardian as the agency responsible for the accreditation and monitoring of government and non-government organisations that provide OOHC. The Office of the Children's Guardian is an independent body that reports to the Minister for Community Services and the NSW Parliament.

A weakness in the system in NSW is that the Department of Community Services and the Office of Children's Guardian each have separate requirements in relation to reporting by NGOs about their delivery of OOHC services. There should be a common system for data collection and reporting to the funding body and regulator to reduce the time which NGOs need to spend on meeting reporting requirements.

Recently, the Carmody Child Protection Commission of Inquiry recommended some fundamental changes to the oversight of child protection in Queensland about which UnitingCare Queensland, along with other significant service providers, has raised concerns with the Premier.

Of specific concern are the proposals to refocus the role of the Child Guardian (recommendations 12.7 and 12.8) and the investigation of complaints by relevant departments that are currently directed to the Children's Commission (12.9). Whilst further efforts to streamline the Blue Card and Community Visitor Program are supported, the service providers expressed concern that the system is not mature or stable enough at this stage to downgrade systematic monitoring functions. The recommendations, if implemented, would remove an effective safety mechanism and advocate for the needs of vulnerable children in Queensland. The NGOs have advocated for this role to be retained as it is considered that the child protection

[35]Ibid, chapter 23.
[36]Higgins, D., 2013, presentation to ACWA members, Child-safe Environments, 1 October 2013.

system needs oversight and advice on its performance from an independent agency that specialises in this area.

5.4 The strengths of independent accreditation and face-to-face audits – comments on the NSW and Victorian systems

The NSW OOHC accreditation system provides a structured means of assessing an organisation's process against the *NSW Standards for Statutory Out-of-Home Care*.

Staff from the Office of the Children's Guardian visit designated agencies to:

- assess whether the agency has systems in place that meet the requirements of the *NSW Standards for Statutory Out-of-Home Care*, and
- conduct Case File Audits to monitor how agency practice complies with the Standards and care and protection legislation.

UnitingCare CYPF's experience of the accreditation and auditing process conducted by the Children's Guardian has been very positive as the process focuses on working collaboratively with agencies to support continuous improvement. We have also observed that the process has raised the overall standard of OOHC across the sector in NSW.

This occurs in Victoria as well via the Community Service Organisations (CSO) Registration Standards which are externally audited every 3 years and attached to registration and funding. The standards and auditing process comes from the *Children's, Youth and Families Act* 2005, which requires that all providers of OOHC must be registered under the Act to receive Government funding.

It is also notable that the NSW Special Commission of Inquiry into Child Protection noted that

> Information provided to the Inquiry indicated overall strong support for the role and functions of the Children's Guardian in providing a framework to improve OOHC policies, procedures, practices and services for children and young persons in OOHC in NSW.[37]

A key strength of both Victorian and NSW systems is the face- to-face audit that is undertaken. In Victoria accreditation involves a face to face audit by an independent auditor approved by the funding body. In NSW the face-to-face audit process involves discussion with a range of stakeholders from the audited organisation

[37]Hon. Wood, J., 2008, p 635.

including children and young people themselves, foster carers, caseworkers, managers, HR personnel and Directors. UnitingCare understands that due to resourcing issues, the Office of the Children's Guardian may be unable to continue to conduct face-to-face audits and may, in future, be forced to rely on desk-top audits. The Commission could seek clarification from the NSW Children's Guardian on this issue. The Uniting Church believes that desk-top audits are not sufficient to form a view about the adequacy of practice. It would also be difficult for the Office of the Children's Guardian to retain a focus on continuous improvement without the dialogue and discussion that takes place in a face-to-face process.

The UCA recommends that there should be an independent regulator in each state/territory, who is adequately resourced to play a comprehensive regulatory role including conducting face-to-face audits and follow up visits as needed.

6 Record keeping and access to records; implications of delayed reporting of child sexual abuse (Question 11)

Research shows that delayed reporting is common among children who have been sexually abused, with many taking years to report. A 2009 report by Professor Patrick Parkinson into sexual abuse claims against the Anglican Church found the average delay in reporting was 23 years.[38]

In addition to the issues discussed below, we note that delayed reporting also has implications for the accuracy of data on current levels of sexual abuse in OOHC. This is an issue which would need to be considered as part of the development of a national system for capturing information and data about child sexual abuse in OOHC.

6.1 Placement success

The success of placements can be strongly influenced by the information available to case workers and carers. The gathering and sharing of relevant information is

[38] Parkinson P, Oates, K, Jayakod A., 2009, *Study of Reported Child Sexual Abuse in the Anglican Church,* http://anglican.org.au/docs/Study%20of%20Reported%20Child%20Sexual%20Abuse%20in%20the%20Anglican%20Church%20May%202009%20Full%20Report.pdf

important to ensure that appropriate supports can be put into place and other children protected where a young person has displayed sexualised behaviours.

The needs of a young person can change during their time in OOHC and there has been some inflexibility in the way the system responds to changing need. Sometimes needs are only identified after the carer and case worker obtain additional information about the young person. This is highly relevant where there is delayed reporting of sexual abuse.

6.2 Record keeping for young people in care

Strong processes for record keeping are critical for people who have been in care. This is especially important if they were abused in care or had multiple movements and were not aware why they were moved or the outcomes of situations or complaints.

For many young people in OOHC their lives have been so disrupted they do not have anyone or anywhere to keep records and information. OOHC services are one of the few places these young people can return to for information about their earlier years.

Generally people endeavouring to retrieve information want to obtain as much information as possible. This can include case notes, communications, letters, photos, communication books, names of other residents, names of carers and relatives, reasons behind decisions and action during the time that were in care. People are often filling in quite significant gaps in their memory of events, their personal history and even identity.

Victoria utilises the Looking After Children framework and documentation developed in the UK. These documents create a life story of the child's care experience covering seven welfare domains, ensuring that significant information relating to areas such as education and health are documented and recorded. The documents belong to the child, should the child move to a new care provider a copy of the records are maintained at the original placement agency with the originals transferring to the new provider, following the child.

While there are legal statutes of limitation for record-keeping, the holding of records enables services to further support these young people by providing this information at any time, and allows organisations to investigate historical allegations of abuse. For this reason many organisations keep these records indefinitely, even though there are costs associated with this.

6.3 Agency information

For an organisation the information held in the files may be useful for historical research in the future, including in relation to historical allegations of sexual abuse. It is worth noting that the NSW Ombudsman requires organisations to investigate historical allegations of abuse about a current carer, as there are risks relating to that carer.

Access to records may also be required to support an application for Victims Compensation or as evidence in a criminal legal case.

In NSW, under section 170 of the *Children and Young Person Care and Protection Act* 1988, designated agencies must keep records for 7 years after they close a file, and then deliver them to the Director General of Community Services or a repository they nominate. However, there has been a longstanding issue that Community Services has been unable or unwilling to take on the files. Also, agencies are concerned that if they pass over the files, as the legislation stands, they would not have the ability to access or review the files as needed.

6.4 Development of a national approach to record-keeping for child protection and OOHC providers

There is currently no national approach to record keeping and storage.

Consideration should be given to the development of record-keeping standards, particularly involving consistency on timeframes. As children move from one service type to another (OOHC, placement prevention etc) they have different files; these files are not necessarily linked and have different requirements for how long a record needs to be kept. This means that information can become fragmented and potentially disposed of when still required.

Electronic client recording systems could be better utilised to streamline the process, but funding would be required by agencies to implement this. Staff require training on taking case notes, how legislation and registration standards relate to them, and the importance of recording factual and non- judgemental information. UnitingCare Gippsland provides this training to staff annually and is currently funded to deliver this training to the sector in Gippsland.