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## **Department for Child Protection and Family Support Western Australia: Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse Consultation Paper: Institutional Responses to Child Sexual Abuse in Out-of-Home Care**

### **Introduction**

The Western Australian Department for Child Protection and Family Support (the Department), welcomes the opportunity to comment on the Institutional Responses to Child Sexual Abuse in Out-of-Home Care (OOHC) Consultation Paper (the Consultation Paper).

The Department acknowledges the work of the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission). Preliminary insights from this work are informing proposals for improvements to the OOHC system in Western Australia, through the development of the Department's OOHC Reform Plan, *Building a Better Future: Out-of-Home Care Reform in Western Australia April 2016* (the OOHC Reform Plan) at **Attachment 1**.

This submission does not replicate substantive details already provided by the Department in previous submissions, hearings and roundtables. Instead, the Department has provided feedback on the approaches suggested in chapters 2 to 8 of the Consultation Paper.

### **Current reforms in Western Australia**

The Department has commenced significant OOHC reforms, with further reforms currently pending Government approval. The OOHC Reform Plan recommends how the Department's current resources and workforce, as well as future expenditure, should be invested over the next five years to better meet the needs of children under the age of 18 years in the OOHC system.

The OOHC Reform Plan is aligned with the *National Framework for Protecting Australia's children 2009-2020* and is committed to achieving the priorities outlined in the *National Standards for Out-of-Home Care*. It will also build on the shared OOHC standards outlined in *Better Care, Better Services* that were developed by the Department in partnership with the community services sector.

In addition to the OOHC Reform plan, the Department is developing an Earlier Intervention and Family Support Strategy.

A range of measures to complement these plans will be implemented by the Department to focus service delivery on reducing the over-representation of Aboriginal children in OOHC, and to better support children in OOHC.

The focus of this work will be further strengthened through the implementation of the Department's recently endorsed *Aboriginal Services and Practice Framework 2016-18* (ASPF - Attachment 2). The ASPF outlines how practices, structures, funding, policies and the workforce will be specifically tailored to meet the needs of Aboriginal children, families and communities. Importantly, the ASPF outlines the

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ongoing imperative of partnership with the Aboriginal community in designing and delivering child protection services.

Under the OOHC Reform Plan, a system that is driven by a focus on the needs of a child will be developed through implementing:

- *temporary and permanent* phases of care and care-types;
- a *Needs Assessment Tool* to improve consistency in identifying the needs of children;
- an *individual resourcing model* that will systematically and accurately apportion resources to children based on their individual needs;
- *improved matching of children and carers* according to individual and permanency needs;
- a *Care Team Approach* to improve the support provided to children and carers;
- measures to '*normalise*' the childhood experience of children in OOHC;
- strategies to improve support for *family care*;
- strategies to improve support for *children who are leaving, or who have left care*; and
- consideration of legislative reform to support permanency for children in OOHC.

Furthermore, developing a safe system that is accountable to high quality standards will occur through:

- implementing strategies to support *consistent high-quality foster carer standards* including:
  - aligning carer competencies;
  - implementing a cross-sector Foster Carer Panel;
  - consistent preparation training; and
  - measures to improve cultural competency of foster carers.
- implementing *shared standards for residential carers*;
- reviewing and updating safety and quality standards under *Better Care, Better Services*
- *increasing independent oversight* of the OOHC system through the Ombudsman Western Australia monitoring safety standards;
- improving *consistency, rigour and independence in managing allegations of abuse in care* (including consideration of a reportable conduct system); and
- supporting a more *accessible child complaints system*.

The OOHC Reform Plan and ongoing work by the Department will continue to provide and enhance a supportive and quality care environment for children in OOHC in Western Australia.

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## Feedback on Consultation Paper

### ***Chapters 1 and 2: Identifying and responding to child sexual exploitation and child-to-child sexual abuse (page 42)***

In response to the Consultation Paper's considerations, the Department notes:

#### *Child sexual exploitation*

- Western Australia Police (WA Police) is the lead agency responding to child exploitation. However, effective prevention and response to child exploitation requires a whole of community response where all government agencies, non-government agencies and community members work in partnership.
- It is beyond the role of the Department to identify and respond to all instances of child exploitation because child exploitation, a form of sexual abuse of a criminal nature, falls outside the Department's legislative mandate, unless there are indicators that the parent/caregiver may have not been protective. However, the Department does assess all concerns of abuse and/or neglect for children in OOHC including child exploitation.
- Where the Department has a role in responding to child exploitation, details of assessments and outcomes relating to child exploitation are recorded in case notes (held in case files) which are stored in Assist<sup>2</sup>. This system does not currently capture data on 'child exploitation' separately to 'child sexual abuse'.
- The Department will consider including a detail field under sexual abuse in Assist to enable identification of children who have been subjected to 'child sexual exploitation' where the child has been coerced or manipulated into engaging in sexual activity for something (such as alcohol, money or gifts).
- All carers must advise the Department immediately if a child's whereabouts are unknown and a strategy put in place to locate the child as quickly as possible including working with WA Police and local media.
- The Department supports the Royal Commission's consideration of coordinated and cross-sectoral protocols, procedures and responses to manage the vulnerability of children in OOHC.

#### *Child-to-child sexual abuse*

- The Department acknowledges the challenge of providing stable and healing care for children who have been abused and neglected, especially for those children with sexually harmful behaviours.
- The Department supports the development of best practice guidance for preventing and responding to child-to-child sexual abuse in OOHC.
- Carers of children who have sexually abused other children require specific information and support. The Department has used the learning resource developed by the *National Framework for Protecting Australia's children 2009-2020: Responding to Concerning Sexual Behaviours in Children and Young People* to provide carers with knowledge and skills. The Department's Learning and Development Centre offers free training on this topic.
- The Department has specific guidance on assessing and responding to child-to-child sexual abuse (including a sibling) and has a resource to help

<sup>2</sup> Assist is the Department's electronic filing system for storage of client data and case files.

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identify appropriate, concerning or very concerning sexual behaviours of children children of all ages.

- The Department provides carers with all known information about the child at the time of entering care and during the placement period to enable the carer to provide for the child's needs. However, it is noted that sometimes the child's background information is not fully known and needs to be gathered over time.
- The Department does not support the view that there is a lack of expert advice and assistance for foster carers and kinship/relative carers in Western Australia. Western Australian carers have access to a range of expert advice and assistance through the Department's Service Delivery Practice Unit, Psychology Service, Senior Practice Development Officers and Senior Child Protection Workers (Care Services) in each district. Additional expert advice can be sought from the Princess Margaret Hospital Child Protection Unit, WA Police Child Abuse Squad and the WA Police Online Child Exploitation Squad. However, more specialist advice and assistance after hours could be beneficial.
- If internal placement options are unavailable for children who require a placement with no other children, the Department makes a referral to community sector organisations for transitional high needs placement. This model usually uses a rostered staffing model with the child placed on his/her own.
- The Department acknowledges the limitations in the current data management system which makes it difficult to extract aggregated data on child-to-child sexual abuse, except when that child is assessed as an ongoing risk to other children and recorded as 'Assessed as Causing Significant Harm'.
- The Department agrees that children who display sexually harmful behaviours should have access to effective treatment options.
- Currently the Department funds 13 Child Sexual Abuse Therapeutic Services (CSATS) and two Indigenous Healing Services across the state. These service contracts provide for undertaking counselling/treatment services to children responsible for, or who are at risk of, sexually abusing other children. At present, three services have specialist counsellors available to undertake this work.
- In consultation with Department psychologists, child protection workers may also refer adolescent sexual offenders and their families to specialist private clinical psychologists for therapeutic intervention targeted to the child's needs.
- The Department acknowledges the potential value of nationally consistent accreditation and professional development training for counsellors working in this area. However, if implemented, the process should be rolled out so that counsellors can work towards accreditation as a learning pathway, otherwise it may lead to a reduction in the number of counsellors that are available.
- To improve matching of children to placement options, the Department is implementing a suite of strategies including a Needs Assessment Tool, new resource allocation framework, matching of children on individual and permanency plans, and contracting reforms of the community services sector to support more innovative, flexible and efficient service delivery.

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**Chapter 3: Improving the quality of data on child sexual abuse in OOHC (page 46)**

The Department acknowledges the potential benefit of a nationally consistent approach to child protection data. However, agreement on key terms and definitions across jurisdictions will not in itself make data accurate and comparable. The jurisdictional differences in child protection data run deeper than definitions of key terms and data items. Many of the inconsistencies in data reflect significant variations in child protection legislation, policies and practices across Australia. As such, it is likely to be impractical to standardise child protection data across jurisdictions.

All State and Territory child protection jurisdictions have worked with the Australian Institute of Health and Welfare (AIHW) to improve national reporting through development and refinement of the Child Protection National Minimum Data Set (CP NMDS). The CP NMDS now includes unit record data. It is the Department's view that any future work to improve reporting of sexual abuse of children in OOHC should occur through this forum where there is already a solid understanding of national definitions and differences between jurisdictions.

The WA child protection data system was designed primarily for case management and has been progressively adapted to meet monitoring and reporting requirements.

Despite some limitations, the Department is able to provide a significant amount of unit record data for national reporting requirements. However, the ability to provide extractable data for items of information currently collected as text would require significant time and resources to adapt the current data system.

As acknowledged in the Consultation Paper, there is a need to carefully balance the amount of time practitioners spend recording extractable data for the purposes of comparability, compliance and monitoring, with the time they need to spend working with children, families and carers. Reasonably, workers focus on recording and accessing information in a manner most relevant to the day-to-day case management of the child and family. Any data model to improve the comparability and monitoring data for child sexual abuse in OOHC must consider the risk of inadvertently redirecting resources from the primary purpose of case management to administrative data management tasks.

The proposed data model consistently refers to collecting data to report on 'allegations' of sexual abuse. It is suggested that reporting language of any data model reflects current national reporting terminology of notification, investigation and substantiation to avoid any further inconsistencies in data definitions.

In Western Australia, allegations are lodged as notifications. Investigations are the processes whereby the Department obtains more detailed information about the child who is subject of the notification. The Department has termed this a safety and wellbeing assessment (SWA). Notifications are substantiated when the investigation finds that the child has experienced or is likely to experience significant harm as a result of abuse.

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***All allegations of sexual abuse concerning children in all forms of OOHC should be extractable as a unit record data file with a unique identifier for each child***

This is already the case in Western Australia. If a notification is received for a child in care, the notification is linked to the child record, which has a unique identifier. All data relating to each child in care is linked, and all notifications received for children in care are investigated through a SWA.

***For each allegation of sexual abuse, data should be recorded in fixed-response fields that describe:***

- ***The date of the incident***
- ***The date of the report***
- ***The location where the incident took place***
- ***The relationship of the perpetrator to the victim***

In Western Australia, allegations of sexual abuse of children in care is recorded as a notification and investigated. At the point of investigation, details of the allegation are documented in case notes and some data fields. It can be difficult to accurately report on details such as date of incident, particularly when there has been a significant time lapse between alleged incident/s and the notification. In many cases, the date of incident is recorded as an estimated date range. It is also the case that many disclosures by children relate to events in previous placement, when they have contact with family or prior to placement in OOHC.

The development of nationally comparable fixed-response fields for the 'location of incident' and the 'relationship of a perpetrator to the victim' may be useful for learning from substantiated claims of sexual abuse, but must be carefully considered and appropriately cover a broad range of circumstances. This is important so as not to distort the context of these incidents by requiring them to be reported in a fixed response field. A fixed-response field for location of incidents may be further complicated by investigations which relate to multiple incidents which took place in various locations.

***Each allegation should include demographic descriptors for the child and the perpetrators, including:***

- ***disability (including the type of impairment)***
- ***mental health***
- ***Aboriginal or Torres Strait Islander background***
- ***culturally and linguistically diverse background***

Demographic descriptors of children in care are available in Western Australia. However, clarity would need to be sought to understand what is specifically meant by 'mental health'.

The listed demographic characteristics of alleged perpetrators of sexual abuse are not currently available from Western Australia as many would not be known. It is not clear how helpful this information would be for the purpose of understanding incidence and prevalence of child sexual abuse in OOHC. The focus of data collection during investigation is to assist with assessing and responding to the harm or risk to the child in care, understanding the circumstances of the alleged incident and determining if the notification is substantiated.

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***Data should be disaggregated by placement type***

There can be delays in reporting of alleged abuse of children in OOHC. Data can be disaggregated by placement type at the time of reporting of abuse but this may or may not reflect placement type at the time of the abuse. In some cases, placement type at time of the incident/s can be reported, however this is dependent on the timing of the reporting of alleged abuse. The publication of data by placement type must be done with consideration of the relationship of the perpetrator to the child. For example, reporting abuse by placement type may misconstrue the circumstances of the sexual abuse by implying that the perpetrator was the carer linked to the placement type, when the abuse may not be linked to the placement type at all. Instead, data might be better reported by relationship of perpetrator to child.

***Data should be used to monitor treatment and support provided, and life outcomes***

Maintaining records of any therapeutic treatment and support provided to children in OOHC is important for day-to-day case management and it is a priority for this information to be accessible to case workers. However, the benefit of prioritising the recording of data for broader monitoring of this activity is not clear. The need for type, extent and duration of therapeutic services and support will vary according to the needs of individual children. Where an investigation is not substantiated, there may be no requirement for such services. Although it is important that each child's individual experience and needs are assessed and responded to, it is questionable whether aggregated data collection and national comparability of whether therapeutic services are offered will achieve any benefit.

Another potential issue is whether a child in OOHC already receiving therapeutic service and support would be 'counted'. In remote locations, mainstream therapeutic services may not be available, and other options may be considered if required. These alternatives may be difficult to capture in data.

***Data should include police report, and outcomes of criminal and civil justice responses***

There is provision for recording a police report in the Western Australian child protection data system. Lengthy time delays in proceedings make recording of some justice outcomes difficult and therefore the reporting of the aggregated data may be limited.

**Chapter 4: Improving regulation and oversight to better prevent and respond to child sexual abuse in OOHC (page 59)*****Accreditation of OOHC service providers, whereby:***

- ***all OOHC providers – both government and non-government – are required to be accredited to a minimum, nationally consistent standard (for example, the National Standards for Out-of-Home Care or equivalent)***
- ***in each jurisdiction, a body independent of the relevant jurisdiction's lead department has responsibility for assessing and granting applications for accreditation***

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- ***the accreditation body retains ongoing responsibility for monitoring accredited providers' continued compliance with conditions and standards of accreditation.***

Accreditation was one of the options considered during the development of the OOHC Reform Plan. However, an oversight model was the recommended option and is discussed below. As such, the Department will not be further pursuing an accreditation approach.

***Authorisation of carers, whereby:***

- ***all carers are assessed and authorised according to minimum, nationally consistent standards (including satisfactory probity checks for carers and household members over the age of 16 years, and comprehensive criminal background checks and WWCC)***
- ***all carers are reassessed on a regular basis. This reassessment process would include an opportunity for the child/children in care to provide feedback about their placement.***

In Western Australia, all Departmental general and relative foster carers undergo a comprehensive assessment process to determine if they meet the competencies as set out in regulation 4(1) of the *Children and Community Services Regulations 2006*. Generally, there is no oversight of the assessment or approval of community sector carers.

Foster carers require department and criminal record checks and Working with Children (WWC) Checks for carers. All adult household members who will be providing care or support to the foster child must have a WWC Check. Adult household members who will not be caring for, supervising or undertaking other activities with the child do not require WWC Checks, but still require Client and Child Protection record checks and criminal checks through the Department's Screening Unit. Client and Child Protection Checks are also undertaken for all household members above the age of 10 years.

Once approved, all carers are reviewed at least annually. The annual review formally affirms whether or not the carer is achieving and maintaining their competencies as a carer. The review takes into account feedback from the child of their care experience based on regular contact with the child throughout the year. The CEO may revoke the approval of a foster carer if not satisfied that the individual meets the five competencies set out in the *Children and Community Services Regulations 2006* or a negative notice or interim negative notice has been issued under the *Working with Children (Criminal Record Checking) Act 2004*.

As part of OOHC reform, the Department intends to establish a cross-sector *Foster Carer Panel* that will consider the approval standards of all foster carers in Western Australia. An independent chair will lead a panel comprised of Department and community services sector representatives (including specific Aboriginal representation). Members will be selected through an Expression of Interest process, and will serve a time-limited term on the panel.



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The role of the Foster Carer Panel will be to consider all foster care assessments and provide endorsement. Final approval of the carer will continue to rest with the organisation. The panel will also have the task of identifying cross-sector trends and issues to support continuous improvements.

As a second phase, and as part of the 2017 review of the *Children and Community Services Act 2004* (the Act), the Department will consider measures to strengthen foster carer standards. This will include exploration of a single point for approval and revocation of all carers. There will also be consideration of the types of decisions and outcomes in relation to carers, such as revocation, that may be linked to the *Working with Children (Criminal Record Checking) Act 2004*.

As required by *Better Care, Better Services*, the Department and community sector organisations have processes for reviewing the competencies of their foster carers. However, there is no overarching mechanism to support the maintenance of foster carer standards after their initial approval. While the Department and community sector organisations conduct annual reviews of the carers they manage, there is no process that supports reviews being to a consistent standard across the sector.

Once established, the Foster Carer Panel will be evaluated. The evaluation will consider expanding the role of the panel to oversee the review process by examining individual samples of annual foster carer reviews.

***Oversight of the OOHC system, with core oversight functions conducted by a body external to, and independent of, the relevant jurisdiction's lead Department and all service providers.***

The Department's OOHC Reform Plan includes enhanced external oversight of OOHC services in Western Australia. The proposal is that external oversight will be provided at a systemic level by the Ombudsman WA.

It is proposed that models for the systemic oversight of the OOHC system meet the following two objectives:

1. Foundation safety standards - Certainty that all organisations providing OOHC care deliver safe care that meets foundation standards.
2. Quality improvement - Continuous improvement of the quality of services.

Quality of OOHC provision in the Western Australian system is currently monitored for compliance against the 2006 *Better Care, Better Services* standards (the standards). The standards were developed by the Department and community services sector. Monitoring of an organisation's adherence to these standards is undertaken by the Department's Standards Monitoring Unit.

The Department is aware that providing and funding services, and also monitoring standards of OOHC in Western Australia, leads to a perception of a conflict of interest. The Department will address this issue by improving the independent monitoring of the OOHC system.

The standards will also be reviewed and updated. This will provide an opportunity to demonstrate the alignment of WA safety and quality standards to the *National Standards of Out-of-Home Care*.

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In the review, the standards will be divided into two sections: safety standards (part 1) and quality standards (part 2):

- Part 1: Safety Standards – Safety standards will be reviewed and enhanced. Where appropriate, these standards will align with the Western Australian Commissioner for Children and Young People’s guide. All organisations providing OOHC will be required to meet these safety standards to continue to provide OOHC.
- Part 2: Quality Standards – The quality of OOHC provision will continue to be monitored against the standards.

The Department’s Standards Monitoring Unit will continue to monitor part 1 (safety) and 2 (quality) of the reviewed and updated standards.

A current proposal under consideration is the improvement of independent oversight through the Ombudsman of Western Australia. If approved, the Ombudsman will also monitor all organisations (including the Department and community services sector) against the safety standards outlined in part 1 above.

***Independent oversight of complaints handling conducted by a body independent of the lead department and all service providers. That is, a ‘reportable conduct scheme’ in each jurisdiction.***

A range of policies and procedures exist for managing safety and wellbeing concerns of a child in the care of the Department, when the person alleged to have engaged in child-related employee misconduct is a Department or community sector organisation employee.

As part of the OOHC reform in WA, several areas of improvement were identified to address:

- inconsistencies in the way that child-related misconduct is identified, assessed and resolved;
- variations in the level of independent oversight (external to community sector organisations and the Department) of individual cases of child-related employee misconduct;
- the ability of an employee to move from one organisation to another (either Department or community sector organisation) despite multiple investigations and concerns about their interactions with children; and
- no central place where information about individuals found to have engaged in child-related employee misconduct are recorded.

The OOHC Reform Plan actions include the following:

- to support and increase consistency, cross sector guidelines will be developed and implemented for responding to child-related employee misconduct.
- as a second phase, and pending State Government approval and funding, the Department will also explore a trial reportable conduct system for people working with children in out-of-home care which may:
  - review and quality assure all investigations of child related employee misconduct for organisations providing OOHC, and recommend changes to investigative processes and outcomes; and

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- record and monitor the outcomes of child-related employee misconduct.

As part of this trial, consideration will be given to the framework required, so that a reportable misconduct scheme may be linked to the *Working with Children (Criminal Record Checking) Act 2004*. A reportable conduct scheme trialled in Western Australia will be harmonised with any agreed national standards, as announced at the Council of Australian Governments meeting in April 2016.

***A carers register in each jurisdiction, containing relevant information about all applicant and authorised carers, accessible by all jurisdictions' accredited OOHC service providers and appropriate regulatory and oversight bodies.***

The Department supports this proposal, noting that careful consideration must be given to the mechanisms required to enable access to relevant information by appropriate bodies. These matters are currently being explored as part of a national project<sup>3</sup>.

The Department has a carer register (the Foster Carer Directory of Western Australia) which is integrated in its database: Assist. The objectives of the Directory are to:

- align the requirements of recording of applications, approvals, non-approvals and revocation details of foster carers by non-government foster care providers with the Department's requirements;
- provide a complete record of foster carers approved to provide foster care for children in the CEO's care;
- provide for information exchange between participating service providers regarding persons applying to be foster carers, and current or previous foster carers;
- notify service providers when a foster carer applicant to their agency has been previously assessed as unsuitable to provide foster care;
- confirm foster carers are approved with only one service provider at any time; and
- enable the Department to record the placement of a child with a named carer at a specified address.

The Directory is not enshrined in legislation but enables the operation of Regulation 4 of the *Children and Community Services Regulations 2006*, which provides for the approval and revocation of approval of carers, and the *Better Care, Better Services* standards, with which all service providers are required to comply.

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<sup>3</sup> In September 2015, the Children and Families Secretaries agreed in-principle to a proposed interjurisdictional carer information sharing framework. The purpose of the framework is to ensure that all agencies across Australia with responsibility for the approval of carers of children and young people in OOHC can access to up-to-date information about the carer approval history of current and prospective carers who have previously applied for or undertaken carer roles in other jurisdictions. The Department is part of the working group currently considering this.

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Service providers can only access the Directory via the Custodian. Information can only be recorded on the Directory if it is submitted by an authorised officer of a participating service provider to the Custodian using the Directory's template documents.

All information on the Directory is confidential, except to the extent that information sharing is not permitted or required by law.

## **Chapter 5: Potential improvements in information sharing to better protect children in OOHC (page 78)**

### ***Strengthen information sharing regarding child sexual abuse with children in OOHC to:***

- ***inform children about child sexual abuse, especially where they have been or may be directly affect by such abuse***
- ***promote children's participation in decision-making that affects them.***

Information sharing with children in OOHC, and children's participation in decision-making which affects them, is a Department priority which is strongly supported and promoted by the Department's legislative, policy and Signs of Safety practice frameworks. For example, in addition to other provisions that support children's participation, section 10 of the Act sets out a stand-alone principle of child participation. This outlines the principle that if a decision under the Act is likely to have a significant impact on a child's life, for the purpose of ensuring that the child is able to participate in the decision-making process, the child should be given adequate information, opportunity and assistance to participate. This applies to decisions about a child's placement arrangements, care plans, contact with parents, siblings and other family or with other significant persons, and the provision of social services to the child.

A continuing challenge facing statutory child protection agencies lies in translating sound frameworks into practice by developing and maintaining sufficient levels of skilled workers in a field that is traditionally associated with high levels of staff turnover.

### ***Strengthen information-sharing related to child sexual abuse with carers to assist them in:***

- ***making informed decisions to accept placements***
- ***supporting placement stability***
- ***providing appropriate care for children who have been sexually abused and for children with sexually harmful behaviours***
- ***managing risks to children placed in their care and risks to other children in their household.***

Section 23 of the Act enables the Department to share a broad range of information with a wide range of persons, provided the information is '*relevant information*'. This includes information 'that is relevant to the wellbeing of a child or a class or group of children', or to the performance of a function under the Act. These broad provisions amply enable information sharing with carers; carers are 'interested persons' under

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the Act, being persons who have a direct interest in the wellbeing of a child or class or group of children.

The Department's casework practice guidance emphasises the importance of carers being made aware of specific risks posed by a child and strategies to mitigate the risks: 'any person in a care giving role must be provided with all relevant information about the child to:

- enable them to fully understand the implications of caring for the child; and
- assist them to care appropriately for the child.'

***All jurisdictions could have in place nationally consistent arrangements for intra-jurisdictional and inter-jurisdictional exchange of information related to the safety and wellbeing of children, including information related to child sexual abuse in OOHC contexts.***

***Arrangements could be modelled on NSW Chapter 16A to:***

- (a) enable direct exchange of relevant information between a wide range of prescribed bodies, including service providers, government and non-government agencies, law enforcement agencies and regulator***
- (b) enable prescribed bodies to provide relevant information to other prescribed bodies without a request, for purposes related to identifying, preventing and responding to child sexual abuse in OOHC contexts***
- (c) compel prescribed bodies to share relevant information on request from other prescribed bodies, for purposes related to identifying, preventing and responding to child sexual abuse in OOHC contexts, unless limited exceptions apply.***

The importance of timely information sharing to safeguard the wellbeing of children and families is undisputed and widely recognised in the literature and numerous Australian government inquiries and reports. The Consultation Paper raises a number of key issues pertinent to institutions' sharing of information, flags information sharing improvements to better protect children in OOHC, and refers to legislation in NSW as a possible model for national consistency in child sexual abuse-related information sharing.

Before responding to these issues, an overview of Western Australia's legislative and framework is provided below to inform the Royal Commission of significant information sharing amendments to the Act, which came into effect on 1 January 2016.

#### Western Australian legislation

Unlike the majority of States and Territories, Western Australia has no dedicated privacy legislation. Information sharing is subject to the requirements of State and Commonwealth legislation and the State Government's *Policy Framework and Standards for Information Sharing between Government Agencies*. This framework sets out principles for information sharing that supports collaboration across government service delivery to the community.

To facilitate timely intra and inter jurisdictional information sharing for the protection of children and other vulnerable people, the WA Parliament has enacted broad, enabling information sharing legislative provisions in the Act. The legislation is

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supported and further strengthened by a suite of memoranda of understanding (MOUs) which the Department has developed with relevant government and non-government service providers in Western Australia and nationally. The MOUs help to operationalise policy and promote on-the-ground collaboration between agencies engaged in responding to child sexual abuse. Information sharing guidelines, casework practice guidance and online training have also been prepared to support good practice in information sharing, based on a consent-model when appropriate. These resources are available on the Department's website.

Currently, the information sharing powers specific to the Department itself are provided under sections 23 and 24A of the Act, while the power to share information between bodies external to the Department is provided for under section 28B of the Act.

### *Background*

The information sharing provisions in the Act have been incrementally reformed over the past six years, particularly with regard to facilitating information sharing between agencies external to the Department. Initial reforms introduced in 2011 enabled public authorities (other than the Department) to be prescribed in regulations for the purpose of sharing information that is, or is likely to be, relevant to the wellbeing of a child or a class or group of children (**relevant information**).<sup>4</sup> Referred to as **prescribed authorities**, 12 public authorities became able to share relevant information with one another directly, either upon request or in response to a request, without the Department necessarily being involved in a case. Five years later, there are now 20 prescribed authorities that are authorised to share information under the Act in Western Australia, including the Departments of Corrective Services, Education and Health, Disability Services Commission, Mental Health Commission, WA Police and certain officers of the Family Court of WA (see page 17 for a full list).

The 2011 amendments provided prescribed authorities with the same protections from civil and criminal liability and breaches of professional ethics, standards or codes of conduct that apply to persons sharing information with the Department in good faith and in compliance with the legislation.

### *New provisions*

On 1 January 2016, further amendments came into effect to implement recommendations of the 2012 statutory review of the Act (2012 Review).<sup>5</sup> The enabling information-sharing powers given to prescribed authorities were extended to enable information sharing between prescribed authorities and the non-government sector.<sup>6</sup> These changes recognise government's increasing reliance on the non-government sector to deliver services on its behalf. Prescribed authorities are now also able to disclose relevant information to, or request it from, a "non-government provider" or non-government school, and vice versa.<sup>7</sup> Another important

<sup>4</sup> Prior to 1 January 2016, these were located in section 24A of the Act.

<sup>5</sup> *Report of the Legislative Review of the Children and Community Services Act 2004*, Tabled Paper 5434, available at [www.parliament.wa.gov.au/WebCMS/WebCMS.nsf/content/taled-papers](http://www.parliament.wa.gov.au/WebCMS/WebCMS.nsf/content/taled-papers)

<sup>6</sup> These provisions are now located in section 28B of the CCS Act.

<sup>7</sup> "Non-government providers" are agencies or individuals providing a 'social service' under a contract or other agreement (excluding grant agreements) with a prescribed authority or the Department. 'Social services' are

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component of the 2016 reforms is that the meaning of ‘relevant information’ was broadened to include “information that is, or is likely to be, relevant to the safety of a person who has been subjected to, or exposed to, one or more acts of family and domestic violence”.<sup>8</sup> This significant reform permits information exchange regardless of whether children are involved in a case, and represents a substantial step forward in supporting timely responses to family and domestic violence.

### Response to specific proposals

#### *National consistency and the NSW legislation*

The Consultation Paper suggests the information sharing legislation in Chapter 16A of the *NSW Children and Young People (Care and Protection) Act 1998* could form the basis of nationally consistent arrangements for intra- and inter-jurisdictional exchange of information.

In reviewing the operation and effectiveness of the Act’s information sharing provisions, the 2012 Review considered the legislation in NSW and the Northern Territory, referred to in the Consultation Paper. However, the approach the 2012 Review ultimately proposed was a broader, less prescriptive legislative model than that of NSW.<sup>9</sup>

The information sharing provisions in sections 23 and 28B of the Act are enabling (that is, agencies are not *required* to comply with a request but may exercise discretion). This has been the preferred approach in Western Australia,<sup>10</sup> unlike the NSW model under which prescribed bodies are required to comply with a request subject to certain exemptions. When exercising the information sharing powers provided in the Act in relation to a child, the best interests of the child must be regarded as the paramount consideration.

The Department’s experience in implementing complex information sharing provisions, under other now repealed legislation, was that their overly prescriptive nature acted as a barrier to information sharing. The Department may therefore be not inclined to adopt more prescriptive legislation, which may introduce requirements that present barriers to information sharing rather than removing them.

The implementation of the 1 January 2016 information sharing amendments is in its preliminary stages. While the reforms have been welcomed by government and community sector agencies, the second statutory review of the Act, required in 2017, will provide an opportunity to further examine the information sharing provisions and to consider further reforms as necessary.

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services to assist children, other individuals, families and communities, as defined in section 3 of the CCS Act. Schools in the non-government sector are the independent schools and those in the Catholic schools sector.

<sup>8</sup> As defined in section 6 of the *Restraining Orders Act 1997*

<sup>9</sup> Refer to section 4.1 of the Review Report for further information – see footnote 2.

<sup>10</sup> From 1 January 2016, only the Department for Corrective Services is required to disclose certain reports to the Department upon request – section 24A. These reports include: pre-sentence, pre-parole assessment, parole assessment, re-entry-release and various other court reports relating to young offenders.

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**(a) Enabling direct exchange of relevant information between a wide range of prescribed bodies, including service providers, government and non-government agencies, law enforcement agencies and regulators.**

WA's legislation already enables a wide range of 'prescribed authorities' (currently 20 public authorities, including law enforcement agencies and regulators) to directly exchange relevant information with one another and with a wide range of 'non-government providers' and non-government schools, without the Department necessarily being involved in a case (section 28B). The information which may be exchanged under section 28B of the Act is information which is, or is likely to be, relevant to:

- (a) the wellbeing of a child or class or group of children; or
- (b) the safety of a person subjected to, or exposed to, an act of family and domestic violence.

The next step in incremental reform will be to examine how direct information sharing can be enabled within the non-government sector, independent of a prescribed authority or the Department. Examining this issue may occur during the 2017 review, but it is unlikely reforms would occur before the recently introduced legislation is bedded down in practice.

**(b) Enabling prescribed bodies to provide relevant information to other prescribed bodies without a request, for purposes related to identifying, preventing and responding to child sexual abuse in OOHC contexts.**

The Act already enables the relevant bodies to disclose information upon their own initiative, not just in response to a request. The threshold for information sharing relevant to children is broad - it must be relevant to their 'wellbeing' as defined in section 4 of the Act. The threshold for information sharing in relation to family and domestic violence is that the information must be relevant to a person's safety. Apart from these trigger thresholds, no further constraints are placed on the purposes for which relevant information may be disclosed or requested. The over-riding principle when exercising the information sharing powers under the Act is that the best interests of the child must be regarded as the paramount consideration.

**(c) Compelling prescribed bodies to share relevant information on request from other prescribed bodies, for purposes related to identifying, preventing and responding to child sexual abuse in OOHC contexts, unless limited exceptions apply.**

Addressed previously (page 15).

**(d) Explicitly prioritise safety and wellbeing of children over confidentiality and privacy.**

Because the best interests of the child must be regarded as the paramount consideration when performing a function or exercising a power under the Act in relation to a child, it is not considered necessary for legislation to expressly prioritise children's safety and wellbeing over confidentiality and privacy. Rather, this principle



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should be integrated throughout information sharing guidance and training materials for all people working with children, not only children in OOHC.

### Range of prescribed bodies and implementation challenges

The bodies below may exchange information under section 28B of the Act. Prescribed bodies may exchange information with one another or with any authorised entity.

- Prescribed authorities (public authorities):
  - Department of Aboriginal Affairs
  - Department of Corrective Services
  - Department of Education
  - Department of Education Services
  - Department of Housing
  - Department of Local Government and Communities
  - Department of the Attorney General
  - Disability Services Commission
  - Mental Health Commission
  - State Training Providers
  - Teachers Registration Board of WA
  - Training Accreditation Council
  - WA Health (Department of Health, Metropolitan Health Services, WA Country Health Services and Peel Health Service)
  - Western Australia Police
  - Judges, the Principal Registrar and Registrars, Family Law Magistrates and family consultants in the Family Court of Western Australia
  
- Authorised entities (CEOs of “non-government providers” and the governing bodies of registered non-government schools):
  - “Non-government providers” are persons providing “social services” under a contract or other agreement (excluding grant agreements) with a prescribed authority or the Department for Child Protection and Family Support.<sup>11</sup> This will include a broad range of persons from individual service providers to organisations. ‘Social services’ include a broad range of services provided to assist children, other individuals, families and communities.<sup>12</sup>
  - Registered non-government schools are independent private schools and those in the Catholic schools sector.<sup>13</sup>

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<sup>11</sup> This applies to service providers funded by the Department for Child Protection and Family Support under a contract or agreement with the Children and Community Services Ministerial Body 2 to assist children, other individuals, families and communities

<sup>12</sup> The term ‘social services’ is defined in s.3 of the Act

<sup>13</sup> Being registered schools or school systems under Part 4 of the *School Education Act 1999*

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*Implementation challenges*

Implementing broad information sharing legislation across government and non-government sectors presents a number of significant challenges.

Providing easily understood, user-friendly information that is appropriate to a broad range of bodies and services about technically worded legislation can be complex. A balance needs to be struck between simplicity, and providing sufficient detail to support information sharing that complies with the requirements of the legislation.

**Chapter 6: Child Safe Organisations (page 88)*****Roles, accountabilities and interdependencies of different parts of the out-of-home care (OOHC) system in delivering and overseeing the key elements of a child safe organisation***

The objective of the Western Australian OOHC reform process is to provide the best possible OOHC system for children in care in Western Australia with the appropriate 'checks and balances' in place to provide a system that prioritises safe and high quality care of children.

Developing a safer OOHC system that is accountable to high quality standards will occur through:

- implementing strategies to support consistent high-quality carer standards including aligning carer competencies, implementing a cross-sector Foster Care Panel, consistent preparation training, and measures to improve the cultural competency of foster carers;
- implementing shared standards for residential carers;
- reviewing and updating the *Better Care, Better Services* standards into two parts – safety and quality standards;
- increasing independent oversight of the OOHC system through the Ombudsman WA monitoring the safety standards (pending Government approval to request the Ombudsman to undertake this function);
- improving consistency, rigour and independence in managing allegations of abuse in care; and
- supporting a more accessible child complaints system.

The Commissioner for Children and Young People WA (the Commissioner), the CREATE Foundation and the Department are undertaking a consultation with a significant number of children in OOHC regarding their views on raising concerns and making complaints. This will include exploring their awareness of how to 'speak out', and identifying enabling factors and barriers to raising concerns that affect them. The outcome of this consultation will inform the Department on how to continue to make its child complaints system more accessible to children in OOHC.

***The application of the child safe elements in the OOHC system, including whether they should be binding or non-binding***

As a learning organisation, the Department remains committed to continuous improvement to make the WA OOHC system safe and accountable.

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The Department has been working with the Commissioner since 2014 on a project to support the implementation of a set of child safe practice and principle guidelines (*Child Safe Organisations WA Guidelines*) for organisations working with children to increase knowledge and application of child safe strategies.

The Commissioner has released four new resources in April 2016 on child safe practices and principles based on the research and project work, and will begin to offer free seminars to promote and implement the child safe guidelines. The Department will be supporting the Commissioner to promote the child safe guidelines and seminars wherever possible.

In the review of *Better Care, Better Services*, the OOHC standards will align with the *Child Safe Organisations WA Guidelines*. All organisations seeking to provide OOHC in Western Australia will need to demonstrate how they will meet the standards.

The implementation of the revised *Better Care, Better Services* standards will also increase the Department's rigour and consistency in dealing with child-related employee misconduct. Within the quality standards, which will be independently monitored, OOHC organisations will be required to:

- have a code of conduct that includes clear guidelines for safe and appropriate behaviour with children;
- have robust policies and procedures to investigate and respond to child complaints and worker misconduct; and
- demonstrate timely responses to concerns or allegations made about the mistreatment, abuse and/or neglect of a child.

The Department has incorporated child safe strategies and practices within the interagency mandatory reporting information sessions that are provided across the state throughout the year to government and non-government agencies, including one-off sessions as requested by organisations. Both mandated and non-mandated reporters (including Department carers, residential facility employees, and community service sector carers and employees) are encouraged to attend.

The Department's Working with Children Screening Unit provides free information sessions that incorporate child safe strategies and practices, and has developed a guide (*Safer Organisations Safer Children*) to help organisations, including OOHC providers, create a child safe and friendly environment.

The Department's residential and secure care facilities use the 'Residential Care (Sanctuary) Framework' to provide a therapeutic care environment and best outcomes for children living in residential care. This framework includes seven goals for directly working with children to resolve trauma and create a safe non-violent living environment.

Viewpoint is a web-based interactive software program that promotes participation of children in care (five years and older) in the development of their personal care plans and in the development of services to meet the needs of all children in care.

The Department uses Viewpoint to obtain feedback about children's experiences in OOHC, including whether they feel safe in their care arrangement and the quality of care they receive. This provides a further avenue for children in care to voice any concerns or complaints.

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Viewpoint is also used to report nationally against the *National Standards for Out-of-Home Care*.

The Act is due for review in 2017. The Department will take this opportunity to consult with the community on a number of amendments to further improve the focus, accountability and quality of care provided to children in care in Western Australia. Legislative measures to support consistent high quality carer standards will be considered.

***Whether all forms of OOHC should be required to comply with all the child safe standards and principles***

Currently the Department's Standards and Monitoring Unit undertakes a comprehensive assessment of OOHC services provided by the Department's districts and community services sector OOHC providers in Western Australia. These assessments are undertaken using the nine standards outlined in *Better Care, Better Services*.

As noted above, the revised *Better Care, Better Services* standards will be aligned to the *Child Safe Organisations WA Guidelines*, and all organisations that seek to provide OOHC in Western Australia will need to demonstrate how they will meet these standards. The standards will be in two sections - safety standards and quality standards.

***The regulatory, oversight, monitoring and implementation support mechanisms that might be required to support the implementation of child safe standards in OOHC***

As part of the OOHC Reform Plan, a range of changes will be implemented to improve the monitoring and oversight of OOHC in Western Australia.

The OOHC system in Western Australia has typically relied on two defined models of care – volunteer foster care and residential care. In recent years, additional models of OOHC have evolved leading to some confusion as to which models are considered foster care or residential care. The different models have different accountabilities and oversights, such as the foster carer competencies.

To support greater clarity, the definition of foster care will be revised to “a non-family care arrangement where children are cared for in a place that is the carer's primary residence.” Irrespective of how a person is engaged by an organisation (a volunteer or employee), if a person meets this definition, they will be required to undergo and be approved against a competency based carer assessment.

In addition, changes will be made to the *Better Care, Better Services* standards to require all foster carers in WA to be assessed and approved against the regulated competencies.

To further support high quality standards for OOHC in WA, a cross-sector Foster Carer Panel will be implemented to consider the approval standards of all foster carers. An independent chair will lead the panel, which will comprise of Department and community services sector representatives. Members will be selected through an Expression of Interest process and will serve a time-limited term.

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The panel will also have the task of identifying cross-sector trends and issues to support continuous improvement.

Structural mechanisms will also be implemented to support the assessment process of relative carers (this term is to be replaced by 'family carers') to be high quality. The assessment will be independent of the caseworker and include high quality carer standards.

As part of the review of the Act in 2017, the Department will consider measures to strengthen consistent and high quality foster care standards.

In addition, to support consistency of standards, cross-sector OOHC standards will be developed for residential care workers.

***Whether there are specific challenges/considerations for the OOHC sector and/or particularly vulnerable groups within the OOHC setting when it comes to implementing child safe standards***

The Department recognises the need to strengthen the external oversight system for OOHC and is working with the Commissioner, Ombudsman WA, the Alliance for Children at Risk, CREATE Foundation and the Community Sector Roundtable to develop a robust model.

As outlined above, the implementation of the revised *Better Care, Better Services* standards will increase the rigour and consistency of the Department in dealing with child-related employee misconduct.

***Resources and support mechanisms that might be required for OOHC organisations to comply with child safe standards***

Education, awareness raising and helping OOHC organisations in WA to create and maintain a child safe and friendly environment is ongoing work for the Department.

The Department has learning pathways for all Department carers, residential employees and community services sector OOHC providers and their carers/employees. These pathways provide skills to comply with child safe standards, including the ability to recognise the indicators of abuse and respond appropriately to disclosures.

The Department also promotes protective behaviours training to children in care and the employees and carers supporting them. Protective Behaviours WA provides training directly to children and accredited training for case managers and carers to implement with children, including those in care, to equip them with the knowledge and tools to keep children safe from abuse.

As part of the OOHC reform plan, the Department will require all foster carer applicants (both Department foster carers and community services sector carers) to undergo specific preparation training (19 hours) prior to approval as a carer.

In addition, as part of the evaluation of the new Foster Carer Panel, consideration will be given to expanding the role of the panel to evaluate samples of foster carer reviews to check the standards of carers across the sector.

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As outlined above, the Commissioner has released new resources and is offering free seminars designed to promote and support the implementation of child safe principles and practices in organisations working with children in Western Australia.

The Commissioner is also exploring the development and promotion of child friendly options to report abuse and neglect directly to the Department or WA Police. The Department will continue to work with the Commissioner to develop strategies and resources.

***The best ways to drive continued practice improvement in child safety among relevant organisations within the OOHC sector***

In principle, every child in OOHC should receive the same level of services and safeguards. To achieve this, the Department will continue its work with the OOHC sector and other relevant government agencies to improve the care system in WA.

Central to achieving this will be the implementation of the OOHC reforms (outlined in *Building a Better Future: Out-of-Home Care Reform in Western Australia*), which includes a review and update of the *Better Care, Better Services* standards. This will further develop a care system that improves the safety and future outcomes for children living in OOHC.

**Chapter 7: A national strategy to prevent child sexual abuse in OOHC (page 98)**

***Raising awareness about children in OOHC being vulnerable to sexual victimisation and revictimisation, among carers, children in OOHC, practitioners and OOHC service providers***

The Department supports raising awareness about children in OOHC being vulnerable to sexual victimisation and revictimisation.

The Department has comprehensive health care planning for children in care, which incorporates sexual health. However, carers' knowledge and ability to support children in OOHC understand healthy relationships, age appropriate sexual health information and sexual safety is not well understood.

The Department currently provides carers with training to become a carer. Carers are also given access to ongoing training which highlights children's vulnerability to sexual abuse.

Funded services can either access the Department's training courses and/or provide their own training to staff.

The Department is developing improved training for staff on working with family (relative) carers. All foster carer applicants will be required to complete the approved preparation training prior to approval as a carer. Flexible learning options will be available to foster carers living outside the metropolitan area.

***An education prevention program targeted to children, carers and practitioners in OOHC, which:***

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- ***identifies the necessary elements, drawing on those covered in school based programs identified in this chapter***
- ***covers how children can make a disclosure***
- ***covers how to support young people when a friend discloses sexual abuse to them***
- ***covers all forms of child sexual abuse by different perpetrator groups***
- ***is flexible and tailored to meet the individual needs of a child and their history***
- ***is delivered in a variety of formats, such as supportive group formats or on an individual basis***

The Department supports an education prevention program targeted to carers, residential care workers and practitioners in OOHC, including flexible learning options for carers living outside the metropolitan area. The development of national learning modules may be a more cost effective way than jurisdictions each investing resources to develop their own packages.

The Department considers that carers, residential care workers and case managers should play a critical role in providing children in care with age appropriate sexual health information on a regular basis. This encourages open and honest communication about all aspects of sexuality, normalises discussions about sexuality and manages the individual needs and vulnerabilities of each child in care.

The Department contracts the organisation ThinkUKnow to run an annual cyber safety education program for foster carers. It also provides other related training (including concerning sexual behaviours) and information about the impact of abuse and neglect.

The Department does not currently facilitate any training directly with children in OOHC, however protective behaviours programs are delivered on an individual basis to children in care.

The Department would not support an education prevention program specifically for children in OOHC as it considers it would be more appropriate for this information to be provided individually by the child's case manager and/or carer who has a relationship with the child. A general education prevention program as part of the school curriculum (as outlined in the Consultation Paper) is more appropriate and more likely to capture a higher number of children in OOHC. In addition, due to the higher likelihood that children will disclose to a peer, this is considered to be the most appropriate forum to provide the information.

Formal processes exist between the Department and the Department of Education for children in OOHC who are not engaged in education. Where this occurs, a comprehensive plan for re-engagement into education is developed, with active case management, to minimise the length of time the children are not accessing formal education.

***Development and distribution of resources that are culturally sensitive and suitable for young people with a range of special needs including learning problems and/or disability***

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The Department supports this approach.

***Development and distribution of resources that include material for same sex attracted and gender questioning young people***

The Department supports this approach. However, the information should be provided as part of healthy sexual development rather than associated with child sexual abuse.

***Development of an education and training framework for all foster, kinship/relative and residential carers and practitioners based on:***

- ***role clarity, processes and recording practices as set out in OOHC policies and procedures***
- ***understanding the importance of enabling a culture of openness, and creating an environment where a child feels safe to disclose abuse***
- ***developing skills and knowledge about how to talk to children about healthy relationships and sexuality education***
- ***understanding social media policies, with specific reference to pornography and the transmission of sexualised images (sexting)***
- ***awareness about the added risk of bullying, exploitation, depression and risk taking for same sex attracted and gender questioning young people***
- ***ongoing coaching and supervision of staff and carers, building on their initial education and training as outlined above, to develop their knowledge of and skills in using the resources***

The Department supports the development of a national education and training framework or tools for all foster, kinship/relative and residential carers and practitioners.

***Mechanisms for implementing, reviewing, evaluating and improving prevention strategies and their components***

The Department supports mechanisms for implementing, reviewing, evaluating and improving prevention strategies and their components that are easily administered, and where information is collated and reviewed through a central point.

**Chapter 8: Improving support for children and young people (page 120)**

***Establish a nationally consistent therapeutic framework for OOHC service delivery***

***1. Develop a sector-wide and nationally agreed therapeutic care framework that defines therapeutic care, and outlines the essential elements required.***

***2. Embed consistent evaluation of child outcomes and longitudinal research, to inform the development of therapeutic residential care.***



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Establishing a nationally consistent therapeutic framework that outlines the essential elements or principles of therapeutic care could be beneficial. Alternatively, it may be an option for jurisdictions to have a trauma informed therapeutic care approach.

There is value in tracking child outcomes and longitudinal research to inform ongoing development and improvement of all OOHC services, including the development of therapeutic residential care. However, this data collection is more appropriately achieved within jurisdictions<sup>14</sup> rather than across jurisdictions due to the differences in data capture methods.

The provision of OOHC by the Department is grounded in the trauma informed models of Circle of Security<sup>15</sup> and the Residential Care (Sanctuary) Framework (Sanctuary)<sup>16</sup>. These models guide how carers and Department workers support children to heal from the trauma they have endured.

Circle of Security is a relationship based early intervention program designed to enhance attachment security between parents/caregivers and children.

The training in all settings is based upon the following assumptions.

1. Learning (including therapeutic change) occurs from within a secure base relationship.
2. The quality of the parent/child attachment, which is amenable to change, plays a significant role in the life trajectory of the child.
3. Interventions need to be based on a differential diagnosis that is informed by research-based theory.
4. Lasting change comes from parents developing specific relationship capacities rather than learning techniques to manage behaviours. The capacities needed for a secure relationship include:
  - observational skills informed by a coherent model of children's developmental needs;
  - reflective functioning and the ability to enter into reflective dialogue;
  - the ability to engage with children in the regulation of their emotions; and
  - empathy.<sup>17</sup>

Sanctuary is a theory-based, trauma-informed, whole system approach, designed to facilitate the development of structures, processes and behaviours to counteract the effects of past trauma on children and young people in care. It is designed for use across a number of settings that involve vulnerable individuals.

The aim of Sanctuary is to assist organisations to develop the following cultural characteristics related to trauma resolution: Culture of Nonviolence; Culture of Emotional Intelligence; Culture of Inquiry & Social Learning; Culture of Shared

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<sup>14</sup> The OOHC Reform Plan identifies how *An Outcomes Framework for Children in Out-of-Home Care in Western Australia* will be implemented (pp 38-39).

<sup>15</sup> Powell, B., Cooper, G., Hoffman, K., & Marvin, B. (2013). *The Circle of Security Intervention: Enhancing attachment in early parent-child relationships*. New York, NY: Guilford Press.

<sup>16</sup> Sandra L Bloom (2005), The Sanctuary Model of Organisational Change for Children's Residential Treatment, *Therapeutic Community: The International Journal for Therapeutic and Supportive Organisations* 26(1): 65-81

<sup>17</sup> <http://circleofsecurity.net/for-professionals/resources/treatment-assumptions/>

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Governance; Culture of Open Communication; Culture of Social Responsibility; and Culture of Growth and Change.

Sanctuary has been implemented for over four years within the Department, initially through the release of the Residential Care (Sanctuary) Framework in November 2011 and complements the Department's values. Sanctuary is now implemented in all residential group homes and in the secure care unit. In 2014, the Department became the first government agency and the second agency in Australia, to be certified as a Sanctuary Organisation. Certification signifies that an organisation provides a higher level of care, within a trauma-sensitive environment for children, staff and families. Certification is reviewed every three years.

Currently, other than the Family Group Home program, there is no formal expectation for community sector organisations to articulate and demonstrate the therapeutic model that they utilise in their provision of OOHC. However, despite it not being a current requirement, most community sector organisations employ well established and effective therapeutic models of care. As part of the OOHC reform in WA, all community sector organisations will be expected to demonstrate the evidence-based therapeutic model that underpins their provision of OOHC.

***Expand trauma-informed therapeutic treatment and advocacy and support services***

***3. Ensure that children can access trauma-informed advocacy and support services.***

***4. Address the cultural needs of children from Aboriginal and Torres Strait Islander backgrounds and young people who have been sexually abused in care, through appropriate therapeutic treatment, advocacy and support services that, where possible, be provided by Aboriginal and Torres Strait Islander practitioners.***

***5. Ensure adequate access to therapeutic treatment and advocacy and support that is tailored to a child's individual needs, culture, age and abilities, with particular consideration for children with disability and children from culturally and linguistically diverse backgrounds.***

***6. Ensure adequate access to therapeutic treatment and advocacy and support for children who live in rural and remote areas within Australia.***

***7. Provide systematic training for carers and practitioners, especially in the areas of therapeutic care, responding to trauma and the impact of sexual abuse. Regular supervision and support is integral to good outcomes, and training should not be a one-off event; rather, it must be part of an overall strategy and therapeutic approach to OOHC.***

The Department supports these proposals in principle. However, expansion of services will have cost implications and will be dependent on resources becoming available.

Currently children who have experienced abuse are supported through the case management process to access appropriate treatment and support services, including psychologists within the Department.

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Child Sexual Abuse Therapeutic Services are part of an integrated response to child sexual abuse. As outlined in page 4, the Department funds 13 Child Sexual Abuse Therapeutic Services (nine in the country and four in the metropolitan area) and two Indigenous Healing Services across WA (one country and one metropolitan). Service Agreements support the Department referrals to Child Sexual Abuse Therapeutic Services, with children in the CEO's care a priority.

Indigenous Healing Services provide healing, support, counselling and therapeutic responses to Aboriginal children, young people and families affected by child sexual abuse in a culturally appropriate setting.

The OOHC Reform Plan proposes that all children in OOHC will have an identified care team, comprising a group of people important to the child and carer. In supporting the child and carer, the care team will be guided by the question, "*what is required to support the child in this care arrangement?*" The care team will then have a shared responsibility for supporting and meeting the needs of that child in their care arrangement.

The Department has developed learning pathways for all staff and carers working with children in OOHC, including community service sector OOHC provider carers and employees, to equip them with the skills to identify signs of child abuse and support them in looking after children (including responding to trauma and the impact of sexual abuse).

***Enhance placement stability and reduce the number of 'strangers' in a child's life by increasing the availability of placement options- including professional carer models***

***8. Develop professional foster care models, in-home care models, and therapeutic family group home models of care.***

***9. Expand residential therapeutic treatment options for children.***

***10. Create nationally consistent system for home-based care reimbursements, to address allowances differing greatly across jurisdictions.***

The OOHC Reform Plan recommends a number of actions to enhance placement stability and reduce the number of 'strangers' in a child's life. These include clearly articulating a child's place in their permanency journey, identifying and resourcing the individual needs of children, matching children and carers, respite care (short break support) being provided where possible by naturally occurring networks and the care team approach.

In WA, foster carers will be categorised as temporary (whose role it is to care for a child where no final decision has been made for their legal care future) or permanent (whose role it is to care for a child when they live permanently out of their parent's care). Carers can be approved to be both temporary and permanent carers.

The individual needs of the children (including behavioural, health, emotional and cultural) and permanency needs (including if reunification is being pursued or if a permanency care arrangement is required) will be identified.

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A new resource allocation framework will be implemented in the OOHC system. This system will have the ability to more accurately and flexibly apportion resources to children and will give carers increased responsibility for managing resources for a child in their care as a way of normalising the child's life.

The importance of early and effective matching of a child with a carer who can meet their individual and permanency needs is crucial to lasting care arrangements that will lead to improved outcomes for that child. Poor matching leads to multiple care arrangements and further trauma for a child.

To improve matching of children to placement options, the Department is implementing a suite of strategies including a Needs Assessment Tool, new resource allocation framework, matching of children on individual and permanency plans, and contracting reforms of the community services sector to support more innovative, flexible and efficient service delivery.

As part of the new model, once a child protection worker is unable to locate suitable relatives or foster carers in their own district, all remaining care arrangements will be considered via the Central Referral Team located in the Department. This will include care arrangements in the community services sector and other Department district offices. This will improve the ability of the Department to provide early matches of children with carers that can meet their individual and permanency needs.

It will also allow the Department to better link Aboriginal children with Aboriginal carers.

The OOHC Reform Plan has also highlighted that recruitment and provision of foster care in regional and remote WA is difficult. This is problematic for children (with the majority being Aboriginal) in OOHC who do not have safe family care in their community. The only option available for many of these children is residential care or to leave their community. As part of its service system redesign, the Department will explore the procurement of innovative models of foster and residential care in regional and remote areas of the state, to support more children remaining in their community.

***Provide better workforce planning and development for residential care staff***

***11. Have jurisdictions agree on a strategy to professionalise and build the capacity of the residential carer workforce.***

***12. Have jurisdictions establish agreed targets for reducing the use of casual staff in residential care facilities.***

***13. Establish nationally consistent standards for training and supervising externally accredited residential carers.***

In relation to Recommendation 11, the Department's view is jurisdictions should have mechanisms in place to employ residential care staff with the appropriate knowledge and skills to work with vulnerable children.

Department residential care staff (including casual workers) are recruited, selected, trained and supported by the Department. Essential selection criteria includes Certificate III and Certificate IV in Community Services (Protective/Residential Care)

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or approved equivalent or experience in working with or caring for troubled children and young people who have experienced trauma. Additionally, senior workers have to demonstrate experience in the assessment and development of therapeutic intervention plans.

The Department promotes the ongoing development of residential staff and sees training and regular supervision as crucial. All residential staff working for the Department receive mandatory training in Therapeutic Crisis Intervention, Impact of Trauma and Sanctuary. Having skilled residential staff is integral to providing quality care to children.

WA's work to professionalise residential care staff has been undertaken using Sanctuary, which provides a framework and a shared language that allows staff to relate to each other in a professional way and also allows them to work toward healing the children rather than just providing caring accommodation.

The Department is concerned about setting agreed targets for the use of casual staff because flexibility in staffing composition is necessary to cover absences, such as these due to leave and training.

Organisations employ residential care workers through varying job descriptions. To support consistency of standards, cross-sector standards will be developed for residential care workers (including casual workers) as part of the OOHC Reform Plan.

The standard of quality OOHC provision in WA is currently monitored for compliance against the *Better Care, Better Services* standards. As part of the OOHC Reform Plan *Better Care, Better Services* will be reviewed and updated. This will provide an opportunity to demonstrate the alignment of WA safety and quality standards to the *National Standards of Out-of-Home Care*. It is proposed that the Ombudsman of WA monitor all organisations (Department and community services sector) against part 1 (safety) of the *Better Care, Better Services* standards (pending Government approval).

***Improve protections against child sexual abuse for children in kinship/relative care***

***14. Develop a 'kin-specific' approach to a culturally safe and appropriate kinship/relative carer assessment and recruitment that is differentiated from foster care approaches.***

***15. Increase the casework support and oversight for children in kinship/relative care.***

***16. Promote the engagement of Aboriginal and Torres Strait Islander children with their culture and strengthen the capacity of Aboriginal and Torres Strait Islander community controlled organisations to place and support children in care.***

***17. Increase the implementation of the Aboriginal and Torres Strait Islander Child Placement Principle, promoting culturally appropriate assessment; implementation of cultural care plans; monitoring and accountability for***

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***implementation; and holistic and community-based solutions to the support needs of Aboriginal and Torres Strait Islander kinship/relative carers.***

***18. Conduct more research to investigate the long-term outcomes for children of kinship/relative care.***

The Department supports proposals 14 to 18.

A number of actions are planned in this area as part of the Department's OOHRC Reform Plan.

The Department will implement a number of policy, funding and workforce changes to increase the support provided to family carers (the term family care will replace relative care in WA). This includes procuring additional or new services, as resources become available, to identify and support family carers. Procurement will have a particular focus on supporting Aboriginal family carers, including services supporting them to overcome issues of structural disadvantage (such as a lack of housing) and care for their family.

Other strategies include developing more inclusive assessment and review processes for family carers; making information and learning opportunities more timely and accessible for family carers; developing peer networks for family carers; and enhancing training to child protection workers to provide improved support to family carers.

To facilitate increased service provision to Aboriginal children and their families, and recognising that service provision by Aboriginal people for Aboriginal people is appropriate and effective, the Department will strategically support the growth of Aboriginal community controlled organisations (ACCOs). The long-term goal is for Aboriginal children and families to be supported by Aboriginal carers and workers, supported by Aboriginal organisations.

The focus of this work will be further strengthened through the implementation of the Department's recently endorsed *Aboriginal Services and Practice Framework 2016-18* (ASPF) at **Attachment 2**. The ASPF outlines how practices, structures, funding, policies and the workforce must be specifically tailored to meet the needs of Aboriginal children, families and community. Importantly, the ASPF outlines the ongoing imperative of partnership with the Aboriginal community in designing and delivering child protection services.

The Department agrees with the literature quoted in the Consultation Paper regarding the importance of ongoing support and training for family carers.<sup>18</sup> The Department's current guidance states that competency building is a key component of regular contact with approved family carers. Learning and Development Plans are required to be developed and reviewed on an ongoing basis so that the placement is a safe and positive experience for the child.

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<sup>18</sup> Royal Commission into Institutional Response to Child Sexual Abuse Consultation Paper Institutional Responses to Child Sexual Abuse in Out-of- Home Care March 2016 p 114.

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The most effective way to determine whether the OOHC system has supported children to have improved life chances is to capture the life outcomes for children well after they have left care.

The Department will be undertaking a longitudinal study into outcomes for children at the age of 25. This will be undertaken in partnership with Curtin University, Telethon Kids Institute and the Ministerial Advisory Council on Child Protection. Utilising the information from the *Data-linkage Project*, which captures information of an individual's interactions with other government agencies including health, corrective services and housing, the OOHC system's long-term performance can be evaluated.

***Increase support when leaving care, and in the care leaver's post-care life***

***19. Government and non-government OOHC service providers develop leaving care plans for all care leavers, and address any current risks to children when they leave care. Arrange access to therapeutic supports and ensure that young people:***

- ***are educated and supported in undertaking any victims compensation claims for sexual abuse and/or other abuse suffered while they were in care***
- ***know the processes involved in making complaints, including referring matters to the police for criminal investigation***
- ***have access to supportive environments where they can disclose abuse, both at the time of leaving care and after they have left care.***

***20. Consider innovative ways to communicate with young care leavers, such as the internet and mobile applications, so that the leaving care process can be part of the disclosure process for a young person who has been abused in care.***

***21. Improve recordkeeping and access to care leaver records.***

The Department supports proposals 19, 20 and 21 (see also chapter 6 - Child Safe Organisations - regarding the issue of complaints and what is planned to address this in Western Australia).

The Department's Leaving Care Policy and guidance reflect the importance of early and collaborative planning for children to transition into adulthood, and processes for care leavers to access records and support services.

A working group has recently been established involving young people in OOHC, the Department and CREATE WA to further explore the identified issues and develop an action plan. The issues highlighted in the Consultation Paper will be used to inform the ongoing work of this group.

To further support the implementation of Leaving Care Policy, as part of the OOHC Reform Plan, the Department will strengthen and focus the support services available to care leavers.

- The caring allowance will be extended to the end of the calendar year that a young person turns 18 years of age, when in their final year of study.

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- As resources become available, strengthen procurement of services to support care leavers.
- Amendments to the Act to include priority service provision by Government agencies to care leavers up to the age of 25.