

MacKillop Family Services

Submission on the Consultation Paper:

Institutional Responses to Child Sexual Abuse in Out-of-Home Care

Section 2: Child sexual exploitation and child-to-child sexual abuse

1. Child sexual exploitation

MacKillop welcomes the approach proposed in the Consultation Paper that would increase awareness of child sexual exploitation. As a provider of services in Victoria, we have participated in the state-wide forums and cross-disciplinary joint training sessions that have been underway in that State for some time. A key factor in the increased understanding of the issue of child sexual exploitation was the adoption of shared language and definitions and a commitment to a multi-agency approach involving police, child protection services and community service organisations.

In other jurisdictions, our staff report there is some evidence of a problematic residual emphasis on the culpability of the victim. In Victoria, stakeholders moved away from characterising child sexual exploitation as ‘prostitution’. This out-dated description carries the implication that a vulnerable and traumatised child is capable of consenting to sex with an adult who is likely to hold a great deal of power and resources compared with the child. In short, there was a shift to criminalising the activities of the perpetrator rather than the child. Stakeholders in other jurisdictions must review their understanding of the issues and the use of language to ensure culpability for sexually exploitative activities rests with the perpetrator.

A recent experience in Victoria illustrated the way a coordinated response to sexual exploitation can be effective. Police led an operation to respond to reports of child sexual exploitation in Melbourne’s south east region. Residential carers provided police with information about people who were seen waiting near residential homes, for example car registration numbers and descriptions of individuals. If a young person asked a staff member to collect them from a private address, the address would be recorded and provided to police.

Police would use this information to implement a range of tactics to disrupt activities of adults involved, including conducting detailed vehicle inspections to interrupt the suspect’s activity and prevent contact with targeted children. Victorian Department of Health and Human Services (DHHS) Child Protection are empowered to issue harbouring notices on suspects with the support of uniformed police, to emphasise the criminal nature of the activities being engaged in. The Sexual Offences and Child Abuse Investigation Teams (SOCIT) were also involved to conduct investigations.

While these activities were implemented, there were regular meetings between senior Child Protection representatives, SOCIT investigators, the DHHS Office of the Principal Practitioner and representatives from the Office of the Children’s Commissioner. Communications were supported by robust information sharing protocols, including measures to protect the security and integrity of information.

The Consultation Paper notes the risk in out-of-home care presented by grooming. This risk extends beyond child exploitation perpetrated by individuals outside of out-of-home care services. Greater vigilance to potential grooming behaviours, including among staff or carers requires strategies to equip all staff in out-of-home care to identify and respond to potential

grooming behaviours and the indicators – both verbal and non-verbal – that abuse may be occurring. While a number of jurisdictions, including Victoria have introduced laws to address grooming behaviours we suggest these are not well implemented in out-of-home care. Further learning and development opportunities should be implemented to support a greater understanding and awareness of grooming.

2. Child-to-child sexual abuse

As noted in the Consultation Paper and also by the Victorian Commission for Children and Young People's report *As a Good Parent Would*¹, placement matching mechanisms are a critical element in the prevention of child-to-child sexual abuse. MacKillop's experience of the joint departmental / community service organisation placement matching mechanisms in NSW has been positive. We view the adoption of placement matching panels in all jurisdictions as critical to ensure that placement decisions are made in the best interests of children and young people.

Existing demand pressures in out-of-home care continue to compromise the safety of some children and young people, particularly in residential care. Resourcing of residential care and the availability of alternative care options such as professional foster care remain key factors in the ability of organisations to effectively protect the safety of children in care and prevent and respond to child-to-child sexual abuse. In MacKillop's view, more staff, better training, better information sharing and purpose built homes will all go some way to preventing child-to-child sexual abuse in out-of-home care.

Understanding sexual development

There are a number of factors that can inhibit the accurate identification of child-to-child sexual abuse. Organisational staff often do not have a consistent understanding of these complexities.

What we know is that all children and young people need to learn about sex, love and consent in a safe environment. This is a complex responsibility for out-of-home care staff who are supporting children who have experienced significant trauma that may include sexual abuse prior to coming into care and disrupted attachment.

Clear learning and development strategies are required to ensure staff are equipped to navigate these issues with the children in their care.

Treatment options

MacKillop also endorses the work of existing services in NSW and Victoria for young people who have engaged in sexually harmful behaviour. We support expansion of these services into rural and remote communities and other states and territories.

We understand that some services limit support if criminal justice proceedings commence against the young person. Regardless of legal proceedings, children and young people are

¹ Commission for Children and Young People (2015) 'As a good parent would': *Inquiry into the adequacy of the provision of residential care services to Victorian children and young people who have been subject to sexual abuse or sexual exploitation whilst residing in residential care*, Victorian Government, August 2015. Report available at <http://www.cyp.vic.gov.au/downloads/inquiry/final-report-as-a-good-parent-would.pdf>

entitled to services that work with them to deal with their behaviours and prevent escalation which might occur if treatment stops.

In cases where a child or young person has engaged in sexually harmful behaviour, there can be a tension between adequate sharing of information among service providers, including out-of-home care providers, and 'labelling' a child or young person as a perpetrator. Agencies need factual information about the child in order to place them appropriately. Honest, transparent and timely information sharing will ultimately enhance cooperation between agencies.

Section 3: Data Limitations

MacKillop supports the data model proposed in the Consultation Paper, noting that data collected should only be used for the purposes for which it is collected. Other points for consideration in relation to the proposed data model include the need to:

- Strengthen the evidence base by collating data on a child or young person's experience of abuse prior to entering care;
- Collate data on the number of incidents of abuse in care;
- Support the development or purchase of data collection software and resource the training required to use this software;
- Ensure data collection systems are user-friendly. They should be accessible, easy to input and navigate and where possible draw on existing data sets to prevent duplication and minimise the administrative burden;

Section 4: Regulation and oversight

Accreditation of out-of-home care service providers

1. To ensure that regulation and oversight is consistent across Australia, MacKillop supports nationally consistent standards. However, national consistency should not dilute the assessment and accreditation process in States where the standards are more rigorous.

MacKillop notes the difference between, for example, Victoria and NSW accreditation timeframes. In NSW organisations are accredited for a period of up to five years. In Victoria, it is every three years. We support the practice in NSW that allows for less frequent accreditation processes but more frequent monitoring in the intervening period.

In MacKillop's experience, the implementation of spot audits in Victoria has also been an effective oversight mechanism to monitor compliance with standards in out-of-home care. Commencing in April 2015, spot audits, or unannounced visits to residential homes, allow regulators to assess a home with very little notice of the visit. This helps to ensure that agencies are consistently compliant and accountable. In MacKillop's view, spot audits should be incorporated into the monitoring of residential care in all jurisdictions.

Authorisation of carers

2. MacKillop is supportive of a minimum agreed assessment and authorisation process for carers. We suggest the achievement of nationally agreed areas of competency for assessment, training, authorisation, support and supervision of carers.

We agree that satisfactory probity, criminal and working with vulnerable persons checks should be conducted for all people in the carer household over the age of 16. This is consistent with the process in NSW.

While the NSW system is preferred, we note there is potential for confusion about the roles and responsibilities of each of the agencies that hold information about carers or investigate or respond to allegations of abuse (reportable allegations). There is a risk that critical information will be missed because of the multiplicity of authorities responsible for child safety. A streamlining of powers and consolidation into a single agency may alleviate this risk.

MacKillop also supports regular review of carers, including giving children the opportunity to provide feedback about their placement. This would require some further consideration, to ensure these conversations are able to take place with a trusted adult who is not connected with the placement.

Oversight of the out-of-home care system

3. MacKillop supports assessment systems for accreditation that are undertaken by an agency that is independent of the lead department as is the case in NSW with the Children's Guardian. All out-of-home care services, including those services that may be provided by lead departments, should be subject to the same accreditation requirements and associated monitoring systems.

4. MacKillop supports the extension of a NSW-style reportable conduct scheme in each jurisdiction that is independent of the lead department. However, we note there may be some confusion about the use of the expression 'complaints handling'. Complaints handling mechanisms within organisations typically receive and investigate a broad range of complaints. Many of these do not relate to child sexual abuse and are minor issues that are appropriately dealt with by the agency's internal processes. Adoption of a reportable conduct scheme would require clear guidance for organisations on what constitutes 'reportable conduct'.

5. MacKillop supports the introduction of a Carers Register in each jurisdiction. In our view, it should include a range of information, including details of the history of allegations and quality of care complaints (substantiated and unsubstantiated). With appropriate safeguards, the information should be accessible across jurisdictions.

Section 5: Information sharing

While MacKillop is supportive of enhanced information sharing mechanisms, in line with Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998* (NSW), we note there have been some difficulties with implementation which should be considered prior to implementation in other jurisdictions. In MacKillop's experience, some agencies still do not understand their role and responsibilities in information sharing under Chapter 16A.

In our view, it would be useful for a single entity to be responsible for overseeing and supporting the implementation of legislation for information sharing in other jurisdictions.

Section 6: Child Safe Organisations

MacKillop supports the nine key elements for creating child safe organisations outlined in Section 6 of the Consultation Paper. In our view the most effective way to embed these elements and to ensure they can be implemented by out-of-home care providers is to place them within the proposed nationally consistent standards, as discussed in Section 4.

MacKillop is especially supportive of mechanisms that enable the voice of children to be heard. We view this as a key protective mechanism against sexual abuse. In our view, some organisations will require support to develop child safe policies and practices.

In addition, we note the challenges associated with internet, including social media, in creating and sustaining a child safe environment. The Consultation Paper correctly outlines how the use of social media to support child exploitation and enable access to pornographic material on the internet puts children in out-of-home care at risk. The maintenance of safe online environments for children and young people will remain a challenge for providers of out-of-home care. This will continue as technology evolves.

Our experience suggests that strategies to manage this risk are not well developed at this time. An effective response requires an organisation to possess the resources to protect children when they are engaging online, supported by a workforce with the knowledge and skills, to moderate the risks presented by the internet, while not limiting access to the benefits.

Section 7: Prevention of child sexual abuse in out-of-home care

MacKillop supports the development of a consistent national education strategy to prevent child sexual abuse in out-of-home care and suggests the work of Our Watch² may provide guidance on developing and implementing community education strategies.

A national education strategy for children and young people in care must be carefully tailored and delivered, taking into account the history of trauma experiences and the potential disengagement from the community and mainstream education. Any such approach must include a focus on engaging this vulnerable cohort of children and young people. Children and young people living in out-of-home care may not receive the full benefits of a mainstream healthy relationships program due to being disengaged from schooling.

MacKillop supports a nationally consistent training framework for all carers on prevention of child sexual abuse in care as outlined in the Consultation Paper.

² Our Watch was established to drive nationwide change in the culture, behaviours and power imbalances that lead to violence against women and their children. See ourwatch.org.au

Section 8: A supportive and quality care environment

Establish a nationally consistent therapeutic framework for out-of-home care service delivery

There are a range of mechanisms to better support children who have been sexually abused in out-of-home care. Progress towards national consistency across the areas of training for carers, therapeutic care, leaving care and evaluation of outcomes are welcome.

MacKillop Family Services is a member of the National Therapeutic Residential Care Alliance (NTRCA). The NTRCA has developed a definition of therapeutic residential care (TRC) that we propose should be adopted in the development of a nationally consistent framework.

Therapeutic Residential Care is intensive and time-limited care for a child or young person in statutory care that responds to the complex impacts of abuse, neglect and separation from family. This is achieved through the creation of positive, safe, healing relationships and experiences informed by a sound understanding of trauma, damaged attachment, and developmental needs.

In addition to the elements of therapeutic care that appear on page 102 of the Consultation Paper, MacKillop recommends:

- Organisational congruence and commitment to a therapeutic approach;
- Establishment of placement matching panels in jurisdictions that do not currently have them. Placement matching panels to base their decisions on a therapeutic assessment of the child or young person;
- Planned transitions for young people coming into residential care;
- Regular care team meetings;
- Resourcing that supports higher staff levels. This would allow capacity to respond to the needs of the children or young people and enhance their safety;
- Regular, ongoing, one-on-one staff supervision;
- Regular team reflective practice sessions for staff led by a therapeutic specialist;
- Support and therapeutic planning for young people beyond 18, reinforcing attachments that have been established in residential care;
- A safe, home-like environment that has plenty of natural light and open space, a balance of shared and private spaces, and furnished and decorated with input from young people.

Evaluation of Therapeutic Residential Care

Evaluation and monitoring mechanisms should be consistent across jurisdictions to ensure that all children and young people are receiving the same high quality care regardless of where they live. The Victorian evaluation of TRC pilots³ provides a useful framework for an ongoing evaluation and monitoring of outcomes in TRC across the country. MacKillop suggests the adoption of such a consistent methodology.

³ Department of Human Services (2011) *Evaluation of the Therapeutic Residential Care Pilot Programs: Final Summary and Technical Report*, Verso Consulting.

Expand trauma-informed therapeutic treatment and advocacy support services

Access to trauma-informed advocacy and support services

Children and young people in out-of-home care should have access to trauma-informed support, therapeutic treatment and advocacy relevant to their needs.

MacKillop views the information given to a child or young person when they enter residential care as critically important. In MacKillop's experience, this helps young people to understand that we will work together to help the young person settle into their new home, establish attachment to carers and understand the roles of the staff members and carers with whom they are having contact.

Young people are entitled to expect that they will receive trauma-informed advocacy and support services. On entering care, young people should be informed about the supports they can expect to receive, the types of support they might benefit from and how this support can be facilitated (e.g. through outreach services, assistance with transport and other strategies to assist with engagement).

Access to tailored therapeutic treatment and advocacy and support

MacKillop works with external support agencies to ensure that services are tailored to the child or young person's individual needs. For example, a young person in residential care may need mental health and drug and alcohol outreach services. Mainstream agencies may not be accustomed to working in outreach models and links between residential care staff and mainstream services are essential to ensure all services are meeting the needs of children and young people in their own home or community.

Specialised training and workforce development is necessary for some service providers to understand out-of-home care and the experiences – particularly experiences of trauma – of children and young people.

Additionally, MacKillop is an accredited Sanctuary Model organisation. We utilise psycho-education – the practice of educating individuals about trauma to empower them to understand and manage mental health and relationships – in our work with children and young people in out-of-home care.

Access to therapeutic treatment and advocacy in rural and remote areas

MacKillop provides services in areas that are rural and remote. We acknowledge the additional disadvantage faced by populations in these areas due to the limited access to specialist support. In many areas there are long waiting lists for services. Staff have also reported there are few options for individuals who are unable to establish rapport with a clinical service provider.

Providing out-of-home care services in rural and remote locations requires flexibility in the service responses but there are costs associated with ensuring rural and remote Australians receive supports that are commensurate with those in urban areas.

Creative approaches include co-location of agencies within hubs and cross-agency support and supervision for remote workers.

Provide systemic training for carers and practitioners

Carers and practitioners at MacKillop receive training, on the job mentoring, coaching and tools to embed therapeutic principles. MacKillop has adopted the Sanctuary Model which includes a set of tools such as community meetings, safety plans and self-care planning to assist staff to practice in a manner that is trauma-informed.

These mechanisms must be supported by practice forums that allow carers to learn together through discussing practice challenges and successes.

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

Professional foster care

MacKillop supports adequate remuneration of foster carers and supports the removal of taxation and industrial relations barriers to professionalised foster care. There are a number of recommendations made in the report prepared by ACILAllen Consulting in 2013⁴ which are worthy of consideration.

A professionalised foster care ‘work-force’ should have a deep understanding of the impact of trauma, and enhanced skills to respond therapeutically to the children in their care. Professional Foster Care should not replace current voluntary Foster Care approaches but act as a complementary placement option for appropriately matched children and young people.

Provide better workforce planning and development for residential care staff

The proposal to improve the formal qualification of the residential care workforce is welcomed. Ideally, this should be done in partnership between lead departments, agencies, peak bodies and academic institutions.

In Victoria, the Centre for Excellence in Child and Family Welfare is funded to manage and provide the state-wide Residential Care and Learning and Development Strategy. This training recognises the unique role played by residential carers and seeks to train them to perform their role with professionalism and confidence.

In addition, MacKillop recommends a minimum certification/qualification, customised to the field, which the individual can work towards while in employment. Such a qualification for residential carers should be linked to a nationally consistent accreditation scheme. At a minimum, residential care workers should be expected to have an understanding of trauma and attachment, therapeutic residential care and therapeutic crisis intervention.

As a provider of services in three states, MacKillop agrees that a universal set of competencies linked to therapeutic principles should apply to all residential carers.

⁴ ACILAllen Consulting (2013) Professional Foster Care Barriers, Opportunities and Options: Report to Australian Government Department of Families, Housing, Community Services and Indigenous Affairs, Melbourne.

Casual staff

MacKillop suggests there is a distinction between ‘casual’ staff and labour-hire staff. Labour-hire staff are those employed by a third party. This is in contrast to casual staff, who are employed by MacKillop. Casual staffing, like part time staffing, is a useful model for people who may be juggling other responsibilities and also provides the organisation with the flexibility to manage the requirements of a 24/7 roster, including sick leave. In the case of residential care staff, they might be undertaking study in a relevant discipline or parents re-entering the workforce. The casual nature of their employment should not act as a deterrent to the value of such people to the residential care environment. MacKillop would not wish to exclude skilled and experienced workers on the basis of their type of employment.

MacKillop suggests that casual staff that are attached to an out-of-home care provider, and trained and supported by that organisation are preferable to labour-hire staff. MacKillop suggests that this approach reduces the number of residential carers that are working with children and young people.

MacKillop has reduced the use of agency staff by developing a ‘casual pool’ of staff. MacKillop’s casual staff are known to MacKillop, have undergone all pre-employment checks, Sanctuary Model and other training and are known to the children, young people and other staff. These casuals are used to replace staff who are sick, on training or leave.

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

The Consultation Paper correctly identifies the challenges associated with kinship care. The type of placement type should not be a determinant of safety. Children and young people in kinship care are entitled to the same levels of safety as those in other types of care. However, kinship care requires a different approach for a number of reasons. For example, kinship placements may occur before a detailed assessment has taken place.

Additionally, kinship carers have to negotiate family dynamics and their responsibility to protect the child. In MacKillop’s experience, kinship carers are often older, single grandparents who may struggle with the burden of caring for a child or young person. MacKillop therefore advocates for kinship carers to receive sustained case management and in-home support.

Strengthening capacity of Aboriginal Community Controlled Organisations

In Victoria, MacKillop has committed to the *Beyond Good Intentions* statement⁵. As a mainstream agency we are obligated to support and assist Aboriginal Community Controlled Organisations (ACCOs) to secure additional resources and to work towards transferring resources, services, programs and authority for service provision.

MacKillop works in partnership with ACCOs in Victoria, NSW and WA to support local communities to care for and protect Aboriginal children. These partnerships are intended to support Aboriginal children and young people being cared for by Aboriginal families and

⁵ Developed in Victoria, the purpose of the *Beyond Good Intentions* statement is to drive collaboration and reform to create a fair, just and restorative child and family welfare service system for Aboriginal and Torres Strait Islander children. For further information see <http://www.cfecfw.asn.au/news/2015/12/beyond-good-intentions>

within community. These partnerships also aim to encourage critical links with culture, family, community, education and friends.

Our partnership with Wirraka Maya Health Service Aboriginal Corporation in WA is delivering foster care services in the Pilbara region, by Aboriginal people, for Aboriginal people.

Commencing in 2012, the NSW transition agenda created a framework to support partnerships between ACCOs and mainstream agencies. To date, this is the only state-wide framework that incorporates strategies designed to facilitate Aboriginal and mainstream agency collaboration towards the goal of Aboriginal children in out-of-home care being cared for by Aboriginal agencies. MacKillop supports the introduction of such an approach in other jurisdictions.

In NSW we have built a strong partnership with the South Coast Medical Service Aboriginal Corporation to deliver foster care placements for Aboriginal children, ensuring that it is culturally competent and meets the cultural needs of Aboriginal children and young people seeking connection to culture.

Aboriginal Child Placement Principle

Implementation of, and compliance with, the Aboriginal Child Placement Principle (ACPP) could be improved by ensuring funding for implementation of, and compliance with, the ACPP is commensurate with the needs and numbers of Aboriginal children entering out-of-home care. Mechanisms include:

- Better resourcing of Aboriginal family support and placement prevention programs to prevent entry into care.
- Better identification of Aboriginal children and young people to improve their chances of receiving culturally competent services.
- Capacity building within lead departments and mainstream community agencies to ensure staff working with Aboriginal children, young people, families and communities work in cultural safe and respectful ways.
- More and better Aboriginal Family Led Decision Making (AFLDM). Family have an essential role and voice in planning for the placement of a child. Without AFLDM it can be difficult to identify potential carers among family members.
- Reduce barriers to the recruitment of Aboriginal carers, these include trauma associated with Stolen Generations impacting upon capacity to care for children; unwillingness to be associated with the welfare/child removal system; high numbers of children within the community, compared with adults; disproportionately high numbers of Aboriginal children in care.

In NSW, out-of-home care placement decisions are made with the support of the Aboriginal Placement Matching Panel, which operates alongside the mainstream Placement Matching Panel. In our experience working with the South Coast Medical Service Aboriginal Corporation, this ensures that when placement decisions are made, the right people are consulted, including people with connections to elders and community. Where community and country are distant from the South Coast, the Panel can also include people who have knowledge of the child's family and country. A number of avenues can be explored to locate connections and family members in making placements that support the intent of the ACPP.

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

MacKillop agrees that a greater emphasis should be placed on support for young people when they turn 18 up to age 25. In relation to the experience of abuse in care, young people must be informed about what supports are available. Out-of-home care providers must be resourced to meet the responsibility to be available to offer support to young people should they need to return.

MacKillop's Heritage and Information Service was established in 1997. The Heritage and Information Service is custodian of thousands of personal and organisational stories of past residents. Anyone with a connection to MacKillop or its founding agencies can access records relating to their childhood and find their individual or family story.

MacKillop's Heritage and Information Service:

- provides comprehensive supported access to records by former residents of our founding agencies;
- searches for separated family members;
- facilitates family reunions;
- provides advice on processes for contacting police and assistance contacting support services in the case of a disclosure of abuse in care; and
- offers services that reconnect former residents with each other and supports many social events for former residents.

All young people in MacKillop's out-of-home care or leaving care are informed that their records are held by MacKillop and can be accessed at any time in the future. MacKillop provides a clear pathway for access to files and creates an environment for care leavers to return to talk about their experience in care.

Consider innovative ways to communicate with young care leavers

Young care leavers require a wide range of supports to assist them. Technology that can be used to assist with connecting them quickly with supports is welcomed. MacKillop has advocated for all care leavers to be provided with a pre-paid mobile telephone.

Conclusion

The work of the Royal Commission has been invaluable in highlighting issues across institutions, but in particular, in out-of-home care. The Consultation Paper provides a range of strategies and proposed reforms that can guide effective change and create a nationally consistent framework to prevent and respond to child sexual abuse in out-of-home care.

The agreement of the State and Territories will be essential to further develop and implement new strategies. Some jurisdictions are already undertaking work in this regard, and we are supportive of initiatives underway in Victoria (for example, preventing child exploitation) and NSW (for example, information sharing mechanisms).

Professionalised foster care and consistent therapeutic residential care approaches must be part of any framework to prevent and respond to abuse. This includes funding that is commensurate with the level of responsibility taken on by community agencies, to train, support and supervise carers effectively, and to create child safe environments.

MacKillop looks forward to the release of findings in relation to *Case Study 24: Preventing Child Sexual Abuse in Out-of-Home Care*, and welcomes the opportunity to contribute further to the work of the Royal Commission on this issue should the opportunity arise.