

**NSW Government Submission
Royal Commission into Institutional
Responses to Child Sexual Abuse
Out-of-Home Care Consultation Paper**

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Common acronyms & abbreviations

AbSec	Aboriginal Child, Family & Community Care State Secretariat (NSW)
ACWA	Association of Children's Welfare Agencies
AIHW	Australian Institute of Health and Welfare
CALD	Culturally and Linguistically Diverse
CCNSW	Connecting Carers NSW
CESE	Centre for Education Statistics and Evaluation
Chapter 16A	Chapter 16A, <i>Children and Young Persons (Care and Protection) Act 1998</i>
CSC	Community Services Centre
FACS	NSW Department of Family and Community Services
JIRT	Joint Investigation Response Team
KiDS	Key Information Directory System
New Street	NSW Department of Health's New Street Adolescent Program
NGO	Non-government organisation
NSW	The NSW Government
OCG	NSW Office of the Children's Guardian
OOHC	Out-of-home care
PDHPE	NSW Physical Development, Health and Physical Education
POCLS	Pathways of Care Longitudinal Study
The Act	<i>Children and Young Persons (Care and Protection) Act 1998</i>
The Paper	The Royal Commission's Consultation Paper on Institutional Responses to Child Sexual Abuse in Out-of-Home Care

1. Introduction

The NSW Government (NSW) welcomes the Royal Commission's Consultation Paper on Institutional Responses to Child Sexual Abuse in Out-of-Home Care (the Paper).

NSW recognises there will always be children¹ who are not able to live at home safely. Safeguarding them from harm is a priority and a shared responsibility, with Government, out-of-home care (OOHC) agencies, carers and communities all playing an important role in ensuring children receive the care and support they need.

The Paper draws on the work of the Royal Commission and its examination of the complex issues relevant to the experiences of children in OOHC in the quest for a better understanding of how children are made vulnerable to sexual abuse.

While acknowledging the work still to be done, the NSW OOHC system has been designed to prevent and respond to many of the issues raised by the Royal Commission. It is positive that many of the suggested responses and recommendations, particularly in the area of regulation and oversight, are strategies already in place in NSW. NSW recognises the dedicated work of the NSW Ombudsman and Office of the Children's Guardian (OCG) in these areas.

The NSW submission builds on advice already provided to the Royal Commission and where possible, avoids repeating this information. Where NSW has a view which varies from the approach being put forward by the Royal Commission we have explained why this view differs.

NSW is committed to working with all stakeholders to develop evidence-based policy and practice to ensure the OOHC system is proactive in preventing child sexual abuse and responsive where child sexual abuse occurs.

¹ References in this response to the words child/children are intended to include both children and young people/persons as defined in the *Children and Young Persons (Care and Protection) Act 1998* whereby a 'child' is defined as a person under 16 years of age, and a 'young person' is defined as a person aged 16 or 17 years.

2. Child sexual exploitation and child-to-child sexual abuse

Child sexual exploitation

Identifying and responding to child sexual exploitation

NSW supports further examination of the issue of child sexual exploitation in the context of OOHC.

We note that the NSW Parliament Joint Committee on Children and Young People is currently undertaking an inquiry into the Sexualisation of Children and Young People². Although this inquiry is not specifically about child exploitation, it is anticipated there may be relevant findings.

Coordinated and cross-sectorial protocols, procedures and responses

As the Paper notes, although most child exploitation occurs outside of the OOHC sector, it is an issue in residential care and to a lesser extent in home-based care. NSW acknowledges that a coordinated and cross-sectorial approach is necessary to respond to the consequences of child sexual exploitation so that children who are exploited are not further stigmatised.

Examining the evidence base of successful strategies, including in international jurisdictions, should lead any work in this area. Good examples may include the London Child Sexual Exploitation Operating Protocol and the Multi Agency Safekeeping Hubs (MASH) in the United Kingdom. Both strategies are helping to inform a multi-agency pilot being established in Western Sydney and Wollongong that is aimed at preventing sexual exploitation of children in residential OOHC. The NSW Police Force (Police), FACS and a number of OOHC agencies are participating in the pilot. The pilot is in its early stages and will include training for staff working in residential care, information sharing among the participants and disruption techniques as described in the literature from the United Kingdom and Victoria.

Identification and reporting of child sexual exploitation

NSW agrees there are difficulties in obtaining prevalence data on the sexual exploitation of children as outlined in the Paper.

The NSW Helpline has incorporated child sexual exploitation into its Structured Decision Making Screening and Response Priority Tool to assist in the identification of these matters³. Earlier identification enables faster and more appropriate responses to children and young people at risk.⁴

² <http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/D34428CD35DB8E0ECA257EE5007E0FBF>

³ When a report is made to the NSW Child Protection Helpline, an assessment of the information using the Structured Decision Making Screening and Response Priority Tool (SCRPT) takes place. This is a screening tool which applies the risk of significant harm (ROSH) threshold and the Response Priority Tool determines how soon FACS should provide a response.

⁴ For example, this may result in a referral directly to the Joint Investigation Response Team (JIRT), rather than it being referred from the Helpline to the Community Services Centre and then back to JIRT. The Child Abuse Squad⁴ then conducts criminal investigations into matters received by JIRT. The Child Abuse Squad is comprised of detectives who are specially trained to investigate crimes against children, including sexual assault, physical abuse and serious cases of neglect. The squad works in partnership with FACS and NSW Health, with specialised tri-agency teams based at metropolitan and regional locations throughout NSW.

The Helpline's improved identification processes will also assist in monitoring persons of interest who are involved in multiple matters in different geographical locations. Over time this should provide improved data on the incidents of child exploitation in OOHC, where these are reported. This should also improve the ability to identify abuse and vulnerabilities in different cohorts of children in OOHC, including Aboriginal children, children from culturally and linguistically diverse (CALD) backgrounds and children with disability.

Preventative measures

Many of the strategies used for preventing child sexual abuse in OOHC are central to addressing the sexual exploitation of children in OOHC, whether it be in a foster care setting or in residential care. These strategies include placement stability and the establishment of ongoing relationships with trusted adults and carers who are trained to identify possible abuse and vulnerabilities in the children for whom they care.

As the Paper notes, children, including those in care, are increasingly being targeted and groomed for sexual exploitation, initially online in many cases. Children in OOHC connect with others using social media as do their peers. FACS is currently developing a number of new initiatives to improve information for carers about social media and the risks of sexual exploitation online.

Consideration of the development of nationally consistent practice guidelines on the management and support of children accessing and using social media when in OOHC may be beneficial. Guidelines to direct practice on legal issues relating to privacy and safety when using social media and other technology would also be useful.

Responding to the issue of a child missing from placement

Children missing from placements can be vulnerable to sexual assault. Staff in residential services need to be able to identify whether a child is at risk of going missing. Specific training, resources and ongoing support is important to equip staff with these skills.

Work in relation to retention and/or improved continuity of residential staff is also important as this facilitates the development of relationships based on knowledge and trust. It also enables staff to engage in discussions with the children for whom they care and be able to notice changes in their behaviour. For more information, please see Section 8 - Provide better workforce planning and development for residential care staff.

Child-to-child sexual abuse

Appropriate home-based carers and inappropriate matching

NSW is focused on increasing the pool of diverse and experienced carers in order to widen the placement matching choices available to FACS and relevant agencies seeking homes for children with sexually harmful behaviours. Strategies include effective carer recruitment, support and development. For more information, please see Section 7 - Education and training framework for carers.

Consistent terminology and the importance of this to data collection and knowledge

NSW acknowledges the need for appropriate terminology that does not stigmatise a child who has effected harm, but at the same time does not diminish the harm caused.

The term 'sexually harmful behaviours' may be appropriate to use where both the child effecting harm and the child victim are younger, for example, below the age of ten years. However, where there is a significant age difference or obvious power imbalance, it is important that the impact on the victim is not minimised through language. NSW would welcome a discussion on the use of appropriate terminology, including use of the term 'sexually harmful behaviours'.

Nationally consistent terminology would also assist in the development of accurate and comparable data sets across Australia. FACS has improved its ability to capture data on abuse in OOHC which includes information on the child's relationship with the person who caused the harm, including when that person is a child. The NSW Health Sexual Assault Services Data Collection, which is to be piloted in 2016, will also include collection of demographic information about persons of interest, including their age. NSW Police records the details of reported child sexual abuse in the COPS System, including the details of charges laid and court results.

Adequate and sufficient treatment responses across Australia

The treatment of sexually harmful behaviours in children in OOHC is particularly complex because their stories often include neglect and abuse. Their experiences typically involve many variables and there is no one-size-fits-all approach to treatment. Work to encourage more practitioners to train in this important area would be welcome. The suggestion for nationally consistent accreditation and professional training for counsellors working in this field is also supported.

Treatment and programs in NSW

NSW Health

NSW provides a range of services and programs to children with sexually harmful behaviours.

The NSW Department of Health's New Street Adolescent Program (New Street) is one example of an effective service for young people with sexually harmful behaviours. There are currently established New Street services in Western NSW (Dubbo), Sydney (Parramatta), and Hunter New England (Newcastle and Tamworth) Local Health Districts.

New Street Sydney, a service for greater Metropolitan Sydney and Central Coast, is managed by Western Sydney Local Health District, with an outreach site on the Central Coast. Funding has been provided for a new service in the Illawarra Local Health District and planning for its establishment is underway.

New Street is able to refer children and their families to an alternative provider where a New Street service is not available, or where a child or young person does not meet the eligibility criteria for being treated by the service. Alternative providers could include private specialist counsellors, Child and Adolescent Mental Health Services (if the child or young person has mental health concerns), or generalist counsellors. New Street services also provide training to staff and carers from OOHC agencies.

FACS

FACS also engages private practitioners to provide support and rehabilitation for children in care who engage in sexually harmful behaviours where this is possible and appropriate.

Department of Justice

The Department of Justice (Justice) provides services for young people who have been charged and convicted of sexual abuse. During the period 30 June 2012 to 30 June 2014, all young people convicted of sexually abusive behaviour were referred to Juvenile Justice's Sexual Offending Program (SOP) after sentencing. However, the program has since been replaced by specialist psychological interventions on an individual basis. All Juvenile Justice interventions are designed

to meet the needs of young people with disability, culturally and linguistically diverse young people and Aboriginal young people.

Since 1 April 2015, following an agency-wide review of case management, interventions for young people who sexually offend are being delivered on an individual basis, both in custody and in the community, by psychologists who have received specialist training, monthly clinical supervision and ongoing professional development training/mentoring. Special consideration is given to individualised delivery of offence-focussed interventions provided to young persons with intellectual disability, mental health issues and/or a history of sexual or physical assault. An assessment examines how the needs of this group of offenders can be met as part of the general case management program.

A one-day training workshop *Working with Young People who Sexually Abuse* for Juvenile Justice caseworkers and managers in non-clinical roles has been developed and delivered by the Principal Psychologist, Juvenile Justice.

An overview of NSW treatment programs was provided to the Royal Commission in a request for information⁵ for a private roundtable it convened on *Treatment of Child-to-Child Sexual Abuse* in August 2015.

Policies, procedures and/or best practice guidance

Section 75, *Children and Young Persons (Care and Protection) Act 1998* enables the NSW Children's Court to require a child less than 14 years to attend a treatment program and to require a parent to take whatever steps necessary to enable their child to attend that program.

A child's trauma history needs to be considered in terms of their ability and capacity to consent and adhere to a program. As the Paper notes, children who complete a full program of specialised counselling demonstrate low rates of recidivism. NSW would welcome further research into the existence and effectiveness of treatment programs which have some element of compulsion, such as through a court order.

FACS and the Association of Children's Welfare Agencies (ACWA) are working in partnership to finalise a therapeutic care framework to assist children with more complex needs, including those who display sexually harmful behaviours. Supporting children in OOHC requires an understanding of the difference between normal child sexualised behaviour and sexually harmful behaviour. There also needs to be an understanding of any underlying problems that may be causal factors to children sexually abusing other children. Specific training on this is proposed under a NSW therapeutic care framework. The framework sets out a continuum of care which incorporates therapeutic foster and residential care and associated education and training.

Expert advice and assistance for foster carers and kinship/relative carers

Specialised training for carers on the subject of sexually harmful behaviours in children is available, for example, through the Carers Connect NSW training *Sexualized Behaviours, What? When and how to Respond?*⁶

⁵ Response of the NSW Government to the Royal Commission into Institutional Responses to Child Sexual Abuse – Therapeutic Services Information Request (NSW.2056.001.0002)

FACS psychologists provide advice for foster carers and kinship/relative carers on how to talk to children about their behaviours and how to keep all children in the family safe. They also discuss strategies with carers to prevent the offending child from being victimised.

Carers being given insufficient information about the child's background

Special provisions exist in the *Children and Young Persons (Care and Protection) Act 1998* (the Act) to enable carers to have adequate information about the sexually harmful behaviours of a child in their care for the purpose of medical care and safety⁷.

Section 144 of the Act specifically supports the provision of all information reasonably necessary to a carer about a child in their care. This is to enable the carer to best meet the individual needs of that child and to ensure the safety of the carer and other members of the carer's household.

FACS has a number of documents that provide advice for carers on their entitlement to obtain this information and how to obtain it. This includes the *Caring for Kids*⁸ guide that is given to all new carers. The *Carers Code of Conduct*⁹, which is signed and a copy given to all new carers, states that carers are to be provided with all relevant information that is available about the child in their care to help them understand their needs.

⁶ <http://connectingcarersnsw.com.au/wp-content/uploads/2015/01/Met-Central-Calendar-2015.pdf>

⁷ Section 144, *Children and Young Persons (Care and Protection) Act 1998*

⁸ http://www.community.nsw.gov.au/_data/assets/pdf_file/0012/321330/fostercare_guide.pdf

⁹ http://www.community.nsw.gov.au/_data/assets/pdf_file/0009/320958/code_conduct_foster_relative_kinship_carers.pdf

3. Data considerations

Improving the quality of data on child sexual abuse

NSW supports the Royal Commission's proposal for a nationally consistent approach to the collection of data relating to the sexual abuse of children in OOHC. The collection of nationally consistent data will facilitate the resolution of important issues including the adoption of consistent terminology around the sexual abuse of children.

Ongoing monitoring and compliance with the Royal Commission's proposed national data model needs to be owned by a body that will exist beyond the term of the Royal Commission and which is fully integrated/aligned with relevant state and federal data collection systems.

Standards for the collection of information on child sexual assault should be embedded within the Australian Institute of Health and Welfare (AIHW) taxonomy and as such NSW recommends AIHW involvement in the development of the proposed data model. NSW would welcome the opportunity to contribute to discussions about establishing a national approach.

Current data collection initiatives in NSW

The FACS client system for child protection (KiDS) currently allows for the collection of a number of items outlined in the data model proposed by the Paper in structured data fields. These include:

- a unique identifier for all persons entered into the KiDS system;
- Aboriginal or Torres Strait Islander background;
- culturally and linguistically diverse background;
- disability (including the type of impairment); and
- the date of reports relating to the person.

Since October 2014, KiDS has allowed for the collection of additional information about children if a report of harm or risk whilst they were in OOHC is substantiated following assessment. These changes include information about the location where the incident occurred and the relationship between the perpetrator and victim.

Work is currently underway to replace the KiDS system in NSW with a new system called ChildStory, which is due for staged implementation around mid 2017. ChildStory will retain the current range of data collection but will build on KiDS' functionality and improve the existing data collection processes.

It should be acknowledged that the KiDS system is primarily a tool for caseworkers to facilitate casework with children and families, including the investigation and assessment of safety and risk. An ancillary function of this system is its use as a reporting tool to meet national reporting requirements and to inform practice improvements. Requests for the implementation of additional structured data items need to be balanced with the potential impact on face-to-face service delivery.

Information coming from the Royal Commission and other sources will be considered in the continuing development of the ChildStory system, to enable collection of relevant data that can inform understandings of the dynamics of child sexual abuse in OOHC. It will also assist in the monitoring of treatment and support provided to victims/perpetrators and their subsequent life outcomes.

As noted earlier, NSW Health has also developed a data collection program which will be piloted and implemented throughout its Sexual Assault Services (SAS) network in 2016. For each referral for a child to a NSW Health SAS, the pilot program will be able to provide data on many relevant indicators relating to:

- the child's OOHC status and placement type;
- the dates, times and locations of incidents, and of referrals received;
- demographic descriptors of the child, including Aboriginality and CALD background, health and disability information, one-off or ongoing services received through the SAS, and any legal action relating to the incident(s); and
- information on persons of interest and/or identified perpetrators including age, sex, and relationship to the victim.

However, there will be limitations in the extent to which SAS can record life outcomes, and outcomes of criminal and justice responses. Potential exists for exploring interagency data linkages once the efficacy of the pilot data model has been established.

In exploring the development of systems for data collection, it is important to identify and utilise where appropriate, existing systems and legislative frameworks. An audit of systems and legislation for the reporting, monitoring and oversight of responses to sexual abuse of children in institutions (for example, in NSW Parts 3A and 3C of the *Ombudsman Act 1974*) may help to prevent duplication in reporting and data collection obligations of service providers. The importance of having effective data collection systems is that comprehensive data sets when analysed by agencies such as the NSW Ombudsman can provide a strong evidence base for identifying concerns in relation to the safety of children in the OOHC system, and setting the direction of efforts to address gaps and improve services.

Proposed Data Model

As noted above, NSW agrees in principle with the Royal Commission's proposal of a nationally consistent approach to the collection of data relating to the sexual abuse of children in OOHC. Some areas in the Royal Commission's proposal would benefit from further analysis and consideration as follows:

Proposal 1: Collection of data at the point of an allegation of sexual harm/risk

The proposed data model appears to be centred on the collection of data relating to allegations. NSW notes that a significant proportion of reports made to child protection agencies are not substantiated following investigation and suggests that records relating to unconfirmed allegations of sexual harm/risk be clearly differentiated from records resulting from the investigation of allegations (whether substantiated or not). It is also important to distinguish between data collected on allegations relating to incidents occurring before a child enters OOHC and from data on allegations occurring during a placement. Since 2014, as noted earlier, KiDS has been recording additional information on harm or risk which has occurred to a child or young person whilst they are in OOHC.

Proposal 2: Date of incident for each allegation of sexual abuse

While supportive of the idea of a national approach to the collection of information relating to the timeframe of incidents, NSW notes that such information collection may be difficult.

Consideration should be given to a standardised way of collecting information from children about historical and often highly traumatic events when children have a limited capacity to define time-based concepts, especially when the event has occurred some time in the past.

Further abuse and risk of abuse may occur over a period of time where specific dates of incidents are frequently unclear or unable to be identified. For example, a child may disclose that sexual abuse has been happening 'all my life', or alternatively a specific date or timeframe may be unascertainable due to a child's age or other circumstances. Collection needs to accommodate not only specific dates and date ranges but also values describing timeframes when specific dates are unavailable.

Proposal 3: Demographic descriptors for the perpetrator

In NSW, when an allegation is made, the person alleged to be causing the harm or risk in the report is identified as a 'person of interest'. It is only at the point where harm has been substantiated that the person is then identified as a perpetrator or 'person causing harm'. This is done for reasons of procedural fairness, and thus reinforces the need to collect information at different stages of the investigation process and to differentiate between allegations that have been investigated fully and those that have not.

The proposed data model focusses on data items as they apply to allegations of sexual harm or risk. There is a different level of information that should be collected in response to allegations of sexual harm/risk and those substantiated following assessment, for example, demographic information relating to the alleged perpetrator.

The proposed data model includes the collection of disability and mental health data relating to the perpetrator of an allegation of sexual harm/risk. NSW notes it may be difficult, for legislative or practical reasons, to access perpetrator health information particularly if this information is held by private medical practitioners. It may also fail to capture this information where a person has no confirmed diagnosis.

Consideration may need to be given to how this information can be sourced from NSW Police or Health departments, rather than from child protection agencies. Due regard needs to be given to privacy and health information requirements and questions of rigour and consent for the sharing of health information, as is required in NSW under the *Health Records and Information Privacy Act 2002* and the *Privacy and Personal Information Protection Act 1998*.

Proposal 4: Data should be used to monitor life outcomes

Once a young person in OOHC reaches 18 years of age they are no longer under the jurisdiction of a child protection agency. Data on care leavers is therefore limited in comparison to data which is available on children and young people still in care. However there are a number of initiatives underway in NSW which aim to analyse the life outcomes of care leavers in order to improve service delivery and better target interventions. These initiatives involve the linkage of data on young people leaving care with other state and commonwealth agencies such as NSW Ministry of Health, Department of Education, NSW Bureau of Crime Statistics and Research (BOCSAR) and Department of Human Services. The establishment of these linkages may indicate the potential for relating data on child sexual abuse with later life outcomes, following further research on best-practice methodologies.

Examples of current NSW initiatives include:

- The Pathways of Care Longitudinal Study (POCLS) – POCLS examines the outcomes of children and young people in OOHC in NSW. As part of this study it is planned to collect information on the outcomes of those young people who transitioned from OOHC. Detailed information is collected about the experiences and wellbeing of the children and young people

and the factors that influence their wellbeing. This project is explained in more detail in Section 8.

- OOHC Leavers Project – this project, being undertaken by NSW Treasury, examines the life pathways and associated government service usage of NSW OOHC leavers. The goal of the project is to analyse the life pathways of all young people who exited OOHC for the last time aged 14 to 18 years (inclusive) in the years 1996/97 to 2013/14 inclusive (a cohort of around 16,000 young people), and to identify characteristics and government costs associated with the different life pathways for this group.
- Welfare outcomes of children and young people who have left OOHC – FACS is currently working with the Commonwealth Department of Social Services on a longer term project involving the trial linkage of OOHC data with data on welfare benefits. The aim of this project is to provide a better understanding of welfare outcomes for children and young people who have left OOHC in order to improve service delivery and improve overall outcomes for these clients.

Proposal 5: Inclusion of police reports and outcomes of criminal and civil justice responses in structured data

Third party information such as Police reports and justice responses are currently collected by child protection caseworkers where relevant to their assessments and ongoing casework. The ability to access outcome information from other agencies would need to be further investigated.

4. Regulation and oversight

Existing regulatory and oversight arrangements in NSW

We note the Royal Commission's interest in existing arrangements in NSW for the regulation and oversight of OOHC, including the accreditation of OOHC service providers, the authorisation of carers, oversight of the OOHC system, a reportable conduct scheme, and a carers register. NSW is committed to the continuous improvement of these schemes as strategies to better protect children in OOHC.

For further information about arrangements in NSW please see FACS' submission to Case Study 24¹⁰. For an example of recent developments in the regulation and oversight of OOHC, please see the NSW Ombudsman's February 2016 report to the NSW Parliament¹¹ which includes a proposal to expand the reach of its oversight of reportable conduct investigations to a larger range of organisations that work with children.

NSW welcomes the opportunity to share information about the policy and regulatory frameworks supporting these schemes in NSW to facilitate discussion and the development of similar schemes in other jurisdictions.

However, NSW would not support a national approach to regulatory and oversight mechanisms which would weaken existing schemes in this State.

Official Community Visitors

Caseworkers are responsible for monitoring the welfare of children in OOHC and for building a relationship of trust in which children can raise issues or concerns. The extent to which an Official Community Visitor (OCV) would be able to do this, given the time they spend with children in care and their interactions with those children, is likely to be less than a caseworker.

However, the value of the OCV Scheme in identifying systemic issues which leave children in residential settings vulnerable to sexual abuse is acknowledged.

¹⁰ NSW Department of Family and Community Services response to Case Study 24: *Preventing and responding to allegations of child sexual abuse occurring in OOHC* – February 2015.

¹¹ *Strengthening the Oversight of Workplace Child Abuse Allegations - A Special Report to Parliament under s.31 of the Ombudsman Act 1974* - February 2016

5. Information sharing

Sharing information with children

Sharing information with children to enable them to participate in decisions that have a significant impact on their life is essential. This is reflected in the National Standards for OOHC and in the 'principle of participation' embedded in the care legislation¹². The principle, derived from the United Nations Convention on the Rights of the Child (CROC), also sets out that the Secretary is responsible for providing children with adequate information, in a manner and language that they understand, about decisions to be made about the child's life. This includes the reasons for the Department's intervention, the ways in which the child can participate in decision-making and any relevant complaint mechanisms.

The provision of information related to sexual abuse where it has or could directly affect children may be protective and assist with dealing with trauma. NSW Health JIRT Clinicians and Sexual Assault Service Counsellors, who may already be engaged with the child, may be well-placed to assist agencies and carers in providing this information directly to children in a sensitive and therapeutically appropriate manner. Special consideration should also be given to meeting the communication needs of children with disability in OOHC.

Sharing information with carers

As outlined in Section 2, NSW care legislation is clear that carers must be provided with all of the information reasonably necessary about a child in their care, to best meet the individual needs of that child and ensure the safety of the carer and other members of their household¹³.

The significance of enhanced intra and inter-jurisdictional information sharing for Aboriginal children and their families

Like most children and families at risk, Aboriginal children and families often need assistance from more than one agency and effective information sharing assists agencies to work together in a holistic way, rather than in isolation.

Different agencies may have varying levels of contact with a child or family. While signs of abuse may not be apparent in individual cases, the sharing of information will assist in early identification, intervention and support, before issues have escalated.

An investigation of information sharing provisions between national, state and non-government Aboriginal organisations may be beneficial as they are an important source of information on Aboriginal families and communities. An agreed means of sharing information could work to better protect Aboriginal children from sexual abuse.

¹² Section 10, *Children and Young Persons (Care and Protection) Act 1998*

¹³ Section 144, *Children and Young Persons (Care and Protection) Act 1998*

However, NSW is mindful of the importance of privacy in the Aboriginal community and there may be concerns from some Aboriginal organisations that information sharing will erode relationships of trust in the community. Training of staff would be required to ensure that organisations and the community understand the reasons for information sharing and what can and can not be shared, to reassure all parties that Aboriginal organisations are a trusted part of the community.

Placements

It is important that any Aboriginal child placed in OOHC is able to remain connected to their family, community and culture. However, if a child has experienced sexual abuse it is imperative that the child not be placed in an OOHC placement where the perpetrator still has access to the child.

Information sharing is particularly important to ensure the appropriate placement of Aboriginal children, especially children in rural and remote communities. For example, information from local Aboriginal organisations may provide information on particular relationships or family and community dynamics that may not be apparent to other services.

Aboriginal people often have connections to a number of communities outside a jurisdiction and an information exchange provision similar to Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998* (Chapter 16A) may be valuable in gathering this information.

Nationally consistent approach to information sharing

Considerable benefits could be realised from an improved national approach to child protection information sharing. The use of Chapter 16A as the model for information sharing is supported.

The success of any information sharing regime will in part rely on uniform/complimentary legislative provisions across states and territories.

The Children and Families Secretaries Group has established a national project that will investigate legislative, cultural, and logistical barriers and recommend solutions to improve inter-jurisdictional child protection information sharing. This will involve analysis of policy, cultural and legislative barriers to information sharing across government departments and non-government organisations (NGOs). The aim of the project is to provide options for short-term interim improvements in practical areas, as well as options for longer-term systemic reform, possibly including legislative reform.

Carers register

Where information sharing is supported by a legislative and policy framework, carer history information can and is shared between jurisdictions. This assists agencies to make informed decisions about carer assessment, allowing decision makers to take into consideration all available information about the carer's history.

The NSW OCG operates a centralised carers register which lists a number of categories of information about carers which can be drawn upon when considering the authorisation of a person to provide OOHC services to children. The NSW Carers Register is also equipped to continuously update the information it holds on carers from a number of sources as it arises.

NSW considers there would be value in improving inter-jurisdictional accessibility of information about carers for the purpose of assessment and authorisation. At present, jurisdictions assessing carer applicants rely primarily on the applicant disclosing their own carer history in another jurisdiction. However, we are aware that concerns have been expressed by the Commonwealth around the feasibility of administering a formal national register of carer information, and for this reason support the exploration of alternative models. The Children and Families Secretaries forum has commenced work to investigate harmonising arrangements between jurisdictions so as to enable the inter-jurisdictional exchange of information about carers.

Sharing of information about allegations against carers

In accordance with the Children and Young Persons (Care and Protection) Regulation 2012 and the Adoption Regulation 2015, carer authorisation in NSW requires a 'community services check' to be completed. This was introduced in June 2015. As part of this check the designated OOHC agency is provided with information held by FACS about the applicant and any household members who are 16 years and over. Information may include carer authorisation documents, carer reviews, allegations of reportable conduct and outcomes of investigations. This ensures that all relevant information held by FACS is provided to designated agencies before authorisation. After authorisation, FACS and designated agencies are required to keep the carers register updated with information about changes to the person, for example, if the person's authorisation has been suspended.

Notes in relation to Chapter 16A

Working with Children Check Scheme

Chapter 16A (the information sharing provisions) and the NSW *Child Protection (Working with Children) Act 2012* (WWC Act) together allow for immediate protective action to be taken by the Children's Guardian where information emerges about a person engaged in child related work. Under Chapter 16A, FACS, and all other bodies that are prescribed in the legislation for the purposes of Chapter 16A, may share concerning information about the person with the OCG. This includes information that, for whatever reason, can not be acted upon by FACS or Police.

Section 15(3) of the WWC Act allows the OCG, on receipt of this information, to conduct a risk assessment of the person. If the OCG is of the opinion that it is likely there is a risk to children if the person engages in child related work, the OCG may impose an interim bar preventing that person from engaging in child related work while the assessment is being carried out. Where the OCG becomes aware that an interim barred or barred person is engaging in child related work, the OCG will provide Police with the relevant information to initiate a prosecution for a breach of the WWC Act.

The importance of training

Chapter 16A provides relatively broad powers for the exchange of information between agencies with responsibilities relating to the safety, welfare or well-being of children. Perhaps because of this, its interplay with privacy legislation and the sensitivity of this information, staff and practitioners need to be provided with effective training on how to interpret and apply these powers appropriately.

Prescribed bodies - sole practitioners

The Act and the Children and Young Persons (Care and Protection) Regulation 2012 defines those bodies that can share information as 'prescribed bodies'. 'Prescribed bodies' as defined within the Act and the Regulation do not include sole practitioners. In some circumstances, this means that information cannot be shared between a General Practitioner and other prescribed bodies.

General Practitioners often hold a lot of very valuable health information. NSW is considering how this can be remedied.

Exceptions where a prescribed body is not required to provide information

Section 245D(4) of the Act provides a list of the circumstances where a prescribed body would not be required to provide any information that it has been requested under Chapter 16A. This list includes where providing the information would prejudice legal proceedings or endanger another person's life or safety. In these circumstances the balance is against disclosure.

When information is shared across jurisdictions, it may be appropriate to consider other circumstances where the balance for sharing information is also not met. Consideration could also be given to whether the list of prescribed bodies that may request relevant information under 16A is appropriate for a national framework.

Sharing of personal and health information

NSW privacy laws, *Privacy and Personal Information Protection Act 1998* and *Health Records and Information Privacy Act 2002* may inhibit the sharing of personal and health information about children. Chapter 16A creates an explicit legal authorisation to share such information relating to the safety, welfare or wellbeing of the child or a class of children. It has clear thresholds and strikes a balance by giving precedence to such considerations over confidentiality and privacy concerns.

NSW Health

NSW Health is currently reviewing its Child Wellbeing and Child Protection Policies and Procedures to expand and emphasise the function of Chapter 16A as a tool to facilitate interagency information sharing and relationships.

NSW Police Force

The Child Abuse Squad has developed standard operating procedures to manage requests for information from prescribed bodies under Chapter 16A. Police is currently giving consideration to adopting these guidelines organisation- wide.

6. Child Safe Organisations

Delivering and overseeing the key elements of a child safe organisation

Agencies that provide OOHC in NSW must be accredited by the OCG (FACS has interim accreditation status to July 2016 by way of an order made under the Children and Young Persons (Saving and Transitional) Regulation 2000)¹⁴.

The OCG has recently released the new 23 NSW Child Safe Standards for Permanent Care. The nine elements proposed in the Paper are broadly consistent with these Standards.

Compliance with standards is not required for other organisations working with children, however the OCG offers support for these organisations to build their capacity to be child safe in a way that is consistent with these elements.

As noted in the Paper, the NSW Ombudsman keeps under scrutiny the systems that government and certain non-government agencies in NSW have for handling reportable conduct allegations and investigations under Part 3A of the *Ombudsman Act 1974*. The Ombudsman also manages complaints about agencies where these complaints fall within the scope of the legislation.

FACS is currently developing a Quality Assurance Framework to complement the current funding framework for FACS-funded OOHC service providers. The Framework will articulate and allow for the measurement of outcomes for individual children in OOHC across all providers. Outcome domains include safety, permanency, cultural and spiritual identity, mental health, cognitive functioning, social functioning, and physical health and development.

Application of the child safe elements

NSW supports the establishment of a broad framework for effective child safe practice, which provides flexibility in its application to reflect service type, organisational variables and capacity.

The network of children's services in NSW, ranging from those delivering high intensity services to community based activities, relies on the ability to attract and retain a wide range of providers, workers and volunteers. The framework needs to be sufficiently flexible to provide for the diversity of the current network to ensure it does not result in a reduced level of service or less opportunities for children.

Complying with all of the child safe standards and principles

The NSW Child Safe Standards for Permanent Care are designed to be flexible and apply to a range of care arrangements. While the desired outcomes are the same, the strategies that agencies use to achieve them will differ based on a number of factors, including type of care provided, size and structure of the organisation.

¹⁴ Six FACS intensive support services programs and Sherwood Residential Care Program, a FACS delivered service, currently have full accreditation

Specific considerations for the OOHC sector and vulnerable groups

In applying the NSW Child Safe Standards for Permanent Care, OOHC providers are required to consider the child's culture, disability, language, religion and sexuality in all actions and decisions that affect the child.

In addition, Standard 14: Case Planning and Review, requires that planning include a thorough assessment of the child's individual circumstances and best interests. This approach ensures the plan is tailored to the individual needs of each child.

Resources and support mechanisms required to comply with child safe standards

The OCG provides a range of free resources and support to build the capacity of organisations to be more child safe, including training, resources, tools and templates.

The NSW Ombudsman provides support and capacity building initiatives for organisations to report and respond to child abuse allegations as part of its role in scrutinising reportable conduct. Other measures that could help support organisations and system administrators include:

- consistent definitions and application across compliance and reporting schemes;
- consistent data collection;
- shared research to contribute to the evidence base on child safe organisations and practice; and
- monitoring and evaluation mechanisms to measure the impact of legislation, policies and practice.

NSW supports consideration of a range of educational and cultural strategies to promote the ongoing prioritisation of child safety. This could include strategies to empower children to report incidents of inappropriate behaviour or abuse and the education of families and carers to increase their awareness about child sexual abuse, including about grooming behaviour. Training of directors and management committee members to increase their understanding of the links between strong governance and child safety is also supported.

Driving continued practice improvement in organisations within the OOHC sector

The NSW Child Safe Standards for Permanent Care include an expectation that agencies engage in a process of continuous quality improvement. Specifically, Standard 23 requires agencies to continuously assess the quality of their services and develop strategies to address any gaps. Agencies are assessed against this standard as part of a compliance assessment.

To support the current accreditation process all FACS districts are developing their localised Sustainable OOHC Service Delivery and Quality Assurance Models which include strategies for continuous improvement. These models are individualised to reflect local OOHC populations, staffing resources, demography and service system strengths.

FACS also has a central OOHC Accreditation Team which co-ordinates the use of the Quality Review Audit Tool. This Tool provides feedback to practitioners to improve practice and enables analysis of trends in practice so that systemic and training issues can be identified and continuous improvement strategies implemented.

Continuous improvement should not be the sole responsibility of individual providers but should be driven by a range of mutually reinforcing strategies that influence all environments impacting on a

child's outcomes, including their family, their carers and educators, their community, and society more broadly.

Any other relevant matters

Consistency, both across jurisdictions and sectors, could be of benefit to:

- organisations, as clearer systems should lead to increased understanding for staff and management;
- administrators, as improved understanding can lead to increased compliance;
- parents and community members, to set expectations for child safe practice; and
- children, with improved child safe practice applying across a broader range of services and organisations.

7. Prevention of child sexual abuse in OOHC

A national strategy to prevent child sexual abuse in OOHC

NSW would support further discussion on the value of embedding a national strategy on child sexual abuse prevention education for children in OOHC in the *National Framework for Protecting Australia's Children 2009–2020*.

Education programs for children, carers and practitioners in OOHC

Educational material, depending on whether it is for children, carers or practitioners will need to be presented in different formats. Given the sensitive nature of the issue and differences in cultural and community awareness around child sexual abuse, specialised material that meets the needs of different communities is likely to be required.

FACS has in place community education material which could be used to inform the development of educational material on sexual abuse. The *Family and Community Services Multicultural Information Sessions* package¹⁵ is delivered by casework practitioners to recently arrived migrant and refugee communities to provide education on child protection and parenting practices, including reference to sexual abuse and reporting of abuse. The package includes a PowerPoint presentation and a facilitator's guide which contains information on how to deliver this education effectively to culturally diverse communities. The facilitator's guide includes information on the use of interpreters and bilingual caseworkers, and also links to a relevant community information document in 17 community languages - *Spot It, Help Stop It - Child Abuse and Neglect*.

NSW Health currently produces the *Youth Health Resource Kit* which is useful for service providers and professionals who work with young people and want to support and promote their health and wellbeing. This resource could be useful to OOHC service providers seeking to understand how to support young people in developing healthy relationships, education about sexuality, mental and physical health issues.

As part of JIRT arrangements the Child Abuse Squad currently provides training to OOHC organisations at a local level where requested or identified as being required.

An audit of existing resources on child sexual abuse may be valuable. This could include those in use in overseas jurisdictions as well as a review of the effectiveness and appropriateness of resources for children, carers and practitioners.

It is important that children in OOHC are not made to feel that they are responsible for their own protection from abuse. A national approach may be useful, particularly where material is delivered universally in a neutral setting, for example, through school settings, so as to minimise the risk that children in care feel different or responsible for needing such information.

¹⁵ *Family and Community Services: Multicultural Information Sessions - Facilitator's Guide*, March 2012

Existing child protection education program in NSW schools

In March 2015, the Premier of NSW committed \$4 million over 4 years for a specialised child protection education program in schools to complement the child protection education component of the *NSW Physical Development, Health and Physical Education* (PDHPE) curriculum. The PDHPE curriculum is implemented in all NSW government and non-government schools.

This specialised child protection education program aims to strengthen children's understandings and skills to recognise and respond to unsafe situations, including potential sexual abuse, that are appropriate to their age and developmental levels.

The specialised program will be delivered by an external non-government provider. It will be available to all schools in NSW, including both government and non-government schools, from July 2016. The program will take into account the needs of specific groups within school communities. It will allow for flexibility, to adjust the program when needed, to meet the needs of different students, including students with disability, Aboriginal students and CALD populations.

The Department of Education (Education) will fund a rigorous external review of the impact that this program has had in NSW schools. The initial evaluation will be conducted in 2016 with a final evaluation conducted upon completion of the program delivery.

Student Mobility

Student mobility has been an ongoing concern to educators due to the perceived negative effects that changing schools can have on students' engagement and educational outcomes. The NSW Department of Education's Centre for Education Statistics and Evaluation (CESE) has conducted the first system-wide study of student mobility in NSW government schools, using linked enrolment data from 2008 to 2014.¹⁶ Key findings from the CESE report indicate that:

- mobility has a detrimental impact on educational outcomes (attainment, progress, and school completion) over and above other risk factors and level of prior achievement;
- the more times students move schools, the greater the negative impact on outcomes; and
- moves made during the school year have a greater negative impact than moves made between years.

Overall, the findings from this study indicate that student and school mobility is an additional indicator of educational disadvantage for which specific policy responses may need to be developed, particularly for students identified in the report as highly mobile during their schooling career. Data analysis indicates that students experiencing high levels of mobility are more likely to be Aboriginal, come from low socioeconomic status family background, and include students who are placed in OOHC and students from defence force families.

Cross agency collaboration

NSW recognises the need for a process for FACS to inform and plan with the NSW schooling sectors the education needs for children moving into OOHC and impacted by placement changes. FACS and Education are working together on a process through the independent review of OOHC.

¹⁶ This report, *Mobility of Students in NSW Government Schools* (February 2016), is available at: <http://www.cese.nsw.gov.au/publications/reports-and-presentations>.

Education for carers

The vulnerability of children in care is explained and embedded in carer recruitment and ongoing training, as well as practitioner training.

FACS continues to develop relevant materials for carers. Materials include a *Disclosing Abuse* resource for carers. The aim of this resource is to provide practical and theoretical knowledge in understanding how to respond to a disclosure of abuse from a child in care, including what a disclosure might look like, how to respond appropriately, knowing where to seek help and how to support the child disclosing.

Caseworkers and Connecting Carers NSW (CCNSW) deliver *Shared Stories, Shared Lives*, the introductory pre-authorisation carer training package used widely by FACS and NGOs. This training covers topics such as behavioural indicators of sexual abuse and responding appropriately to disclosures. These topics aim to address the issue of understanding sexual abuse and inappropriate sexualised behaviours of children who have experienced sexual abuse.

CCNSW is funded by FACS to provide a dedicated service to foster, kinship and relative carers across NSW. CCNSW offers several training packages in relation to child sexual abuse, reaching urban and regional areas, for foster, relative and kinship carers, which are held in each FACS District across NSW. Training courses include topics on child sexual assault, managing sexual health issues with children in care and responding to sexualised behaviours.

In NSW, information for same sex attracted and gender-questioning children is included in resources for carers in the following ways:

- articles in *Fostering Our Future*, carer newsletter;
- sections in *Caring for Kids*, the NSW foster carer manual; and
- FACS psychological services to support the placement/child/carers.

As previously mentioned in Section 2 - Preventative measures for child sexual exploitation, FACS is currently developing a number of new initiatives to improve information for carers about social media and the risks of sexual exploitation and bullying online.

Development of resources that are culturally sensitive and suitable for young people with a range of special needs

A national approach may also be valuable in developing targeted resources for specific communities, including Aboriginal communities. Targeted resources should be developed in collaboration with people from Aboriginal communities to ensure they address the particular issues they face.

Children with disability are likely to be at greater risk of abuse and face increased barriers to disclosure. Consideration could be given to the development of nationally consistent preventative education programs and resources suitable for children with disability. Specific strategies within a child's individual care plan may also assist in addressing barriers. For example, disclosure can be assisted by helping to increase awareness about sexual abuse and ensuring children with disability know how they can raise complaints or concerns.

8. Improving support for children and young people

A nationally consistent therapeutic framework for OOHC service delivery

NSW acknowledges that the evidence base on the effectiveness of therapeutic care in Australia is limited and welcomes further research in this area. NSW would support in principle the development of national standards for therapeutic OOHC and an evaluation of existing models to inform an evidence base for service providers. This exercise should aim to develop evaluation frameworks to assess the effectiveness of therapeutic care programs in providing positive outcomes for children. Ideally, national consistencies should be identified in therapeutic care principles. Links should be drawn with family preservation and restoration services since in practice it is likely that therapeutic approaches to meeting the needs of children who have been sexually abused will involve some crossover with family-based therapeutic support services.

FACS is developing a framework for therapeutic OOHC to help facilitate recovery and healing from the effects of trauma and abuse. The framework is guided by a core set of therapeutic care principles outlining the essential elements of therapeutic care. This work will inform the residential care service system redesign and recommissioning which is currently underway in NSW.

As noted previously, the FACS Quality Assurance Framework, once developed and implemented, will identify and measure safety and wellbeing outcomes for children in care.

The Pathways of Care Longitudinal Study (POCLS) will provide the opportunity to monitor certain outcomes for children in different OOHC care settings, including children in residential care. Please see below for more details on this study.

Trauma-informed therapeutic treatment

As the Paper notes, there is growing recognition that children in OOHC have often experienced significant and complex trauma prior to entering care and the legacy of these experiences can have negative consequences throughout their childhood and beyond. As also noted in the Paper, appropriate and timely therapeutic treatment incorporating trauma-informed understandings can help improve outcomes for children who have been sexually abused.

The Paper discusses such therapeutic treatment in OOHC largely in the context of therapeutic residential care models. However, in NSW therapeutic treatment is approached primarily through efforts to mainstream opportunities for provision of therapeutic interventions throughout the OOHC system, and to ensure there are adequate service access points throughout a child's trajectory in OOHC.

Currently, the most effective way of maximising the therapeutic elements available through OOHC is through a knowledge-based approach, providing information about trauma and its effects to carers, staff and children in OOHC, and through referral to specialised services where appropriate, rather than through prescriptively therapeutic models of care.

A significant factor in the delivery of trauma-informed therapeutic services to children in OOHC is that such services require a high degree of expertise, and are often most appropriately provided by the healthcare sector rather than through the child protection and OOHC system.

NSW Health provides highly specialised mental health programs to support children in OOHC and their carers. This includes services through the Alternate Care Clinic. This is a joint initiative between South Western Sydney Local Health District and FACS that started in 2005 to provide state-wide consultation, outpatient and training services targeted to children in OOHC.

The Alternate Care Clinic developed the Reparative Parenting Program. This is an attachment-based parenting program that seeks to help foster and kinship carers learn to manage behaviour in a manner that also seeks to redress the psychological and emotional effects of trauma. It aims to increase the understanding, skills and resources of carers in order to increase placement stability. Since 2012 the Alternate Care Clinic has trained over 70 clinicians around the state as facilitators. Findings from an evaluation of the Reparative Parenting Program included a statistically significant decrease in parenting stress in carers.

FACS psychologists are also employed across NSW, including in rural and remote areas. FACS psychologists are available for consultation during case planning, and are trained to address the effects of trauma in children and work with the families and carers of these children. The FACS Psychological Services team includes four positions for Indigenous Cadet psychologists to assist them to complete their studies and work with children in care. Training is provided for carers and includes training for caseworkers and teachers in responding to trauma. Training for residential care staff and a supervision group for residential care clinicians is also available. While many examples of cross-sectoral service coordination exist, NSW considers that the evidence base for delivering models of care which are primarily therapeutic in nature is not yet well developed. Further research in this area is supported.

Entitlements of children in OOHC

Children who have been subjected to sexual abuse in OOHC need to be actively supported to access all their entitlements as victims of crime, including access to compensation under the NSW Victims Support Scheme. Currently NSW Health Sexual Assault Services provide this support to their clients including children in OOHC.

A nationally agreed framework could include the requirement that all OOHC agencies meet their obligations under victims of crime charters or codes of practice and that case workers are required to advocate on behalf of the child as a victim of crime.

Cultural needs of Aboriginal children sexually abused in care

The recently revised *NSW Standards and Guidelines for Sexual Assault Services* provide specific direction about working with Aboriginal children who have been sexually assaulted.

Supports for carers

Through the transition of services to the non-government sector and changes within FACS' own practice, more children and carers are receiving more regular access to a caseworker to provide coaching. Some agencies and districts also have a dedicated carer coaching role within their teams. Carer coaching opportunities include:

- carer peer support groups in FACS districts;
- family camps organised by CCNSW;
- 24 hour carer support line - 1300 794 653 (CCNSW);
- access to CCNSW Regional Coordinator by phone and email;
- FACS carer support teams in districts;
- carer advocacy (CCNSW and Aboriginal Child, Family and Community Care State Secretariat (AbSec)); and

- FACS carer resources including downloadable fact sheets, *Fostering our Future* magazine, publications, information and advice.

Resources are being developed to better support and engage carers of young people through the pre-teen and teen years where placement breakdowns are more likely to take place.

Carers are currently able to access training such as, *Healing Invisible Wounds* and *Managing Challenging Behaviours* to support them during periods of time when a child's behaviour may be complex and where placement breakdown is a risk.

New resources and training that focus on helping carers better understand the impacts of trauma and how this plays out in behaviour also aims to help carers in their caring role.

We acknowledge the complex trauma often experienced by Aboriginal families where intergenerational trauma and child removal has occurred. *Raising Them Strong* is continuing to engage Aboriginal kinship carers. This is a 'train the trainer' package that is delivered to Aboriginal caseworkers to coach Aboriginal carers on a range of topics including health, education, grief, loss, trauma and challenging behaviours.

A new resource called *Partners in Care* is being developed to encourage a stronger working relationship between caseworkers and carers, including kinship and relative carers. The resource will hopefully trigger action on key milestones in the child's development. This will include education and coaching strategies that reduce the risk of placement breakdown at key times in a child's life and promote stability and school engagement.

Enhancing placement stability and professionalisation of carers

The role of a carer is to love, care, nurture and provide stability to children in OOHC, with professional support services being wrapped around this care.

NSW supports foster care being as similar as possible to a normal home environment, and where extra services are required for a child, professionals in the appropriate field being engaged. This position also reflects the commitment of NSW to placements that wherever possible offer a child permanency and the continuation of trusted relationships into adulthood. Professionalisation of foster care could limit opportunities for permanency and impede the development of trusted relationships.

Workforce planning and development for residential care staff

Residential carer workforce

FACS is working to improve the provision of residential care services across NSW. All residential care referrals are now managed centrally. This supports better matching and continuity of oversight for children with very high needs. Recent feedback from the sector has indicated a high level of satisfaction with this arrangement.

FACS is also consulting with key stakeholders including service providers, Metro Intensive Support Services (ISS), CREATE, OCVs and the OCG about how to better structure the system to ensure that children in residential care get the best possible outcomes.

Particular issues being considered by NSW include the development of strategies to address misalignments between the care needs of children and available placements and how residential care service models and structures can better promote safety, wellbeing and permanency outcomes for children.

Targets for reducing the use of casual staff in residential care facilities

Further discussion on the value of agreed targets for reducing the use of casual staff in residential care facilities is supported.

NSW acknowledges that one of the facilitators to children reporting abuse is the development of strong relationships with residential care staff. Staff turnover impacts on staff ability to develop relationships with, and understand the particular needs of the children for whom they care.

The FACS operated Sherwood therapeutic secure care program has found obtaining staff through an employment agency to be successful. It provides an opportunity for good staff selection and staff can be rested out of the program and work back with their employment agency in a less intensive service. This strategy has resulted in good long-term employment relationships with staff and continuity of care for children.

Nationally consistent standards for training and supervising externally accredited residential carers

FACS is currently examining the inclusion of minimum qualifications for residential care workers and/or supervisors in funding contracts.

NSW supports the view that there should be a standard minimum level of qualification for workers in residential care. Residential care specific qualifications would also be desirable. NSW supports the regular professional supervision of residential carers.

Further discussion on how this can be achieved would be welcomed.

Improve protections for children in kinship/relative care

Kin-specific approach to assessment and recruitment

Please see the FACS response to Case Study 24 for background information on the placement of children in OOHC in NSW in kinship/relative care.

Current relevant project in NSW: NSW Winangay Aboriginal Kinship carer resources assessment pilot

NSW is committed to building the capacity of the sector to incorporate the needs of Aboriginal families. The Winangay resources were developed to assist practitioners in their engagement and assessment of prospective Aboriginal kinship carers for children in OOHC. Self determination and participation is fostered, and interactions are based on empowerment and support for Aboriginal people. The ultimate goal is for more Aboriginal children to be raised on country by family.

Caseworkers and carers collaboratively explore a child's individual needs, the strengths within the family that will assist in meeting the child's needs and any areas of concern that may need to be addressed to ensure the child can live with them safely. The role of the extended family and the community within Aboriginal culture is respected and valued.

This FACS pilot commenced at Tamworth Community Services Centre (CSC) in 2015, and has recently been extended to include Mount Druitt and St Marys CSC's as well as the Nye Gurung Aboriginal Foster Care team.

Although the pilot is in very early stages, there are early signs that it is achieving practice change by increasing the confidence and cultural competence of staff, improving working relationships with Aboriginal families, and changing the way FACS is viewed by Aboriginal people. FACS has started an internal evaluation of preliminary data from the pilot.

As the Paper notes, Queensland's Department of Child Safety has been piloting the Winangay resources since November 2013 and a formal evaluation of its implementation is currently being undertaken.

NSW is committed to capacity building within Aboriginal organisations which provide OOHC. AbSec and FACS have been working with the Department of Premier and Cabinet, OCG, NSW Ombudsman, ACWA, and other Aboriginal OOHC providers, to rethink the capacity building approach to increase service provision by Aboriginal providers to Aboriginal children in OOHC.

Research to investigate the long-term outcomes for children of kinship/relative care

An understanding of the pathways Aboriginal children take through OOHC is important in identifying the factors that influence their experiences and outcomes. Reliable data helps to inform more effective policy and practice aimed at reducing risk and enhancing the wellbeing of Aboriginal children.

Pathways of Care Longitudinal Study (POCLS)

POCLS is the first large scale prospective longitudinal study on OOHC in Australia. The study examines the developmental wellbeing of children in OOHC on final orders under the *NSW Children and Young Persons (Care and Protection) Act 1998*.

FACS is funding and leading the study with a team of experts contracted to provide advice on the study design and undertake data collection and analysis. The study has significant potential to inform policy, program and service development to achieve the best outcomes for children in OOHC.

More information about the POCLS study is located on the FACS website¹⁷. The study will be able to provide unique information about the wellbeing trajectories of Aboriginal children in kinship placements, and the factors that influence them.

Support for young people leaving care and post-care support

Leaving care plans and ongoing support

NSW policy requires leaving care planning to begin at 15 years. One of the purposes of planning is to identify whether the child or young person may be able to make a claim to Victim Services under the *Victims Rights and Support Act 2013*, including where the child or young person has been the victim of sexual abuse.

NSW supports the principle that help to access necessary counselling and support should continue as a young person transitions out of care and into adulthood. In NSW, the legislation supports the Minister providing assistance for young people and young adults leaving care to the age of 25 years and beyond at the Minister's discretion¹⁸. Counselling is specifically identified as one form of support.

¹⁷ <http://www.community.nsw.gov.au/research-centre/pathways-of-care-longitudinal-study>

¹⁸ Section 165, *Children and Young Persons (Care and Protection) Act 1998*

As a young person transitions from care to independence, they are encouraged to remain in contact with their caseworker as a support.

Innovative ways to support care leavers

NSW has developed the RESOLVE app as one way to exchange information with care leavers through the innovative use of social media. RESOLVE is the NSW equivalent to Queensland's Sortli app which assists care leavers in their transition to independence.

As mentioned previously, the ChildStory IT system to support child protection and the OOHC system in NSW is currently under development. The system will include portals for interaction between children and young people in care, their carers and service providers. This will provide children and young people in care with a tool to engage virtually with those who support them, including to share information or raise concerns. It is intended that ChildStory will continue as a tool, as appropriate, for care leavers.

These forms of communication assist care leavers to be more informed through:

- access to the latest information including about rights and complaints processes;
- the option of self service by the inclusion of links to information or relevant services, for example, a young person with a question about a sexually transmitted disease may prefer to speak directly to a health service rather than ask their OOHC caseworker for advice;
- quick dissemination of new information; and
- 'push' notifications, for example when users have opted in to receive text messages about new posts.

It should be noted that while these forms of communication can assist care leavers to be informed about how to seek help, caution should be exercised in how they are used to provide that help. A request for assistance submitted through an online portal, email or text message may not be seen in a timely manner and/or without the opportunity for clarification, could be misinterpreted. They are not suitable for situations where the young person needs immediate support, for example, lodging a complaint about an incident that indicates the young person is at risk.

CREATE Foundation provides excellent material for care leavers including the *Go Your Own Way* information kit, supported and supplemented by their CREATE Your Future website and CREATE Your Future tool.

Access to records

In NSW, care leavers access their records at their CSC or through a relevant NGO. All records requests are processed centrally to ensure that the level of service is consistent. People who have left care and want to access their files are provided with support through this process.

Care records are likely to contain significant information about a person's time in care. Delays in accessing these records can be distressing and frustrating for people who have left care. NSW acknowledges that in the past many care leavers have had to wait extended periods to access their information. New applications are now processed within an average of one month.

The importance of opportunities to disclose for Aboriginal children and young people

Aboriginal victims and survivors may face a range of cultural and community pressures particularly if perpetrators are family or community leaders. Under these circumstances support may need to be tailored to ensure that the person fully benefits from counselling and other transition support

and advocacy services. We are committed to building the capacity of the sector to be sensitive to the needs of Aboriginal victims and survivors.