

# Barnardos Australia Response to Royal Commission on Institutional Responses to Child Sexual Abuse

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## Issues Paper 3 Child Safe Institutions

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Barnardos welcomes this opportunity to explore ways to make child welfare ‘institutions’ child safe. Barnardos Australia provides out of home care, family support and youth homelessness programs to vulnerable children in NSW and the Australian Capital Territory. Every year we care for over 6,000 children and young people in programs, with approximately 700 in out of home care, living away from their parents. We also provide child protection services to families through our Family Referral Centres and a range of children’s programs. The majority of our ‘out of home’ care is offered in foster and community placements; we also undertake adoptions and maintain one small residential unit for older adolescents with from Culturally and Linguistically Diverse backgrounds. Barnardos has a history of child migration and in the past has run larger institutions and group homes. We have learnt from these experiences and appeared before Senate enquiries into Child Migration and Children in Institutions and we maintain close relationships with many of the now adult child migrants. The views of these children who lived in institutions are represented on our Board.

In this submission, we wish to describe our learning that the most effective ways of keeping children safe lie in quality of services and the development of an organisational culture that is engaged and responsive to children and which has management strategies that give clear messages to potential perpetrators. Barnardos aims at ‘best practice’ standards in our work with children and has been responsive to government and PEAK body advice on making a child wellbeing organisation. Many of the management strategies developed and recommended to us have been helpful in improving the lives of children but we recognise that we still cannot guarantee every child’s safety all the time.

Barnardos understands that sexual abuse is unpredictable and offenders are opportunistic (Irenyi, Bromfield et al. 2006) and acknowledges that we, and the rest of society, do not have strategies that prevent all sexual abuse of children. Welfare programs are particularly risky when they need to rely on the interaction of children and adults in private homes. Nevertheless, proactive management strategies do reduce risk to all children and should be basic to ‘child safe’ agencies. These strategies should not only focus on incidents when things go wrong (for example, decide how and when to involve police during an allegation) but should also develop an agency-wide preventative approach.

Our major learning is that child welfare organisations need to have a positive culture; relevant information systems which inform about individual children; and high quality, transparent services informed by research and incorporating the participation of, and openness to, the

child. Because offences are so unpredictable and opportunistic, we also aim for an agency which continually reviews strategies to prevent the greatest risk to us as an organisation, that is, damage to children in care. There are now well accepted general principles for managing risk in organisations which are highly relevant to children's safety. The most important principles include integration of risk in all organisational processes; risk assessment based on the best available information; strategies to reduce risk tailored to individual context; and policies which are dynamic, iterative and responsive to change. Despite these 'best practice' standards, there is a danger that risk policies are used only to frame organisational and financial uncertainty - not risk to children. There are few robust models of such risk policies for the sector and we had little to assist us when we developed our own.

We have provided responses to your specific questions below. As mentioned above, like most parts of the welfare sector, Barnardos no longer runs children's homes/institutions and our comments are in relation to a wide group of preventative programs – youth services, family support programs and education, or social programs such as family day care. But many of our comments are particularly focused on foster care and will be expanded on in response to *Issues Paper 4*.

**1 Essential elements of establishing a 'child safe organisation' that protects children from all abuse in an institutional context. In particular, are there core strategies that should be present and others that are less critical?**

It is essential for a child safe organisation to have a culture which encourages communication with children and vigilance of offenders. Such a culture is the result of a thorough and detailed approach to welfare management. Some management strategies are basic to this culture but, alone, are not enough. The most important of these strategies are good 'risk management', standardised information and case management systems, supervision and high level investigative processes.

1. A core culture for child safe institutions is that **children are given permission and encouragement to talk about issues of concern to them**. Assisting children to understand their right to safety of their bodies is fundamental and strategies for children to talk alone to a safe adult require training of staff to develop and maintain their skills in relating to children. For example, foster care agencies should ensure that children have the opportunity to talk alone to a worker at predictable intervals. This can be done effectively if workers take children to public spaces outside the home and talk to them alone every few months (when a placement is ongoing). Fundamental is that they have a trusting, long-term relationship with that adult. Children also need the words to use to describe parts of their body and to understand what is inappropriate behaviour, and to be encouraged to talk about feeling 'not safe'.
2. A second cultural consideration is the importance of high morale in welfare agencies and **the child's right to safety as a central value**. Expectations of high standards of care are needed. Agencies that are overstressed with high caseloads are in danger of assuming lesser standards for children's care, and this may create opportunities for people to abuse children.
3. A third important element of organisational culture is that fellow workers are **encouraged to be vigilant** and report any suspicions of inappropriate sexual

behaviour. Agencies require whistleblower policies which encourage workers to be vigilant and where their privacy is protected if they make an allegation. Workers need to be clear that their organisation supports them valuing the children rather than their staff group.

It is essential for a child safe organisation to have a 'Risk Policy' which is compliant with Australian standards and specifically addresses risk to children (Standards Australia AS/NZ ISO 31000:2009). This standard means that organisations continually identify the nature, likelihood, timeframe, tolerance levels and combinations of risks, and then act to reduce risk. Risk policy must be regularly discussed and reviewed by the organisation – at all levels - and reflected in all agency processes, with the central focus of responsibility is the child.

Risk policy focused on children is essential because organisations need to be constantly vigilant about child abuse. Despite the organisational procedures described below, Barnardos still has occasional instances of allegations related to sexual misconduct, described above, and therefore we endorse the principle that every welfare agency needs to be proactive and learning. In our view, the nature of adults who perpetrate inappropriate sexual behaviour towards children means that it will always be hard ever to be one hundred percent certain about children's safety, so that constant vigilance and review is essential.

In addition to a proactive risk policy, organisations need some key management strategies. Those that we have found important are:

- **The use of standardised case management systems-** Barnardos and many out of home care agencies in NSW utilise the international best practice system, *Looking after Children (LAC)*, which is soon to be developed into *MyStory*). This standardised case management system allows the accumulation of data and enhances the communication essential to keeping children safe. For example, review of data from the case management system can check compliance with policies and provide the management information which can enhance the development of policy initiatives. Currently, some bureaucracies cannot even locate the children in their care to ensure appropriate individual visiting by a caseworker. Most are unable to easily assess the number of placement moves a child may have. Yet, the number of moves in care can enhance behavioural disturbance and expose children to increasing numbers of adults (who may be abusive).

Standardised systems can also ensure that children and carers are seen at regular intervals and that issues of safety are routinely discussed. This LAC system includes guidelines that children be seen alone at regular intervals and their opinions recorded.

- **Supervision of all welfare staff.** Supervision of those people with face to face contact with children should be held at least each month, at a set time, for at least one hour, and conducted by an experienced child welfare worker. Supervision must be used to review each child on a caseload, including identifying any safety concerns. Supervisors must routinely explore the appropriateness of the relationship between child and worker and carer. Supervision should use the case management system described above - which can provide the information to inform supervisors. A case management system can help monitor that all caseworkers and placements are supervised and to draw on standardised data which can be easily referred to collate data about the child's life.

- **Well-developed recruitment policy/employment procedures for staff.** These must include thorough checking of qualifications, intensive interviews of potential workers, exhaustive reference checks and review of applicants by experienced managers. Every new person with face to face contact with children must have approval of the NSW *Working with Children Check* (WWCC) or the ACT *Working with Vulnerable People* (WWVP) checks or equivalent, as well as being assessed as suitable for the task.
- **Carer assessment should include multiple interviews by a number of caseworkers, with decisions made by experienced managers.** Assessment of both foster and kin carers should examine the background of all members of the household and include a very personal history of each individual. There must be full reference checks.
- **Quality staff training.** All workers and carers need to receive initial and ongoing training to ensure quality standards, with a particular focus on the vulnerability of children and the importance of their safety. This training should be informed by data drawn from research from case management systems. Training should be conducted both inside the agency and by external bodies. The importance of periodically seeing the child alone needs to be stressed and the development of a trusting relationship critical to any work. Training on the handling of disclosure needs to be thorough ( see recent articles Flam and Haugstvedt 2013; McElvaney 2013). In NSW, *Accreditation Standards* check that this training occurs.
- **Rapid investigation of allegations and immediate action to move children to safety.** Barnardos has found that the timeframes and investigative processes instigated by the NSW Ombudsman since 2012 to be very useful in ensuring timely and fair investigations of allegations. We have instituted this process in our Canberra programs. The NSW investigative framework means that a decision must be made formally and quickly as to the immediate safety of the child, by people who know the child's situation. The engagement of the Chief Executive in all decisions is an important principle for us in ensuring that allegations are treated with the utmost respect.

We believe that recent changes to the *Working with Children Check* in NSW will increase safety further.

- **Regular ongoing review of allegations and their implications for agency management.** Data on allegations should be routinely collated by the agency and considered at the highest levels to ensure that children's rights are observed and that the agency as a whole is treating each situation with gravity. Barnardos does this through CEO involvement and regular reports to the Board and Insurers.
- **Analysis of standard issues.** Organisations need to review their adherence to 'standards of care', for example, the level of stability of placements and ongoing research on the risk to children's wellbeing in organisations. Review of the academic literature can assist in the identification of risk to children, for example, Barnardos finds it useful to regularly analyse articles on child protection systems in the United Kingdom, where there are extensive inquiries as to children's safety.

- **Well articulated policies directed to workers, carers and volunteers.** All accredited agencies in NSW are required to have appropriate ‘protective’ policies in place and available to carers, workers and volunteers (in our case, through program specific handbooks). We have found it important to have clear procedures, for example, on complaints, contact with children outside the workplace, the Internet and information exchange.
- **Biennial audits of programs and centres. Barnardos’ policies are checked** in supervision, as described above, however, we have found that we need stronger mechanisms to monitor compliance with key policies, such as those related to sexual assault. We have found that we require regular audits to make sure that policies are implemented fully in each program. For example, we check that each program provides updated information to **carers, which is important to reinforce** understandings about what will happen if an allegation or complaint is made. This information is checked by the Centre Senior Manager and is sent to the Board every two years. Compliance with completing the case management system also needs to be reviewed.
- **Accreditations** Accreditation of Out of Home Care agencies in NSW ensures that an agency is at the standard of service expected to keep children safe. This is checked by an external body – in NSW, this is the Office of the Children’s Guardian (OCG) - to ensure compliance. All agency policies and procedures need to be updated every five years to comply with the most recent research and legislative developments. The OCG has access to all policies and the audits described above.
- **Liaison with industry bodies** Membership of PEAK bodies, such as the NSW *Association of Children’s Welfare Agencies* (ACWA), is helpful in identifying risk and ways of reducing it and for organisations to learn from one another about situations of concern.

## **2. The evidence base for the range of strategies associated with making an organisation child safe. Does this evidence base extend to the physical environment?**

There is not a strong evidence base for the strategies described and Barnardos believes that local updated research and analysis is required. We are aware of work by the *Australian Institute of Family Studies* but this is now becoming dated and does not reflect the work done in NSW to institute good vigilance and investigation nor the impact of the Internet on child sexual assault (Irenyi, Bromfield et al. 2006).

In Out of Home Care, there is evidence for the broad conclusion that children’s wellbeing and functioning is improved with stable placement - a secure, ongoing placement in the same household with adults who have a positive relationship with the child. While we know of no research directed at the question of what setting produces the least sexual assault, long-term, stable placement seems to provide the least allegations and clearly exposes the child to the fewest potential abusers.

Barnardos’ experience strongly supports the role of secure, positive placements.

Barnardos believes that it is important that each child has a separate bedroom and that, in residential settings, bedrooms are located in areas which can be easily monitored. We are

interested in further research on the physical environment which may create opportunities for abuse, as foster care and kin care are now the major places for care and are highly private environments. Barnardos would be interested to see work about offenders who had not previously offended until a new child entered the household, as well as research on the ages of greatest vulnerability in these settings. We would be interested in a review of prevention and self-protection programs in Australia (Thakkar-Kolar, Ryan et al. 2008).

### **3. How should the effectiveness of ‘child safe’ strategies be tested?**

There is an ongoing need for research to test the management strategies outlined above and determine other ways to offer greater protection. Barnardos would like to see analysis of the sustained allegations brought to the Ombudsman and Children’s Commissioner in NSW, to identify factors in the abuse. Both these organisations have considerable data which could be useful in measuring the effectiveness of strategies and comparing different organisational responses.

It would also be of interest to explore the outcomes of investigations of allegations. It would be our experience that a large number remain inconclusive and that there are a range of reasons for this and that ‘system’ co-ordination should be examined.

### **4. How ‘child safe’ policies work in practice**

As outlined in the introduction, unfortunately, the child safe policies we utilise are not necessarily 100% effective because it is very difficult to eradicate the opportunistic, inappropriate behaviour of sexual offenders.

Particular settings present unique issues and problems which require greater knowledge and understanding. For example, working with children who have been previously sexually abused raises some very particular questions of duty of care. Although we always give children’s allegations the highest credibility, in a small minority of cases we have experienced situations in which previous experience of inappropriate behaviour and understanding of how allegations can discredit adults have been used by teenagers. More knowledge is needed in this area of our work.

### **5. Should there be a universal framework for a ‘child safe organisation’ or should strategies be specifically tailored to particular types of institutional settings?**

We strongly believe that, rather than rigid child safe frameworks, child safety flows from quality practices reinforced by external accreditation, particularly in vulnerable settings, such as Family Day Care and recreation camps.

Accreditation should be regularly audited for compliance to standards but there should be organisational discretion in how standards are rolled out. The NSW Office of the Children’s Guardian is a good example of how this can work - allowing flexibility in organisational response but ensuring a basic level of practice is implemented.

We believe that frameworks in foster care agencies should be framed very carefully to support Out of Home Care carers because rigid proscriptions should not create barriers for appropriate carers coming forward. There is a shortage of carers and concern about their vulnerability to allegations of abuse may be a disincentive for potential carers if not handled well.

## **6. The role of staff performance management systems and disciplinary process**

Some of the measures recommended in Question 1 relate to staff performance and discipline, however, these are just part of the multiple strategies to produce good organisational culture. We draw your attention to our experience of sexual assault over the past five years, which shows that seven of the seventeen allegations received related to people who were not employees or carers with the agency (and therefore not reportable to the NSW Ombudsman).

We would also point out that:

- a. Allegations in our agency rarely concern staff but rather foster carers or family day carers (who are not in an employment relationship with us) but our policy requires that if there are allegations about a staff member, they are immediately relieved from duties of entailing any contact with children. When allegations are received about carers, a risk analysis is immediately undertaken if the child is not removed straight away.
- b. Many situations of allegations are highly ambiguous and there frequently are no clear answers to whether abuse has taken place and, therefore, appropriate discipline processes are unclear. Although we always err on the side of the child, that is, give children the 'benefit of the doubt', this lack of clear outcomes of investigations is problematic. We would point out that non-government agencies such as our own often find it difficult to learn the outcome of reported allegations, despite the involvement of *Joint Investigative Review Teams* (JIRT ie police and welfare departments working together). Organisations need to be very persistent.
- c. The issue of working within relationships; ongoing, regular, periodic supervision of workers and carers; and talking regularly alone with children is the single most important management strategy in our view, so that workers are clear about expectations of children and there is close oversight of the relationship. This needs to include guidelines on any contact outside the workplace.
- d. Agencies need to be prepared to engage in strong performance management if, for example, staff are unable to develop effective, trusting relationships with children or are ineffective in other functions, termination should be pursued.

## **6. The role and characteristics of governance and management leadership in creating and maintaining a 'child safe' environment**

In Question 1, we addressed the question of the importance of organisational culture in creating a child safe agency, as well as the importance of active management of the organisation's 'risk policy'.

Additionally, in respect to governance and leadership, we have found it very important to have all allegations of abuse directed to the agency Chief Executive who personally reviews the process of reporting and investigation. It is valuable to be accountable to the NSW Ombudsman, who specifies the time and nature of evidence required. We utilise NSW paperwork for our ACT allegations because it is an excellent way to record information. The Board or organisation also needs information with respect to the organisation and subsequent investigations.

Leadership in the management of allegations is very important. The legalistic nature of the processes of investigation can be very intimidating for workers - some of whom may only deal very rarely with an allegation. This may be a particular problem in small programs and agencies and some thought should go into how this management of an allegation can be better supported and more focused on the needs of the child and young person and less legalistic.

## **8. Additional enforceable requirements for institutions or particular institutions to maintain a 'child safe' environment**

Research should be undertaken about the effectiveness of current reporting and investigative regimes. We are aware of errors that have occurred in the past and believe that there should be some external scrutiny. Organisations like *Child Death Review* teams may be able to do such work.

As pointed out in our response to Issues Paper 1- we believe that an agency should be able to report any concerns to a centralised register, such as that of the NSW Children's Commissioner. Currently, we are restricted to reports on employees or carers and we have unsuccessfully tried to put the names of relatives of carers onto registers. There have been 7 allegations of this nature (of 17), most of which we believe should have been recorded by the NSW Children's Commissioner but which were deemed to be non-reportable.

## **References**

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