

**Submission to the Royal Commission into Institutional
Responses to Child Sexual Abuse**

**Issues Paper 4: Preventing Sexual Abuse of Children in
Out of Home Care**

Submission Prepared by ANGLICARE Sydney

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1. Introduction

- a) ANGLICARE Diocese of Sydney ('ANGLICARE Sydney') is a Christian organisation operating a wide range of community services and programs across the Sydney Metropolitan and Illawarra regions of NSW; it embodies the Christian commitment to care for all people in need, as comes from Jesus' command to love your neighbour as yourself.¹
- b) Our range of services includes: counselling and family support services; community education for families; youth services; foster care and adoption services; mental health recovery services (PHaMs); disability case management and respite; emergency relief for people in crisis; migrant services including humanitarian entrants and newly emerging communities; English as a second language classes; aged care both through nursing homes and community services; opportunity shops providing low-cost clothing; emergency management services in times of disaster; and chaplains in hospitals, prisons, mental health facilities and juvenile justice institutions.
- c) ANGLICARE Sydney's child, youth and family support services include two Family Relationship Centres (FRC's) in Nowra and Parramatta; a foster care service; an adoption service for children including those with special needs; adolescent residential care; an early intervention service for young single mothers; youth support services.

2. Purpose of this submission

- d) The Royal Commission into Institutional Responses to Child Sexual Abuse ('the Royal Commission') has released a number of Issues Papers for the purpose of gaining responses from interested individuals and organisations. Issues Paper 4, *Preventing Sexual Abuse of Children in Out of Home Care*, focuses upon whether the regulation of out-of-home care (OOHC) protects children in OOHC from sexual abuse.
- e) The following submission from ANGLICARE Sydney addresses each of the questions raised in Issues Paper 4, drawing upon our experience as a provider of child, youth and family services including OOHC. We have been providing foster care and group home care since the 1980's.

3. General observations

- f) In NSW there are independent oversight bodies (Office of the Children's Guardian and NSW Ombudsman) and a range of important checking mechanisms including National Police Criminal Record Check, Working with Children Check, KiDS database, a proposed Carers' Register (to begin in 2014) and provision in NSW child protection legislation to share information between relevant agencies. ANGLICARE Sydney believes that the centralised and complementary nature of these initiatives along with the sharing of information between the

¹ The Gospel of Matthew, chapter 22 verse 39

relevant agencies, including Non-Government providers of OOHC, are key to providing safer, more secure placements for children and young people in OOHC.

- g) Another important feature of the approach used in NSW is the high standards expected of agencies providing OOHC in the areas of caseworker recruitment, training and supervision, the assessment and training of carers, levels of contact between the caseworker and children in placement and protocols for dealing with allegations of sexual abuse. Whilst it may be impossible to prevent sexual abuse ever occurring in OOHC placements, much is being done to minimise the likelihood of sexual abuse through the implementation of safeguards along the entire chain of service: agency accreditation and procedures, recruitment of carers and staff, education, training, supervision, monitoring, regular home visiting and checks.
- h) A key feature is the onus placed upon OOHC agencies to remove children from placements where there are allegations of abuse or where there are substantial indications of sexual abuse. Agencies are able to act swiftly in such circumstances without needing to wait for the findings of a more lengthy investigation.
- i) As mandatory reporters, OOHC agencies are required to inform the Community Services Helpline wherever sexual abuse is alleged or suspected, not only in relation to foster carers and OOHC staff but also others with whom the child has contact (eg. teachers, sports coaches, other family members).
- j) OOHC agencies are also required to notify the NSW Ombudsman and follow Ombudsman guidelines, including a risk assessment and investigation of reportable conduct by a carer or employee.

4. Responses to Questions Raised in Issues Paper 4

4.1 Question 1 – Core Strategies for OOHC

1. An essential element of OOHC is for a child to be safe and secure. Are there core strategies to keeping children in OOHC safe from sexual abuse and what is the evidence that supports them?

- k) ANGLICARE Sydney believes that a core strategy is the presence of effective, complementary national and state-based regulatory initiatives designed to keep children safe. In this respect, the following initiatives provide an integrated approach to child protection in OOHC in NSW:
 - Accreditation of OOHC agencies and monitoring the response of agencies to suspected cases of abuse (administered by the Office of the Children’s Guardian)
 - National Police Criminal Record Checks

- Working with Children checks (Office of the Children’s Guardian)
 - KiDS database which details any notifications (NSW Dept of Family and Community Services). The database can be accessed by agencies as part of carer assessments under chapter 17 s248 of the Children and Young Persons (Care and Protection) Act 1998
 - Carers’ Register (Office of the Children’s Guardian, to commence in 2014). The register will flag reportable conduct investigations and carers who have been de-authorised by an agency.
- l) A key aspect of these initiatives is the ability of Government and OOHC agencies to share information, as permitted under chapters 16a and 17 (s248) of the Children and Young Persons (Care and Protection) Act.
- m) Another core strategy is ensuring that OOHC agencies operate to the highest possible standard. In this respect, agencies are required to adhere to Regulations under the Act and to undergo accreditation by the Office of the Children’s Guardian. NSW Standards for Statutory OOHC set a benchmark for agency accreditation and practice, and provide evidence-based guidelines and description of best practice for agencies.²
- n) A further core strategy is the recruitment of a high quality OOHC workforce. It is critical that agencies exercise care in the selection, training and monitoring of staff. Apart from being suitably qualified, staff need to be trained to recognise the signs of abuse in children and to respond appropriately to any disclosures of sexual abuse. ANGLICARE Sydney runs child protection training for staff covering the knowledge and skills necessary to fulfil duty of care requirements and apply relevant legislation, policies and procedures. Staff are also encouraged to attend free training provided by NSW Dept of Family and Community Services for Non-Government Organisations. Courses include *Child Protection Dynamics, Identifying and Responding to Risk of Harm*. Key staff are trained in *Investigating Reportable Conduct* and are kept informed within the broader sector through attending forums and roundtable meetings conducted by ACWA and NSW Ombudsman.

4.2 Question 2 – Strategies for Different Types of Care

2. Is there evidence for having different strategies to keep children in OOHC safe from sexual abuse depending upon whether a child is in relative or kinship care, foster care or one of the forms of residential care?

² <http://www.kidsguardian.nsw.gov.au/example-folder-5/Accreditation/information-sheets-for-designated-agencies/Information%20Sheets%20-%20merged.pdf>

- o) It needs to be recognised that each of the three types of care present different challenges in relation to detecting or preventing sexual abuse of children. Consequently these differences affect the strategies implemented for keeping children safe.
- p) In relation to **residential care**, Community Visitors representing the NSW Ombudsman conduct random visits of facilities to ensure compliance with standards designed to prevent abuse. Agencies need to ensure that sufficient guidelines are in place for staff of these facilities to ensure ongoing compliance with these standards.
- q) However in relation to **foster care**, agency caseworkers are unable to conduct random visits but must make appointments to visit carers and children. Under this constraint, key strategies involve the screening of potential foster carers, carer education, guidelines for carers and maintaining the relationship between the caseworker and the child.
- r) In relation to residential care and foster care, there is the possibility of abuse through contact visits by birth parents or other family members. For this reason it is important that visits generally be supervised to ensure the safety of the child.
- s) An overarching strategy irrespective of the type of care placement concerns the development of a culture within OOHC agencies which encourages disclosure and a quick response to the signs of or allegations of sexual abuse. This strategy includes behaviour management policies, codes of conduct for carers and staff, training and education, and an expectation upon staff to report any concerns about the safety of children or any inappropriate behaviour they have observed.
- t) Kinship placements are, by their very nature, the most independent of the three forms of placement. ANGLICARE Sydney believes that **kinship care** should be brought more into line with foster care in terms of training and development and ongoing supervision. In a submission to the NSW Dept of Family and Community Services³, ANGLICARE Sydney noted that, beyond an annual check, it was unclear whether any further monitoring would be required regarding the standard of care provided by a kinship carer or any further support given to kinship carers. ANGLICARE Sydney was concerned that a lack of monitoring and support would prevent the achievement of consistently high standards of kinship care. ANGLICARE Sydney recommended that kinship carers generally be authorised through accredited OOHC agencies. In addition, ANGLICARE Sydney noted that where children exit the OOHC system through kinship care, and there is no funding available for agencies to support kinship placements, it is unclear how to ensure and monitor that an adequate standard of care is being provided by kinship carers in this situation.

³ ANGLICARE Sydney, 2013, *Submission to Dept of Family and Community Services (FACS) Regarding Child Protection Reform*. Submission made in March 2013 in response to FACS discussion paper on child protection legislative reform proposals.

- u) A further risk to children in kinship care is posed if protective boundaries within the family system are neither well established nor enforceable by the kinship carer. Relationship history, allegiances and filial ties, how contact with other family members is managed by the carer and a lack of casework support may increase placement vulnerabilities. Where the impact of previous abuse of the child is not fully appreciated by the carer, it may place a child in kinship care at higher risk of subsequent abuse.

4.3 Question 3 – Models for Monitoring OOHC Practices

3. What are the strengths and weaknesses of models that check OOHC practices by an audit approach, a regular supervisory visit, or an irregular visit by someone like a community visitor?

- v) An **audit approach** is undertaken by the Office of the Children’s Guardian through the accreditation process. A strength of this approach is that evidence must be provided by an agency demonstrating adherence to the relevant NSW Standards for Statutory OOHC.
- w) **Regular supervisory home visits** are undertaken by OOHC agencies as part of ongoing case management. Strengths of this approach are that checks can be carried out on progress in implementing the case plan and the opportunity for ongoing building of the relationship between the caseworker and the child. The latter is a key in giving the opportunity for the child to disclose any incidents of sexual abuse. Regular visits also give the caseworker the opportunity to observe the carer, to reinforce the agency’s Behaviour Management Policy and agency guidelines for safe practices in the home, and to recognise any grooming techniques.
- x) **Irregular visits by Community Visitors** are limited to residential facilities. A strength of this approach is that the visits are random and unannounced; such an approach promotes consistent application of standards at residential care facilities.

4.4 Question 4 – Regulation by a Child Protection Department

4. What are the strengths and weaknesses of having OOHC providers regulated by the child protection department, or regulated by a body separate from the child protection department?

- y) ANGLICARE Sydney’s view is that the current arrangement in NSW where the Office of the Children’s Guardian is the independent regulator is a better situation than the Government’s child protection department, Family and Community Services (FACS), being the regulator. In recent years, there has been much discussion in the media regarding the level of resourcing of FACS; by comparison the Children’s Guardian appears to be adequately resourced for its role. More significantly, FACS both funds and provides children’s services; to also be the regulator would represent a conflict of interest for FACS.

4.5 Question 5 – Training Requirements

5. What are the core components of the training needs of those working with children who might be sexually abused including carers, caseworkers and staff of regulatory bodies? What priority should be given to training in relation to sexual abuse compared to other training needs?

- z) As a provider of OOHC, ANGLICARE Sydney provides training both for prospective carers and caseworkers. **Training for carers** covers a range of guidelines from the Children’s Guardian and the Carer Code of Conduct (Regulations), including safety, nutrition requirements for children, hygiene, the importance of private space, appropriate behaviour around children in the home and how to build a positive care environment. Input for carers includes initial training for applicants prior to authorisation, discussions during their assessment, provision of ANGLICARE’S Foster Carer Handbook, signed Placement Agreements to abide by policies, regular home visits and annual carer/placement reviews, access to resources and Helpsheets, plus ongoing training and workshop opportunities.
- aa) However, there are issues that are not covered in the guidelines from the Children’s Guardian, which then need to be addressed by each agency separately. For instance, ANGLICARE’S training and updated Carer Handbook includes guidelines for carers around appropriate internet and social media use by children. ANGLICARE Sydney’s view is that the Children’s Guardian should produce more comprehensive guidelines for agencies, to be continually updated as new issues arise.
- bb) People applying for **caseworker** roles are required to have a relevant university degree. For caseworkers it is important that they be trained not only in their own conduct around children, but also in recognising both the signs of sexual abuse in children and inappropriate behaviour by carers as well as other people with whom the child is in contact. ANGLICARE Sydney’s experience is that guidelines for carers regarding safe practices and appropriate behaviour in the home need to be reinforced through caseworker visits.
- cc) Core components of caseworker training would include how to:
- Establish and maintain a relationship with the child
 - Recognise indicators of sexual abuse and sexualised behaviour in young children
 - Recognise grooming behaviour among carers and other people with whom a child may have contact
 - Know when and how abuse occurs
 - Respond to disclosures of sexual abuse

- Handle the effects of disclosure on children, other caregivers and other family members.

dd) ANGLICARE Sydney also believes that it is important for caseworkers to be educating children and young people in care about what constitutes inappropriate behaviour by adults. Such education would need to be carried out in consultation with the carer and needs to be age-appropriate.

ee) Regarding the **priority** that should be given to training around sexual abuse compared with other training needs, ANGLICARE Sydney's view is that detecting and responding appropriately to sexual abuse must be a high priority in training. However our experience has been that the reporting of sexual abuse is often accompanied by other forms of trauma and abuse including drug, alcohol and mental health issues, physical abuse and emotional abuse. Such issues also receive a high priority in training in view of the potential damage that these can cause.

4.6 Question 6 – Children Who Have Sexually Abused Others

6. Is there adequate and effective training and information available to carers who are caring for children who have sexually abused other children?

ff) The answer to this question may depend upon the region within which an OOHC agency is located. For instance, as an agency based in the Metro West region, ANGLICARE Sydney's OOHC has access to a number of specialised providers including *New Street* (NSW Health), *New Pathways* (Youth Off the Streets), Alternate Care Clinic (Redbank, Westmead Hospital) and Cara House. Information and specialised training for foster carers and agency staff can be sourced through such providers. However there may be no such providers in other regional and rural areas.

gg) It should be noted that specialised providers can give not only information and training but also support and counselling for agency staff who have been confronted with sexual abuse or inappropriate sexual behaviour by children and young people.

4.7 Question 7 – Statistics on Rates of Sexual Abuse

7. How should the rate of sexual abuse of children in OOHC be determined, noting that the *National Standards for Out-of-Home Care* require reporting of substantiated claims of all types of abuse? Would a form of exit interview assist in capturing information? What should be introduced to ascertain whether information on child sexual abuse in OOHC is resulting in changed OOHC practices?

hh) It is noted that all substantiated claims of sexual abuse are required to be reported, with statistics generated through the NSW Ombudsman. However such statistics would reflect the

extent of voluntary disclosure of sexual abuse rather than the actual level of abuse in OOHC placements.

- ii) ANGLICARE Sydney believes that whilst an exit interview may assist in capturing information, whether at the end of a placement or at the end of a young person's time within the OOHC system, it is not the best approach for detecting and dealing with sexual abuse. It is paramount that such abuse be detected quickly and swift action taken to end the abuse. Given that agencies are required to undertake annual reviews, standardised questions around the issue of abuse could be included on a mandatory basis in these annual reviews, along with discussion around protective behaviours. While annual reviews may uncover previously undetected abuse, any allegations would still need to be substantiated for inclusion in statistical reporting.

4.8 Question 8 – Processes for Dealing with Allegations of Sexual Abuse

8. What is the usefulness and validity of different ways to address allegations of sexual abuse brought against carers? In particular, which approaches enhance participation by the child particularly approaches best suited to seeking possible disclosures of abuse (including disclosures that might be inferred from behavioural changes) from children? Are the current processes fair? What appeal processes should be available for carers?

- jj) The main priorities in any approach are that allegations of child sexual abuse are addressed swiftly and that the safety of the child is paramount. For this reason, where a child in OOHC makes an allegation of sexual abuse by a carer, the correct response for the agency is to immediately remove the child from the placement.
- kk) ANGLICARE Sydney's view is that the basic process followed in NSW for dealing with allegations of sexual abuse in OOHC is effective and has greatly improved from what it once was. Where there are allegations of sexual abuse, the agency informs the Community Services Helpline. The Helpline may then refer the allegation to a Joint Investigation Response Team (JIRT). In such circumstances, the OOHC agency is required to act to remove the child from the placement. The agency has the authority to remove the child on the basis of an allegation, without needing to wait for the findings of an investigative process. In this situation the agency itself does not conduct its own investigation but is still required to report to the Ombudsman.
- ll) Allegations not referred to a JIRT are investigated by the OOHC agency, as required by the NSW Ombudsman. The child, the carer(s) and any witnesses are interviewed, findings made and a report lodged with the Ombudsman. The child may be removed depending upon the findings of the investigation. The Ombudsman checks that the agency has followed protocols correctly, as set down by the Ombudsman.

mm) The **participation of the child** is dependent upon both their capacity and their age. However, as implied in Question 8, the best approach to be followed involves not only responding appropriately to allegations of abuse made by the child, but also recognising the signs of abuse, such as behavioural changes in the child. Key to an effective approach is both the training of caseworkers to be able to recognise such signs and that caseworkers have sufficiently frequent contact with the child. In this respect ANGLICARE Sydney caseworkers have contact with a child every 6-8 weeks in a long term placement and more frequently in an interim placement.

nn) Where there have been allegations of sexual abuse, carers have a **right to appeal** to the Administrative Decisions Tribunal, in relation to either procedural fairness or the substance of the allegations. Subject to adequate legal representation for carers, ANGLICARE Sydney's view is that the current appeal process in NSW is fair.

4.9 Question 9 – Independent Oversight for Allegations of Abuse

9. What measures could be used to assess whether the safety of children from sexual abuse in OOHC is enhanced by independent oversight of the handling of allegations of sexual abuse?

oo) In NSW, the Ombudsman currently provides independent oversight of the way that child sexual abuse allegations are handled by OOHC agencies while the Children's Guardian carries out accreditation and provides guidelines for the operation of OOHC agencies. In order to assess the relative effectiveness of independent oversight mechanisms, ANGLICARE Sydney considers that statistical comparisons published annually should be made between States and between types of care (eg. birth families, kinship placements, foster care, residential care), in order to identify situations of greatest risk of sexual abuse. A similar approach is used in relation to child deaths reported by the Child Death Review Team, which enables areas of greatest risk to be identified according to the manner of death.

4.10 Question 10 – Oversight Mechanisms

10. What are the strengths and weaknesses of different oversight mechanisms in keeping children safe from sexual abuse in OOHC?

pp) As discussed above, key oversight mechanisms include the Office of the Children's Guardian and NSW Ombudsman. In addition there are important checking mechanisms including National Police Criminal Record Checks, Working with Children Checks, KiDS database and the proposed Carers' Register.

qq) The strengths of these oversight and checking mechanisms are that they are centralised, are sufficiently resourced, are complementary, provide a picture of the history of prospective carers and allow inter-agency cooperation through the sharing of information. The last aspect in particular is important for the swift removal of children in abuse situations. For

instance the Community Services Centre will advise an OOHC agency if a report has been made to the Community Services Helpline involving a child connected with that agency.

- rr) A weakness is the length of time taken to receive information from the Community Services Centre or from a JIRT investigation. However in the case of the latter, the child will have already been removed from the placement.

4.11 Question 11 – Record Keeping and Delayed Reports of Abuse

11. What implications exist for record keeping and access to records, from delayed reporting of child sexual abuse?

- ss) In a situation where allegations of sexual abuse are made years after the event, the earlier records may not exist. This is in part a reflection of improvements to child protection procedures over the years and of parallel improvements to the keeping of records. Whilst historical practices cannot be changed, the possibility of allegations of abuse being made many years after the event means that current record keeping practices must be thorough. All allegations of abuse need to be recorded at the time and in a standardised way. This will be important where staff or witnesses may have left or died. Agencies must commit to keeping such records in perpetuity and in such a way as to be accessible to current and former clients of the service.
- tt) The standard of record keeping also needs to be acceptable to insurance companies. Records need to be accurate and reflect the voice of the child. Accurate records may provide key evidence to uphold a client's allegation years after the event or to demonstrate that correct procedures were in fact followed by an OOHC agency.

5. Conclusion

- uu) ANGLICARE Sydney appreciates the opportunity of participating in the consultation process and trusts that this submission will be of assistance in furthering the work of the Royal Commission.

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