Royal Commission into Institutional Responses to Child Sexual Abuse  
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To whom it may concern

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

The ACT Government supports the Royal Commission into Institutional Responses to Child Sexual Abuse. In response to the fourth issues paper, this letter outlines a number of the measures the ACT Government has in place. This information is complemented by ACT responses to the Royal Commission’s first and third issues papers.

The ACT is committed to the protection of children and young people. This commitment is reflected in legislation protecting children and young people, the services provided to protect children and young people and ongoing improvements to the child protection system to improve outcomes specifically for children and young people who are in care.

The prevention of sexual abuse in Out of Home Care (OOHC) is primarily determined by the supporting processes in place across the OOHC system, the quality of contract management of outsourced services, the checks and assessments of carers and OOHC staff and the response to concerns about children and young people in their care environment.

Background

The ACT Government commenced responsibility for children and young people in need of care and protection following self government in 1989. Historically, and before self government, many children and young people in the care of the Commonwealth Government were incarcerated at the Quamby Youth Detention facility or sent to detention or large residential care facilities interstate. Changes to legislation (Children’s Services Act 1986) and self government have ensured that since 1988, children and young people requiring care are not, unless in their best interests, placed interstate.

The primary form of care for children and young people in the care of the Director-General of the Community Services Directorate is kinship care, followed by foster care and residential care. Residential care facilities are small, some caring for 1-2 children and others caring for a maximum of 6-8 children.
Out of Home Care in the ACT

The Community Services Directorate has responsibility for a range of human services functions in the ACT, including the Office for Children, Youth and Family Support (OCYFS). OCYFS works in partnership with the community to provide care and protection, youth justice, early intervention, prevention and community services to meet the needs of the children, young people and families of Canberra.

Care and Protection Services, within OCYFS, provides child protection and OOHC services to children in care as well as funding OOHC and community services.

In 2000 the ACT began outsourcing OOHC services to work collaboratively with the community sector to care for children and young people. These arrangements initially involved foster care and residential care being provided by approved non-government organisations. Due to the increasing demand for OOHC for children and young people with high and complex needs, a therapeutic foster care program and a residential care reception centre were added to the service mix. These arrangements share responsibility for vulnerable children, however they increase risk as much of the statutory service delivery occurs at arm’s length from the responsible government agency.

Care and Protection Services has retained case management responsibility for a growing number of kinship care placements. These now comprise more than 50% of the ACT’s OOHC placements.\(^1\) A Kinship Care Support Team was established in May 2012 and provides support to children and kinship carers to achieve improved outcomes for the children and young people.

The Kinship Care Support Team also works with the Australian Childhood Foundation, to assess and train carers and access therapeutic services. Recently the Centre for Applied Behavioural Analysis has been engaged to support carers through a multi-disciplinary approach to therapeutic interventions with children and young people in their care environment. These options are initially focused on children and young people with high and complex needs.

Reviews of Care and Protection Services

A number of reviews have provided significant public scrutiny of the ACT’s care and protection and OOHC services. These include reviews by the ACT Public Advocate in 2011 and 2012 and a Performance Audit by the ACT Auditor-General in 2013. The reviews noted areas for improvement in the administration of the OOHC system to keep children safe and improve the outcomes for children and young people in care.

In 2011, OCYFS began a change management process to put into effect a commitment to review and refresh Care and Protection Services. This includes two major projects along with 19 smaller projects that promote improvements of the service system and outcomes for vulnerable

\(^1\) Community Services Directorate Annual Report 2012-2013 (pp 88 – 89): At 30 June 2013, there were 290 children in the care of the Director-General placed in approved kinship placements across 166 households. These included 78 Aboriginal and Torres Strait Islander children and young people. A total of 560 children and young people were in OOHC at 30 June 2013, of whom 52% were in kinship care.
children, young people and families. The major projects being undertaken are the development of an Integrated Management System, with the functions of aligning strategic direction, policies and procedures, risk management and compliance activities and the development of an OOHC Strategy for 2015-2020. The additional projects include delivering reforms to staff training and development, kinship care, record keeping and professional practice development.

**Mandatory Reporting in the ACT**

The ACT *Children and Young People Act 2008* legislates for the mandatory reporting of non-accidental physical injury and the sexual abuse of children and young people. Such reports are made to Care and Protection Services. The legislation specifically identifies professions required to make a report, statutory positions involved in the advocacy and protection of children and young people in the Territory and all public servants providing services to children, young people or families.

Police are mandated reporters and this ensures that all allegations of sexual abuse of children and young people that are brought directly to the attention of Police are reported to Care and Protection Services. Care and Protection Services have a policy to refer all allegations of non-accidental physical injury or sexual abuse of children to Police. On the basis of the evidence available to Police, they determine the nature of their intervention.

The legislation also enables any community member to make a voluntary report if they believe a child or young person has, is being or is at risk of abuse and neglect.

The ACT population is well informed about the making of reports to Care and Protection Services. This is demonstrated by the significant increase in the reports made during the past ten years. The Australian Institute of Health and Welfare reports in their Annual Child Protection Reports that reporting in the Territory has increased from 2,124 reports in 2002-2003 to 12,419 reports in 2011-2012. While there is an overall increase in the number of reports, reports of sexual abuse have not increased at a similar rate.

Ongoing training and access to published material about mandatory reporting is provided to the community and mandated reporters. The most recent publication dated November 2012 has been provided to mandated reporters and is also available online. Since 2004, 635 training sessions involving more than 13,000 people were provided by the Community Services Directorate regarding mandatory reporting. In addition, since 2004, ACT Health has trained more than 20,000 staff on their mandatory reporting responsibilities.

**Third party monitoring and oversight**

The statutory authority with primary responsibility for oversight of Care and Protection Services is the ACT Public Advocate. The functions of the Public Advocate are outlined in the *Public Advocate Act 2005* and include promoting the protection of children and young people from abuse and exploitation and monitoring the provision of services for the protection of children. The Public Advocate is a mandated reporter.
The *Children and Young People Act 2008* requires the Community Services Directorate to advise the Public Advocate of all reports that meet the legislative threshold (s507 of the Act) for ‘abuse in care’. This includes reports of sexual abuse.

The ACT Commissioner for Children and Young People (located within the ACT Human Rights Commission) has a primary focus on systemic change, although the Commissioner has the power to investigate individual complaints regarding the safety of children and young people. The Commissioner for Children and Young People is also a mandated reporter.

**Future Directions**

The Community Services Directorate is developing an OOHC Strategy and has released a discussion paper *Children and young people in care growing up strong, safe and connected* for public consultation until 10 December 2013. The OOHC Strategy will guide the delivery of out of home care services in the ACT from 2015 to 2020. The aim of the Strategy is to improve the service system and outcomes for children and young people in care and to ensure the supply and quality of OOHC placements for children and young people.

Further information on OOHC in the ACT is available from the website of the ACT Community Services Directorate at [http://www.communityservices.act.gov.au](http://www.communityservices.act.gov.au)

Yours sincerely

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