Overview

The South Australian Government welcomes the opportunity to make a submission to the Royal Commission Issues Paper 4 - Preventing Sexual Abuse of Children in Out of Home Care (OOHC).

OOHC is for children and young people who are unable to live with their parents and may include: foster care, relative care, kinship care, or residential care.

The wellbeing of children and young people within the community is a priority for the South Australian Government. We know it is important that children and young people are cared for in a safe environment where they can grow up feeling supported and secure.

Where children and young people are not able to remain safely in the care of their birth family, the South Australian Government provides OOHC services that aim to provide a family-like environment for children and young people, while at the same time keeping the existing ties that they have with their families and communities, wherever it is safe and possible to do so.

For however long a child is under the care of the Minister for Education and Child Development, the OOHC services aim to:

- Promote the children or young persons' connections with family, carers and the community;
- Promote the children or young persons' active participation in making decisions about their future;
- Value carers and the important role they play in the lives of the children and young people they support;
- Nurture children and young people to successfully transition from care to be active members of the South Australian community; and
- Ensure children and young people are connected to and proud of their cultural background.

The South Australian Government is committed to planning and developing OOHC services that respond to the changing care needs of children and young people in years to come.

The Department for Education and Child Development (DECD) as lead organisation for advancing child safe environments, provides guidance and practical advice for organisations and sectors, to assist them with developing their policies and procedures for creating child safe environments.
Families SA, an agency within DECD developed the Child Safe Environments: Principles of Good Practice pursuant to section 8A Children’s Protection Act 1993 (SA). These principles are informed by the National Framework “Creating Safe Environments for Children – organisations, employees and volunteers” (2005), the development of which was coordinated by South Australia, as an initiative of the Community and Disability Services Ministers’ Conference.

Operating under the Children’s Protection Act 1993, DECD (Families SA) is responsible for:

- receiving notifications of suspicion on reasonable grounds that children are being abused or neglected;
- assessing if children are at risk of abuse and neglect or have been abused and neglected;
- strengthening and supporting families to reduce child abuse and neglect;
- applying for Care and Protection Orders when children are unable to remain with their birth families due to abuse and neglect; and
- providing OOHC for children unable to remain with their birth families.

Within the Department for Communities and Social Inclusion (DCSI), Disability Services has a focus on child safety for children and young people with disabilities. In particular, Disability Services, through their Child and Youth Services (CYS) section (in addition to complying with the legislation and overarching DECD policies, standards and requirements for child safe organisations), plays an important role in ensuring the health and safety of children with disabilities who are under the Guardianship of the Minister, or placed in OOHC.

Core strategies in keeping children in OOHC safe from sexual abuse

When children can no longer live safely with their birth family, Families SA will provide OOHC services which recognises the diverse needs of children and young people, and responds to their unique physical, emotional, social, cultural, historical and geographical context. DECD (Families SA) has a strong commitment in the maintenance of the National OOHC Standards. DECD (Families SA)’s aim is to provide the highest standard of care and specialist support services in promoting the safety, welfare and well-being of children, young people and their families.

In South Australia the ‘Directions for Alternative Care in South Australia 2011– 2015’ provides the plan and focus to drive improvements across the whole of the OOHC services, in order to deliver quality, needs-led services in kinship, relative, foster and residential care arrangements. The plan builds on the ‘Keeping Them Safe – In Our Care’ strategies and links with the National Out of Home Care Standards.

In residential care settings within South Australia, supervision (including appropriate rules and boundaries) and education are core strategies for keeping children and young people safe from sexual abuse. This includes age appropriate sex education for children and young people, and sexualised behaviour training for carers in recognising and evaluating sexual behaviour whilst remaining trauma informed.
The *Children in State Care Commission of Inquiry 2004 to 2008* (the Mullighan Inquiry) identified that children who live in residential care settings are more likely to abscond from their placement and put themselves at risk of sexual abuse, perpetrated by adults in the community.

In South Australia, in response to Recommendation No 44 of the Mullighan Inquiry Report, a co-ordinated approach for responding to children in OOHC who abscond from their placement and are at risk has been implemented. A Missing Persons Protocol between the DECD’s Families SA and the South Australia Police (SAPOL) has been established, which provides a coordinated and effective response to children and young people in the custody and under the Guardianship of the Minister, who go missing from their placement. Complementing the protocol is a specialist therapeutic service funded by SA Health and delivered by Yarrow Place. The service provides assertive, specialised therapeutic services for children and young people in care with difficult and complex needs, who are under the Guardianship of the Minister for Education and Child Development and are considered to be ‘at risk’ due to absconding and at risk of sexual exploitation.

Other core strategies that form part of the broader OOHC program in South Australia include the provision of appropriate training for staff related to child sexual abuse and effective recruitment and induction for staff working in residential care facilities.

**Monitoring and Regulation of OOHC Services and Practices**

In South Australia, the monitoring and regulation of OOHC services and practices involves a multi-layered approach.

DECD (Families SA) has the primary responsibility for case management and planning for children under Guardianship of the Minister. DCSI’s Disability Services through its CYS also offers disability related support to prioritise these children for services as needed.

An effective framework for overseeing the safety and protection of children in OOHC care must incorporate both internal and external oversight mechanisms. On its own, no single mechanism can provide appropriate oversight of the OOHC sector. However, vesting responsibilities for oversight in a range of bodies internal and external to the child protection department can contribute to a comprehensive system of oversight and advocacy for children and young people within the OOHC system.

In South Australia some examples of these mechanisms include:

- The Guardian for Children and Young People, which is an independent statutory body responsible for providing systemic and individual advocacy for children and young people who are in care.
- DECD (Families SA) Care Concerns Investigation Unit, which has a mandate to investigate allegations of abuse and breaches of duty of care in relation to children and young people in State Care.
- Health and Community Services Complaints Commission, which is responsible for hearing and investigating complaints made by community service users.
- Child Death and Serious Injury Review Committee, which is responsible for reviewing cases where children die or suffer serious injury with a view to identifying means of preventing similar injury in the future.
DCSI's Care Concerns Investigations Unit has a mandate to investigate care concerns in relation to agencies funded to provide care to children with disabilities in voluntary OOHC.

These formal mechanisms are in addition to local informal oversight mechanisms, such as receiving and acting upon feedback from children, young people and their carers at the local level.

Where OOHC services are provided by non-government organisations under contract, South Australia has a range of mechanisms for regulation and regular monitoring. These mechanisms are directed towards:

- establishing some common benchmark for quality care provision to children and young people in OOHC;
- providing consistent outcomes for children and young people;
- promoting a partnership approach across the OOHC sector; and
- implementing systems to promote and maintain OOHC standards.

It is also critical that mechanisms are in place to review the circumstances of individual children. In South Australia, one example of these mechanisms is a legislative requirement that DECD (Families SA) review the circumstances of children under long term Guardianship Orders at least once each year. The review must consider whether the existing arrangements for the care and protection of the child continue to be in the best interests of the child. This annual review process is an important means of monitoring the quality of services provided to the child and the outcomes achieved.

Independent oversight and advocacy is of critical importance for individual and systemic monitoring of the circumstances of children in OOHC. Within South Australia, this function is provided by the Guardian for Children and Young People. The Guardian for Children and Young People, whose role and responsibilities is to:

- promote the best interests of children under the guardianship or in the custody of the Minister, and in particular, those in OOHC;
- act as an advocate for the interests of children under the guardianship or in the custody of the Minister, and in particular, any child who has made a disclosure of sexual abuse;
- monitor the circumstances of children under the guardianship or in the custody of the Minister (such as through auditing a selection of children's annual reviews each year);
- provide advice to the Minister on the quality of the provision of care for children under the guardianship or in the custody of the Minister and on whether the child’s needs are being met;
- inquire into, and provide advice to the Minister in relation to systemic reform necessary to improve the quality of care for children in OOHC; and
- investigate and report to the Minister on matters referred to the Guardian by the Minister.

In addition to complying with the above mechanisms, Disability Services also operates an OOHC Therapeutic Team, funded through Families SA. This team offers therapeutic support to foster families caring for children with a disability and complex needs. The majority of children referred to this program present with significant emotional and behavioural disturbances.
The individualised therapeutic approach has been found to be highly effective in supporting families of children or young people with disabilities. Disability Services also provides specialist oversight of children and young people who are in voluntary OOHC arrangements.

Processes to capture sexual abuse incidences in OOHC

Within South Australia, all notifications and care concerns are notified to the DECD’s (Families SA) Child Abuse Report Line (CARL), including care concerns related to children in OOHC. If a child or young person is also under the care of the Minister for Education and Child Development, serious concerns are forwarded to the Care Concerns Investigations Unit for assessment. Concerns of a serious nature for children under the Guardianship of the Minister (such as allegations of sexual abuse) are investigated by the Care Concerns Unit and a record of the outcome of the investigation is recorded in the connected Client Case Management System.

Record keeping and access to records in cases of delayed reporting of child sexual abuse

In regards to records pertaining to children in State care, it is common for child protection agencies to implement records disposal schedules that require the long term retention of client files. In South Australia all client files must be retained for 105 years from a client’s date of birth and client files relating to people of Aboriginal and Torres Strait Island descent are kept permanently. Also, client files are increasingly being retained in electronic format. In the circumstance that a person who had been in care makes a disclosure after leaving care, this information would be included in their departmental electronic and/or hard copy file.