



Submission: Royal Commission into Institutional Responses to Child Sexual Abuse – Consultation Paper on out-of-home care

April 2016



Aboriginal Child, Family and Community Care State Secretariat (AbSec)

About AbSec

The Aboriginal Child, Family and Community Care State Secretariat (AbSec) is the peak Aboriginal organisation within the child and family sector in NSW. AbSec is committed to advocating on behalf of Aboriginal children, families and communities, and to ensure they have access to the services and supports they need to keep Aboriginal children safe and provide them the best possible opportunities to fulfil their potential through Aboriginal community controlled organisations.

Central to this vision is the need to develop a public health approach to Aboriginal child and family supports delivering universal, targeted and tertiary services within communities that cover the entire continuum of care and reflect the broader familial and community context of clients. Such services and supports would operate to mitigate risk factors or vulnerabilities thereby reducing the need for more intensive or invasive interventions, as well as ensuring that tailored and critical Aboriginal out-of-home care and after care services are provided to intervene in the cycle of disadvantage that continue to impact generations of Aboriginal families.

Our vision is that Aboriginal children and young people are looked after in safe, thriving Aboriginal families and communities, and are raised strong in spirit and identity, with every opportunity for lifelong wellbeing and connection to culture surrounded by holistic supports.

In working towards this vision, we are guided by these principles:

- acknowledging and respecting the diversity and knowledge of Aboriginal communities;
- acting with professionalism and integrity in striving for quality, culturally responsive services and supports for Aboriginal families;
- underpinning the rights of Aboriginal people to develop our own processes and systems for our communities, particularly in meeting the needs of our children and families;
- being holistic, integrated and solutions-focused through Aboriginal control in delivering for Aboriginal children, families and communities; and
- committing to a future that empowers Aboriginal families and communities, representing our communities, and the agencies there to serve them, with transparency and drive

Published April 2016

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Introduction

The safety, welfare and wellbeing of children and young people is of paramount importance, and remains a significant focus for the child and family welfare sector. This is particularly the case for Aboriginal communities and organisations given the significant ongoing overrepresentation of Aboriginal children and young people in the child protection and out-of-home care systems. AbSec acknowledges the challenges facing the contemporary Out of Home Care (OOHC) system in NSW, including the growing numbers of Aboriginal children and young people in OOHC and the lengthening times in which they are in OOHC. We feel strongly that a significant piece of the puzzle is to invest in family preservations, supports and early intervention to prevent children from coming into care in the first instance, where possible, and to ensure this investment is targeted to strengthening families to carry out their role in keeping their child safe from harm. For Aboriginal children and families, such services must be designed and delivered by and accountable to the Aboriginal communities they serve in order to be most effective, and to ensure a network of formal support arrangements that enable Aboriginal children and families to receive a service response within a strong framework of cultural connection.

However, where children are assessed as being unable to remain safely at home in the immediate or longer term, there is an obligation to ensure their safety, welfare and wellbeing, including preventing abuse in care. There are many elements that collectively serve to improve the safety of children and young people in OOHC, reducing the risk of abuse and improving the likelihood that abuse will be identified, leading to appropriate responses. These elements have been outlined in the Consultation Paper, including carer assessment processes, screening tools, agency accreditation processes, independent monitoring and oversight, mechanisms for the timely sharing of critical information.

Many of these elements already exist in NSW, and will be commented on in turn in the following sections from our perspective within the NSW Aboriginal sector. However, we reiterate here that such processes, while contributing to the safety of children and young people in OOHC, are not sufficient to assure the safety of children and young people. Rather, the safety, welfare and wellbeing of children and young people in OOHC is best promoted through relationships, providing a network of social connections that are able to notice and report issues of concerns (such as perceived grooming behaviours), hear and respond appropriately to disclosures and notice and respond appropriately to changes in behaviour or presentation that may indicate the presence of issues, including abuse but also other wellbeing factors such as mental health issues. Additional strategies, such as those outlined in Chapter 7 of the Consultation Paper, include sector and community education prevention programs and awareness raising to build the capacity and universality of supportive networks of safety for children and young people. This community safety approach is central to AbSec's plans for a holistic, community-based approach to achieving the safety, welfare and wellbeing of Aboriginal children and young people, recognising that from our perspective, all three elements of safety, welfare and wellbeing is underpinned by strong cultural connection to home, family and country that can only be supported by established and resourced Aboriginal community based services that are there for Aboriginal children and families.

AbSec continues to call for greater participation, self-determination and empowerment of Aboriginal families and communities, through their community-based organisations, in the design and delivery

of services and supports to Aboriginal children, families and communities. We echo the views of our Victorian colleague, Mr Andrew Jackomos, as outlined in the Consultation paper regarding the lack of involvement of Aboriginal people in policy and service sector design, and call for greater empowerment of, and accountability to, Aboriginal communities regarding service delivery for Aboriginal children and families. Genuine self-determination, a cornerstone of the Declaration of the Rights of Indigenous Peoples, is central to overcoming the ongoing overrepresentation of Aboriginal children and families in the child protection and out-of-home care systems and keeping those young people within the system safe from harm.

From this foundation, AbSec broadly agrees with the importance of the elements outlined in the Consultation Paper for an effective and protective OOHC system. Our *Plan on a Page for Aboriginal Children and Young People*¹ outlines our broad approach to enhancing the participation of Aboriginal communities in child protection issues, building a state-wide safety net of services to support local and state-based Aboriginal governance processes, ensuring a responsive, culturally appropriate and accountable service system across the continuum of care to achieve better outcomes for Aboriginal children and families. We believe that this approach will deliver better outcomes for Aboriginal children and young people, their families and communities, including a reduction in the rate of Aboriginal children entering care, the length of time that those that do enter care remain in care, and improved safety and wellbeing outcomes while in OOHC, ensuring cultural connection for those Aboriginal children removed from their family and community.

Elements of a child safe OOHC system

The Consultation Paper outlines a number of elements that have been identified in the work of the Royal Commission that assist in promoting the safety of children and young people in OOHC. In discussing these elements, the Consultation Paper recommends some models or approaches that might represent best practice. We will briefly mention these elements below and provide a broad response based on our perspective in NSW. While dealing with each of these elements separately, we acknowledge that the interrelationships that exist between them.

Information sharing

The Consultation Paper outlines the importance of effective information sharing processes in keeping children and young people safe and responding effectively and appropriately when it does occur. We agree that systemic failures in the timely sharing of critical information may significantly undermine the safety of children and young people in OOHC. This includes failure to properly identify and screen perpetrators, missed opportunities to prevent, identify or respond to abuse, or failures to provide carers and other members of the care team with adequate information to promote the immediate and longer term wellbeing of children and young people, including the proper establishment of the support model for a child entering OOHC. This means that information obtained in the first instance by government authorities needs to be at a point to enable non-government providers and accredited bodies to make informed decisions around how best to support a child based on their circumstances, and need. This includes sharing appropriate information with children and young people themselves to increase their sense of safety and feeling

¹ AbSec (2015) - <http://www.absec.org.au/images/pdf/PlanforAboriginalChildrenandYoungPeople.pdf>

of empowerment in addressing issues that affect them, and ensuring that information collected about them is available to them after they exit the care system.

In general, AbSec and our agencies are broadly supportive of efforts to facilitate the sharing of relevant information to promote the safety, welfare and wellbeing of children and young people in OOHC. In general, we agree with the Consultation Paper that the Chapter 16A provisions enacted in NSW provide a good model for legislative support of this principle, however also acknowledge that proper use of this provision requires significant cultural change and practice support to help practitioners and other stakeholders to understand the provisions (particularly the proactive provisions) and utilise them to their full effect for the safety, welfare and wellbeing of children and young people, within the framework of prescribed bodies in the child protection/OOHC system.

National consistency in this area would promote the timely sharing of relevant information between state-based child protection systems and other prescribed bodies within those systems, supporting organisational and professional cultural change that prioritises children's safety within a clear framework. However, in saying this, it is important to note that better information sharing between prescribed bodies at a state-based level will not be enhanced by creating national provisions, but rather these provisions would need to seek to complement existing state-based provisions for information sharing, enabling a robust environment for all those involved in ensuring appropriate care and safety for a child in OOHC.

Regulation and oversight

Regulation and oversight of the child protection system, including OOHC systems, is a critical element to meeting our collective obligations to support vulnerable children and young people in our communities. The overarching feature of such frameworks is to ensure transparency and accountability of the child protection system. This is particularly critical for Aboriginal families and communities, who have been devastated by past practices within child welfare systems and whose ongoing relationship with such systems are often characterised by a significant level of distrust. As such, the operation of child protection systems with respect to Aboriginal children and young people, including early intervention, statutory responses and OOHC processes, must be transparent and accountable to the Aboriginal communities they serve.

Regulatory and oversight processes such as those outlined in the Consultation Guide (accreditation processes, Working With Children Checks, carer authorisation and carer registers, systemic monitoring and review, reportable conduct schemes) are all features of the NSW OOHC system, which is in the process of being transitioned to the NGO sector. This transition has been relatively well received by Aboriginal communities, given the opportunity for the development and capacity building of Aboriginal communities, through community-controlled organisations, to take on service delivery responsibilities for Aboriginal children and young people in OOHC, thereby promoting some (albeit limited) self-determination, governance and decision making in these important processes. In our engagements with existing Aboriginal OOHC agencies, providing care for over 1100 Aboriginal children and young people, there was a clear consensus in the importance of these processes in promoting the safety, welfare and wellbeing of children and young people in OOHC.

Our organisations take accreditation processes very seriously, and in some cases, are developing more stringent processes in the authorisation/probity of carers. For example, as community based

organisations many of our practitioners are able to conduct carers assessments (for both foster and kinship carers) that are broader in scope, or are even seeking information beyond the working with children check (such as that held by FACS) to inform their assessment and risk management with respect to both carers and prospective OOHC practitioners. Importantly, the role of accreditation systems performed by statutory functions cannot be duplicated through establishment of government frameworks, policies or contracting mechanisms. From our perspective, this adds additional burden to an existing system that is already required to achieve minimum standards in ensuring the protection, safety, wellbeing of children, and to regularly respond and report against those standards – many of which aim to enable organisations to ensure quality and delivery of outcomes for a child in OOHC. From an Aboriginal sector point of view, the absence of strong standards for supporting Aboriginal children and young people is significantly noteworthy. Such standards would work to address the current disproportionate rate of Aboriginal children in OOHC, and aim to embed greater accountability and transparency to Aboriginal communities, ensuring or more self-determined approach to addressing the needs of Aboriginal children. These needs would centre on the minimum standards required to ensure maintenance and support for cultural connection, with a view to maximising outcomes that ensure the best interests of an Aboriginal child requiring OOHC within a framework designed by Aboriginal people and communities, rather than westernised systems. AbSec, along with our agencies, have argued the need for such standards for supporting Aboriginal children and young people and will commence development of such standards for NSW, which has been reflected in our *Plan on a page for Aboriginal children and young people*. Such standards would not replace existing accreditation processes, but seek to enhance these processes and thereby promoting better outcomes for Aboriginal children and young people, and their longer term wellbeing, identity and connection as First Peoples of Australia.

In recent consultations the majority of participating Aboriginal OOHC agencies spoke of the importance of strong positive relationships with external bodies such as the NSW Ombudsman and Children's Guardian in developing child safe organisations and systems able to respond appropriately to allegations of abuse in care. This includes developing and refining effective processes under the NSW Reportable Conduct scheme, with AbSec recently calling for support to develop a dedicated Aboriginal reportable conduct unit under its banner. This unit, modelled on a similar unit within FACS that has been effective in improving the quality of responses to allegations of abuse in care and informing practice improvements arising from such allegations (individually and in aggregate), in order to produce the same benefits within the Aboriginal NGO sector as well as supporting capacity building in Aboriginal communities across the state. We are hopeful to commence development of such a unit this year pending investment by government in such a resource, which would also support other features such as information sharing and data collection across the sector and most importantly serve to keep our children and young people safe.

Reportable conduct schemes including processes for the investigation of allegations of harm are critical to ensuring the safety of children and young people in OOHC. Consideration must also be given to the practice of reportable conduct schemes, ensuring appropriate supports are provided to all parties while allegations are examined, ensuring transparency and natural justice above all. Recent data presented in NSW suggests that approximately 1 in 4 incidents in OOHC reported under the reportable conduct scheme are substantiated, emphasising the need for both rigorous and specialised investigative processes as well as the need to support all stakeholders through this process in the interest of natural justice. To be absolutely clear, we do not condone any process that

seeks to minimise or fails to rigorously investigate allegations of harm, wherever they might arise. However, to ensure the longer term wellbeing of children and young people, it is our view that appropriate support mechanisms ought to be established for all parties during investigative processes until such time as an allegation is fully examined and the result known. There needs ultimately to be a separation of examining reportable conduct, and disciplinary action following that examination, which can often at times be seen to be blurred. Our overall concern is for the welfare of the child, but the impact of punitive responses to all parties can have an overriding effect on the child.

The issue of minimum checks and assessment in the context of emergency or crisis placements has been raised at different times within our sector. Largely, this reflects a practice issue in which actions to promote the safety of children in the home while also identifying (preferably family/kinship) placements that may be able to provide emergency care if needed are not being completed concurrently. This forward planning would help to ensure that children and young people can remain connected to their family and embedded in their social networks despite needing to enter care for some period of time. We appreciate however that this is not possible in every case, and would welcome processes that would permit the speedy completion of minimum checks (for example, criminal history and national child protection information) to provide some minimum level of screening.

Once again though it must be stated that screening processes in and of themselves are insufficient at mitigating anything but the most obvious risks to children and young people entering care. While this is therefore an essential element, we should not invest too much confidence in the capacity of such measures to ensure the safety of children and young people in care. Rather, children must be embedded within their communities to provide a network of care that is able to combat the isolation often accompanying child sexual assault and provide protective adults that are able to notice and respond appropriately to suspect child sexual abuse or sexual exploitation. This requires ongoing casework support and training for practitioners, carers and community members around identifying and responding to disclosures of abuse, and will contribute to the creation of safer communities for all children and young people.

To the issue of oversight, it must be considered that within a complex system such as child protection and OOHC, there are various bodies that perform the function of oversight. In NSW, this complexity without appropriate investment in development of a sector, adds undue pressure to a system that can fail or be distracted by differing, yet similar, requirements of oversight bodies. AbSec in the past 12 months has sought to develop a significant oversight function within the NSW system, targeted to systemic monitoring, review and improvement, and focused in the form of building capability and capacity of the Aboriginal sector. It is our view that the streamlining of functions and greater investment in more centralised non-government systemic oversight will enable a targeted system focused on the safety, welfare and wellbeing of children. From an Aboriginal perspective, ensuring a differentiated approach enables greater effort and focus towards addressing the broader concern of the disproportionate rate of Aboriginal children and young people involved with the OOHC system.

Data

AbSec agrees that transparency and accountability are central to the proper functioning of any child protection system. This includes properly recording instances of abuse in care. We share the concerns of the Royal Commission into Institutional Responses to Child Sexual Abuse about the lack of quality data in this area. A comprehensive and transparent data system, including nationally consistent definitions and key information (including investigations undertaken and the outcomes thereof) is essential to support the development of systems and policies that are demonstrated as improving the safety, welfare and wellbeing of children and young people in OOHC. The data system should be broader than the issue of abuse in care, facilitating the analysis of information regarding the experiences of young people through the system (such as reasons for contact with the system, reasons for entry into care and the nature of maltreatment experienced) which can be used to support data-driven developments to the system, improving our knowledge about and therefore outcomes for children and young people. The lack of a data system about the safety of young people in care and their experiences and outcomes across the sector seriously undermines community confidence in the sector and the sector's ability for continuous improvement, and should be developed as a matter of priority. It is important that this data is able to be disaggregated in useful ways to strengthen the sector's ability to implement data-driven reforms to improve the safety, welfare and wellbeing of children and young people in care.

AbSec acknowledges recent initiatives in NSW to develop outcomes frameworks and other data systems to improve the evidence base and inform decision making into the future. The type of data outlined in the Consultation Paper regarding the safety of young people in OOHC and information regarding allegations and instances of abuse in care remains a central element to any such framework for children and young people in OOHC. As mentioned in the previous section, it is not clear the relationship between such effort that is being made in NSW around outcomes frameworks and other data systems, and how these intersect with accreditation systems and compliance with standards. There is a concern for duplication in this regard, with a much more coordinated focus and open dialogue between oversight bodies and the non-government sector through their peak bodies likely to be beneficial. AbSec supports the need to focus on achievement of outcomes, and delivery of quality, and capturing of data that informed effective, longer term focused, decision making. However, the introduction of such frameworks without due consideration for what is already in existence raises concern for the performance of the system in promoting the safety, welfare and wellbeing of children and young people, rather than prioritising compliance and reporting processes.

Accountability has long been a significant issue for Aboriginal communities trying to act on behalf of their children and young people in the face of statutory child protection systems. We regularly hear a range of issues from Aboriginal community-controlled organisations and members of our communities that emphasise the apparent lack of transparency and accountability when it comes to interactions between Aboriginal children and families and statutory child protection systems, including reasons for entry to care, application of the Aboriginal Child Placement Principle, the child's experiences in care (including but not limited to issues of safety) and the outcomes achieved for children and young people. Often, we find that government bodies are limited in the information and data that can be formally shared with Aboriginal organisations, including peak bodies, relating to Aboriginal children and young people, limiting transparency, accountability, and the capacity of Aboriginal communities to meaningfully address the issues they face.

As such, in addition to the development and implementation of consistent data systems nationally, AbSec further emphasises the need for the sharing of such data, particularly with relevant Aboriginal peaks, to empower Aboriginal communities and drive Aboriginal-led responses to the issues facing Aboriginal children and families. This is an essential element to promoting the self-determination of Aboriginal people (as outlined in the Children and Young Persons (Care and Protection) Act in NSW, and in other relevant legislation in various jurisdictions), as well as ensuring accountability to the Aboriginal community for the operation of the system with respect to Aboriginal children and families.

Child safe frameworks

Child safe organisations are critical to a well-functioning OOHC sector that is focused on the safety, welfare and wellbeing of children and young people. As identified in the Consultation Paper, this refers to organisations developing clear systems to reduce the likelihood of harm, increases the likelihood of any harm that might occur being discovered, and responds appropriately to any disclosures, allegations or suspicions of harm. For some agencies in NSW, such as those delivering OOHC services, such systems are a necessary feature within accreditation standards, administered by the Office of the Children’s Guardian, and go to ensuring quality practice in supporting children within a framework of continuous improvement that is focused on the best possible outcome for that child. As stated above, connection to family, community and culture is integral to the immediate and lifelong safety, welfare and wellbeing of Aboriginal children and young people. Further, Aboriginal communities and community-controlled organisations are best placed to understand the cultural and community context in which their children are raised, and to achieve the goals of child safe frameworks. Child safe frameworks for Aboriginal children and young people then must be culturally grounded and embedded within their communities.

Further, as outlined in the Consultation Paper, there are a range of key elements in developing a child safe organisation beyond the presence of processes to reduce risk, identify potential harm and respond to allegations. We welcome the Commission’s work to clarify the elements of child safe organisations as those that promote the safety, welfare and wellbeing of children and young people in the child protection and OOHC systems, in the immediate and long term, preventing exposure to harm while promoting meaningful connections and adaptive psycho-social development. Many of these elements include those discussed elsewhere in this paper: rigorous data collection and analysis, accreditation and screening processes to minimise risks, and clear expectations and processes to report allegations and findings regarding child abuse, which operate at both the organisational and systemic levels. Such processes must also meet the developmental needs of children and young people, and should not prevent the appropriate relationships between children and young people and other caring adults in their communities, for example by encouraging “defensive” caregiving that undermines the development of more normative relationships between children and their caregivers contributing to harms associated with placement instability.

Clearly, the development of such frameworks requires significant investment and capacity building, as well as a commitment to continuous improvement of these processes. As identified in the Consultation Paper, a significant challenge for the OOHC system is to implement such processes for the prevention and identification of harm and responding appropriately within the broader context of promoting relationships and attachments that are critical for the developmental wellbeing of children and young people in OOHC. That is, risk management and prevention strategies for example

are critical for the safety of children and young people, but should not function such that they introduce 'distance' between children and their caregivers that undermines critical developmental processes. Together, each of the elements underlying prevention and promoting the likelihood of discovery or disclosure should support the child and their support network (carers, agency workers, and other connected adults such as teachers or other community members) to keep them safe and intervene appropriately where harm does occur. As stated previously, it is the relationships and networks of caring adults around children and young people that serve to keep them safe, emphasising the need for a community-embedded approach to child safety in OOHC. Being embedded in their communities also requires a commitment to broader community-based education and training, including community education targeted at identifying and responding to child sexual abuse that facilitates a proactive community approach to keeping children safe.

Involving children and young people in decision making about the sector is also essential. It seems that there is significant focus on supporting young people to participate to some extent in decision making about their own life circumstances. Further, there appears to be a gap in involving children and young people in shaping the system more broadly; a point reflected in the Consultation Paper. We have sought to address this by establishing our AbSec Youth Ambassador program, working with young people to engage their peers and promote discussion of their experiences and the systems that impact on their lives. We have an obligation to empower all stakeholders, particularly young people themselves, in the reform and development of the child protection and OOHC system. For Aboriginal families and communities, this means supporting genuine self-determination and supporting Aboriginal communities to design, develop and deliver key services and supports to their communities, including children and young people in OOHC. This family and community involvement is important for both the safety and long-term wellbeing of Aboriginal children and young people.

A quality care environment

A quality care environment is critical to meeting the needs of children and young people in out-of-home care, and includes preventative actions to minimise the risk of future harm including abuse in care (from carers or other children in the home) and sexual exploitation, as well as therapeutic frameworks to appropriately support children and young people who have experienced child maltreatment (including but not limited to sexual abuse), disrupted family relationships and, in some cases, abuse in care.

As noted in previous sections, systems and processes including the screening of potential kinship/foster carers and OOHC workers and reportable conduct frameworks play an important role in preventing risks to children and young people in OOHC. These processes are aimed at preventing contact between vulnerable children and young people and those that might be likely sources of harm, and to facilitate the identification of signs of abuse or grooming behaviours as well as providing key points for disclosures. These processes must be complemented by active casework support to provide a key caring adult outside the home for those cases where the carer may also be the potential source of harm.

Ongoing casework support is not simply about monitoring the safety of children and young people in care, noticing potential signs of grooming, sexual abuse or other harm or providing an opportunity for child disclosures and responding accordingly. Ongoing casework also provides an important source of support for children and young people and those that care for them, helping children and

young people in out of home care to recover from their previous experiences of maltreatment. Caseworkers support the child and carer by providing appropriate training and engaging the right services to address the impacts of early life trauma and provide an integrated service response to promote the best possible outcome for children and young people. This might include specialised clinical services through the support of education and behaviour management plans that reflect the specific and changing needs of the developing child, as well as specialised approaches to meet the needs of children and young people that may sexually harm other children.

This includes providing services across the continuum of care for children and young people associated with the child protection system, including leaving care and after care supports that are often under-resourced and inadequate throughout this important transition period. Consideration may also be given to universal and or targeted supports that might assist those affected by child maltreatment to become effective parents, preferably without stigmatising this group who may already be concerned about the potential role of child protection services in their family. A universal approach to early childhood supports (such as approaches that focus on the First 1000 days approach) would assist in supporting vulnerable children and families broadly, including parents exposed to childhood abuse and neglect.

For Aboriginal children, supporting the child to maintain a meaningful connection to their family, community, culture and Country, is critical for identity development and long-term wellbeing. Providing a responsive, integrated service that is tailored to the child is critical to promoting the lifelong wellbeing of children and young people in OOHC, including promoting placement stability. We acknowledge the experience of many young people in regards to placement instability and its link to further harm including sexual abuse and exploitation. We feel that appropriate placement stability is best promoted where children and their carers are supported by quality casework support, delivered by an accredited Aboriginal community controlled organisation, and comprehensive information sharing prior to placement to ensure the most appropriate support model is established upon placement that is focused on delivering outcomes for that child within an embedded cultural framework.

We agree that there is significant tension between the expectations placed on carers to achieve good outcomes for children and young people and the level of government support (financial and non-financial) to do so, particularly for kinship carers. Given this, we remain significantly concerned about the appropriateness of permanent care orders such as guardianship and adoption in NSW that remove these critical supports and safeguards for children and young people in OOHC. Greater supports (particularly in achieving an integrated response tailored to the needs of children and their families) to enable and maintain placements are necessary, particularly for kinship placements, and that greater investment in Aboriginal community-controlled organisations is needed to build the capacity of Aboriginal communities to develop and deliver the services that Aboriginal children and families require. Full application of the Aboriginal Child Placement Principle provides a critical foundation to meeting the developmental needs of Aboriginal children and young people within the child protection/OOHC system.

Current reforms

One significant reform, identified by the Consultation Paper, is the shift nationally towards non-government organisations in the management of OOHC. This has presented a significant opportunity

for Aboriginal communities, with a commitment to building the capacity of Aboriginal community-controlled organisations to meet the needs of Aboriginal children and young people in OOHC, thereby supporting their connections to community and culture. Further investment commensurate with need is required to overcome the current overrepresentation of Aboriginal children and families in the child protection and OOHC systems, with this investment done through Aboriginal community-based organisations within an Aboriginal designed system that reflects need across the whole continuum of support. This is reflected within AbSec's previous submissions, and our *Plan on a Page for Aboriginal children and young people*.

However, one concerning more recent development is the shift to permanent care orders, such as guardianship or adoption, enshrined in the permanency placement principles with the *Children and Young Persons (Care and Protection) Act 1998 (NSW)*. As we have outlined elsewhere², our members remain concerned about this recent shift, and the risk it presents to children and young people in OOHC. In essence, we agree that meeting our collective obligations to children and young people in OOHC is best served by ensuring particular protections against ongoing harm and exploitation, such as reportable conduct processes, ongoing casework monitoring and support for children and their carers. However, such oversight and support is not provided to children and young people and their carers under permanent care orders. We remain concerned about the isolation and lack of support provided to children and young people on permanent care orders, and the risk this presents to children and young people already at significant risk of future harm (including sexual abuse and exploitation) and suboptimal health and wellbeing outcomes, and feel that such orders are broadly not in the best interest of children and young people in OOHC. Importantly, we remain grossly concerned that in enacting such orders, it establishes a system not unlike that established under past policies, which created the Stolen Generations, in that decisions about the safety, welfare and wellbeing of Aboriginal children are imposed on Aboriginal families and communities, with no mechanisms for oversight or accountability to Aboriginal communities with disastrous results for those Aboriginal children, their families and our communities more broadly. Without oversight and design of enacting such orders by Aboriginal communities (that is, an Aboriginal framework for the care and protection of Aboriginal children), these orders undermine the objective of self-determination and the fundamental rights of Aboriginal children, families and communities. We acknowledge the current challenges in the OOHC sector, but feel that these are best overcome by improved quality and provision of OOHC supports, including casework practice, rather than removing these supports.

Conclusion

AbSec is committed to improving the services and supports provided to Aboriginal children and their families, particularly those in OOHC. This includes supporting Aboriginal children and families to safely remain at home, or to safely return home to their family where appropriate, as well as providing quality services and supports to those children that require alternate care for some period of time. This is based on a foundation of empowering Aboriginal people to design, deliver and refine community-led solutions to these challenges. Our communities hold the key to achieving the best outcomes for Aboriginal children and young people across their lifespan. Governance, data and accountability processes are needed to support Aboriginal communities to design and deliver

² Guardianship paper

effective solutions and drive continuous improvement of service delivery for Aboriginal children and young people, including systems to ensure their safety.

As outlined above, we support many of the broad systemic features that aim to promote the safety, welfare and wellbeing of children in OOHC, including carer and staff screening, appropriate training in preventing and responding to harm, reportable conduct and information sharing provisions, data collection and analysis, a monitoring and oversight framework including accreditation of OOHC providers and quality ongoing casework support. These features are integral to a well-functioning OOHC system focused on the safety, welfare and wellbeing of children and young people. AbSec and our member agencies value our relationships with the oversight bodies in NSW, and continue to work with them to refine and develop our models of OOHC for Aboriginal children and young people.

AbSec believes that ongoing casework support is essential to promoting the safety and lifelong outcomes of children and young people in care. Ongoing casework support not only provides specialised services and supports to promote the therapeutic care of children and young people, but also represents a significant safety-net for identifying, preventing and responding to harm, including sexual abuse or exploitation in care. This starts with the full application of the Aboriginal Child Placement Principle, involving Aboriginal families and communities in decision making about the care and protection of their children. Aboriginal agencies, embedded in their communities, are best placed to promote a network of safety for vulnerable Aboriginal children and young people.

Aboriginal community-controlled agencies are best placed to support Aboriginal children and young people in OOHC, including maintaining their connection to family, community, culture and Country that is central to identity development and wellbeing. Greater investment in Aboriginal community controlled organisations to meet this need is required, particularly in providing appropriate supports to kinship carers and families providing the day-to-day nurturing care of Aboriginal children and young people.

Recommendations

1. The most important feature of safety in OOHC is to reduce the number of children requiring OOHC services. Greater investment in family support, family preservation and restoration is critical, particularly building the capacity of Aboriginal community-controlled organisations to design and deliver these services that are needed in their communities.
2. AbSec supports the systemic features outlined in the Consultation Paper aimed at promoting the safety of children and young people in OOHC, including employment and carer screening processes, agency accreditation processes, and information sharing such as 16A processes in NSW. These processes should be utilised widely and further refined through continuous improvement processes.
3. AbSec acknowledges the need to ensure comprehensive information sharing at the point of a child entering OOHC, to ensure the most appropriate support model is designed for that child. This requires better information gathering from child protection authorities, including information in relation to a child's cultural identity to ensure an appropriate support model that is geared towards longer term outcomes.
4. A need to ensure that outcomes frameworks and data systems designed by government do not duplicate existing accreditation systems, placing pressure on a system that should be

focused on delivering outcomes for children, rather than reporting on it. Streamlining this effort in line with requirements of accreditation, such as those in NSW, appears to be more appropriate.

5. AbSec supports the adequate investment in sector developmental functions of Aboriginal peak bodies to ensure systemic independent (non-government) Aboriginal oversight to allow for monitoring, review and continuous improvement in working towards providing better outcomes for children and young people, including their safety in OOHC.
6. Ongoing casework support is a critical element in promoting the safety, welfare and wellbeing of children in OOHC. Greater investment in casework support is needed to fulfil the dual role of monitoring and oversight of placements, and supporting quality therapeutic care to children and young people in OOHC within their broader carer network. Greater support is particularly needed for kinship care placements.
7. Given the disproportionate rate of Aboriginal children and young people involved with the child protection and OOHC system, standards for supporting Aboriginal children and young people that are localised to each state/ territory should be established, and that the process of establishing these standards reflect the need for a differential approach to addressing the significant overrepresentation of Aboriginal children in the system. Importantly, these standards act to complement existing accreditation standards, where possible, but seek to ensure an Aboriginal community response to safety, welfare and wellbeing of Aboriginal children.
8. Reconsider the preferential position of permanent care orders such as guardianship and adoption as they currently stand, given the identified importance of ongoing casework in the monitoring and support of OOHC placements. Where children have been removed from their families through statutory child protection authorities, the state must remain responsible for the safety, welfare and wellbeing, and take an active role in monitoring and supporting such placements.
9. Greater investment in holistic, community-embedded approaches for Aboriginal children and families is needed to build the capacity of Aboriginal service providers to deliver such services in their communities, ensuring that service delivery to Aboriginal people is culturally appropriate and reflects their community context and need. Such approaches are likely to be most effective in keeping Aboriginal children and young people safe.