



# Association of Children's Welfare Agencies' Response to Issues Paper 4 from the Royal Commission into Institutional Responses to Child Sexual Abuse

## Preventing sexual abuse of children in Out of Home Care

### **Contact Person**

**Name:** Dr Wendy Foote

**Position:** Deputy CEO

**Email:** [wendy@acwa.asn.au](mailto:wendy@acwa.asn.au)

**Phone:** (02) 9281 8822

**Address:** Level 4, 699 George Street, Sydney, NSW

**Postal address:** Locked Bag 13, Haymarket Post Office, NSW, 1240

**Web:** [www.acwa.asn.au](http://www.acwa.asn.au)

## Table of Contents

Introduction .....	3
Question 1 .....	4
Question 2 .....	9
Question 3 .....	10
Question 4 .....	13
Question 5 .....	14
Question 6 .....	15
Question 7 .....	16
Question 8 .....	17
Question 11 .....	18
List of References .....	18

## Introduction

This response is written by the Association of Children's Welfare Agencies (ACWA), a peak body that represents the voice of NSW non-government community service organisations delivering services to vulnerable children, young people and their families. This submission is based on consultation with 21 members of ACWA. The Centre for Community Welfare Training (CCWT), ACWA's learning and development arm has also contributed to this response in relation to question 5 that is focused on the training needs of those working with children who might be sexually abused.

ACWA thanks the Royal Commission into Institutional Responses to Child Sexual Abuse for the opportunity to explore how the risk of child sexual abuse in Out-of-Home Care (OOHC) settings could be minimised. This group of children and young people are particularly vulnerable to abuse due to their possible previous experiences of abuse and trauma. The learned sexual behaviour of sexual abuse victims can put them at a great risk of re-abuse (Briggs & Hawkins, 1997 as cited in Uliando & Mellor 2012, p.2281). Moreover in a research conducted by Elliott, Browne & Kilcoyne (1995, p.584), it was disclosed by 91 sex offenders that they usually targeted the most vulnerable, isolated and unconfident children with family problems. Unfortunately many children and young people in OOHC have these characteristics thus making them attractive to perpetrators and therefore making them very vulnerable to sexual abuse.

Sexual abuse can also be perpetrated for the first time by a foster carer where there is no previous pattern of sexually abusive behaviour. The particular dynamics and interactions between a vulnerable dependent child with behaviour patterns that include a combination of insecure attachment and sexualised behaviour, in the context of the child –carer power differential sets up opportunity for sexual abuse (essential preconditions for sexual abuse Finkelhor 1994). This set of circumstances, may be exploited by the adult, and resulting in sexual abuse. The presence of frequent monitoring, explicit legal sanctions, rules, and expectations about appropriate carer behaviour,

and of additional protective adults in the child's life are elements that enhance safety. The circumstances of children in care point to the need for child safe practices being vigilantly followed in the organisation's case management processes (Higgins 2013).

ACWA emphasises that child sexual abuse is multifaceted and complex - therefore a holistic approach should be taken to address this issue in an effective way. Such a holistic approach would consider accredited service provision, legislation, policies, organisational structures and governance, work and placement environments, workers, carers and most importantly the children and young people. Additionally, an appropriate organisational culture in which children and young people feel safe, allegations are encouraged and addressed in a timely manner is an overarching element in the development of preventative strategies. Ongoing training and education for workers and carers is also essential to ensure the safety of children and young people in OOHC.

Finally, research has revealed that there is currently a gap in knowledge about child maltreatment in OOHC (Uliando & Mellor 2012, p.228 & DePanfilis & Girvin 2005, p.354). This negatively impacts on our ability to effectively appraise the current strategies used to prevent child maltreatment including child sexual abuse in OOHC. Therefore a key recommendation from ACWA is to promote further research into this area in order to gain a better understanding and insight about how children in OOHC become victims of child sexual abuse and how this can be prevented.

**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?**

Knowledge about the causes of the occurrence of child sexual abuse in different OOHC settings is essential for the development of appropriate and effective preventative strategies that are embedded in the culture of the organisation, service sector and community. In research conducted by

Uliando & Mellor (2012, p.2284), it was found that there are different factors leading to children in OOHC becoming victims of child maltreatment including the absence of long-term and regular caseworkers who have a sound understanding of the children and their needs, shortage of foster carers, inexperienced caseworkers who have a limited understanding about children's development and their responses to trauma and abuse.

It is important to note that child sexual abuse is multifaceted and complex. Irenyi et al. (2006, p.4) explain that it is difficult to create a reliable list of easily identifiable risk factors for child maltreatment and that the interaction between different factors (e.g. child's environment and developmental stage) results in different outcomes. Thus Irenyi et al. (2006, p.16) suggest that the strategies developed to prevent child maltreatment in organisations should consider 3 key areas including "administrative functions (ensuring adoption of the latest screening and other personnel practices); physical environments (to reduce opportunities for situational maltreatment); and the organisation's culture (creating a child-focused environment of respect)".

Therefore in order to effectively reduce the risk of child sexual abuse in any setting, a holistic approach should be taken in which organisations, adults and children must be involved. There is no one strategy that could be sufficient on its own. For example the screening of workers and carers through the Working with Children Checks is essential in early detection of some potential perpetrators, but this strategy will only detect those who have already been convicted. So many other potential perpetrators could enter the system undetected. Hence a number of different strategies such as different assessment and monitoring processes should be utilised to reduce the risk of child sexual abuse in OOHC.

Additionally below are examples of some strategies to minimise child sexual abuse in OOHC. This list has been developed based on consultation with ACWA's members.

### *Governance & Organisational Practices*

The best interest of the child to be the ultimate priority in decision-making and policy development processes.

Continuous evaluation and improvement of policies, regulations, practices and different child abuse prevention strategies be used by government and non-government organisations (NGOs).

The requirement that agencies that provide OOHC services be accredited by a robust accreditation system that includes quality improvement components. This process is accepted by agencies as an essential component of the service system.

The recruitment of adequately trained and qualified workers through appropriate and thorough recruitment, assessment and training processes.

In NSW, the role of the Ombudsman must be maintained as an independent oversight body. The work of the Ombudsman has resulted in increased accountability and transparency of agencies' policies and processes in managing risk and in being responsive to allegations of abuse.

Development of a positive and child-focused organisational culture and a safe environment in which children are encouraged and feel safe to talk about their concerns. Such a culture promotes a constructive and appropriate working environment with clear policies, practice guidelines & expectations, adequate workload, quality staff supervision, adequate resources and support for carers and staff and so on.

Development of strong staff retention policies to provide children and young people in care with long-term and regular caseworkers with whom they can build a relationship and trust that facilitate disclosures of abuse.

Clear policies and guidelines about how to respond to disclosures of abuse by children and young people.

Appropriate systems and processes to adequately handle allegations of abuse in a timely manner.

Robust & externally accountable reportable conduct processes for investigating allegations about the conduct of employees/carers

Development of open and effective organisational communication strategies. E.g. Protocols about how to manage vague, non-specific concerns about a child.

Clear and transparent information sharing systems and processes for the exchange of information between different relevant agencies including both government and NGOs.

### Assessment & Monitoring

Adequate assessment and screening of workers and carers utilising schemes such as the Working with Children Checks, clear and thorough recruitment processes and other appropriate assessment tools (e.g. Step by Step assessment tool for the assessment of carers).

Continuous monitoring and assessment of workers, carers and the appropriateness of the placements through strategies such as home visits, placement review meetings, supervision, team meetings etc.

Regular sightings of children and young people, on their own, by caseworkers.

## Training & Education

Educating children and young people about protective behaviour upon their entry to care and informing them of their rights and the support services available to them.

Ongoing and relevant carer training.

Ongoing and relevant training for workers (training needs for both workers and carers are discussed in the response to question 5, p.14)

## Resources & Support

Children and young people must have access to appropriate resources and support services when making disclosures of abuse.

Carers must have access to adequate support services when an allegation is made against them. Provision of carer support separate from casework was considered as very helpful.

Workers also need adequate resources (e.g. clear policies & guidelines, tools, practice guidelines etc.) and support (e.g. quality supervision) when responding to disclosures and allegations of abuse.

Agencies and carers need sufficient information about the children and young people in their care in order to ensure their safety. Thus this information should be made available to them by relevant government/non-government organisations.

Workers must have access to relevant tools in their day to day practice; for example a clear and comprehensive case management tool that assists workers in case management and collection and storage of records and data.

Agencies must be resourced adequately and receive sufficient funding as insufficient funding normally results in inadequate staffing levels and excessive workload, lack of access to training and other support services etc.

It was further suggested that the development of a national standard of care and national standards for accreditation of agencies providing OOHC services will ensure consistency across the agencies nationwide, and the creation of a credible benchmark to which all the OOHC providers should adhere to. This in turn will also increase the accountability and transparency of the agencies in protecting children and young people in their 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?**

Although the core principles underlying child abuse prevention strategies should be the same (e.g. creating a safe physical environment), these strategies should be applied differently in different contexts to be effective. As mentioned earlier in our response to question 1, sexual abuse of children in OOHC is a result of the interaction between different factors including the child's characteristics and the environment. Each type of OOHC placement has a different environment and thus should be considered differently when planning for child abuse prevention strategies. For example "research in United Kingdom has found that children in residential care are more at risk of physical and sexual assault from other children in care, than from other staff" (Barter, Renold, Berridge, & Cawson 2004 & Sinclair & Gibbs 1998 as cited in Uliando & Mellor 2012, p.2281). Additionally as highlighted by our members, the day-to-day rules are different in a residential care setting as compared to a home-based foster care placement.

It is also important to note that the nature of the relationships and power dynamics in a kinship care placement is different to that of a foster care placement. Previous family relationships and experiences as well as the familiarity of the children with their carers are all some of the factors influencing kinship placements. These factors could prevent children and young people from making disclosures due to reasons such as the fear of

losing their family. Therefore strategies should be adapted accordingly in order to be effective in a kinship care placement.

Furthermore it has been found that kinship carers in NSW do not currently have access to adequate pre-placement assessments, continuous monitoring, supervision, training and casework support (Yardley, Mason & Watson 2009, McHugh 2013). This imposes serious risk on the safety of children and young people in kinship care but also the wellbeing of kinship carers themselves. Full assessment of kinship carers is essential to ensure the safety of the children and young people in their care. The assessment and monitoring processes then should be adjusted considering the kinship carers' needs and circumstances.

**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?**

This response is focused on NSW's processes and systems in checking OOHC services providers.

In NSW agencies that wish to provide OOHC services must receive accreditation/re-accreditation from the Office of Children's Guardian. The accreditation/reaccreditation process involves a number of assessment procedures including planned visits to the agencies both before and after the agencies provide OOHC services. Agencies must meet the requirements of the NSW Standards for Statutory Out-of-Home Care 2010 in order to receive accreditation/re-accreditation. Provisional accreditation is initially granted for 3 years, and full 5-year accreditation is granted after the agencies demonstrate their capability and adequacy in providing OOHC services during their Provisional Accreditation period. Then agencies need to apply for re-accreditation every 5 years (The Office of Children's Guardian 2010).

In addition the Children's Guardian conducts case file audits, which is considered as a compliment to the accreditation process. The Children's Guardian conducts "annual on-site reviews in designated agencies using a standard audit tool to randomly review case files" (The Office of Children's Guardian 2013). The NSW Ombudsman also conducts audits from time to time when a weakness in the system is identified.

We asked our member agencies about their opinions on the strengths and weaknesses of this system, and below are their responses in an aggregated way:

### **Strengths**

- Each agency has an obligation to adhere to the same set of criteria for accreditation creating consistency across the sector.
- The independence of the Children's Guardian adds to the credibility, validity and transparency of their processes.
- Processes used by the Children's Guardian focus on working **with** agencies to support continuous improvement.
- The Children's Guardian has the capacity to conduct follow-up visits.
- The ability of the Children's Guardian in triangulating the evidence was considered as another strength.

### **Weaknesses**

- A key concern is that due to resourcing issues, the Children's Guardian may not be able to continue face-to-face audits and follow up visits and instead rely on desktop processes only. This is not sufficient to form a view about the adequacy of policies and practices as well as the safety of children and young people.

- Staff turnover at the Office of Children’s Guardian may inhibit the staff having knowledge of each individual service provider.
- Audits are reliant on information provided by agencies only. Children and young people as well as carers should be enabled to contribute to the auditing processes.

Official community visitors (OCV) are appointed by the Ministers for Community Services and Disability Services and as part of their role they visit residential care facilities (NSW Ombudsman 2010). This program is complementary to other auditing programs of agencies providing residential OOHC placements.

ACWA’s members were asked about the strengths and weaknesses of this approach, and below is a summary of their responses:

### **Strengths**

- Potentially an OCV could be able to point out areas of concern to the agencies.
- They provide another channel (an external other) through which children and young people can raise concerns.
- They come unannounced and unplanned and provide an independent eye on the system and the application of policy into practice.
- They visit the children and young people personally and do not limit their visit to desktop processes only.

### **Weaknesses**

- Children and young people need time to build trust and relationship in order to make disclosures; however they do not have sufficient time and opportunity available to build a relationship with the OCVs.

- Visitors come unannounced, so the predictability of the child's daily life is disturbed –this is counter to the needs of this population and exposure visits by unknown persons may have a negative impact. Thus they might not feel comfortable having the visitors.
- There were concerns about the type of training received by OCVs in regards to understanding OOHC issues and working with children and young people with experiences of trauma and abuse.
- It was suggested that a standard assessment tool would be helpful for the visitors in ascertaining risk of harm or potential risk to others.
- Follow up and enquiry should be incorporated into the visits.

Members were asked about the possible benefits of OCVs visiting foster care providers. Although mixed responses were received, the majority of the respondents believed that an OCV scheme is unnecessary in a foster care/kinship care placement where there are: accredited NGO service providers, well regulated and monitored foster care/kinship care by the Office of Children's Guardian, the NSW Ombudsman and other funding bodies.

On the other hand some agencies supported having an OCV scheme for foster care providers. These agencies believed that the unplanned visits could help in monitoring how the agencies' policies and procedures are translated into practice.

**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?**

ACWA supports a system in which the OOHC regulator is separated from the OOHC funder to ensure that there will be no conflict of interest. In such a system the regulator is resourced adequately to play a comprehensive regulatory role including conducting file audits, field visits and follow up visits

as needed. ACWA does not support a system in which the regulator only has a desktop audit function. ACWA's members endorsed this position.

**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?**

ACWA's training arm, the Centre for Community Welfare Training (CCWT), has provided training to the community sector workforce for over 21 years and is the largest non-government, non-profit training organisation for this target group in NSW. Our learning and development is informed by current industry knowledge gained through the provision of training and the delivery of projects in the workplace. We would be open to providing further information about the training needs of this workforce if required.

### **Training Topics**

It is our view that caseworkers and carers need training on a large range of topics. Sexual abuse is one part of this and should always be a high priority. However there is a range of other issues that together provide a more thorough understanding of the issues in working directly with children who are in OOHC. These are:

- Trauma informed care
- Mental health
- Working with offenders (including child offenders)

Workers are often facing complex situations and people with multiple needs and problems. It is important that workers are aware of effective communication strategies and work practices that they can use to support

clients. This includes knowledge of the other issues that may be impacting the situation, hence the need for training in areas such as mental health.

Training is extremely important also for carers as they care for children affected by trauma and loss.

### **Delivery of training**

One of the ongoing issues for organisations in relation to training is that of access.

Access is particularly restrictive for small organisations and for rural/regional organisations. If there is an increased expectation that training will be accessed by staff and carers, there needs to be a corresponding increase in funding to organisations who currently have extremely limited training budgets.

There also needs to be balance between online self-paced learning and face-to-face workshops. In this field of work it is very important for workers to be able to discuss complex issues and practice problem solving. This more easily happens in face-to-face workshops.

Training needs to be supported in the workplace by experienced staff as coaches and mentors and the expense of releasing staff to do this type of work should be factored into funding agreements.

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

ACWA's members indicated that there currently is an unmet need for adequate and effective training for workers and carers of children with sexually harmful behaviour. Additionally most of the agencies indicated that they do not receive adequate information about children and young people with sexually harmful behaviour coming to their agencies and therefore cannot

provide this information to their carers. This lack of information results in lack of appropriate planning and placement matching and therefore future potential harm and placement breakdowns.

ACWA also recommends that there is a need for appropriate consultants who can provide information and assistance to agencies when they observe sexualised behaviour and try to identify and manage risk factors.

Moreover ACWA's members emphasised that the terminology of 'children who have sexually abused other children' should change and the term 'children with sexually harmful behaviour' must be used instead as the former language criminalises the children.

**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?**

ACWA and its members believe that children and young people should have regular visits from long-term caseworkers with whom they can develop a trusting relationship. This relationship would then provide a place for children and young people to talk about a range of issues, including the sensitive issue of the disclosure of abuse in a supported and constructive manner. Children and young people should be provided with a range of opportunities to talk about such issues, as disclosure is a process that takes time and unfolds in an individual way. An exit interview is not an appropriate and sensitive approach to enquire about children and young people's experiences of abuse in their OOHC placements.

**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?**

Members engaged in ACWA's consultation indicated that they believe that the current processes in NSW are fair and thorough. As suggested by a member "the requirement to report allegations of abuse to an independent body, by its nature requires agencies to develop more robust systems for managing allegations". It was also emphasised that agencies need to be resourced properly to carry out this task effectively. The existence of the NSW Ombudsman is considered as a significant strength of this system.

Furthermore an appropriate organisational culture is really influential in enhancing the participation of children and young people. As mentioned in our response to question 1, an organisational culture in which children and young people are encouraged and feel safe to talk about their concerns is a key element in their protection and facilitation of their participation. It is also beneficial for children to have their own skilled child and adolescent counsellor, as this will provide them with another opportunity to voice their concerns.

Additionally it should also be considered that caseworkers might experience conflict of interest between wanting to support and protect both the children and carers at the same time. Some strategies that could be used to address this issue includes regular professional supervision, ongoing training, clear policies and practice guidelines, and having more than one worker involved with each individual case.

In terms of appeal processes available to carers, member agencies suggested that carers should have the right to internal review and external

administrative review/appeal by an independent agency. Other support services for carers during an allegation/appeal process could include counselling services and an independent agency to support the carers.

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

Victims of child sexual abuse make disclosures at different times in their life based on their experience, environment and the support they receive. Many victims disclose their experiences of abuse much later in their adult life. Considering the current time limits of keeping records, this means that they may no longer have access to their records when they disclose later as adults. This may negatively affect their efforts in making legal applications such as victim's compensation claims. Thus delayed reporting of child sexual abuse, which is a common issue means that records should be kept for longer periods of time in an efficient way. There will however be practical issues that need to be addressed, e.g. making records digitalised. Research needs to be done about what alternative ways could be used to keep the records for longer periods of time.

### List of References

DePanfilis, D. & Girvin, H. (2005), 'Investigating child maltreatment in out-of-home care: barriers to effective decision-making', *Children and Youth Services Review*, Vol.27, pp.353-374.

Elliott, M., Browne, K. & Kilcoyne, J. (1995), 'Child sexual abuse prevention: what offenders tell us', *Child Abuse & Neglect*, Vol. 19, No. 5, pp.579-594.

Finkelhor, D. (1994), 'The current information on the scope and nature of child sexual abuse', *The future of children: Sexual abuse of children*, vol 4, no. 2- Summer/Fall.

Higgins, D. (2013, October 1<sup>st</sup>), *Making your organisation child-safe*, [PowerPoint slides], presented at ACWA Best Practice Forum at ACWA. Available online at

[http://www.acwa.asn.au/downloads/Research\\_Forums/Presentations/DarylHiggins1Oct13.pdf](http://www.acwa.asn.au/downloads/Research_Forums/Presentations/DarylHiggins1Oct13.pdf) [accessed on 18/11/13].

Irenyi, M., Bromfield, L., Beyer, L. & Higgins, D. (2006), 'Child maltreatment in organisations: risk factors and strategies for prevention', *Australian Institute of Family Studies: Child Abuse Prevention Issues*, No. 25, Spring edition.

McHugh, M. (2013), 'An exploratory study of risks to stability in foster and kinship care in NSW: final report', *Social Policy Research Centre (UNSW)*, available online at [https://www.sprc.unsw.edu.au/media/SPRCFile/1\\_Exploratory\\_study\\_of\\_risks\\_to\\_stability\\_in\\_foster\\_and\\_kinship\\_care\\_in\\_NSW\\_Final\\_Report.pdf](https://www.sprc.unsw.edu.au/media/SPRCFile/1_Exploratory_study_of_risks_to_stability_in_foster_and_kinship_care_in_NSW_Final_Report.pdf) [accessed on 12/11/13].

NSW Ombudsman (2010), 'Official Community Visitor fact sheet No 1: Official Community Visitors' available online at [http://www.ombo.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0019/3772/FS\\_OCV\\_July10.pdf](http://www.ombo.nsw.gov.au/__data/assets/pdf_file/0019/3772/FS_OCV_July10.pdf) [accessed on 09/11/13].

The NSW Office of Children's Guardian (2013), 'Statutory Out-of-Home Care: Case File Audits', available online at [http://www.kidsguardian.nsw.gov.au/accreditation/copy\\_of\\_case-file-audits](http://www.kidsguardian.nsw.gov.au/accreditation/copy_of_case-file-audits) [accessed on 09/11/13].

The NSW Office of Children's Guardian (2010), 'Information sheet: Accreditation Process', available online at <http://www.kidsguardian.nsw.gov.au/example-folder-5/accreditation-files/Accreditation%20Process.pdf> [accessed on 09/11/13].

The NSW Office of Children's Guardian (2010), 'Information sheet: Reaccreditation Process', available online at <http://www.kidsguardian.nsw.gov.au/example-folder-5/accreditation-files/Reaccreditation%20Process.pdf> [accessed on 09/11/13].

Uliando, A. & Mellor, D. (2012), 'Maltreatment of children in out-of-home care: A review of associated factors and outcomes', *Children and Youth Services Review*, Vol. 34, pp.2280-2286.

Yardley, A., Mason, J. & Watson, E. (2009), 'Kinship care in NSW: finding a way forward', *joint work of ACWA & Social Justice, Social Change Research Centre (UWS)*, available online at [http://www.acwa.asn.au/downloads/publications/Kinship\\_Report\\_080110.pdf](http://www.acwa.asn.au/downloads/publications/Kinship_Report_080110.pdf) [Accessed on 10/11/13].