



National Child Protection Framework Discussion Paper: Response by the CREATE Foundation

Introduction

The CREATE Foundation (CREATE) congratulates the Federal Government for progressing the development of a National Child Protection Framework (NCPF).

We commend the comprehensive consultation process undertaken so far and hope it will continue in coming months, as a draft Framework is developed. This will allow many voices to be heard, including organisations, such as CREATE, which directly connect with children and young people. The process could provide a model for national consultation in future.

CREATE has been involved in the process through membership of the Coalition of Organisations Committed to the Safety and Wellbeing of Australia's Children, the Child and Family Welfare Association of Australia (CAFWAA), the Expert Committee on In Care and Leaving Care, and attendance at Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA)-convened meetings at the Federal level and a number of state meetings. We appreciate these opportunities.

We are also willing to assist the government to hear directly from young people in a focus group/consultation about in care and leaving care issues during July 2008.

CREATE is the key national organisation that works with and for children and young people in out of home care. The CREATE ethos is to:

- **Connect** children and young people to each other
- **Empower** and resource children and young people in care
- **Change** the care system from the inside out through the participation of children and young people.

Endorsement of CAFWAA submission

As a member of the CAFWAA Board, CREATE endorses the CAFWAA response to the Discussion Paper, especially in relation to general child protection, prevention and early intervention aspects. We particularly share, with many other commentators, concerns about the impact of the Northern Territory Emergency Response, the perceived breaches of human rights and the disempowering nature of the welfare payment quarantining, which is already being considered for extension to some non-indigenous welfare recipients. Evaluation of the intervention is necessary before any extension in the Northern Territory or beyond.

CREATE wants all children and young people protected and well cared for, but this must be able to be achieved with the support and involvement of affected families and communities.

Support for Secretariat of National Aboriginal & Island Child Care (SNAICC) submission

CREATE recognises the right of Aboriginal and Torres Strait Islander peoples to self determination and, at a minimum, supports their shared partnership with government authorities over decisions regarding protection of their children and young people. We are aware of and support the thrust of the SNAICC submission in response to the Discussion Paper.

CREATE's submission

Heightened media attention in light of shocking cases of child neglect, child deaths and extreme family violence highlight the fact that current efforts to protect children, promote their well being and support families are inadequate. This attention may give the Federal government a stronger mandate for action. We do, however, warn against knee-jerk reactions, which may emphasise punitive measures and forensic, investigative responses. This is the time for careful consideration of the best ways to address the issues, involving all levels of government, non-government organisations and the community as a whole.

This Framework needs to be well integrated with the other Federal initiatives including the Early Childhood Agenda, Affordable Housing Strategy, Homelessness White Paper, Domestic/Family Violence Strategy and broader health and disability program initiatives. It also needs high level endorsement from the Prime Ministers Office and Cabinet and the Council of Australian Governments.

Protecting the safety and promoting the well being of children and young people needs to be recognised as an issue of national priority across all levels of government and in the non-government sector and broader community.

Out of home care (OOHC) is predominantly a state government responsibility. CREATE, as a national organisation operating for 15 years, has observed great variation in the quality of that provision across the country. In this submission CREATE wishes to address particular issues regarding children and young people in care, in transition from care and post care up to age 25.

CREATE acknowledges improvements have occurred in some jurisdictions, particularly through more comprehensive legislation and policy guidance and, in some states, the introduction of OOHC accreditation systems which have led to improved quality of care. However one of the key issues evident in much of CREATE's policy, research and direct service work with children and young people is that legislation and policy guidance often fails to be translated into consistently good practice.

It is difficult to be clear about how best to encourage cross jurisdiction support for better OOHC provision. National government leadership is desirable, especially if it is reinforced by financial incentives for state and territory governments to show evidence of improved outcomes for children and young people in care and as adults after they have left care. There is also a range of Federal government programs and services which support young people and should be enhanced and/or targeted to better support young people leaving care or post care.

What should the NCPF include?

The discussion paper is limited in its coverage of OOHC and in the ideas it puts forward for inclusion in the NCPF.¹ While we broadly agree with those ideas, CREATE suggests that the NCPF needs to be more visionary and comprehensive.

¹ The Discussion paper includes three broad areas for attention: National standards and monitoring; Support for foster carers and informal carers and improved assistance for young people leaving care.

The Framework should encompass:

- **Statutory expression of children’s rights:** A commitment to ensuring that the rights of children and young people in care are enacted in legislation, federally and/or in state/territory laws, through Charter/s of Rights in Care and specific provisions around participation in decision making, to give life to Australia’s ratification of the UN Convention on the Rights of the Child.
- **Reduced over-representation of Aboriginal and Torres Strait Islander children and young people in OOHC & more culturally appropriate care provision:** The high level of over-representation should be targeted for reduction, in a similar way to setting targets about improved Aboriginal life expectancy and health outcomes. As community-driven prevention and family support efforts will take time to be effective, Aboriginal children who need placement away from birth family may still need to be in care for some time. In that case, increased emphasis must be placed on: provision of OOHC by Aboriginal family, kin and community members; to culturally sensitive and competent care planning; to post-restoration intensive family support; to increased funding of existing Aboriginal OOHC agencies (to the same level as that of non-Aboriginal OOHC agencies) and funding for new Aboriginal OOHC agencies, if necessary working in collaboration with mainstream agencies where infrastructure is under-developed. This may need a direct financial investment from the Federal government, as well as increased state/territory funding.
- **Consistent legislation:** The Federal government should establish an effective mechanism to compare legislation and to work towards increased consistency in OOHC legislation across jurisdictions. Areas of legislation for urgent attention include: statutory recognition of rights of children & young people in care; inclusion of participation principles and the Aboriginal Child Placement Principle; assessment and support service provision on entry to care; case management responsibility, case planning & review processes and frequency; planning for leaving care, transition from care and provision of support after leaving care to age 25. Where inconsistency indicates a poorer level of legal safeguards, protection or service provision, those jurisdictions should be encouraged and provided with national government financial or other incentives to improve their provisions.

- **Nationally consistent standards:** CREATE strongly supports national and state and territory development of nationally consistent standards. This will involve working with authorities that already have a standards, accreditation or licensing function and service delivery agencies that provide OOHC. The most highly developed standards and accreditation systems, such as in NSW and Victoria, could be used as baselines for jurisdictions where no standards exist. Concerns have been reported (in some consultation meetings) that national standards could prove a stumbling block to the NCPF being endorsed by governments, with some fearful of their own service delivery performance being scrutinised and judged. Some non-government organisations are concerned about potential for duplication of burdensome administrative processes or for dilution of stronger systems in the effort to achieve agreement. Duplication must be avoided and the benchmarks should not be set low. CREATE does not support a watchdog system. Rather the keywords driving a national system should be quality improvement; accountability and collaboration. The national government should provide incentive funding to those states/territories without a standards or accreditation system to develop one within a 5 year time frame. Uniform standards may not be possible in the short term, however core standards may be able to be agreed over time.
- **Common benchmarks, performance indicators, targets and data definitions:** Continuing work is needed between Federal and state/territory governments and data/research bodies through the National Community Services Information Management Group and its National Child Protection and Support Services Working Group on development of data consistency and performance indicators, so that more comprehensive performance reporting is made possible. Performance indicators that reflect outcomes for children and young people in care must be developed as a matter of priority.
- **National research program:** A national government commitment to improved funding for and development of a national out of home care (OOHC) research program, including participatory research involving children and young people in care and post care, birth families and carers. This should include a national program to promote dissemination of evidence based research into policy and practice, possibly through the existing research bodies including the University of South Australia's Australian Centre for Child Protection, the Australian Institute of Family Studies

National Child Protection Clearinghouse and the University of Melbourne's Alfred Felton Chair and the research, policy, practice interface organisation, the Australian Research Alliance for Children and Youth (ARACY). Longitudinal and cross-jurisdictional studies are necessary to more thoroughly investigate issues such as restoration/reunification; kinship care; adoption; contact and identity, pathways out of care and outcomes after leaving care.

- **National solution-focused discussions (roundtables) on critical in-care issues:** The Federal government is in a position to bring stakeholders together to discuss critical in-care issues, develop common understandings and develop action plans. These issues include, but are not limited to: Stability & permanency; Birth family contact & identity; Sibling connections; Innovative models of care: Educational engagement and outcomes; and Health outcomes, including dental health. These discussions should include non-government and academic participants with expertise in the OOHC system, as well as relevant peak organisations and government.
- **Support for carers:** A particular national government role in relation to support for carers is in provision of income support. There should be no financial *disincentives* to families undertaking foster care or kinship care as a result of Federal government income support, family tax benefit, child care benefit, or Taxation legislation. Means testing of benefits related to the child or young person in care should be removed. The NCPF should contain a commitment to making relevant payments/benefit easily available to those adults who undertake foster care or kin care. This may require the transfer of parental responsibility for administrative purposes in some kin care situations, where a Children's or Family Court order is not in place and where the birth parent is reluctant to transfer the Family Tax Benefit for a child to the person who has care responsibility for that child.
- **Promotion of the foster care or kin care role:** Clear and positive messages need to be conveyed to the community about the importance and value of caring for children and young people separated from their birth families. A national media campaign may be useful to promote this particular form of volunteer effort. Recruitment campaigns and more targeted publicity are most likely to be effective at the local level.

- **Kinship care:** Kin care is arguably different to foster care in that there is usually a pre-existing connection between the child and the kin carer, through blood or other relationship. The care responsibility may only extend to a particular child or sibling group and begin and end informally. It will be difficult to deem a member of kin unsuitable to take on the role when it may be a family or community expectation, and it may be more difficult to expect or require assessment or training in what some would see as a natural family role. However research indicates that support, both financial and practical, is requested by kin carers and is not generally being sufficiently provided by state authorities. Very few non-government organisations have been funded to provide support services to kin carers.

A key role of the Federal government, in relation to kin care may be to provide leadership in promoting discussion and research aimed at achieving clarity about the definition and scope of kin care, policy directions, legal status in terms of parental responsibility (for financial support purposes), models of support services and evidence based evaluation of the outcomes of kin care for children and young people.

- **Leaving Care, Transitioning and After care**

The CREATE Report Card: Transitioning from Care (McDowell, J. for the CREATE Foundation, 2008) highlights the inconsistencies and inadequacies in current arrangements for leaving care planning and transitioning and after care support. In summary:

- Some jurisdictions do not yet make explicit requirement for the age at which leaving care planning should commence, nor how it should occur, and make little or no provision for support beyond the date of discharge from care.
- Most jurisdictions make some commitments to leaving care planning and post care support in policy guidance
- The experience of many young people indicates that practice falls short of legal and policy requirements.

It is widely accepted that most young adults brought up in their own families need a high level of support well into their adult years. Where the State is the ‘parent’, it is morally if not legally obligated to provide that support as long as it is needed, to make the transition to independence as positive as possible. The required support may vary

in intensity over a number of years and may not follow a predictable path. The experiences of the young people before and during care will impact on how much on-going support is required.

Without sufficient support, research shows poor outcomes including criminal involvement, homelessness, physical and mental illness, unemployment and early and often inadequately supported parenting, all of which can perpetuate cycles of disadvantage and involvement of another generation in the child protection system.

The underpinnings of CREATE's call for reform in this area are:

- consistency in legislation
- improved planning for leaving care from aged 15 and
- better delivery of support services to care leavers at the state/territory level.

Additional elements which should be included in the NCPF are:

- *A Gold Pass/Guarantee of Priority of Access* to all relevant Federal government services for all care leavers, for example access to Health Care cards up to age 25, irrespective of income status; access to free or subsidised dental health assessment and treatment to age 25, to address the current poor dental health status of care leavers.
- *Enhanced Opportunities for Care Leavers: Education*: Incentives for care leavers to take up or continue in higher education through the total waiving of tertiary and/or TAFE fees, fee discounts, and/or deferral of Higher Education Contribution Scheme (HECS) repayments. Further, consideration should be given to allocating a small number of Tertiary places for young adults who have been in care. A number of Federal government funded scholarships for TAFE or University study to cover all educational and living expenses.
- *Enhanced Opportunities for Care Leavers: Employment & Training*: a Federally funded/sponsored program of care-to-work transition such as the CREATE Your Future program (in partnership with CREATE and the corporate sector); Targeted funded places in Job Network programs; Federal Government funded traineeships for care leavers in a variety of community, public service and business fields.

- *Enhanced Opportunities for Care Leavers: Making a Home*: An increase in the funding available for the Transition to Independent Living Scheme (TILA) to \$5,000 per young person and better promotion of the scheme to ensure it is taken up. CREATE acknowledges that *primary* responsibility for transition financial support should come from state and territory governments, however current provisions are inadequate in all jurisdictions. There is also considerable gate-keeping making access to financial support from both the state/territories and TILA difficult. Some level of independent living establishment support should be seen as an entitlement, available solely on the basis of a person having been in statutory care or formal kin care. Federal government investment will assist these young people to have a positive start to adult life and will redress inequities across the nation. Jurisdictions which match or exceed Federal government financial support could be rewarded through additional funding. Support for young care leavers to maintain stable accommodation is also urgently needed, through payment of increased rent assistance for, say, the first two years after establishing a home. State and territory housing authorities also need to improve the access of young people to public housing and non-government housing organisations have a role to play in increasing the community housing options suitable to care leavers aged 18-25.
- A number of programs open to all young people, and often used by young people in care and leaving care already funded by the Federal government should be expanded. These include the well regarded but under-funded Reconnect and JPET programs – both programs need investment over 10 years to double or treble their size to better meet demand and address access inequities. JPET should be administered by the Department of FaHCSIA, in recognition of its community services origins and role.
- Homelessness program: While we do not want to see care leavers living in homelessness persons' services, many of them do access SAAP. SAAP provides emergency and medium to long term semi-independent living models and outreach support, as well as case management to care leavers among others. For those disconnected from out-of-home care system support, they may prove a lifeline. The White Paper on Homelessness and its associated

strategy must pay particular attention to preventing care leavers becoming homeless. As well, additional funding is needed for youth SAAP services. We also understand the IHSY Innovative Health Services homeless youth is providing valuable services, but is hampered by insecure, temporary and insufficient funding.

- **The OOHC workforce:** The OOHC non-government sector is already suffering a shortage of qualified or experienced staff, according to anecdotal reports. Particular difficulties are experienced in recruiting for residential care staff, case managers, people who can work with very high and complex needs clients. These matters need to be addressed as part of the overall NCPF.
- **Funded representative structure & national peak for children and young people in care:** A commitment to provide a permanent mechanism for the voices of children and young people in care and post care, to be heard and represented at the national level, as well as at state/territory levels is required. At the national level this should occur through funding of the CREATE Foundation's national secretariat and its developing national youth advisory council. At present CREATE receive no federal funding, yet is actively engaged in national issues. Representative organisations for birth families, foster carers and non-government OOHC providers also warrant national level funding if it is not already provided.

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www.createyourfuture.org.au (for young people transitioning out of care)

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