Report of the Independent Inquiry into Foster and Kinship Care

November 2022

Contents

List of abbreviations

ACCO	Aboriginal Community Controlled Organisation
ACIST	Aboriginal Cultural Identity Support Tool
ATSICPP	Aboriginal and Torres Strait Islander Child Placement Principle
C3MS	Connected Client Case Management System
CAFFSA	Child and Family Focus SA
CALD	Culturally and Linguistically Diverse
CARL	Child Abuse Report Line
CARP	Contact Arrangements Review Panel
CARU	Carer Approval and Review Unit
CAT	Complexity Assessment Tool
CCMU	Care Concern Management Unit
CCS	Child Care Subsidy
CFKC-SA	Connecting Foster and Kinship Carers – SA Inc
CFMU	Complaints and Feedback Management Unit
CYPS Act	Children and Young People (Safety) Act 2017 SA
DCP, the Department	Department for Child Protection
DHS	Department of Human Services
DSP	Disability Support Pension
DPC	Department of Premier and Cabinet
FASD	Foetal Alcohol Spectrum Disorder
FGC	Family Group Conferencing
FOI Act	Freedom of Information Act 1991 SA
FTB	Family Tax Benefit
LTG	Long Term Guardianship
NDIS	National Disability Insurance Scheme
NFP contract	Standard Not for Profit Sector Funded Services Agreement
NGO	Non-Government Organisation
NPY	Ngaanyatjarra Pitjantatjara Yankunytjatjara
OPG	Other Person Guardianship
PAC	Principal Aboriginal Consultant
PID Act	Public Interest Disclosure Act 2018 SA
PSOC	The person subject of the concern/s

RATSIO	Recognised Aboriginal and/or Torres Strait Islander Organisation
RFI	Request for Information
ROGS	The Australian Productivity Commission Report on Government Services
SACAT	South Australian Civil and Administrative Tribunal
SCO	Specific Child Only
SNAICC	Secretariat of National Aboriginal and Islander Child Care
SNL	Special needs loading
TOR	Term of Reference of the Inquiry

Key definitions and terms

Appendix A provides definitions and terms in relation to South Australian types of care and placements. It is an excerpt from the key definitions and terms provided in the document: Department for Child Protection. Carer payments (family based) procedure. Version 3.2, July 2022. pp. 21-23.

Acknowledgement of Country

We acknowledge the Traditional Owners of the Countries across South Australia. We pay our respects to their Elders past and present. We recognise the Traditional Owners as the custodians of lands of beauty, sustenance, healing and celebration.

Chapter 1. Introduction

Inquiry Establishment

On 9 December 2021, an amendment was made to the Children and Young People (Safety) Act 2017, requiring that an Inquiry into Foster and Kinship care be conducted by an independent person[1]. Dr Fiona Arney was appointed to lead the Independent Inquiry into Foster and Kinship Care on 23 December 2021. The following Terms of Reference for the Inquiry were finalised by the South Australian Government on 7 February 2022:

Without limiting the matters that may be considered in the course of the inquiry, an independent person shall inquire into, and report to the Minister for Child Protection, on:

1. Existing complaints mechanisms in the Department as they relate to foster care and kinship care, including consideration of—

    1.1. how such complaints are processed by the Department; and

    1.2. the independence of the complaints process; and

    1.3. outcomes and actions arising from such complaints; and

    1.4. the extent to which outcomes and feedback relating to such complaints are communicated to foster carers and kinship carers; and

2. The adequacy of existing consultation processes between the Department, other persons and bodies involved in foster care or kinship care, and foster carers and kinship carers; and

3. The transparency and availability of documentation and information held by the Department and other persons and bodies involved in foster care or kinship care to foster carers and kinship carers (including care concerns and manuals of practice); and

4. The adequacy of internal procedures and arrangements within the Department and other persons and bodies involved in foster care or kinship care in ensuring that—

    4.1. there is a sound partnership between the Department, those persons and bodies and foster carers and kinship carers, and

    4.2. the rights of children in foster care and kinship care (including their rights relating to safety, cultural identity, access to services and opportunities, autonomy and decision-making) are respected, addressed and realised.

5. Any such recommendations for changes to matters affecting foster care or kinship care that the inquiry considers necessary or appropriate to improve outcomes for children and young people in foster care or kinship care, as well as foster carers and kinship carers (including, for example, the need for an independent, legislatively protected complaints system, changes to compliance procedures within the Department and any legislative changes needed to enable the recommendations to be implemented).

[1] Government of South Australia. (2021). *Children and Young People (Safety) (Inquiry into Foster and Kinship Care) Amendment Act 2021.*

6. Any other relevant matter considered in the course of the inquiry.

The Inquiry was subject to the following legislative requirements[2] per Section 169A (3):

(a) 'the inquiry must be conducted by a person who is independent of the Department and not involved in the administration, operation or enforcement of this Act'

(b) 'the inquiry must commence not later than 1 month after this section comes into operation'

(c) 'the inquiry must seek submissions from foster carers and kinship carers, and must have regard to any submissions made to the inquiry by such persons'

(d) 'the inquiry must be completed within 6 months after this section comes into operation'

Section 169A (4) provided that, upon completing the Inquiry, the person conducting the Inquiry must prepare a report and provide a copy of the report to the Minister.

Section 169A (5) stated that the Minister must cause a copy of the report to be laid before both Houses of Parliament within 6 sitting days after receiving the report.

Dr Arney was supported by an Inquiry team, including Karen Bevan (Executive Officer), Martine Hawkes (Research Officer), Chantelle Schutz (Research Assistant), Michelle Barnes (Counsel Assisting), Hayley Wilson (Aboriginal Engagement Officer), and Donna Mayhew (Principal Project Officer).

An Inquiry website was established with the assistance of the Department of Premier and Cabinet, and information about the Inquiry was also shared through the websites and social media of interested parties and key stakeholders.

Submissions

On 8 February 2022, the Inquiry invited individuals and organisations to submit their submissions addressing the terms of reference in writing. A template for submissions was made available. Submissions were accepted via secure and confidential email and via hardcopy upon request. From 29 April 2022, the Inquiry also accepted recorded submissions, with limited capacity to also facilitate oral submissions upon request. To encourage submissions from organisations, organisations involved in foster and kinship care were directly invited to respond to the terms of reference via a secure online survey. The submission closing date for all submissions was 17 May 2022. However, submissions from foster and kinship carers were accepted until the closing date of the Inquiry which was the 8 June 2022.

The Inquiry acknowledges the work of CFKC-SA SA (Connecting Foster and Kinship Carers SA Inc) and The Carer Project, who raised awareness of the Inquiry and processes for making contributions, enabled carers to come forward to make submissions and supported them in doing so.

The Inquiry received a total of 206 submissions over the period 8 February 2022 to 8 June 2022. This included submissions from 149 foster and kinship carers, 17 organisations (including advocacy, oversight, research/training, and service providers), 3 research groups and 2 practitioners. Some

[2] Ibid.

submissions were made on behalf of multiple carers, some organisational submissions included multiple case studies from carers and staff, and some carers made more than one submission.

Submissions were received from kinship carers, foster carers for children in emergency, short term, long term and respite placements, specific child only carers, long term guardians, Aboriginal carers and non-Aboriginal carers, carers from metropolitan and regional areas, carers who had been caring for many years and newly approved carers. Experiences of carers who made submissions were very consistent, and where there have been specific issues for particular carer groups, this is noted in the report.

Other material considered by the Inquiry

Requests for information were also sought from the Department for Child Protection (hereafter, the Department or DCP) throughout the Inquiry to enable the terms of reference to be addressed, to clarify information and to seek additional information in response to matters raised in submissions.

The policies, procedures and practice guidance received from the Department were provided in different versions across the Inquiry period as updates were made available. The most recent version was used by the Inquiry in its reporting, with any differences with previous versions noted. There was no scope for requests for information to be sought from other departments or agencies referenced in submissions.

In addition to the content of submissions and the narratives, policies, procedures and manuals of the Department provided in response to requests for information, the following have been considered in addressing the terms of reference and formulating recommendations:

- Legislative frameworks in South Australia
- Policy frameworks
- Rights and standards documents in South Australia, nationally, and international conventions
- The Statement of Commitment[3] developed by the Department, CFKC-SA, and Child and Family Focus SA (CAFFSA)
- Recommendations and problem analysis from other child protection reviews and summary documents in South Australia and nationally
- Recent research relevant to the terms of reference[4]

Other matters

The terms of reference for the Independent Inquiry into Foster and Kinship Care include provisions for the Independent Person to have regard to any other relevant matter considered in the course of

[3] Connecting Foster and Kinship Carers SA Inc., Child and Family Focus SA., & Department for Child Protection. (2020). *Statement of commitment: South Australian foster and kinship carers.*

[4] This included a rapid literature scan including systematic search for articles published since 2010 pertaining to foster and kinship care, title review of 2,890 articles, and research summaries for the subset of articles which related to the terms of reference and other matters.

the inquiry (TOR 6). Consequently, this report includes two additional areas of review and recommendations about other matters raised in submissions. These areas are: 1. respite and 2. the costs of caring and remuneration. They were reviewed in the same manner as matters pertaining to terms of reference one to four.

Confidentiality

All submissions to the Inquiry were treated as confidential. This report makes reference to submission numbers which support the points made throughout the Inquiry report. Where we have provided attribution of authorship in regards to a submission, this is because the submission is in the public domain or permission has been sought.

Authors

The report of the Inquiry has been prepared by Fiona Arney, Chantelle Schutz, Martine Hawkes, Karen Bevan and Michelle Barnes.

Chapter 2. Existing complaints mechanisms

This chapter of the report is the first of two chapters addressing Term of Reference 1:

1. Existing complaints mechanisms in the Department as they relate to foster care and kinship care, including consideration of—

    1.1. how such complaints are processed by the Department; and

    1.2. the independence of the complaints process; and

    1.3. outcomes and actions arising from such complaints; and

    1.4. the extent to which outcomes and feedback relating to such complaints are communicated to foster carers and kinship carers

Introduction

In addressing this term of reference, the Inquiry focuses on two forms of complaints mechanisms in the Department. The first, considered in this chapter, is complaints mechanisms that kinship and foster carers may utilise when they have a grievance or concern about decisions, behaviour, processes or procedures of the Department and other agencies. The second, considered in the next chapter, is mechanisms in the Department for responding to complaints, allegations and notifications about the care provided by foster and kinship carers to children and young people in care (also known as care concerns). The terms of reference are also focused on mechanisms within the Department and, within this chapter, reference to agencies or external statutory authorities may be made, but is not the focus of these chapters or recommendations.

Effective complaints handling provides expeditious resolution of problems, helps identify systemic issues, and ultimately serves the best interests of children and young people in care. It is one of many factors that can assist in the retention of carers. The Australian Human Rights Commission describes good internal complaints processes as those which are fair, confidential, transparent, accessible and efficient[5].

There are Australian Standards[6] for complaints handling that describe the principles, communication, training requirements and recommended systems for complaints management within organisations. Among other things, the principles provide for complaints processes that are accessible, fair, responsive and objective, which cause no detriment to the complainant and which support accountability and service improvement. The Standards recommend a three level system of complaints review, broadly:

- Level 1: frontline staff as the first point for early resolution of the majority of complaints (Level 1)

[5] Australian Human Rights Commission. (2014). Good practice guidelines for internal complaints processes. Retrieved from https://humanrights.gov.au/our-work/employers/good-practice-guidelines-internal-complaint-processes

[6] During the course of the Inquiry there were two sets of Australian standards for complaints handling: AS/NZS 10002:2014, now superseded by AS10002:22. Both describe comparable principles, requirements and three level system for complaints handling described in this chapter

- Level 2: if the complainant is dissatisfied with the outcome of the complaint, they can seek to escalate the complaint to a person in the organisation other than frontline staff and the organisation can provide for the complaint to be internally assessed, investigated, reviewed or resolved through alternative means
- Level 3: if the complainant remains dissatisfied with the outcome of the complaint, they can seek review by a mechanism or body that is external to the organisation.

The Standards require all staff who may be responding to complaints to be adequately aware of the Standards and appropriately trained in effective complaints handling.

The Department has implemented a three level system complaints system that is commensurate with other child protection jurisdictions in Australia and internationally and complies with Australian Standards. These include local resolution, internal escalation to a central unit (the Complaints and Feedback Management Unit [CFMU]), and external escalation to an external body such as the Ombudsman. Complainants are advised they should attempt earlier resolution before taking the next step. [7]

Internal complaints management

The three-level model for complaints handling in the Department reflects standard complaints escalation and management mechanisms used across other government agencies. The Department's complaints handling model, also reflects similar complaints escalation processes in other Australian child protection agencies in jurisdictions such as the ACT[8,] NSW[9], QLD[10] and VIC[11 12,] and internationally (for example, in the US, the general grievance process progresses from local resolution with the case worker, through to supervisor, county director to the Ombudsman when all previous avenues have been exhausted)[13]. In all Australian jurisdictions, early/local resolution is identified as being the child's case worker, or the supervisor or manager of that local office.

While these complaints handling processes may be standard across jurisdictions and meet the Australian Standards, previous Inquiries, reviews and research have noted several limitations with the three-step escalation process. For example, the Australian Senate Community Affairs References

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[7] Department for Child Protection. *Making a complaint* [webpage]. Accessed September 2022.
[8] ACT Government Community Services, ACT Together and Carers ACT. (2019). Carer Handbook. The go to resource for kinship and foster carers in the ACT. Retrieved from: https://www.communityservices.act.gov.au/__data/assets/pdf_file/0003/1340562/CarersHandbook_v1.pdf
[9] NSW Government and Fostering NSW. (2022). Caring for Kids: A guide for foster, relative and kinship carers. Retrieved from:https://www.facs.nsw.gov.au/download?file=321330
[10] Queensland Government. Issues and Complaints [webpage]. Retrieved from:https://www.qld.gov.au/community/caring-child/foster-kinship-care/information-for-carers/get-help/issues-and-complaints. Accessed July 2022
[11] Victorian Government. (2016). Victorian handbook for foster carers. Retrieved from: https://services.dffh.vic.gov.au/sites/default/files/2021-07/Victorian%20Foster%20carer%20handbook%202%20copy.pdf; Victorian Government. (2017). Manual for kinship carers. Retrieved from: http://kinshipcarersvictoria.org/wp-content/uploads/2017/11/Manual-for-Kinship-Carers-web-version-2.pdf
[12] Other jurisdictions, such as NT and Tasmania offer a wider group of bodies to whom complaints can be made; in WA, the escalation pathway includes the Care Review Panel and then the State Administration Tribunal
[13] From Complaint to Resolution, Understanding the Child Welfare Grievance Process from childwelfare.gov

Committee on Out of Home Care[14] identified that complaints handling processes that follow the national standards mean that the staff, team and organisation that is being complained about, is investigating itself, which provides little accountability for child protection authorities.

The Australian Human Rights Commission[15] identifies that early/local resolution may be useful where the complainant wants to informally discuss the matter with the respondent (person who is the subject of the complaint), the information suggests that the complaint has arisen from a misunderstanding or miscommunication, and the behaviour being complained about is not serious and does not appear to be about discrimination or harassment.

Randle et al., 2017[16] identified that dissatisfied carers are likely to have concerns about the quality, performance and decision-making of their case worker, and to support carer retention, carers must feel safe in communicating their concerns and to have trust that they will be addressed in an effective and confidential way. Therefore, it is essential that alternative feedback and complaints mechanisms are available to carers which avoid reliance on a single staff member to respond to these concerns, particularly when that person has a clear conflict and/or is the subject of the complaint.

The Child Protection System Royal Commission[17] also identified that it should not be a pre-requisite for complaint resolution that the complainant first directs their complaint to the case worker or local area, as such an approach leads to responses that can be ineffectual and, at times, punitive. The Royal Commission also identified that mediation should be encouraged to resolve matters, and that earlier reviews had proposed an independent complaints and grievance service, although Recommendation 127 of the Royal Commission included the establishment of a centralised, but not independent, complaints management system to receive and resolve complaints by carers. Other recommendations focused on the role of the Ombudsman as the external independent statutory authority responding to complaints about the child protection system.

In 2018, the Ombudsman's audit survey report[18] focused on an assessment of state agencies' complaints management systems against the requirement that state government agencies have in place a Complaints Management System (CMS), which conformed to the 2014 Australian Standard: Guidelines for Complaints Management in Systems. As the Department for Child Protection was a relatively new standalone Department at the time of this assessment, annual data on complaints were unable to be provided in the audit. It was noted that the Department had committed to "developing a centralised system for receiving and resolving complaints, including informal mediation and escalation to the Executive where appropriate."[19]. The audit report notes that as a new Department, the Department experienced high volumes of complaints as systems were being established and that responsiveness and efficiency were compromised in the early months. The

[14] Senate Community Affairs Committee. (2015). *Out of home care.*
[15] Australian Human Rights Commission. (2014). Good practice guidelines for internal complaints processes. Retrieved from https://humanrights.gov.au/our-work/employers/good-practice-guidelines-internal-complaint-processes
[16] Randle, M., Ernst, D., Leisch, F., Dolnicar, S. (2016). What makes foster carers think about quitting? Recommendations for improved retention of foster carers. *Child & Family Social Work, 22*(3), 1175-1186.
[17] Nyland, M. (2016). *Child protection systems royal commission report.*
[18] Ombudsman SA. (2018). Audit survey report: Assessment of state agencies' complaints management systems.
[19] Ibid., p. 9.

report also identified that child protection as a state agency working with customers in sensitive areas of service delivery and featuring in the Ombudsman's own complaint statistics; the Ombudsman identified[20] that the preferred response is better training and systems improvement to ensure complex and emotionally charged matters are not allowed to escalate unnecessarily before a resolution is found.

The Department identified in their response to an RFI from the Inquiry[21] that as part of their response to the Ombudsman's audit, the Department undertook a comprehensive internal review into complaints management, which included, in July 2019, the commissioning of an external consultant to undertake a review of:

- The Department's approach to complaint management
- Effectiveness or otherwise of the systems in place in relation to general complaints, internal reviews and contact arrangement reviews
- Opportunities for improvement.

This activity provided the basis for the development of the Department's Complaints and Feedback Management procedure and policy. Recognising the need for continuous improvement, both documents include timelines for future review, and embed quarterly reporting to the Senior Executive Group to examine complaints data to identify any policy and practice gaps and improvement opportunities.

Legislation, policies and procedures

The CYPS Act (Section 145[e])[22] provides that the Chief Executive must ensure, as far as practicable, that procedures for making complaints relating to children and young people who may be at risk are accessible and responsive to the needs of children and young people in care.

Staff must ensure information is provided in an accessible and understandable manner for the individual seeking the assistance to provide feedback or make a complaint, including provision of access to interpreters or translators as well as advocates, including the Guardian for Children and Young People (where required)[23].

The Department's practice guidance[24] advises that proactive discussions with carers should occur to advise them of their rights to raise concerns and complaints. If it isn't possible to resolve the issue, carers should be encouraged to speak to the Supervisor or Manager of the office in the first instance; and be advised of their rights to make a complaint to the CFMU, request an internal review and/or lodge an application with the South Australian Civil and Administrative Tribunal (SACAT) for reviewable decisions. These processes are discussed in more detail below.

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[20] Ibid. p. 12.
[21] Department for Child Protection. Request for information: Narrative response 1. Received 27 May 2022
[22] Government of South Australia. (2017). *Children and Young People (Safety) Act.*
[23] Department for Child Protection. Complaints and feedback management policy. Version 1.3, May 2020. (pp. 4-5)
[24] Department for Child Protection. Supporting and collaborating with carers practice paper. Version 1.2, May 2022.

General complaints mechanisms

Via their website, the Department advises people wishing to make a complaint of a three-step process they can follow for internal complaints management[25]:

- Step 1. Discuss the complaint with the complainant's case worker at the local Departmental office
- Step 2. If having tried to resolve their concerns, the person is still dissatisfied with the outcome, to speak with the Supervisor or Office Manager at the complainant's local Departmental office
- Step 3. If the complaint cannot be resolved, the complainant can contact the CFMU[26] by phone or via the form submitted online or in hard copy. The CFMU will take further steps to resolve the matter

Complainants are also advised of additional or different steps they can take if the complaint isn't resolved through this process, or relates to specific matters such as contact arrangements or decisions for internal review.

The online complaints and feedback form[27], requests those wishing to make a complaint to:

- select "Child Protection" and the relevant service (e.g., child in care),
- to describe the incident clearly, provide the date and location (latter is optional),
- describe what the complainant would like to happen now,
- identify if they would like to be contacted about the complaint, and if yes to provide their name and contact details.

As identified earlier, the three-level complaints handling model described in the Department's policy and procedure documentation[28] is based on the Three Level Model of Complaint Management in the Australian/New Zealand Standard (Guidelines for complaint handling in organisations). The three levels are: Level 1 - local complaints resolution (incorporating steps 1 and 2 of the steps identified for carers above); Level 2 - centralised complaints resolution (step 3 of the above); and Level 3 - external complaints resolution.

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[25] Department for Child Protection. *Making a complaint* [webpage]. Accessed September 2022.

[26] The DCP CFMU is located in the Office of the Chief Executive and this is considered to signal the priority given by the agency to complaints. (Ombudsman audit report, 2018). Department for Child Protection. Request for information: Narrative response 1. Received 27 May 2022: The CFMU administers three key complaints management processes, namely:

- General Complaints and Feedback
- Internal Review (IR) applications
- Contact Arrangement Review Panel (CARP) applications

[27] Government of South Australia. Complaints and feedback [webform]. Accessed September 2022.

[28] Department for Child Protection. Complaints and feedback management procedure. Version 1.2, January 2022, p.18; Department for Child Protection. Complaints and feedback management policy. Version 1.3, May 2020.

The following detailed steps provide information, outlined in the policy and procedure documentation, for the processes, outcomes and communication of same for internal complaints management.[29]

Level 1: Local complaint resolution - Complaints and feedback management and resolution at local Departmental sites.[30]

Where possible, Departmental staff at local offices attempt to resolve complaints at the local level before referring to Level 2. Departmental staff must ensure that any practice or systemic issues that arise as a result of a complaint are escalated to the office or site manager. All complaints received by a local office and any decisions or actions taken to address the complaint must be documented on the Department's Connected Client Case Management System (C3MS) database.

Written or verbal complaints received by staff members should be referred through line management pathways for assessment, and the assessor will assess and decide the appropriate person (referred to as the resolution manager) to investigate and attempt to resolve the matters with consideration of the complaint details. The assessor will also acknowledge in writing the receipt of the complaint within two business days of receipt to the Department. If the complaint can be quickly resolved, it may be possible to provide the acknowledgement and resolution in the same letter

If a complaint is outside the scope of this procedure, the assessor will advise the complainant in writing that their complaint cannot be addressed by the avenue they have requested or that part of the complaint can be addressed and part is out of scope, and the reason why the complaint is out of scope and details of where/how the complainant can raise their issue through the appropriate avenue

For complaints that are within scope, the resolution manager will investigate the complaint in accordance with procedural fairness and open disclosure, including a cultural, access, and inclusion lens where appropriate (Considerations include: substantive issues of concern, available sources of information, the Aboriginal Child Placement Principle and other cultural factors, disability, facts that can be determined, issues in dispute, conclusions that can be drawn, options available to resolve issue, Statement of Commitment)

Based on the above considerations, the resolution manager should, following consultation with their manager and consultation with Departmental Legal Services where necessary, discuss the options for resolution with the complainant

The complaint outcome must be approved by the office/site manager and should be provided to the complainant within 30 business days of receiving the complaint

Where complex responses are provided to complainants in writing, consideration should be given to meeting or calling them to discuss the contents of the response or involving a support person to ensure everything is understood

[29] Department for Child Protection. Complaints and feedback management policy. Version 1.3, May 2020 (pp. 6-8); Department for Child Protection. Complaints and feedback management procedure. Version 1.2, January 2022.
[30] ibid

If a matter is complex or contentious or there has been an unexpected delay, the complainant must be informed on the progress of their complaint, reasons for delay, and likely timeframe for resolution. These updates should be provided by the resolution manager verbally every two weeks and also documented in C3MS

Local resolutions are not considered finalised until the office/site manager has endorsed and approved the process and outcomes

If the complainant is dissatisfied with the outcome of the local resolution, they must be advised of their right to escalate the complaint through CFMU for central resolution

Departmental office managers are responsible for ensuring that complaints and feedback are responded to in a fair and consistent manner, and ensuring the complaints and feedback management system is implemented at their site, including any subordinate local policies and associated procedures. They must also ensure that appropriate records and documents are kept and maintained of any complaints/feedback at their site, and working with CFMU staff to resolve any disputes that have been escalated to the Complaints unit (see Level 2).

Level 2: Centralised complaint resolution – complaints and feedback that have not been resolved at the local level may be escalated verbally or in writing to the CFMU[31]

CFMU will consider if the complaint falls within scope of this procedure or if some or all of it needs to be redirected elsewhere, the complaint raises concerns that require immediate assessment to ensure safety of children and other people, reasonable efforts have been made to resolve the complaint locally

If the complainant makes a concurrent complaint to the Minister, Departmental Chief Executive, Guardian for Children and Young People, or Ombudsman, regarding the same issue, the assessment and response is prioritised

Once accepted, CFMU will ensure complaints are acknowledged in writing within two business days of their receipt and the complainant will be advised by CFMU on what course of action (if any) will be undertaken

CFMU investigate the complaint and provide the outcome to the complainant in the same manner as the resolution manager for local complaints

The CFMU manager is responsible for planning and conducting efficient and objective investigations into complaints and allegations in line with organisational and government policy, common law standards, legislative standards and principles of natural justice and procedural fairness that are free from bias and able to withstand internal and external scrutiny.

The Chief Executive may request an external review where a matter is considered to require further assessment or investigation (if the complainant is not satisfied with the outcome of central complaint resolution). It is appropriate to provide these avenues for escalation in writing if the complaint is complex/contentious

[31] ibid

Departmental Senior Managers (Executive Director, Regional Directors, Directors) collaborate with the Central Complaints Unit to attempt resolution to complaints. The Deputy Chief Executive and Executive Directors are authorised to approve formal reviews that have been escalated to them and oversee the review and its outcomes.

If a central complaint is managed in collaboration with the relevant Director or Executive Director, and the Director makes a determination in relation to the outcome of the complaint, CFMU may seek outcome responses be signed by the Director. If required, the Chief Executive has final determination of complaints

Level 3: External complaint resolution – complaints that have not been resolved using CFMU may be escalated to an external statutory authority[32]

If the complainant is not satisfied with the outcome of their complaint after exhausting levels 1 and 2 within the Department, they must be provided with the option to contact and seek independent review from the Ombudsman SA or another appropriate external body

Public Interest Disclosures

The Public Interest Disclosure Act 2018 SA (PID) also provides for persons to make a disclosure, in the public interest, about substantial risks to public health or safety, or the environment, and about corruption, misconduct or maladministration in public administration, for there to be proper procedures in place outlining how to make and deal with these disclosures, and provide appropriate protections for people making disclosures and penalties for false or misleading disclosures[33]. Only public officers are eligible for protections under the PID Act if making an appropriate disclosure of public administration information. For persons wishing to make a public interest disclosure of public interest information concerning a Department employee or the Department, they must make the disclosure to a relevant authority related to the Department. The Departmental Procedure also identifies that disclosures can be made to the Office of Public Integrity or the Ombudsman SA, a Departmental responsible officer DCPPublicInterestDisclosure@sa.gov.au, the person's manager or supervisor, or the Office of the Commissioner for Public Sector Employment. The Departmental webpage[34] advises persons wishing to make disclosure are advised to send an email via the Departmental responsible officer email, above. The disclosure will be assessed and, if they have identified themselves when the disclosure was made (i.e., they can be contacted), the informant will be provided with a notification of action.

For persons dissatisfied with the above processes, they are advised that they can refer matters to the Ombudsman. If the person wishing to make a complaint or public interest disclosure is a child or young person under the Guardianship of the Chief Executive, they can also contact the Office of the Guardian for Children and Young People.

Contact Arrangements Review Panel

If the complaint is in relation to contact arrangements, complainants are advised that local resolution should be attempted. However, if they are still unhappy with the arrangements, they

[32] ibid
[33] Government of South Australia. (2018). *Public Interest Disclosure Act.*
[34] Department for Child Protection. *Making a complaint* [webpage]. Accessed September 2022.

have the right to apply to the Contact Arrangements Review Panel (CARP)[35]. If seeking review by CARP, the complainant is advised to contact the Department by phone, and a Complaints and Feedback Application form for the panel must be used when lodging a panel application in person at any Departmental office, via email or post and applications must be made within 14 days of the contact determination[36].

Panel members will be appointed by the Minister for Child Protection. Each panel must contain three or more members, with one member who must not be an officer or employee of the Department.

Panel members must be independent of the matter under review. They must disclose to the panel chair any prior knowledge of the child or family to which the contact arrangements under review relate. If a panel member declares a conflict, they must be replaced. If the panel's presiding chair is satisfied that the member is independent of the contact determination under review, this decision and the reasons must be documented in the record of the review meeting.

Additional caveats to CARP processes include:

- Per Section 95(4) of the CYPS Act[37], the panel need not conduct a review if the panel determines that the application is frivolous, vexatious, misconceived or lacking substance, being used for improper purpose, or otherwise an abuse of process
- When conducting a review of a contact arrangement determination relating to an Aboriginal child, the panel must give specific consideration to the five elements of the Aboriginal Child Placement Principle and include a Principal Aboriginal Consultant (PAC) who has now been involved with the original determination to participate in the review

On review, the panel may:

- Affirm the determination being reviewed; or
- Vary the determination being reviewed; or
- Set aside the determination being reviewed and;
    - i. substitute its own determination; or
    - ii. Send the matter back to the Chief Executive for determination in accordance with any directions or recommendations the panel considers appropriate

Where the panel cannot reach a consensus, the chair will determine the final outcome. Per Section 95(7) of the CYPS Act[38], a further application for review by the CARP cannot be made in respect of a determination that has been affirmed, varied or substituted by the panel. Persons requesting contact arrangements reviews will be formally notified in writing of the outcome of their review.

[35] Department for Child Protection. *Making a complaint* [webpage]. Accessed September 2022.
[36] Department for Child Protection. Contact arrangements review panel procedure. Version 1.0, November 2020, p.2-4
[37] Government of South Australia. (2017). *Children and Young People (Safety) Act.*
[38] Ibid.

Internal reviews

Section 157(1) of the CYPS Act[39] provides that *a person who is aggrieved by a decision of the Chief Executive or a child protection officer under this Act is entitled to a review of the decision under this section.* The Regulations (Regulation 40) limit the matters that may be reviewed to decisions of the Chief Executive under Chapter 7 of the CYPS Act (other than a decision under Part 4 of that Chapter). Chapter 7 of the Act relates to a wide range of legislated matters relating to children and young people in care[40]. Part 4 relates to contact arrangements for children in care, and as identified above, separate processes are provided for review of these arrangements through CARP.

Section 157(2) of the Act states that an application for review … must be made within 30 days after the day on which notice of the decision was given to the applicant (or such longer time as the Chief Executive may allow). The Department website[41] advises that if a person is aggrieved by a decision by the Department under Chapter 7 of the Children and Young People (Safety) Act 2017 (other than a decision under Part 4 of that Chapter, the person can request that the Department carry out a review of the decision (an internal review) by completing an application form and can be made in person at any Departmental office, via email, phone, or post. [42]

The application form[43] requests information about:

- the applicant;
- the child or young person; and
- (if applicable) the person representing the applicant. Note a completed consent form must also be provided if the application is being made by a representative/person assisting the applicant.
- the reasons for the application including a description of the decision and the date it was made,
- the reasons the applicant believes the decision was made incorrectly,
- any relevant information that may not have been considered when the decision was made,

[39] Ibid.
[40] This includes: the approval of carers; information to be provided to the Chief Executive about carers; delegation of certain powers to carers; temporary placement of children; information provided to carers and children prior to placement; additional information provided to carers; carer participation in decision making processes; the Chief Executive's powers in relation to children and young people in the Chief Executive's custody or guardianship; review of circumstances of prescribed child or young person; direction not to, and offences of, communicating, with, harbouring or concealing, and unlawful taking of, child or young person; long-term guardianship; voluntary custody agreements; establishment, operation, cancellation and review of foster care agencies and licenced children's residential facilities; assessment of employees in other residential facilities; and provision of assistance to care leavers.
[41] Department for Child Protection. *Internal reviews* [webpage]. Accessed September 2022.
[42] CYPS Act Section 157(2)(b); Department for Child Protection. *Internal reviews* [webpage]. Accessed September 2022; Department for Child Protection. Internal review procedure. Version 1, September 2020.
[43] Department for Child Protection. Application for internal review [application form]. Accessed September 2022.

- how the decision has affected the applicant and
- a description of previous attempts to have concerns about the decision resolved with the Department.

Supporting documentation can be attached to the application.

The applicant will receive written acknowledgement within two business days. If the application is within scope or partially within scope, the letter will address the anticipated timeframe for the review to be completed, and notice that the applicant may be contacted by the reviewer. Applicants whose application is deemed out of scope or partially in scope, will also be advised of alternative avenues for their grievance. [44]

The review itself will be carried out by an approved senior clinician reviewer who has not been involved in the decision, is not based at the same Departmental region that the child is assigned to, and who has a skillset appropriate to the application. The reviewer will consider the legislative framework and whether legal power/discretion has been exercised in a way consistent with policy and procedures and is procedurally fair. The reviewer considers the information in the application for internal review and may contact the applicant to discuss the application and can also contact the original decision maker for clarification about decision making. As a matter of procedural fairness, the applicant should have the opportunity to make submissions, provide further information and comment on the proposed decision of the reviewer prior to the review being finalised and an outcome reached. The review should be completed within 60 calendar days from Departmental acknowledgement of receipt, though the applicant will be notified if the review will take longer due to the review being complex or new information becoming available. Once completed, the reviewer may confirm, vary or set aside and replace (reverse and cancel) the earlier decision. The Department will provide the outcome of the internal review to any person whose interests are affected by the decision by formal notice in writing. This may include the child or young person, carers, parents or guardians. The outcome letter to the applicant will provide notice of the decision and the right of the person to have the decision reviewed by SACAT.

If the person who requested the review is dissatisfied with the review, they may be eligible to make an application to SACAT. Section 158.4 of the CYPS Act identifies that matters cannot proceed to SACAT unless an internal review has been undertaken. A SACAT application must be lodged within 28 days from the date that the internal review outcome letter is sent (but SACAT may allow additional time in special circumstances). If an applicant remains aggrieved by a decision and the SACAT pathway is not available, the applicant may refer to the Ombudsman[45].

Decision-making principles

In response to an Inquiry RFI[46], the Department identified that their decision making in relation to the investigation and resolution of complaints, is guided by the paramountcy principle, set out in Section 7 of the CYPS Act: the paramount consideration for all child protection decision-making must be the

[44] Department for Child Protection. Internal review procedure. Version 1, September 2020, pp.4-6
[45] Department for Child Protection. *Internal reviews* [webpage]. Accessed September 2022; Department for Child Protection. Internal review procedure. Version 1, September 2020.
[46] Department for Child Protection. Request for information: Narrative response 1. Received 27 May 2022.

safety of children and young people. Decisions are also guided by the Statement of Commitment and related documents. Section 10 of the Act sets out that decisions must also:

- Be made in a timely manner
- Consider the views of children and young people
- Consider culture, disability, language and religion.

The Department identifies[47] that its statutory responsibility is to prioritise the safety and wellbeing of the child, and this has many facets, considerations and obligations (for example, compliance with the Aboriginal and Torres Strait Islander Child Placement Principle; facilitating placement with siblings; considering the views of children and young people).

Reporting on complaints managed by the Department

In response to an RFI[48], the Department identified the following regarding complaints handled by the Department. The number of public complaints reported to the Department and their categories are required to be published in the Department's Annual Report. The 2020-21 Annual Report states:

- There were 770 public complaints received in 2020-21 (including seven general enquiries).
- The top three categories of complaints were recorded as:
    - Service Delivery - Process (190)
    - Communication quality (134)
    - Professional behaviour - staff attitude (84).
- 98.94% were resolved and responded to within 30 days of receipt.

* *Please note that this data relates to all complaints received (i.e., not just carers).*

DCP prepares regular reporting on complaints for internal monitoring and improvement. This data is not publicly released.

Submissions to the Inquiry

Submissions[49] to the Inquiry noted the importance of having a supportive, transparent and fair complaints system that ensures carers' concerns are heard and responded to professionally and fairly. This is crucial to the retention and recruitment of carers, particularly given word of mouth is the most successful recruitment and retention strategy. The ability of children and young people to be able to raise complaints and ensure their voice is heard is also essential. It was noted that in any system, only a small proportion of dissatisfied people would lodge a complaint, and submissions outlined a number of impediments and deterrents to carers lodging complaints with the Department, as outlined below. In particular, submissions highlighted as significant concerns that

[47] Ibid
[48] Ibid.
[49] For example, Submissions 144, 181, 187, 188, 201.

the current internal complaints process lacks accessibility, transparency, responsivity, independence and oversight. As such, carers have a lack of faith in outcomes from the complaints process. The need for a proactive and unbiased approach to capturing feedback and responding to complaints about the Department and agencies without fear of repercussions was highlighted.

TOR 1.1 how complaints are processed by the Department

Awareness of complaints processes

Despite information about complaints mechanisms being available to foster and kinship carers on the Department website, and agencies describing that they provide information about complaints mechanisms to carers, a number of submissions[50] identified that some carers remain unaware of formal complaints mechanisms or the processes through which to make a complaint; that carers have not been provided with this information or have difficulty finding and using the Department's complaints process. This also included carers being unaware that complaints managers were employed at their support agencies.

Ability to lodge a complaint

Submissions identified a number of points in relation to the ability of foster and kinship carers to make a complaint through the three-level complaints handling process. In the first instance, submissions identified that a lack of response by some Departmental staff to attempts to make a complaint hindered carers' ability to make a complaint at Level 1 of the process, and thus to escalate matters further. [51] This included carers attempting to make formal complaints but not being provided with the email addresses or telephone numbers of supervisors or managers to make the complaint to; including reception staff refusing to provide these details to carers; to carers being told by Department staff that they were unable to assist them in resolving their complaint. Submissions identified that some carers who had been able to obtain contact details to attempt to have the complaint resolved or escalated to a manager at the local level, had not had their calls returned or they had been told that they should not have called the number. This inability to make a complaint at Level 1 of the complaints process (and hence the absence of local resolution) has both hindered the ability of carers to have their complaints resolved expeditiously. If support agencies are unwilling to assist carers in escalating matters (for example, by stating they are there to assist the placement rather than the carer), this further hinders carers' abilities to have complaints addressed.

Secondly, the ability to make a complaint is affected by the nature of the complaint and the scope of the complaints process. Submissions highlighted that some elements of complaints and complaints escalation (for example, internal review) can only be made about certain decisions and outcomes of those decisions. [52] Delays in decision making or lack of response by Departmental staff mean that carers experience delays in being able to access complaints processes. Similarly, the nature of some complaints (for example, complaints about poor conduct by Department staff or lack of compliance with the Statement of Commitment, care concern outcomes) do not meet the definition of a "reviewable decision", so carers can't apply for an internal review of the matter. Escalating complaints to external parties (such as the Ombudsman, SACAT and the Guardian for Children and

[50] For example, Submission 34, 98, 126, 135, 141, 159, 163, 168, 172, 200.
[51] For example, Submission 4, 16, 24, 30, 95, 135, 144, 187, 200.
[52] Including Submissions 29, 31, 65, 80, 81, 95, 153, 172.

Young People) was seen as daunting for carers, potentially costly in terms of resources, time and legal advice, and limited in that many carer complaints would often not be considered in scope for review, investigation or advocacy by these bodies.

Acknowledgement of complaints

Many submissions[53] noted that after making complaints, particularly at Level 1 of the complaints handling process, there was either a lack of acknowledgement of receipt of the complaint or a lack of response to calls to follow up receipt of the complaint. This included foster and kinship carers being told that complaints had not been sent or received. In some submissions, carers tried to make complaints using non-adherence to the Statement of Commitment as a basis for the complaint, but were ignored or told there was no process for this. The lack of acknowledgement of, and response to, complaints at the local level also meant that carers felt unable to seek escalation to the centralised complaints response and/or some complainants stopped trying to get their matter resolved.

Complaints not treated with gravity

Submissions[54] to the Inquiry regarding the handling of complaints made by foster and kinship carers indicated that initial responses to complaints did not make carers feel that concerns and complaints were being listened to or given due weight and investigation. Submissions described carers feeling that their complaints made at the local level to the Department and/or support agencies were easily dismissed, or carers were treated as a nuisance and made to feel they were being difficult because they questioned practices. This included informal responses such as asking the carer to 'pop in for a cuppa' when in the area of the local Departmental office; and carers hearing case workers and supervisors speak scathingly and mockingly about other complaints and complainants in an identifiable way. Such responses do not provide reassurance to carers that their matters are being treated seriously, and have deterred carers from making complaints.

Lack of consultation with complainant

A number of submissions noted that for complaints (including those lodged with CFMU) and in internal review processes that, after acknowledgement of the complaint or application, carers may not hear anything further until the complaint has been determined.[55] Foster and kinship carers are not always kept up to date about the status of their complaint or review, which can take many months to be resolved. Also, submissions noted that carers are not necessarily contacted to provide further information or to discuss their complaint or review during the investigation, and hence the information provided about the complaint from the complainant's perspective can be limited to that which is provided on the application form. This lack of consultation with the complainant (and other interested and informed parties, for example, agency support workers or children's therapists and educators) and lack of consideration of additional information means that responses to the complaint often reflected the perspectives of Department staff, who had been contacted during the investigation. The responses to complaints obtained in this manner did not seem balanced and this

[53] For example, Submissions 4, 16, 24, 31, 37, 57, 93, 95, 103, 125, 144, 154, 160, 168, 172.
[54] For example, Submissions 75, 78, 80, 103, 144.

was described as leading to siloed decision making without considering all of the information available.

TOR 1.2. The independence of the complaints process.

Submissions to the Inquiry noted that, in addition to a general perceived lack of independence of the current internal complaints handling process[56], two aspects relating to the process do not provide natural justice for foster and kinship carers, and caused high levels of stress, fear and reluctance for carers to make complaints. These two aspects included the direction of complaints to the individual, team or office who is the subject of the complaint; and the fear of consequences as a result of making complaints.

Direction of complaint to the individual, team or office that is the subject of the complaint

One of the greatest concerns raised in submissions regarding the independence of the Department's complaints management system is complaints resolution at the local level.[57] Submissions identified that carers are expected to use a complaints process that (re)directs complaints to the individual, team or office who may be the subject of the complaint. This is particularly concerning if the complaint relates to the behaviour (including bullying, harassment, and poor decision-making) of an individual and/or lack of adherence to the Statement of Commitment. Submissions identified that this lack of independence in the complaints process had several implications, including:

- A lack of confidentiality in the process. The worker who is the subject of the complaint is aware of who the complainant is. This has included such workers being copied into emails between the complainant and the local complaints resolution manager (e.g., the supervisor or manager at the local office).
- A lack of willingness for carers to use a complaints process if it directs the complaint to the person whose behaviour they are having difficulty with. Carers are currently required to face the workers they have put in a complaint about. The process dissuades people from making complaints, which means concerns may persist, children and young people may not have their needs met, and carer retention may be affected.
- Significant conflicts of interest, including an expectation that the person who is the subject of the complaint will investigate the matter and/or rectify the problem in a fair and impartial way. Clearly, staff have a conflict of interest in resolving complaints involving themselves or other members of their team. Such conflicts mean that carers cannot be assured that there will be a satisfactory and unbiased response to their complaint, or that the working relationship with the person who is the subject of the complaint will remain unaffected
- Potential for bias in the investigation and outcome of the complaints handling process. This included a lack of opportunity for independent review of the situation and the ability to garner alternative views and opinions to that of the Department's worker, team or office. The internal resolution of Departmental complaints was described as privileging the

[56] For example, Submissions 4, 31, 44, 103, 165, 198.
[57] For example, Submissions 5, 31, 55, 57, 62, 78, 95, 96, 115, 126, 143, 153, 169, 171, 185, 196.

perspectives of case workers and the Department and giving carers a sense that the complaint isn't going anywhere and won't support practice improvement.

- Carers spend valuable time having to make multiple attempts to get an alternative view or resolution as they escalate through processes (e.g., through the case worker, supervisor, manager and organisation), which can yield the same outcome, and which only serves to reinforce the behaviour or decision of the individual, and provides no accountability.

Fear of consequences

Concerningly, many submissions[58] to the Inquiry described consequences feared and experienced by carers in response to making complaints. The Inquiry was not able to investigate these individual matters, but submissions identified the following alleged consequences for making a complaint about an individual:

- Retribution, repercussions, punishment and targeting, including through:
    - care concerns,
    - placement change,
    - change of worker or being unallocated to a worker and being unsupported,
    - change in case direction or case backsliding,
    - slow or no responses to requests relating to children's needs,
    - misleading information incorporated into the carer's file,
    - threats of de-registration and coercion of the carer, and
    - changes in carer status (e.g., to emergency care only)
- Confrontation by the person they have made a complaint about, including bullying, threats, intimidation and harassment (as both reasons for and consequence of making a complaint)
- Damage to the carer-worker relationship that otherwise had been working well, and
- Attacks on the character of carers.

Benefits of an independent complaints process

Many submissions[59] to the Inquiry spoke of the need for a completely independent complaints unit that can investigate complaints in relation to the Department and agencies in an accessible, fair, transparent, consistent, timely and unbiased manner, and which provides natural justice, resolution and accountability in response to complaints. Such an independent process would enable foster and kinship carers to feel safe to raise concerns and complaints, have faith that these concerns are being treated seriously, and feel that children were being kept at the forefront of complaints resolution.

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[58] Including, Submissions 4, 24, 57, 75, 78, 80, 81, 95, 96, 98, 114, 115, 118, 125, 126, 143, 154, 165, 186, 196, 200, 201, 206.

[59] Including Submissions 16, 24, 31, 56, 57, 62, 79, 81, 89, 93, 98, 103, 104, 114, 139, 141, 153, 154, 168, 171, 191, 196, 197, 198.

Carers wanted independent oversight of their concerns, so that they couldn't be disregarded in favour of the perspectives of case workers. This would ensure grievances don't continue to accumulate (and lead to carers leaving the system), and increased accountability would lead to improvements in organisational culture and performance. An independent complaints body could, through restorative justice processes, also mediate complaints between carers, the Department and agencies, who, due to their contractual obligations to the Department, are unable to independently represent the interests of carers. Some submissions noted that an independent service could also review the policies, practices and reform efforts of the Department, the extent to which they are in accordance with best evidence and are being implemented as intended. This could also include conducting independent feedback surveys with carers on a regular basis as part of continuous quality improvement.

TOR 1.3 outcomes and actions arising from such complaints; and TOR 1.4 the extent to which outcomes and feedback relating to such complaints are communicated to foster carers and kinship carers

Timeliness of responses

A number of submissions identified a lack of timeliness in relation to complaints management and review processes in the Department[60]. The lack of timely decision making was identified as adversely affecting children. This included responses from CFMU taking between three to six months to provide an outcome for the complaints process; urgent matters, such as complaints regarding lack of support for suicidal and self-harming young people, receiving no response for two months; and complainants receiving apologies years after the events.

Lack of an outcome or a response that doesn't address the complaint directly

Submissions[61] drew the Inquiry's attention to the fact that some complaints do not receive an outcome (as identified earlier), or the response does not address the complaint directly. This included foster and kinship carers feeling that through the complaints or review process, they had been given a generic response quoting policy, reasons were not given for the outcome, that complaints fell on deaf ears, that the process was a dead end, or that it rubberstamped Departmental decision-making. A number of submissions identified that rather than having the matter addressed directly, a justification for, or denial of, the worker's actions was provided. Submissions also reported that carers who received such responses to complaints, experienced a recurrence of the problems raised in their original complaints. Carers identified that they wished the matters (for example, lack of support with children's challenging behaviour) be addressed rather than receiving an apology without the levels of support requested. In some cases, the failure to sustainably address concerns was associated with placement breakdown. A failure to adequately address complaints relating to information held on file about carers, has meant that such information continues to be accessed and used in assessments (see Chapter 5). Examples were also

[60] For example, Submissions 26, 57, 65, 103, 118, 141, 144, 151.
[61] Including, Submissions 6, 10, 24, 26, 62, 73, 80, 81, 88, 95, 96, 103, 118, 126, 141, 144, 148, 154, 172, 173, 181, 185, 200, 206.

given of complaints being responsively handled by the Department or agency senior staff, only to have the recommended actions be reportedly ignored or overturned by the local team.

A small number of submissions[62] identified that due to the apparent lack of response to their complaint, including the lack of change in practice, carers felt compelled to simultaneously escalate matters to multiple other avenues (for example, Departmental senior executives, including the Chief Executive, Minister for Child Protection, Shadow Minister for Child Protection, Guardian for Children and Young People, Children's Commissioner, Commissioner for Aboriginal Children and Young People, the Ombudsman, SACAT, CFKC-SA, media, and other advocates, etc.). However, it was clear that such action can come at a high financial, time and personal cost for carers and for the system.

Accountability and consequences

Submissions[63] to the Inquiry identified that paid staff in the Department and support agencies should be held to the same level and standard of accountability as volunteer carers, for their performance with regards to meeting the needs of children and young people in care. The Department's response to complaints about carers (care concerns are discussed in the next chapter) has serious repercussions for carers and their families. However, many submissions described workers being able to ignore complaints about their performance and the outcomes of the complaint process, free of any apparent repercussions. This includes if staff do not do as they are requested or directed by their Executive. Similarly, concerns were raised that as the Department's internal complaints mechanism does not deal with complaints about funded agencies or their staff, there is no accountability or performance management by the Department with regards to carer support, beyond that which is dealt with by the agencies themselves.

Summary of issues

The Department has made progress in improving complaints management in part in response to the Ombudsman's review of complaints handling and through the establishment of the CFMU. The current policies, procedures and practice guidance for dealing with complaints are clear and are in line with Australian Standards and practices in other government departments and child protection agencies in Australia and internationally.

However, the Inquiry has identified that the three level complaints escalation process (local resolution, internal escalation and external review), as implemented in the context of child protection, creates fundamental concerns about complaints being resolved confidentially, fairly, adequately and appropriately, without further escalation and in a timely way.

Submissions to the Inquiry identified that despite the complaints process for the Department being publicly available, some foster and kinship carers were not aware that they could make complaints or the process for doing so. Where foster and kinship carers had lodged complaints at the local level as the first step of the complaints process, there were a number of submissions that identified that these complaints had not been acknowledged and/or they had not received a response. Some foster and kinship carers had been advised that they could not obtain the contact details for supervisors and managers in order to make their complaint at the local level or did not receive an appropriate response when contacting these staff. Clearly, a lack of response to complaints means that key

[62] For example, Submissions 4, 6, 88, 103, 115, 118.
[63] Including, Submissions 4, 5, 6, 26, 28, 34, 37, 41, 89, 95, 103, 165, 172, 185, 202.

procedures are not being followed, KPIs such as timely response and resolution of complaints cannot be achieved, and foster and kinship carers felt they could not escalate the matter further as it has not been addressed locally.

The Department's policy and practice guidance identifies that internal investigations of complaints will be carried out with procedural fairness. The lack of independence of the internal complaints handling process, and particularly local resolution as the first step of complaints management, means that foster and kinship carers may be reluctant to make a complaint and have a lack of faith that matters will be resolved confidentially, impartially and without repercussions. The Australian Standards recommend frontline staff as the first level for early resolution of complaints. In Australian child protection systems, the first level of complaints management is located with the child's case worker and/or their supervisor or manager. The Australian Human Rights Commission identifies such early/local resolution may be useful where the complainant wants to informally discuss the matter with the respondent, the information suggests that the complaint has arisen from a misunderstanding of miscommunication and the behaviour being complained about is not serious and does not appear to be about discrimination or harassment.

Clearly, a process that requires individuals and teams to receive and respond to complaints regarding their own performance, behaviour or decision-making represents a significant conflict of interest and by no means guarantees that the process will be impartial or fair. This means complaints processes cannot comply with the principles in the Standards (e.g., that complaints processes are accessible, fair, responsive, objective, and cause no detriment to the complainant). Of significant concern to the Inquiry was the number of submissions that included allegations of carers experiencing care concerns, threats of placement change, bullying and harassment in response to carers raising complaints.

The complaints process, as described in submissions, often excluded further communication or consultation with the complainant or consideration of alternative views to that of Departmental staff, complaints investigators and reviewers. Submissions also identified that often the concern at the heart of their complaint was not resolved, and that these concerns continued or recurred after making the complaint. Beyond an apology or justification received in response to the complaint, many foster and kinship carers wanted the support that had been requested, timely decision-making, and accountability or consequences in response to complaints. The lack of expeditious or satisfactory resolution of complaints was identified as causing a preventable escalation of matters to senior executives, the Minister and other statutory authorities.

Significantly, these impediments and deterrents to making complaints and having them resolved means that not only is the Department likely underestimating levels of carer dissatisfaction, but that the needs of children and young people and their foster and kinship carers may remain unaddressed. If the Department is not receiving feedback through effective complaints management, it may be over-estimating system performance and neglecting vital service improvement. Ultimately carer retention, and hence stability for children and young people in care, may be affected if complaints cannot be received, actioned and resolved satisfactorily.

The impacts of unresolved complaints on the wellbeing of foster and kinship carers and the children and young people in their care, and the lack of feedback into the child protection system are significant.

Submissions to the Inquiry identified that an independent complaints process would provide procedural fairness and natural justice for complainants who wish to raise matters in relation to the

Department and agencies, and that such a process would enhance trust and accountability in the system. There is also a potential role for an independent process to include restorative justice and alternative dispute resolution processes, as well as a review of the Department's policies, practices, reform and implementation against best practice.

Recommendations

The Inquiry recommends:

1. That internal complaints management processes in the Department are amended to enable complainants to pursue additional channels for making complaints as the first step in the complaints process.

2. That the Department ensure frontline staff are trained in receiving and responding to complaints in alignment with the principles of the Australian Standards and recommended best practice by the Australian Human Rights Commission, and that all policies, procedures and performance requirements relating to complaints management reflect these principles and best practice.

3. That in addition to the existing internal complaints management process, an external Independent Quality Assurance Unit be established in a relevant statutory body to respond to complaints that relate to bullying, discrimination, harassment and other matters currently unable to be reviewed through existing internal and external mechanisms. The Unit should be established in compliance with the principles and requirements in the Australian Standards and best practice advice for complaints management, should be based on restorative justice principles and allow for alternative dispute resolution processes. The Unit should also have the capability to review the Department's policies, practice and reform and implementation against best practice and provide recommendations to the Minister and Chief Executive**.**

Chapter 3. Care Concerns

This chapter of the report is the second of two chapters addressing Term of Reference 1:

1. Existing complaints mechanisms in the Department as they relate to foster care and kinship care, including consideration of—

    1.1. how such complaints are processed by the Department; and

    1.2. the independence of the complaints process; and

    1.3. outcomes and actions arising from such complaints; and

    1.4. the extent to which outcomes and feedback relating to such complaints are communicated to foster carers and kinship carers.

The chapter deals with these matters in relation to care concerns.

Introduction

Responding to allegations of abuse and harm is a core feature of child protection systems. In South Australia, such allegations pertaining to the safety of children and young people in care are treated as "care concerns". This chapter explores how such complaints and allegations made in relation to the care provided by foster and kinship carers are processed and responded to by the Department, the independence of such processes, the outcomes and actions arising and how these are communicated.

Significantly, multiple South Australian and Australian Inquiries (the Child Protection Systems Royal Commission, the Children in State Care Commission of Inquiry and the Royal Commission into Institutional Responses to Child Sexual Abuse have all had bearing on improving the prevention, detection and responses to the neglect and abuse, particularly sexual abuse, of children in care. These inquiries found widespread failings across all child protection systems in terms of the ability to detect, respond and redress abuse and neglect in care. Many system recommendations were developed from these Inquiries and systems across Australia are trying to improve the safety and quality of institutions and organisations for children and young people, particularly those who are in care.

Care concern responses

In South Australia, a care concern is a notification to the Child Abuse Report Line (CARL) about a child or young person in care; the concerns relate to the care provided by an approved or temporary carer, registered or approved household member, Department of Human Services (DHS) custodial staff or a Departmental employee, volunteer or contracted carer (the person subject of the concern/s [PSOC]); and there is a reasonable suspicion that the child or young person has been harmed, is at risk of suffering harm, including through a failure of the carer, employee or volunteer to meet the Department's Standards of care[64]. Practice guidance for case workers also advises that

[64] Department for Child Protection. *Care concerns* [webpage]. Accessed September 2022.

where case workers have a concern about the placement and where these concerns constitute a care concern, they must be raised in C3MS[65].

There is no single model or national standard for responding to complaints about the care provided by foster and kinship carers or allegations of risk and harm by carers. In some jurisdictions, such concerns may be considered reportable under the legislation, and if so, may be responded to by an independent statutory authority (e.g., in the ACT), by the child protection agency (e.g., in QLD and TAS) and/or a relevant non-government agency (e.g., NSW).[66] Most jurisdictions advise carers that they will be provided a notice in writing relating to the allegations, given advice on available supports, and provided information about carers' rights, what they can expect from the process and how they can have the decision or outcome reviewed if they do not agree with the outcome. In Tasmania, carers are additionally advised that they are innocent until proven otherwise.

Rates of care concerns and safety in care

The proportion of carers who have been the subject of care concern allegations at some point in their fostering career has been estimated in the UK at 16%[67]. Research from the US estimates that between 0.27 and 2% of children in care may experience confirmed maltreatment in any one year; and lifetime care estimates vary from 3-4% in English studies to 19% of all children in foster care in NSW. Substantiation rates for individual allegations vary from 22% in the UK, 30-38% in the US and 59% in NSW[68].

While not care concern data, the Australian Productivity Commission Report on Government Services (ROGS) requires Australian States and Territories to report on 'Safety in care' which covers children in out-of-home care and children in other supported placements. One indicator of Safety in Care is the proportion of children in care who were the subject of a substantiation of sexual abuse, physical abuse, emotional abuse or neglect where the person responsible was living in the household providing out-of-home care[69]. In 2020-2021, 30 South Australian children met this definition, which represented 0.6% of children in care. While definitions, thresholds and processes can vary across jurisdictions, figures for other jurisdictions in the same year ranged from 0.1% in WA to 2.9% in NSW (noting that for QLD and NT this information was not available).[70].

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[65] Department for Child Protection. Supporting and collaborating with carers practice paper. Version 1.2, May 2022.

[66] ACT Government Community Services, ACT Together and Carers ACT. (2019). Carer Handbook. The go to resource for kinship and foster carers in the ACT. Retrieved from: https://www.communityservices.act.gov.au/__data/assets/pdf_file/0003/1340562/CarersHandbook_v1.pdf ;

[66] NSW Government and Fostering NSW. (2022). Caring for Kids: A guide for foster, relative and kinship carers. Retrieved from:https://www.facs.nsw.gov.au/download?file=321330 ; Queensland Government. Issues and Complaints [webpage]. Retrieved from:https://www.qld.gov.au/community/caring-child/foster-kinship-care/information-for-carers/get-help/issues-and-complaints. Accessed July 2022; Victorian Government. (2016). Victorian handbook for foster carers. Retrieved from: https://services.dffh.vic.gov.au/sites/default/files/2021-07/Victorian%20Foster%20carer%20handbook%202%20copy.pdf; Victorian Government. (2017). Manual for kinship carers. Retrieved from: http://kinshipcarersvictoria.org/wp-content/uploads/2017/11/Manual-for-Kinship-Carers-web-version-2.pdf

[67] Biehal, N. (2014). Maltreatment in foster care: A review of the evidence. *Child Abuse Review, 23*(1), 48-60.

[68] Ibid.

[69] Australian Productivity Commission. (2022). *Report on Government Services 2022*.

[70] Ibid. Table 16.1a

There was no published Departmental data[71] in relation to care concerns in South Australia, however it is likely that the number of children (and their carers) who are the subject of a care concern is much higher due to the inclusion of additional grounds for substantiation (deficit in care) and that many matters will not receive an investigation (see more detail below).

Responding to care concerns

Between and within jurisdictions, the behaviours that are classified as maltreatment of children in care varies widely, from gross abuse to 'relatively minor' concerns. The Australian Productivity Commission Report on Government Services notes that *the threshold for substantiating abuse or neglect or risk involving a child in care is generally lower than that for a child in the care of his or her own parents. This is because governments assume a greater duty of care for children removed from the care of their parents for protective reasons*[72]. Studies have identified that the thresholds for substantiation need review, and that appropriate responses which distinguish between abusive care and failing to meet standards of care are required[73]. Preventive strategies would include developing a better understanding of when carers may be under particular stress and have higher needs for support and supervision.

Research internationally identifies that care concerns are a primary stressor raised by foster parents[74]. This is echoed in CFKC-SA's surveys of South Australian foster and kinship carers[75]. Many carers are unaware of concerns until they are told of them, and being investigated was described as especially painful for carers. Carers report being highly emotionally distressed with false or unproven allegations, and this has flow on effects to health and relationships[76]. Lack of information relating to the allegation itself, the investigation process and support available led to confusion and distress. Best practice identifies that information about the allegation and the investigation process should be provided to the carer as soon as practicable[77].

Very few studies of children's views about making allegations have been conducted and more is needed to understand when/why children may not be heard when trying to make reports of abuse or poor care or why they may make false allegations[78].

As care concerns can be both raised and responded to by foster and kinship carers' children's case workers and by support workers, the following are recommended for maintaining strong

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[71] DCP prepares regular internal reports using different parameters to support monitoring and improvement. This data is not publicly released.

[72] Ibid. Indicator results: Safety in Care. Retrieved from https://www.pc.gov.au/ongoing/report-on-government-services/2022/community-services/child-protection

[73] Biehal, N. (2014). Maltreatment in foster care: A review of the evidence. *Child Abuse Review, 23*(1), 48-60.

[74] Nesmith, A. (2020). False allegations and caseworker conflict: Stressors among long-term foster parents. *Children and Youth Services Review, 118*(1).

[75] Connecting Foster and Kinship Carers SA. (2021). *Foster & kinship carer survey: 2020 summary.*

[76] Plumridge, G., & Sebba, J. (2016). *The impact of unproven allegations on foster carers.* The Rees Centre for Research in Fostering and Education, University of Oxford.; Nesmith, A. (2020). False allegations and caseworker conflict: Stressors among long-term foster parents. *Children and Youth Services Review, 118*(1).

[77] Plumridge, G., & Sebba, J. (2016). *The impact of unproven allegations on foster carers.* The Rees Centre for Research in Fostering and Education, University of Oxford.

[78] Biehal, N. (2014). Maltreatment in foster care: A review of the evidence. *Child Abuse Review, 23*(1), 48-60.

relationships between carers, support workers and case workers after care concerns have been raised:

- outlining the issues,
- sharing responsibility,
- acknowledging mistakes,
- focusing on prevention,
- adding resources (including community resources and supports),
- retaining supportive relationships and
- mapping out next steps[79].

Research has identified that foster care support workers acknowledge their conflict of interest between having a role that provides support to foster parents, while also providing quality assurance and participating in the care concern process, noting sometimes these roles need to be separated[80]. During the care concern process, support workers may distance themselves from carers as a strategy to appear neutral. However, this means carers can be unsupported in a process that they don't understand or have information about, and distress is exacerbated through the loss of human connection and support, and is at odds with the notion of working in collaboration as a team[81]. Nesmith (2020)[82] identified that the practice of suspending communication and distancing from the carer may not be necessary from either a contractual or investigative perspective, meaning carers are able to be supported through the process, including being able to discuss the allegations with their support workers. In the event that support workers are required to distance themselves from carers, it is recommended that independent supports be provided to the carer during the care concerns process[83].

Plumridge and Sebba (2016)[84] identified that if the investigator can be independent of the case worker and support worker, these relationships with the carer can continue and are not made unnecessarily adversarial. As early as 2003, the Layton review[85] recommended an independent and transparent review mechanism for complaints about case management and allegations of abuse and neglect in care. This included the proposal for a specialist review and investigations unit, independent from the statutory agency, to provide independence, transparency and integrity. The

[79] Brown, J. D., Serbinski, S., Anderson, L., & Gerrits, J. (2017). Establishing a good relationship with foster parents after issues with their performance: Experiences of foster parent resource workers. *The British Journal of Social Work, 47*(7), 1831-1849.
[80] Ibid.
[81] Nesmith, A. (2020). False allegations and caseworker conflict: Stressors among long-term foster parents. *Children and Youth Services Review, 118*(1)
[82] Ibid.
[83]Plumridge, G., & Sebba, J. (2016). *The impact of unproven allegations on foster carers.* The Rees Centre for Research in Fostering and Education, University of Oxford.
[84] Ibid.
[85] Layton, R. (2003). *Our best investment: A state plan to protect and advance the interests of children.*

Select Committee[86] further recommended that the then Families SA should give priority to its review of how Care Concerns are registered and communicated to foster carers, how and when they are investigated and how they are dealt with (Recommendation 21). Submissions to the Child Protection Systems Royal Commission[87] noted that care concerns processes were still a "nightmare" people were unaware of or unclear about care concern processes, they did not know what care concerns are or how they were investigated. Multiple recommendations (Recommendations 115, 143, 172, 174, 175, 177, 184, 185, 186 and 208) were made in relation to care concerns in the Nyland Inquiry. These related to providing clearer information, guidance and training around care concerns processes, reviewing screening criteria, establishing a response unit for quality of practice, improving data systems and data sharing in relation to care concerns, liaison with SAPOL and responses in remote South Australia.

Care concern reform in South Australia

In response to requests for information[88], the Department identified that it is conducting a two-stage stage reform process for care concerns in response to the Nyland review. The two stage approach enabled urgent areas for action to be prioritised and to allow appropriate time to implement reform that was both considered and based on the evidence.

> *Phase 1 commenced with an analysis of the current state of DCP's care concern management process, identified areas of risk, and examined system functionality. Utilising this information an interim care concern management model was developed, and in December 2019, the model, Manual of Practice chapter – Raising and responding to care concerns and supporting documentation were implemented to address areas of immediate risk.*
>
> *The aim of Phase 2 is to develop and implement a new all-inclusive approach for managing care concerns. One of the guiding principles of the Project will be to design a model, system and tool(s) that enables timely assessment and response to care concerns to ensure the safety of vulnerable children and young people in care.*
>
> [89]*As part of Phase 2, DCP is reviewing:*
>
> - *Workforce profile*
> - *Screening*
> - *Assessment*
> - *Abuse types*
> - *Grounds for substantiation – including reviewing current application of the balance of probabilities threshold*
> - *Categories (minor, moderate and serious)*
> - *Development and implementation of an independent internal review process*
> - *Ability for formal escalation/de-escalation pathways*

[86]Parliament of South Australia. (2015). *Interim report of the select committee on statutory child protection and care in South Australia.*
[87] Nyland, M. (2016). *Child protection systems royal commission report.*
[88] Department for Child Protection. Request for information: Care concern response. Received 28 July 2022.; Department for Child Protection. Request for information: Supplementary information. Received 25 October 2022.
[89] Department for Child Protection. Request for information: Supplementary information. Received 25 October 2022.

- *Ensuring a systemic response in supporting carers*
- *Working to embed procedural fairness principles*
- *Ensuring timely decision making*
- *Language with the explicit intent of moving away from deficit language*

As part of the Care Concern Reform Project, there will be extensive consultation with stakeholders including carers and carer advocacy groups.

DCP is committed to a process that is timely, fair and respectful of carers and the critical role they play.

The Department's responses indicate that it has invested in two full time investigators to expedite the processing of care concern investigations Additionally the responses note that relevant findings and recommendations of the Inquiry will be considered in Phase 2.

Legislation, policies and procedures

Legislation relating to the abuse or neglect of children in care

There are no specific legislative requirements or protections for making and responding to care concerns, beyond those that relate to making and responding to reports about children at risk of harm as set out in Chapter 5 of the CYPS Act.

Section 17 of the CYPS Act defines harm as including physical harm or psychological harm (whether caused by an act or omission) and to include such harm caused by sexual, physical, mental or emotional abuse or neglect.

Section 18 of the CYPS Act outlines the meaning of 'at risk' for the purposes of the Act to include:

(a) the child or young person has suffered harm; or

(b) there is a likelihood that the child or young person will suffer harm; or

(c) there is a likelihood that the child or young person will be removed from the State for the purpose of being subjected to a medical or other procedure that would be unlawful if performed in this State ,

taking part in a marriage ceremony that would be a void/invalid marriage, under the Marriage Act 1961 of the Commonwealth; or enabling the child or young person to take part in an activity, or an action to be taken in respect of the child or young person, that would, if it occurred in this State, constitute an offence against the Criminal Law Consolidation Act 1935 or the Criminal Code of the Commonwealth; or

(d) the parents or guardians of the child or young person—

(i) are unable or unwilling to care for the child or young person; or

(ii) have abandoned the child or young person, or cannot, after reasonable inquiry, be found; or

(iii) are dead; or

(e) the child or young person is of compulsory school age but has been persistently absent from school without satisfactory explanation of the absence; or

(f) the child or young person is of no fixed address; or

(g) any other circumstances of a kind prescribed by the regulations exist in relation to the child or young person.

Deficits in care

In addition to the definition of harm as set out in Section 17 of the CYPS Act, policy and practice guidance set out that responses to care concerns must consider the Standards of out of home care[90]. A failure to provide adequate care against the standards can be grounds for substantiation of a care concern based on a Deficit in Care[91].

Policy and practice documentation identifies there are two key documents that frame the Department's Standards of Care: The National Standards for Out of Home Care[92] and the Charter of Rights for Children and Young People in Care[93], described below. Two Departmental documents provided in response to an Inquiry RFI [94] additionally reference the Standards for Alternative Care in South Australia (2008)[95] as being part of the Department Standards of Care and being used in the assessment of care concerns. However, in response to a further request for information[96], the Department advised the Inquiry that in December 2021 a decision was made to retire the Standards for Alternative Care in South Australia and remove reference to them in Departmental Documentation. This response notes that a full time staff member was being engaged to undertake that work.

The National Standards for Out of Home Care

The National Standards for Out-of-Home Care[97] were developed as a priority under the National Framework for Protecting Australia's Children 2009-2020[98]. National standards identify the key elements of care that lead to positive outcomes for children and young people[99]. They were designed to drive improvements and deliver consistency in the quality of care, so that children and young people in out-of-home care have the same opportunities as their peers to reach their potential in life. There are 23 indicators under the National Standards, in the following key areas:

- health
- education

[90] Service provider responsibilities in the management of care concerns (v2.2 February 2022); The Department's Manual of practice: Raising and responding to a care concerns chapter (v2.4 June 2021); The Care concerns: Assess and assign a care concern referral procedure (V1.2 February 2022)
[91] Service provider responsibilities in the management of care concerns (v2.2 February 2022)
[92] Commonwealth of Australia. (2011). *An Outline of National Standards for out-of-home Care.*
[93]Guardian for Children and Young People. (2021). *Charter of Rights for Children and Young People in Care.*, p.2
[94] Department for Child Protection. *The DCP Manual of practice: Raising and responding to a care concerns chapter (v2.4 June 2021; Department* for Child Protection. *Care concerns: Assess and assign a care concern referral procedure (V1.2 February 2022)*
[95] Department for Families and Communities. (2008). Standards of Alternative Care in South Australia.
[96] Department for Child Protection. Request for information: Supplementary information. Received 25 October 2022.
[97] Commonwealth of Australia. (2011). *An Outline of National Standards for out-of-home Care.*
[98] Commonwealth of Australia. (2009). *Protecting Children is Everyone's Business: National Framework for Protecting Australia's Children 2009–2020.*
[99] McHugh, M., & Pell, A. (2013). *Reforming the foster care system in Australia: A new model of support, education and payment for foster parents.* Berry Street & University of New South Wales.

- care planning
- connection to family
- culture and community
- transition from care
- training and support for carers
- belonging and identity, and
- safety, stability and security.[100]

The Charter of Rights for Children and Young People in Care.

The *Charter of Rights for Children and Young People in care*[101] are based on the United Nations Conventions on the Rights of the Child and were developed with children and young people who have lived in care. Organisations must uphold the rights for children and young people and anyone who is formally involved with children in care, including carers, must 'seek to implement to the fullest extent possible, the terms of the Charter', as outlined in the *Children and Young People (Safety) Act 2017*.

The Charter of Rights identifies the following rights for children and young people in care:

- *To be safe and well cared for*
- *To be listened to and have a say in decisions that affect them*
- *To be themselves and be treated with respect*
- *To connect with their culture*
- *To have contact with people who matter to them*
- *To have the right to good health, fun and play*
- *To privacy*
- *To a good education*
- *To get the support they need so they are ready to leave care and feel good about their future*

These standards and rights for children and young people are further discussed in Chapter 7.

The management of care concerns

Principles

The principles for raising and responding to care concerns are specified in the Department's Manual of Practice[102] . These include:

- *The safety and wellbeing of children and young people is the paramount consideration*
- *Decision-making is child and young person focused*
- *Children and young people have a voice in decisions made about them*

[100] Commonwealth of Australia. (2011). *An Outline of National Standards for out-of-home Care*. p.5
[101] Guardian for Children and Young People. (2021). *Charter of Rights for Children and Young People in Care*.
[102] Department for Child Protection. Manual of Practice: Raising and responding to care concerns chapter. Version 2.4, June 2021.

- *Interagency collaboration leads to better outcomes*
- *Allegations about a child or young person's wellbeing or safety must be listened to and taken seriously*
- *Inadequate care, improper conduct and allegations of harm by carers, staff or volunteers will receive timely responses and outcomes to prevent further risk or harm*
- *Procedural fairness and due process will be afforded to children and young people, carers, staff and volunteers.*

The same document[103] also outlines that *it is vital that further harm to children and young people, and harm to carers, staff members and volunteers, is minimised by ensuring:*

- *safeguarding children and young people remain paramount*
- *responses are timely*
- *the process is transparent to all concerned*
- *the child or young person, and the carer, staff member and volunteer, are treated with sensitivity, fairness and respect at all times*
- *the individual needs and views of each child and young person in care are considered in decision-making throughout the care concern response*
- *strategies that minimise disruption whilst ensuring the safety of the child or young person are explored*
- *support persons are available to the child or young person, and to the person subject of concern.*

Caseworker responsibilities in raising a concern

The Department's website notes that the Department must ensure *the safety of the child, and that carers are treated in a fair and just manner, and are informed and supported during the process*. [104] The Department's Supporting and Collaborating with Carers Practice paper[105] advises Departmental case workers that it is critical that they:

- *address any concerns or issues that they observe in the placement as soon as possible*
- *assess the safety of the child or young person and work closely with the carer to identify supports they may require to provide quality care; and*
- *where concerns constitute a care concern, they must be raised in C3MS and responded to in a manner consistent with the processes outlined in the relevant chapter of the Manual of Practice*

[103] ibid
[104] Department for Child Protection. *Care concerns* [webpage]. Accessed September 2022.
[105] Department for Child Protection. Supporting and collaborating with carers practice paper. Version 1.1 February 2021. p.7

The Department's Manual of practice[106] additionally identifies that caseworkers must:

- *Respond to concerns about the placement*
- *If there are concerns about the child or young person's safety and wellbeing in the placement because of a reasonable suspicion that the child or young person has been harmed, there is a risk of harm to the child or young person, or the carer has breached acceptable standards of care, the Department case worker should raise a care concern.*

Responding to the concern

The Department identifies that it aims to manage all care concerns in a timely manner, but timeframes are subject to vary based on the response pathway, complexity of the matter, extent of inquiries and information gathering that need to be undertaken, and whether there are any restrictions on the Department progressing the matter whilst police are involved. Concerns requiring an urgent response, particularly outside business hours will be forwarded to SA Police, Child Protection Services and the Crisis Response Unit. [107]

All care concerns are reviewed by CARL and approved concerns are then allocated and sent to the Department's Care Concern Management Unit (CCMU). [108] The decision making in response to the concern follows Structured Decision Making processes and definitions of harm and failure to provide care based on the legislation and Standards of Care as identified above.

The CCMU will assess the concern based on the available information and will categorise the concern according to the level of concern (no action, minor, moderate, serious) and the type of harm/concern (physical, neglect, emotional, sexual, failure to provide adequate care). [109]

The Department website notes that the assessment determines the response pathway *which will focus on the actions required to respond to the harm or risk of harm to the child or young person and other issues which may have contributed to the care concern, as well as the action to address any risks identified.* Carers will be advised by the Department or their support agency if a care concern

[106] Department for Child Protection. Manual of Practice: Supporting children and young people in care chapter. *Support the placement.* Version 5.11, June 2022.
[107] Department for Child Protection. *Care concerns* [webpage]. Accessed September 2022.
[108] Department for Child Protection. *Care concerns* [webpage]. Accessed September 2022; Department for Child Protection. Care concerns: Responses to frequently asked questions for foster carers. (n.d.).; Department for Child Protection. Care concerns: Responses to frequently asked questions for kinship carers. (n.d.).; Department for Child Protection. Care concern process flowchart. Version 1.1, December 2021.; Department for Child Protection. Care concerns: Assess and assign a care concern referral procedure. Version 1.2, February 2022; Department for Child Protection. Care concerns: CCMU reporting to external agencies procedure. Version 1.1, February 2022.; Department for Child Protection. Care concerns: Convene a serious care concern planning discussion procedure. Version 1, August 2021.; Department for Child Protection. Care concerns: Manage outcomes of a serious care concern investigation procedure. Version 1.1, February 2022.; Department for Child Protection. Care concerns: Refer a completed serious care concern investigation to the care concern outcome panel procedure. Version 1, August 2021.; Department for Child Protection. Care concerns: Undertake care concern background checks procedure. Version 1, August 2021; Department for Child Protection. Service provider responsibilities in the management of care concerns. Version 2.2, February 2021.
[109] Department for Child Protection. *Care concerns* [webpage]. Accessed September 2022; Department for Child Protection. Manual of Practice: Raising and responding to care concerns chapter. Version 2.4, June 2021.

has been made about them, with the exception of concerns that have been assessed as no action (allegations that have already been raised, addressed and require no further action)[110].

Depending on how the concern has been assessed, the carer could be contacted by the Departmental case worker or the Department's Investigations Team.

Minor care concerns

The response pathway for a Minor Care Concern is part of case management with consideration of training and support to enhance the quality of care being provided.

Moderate care concerns

The response pathway for a Moderate Care Concern involves a formal care concern review meeting by the case management team to discuss the allegations, and strategies to respond to risks. An outcome finding is made at the end of the moderate care concern process.

Serious care concerns

Serious Care Concerns are managed by the Investigations Unit who undertake a fact finding investigation to gather information relevant to the care concern, including the contribution of a carer's actions or inaction to a deficit in care, or abuse or neglect of the child or young person; and the contribution of systemic or operational issues to the child or young person's adverse experience. Children and young people in care may be moved to another placement while the investigation is undertaken. If the care concern relates to possible criminal offences, the matter will be referred to SA Police.

For concerns categorised as serious they are sent to the CCAP for review and confirmation as to whether they merit status as serious concerns. A discussion meeting with multiple parties must be convened (include time frames) which in addition may be an interagency meeting. Outcomes of investigation of serious CC recorded on C3 and reviewed by panel, who make determinations including how the PSOC will be advised

Providing a response to care concerns and receiving an outcome

The Department website notes that carers will be given an opportunity to respond to any care concern raised against them that has been assessed as Minor, Moderate or Serious. It also notes that if carers need support during the care concerns process, they are encouraged to first make contact with their support agency[111].

The PSOC, and other relevant parties, are to be advised in writing of the outcome and rationale of the care concern process. The outcome will also consider whether there has been a deficit in care; that is, if the care provided to the child or young person has fallen below what is considered to be an acceptable level of care. If there is no evidence to support the allegations, the outcome of a moderate or serious care concern may be that allegations are not substantiated/unsubstantiated. The outcome will be substantiated if there is evidence consistent with the allegations made; that is the outcome may confirm that the allegations were likely to have occurred. An outcome may be

[110] Department for Child Protection. *Care concerns* [webpage]. Accessed September 2022.
[111] Department for Child Protection. *Care concerns* [webpage]. Accessed September 2022.

undetermined if there is insufficient evidence to confirm whether the allegation/s did or did not occur. [112]

Threshold for substantiating deficits in care

The Department's Manual of Practice:[113] advises practitioners that *it is expected that the Department for Child Protection (DCP) provide a better standard of care than the families from which the children and young people were removed.* The same document[114] identifies that in determining an outcome regarding a concern about a deficit in care that *"a deficit in care occurs when the care provided to a child or young person in care has fallen below an acceptable level that a reasonable person would expect for a child or young person who has been placed in care".* The advice does not reference the Standards of Care and it does not define the term "reasonable" or specify who reasonable persons might be.

The Inquiry finds that this provides for a low, culturally bound and highly subjective threshold that effectively could be met once the report is made, presuming that the allegations are being raised by people who could be assumed to be reasonable persons.

Documentation relating to care concerns

All documentation regarding care concerns is kept on file. The Department identify that this is to keep a clear record of concerns raised and how they were managed and to record the response and outcome if the matter is raised again. Child protection information including care concerns, together with other information such as criminal history, is considered when Working With Children Checks and Disability Services screening checks are undertaken by the DHS Screening Unit[115].

Use of care concerns in other checks and assessments

The Departmental procedure for background checks in relation to care concerns[116] notes that requests for these checks can come from various sources including internal and external stakeholders The information provided in relation to the concern varies according to the nature of the request, which may include: Departmental prospective employee checks: DHS requests for information under prohibited persons legislation; Carer reviews; requests from Interstate liaison officers; Service providers who may request information about prospective or current carers; and by the Departmental legal service.

Submissions to the Inquiry

The inquiry received many submissions related to the processes, outcomes and impacts of care concerns. This included submissions relating to the nature of care concerns made, the awareness of

[112] Department for Child Protection. *Care concerns* [webpage]. Accessed September 2022.
[113] Department for Child Protection. Manual of Practice: Raising and responding to care concerns chapter. Version 2.4, June 2021. p.2
[114] Ibid, p.19
[115] Department for Child Protection. *Care concerns* [webpage]. Accessed September 2022; Department for Child Protection. *Screening unit: Check process* [webpage]. September 2022.
[116] Department for Child Protection. Care concerns: Undertake care concern background checks procedure. Version 1, August 2021.

carers about care concerns processes and the allegations made against them, the response to these concerns including the removal of children and poor processes in care concern meetings. The lack of independence and procedural fairness in the process and the significant impacts on children, carers and families are also examined.

TOR 1.1 how complaints are processed by the Department (care concerns)

Lack of information provided to carers

Submissions to the Inquiry[117] identified that some carers were unaware of the care concerns process, had not been provided information about the process by the Department or their support agency, and have no idea what happens if a concern is raised against them. Other submissions noted that information about care concerns is often gained from other carers who share "horror stories" about the process. Given care concerns can have severe consequences for foster and kinship carers and their families, submissions identified foster and kinship carers should be provided with details of the care concerns investigation process, their rights during this process, any supports available to them and any potential impacts. For Aboriginal carers, it was identified that these conversations should occur with Aboriginal workers.

The nature of care concerns that are screened in for response

While the Inquiry was unable to undertake an assessment of the content of allegations and the nature of the care concerns that were made and substantiated, many submissions[118] were received that identified the following:

- That many concerns are frivolous or trivial, have a very low threshold compared to allegations raised about biological families, are generally unsubstantiated and, if required, could be dealt with as part of usual practice rather than through a formal care concern meeting. This included allegations such as children not having their jumper or their lunch at school, children not having a lunchbox, children having unhealthy food for lunch, non-attendance at childcare, the child in care biting another child's ear, children playing in a tent in the backyard, children having lice, carers ordering an Uber to transport children who would usually be transported by taxi, the presence of a dog in the house with an infant, a child having a bug in their hair, a child with a runny nose and dirty face when collected from child care, a carer not wanting to leave children in the care of someone unknown to them, carers receiving parenting support from extended family members, carers speaking negatively about or raising their voice towards children, carers being unavailable for telephone calls with their support agency or the Department, not signing a school diary, telling children about care concerns, not having the child's belongings and medication packed appropriately, and generally not meeting children's needs (with little detail given).
- There is rarely a cultural lens applied to the concerns made or the responses by the Department. For example, the assessment and response to care concerns demonstrated a lack of understanding of differences in attachment, childrearing styles, family structures and family dynamics between cultures, and a lack of understanding of colloquialisms and

[117] For example, Submissions 24, 30, 75, 85, 99, 126, 140, 145, 190, 206
[118] Including, Submissions 12, 13, 24, 31, 36, 52, 80, 86, 87, 94, 95, 99, 100, 113, 122, 125, 131, 132, 145, 146, 148, 153, 154, 157, 165, 167, 174, 176, 179, 180, 186, 187, 196, 198, 201, 202

idiomatic language used in different cultures. The lack of cultural understanding in assessing and responding to care concerns means they can be misinterpreted and processes can be culturally biased, reinforcing systemic racism.

- The concerns are provided without context and are lacking interpretation through a trauma lens. This included concerns raised that did not include reference to the child's extreme behaviours and frequent previous requests for support by foster and kinship carers; concerns about food choices provided by carers for children with food-related disorders; concerns about toileting and therapeutic techniques recommended by specialists; concerns about children's self-soothing and comfort behaviours; and concerns in which carers had to protect themselves or other children in the household from a child in their care using reasonable force in compliance with their support agency's policy
- Concerns have been raised when carers ask for supports in parenting and caregiving, as this has been interpreted as carers struggling and not coping. This can result in carers fearing to raise their support needs with support workers and case workers, preventing them from receiving assistance, and potentially jeopardising the stability of the placement
- Allegations of carers being the subject of malicious or false concerns from children's biological family members, other carers, the Department/NGO staff, school staff, friends, members of the community and children in their care. Where there were allegations of malicious concerns raised in the course of casework, this was viewed as being in retaliation for complaints raised or advocacy provided by foster and kinship carers, including requests for assessments, support and change of worker, and was intended to threaten, bully, harass, coerce or gain compliance from carers. The care concern response system was seen as being easily exploited for malicious allegations due to the low thresholds for care concerns, the lack of independence in the care concern process, the anonymity of the person raising the concern and the absence of natural justice in the response process (described in more detail below). Many carers throughout the Inquiry identified they and others were afraid of speaking up because they fear retribution through care concerns and having children removed in the process.

Notifying carers about a care concern allegation

A number of submissions[119] were made to the Inquiry in relation to aspects of the process of notifying carers that a care concern has been made. This included:

- When carers are notified that a care concern has been raised, they are not provided with any information by their case worker or support worker in relation to the nature of the allegation and are advised that further information will be provided at the care concern/allegation meeting. This means carers lack of information about which children in the family the concern relates to, and which family member is the person who is the subject of the concern. Carers may wait days or weeks for this information. This absence of information does not allow for any safety planning within the family context, precludes carers from providing appropriate support for children and causes considerable distress and

[119] Including Submissions 13, 24, 75, 30, 62, 86, 91, 95, 98, 99, 131, 133, 140, 153, 177, 186, 192, 201, 202, 206.

uncertainty for foster and kinship carers, who describe feeling blindsided. It is also inconsistent with the principles of natural justice or procedural fairness.

- Some carers were not notified that the meeting they were participating in was in response to a care concern. In some cases this was discovered during the meeting or after the meeting if minutes were provided.
- In some cases, carers were unaware that a concern had been raised until months or years later. This included carers becoming aware of the concern on their file as part of another process (such as carer reviews, transfer to another support agency, provision of carer records through Freedom of Information requests, applications for LTG, or documents submitted in court proceedings) or when they heard about the concern from another carer. This raises clear issues in relation to transparency and confidentially.

Support from support workers and agencies

Submissions to the Inquiry described the distancing of case workers and support workers from foster and kinship carers during the care concerns process[120]. This included the withdrawal of support and advocacy by support agencies and support workers, including: refusing to provide any information, return calls or reply to emails about the care concern; foster and kinship carers not being supported during the care concern meeting (identifying that some support workers did not provide input, support or direction in the meeting and/or were completely silent); or failing to provide support after the removal of a child from the placement (see below). Reasons given to carers for agency support workers withdrawing their support included that they can't talk to the carer until the matter is resolved, that their role is to support the placement rather than the carer, and that they can't be seen to be siding with someone who may have committed child abuse.

The lack of support, coupled with carers facing unknown allegations and potential or actual removal of children in their care, places carers in an uncertain, uninformed and very isolated position while the care concern process takes place. If they can, many carers draw on other carers or the CFKC-SA for support at this time.

This is a role that many believed their support agencies were funded to undertake and some felt that agencies were not fulfilling their contractual obligations. Other submissions noted that service agreements identify agencies' as having a primary contractual obligation to the Department, and they have significant conflicts of interest in relation to their role in the care concerns process. This includes the joint responsibility between the Department and support agencies in the care concerns process including obligations to obtain and hold evidence against carers; having evidence about carers in relation to the care concern that is unable to be shared with them and providing documentation as part of the investigation. Agency staff also identified being unaware of what was discussed in planning meetings for moderate care concerns and thus being unaware of how they can support carers at this time.

Sudden removal of children from the placement

Submissions to the Inquiry described the sudden removal of children from the placement during the care concern investigation, without carers having opportunity to understand or respond to the

[120] For example, Submissions 13, 86, 91, 95, 99, 132, 133, 146, 148, 153, 154, 157, 178, 180, 202.

concern that has been raised or the ability to explain to the child what was taking place[121]. Carers were also not provided information about the expected duration of the removal, what the process involves after the child has been removed from their care and were required to observe no contact directions from the Department. Children were unable to be prepared for the removal or to understand the reasons for their removal from the family.

Some carers feared the removal of other children in the family and/or could not understand if the matter was serious enough to trigger the removal of one child, why others remained in their care.

Submissions identified that during this process the impact of the removal of the child or young person on that child, and on other family members including foster and kinship carers, their biological children, foster siblings and extended family was not considered. The grief and loss associated with child removal for all parties, was not addressed, and submissions included descriptions of children who had been removed significantly regressing in their development and behaviour as a result. Some children were reported as feeling that their carers didn't want them to stay or that they themselves had been responsible for the change in placement.

Outcomes of child removal included siblings becoming separated and some children moving from their family-based placement to residential care. Even when the care concern was unsubstantiated, some children did not return to the original placement from which they were removed for several months and some did not return at all. If the child was returned to the placement, relationships between carers and other members of the care team were fractured if someone with a role in ongoing case management had been involved in the removal.

For Aboriginal kinship and foster carers, this fear of removal of children from their care during or as a result of care concerns process, was described as feeling like the Stolen Generations era of forced removals, and carers were described as walking on eggshells given how easily care concerns could be raised.

Lack of procedural fairness and natural justice

Many submissions to the Inquiry identified that the care concerns process does not reflect an independent, impartial or thorough investigation of the concerns and does not afford carers natural justice or procedural fairness[122]. There is no current legal obligation to afford carers procedural fairness in decision making in the care concerns process, however procedural fairness is an espoused principle for care concerns responses as outlined in the Manual of Practice. [123]

Concerns in submissions about the lack of procedural fairness included:

- Carers feeling the process was based on a presumption of guilt before innocence, is unnecessarily obtuse and highly adversarial. Carers report being treated with suspicion before they have an opportunity to know what the allegation is or to provide a considered response. Concerns are raised and recorded on their records without it being established that the incident has even occurred and, in some cases, that the carers are actually the

[121] For example, Submissions 25, 38, 86, 87, 100, 113, 125, 128, 132, 140, 145, 177, 178, 186, 187, 190, 205.
[122] For example, Submissions 13, 24, 25, 30, 31, 34, 76, 80, 85, 86, 91, 93, 94, 95, 99, 100, 131, 133, 138, 145, 153, 154, 177, 178, 181, 185, 187, 186, 191, 198, 201, 202, 205, 206.
[123] Department for Child Protection. Manual of Practice: Raising and responding to care concerns chapter. Version 2.4, June 2021.

persons who are the subject of the concern. Some submissions described carers feeling ambushed, attacked, having their words twisted and not listened to, being spoken to in a demeaning way and being treated with disdain during the care concern process. Carers described being treated like criminals, but without the same rights, including the ability to know the allegations against them and prepare a defence.

- In many cases, the only opportunity carers are afforded in the process to hear and respond to the allegation is in the care concern meeting. This means they cannot adequately prepare a response or have an opportunity to provide additional information or evidence in relation to the allegation. Carers who may be intimidated, distressed or anxious about the process and who may be unable to articulate their thoughts quickly may be significantly disadvantaged in such a process. As carers are not provided the care concern in writing in advance of the meeting, this requires the care concern to be articulated clearly by the Department in the meeting, which was not always the case. In these instances of poorly articulated concerns, carers have had concerns substantiated against them without being aware of what the concern is. It is impossible to provide a defence against an unknown allegation. Carers are also expected to agree an action plan at a meeting, without adequate preparation.

- The process (and the policy and practice guidance described earlier) is geared towards validating the care concern as received rather than assessing the concern for its accuracy and veracity. Submissions identified that while the evidence threshold is the balance of probabilities, the only avenue investigated, and poorly so, is the accusation that the carer is responsible. At the time the carers are called into the office for the care concern meeting, the allegation has already been deemed a care concern and placed on file. Children have been removed from the placement before facts have even been established in relation to the concern including carers being interviewed. Carers felt evidence was not sought to support the outcome and that alternative sources of information were not invited as part of the care concern meeting or investigation process. In some cases, carers were not even invited to provide a response to the allegation in the care concern meeting, which proceeded to action planning after assuming the allegation was correct. Information gathering during the care concern process seemed limited to receiving the report and determining action, rather than establishing facts relevant to the case. This included a lack of consideration of information from independent third parties (for example, the child's or carer's therapist, doctor or educators) or from formal documentation (e.g., medical records, school and child care records, assessments etc). Where children were interviewed in response to a care concern, this process was also described as flawed (see below).

- Carers experienced instances of the member of a case team who raised the allegation presiding over or being involved in the determination of the care concern outcome, including the care concern meeting.

- As care concerns are not included in the CYPS Act, the outcomes of care concern investigations and responses are not considered a reviewable decision. Hence there is no avenue to have the decision appealed or reviewed through standard, open, culturally safe or accessible channels. This includes the ability to appeal the recording of unsubstantiated care concerns on carers' records (see below).

Interviews with children during the investigation of care concerns

Where children have been interviewed in relation to care concerns, some submissions to the Inquiry noted that such interviews were not necessarily undertaken with another trusted adult present, with the carer's knowledge, or in a child-focused way[124]. This included descriptions of children being unaware that they had participated in an interview, feeling uncomfortable or distressed during the process, and the use of poor interviewing techniques. This included the use of leading questions, lack of establishing rapport and trust, and a lack of skill interviewing children who have experienced trauma and/or with disabilities, and lack of understanding of children's developmental processing including language, memory skills and acquiescence.

Children in care may also have undergone forensic interviewing as part of child protection and criminal proceedings, and it was noted that they may be triggered by the interview process itself and may fear removal from their placement as a result of the interview.

TOR 1.2. The independence of the complaints process (care concerns)

Submissions were received by the Inquiry that identified that management of the response to the care concerns by the local case management team could be subject to bias, particularly if the concern was raised by a member of the team[125]. This included bias in favour of the carer (for example breaches in confidentiality about who made the complaint, or optimistic bias if there is a positive relationship with the carer). But also biases against the carer. Combined with the concerns outlined above about the lack of procedural fairness afforded to carers throughout the process, there are significant concerns about workers being able to generate a concern and provide the Department's response. Again, combined with the low thresholds for registering and substantiating an allegation as a care concern, enabling the matter to be responded to by the person who potentially raised the concern in the first place, makes the process potentially open to abuse through malicious or coercive care concerns. Local resolution of care concerns does not necessarily provide for an impartial or fair process of investigation or assessment and response.

It was also identified that currently care concerns are managed by the Department with significant input from agencies (the Department and service providers are "jointly responsible" for care concerns, whose legal interests directly conflict with carers'. Combined, due to its adversarial nature, and the potential for bias, this joint response to care concerns, can potentially damage working relationships within the care team that are vital to supporting children and young people in care.

Submissions identified that care concerns processes should be undertaken by an independent third party, skilled in investigation including information gathering and interviewing[126]. They also identified that a care concern should not be registered on the carer's file unless it is substantiated through this process. Matters that are currently deemed minor care concerns could be dealt with through standard case practice, no longer be deemed a care concern, and hence would not register on carers' files as substantiated or unsubstantiated. Moderate and serious allegations would be responded to by the independent third party through high quality, trauma informed, culturally safe, investigative practice. This would also allow third party oversight of the safety plan and provide accountability and consistency in approach. The ability to appeal the outcomes of the investigation or to have decisions reviewed was also identified. It was also identified that carers should also have

[124] For example, Submissions 13, 62, 86, 94, 95, 133
[125] For example, Submissions 62, 82, 95, 100, 113, 138, 186, 198
[126] Including Submissions 95, 113, 186, 187

access to independent supports who do not have a conflict in the matter. This included the provision of legal supports, where required.

TOR 1.3 outcomes and actions arising from such care complaints; and TOR 1.4 the extent to which outcomes and feedback relating to such complaints are communicated to foster carers and kinship carers (care concerns)

Notification of the outcome

A number of submissions to the Inquiry identified that foster and kinship carers had not received formal notice of the outcome or the rationale for the outcome of the care concern process, that such notice was delayed, or as identified earlier, that they hadn't been aware of a care concern made about them in the first place[127]. Submissions also described receiving partial or inaccurate minutes of the care concern meeting often months or years after the event, and/or not being able to review the minutes. The impacts of inaccurate, incomplete or misleading records are further explored in Chapter 5.

Retention of unsubstantiated concerns on file

Submissions to the Inquiry noted that the care concerns process includes documentation of all concerns, regardless of outcome, onto carers' permanent records. [128] Unsubstantiated concerns remain on file, and this includes concerns that were deemed unsubstantiated because the events as described could not have taken place or where the care concerns pertained to a different carer. Carers have been told that unsubstantiated concerns remain on file in case they indicate a "pattern" and that carers should not be concerned as the files are restricted, and others who access this information will see that the concerns have been unsubstantiated. However, foster and kinship carers reported that they have experienced other case workers seeing unsubstantiated care concerns on the file who have them discussed the content with the carer. Unsubstantiated care concerns are similarly raised and discussed during independent assessments and Other Person Guardianship (OPG)/Long Term Guardianship (LTG) assessments. This can, and has, led to negative assessments of carers. Once again, the ease with which care concerns can be raised and recorded, even if they are unsubstantiated, can have serious repercussions for foster and kinship carers. Carers felt that minor concerns could be resolved through discussion in the course of normal casework practice, without needing to be recorded on file. It was also recommended that moderate and serious allegations should only be recorded on file as a formal care concern after the information in the allegation had been substantiated through an independent investigation.

Impacts on children and young people

As identified above, submissions to the Inquiry identified the significant impacts of child removal during the care concern investigation process as highly traumatising for children who may not have any understanding of what is taking place, have not been prepared for the transition from their home, who may blame themselves for the transition or feel they have been relinquished when all contact suddenly ceases with their foster and kinship carers[129]. The effects of child removal were also experienced by other children in the home, including carers' biological children and other

[127] For example, Submissions 13, 19, 31, 62, 91, 99, 131, 146, 157, 178, 179, 181, 187, 191
[128] Including Submissions 13, 31, 86, 91, 93, 94, 95, 98, 113, 122, 131, 133, 148, 153, 154, 173, 174, 196, 201
[129] For example, Submissions 25, 38, 76, 85, 86, 87, 125, 128, 140, 145, 177, 178, 186, 190, 205

children under guardianship, and reflected the grief and loss experienced at the removal of a sibling, and also fear that they could be removed. The trauma and distress experienced by children during this time was described as not being recognised or addressed by the Department, and having significant repercussions on children's sense of safety.

Impacts on foster and kinship carers and carer households

Many submissions to the Inquiry referred to the short and long term impacts of the care concerns process on carers[130]. The process itself was described as traumatic, intimidating, challenging, upsetting, demoralising and scary. Submissions described how unnatural it is to co-parent with the government. Foster and kinship carers reported that they felt petrified, stunned, powerless, voiceless, shamed, judged, living under a microscope, mistrusted and vulnerable, and their greatest fear was having the children removed from their care.

Carers are placed under extreme stress during the process. They remain ignorant of the allegation while all other parties have been able to prepare, discuss and make judgements in relation to the allegation and plan their responses. Carers are deliberately excluded, isolated and unsupported during the process, and children can be suddenly removed from their care during an investigation. This causes foster and kinship carers extreme anxiety and worry about the stability of their family unit and some referred to experiencing extreme distress as a result. Ultimately the process of responding to care concerns was described as destabilising family-based placements.

Aboriginal kinship and foster carers identified that for them, the care concerns process triggers intergenerational trauma and fears of Stolen Generations. This included carers having to undergo large amounts of scrutiny and surveillance, having to comply with directions at all times and to continually over-demonstrate proactive parenting to avoid CARL notifications. The lack of cultural safety in the care concerns process means that judgement often lays in the hands and eyes of people who aren't Aboriginal themselves.

Due to the stigma of care concerns and child removal, many foster and kinship carers may not feel they can discuss their experiences with others or openly seek support. Foster and kinship carers' grief, loss and trauma as a result of child removal or placement breakdown resulting from the care concerns process was not considered or addressed by the Department or support agencies.

There were additional longer term ramifications of care concerns for foster and kinship carers which were identified in submissions. These included the use of information about care concerns to inform the outcomes of Working with Children Checks, and other purposes as identified above. This may jeopardise carers' work in professions that require such checks, posing risks to livelihood and affecting future employability. Some carers had been informed that there was a high likelihood that care concerns would be raised against them over their caring career, and that during the course of a care concern investigation or if a concern was substantiated, they would need to cease their employment or take on a non-client focused role. Others had been told by caseworkers that even unsubstantiated concerns may be considered in undertaking assessments for such clearances.

The Inquiry is also aware that some carers did not feel safe enough to make submissions to the Inquiry due to their fears that they may experience retribution at the hands of a care concern

[130] Including Submissions 13, 82, 80, 85, 86, 94, 95, 98, 99, 131, 133, 136, 138, 145, 148, 154, 167, 173, 177, 178, 181, 187, 190, 191, 192, 193, 198, 201, 205, 206

process that can be easily exploited for malicious and coercive reports and that may result in the removal of the children in their care before matters have even been investigated.

Undoubtedly, care concerns processes are having a significant impact on foster and kinship career recruitment and retention in South Australia.

Summary of issues

Previous inquiries at the state and national level have identified the need for having strong systems in place to prevent and respond to abuse in care. However, internationally, the processes for responding to care concerns that have been implemented appear to have had an unintended impact on many carers across the system due to the absence of clear processes, different thresholds and potential for being so easily misused. In South Australia, care concerns processes have become a source of fear and worry for carers and are undoubtedly impacting on carer recruitment and retention.

The Department have identified that they are now in the second phase of reform regarding care concerns and this includes examining a very broad range of features in the care concerns processes. The review by the Inquiry has noted that while there is currently no national model or benchmark for responding to care concerns and other jurisdictions have implemented models of responding to care concerns and reportable conduct in a range of ways.

The Inquiry has noted the following significant concerns in relation to care concerns:

- Submissions to the Inquiry identified that many carers were unaware of the care concerns process, despite the ramifications it could have for them as carers, their families and their livelihood.
- The Inquiry finds that the threshold for substantiating a deficit in care is low, very subjective and subject to cultural bias. The high level of subjectivity, including the reasonable person test, could effectively make reports by caseworkers and support workers self-substantiating. This makes the care concerns process open to misuse and vulnerable to trivial or false allegations. The potential for cultural bias in the threshold also makes Aboriginal and CALD carers more vulnerable to unwarranted care concerns. The Inquiry is aware of many carers who feared “retribution by care concern” for making submissions to the Inquiry.
- The South Australian process of withholding information about the allegation from carers is not commensurate with best practice, which specifies that information about the allegation and the process should be provided as early as possible to PSOCs. South Australian practice is also not commensurate with standard practice in other jurisdictions in which written information is provided to the carer in relation to the nature of the allegation, the next steps in the process and support that is available. By having information withheld about the allegation, carers are unable to safety plan for children or defend themselves against an unknown allegation.
- Many practices being used in the response to care concerns, including the removal of children, were being undertaken before carers were made aware of the allegation, or before they had been interviewed and before many facts in the case could be established. Carers were unable to prepare children for the transition, and many children lacked understanding about the reasons for their removal. The practice with regards to child removal did not acknowledge the significant, potentially lifelong impacts of this on children and families.

- Carers are not being afforded natural justice in the response to care concerns. In addition to being unaware of the allegation against them, they were often unable and uninvited to respond to the allegation with any additional evidence or information in relation to the allegation. Had they known of the allegation, it appeared a number of matters could be addressed through information from third parties or through carers bringing documentation to the meeting
- Carers described support agencies withdrawing their support from carers, leaving carers with a lack of support at a very stressful time in the face of unknown allegations and potential removal of the child in their care. The "joint responsibility" requirements for support agencies in the care concern process pose a significant conflict of interest in their support role with carers.
- As care concerns are not embedded in the legislation, decisions made are not considered reviewable decisions, and hence can't be subject to internal or external decision review processes available under the legislation.
- Care concerns remain on file despite the outcome and can be used in the process of other assessments and determinations by the Department and third parties, potentially impacting significantly on the lives of carers and families.

These points are of high concern to the Inquiry. The process for responding to care concerns does not appear to provide any sound means of detecting and responding to abuse in care. It is clear that the process as currently implemented is doing more harm than it is designed to prevent.

Recommendations

The Inquiry makes the following recommendations:

4. That the risk and harm standards that apply to all children, be applied to children in care and that the "deficit in care" grounds are abolished.

5. That responding to allegations of abuse in care be incorporated into functions of the Independent Quality Assurance Unit proposed at Recommendation 3 to enable care concern investigations to be undertaken by an independent investigator in accordance with best practice, and to avoid conflicts of interest in the care concern process between the Department, support agencies and carers.

6. That the Children and Young People (Safety) Act 2017 be amended to prescribe the care concern investigation process, including to:
    - establish a clear and reasonable threshold for what is a care concern
    - embed principles of natural justice and procedural fairness into the care concern investigation process
    - prescribe the process by which care concerns are investigated, and the duties owed to Carers during investigations
    - ensure that unsubstantiated care concerns are not recorded on carer files, and
    - enable a review or appeals process for care concern outcomes

Chapter 4. Consultation

This chapter of the report addresses Term of Reference 2:

2. The adequacy of existing consultation processes between the Department, other persons and bodies involved in foster care or kinship care, and foster carers and kinship carers.

Introduction

This chapter explores the adequacy of consultation processes between the Department, foster and kinship carers, non-government providers and other agencies and people with an interest in foster and kinship care.

Consultation is generally defined as the process of collecting feedback and input to assist in decision making. Consultation does not always result in influence over decisions.

Effective consultation includes elements such as:

- People affected are kept informed about what is happening
- The concerns and aspirations of people affected are listened to and acknowledged
- People affected receive feedback and information about how their input was used[131]

Department policy guidance highlights the important difference between consultation and participation in working with carers[132].

Consultation with foster and kinship carers occurs at several levels within South Australia:

- High level systemic consultation with carer representatives, the peak organisation, other carer groups or individual carers to discuss broad government policy and system design
- Carer involvement in the development of policy and procedure that directly affects the delivery of out of home care and the day-to-day care of children and young people, usually actioned through carer representatives, the peak body or invited carers through more formal consultation events, committees, or task groups
- Consultation with kinship and foster carers regarding the care of individual children and young person in their care.

Other Australian jurisdictions include very similar requirements for consultation with foster and kinship carers in line with their rights for participation, consultation, engagement and involvement in

[131] Adapted from the Internal Association of Public Participation (IAP2) Spectrum of Public Participation https://iap2.org.au/wp-content/uploads/2020/01/2018_IAP2_Spectrum.pdf

[132] Department for Child Protection. (2022). Supporting and collaborating with carers practice paper. Version 1.2, May 2022.

decision making that affects them or the child's care as outlined in legislation, charters, and statements of commitments regarding foster and kinship care (e.g., NSW, NT, Tas, WA, VIC, ACT).[133]

In addition, the Queensland Government commits to *consult carer representatives when developing or changing policies and practices that affect them* (p.5).

The importance of consultation

It is of key importance to the care of children and young people that carers are engaged in consultation, participating in decision-making, and are consulted with and listened to during case planning for the children and young people in their care. Other chapters in this volume highlight the impacts on children and on the provision of care when carers are excluded and isolated, and their views are not taken seriously.

Key determinants of carer satisfaction are the extent to which carers feel that their views are respected, and the extent to which they are kept informed about the children; both are crucial aspects of the consultation process. [134] Additionally, carers place a high significance on being included as core partners part of the care team, with communication and teamwork viewed as essential components of their caring role[135].

Despite the value that foster and kinship carers place on effective consultation, it is not always done well, and these issues have been longstanding. Many South Australian Royal Commissions, Inquiries, reviews and international research have highlighted the common experiences of foster carers not being kept informed regarding new placements or placement changes, not being consulted regarding the timing and location of meetings, and decisions being made without their input heard or considered[136].

Poor consultation practices with foster and kinship carers have a negative impact on carer satisfaction and, consequently, their intentions to continue providing care. To illustrate, when foster carers' views are not sought prior to important decisions being made, this leads to them feeling that they are not considered 'key players' or equal professionals in the care team for their child[137].

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[133] ACT Government, 2019, carers handbook: The go-to resource for kinship and foster carers in the ACT; NSW Government, 2022, caring for kids: A guide to foster, relative and kinship carers; Northern Territory Government, 2019, guide for kinship and foster carers; Department of Children, Youth Justice and Multicultural Affairs, n.d., statement of commitment to Queensland's foster and kinship carers; Foster and Kinship Carers Association of Tasmania, 2018, foster and kinship carers association handbook; Victorian State Government, 2016, Victorian handbook for foster carers; Victorian State Government, 2017, manual for kinship carers; Government of Western Australia, 2021, foster care handbook for foster families

[134] Thomson, L., Watt, E., & McArthur, M. (2016). *Literature review: Foster carer attraction, recruitment, support and retention.* Institute of Child Protection Studies, Australian Catholic University.
[135] Geiger, J. M., Piel, M. H., & Julien-Chinn, F. J. (2017). Improving relationships in child welfare practice: Perspectives of foster care providers. *Child and Adolescent Social Work Journal*, 34(1), 23-33.
[136] Brown, H. C., Sebba, J., & Luke, N. (2014). *The role of the supervising social worker in foster care: An international literature review.* University of Oxford.; Layton, R. (2003). *Our best investment: A state plan to protect and advance the interests of children.;* Mulligan, E.P. (2008). *Children in state care*: *Allegations of sexual abuse and death from criminal conduct.;* Ott, E., Dean, R., Martin, M., Mann, G., Albers, B., & Chakraborty, S. (2021). *Matching in foster care: Systematic review.* What Works for Children's Social Care & Centre for Evidence and Implementation.
[137] Kirton et al., 2007, as cited in Ibid.

Further, research[138] suggests that when carers feel they are not being listened to or taken seriously, this can contribute to carers' intentions to discontinue providing care.

In 2018, the report of the Child Protection Systems Royal Commission (the Nyland report) re-iterated concerns that had been raised about the culture of the Department and its impact on carers. Justice Nyland noted:

> In 2007 a Select Committee examined and reported on Families SA. The Committee heard overwhelming evidence from foster parents, family members, advocacy agencies, staff and experts in child protection that a 'culture of arrogance, mistrust, bullying and dishonesty is endemic within the department'[139].

There were complaints to the Royal Commission that policy decisions were made without consulting those working "at the coal face". Justice Nyland found that despite the observations and strong recommendations from previous Inquiries, 'evidence to the Commission suggests that nothing has changed'[140].

Policy Context

Consultation with children and young people, foster and kinship carers, kinship networks, families and communities is an established principle in out of home care in Australia. It is supported in relevant child protection legislation in all Australian jurisdictions.

National Context

Safe and Supported: The National Framework for Protecting Australia's Children[141] highlights the importance of consultation and participation for children and young people, foster and kinship carers, families and communities.

The overarching principles that guide the National Standards for Out of Home Care[142] (as described in Chapter 3) include specific reference to the role of consultation in the delivery of out of home care:

- Children and young people living in out-of-home care are provided with opportunities for their voice to be heard and respected and have the right to clear and consistent information about the reasons for being in care
- Carers and their families are key stakeholders and partners in the care of children and young people, and their role is to be respected and supported
- Aboriginal and Torres Strait Islander communities are to be involved in decisions in accordance with the Aboriginal Child Placement Principle.

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[138] Randle, M., Ernst, D., Leisch, F., Dolnicar, S. (2016). What makes foster carers think about quitting? Recommendations for improved retention of foster carers. *Child & Family Social Work, 22*(3), 1175-1186.
[139] Nyland, M. (2016). *Child protection systems royal commission report*. p. 52.
[140] Ibid.
[141] Commonwealth of Australia. (2021). *National Framework for Protecting Australia's Children.*
[142] Commonwealth of Australia. (2011). *An Outline of National Standards for out-of-home care.*

The National Standards for Out of Home Care[143] highlight the importance of consultation with children and young people in out of home care: Standard 2: Children and young people participate in decisions that have an impact on their lives.

- Key measure: *The proportion of children and young people who report that they have opportunities to have a say in relation to decisions that have an impact on their lives and that they feel listened to[144].*
-

South Australian legislation, policies and frameworks

The Children and Young People (Safety) Act 2017[145] (CYPS Act) recognises the importance of consultation with carers, children and young people, families and communities. The CYPS Act prioritises a collaborative approach throughout the legislation, particularly in areas such as the exchange of information between the Department, carers, and children and young people.

Section 82 of the CYPS Act sets out requirements of consultation with carers and 'other persons and bodies'. Consultation with 'other persons and bodies' could refer to:

- Children and young people in care (primarily addressed in this report through the response to Term of reference 4: the rights of children and young people)
- Families and kin of children and young people in care
- Aboriginal and Torres Strait Islander communities, a critical part of the operation of the Aboriginal and Torres Strait Islander Child Placement Principle
- Organisations involved in the delivery of care to children and young people, for example non-government agencies, government departments, care professionals.

Under section 82 of the CYPS Act, an approved carer in whose care a child or young person is placed is entitled to participate in any decision-making process relating to the health, safety, welfare or wellbeing of the child or young person. This is qualified by Subsection (1); such requirements do not apply in relation to a particular decision if the decision maker is satisfied that the participation of the approved carer would not be in the best interests of the child or young person.

Section 11 of the Act sets out Placement Principles for children and young people in care to ensure they are:

- placed in a safe, nurturing, stable and secure environment where possible[146], and
- placed with a person with whom they have an existing relationship[147], and
- that approved carers are entitled to be, and should be, involved in decision-making relating to children and young people in their care – that is they should be consulted about

[143] Ibid.
[144] Ibid, p. 8
[145] Government of South Australia. (2017). *Children and Young People (Safety) Act.*
[146] Ibid, Section 11(1)(a)
[147] Ibid, Section 11(1)(b)

arrangements to be made to ensure they are practicable and in the best interest of the carer, their family and the child or young person [148].

Exchange of information is necessary to enable full and informed participation by all parties in decision making about out of home care placements. See Chapter 5 also.

The Aboriginal and Torres Strait Islander Child Placement Principle

The objects of the Act for Aboriginal and Torres Strait Islander children and young people, the objects of the Act[149] and the Aboriginal and Torres Strait Islander Child Placement Principle incorporate the need for children and young people to maintain connection to family and culture (12 (2)(a)) and enable community participation in their care (12(2)(b)). Decisions regarding the care of Aboriginal and Torres Strait Islander children and young people are to be made through a partnership approach (12(2)(c)).

Section 12 (3) prioritises placement with kin and community with S12 (3)(c) specifying:

- Before placing an Aboriginal or Torres Strait Islander child or young person under this Act, the Chief Executive or the Court (as the case requires) must, where reasonably practicable, consult with, and have regard to any submissions of, a recognised Aboriginal or Torres Strait Islander organisation.
- To verify that an organisation is a recognised Aboriginal or Torres Strait Islander organisation Section 12 (8) requires the Minister to consult with Aboriginal or Torres Strait community or relevant sections of the community and declare the organisation's standing through a notice in the government Gazette.
- Section 82 of the Act provides for consultation by specifying the rights of approved carers to participate in decision-making process:

The five elements of the Aboriginal and Torres Strait Islander Child Placement Principle (ATSICPP) are:[150]

- Prevention: Protecting children's rights to grow up in family, community and culture by redressing causes of child protection intervention
- Partnership: Ensuring the participation of community representatives in service design, delivery and individual case decisions
- Placement: Placing children in out-of-home care in accordance with the established ATSICPP placement hierarchy:

    • with Aboriginal and Torres Strait Islander relatives or extended family members, or other relatives and family members; or

[148] Ibid, Section 11(1)(c)
[149] Ibid, Section 12.
[150] Secretariat of National Aboriginal and Islander Child Care. (2018). *Understanding and applying the Aboriginal and Torres Strait Islander Child Placement Principle: A resource for legislation, policy, and program development.*, p. 3

- with Aboriginal and Torres Strait Islander members of the child's community; or
- with Aboriginal and Torres Strait Islander family-based carers.

If the above preferred options are not available, as a last resort the child may be placed with:

- a non-Indigenous carer or in a residential setting.

- Participation: Ensuring the participation of children, parents and family members in decisions regarding the care and protection of their children
- Connection: Maintaining and supporting connections to family, community, culture and country for children in out-of-home care

While these five elements aren't yet enshrined in South Australian legislation, they are often referenced throughout the Department's policies, procedures and manuals.[151] Consultation is a critical element that underpins these elements and is a core requirement in the elements of partnership, placement and participation.

Of note, an Inquiry into the removal and placement of Aboriginal children in South Australia is currently being undertaken by the Commissioner for Aboriginal Children and Young People that will examine these elements in detail.

Under the legislation, the Department is required to consult with a Registered Aboriginal and Torres Strait Islander Organisation (RATSIO), if practicable, prior to taking the child into care under the Act[152]. There is currently one RATSIO in South Australia, Aboriginal Family Support Services.

Some of the key policy and practice mechanisms used to support the implementation of the ATSICPP include family led decision making (including family group conferencing), family searches and family finding.

The Department employs a number of PACs across the Department. PACs are responsible for:

- Leading in operational and strategic interventions for Aboriginal children, young people and their families, which contributes to the development of Aboriginal culturally sensitive policies, programs and practices.
- Providing advice to management in relation to Aboriginal needs on framing operational policy, so that Aboriginal Culturally appropriate interventions are developed and implemented.
- Contributing to the development and delivery of training programs to Aboriginal people and their communities, as well as Aboriginal cultural awareness training for Out of Home Care staff.

[151] For example, Department for Child Protection. Aboriginal and Torres Strait Islander Child Placement Principle practice paper. Version 1, October 2020; Department for Child Protection. Manual of Practice: Supporting children and young people in care chapter. *Identify and respond to the cultural needs of Aboriginal children and young people.* Version 5.11, June 2022.
[152] Government of South Australia. (2017). *Children and Young People (Safety) Act.*

- Managing specific referred client cases and case work as required and develop strategies to address identified issues that impact on Aboriginal people and their communities[153].

Every Effort for Every Child

The Department's strategy for children and young people in care, *Every Effort for Every Child,* acknowledges the importance of family-based care for children and young people in the out of home care system[154]. It makes several specific commitments to consultative practice, acknowledges the challenges of attracting and retaining family-based carers and commits to 'increase our dialogue with foster and kinship carers at all parts of their journey'[155] and to undertake surveys and exit interviews with carers at the end of a placement to 'capture the feedback and experiences of carers and inform future placements'[156].

Quality and Safeguarding Framework

South Australia's Quality and Safeguarding Framework[157] includes a focus on keeping families and communities informed and involved in promoting child safety and wellbeing. The Framework highlights the importance of consultation and engagement in creating safe environments for children and young people and the importance of organisational culture in 'achieving safety, wellbeing and the best outcomes for children and young people'[158].

The Safeguarding Framework commits to actions to support consultation and engagement of carers and others in supporting children and young people in care including:

- Embedding the Aboriginal and Torres Strait Islander Child Placement Principle in practice
- The involvement of families, carers and others who are connected to the child or young person being supported to actively participate in the care team, decision making processes and case planning [159]
- Surveys and exit interviews with carers when a young person leaves care to inform future planning

Supporting and Collaborating with Carers

The Department's Supporting and Collaborating with Carers practice paper[160] supports the operationalisation of Section 82 of the CYPS Act and notes that:

> [Carers'] perspective is fundamental for case planning and decision making to ensure the child or young person's needs are met, and they have the opportunity to reach their full

[153] Department for Child Protection. (2022). *Principal Aboriginal Consultant role description.* https://career.childprotection.sa.gov.au/WCM/A62A0DE7-822B-4173-9599-D7F4E6D2E2B3
[154] Department for Child Protection. Every effort for every child: South Australia's strategy for children and young people in care 2020-2023. January 2020.
[155] Ibid, p.13
[156] Ibid, p.18.
[157] Department for Child Protection. Quality and safeguarding framework. Version 1.1, September 2020. p 1
[158] Ibid, p.11
[159] Ibid, p.17
[160] Department for Child Protection. Supporting and collaborating with carers practice paper. Version 1.2, May 2022.

potential. Without the dedication and commitment of carers to children and young people in care, this would not be possible. It is essential that all interactions with carers are respectful and collaborative and mindful of the importance of the carer to the healing and wellbeing of the child or young person[161].

The Paper outlines key actions to support carer consultation and participation including:

- The importance of actively supporting participation in accordance with Section 82 of the CYPS Act.
- The critical role of the Aboriginal and Torres Strait Islander Child Placement Principle and its implementation in accordance with the Act.
- Guidance on how carers can participate in decision-making processes
- Best practice approaches to support carer participation in decision-making processes and an outline of what genuine participation looks like
- How to manage differences of opinion between workers and carers
- Communicating decisions that are not consistent with the carer's views
- Managing concerns about carer participation in decision-making
- Determining situations where it would not be in the child or young person's best interests for a carer to participate in decision-making could raise concerns regarding the carer's capacity to provide care (in accordance with s. 82(1) of the Act.

The Statement of Commitment

A key policy document for foster and kinship carers in SA is the Statement of Commitment[162]. Developed by the Department in partnership with the SA carer peak body, CFKC-SA and child and family services peak organisation, Child and Family Focus SA, the document sets out the commitment that the Department makes to foster and kinship carers and clarifies roles and responsibilities. See Figure 1 and also Chapter 6 in this volume.

[161] Ibid, p.8

[162] Connecting Foster and Kinship Carers SA Inc, Child and Family Focus SA, & Department for Child Protection. (2020). *Statement of commitment: South Australian foster and kinship carers.*

Statement of Commitment

SOUTH AUSTRALIAN
FOSTER AND KINSHIP CARERS

Children and young people have the right to receive safe, nurturing and competent care that recognises and respects their identity, and supports them to grow, develop and reach their full potential. Importantly, children and young people are at the centre of everything we do, and must be empowered to make decisions about their own lives. Without the dedication and commitment of foster and kinship carers*, this could not be possible. We respect carers as individuals beyond their caring role, and acknowledge the emotional impacts that caring may have on their own lives and families. We recognise the cultural strength and unique contribution that Aboriginal carers bring.

By working together and supporting all carers in their vital role, we can provide children and young people with the care they need to look forward to a bright future.

This Statement of Commitment has been developed between Connecting Foster & Kinship Carers SA Inc, Child and Family Focus SA and the Department for Child Protection (DCP). It recognises that we must work in partnership and value carers as an essential and respected part of the care team for children and young people. Carers can expect to be:

INFORMED

We will provide clarity to carers around their role, responsibilities and entitlements.

We will ensure carers have the information they need about the children in their care.

We will be transparent about the legal rights of carers, how carers can report concerns and ask for decisions to be reviewed.

SUPPORTED

We will provide support, guidance and training to carers to meet the needs of children in their care.

We will provide carers with allowances, subsidies and reimbursements to enable a sustainable placement.

We will empower carers to make decisions for children to take part in everyday activities.

CONSULTED

We will involve carers in decisions about the children and young people in their care.

We will be open and honest when communicating with carers and honour agreements made with them.

We will provide carers with the opportunity to give feedback on policies and practices.

VALUED

We will acknowledge the skills, expertise and knowledge that carers bring to their role.

We will recognise carers as an integral part of the care team.

We will listen to carers and value their views and circumstances.

We will recognise and celebrate the contributions carers make.

RESPECTED

We will be culturally safe in the way we work with carers.

We will recognise the significant relationship that carers have with the children in their care.

We will respect carers as individuals beyond their caring role.

We will treat the personal information of carers in accordance with the Information Sharing Guidelines.

We commit to support carers by:

- Working together in partnership
- Communicating openly, honestly and respectfully
- Building and maintaining relationships based on mutual trust and respect
- Meeting legislated requirements of the child protection system.

Roles and responsibilities

Foster and kinship carers

- Providing safe care in a secure, nurturing family home environment
- Developing meaningful relationships with the children in their care and other members of the child's care team
- Maintaining the child's health and wellbeing, connection to culture and relationships with significant others
- Supporting the child to develop independent life skills and transition to adult life.

Department for Child Protection

- Approving carers
- Acting in the best interests of children and young people to maintain safety and wellbeing
- Involving carers in the child's care team
- Providing ongoing support and training to carers
- Understanding and responding to the needs of carers.

Connecting Foster & Kinship Carers SA

- Providing information and advice to foster and kinship carers
- Advocating for individual foster and kinship carers
- Connecting foster and kinship carers with each other for peer support
- Advocating on behalf of, and representing, carers and the carer sector with government and community stakeholders.

Child and Family Focus SA

- Representing the interests of children, young people and their families
- Advocating for the sector, including carer agencies, in prevention, early intervention and out of home care services
- Promoting effective partnerships and building sector capacity.

Foster care agencies and DCP Kinship Care Program

- Recruiting and retaining suitable foster carers
- Finding and supporting kinship carers
- Providing quality training, assessment and support to assist carers to provide safe and stable care
- Ensuring practices comply with relevant legislation, regulations and guidance.

Connecting Foster & Kinship Carers | SA Inc
Fiona Endacott
Chief Executive Officer

CHILD FAMILY FOCUS SA
Rob Martin
Chief Executive Officer

Government of South Australia
Department for Child Protection
Cathy Taylor
Chief Executive

Government of South Australia
Hon Rachel Sanderson MP
Minister for Child Protection

*Both foster and kinship carers are defined as those currently approved by the Chief Executive under section 72 of the *Children and Young People (Safety) Act 2017*. Kinship care is provided by a relative, extended family member or kin. Foster care is provided by someone who has no previous relationship with a child or young person.

Figure 1: Statement of Commitment

The Department's Supporting Document for the Statement of Commitment[163] provides guidance on how foster and kinship carers and workers can use the Statement of Commitment to understand their roles and responsibilities, and work together to support children and young people in care.

In the Statement of Commitment, the Department makes a commitment to the following actions:

- To involve carers in decisions about the children and young people in their care.
- To be open and honest when communicating with carers and honour agreements made with them.
- To provide carers with the opportunity to give feedback on policies and practices[164].

The Supporting Document to the Statement of Commitment[165] sets out what foster and kinship carers can expect their agency and the Department to do, including:

- Acknowledge the skills, expertise and knowledge they bring to their caring role
- Support them to participate in planning and decision-making as part of the care team
- Treat their complaints and feedback seriously and deal with them fairly, promptly and without retribution

Who Can Say OK?

The Department's *Who can say OK?* document***[166]*** provides guidance for Departmental case workers and carers on approval and decision-making processes on day-to-day care matters for children and young people, and also clarifies roles and responsibilities. The document outlines that care team meetings should allow all parties to actively participate in planning and decision-making regarding the health, safety and wellbeing of the child or young person in care, and that important decisions about the child's care will be documented during case planning. Additionally, the document states that Departmental case workers will actively support foster and kinship carers to participate in the development of the case plan and in other decisions about the child or young person in care.

The 'Supporting children and young people in care' chapter of the Department's manual of practice[167] includes a section on supporting the placement. This section provides guidance on how Departmental case workers can collaborate with carers. Here, it is outlined that Department staff are responsible for developing positive and collaborative relationships with carers, and this includes actively working with carers, listening to and responding to carers' views and opinions, and being transparent about decisions and actions. The section reiterates that carers are entitled to participate in decisions regarding the child's health, safety, welfare or wellbeing, per Section 82 of the CYPS Act.

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[163] Department for Child Protection. Supporting document to the Statement of Commitment with South Australian foster and kinship carers. March 2021.
[164] Connecting Foster and Kinship Carers SA Inc, Child and Family Focus SA, & Department for Child Protection. (2020). *Statement of commitment: South Australian foster and kinship carers.*
[165] Department for Child Protection. Supporting document to the Statement of Commitment with South Australian foster and kinship carers. March 2021.
[166] Department for Child Protection. Who can say OK? Making decisions about children in family-based care. September 2019.
[167] Department for Child Protection. Manual of Practice: Supporting children and young people in care chapter. *Support the placement.* Version 5.11, June 2022.

This may include decisions around accessing healthcare, referrals to therapeutic supports, decisions about contact arrangements, decisions about education, life story work, and preparing for major transitions (e.g., placement changes or leaving care).

Submissions to the Inquiry

Most foster and kinship carers who made submissions to the Inquiry referred to issues relevant to Term of Reference 2. Specific concerns raised by carers are discussed in greater depth in other parts of this report, but many of those concerns have roots in carers feeling unheard by the Department or ignored or excluded in decision making[168]. Overall, submissions highlighted that foster and kinship carers felt that their views were dismissed or disrespected and that their knowledge, understanding, experience and relationships with children and often with the children's siblings, birth and extended families, were not valued or acknowledged.

Concerns regarding consultation with carers were identified at two levels:

1. Systemically – in consultation regarding system design of the out of home care system, reform initiatives and policies and procedures.
2. Individually/family – in the decision making about the care of children and associated activities such as care planning, placement changes, family contact, education, health and medical interventions.

These experiences are discussed in the broader context of issues that impact on consultation, and in the context of service design and practice with Aboriginal and Torres Strait Islander foster and kinship carers. There is some overlap between these matters and those discussed in Chapter 6 (Partnership) as well as other chapters in the report.

Broad Themes: Issues Impacting Consultation

A climate of mistrust undermines effective consultation

Most foster and kinship carer and other submissions that specifically addressed Term of Reference 2 made links between what they considered to be inadequate consultation processes and what could broadly be described as a climate of mistrust between carers and the Department and, at times, between carers and support agencies[169]. Some carers also highlighted the inherent power imbalances in the relationship between the Department and carers and raised concerns about how that impacted consultation.

Many foster and kinship carers expressed a view that there is a culture of disrespect for carers as a group in the broader child protection system, particularly within the Department, that is also experienced by individual foster and kinship carers[170]. This was primarily reported in relationships with the Department (including Departmental leadership, senior management, management, and staff).

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[168] For instance, Submissions 5, 7, 9, 10, 14, 18, 20, 38, 47, 58, 75, 76, 82, 84, 90, 93, 99, 103, 126, 130, 134, 135, 144, 151, 156, 163, 180, 189, 196, 200.
[169] For example, Submissions 5, 6, 7, 9, 10, 20, 58, 83, 126, 143, 148, 160.
[170] For example, Submissions 12, 14, 34,79, 132.

Submissions from Aboriginal and non-Aboriginal foster and kinship carers caring for Aboriginal children posed the question of how Aboriginal families and carers could trust the system given historical practices, the ongoing demonstrated lack of engagement and listening to Aboriginal children, families and communities[171].

A smaller number of submissions also raised concerns about the attitudes and conduct of leadership and staff non-government organisations[172].

Submissions from some foster and kinship carers and advocates described their belief that the Department did not trust them to have the best interests of children at heart. Some carers described experiences where their motives for seeking support or input into decision making were questioned and viewed with suspicion by Departmental officers. This included examples such as during Annual Reviews, where carers described experiencing comments by Departmental or foster care support agency staff as implying that they were seeking personal financial gain when seeking additional supports for children[173]. See also Chapter 9.

Foster and kinship carer submissions made a link between the lack of trust in their motives and capabilities and inadequate consultation on key issues related to children in their care, decisions that were made without consultation or discussion and the way that discussions with Department officers ('consultation') were documented (carers said that documentation was at best inadequate and at worse a misrepresentation of their views and comments). The types of decisions that were discussed in submissions that raised this concern included removal of children from placement, placement breakdown, changes in resources available to support children in education, decisions about psychological, health and medical treatment and decisions relating to family contact and reunification. Several foster and kinship carers described their experiences of being 'done to and not with' and, when present in discussions and meetings, they often felt their voices were not heard, and they had to accept what they were being told[174].

Lack of consultation with foster and kinship carers on decisions regarding the care of children left many carers feeling unnecessarily stressed, discouraged and disrespected and had an impact on their willingness to continue to as carers or to accept other placements[175]. It was also put to the Inquiry that the lack of consultation has caused declines in mental health and wellbeing for some carers.

Lack of transparency and openness

Foster and kinship carer submissions described what they considered as a lack of transparency and openness in the way that both the Department and, to a lesser extent, foster care support agencies, dealt with carers[176]. Carers shared a wide spectrum of experiences of lack of transparency and openness, ranging from allegations that information in consultation processes was falsified, to

[171] For example, Submission 18, 126, 130, 199.
[172] For example, Submissions 18, 34.
[173] For example, Submissions 12, 18.
[174] For example, Submissions 44, 47, 155.
[175] For example, Submissions, 5, 6, 7, 9, 10, 47, 83, 96, 143, 160, 200.
[176] For example, Submissions 144, 165, 172.

information not being provided in a timely manner, or records of meetings being incomplete or not provided.

Carer submissions consistently reported a lack of transparency and openness, including examples such as:

- Information not being provided in a timely manner to support meaningful consultation
- Information regarding carer personal matters, health or requests for support shared outside of consultation context
- Lack of clarity on the purpose of meetings, visits and discussions. Where the purpose was unclear, carers were not sure when they were being consulted on a possible decision or where the conversation was informal.

Both foster and kinship submissions highlighted that a lack of trust impacted on help-seeking and on whether they would share their views openly in case planning, and this could or did mean that the children in their care were worse off – for example, did not get the medical, material, educational or psychological assistance they needed[177].

Inadequate consultation results in poorer outcomes for children and young people

Submissions from foster and kinship carers and organisations linked a lack of adequate consultative processes with poor decision making and negative outcomes for children and young people[178]. These included poor decision making resulting in children being sent to residential care instead of back to the carers who wanted the child to return, children being removed from placements without any attempts to support the placement and children being removed with insufficient time to say goodbye to their carer families. Additionally, multiple submissions highlighted that when foster and kinship carers are not consulted on important decisions or planning for the child or young person, this can undermine the child's views of the carer's capacity to make informed decisions about them and their view of being a cohesive family unit.

Several carer submissions (including submissions by groups of carers) made a link between poor practice in carer engagement and consultation with a lack of genuine engagement with children and young people, their views, and their wishes. Where decisions were made on care planning without consultation or discussion with carers, they described how that was mirrored by a lack of engagement with children and young people.

Consulting with Carers on System Design, Reform, Policies & Procedure

The Department's strategy for child protection, *Every Effort for Every Child*, refers to the co-design of system reform. Effective consultation is a critical part of co-design[179].

Co-design is a process of actively involving stakeholders in the design process for a system, service, or response. In the context of community engagement and public participation, co-design is a collaborative process, where participants have a say in what is designed. Shared understandings of

[177]For example, Submissions 5, 6, 7, 9, 10, 47, 83, 96, 143, 160, 172, 200.
[178] For example, Submissions 5, 9, 14, 18, 76, 82, 90, 143.
[179] Department for Child Protection. Every effort for every child: South Australia's strategy for children and young people in care 2020-2023. January 2020.

the role of different groups of stakeholders in design, implementation and decision making is important in managing the expectations of all participants.

Some foster and kinship carer and organisational submissions expressed cynicism regarding the way that the Department engaged with carers in systemic reform and provided examples of how the Department had gone about engaging carers, suggesting that this was done often at the last minute, with a lack of planning and an expectation that carers would be available[180]. Submissions indicated that carers feel they are excluded from the research, planning and implementation of out-of-home care policies and programs and that the Department has shown limited interest in collaborating with the carer community or implementing reforms when carers have provided recommendations through forums and reviews.

Carer feedback in the way that the peak body represented their views in systemic reform work was mixed, but this feedback was limited to a small number of carers.

In a response to a request for information from the Inquiry, the Department informed the Inquiry[181] that it had a series of initiatives planned to support consultation and co-design with carers, including:

- The Department is working with CFKC-SA (and its members) throughout 2022 to develop a strategy which delivers meaningful consultation opportunities, ensures carer feedback drives policy and practice improvement and includes reporting requirements
- The Minister for Child Protection has committed to establishing regular forums to hear directly from carers about matters which affect them at both an individual and systemic level. The first forums will be held in the South East in early June 2022[182]

In a further update[183], the Department identified that:

- *[the Department] also commenced implementation of **a series Round Tables** with the Minister, CE and DCE, wherein we talk directly with carers when traveling to various parts of our State for Country Cabinet meetings.*
- *The first meetings were held as part of Country Cabinet in Mount Gambier in June, and Port Pirie. Future forums are being planned, including an Adelaide forum for kinship carers on 8 November 2022.*
- *Carers and relevant peak/advocacy bodies are being encouraged to participate in the l**egislative review of the Children and Young People (Safety) Act 2017.** A series of regional and metropolitan consultations are being held, in addition to a process for written submission.*

These actions sit within the focus of the *Every Effort for Every Child Strategy* to improve consultation with carers.

[180] Including Submissions 29, 58, 95, 172.
[181] Department for Child Protection. Request for information: Narrative response 1. Received 27 May 2022.
[182] Ibid. The Inquiry is not aware of whether these actions have been fully implemented.
[183] Department for Child Protection. Update on activity. Received 28 October 2022.

The issues highlighted by carers around systemic consultation are framed by the broader relationship between carers and the Department. Lack of trust is a barrier to the effectiveness of system level consultation and subsequent implementation that the Department initiates.

A good example of this is the Statement of Commitment and its supporting document[184]. While many carers may welcome the content of the document, carers drew attention to ways in which it had not been properly implemented in individual matters. See also Chapter 6.

Carer Experience of Consultation about the Care of Children

Consultation on Care for Children

Department policy implements section 82 of the CYPS Act, requiring carers to be consulted and to participate in decision making in the care of children and young people. The Department's practice paper on supporting and collaborating with carers outlines that:

- Per the CYPS Act, carers are entitled to participate in decisions related to the health, safety, welfare or wellbeing of a child or young person in their care. These are broad areas and will include the majority of decisions made about a child or young person
- Participation is more than consultation – it is actively taking part in the discussion leading up to and contributing their views. It is ongoing throughout the child or young person's time in care
- Carers can and should participate in decision-making, even when the chief executive must make the final decision [185]

Based on the submissions made to the Inquiry by foster and kinship carers, agencies and advocates, consultation with foster and kinship carers does not regularly reflect the requirements of the legislation and Department policy and procedure and practice guidance.

Most foster and kinship carers who made submissions to the Inquiry had concerns about the way decisions regarding the care of children were made and communicated.

This included experiences of poor consultation practice by the Department in care planning describing that they had rarely or never been consulted regarding decisions made about the care of children placed with them[186]. These submissions included carers reporting that they were excluded from decisions around case planning, care team meetings, annual reviews, reunification and family contact decisions, transition planning, and decisions to remove children from placements. It was also put forward to the Inquiry that crisis-driven decision making has been used as an excuse by the Department to justify the lack of consultation with carers in important decisions.

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[184] Connecting Foster and Kinship Carers SA Inc, Child and Family Focus SA, & Department for Child Protection. (2020). *Statement of commitment: South Australian foster and kinship carers;* Department for Child Protection: Supporting document to the Statement of Commitment with South Australian foster and kinship carers. March 2021.

[185] Department for Child Protection. Supporting and collaborating with carers practice paper. Version 1.2, May 2022.

[186] For instance, Submissions 5, 7, 9, 10, 14, 18, 20, 38, 47, 58, 75, 76, 82, 84, 90, 93, 99, 103, 126, 130, 134, 135, 136, 144, 151, 156, 160, 163, 180, 189, 191, 196, 200.

Carer submissions highlighted that consultation and participation in planning and decision making was important for them as carers, but negative outcomes for children when they, as people who knew them closely, were not involved in informing important decisions was of greater concern.

Information Exchange

Foster and kinship carers identified the importance of meaningful consultation from the commencement of the placement and particularly in the provision of critical information about the child/young person, their needs and experience. Disclosure of information regarding children's experience and needs and more transparent consultation regarding children's likely care requirements was particularly important[187]. Current legislation and Department policy and procedure support this information sharing. Carer feedback through submissions suggests that follow through on the provision of this information is inconsistent.

Several carers described being given little or no information about a child's background and experience (for example, trauma triggers, child behaviours, key relationships), including at the time when the child was placed with them[188]. Where children had complex needs and/or behaviours that were challenging (for example, running away or use of physical threats by the child) this caused significant stress for carers and was seen as undermining the consultation process from the beginning. More is discussed about this in Chapter 5.

Annual Care Reviews for Children and Young People in Care

A Department response to a request for information from the Inquiry said that, as of 30 June 2021, the rate of carer participation in annual review meetings was 71.5%, an increase from 68.4% in 2019-2020[189] and that the Guardian for Children and Young People routinely provides the Department with advice on ensuring the participation of carers as a core member of the child or young person's care team[190].

Several carer submissions highlighted inconsistent practice in children's care reviews[191]. Carer consultation in care reviews was reported to vary based on the worker assigned to the placement, the worker's supervisor, the office that was responsible for the placement and the support of the non-government agency. Carers described profoundly different experiences with consultation depending on these factors.

Some foster and kinship carers reported that the conduct of Department staff led them to believe they had been deliberately excluded from annual reviews.

Submissions highlighted the way that the management of the review process impacts its efficacy. This includes the way that carers are invited (e.g., in a timely way or otherwise), whether NGO support agency staff are invited to contribute (submissions from NGOs reported that this was not always the case), whether the process was documented and the overall approach to the process (e.g., combative or engaging).

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[187] Including Submissions 14, 18, 24, 56, 75, 84, 144
[188] For example, Submissions 14, 43, 56
[189] Department for Child Protection. Request for information: Narrative response 1. Received 27 May 2022.
[190] Ibid.
[191] Such as Submissions 20, 34, 44, 65, 75, 84, 99, 126, 130

Further, the way that Department staff responded to issues discussed in reviews, including support needs of children and carers affected whether carers felt safe to share honestly and openly in this process.

Areas that were raised about the conduct of Annual Reviews, and the quality of carer consultation and input included:

- Whether carers were informed about the review meeting in advance
- Whether carers were invited to attend the review meeting
- Whether non-government support agencies were informed about the process and invited to attend or contribute
- Whether any steps had been taken to seek children and young people's views
- Whether the care review process was properly documented
- Whether documentation was provided to carers in a timely manner
- Whether carer feedback on the documentation was sought and carer input properly documented
- Whether any actions were taken to fulfil commitments made at the Review (e.g., services for children, support for carer)

Placement Changes and Transitions

Submissions from carers, non-government agencies and advocacy groups highlighted that lack of consultation around placement changes was not uncommon[192]. While section 82(1) of the CYPS Act provides for situations where the Department may not consult or engage a carer in decision making regarding children placed in the care due to safety reasons or the best interests of the child, this did not appear to be the reason in most cases[193].

Carers shared experiences such as being given less than an hour's notice to prepare for a child to be moved from one placement to another placement, the placement category being changed without anyone being told, being asked to take a placement and preparing only to be told at the last minute the placement wouldn't occur.

Carer submissions expressed concern that the lack of consultation with carers regarding these placement changes resulted in children and young people being exposed to unnecessary disruptions, triggering and traumatic experiences such as being removed from a placement without the opportunity to say goodbye to siblings, family members, school friends and others. Submissions highlighted that if appropriate consultation with carers was undertaken, needed transitions and placement changes could be done in ways that supported children and were less likely to be traumatic for them[194].

[192] For example, Submissions 10, 18, 34, 52, 78, 85, 132, 136, 151, 162, 204.
[193] Government of South Australia. (2017). *Children and Young People (Safety) Act*.
[194] For example, Submissions 48, 92, 132, 143, 152, 195

Carer submissions also described experiences of being ignored in the planning of placement changes for children. Where carers had deep knowledge and experience of children, they said that information was often not sought or considered when decisions were being made by the Department.

Some of the experiences that carers recounted to the Inquiry[195] described abrupt and difficult transitions for children that they said were not linked to safety concerns in the placement or for carers (for example, the same carers went on to care for other children). This included changes to agreed arrangements for dates and plans about the transition without notice or consultation (examples included children being moved with only an hour's notice or with their belongings in a plastic bag).

Several submissions described foster and kinship carers making the difficult decision to end the placement for a particular child, usually because they were not resourced to manage the behaviour of the child, or unable to provide the level of care that the child required due to the needs of other children in the family, inadequate support, or behaviours that they were not able to manage. Carers described this as a difficult and emotional decision for them and expressed their wish to communicate changes with the child in ways that would lessen the negative impact for the child and set the child up for a positive transition to their new placement.

In those situations, carers described initial conversations with the Department regarding the proposed end of the placement, sometimes including agreements about how this would be managed and communicated. Some described unilateral action being taken by the Department to end the placement in ways not in accordance with that agreement, usually with little notice, often in ways that were extremely distressing for the child or young person and the carer and the carer's family[196].

Submissions from foster and kinship carers highlighted that despite their knowledge and understanding of the child/young person and their needs, that carers were not consulted, and their views were ignored in managing the ending of placements[197]. The primary concern that carers raised in this context was the negative impact on the child and on other children (both other children in foster care and carers' birth children). These experiences were related by carers who had cared for children in short term placements but also for longer term placements, including placements ending after more than five years.

Family Contact

Submissions to the Inquiry suggested that decisions relating to birth family contact were often made and/or changed by the Department with little or no consultation with the carer. Carers were particularly concerned that their knowledge of the child's behaviour, trauma triggers and routines were ignored, and that, as a result, the management of family contact could put children in difficult and distressing situations (see also Chapter 6).

Submissions gave examples of decisions being made by Departmental case workers regarding family contact that had significant impacts on children's wellbeing, with no or extremely limited

[195] Such as Submissions 79, 108, 130, 194
[196] Such as Submissions 96, 132, 143
[197] For example, Submissions 34, 96.

consultation or discussion with carers (or children and young people in some cases)[198]. Submissions highlighted concerns about the impact of poorly managed family contact on children's behaviour. The types of issues carers identified included:

- Carers not being provided with information about the child's family
- Birth family/ extended family members/ other people not known to the child being given permission to pick a child up from school or day care, with the carer informed at the last minute
- Pre-school aged children travelling long distances in a car with an unknown worker to attend family contact
- Travel arrangements that were not child-friendly and created stress for children, particularly young children
- Family contact arrangements being changed by the Department at the last minute, resulting in distress for all parties
- Contact arrangements with birth family being made the carer's responsibility, with no support, resourcing or consultation.

Reunification

Some carer submissions expressed frustration about the lack of engagement of carers in practice and decision-making regarding reunification[199]. Some of the concerns raised by carers were:

- Reunifications being fast tracked, often with little opportunity for the child/young person to visit or become comfortable with the parent/carer they were being reunified with
- Abrupt changes in decisions regarding the viability of family reunification
- Carers' concerns regarding the safety of reunification being ignored
- Children's fears and concerns about reunification being ignored

Respite Care

Lack of consultation on respite options for individual children was also raised in submissions. Some carers noted that last minute decisions or changes relating to respite care matters by the Department could frustrate long held arrangements. Others highlighted that respite care options were not a good match for individual children and that improved consultation with carers could support better outcomes[200].

Carers wanted more input into the design of respite options and a model of support to better reflect how their families (including foster children) work. For some carers, respite care did not reflect the reality of how their family lives, that is, that the whole family operates as a unit and provision of respite care for some children was seen as divisive and unhelpful. Submissions highlighted that

[198] For example, Submission 5, 65, 134, 139, 160, 163, 180
[199] For example, Submissions 76, 132, 134, 151, 162, 180
[200] For example, Submissions 55, 96, 143, 195

carers want and need respite care, but respite options available are not fit for purpose. See more in Chapter 8.

Consultation with Aboriginal and Torres Strait Islander children, young people, carers and communities

Submissions highlighted the importance of improving consultation processes to encourage genuine partnership and participation in decision-making with Aboriginal families and communities[201]. Concerns about consultation and the way that decisions are made about the care of Aboriginal and Torres Strait Islander children were raised at all levels, including system design, engagement with communities and families, the way that carers are identified, consulted and supported and decision making regarding the care of individual Aboriginal and Torres Strait Islander children.

Submissions highlighted the critical importance of better engaging and supporting Aboriginal families, carers and communities in caring for children and in decision making. These matters are also discussed in Chapter 7 in relation to the rights of children and young people. They are also being addressed in much greater depth through the Commissioner for Aboriginal Children and Young People's Inquiry into the removal and placement of Aboriginal children in South Australia.

The Aboriginal and Torres Strait Islander Child Placement Principle (ATSICPP)

Several submissions to the Inquiry raised concerns about the implementation of the Aboriginal and Torres Strait Islander Child Placement Principle. [202]

Submissions identified that the implementation of the ATSICPP was impacted by the lack of resourcing to support the work of engaging in all the steps for every child and young person. Submissions highlighted that the number of PACs in the Department was a barrier to support for implementation of the ATSICPP and that the designation of only one RATSIO in South Australia, Aboriginal Family Support Services (AFFS), meant that it was unlikely that the Placement Principle was fully explored for every child.

Concerns was raised that the ATSICPP might only be explored when a matter is before the Court, leaving inadequate time in a context of inadequate resources to support the process to properly explore the options for children as set out in the ATSICPP.

The role of Principal Aboriginal Consultants (PAC)

The PAC is a role within the Department accountable for:

> leading in operational and strategic interventions for Aboriginal children, young people and their families, and contributing to the development of Aboriginal culturally sensitive policies, programs and practices. The role is responsible for providing advice to management on regional Aboriginal needs and providing advice to Department staff, providers, and other non-government agencies on Aboriginal culturally appropriate practices and systems[203].

[201] For example, Submissions 93, 160, 168, 199.
[202] For example, 5, 10, 16, 18, 24, 30, 47, 62, 75, 77, 82, 85, 90, 93, 131, 145, 146, 148, 152, 153, 159, 160, 167, 168, 170, 187, 196, 199-201
[203] Department for Child Protection. (2022). *Principal Aboriginal Consultant: Role description.* https://career.childprotection.sa.gov.au/WCM/A62A0DE7-822B-4173-9599-D7F4E6D2E2B3

There are a small number of PACs working across the Department. One submission pointed out that, with ten PACS spread across the Department, that means there is one PAC for every 200 Aboriginal children[204]. While PACs don't provide individual support to children or their carers on day to day care matters, Departmental staff are encouraged to engage with PACs for key work that underpins and supports consultation including:

- development of genograms
- family finding/ family scoping
- application of the ATSICPP
- cultural planning

This is a critical role in ensuring that appropriate consultation with immediate and extended family, kinship networks and community is implemented. Several submissions highlighted some of the limitations of the role of PACs, highlighting the difficulty for these roles to provide advice and guidance in the implementation of the ATSICPP given the number of children in care and the limited resources of people available.

Some submissions highlighted the challenge for PACs in working in the Department and suggested the need for an independent, Aboriginal organisation to be responsible for the care and wellbeing of Aboriginal and Torres Strait Islander children and young people[205].

The need for approaches that were driven locally by Aboriginal people with cultural knowledge, cultural authority and independence was also highlighted.

Cultural Safety and Effective Practice

Some submissions raised concern about consultation practice that was not culturally safe[206]. Submissions highlighted the following issues in providing culturally safe practice:

- understanding and respecting kinship and family structures
- understanding how cultural relationships work in families (for example, the role of someone who is culturally considered a grandmother and what that means for the relationship with the child in kinship care)
- valuing kinship care and understanding its place in communities
- understanding and responding to the diversity of Aboriginal communities across South Australia – some submissions highlighted concerns that Departmental staff and personnel from other agencies were often not aware of the diversity of Aboriginal communities and culture across the state, including urban, regional, rural and remote areas

Submissions highlighted the importance of local Aboriginal people with cultural knowledge and cultural authority being involved in consultation processes. Submissions raised concern about the

[204] Submission 199.
[205] For example, Submissions 93, 168, 199.
[206] Submission 93, 146, 199.

capacity of one Aboriginal agency based in Adelaide as the only appointed RATSIO to deliver support for the ATSICPP across the state.

Family-Led Decision Making

Submissions highlighted the importance of family led decision making in Aboriginal communities[207]. It was identified that for family led decision making to be done comprehensively, the process requires appropriate time, local and family cultural connection and a clear process.

Concerns were raised that often, family led decision making occurs in a context where there is time pressure (court dates), a lack of information and knowledge about the child's family and kin (lack of attention to family finding prior to the process) and may be conducted informally, without independent facilitators to ensure the process is completed comprehensively and addressing power imbalances.

Family Group Conferencing (FGC) was highlighted as an important mechanism for family led decision making. Concern regarding the appropriate resourcing and support of family group conferencing were raised. Done effectively, FGC provides a thorough and holistic approach to engaging with family, kinship networks and community. However, submissions raised concerns that when it was under resourced, not embedded in local cultural networks and expertise or poorly executed, critical opportunities for consultation and engagement were lost[208].

One submission raised concern that referrals to FGCs are not consistent, resources are not always available to support a full FGC engagement process and that FGCs are not mandated in placement decision making.

Summary of issues

In South Australia, there are a number of legal, policy and practice frameworks that require, promote and support consultative approaches to system design, reform and the provision of care in children's best interests. These are consistent with best practice and arrangements in other jurisdictions.

However, the Inquiry finds that legislative requirements for consultation with foster and kinship carers are not being met consistently, and the frameworks, policy and procedure appear to be inconsistently applied across Department Offices and by individual case workers.

Concerns regarding consultation with carers were identified at two levels:

1. Systemically – in consultation regarding system design of the out of home care system, reform initiatives and policies and procedures.
2. Individually/family – in the decision making about the care of children and associated activities such as care planning, placement changes, family contact, education, health and medical interventions.

A lack of trust between carers and the Department undermines the effectiveness of the Department's key strategic directions and is hampering the full implementation of the Statement of

[207] For example, Submissions 93, 168, 199.
[208] For example, Submissions 93, 199.

Commitment. Distrust is also impacting negatively on the capacity of the Department to consult effectively and for carers to participate fully at every level that consultation happens. It is unlikely that carer consultation processes led by Department staff will be successful unless trust can be rebuilt.

Consultation, engagement, and co-design activities to support system reform are currently applied inconsistently, and as a result, the engagement process and the outcomes are not as effective as they could be. There is a need for more structured processes to support consultation and engagement of carers in system reform, policy development and to ensure that the carer voice has influence in decisions at all levels and to ensure adherence to the Statement of Commitment.

There is variation in practice across the Department in the practice of consultation with foster and kinship carers, including areas such as matters consulted on, regularity of contact, documentation of discussion on decision making, action taken on carer input on care matters etc. Poor or inadequate consultation practice impacts the effectiveness of the care team for children and young people in foster and kinship care.

Inadequate or poor practice in consultation impacts on the implementation of the Aboriginal and Torres Strait Islander Child Placement principle. In this context, it is unlikely that the requirements of the Aboriginal and Torres Strait Islander Placement Principle for partnership and participation are being inconsistently applied.

The implementation of the Aboriginal and Torres Strait Islander Child Placement is under resourced; there are insufficient people, organisations and capacity to ensure that the Department meets the requirement to place children and young people in compliance with the Principle. There is a need for the Department to better understand and respond to the diversity of Aboriginal communities across South Australia and to engage with local communities in ensuring that practice is culturally safe, and trauma informed.

Recommendations

The Inquiry makes the following recommendations:

7. That a formal body, such as a Carer Council, be created and suitably resourced to provide advice directly to the South Australian Government through the Minister for Child Protection. In addition to providing advice, the body should have the functions of contributing to design of policy, practice and legislative reform in relation to kinship and foster care and the preparation of Carer Impact Statements. The body should include both foster and kinship carers, include Aboriginal carers, have clear and transparent Terms of Reference, clear consultative mechanisms and public reporting requirements.

8. That implementation of the Statement of Commitment, including requirements for consultation and participation, be adequately resourced and undertaken as an active process, including increasing awareness of the Statement in the Department and support agencies, providing widespread training and supervision across the organisation in relation to the Statement, and develop key performance measures in relation to the Statement that are monitored and reported on. One such indicator should include carer consultation in relation to children and young people's Annual Reviews.

9. That resourcing for be invested in expanding the number of PACS, expansion of the ACCO-led FGC program and for additional RATSIOs to support Family-led Decision making and the

participation of Aboriginal families and communities in fulfilment of the responsibilities for consultation and in support of the implementation of the Aboriginal and Torres Strait Islander Child Placement Principle.

Chapter 5. Documentation and Information

This chapter of the report addresses Term of Reference (TOR) 3:

The transparency and availability of documentation and information held by the Department and other persons and bodies involved in foster care or kinship care to foster carers and kinship carers (including care concerns and manuals of practice).

Introduction

Submissions under TOR 3 addressed the transparency and availability of documentation and information held or shared by the Department and other persons and bodies involved in foster care or kinship care to foster and kinship carers. This included the transparency and availability of information concerning care concerns and manuals of practice.

Submissions to The Inquiry concerning documentation and information focused on three main themes:

1. Sharing of documentation and information with foster and kinship carers
2. Transparency and accessibility of documentation and information
3. Accuracy of documentation and information recorded, kept and shared

Submissions to The Inquiry described the following types of information and documentation:

1. Information regarding the operations of the Department
2. Information and documentation recorded, kept and shared about children and young people entering or currently in foster or kinship care
3. Information and documentation recorded, kept and shared about foster and kinship carers

In the context of this Inquiry, **documentation** is the official record kept by the Department and other persons and bodies. This might be documentation regarding decisions made or other information generated as a result of the placement, including case records. As defined by the *State Records Act*, an official record is a record made or received by an agency in the conduct of its business (i.e., a record made or received by a staff member of the Department in the conduct of the Department's business)[209]. **Information**, for the purposes of this Inquiry, is any other information held or gathered by the Department or another agency that can be shared to support the informational needs of foster and kinship carers. This might include policies and procedures. Information might also refer to information reproduced from a record held by the Department about a child that is shared with foster and kinship carers in order to best support that child's safety and wellbeing while in foster or kinship care.

[209] Government of South Australia. (1997). State Records Act 1997, Section 3.

Across the literature, foster and kinship carers alike report a need for information to support a placement[210]. This includes crucial information about a child's child protection history, health, education, family, and care arrangements. It might also include information that will support a child or young person's transition into family life, such as their likes and dislikes[211]. Information that supports a placement also includes information about resources that might support the placement and information pertinent to the placement, such as placement changes or information about who to contact in the event of an emergency[212].

The importance of the sharing of information to support a placement—and the negative impact of not sharing such information—is consistently reported by studies, Inquiries and Royal Commissions [213]. Impacts of insufficient sharing of information include an undermining of the ability of foster and kinship carers to deliver quality care and understand or access the supports available to them[214].

The Child Protection Systems Royal Commission (2016) observed the consistency of evidence demonstrating that carers did not receive sufficient information about children placed in their care:

> There is a high level of concern that Families SA does not freely share relevant information to the care of a child with potential carers. This concern is not isolated to the information required at the start of a placement; it applies to information relevant on an ongoing basis. Carers have felt excluded from comprehensive information about children's trauma histories, leaving carers to their own devices to navigate the special needs of the child[215].

The literature reports a perception among foster and kinship carers that information is withheld or otherwise inaccessible. For example, six Australian studies of kinship carers reported that kinship carers either were unaware of the information or services available to them, or experienced

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[210] Denlinger, M., & Dorius, C. (2018). Communication patterns between foster parents and case managers. *Children and Youth Services Review*, 89, 329-339; What works for Children's Social Care. (2021). *Matching in foster care systematic review*. https://whatworks-csc.org.uk/wp-content/uploads/WWCSC_Matching_Foster_Care_Systematic_Review_Aug2021.pdf.

[211] Ibid.

[212] Denlinger, M., & Dorius, C. (2018). Communication patterns between foster parents and case managers. *Children and Youth Services Review*, 89, 329-339; Geiger, J. M., Piel, M. H., & Julien-Chinn, F. J. (2017). Improving relationships in child welfare practice: Perspectives of foster care providers. *Child and Adolescent Social Work Journal*, 34(1), 23-33.

[213] See for example: Nyland, M. (2016). *Child protection systems royal commission report*: What works for Children's Social Care. (2021). *Matching in foster care systematic review*. https://whatworks-csc.org.uk/wp-content/uploads/WWCSC_Matching_Foster_Care_Systematic_Review_Aug2021.pdf; Brennan, D. (2013). *Grandparents raising grandchildren: towards recognition respect and reward* (SPRC Report No 14/13). Social Policy Research Centre at the University of New South Wales; Denlinger, M., & Dorius, C. (2018). Communication patterns between foster parents and case managers. *Children and Youth Services Review*, 89, 329-339; What works for Children's Social Care. (2021). *Matching in foster care systematic review*. https://whatworks-csc.org.uk/wp-content/uploads/WWCSC_Matching_Foster_Care_Systematic_Review_Aug2021.pdf

[214] Denlinger, M., & Dorius, C. (2018). Communication patterns between foster parents and case managers. *Children and Youth Services Review*, 89, 329-339; Geiger, J. M., Piel, M. H., & Julien-Chinn, F. J. (2017). Improving relationships in child welfare practice: Perspectives of foster care providers. *Child and Adolescent Social Work Journal*, 34(1), 23-33; What works for Children's Social Care. (2021). *Matching in foster care systematic review*. https://whatworks-csc.org.uk/wp-content/uploads/WWCSC_Matching_Foster_Care_Systematic_Review_Aug2021.pdf.

[215] Nyland, M. (2016). *Child protection systems royal commission report.*, p. 288.

difficulty in accessing information and support[216]. This included information about payments, respite care, and services for the children in their care. This is supported by an international study which found that the availability of information to foster carers was an area of contention[217], with instances of missing or withheld information reported. This was particularly so where information concerned an allegation against a carer, or information about the history of a child that would be important for carers to know before their placement[218]. This was supported by the Child Protection Systems Royal Commission (2016), which reported that:

> Foster parents reported that information about children's history of sexualised behaviours was not always shared with them. Some carers felt this information was withheld at times in order to obtain a placement. The Commission heard of one case where children in a kinship placement exhibited difficult sexualised and trauma-related behaviours, including sexualised behaviours involving other children. The behaviours were reported to Families SA and the kinship carers repeatedly sought support for the children. The behaviours became unmanageable and the placement was at risk of ending. In a request for alternative placement, it was recorded that the children's behaviour was compatible with being placed with other children, and there were no challenging behaviours that would place other children at risk of harm[219].

Finally, and increasingly well acknowledged, is that information must be transparent and accessible to children who have experienced foster and kinship care in order to support their lifelong informational needs[220].

The information shared with foster and kinship carers, accessed by children once they leave care to meet their identity and informational needs, and the information recorded about carers and children must demonstrate best practice case recording and recordkeeping practices. The Royal Commission into Institutional Responses to Child Sexual Abuse (2017) highlighted the critical role that recording and keeping accurate records plays in addressing child sexual abuse, which is applicable to child

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[216] Boetto, H. (2010). Kinship care: a review of issues. *Family Matters*, (85), 60-67; Brennan, D. (2013). *Grandparents raising grandchildren: towards recognition respect and reward* (SPRC Report No 14/13). Social Policy Research Centre at the University of New South Wales; du Preez, J., Richmond, J., & Marquis, R. (2017). Issues affecting Australian grandparents who are primary caregivers of grandchildren: a review. *Journal of Family Studies*, 23(1), 142-159; Erben, S. (2019). Kinship Carers: A perspective from the ground up. *Developing Practice: The Child, Youth and Family Work Journal*, (52), 78-86; Valentine, K., Jenkins, B., Brennan, D., & Cass, B. (2013). Information provision to grandparent kinship carers: Responding to their unique needs. *Australian Social Work*, 66(3), 425-439.

[217] Cosis Brown, H., Sebba, J., & Luke, N. (2014). *The role of the supervising social worker in foster care*. The Rees Centre.

[218] Ibid.

[219] Nyland, M. (2016). *Child protection systems royal commission report.*, p. 294.

[220] Evans, J., Golding, F., O'Neill, C. & Tropea, R. (2020). All I want to know Is who I am: Archival justice for Australian care leavers. In D.A. Wallace, W.M. Duff, R. Saucier & A. Flinn (Eds.). *Archives, recordkeeping and social justice* (pp. 105–126). Routledge; Golding, F., Lewis, A., McKemmish, S., Rolan, G., & Thorpe, K. (2021). Rights in records: a Charter of Lifelong Rights in Childhood Recordkeeping in Out-of-Home Care for Australian and Indigenous Australian children and care leavers. *The International Journal of Human Rights*, 25(9), 1625-1657; Golding, F., McKemmish, S., & Reed, B. (2021). Towards transformative practice in out of home care: chartering rights in recordkeeping. *Archives and Manuscripts*, 49(3), 186-207.

protection more generally. The Royal Commission noted that incomplete, inaccurate or insensitive records can

> … inhibit good governance; contribute to inconsistent practices and loss of organisational memory; hinder identification of perpetrators, victims and survivors; delay or obstruct responses to risks, allegations and instances of child sexual abuse; prevent or frustrate disciplinary action, redress efforts, civil litigation and criminal proceedings[221].

The sharing of accurate information allows foster and kinship carers to prepare for placement and to understand what is needed by a child[222]. As the *What works for children's social care* review of matching foster care in the UK makes clear*: "*[The] lack of accurate information made it difficult for carers both to make informed decisions about whether their home was a good fit for a child and make preparations to enable them to meet the child's needs"[223]. This review cites instances of foster carers perceiving that information about violent or sexualised behaviour was omitted from the information provided to them, highlighting that the provision of incomplete information was perceived by potential carers to be coercive[224].

The impact of inadequate, incomplete or inaccurate information on decision-making within child protection systems is well-canvassed in the literature[225]. Inadequately sought information, such as a child's views, can impact a child's placement and wellbeing. Meiksans (2019) identified that "a failure to seek information about the child's wishes or needs on behalf of the decision maker [inhibited] optimal placement, with a 'lack of attention to children's views' perceived as a potential barrier to placement"[226]. Equally, the provision of incomplete or inaccurate information about the child or carer impacts decision-making about a placement. For example, Meiksans again describes the role of effective placement decision-making as being "highly dependent on accurate and up to date information"[227]. The sharing of information during a placement, where, for example, changes to a child's, birth parents' or carer's circumstances are not communicated, can contribute to

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[221] Royal Commission into Institutional Responses to Child Sexual Abuse. (2017). *Volume 8, recordkeeping and information sharing.* https://www.childabuseroyalcommission.gov.au/sites/default/files/final_report_-_volume_8_recordkeeping_and_information_sharing.pdf, p. 40.

[222] Barter, C., & Lutman, E. (2016). A life less ordinary: foster carers' views and experiences of negative peer interactions in fostering households. *Child Abuse Review*, 25(4), 273-286; Plumridge, G., & Sebba, J. (2017). *Evaluation of Birmingham City Council's step down programme*. The Rees Centre; What works for Children's Social Care. (2021). *Matching in foster care systematic review*. https://whatworks-csc.org.uk/wp-content/uploads/WWCSC_Matching_Foster_Care_Systematic_Review_Aug2021.pdf.

[223] What works for Children's Social Care. (2021). *Matching in foster care systematic review*. https://whatworks-csc.org.uk/wp-content/uploads/WWCSC_Matching_Foster_Care_Systematic_Review_Aug2021.pdf, p. 56.

[224] Ibid.

[225] Meiksans, J. (2019). *By accident rather than design: placement decision making in Australian child protection systems* [Doctoral dissertation, University of South Australia]; Saltiel, D. (2016). Observing front line decision making in child protection. *British Journal of Social Work*, 46(7), 2104-2119; Platt, D., & Turney, D. (2014). Making threshold decisions in child protection: A conceptual analysis. *British Journal of Social Work*, 44(6), 1472-1490; Wells, S. J., Lyons, P., Doueck, H. J., Brown, C. H., & Thomas, J. (2004). Ecological factors and screening in child protective services. *Children and Youth Services Review*, 26(10), 981-997.

[226] Meiksans, J. (2019). *By accident rather than design: placement decision making in Australian child protection systems* [Doctoral dissertation, University of South Australia], p.189

[227] Ibid, p. 335

placement difficulties and negative outcomes[228]. Placing trust in, and basing decision-making on, information that is out of date, inaccurate or misleading not only can affect current decision-making practice and communication, but can be used to inform future decision making and consequently adversely affect many subsequent decisions over time.

Legislation

Section 79 of the *Children and Young People (Safety) Act*[229] (CYPS Act) requires the placement agency (the licensed foster care agency or the Chief Executive) to share information with approved carers, including foster and kinship carers, Specific Child Only carers, and guardianship family day carers prior to the placement of a child in their care. Information to be shared is any information the placement agency holds that may be relevant to the person's decision to accept the placement. In determining whether to provide particular information under this section, the placement agency must take into account the wishes of the child or young person relating to the disclosure of such information[230].

Section 81 of the CYPS Act describes the information with which approved carers are to be provided once a child has been placed in their care:

> A placement agency must provide to each approved carer with whom a child or young person is placed any information (including, to avoid doubt, any medical reports) held by the agency that is reasonably necessary to ensure— (a) that the approved carer is able to provide appropriate care to the child or young person in all of their circumstances; and (b) the safety of the approved carer and any other member of the approved carer's household.

The Charter of Rights for Children and Young People in Care[231] and Article 16 of the United Nations Convention on the Rights of the Child[232] both support the right of children and young people to be provided with information about their carer and to be confident that information about them will not be shared with foster or kinship carers without good cause. Section 80 of the CYPS Act also requires placement agencies to provide children and young people with prescribed information in relation to their approved carer prior to being placed with that carer where this is known and, in the opinion of the placement agency, relevant to the circumstances of a particular child or young person. This information is outlined in Regulation 20 of the *Children and Young People (Safety) Regulations*[233] *and includes the name and age of the carer, the address where the child or young person will reside and the name, age and gender of any other persons residing at the address*.

Under Section 85 of the CYPS Act, in carrying out a review of the circumstances of a child or young person in foster or kinship care through the annual review or by request, the panel must notify each person who has care of the child or young person of the review and give them a reasonable opportunity to make submissions to the panel for the purposes of the review[234]. Upon completion of the review (and except where the Chief Executive is of the opinion that doing so would be

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[228] Ibid, p.286
[229] Government of South Australia. (2017). *Children and Young People (Safety) Act.*
[230] Ibid section 79(2)
[231] Guardian for Children and Young People. (2021). *Charter of Rights for Children and Young People in Care*.
[232] United Nations. (1989). *Convention on the Rights of the Child.*
[233] Government of South Australia. (2017). *Children and Young People (Safety) Regulations.*
[234] Ibid section 85(3)(b)

inappropriate), a copy of the written report on the review is to be given to the child or young person concerned and each person who has care of the child or young person[235].

An eligible applicant (as defined by Section 153 of the CYPS Act) can apply through the Department's Freedom of Information team for documents and information held by the Department that concern a care leaver. These documents and information might include birth certificates, education reports/certificates, correspondence, photographs, medical/health information, and other reports/records. The documents and information will be provided at no cost to the eligible applicant. If it is decided to refuse to provide a document or information, or to provide a document in redacted form, then this decision can be reviewed pursuant to Section 154 of the CYPS Act.

Part 3 of the *Freedom of Information Act*[236] (FOI Act) gives individuals the legally enforceable right to be given access to documents held by a South Australian government department or agency in accordance with the Act. However, Section 163 of the CYPS Act prohibits the disclosure of the identity of a person who has made a report or notification to any other person unless the disclosure is:

- Made with the consent of the person who gave the notification, or
- Required or authorised by the Chief Executive or under the CYPS Act, or
- Made by way of evidence in proceedings before a court or tribunal and where the court or tribunal has permitted that disclosure, or
- Authorised by regulation 41 of the CYPS Act Regulations.

Section 162 of the CYPS Act also sets out restrictions on the publication of certain information, such as reports relating to care and protection proceedings.

In addition, Section 10(1) of Part 2 of the FOI Act requires agencies, including the Department, to make available their current policy documents for inspection and purchase by members of the public[237].

Under the State Records Act, the Operational Records Disposal Schedule for the Department requires that the "client files and sub-files of foster carers are to be retained for 105 years after action completed to ensure they are available for the lifetime of foster children"[238]. This temporary retention period also applies to records relating to cases being investigated, which are to be destroyed 105 years after the action has been completed, and records relating to statutory and non-statutory notifications to the Child Abuse Report Line. Records relating to unsuccessful applications to become foster carers are to be destroyed after 50 years.

The Australian Standard, AS ISO 15489-2002 *Information and Documentation - Records Management*, which represents recognised international best practice guidance on records

[235] Ibid section 85(7)
[236] Government of South Australia. (1991). *Freedom of Information Act.*
[237] Ibid.
[238] Government of South Australia. (1997). State Records Act 1997

management, describes a reliable record as being one "whose contents can be trusted as a full and accurate representation of the transactions, activities or facts to which they attest"[239].

Part 4 of the FOI Act[240] provides that if an individual believes the information held about them is incomplete, incorrect, misleading or out-of-date, they may apply to have documents concerning their personal affairs amended.

Policy and practice framework

Information, including policies and resources for foster and kinship carers, are available on the Department website[241]. Further policy documents, including those from the Department's Manual of Practice, were made available on the Department website in accordance with the FOI Act[242].

Information sharing for the Department is underpinned by both the CYPS Act[243] and the 'Information sharing guidelines [ISGs] for promoting safety and wellbeing'[244], which provide a mechanism for information sharing for vulnerable people. The ISGs are underpinned by the following principles:

- The safety and wellbeing of people are the primary considerations when making information sharing decisions.
- Information sharing decisions are made on a case-by-case basis using best interest principles and are supported by sound risk assessment.
- Gaining a client's consent for information sharing is the ideal and recommended practice, except where to do so would place a person at risk of serious harm or where it is not practicable or reasonable to do so.
- Working in partnership with parents and other adults to provide safe and supportive family environments directly protects children's and young people's wellbeing.
- When information is shared about people, in both verbal and written communication, it is done so respectfully.
- 'Respecting cultural difference' means having the same aims for people's wellbeing and safety but finding appropriate ways of achieving them.
- An adult's wellbeing needs should not compromise a child's safety and wellbeing[245].

The Department is also required to create, maintain and release information in line with the whole of government requirements outlined in the Department of Premier and Cabinet (DPC) circular,

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[239] Standards Australia. (2017). *AS ISO 15489*. 5.2.2.2.
[240] Government of South Australia. (1991). *Freedom of Information Act.*
[241] Department of Child Protection. (n.d.). *Carers in South Australia.* https://www.childprotection.sa.gov.au/carers
[242] Department of Child Protection. (2022). *Department of Child Protection policy documents.* https://www.childprotection.sa.gov.au/__data/assets/pdf_file/0004/116878/dcp-policy-list.pdf
[243] Government of South Australia. (2017). *Children and Young People (Safety) Act.*
[244] Department of the Premier and Cabinet. Information sharing guidelines for promoting safety and wellbeing. (n.d.).
[245] Ibid., p. 2.

Information privacy principles instruction[246]. Alongside high-level Departmental documents that provide guidance for the storage, management and classification of documents in line with the Department's circular[247], the 'Information gathering and sharing' chapter of the Department's Manual of Practice also provides information to ensure that it is shared and kept confidential as required[248]. The Manual of Practice describes the following principles for information sharing:

- The safety of children and young people is the paramount consideration.
- Information is gathered and shared appropriately and responsibly to promote the safety and wellbeing of children and young people, families and carers.
- People are entitled to have their privacy protected.
- Where privacy and risk to safety are in tension, responding to the risk is prioritised.
- A person's informed consent to share information should be sought and obtained where safe, possible and practical.
- A collaborative approach to information sharing should be adopted wherever possible[249].

These principles reflect similar principles for information sharing across other Australian jurisdictions such as the ACT, NSW, NT, TAS, VIC and WA in regard to the privacy and the sensitive treatment of information[250]. In line with the SA principle that information be gathered and shared appropriately and responsibly, NSW guidelines make reference to safety considerations in the sharing of information: "Carers have the right to expect that agency workers won't share their personal

[246] Department of Premier and Cabinet. (2020). *PC 012 – Information privacy principles instruction*. https://www.dpc.sa.gov.au/resources-and-publications/premier-and-cabinet-circulars/DPC-Circular-Information-Privacy-Principles-IPPS-Instruction.pdf

[247] DCP Data Governance Framework, DCP Information Governance Systems Policy, DCP Data Management Procedure, DCP Information Classification and Handling Procedure, cited in Department for Child Protection. Case recording procedure. Version 2.0, August 2022.

[248] Department for Child Protection. Manual of Practice: Information gathering and sharing chapter. Version 1, April 2022.

[249] Ibid., p. 1.

[250] Child and Youth Protection Services, *Carer Handbook: The go-to resource for kinship and foster carers in the ACT*, ACT Government, https://www.communityservices.act.gov.au/__data/assets/pdf_file/0003/1340562/CarersHandbook_v1.pdf; Communities and Justice, *Caring for kids: A guide to foster, relative and kinship carers*, NSW Government, https://www.facs.nsw.gov.au/download?file=321330; Department of Territory Families, Housing and Communities, *Guide for kinship and foster carers*, Northern Territory Government, https://tfhc.nt.gov.au/children-and-families/guide-for-kinship-and-foster-carers; Foster and Kinship Carers Association Tasmania, *Foster and Kinship Carers Association Tasmania Handbook*, http://fkat.org.au/wp-content/uploads/2018/10/Handbook.pdf; Department of Health and Human Services, *Victorian handbook for foster carers*, Victorian Government, https://services.dffh.vic.gov.au/sites/default/files/2021-07/Victorian%20Foster%20carer%20handbook%202%20copy.pdf; Department of Communities, *Foster care handbook for foster families*, Government of Western Australia, https://www.fcawa.com.au/wp-content/uploads/2021/05/Foster-Care-Handbook-1.pdf.

information inappropriately, and children in care can expect that details about them and their family will not be inappropriately shared"[251].

The information sharing page of the Department's carer platform[252] describes the information that will be shared with foster and kinship carers about the child or young person before they enter their care. This page also describes the information that will be shared about the foster or kinship carer with the child or young person[253]. As also outlined in the 'Supporting and collaborating with carers' practice paper[254], at the time of the placement request, the Department must provide foster and kinship carers with the child or young person's profile information. This must include information about the needs, strengths, interests and behaviours of the child or young person to enable the carer to provide appropriate care. The following information must be provided in the placement request about the child or young person:

- Age, date of birth, gender and culture of the child
- A photograph
- Cultural group and language
- Health needs
- Any disability, including significant developmental delays
- Information regarding the impact of abuse and neglect on the child or young person
- Known behaviours, potential triggers and behaviour support needs
- Schooling arrangements
- Routines, strengths, interest and significant items (e.g., toys, books, bike, pet)
- Food preferences and dislikes
- Sleepwalking, bedwetting, nightmares or fears
- Family and cultural connections and contact arrangements
- Safety considerations (e.g., running away, lack of road safety awareness) [255].

There may be instances, however, when the Department will not know very much about a child or young person[256].

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[251] Communities and Justice, Caring for kids: A guide to foster, relative and kinship carers, NSW Government, https://www.facs.nsw.gov.au/download?file=321330, p. 39.
[252] Department for Child Protection. (2022). *Carers in South Australia*. https://www.childprotection.sa.gov.au/carers
[253] Department for Child Protection. (2022). *Information sharing*. https://www.childprotection.sa.gov.au/carers/how-dcp-works/sharing-information-with-carers
[254] Department for Child Protection. Supporting and collaborating with carers practice paper. Version 1.1 February 2021.
[255] Ibid., p. 1.
[256] Department for Child Protection. Information checklist for family based carers. May 2021.

Depending on their developmental or specific needs, the child or young person's case worker will ask them if there is any particular information they do not want the foster or kinship carer to know prior to placement. These wishes will be respected except where the omission of information would have a detrimental impact on either their health and wellbeing or on the capacity of the foster or kinship carer to provide safe and appropriate care[257]. This is in line with the ISGs, which describe the need to seek informed consent prior to information sharing where it is reasonable and practicable to do so and that "decisions to share without consent or refuse a request to share information with another organisation must be based on sound risk assessment and approved by an appropriate supervisor or manager"[258]. The information that is to be shared with carers about the child or young person prior to placement in South Australia reflects information sharing requirements in other Australian jurisdictions[259].

When determining whether or not to grant access to information, Department staff must apply the following principles:

- Secure: ensure records of information are shared and stored securely,
- Timely: the sharing of information should not be delayed. Emergency requests should be clearly identified and actioned,
- Accurate: ensure the information shared is accurate or advise of any variations that apply,
- Relevant: ensure the amount of information provided is no more than the amount necessary to meet the purpose of the information sharing,
- Record: information sharing decisions must be recorded accurately and contemporaneously[260]

Department staff must also consider whether or not the information is personal and/or confidential, whether there is a legitimate purpose for sharing the information, verify the identity of the intended

[257] Department for Child Protection. Supporting and collaborating with carers practice paper. Version 1.1 February 2021.
[258] Department of the Premier and Cabinet. Information sharing guidelines for promoting safety and wellbeing. (n.d.), p. 2.
[259] Child and Youth Protection Services, *Carer Handbook: The go-to resource for kinship and foster carers in the ACT*, ACT Government, https://www.communityservices.act.gov.au/__data/assets/pdf_file/0003/1340562/CarersHandbook_v1.pdf; Communities and Justice, *Caring for kids: A guide to foster, relative and kinship carers*, NSW Government, https://www.facs.nsw.gov.au/download?file=321330; Department of Territory Families, Housing and Communities, *Guide for kinship and foster carers*, Northern Territory Government, https://tfhc.nt.gov.au/children-and-families/guide-for-kinship-and-foster-carers; Queensland Government, *Before a child enters your care*, https://www.qld.gov.au/community/caring-child/foster-kinship-care/information-for-carers/into-your-care/before-your-care; Foster and Kinship Carers Association Tasmania, *Foster and Kinship Carers Association Tasmania Handbook*, http://fkat.org.au/wp-content/uploads/2018/10/Handbook.pdf; Department of Health and Human Services, *Victorian handbook for foster carers*, Victorian Government, https://services.dffh.vic.gov.au/sites/default/files/2021-07/Victorian%20Foster%20carer%20handbook%202%20copy.pdf; Department of Communities, *Foster care handbook for foster families*, Government of Western Australia, https://www.fcawa.com.au/wp-content/uploads/2021/05/Foster-Care-Handbook-1.pdf.
[260] Department for Child Protection. Manual of Practice: Information gathering and sharing chapter. Version 1, April 2022, p. 18.

recipient of the information, and consider whether there are any restrictions on sharing the information[261].

Via the Department's carer platform, foster and kinship carers can also access the 'Information checklist for family-based carers' to assist them in understanding their right to information and what information they can seek if needed[262]. This includes the information about the child outlined above and also includes, for example, information about staff contact details, details of any other professional(s) involved with the child or young person, any relevant cards, documents or plans (e.g. Medicare cards), any information known from previous carers, and family contact arrangements. The checklist is provided to "… act as a reminder for you to ask the case worker, kinship support worker or foster care agency support worker for specific information"[263]. The checklist also reminds foster and kinship carers that it may be that not all items on the checklist are relevant to the child or young person, and that information may also not be known to the Department.

In addition to the above, foster and kinship carers are asked to confirm that they understand that they will be provided with the information needed about the children in their care in developing their Carer Agreement[264]. In developing the Carer Agreement, foster and kinship carers will also be provided "with an opportunity to be informed about [their] roles and responsibilities and those of DCP and your support agency"[265]. In carer reviews, foster and kinship carers should also be asked to record their information needs, including reporting on whether they have been given the information required in order to provide safe and nurturing care[266].

As outlined in the 'Case recording procedure', foster and kinship carers and children and young people should be advised of their rights to access documentation that relates to Departmental involvement with families, children and young people under the FOI Act. Department staff should also ensure young people are aware of their right to request access to their case records as per section 153 of the CYPS Act once they leave care[267].

Information about the outcomes and rationale of care concerns should also be accessible to foster and kinship carers (see Chapter 3 for this in detail). In response to one of The Inquiry's requests for information, the Department described that it will provide the outcome and rationale of care concern processes in writing to relevant parties, including the carer if they are the subject of the concerns. Consistent with appropriate record storage and retention guidelines, care concerns

[261] Ibid., pp. 19-20.
[262] Department for Child Protection. Information checklist for family based carers. May 2021.
[263] Ibid., p. 1.
[264] Department for Child Protection. Carer agreement: Kinship/SCO care. (n.d.); Department for Child Protection. Carer agreement: Foster care. (n.d.).
[265] Department for Child Protection. Carer agreement: Kinship/SCO care. (n.d.), p. 3; Department for Child Protection. Carer agreement: Foster care. (n.d.), p. 4.
[266] Department for Child Protection. Carer agreement: Kinship/SCO care. (n.d.); Department for Child Protection. Carer agreement: Foster care. (n.d.).
[267] DCP Data Governance Framework, DCP Information Governance Systems Policy, DCP Data Management Procedure, DCP Information Classification and Handling Procedure, cited in Department for Child Protection. Case recording procedure. Version 2.0, August 2022.

remain recorded against the name of the carer, even if they are not substantiated. This is to ensure that there exists a clear record of the investigation and outcome[268].

The 'Information gathering and sharing' chapter of the Department's Manual of Practice describes that "(k)eeping accurate records is important for case management, referrals and interagency coordination, as well as risk management"[269]. This chapter of the Manual of Practice stipulates that any information shared by the Department must be accurate, with the recipient advised of any variations[270].

This is reinforced by the 'Supporting and collaborating with carers' Practice Paper, which emphasises that accountable and quality child protection practice is supported by detailed and informative case notes. Where differences of opinion exist between members of the child's care team, good recording of the following is essential:

- issues identified
- different positions/views
- clear rationale as to why the final decision was made[271].

Regarding information that is deemed by its recipients to be inaccurate, in its Information Statement, the Department notes that "[i]n accordance with Part 4 of the FOI Act, a person has a right to apply to amend an agency's records where the information is, in the person's opinion, incomplete, incorrect, out-of-date or misleading"[272].

Submissions to the Inquiry

Sharing of documentation and information with foster and kinship carers

While information about children or young people coming into family care must be shared with the foster or kinship carers, there may be information that is not known by the Department about the child or young person. While it was beyond this Inquiry's powers to assess the existence of information, many submissions to The Inquiry made by foster and kinship carers reported not receiving crucial information or documentation about a child or receiving this information too late into the child's placement (i.e., once a child had already entered their care)[273]. This meant that many carers were unaware of the potential risks, triggers or issues that may arise in the placement, hindering their ability to make an informed decision about accepting a child's placement or to ensure the safety of the child and other members of the family during the placement.

[268] Department for Child Protection. Care concerns: Responses to frequently asked questions for kinship carers. (n.d.).
[269] Department for Child Protection. Manual of Practice: Information gathering and sharing chapter. Version 1, April 2022, p. 27.
[270] Ibid., p. 18.
[271] Department for Child Protection. Supporting and collaborating with carers practice paper. Version 1.1 February 2021, p. 8.
[272] Department for Child Protection. Information statement. (n.d.), p. 1.
[273] For instance, Submissions 10, 14, 16, 56, 57, 63, 75, 78, 79, 80, 81, 82, 83, 84, 85, 202.

The Inquiry received submissions detailing the impact of not having received information about the children in their care[274]. Submissions to The Inquiry reported the impact of not receiving background information about a child's abuse history, which placed other children in their care at risk and did not allow carers to meet the needs of children. This included reports of:

- Carers not being informed about the sexual abuse histories of children in their care until many months post placement, placing other children in the family at risk;
- Information being withheld regarding the level of violence and extreme behaviours demonstrated by children, with carers being told that children had no difficulties and subsequently discovering that their behaviours prior to placement had been so extreme and violent they required one-on-one supports or had been associated with previous placement breakdowns.
- Information not being provided about abuse and neglect experienced by children and carers hence being unaware of the traumatic triggers for the child, and unable to avoid them, as well as not being aware of who might have perpetrated the abuse and hence how to keep the child safe from future harm. This also extended to not informing school staff of children's trauma backgrounds and behaviours when necessary.
- Not being informed about children and young people making care concerns about previous carers and hence carers not knowing being able to raise or discuss this in the context of the care team; in one instance, when the carer asked the Department for information about the child's history, the Department were said to refuse due to the privacy act.
- Carers reported feeling that the Department were deliberately withholding or minimising information about children to convince carers to accept a placement. This included carers not being told about the extent of abuse and neglect experienced by children; being told children were gentle, when they had a history of violence; the Department informing a carer that the child was an emergency placement when this was not true.

In some instances, the lack of information provided by the Department about the children who were placed in their care was directly attributed as a reason for children experiencing repeated exposure to triggers for their behaviour, behaviour escalation and placement breakdown due to an inability of the carer to meet the child's significant needs, the child's safety being compromised or the safety of others in the home being at risk. Carers identified that these situations could have been prevented or avoided through open information sharing and appropriately informed case planning.

Information not received also included not receiving medical information about children in their care. For example, submissions described carers reporting not receiving medical history or documentation, including Medicare cards, with impacts on the provision of health care for the child when they required health or medical care early in the placement; and not receiving crucial background information that would have assisted in understanding behaviours that eventually led to a Foetal Alcohol Spectrum Disorder (FASD) diagnosis[275].

[274] For example, Submissions 5, 10, 14, 16, 20, 56, 63, 75, 78, 79, 80, 83, 84, 131, 179, 196, 202.
[275] See for example, submissions 5, 14, 20, 30, 75, 79, 80, 128, 187, 196

Additional impacts of not receiving information reported in submissions included not having sufficient cultural information about a child to provide a placement that might meet their cultural needs and not being provided with life story or background information that could meet the informational needs of children. This included receiving no information that would allow them to support the cultural connection of an Aboriginal child in their care and not having a child's Aboriginality confirmed at the start of the placement[276].

A number of submissions to The Inquiry also described the inappropriate sharing of information[277]. This sharing of information was multi-directional and included sharing foster carer's contact details with other parties without their consent, sharing incorrect or confidential information across other persons and bodies involved in foster care or kinship care, and sharing confidential information about other carers, a child's biological family, or about other children. This included persons who were the subject of complaints or concerns being copied into email replies about the complaint or concern; case workers complaining about one of their cases to a child from the same peer group and to other carers; information about children being accidentally shared with carers; carer information being shared with birth parents; and carers seeing defamatory information about themselves shared by accident with other documents. This was reported by carers as impacting their privacy, the safety of the children in their care and other family members, and the view of carers held by the Department and other persons and bodies involved in foster care or kinship care.

Transparency and accessibility of documentation and information

The failure to make information available to either the carer or the child (either by default or when requested) was suggested by some submissions to stem from a lack of staff understanding of their obligations in relation to confidentiality, information sharing, and privacy[278]. Other Submissions reported making repeated requests to the Department for information but receiving no response or being denied information, including information about the results of psychological and medical assessments of the children in their care (including where such assessments were completed at the carer's request), and FOI requests for records about the carer or minutes of meetings, with some requests remaining unmet or partially met many years later[279].

Inconsistencies in the ways in which this information was communicated or passed on to foster and kinship carers were also reported, with some submissions reporting that carers were receiving information incidentally during meetings, from the child's biological family, or through information being accidentally shared by staff[280]. One submission to The Inquiry also reported that they only discovered the sexualised behaviour history of the child placed in their care when the child acted out with other children in the family.

Submissions also described that policy information or guidance that impacted their responsibilities and entitlements, crucial information about care concerns, and information including meeting minutes was either not provided or was provided outside of a timeframe where they would have

[276] For example, submissions 5, 10, 52, 75.
[277] For example, Submissions 10, 30, 73, 78, 87, 122.
[278] For example, Submissions 12, 63, 78, 186.
[279] For example, Submissions 14, 30, 75, 78, 114, 200, 202.
[280] For example, Submissions 10, 14, 30, 57, 77, 114, 131.

been useful[281]. Carers described concerns that this impacted child wellbeing and the ability of the carer to provide care that supported the safety and wellbeing of the child. This included:

- not providing information about children's distress during access visits;
- failing to inform carers of children's medical and therapeutic appointments, resulting in missed appointments and unsubstantiated care concerns
- not receiving policies and guidelines and being unaware of carers' and the Department's relative expectations and obligations, including information about procedures for gaining financial reimbursements, care concern procedures and thresholds, and other matters
- not receiving information about training, services and support for children, including priority services for children in care, and
- not being made aware of possible Centrelink payments and allowances.

Information either not being provided or being provided too late resulted in a number of issues for foster and kinship carers, including not being provided with the timely opportunity to address care concerns raised (see Chapter 3). For example, kinship carers not receiving determination letters from a care concern meeting in a timely manner, resulting in a lack of transparency and clarity about the outcome recorded, placing further distrust is placed into the relationship with the Department, and impacting future interactions between carers and the Department.

Carers repeatedly reported frustration at information and documentation either not being made available, being inappropriately or incidentally shared, or being made available too late. This included:

- Carers not receiving the Life Story books belonging for foster children until many years after the request;
- Carers not being provided copies of the child's annual review or being involved in this process
- Frequent, unmet requests for a child's records from a Department staff member despite a Departmental Supervisor approving the request, and once obtained these records supported a medical diagnosis that allowed access to treatment
- Children in care making requests for their file or for information about their birth families, and when this was not provided, seeking this information from biological family members via social media which led to negative consequences for the child and foster family.

Submissions to the Inquiry made by carers and advocacy groups also described their requests for information as being ignored by the Department and agencies[282]. For example, carers repeatedly requesting Medicare details for a child in their care and when provision of these details was delayed or not forthcoming, carer then paying full price for the costs of the child's treatment. Carers

[281] For example, Submissions 6, 10, 13, 14, 16, 21, 36, 39, 73, 75, 78, 83, 84, 89, 90, 91, 99, 144, 146, 151, 153, 155, 158, 187, 200.
[282] For example, Submissions 4, 9, 14, 30, 75, 78, 114, 128, 200, 202.

reported that not being provided with the Medicare details of children resulted in carers not receiving Centrelink payments or the subsidised healthcare to which the children were entitled.

Accuracy of documentation and information recorded, kept and shared

Submissions to The Inquiry referenced the recording of inaccurate information about foster and kinship carers, children coming into or currently in their care, and their interactions with the Department or with other persons and bodies involved in foster care or kinship care[283].

Submissions reported carers being offered no opportunity to review the information recorded about foster and kinship carers or the placement, with incorrect information remaining on the record[284]. In some submissions, this was reported as resulting in Department staff reliance on inaccurate or out-of-date information. Such information was perceived in submissions to The Inquiry as impacting how foster and kinship carers were viewed by Department staff and how care concerns and assessments for, for example, LTG might be evaluated. This included statements that carers described as defamatory and misleading remaining on their file and only becoming aware that this information was on their file when it was accidentally supplied to them along with other documentation; or as part of documentation provided by the Department in SACAT proceedings (known as 'S35 documents'). The inaccuracies in the information provided about them impacted negatively on the placement in the short term (such as through care concerns proceedings) and in the long term as it was shared subsequently through other documentation, meetings and advice given to other parties.

Perhaps most concerning were allegations made to the Inquiry in submissions by foster and kinship carers and on their behalf of the direct falsification or fabrication of information created or held by the Department and other persons and agencies involved in foster care or kinship care[285]. Submissions to the Inquiry described documents held by agencies purported to be created or signed by carers that carers reported not having seen before, and of documentation (such as financial agreements) being replaced by case workers without carers' knowledge or agreement[286]. It was beyond The Inquiry's powers to pursue these issues, but if true, these are very concerning matters.

Summary of issues

Submissions to the Inquiry concerning information and documentation indicated that there are three critical areas requiring attention: 1) Sharing of documentation and information with foster and kinship carers; 2) Transparency and accessibility of documentation and information; and 3) Accuracy of documentation and information recorded, kept and shared.

The concerns raised in submissions regarding documentation and information described three main categories of documentation and information:

1. Information regarding the operations of the Department

[283] For example, Submissions 14, 16, 29, 31, 75, 77, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 95, 122, 131, 155, 165, 172, 196, 200.
[284] For instance, Submissions 14, 16, 29, 75, 77, 80, 81, 91, 131, 122, 165, 172, 173, 196, 200.
[285] for example, Submissions 42, 87, 90, 137.
[286] See, for example, Submissions 87, 90, 137, 196.

2. Information and documentation recorded, kept and shared about the children and young people entering or currently in foster or kinship care
3. Information and documentation recorded, kept and shared about foster and kinship carers.

Information regarding the operations of the Department

That documentation and information held or shared by the Department and other persons and bodies involved in foster care or kinship care to foster carers and kinship carers be transparent and available was strongly supported by legislation and policy and consistently underscored by submissions made to The Inquiry.

Where information is to be shared with foster and kinship carers, it must be transparent and accessible. This is supported by the CYPS Act and the FOI Act, as well as literature. This is reflected by Departmental policy and practice manuals and guidelines. The State Records Act also stipulates a disposal schedule with defined retention periods for the Department's records.

Submissions to The Inquiry reported a lack of transparency about what documentation and information is available to foster and kinship carers and how they might access information. In failing to make information accessible, foster and kinship carers reported being uninformed about key matters due to policy information, guidance, and information about care concerns either not being provided or provided outside of a timeframe where such information would have been useful.

Information regarding children and young people

The sharing of relevant information regarding children and young people with foster and kinship carers has a clear bearing on the care that children placed in foster and kinship care receive. The timely and transparent sharing of this information with foster and kinship carers is crucial to ensuring that they are provided with all the information they might need to best support the safety and wellbeing of the child in their care.

Submissions to The Inquiry report a discrepancy between Departmental policy and practice regarding what will be shared with foster and kinship carers, the principles that underpin information sharing, and what is reported to take place in practice. In failing to share information or documentation with families, foster and kinship carers described being unable to meet or understand the particular care needs of the child in their care as a result of not receiving a child's history, leading to placement breakdowns and instability for many children which could have been avoided if appropriate information was provided prior to the placement commencing. Other children in the care of foster and kinship carers were reported as being placed at risk as a result of not receiving a child's history of, for example, violent or sexualised behaviour. Foster and kinship carers reported not receiving sufficient cultural information about children to provide a placement that might meet the children's cultural needs. Other carers reported significantly delayed medical diagnoses due to not receiving medical information about the child in their care.

Foster and kinship carers described experiencing anger and frustration at not receiving or having to persistently request information belonging to children (including Life Story Books and a child's records), and that child could be placed at significant risk if seeking out their information through other channels when repeated requests made for this information were ignored.

While this Inquiry only received submissions from foster and kinship carers about the information shared with them about the children or young people coming into their care, it is important that the

information received by children about their placement is shared in order to facilitate an informed transition and lifelong informational needs.

Information regarding foster and kinship carers

The Department's Manual of Practice and the 'Supporting and collaborating with carers' Practice Paper, supported by records management standards and best practice literature, stipulate that information shared by the Department must be accurate. The FOI Act supports that an application may be made to amend incomplete, incorrect, misleading or out-of-date information held about an individual.

Submissions to The Inquiry detailed the recording of inaccurate information about foster and kinship carers, children coming into or currently in their care, and their interactions with the Department or with other persons and bodies involved in foster care or kinship care. This was perceived by foster and kinship carers making submissions as impacting on staff perceptions and on evaluations of care concerns and Long-Term Guardianship assessments and tribunal proceedings. Inaccuracies were also described as impacting on placements. Submissions to the Inquiry described documents held by agencies purported to be created or signed by carers that carers reported not having seen before, and of documentation (such as financial agreements) being replaced by case workers without carers' knowledge or agreement

Submissions identified that the keeping of inaccurate or out-of-date information by the Department and other agencies impacted on how foster and kinship carers were viewed by staff, and how care concerns and assessments for LTG might be evaluated. Foster and kinship carers described their anger and frustration at the recording, retention and sharing of defamatory, misleading, insulting, prejudicial or otherwise inaccurate information by the Department and other persons and bodies involved in foster care or kinship care. Foster and kinship carers also reported the inappropriate and accidental sharing of information with other parties as negatively influencing the view of carers held by the Department and impacting privacy and the safety of children.

That information and documentation created and kept by the Department and other persons and bodies involved in foster care or kinship care adhere to legislative requirements and is fully compatible with the relevant Standards is fundamental to meeting the care needs of children in the foster and kinship care system. It should also be fundamental that records created by the Department and other agencies must be created and then kept with the informational needs of that child at the centre of practice.

Recommendations

The Inquiry makes the following recommendations:

10. That the Department and other persons or bodies involved in foster care or kinship care commit to train and supervise staff in their obligations under legislation regarding the creation, sharing, accessibility and accuracy of information and documentation and in the importance of records created and kept to meeting the current and long-term information needs of children in care.

11. That policy information or guidance impacting foster and kinship care should be publicly available, ensuring that all carers and children and young people in care can access the information that impacts them.

12. That an independent audit is conducted relating to the existing records about foster and kinship carers held by the Department and other bodies involved in foster care or kinship care, including records relating to unsubstantiated care concerns, to ensure these records are accurate, reliable and current staff practices of records creation are compliant with legislation and policy. The results of the audit to then be used to implement a dedicated process by which foster and kinship carers and the children currently or formerly in their care be supported to apply to amend incomplete, incorrect, misleading or out of date information, in accordance with the FOI Act.

Chapter 6. Partnerships

This chapter of the report addresses Term of Reference (TOR) 4.1:

The adequacy of internal procedures and arrangements within the Department and other persons and bodies involved in foster care or kinship care in ensuring that there is a sound partnership between the Department, those persons and bodies and foster carers and kinship carers.

Introduction

The content of this chapter address Term of Reference 4.1: The adequacy of internal procedures and arrangements within the Department and other persons and bodies involved in foster care or kinship care in ensuring that there is a sound partnership between the Department, those persons and bodies and foster carers and kinship carers. The chapter first considers partnerships in the context of the Department's partnerships with other bodies (including support agencies and CFKC-SA SA) and then examines partnerships between the Department and foster and kinship carers.

Positive experiences with child protection agencies are associated with carers feeling that they are appreciated, listened to, and supported by their case workers[287]. Research has shown how important trust is in the relationship between carers and case workers, as the stress experienced by foster carers is exacerbated when case workers don't trust them in their caring role[288]. Carers have increased satisfaction in their role when they are included as part of the care team[289], and that carers' willingness to accept more placements is influenced by carers feeling they are involved in the decision-making and planning for the children in their care[290].

The topic of partnerships with carers has received focus in several previous reviews on out-of-home care and the international literature. Dating back to the Layton review in 2003[291], common themes included reports of foster carers receiving insufficient support and training for the complex and stressful roles they undertake (especially when caring for children with disabilities and difficult behaviours), meetings not being inclusive of foster carers, a general lack of acknowledgement, respect and support for carers and a lack of communication between case workers and carers. These concerns have been consistently raised in subsequent reviews[292] and were present in several submission for the current Inquiry. These concerns have also been mirrored in international literature, with some research indicating that almost half of the foster carer population is dissatisfied

[287] Ibid.
[288] Denlinger, M., & Dorius, C. (2018). Communication patterns between foster parents and case managers. *Children and Youth Services Review, 89*(1), 329-339.
[289] Geiger, J. M., Piel, M. H., & Julien-Chinn, F. J. (2017). Improving relationships in child welfare practice: Perspectives of foster care providers. *Child and Adolescent Social Work Journal, 34*(1), 23-33.
[290] Brown, H. C., Sebba, J., & Luke, N. (2014). *The role of the supervising social worker in foster care.* University of Oxford.
[291] Layton, R. (2003). *Our best investment: A state plan to protect and advance the interests of children.*
[292] Nyland, M. (2016). *Child protection systems royal commission report.;* Parliament of South Australia. (2015). *Interim report of the select committee on statutory child protection and care in South Australia.*; Commonwealth of Australia. (2015). *Out of home care.*

with the support they receive from their case workers and one third of carers feeling that their work is not valued[293].

Both Nyland's 2016 report[294] and the 2015 report by the Select Committee of the Parliament of South Australia[295] highlighted that carers feel undervalued and not trusted by the Department. Additionally, these reports found that carers are reluctant to seek support or raise issues with their case workers around the challenges of caring because they fear that their capacity to provide care will be questioned. This speaks to the perception of a large power imbalance between the Department and foster and kinship carers, which was also discussed by the Select Committee of the Parliament of South Australia[296].

The Child Protection Systems Royal Commission[297] also found that carers feel they are often dismissed as 'only the carer' and that they are not invited to contribute to children's case management, despite their specialist skills, daily commitment to, and knowledge of, the children in their care. Foster carers had also reported that, while they love the children in their care, the difficulties in dealing with Department staff would influence them to not recommend this experience to others who are considering becoming carers[298]. Previous reviews have suggested that case workers' insufficient provision of support to carers may be influenced by the significant pressure and workload they are faced with[299].

Previous reviews have also observed a discrepancy in the training and support that kinship carers receive in comparison to foster carers[300]. Despite the literature showing that kinship carers are more likely to be disadvantaged compared to foster carers[301], they have consistently reported having limited access to training and ongoing support (including support from case workers), and that they are unable to access the same financial supports as foster carers[302]. The literature highlights additional concerns for grandparent kinship carers who are tasked with navigating challenging family changes while dealing with the burden of their declining health due to older ages[303], and for Aboriginal and Torres Strait Islander kinship carers who are more often older, single, and caring for younger children and larger numbers of children when compared to their non-Aboriginal counterparts[304].

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[293] Geiger, J. M., Piel, M. H., & Julien-Chinn, F. J. (2017). Improving relationships in child welfare practice: Perspectives of foster care providers. *Child and Adolescent Social Work Journal, 34*(1), 23-33.
[294] Nyland, M. (2016). *Child protection systems royal commission report.*
[295] Parliament of South Australia. (2015). *Interim report of the select committee on statutory child protection and care in South Australia.*
[296] Ibid.
[297] Nyland, M. (2016). *Child protection systems royal commission report.*
[298] Ibid.
[299] Parliament of South Australia. (2015). *Interim report of the select committee on statutory child protection and care in South Australia.*
[300] Nyland, M. (2016). *Child protection systems royal commission report.;* Commonwealth of Australia. (2015). *Out of home care.*
[301] Qu, L., Lauhausse, J., & Carson, R. (2018). *A survey of foster and relative/kinship carers.* Australian Institute of Family Studies.
[302] Commonwealth of Australia. (2015). *Out of home care.*
[303] Breman, R. (2014). *Complexity in kinship care.* Baptcare.
[304] Kiraly, M. (2015). *A review of kinship carer surveys: The "Cinderella" of the care system?* (Child Family Community Australia paper no. 31). Australian Institute of Family Studies.

Overall, partnerships between foster and kinship carers and child protection departments and agencies are promoted similarly across Australian jurisdictions. However, the Inquiry notes that in addition, foster and kinship carers in Tasmania are able to access the Child Safety Service's Employee Assistance Program which provides 24-hour phone support with trained counsellors[305]. This service allows carers to receive up to four confidential counselling sessions per year[306].

Legislation and standards

Children and Young People (Safety) Act

Partnerships between families and child protection authorities and agencies are addressed in the Children and Young People (Safety) Act[307] (hereby referred to as the CYPS Act). Section 14 (1) (a) provides that that, in order to promote the wellbeing of children and young people and early intervention where they may be at risk of harm, the Minister must promote a partnership approach between the Government, local government, non-government agencies and families. Notably, though, foster carers may not be included in the CYPS Act's definition of a family unit. Section 16 (1) defines a family as the child or young person's extended family, members of the child or young person's family who are not biologically related to the child or young person, and in relation to an Aboriginal or Torres Strait Islander child or young person, any person related to the child or young person in accordance with Aboriginal or Torres Strait Islander traditional practice or custom (as the case requires). Kinship carers may be members of a child's extended family, but for foster carers, this section defines approved carers separately as a person who is the subject of an approval under section 72 that is in force.

Section 73 of the CYPS Act outlines that the Chief Executive must ensure that regular assessments are undertaken of the provision of care by the approved carer, relevant courses of training are made available to the carer, ongoing support and guidance are provided to the carer, and that proper assessments are made of any requirement of the carer for financial or other assistance. Section 112A further stipulates that the Chief Executive may grant to an approved carer such financial or other assistance in relation to the care and maintenance of a child or young person as may be determined by the Chief Executive.

Section 82 of the CYPS Act outlines carers' rights to participate in decision-making processes for the children or young people in their care. Specifically, Section 82 (1) explains that approved carers are entitled to participate in any decision-making process relating to the health, safety, welfare or wellbeing of the child or young person. However, Section 82 (2) states that subsection (1) does not apply in relation to a particular decision if the decision-maker is satisfied that the participation of the approved carer would not be in the best interested of the child or young person.

For Aboriginal carers, Section 12 (2) outlines that in achieving the objects of the Aboriginal and Torres Strait Islander Child Placement Principle, a partnership approach between Aboriginal and Torres Strait Islander people, their children and young people and State authorities should be used

[305] Foster and Kinship Carers Association of Tasmania. (2018). *Foster and Kinship Carers Association Handbook.*
[306] Ibid.
[307] Government of South Australia. (2017). *Children and Young People (Safety) Act.*

when making decisions about the placement of Aboriginal and Torres Strait Islander children and young people under this Act[308].

Statement of Commitment

The Statement of Commitment, created in collaboration between the Department, CFKC-SA and CAFFSA, recognises that the care system must work in partnership with carers and value them as an essential and respected part of the care team for children and young people in care[309]. According to the Statement, carers can expect to be informed, supported, consulted, valued, and respected. The Statement also includes a commitment from its signatories to commit to supporting carers by working together in partnership, communicating openly, honestly and respectfully, building and maintaining relationships based on mutual trust and respect, and meeting legislated requirements of the child protection system. Departmental case workers are reminded of the Statement's key pillars, which should guide their practice, within their Manual of Practice[310].

The Statement further outlines the key responsibilities of its different signatories. For instance, the Department is responsible for involving carers in the child's care team, providing ongoing support and training to carers, and understanding and responding to the needs of carers. CFKC-SA are responsible for providing information and advice to carers, advocating for individual carers, connecting carers with each other for support, and advocating on behalf of and representing carers with community and government stakeholders. Finally, the Statement outlines that foster care agencies and the Department's Kinship Care Program are responsible for recruiting and retaining carers, finding and providing support to kinship carers, and providing quality training, assessment and support to assist carers in providing safe and stable care for children and young people[311].

Partnerships with other bodies

Implementing a supportive model where foster carers are viewed as equal is a challenge in Australian child protection systems because of the complex legal, contractual and funding arrangements, responsibilities and protections for many of the parties. In South Australia, for many children in care, legal responsibility passes to the state and the daily care to a third party, primarily foster and kinship carers, and in many cases this relationship is joined by a third party responsible for carer recruitment, assessment, training and support (support agencies)[312].

In many reviews and research, the level of satisfaction and intention to remain in the caring role are strongly related to carers' perceptions about the extent to which all parties work together as a team, have a common vision and understanding of the best interest of children and share the

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[308] Ibid.

[309] Connecting Foster and Kinship Carers SA Inc, Child and Family Focus SA, & Department for Child Protection. (2020). *Statement of commitment: South Australian foster and kinship carers.;* Department for Child Protection. Supporting document to the Statement of Commitment with South Australian foster and kinship carers. March 2021.

[310] Department for Child Protection. Manual of Practice: Supporting children and young people in care chapter. *Support the placement.* Version 5.11, June 2022.

[311] Ibid.

[312] McGuinness, K., & Arney, F. (2012). *Foster and kinship care recruitment campaigns: A review and synthesis of the literature*. The Centre for Child Development and Education, Menzies School of Health Research; Riggs, D. W., Delfabbro, P. H., & Augoustinos, M. (2009). Negotiating foster-families: Identification and desire. British Journal of Social Work, 39(5), 789-806.

responsibilities in relation to this. Most carers respect and expect, clear communication with a focus on high quality care and that children's needs will be met in an effective and timely way[313].

The policy and practice context for partnerships with other bodies

In their response to an Inquiry RFI[314], The Department wrote that it has been working deliberately and systematically to improve carer supports across the sector since its establishment as a standalone agency in 2016. The Department also noted their commitment to continuous improvement in partnership with carers, support agencies, and peak bodies. The RFI response outlined that the Department funds CFKC-SA to advocate for carers at an individual and systemic level, and to help carers receive information, peer support, and networking opportunities. The Department noted that most foster carers are supported by NGO carer support agencies, and kinship carers are supported by the Department's Kinship Care Program, or Aboriginal Community Controlled Organisations (ACCOs). NGO foster care agencies are responsible for recruitment of foster and kinship carers, assessment and review, support and ongoing training, and resolving complaints and care concerns in the first instance. The Department are responsible for approval and review of foster and kinship carers, complaints and management of care concerns, funding NGO service provision, case management for children and young people, program and policy design, and the Department's kinship care support[315].

The Department's performance measurement specification document[316] outlines that service providers are assessed on their quality of service; which includes carer support, case planning, connection, disability, education, health, incidents, and service outcomes. The document also notes that service providers are assessed on their service delivery; which includes carer recruitment, placement, referral and service requirements.

Submissions regarding partnerships with other bodies

Statement of Commitment

Multiple submissions to the Inquiry reported dissatisfaction with the extent to which the Department and support agencies actually provided support to the carer community[317]. Several submissions included criticism of the implementation of the Statement of Commitment by the Department and by support agencies[318]. The submissions made it clear that many foster and kinship carers do not feel informed, supported, consulted, valued or respected; despite these promises being made on the statement. Further, some carers expressed that they feel continuously let down by the organisations on the Statement who fail to adhere to its content, and that this is contributing

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[313] McGuinness, K., & Arney, F. (2012). *Foster and kinship care recruitment campaigns: A review and synthesis of the literature.* The Centre for Child Development and Education, Menzies School of Health Research; Thomson, L., McArthur, M., & Watt, E. (2016). *Foster carer attraction, recruitment, support and retention*. Canberra: Institute of Child Protection Studies, Australian Catholic University.

[314] Department for Child Protection. Request for information. Narrative response 1. Received 27 May 2022

[315] Ibid.

[316] Department for Child Protection. Performance measurement specification. Version 2.3, January 2022.

[317] For instance, Submissions 4, 5, 14, 18, 20, 26, 28, 29, 30, 32, 41, 58, 66, 75, 80, 114, 132, 156, 165, 166, 172, 178, 187, 201, 202.

[318] For example, Submissions 4, 21, 27, 30, 92, 95, 99, 104, 113, 115, 139, 146, 156, 164, 175, 176, 179, 186

to a steady loss of carers. Submissions also stated to the Inquiry that many carers and staff are unaware that the Statement of Commitment even exists and that when carers have raised issues with adherence to the Statement, several have been told that Department and support agency staff do not need to adhere to the Statement or else the staff members did not know about it.

Many of the submissions expressed the view that these agencies are failing to advocate for carers or protect them from unfair treatment from the Department. In some cases, agencies were reported to suppress the voices of carers and use information against carers. Additionally, the submissions included reference to agencies telling carers that they support the child and not the carer, advising carers that they need to protect their relationship with the Department, and placing carers "on hold" (a pause in being allocated new placements) without consulting them.

The Inquiry also received submissions from carers who wrote about a lack of professionalism and poor conduct from agency staff[319]. For example, it was reported that many NGOs fail to implement the processes outlined in their policy documents and guidelines. This included NGO staff not knowing what is compulsory for carers and different staff offering conflicting advice. The submissions on this topic also included concerns that NGO staff had recorded and shared false, inaccurate and negatively skewed information about carers and children. Additionally, agencies were reported to breach privacy agreements. Carers also expressed that many agencies disregard the CYPS Act, particularly the placement principles, in their practice, and make their own rules instead. The Inquiry also received submissions from carers who wrote about agencies gaslighting and threatening carers and making racist remarks toward carers.

Several submissions noted a high turnover among NGO staff[320]. Additionally, the Inquiry heard that some carers have experienced lengthy time periods unallocated from an agency worker with no replacement. Carer families have also reported being inconvenienced by agency staff behaviour being reportedly driven by rigid KPIs, for example the frequency of meetings or support vits, rather than on addressing the child's or carers support needs.

Multiple submissions expressed concern that the Department is failing to partner with agencies, which then impacts the agencies' ability to assist carers[321]. For context, carers feel that the Department, both intentionally and unintentionally, keeps support agencies excluded from important processes and decisions around children's care. This, in turn, impacts the carers' trust with their agency and the Department. Additionally, it was reported that some Departmental case workers don't view support workers as professionals, and when support workers try to advocate for carers, case workers have exerted their power by ceasing communication and withholding important information (for example, regarding annual reviews and case direction) from the support worker. The Inquiry also heard that Departmental case workers have blocked carers from speaking with their support agencies.

A number of submissions were related to the Department's partnership with Aboriginal NGOs and staff[322]. These submissions reported that Aboriginal organisations need greater recognition and influential powers, especially as the Department is quick to make decisions about Aboriginal children

[319] For example, Submissions 27, 30, 52, 59, 66, 80, 95, 97, 103, 136, 187.
[320] Including Submissions 66, 73, 172, 187
[321] For example, Submissions 149, 160, 195
[322] Including Submissions 152, 160.

without involving the appropriate Aboriginal organisations. Further, it was reported that Aboriginal agency staff are suffering from burnout.

Contracting arrangements

Submissions[323] to the Inquiry identified that the funding relationships and contracting arrangements between support agencies and the Department, as well as between the peak body and the Department, can hinder truly independent and supportive relationships with carers. As the primary contractual obligation for these parties is to the Department, this causes a potential or perceived conflict of interest between the interests of these parties and carers and some carers felt this could limit the type and extent of support they may provide to carers in response to identified needs. CFKC-SA's submission to the Inquiry noted that:

> *Some Carers see us as being not truly independent, or implicitly aligned with DCP because we are reliant on DCP funding. CF&KC-SA is confident that it acts at all times independently of DCP. As the peak CF&KC-SA does not feel constrained. CF&KC-SA will happily 'take DCP on' including by way of our advocacy, and our support of Carers through challenging DCP decision in Youth Court and SACAT. However, it is of deep concern to us that all Carers feel confident in CF&KC-SA's independent representative role.*[324]
>
> *Wherever our funding is sourced, we are very keen to address the 'independence' issue so that all Carers can access our support and advocacy with absolute confidence. To that end CF&KC-SA calls for our organisations independent status to be enshrined in legislation, or in our contact of service, or both.*[325]

A legal review[326] of the publicly available documents relating to the contractual obligations for support agencies noted that the Standard Not For Profit Sector Funded Services Agreement (NFP contract) establishes a legal contractual relationship between the Department and service providers but does not create a legal relationship between the Department and carers, or the service provider and carers. The NFP contract also does not create any contractual obligations on service providers to provide services to carers. Some of the services that service providers are contractually obliged to perform are actually performed by carers, and service providers are receiving payments from the Department for services performed by carers. The contracts also provide some level of protection to service providers that are not available to carers, for example, clarity of obligations and expectations, and remedies for breach of contract.

The review[327] also found that the Department's foster carer agreement is purportedly an agreement between the carer and the support agency but the document contains no obligations on service providers or the Department to carers. The document's wording places all obligations upon carers (e.g., "I understand my roles and responsibilities as a carer…") worded in such a way that requires

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[323] For example, submissions 6, 195, 198
[324] Connecting Foster and Kinship Carers SA. (2022). *Connecting Foster & Kinship Carers SA submission to the Independent Inquiry into Foster and Kinship Care*. https://cfc-sa.org.au/wp-content/uploads/2022/05/CFKC-SA-Inquiry-submission_compressed-version_9May2022.pdf, p.26
[325] Ibid, pp.26-27
[326] Submission 198
[327] Ibid

carers to provide services to the agencies with no reciprocity. The review[328] also identified that the foster care agreement provides a means in which service providers and the Department can obtain evidence that can be used against carers at any time, particularly during care concerns or complaints. The document reportedly demonstrates imbalance and inequity in relationships, and the submission authors expressed the view that the ambiguous nature of this relationship should be cause for concern.

Partnerships with foster and kinship carers

Research identifies that almost half of the foster and kinship carer population are dissatisfied with the support they receive from their case workers and just over one third of carers feel their work is not valued. [329]. Positive experiences with child welfare agencies are associated with carers feeling that they were appreciated, listened to, and supported by case managers, and when carers felt that the case workers established a relationship with their family and children[330]. Research also shows how important trust is in this relationship, as the stress experienced by foster carers is exacerbated when case managers don't trust them in their caring role[331].

Over one third of carers in studies have reported inadequate notification of important meetings, appointments, and placement or reunification changes for the children in their care[332]. Carers have reported feeling frustrated when they have inadequate communication with their case manager, and tension can form in the relationship when case managers respond late and show a lack of respect for the foster family's time[333]. Research shows that carers have increased satisfaction with their case workers when they have frequent communication with calls returned in a timely manner and when they are included as part of the care team and are involved in decision making and case planning[334]. [335][336],.

Carers place great importance on having their say in decision-making and planning for the children they are caring for, and being involved in the team is seen as related to carers' willingness to accept more challenging placements. It is essential that all members of the child's care team work together effectively so the child can receive quality care[337]. Carers attribute lack of support to their individual case workers' lack of respect and empathy, which results in carers being ignored and not being part

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[328] Ibid
[329] Geiger, J. M., Piel, M. H., & Julien-Chinn, F. J. (2017). Improving relationships in child welfare practice: Perspectives of foster care providers. *Child and Adolescent Social Work Journal, 34*(1), 23-33.
[330] Ibid.
[331] Denlinger, M., & Dorius, C. (2018). Communication patterns between foster parents and case managers. *Children and Youth Services Review, 89*(1), 329-339.
[332] Geiger, J. M., Piel, M. H., & Julien-Chinn, F. J. (2017). Improving relationships in child welfare practice: Perspectives of foster care providers. *Child and Adolescent Social Work Journal, 34*(1), 23-33.
[333] Denlinger, M., & Dorius, C. (2018). Communication patterns between foster parents and case managers. *Children and Youth Services Review, 89*(1), 329-339.
[334] Brown, H. C., Sebba, J., & Luke, N. (2014). *The role of the supervising social worker in foster care.* University of Oxford.
[335] Ibid.
[336] Geiger, J. M., Piel, M. H., & Julien-Chinn, F. J. (2017). Improving relationships in child welfare practice: Perspectives of foster care providers. *Child and Adolescent Social Work Journal, 34*(1), 23-33.
[337] Ibid.

of a partnership[338]. Carers have expressed that their case workers want to just solve problems rather than listening to them and show empathy[339].

Research has also demonstrated that the role of kinship carer brings with it additional considerations in working in partnership, particularly given many kinship carers are grandparents, are motivated to care for children and young people to keep them out of the system, and can experience complex issues in relation to their status as family members in managing aspects such as family contact with other family members[340]. Very young kinship carers have also been largely overlooked in terms of their support needs and role in the care team[341]. Despite the marginalised status of kinship carers, they receive fewer services in Australia[342], are less likely to have received support and training[343], and many are financially stressed and have expressed a need for greater financial assistance[344].

Studies examining the experiences of Aboriginal foster and kinship carers identify the need for culturally-based specialised support[345]. One study found that nearly half of the Aboriginal carers felt they were receiving inadequate support to keep the children in their care in contact with their Aboriginal family and culture. It is crucial for Aboriginal children's wellbeing to remain connected to their Country, community, and culture[346].

The issues for Aboriginal kinship carers are compounded by a lack of cultural appropriateness, historical disadvantage (including racist welfare practices), and socioeconomic disadvantage[347]. Culturally specific customs, such as parenting practices, communication styles, and household composition, are often not considered in out-of-home care processes[348], which results in further disadvantage toward Aboriginal carers.

The policy and practice context for partnerships with carers

The Department's response to an Inquiry RFI[349] outlined its commitment to embedding a partnership approach with carers, with case workers seeking to build and maintain strong relationships with carers. The RFI response and the Department's practice paper on supporting and collaborating with carers note that carers are the foundation of the care system, and that it is through the dedication of

[338] Ottaway, H., & Selwyn, J. (2016). *'No-one told us it was going to be like this': Compassion fatigue and foster carers*. University of Bristol.
[339] Ibid.
[340] McGuinness, K., & Arney, F. (2012). *Foster and kinship care recruitment campaigns: A review and synthesis of the literature.* The Centre for Child Development and Education, Menzies School of Health Research.
[341] Kiraly, M. (2015). *A review of kinship carer surveys: The "Cinderella" of the care system?* (Child Family Community Australia paper no. 31). Australian Institute of Family Studies.
[342] Connolly, M., Kiraly, M., McCrae, L, & Mitchell, G. (2017). A kinship care practice framework: Using a life course approach. *The British Journal of Social Work, 47*(1), 87-105.
[343] Qu, L., Lauhausse, J., & Carson, R. (2018). *A survey of foster and relative/kinship carers.* Australian Institute of Family Studies.
[344] Kiraly, M., Humphreys, C., & Kertesz, M. (2021). Unrecognized: Kinship care by young aunts, siblings and other young people. *Child & Family Social Work, 26*(3), 338-347.
[345] Kiraly, M. (2015). *A review of kinship carer surveys: The "Cinderella" of the care system?* (Child Family Community Australia paper no. 31). Australian Institute of Family Studies.
[346] Ibid.
[347] Boetto, H. (2010). Kinship care: A review of issues. *Family Matters, 85*(1), 60-67.
[348] Ibid.
[349] Department for Child Protection. Request for information: Narrative response 1. Received 27 May 2022.

carers that children and young people can receive the nurturing care they need to heal from trauma[350,351].

The Department's practice guidance[352,353,354] further reinforces the responsibility of case workers to create and maintain respectful and supportive relationships with carers, focused on working 'with' carers rather than doing things 'to' them. Case workers are guided to form strong relationships with carers by being empathic and clear, actively listening, reminding carers of their strengths, and using respectful and appropriate conflict resolution strategies, even when relationships become challenging[355]. Instructions for managing conflicts and differences of opinion[356] guides case workers to remain focused on the safety and best interests of the child or young person, to be open and respectful, demonstrate a preparedness to listen, and avoid being reactionary and take time to consider all perspectives.

The Statement of Commitment[357] assures that carers can expect to be kept informed, which includes ensuring they have clarity around their role, responsibilities, and entitlements, as well as the information they need about the children in their care. The importance of open and transparent communication with carers is evident in the Manual of Practice[358]. Carers are required to be provided with certain information at the beginning of placements and throughout a child's time in care, so that carers can make an informed decision about accepting the child. [359,360,] In addition, one of the Department's responses to an Inquiry RFI[361] outlined the importance of keeping carers informed of outcomes from children's physical, psychological and developmental assessments.

The Department's legislative responsibility to involve carers in decision-making for the children in their care, set out in the CYPS Act, is reiterated in practice documentation[362,363,364.] This includes decisions around accessing healthcare and therapeutic services, contact arrangements, participation

[350] Ibid.
[351] Department for Child Protection. Supporting and collaborating with carers practice paper. Version 1.2, May 2022.
[352] Department for Child Protection. DCP practice approach summary guide. December 2019.
[353] Department for Child Protection. Foundational theories knowledge practice paper: Strengths based practice. (n.d.).
[354] Department for Child Protection. Foundational theories and knowledge practice paper: Relationship based practice. Version 2.0, April 2022.
[355] Ibid.
[356] Department for Child Protection. Supporting and collaborating with carers practice paper. Version 1.2, May 2022.
[357] Connecting Foster and Kinship Carers SA Inc, Child and Family Focus SA, & Department for Child Protection. (2020). *Statement of commitment: South Australian foster and kinship carers.*
[358] Department for Child Protection. Manual of Practice: Supporting children and young people in care chapter. *Support the placement.* Version 5.11, June 2022.
[359] Department for Child Protection. Supporting and collaborating with carers practice paper. Version 1.2, May 2022.
[360] Department for Child Protection. Manual of Practice: Supporting children and young people in care chapter. *Prepare for the placement.* Version 4.6, June 2022.
[361] Department for Child Protection. Request for information: Narrative response 2. Received 11 July 2022.
[362] Department for Child Protection. DCP practice approach summary guide. December 2019.
[363] Department for Child Protection. Supporting and collaborating with carers practice paper. Version 1.2, May 2022.
[364] Department for Child Protection. Manual of Practice: Supporting children and young people in care chapter. *Support the placement.* Version 5.11, June 2022.

in cultural events, and education[365]. The in-depth knowledge and invaluable understanding that carers have of the children in their care is also recognised in the Department's procedural guides[366,367] and this perspective is noted as being fundamental to case planning[368]. The Department state that carers are part of the care team[369], [370,] and they outline the importance of including carers in regular care team meetings with open and honest communication[371,372,373,374.]

The CYPS Act allows the Department to not involve carers in decision-making in rare circumstances (namely, if it would not be considered in the child's best interests). If this does occur, it is essential that clear communication is provided to the carer and documentation of the rationale is recorded[375]. The Department also note that the decision to exclude a carer from decision-making could raise concerns regarding the carer's capacity to provide care for the child. Carers are not responsible for making certain decisions (for example, a decision to reunify a child with their birth family), but they may provide information that is considered in the assessment. Similarly, some decisions need to be made between care team meetings, but the Department state it is necessary to seek carer's views outside of care team meetings as required[376]. When carers are not involved in meetings, Departmental case workers are recommended to consider sharing the meeting minutes with absent members so they are aware of any developments and actions that need to be undertaken[377].

The Department's practice guidance[378,379,]outlines Departmental case workers' responsibilities for working proactively and collaboratively with carers to identify the supports they need. These supports may include regular contact with or support from their case worker or placement support worker, therapeutic supports or advice from professionals, practical problem-solving support, social and community supports, and resources, professional development and education[380]. Once implemented, Departmental caseworkers must review and discuss the support progress and any

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[365] Ibid.
[366] Department for Child Protection. Manual of Practice: Supporting children and young people in care chapter. *Work in partnership to make decisions about the child or young person.* Version 5.11, July 2022.
[367] Department for Child Protection. Supporting and collaborating with carers practice paper. Version 1.2, May 2022.
[368] Ibid.
[369] Department for Child Protection. DCP practice approach summary guide. December 2019.

[370] Department for Child Protection. Manual of Practice: Supporting children and young people in care chapter. *Support the placement.* Version 5.11, June 2022.
[371] Ibid.
[372] Department for Child Protection. Supporting and collaborating with carers practice paper. Version 1.2, May 2022.
[373] Department for Child Protection. DCP practice approach summary guide. December 2019.
[374] Department for Child Protection. Request for information: Narrative response 2. Received 11 July 2022.
[375] Department for Child Protection. Supporting and collaborating with carers practice paper. Version 1.2, May 2022.
[376] Ibid.
[377] Department for Child Protection. Manual of Practice: Supporting children and young people in care chapter. *Support the placement.* Version 5.11, June 2022.
[378] Department for Child Protection. Supporting and collaborating with carers practice paper. Version 1.2, May 2022.
[379] Department for Child Protection. Manual of Practice: Supporting children and young people in care chapter. *Support the placement.* Version 5.11, June 2022.
[380] Ibid.

barriers or challenges the carer is experiencing with implementing the plan[381]. If the case worker considers the interventions to support the placement unsuccessful, they should consider if a case conference is required. Case workers are instructed to only consider removal of the child as a last resort when all other options have been exhausted[382]. Additionally, the Department state that carers may access support through respite care arrangements[383]. The Department acknowledge that regular breaks can be crucial to sustaining carers in their ongoing role as it provides carers with an opportunity to refresh and attend to other important matters, and also helps to support and sustain placements, especially where children have complex or high needs[384]. See also Chapter 8.

Supports for carers may include financial support. [385] In their response to an Inquiry RFI[386], the Department wrote about the 'Investing in their future' strategy which includes initiatives to assist carers in navigating priority services for the children in their care, including education, health and therapeutic services. Chapter 9 provides detailed information about the ranges and types of other supports available.

The Department's practice approach promotes accountability to the people it serves[387]and outlines that Departmental practitioners model accountability through practicing in a highly professional manner, and that Departmental and other professionals must be accountable for their professional relationships at all times and remain focused on the child's needs. Department staff are also accountable for creating an organisational culture that supports relevant parties to work together to achieve positive outcomes for children.

The Department's practice paper on supporting and collaborating with carers[388] notes the importance of Departmental practitioners acknowledging the additional challenges faced by kinship carers, empathising with them, and working collaboratively with them to develop plans that minimise these stressors. Departmental staff are instructed to work with kinship carers to identify the support they require, and they must proactively support kinship carers to provide trauma-informed care and to manage children's behaviours appropriately. The practice paper also notes the value of linking kinship carers with kinship support workers, a carer network, or professional support through a therapist or psychologist[389].

In response to an Inquiry RFI[390], the Department outlined that specific actions relating to supporting Aboriginal carers are included in the Partnership element of their Aboriginal Action Plan which uses the ATSICPP as its organising framework. Additionally, the Department wrote that Departmental case workers and kinship care workers are guided to make active efforts to apply the ATSICPP,

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[381] Department for Child Protection. Manual of Practice: Supporting children and young people in care chapter. *Support the placement.* Version 5.11, June 2022.
[382] Ibid.
[383] Ibid.
[384] Ibid.
[385] Department for Child Protection. Supporting and collaborating with carers practice paper. Version 1.2, May 2022.
[386] Department for Child Protection. Request for information. Narrative response 1. Received 27 May 2022.
[387] Department for Child Protection. DCP practice approach summary guide. December 2019.
[388] Department for Child Protection. Supporting and collaborating with carers practice paper. Version 1.2, May 2022.
[389] Ibid.
[390] Department for Child Protection. Request for information. Narrative response 1. Received 27 May 2022.

including working in partnership with Aboriginal carers, supporting their rights to self-determination, and focusing on culturally safe practice.

In the same RFI response, the Department highlighted that three ACCOs have been engaged to deliver a $3 million two-year pilot service to provide supports for kinship carers of Aboriginal children. The program provides for both assessment and support, and it commenced in August 2020. The Department also noted that they recently partnered with Ngaanyatjarra Pitjantatjara Yankunytjatjara (NPY) Women's Council Aboriginal Corporation to launch the APY Lands Placement Stability program to deliver placement stabilisation services to kinship carers of Aboriginal children and young people, and families in the APY Lands[391].

The Department's LTG policy[392] states that once an application for LTG is received, the Department must assess it as quickly as possible. In order for LTG to be granted, the child must be residing in a successful care arrangement, the carer must have demonstrated their commitment to the child, and it must be in the child's best interests.

The policy notes that the guardian will continue receiving base rate carer payments until the LTG order expires. If the child has special needs, the guardian will continue to receive a special needs loading on top of the base rate payment. Following guardianship transfer, the Department will honour previous agreements with regard to school fees and, where applicable, therapy, should they be assessed as in the child's best interests. These payments will cease when the child reaches 18 years or leaves care before 18 years, or when the order is revoked.

The policy also notes that children under LTG do not receive case management or other specialist support from the Department. Children will be assigned to a Departmental office for administrative purposes, but the office is not responsible for providing case management.[393]

Submissions regarding partnerships with carers

Case workers' unfair treatment/disrespect toward carers

One of the most common themes in the submissions related to partnerships with carers was of reported unfair treatment and disrespect Departmental case workers shown to foster and kinship carers[394]. Carers reported that they don't feel valued by case workers and they are often referred to or told that they are 'just' the carer. Additionally, multiple carers wrote about their experiences with Departmental case workers heading straight to the children during visits or meetings and ignoring the carer. Carers also reported their perception that they are viewed by Departmental case workers as difficult or 'money hungry', and that they are often 'done to and not with'. The submissions also showed that carers are frustrated with the unhealthy and condescending communication from the Department, as they are being bullied, intimidated, threatened, judged, and treated like nuisances. It was also reported that carers are chastised by case workers when problems occur and that case workers can be hostile with carers when they ask questions during meetings.

[391] Ibid.
[392] Department for Child Protection. Long term guardianship (specific person) policy. (n.d.).
[393] Ibid.
[394] For example, Submissions 3, 5, 14, 18, 24, 26, 28, 34, 47, 54, 57, 58, 62, 63, 78, 83, 84, 89, 92, 99, 100, 106, 107, 115, 136, 139, 140, 145, 148, 152, 153, 154, 158, 160, 161, 162, 164, 175, 186, 190, 195, 197, 200.

Another common theme in the submissions was the unreasonable demands placed on carers by case workers[395]. Carers reported feeling controlled by the Department, with case workers telling carers they must tell the Department where they are at all times, micro-managing long-term carers during home visits, and overstepping boundaries. The submissions showed that carers feel they are under constant scrutiny, and that they are always being watched and suspected of abusing the children in their care. Case workers were also reported to be intrusive toward carers, including sending unpleasant messages to carers about not keeping in contact with the Department in cases where they had missed phone calls over a few hours. Issues with demands also included carers being forced to attend meetings while unwell, and a case worker telling a pregnant carer they couldn't attend their prenatal appointments as they conflicted with pickup and drop-off times for family contact.

The submissions also revealed a common experience of fear and punishment related to case worker behaviour[396]. Multiple carers reported that they fear they will be punished or have a child removed from their home if they advocated for the child or asked questions. Carers also reported withholding concerns during meetings and annual reviews due to fear of retribution and receiving pressure to be quiet and stop challenging case workers and to be seen as compliant. When carers did speak up about case workers' behaviour, they reported being excluded and dismissed, or the case workers becoming aggressive towards them or making threats that children would be placed in emergency or residential care.

A general theme emerged from the submissions that carers' expertise, knowledge, and experience with the children in their care was constantly disregarded by case workers[397]. Foster and kinship carers provide support to the children in their care day-to-day and are best placed to understand and be aware of the children's' reactions to stressful events. Many carers making submissions to the Inquiry had extensive experience with children with complex trauma and disability through their caring and parenting roles and through professional experience. Despite this, carers reported that their valuable input was ignored when case workers made decisions about family contact, reunification, and accessing medical and psychological support for the children.

Respect and communication

One of the most common themes in submissions related to partnerships with carers was poor communication from the Department[398]. This included reports that case workers wouldn't answer phone calls or emails from carers, some refused to give carers their email addresses, failed to make follow-up phone calls, it was common for carers to wait weeks for responses and when the responses are finally sent, they don't provide enough information. Problems with delayed communication also included caseworkers not sharing details about events during access visits. In addition, carers wrote about their experiences with the Department not informing them when they have been allocated a new case worker, and a carer only finding out they were unallocated a case worker via email bounce back. Carers also reported Departmental case workers' failures to advise them when meeting times or access hours were changing, when children's hospital or medical appointments had been booked (or they were advised with only a few hours' notice), and failures to

[395] Including Submissions 5, 8, 63, 66, 78, 95, 99, 106, 113, 122, 130, 136, 152, 158, 160, 187, 200, 205, 206.
[396] Such as Submissions 4, 5, 10, 18, 92, 103, 106, 107, 146, 152, 158, 165, 200, 206.
[397] For example, Submissions 28, 34, 52, 56, 57, 73, 92, 99, 111, 115, 136, 139, 151, 154, 158, 186, 200.
[398] For instance, 4, 5, 10, 18, 24, 26, 28, 30, 32, 34, 39, 52, 54, 57, 78, 83, 87, 106, 107, 109, 115, 122, 128, 135, 136, 140, 146, 148, 152, 160, 163, 164, 176, 186, 187, 196, 197, 200, 206.

advise of important court dates. The submissions also showed that some carers were not kept informed when case workers were taking children to appointments, and other carers were not informed of the results from children's medical tests. Poor communication appears to be a problem from the beginning of placement, as submissions also indicated that carers are not receiving important information about children when they accept the placement and some are not provided with children's Medicare details. Carers also reported experiences of the Department telling children they would be reunified before consulting with or preparing the carer to support the child, and being told with very short notice that placements were ending with insufficient time to prepare. Finally, carers wrote about Departmental case workers' failure to explain the care concern process or allegations to carers, and that when carers ask for policy information it is never provided to them.

Meetings and consultation

As identified in Chapter 4, multiple carers wrote about their experiences of being excluded from meetings and important conversations or decisions regarding the children and young people in their care[399]. Based on the submissions, carers felt they were not consulted on case direction, and excluded from the care team, case planning, annual reviews, reunification planning, respite planning, decisions around family contact, organising assessments for the child, and decisions for the child to leave the placement. Carers also reported not being included in correspondence between the Department and support agencies, schools, and other organisations involved in the child's care. It was also reported that placements are sometimes extended without consulting the carers. Unfortunately, even when carers are included in meetings or decision-making processes, the submissions show that carer voices are often not heard. The submissions also showed that meeting notes and documents are often kept secret from carers[400], including notes from case plans, CARU notes, and outcomes and documents from annual reviews. Several carers also reported that, when they are included in meetings, they are given insufficient time and/or information to properly prepare for the meeting[401].

Insufficient support for carer and child

A pervasive theme emerged from the submissions that carers feel that their mental health and wellbeing was not supported by the Department[402]. Several carers reported disappointment with the fact that case workers do not check in with carers to see how they are going and to ask if they need any help, even in cases where children have been removed, transitioned out of care, have life threatening illnesses, and sadly, when children in care have passed away. The submissions showed that many carers are suffering from burnout and they are struggling, yet offered no support when they reach out to case workers or when the children are known to have challenging behaviours. Several carers wrote about their experiences with seeking support for challenging placements; case workers were quick to try to organise removal or raise a care concern instead of organising supports to keep the placement stable[403]. One submission which included focus on specialist care wrote that,

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[399] Including Submissions 4, 5, 18, 26, 28, 29, 30, 32, 34, 52, 56, 62, 84, 90, 99, 109, 136, 139, 146, 148, 156, 160, 165, 175, 181, 200.
[400] For example, Submissions 14, 30, 66, 113, 175.
[401] For example, Submissions 18, 84, 146, 160.
[402] For example, Submissions 3, 12, 24, 34, 39, 47, 73, 80, 83, 84, 90, 92, 99, 100, 115, 125, 130, 139, 145, 160, 164, 165, 170, 181, 192, 197, 200, 205.
[403] Including Submissions 14, 63, 87, 108, 111, 125, 130, 145, 180, 192.

while specialist carers receive extra funding and home visits, they are not offered any extra support, training or flexibility.

Multiple carers shared their concerns with respite care arrangements[404]. Overall, the submissions show that respite is either impossible to access or very difficult to organise. Carers reported that respite is promised but never delivered, even in cases where the children have very complex and aggressive behaviours, and in cases where children have very complex nursing needs (see also Chapter 8).

The Inquiry also received submissions that indicate a problem with carers being unallocated a case worker for lengthy time periods[405]. In some cases, carers are unallocated for 12 months or several years. Carers wrote that while they are unallocated, they have no access to NGO events for carers and children, training, or support that is offered to carers who are allocated.

The submissions showed that many carers feel the Department are providing insufficient support for financial and resourcing issues[406]. This included carers having to reduce their work hours so they can transport children to appointments, payments suddenly ceasing during respite care arrangements with no explanation or response, and no financial help from the Department in cases where carers had to make renovations to their house or purchase a new car to take on an extra child. Carers also reported difficulty obtaining funding for school support, and the Department refusing to pay for a child's first extracurricular activity and then offering to pay for their second activity once commenced. Carers feel that their family's needs are forgotten about by the Department unless they ask for funding, and they expressed that they are expected to use their insurance to pay for house and vehicle repairs. See also Chapter 9.

Carers also expressed that they are receiving insufficient support for children with suspected FASD[407]. The submissions showed that the Department are not supporting carers to get FASD assessments or diagnoses for the children in their care, with case workers displaying a lack of understanding of FASD (see also Chapter 7).

Practice context

Several submissions drew attention to reports of Departmental case workers and Aboriginal workers being overworked and burnt out, resulting in broken promises to carers and families[408]. The submissions indicated that case workers are under severe pressure from their caseloads and consequently don't have ample time or forget to action things they have promised, or making mistakes which could have been avoided. Carers expressed that case workers are failing to maintain their minimum expected contact with the children in their care, and some are failing to visit when it has been requested by the carer. Multiple carers also wrote about their concerns with the high turnover of Departmental case workers and kinship support workers[409]. Additionally, carers commented on the Department's lack of accountability or disciplinary action for staff wrongdoing[410].

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[404] For instance, Submissions 92, 111, 128, 130, 136, 181, 197.
[405] Such as Submissions 28, 30, 32, 87, 206.
[406] For example, Submissions 17, 23, 24, 34, 66, 83, 111, 136, 145, 152, 153, 160, 172, 181, 194.
[407] For example, Submissions 12, 14, 116.
[408] For example, Submissions 18, 73, 92, 103, 115, 149, 160, 180, 186, 189, 206.
[409] Including Submissions 12, 62, 73, 90, 113, 189, 200.
[410] For example, Submissions 27, 54, 92, 95, 136, 152, 160, 186, 196.

This included disappointment with senior staff (e.g., executives and managers) not leading by example and instances where senior practitioners were reported to scold PACs for not 'siding with the department'.

The Inquiry received submissions that indicate potential shortfalls in the Department's training for their case workers[411]. It was reported that there is a lack of skill-focused and ongoing communication training and coaching for staff, yet carers are reviewed on their communication with the Department. Carers also expressed their feelings that the Department exhibits a lack of empathic, trauma-responsive practice. Multiple carers wrote submissions about Departmental case workers lacking knowledge about their own policies and procedures[412]. Common issues included receiving inconsistent practice between different case workers and offices, and conflicting advice from the Department and other agencies.

Multiple carers expressed that Department staff behaviour is often driven by KPIs, compliance targets and a risk averse culture[413]. The rigidity of these were said to cause inconvenience for carers and families, and it was reported that staff have referred to children as their KPI. Additionally, carers feel that Departmental culture fails to encourage collaboration and partnership.

Through the submissions, the Inquiry was also made aware of carers feeling that some Departmental and support agency staff are overstepping their boundaries and acting in an unprofessional manner during home visits[414]. This included Departmental case workers and support workers complaining about their own children and struggles with parenthood with carers or sharing great detail about their personal lives without focusing on the child's and carers' support needs. Carers have expressed that these conversations are not helping them in their caring role.

Multiple carers reported issues with the Department's Complexity Assessment Tool (CAT)[415]. Disappointment from carers was expressed with how the tool can be manipulated and has not been updated or reviewed for several years. This was said to contribute to inequity and unfairness for carers. For example, children and young people who are assessed as category 1 are reported to receive no funding, but they may have very complex needs. See Chapter 9 for more detail.

Carers also raised concerns with the Department's training for carers[416]. Multiple carers expressed the view that carer training is not impactful or detailed enough, and it does not sufficiently prepare people for the caring role. Carers also reported that training is inflexible. For example, carers have to take time away from their children to attend regular training sessions in a Departmental location which carers feel could be offered at home. Training is also inconvenient for those carers who are working full time, sometimes up to seven days a week. Additionally, some carers wrote about their experiences with having to complete unnecessary training as the training uses a generalist approach and does not consider the different skill levels and occupations of carers. For example, some carers who work in the medical field and are competent with first aid are having to complete first aid training again. Carers also reported that training is not tailored to the different types of care

[411] For example, Submissions 58, 95, 103, 152, 160.
[412] Submissions 109, 113, 129, 136, 154, 160, 161, 167, 175, 186, 197, 200, 206
[413] Such as Submissions 113, 136, 152, 167, 187.
[414] Including Submissions 78, 187, 201.
[415] For example, Submissions 132, 136, 183.
[416] For example, Submissions 59, 60, 66, 126, 165, 185, 196, 197, 206.

provided (for example, respite carers have to complete the same training as general foster carers). The Inquiry also heard that carers are receiving conflicting or confusing advice from Department staff around which training is compulsory and which is optional, and one carer being told that they are not allowed to complete cultural training despite having an Aboriginal child in their care. Other issues with training included the Department not offering enough training for carers who are seeking additional knowledge and experience, and making carers pay for their own training.

Additional issues for kinship carers

Multiple submissions raised concerns with financial issues for kinship carers[417]. It was reported that many kinship carers sacrifice their employment and suffer losses of financial stability. Additionally, some kinship carers are pushed into poverty as the sudden intake of a child can mean the carers suddenly need to make upgrades to their house and car. Kinship carers also wrote about their experiences with kinship care payments ceasing without any notification, and the Department failing to deliver on promises for funding specific items. In one case, a kinship carer reported that the Department advised them they would need to become formal foster carers rather than kinship carers and complete training and assessment at their own cost.

Several submissions drew attention to the inappropriate disparity in support, education and training between kinship carers and foster carers[418]. It was reported that kinship carers feel like the 'poor cousins', and many have no kinship support worker, support for mental health, and no say in decisions about the child's care. The Inquiry also heard that kinship carers are often not provided with enough information or support regarding the cost of care and how it may impact their savings, superannuation and employment (see also Chapter 9). Further, it was reported that scoping for kinship carers is sometimes insufficient, and there can be barriers accessing the National Disability Insurance Scheme (NDIS) for children in kin care and difficulty getting respite organised.

Based on the submissions there are further issues experienced by grandparent kinship carers. For example, it was reported that some grandparent carers find it hard to get respite care approved, and they feel there is not sufficient training, support, or education to help with appropriate strategies for challenging children's behaviour.

Other issues for kinship carers include role clarity[419]. Some kinship carers expressed that they are unaware if they are recorded as kinship carers or foster carers. It was also reported that some kinship carers are unaware if they are entitled to any kinship care payments, and they feel that there is no real distinction between kinship care and foster care. The Inquiry also heard that non-Aboriginal kinship carers who are caring for Aboriginal children are not provided with access to cultural training or local support groups.

Additional issues for Aboriginal carers

Multiple submissions from Aboriginal carers reported a feeling of judgement from the Department[420]. They expressed feeling scrutinised for their parenting practices, made to feel inept, and judged through a 'white lens of parenting'. It was also reported that Aboriginal carers feel

[417] For example, Submissions 6, 14, 90, 136, 146, 168, 194.
[418] For instance, Submissions 6, 90, 108, 136, 146, 168, 181.
[419] For example, Submissions 39, 84, 181.
[420] Including Submissions 90, 145, 152, 160, 162.

undermined by the system, with Departmental and agency staff lacking cultural sensitivity and an understanding of mental health and wellbeing from an Aboriginal perspective. Aboriginal carers wrote about feeling unsupported by the Department and their support agencies. For example, it was expressed that there is no specific mental health support for Aboriginal and Torres Strait Islander carers. Further, many Aboriginal carers fear asking for support as they expect the Department to view this as them not coping and removing the children from their homes. Additionally, the Inquiry heard that many Aboriginal carers feel they are active participants in the welfare system that has undermined their culture and community for decades, and many feel they are not supported to connect their children to their culture.

The Inquiry received submissions that indicate Departmental case workers are not following the ATSICPP. For example, Aboriginal carers feel that case workers are placing children in foster care because it is easier than family scoping for Aboriginal kinship care and, when family scoping is conducted, it is not done properly. Aboriginal carers also reported receiving threats from the Department, telling them if they don't accept the child, they will go to residential care.

Aboriginal carers also reported that it is difficult or impossible to get support from Aboriginal practitioners[421]. When Aboriginal workers are involved in children's case plans, carers feel these staff cannot change anything and are just there for tokenistic purposes.

Additional issues for long term guardians

One of the most common issues for long term guardians was the application and approval process[422]. Carers reported that the process is often drawn out and unnecessarily complicated. Some carers reported the process taking 12 months, and for others it was long as approximately five years. Additionally, in one case a Departmental case worker was reported to have told a child that the carer did not want to seek LTG, when they actually were pursuing it.

Carers reported that they feel they are under additional scrutiny while applying for LTG[423]. The submissions showed that some carers had inaccurate or negative notes on their files which impacted their LTG assessments. Other examples included a carer's LTG application being put on hold for things held against the carer which was not their fault (such as missed medical appointments which carers had not been informed about), and an LTG application being withdrawn by the Department for previous disagreements with a carer, despite the child having a stable attachment with the carer for 9-10 years. Carers also wrote about their experiences with being excluded from meetings and conversations regarding LTG. Additionally, the Inquiry heard that carers often do not understand the practical implications of LTG, particularly the different financial agreements.

Summary of issues

The Department's policy and practice guidance provide for a partnership approach to working with foster and kinship carers, and the creation of the Statement of Commitment was welcomed by many as formalising and espousing the obligations of all parties involved in providing foster and kinship

[421] For instance, Submissions 152, 160, 162.
[422] For example, Submissions 17, 28, 90, 129, 136, 158, 160, 166, 196, 206.
[423] For example, Submissions 30, 90, 107, 136, 142, 158, 165.

care. The legal obligations under the CYPS Act for working in partnership don't appear to extend to foster carers.

However, the submissions show that carers do not feel the pillars of the Statement of Commitment are being upheld. Carers do not feel informed, supported, consulted, valued or respected. It is also concerning that the Inquiry heard that some carers and staff are not even aware the Statement exists. Based on the submissions it appears that the Department's partnerships with other bodies, namely the peaks and support agencies, are stronger than their partnerships with carers. This was reflected in carers' submissions who detailed their experiences with support agencies not advocating for them, telling them that they support the child and not the carer, and prioritising their relationships with the Department. This may particularly be a problem for CFKC-SA who receive their funding from the department. The fact that the Department's NFP contract creates a legal contractual relationship between the Department and support agencies but not between the Department and carers, or service providers and carers, should be reviewed as carers are entering agreements with service providers which are not reciprocated. Additionally, the Department's foster carer agreement places all responsibility on carers, which inherently creates an imbalance in their relationship with the Department. It may also inadvertently protect Department staff from not delivering on their promises which the submissions show are often broken.

The Inquiry heard from many carers who felt they had received unjust treatment from the Department. The foster carer agreement places all responsibility on carers, yet Department staff have demonstrated a lack of appreciation for the hard work carers are undertaking. Reported experiences included general disrespect, being ignored, being done to and not with, condescending tones, bullying, intimidation and threats. Carers are also under constant scrutiny and being controlled by Departmental case workers through unreasonable demands. The power imbalance leads to carers fearing punishment from the Department, and choosing to stay quiet to avoid retribution. Those who do speak up face the consequences, which often takes the form of being excluded and dismissed by staff or the generation of care concerns. The submissions also indicate that Department staff are not maintaining communication commitments to carers as they are often unreachable via phone and email, and they have failed to keep carers informed of children's information upon intake, children's appointments, and changes to their case management. Additionally, carers feel they are excluded from the care team as they are excluded from annual reviews and decisions about the children's care. When meetings are held without the carer, the notes are often withheld. Caring for children is undoubtedly a challenging task and these factors compound the stress experienced by carers. Despite this, carers report they are not receiving any support from Department staff for their mental health and wellbeing and, when they do try to ask for help, staff are quick to offer removal or raise a care concern. Carers have also reported on the difficulties in trying to get respite organised despite it being promised and outlined in Departmental policy documents. Similarly, carers are not receiving enough support for FASD assessments for the children in their care.

Based on the submissions, several of these issues appear related to internal problems with the Department's practice context. There is high turnover of case workers and those who stay are overworked. The high turnover may lead to carers being unallocated (and subsequently receiving insufficient support) for periods of time. Carers have reported that Department staff behaviour appears to be driven by KPIs and compliance targets, and many appear to be lacking in knowledge of their policies, indicating a need for further attention on training for staff. Additionally, carers feel

that staff are engaging in inappropriate conversations with carers and acting in an unprofessional manner.

Evidence put forward to the Inquiry also suggests inequity for kinship carers, Aboriginal carers, and long term guardians. Kinship carers are experiencing a disparity in support, education and training compared to foster carers, and some are not receiving enough education on how kinship care may impact their savings, superannuation or employment. Aboriginal carers feel they are being racially judged through a white lens of parenting which shows no consideration of Aboriginal parenting practices or Aboriginal perspectives on mental health and wellbeing. The Inquiry also heard that Department staff are failing to follow the ATSICPP as some are preferencing foster care placements instead of completing thorough family scoping for kinship care. Evidence suggests the LTG processes are unnecessarily complicated and long drawn out for carers, which only has negative impacts on the carers and children. The additional scrutiny also appears to be unfair as long term guardians are suddenly cut off from department support.

The Inquiry believes that these issues are contributing to the current crisis in the foster and kinship care system, with carer retention suffering. The Inquiry believes that meaningful change is needed from the Department in order to look after their carers, which will then help with future recruitment.

Recommendations

The Inquiry makes the following recommendations:

13. That the CYPS Act be amended to ensure foster carers are included in the partnership approach set out in Section 14 (1) (a).

14. That there is a review of the contractual arrangements and agreements between the Department, support agencies and carers to ensure that services agreements and carer agreements are transparent in the obligations of all parties, including joint responsibilities for children and young people in care, and that they transparently address service and conduct issues. The review should also:
    - Ensure that agreements outline the obligations of support agencies to provide support to carers and the methods by which any potential conflicts of interest will be dealt with to ensure carers remain supported in their roles
    - Include any Departmental policy or practice guidance (e.g., Who Pays for What) in which parties' obligations to children in care are ambiguous

15. That the independent status of the peak body, Connecting Foster and Kinship Carers South Australia, be enshrined in legislation, or in their contact of service, or both.

16. That carers and their families can access the Department's or support agencies' employee assistance programs. Where such arrangements already exist, that carers are made aware of their entitlements in this regard.

17. That an interactive foster and kinship care portal be created that enables foster and kinship carers to perform the following functions:

- Find and store the contact details of key personnel including the child's care team members, Departmental and support staff supervisors and managers, educators and healthcare providers
- Schedule meetings with Departmental staff and support agencies
- Access and share details of key appointments, assessments and other information relating to the child or young person with the care team
- View and contribute to care plans and care agreements
- Contribute to the child or young person's annual review
- Plan, seek and book respite arrangements
- Identify and book training and professional development events
- Access Departmental policies and procedures
- Submit requests for reimbursement, keep track of progress and be advised of payments
- Submit requests for assessments for children and young people
- Access and complete regularly used forms (for example, Centrelink forms, NDIS applications, school enrolment)
- Submit feedback, including reflective questionnaires and complaints.

Chapter 7. Rights of children and young people in care

This chapter of the report addresses Term of Reference (TOR) 4.2:

The rights of children in foster care and kinship care (including their rights relating to safety, cultural identity, access to services and opportunities, autonomy and decision-making) are respected, addressed and realised.

Introduction

The Inquiry received submissions that had relevance to TOR 4.in the following seven areas:

1. The rights of children and young people to access physical and mental healthcare
2. Children and young people's rights to access education and education support
3. Children and young people's rights to safety, stability and attachment
4. The rights of children and young people to have connectedness to family
5. Children and young people's rights to their cultural identity
6. The rights of children and young people to be included in decision making and to have their voice heard
7. The right of children and young people to receive support as they transition out of care

The importance of the availability and enaction of these rights in the delivery of foster and kinship care in Australia is consistently recalled by previous Inquiries and Royal Commissions [424]. Findings from previous federal and state reviews of child protection suggest that children and young people in care have faced challenges in having their rights met in the areas identified by submissions to this Inquiry for several years.

For example, the Senate Inquiry into Out of Home Care[425] reported a high incidence of chronic health issues among children and young people in care, which was suspected to be the result of a lack of access to healthcare services. Regarding rights to education, the Nyland report[426] identified that schools were reluctant to enrol children in care and, when enrolled, the schools did not explore sufficient supports for the children's behaviour before they were suspended or excluded. Placement instability has been a major theme in child protection reviews dating back to Layton's 2003 report[427], including a pervasive perception that the Department prioritises the removal of children ahead of

[424] See for example: Layton, R. (2003). *Our best investment: A state plan to protect and advance the interests of children*; Mulligan, E. P. (2008). *Children in state care: Allegations of sexual abuse and death from criminal conduct*; Commonwealth of Australia. (2015). *Out of home care*; Parliament of South Australia. (2015). *Interim report of the select committee on statutory child protection and care in South Australia*; Nyland, M. (2016). *Child protection systems royal commission report*.
[425] Commonwealth of Australia. (2015). *Out of home care.*
[426] Nyland, M. (2016). *Child protection systems royal commission report.*
[427] Layton, R. (2003). *Our best investment: A state plan to protect and advance the interests of children.*

offering the support needed to prevent breakdowns[428,429,430,431,432]. Meanwhile, when reporting on the right of children and young people to have a connectedness to family, previous reviews show that issues with birth family contact have been longstanding[433]. In addition, previous child protection reviews reported several issues related to children and young people in care and their rights to cultural support and identity, including consistent reporting that the Aboriginal and Torres Strait Islander Child Placement Principle (ATSICPP) is not appropriately supported through policies and legislation and that children are continuously not being placed in accordance with the Principle[434]. Previous Inquiries and Royal Commissions have also highlighted that, historically, children and young people have been excluded from decisions about placements, case planning and annual review planning, and transition and future planning, despite them being of an appropriate age to contribute[435]. Finally, previous Inquiries and Royal Commissions have also found that the right of young people to receive support as they transition out of care is not always implemented, with the Nyland report describing service provider perceptions that care leavers at 18 years of age are not developmentally mature enough to independently negotiate the adult world without support from a case worker[436].

Standards, conventions and legislation protecting children's rights

Articles 24, 23, and 39 of the United Nations Convention on the Rights of the Child[437], Standards 4 and 5 of the National Standards for Out-of-Home Care[438], Dimension 1 of South Australia's Outcomes Framework for Children and Young People[439], and the Charter of Rights for Children and Young People in Care[440] all support the rights of children and young people to **access physical and mental healthcare.** The National Clinical Assessment Framework for Children and Young People in Out-of-Home Care[441] outlines an approach to improve responses to address the various health needs of children and young people in out-of-home care in Australia. While the CYPS Act itself makes no

[428] Layton, R. (2003). *Our best investment: A state plan to protect and advance the interests of children*; Mulligan, E. P. (2008). *Children in state care: Allegations of sexual abuse and death from criminal conduct*; Commonwealth of Australia. (2015). *Out of home care*; Parliament of South Australia. (2015). *Interim report of the select committee on statutory child protection and care in South*

[429] Mulligan, E. P. (2008). *Children in state care: Allegations of sexual abuse and death from criminal conduct.*

[430] Nyland, M. (2016). *Child protection systems royal commission report.*

[431] Parliament of South Australia. (2015). *Interim report of the select committee on statutory child protection and care in South Australia.*

[432] Commonwealth of Australia. (2015). *Out of home care.*

[433] Commonwealth of Australia. (2015). *Out of home care*; Nyland, M. (2016). *Child protection systems royal commission report.*

[434] Layton, R. (2003). *Our best investment: A state plan to protect and advance the interests of children*; Parliament of South Australia. (2015). *Interim report of the select committee on statutory child protection and care in South Australia*; Nyland, M. (2016). *Child protection systems royal commission report.*

[435] Layton, R. (2003). *Our best investment: A state plan to protect and advance the interests of children*; Parliament of South Australia; Commonwealth of Australia. (2015). *Out of home care*; Nyland, M. (2016). *Child protection systems royal commission report.*

[436] Nyland, M. (2016). *Child protection systems royal commission report.*

[437] United Nations. (1989). *Convention on the Rights of the Child.*

[438] Commonwealth of Australia. (2011). *An Outline of National Standards for out-of-home care.*

[439] Child Development Council. (2019). *South Australia's Outcome Framework for Children and Young People.*

[440] Guardian for Children and Young People. (2021). *Charter of Rights for Children and Young People in Care.*

[441] Australian Population Health Development Principal Committee. (2011). *National Clinical Assessment Framework for Children and Young People in Out-of-Home Care (OOHC)*.

specific reference to the assessment of or support for the health needs of children in care, Chapter 2 of the CYPS Act[442], the Parliament of South Australia recognises that, as a State, it wants each child and young person to benefit from (at least) the following outcomes: 'to be safe from harm' and 'to enjoy a healthy lifestyle' (Section 4(2)(a) & (c))[443].

The rights of children and young people to access **education and education support** are protected by Articles 28 and 29 of the United Nations Convention on the Rights of the Child[444]. These rights are also addressed in Standards 4, 6, and 7 of the National Standards for Out-of-Home Care[445]. Standards 6 and 7 explicitly promote that children in care are to receive opportunities to experience early learning, education, training and development that enable them to fulfil their potential and maximise life opportunities[446]. At the state level, Children and young people's rights to education are addressed in Dimension 4 of South Australia's Outcomes Framework for Children and Young People[447] and Section (2) of the CYPS Act[448]. The Charter of Rights for Children and Young People in Care includes the right to a good education, which comprises going to a school or training that is right for the child, having the tools to support their learning, getting extra support if they need it (especially if the child has a disability or learning difficulties), and having their potential recognised, with opportunities to develop their talents and interests[449].

Articles 3, 19, and 25 of the United Nations Convention on the Rights of the Child[450], Section 4 (2a), Section 7, Section 8 (1), Section 10 (1) and Section 11 (1) of the CYPS Act[451], and Dimension 2 of South Australia's Outcomes Framework for Children and Young People[452] all support children and young people's rights to **safety, stability and attachment**. Australia's National Principles for Child Safe Organisations[453], published by the Australian Human Rights Commission in 2018 and developed in response to recommendations from The Royal Commission into Institutional Responses to Child Sexual Abuse, also address children's rights to safety and security. These rights are also addressed in the Charter of Rights for Children and Young People in Care[454] and Standard 1 of the National Standards for Out-of-Home Care, which states that 'children and young people will be provided with stability and security during their time in care'[455]. The Statement of Commitment[456] for foster and kinship carers which makes reference to children's rights to safety and stability, outlining that 'children and young people have the right to receive safe, nurturing and competent care that recognises and respects their identity, and supports them to grow, develop and reach their full

[442] Government of South Australia. (2017). *Children and Young People (Safety) Act.*
[443] Ibid.
[444] United Nations. (1989). *Convention on the Rights of the Child.*
[445] Commonwealth of Australia. (2011). *An Outline of National Standards for out-of-home care.*
[446] Ibid.
[447] Child Development Council. (2019). *South Australia's Outcome Framework for Children and Young People.*
[448] Government of South Australia. (2017). *Children and Young People (Safety) Act.*
[449] Guardian for Children and Young People. (2021). *Charter of Rights for Children and Young People in Care.*
[450] United Nations. (1989). *Convention on the Rights of the Child.*
[451] Government of South Australia. (2017). *Children and Young People (Safety) Act.*
[452] Child Development Council. (2019). *South Australia's Outcome Framework for Children and Young People.*
[453] Australian Human Rights Commission. (2018). *National Principles for Child Safe Organisations.*
[454] Guardian for Children and Young People. (2021). *Charter of Rights for Children and Young People in Care.*
[455] Commonwealth of Australia. (2011). *An Outline of National Standards for out-of-home care.*
[456] Connecting Foster and Kinship Carers SA Inc., Child and Family Focus SA., & Department for Child Protection. (2020). *Statement of commitment: South Australian foster and kinship carers.*

potential'. In the Statement, the Department outlines their responsibility to act in the best interests of children to maintain their safety.

Children and young people's rights to **connectedness to family** are addressed in Articles 7 and 9 of the United Nations Convention on the Rights of the Child[457], Standards 9 and 10 of the National Standards for Out-of-Home Care[458], and Dimension 3 of South Australia's Outcomes Framework for Children and Young People[459]. Section 8 (3), Section 11 (1b), Section 93 (1, 3a and b, 4a and b, 6, and 7), and Section 95 (1a and 4) of the CYPS Act all relate to children and young people's rights to connectedness to their family[460]. The Charter of Rights for Children and Young People in Care[461] reinforces children's rights to be connected with their family within the right for children to have contact with the people who matter to them, encompassing children being able to keep in regular contact with their siblings, family, friends and other important people in their life, providing it is safe to do so.

The rights of children and young people to their **cultural identity** are enshrined in Articles 8 and 30 of the United Nations Convention on the Rights of the Child[462], in Articles 14 (3), 21 (2), and 22 (2) of the United Nations Declaration on the Rights of Indigenous Peoples[463], in Standards 3, 8 and 10 of the National Standards for Out-of-Home Care[464], Dimension 3 of South Australia's Outcomes Framework for Children and Young People[465], Section 12 (2a and 3b and c) of the CYPS Act[466], and in the Charter of Rights for Children and Young People in Care[467]. In the Australian context, The ATSICPP, as explained by the Secretariat of National Aboriginal and Islander Child Care (SNAICC)[468], is to be applied for all Aboriginal and Torres Strait Islander children entering out-of-home care in Australia. The first principle, Prevention, focuses on Aboriginal and Torres Strait Islander children's right to be raised within their own family and community, while the third principle outlines how the placement of Aboriginal and Torres Strait Islander children in care should be prioritised. Additionally, priority groups of the National Framework for Protecting Australia's Children[469] include Aboriginal and Torres Strait Islander children, with the principles of the Framework including 'Trauma-informed, culturally safe and inclusive policies and actions' and 'embedding the five elements of the Aboriginal and Torres Strait Islander Child Placement Principle'.

The rights of children and young people to be **included in decision making and to have their voices heard** are described in Article 12 of the United Nations Convention on the Rights of the Child[470],

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[457] United Nations. (1989). *Convention on the Rights of the Child.*
[458] Commonwealth of Australia. (2011). *An Outline of National Standards for out-of-home care.*
[459] Child Development Council. (2019). *South Australia's Outcome Framework for Children and Young People.*
[460] Government of South Australia. (2017). *Children and Young People (Safety) Act.*
[461] Guardian for Children and Young People. (2021). *Charter of Rights for Children and Young People in Care.*
[462] United Nations. (1989). *Convention on the Rights of the Child.*
[463] United Nations. (2007). *Declaration on the Rights of Indigenous Peoples*.
[464] Commonwealth of Australia. (2011). *An Outline of National Standards for out-of-home care.*
[465] Child Development Council. (2019). *South Australia's Outcome Framework for Children and Young People.*
[466] Government of South Australia. (2017). *Children and Young People (Safety) Act.*
[467] Guardian for Children and Young People. (2021). *Charter of Rights for Children and Young People in Care.*
[468] Secretariat of National Aboriginal and Islander Child Care. (2018). *Understanding and applying the Aboriginal and Torres Strait Islander Child Placement Principle: A resource for legislation, policy, and program development.*
[469] Commonwealth of Australia. (2021). *National Framework for Protecting Australia's Children.*
[470] United Nations. (1989). *Convention on the Rights of the Child.*

Standard 2 of the National Standards for Out-of-Home Care[471], Principle 2 of the National Principles for Child Safe Organisations[472], Dimension 5 of South Australia's Outcomes Framework for Children and Young People[473], Principle 2 (Partnership) and 4 (Participation) of the ATSICPP[474], Sections 4 (2d), 4 (4), 8 (1), 10 (1b), 84 (4), 85 (1, 2), 157 (1), and 159 of the CYPS Act[475], and in the Charter of Rights for Children and Young People in Care[476]. In addition, the Statement of Commitment also reiterates that children must be empowered to make decisions about their own lives[477], while the principles of the National Framework for Protecting Australia's Children include 'Listening and responding to the voices and views of children and young people, and the views of those who care for them'[478].

Finally, the right of children and young people to **receive support as they transition out of care** is addressed in Standard 13 of the National Standards for Out-of-Home Care[479], Dimension 5 of South Australia's Outcomes Framework for Children and Young People[480], and Sections 111 (1) and 112 (1, 2, 3) of the CYPS Act[481]. Note, however, that subsection (5) of Section 112 (3) of the CYPS Act states that an offer of assistance made to a care leaver 'does not create legally enforceable rights or entitlements[482]. Meanwhile, the Charter of Rights for Children and Young People in Care[483] enshrines children and young people's rights to receive the support they need so they can prepare to leave care and feel confident about their future. Specifically, children and young people who are transitioning out of care should be at the centre of planning for their move out of care, have a safe place to live when they leave care, and be able to continue or begin studying, training, or working when they leave care, know where they can go for help after they leave care, and be able to stay in contact with people who were important to them whilst in care.

Governance and practice framework

The rights of children and young people to access physical and mental healthcare

The Department's 'Who can say OK?' guidelines note that 'where a general practitioner refers a child to a specialist' for non-routine medical treatment (e.g., a paediatrician) 'for further assessment, the decision to pursue the referral must be made by a Departmental supervisor'[484]. Consent for initial allied health treatments is to be provided by the Departmental case worker in consultation with the

[471] Commonwealth of Australia. (2011). *An Outline of National Standards for out-of-home care.*
[472] Australian Human Rights Commission. (2018). *National Principles for Child Safe Organisations.*
[473] Child Development Council. (2019). *South Australia's Outcome Framework for Children and Young People.*
[474] Secretariat of National Aboriginal and Islander Child Care. (2018). *Understanding and applying the Aboriginal and Torres Strait Islander Child Placement Principle: A resource for legislation, policy, and program development.*
[475] Government of South Australia. (2017). *Children and Young People (Safety) Act.*
[476] Guardian for Children and Young People. (2021). *Charter of Rights for Children and Young People in Care.*
[477] Connecting Foster and Kinship Carers SA Inc., Child and Family Focus SA., & Department for Child Protection. (2020). *Statement of commitment: South Australian foster and kinship carers.*
[478] Commonwealth of Australia. (2021). *National Framework for Protecting Australia's Children.*
[479] Commonwealth of Australia. (2011). *An Outline of National Standards for out-of-home care.*
[480] Child Development Council. (2019). *South Australia's Outcome Framework for Children and Young People.*
[481] Government of South Australia. (2017). *Children and Young People (Safety) Act.*
[482] Ibid.
[483] Guardian for Children and Young People. (2021). *Charter of Rights for Children and Young People in Care.*
[484] Department for Child Protection. Who can say OK? Making decisions about children in family-based care. September 2019, p. 20.

carer and the health professional making the referral[485]. These guidelines also indicate that 'outcomes of health checks and assessments must be communicated with the carer and be recorded in the child or young person's case plan'[486]. This is supported by the 'Supporting children and young people in care' chapter of the Manual of Practice[487], which requires that Departmental case workers 'proactively work with the child and their care team to identify and respond to their emotional and psychological needs' upon placement and throughout the child's time in care[488].

In response to the Inquiry's requests for information (RFI), the Department stated that case workers should consider recommendations made by any professionals and action them as appropriate[489]. They also stated that if a Departmental case worker decides not to action a recommendation, a rationale should support that decision, and the rationale for a decision to respond or not respond to advice from a medical professional should be reflected in the child's case plan. The Department's RFI response also noted that if a case worker decides not to follow medical advice, it is important that they seek a second opinion[490]. The availability of Departmental Psychological Services was also highlighted[491].

The 'Supporting children and young people in care' chapter of the Department's Manual of Practice includes a segment on considerations that case workers and health professionals must have when organising health assessments for Aboriginal and Torres Strait Islander children and young people in care[492]. These considerations include the complexity and diversity of Aboriginal people and the holistic nature of Aboriginal views of health, where social and emotional wellbeing encompasses individual physical wellbeing as well as social, emotional and cultural wellbeing of individuals and the community. This chapter also reminds Departmental case workers that the 'use of culturally biased assessment tools and the relationship between the assessor and the child and young person may not provide an accurate picture of the diagnosis and needs of the child or young person'[493].

Children and young people's rights to access education and education support

The Department's 'Investing in their future' strategy[494] includes a focus on increased access to education and training. The Department has also noted that they are actively partnering with government, non-government and philanthropic partners to investigate new ideas to better support children and young people in care, with one of the partners being the Department for Education[495]. The Department's 'Who can say OK?' guidelines state that Departmental case workers are

[485] Ibid.
[486] Department for Child Protection. Who can say OK? Making decisions about children in family-based care. September 2019, p. 18.
[487] Department for Child Protection. Manual of Practice: Supporting children and young people in care chapter. *Remove the child or young person from a placement.* Version 5.11, June 2022.
[488] Department for Child Protection. Manual of Practice: Supporting children and young people in care chapter. *Identify and respond to the psychological and emotional needs of the child or young person.* Version 5.11, June 2022, p. 40.
[489] Department for Child Protection. Request for information: Narrative response 2. Received 11 July 2022.
[490] Ibid.
[491] Department for Child Protection. Request for information: Narrative response 1. Received 27 May 2022.
[492] Department for Child Protection. Manual of Practice: Supporting children and young people in care chapter. *Access health services for the child or young person.* Version 5.11, June 2022.
[493] Ibid., p. 32.
[494] Department for Child Protection. Request for information: Narrative response 1. Received 27 May 2022.
[495] Ibid.

responsible for ensuring that children in care are enrolled in a government school[496]. This includes ensuring that the child is consulted about their needs and options for school enrolment. The document states that the Department may sometimes approve the enrolment of a child or young person in a non-government school and contribute toward payment of school fees. When a child is transitioning between different schools, the Departmental case worker must follow the enrolment procedures outlined in 'Who can say OK?' and consult with education staff in order to provide the relevant transition support[497].

Children and young people's rights to safety, stability and attachment

The Department's 'Every Effort for Every Child' strategy is underpinned by a commitment to permanent, stable and therapeutic care, which includes a focus on enhancing quality and safety for children and young people in care[498]. Within the Department's internal Practice Approach summary guide[499], it is indicated that the safety of children and young people must be considered and prioritised in relation to all case planning and interventions. The 'practice approach is informed by children and young people's attachment needs'[500], with permanency planning promoted for all children and young people subject to the Department's intervention in order to reduce short-term and multiple placements[501]. The Department's focus on attachment is also outlined in the Department's 'Foundational theories and knowledge' practice paper concerning attachment[502]. In the 'Supporting children and young people in care' chapter of the Manual of Practice[503], it is noted that decisions to remove a child or young person from a placement 'must be made with the utmost consideration of the child or young person's safety, stability, attachment and future emotional wellbeing'[504]. Children and young people's safety, stability, and attachment needs also receive focus in the Department's 'Every effort for every child'[505] strategy. For example, Priority 5 of this strategy focuses on enhancing quality and safeguarding, with guiding principles including promoting stability and permanency.

The rights of children and young people to have connectedness to family

The Department's 'Who can say OK?'[506] guidelines note a commitment to considering the views of the child, their parents and family, their carer and other relevant people in the child's life when making decisions around family contact arrangements. These guidelines indicate that a child's contact needs must have consideration for the ATSICPP, and the Department must also inform foster

[496] Department for Child Protection. Who can say OK? Making decisions about children in family-based care. September 2019.
[497] Ibid.
[498] Department for Child Protection. Request for information: Narrative response 1. Received 27 May 2022.
[499] Department for Child Protection. DCP practice approach summary guide. December 2019.
[500] Ibid., p. 12.
[501] Ibid., p. 14.
[502] Department for Child Protection. Foundational theories and knowledge and practice paper: Attachment. Version 1.2, March 2021.
[503] Department for Child Protection. Manual of Practice: Supporting children and young people in care chapter. *Remove the child or young person from a placement.* Version 5.11, June 2022.
[504] Ibid. 136.
[505] Department for Child Protection. Every effort for every child: South Australia's strategy for children and young people in care 2020-2023. January 2020.
[506] Department for Child Protection. Who can say OK? Making decisions about children in family-based care. September 2019.

and kinship carers of any cancellations or changes to contact arrangements as soon as possible. Further guidance to Departmental case workers is provided in the Department's 'Foundational theories and knowledge' practice paper concerning attachment[507]. Here, case workers are advised to 'give serious consideration to the way children and young people respond to family contact visits and, if they are showing signs of distress, consideration may need to be given to either changing or suspending the visits'[508]. Additionally, the practice paper outlines that the nature of these contact visits can 'undermine the infant or young child's ability to form a healthy attachment relationship with their carer'[509]. Departmental case workers are encouraged to consult with principal social workers, PACs or psychologists to discuss attachment issues related to contact, especially when making important decisions about changing contact arrangements[510].

Children and young people's rights to their cultural identity

The Department's 'Foundational theories and knowledge' practice papers concerning relationship based practice[511] and working with culturally and linguistically diverse people[512] together with the Department's practice approach[513], 'Who can say OK?'[514] guidelines, and the 'Supporting children and young people in care' chapter of the Manual of Practice[515] all note the importance of cultural safety and cultural responsiveness in working with children, young people and families from culturally and linguistically diverse backgrounds. This includes being responsive, seeking advice and assistance from the Department's Multicultural Services and using genograms and ecomaps as tools to navigate kinship and support systems for children from culturally and linguistically diverse (CALD) backgrounds and to understand the cultural factors that may impact their relationships. The importance of supporting children from CALD backgrounds to have strong connections to their culture, with this reflected in their case plans and Cultural Maintenance Plan is also highlighted[516]. The Department's Culturally and Linguistically Diverse child placement policy[517] further outlines that the long-term care plan for a child from a CALD background must contain a cultural maintenance plan, and Department staff must consult with appropriate departmental CALD staff, family and community members regarding the cultural needs of the child[518].

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[507] Department for Child Protection. Foundational theories and knowledge practice paper: Attachment. Version 1.2, March 2021.
[508] Ibid., p. 14.
[509] Ibid., p. 14.
[510] Ibid.
[511] Department for Child Protection. Foundational theories and knowledge practice paper: Relationship based practice. (n.d.).
[512] Department for Child Protection. Foundational theories and knowledge practice paper: Working with diversity – Culturally and Linguistically Diverse people. Version 1.0, June 2020.
[513] Department for Child Protection. DCP practice approach summary guide. December 2019.
[514] Department for Child Protection. Who can say OK? Making decisions about children in family-based care. September 2019.
[515] Department for Child Protection. Manual of Practice: Supporting children and young people in care chapter. *Identify and respond to the cultural needs of children and young people who are culturally and linguistically diverse (CALD)*. Version 5.11, June 2022.
[516] Department for Child Protection. Foundational theories and knowledge practice paper: Working with diversity – Culturally and Linguistically Diverse people. Version 1.0, June 2020.
[517] Department for Child Protection. Culturally and linguistically diverse child placement policy. Version 1.0, January 2021.
[518] Ibid.

The guiding principles for the Department's 'Every effort for every child' strategy[519] include honouring the ATSICPP. The Department's 'Who can say OK?' guidelines[520] outline that decisions about Aboriginal children must be made in accordance with the ATSICPP. The Department's practice approach[521] notes that Departmental case workers must ensure that all families are asked about their cultural identity and that specialised supports are available for any Aboriginal child or young person. Case planning and decision-making for Aboriginal children in care must always include a focus on connection to their Aboriginal identity and family and recognise the importance of culture for their healing and safety.

The 'Supporting children and young people in care' chapter in the Department's 'Manual of Practice' outlines the role of case workers in identifying and responding to the cultural needs of Aboriginal children and young people[522]. This section describes Departmental case workers' critical role in maintaining Aboriginal children's connection to family, community, country and culture, and their responsibility to support the implementation of the Aboriginal Cultural Identity Support Tool (ACIST) and Aboriginal Life Story Book. It also indicates that case workers should provide Aboriginal children with opportunities to connect with culturally appropriate services and organisations as needed, including Aboriginal mentoring and education programs[523]. The 'Manual of Practice' also indicates that Aboriginal children who are not placed on their Country must have the opportunity to explore regular return to Country visits. Return to Country must be prioritised to facilitate healing and support the child's connection to culture. It is crucial that Departmental case workers work closely with a PAC or Aboriginal practitioner to develop any return to Country plans[524].

The rights of children and young people to be included in decision making and to have their voice heard

In the Department's response to an Inquiry RFI[525], the Department indicated that they provide all children with a care complaint resolution pathway, and they offer support to ensure the child has support to exercise their rights, which includes the engagement of a senior executive group member to support the investigation. The Department also reported that the views and opinions of children are captured through Viewpoint, a computer-based, interactive, self-interviewing tool for children aged 5-17 who have been in care for three months or more.

The Department's 'Child and Youth Engagement Strategy 2021-23'[526] was built in collaboration with children and aims to improve the child protection system by empowering children to have their voices heard and making joint decisions to support their needs. Meanwhile, the Department's

[519] Department for Child Protection. Every effort for every child: South Australia's strategy for children and young people in care 2020-2023. January 2020.
[520] Department for Child Protection. Who can say OK? Making decisions about children in family-based care. September 2019.
[521] Department for Child Protection. DCP practice approach summary guide. December 2019.
[522] Department for Child Protection. Manual of Practice: Supporting children and young people in care chapter. *Identify and respond to the cultural needs of Aboriginal children and young people.* Version 5.11, June 2022.
[523] Ibid.
[524] Ibid.
[525] Department for Child Protection. Request for information: Narrative response 1. Received 27 May 2022.
[526] Department for Child Protection. DCP Child and Youth Engagement Strategy 2021-2023.

'Supporting the participation of children and young people in decision making' practice paper[527] includes the rights of children to participate in decisions regarding their care. The practice paper states that:

> 'children and young people are a crucial part of their care team and should be invited to participate in meetings, unless they do not have the developmental capacity to participate, have expressed a wish not to participate or it is considered not to be in their best interests'[528].

The Departmental practice approach[529] , together with the 'Supporting children and young people in care chapter' of the Manual of Practice[530] , further reinforces the rights of children and young people to have their voices heard in decisions about their care. There is a focus on relationship-based practice, which provides that Departmental case workers must actively seek and promote children and young people's participation and collaboration in decision-making and case planning[531].

The right of children and young people to receive support as they transition out of care

Priority 4 of the 'Every Effort for Every Child' strategy[532] is improving transitions from care. In this document, the Department acknowledges their role in preparing children and young adults for adulthood and breaking the cycle of intergenerational involvement with the child protection system. This role includes supporting young people to live independently as young adults or to stay with their care family for longer. The Department has highlighted to the Inquiry that the 'Every Effort for Every Child' and Investing in their future strategies both include a focus on improving transitions into adulthood[533]. The 'Other Financial Support' factsheet[534] contains information to assist young people in transitioning from care and accessing post-care services. This factsheet also outlines the range of entitlements available to young people, including financial assistance by way of funds and grants.

Submissions to the Inquiry

The rights of children and young people to access physical and mental healthcare

Submissions to the Inquiry about the rights of children and young people in foster and kinship care to access physical and mental healthcare centred on two linked issues. Firstly, access to healthcare and medical support and secondly, the Department's internal procedures and protocols for providing access to healthcare and medical support (see also Chapter 9). Submissions from multiple

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[527] Department for Child Protection. Supporting the participation of children and young people in decision making practice paper. Version 2.0, June 2022.
[528] Department for Child Protection. Supporting the participation of children and young people in decision making practice paper. Version 2.0, June 2022, p. 2.
[529] Department for Child Protection. DCP practice approach summary guide. December 2019.
[530] Department for Child Protection. Manual of Practice: Supporting children and young people in care chapter. *Support the placement.* Version 5.11, June 2022.
[531] Department for Child Protection. DCP practice approach summary guide. December 2019, pp. 11, 19; Department for Child Protection. Manual of Practice: Supporting children and young people in care chapter. *Support the placement.* Version 5.11, June 2022, p. 18.
[532] Department for Child Protection. Every effort for every child: South Australia's strategy for children and young people in are 2020-2023. January 2020.
[533] Department for Child Protection. Request for information: Narrative response 1. Received 27 May 2022.
[534] Department for Child Protection. Other financial support factsheet. July 2019.

foster and kinship carers, organisations and statutory bodies referred to a deficit in the Department's focus on the healthcare needs of children and young people in foster and kinship care, including their physical and medical health and their emotional and psychological wellbeing[535].

Access to healthcare and medical support

The Inquiry received many submissions which detailed the difficulties foster and kinship carers experienced in accessing appropriate physical and medical healthcare services through the Department for the children in their care[536]. Submissions to the Inquiry described incidents in which the Department reportedly ignored advice from medical practitioners and other health professionals who made recommendations for several children in care. This included children who required assistance with significant delays and disabilities because of neglect and abuse experienced prior to their placement. The Department was reported by submissions to the Inquiry as ignoring the requests of foster and kinship carers for medical attention for the children in their care, including for children with significant health conditions, significant developmental concerns, and children with FASD. In their submission, CFKC-SA expressed that carers report complexity in accessing support and testing from professionals to organise a FASD diagnosis for the young people in their care and are often blamed for causing the children's behaviour.[537] To further contextualise this, Inquiry submissions included a foster carer reporting that the Department had continually denied their requests for FASD assessments for the child in their care, and after the young person left their home and became involved in residential care and the youth justice system, the carer later heard that the child was confirmed to have FASD. The Inquiry notes that, in response to one of The Inquiry's requests for information, the Department stated that carers of children with FASD are supported in accessing specialised training[538].

Various submissions were related to children and young people with a disability or developmental delay. Given the number of children in care with a disability or developmental delay, it is important that Departmental offices are connected with disability services.

Multiple submissions from carers provided examples of instances where medical treatments and procedures were not believed to have been provided in a timely manner or were denied altogether[539]. In particular, submissions from multiple kinship carers recounted experiences where their children's ear, nose and throat assessments and procedures were delayed or completely unattended for some time, causing preventable developmental delays; children being unable to receive surgical treatments, and counselling and post-natal care.

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[535] For example, Submissions 4, 10, 12, 14, 15, 17, 24, 26, 39, 47, 62, 63, 65, 76, 79, 83, 85, 87, 90, 92, 93, 99, 103, 111, 115, 116, 118, 128, 131, 134, 139, 151-153, 160, 166, 170, 172, 179, 180, 183, 187, 194, 196, 197, 200, 204, 205.
[536] For example, Submissions 14, 12, 14, 17, 34, 39, 90, 92, 93, 103, 116, 125, 128, 160, 170, 172, 194, 197, 204.
[537] Connecting Foster and Kinship Carers SA. (2022). *Connecting Foster & Kinship Carers SA submission to the Independent Inquiry into Foster and Kinship Care*. https://cfc-sa.org.au/wp-content/uploads/2022/05/CFKC-SA-Inquiry-submission_compressed-version_9May2022.pdf
[538] Department for Child Protection. Request for information: Narrative response 1. Received 27 May 2022.
[539] For instance, Submissions 26, 93, 128, 170.

Multiple submissions related to access to information in relation to children and young people's wellbeing[540]. Examples included carers being denied children's medical reports or other assessments aimed at evaluating their abilities and determining areas where extra support is needed and information about the child being injured during transport to access being conveyed weeks later.

Many submissions to the Inquiry referenced instances where Departmental caseworkers had ignored or denied therapeutic assessment and/or treatment recommendations from child protection services, CARL, and mental health professionals[541]. Multiple submissions recounted experiences of carers requesting help from the Department to organise assessments and/or psychological therapy for the children in their care, with the Department continually ignoring these requests or refusing to help. Examples included paediatric assessments, supports around sexualised behaviours, therapies recommended by experienced mental health specialists. The Inquiry also received submissions from carers describing that Departmental case workers had advised that they would organise therapy for children but had subsequently failed to do so.

The Inquiry received several submissions from foster and kinship carers who feel that the Department is not proactive in addressing children and young people's psychological and emotional needs. Rather, these needs are only addressed when responding to a crisis or when they are raised in Departmental case workers' reviews[542]. This was associated with regression in children's behaviour and development, and in some cases, with placement breakdown.

Procedures and protocols

Submissions to the Inquiry also described concerns about the Department's internal procedures and protocols for providing access to healthcare and medical support. The Inquiry received multiple submissions containing concerns regarding the Department's protocols for therapy services and psychological reviews of children and young people in care. This included appropriate therapeutic services for Aboriginal and Torres Strait Islander children and children from Culturally and Linguistically Diverse backgrounds. Foster and kinship carers also expressed concern regarding the extent to which Departmental psychologists can form opinions and sign paperwork for children and young people they have never met, or for children they have met during one access visit or a brief interview. Foster and kinship carers in their submissions to the Inquiry expressed a common view that judgements were being made about children based on case notes which may be incorrect or limited, and that it was felt that a greater understanding of children could be achieved if the psychologists observe the children regularly in different environments.

Children and young people's rights to access education and education support

Submissions to the Inquiry about the rights of children and young people in foster and kinship care to access education and education support described both issues of accessing education and educational support and of reported interruptions to a child or young person's learning and development. The Inquiry received several submissions from foster and kinship carers, organisations and statutory bodies that described a perceived shortfall in the Department and government

[540] For example, Submissions 125, 151, 204.
[541] For example, Submissions 4, 10, 12, 14, 17, 39, 47, 52, 63, 76, 79, 83, 87, 90, 99, 103, 111, 115, 116, 118, 128, 131, 136, 139, 151, 152, 153, 166, 170, 172, 176, 179, 180, 183, 187, 194, 200
[542] For instance, Submissions 24, 85, 111, 166, 194, 205.

schools' responsibility to support children and young people in care to receive a good quality education[543].

This included submissions to the Inquiry of stigmatisation towards children and young people in care and a lack of understanding of their complex needs[544]. Multiple submissions to the Inquiry highlighted carers' perceptions that many schools lack staff who are trauma-informed, describing experiences of hearing the negative opinions of school officials about accepting children in care.

Submissions also described the challenges that foster and kinship carers have faced in obtaining educational support from the Department for the children and young people in their care[545], including access to assessment, diagnosis and intervention for their children's needs, and finding adequate for children with very high needs in the public school system, with carers paying private school fees for access to these services.

Children and young people's rights to safety, stability and attachment

The right for children and young people in care to have safety, stability and attachment was one of the most prominent themes that emerged from the submissions to the Inquiry, made by several foster and kinship carers, organisations and statutory bodies[546]. Submissions to the Inquiry largely centred on two main themes: the safety and stability of the placement (including placement breakdowns, frequent moves between short-term placements, and rushed transitions) and the management of reunification processes.

Safety and stability of placements

The Inquiry received submissions from various foster and kinship carers regarding concerns for the safety of children and young people in the homes of birth families or other carers[547]. Safety concerns raised by submissions to the Inquiry included the children being in homes for contact visits with intoxicated parents or criminal activity, or with carers about whom concerns of neglect have been raised disclosures of sexual abuse in residential care settings.

Another theme in children and young people's safety, stability and attachment that emerged from the submissions to the Inquiry was the reported extent to which placement breakdowns occur and result in children moving between several placements in short periods of time[548]. Multiple submissions detailed children being removed from placements in which they had formed attachments, being transferred across different placements which continued to break down, with no option to return to the foster carer who had offered stability[549].

Placement breakdowns were also reported in submissions to the Inquiry to occur for multiple children during their infancy[550], a crucial developmental stage to form attachments with a carer

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[543] For example, Submissions 62, 65, 85, 90, 111, 166, 172, 183, 194, 202, 204.
[544] Including Submissions 90, 172, 183.
[545] Such as Submissions 111, 166, 194.
[546] For example, Submissions 5, 10, 11, 29, 34, 52, 54, 62, 65, 66, 78, 85, 88, 95, 100, 108, 128, 151, 153, 154, 160-162, 165, 169, 174, 178, 194, 196, 201, 204.
[547] For example, Submissions 10, 11, 54, 62, 88, 108, 161, 169, 196.
[548] For instance, Submissions 29, 66, 85, 88, 128, 153, 154, 165, 174, 178, 196, 204.
[549] For example, Submissions 29, 66, 204.
[550] Including Submissions 95, 160, 196.

figure. This included placements for infants, children and young people with significant trauma breaking down due to the lack of specialist care and supports provided.

The Inquiry received several submissions detailing experiences of children and young people being moved to different foster or kinship carers or birth family members with poorly managed or rushed transitions[551], including examples of emergency carers being given only 30 minutes' notice. There were multiple submissions regarding rushed transitions of infants and very young children[552]. Foster carers reported trying to work with the Department to ensure safe and smooth transitions for the children, including offering to visit the families or talk to them on the phone. However, submissions to the Inquiry described incidences in which the Department proceeded with rushed or disorganised transitions during crucial developmental stages. Submissions from multiple foster and kinship carers described cases where children or young people had been removed from their care home, where the children had formed attachments with the carer and bonds with other children in the home, and were subsequently restricted from any contact with the previous care family.

Reunification processes

Another common theme identified in the submissions relating to safety, stability and attachment was reunification[553]. The Inquiry received several submissions that described incidences of children and young people being forced into reunification with their birth family despite the children's wishes to stay with the carer[554]. Submissions to the Inquiry described that, where children were too young to express their wishes verbally, forced reunification resulted in the presentation of distressed behaviours and physical symptoms[555]. The Inquiry also received submissions that described the Department ignoring professional advice that reunification to be stopped or that parenting assessments be undertaken prior to reunification.

The rights of children and young people to have connectedness to family

The right of children and young people to have connectedness with family was one of the most prominent themes in the submissions from foster and kinship carers and organisations received by the Inquiry[556]. Submissions to the Inquiry about the rights of children and young people in foster and kinship care to have connectedness to family tended to focus on two themes. Firstly, arranging access visits and secondly, the impacts of access on children and young people.

Sibling connectedness

The submissions to the Inquiry described both experiences of children and young people in care being deprived of sibling contact and of the difficulties experienced in organising sibling contact[557]. The Inquiry received several submissions that detailed foster carers' perception that Departmental

[551] For example, Submissions 10, 34, 52, 78, 85, 151, 162, 204.
[552] For example, Submissions 78, 85, 151.
[553] For instance, Submissions 5, 10, 34, 52, 151, 162, 201.
[554] For example, Submissions 5, 10, 34, 52, 162.
[555] Including Submissions 5, 34, 52, 151.
[556] For example, Submissions 5, 10, 17, 20, 24, 26, 28, 30, 34, 52, 62, 65, 73, 75, 77, 80, 83, 87, 92, 100, 103, 110, 117, 125, 134, 135, 139, 144, 154, 158, 166, 170, 195, 196, 206.
[557] Including Submissions 5, 30, 52, 73, 75, 77, 100, 139, 144, 170.

and NGO staff were reluctant to organise sibling contact, despite also experiencing Departmental case workers who made great efforts to organise contact with birth parents.

Submissions to the Inquiry described that sibling contact became more complicated if there was a higher number of siblings, when siblings were placed across different placements, and when care arrangements changed[558]. Examples were given of carers identifying themselves as available to take a child's younger sibling in the placement to enable carers to remain connected, but that such offers were not always accepted.

Impacts of Access on children in foster and kinship care

A common theme amongst the submissions related to birth family access was reports of children and young people experiencing emotional and behavioural dysregulation before, after, and during access visits[559]. The submissions to the Inquiry describe children returning from access in distressed states and displaying escalated behaviours, including screaming, biting, headbutting or experiencing night terrors or significant distress (e.g., vomiting, crying) prior to visits.

Submissions highlighted that distressing access visits resulted in disruptions to the routines, sleeping and eating habits of young children, which the foster and kinship carers reported having worked on with the child for a long time and with which they felt powerless to help.

Several submissions to the Inquiry from foster carers outlined their concerns regarding the impacts on children when they are forced to attend regular access visits, which are consistently rescheduled, or the birth parents don't attend[560]. Foster carers reported the children's disappointment with the time being spent organising the visits, only to have the birth parents either not attend or appear uninterested when they do attend.

The Inquiry received submissions from foster and kinship carers who believed that Departmental case workers were neither monitoring access visits properly nor making accurate or detailed notes regarding access[561]. Examples provided in submissions to the Inquiry included unknown people arriving at access visits and Departmental case workers missing or ignoring children regressing dramatically, displaying their trauma behaviours, witnessing abusive behaviours between family members, screaming in fear when approached by a family member, and the children being verbally abused.

Many submissions from foster and kinship carers expressed the view that the Department was prioritising the wishes of biological parents' wishes over the wishes of the children and young people[562]. Submissions expressed that this was occurring even when there were reported safety issues present during birth parent access. Several foster and kinship carers raised concerns in their submissions that the children and young people in their care were sent to access visits with family members they are scared of, where they are left in unsafe environments, and their needs are neglected[563]. These included cases where children were taken to access visits with birth family

[558] For example, Submissions 77, 158.
[559] Including Submissions 10, 17, 20, 24, 26, 30, 34, 73, 92, 103, 117, 144, 195, 206.
[560] For example, Submissions 5, 10, 73, 166, 206.
[561] Such as Submissions 10, 17, 26, 28, 92, 135, 144, 156.
[562] For example, Submissions 10, 17, 20, 26, 30, 34, 73, 83, 103, 117, 125, 166, 195, 196, 206.
[563] For example: Submissions 17, 20, 24, 26, 92, 103, 134, 206.

members against whom they had disclosed abuse, and multiple foster and kinship carers who expressed frustration in their submissions to the Inquiry that the Department appeared to ignore their concerns regarding children's needs not being met during birth parent access. This included reports in submissions to the Inquiry of children returning from access visits dehydrated, sunburnt, wearing unchanged nappies and unfed.

Children and young people's rights to their cultural identity

The Inquiry received several submissions from foster and kinship carers, organisations and statutory bodies that focused on the right of children and young people in care to maintain their cultural identity and receive cultural support[564]. Submissions to the Inquiry about the rights of children and young people in foster and kinship care to their cultural identity were in the main in relation to Aboriginal children and young people rather than children and young people from CALD backgrounds.

Submissions to the Inquiry about the rights of Aboriginal children and young people to their cultural identity centred on information available or provided about cultural identity, access and availability of cultural support, activities and events, support from and access to Aboriginal workers, family scoping, and care plans. Data was also provided in submissions to the Inquiry concerning Aboriginal and Torres Strait Islander children in care.

Data provided in submissions to the Inquiry concerning Aboriginal and Torres Strait Islander children in care

Concerns for the trajectory of Aboriginal and Torres Strait Islander children in care were raised in a submission by the Commissioner for Aboriginal Children and Young People. The Commissioner wrote that Aboriginal children form 5% of the current population of children under age 17 in South Australia, but they are 11 times more likely to be in out-of-home care than their non-Aboriginal counterparts. The Commissioner reported their concern that there is nothing in the legislation that implements all five pillars of the ATSICPP to all significant decisions made about Aboriginal children. The Commissioner also expressed that the Department has reportedly adopted the five core elements, but they have not meaningfully translated these into their policy, practice and procedures.

The Commissioner highlighted Australian Government data[565] which show that placement of Aboriginal children in accordance with the ATISCPP was 61% in 2021, however, the requirement for all Aboriginal children in non-Aboriginal care to have opportunities for contact with family, community and culture is not measured in the compliance reports. Additionally, as of 30 June 2021, South Australia had placed 54.8% of Aboriginal children with relatives/kin (both Aboriginal and non-Aboriginal kin). Of this 54.8%, South Australia had placed 31.2% of Aboriginal children with Aboriginal relatives/kin in 2021, meaning that only an additional 33 of the 84 (39.2%) additional family/kin placements in 2021 were with Aboriginal family and kin. The Commissioner asserts that the data show a preference for non-Aboriginal kin, despite the Department's responsibility to meet the legislative requirements of the ATSICPP. These data also reflected the anecdotal information the Commissioner received from members of the Aboriginal community, as they heard several

[564] For example: Submissions 5, 10, 16, 18, 24, 30, 47, 62, 75, 77, 82, 85, 90, 93, 131, 145, 146, 148, 152, 153, 159, 160, 167, 168, 170, 187, 196, 199-201.
[565] Australian Government Productivity Commission. (2021). *Report on government services 2021.*

complaints regarding the Department preferencing placements with non-Aboriginal families and kin over Aboriginal families and kin.

The Commissioner's submission also drew attention to the application of the ACIST. The Commissioner wrote that South Australia has the highest increase in completion of the ACIST (from 20% to 92% in two years). However, the Department's Executive Director of Quality and Practice has advised that while the ACIST is completed in most case plans, the quality of the information is questionable. The Commissioner suspects that its utility may be compromised as the ACIST is prepared by Departmental case workers, with reportedly no guarantee that an Aboriginal worker will be involved. Within the ACIST, it is crucial that Aboriginal children who are disconnected from their family, culture and community are appointed a cultural mentor. The Commissioner reports that there are no data on cultural mentors, so it is unknown how many cultural mentors are appointed, and it is also not known how they are sourced, what role the child plays in their appointment, and if they are appointed from the child or young person's community or First Nations group. When the Commissioner recently met with a group of young Aboriginal people leaving the care system, they said they wanted an Aboriginal cultural mentor who could help them maintain familial and cultural connections, as the ACIST provided no meaningful interaction or connects with family or community.

The Commissioner also wrote that the Department is required to provide an annual report which shows the extent to which local Aboriginal and Torres Strait Islander organisations contribute to the development of children's cultural maintenance plans. The Commissioner expressed that it has been over three years since the Department accepted this duty and they are yet to report anything. The lack of reporting was explained as a technical issue in the Department's Annual Report 2021. The Commissioner also wrote that the Department is also required to report the extent to which agreements in case planning related to supporting the cultural needs of such children are being met, and the Department have not reported on this requirement for the same reason.

Lack of information available or provided about cultural identity

The Inquiry received several submissions from foster and kinship carers that described a shortfall in the Department's commitment to children's rights to connect with their culture. Submissions to the Inquiry described that multiple children have not been able to benefit from knowing about their cultural identity or having access to the information that would allow them to feel proud and strong about their culture[566]. Many of the children and young people referred to in submissions did not have access to information about their cultural identities, with some submissions reporting that they had waited for over eight months for confirmation of their Aboriginality from the Department, and another example in which a foster carer described that the Department had not informed them that a child in their care was an Aboriginal child until it was mentioned by the Departmental case worker during a query from the foster carer.

Other issues with the information available about children's cultural identity was reported in submissions to the Inquiry that describe the Department's recording of the Aboriginality of children in care. Examples included a Departmental case worker querying a child's Aboriginality with the foster carer despite the birth parents informing the Department of their Aboriginality when the child first entered the care system, and a child being recorded by the Department as Aboriginal despite

[566] Including Submissions 5, 10, 30, 62, 77, 85, 131, 153, 167, 199.

the biological parent indicating this was not the case, with a PAC being consulted who advised the child is not Aboriginal but the record cannot be changed.

Concerns raised in a submission to the Inquiry from a worker who described a lack of meaningful support for cultural identity provided to foster carers were reflected in various submissions made to the Inquiry by foster carers. These submissions focused on the lack of cultural and family information received from the Department, describing that despite making requests for help with genograms, genealogy, family photos, mob and clan information, assistance or material was not received from the Department. It is unclear how Aboriginal children and young people in care can benefit from their right to connect with their culture in instances where the Department is unable to provide specific cultural and family information. Several submissions reported difficulties experienced by foster carers in obtaining cultural and family information from the Department for the Aboriginal children and young people in their care[567]. This included reports of Aboriginal Life Story books not being provided to carers.

Cultural support, activities and events

Multiple submissions to the Inquiry also described experiencing both a lack of cultural support and efforts from the Department to keep Aboriginal children and young people in care connected to their culture, community and families[568]. There was a pervasive theme within the submissions of Aboriginal children and young people in care receiving little to no support for their connection to culture beyond the books or activities organised by their carers. This included difficulty in sourcing Aboriginal mentors for Aboriginal children placed with non-Aboriginal families, case planning where there are not clear processes to ensure the children are connected with their culture, and Aboriginal children who are not supported to identify as Aboriginal in their care home, with the Department failing to provide the children with any information or support about their culture to protect their cultural identity.

Submissions from foster and kinship carers of Aboriginal and Torres Strait Islander children and young people referred to an absence of the Department support in promoting or organising cultural activities or events for their children[569]. Numerous foster and kinship carers indicated in their submissions to the Inquiry that the Department provided no information on cultural activities to help engage the children in their culture. Carers also reported issues with organising return to Country trips for Aboriginal children and young people in care, with carers having requests for return to Country trips denied.

Support from and access to Aboriginal workers

Several of the submissions to the Inquiry from foster and kinship carers of Aboriginal children and young people referred to difficulty accessing Aboriginal workers within the Department and NGOs and a lack of follow-up due to their caseloads[570]. These submissions described instances of Aboriginal children and young people not benefiting from having a PAC involved in their cultural plans. Significant delays in being able to consult with PACs can affect children's abilities to connect

[567] For instance, Submissions 5, 16, 30, 62, 77, 85, 146, 153, 187, 196, 199, 201.
[568] For example, Submissions 5, 16, 18, 24, 62, 75, 77, 82, 85, 90, 93, 145, 146, 153, 168, 170, 187, 199, 200, 201.
[569] Including Submissions 5, 16, 24, 77, 85, 146, 170, 187.
[570] For example, 18, 62, 77, 85, 93, 152, 187, 196, 199, 200.

with their Aboriginal culture. Lack of access to and availability of PACs, due to their limited number and large caseloads was noted. The Inquiry also notes that the Department has identified that it is expanding the PAC workforce.[571]

Family scoping

A number of submissions from foster carers and organisations detailed the Department's inability to complete sufficient family scoping for Aboriginal and Torres Strait Islander children and young people[572]. Some foster carers referred to no family scoping occurring at all, while others wrote about the family scoping process taking six years for the Department to confirm the child's First Nations identity, family and community. The Inquiry also heard from foster carers who said that the family scoping unit is understaffed and, when family scoping is completed, it is often not done thoroughly or correctly.

Care plans

The Inquiry received multiple submissions from foster and kinship carers and organisations that expressed concerns with care plans for Aboriginal and Torres Strait Islander children[573]. Care plans were described as often failing to meet the cultural needs of Aboriginal children, providing no detail about how the children's cultural connections should be achieved, and are often unnuanced, providing a generalist approach. Moreover, foster and kinship carers, in their submissions to the Inquiry, reported the failure of the Department to have members of the child's Aboriginal community involved in children's care plans, with one submission referring to a lack of follow up on care plan recommendations for three years, with minimal support provided.

Several submissions to the Inquiry showed that Aboriginal children and young people in care are not receiving enough opportunities to connect with their Aboriginal families and communities. In some cases, the children's only Aboriginal connections are the siblings with whom they are placed in care. There appears to be a disconnection from the children's Aboriginal communities, with some children and young people being deprived of opportunities to meet well-respected Elders within their community. Given the benefits for confidence and the strengthening of Aboriginal identities for these children, families' access to Aboriginal workers requires further attention.

The rights of children and young people to be included in decision making and to have their voice heard

The Inquiry received several submissions from foster and kinship carers and organisations that described issues relating to the rights of children and young people to be included in decision making and to have their voice heard[574]. This included situations where the voices and interests of foster and kinship care agencies are not aligned with the voices and interests of the children and young people involved, for example, when arriving at family contact arrangements and placement decisions. This perception was mirrored by several submissions to the Inquiry from foster and

[571] Department for Child Protection. Request for information: Supplementary information. Received 25 October 2022.
[572] For example: Submissions 77, 146, 152, 159, 160, 199, 200.
[573] Such as Submissions 18, 62, 146, 168, 170, 199, 200.
[574] For example, Submissions 10, 16, 20, 34, 52, 56, 60, 62, 65, 88, 95, 108, 117, 125, 154, 158, 167, 168, 178, 180, 194, 196.

kinship carers. Submissions to the Inquiry about this issue focused on the inclusion of children and young people in decisions about birth family contact and reunification and the lack of avenues for or inclusion of the views, complaints and concerns of children and young people.

Inclusion of children and young people in contact and reunification decisions

Many submissions to the Inquiry describing the inclusion of children's voices were related to children and young people not having their views considered in the planning of birth family contact[575]. The majority of these submissions focused on children being forced to attend contact with their birth parents against their wishes, as described earlier. Several foster and kinship carers expressed that the children and young people in their care are scared of their birth parents due to the abuse they had inflicted prior to removal, with many children telling their Departmental case workers that they do not want to attend family access visits. Foster and kinship carers wrote submissions about the negative impacts of forced access on the children, often resulting in severe distress.

The Inquiry received several submissions from foster and kinship carers who expressed that their children's views were not considered by the Department during their enforcement of reunification orders[576].

Children and young people's views, complaints and concerns

A number of submissions from foster and kinship carers and organisations referred to the Department either not listening to complaints and concerns from children and young people in care or providing no clear way for those children to have their grievances investigated[577]. This included limited mechanisms within the care system to allow children to have their voices heard. Many of the submissions that focused on children not having their views considered on the significant decisions in their lives involved children expressing their feelings to Departmental case workers and the complaint chain ending there.

The Inquiry also received submissions that referred to problems with the Department's Viewpoint system[578]. Foster and kinship carers, in their submissions to the Inquiry, felt that Viewpoint did not allow the Department to effectively hear the voice of children in care. Several children and young people who were described in the submissions to the Inquiry did not wish to complete Viewpoint surveys, as the questions are were worded in ways that were confusing (and potentially distressing) and difficult to understand.

The right of children and young people to receive support as they transition out of care

The Inquiry received multiple submissions from foster and kinship carers and organisations that focused on the right for children and young people to receive support as they transition out of the care system[579]. Submissions to the Inquiry concerning this theme centred on the preparation of and support for young people as they transition out of care.

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[575] For example, Submissions 10, 20, 34, 60, 117, 125, 158, 196.
[576] Including Submissions 34, 52, 60.
[577] For example, Submissions 16, 60, 62, 88, 154, 168.
[578] Such as Submissions 95, 117, 125.
[579] For example, Submissions 87, 99, 153, 168, 178, 180, 181.

Submissions from foster carers and organisations referred to foster and kinship carers receiving either little or no assistance from the Department or NGOs in preparing the children and young people in their care for their transitions into independence[580]. These included foster carers reporting that the lack of medical support and education on methods to address medical needs results in confusion when young adults leave care, and reports that a failure to provide support or assistance for young people to develop skills for independent living has resulted in young people experiencing homelessness, becoming pregnant, and using illicit substances after leaving care.

Foster carers' reports of insufficient support for young people to transition out of care in submissions to the Inquiry described a lack of organisation for this transition from the Department and NGOs[581]. This included a lack of proactivity by Departmental staff to organise smooth transitions with foster carers and children and young people being identified as suitable candidate for supported accommodation yet having their disability needs unrecognised and unmet.

Summary of issues

Submissions to the Inquiry that, in responding to TOR 4.2 of the Inquiry, focused on the rights of children and young people in foster and kinship care to access physical and mental healthcare, to access education and education support, to safety, stability and attachment, to have connectedness to family, to their cultural identity, to be included in decision making and to have their voice heard, and to receive support as they transition out of care.

The importance of the availability and enaction of these rights in the delivery of foster and kinship care in Australia is consistently recalled by previous Inquiries and Royal Commissions, as well as being supported and protected by international, national and South Australian standards, conventions and legislation. These rights were also broadly reflected by Departmental policy and practice manuals and guidelines.

Concerningly, the rights of many children were reported by carers not to be met in practice. The following issues were apparent in the submissions to the Inquiry:

- Submissions to the Inquiry about the rights of children and young people in foster and kinship care to access physical and mental health supports described difficulties in accessing these supports and deficits within the Department's internal procedures and protocols for providing access to healthcare and medical support.
- Submissions to the Inquiry about the rights of children and young people in foster and kinship care to access education and education support described both problems experienced in accessing education and educational support and reported interruptions to a child or young person's learning and development.
- Submissions to the Inquiry described a lack of safety and stability in placements (including placement breakdowns, frequent moves between short-term placements, and rushed transitions) and forced reunifications.

[580] For example, Submissions 87, 99, 168, 181.
[581] Including Submissions 99, 153, 178.

- Submissions to the Inquiry about the rights of children and young people in foster and kinship care to have a connectedness to family provided examples of difficulties experienced in arranging access visits and incidences where access had a negative impact on children and young people.
- Submissions to the Inquiry about the rights of Aboriginal children and young people to their cultural identity described information about cultural identity, cultural support, Aboriginal worker support and access being unavailable or not provided. Insufficient family scoping and care plans that failed to meet the cultural needs of Aboriginal children and young people were also described.
- Submissions to the Inquiry describing the rights of children and young people to be included in decision making and to have their voice heard described incidences of children and young people not being included in the important decisions about birth family contact and reunification in particular.
- Finally, Submissions to the Inquiry concerning the right for children and young people to receive support as they transition out of the care system described a lack of preparation of and support for young people both as they transition out of care and once care has been exited.

While it was not possible for the Inquiry to investigate individual concerns that were raised in the course of the Inquiry, the Inquiry received frequent submissions about the following that should be considered priority areas for action:

- Supporting children and young people's access to health and therapeutic care
- Improving the assessments, treatments and support for children with suspected or diagnosed FASD
- Addressing the frequency of and approach towards transitions in placements
- Addressing concerns about safety in residential care settings and in rushed reunification without adequate assessment or transition planning
- Enhancing sibling connectedness and reducing traumatic access experiences
- Improving cultural case planning and family connection for Aboriginal children and young people in care

Recommendations

The Inquiry makes the following recommendations:

18. That legislation be amended to recognise and enforce the rights of children and young people in care, including their rights to services and supports that uphold these rights.

19. That Departmental policy, practice guidance, training and performance management be strengthened in relation to these rights for children and young people in care.

20. That priority reforms be co-designed with foster and kinship carers and other stakeholders, around the following:
    - Supporting access to health and therapeutic care for children and young people in care
    - Improving the assessments, treatments and support for children with suspected or diagnosed FASD

- Addressing the frequency of and approach towards transitions in placements for children and young people in care
- Addressing concerns about safety in residential care settings and in rushed reunification without adequate assessment or transition planning for children and young people in care
- Enhancing sibling connectedness and reducing traumatic access experiences
- Improving cultural case planning and connection to family and culture for Aboriginal children and young people in care

Chapter 8. Other Matters - Respite

Other Matters

The terms of reference for the Independent Inquiry into Foster and Kinship Care include provisions for the Independent Person to have regard to any other relevant matter considered in the course of the inquiry (TOR 6). Consequently, this report of the Independent Inquiry includes two additional areas of focus and recommendations that were raised in submissions: 1. respite care; 2. the costs of caring and remuneration

Introduction

This chapter is focused on respite care. A number of submissions made to the Inquiry related to the availability, accessibility, suitability and provision of respite care in South Australia. They highlighted its lack of availability, the limited options available and lack of flexibility, concerns about requesting respite and impacts on carers, families and placements as a result.

The potential benefits of high quality, tailored respite care are well understood, with respite forming an essential part of care provision in recognition of the realities of providing 24 hour care and support for children under guardianship[582]. As any parent, foster and kinship carers need respite to rejuvenate their body and mind[583]. Importantly, many submissions to the Inquiry noted the importance of respite in maintaining the quality of caregiving, preventing burnout and placement breakdown, helping children thrive, and providing the family with resources to navigate challenges[584]. Being able to have a break from caregiving, household, or work demands is vitally important for sustaining the carer workforce and the child protection system, and is essential for foster and kinship carers to be able to maintain their service and their wellbeing as well as that of the children in their care. Adequate respite and the opportunity to self-care means that decision making is not done in situations of extreme fatigue or exhaustion, and maintains long term retention of carers which is in the best interests of children and young people in care. Submissions also highlighted the potential benefits of high quality tailored respite as an opportunity to ensure families are supported, and that children and young people under guardianship can build connection to another family, widening their support networks. Respite was also described as potentially being an

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[582] McHugh, M., & Pell, A. (2013). *Reforming the foster care system in Australia: A new model of support, education and payment for foster parents.* Berry Street & University of New South Wales.; McGuinness, K., & Arney, F. (2012). *Foster and kinship care recruitment campaigns: A review and synthesis of the literature.* The Centre for Child Development and Education, Menzies School of Health Research; Senate Community Affairs Committee. (2015). *Out of home care.*

[583] Geiger, J. M., Hayes, M. J., & Lietz, C. A. (2013). Should I stay or should I go? A mixed method study examining the factors influencing foster parents' decisions to continue or discontinue providing foster care. *Children and Youth Services Review, 35*(9), 1356-1365.

[584] For example, Submissions 12, 14, 62, 63, 64, 75, 90, 92, 101, 112, 116, 130, 136, 145, 172, 196, 197; Department for Child Protection. Manual of Practice: Supporting children and young people in care chapter. *Support the placement.* Version 5.11, June 2022.*;* Department for Child Protection. *Respite care* [webpage]. Accessed September 2022.*;* Rodriguez-Jenkins, J., Furrer, C., Cahn, K., & George, K. (2021). Kinship navigator program development: Listening to family, youth and advocate voice. *Journal of Public Child Welfare, 15*(5), 670-692.

important part of children's learning and development, supporting coping and independence from carers as well as being something positive that children and young people can look forward to.

A number of these benefits are also outlined on the Department website[585] and in the Manual of Practice[586] which also identifies that f*or carers, respite care can provide an opportunity to refresh and attend to other personal and family matters and helps to support and sustain placements, especially where children or young people have special and/or high needs. For children and young people, respite care can expand their caring network and provide access to broader experiences, help to maintain connection with other people in their life and give siblings who are placed separately an opportunity to have time together.*

For kinship carers, particularly grandparents caring for grandchildren, respite can assist in their transition (back) into the caregiving role and to allow carers to retain and maintain friendships, connection to community and leisure pursuits[587]. However, despite the pressing need for respite for kinship carers, previous research has noted that kin carers may be as much as seven times less likely than foster carers to have respite care[588].

The key issues with respite care identified in the course of the Inquiry appear to have been longstanding in South Australia (and in other jurisdictions), and recommendations have been made in this regard by previous reviews and inquiries[589]. For example, the Final Report of the Select Committee on Statutory Child Protection and Care recommended (Recommendation 29) *that foster carers are entitled to respite which they can use in a flexible way to best suit them and the child* and the Child Protection Systems Royal Commission recommended (Recommendation 126) *Engage and support the Child and Family Welfare Association* [now Child and Family Focus SA; CAFFSA[590]] *to improve the coordination of respite provision to foster, kinship and relative carers.*

The Inquiry is also aware of the extensive work undertaken by CAFFSA in response to this latter recommendation, including producing a report on respite care and immediate, short term and longer-term recommendations for reform in South Australia. This report was based on extensive

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[585] Department for Child Protection. *Respite care* [webpage]. Accessed September 2022.
[586] Department for Child Protection. Manual of Practice: Supporting children and young people in care chapter. *Support the placement.* Version 5.11, June 2022.*;* Department for Child Protection. *Respite care* [webpage]. Accessed September 2022.
[587] Rodriguez-Jenkins, J., Furrer, C., Cahn, K., & George, K. (2021). Kinship navigator program development: Listening to family, youth and advocate voice. *Journal of Public Child Welfare, 15*(5), 670-692.; Purcal, C., Brennan, D., Cass, B., & Jenkins, B. (2014). Grandparents raising grandchildren: Impacts of lifecourse stage on the experiences and costs of care. *The Australian Journal of Social Issues, 49*(4), 467-488; Boetto, H. (2010). Kinship care: A review of issues. *Family Matters, 85*(1), 60-67.; Taylor, E. P., Di Folco, S., Dupin, M., Mithen, H., Wen, L., Rose, L., & Nisbet, K. (2020). Socioeconomic deprivation and social capital in kinship carers using a helpline service. *Child & Family Social Work, 25*(4), 845-855; Wu, Q., Zhu, Y., Ogbonnaya, I., Zhang, S., & Wu, S. (2020). Parenting intervention outcomes for kinship caregivers and child: A systematic review. *Child Abuse & Neglect, 106*(1), p.104524-22.
[588] Boetto, H. (2010). Kinship care: A review of issues. *Family Matters, 85*(1), 60-67.; Brennan, D. (2013). *Grandparents raising grandchildren: Towards recognition, respect and reward.* Social Policy Research Centre, University of New South Wales.; Sakai, C., Lin, H., & Flores, G. (2011). Health outcomes and family services in kinship care: Analysis of a national sample of children in the child welfare system. *Archives of Pediatrics & Adolescent Medicine, 165*(2), 159-165.
[589] As identified in submissions such as Submissions 90, 101, 112, 181
[590] Child and Family Focus SA

analysis of national and international literature, consultation with children, young people, foster and kinship carers and practitioners, and co-design workshops. The Inquiry also notes the concerns in submissions[591] that the full report was not made publicly available and that recommendations from that work do not appear to have been implemented in full. Advocacy for greater respite reform from numerous individuals and bodies continues based on the report and its recommendations.

Policy and Practice Context

For children and young people in care, respite refers to a form of placement that is time-limited and where it is intended that the child or young person's primary placement will continue[592]. A DCP respite carer is an approved family based carer other than the child or young person's primary carer, with whom the child or young person spends short, planned, regular or one-off agreed periods of time[593].

Service requirements for providers of family-based (foster) care specify that providers are required to *Identify, recruit and support potential respite carers and/or significant others for each child or young person in accordance with Case Plans; recruiting sufficient active carers to provide respite for all carers*[594]. Service requirements for family-based (foster) care and kinship care specify that respite care must be provided in accordance with the Department's respite care requirements, which state:

- Service providers must scope family/recruit sufficient active carers to provide respite for all foster and kinship carers.
- Respite may be provided by an approved carer as per the child and young person's approved Departmental Case Plan.
- In the first instance priority should be given to respite being provided by someone in the foster or kinship carer's/child's network wherever possible.
- As a last resort, consideration of a respite placement through another service provider will be considered as arranged and agreed by the Department.
- Respite for each child is to be provided by the same carer household wherever possible.
- Volume/duration: nights - access to up to 24 nights of respite per year applied flexibly and based on the assessed needs of the child or young person, their family and carers[595]

Aboriginal specific respite care requirements include being *responsive to the immediate needs of Aboriginal Children and Young People in need of care through the recruitment of immediate and short-term Aboriginal carers that will contribute to an Aboriginal respite carer network.* [596]

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[591] For example, Submissions 90, 112, 197
[592] Department for Child Protection. Manual of Practice: Supporting children and young people in care chapter. *Support the placement.* Version 5.11, June 2022.
[593] Ibid.
[594] Department for Child Protection. *Family based care* [webpage]. Accessed September 2022.
[595] Department for Child Protection. *Family based care* [webpage]. Accessed September 2022; Department for Child Protection. *Kinship care* [webpage]. Accessed September 2022.
[596] Ibid.

Information provided for foster and kinship carers on the Department website[597] notes that respite care *can be planned and occur regularly for agreed periods of time… or may be required in emergency situations.* The website informs foster and kinship carers that they *must arrange respite care in collaboration with your Departmental case worker, the child or young person in your care and your support worker.* It also notes that *all approved respite is recorded in your child's case plan.*

Practice guidance for Department staff regarding respite arrangements is included in the *Manual of practice*[598] and includes:

- Identifying multiple ways in which foster and kinship carers can have a break from caring responsibilities including informal options (babysitting, sleepovers, organised activities such as school camps or formal child care). In this instance, the Departmental case worker should consider these options in partnership with the foster or kinship carer and provide the necessary information and support to enable the foster or kinship carer to access suitable options. Further guidance in *Who Can Say OK*[599] notes that the foster or kinship carer can make the decision to use a baby-sitter in situations when the baby-sitting arrangement is once off and is organised at short notice and the foster or kinship carer can consent to sleepovers for the child or young person for a stay of up to two consecutive nights if the stay isn't with another carer or a family member of the child. For babysitting that is on a regular basis, or where overnight stays are with other carers or a family member of the child, this must be discussed with the foster or kinship carer's support worker and Departmental case worker. For sleepovers of more than three nights duration, the Departmental case worker must consult with a Departmental supervisor to seek approval for these plans.
- The Departmental case worker may also consider if the child or young person and their foster or kinship carer would benefit from a formal respite arrangement. Such occasions of respite care can be taken at any time, either overnight or during the day and this can occur in the primary carer's home, and the primary carer can be present.
- Departmental case workers, along with foster care and kinship care support workers, should consider the foster or kinship carer's need for respite at the early stages of a placement. This also includes scoping for potential providers of respite care from within the foster or kinship carer's or child and young person's networks and/or people identified during the family/kinship scoping phase
- The Departmental case worker should consider how a proposed respite arrangement supports the child or young person's needs (including cultural and disability or special needs), goals and wishes in accordance with their case plan.
- Carers providing general and specialist foster care, kinship and Specific Child Only care may be able to access up to 24 occasions of respite care in a calendar year, and there may be circumstances where additional respite care is required. Any requests for respite that exceed

[597] Department for Child Protection. Respite care [webpage]. Accessed September 2022.
[598] Department for Child Protection. Manual of Practice: Supporting children and young people in care chapter. *Support the placement.* Version 5.11, June 2022.
[599] Department for Child Protection. *Who can say OK* [webpage]. Accessed September 2022

24 occasions per child or young person per annum must be approved by the Departmental office.

- The Departmental case worker must ensure provision of respite is in accordance with the Aboriginal and Torres Strait Islander Child Placement Principle Practice Paper and in line with the placement hierarchy in section 12 of the CYPS Act. If a respite care plan is identified that involves an Aboriginal child being placed in a non-Aboriginal respite placement, then advice from a PAC or a recognised Aboriginal organisation should be sought.
- Advice and support from the Department's Multicultural Services is strongly recommended for respite care plans involving children and young people from culturally and linguistically diverse backgrounds and the child is being placed with respite carers who are not part of their community.
- The NDIS is responsible for funding respite care support where the support is required as a result of the functional impacts of the child or young person's disability. NDIS respite supports and Departmental respite care can be provided at the same time.

Previous Department practice guidance submitted to the Inquiry, dated September 2021, states that *all approved carers are entitled to request and receive respite care. All carers are entitled to receive up to 24 nights of respite per annum*[600]*.*

The *Carer Support Payments: Who Pays for What* document[601] notes that foster and kinship carers have a financial responsibility to cover the costs of babysitting, transport to respite care (in liaison with the respite carer) and most aspects of childcare (noting subsidies are available to cover these costs). The document also frames respite care placement as depending on availability and as additional Departmental assistance that may be available. The document also notes additional Departmental assistance that may be available, arrangements for a child attending a holiday, camp, activity or event where there is no respite care placement available (the respite care request must be supported by the Department).

The Inquiry notes the shift in emphasis from respite as an entitlement for carers with clear specifications of that entitlement, to something that *may* be considered and which *may* be able to be accessed by carers *subject to availability*.

In an update on Department activity provided to the Inquiry[602], the Department note they are *working with the sector to overhaul and modernise its approach to respite support. This work is being developed in collaboration with service providers.* The Department accept there are challenges with traditional models of respite support and are considering how a greater level of placement support could be provided to carers. Specifically, *in late 2020, DCP advised carer support agencies that, following feedback received from family-based carers and the sector, the department developed the following principles to make the existing respite arrangements more flexible. These were:*

- *Respite care can be used during day time hours*

[600] Extract from Department for Child Protection. Manual of Practice: Supporting children and young people in care chapter. Version 4.13, September 2021.
[601] Department for Child Protection. Carer support payments: Who pays for what? June 2021.
[602] Department for Child Protection. Update on activity. Received 28 October 2022.

- *Respite carers can provide respite in the primary carer's home*
- *Respite care can be provided whilst the primary carer/s are still at home*

Building on this early work to develop an expanded definition and more flexible approach to respite, DCP has recently commenced a project to investigate options for a flexible funding arrangement to provide carers with access to support with a "respite-like effect". The mechanisms and types of support with a respite–like effect will be defined and finalised in consultation with carers, however, some potential examples are cleaning, gardening and babysitting.

Submissions to the Inquiry

Key issues raised about respite care in submissions included:

- The lack of availability
- Limited options and lack of flexibility
- Concerns about requesting respite
- Impacts on carers, families and placements

Lack of availability

A number of submissions to the Inquiry included concerns about the availability of respite care and the need for greater access to respite[603]. Submissions to the Inquiry identified that respite was not available for many foster and kinship carers who need and want it. Many foster and kinship carers had not been able to access respite over many years of providing care for children under guardianship, including children with complex and high needs. Submissions described being able to access respite "like winning the lottery", but for many "it's hell trying to get respite".

Submissions to the Inquiry spoke of the need for respite for foster and kinship carers caring for children with developmental trauma, FASD, complex medical conditions and other special needs[604]. Submissions spoke of foster and kinship carers experiencing exhaustion and feeling under unrelenting pressure of raising children or young people who as a result of these conditions may have extreme behaviours, cognitive and physical deficits, emotional regulation problems, poor executive functioning, lack of impulse control and poor decision making. Submissions described the parental role in these circumstances as one of constant co-regulation, micro management, anticipating children's needs, minimising triggers and providing constant supervision. Submissions to the Inquiry noted that the specific needs of these children require specialist respite care and tailored options for their family as standard respite practice doesn't work.

Examples given included:

- Foster and kinship carers providing care 24/7 for high needs children without a day's break for a number of years, having flagged their needs for respite many times

[603] For example, Submissions 12, 17, 29, 64, 81, 82, 90, 99, 101, 131, 136, 145, 166, 172, 196
[604] This included Submissions 12, 14, 82, 90, 101, 131, 172, 197

- Foster and kinship carers caring for deeply distressed, significantly unwell infants and toddlers, for significant periods (e.g., nearly six months) without an hour's break
- Having respite request referrals in to multiple agencies for a number of years but being told no options were available during this time
- Respite needs being identified by CARU at placement and recorded on file that respite care must be immediately available due to high needs of children, yet experiencing many years without respite
- Foster and kinship carers caring for children with specific medical needs trying and failing to find respite options with carers who could provide the required medical care for their children or being told by NGOs and the Department that there are no suitable respite carers
- Support agencies advising foster and kinship carers repeatedly that there are no respite placements available and that they would have to make their own options; when they do this, they are then told to leave it to the Department or their agencies to find respite options, only to be told that placements are unavailable, or that requests made through the Department were not forwarded to NGOs.
- Foster and kinship carers deferring emergency medical attention or treatments for their own health, as there is no-one available to provide care for their children with behavioural or high medical needs.
- Request for in-home emergency respite due to the child's extreme behaviour, however in-home respite was refused due to the child's history of violent behaviour.
- Potential respite carers who are known to primary carers rescinding their offers to provide respite due to the assessment and registration process being lengthy, intrusive and potentially requiring expensive modifications to the home and surrounds.

While for some children and families, respite could be sourced through NDIS if the child met eligibility criteria for a NDIS plan, this option was unavailable to children where assessments and diagnosis of disabilities had been denied or delayed, where plans had not been approved or resources within plans diminished (see Chapter 9).

Some submissions identified that while foster and kinship carers were being told that there were no respite placements available, they were aware that there were in fact placements available[605]. This included submissions to the Inquiry from respite carers advising of their availability to take respite placements, and concerns that children had been placed in residential care while respite carers who have been approved by CARU were available. This was noted for both kinship and foster carers, with some agencies described in submissions as either unwilling, or contractually unable, to procure respite beyond their own respite carers. This included not fulfilling these requests even if the respite carer was known to the child or young person's primary carer, including former employees of their agency.

As a number of submissions described, publicly available information about the availability of respite and information which is provided to potential new foster and kinship carers by the Department and

[605] For example, Submissions 14, 78, 180

support agencies, sets up expectations about the support that will be made available to carers. This was described as providing the "illusion of support" and as misleading. Service providers were described in submissions as failing to meet their funded obligations as outlined in service requirements by not *recruiting sufficient active carers to provide respite for all carers*[606]. There was concern expressed that this isn't being performance managed by the Department, despite clear performance indicators in relation to the provision of respite care[607].

In relation to kinship care, submissions also noted that some kinship carers are finding potential respite carers within their own networks, however the Department is not initiating respite care assessment referrals and instead carers are being asked to manage the arrangement privately as babysitting[608]. This means the responsibility for sourcing and managing respite falls on the primary carers, and those providing this service are not receiving respite carer payments or receiving support from agencies.

Limited options and lack of flexibility

Many submissions identified that where respite is available, current options don't suit the circumstances and requirements of families and children and young people under guardianship[609]. The South Australian respite model was viewed as very dated and not suited for modern family life, and as particularly unsuited to the needs of children with developmental trauma, disabilities and/or complex behavioural or medical needs. Some submissions[610] described that the use of dated concepts and the term "respite" could be viewed by children and young people as a putdown and exclusive of them as family members, and for Aboriginal families that the concept of going to see extended family (e.g., aunty, grandma) was more suitable than the term "respite".

Respite placement matching was described as essential, with children and young people having the opportunity to build attachment and relationship with respite carers before respite happens. Submissions identified that therapeutic care requires routines, consistency and safe boundaries – these may not be the same in respite care homes and requires advocacy, understanding and discussion. Day respite was identified as working well for children who can't stay overnight due to trauma. Staying in another person's home could be considered disruptive to children and their routines and safety, and respite with people unknown to the children could cause fear and anxiety. Finding the right respite carer can be difficult, can take some time and at times required advocacy from the child or young person's primary carer[611]. Limited respite options and poor fit between the child or young person and respite carers were described, including circumstances which could be triggers for the child (busy homes, big dogs, other children in the home with challenging behaviour), meaning that respite placements don't provide a break for the children, or that children are sent to a respite placement that doesn't feel comfortable for them or feels unsafe. Some submissions

[606] Department for Child Protection. *Family based care* [webpage]. Accessed September 2022;
[607] Key performance indicators for providers of general and specialist family-based foster care that relate to the availability of respite care include: KPI 2-1: % of respite placement utilisation during the reporting period; KPI 2-2: % of respite that occurs with the same respite carer household each time they are placed in a respite placement during the reporting period; KPI 2-11: % of carer respite requests not provided during the reporting period. Department for Child Protection. Appendix 1: Performance measures. Version 2.5, August 2022.
[608] For example, Submissions 95, 96, 146, 172
[609] For example, Submissions 12, 14, 40, 90, 95, 99, 101, 112, 131, 165, 166, 174, 196, 197
[610] Including the views of multiple carers and children in Submissions 112, 152
[611] For example, Submissions 16, 17, 52, 84, 99, 165, 166, 172, 183, 201

identified feeling pressured to continue with respite options that were unsuitable because there were no other carers available.

In addition, submissions identified that respite should be[612]:

- Framed through a trauma lens and a child-focused perspective and about the family unit as a whole.
- Tailored for the family as a core part of the child or young person's care plan from the beginning.
- Thought of as "what does respite look like for this family" rather than "this carer needs respite".
- Flexible enough to be tailored to the family's situation and should include paid informal and formal options, in-home, short or long respite, the ability to use multigenerational care and funding for services such as gardening, housekeeping and babysitting that would reduce pressure on carers and enable them to have time to socialise and for self-care.
- Inclusive of in-home options for children who may find it hard to stay away from home due to disability, trauma and attachment considerations and/or access to medical equipment. This includes having people who can support foster and kinship carers with aspects of the children's care, such as therapies, getting ready for school, and attending medical appointments.
- Inclusive of options beyond other foster and kinship carer households, including family day care and other childminding options, including private or NDIS disability trained carers, respite agencies or a respite house.
- Available in emergencies or crisis situations, enabling foster and kinship carers to know that children will be safely cared for and/or that the carer can safely remove themselves from the situation.
- Building on and supporting family networks, including foster and kinship carers' natural support networks and enabling long term connections for the child – it was noted that respite carers are often unable to remain connected to the child if they leave the caring role or the child changes placement unless a contact arrangement is put in place
- Available through a package so that respite options can be used flexibly in a range of ways
- Provided through foster and kinship carer support programs (e.g., the Mockingbird program) with respite networks which have the potential to provide benefits to many carers and families.

Whilst the practice guidance[613] and principles[614] the Department provided to support agencies in late 2020 provide for greater flexibility in respite arrangements and options, it appears that this is not

[612] For example, Submissions 12, 14, 87, 112, 166, 196
[613] Department for Child Protection. Manual of Practice: Supporting children and young people in care chapter. *Support the placement.* Version 5.11, June 2022.
[614] Department for Child Protection. Update on activity. Received 28 October 2022.

playing out in reality, with a number of options not being supported by the Department or NGOs and/or applications for respite being denied[615]. NGOs/ the Department were described in submissions as being unwilling or unable to fund babysitting or alternative options for respite (e.g., children's clubs, paid in-home help, gardening/cleaning, nannies). The Inquiry notes that the service requirements[616] for respite care still refer only to overnight stays, provision of respite by registered respite carers, and that a respite placement through another service provider is to be considered as a last resort. The current service requirements as advertised and as implemented do not seem to represent the flexibility which carers require and which the Department's principles and practice guidance allow. This could limit the number of respite placements available and utilised by carers[617].

Concerns about requesting respite

Australian research has identified that many foster and kinship carers are reluctant to request respite due to concerns about guilt, stigma, reluctance to be a burden and fear that the child will be taken away from them[618]. A number of submissions to the Inquiry identified that foster and kinship carers who make requests for respite in South Australia have been viewed as "not coping"; have been made to feel stigmatised, guilty for asking, and fear care concerns will be raised and/or their children removed should they ask again[619].

Submissions identified a number of additional reasons that carers may not ask for respite[620]:

- Repeated denial of respite requests due to lack of availability leads to people stopping asking.
- Respite is not offered in ways that suit the family, their needs or the children's situation and as a result respite isn't providing necessary supports for children or respite for carers. For example:
    - Preparing for multiple children within the family to spend the weekend with multiple carers – the emotional and practical preparation required, the coordination of drop offs and pick ups, and the transportation of children with high needs, sometimes over hundreds of kilometres, would negate any possible respite provided
    - Where children's behaviour is deemed too high or extreme for respite placement
    - Where children do not wish to leave their homes to spend time in a respite placement
    - Where the only available option for respite is in a respite placement that the children have previously described as unsafe

[615] For example, Submissions 40, 73, 82, 88, 90, 136, 160, 166, 174, 189, 197.
[616] Department for Child Protection. *Family based care* [webpage]. Accessed September 2022.
[617] As included in Submissions such as 101, 146, 163, 172.
[618] Borenstein, J., et al. (2015). Strengthening kinship families: scoping the provision of respite care in Australia. Child & Family Social Work 20(1): 50-61.
[619] For example, Submissions 40, 82, 90, 101, 183.
[620] For example, Submissions 52, 101, 107, 136, 166.

- When, due to respite carers leaving the system, regular placements are unavailable with consistent respite carers. This is disruptive for the children and takes a considerable investment of time on behalf of carers to invest in new relationships that may not last.
- Considerable travel can be involved in accessing suitable respite or available respite options and support is needed for travel. Due to children's specific requirements, or to the limits placed on respite availability by support agencies (i.e., only connecting carers to respite from within their own agency), many examples were given of foster and kinship carers having to travel hours for respite
- Even when given the required amount of notice, the Department have placed young children in residential care rather than a respite care placement; or planned respite options with adults familiar to the child and living close by have been changed at the last minute to respite with strangers long distances away.

Impacts on carers, families and placements

The *Manual of practice: Support the placement*: identifies that the Departmental case worker, in collaboration with the kinship care or placement support worker, should be mindful of how their interactions with the foster or kinship carer help them to feel valued as a member of the care team, and that this includes *encouraging the carer to engage in regular self-care activities.* Respite is an opportunity to reduce stress and vicarious trauma. However, many submissions noted the impacts of the lack of respite on carer wellbeing and the ability for carers to attend to self-care[621]. A lack of respite was described as significantly impacting on the quality of life of foster and kinship carers and families, with impacts on carers including frustration, embarrassment, exhaustion, social isolation and loss of social networks including not being able to attend or having to delay meaningful events.

Submissions to the Inquiry identified that both a lack of adequate support in this regard and availability of suitable respite options prevents carers from engaging in self-care, and an inability to prioritise their own mental and physical health. In these submissions, it was identified that carers were feeling burnt out and exhausted, and were not provided respite from vicarious trauma or time out to heal. It was also noted that even where respite was available, foster and kinship carers had to prioritise the use of respite to attend meetings for the children in their care and for training rather than for true respite. These carers were unable to attend to basic needs, rest and self-care.

Submissions identified that single foster and kinship carers were particularly disadvantaged as they were often caring for children with special and high needs and may be unable to share the caring role or gain additional support. Being unable to access respite due to lack of availability or suitability meant many single foster and kinship carers had not had breaks from the caring role for many years.

Submissions indicated that a lack of respite was directly linked to placement breakdown, placement of children in residential care and deterioration in mental health, physical health, wellbeing, grief and loss[622]. This included submissions made by former carers who attributed their departure from the caring role directly to the lack of respite care provided. Situations in which submissions noted

[621] For example, Submissions 40, 82, 90, 101, 136, 172
[622] For example, Submissions 40, 73, 82, 88, 90, 136, 160, 166, 172, 174, 197

links between a lack of respite care and the breakdown of a placement, relinquishment of a child in care or a decision not to continue in the caring role included:

- When foster and kinship carers were denied respite, even under emergency requests or for medical emergencies.
- Foster and kinship carers feeling exhausted, overwhelmed, stressed and burnt out, which can lead to care concerns and removal of the child from placement (see Chapter 3).
- Respite options not being provided when a child or young person or foster or kinship carer is struggling, and instead workers searching for an alternative placement and remove the child
- Delays in being able to access respite until the situation with the placement had worsened and was in crisis, with respite being provided too late.
- Respite not being provided after transfer of guardianship to the foster or kinship carer, and children's extreme and violent behaviours worsening without opportunities for respite or support
- Repeated requests for respite that were unmet, and this was directly linked to decisions to relinquish care, with children now placed in residential care.

Summary of issues

The evidence is very clear that access to high quality, tailored, and flexible respite care options is related to the wellbeing of children, young people and foster and kinship carers and the retention of carers in the child protection system. In South Australia, the onus is currently on foster and kinship carers to request respite care, and the most recent practice guidance suggests that such requests may be met subject to availability. The Inquiry has heard directly from foster and kinship carers who have not been able to access respite care despite repeated requests and despite this being identified in care plans, from carers who have decided to stop asking for respite care due to refusals and/or lack of availability, and from carers who had decided to relinquish care of children or to cease the caring role due to the lack of respite. This also included submissions where children were placed in residential care when other respite options were unavailable or when the placement broke down. Additional impacts on foster and kinship carers' wellbeing included delaying their own medical treatment, and significant effects on quality of life and social networks. While these impacts have been felt by many foster and kinship carers, carers of children with high or special needs and/or single carers are particularly impacted, meaning that the carers who may need respite the most, appear to be unable to receive much-needed support. Of concern is that rather than respite care being regarded as a standard and normalised component of a child's case plan, requests for respite care were at times reported to be interpreted by Department staff as a failure of carers to cope. The Inquiry views the impacts and outcomes for children and young people under guardianship and their carers as both foreseeable and preventable.

Submissions identified that far greater flexibility is required in respite and support options, to ensure they are suitable for modern family life, and to meet the needs of children and young people with special needs. The Department has identified that they are working with the sector to overhaul and modernise its approach to respite support, and in 2020 the Department developed principles to make the existing respite arrangements more flexible. These were:

- *Respite care can be used during day time hours*

- *Respite carers can provide respite in the primary carer's home*
- *Respite care can be provided whilst the primary carer/s are is still at home*

On reviewing Departmental policies, procedures and practice guidance, they reflect more flexible models of respite and support for carers in line with these principles. However, submissions identified that this range of flexible options were not provided to all foster and kinship carers. What was available was described as outdated and unsuitable for many circumstances and requirements of families and children and young people under guardianship. The Inquiry received submissions from foster and kinship carers who had been denied more flexible arrangements such as in-home support, babysitting, household assistance, disability care and from carers who had to travel vast distances to obtain respite due to the inflexibility of some agencies providing respite from carers other than their own. The lack of suitability of respite placement options for children who have special and/or high needs, including developmental trauma, FASD, disabilities and complex medical needs was particularly noted. Available options were considered neither flexible enough, nor tailored or specialist enough to support this highly vulnerable group of children and their foster and kinship carers. The Department identified that it is currently undertaking a project to investigate options for flexible funding arrangements to provide carers with access to support with a "respite-like effect" and that the definition and finalisation of such types of support will be determined with carers, and will provide for greater flexibility than traditional respite care.

The Inquiry echoes the concerns in submissions about whether service providers are meeting their current obligations to provide respite care for all carers and to provide them with a greater degree of flexibility as per the principles developed in 2020. It is unclear whether this failure is a result of outdated contracting arrangements (for example, respite being described as overnight, provided by approved respite carers and other agency respite carers being used as a last resort), lack of application of the 2020 respite principles and/or poor monitoring of respite provision and a lack of performance management. It was also identified that the latest practice guidance does not reflect the entitlements of children, young people and foster and kinship carers to respite but instead refers to respite as something that may be provided subject to availability, despite its clear benefits.

Recommendations

The Inquiry makes the following recommendations:

21. That the Department fast tracks the project to examine supports for carers that provide a "respite like effect" and that foster and kinship carers are offered flexible funding packages that can be used to pay for respite care placements and/or other arrangements that support the placement.

22. That in the short term, contract review and performance management is undertaken to ensure that respite is available to carers through support agencies, reflects the 2020 principles and is not limited to respite provided by their own agency, and that carers who have been unable to utilise respite options for some time are considered a priority for accessing these supports.

23. That the NDIS eligibility for children who are not currently receiving NDIS supports, including respite care, be immediately determined through appropriate diagnostic assessments, to enable this support to be provided.

Chapter 9. Other Matters - Costs of caring and remuneration

Introduction

This chapter is focused on the second of the two additional areas of focus for other matters considered by the Inquiry (TOR 6). It focuses on the costs of caring and remuneration. Many submissions to the Inquiry focused on the inadequacy of carer payments and loadings in assisting carers to meet the complex needs of children in care, and on processes for approvals and reimbursement of additional costs for supporting children to have their fundamental health, medical, educational and wellbeing needs met.

Foster and kinship carers open their homes and families to children who have experienced abuse, neglect and trauma, and who may have significant disability, health conditions and complex trauma as a result. Foster and kinship carers undertake this role to make a difference in the lives of children, to help them flourish and have happy, safe, fulfilling lives and the same opportunities as children who are not in care. The South Australian and Commonwealth governments provide payments, allowances and reimbursements to assist foster and kinship carers to undertake their caring role However this is not an income, the funds are designed to meet the needs of children not to reimburse carers for their time, as carers are considered volunteers.

Governments save considerable costs by relying on the voluntary services of foster and kinship carers[623]. However the context for providing foster and kinship care has changed dramatically since the traditional model of voluntary foster care was created. While most carers are still female, women's labour force participation has significantly increased with many carers in paid employment before taking on the caring role. Many carers are single or unpartnered, and many carers already experience financial stress due to high costs of living and low housing affordability even before taking on the caring role[624].

The needs of children in care can be quite significant, and it is clear that these costs often far outweigh the payments and loadings carers receive[625]. Foster and kinship carers often also change their work arrangements as a result of assuming the caring role, or in response to the needs of a specific child or sibling group. This can include reducing work fraction or ceasing employment completely, subsequently affecting retirement, which can be further compromised if carers use savings and superannuation to provide for the children in their care[626]. Carers may also make changes to housing arrangements such as moving to a bigger house or extending their property to be able to accommodate additional children in their homes, sometimes at significant cost[627].

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[623] McHugh, M., & Pell, A. (2013). *Reforming the foster care system in Australia: A new model of support, education and payment for foster parents.* Berry Street & University of New South Wales.
[624] Ibid.
[625] Ahn, H., DePanfilis, D., Frick, K., & Barth, R. P. (2018). Estimating minimum adequate foster care costs for children in the United States. *Children and Youth Services Review, 84*(1), 55-67.; Feagan, E. (2021). *The true cost of foster and kinship caring in South Australia*. Connecting Foster and Kinship Carers SA & The University of Adelaide.
[626] Brennan, D. (2013). *Grandparents raising grandchildren: Towards recognition, respect and reward.* Social Policy Research Centre, University of New South Wales.; Erben, S. (2019). Kinship carers: A perspective from the ground up. *Developing Practice: The Child Youth and Family Work Journal, 52*(1), 78-86.
[627] Ibid.

The financial impacts of providing foster and kinship care have a significant impact on the ability of foster and kinship carers to meet the, often significant, needs of children in care, on carers' own wellbeing and their financial future. Weighing up financial considerations and the associated stress on family finances are significant factors in foster carers' decisions to become carers and to remain in caring roles over the long term, affecting the availability of carers and placement stability[628]. There may be additional impacts for kinship carers, particularly grandparents or very young carers, who may have already been under significant financial stress or on a pension before taking on the caring role and have not have had time to consider and plan for the financial implications of welcoming additional children into their home[629]. These impacts are also disproportionately larger for Aboriginal carers[630].

The needs of children in care

In a response to an Inquiry RFI[631], the Department wrote about the 'Investing in their future' strategy which is a whole of government initiative developed in recognition of the responsibility of the State Government when children and young people enter care. It includes initiatives to assist carers in navigating priority access (through fee waiver, expanded service, speed or ease of access) to services such as education, health and therapeutic services for the children in their care. This includes a range of partnerships, services and allowances that children and young people in care may be eligible for. This includes Health care cards, heath checks and monitoring, ambulance cover, dental services through SA Dental and the Australian Dental Foundation, disability support through the NDIS, mental health services through Child and Adolescent Mental Health Services and specialist services such as child protection services and therapeutic interventions, education and training. A Departmental Response to an RFI identified that 25% of children in care in South Australia have an NDIS plan[632].

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[628] McHugh, M., & Valentine, K. (2011). *Financial and non-financial support to formal and informal out of home carers*. Social Policy Research Centre, University of New South Wales.

[629] Boetto, H. (2010). Kinship care: a review of issues. *Family Matters*, (85), 60-67.; Brennan, D. (2013). *Grandparents raising grandchildren: Towards recognition, respect and reward.* Social Policy Research Centre, University of New South Wales.; Burnette, D., Sun, J., & Sun, F. (2013). A comparative review of grandparent care of children in the U.S. and China. *Ageing International,* 38(1), 43-57.; du Preez, J., Richmond, J., & Marquis, R. (2017). Issues affecting Australian grandparents who are primary caregivers of grandchildren: A review. *Journal of Family Studies, 23*(1), 142-159.; Purcal, C., Brennan, D., Cass, B., & Jenkins, B. (2014). Grandparents raising grandchildren: Impacts of lifecourse stage on the experiences and costs of care. *The Australian Journal of Social Issues, 49*(4), 467-488.; Kiraly, M. (2015). *A review of kinship carer surveys: The "Cinderella" of the care system?* (Child Family Community Australia paper no. 31). Australian Institute of Family Studies.; Kiraly, M., Hoadley, D., & Humphreys, C. (2021). The nature and prevalence of kinship care: Focus on young kinship carers. *Child & Family Social Work, 26*(1), 144-152. ; McHugh, M., & Valentine, K. (2011). *Financial and non-financial support to formal and informal out of home carers.* Social Policy Research Centre, University of New South Wales.; Qu, L., Lauhausse, J., Carson, R. (2018). *Working together to care for kids: A survey of foster and relative/kinship carers.* Australian Institute of Family Studies.; Valentine, K., Jenkins, B., Brennan, D., & Cass, B. (2013). Information provision to grandparent kinship carers: Responding to their unique needs. *Australian Social Work, 66*(3), 425-439.

[630] Boetto, H. (2010). Kinship care: a review of issues. *Family Matters*, (85), 60-67.; Kiraly, M. (2015). *A review of kinship carer surveys: The "Cinderella" of the care system?* (Child Family Community Australia paper no. 31). Australian Institute of Family Studies.

[631] Department for Child Protection. Request for information. Narrative response 1. Received 27 May 2022.

[632] Department for Child Protection. Request for information: Narrative response 2. Received 11 July 2022.

Children under guardianship have been removed from their biological parents and caregivers due to concerns about abuse, neglect or an inability to provide care. While this would lead many to assume that most, if not all, children in care will have special needs in relation to this (for example, reflecting the physical, psychological, developmental and cognitive impacts of abuse, neglect, exposure to violence and in utero harm), out of home care systems in Australia have not been established with this as a default assumption. Evidence is now clear, that the needs of children and young people have been significantly underestimated.

Recent Australian research[633] based on the Pathways of Care Longitudinal Study in NSW, has identified that when the needs of infants (proportionally the largest age group of children entering care) were assessed upon entry into care using standardised measures (e.g., the Brief Infant-Toddler Social and Emotional Assessment, and the Ages and Stages Questionnaire) that 70% of infants were developmentally vulnerable, and this was similar across Aboriginal and non-Aboriginal infants. Of these highly vulnerable infants, only 20% were receiving services. Where children had been able to be assessed by a health professional as being developmentally vulnerable (12% of the developmentally vulnerable children), a much higher proportion (60%) were receiving services. Unsurprisingly, where children had been able to access and receive services in early childhood their developmental vulnerability decreased over time. The study concluded that infants entering care are a high risk group, who are currently underserved, and active monitoring, referral and assessment supported by case workers are essential to having children's needs met in a timely and effective way. Assessments and services also need to be culturally safe, accessible and repeated over time.

South Australian research[634] has previously identified that for school-aged children (aged 6-17 years) in family-based care, 61% of children had behavioural and mental health problems above borderline clinical cut-offs on standardised measures (the Child Behaviour Checklist) and this is compared with prevalence rates of 14% in the general population. Children in care also experienced much poorer health-related quality of life which, compared to their peers, disproportionally impacted their ability to fulfil daily roles such as schooling and social events. Despite the high prevalence rates, of the children in care with perceived problems that required professional help (77% of children with problems) only about half of these children had received it.

This lack of recognition of the true needs of children, is reflected within the complex system of assessments, payments, categorisations, loadings and approvals that are used in child protection to ascertain carer payments and responsibilities for the costs of children in care[635]. If the true level of needs of children remains unrecognised, then the resources needed by children will be grossly underestimated. The studies above show that as much as 50% to 80% of the needs of children and young people in care may be unmet by services, and the costs and impacts of unmet needs are borne by children, young people and their carers. Financial strain on carer households is especially high in instances where children have high medical and social needs, the carers want to provide high

[633] O'Donnell, 2022, Transcript for Pathways of Care Longitudinal Study 2022 Roundtable 1. Child Development, Wellbeing and Children with a Disability.
[634] Carbone, J. A. (2009). *The mental health and well-being of children and adolescents in home-base care in South Australia.* [Doctoral dissertation]. The University of Adelaide.
[635] Feagan, E. (2021). *The true cost of foster and kinship caring in South Australia*. Connecting Foster and Kinship Carers SA & The University of Adelaide.; McGuinness, K. and F. Arney (2012). Foster and kinship care recruitment campaign literature review, Menzies School of Health Research.

levels of care for the children, and the system is not responsive to these needs[636]. This is further exacerbated when state policies systematically provide differential subsidies for children who appear to share the same vulnerabilities and needs, which is viewed as illogical and unfair[637].

Increasing remuneration for the provision of care

A recent review[638] of the costs of foster and kinship care noted that for decades, Australia-wide foster and kinship carers have been paying out of pocket costs to support the higher needs of children in out of home care. Included in this review were jurisdictional comparisons of base rate payments for carers, with South Australia having the lowest rate of base rate payment for infants and children under five years of age, and the third lowest rate of payment in Australia when calculated across childhood (i.e., 0-17 years). The 2020 survey by CFKC-SA[639] identified that out of pocket costs, difficulties obtaining reimbursements and loadings and being out of the workforce were key financial challenges for the 194 carers who responded.

In recognition of the costs of providing care for children under guardianship, various changes have been made to carer payment systems over time in Australian jurisdictions[640]. This has included:

- Carer loadings for children with higher medical, disability and behavioural needs
- Specialist placements where carers receive higher subsidies than those not recognised as specialist placements, require more specialist training and may have restrictions placed on the amount of paid employment they can undertake
- Models of professional care in which carers are paid a salary or fee in recognition of their experience and expertise, that is payment for their service and acknowledges the skills, expertise and knowledge foster parents bring and which comes with certain training expectations.
- Proposed hybrids of the two models above with a subsidy/allowance paid to carers to assist with the day-to-day costs of raising a child (the allowance component) and a fee (paid to carers and potentially taxable as income or a stipend that is deemed tax free) in recognition of their skills, experience and knowledge. [641]

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[636] Randle, M., Ernst, D., Leisch, F., & Dolnicar, S. (2016). What makes foster carers think about quitting? Recommendations for improved retention of foster carers. *Child & Family Social Work, 22*(3), 1175-1186.
[637] Berrick, J. D., & Boyd, R. (2016). Financial well-being in family-based foster care: Exploring variation in income supports for kin and non-kin caregivers in California. *Children and Youth Services, 69*(1), 166-173.
[638]Feagan, E. (2021). *The true cost of foster and kinship caring in South Australia.* Connecting Foster & Kinship Carers SA & The University of Adelaide.
[639] Connecting Foster and Kinship Carers SA. (2021). *Foster & kinship carer survey: 2020 summary.*
[640] Feagan, E. (2021). *The true cost of foster and kinship caring in South Australia*. Connecting Foster and Kinship Carers SA & The University of Adelaide.; McHugh, M., & Pell, A. (2013). *Reforming the foster care system in Australia: A new model of support, education and payment for foster parents.* Berry Street & University of New South Wales.
[641] McHugh, M., & Pell, A. (2013). *Reforming the foster care system in Australia: A new model of support, education and payment for foster parents.* Berry Street & University of New South Wales.; Thomson, L., et al. (2016). Foster carer attraction, recruitment, support and retention. Institute for Child Protection Studies, Australian Catholic University.

- Extending support for carers to enable children and young people to remain with the carer into adulthood, extending carer payments until the child turns 21 or 25 years or leaves the carer's home.

In South Australia, a combination of these models has been operating, including the recently established model of specialist care and raising the age to support carers of young people over 18 who remain at home with their carers. These changes in part address recommendations from previous inquiries including recommendations from the Parliament of South Australia Select Committee[642] (Recommendation 39 for the establishment of a model of professional foster care for children with multiple and complex needs and Recommendation 27 for the period of support be extended beyond 18 years for young people in foster care assessed as not fully ready for independent living).

Adequate financial support is essential for attracting and retaining more carers as it addresses some of the financial costs, impediments and related stresses that may deter carers from commencing or continuing in a caring role[643]. Through this increase in the pool of carers, it is also hoped that resources can be re-allocated from residential care as a number of children could be placed in and remain in home-based care rather than residential care placements[644]. Increases in payments have been associated with higher levels of stability for children in care, better outcomes for children associated with placement stability and greater carer satisfaction[645].

Legislation, policies and procedures

Section 73 of the CYPS Act outlines that the Chief Executive must ensure that regular assessments are undertaken of the provision of care by the approved carer, relevant courses of training are made available to the carer, ongoing support and guidance are provided to the carer, and that proper assessments are made of any requirement of the carer for financial or other assistance. Section 112A further stipulates that the Chief Executive may grant to an approved carer such financial or other assistance in relation to the care and maintenance of a child or young person as may be determined by the Chief Executive.

Payments and loadings

Carer support payments for foster and kinship carers are not considered a wage or salary, but a reimbursement for the costs of caring for a child or young person[646]. The Australian Taxation Office Taxation Determination TD2006/62 specifies that payments to a volunteer foster carer to provide foster care are not assessable income. Carer payments do not need to be listed in a carer's taxation

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[642] Parliament of South Australia. (2015). *Interim report of the select committee on statutory child protection and care in South Australia.*
[643] Randle, M., Ernst, D., Leisch, F., & Dolnicar, S. (2016). What makes foster carers think about quitting? Recommendations for improved retention of foster carers. *Child & Family Social Work, 22*(3), 1175-1186.; Thomson, L., et al. (2016). Foster carer attraction, recruitment, support and retention. Institute for Child Protection Studies, Australian Catholic University.
[644] Inder, B., & Gor, K. (2014). *Professional foster care as an alternative to residential care: It makes sense.* Commission for Children and Young People (Victoria).
[645] Jones, A. S., & LaLiberte, T. (2010). Brief literature review: Impact of changes to foster parent reimbursement rates - annotated bibliography. *Social Service Review, 61*(4), 599-609.
[646] Department for Child Protection. *Carer support payments* [webpage]. Accessed September 2022.

return, applications for Commonwealth benefits or when applying for a loan from a financial institution[647]. Payments are designed to help cover day to day costs, and are usually updated annually subject to Department of Treasury and Finance and DCP approval. They are paid in arrears.

The types of payments and grants that may be available to foster and kinship carers may depend on the age of the children or young people they are caring for, the type of care they are providing (e.g., specialist or general foster care, respite care), and an assessment of the needs of the children or young people. They may consist of the carer subsidy payment (also referred to as the base rate payment), loadings, grants (placement start up payment, activity grant, education grant), reimbursement for incidental expenses and other financial supports. Payments include financial support provided for children and young people placed with temporary, foster, kinship and SCO care, and LTG (specified person). They are made for emergency, respite, short term, long term, temporary, post 18 and specialist placements. The Carer Payments Team manage the payment of subsidies, grants and loadings[648].

For general foster carers and kinship carers there are 53 possible rates of payment (five base rate payments without loadings based on the age of the child or young person and 12 levels of loading available for each of the four age groups of children under 18)[649]. In addition, specialist carers are paid a higher single rate payment and are not eligible for placement start up payments, education grants or activity grants.

Basic subsidy

The basic subsidy is paid to general foster, kinship, SCO and LTG carers to cover the costs of day to day, ordinary costs of caring for children and is intended to help cover costs such as food, clothing, recreation, entertainment, basic medical costs, travel, pocket money[650], presents and parties for the child or young person. The Departmental document Carer Support Payments: Who Pays for What[651] sets out the guidance regarding payment responsibilities and expectations for carers and costs that may be covered by the Department (see Additional Expenses below). The basic subsidy is calculated based on the age of the child or young person in care, and there are five age categories: 0-4 years, 5-12 years, 13-15 years, 16-17 years and 18+. An additional remote allowance (10% of the basic allowance) is paid for general short term, long term and temporary placements for carers who reside in areas designated as remote or very remote by the ABS, to cover the higher cost of living in these areas[652]. Depending on an assessment of the needs of the child, special needs loadings may also be paid on top of the base subsidy rate.

Special Needs Loadings

[647]Carers are advised to consider seeking independent legal, financial, taxation or other advice as to how this relates to their individual circumstances; Department for Child Protection. Carer support payments: Carer handbook. Version 2.3, July 2022., p.4

[648] Department for Child Protection. Carer support payments: Carer handbook. Version 2.3, July 2022.

[649] Department for Child Protection. Carer payment rates and loadings. Effective from 1 July 2022.

[650] DCP provides recommended rates for pocket money for children aged 5-15 years ranging from $6-18/week (as at 1 July 2022). Young people aged 16 and older are eligible for Centrelink benefits. Department for Child Protection. Pocket money and birthday/Christmas present rates. Effective from 1 July 2022.

[651] Department for Child Protection. Carer support payments: Who pays for what? June 2021.

[652] Department for Child Protection. Carer support payments: Carer handbook. Version 2.3, July 2022.

Special needs loading (SNL) determinations vary according to the needs of the child or young person and is subject to social work and managerial approval. The SNL is intended to be used to pay for additional costs (such as travel, medical or dietary needs) for the child or young person, and these expenditure expectations identified and agreed between the case worker, carer and where possible/relevant the agency support worker at the time the loading assessment is being completed

In determining the loading, the case worker first completes the CAT Assessment[653] which is used to screen the behavioural and special needs of the child. It generates four options:

- Level 1: Minor or no problems
- Level 2: Moderate problems
- Level 3: Significant problems
- Level 4: Extreme problems

No loadings are applicable is the CAT outcome of Level 1 is obtained at this assessment. If a CAT outcome of Level 2 or higher is obtained, the case worker then completes the SNL score sheet, with two categories of SNL:

- High intervention SNL – paid in support of children with extremely challenging behaviours not associated with an intellectual or physical disability.
- Physical/intellectual SNL – paid in support of children with physical and/or intellectual disabilities

SNL is paid from the approval date of the current CAT assessment, providing the assessment is within the past 12 months, and the CAT and SNL should be reviewed annually. With a change in primary placement or the child or young person's health condition, a review of the CAT is required. Loading payments are ceased immediately if the CAT assessment upon review drops to Level 1.

Additional payments

In addition to the basic subsidy, three additional payments and grants may be available:

- The placement start-up payment covers initial costs of child being placed with a carer, for items such as food, clothing and personal items.
- The education grant is paid to general foster, SCO and LTG carers at the beginning of every school term to help with education costs, including preschool fees, primary/secondary fees not covered by the School Card, books and stationery, uniforms and shoes, excursions, travel, school photos and other educational items.
- An activity grant is paid annually to support the child or young person to engage in a cultural, recreational or social activity of their choice (such as the Royal Show)

[653] Department for Child Protection. Carer support payments: Carer handbook. Version 2.3, July 2022.

- Financial support for Aboriginal children and young people's cultural support plans is also available through incidental expenses or discretionary Departmental funding sources.
- A refugee program payment (100% capped loading) is paid in support of unaccompanied humanitarian minors in the first six months they are in family based care.

The amounts provided for the placement start up payment, education grant and activity grant are reviewed from time to time[654].

Specialist subsidy

The specialist subsidy is paid to specialist carers who care for children with higher needs. Children and young people placed in a specialist placement must be assessed with a Level 3 or 4 CAT score. The specialist subsidy does not change based on the age of the child or young person in care and no further loadings or grants are available for this placement type[655].

Respite

General respite carers are paid the basic loading for the age of the child or young person, plus a 100% loading on up to and including the first seven occasions of the placement, in recognition of the higher costs of caring for a child or young person for a short period of time. Instead of the loading, specialist respite carers receive a specialist respite care subsidy for the period of respite care up to 21 nights[656].

Long Term Guardianship

When a LTG (Specified Person) Order is approved, the Department can provide carer payments and loadings to support carers, where appropriate. The guardian will continue to receive the base rate carer payment until the order expires, and similarly will continue to receive SNL if the child has previously been assessed as requiring SNL. SNL is to be assessed at the time the LTG order is granted in conjunction with the long term care plan. All payments, including the base rate and SNL, are subject to annual review[657].

Payments for carers of young people 18 years and over

Under the Stability in Family Based Care Program or the over 18 Education initiative, there may be eligibility for the continuation of carer payments. In the former case, eligible carers receive the basic subsidy while the young person remains in placement until they turn 21 years of age, moves out of the family home or earns wages higher than the subsidy (whichever is sooner). Carers cannot access respite care, incidental expenditure funding, SNL or the activity grant. Eligible carers under the Over 18 receive extended carer payments and education grants to 25 years if the young person is engaged in full-time secondary or tertiary education, while the young person remains in placement until they turn 25 years of age, moves out of the family home or completes their qualification. This is not

[654] Department for Child Protection. Carer support payments: Carer handbook. Version 2.3, July 2022.
[655] Department for Child Protection. Carer support payments: Carer handbook. Version 2.3, July 2022.
[656] Department for Child Protection. Carer support payments: Carer handbook. Version 2.3, July 2022.
[657] Department for Child Protection. Carer support payments: Carer handbook. Version 2.3, July 2022.

available to long term guardians of young people, for whom only the Stability in Family Based Care Program is available[658].

Circumstances that affect payment

The following circumstances are identified as affecting payment[659]:

- Child or young person in respite – the primary carer's payment reduces based on the occasions of stay in respite. Up to seven occasions, they will receive the basic subsidy but not capped loading, between 8-21 occasions they will have the base subsidy reduced by 50%; and beyond 21 occasions their payment will cease
- Holiday absence – carer payments will be paid at the usual rate for the placement for up to 21 days of absence of the child from the placement due to holidays, camps or other recreational purposes
- Child in hospital - carer payments will be paid at the usual rate for the placement for up to 21 days while the child is in hospital or undergoing medical treatment. Where a carer does not provide a support role for the child while in hospital or undergoing treatment, the payment may be ceased. Extensions may be approved by the case worker and supervisor
- Child or young person has run away from/is missing from placement - Carer payments will continue to be made and carers are expected to be actively involved in locating the child and assisting them to return to placement. If the child is absent for more than 14 days, then the placement will be terminated, though supervisor discretion can be applied
- Child or young person in Kurlana Tapa Youth Justice Centre – carer payments will be paid up to 14 days and will cease after that period if the child remains in Kurlana Tapa
- Child or young person returns to parent for access or trial reunification – carers' payments won't be affected until the child is living with their birth parent(s) for four or more days a week
- Child is removed due to care concern investigation – carer payments will cease as soon as the child or young person is removed due to a care concern investigation
- Carer separation – the case worker must advise Carer Payments and CARU who the primary carer/payee will be and/or whether there will be a shared care or respite arrangement between the carers post separation
- Death of a child or young person in care – Generally payments will continue for 14 days before the placement is closed, however other arrangements may be supported

[658] Department for Child Protection. Carer support payments: Carer handbook. Version 2.3, July 2022; Department for Child Protection. Stability post care fact sheet. Version 1.0, October 2021.
[659] Department for Child Protection. Carer support payments: Carer handbook. Version 2.3, July 2022.

Additional expenses and child care expenses

The Department website[660] advises foster and kinship carers that additional incidental payments may be made for extra expenses, usually associated with: family contact; reunification, maintaining contact with extended family members and therapy due to previous abuse or neglect; and irregular expenses such as medical appointments or school camps.

The Department's document Who Can Say OK: Making decisions about children in family-based care[661]. identifies that carers should talk to their case worker about funding that is available where a decision has a financial implication that isn't covered by the carer payment and that some costs may be reimbursed by the local Departmental office. The guidance for foster and kinship carers regarding what they are financially required to support in the placement is outlined in Carer Support Payments: Who Pays for What[662]. Feagan's (2021)[663] summary of these obligations is outlined in Box 1.

Box 1. Extract from Feagan, 2021 (pp.17-18)

According to the *Carer Reference One: Who Pays for What?* (2021), carers are required to pay for the costs of water, electricity, gas, wear and tear of household goods, and the general maintenance of the house. Other costs include Internet and phone bills, food, personal care purchases like clothing, footwear, and haircuts, as well as costs for furniture, bedding, and linen. A carer is required to have home and contents insurance to help cover any *intentional* damages made to their property by the child or young person placed into their care. Whilst the carer is expected to make a claim on their insurance, DCP will, however, pay the required excess to help replace the damaged item (pp.3-4). All costs of transport to and from everyday activities and all other costs of running that vehicle (insurance, registration, petrol) must be covered by the carer (p.7). However, costs of transport to non-everyday appointments and activities that are necessary for the child or young person will be reimbursed by DCP (p.6).

Whilst carers are expected to pay for at least one extra-curricular activity, DCP reimburses them for the costs of additional activities each term when approved by the department in advance. The carer must cover the costs for social and leisure activities like hobbies, toys, entertainment, and casual outings which include holidays, recreational engagements, and camps, as well as holidays with the carer's family. Some holiday costs will be reimbursed but only if respite is either unavailable during the period in which the family is away, or attendance would address a specific child/young person's need (p.9). Both the carer and DCP are encouraged to cover the costs to support the child's cultural connections (p.6) and are expected to pay for birthday, Christmas, and other religious related gifts, including parties and other events for the child/young person. As we can see in Figure 4, DCP will contribute to the costs of their own birthday and Christmas presents and for their sibling(s) when deemed necessary.

[660] Department for Child Protection. *Carer support payments* [webpage]. Accessed September 2022.
[661] Department for Child Protection. Who can say OK? Making decisions about children in family-based care. September 2019, p.5
[662] Department for Child Protection. Carer support payments: Who pays for what? June 2021.
[663] Feagan, E. (2021). *The true cost of foster and kinship caring in South Australia.* Connecting Foster & Kinship Carers SA & The University of Adelaide.

Carers are expected to cover the costs of healthcare such as everyday visits to see a clinical professional like a general practitioner. All foster and kinship children/young people are provided with their own Medicare and healthcare cards so that appointments and treatment can be bulk billed, but carers are required to pay any gaps. Temporary treatments that need medication such as antibiotics and all other over the counter treatments must be covered by the carer as well. Carers may add the foster and kinship child/young person to their private insurance policy if they desire and DCP may cover the health cover gap for specific medical or dental treatments but only when pre-approved by DCP. DCP will also pay for the child's ambulance cover, any repeat prescription medications, as well as ongoing appointments with practitioners and other professionals which are meeting the child's needs (p.13).

Depending on a carer's household income, carers might be able to receive the Child Care Benefit when using specific childcare agencies (p.7). DCP will cover some costs of childcare but there are fees that carers are expected to pay for, such as bond fees, late pick-up charges, and childcare photos to name a few (See Who Pays for What 2021, p.8). If in need of additional financial assistance there are other payments provided by the Commonwealth Government (Centrelink) which carers might be eligible for.

Additional advice is provided to carers in the *Carer support payments: Carer handbook*[664] in relation to covering the costs of property damage by a child or young person in their care. This identifies that the Department will ensure that the carer or the other people are no worse off if the damage is malicious, intentional or deliberate. Carers are required to first claim against their own home, contents or vehicle insurance (the latter is required as a condition of registration), and the Department will pay any applicable excess. Damage that isn't covered by a carer's insurance company will be considered on a case by case basis by the Department. The Department may not assist with the cost of damage if carers are uninsured, and they won't cover general wear and tear in the home.

In addition to the reimbursements that may be available to carers identified above, exceptional resource funding may also be available and this is considered on an application by application basis[665].

Commonwealth payments, benefits and allowances

The Department website[666] advises carers that they may be eligible to receive additional payments from the Commonwealth Government including: family tax benefit, parenting payment, and payments to help families and the Other Financial Support Fact Sheet[667] identifies a broad range of financial support payments available, although this document does not appear to be publicly available and may not identify all current payment supports.

The Inquiry identified some of the following Commonwealth payments, benefits and allowances may be currently available for carers, dependent on eligibility:

[664] Department for Child Protection. Carer support payments: Carer handbook. Version 2.3, July 2022.
[665] Department for Child Protection. Exceptional resource funding procedure. Version 2.0, December 2021.
[666] Department for Child Protection. *Carer support payments* [webpage]. Accessed September 2022.
[667] Department for Child Protection. Other financial support factsheet. July 2019.

- **Assistance for Isolated Children Scheme**[668] to help carers of school-aged students if they either live in an isolated area or cannot attend an appropriate state school daily due to a disability or special health needs. The child must meet living and study requirements and age requirements, and one of the following isolation conditions must apply to the child: they are geographically isolated, have a special education need, have no reasonable access to a school, or meet a continuity condition.

- **Child Care Subsidy (CCS)**[669] to help with the cost of childcare. To be eligible, carers must care for a child aged 13 or young who is not attending secondary school (unless an exemption applies), use an approved childcare service, be responsible for paying the childcare fees, and meet residency and immunisation requirements. Additionally, the care or their partner must care for the child at least 14% of the time.

    - Some families may be eligible for **Additional Child Care Subsidy**, paid on top of CCS to provide extra support with childcare fees. To be eligible for this, the carer must be eligible for CCS and be one of the following: an eligible grandparent receiving an income support payment, transitioning from certain income support payments to work, experiencing temporary financial hardship, or caring for a child who is vulnerable or at risk of harm, abuse or neglect.

        - To receive the **grandparent subsidy**, the carer or their partner must be eligible for CCS, receive an income support payment, be the grandparent of the child, have 65% or more care of the child, and make the day-to-day decisions about the child's care, welfare and development.

- **Double Orphan Pension**[670] to help with the costs of caring for children who experience any of the following: their parents have both died, one parent has died and the other is in a psychiatric institution or nursing home indefinitely, in prison for at least 10 years or their whereabouts are unknown, or they're a refugee and both parents live outside Australia or their whereabouts are unknown. To be eligible, carers must care for the child at least 35% of the time, meet the residence rules, not receive another Centrelink payment for the child or an Orphan Pension from the Department of Veterans' Affairs. The carer must have also claimed the Family Tax Benefit (FTB) for the child, or have claimed but cannot get it (either due to the family income being too high or the child receiving an education payment.

- **Family Tax Benefit**[671] to help with the costs of caring for children. To get this payment, the carer must have a dependent or full-time secondary student aged 16-19 who isn't receiving a pension, payment or benefit like Youth Allowance, and they must care for the child at least

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[668] Services Australia. (2021). *Assistance for isolated children scheme.* Australian Government. https://www.servicesaustralia.gov.au/assistance-for-isolated-children-scheme
[669] Services Australia. (2022). *Child care subsidy.* Australian Government. https://www.servicesaustralia.gov.au/child-care-subsidy
[670] Services Australia. (2021). *Double orphan pension.* Australian Government. https://www.servicesaustralia.gov.au/double-orphan-pension
[671] Services Australia. (2021). *Family tax benefit.* Australian Government. https://www.servicesaustralia.gov.au/family-tax-benefit

35% of the time and meet an income test. There are two parts to the FTB, Part A and Part B, with separate eligibility criteria:

  - FTB Part A: Carers may be eligible if they care for a dependent child who is either 0-15 years of age, or 16-19 years of age and meets the study requirements (in full-time secondary study, with an acceptable study load, or they have an exemption from Services Australia). The carer must also meet an income test, residence rules, and care for the child at least 35% of the time. Additionally, the child must meet immunisation requirements and Healthy Start for School requirements.
  - FTB Part B: Carers may be eligible if they are a member of a couple with one main income and care for a dependent under 13 years of age, or if they're a single parent or non-parent carer, or grandparent carer and caring for a dependent under 18 years of age. They must also meet the income test, residence rules, and care for the child at least 35% of the time. FTB Part B cannot be paid if the carer or their partner are receiving Parental Leave Pay.

- **Newborn Upfront Payment and Newborn Supplement**[672], a lump sum payment and an increase to the FTB Part A payment when a carer starts caring for an infant. To receive this benefit, carers must be caring for an infant (under one year) who has recently come into their care, the child stays in the carer's care for at least 13 continuous weeks from the date they became eligible for the Newborn Supplement, be eligible for FTB Part A, and not be getting Parental Leave Pay for the same child.
- **Parenting Payment**[673], the main income support payment for being a young child's main carer. To be eligible, the carer must be under the income and asset test limits, meet principal carer rules for a child under eight if single (or under six if the carer has a partner), meet residence rules, and the carer's partner must not be currently receiving Parenting Payment. Eligible carers will also receive the Energy Supplement to help with energy costs and they may also be eligible for rent assistance. If a carer receives the Parenting Payment they will also receive a Health Care Card to assist with discounted medicines.

The following benefits may be available for carers who are providing care to a child with a disability or medical condition, dependent on eligibility:

- **Carer Payment**[674]**,** if the carer is unable to work in paid employment due to full-time care provision to someone with a severe disability or medical condition. The carer must be an Australian resident, care for someone who is an Australian resident, care for one or more people who have care need scores high enough on the assessment tool for a child (0-16 years) or adult (16+), care for someone who will have these needs for at least 6 months, and be under the pension income and assets test limits.

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[672] Services Australia. (2021). *Newborn upfront payment and newborn supplement.* Australian Government. https://www.servicesaustralia.gov.au/newborn-upfront-payment-and-newborn-supplement
[673] Services Australia. (2022). *Parenting payment.* Australian Government. https://www.servicesaustralia.gov.au/parenting-payment
[674] Services Australia. (2021). *Carer payment.* Australian Government. https://www.servicesaustralia.gov.au/carer-payment

- **Carer Allowance**[675] may be available for carers who provide additionally daily care and attention to someone with a disability or severe medical condition. To be eligible, the carer must care someone whose needs score is high enough on the child or adult assessment tools, care for someone who will have these needs for at least 12 months, and meet an income test. If eligible, the carer may also receive the Economic Support Payment.
- **Carer Supplement**[676], an annual lump sum payment to help with the costs of caring for a person with a disability or medical condition. Carers may receive this supplement if they receive the carer allowance or carer payment.
- **Child Disability Assistance Payment**[677]**,** an annual lump sum payment to help with the costs of caring for a child with a disability. To be eligible, the carer must receive carer allowance for a child younger than 16 on 1 July.
- **Carer Adjustment Payment**[678]**,** a one-off payment which helps families adjust following a catastrophic event where a child aged seven or younger either has a severe illness, medical condition or severe disability. To be eligible, a doctor must diagnose the child with a severe medical condition or disability following a catastrophic event (e.g., childhood stroke, car accident). The carer must also receive carer allowance for the child and have a very strong need for financial assistance, the child must need this care for at least two months, and the carer and their partner cannot be receiving Carer Payment or be able to receive another income support payment from Centrelink.

The following Commonwealth payments, benefits and allowances may be available for children and young people in care, dependent on eligibility:

- **The Child Dental Benefits Schedule**[679] covers part or all of the cost of some dental services for children. To be eligible, the child must be eligible for Medicare, between 0-17 years old, and the child or their carer must receive an eligible payment.
- **Childhood immunisations**[680]**.** The cost of all vaccinations for children is covered by the National Immunisation Program. The child must meet immunisation requirements to receive either FTB Part A or CCS.

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[675] Services Australia. (2022). *Carer allowance.* Australian Government. https://www.servicesaustralia.gov.au/carer-allowance
[676] Services Australia. (2021). *Carer supplement.* Australian Government. https://www.servicesaustralia.gov.au/carer-supplement
[677] Services Australia. (2022). *Child disability assistance payment.* Australian Government. https://www.servicesaustralia.gov.au/child-disability-assistance-payment
[678] Services Australia. (2021). *Carer adjustment payment.* Australian Government. https://www.servicesaustralia.gov.au/carer-adjustment-payment
[679] Services Australia. *Child dental benefits schedule.* Australian Government. https://www.servicesaustralia.gov.au/child-dental-benefits-schedule
[680] Services Australia. (2022). *Children's health care.* Australian Government. https://www.servicesaustralia.gov.au/childrens-health-care-covered-medicare?context=60092#a3

- **Foster Child Healthcare Card**[681]**,** a concession card to get cheaper medicines and some discounts. The child must be in a foster care (formal or informal) arrangement and the carer must meet the residence rules.

- **Medicare**[682]. Children in care who are enrolled in Medicare can access the same benefits as adults and they can also access Medicare's programs for children. These programs can help with dental care costs when the parent/carer is on certain income support payments, costs for cleft lip and cleft palate care, and getting immunisations.

- **Support for eye tests**[683]. If the child is eligible for Medicare, Services Australia may help to cover the costs of the child's eye tests and appointments.

- **Youth Allowance**[684]**,** financial assistance for people aged 24 or younger and a student or Australian apprentice, or 21 or younger and looking for work. To get youth allowance as a student or apprentice, the child or young person must meet Australian residence rules, satisfy income and assets tests, and be doing an approved course or full time Australian apprenticeship. A parental means test also applies, so if the child's parents or guardians earn too much, no payment will be provided.

The following benefits may be available for children in care with a disability, dependent on eligibility:

- **Better Start for Children with Disability Scheme**[685] helps with the early diagnosis and treatment of children with an eligible condition. These conditions include: sight impairment (certain level of impairment), hearing impairment (certain level of impairment), deaf blindness, cerebral palsy, Down syndrome, Fragile X syndrome, Prader-Willi syndrome, Williams syndrome, Angelman syndrome, Kabuki syndrome, Smith-Magenis syndrome, CHARGE syndrome, Cri du Chat syndrome, Cornelia de Lange syndrome, microcephaly (With conditions), Rett's disorder. Children with an eligible disability can access this service providing they are eligible for Medicare and have not already accessed services under the Helping Children with Autism program.

- **Helping Children with Autism program**[686] helps with the cost of assessment, diagnosis, and treatment and management plans for autism or any other pervasive developmental disorder. Children can access this service if they are eligible for Medicare and have not already accessed services under the Better Start for Children with a Disability Initiative.

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[681] Services Australia. (2022). *Foster child health care card.* Australian Government. https://www.servicesaustralia.gov.au/foster-child-health-care-card
[682] Services Australia. (2022). *Children's health care.* Australian Government. https://www.servicesaustralia.gov.au/childrens-health-care-covered-medicare?context=60092#a3
[683] Ibid.
[684] Services Australia. (2022). *Youth allowance.* Australian Government. https://www.servicesaustralia.gov.au/youth-allowance
[685] Department of Health and Aged Care. (2014). *Disability – Better start for children with disability initiative.* Australian Government. https://www1.health.gov.au/internet/main/publishing.nsf/Content/children_disability
[686] Department of Health and Aged Care. (2014). *Autism – Helping children with autism program.* Australian Government. https://www1.health.gov.au/internet/main/publishing.nsf/Content/autism-children

- **Disability Support Pension (DSP)[687].** To be eligible, the child needs to meet non-medical and medical rules.
    - **Non-medical rules**: The child must be at least 15 years and 9 months old when applying, meet the residence rules, and meet the income and assets tests.
    - **Medical rules**: If the child meets any of the manifest medical rules, and also meets the non-medical rules, they may be able to receive DSP. If they don't meet the manifest medical rules, they may meet the general medical rules.
        - *Manifest medical rules*: Conditions meet these rules if any of the following apply – permanently blind, needing nursing home level of care, terminal illness with average life expectancy of less than two years, intellectual disability with an IQ of less than 70, category four HIV/AIDS
        - *General medical rules*: The condition will last more than two years, condition is fully diagnosed, treated and stabilised, impairment rating of 20 points or more, meet Program of Support rules (if applicable), or the condition will stop the young person from working at least 15 hours per week in the next two years.
- The **National Disability Insurance Scheme (NDIS)[688]** can support carers and families of people with disability. The NDIS is only available to people with a disability caused by a permanent impairment[689]. Children can still access NDIS services while receiving DSP[690].

In response to an Inquiry RFI[691], the Department wrote that carers have a role in the NDIS planning process, which includes informing the types of supports required by the child or young person, and in supporting the child or young person's engagement with NDIS intervention and supports. This is further reinforced in the Department's 'Supporting children and young people in care chapter' of the Manual of Practice[692], which provides guidance for identifying and responding to children's disability needs. This guidance recommended that case workers include carers in NDIS planning meetings, ensuring that carers have sufficient time to gather the required information and to make themselves available. The chapter also guides case workers to provide a copy of the NDIS plan to the carer as soon as practicable.

[687] Services Australia. (2022). *Disability support pension.* Australian Government. https://www.servicesaustralia.gov.au/disability-support-pension
[688] Services Australia. (2022). *Health care.* Australian Government. https://www.servicesaustralia.gov.au/childrens-health-care?context=60011#a4
[689] National Disability Insurance Scheme. (2022). *Eligibility checklist.* https://www.ndis.gov.au/applying-access-ndis/am-i-eligible
[690] Services Australia. (2022). *Disability support pension.* Australian Government. https://www.servicesaustralia.gov.au/disability-support-pension
[691] Department for Child Protection. Request for information: Narrative response 2. Received 11 July 2022.
[692] Department for Child Protection. Manual of Practice: Supporting children and young people in care chapter. *Identify and respond to the child or young person's disability needs.* Version 5.11, June 2022.

Submissions to the Inquiry

Concerns about remuneration and lack of financial support for foster and kinship carers are longstanding matters in child protection systems. The Department is responsible for meeting the needs of children and young people under guardianship, and foster and kinship carers are committed to helping children reach their full potential in the long term and are doing what it takes to meet those needs. Submissions to the Inquiry detailed the extent, type and unseen nature of the costs of caring for children under guardianship, the insufficiency of payments and loadings to meet these needs, difficulties with obtaining reimbursements, concerns about the unmet needs of children and young people under guardianship, and the impact of financial costs on foster and kinship carers.

Financial costs

Nature of costs

Submissions to the Inquiry outlined the nature of costs involved in providing care for children and young people under guardianship, many of which are unseen costs and are under-recognised in the level of payments provided to carers. Submissions[693] identified that the financial implications of providing care are not discussed with carers during recruitment, assessment, training and registration. These included the costs of caring for children in general, costs associated with the specific needs of the individual children and young people in their care, and care-specific costs[694].

General costs reported in submissions included:

- Providing a home suitable for caring for children, including having multiple bedrooms equipped with appropriate bedding and furniture; this can include the costs of house extensions and/or moving to a larger home
- Vehicle purchase and maintenance suitable for transportation of larger families over potentially long distances
- Providing healthy food and nutritious meals, including school lunches and meals out
- Costs associated with child care, preschool and education including some fees, uniforms, books, school shoes and sports clothes
- Costs associated with regular health and dental care, including medicines and vitamins
- Clothing, shoes, books and toys
- Hobbies, activities, excursions, pocket money and holidays

Costs associated with the needs of children in care may include higher health and medical care needs, as well as complex behavioural and therapeutic needs. These costs identified in submissions included:

[693] For example, Submissions 74, 183
[694] For example, Submissions 6, 12, 14, 15, 17, 24, 28, 47, 60, 66, 73, 74, 78, 79, 80, 84, 95, 99, 100 112, 115, 136, 143, 145, 167, 172, 176, 193, 195, 196

- Meeting the initial needs of children who have experienced neglect, including children who have significant untreated medical conditions and urgently require treatment, equipment, aids or supplements. This may include meeting these initial needs without access to Medicare rebates for the child
- Providing ongoing equipment and treatments for children with physical disabilities, chronic health conditions and chromosome disorders (for example, PEG feeding, oxygen, insulin pumps)
- Providing assessments, tests, treatments and therapies for children with FASD, other social and learning disabilities such as autism spectrum disorder, and complex trauma, including extensive allied health supports
- Providing medications for rare conditions which may not be on the Pharmaceutical Benefits Scheme
- Vehicle modifications or specifications that accommodate children with disabilities and/or dysregulated behaviours
- More frequent hospitalisations and the costs for carers associated with this such as parking, travel and accommodation (if required), childcare for other children
- Additional food costs related to children's eating behaviours and preferences (for example, greater appetite, food hoarding, food wastage, special dietary requirements)
- Frequent replacement of items that may be accidentally or intentionally damaged (e.g., clothes, shoes, furniture, crockery, toys, beds, electronic items such as phones, tablets and televisions)
- Damage to the home, and the costs of related repairs, renovations and/or reduced re-sale value
- Professional development costs (training, educational materials, conference attendance etc) for carers related to trauma, disability, caregiving and special health care needs of the children in their care
- The costs of moving house to be closer to educational and therapeutic supports; and the costs of home modifications for children with physical disabilities
- Changes in schooling arrangements to meet the child's needs (e.g., for private education) or due to school exclusions
- Reducing, ceasing or taking time off work to be available to support attachment, meet the child's complex and urgent care needs, attend related appointments and meetings and provide care if the child is unable to attend school (more about this is explored below).

Additional care-specific costs identified in submissions included:

- Initial placement costs, including costs of sibling groups, who may arrive with very little, if anything, additional to the clothes they are wearing. For kinship carers these initial costs may be greater as their home may not already be prepared for caring for children

- Costs of attendance at compulsory meetings with the Department and support workers, such as time off work, childcare and travel costs
- Engagement of children in extracurricular activities, as a Departmental requirement, including the cost of the activity, transport to and from the activity and accommodating this in family life
- Costs of taking children to family access visits, which can include high frequency access (e.g., up to five days a week) and long distances, particularly for carers in regional areas
- Return to Country visits for Aboriginal children as part of cultural care planning
- Costs of maintaining sibling connection (travel costs, gifts etc)
- Costs for supporting carers' own wellbeing such as support around grief, vicarious trauma and mental fatigue
- Legal costs of participating in processes and proceedings related to child protection orders, reviews, complaints and care concerns

In addition, submissions identified preventable costs for children, where failures to proactively manage the child's case or denial of assessments and treatments for children (in contravention of early intervention best practice) accrue longer term costs of therapy, remediation and developmental delays and poor health for children[695]. More is described about this below.

Workforce participation, related entitlements and carer savings

A large number of submissions[696] to the Inquiry were from foster and kinship carers who had either left the workforce, had reduced their work fraction significantly, moved to casual positions or took unpaid leave from work, in order to have the flexibility and time to devote to children in their care and provide long term stability. In some cases this was a requirement of the placement type (e.g., specialist care) but far more often was expressed in submissions by general foster and kinship carers whose children in care had significant needs that required substantial care and support (including disabilities, trauma and palliative care), that reducing workforce participation was seen as the only feasible option to meet these needs. For carers from regional areas, options to participate in the workforce were further hampered by the limited supply of flexible, part time work arrangements that could accommodate caring obligations.

The impacts of reduced workforce participation on the financial position of foster and kinship carers was significant, and represents a huge hidden cost that carers are bearing on behalf the State of South Australia. Submissions indicated that carers had lost foregone income in the range of $50,000 to $100,000 per year, which could cost their households between half a million and a million dollars in lost income over a decade. In households that were already without a second income, for example, single parent households, the impacts were even greater. Carers described themselves as

[695] Including, Submissions 12, 14, 15, 17, 47, 103, 136, 170

[696] For example, Submissions 12, 14, 15, 17, 24, 34, 60, 74, 78, 79, 81, 83, 84, 90, 99, 105, 111, 113, 127, 128, 131, 139, 143, 145, 152, 158, 166, 172, 173, 184, 187, 193, 195, 196

living below the poverty line, yet being expected to provide high quality care to the State's most vulnerable children.

Reducing work fractions and ceasing paid employment altogether, not only has an impact on current household income. Submissions[697] identified that the benefits that accrue with paid employment, such as sick and annual leave entitlements, Workcover, public holidays, access to employee assistance programs, salary sacrifice and superannuation, were also impacted. In a number of workplaces, paid parental leave is also unavailable to foster and kinship carers in the initial stages of a placement. The cumulative effects of the lack of leave, lack of support for their own health and wellbeing, and of reduced super contributions upon financial stability were evident.

Submissions also identified that due to the large gap between payments and reimbursements from the Department, carers were meeting substantial out of pocket costs of providing care by drawing down on savings and superannuation. The impacts on super generation, accrual and early withdrawal had compound effects over many years of caring. Submissions[698] also identified that carers when re-entering the workforce after caring for children may be unable to do so in similar positions, at similarly remunerated levels, or may require significant re-training to find employment. Submissions identified that carers sacrificed a financially secure future and retirement to provide care for children under guardianship. This sacrifice was neither recognised, respected nor remunerated.

Finally, submissions[699] to the Inquiry identified that as carer payments are not classed as income, carers may be unable to apply for home loans, car loans or personal loans due to their lack of income, or such loans may attract higher interest rates. The inability to purchase a home or car effectively prevents carers from undertaking their caring roles.

Comparisons with residential care

Submissions[700] to the Inquiry identified the significant savings to government that were provided by foster and kinship care, and the avoided costs of alternative forms of care such as residential care. However, these costs are only avoided by utilising foster and kinship carers' financial, social, emotional and health resources and causing financial disadvantage to carers. The role of foster and kinship carers was described as very similar to residential care workers, without the salary, leave arrangements, professional support, work downtime or full costs of caring being picked up by the State. Submissions noted the significantly high and increasing costs of residential care as compared with foster and kinship care, the high turnover in residential care staff, and the poorer outcomes achieved for children in residential settings as compared with children in family-based care. The significant differential in the costs of residential care and family-based care was identified as demonstrating that the Department cannot raise children on the same amount that it says is enough to raise a child under guardianship in family-based care. Submissions also noted the inequities in how children's needs are met across the different care settings (including siblings in different care arrangements), with children's material needs being able to be more easily met in residential care

[697] For example, Submissions 6, 15, 39, 56, 74, 78, 83, 93, 113, 115, 127, 131, 136, 142, 143, 146, 147, 153, 162, 170, 172, 183, 184, 195
[698] For example, Submissions 15, 142
[699] Including, Submissions 15, 74, 81, 83, 84, 90, 111, 127
[700] For example, Submissions 15, 73, 74, 78, 84, 90, 113, 115, 142, 147, 153, 162, 172, 184, 196, 198

than in foster or kinship care where carer payments may limit means and/or carers need to argue for reimbursement by the Department (see below). Delays in payment of SNL further exacerbate these inequities, with general carers providing care for some of the most vulnerable children in the state (who would otherwise have been placed in residential care with full time paid supports) on the base rate payment until CAT and SNL assessments can be completed and loadings applied (more about this below).

Payments, allowances and loadings

Insufficient to meet the needs of children in care

Many submissions[701] to the Inquiry identified that carer payments at the current rate don't cover the costs of caring for children and young people generally, let alone caring for those under guardianship who have experienced trauma, have higher needs and require more care and resources. This is also in the context of rapidly increasing unavoidable costs of living for foster and kinship carers, such as increasing costs of fuel, interest rate rises, the rental crisis and the financial impact of COVID for families. The base rate payment was described as insufficient, grossly inadequate, antiquated and insulting. It was unclear to carers what calculations base rate payment have been based on, but it was strongly felt they did not reflect the true costs of caring for children and young people under guardianship. Submissions identified that the Department should meet these costs and many examples were given of carers on base rate general payments who were unable to meet the costs of things such as medications, supplements, and transportation from their payments and paid these expenses from their own pocket. That the base rate payment was lower for babies and infants was also described as problematic, as babies require special furniture, car seats, nappies, formula, items that they rapidly grow out of and require replacing, and in addition babies and infants in care may require transports to access up to five days per week, special medical treatments, therapy items, and remedial surgeries. The payments for caring are also clearly insufficient to cover reduced income through changes to carers' work arrangements or the need to take unpaid leave (as described above), and because of this, some carers are remaining in paid employment to cover the costs of caring, when children may benefit from them being able to stay home with them, particularly in the early stages of placement.

Submissions to the Inquiry[702] also identified that eligibility criteria for some forms of payment (such as payments until 21, kinship care) can be strict or subjective and that the costs of care, particularly for children and young people with disabilities or very high needs (e.g., costs of health, disability and therapeutic services), are routinely borne by the carer and/or young person.

Respite care and payments

Primary carer payments are affected by the use of respite, and a number of submissions[703] identified that while primary carer payments are reduced for that period of respite, the costs of providing care for the child (e.g., rent, clothing, medicines, supplements, thickeners, sensory equipment, mobility aids, therapies and hospital appointments etc) continue and must be provided by the primary carer during respite. In addition, the children must be transported to respite, and as identified in the

[701] For example, Submissions 12, 14, 15, 29, 60, 74, 78, 79, 90, 105, 112, 113, 115, 139, 153, 167, 170, 172, 186, 196
[702] Including Submissions 6, 15, 29, 39, 74
[703] For example, Submissions 14, 15, 17, 24, 55, 74, 90

previous chapter, this can include long distances. The Inquiry heard that in some cases, the reduction in payment due to children being in respite care can be a deterrent to carers using respite because it would impact on their ability to meet children's needs as a whole.

Submissions[704] also identified difficulties with payments experienced by respite carers, which included payments for respite provision stopping without explanation or not being paid, carers being left out of pocket and having to follow up with the Department to get payments, delays in processing payments having to be chased up, and delays in reimbursements (explored more generally in further sections below).

Assessment of children's needs and calculation of loadings by the Department

Submissions[705] to the Inquiry highlighted many concerning issues related to the ability to have children's needs assessed, and the calculation of loadings for carer payments. These issues included fundamental concerns about children's needs being unable to be assessed through the CAT process or formal assessments (see below). Where assessments were carried out, this did not always involve the carer and significantly underestimated the level of need for the child. Examples were given of loading calculations done without carers yielding 25% loadings, and when later completed with carers, yielding significantly higher loadings (e.g., 100% or 150%). Submissions[706] also noted delays in CAT and SNL calculations (waiting months or over a year), and lengthy delays in lodging paperwork to activate the loading.

Submissions[707] identified that the CAT and special needs loading calculation system was not developed for its current use and is unnecessarily complicated, inaccurate, confusing, inconsistent and unfair. This included the following concerns with how CAT and SNL determinations are made:

- The category system doesn't distinguish between the complex needs of children. Carers did not think that the system adequately considered or effectively identified children's needs or the associated costs to meet those needs, and carers who had cared for multiple children felt that some children who were categorised differently, had the same levels of need. The separation into separate behavioural and physical dimensions may underestimate the needs of children who have moderate needs in both domains, but if considered together represent a high level of support needs for children
- The system does not accurately cover the needs of highly physically disabled or chronically ill children (examples included 25% loadings being assigned to a child in a wheelchair, another child on full time oxygen, and another child with Type 1 diabetes)
- The CAT system is not age appropriate and significantly underestimates the needs of children who are not yet in school, as a number of the items are school-based (for example relating to school attendance, school exclusion, absconding from school, and school refusal). Case workers were described as rating young children as "0" when they believe the item is not applicable or a child is too young to be assessed against the criteria, even if there is

[704] For example, Submissions 23, 24, 54, 87, 101, 112
[705] For example, Submission 196
[706] For example, Submissions 12, 14, 15, 196
[707] Including, Submissions 6, 12, 14, 15, 17, 24, 34, 47, 63, 66, 67, 74, 78, 89, 90, 92, 105, 112, 113, 118, 136, 141, 142, 152, 166, 172, 181, 183, 196, 197

evidence of significant support needs. Examples were given of infants and young children with significant needs who were rated as CAT 1 (indicating that child required no more care than any other child of that age) due to this bias in the tool (for example a two year-old child who could not be accommodated at daycare even with eight hours of support a day; an infant on permanent oxygen and requiring multiple medications; a child under five who enters care with extreme trauma, abuse and behaviours).

- The loadings generated through the SNL assessment don't adequately cover the costs of children's needs. For example, a 50% loading was calculated for a child, this provided additional $150/fortnight, however fortnightly sessions with psychologists costs $200.
- Decisions regarding the rate of payments and loadings, including eligibility for specialist payments are based on assessments being undertaken by case workers who do not have the training or expertise to undertake formal behavioural, medical/health, developmental or psychological assessments; case workers who make the assessments may be seeing children's behaviour only in a single context (e.g., during contact or at school) when the child's behaviour in another context can be very different. This can make the assessments inaccurate and subjective.
- Concerns were raised that due to its subjectivity (as opposed to standardised or diagnostic assessments), CAT and SNL assessments outcomes can be inconsistently applied and can be changed despite children's circumstances not changing. This subjectivity and inconsistency was described as also being dependent on the discretion of the case manager and the relationship between the carer and the worker, potentially leaving some children/placements under- or over-serviced. Examples were given of carers advocating for SNL and CAT assessments and increased resources for the children, this not being received, the placement breaking down, and the child then having a CAT and SNL assessment that indicated the child had much higher needs than the previous carer was receiving payments for. Replacing the CAT and SNL system with standardised assessments and including as a regular part of the child's annual review could mitigate some of these concerns
- For lifelong disabilities (such as FASD), carers must annually argue the costs and impacts of the child 's disability, providing the same details every year, when the condition is permanent. This represents a preventable resource cost for carers and the Department.
- The SNL loadings are expressed as a percentage, but they are not a percentage of the base rate payment, instead they are expressed as a percentage of a capped rate which is lower than the base payment rate. As at July 2022, capped loading rates ranged from 65% of the base payment rate for children aged 0-4 years; 68% for children 5-12 years; 59% for young people 13-15 years and 58% for 16-17 year olds; there are no loadings for the care of young people over 18 years[708]. Hence a 25% loading for a 0-4 year old child is only 16% of the base payment rate.
- As CAT determinations are required for children's eligibility for specialist placement and special needs loadings, delays in these assessments have significant consequences for carer payments (i.e., where the placement commences with a default CAT 1 assessment) for

[708] Department for Child Protection. Carer payment rates and loadings. Effective from 1 July 2022.

children with known very high needs. Carers must then use their own funds to establish the placement and support the child's very significant needs, placing additional financial hardship on the carer and potentially compromising the child's care. This is further exacerbated through case workers not referring children for assessments, delays in assessments being undertaken, and processed and complications with being backpaid to the date of assessment rather than placement (which can be many months apart). The lack of assessment and support and appropriate placement was reported as leading directly to placement breakdown and significantly impacting on other family members.

Submissions[709] identified that funding associated with loading increments provided insufficient funds to cover the additional needs of children, and also doesn't recognise that the higher the needs of the children, the more likely that the carer will need to change work arrangements to provide care and attend appointments. There was a call for recognition that because children entering care have health, behavioural and trauma-based needs and carers need to reduce work hours or cease employment altogether, there should be an automatic SNL (effectively an increase in the base rate payment) for all placements to adequately meet the needs of children and not cause financial hardship for carers. This would also enable recruitment of new carers who currently can't afford to reduce their work arrangements (and so are not considering becoming carers) and in the retention of existing carers.

Additional costs and reimbursement

Assessing and meeting the needs of children in care

Of high concern to the Inquiry were submissions[710] that identified that children and young people were unable to receive necessary assessments and treatment in care due to case worker opinions that they were unnecessary (see also Chapter 7). At times this was against the advice of professionals who had recommended the assessments or treatments, including medical professionals, therapists, education support, early childhood services, allied health specialists and the Women's and Children's Hospital in home care team. In addition, many of the carers who made submissions to the Inquiry were highly experienced parents and carers who had developed expertise in trauma, disability and child development and/or had professional qualifications and experience in professions serving children, including children in care (for example, education including special education, nursing, child protection, disability support, social work, childcare and youth work). They frequently reported that their opinions and advocacy regarding assessments and treatments for children in their care were disregarded. Such advocacy was frequently described as a fight or a battle to have children's fundamental needs met while in care.

The delays in assessment and treatment through denial of assessments and through lengthy delays in the public health system means children who have been abused and neglected can't benefit from early intervention, can't access necessary treatments and will experience exacerbation of their conditions or further deterioration of their health. Examples were given in submissions[711] of children who suffered such impacts due to denial of assessments and treatments, including children with

[709] Including, Submissions 105, 139, 152, 153, 166, 184, 186, 195
[710] For example, Submissions 4, 6, 10, 12, 14, 15, 17, 24, 34, 39, 47, 63, 65, 76, 79, 83, 84, 87, 90, 92, 99, 103, 111, 113, 116, 118, 125, 139, 141, 151, 152, 166, 170, 172, 176, 179, 180, 187, 189, 196
[711] For example, Submissions 39, 47, 63, 79, 84, 99, 103, 111, 116, 170, 187, 196

hearing loss who had suffered learning and speech delays and children with FASD and autism spectrum disorders who experienced social and learning delays due to the delayed diagnosis and supports.

Delayed diagnoses can also impact on carer eligibility for loadings, payments, allowances and benefits to meet the needs of children with disabilities and complex mental health conditions. The impacts of delayed diagnoses, referrals, assessment and treatments were particularly evident in submissions about children with disabilities who could have been eligible for the NDIS, and would then be able to receive support plans and packages of support. [712] In addition to delays in diagnosis affecting access to NDIS funded supports, it was identified that delays in completing paperwork, lack of consultation with carers or the disability support coordinator in the assessment and planning process, carers being told incorrectly by case workers that children were ineligible, and disagreements between the Department and NDIS about who should pay for what, all caused further delays, affected the amount of funds available and/or access to those funds. Some carers had been cautioned by case workers not to ask for NDIS plans to be reviewed because of a risk that an already inadequate plan would be reduced further.

Carers paying for fundamental health, medical and therapeutic care

Many submissions[713] to the Inquiry identified that after significant, lengthy and ultimately unsuccessful advocacy with the Department to have children's needs met, foster and kinship carers are instead paying out of pocket to enable children to receive basic health and medical care (for example, GP attendance, paediatrician's appointments, hearing tests, orthotics, optometry, dental care, occupational therapy, speech therapy, physiotherapy, psychology services, and costs of surgery). Due to lengthy delays in accessing services through either the public system or through Departmentally-provided services (e.g., wait lists of 12 to 18 months), foster and kinship carers are also paying out-of-pocket for children to receive these services in the private health system and at times being reproached for doing so (even without seeking reimbursement). In addition to paying for these appointments, when treatments, including expensive medications, therapies, equipment and supplements are recommended by these professionals, submissions identified they may not be reimbursed by the Department, even though once assessed, the Department now require that a child receives the recommended care. Carers who paid out of pocket to meet children's needs and then sought reimbursement described getting into serious conflict with the Department, and to run up considerable bills (e.g., more than $5,000) before being reimbursed (more about this below). Submissions identified that the Department make it clear they won't reimburse private medical expenses even in the case of long waiting lists for public health services. Carers are paying for the costs and then (as expected by the carer, and hence the advocacy) finding out that children have significant conditions such as profound hearing loss, autism spectrum disorder, FASD, developmental delays. For carers who can't afford to pay out of pocket, children will miss out.

[712] Including Submissions 12, 14, 17, 18, 24, 30, 39, 41, 90, 92, 99, 153, 166, 170, 172, 174, 178, 187, 196
[713] For example, Submissions 4, 6, 12, 14, 15, 17, 60, 77, 90, 92, 108, 111, 113, 118, 134, 136, 142, 152, 165, 166, 176, 183, 186, 187, 196, 201, 202

Difficulties with reimbursement

As identified above, the costs of caring for children in care are substantial and there are many out of pocket costs covered by foster and kinship carers. Submissions[714] identified that negotiating reimbursements with case workers, including seeking permissions before payment for items and then confirming reimbursement after expenditure can be lengthy and difficult, and carers may not be reimbursed at all. For carers in regional areas, the costs of transportation (e.g., to therapies, other appointments, school, childcare and access/contact for children) can be particularly expensive, and submissions identified that these costs are not always reimbursed. Submissions described case workers telling specialist carers and carers with children in LTG arrangements, that they should not be making claims for reimbursement, despite payments being insufficient to cover the costs of care for children with high needs. Many foster and kinship carers described that it could take several months to obtain reimbursements for agreed costs, with several reminders to the case worker needed. These difficulties and delays in obtaining reimbursement place foster and kinship carer households under further financial strain can deter them from seeking reimbursement, and cause additional administrative burden for case workers.

Delays in payments by the Department directly to the suppliers and providers of services, equipment and repairs were also noted in submissions[715]. Such delays can mean that children go without the equipment until the account is paid, or services can be terminated due to non-payment. This can damage relationships between the carer and the supplier and it was noted that some suppliers identified that they will no longer provide services/products to the Department including to children in care/under guardianship due to unpaid invoices. This can also result in mounting costs and additional fees charged for late payment, and can affect the credit rating of the carer if the cost is accrued in their name. If the carer pays upfront and awaits reimbursement from the Department (for amounts which can be in the thousands) then they can be seen as non-compliant by the Department and run the financial risk of non-reimbursement, partial reimbursement or accruing interest charges on credit cards if the reimbursement is delayed over several months.

Submissions[716] identified that there needed to be clear procedures and processes for timely reimbursement of agreed and unexpected costs for children, with reimbursements being made within a short period and a clear statement of what the reimbursements are for (paper statements do not contain this information).

Reimbursement for property damage or loss

One particular area of reimbursement that submissions identified as problematic, is the requirement that foster and kinship carers seek recompense for property damage intentionally or accidentally caused by the children in their care, under their own home and contents insurance policies. [717] The concerns included:

- Lengthy, complex and cumbersome processes that delay payments, repairs and replacement of items or which leave carers out of pocket if they have already paid tradesmen and

[714] Including Submissions 12, 14, 15, 17, 24, 28, 39, 47, 60, 84, 92, 95, 107, 108, 128, 136, 143, 154, 160, 165, 172, 184, 196
[715] For example. Submissions 15, 39, 51, 108, 115, 160
[716] For example, Submissions 12, 17, 24, 46, 84, 92, 95, 142
[717] For example, Submissions 12, 14, 15, 17, 24, 81, 83, 90, 92, 121, 142, 158

suppliers (as above). This included delays in claims being submitted and then multiple processes for approval and payment (e.g., obtaining multiple quotes, providing statutory declarations, obtaining supervisor approvals, finance approvals, insurance release forms etc).

- Delays to payments (for example, for electronic equipment such as mobile phones and tablets) can mean that children and young people may be unable participate in remote/distance education, telehealth, therapies supported by apps, or virtual contact and access, especially when COVID has restricted face to face service provision and contact
- Insurance companies may reject claims if: the damage is considered intentional, malicious or wear and tear; if carers repeatedly require repairs to window fixings, doors, carpets and walls on a regular basis; and/or if there are multiple items damaged over a short period (examples were given of dysregulated children damaging property and electronic items on a frequent basis).
- Where insurance does cover the cost of repair or replacement, carers are bearing the costs of the excess and the loss of no claim bonuses
- Where an item has been lost rather than damaged, carers may not be reimbursed if they cannot provide proof of loss
- Where repairs to walls and doors damaged by children in care had been delayed or could not be afforded by the carer, examples were given of case workers admonishing carers for the state of their home

Commonwealth benefits, allowances and payments

Beyond the complications with achieving eligibility and well-informed support planning through the NDIS (as described above), submissions were received in relation to Commonwealth allowances, benefits and payments[718]. Submissions identified that in South Australia, foster and kinship carers rather than case workers are responsible for adding a child to a carer's Centrelink account and applying for the various payment supports available. This is administratively complicated as it requires access to information that carers may not have been provided or which children in care may not have (e.g., birth certificates), the forms are lengthy, and a proof of care letter is also required which may not have automatically been sent to Centrelink by the Department. Some submissions also identified that carers may be unaware that they may be eligible for such benefits, the extent of Commonwealth Government payments and allowances they may be eligible for (beyond those identified on the Department website) and/or that it may be very difficult for carers who may have limited time and limited information about the child to complete the detailed requirements in applying for these sources of funding. Navigating these systems was described as exhausting and is further complicated by delays in information being provided to carers, by carers' having the onus for completing this paperwork fall on them, and by the lack of standing carers may have in navigating such systems without appropriate paperwork. For carers who have short term placements, this can be a nightmare. Some carers are unable to complete applications for funding support due to the time consuming nature of the task, or due to lack of information. This means foster and kinship

[718] Including Submission 66, 74, 79, 90, 98, 112, 142, 153, 187

carers miss out on potential supports for the children in their care. Submissions identified that these processes should be streamlined, the administrative burden should not fall to carers and there should be genuine assistance for carers to access their Commonwealth entitlements.

Inconsistency in remuneration and reimbursement

Submissions[719] to the Inquiry identified that there was a lack of consistency in how payments were calculated (as described above), and in how additional payments and reimbursements were applied, with some carers given access to resources and others denied or not informed resources are available to them. This included inconsistencies in practice that were observed from family to family, between children within the same family, but also for individual children when practices differed from office to office or when case workers and case management teams changed. This could mean that carers who had provided care for multiple children were navigating different decisions and requirements about payments and reimbursements, rather than a standardised and consistent decision-making approach being used. This was described as causing inequity and disparities, confusion, and high burdens for carers in terms of advocacy and keeping track of different requirements.

Submissions[720] noted several ways in which practice relating to reimbursement was inconsistent including:

- Cancellation of previously signed financial agreements and other changes to reimbursement arrangements without notifying carers, and cessation of reimbursements when costs have already been accrued (including very high costs of medical bills, childcare and costs of therapy)
- Foster and kinship carers having to re-confirm or seek re-approval of items already approved and sometimes changes in approved expenditure when there is a change of case worker or office
- Differences in practice between offices (for example with reimbursement for mileage, costs of education including private education, costs of assessments etc), with some offices openly reimbursing these costs, others refusing to reimburse the costs, and others not making carers aware that these costs could be reimbursed
- Changes to approved funding and reimbursements when children move to LTG arrangements, including carers being required to take on costs that were either fully paid, reimbursed or shared by the Department. This included carers feeling forced to sign financial agreements they felt were unfair in order to proceed to LTG
- Some children under LTG arrangements will have the costs of newly emerging needs met, while others are told they will not receive any additional supports and services in that event
- Changes in CAT categorisations when children have changed placements (e.g., from CAT 1 to CAT 4) when the initial carers had repeatedly asked for re-assessment on the CAT. The

[719] For example, Submissions 3, 6, 7, 12, 15, 17, 54, 78, 87, 90, 105, 108, 136, 142, 143, 152, 160, 166, 172, 184, 186, 195, 196, 198

[720] Including Submission 6, 12, 17, 51, 52, 54, 105, 142, 152, 160, 166, 172, 184, 196, 198

additional support provided with an accurate assessment may have provided support to prevent breakdown of placements for very high needs children

- Kinship carers being offered payments and reimbursements for new vehicles and home modifications to enable them to care for children, yet this expense has either not pre-approved by a supervisor or manager, case management changes and the carer does not receive the promised item/s or is not reimbursed for their cost. In some instances, carers were told that such outlay this would not have been agreed by the Department

When it comes to which costs are paid or reimbursed and which are not, this seems often to be subject to individual negotiation, local budgets and funding constraints, and at the individual discretion of Departmental case workers, supervisors and managers. Submissions[721] identified that some of the confusion and inconsistency in what will be paid for or remunerated by the Department may stem from the ambiguity in the Department's responsibilities as outlined in Who Pays for What[722]. While carer's obligations are clearly outlined in this document, it appears far more discretion is applied in relation to the Department's obligations. For example, the use of ambiguous, conditional language such as "Additional DCP funding assistance that may be available", leaves the Department's obligations open to interpretation, which can vary widely. This makes it difficult for carers to be reimbursed for expenses and ultimately enables the Department to deny funding. The lack of consistency and lack of reimbursement means that the system of payment is unreliable for foster and kinship carers, the frequent negotiating wastes precious resources of carers and Department staff, and ultimately reflects a system which is inequitable for children and affects their rights and entitlements. While carers understand that carers and families are different and at times there will need to be special consideration, they need to be apprised of what the fundamental arrangements and expectations are for payments and reimbursement.

Impacts

The costs of providing care, payments which don't reflect these costs, reduced income levels, reimbursement difficulties and the rising costs of living, place significant financial and emotional burden on carers and impacts on the quality of life and outcomes for children and young people. With the costs of caring being pushed back onto individual carers, the generosity of foster and kinship carers was described as being pushed to the limit. Submissions[723] described carers experiencing significant impacts of financial hardship including accruing large debts, bankruptcy, loss of home, loss of superannuation and savings, deferring retirement, going without necessities for themselves including support for their own mental health, and being unable to continue in the caring role. These impacts were noted as disproportionately affecting women, single carers, kinship carers, Aboriginal carers, carers not in the workforce and carers who had been caring for a number of years. Because they have cared, many foster and kinship carers faced living in poverty in their old age.

[721] Including Submissions 7, 15, 78, 87, 90, 108
[722] Department for Child Protection. Carer support payments: Who pays for what? June 2021
[723] For example, Submissions 6, 15, 39, 55, 74, 78, 83, 93, 95, 113, 115, 131, 136, 139, 143, 146, 147, 153, 158, 162, 170, 172, 183, 184, 195, 196, 198

Submissions[724] to the Inquiry also identified that the impacts of the financial, emotional and social costs of caring are further exacerbated by attitudes that imply carers are just in it for the money, are reckless with the Department's money or are in some way trying to financially exploit the Department. Foster and kinship carers reported feeling distrusted, disrespected, reproached and shamed in many of their dealings with the Department over money. Carers also reported feeling stigmatised and taken for granted, and used and abused by the State for whom they were providing an invaluable voluntary service. Carers may eventually stop asking for help and financial support because of the difficulty in obtaining it and because they feel like they shouldn't be asking for it. Submissions noted carer payments should be generous, reimbursement process easy and fast, carers should not be penalised for internal Departmental errors and payments should not be stopped when a child is at respite. If carers don't receive sufficient funds to look after children under guardianship, it impacts on the care they receive. Calls for increases to carer payments were about genuine fears of an inability to meet the needs of children.

Summary of issues

The costs of caring for children and young people in care can be significant, and the special and complex needs of children in care is likely being underestimated significantly. Many carers significantly reduce their income in the course of caring for children and young people in care.

The costs of caring, are further exacerbated by delays in the assessment and treatment of these needs, as children and their carers are then unable to access early intervention supports and payments to assist with the child's care, health and therapeutic treatments.

The Department's processes and systems for carer subsidies, loadings calculation, reimbursements and needs assessment were identified as key elements causing financial stress and were insufficient to meet the needs of very vulnerable children.

Submissions identified that:

- The financial implications of providing care are not discussed with carers during recruitment, assessment, training and registration.
- Concerningly many carers reported having requests for assessments, treatments and therapies denied for very vulnerable children. Others reported extensive delays as they were unable to use the private health system to meet children's needs. Carers described it as a battle to get assessments, therapies and treatments for children and young people in care. Carers were having to fight these battles also while providing care for children with very high special needs, taking an emotional and financial toll.
- The Departmental system of assessing and calculating children's needs and associated payment loadings were described as flawed, not fit for purpose, inequitable for carers of very young children, and applied in a consistent or reliable way.
- Carers may also be unaware of, or finding it difficult to access, entitlements and payment supports available from the Commonwealth Government. The process for applying for these

[724] For example, Submissions 14, 15, 74, 78, 81, 84, 90, 105, 111, 113, 115, 136, 154, 160, 170, 172, 173, 197

funds is administratively burdensome and time consuming, particularly for carers caring for multiple children.

- Difficulties and delays in reimbursements have significant impacts on carer finances. Reimbursements should be dealt with expeditiously to enable a high quality of care be provided to children without placing household finances under strain, and in a way that reduces the administrative burden on case workers.
- Many carers who are paying these out of pocket costs are already financially disadvantaged due to reducing their work fraction, and they shouldn't be out of pocket for a voluntary role.
- The impacts of reduced superannuation contributions on carers are significant in retirement
- The potential costs of caring, and the significant reduction in income and benefits can have large impacts on carer households as well as being a significant deterrent to taking on a caring role. Many submissions identified carers experiencing financial stress, and large out of pocket costs for which they did not seek or could not obtain reimbursement.
- Inconsistencies in how payments, loadings and reimbursements are calculated across workers and workers was a source of stress and dissatisfaction for carers.
- The failure to invest in high quality preventive care and treatment will continue to disadvantage children further and will end in the costs being higher in the long term.

Recommendations

The Inquiry makes the following recommendations:

24. That a skilled, multidisciplinary backlog team of paediatric specialists is established in the short term so that children who have had delayed or denied assessments and treatments, for health, medical, developmental, disability and therapeutic needs, including for suspected or diagnosed FASD, can urgently have their needs met. That there is a process for supporting the carers of children and young people who receive a relevant diagnosis through such a process to access all payments, loadings and supports to which the children and young people are entitled.

25. That the South Australian Government pay the costs of private health insurance, and any related gaps in payment, for children and young people in care.

26. That identified costs and planned reimbursements are included in the child's case plan, that this is regularly reviewed, and any such costs are processed without delay.

27. That a scheme is created to enable carers to have superannuation contributions made by the South Australian Government while they provide care for children and young people

28. That carers can access the Department's or support agencies' employee assistance program. Where such an arrangement already exists, that carers are made aware of such arrangements

29. That the Department implement a new system of carer payments and reimbursements that reflects the true costs of caring, provides consistency and equity

Appendix A. Key definitions and terms

Taken from pp. 21-23 of Department for Child Protection. Carer payments (family based) procedure. Version 3.2, July 2022.

Financially Assisted Adoption

A Financially Assisted Adoption is where the prospective adoptive parents of a child or young person with a physical or mental disability, or for another reason is requiring special care, are able to enter into a financial arrangement approved by the Executive Director, Out-of-Home-Care Minister for Child Protection to contribute to the support of a child or young person after an adoption order is made. These arrangements can only be made by Adoption Services Unit (PSU). This support is provided in accordance with clause 26 of the *Adoption Act 1988*.

General Foster Care

General foster carers provide emergency, respite, short-term and long-term care for children and young people referred by DCP who are unable to live with their birth families and for whom kinship care is not an option.

Kinship Care

Kinship Care is the placement of children and young people in need of care and protection with relatives or with any person related to the child, ensuring alignment to the be Aboriginal and Torres Strait Islander Child Placement Principle.

Long-Term Guardianship (Specified Person) (LTG)

A Long-Term Guardianship (specified person) (LTG) order transfers the guardianship of a child or young person from the Chief Executive to other parties, normally the caregivers of the child.

This gives the caregiver nearly all the rights and responsibilities of a parent. The child or young person can retain connections with their family including birth parents.

Shared care with birth family placement

A shared care placement with the birth family occurs when an approved carer (can include a general foster, kinship or SCO carer) shares care with the birth family on a planned, regular basis. The care arrangement is identified through a collaborative case planning process involving the child or young person, DCP case worker, carer and birth family. Duration of care may alter from time to time to meet the child or young person and family's changing needs.

Shared care between two or more caregivers placement

A shared care placement between two or more caregivers occurs when the care of a child or young person is shared between two or more approved carers. This can include general foster, kinship or SCO carers.

Shared care with residential care placement

A shared care arrangement with a residential care placement occurs when an approved carer (include a general foster, kinship or SCO carer) shares the care of the child or young person with a residential care service on a planned and regular basis.

Shared care and respite care

Respite care is not possible from shared care or existing respite care placements. If the child or young person is in a shared care arrangement and attends respite placements regularly, the situation should be considered a shared care arrangement among three carers. If carer A needs a break and carer B or C can't have the child or young person either, this situation should be considered an emergency placement.

Specialist Foster Care

Specialist foster carers care for children and young people who have complex needs. This can include children and young people who have suffered trauma and abuse, and/or who have disabilities or special needs. Specialist foster carers undertake extra training and receive additional support.

Specialist placement

Specialist foster care services provide individualised care and a supportive, stable placement for children and young people under the guardianship/custody of the Chief Executive who have high, complex needs and behaviours. These children or young people will be accommodated in family based care with trained, skilled carers who receive support, training and supervision from specialist foster care agencies/programs.

Specific Child Only Care (SCO)

A specific child only (SCO) carer is a person approved to provide care, in their own home, to a specific child or children with whom they have a connection (that does not fit the definition of kinship care) through their personal, professional or ethno-specific community life (which includes sharing a cultural, ethnic or religious community connection with the child), without, in some instances, directly knowing the child or the child's family. The definition of a specific child only carer includes a person of Aboriginal or Torres Strait Islander cultural background that is not known to the child and is not considered kin by the family or those with cultural authority for the child.

A temporary placement may be made with a person who fits the definition of specific child only carer, subject to placement criteria being met, as specified in section 77 of the CYPS Act, with carer approval processes to be completed within 3 months of the placement start date.

Temporary Care

A temporary placement may be appropriate when a potentially suitable kinship or SCO placement is identified with a person who is not an approved carer (and it is not reasonably practicable or appropriate for the child or young person to be placed immediately with an approved carer). The non-approved kinship or SCO carer may be authorised to care for a child or young person using a temporary placement under section 77 of the CYPS Act.

A temporary carer must be assessed as willing and able to provide safe and appropriate care and the placement must not exceed three months unless there are exceptional circumstances. If they are willing and able to continue providing care beyond the three month temporary placement period, the temporary carer can apply to become an approved kinship or SCO carer. A full carer assessment must be completed within three months and if this does not occur, approval for a consecutive temporary placement must be sought from the Executive Director, OOHC.