CREATE Foundation Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse

Response to Issues Paper 4: Preventing Sexual Abuse of Children in Out of Home Care

**About CREATE Foundation**

As the national consumer body advocating for children and young people with a care experience, CREATE seeks to provide opportunities for children and young people to have a voice and be heard. CREATE is unique in that it is one of only a handful of organisations in the world, and the only organisation of its kind in Australia, expressly established to advocate on behalf of children and young people in care.

CREATE's mission is to create a better life for children and young people in care, including those who are or have been the subjects of care and protection orders. CREATE is committed to connecting to children and young people with a care experience, empowering them to develop in order that they may realise their potential, and maximising the ways in which the care system can change for the better.

CREATE Foundation appreciates the opportunity to provide a response to the Royal Commission into Institutional Responses to Child Sexual Abuse fourth issue paper on preventing sexual abuse of children in out of home care.

CREATE believes that children and young people with a care experience can play an important role in providing the Royal Commission an insight into their experiences within Australia's statutory care system.

CREATE Foundation's policy positions are informed by the voices of children and young people gathered through consultation and survey. CREATE believes there are benefits for the Royal Commission in providing opportunities, when appropriate, for children and young people to participate in dedicated consultations on issues such as what contributes to a safe and supportive placement environment and their ideas for how the safety of children and young people in out-of-home care could be enhanced.

**Core strategies**

CREATE Foundation believes that core strategies to keep children and young people safe from sexual abuse in out-of-home care must involve fostering an organisational culture which places a strong emphasis on hearing children and young people's views and empowering them to speak up on issues, as well as risk management strategies to minimise risk of abuse occurring.

**The voices of children and young people as a core strategy**

CREATE Foundation believes that safeguards to help protect children and young people from sexual abuse involve empowering them to have a voice and to participate in decisions that affect them. Fostering an organisational culture which encourages children and young people to have a meaningful voice in decisions about their lives not only contributes to individual children and young people feeling empowered but also highlights that the organisation places a strong emphasis on hearing from children and young people and taking their views seriously. This is especially important when trying to develop organisational responses to limit the risk of child sexual abuse due to this type of abuse occurring within a particular power and authority context.

Child sexual abuse occurs in the context of adult-child relationships and may be exploited in engaging the child in sexual abuse, controlling the child, and making threats to the child not to inform others of the abuse. Children and young people in care may be more vulnerable to abuse due to previous history of trauma and a potential lack of, or isolation from supportive relationships (for example siblings, friends, extended family. This issue is dealt with in further detail below).

CREATE believes that the way to minimise the power imbalance that exists between adults and the child is to empower the child to have a voice. Participation of children and young people in decisions that affect them is an important way to empower them to speak up and raise issues of concern and demonstrates to adults involved in the organisation the value that should be placed on the voices of children and young people.

CREATE Foundation believes that "participation is the cornerstone of best practice". Organisations working with children in out-of-home care should embed participation of children and young people in all elements of practice. Direct feedback from children and young people has also highlighted the value they place on having their voices heard in relation to interactions with the Child Safety Department:

*"They say they know what's best for me, but don't ask me"*

*"Young people need to be more involved. They have all these meetings about me, but I never got told or invited. I know me better than they know me".*

*"Children are not being heard and taken seriously".*

*"More knowledge of our rights and how workers should work better with us – they need more training".*[1]

### Education as a core strategy

In addition to general practices promoting children and young people's participation, providing age appropriate information on protective behaviours and teaching them about resilience, and empowerment should be considered a key aspect of supporting children and young people in out of home care. This kind of support can assist children to identify situations where they feel uncomfortable and empower children to recognise their right to feel safe and how to advocate for this. These types of empowerment strategies can be useful for children in their wider care experience, not only in respect to addressing the risk of sexual abuse.

Comprehensive, age appropriate sexual health education and information may also assist in empowering children and young people to develop concepts of body ownership and empower them to feel comfortable to identify and raise any concerns about behaviours which cause them to feel uncomfortable. Providing sexual health information and support should be considered a key component of meeting the health needs of children in out-of-home care system.

### Risk management processes as a core strategy

Risk management strategies are required in order to minimise the risk of sexual abuse, as well as any other type of abuse, occurring against children and young people in care. Although the Royal Commission of Inquiry is limited to investigating issues around child *sexual* abuse in institutions, it is important to acknowledge that other types of abuse may be related to child sexual abuse and may occur concurrently. Therefore, CREATE Foundation suggests that any recommendations around minimising the risk of child sexual abuse in out-of-home care should address the fact that any risk

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[1] CREATE Foundation, Consultation Report for the Queensland Child Protection Commission of Inquiry, Results of focus groups with children and young people about their experiences in out-of-home care, January 2013, page. 24.

management strategies should be part of a more comprehensive strategy around minimising risk of all types of abuse.

Risk management strategies relating to abuse in out-of-home care must include working with children checks for carers and workers (this is dealt with in more detail in the CREATE submission to Issues Paper 1), standards of care, and comprehensive training and ongoing monitoring of care providers and workers.

### Fostering positive relationships as a core strategy

Minimising the isolation of children in care will help them to foster relationships with other people they can trust and may help them to speak up if there is abuse occurring. Along with providing more opportunity for a young person to disclose instances of abuse, placing an emphasis on relationships developed with case workers and other adults they trust may allow for those adults to recognise any behavioural changes that may be a result of abuse.

Previous inquiries into the abuse of children have shown the importance of addressing isolation as a key factor in developing protective factors for children in care. This is important both in the sense of robust external scrutiny of care providers but also in terms of addressing potential isolation at an individual level for children and young people.

The *Report of the Commission of Inquiry into Abuse of Children in Queensland Institutions* (the Forde Inquiry Report) identified that numerous factors contributed to environments where children and young people were subjected to abuse. One such factor was that 'isolation from the wider community and the lack of external scrutiny places an institution at high risk of harbouring abusive practices....In circumstances of poor supervision, no inspections and little accountability or external advocacy for children, caregivers wielded almost unlimited power over the children. Powerlessness has been a central feature of almost all the cases of young people being subjected to abuse in care. Children's weakness and vulnerability are characterised by their lack of power or influence, their scant knowledge of how the organisation works, and their lack of awareness of how to assert their rights or how to make complaints about those on whom they depend for the basic elements of living. Many witnesses said they had lost faith that anyone would ever take their complaint seriously.'[2]

Regular contact with a case worker with a focus of developing a positive relationship is an important component of keeping children and young people safe.  If there is a strong relationship between the child and worker the child or young person may be more likely to speak to the worker if there are issues of concern (including abuse) occurring in their placement.  As identified in the CREATE Report Card 2013, 'dealing with the same people over time allows these relationships to build; caseworkers then become able to serve as "gateway providers" or effective brokers for the children and young people they know, and have the capacity "for improving mental health and permanency outcomes"....In other studies, children and young people have clearly articulated the costs of failing to retain workers, including lack of stability and loss of trust'.[3] The Report Card also noted that 'having a stable relationship with a caseworker would give children and young people greater confidence to contact caseworkers when a particular need arose'.

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[2] Report of the Commission of Inquiry into Abuse of Children in Queensland Institutions, http://www.communities.qld.gov.au/resources/communityservices/community/forgotten-australians/forde-comminquiry.pdf. p.vii-viii

[3] Dorsey, Kerns, Trupin, Conover, & Berliner, 2012, p.23 and Strolin-Goltzman, Kollar, & Trinkle, 2010 in McDowall, J.J. (2013). *Experiencing out-of-home care in Australia: The views of children and young people (CREATE Report Card 2013)*. Sydney: CREATE Foundation, page 86.

CREATE's Report Card 2013 found that 'comments by children and young people indicated that, for the relationship with their caseworker to be effective, they had to be treated as a person, to have their views considered and to be supported'.[4] These factors are crucial elements of building a positive relationship between the child or young person and their case worker.

Fostering positive social and community connections is also a crucial component of establishing a positive care environment for children and young people in care. Isolation from relationships with people the child or young person trusts may contribute to the likelihood of abuse occurring and going on without being reported. Upon a child entering care, strategies should be put in place to identify positive relationships that exist for a child or young person and assist those relationships to continue once the child is in care. This may include ensuring the child remains at the same school with the teachers and peer group he or she is connected to, still attends clubs, church, participating in sporting activities and has contact with friends. Minimising placement changes, which can result not only in the disruption of a change of carers, but also potentially school and community environment, can help to ensure that opportunities are provided for children and young people to develop meaningful ongoing relationships with their peers and adults. The Report Card 2013 identified that while 'most children and young people in this study were able to make friends reasonably easily; maintaining contact, particularly for those in Residential care, was more difficult'.[5]

It is important to recognise and facilitate positive relationships for children, particularly those outside the 'immediate' care environment if possible. Gilligan (2000) suggests that 'another common element of connection work is building *alternative* families and communities around young people. This is particularly critical for young people who have few if any family relationships that they can heal or rebuild....For a young person without a viable secure base in their immediate or extended family of origin, a network or "base camp" of social support based on work, social, educational, recreational and professional helping relationships is probably the best practical alternative facing a young person leaving care. A major task of care takers and care providers in adolescence is to help a young person to develop *the scaffolding of relationships* necessary to sustain these "base camps" for exploring and coping with the vicissitudes of life."[6] . Gilligan (2000, 1997) argues that supporting young people's participation in school and school-based activities, as well as in sport, volunteering, part-time work and other community and recreational activities are important ways of assisting young people to build these networks and relationships.'[7]

Maintaining young people's connections with significant people in their lives is an important aspect of addressing the isolation felt by young people in care. Fostering positive, trusting relationships outside the immediate care environment may assist in preventing children in care from feeling that they do not have access to supportive people should an issue (such as sexual abuse) arise.

Contact and connection with siblings is one way of examining children and young people's relationship connections. CREATE's Report Card 2013 identified that 803 (total of 1,039) children and young surveyed had siblings who were also in care yet less than 40% were in placements with their

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[4] McDowall, J.J. (2013). *Experiencing out-of-home care in Australia: The views of children and young people (CREATE Report Card 2013)*. Sydney: CREATE Foundation, page 86.
[5] McDowall, J.J. (2013). *Experiencing out-of-home care in Australia: The views of children and young people (CREATE Report Card 2013)*. Sydney: CREATE Foundation, page 90-91.
[6] Gilligan, R. (2000). Adversity, resilience and young people: The protective value of positive school and spare time experiences. *Children and Society*, 14, p. 40.
[7] Gilligan,R. (1997). Beyond Permanence? The importance of resilience in child placement practice and planning. *Adoption and Fostering,* 21(1), p.12-20.

siblings.[8] In terms of residential care placements, the Queensland Commission for Children and Young People and Child Guardian *2012 Views in Residential Care Survey Report* found that while the vast majority of young people (93%) have siblings, very few young people (6% overall) have a sibling living with them. Almost 9 out of 10 (88%) have siblings who are all living elsewhere.[9] No young people reported having all of their siblings living with them. 40% of respondents also identified wanting more contact with siblings, extended family and other people of significance. While this living arrangement may be for a variety of reasons and children and young people may still have regular contact with siblings, it does highlight the distinct environment children and young people living in residential care settings experience and the potential isolation from long term relationships.

CREATE has identified that contact with siblings is an emotive and critical issues:

*"You are brought into care because of your parents, not because we did anything wrong. I don't want to be in care. So why does the Department have the right to take away my family contact with the ones who haven't hurt me? My brothers and sisters are there for life. And I feel like I'm not allowed the right to have a real family"*

*"Live with siblings – seeing them once a year isn't often, and it's not the same as living with them"*

*"I raised my two little brothers, but then when I came into care we got separated. The grief I went through was like experiencing someone had died".* [10]

While these statements do not necessarily relate directly to how abuse may be prevented they do highlight the importance of children and young people feeling connected to significant people in their lives. Fostering these relationships is an important component of addressing the potential isolation children and young people in care may experience and this is an important strategy to protect them from potential abuse.

## Access to mental health supports

Recognising the importance of facilitating children and young people's access to counselling and mental health supports is also important. Such interventions can assist address potential historical abuse and trauma issues and also assist in facilitating a trusting adult relationship with someone outside the child's immediate care environment. As recognised in CREATE Report Card 2013, 'given the documented high risk of mental illness in the care population (Tarren-Sweeney & Hazel, 2006)' it is important that the mental health needs of children and young people are addressed.

Addressing and managing mental health concerns for children and young people in care may assist in developing children and young people's own resilience and capacity to demonstrate protective behaviours and to speak up on issues such as potential abuse.

## Identifying and managing risk factors in particular care environments

CREATE Foundation believes that keeping children in out-of-home care safe from sexual abuse

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[8] McDowall, J.J. (2013). *Experiencing out-of-home care in Australia: The views of children and young people (CREATE Report Card 2013)*. Sydney: CREATE Foundation, page 89.
[9] Commission for Children and Young People and Child Guardian. (2013). *2012 Views of Young People in Residential Care Survey: Overview and selected findings*. Brisbane: Author. p.8.
[10] Consultation Report for the Queensland Child Protection Commission of Inquiry, Results of focus groups with children and young people about their experiences in out-of-home care, January 2013.

requires a best practice approach that implements targeted strategies suitable to the particular care environment. Identifying the particular risks in the different environments is an important component of managing risks and implementing strategies to keep children and young people safe. While minimum standards of care are important it is also crucial that the particular nature of different care environments is taken into account in developing strategies.

Application of best practice frameworks and strategies should look at barriers to the implementation of best practice and the potential risks to the safety of children and young people in care and address them accordingly. Working collaboratively with carers and involving them in understanding the reasons for risk management processes should also form a key part of addressing risks in care environments.

### Approaches to monitoring Out of Home Care Practices

CREATE Foundation suggests that the best strategy to allow for thorough checking of out-of-home care practices would involve a combination of audit approach, regular visits, and irregular visits, modified according to care type.

Audit approach strengths:

- May provide comprehensive details of risk management strategies, reporting of incidents or allegations of abuse, complaints processes etc
- May allow for an assessment of the service in order to move toward continuous improvement
- Awareness of upcoming audits may cause help ensure that services put policies in place as required by legislation and other relevant standards

Audit approach weaknesses:

- Formal approach may miss the human context and while policies may appear sound on paper, practice issues may be very different
- Interviews that are held with workers, young people, or other stakeholders as part of an audit may have been prepared in advance (i.e. only young people satisfied with the service are put forward for interview)
- Children and young people may be reluctant to be candid with strangers
- Cost and resourcing may be larger than other approaches
- Frequency of audits may be limited due to cost, resourcing, and timelines
- An audit approach may overemphasise procedural and policy compliance rather than focusing on organisational culture and how this is fostered

Regular supervisory visit strengths:

- Ensures the child or young person have regular contact with an adult who is not their carer
- Regular visits allow for a strong relationship to be formed with the child or young person in care resulting in more opportunity and a greater likelihood a child or young person will disclose if there is abuse
- Visitor is better able to identify if there are changes in the home environment, child's behaviour, or carer behaviour that may suggest as risk or occurrence of abuse

Regular supervisory visit weaknesses:

- Cost
- For children and young people in permanent or long-term placements where they have been integrated into the family unit, supervisory visits can result in stigma of being a kid in care or being "different"
- Regular visits that are expected may not detect issues that would be picked up in an unscheduled visit

Irregular supervisory visit strengths:

- Provides a candid view of the placement.  May be particularly useful in residential facilities and other institutionalised environments

Irregular supervisory visit weaknesses:

- May not have the same capacity to build relationships with children and the workers (depending on frequency)
- May feel like an intrusion to carers and children, particularly in relation to home-based placements

In Queensland there has been a Community Visitor program since 2004. Community Visitors make regular visits to children and young people in out-of-home care. These visits are monthly for some children and young people, including those who have been in a placement for less than 6 months, who are in unstable placements or are the subject of a serious or significant service delivery issue, or who are living in residential facilities and Aboriginal and Torres Strait Islander communities. Depending on the needs of the child or young person, if that child or person is considered to be in a stable, long term placement, visits can occur bi-monthly or quarterly. The *Views of Children and Young People in Foster Care Report* found that when young people were asked about the extent to which they can talk to their community visitor about things that are important to them, almost all (95.5%) reported that they can talk to their community visitor all or most of the time. When *children* were asked to respond "yes" or "no" to the question, 97.5% responded "yes".[11] These findings highlight the value of having regular visits to children and young people by someone independent of the care system. CREATE's focus group consultations identified varying reports young people's experiences with Community Visitors. However one clear theme was that the participants emphasised the value of the independent role of the community visitors and how this made them easier to talk to:

*"I think they do a good job, they have independence."*

*"community visitor is easier to talk to than carers and others."*

*"They will slack off and drift away. They go to the more needy kids first. But it depends on the CV themselves. It's good they're independent from the Department."*

Queensland's Forde Inquiry Report noted that 'If a fundamental characteristic of abuse in care is its pervasiveness in the culture of the organisation and its secrecy—either between the child and the staff member, or on the part of the organisation in order to protect itself—ad hoc inspections are unlikely to be useful. It is unlikely that abuse will be detected by a 'flying visit' from an Official Visitor

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[11] Commission for Children and Young People and Child Guardian. (2012). *2011 Views of Children and Young People in Foster Care Survey: Overview and selected findings*. Brisbane: P.17

or a licensing officer. For abuse to be uncovered—whether it is rife through the organisation or a once-only incident—a range of strategies need to be in place that will provide blanket coverage of the organisation and inhibit any attempts at organised abuse of residents.[12]

## Regulation of Out of Home Care providers

Regardless of which agency regulates out-of-home care, transparency of processes and external accountability is crucial. This is particularly important as the child protection system involves dealing with a particularly vulnerable cohort of the population and is also a 'closed' system due to the confidential nature of the content and information the system deals with.

Regulation of Out of Home Care providers should also emphasise ongoing, regular contact with an adult independent of the immediate care environment to provide children and young people the opportunity to raise any concerns in a confidential, private manner.

## Training for those working with children who might be sexually abused

CREATE considers it important that comprehensive training is provided to carers, caseworkers, and staff of regulatory bodies on addressing the range of needs children and young people in care. CREATE believes that training around working with sexually abused children and young people and how to identify indicators that a child is being abused should be provided to every carer and worker that has direct contact with children.  The training should be mandatory, regardless of the type of care arrangement (ie foster care, kinship care or residential facility based care).

 It is also important that training be provided to direct care providers to deal with potentially inappropriate behaviours that may occur due to abuse. Understanding and responding to inappropriate sexualised behaviours in a way that supports the child to address these is important as young people with complex needs may be at risk of being criminalised and not having appropriate therapeutic responses to meet their underlying needs.

Issues around training for carers and workers who are caring for children who have experienced child sexual abuse and/or have abused other children should take a best practice approach that puts risk management strategies in place and provides support around dealing with problematic behaviours. Sexually inappropriate behaviour from a child or young person should be addressed, as well as associated trauma and/or psychological issues that may be contributing to the behaviour. Over sexualised behaviour by a child or young person may be a result of sexual abuse they have been subjected to or inappropriate sexualisation or activity they have witnessed.  The out-of-home care system has a duty of care to provide supports to children and young people that have experienced abuse, including those that are expressing inappropriate behaviour.  Protection of other children should remain the first priority and safeguards must be put in place.  However, not addressing the root cause of inappropriate behaviour may result in the criminalisation of that child or young person in their youth and into adulthood and present further risk to other children.

Children and young people who have abused another child (or are at serious risk of abusing another child) must be put in supportive placements with workers and/or carers who are properly trained and supported.  All carers and workers should also be trained to identify issues or behaviour that may indicate a need for further support or more intensive interventions.  This may include oversexualised

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[12] http://www.communities.qld.gov.au/resources/communityservices/community/forgotten-australians/forde-comminquiry.pdf, p.viii-ix

or non-age appropriate behaviour.  It is also important for all carers to know symptoms or behaviour that may be related to the child being abused.  Workers and carers must be supported to report any unusual behaviour and how to effectively manage behavioural issues.

In Queensland there is a legislated requirement that information be provided to a proposed carer, to assist the carer make an informed decision about whether or not to agree to the placement. The purpose of the requirement is to enhance and maintain stability for children in out-of-home care placements. This type of information includes details on information that will assist the carer or service to respond to the child's needs, and protect the carer and where applicable, members of their household or staff members of the service, from potential harm.

Between 2010 and 2011 Foster Care Queensland (FCQ) undertook a survey of their members receiving 459 responses to their survey, from foster carers, kinships carers, and provisionally approved carers.[13]

In its survey, FCQ asked its members for their opinions about the Department's information provision prior to placement, with the respect to the child they were caring for at the time. Of the respondents, 31% stated that they were somewhat or strongly satisfied with the Department's information provision, while 48% responded they were somewhat or strongly dissatisfied. 21% of respondents provided a neutral response.

FCQ highlighted that 'these results are consistent with FCQ's Exit interview data. Carers appear to be sending a clear message that they are not receiving appropriate information about children or young people prior to placement. Whilst it is acknowledged that Child Safety does not have access to all the information at times, it is vital that when this information is gathered, it is passed onto the carers as soon as possible.[14] While this may not specifically relate to providing issue in relation to sexual abuse history it does highlight the issues around providing information to carers to allow them to, firstly, determine whether or not to agree to the placement and to then provide care tailored to the particular needs of the child. Information provision should focus on equipping the carers to deal with the child's behavioural needs and how to handle this, rather than necessarily the details of prior abuse.

### Determining the rate of sexual abuse of children in out-of-home care

Using rates of notifications of abuse to relevant government child protection agencies and/or the police as a measure of whether or not abuse of children is increasing or decreasing is complex and needs to be carefully examined and understood. The National Framework for Protecting Australia's

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[13] Foster Care Queensland, Foster and Kinship Care Survey 2010-2011, http://www.fcq.com.au/images/stories/Foster_and_Kinship_Care_Survey_2010-2011.pdf  viewed 17 July 2012. Discussed in  Child Guardian Monitoring Report, *Compliance by the Department of Communities, Child Safety and Disability Services with placement requirements under section 83A of the Child Protection Act 1999,* January 2013 http://www.ccypcg.qld.gov.au/pdf/publications/reports/Child-Guardian-Monitoring-Report/Report-approved-public-release-version.pdf, p.24.

[14] Foster Care Queensland, Foster and Kinship Care Survey 2010-2011, http://www.fcq.com.au/images/stories/Foster_and_Kinship_Care_Survey_2010-2011.pdf  viewed 17 July 2012. Discussed in  Child Guardian Monitoring Report, *Compliance by the Department of Communities, Child Safety and Disability Services with placement requirements under section 83A of the Child Protection Act 1999,* January 2013 http://www.ccypcg.qld.gov.au/pdf/publications/reports/Child-Guardian-Monitoring-Report/Report-approved-public-release-version.pdf, p.24.

Children recognizes that, in relation to reporting of abuse 'some increases over time are a result of changing social values and better knowledge about the safety and wellbeing of children'.[15]

The National Framework for Protecting Australia's Children has as an indicator of change 'Number and rate of children with substantiations related to sexual abuse'.[16] While this is a sound starting point it is important to acknowledge the complexities of using data alone to develop an understanding of this issue.

The Queensland Child Protection Inquiry identified that in Queensland over recent years the number of reports (or intakes) to Child Safety regarding concerns about child abuse and neglect rising by almost 60 per cent over the last five years, from 71,885 in 2007-08 to 114,503 in 2011-12'.[17] The Inquiry also noted that the overall growth in child protection intakes in Queensland 'is even more marked when it is noted that the number of intakes before the Crime and Misconduct Commission Inquiry in 2003-04 was only 44,631.[18] The Inquiry noted that 'some of the factors said to have influenced the growth in reports to Child Safety in Queensland are:

- Greater public awareness about the safety of children following the Crime and Misconduct Commission of Inquiry in 2004
- More professionals being mandated to report concerns about child abuse and neglect to Child Safety (nurses become mandatory reporters in 2005, in response to the Crime and Misconduct Commission of Inquiry in 2004)...'[19]

These findings highlight some of the complexities involved in attempting to quantify the rates of abuse occurring in a community. The increase in child protection reports in Queensland in recent years may not *necessarily* mean that there was further abuse occurring than had been occurring in the past. Increased public awareness and with that, the potential for increased reporting could be a positive development.

It is also important to acknowledge that any measurement of the rate of sexual abuse occurring in out-of-home care is not likely to be a true reflection of the actual rate of occurrence. Increased awareness of the issue of child sexual abuse, as well as improvements in complaint and oversight mechanisms, may contribute to increase reporting of issues of concern.

Regardless of the mechanism used to measure rates of abuse, it is important that government departments and non-government agencies do not treat a decrease in notifications or reporting of abuse as an automatic indicator of an improvement. Such decreases *could* mean that sexual abuse rates are declining but could also mean that children and young people do not have the opportunity to raise issues or that abuse is going undetected, not necessarily that it is not occurring at all.

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[15] Protecting Children is everyone's business, http://www.coag.gov.au/sites/default/files/child_protection_framework.pdf, p.6-7

[16] Protecting Children is everyone's business, http://www.coag.gov.au/sites/default/files/child_protection_framework.pdf, p.32

[17] Queensland Child Protection Commission of Inquiry Discussion Paper Chapters, Chapter 3, http://www.childprotectioninquiry.qld.gov.au/__data/assets/pdf_file/0010/175393/Chapter-3.pdf, p.36-37.

[18] Queensland Child Protection Commission of Inquiry Discussion Paper Chapters, Chapter 2, http://www.childprotectioninquiry.qld.gov.au/__data/assets/pdf_file/0010/175393/Chapter-3.pdf, p.36-37.

[19] Queensland Child Protection Commission of Inquiry Discussion Paper Chapters, Chapter 3, http://www.childprotectioninquiry.qld.gov.au/__data/assets/pdf_file/0010/175393/Chapter-3.pdf, p.37.

CREATE strongly suggests that while an exit interview to capture a young person's views on their time in care and how improvements could be made may sound like a logical approach it could present several unwanted issues. An interview which occurs simply when the young person has turned 18 and is no longer the legislated responsibility of the child protection agency is potentially very problematic, particularly due to the risk that such an interview may raise significant issues for the young person and without proper supports to deal with these issues, problems for the young person may be exacerbated. The out-of-home care system should foster a culture of seeking continuous feedback from children and young people throughout their care experience rather than only an interview at the end of the experience.

CREATE acknowledges that individual feedback is an important element of assessing the care experience for individual children and young people, systemic feedback on the overall quality of the system from children and young people is as important. The National Framework for Protecting Australia's Children includes the introduction of a national survey of children and young people and includes an examination of 'the proportion of children and young people in out-of-home care who report feeling safe and secure in their current placement'.  This also includes the standard of 'the proportion of children and young people who are able to nominate at least one significant adult who cares about them and who they believe they will be able to depend upon throughout their childhood or young adulthood'.[20]

CREATE subscribes to the view that truly unbiased, unfiltered feedback from children and young people in care is best achieved through their engagement with external independent bodies whose primary role is to provide meaningful opportunities for children to express their views. Examination of key issues at a systemic national level would create a comprehensive picture of the experiences of children and young people in out-of-home care.

### Addressing allegations of sexual abuse brought against carers

CREATE believes that encouraging children and young people to participate in  regular discussions about their care experience and any needs they have should assist in empowering them to speak up on issues of concern. Regular visits with case workers and oversight mechanisms (such as Community Visitors) should occur privately (ie not in the presence of those who provide the day-to-day care of the child or young person). This should assist in fostering an independent relationship with the case worker and/or Community Visitor as well as allowing the child or young person to speak privately about any issues of concern. Having private one-one discussions, and focusing on building a relationship with the relevant worker should also assist in workers being able to identify possible behavioural changes which may be indicative of abuse.

In terms of handling disclosures, it is the view of the CREATE Foundation that there should be clear processes around referring on allegations of abuse (consistent with State and Territory legislative requirements) to police. It is also important that there are supportive processes in place for the child who has made the allegation as well as consideration of how to manage contact arrangements with significant, supportive people in the child's life.

It is important that every disclosure is treated seriously and independently from the behaviour of the child or young person who is making the disclosure.  For example, if a child has behavioural issues that results in poor relationships with staff, or threatens to make an allegation against someone, the

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[20] An Outline of National Standards for Out-Of-Home-Care
http://www.dss.gov.au/sites/default/files/documents/pac_national_standard.pdf, p.16.

disclosure still needs to be dealt with through the appropriate mechanisms.

## Oversight mechanisms

CREATE Foundation promotes independent oversight of government agencies. Particularly agencies which deal with such a vulnerable cohort of the population and those which are generally a 'closed' system due to the nature of the content. Accordingly, CREATE recognises the importance of organisations such as the various Children's Commissioners and Guardians and the Ombudsman. It is crucial that these oversight mechanisms are also 'child friendly' and seen as being an approachable entity for people with disability, those from Culturally and Linguistically diverse backgrounds and Aboriginal and Torres Strait Islander people.

CREATE notes with concern the recommendation from the Queensland Child Protection Commission of Inquiry to dismantle the independent oversight role of the State's only independent oversight body and replace it with a new untested system. In addition, the proposal for the department responsible for child protection in Queensland to self-monitor, self-audit and self-report is of great concern and has the potential to undo over ten years on improvements to Queensland's child protection system.

CREATE is of the view that independent oversight, with independent reporting directly to parliament, on issues such as children and young people's reported feelings of safety and whether or not they play a meaningful role in the decision making about their lives is an important component of oversight.

## Implications for record keeping and access to records, from delayed reporting of child sexual abuse

This question may be approached from the perspective of both individuals reporting historical abuse and also from the perspective of organisational record keeping and reporting of abuse at a systemic level to external accountability mechanisms. Maintenance of a comprehensive record system is crucial for children and young people in care. It may be beneficial for the Royal Commission to consider investigating whether or not there is value in the statutory parent (ie the state) retaining records beyond any minimum legal requirement in the event that people leaving care wish to access their records after a significant time.

In addition, CREATE suggests that to ensure access to vital records the Royal Commission investigate processes to ensure that Governments and their respective agencies cannot hide information and records through legislative and cabinet in confidence methods.

There is also the issue of what delayed reporting of sexual abuse means for responding to any specific allegations. This is why it is crucial that organisation's have sound and open processes in place to encourage children and young people to raise concerns and feel confident that these will be dealt with in a fair manner.

## Thank you and acknowledgement

CREATE Foundation thanks the Royal Commission into Institutional Responses to Child Sexual Abuse for the opportunity to respond to the fourth issues paper on Preventing Sexual Abuse of Children in Out of Home Care. CREATE commends the Royal Commission for encouraging discussion of these important issues at this early stage of their work.

CREATE Foundation acknowledges and thanks the children and young people who wish to improve the out of home care sector for future children and young people by taking the time to share their own experiences and views.

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