



CREATE Position Paper

Issue: Complaints Mechanisms in Out-of-Home Care

CREATE's Position

CREATE Foundation believes listening and responding to the views of children and young people in out-of-home care systems is a cornerstone of best practice. A well-functioning child protection system is underpinned by an independent, child and young person friendly, transparent, accessible, and responsive complaints mechanism. Independent oversight of out-of-home care systems is essential to ensure children's and young people's individual and systemic concerns are heard and addressed.

CREATE Foundation believes that an ideal complaints mechanism would have the following characteristics:

- Is safe, open, and independent of the providers of out-of-home care;
- Be easy to access online or face-to-face for children and young people;
- Allow for a support person to accompany a child or young person at any face-to-face meetings;
- Includes individual advocacy services to have complaints resolved;
- Provides a timeline noting expected dates for reporting and/or resolution of the matter; and
- Reports on systemic advocacy issues to improve the care experience for all children and young people.

Table 1

Out-of-Home Care National Standards that Apply to Complaints Mechanisms (FaHCSIA, 2011)

National Standards	Measures
1. Children and young people will be provided with stability and security during their time in care.	1.3 The proportion of children and young people in out-of-home care who report feeling safe in and secure in their current placement
2. Children and young people participate in decisions that have an impact on their lives.	2.1 The proportion of children and young people who report that they have opportunities to have a say in relation to decision that have an impact on their lives and that they feel listened to.

Evidence

- The sexual abuse of children in institutional settings is a problem affecting children and young people today as well as in the past (Office of the Children's Commissioner (NT), 2015; Royal Commission into Institutional Responses to Child Sexual Abuse, 2014).
- The specific mechanisms for complaining about treatment and conditions in out-of-home care vary depending on the jurisdiction in Australia (McDowall, 2013).
- Research and inquiries have found that even when cases of sexual abuse of children in institutions were brought to the attention of departments, police, and institutional providers they were ignored, not followed up, or disbelieved (Royal Commission into Institutional Responses to Child Sexual Abuse, 2014; Swain, 2014).
- Australia's ratification of the United Nations Convention on the Rights of the Child (CRC) in 1990 gives the Australian Human Rights Commission (2015) the power to refer to the CRC when considering complaints from children who believe their rights have been breached. In keeping with the CRC, "Charters of Rights" have been developed in each state and territory expressing the expectation that children and young people in out-of-home care should be able to:
 - feel safe and secure;
 - participate in decision making affecting their lives; and

- make a complaint about their treatment, if necessary.
- Most complaints systems expect that, in the first instance, a child or young person will raise the issue of the complaint with the person responsible, which generally would be their carer or caseworker, and usually through the department or non-government organisation responsible for their guardianship.
- Children and young people may see complaints systems located in departments and NGOs as biased or compromised (CREATE Think Tank, 2015).
- The CREATE Report Card 2013 (McDowall, 2013), in summarising the views of children and young people in out-of-home care in Australia regarding their knowledge and use of complaints about their treatment in out-of-home care found that:
 - about half of the children and young people surveyed (n = 1069) knew how to complain if they needed to, and 19% had made a complaint;
 - of the 204 children and young people who had made a complaint, 45% reported being at least quite satisfied with the outcome, compared with 24% who were quite dissatisfied;
 - older age groups had better knowledge of complaints systems and had used them more. The older groups were also more likely to have wanted to complain but chose not to; and
 - children and young people in residential care and permanent placements also reported more knowledge of complaints systems.

Actions

CREATE endorses The Senate Community Affairs References Committee (2015) recommendations that the Coalition of Australian Governments develop and implement nationally consistent powers for independent child commissioners and guardians to:

1. review individual out-of-home care cases;
2. address complaints and concerns by children and young people;
3. ensure the voice of children and young people is heard in all decision-making processes about placements and case planning; and
4. provide community visitors to visit all out-of-home care placements.

Independent complaints mechanisms are needed to encourage children and young people in out-of-home care to be able to express their concerns and make complaints outside of the organisation that makes decision about, provides, and/or funds their care.

CREATE Foundation also will continue to advocate strenuously, through its work providing independent oversight of the out-of-home care system based on the aggregated voices of children and young people, for improvements to the short, medium, and long-term outcomes of all who are living, or have been in care.

References:

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