

### 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 feedback and complaints mechanism would have the following characteristics:

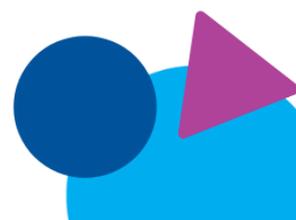
- Is safe, open, and independent of the providers of out-of-home care;
- Be easy to access online or face-to-face for children and young people;
- Allow for a support person to accompany a child or young person at any face-to-face meetings;
- Includes individual advocacy services to have complaints resolved;
- 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.

### Evidence

- The Australian Human Rights Commission (2019) has the power to uphold the United Nation's *Convention on the Rights of the Child (1989)* when considering complaints from children who believe their rights have been breached. Each state and territory has developed a "Charter of Rights" outlining 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.

- These expectations are also highlighted within the *National Standards for Out-of-home care*. In particular Standards 1 and 2, relating to stability and security, and participation in decision-making (FaHCSIA, 2011).
- The sexual abuse of children in institutional settings is both an historical and current problem. Past inquiries have found that even when cases of child sexual abuse in institutions were reported to the departments, police, and institutional providers they were ignored, disbelieved or not followed up (Child Protection Systems Royal Commission, 2016; Royal Commission into Institutional Responses to Child Sexual Abuse, 2017).
- McDowall (2013) has found that processes to raise complaints varies in each jurisdiction. Common themes in CREATE's research highlights that complaints systems are not user-friendly; that children and young people feel their voices are not heard, or they do not know how to make a complaint or who to submit their complaint to (CREATE, 2020).
- CREATE's 2018 National Survey (McDowall, 2018) of 1275 children and young people in out-of-home care in Australia found:
  - Three quarters of the participants knew how to complain if they needed to;
  - Less than half (45%) had made a complaint;
  - Of those who made a complaint, a neutral rating of 55.6 out of 100 was given in regards to the way their complaint had been handled.
  - 31% of participants revealed they had experiences where they wanted to complain, but did not raise the issue due to fear of repercussions to themselves or others.
  - Other reasons for not raising a complaint were due to young people thinking no one would listen or believe them, or because previous complaint attempts had led to no action.

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- In 2019, the Council of Australian Governments (COAG) endorsed the National Principles for Child Safe Organisations as recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse. National Principle 6 states that organisations should have processes to respond to complaints and concerns that are child-focused and uphold the rights of children and young people (Department of the Prime Minister and Cabinet, 2019).
- Benefits of a child-centred and user-friendly feedback and complaints system includes:
  - Delivering on the child’s rights and participation;
  - Improving relationships and trust between children and their carers;
  - Ensuring everyone understands who is involved and the role they play;
  - Providing consistency and clarity in practice;
  - Creating a safer environment for children and young people, and reduces incidents and issues for organisations and carers;
  - Improving systems that swiftly address and/or prevent issues (CREATE, 2020).

### Actions

CREATE (2020) has developed the *Child-centred Complaints Handling Best Practice Guide* informed by children and young people, which provides eight key principles to achieve an effective complaints system. These systems must implement open reporting and monitoring of complaints and feedback to create transparency necessary to encourage children and young people to have their say.

CREATE also endorses recommendations to develop and implement nationally consistent powers for independent child commissioners and guardians (The Senate Community Affairs References Committee, 2015), and identified positions for overseeing Aboriginal and Torres Strait Islander children and young people (Family Matters, 2020), to:

- review individual out-of-home care cases;

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

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