

CREATE's Position

CREATE Foundation believes that listening and responding to the views of children and young people in out-of-home care is a cornerstone of best practice. A well-functioning child protection system includes, and is strengthened by, a complaints system that is independent, transparent, responsive, and, most importantly, child friendly and accessible.

Effective complaint systems:

- ensure children and young people's concerns are heard and addressed quickly and easily;
- have a protective function for children and young people;
- deliver on children and young people's rights;
- build trust between children and their carers/workers/the Department/other service providers; and
- allow standards of service delivery to be maintained and improved.

CREATE Foundation believes that an ideal complaint system would:

- be safe, child-focused, and independent of the providers of out-of-home care;
- be visible and identifiable to children and young people;
- be easy to access and navigate;
- utilise respectful, age appropriate, culturally safe, inclusive, and trauma-informed practices;
- ensure children and young people are well supported (e.g., support person allowed at meetings; individual advocacy services available);
- ensure that children and young people are well informed (e.g., know what will happen and when) and receive feedback on the outcomes of the process;
- be monitored and reviewed using clear, specific, and measurable indicators assessing the experiences of the children and young people using the complaints system; and incorporate transparency and accountability mechanisms (e.g., de-identified data publicly available).

Evidence

- The act of making a complaint is a basic human right (United Nations *Guidelines for the Alternative Care of Children*, 2010; United Nations *Convention of the Rights of the Child*, 1989, Articles 2, 3, & 12).
- Each state and territory has developed a "Charter of Rights" outlining the expectation that children and young people in out-of-home care should:
 - feel safe and secure;
 - be able to participate in decision-making affecting their lives; and
 - be able to make a complaint about their treatment, if necessary.
- CREATE's 2018 National Survey (McDowall, 2018) found that three quarters of participants knew how to complain if needed. However, while 45% had made a complaint, 31% had wanted to complain but didn't. Most frequently, young people stated that they did not make a complaint due to fear of repercussions to themselves or others. Other reasons included young people thinking no one would listen or believe them or because previous complaint attempts had led to no action. Similar themes have been reported by children in care overseas (e.g., Diaz et al., 2020).
- On average, young people who had made a complaint rated their happiness with how it had been handled at 56 out of 100 (0 = *Very unhappy*; 100 = *Very happy*). This suggests that there is room for improvement. Those in residential care were less happy with how their complaint had been handled (McDowall, 2018).
- Past inquiries into the sexual abuse of children in institutional settings have highlighted significant barriers faced by children and young people when using complaints systems (e.g., they were ignored, disbelieved, or complaints were not followed up (Child Protection Systems Royal Commission, 2016; Royal Commission into Institutional Responses to Child Sexual Abuse, 2017).
- 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

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Sexual Abuse. 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; Aust. Human Rights Commission, (2018).

- Common themes in CREATE's research continue to indicate that complaints systems are not user-friendly, that children and young people do not feel their voices are heard, and that many do not know how to, or are worried about making a complaint (CREATE, 2020a, b, c).
- CREATE (2020a) has developed a *Child-centred Complaints Handling Best Practice Guide* informed by children and young people, which provides eight key principles to achieve an effective complaints system.

Actions

Consistent with the *National Principles for Child Safe Organisations* (AHRC, 2018), child protection systems must have complaints processes that are child focused and up-hold children's rights. These should be:

- consistently implemented across Australia;
- independent of the providers of out-of-home care and Government Departments;
- co-designed with young people;
- implemented in line with evidence-based best practice principles (e.g., CREATE, 2020a);
- independently monitored and evaluated over time using clear, specific, and measurable indicators assessing the experiences of, and outcomes for, young people. De-identified information needs to be made publicly available to support accountability; and
- resourced and funded to enhance effectiveness.

They also should be consistent with advancing strategies of self-determination for First Nations communities (Family Matters, 2021; UNCRC 2009a). This includes equipping Aboriginal Community Controlled Organisations to be at the forefront of the complaints process for First Nations young people.

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