

22 November 2013

## Introduction

The Alliance for Forgotten Australians (AFA) welcomes the release Issues Paper 4: *'Preventing Sexual Abuse of Children in Out of Home Care'* and the opportunity to provide a submission to the Royal Commission.

The prevention of sexual abuse, as well as the prevention of any form of abuse, has been a matter of strong interest and concern to the members of AFA since its formation. As discussed below, the lived experience of many AFA members and the understandings they have gained about their own and other children's experience in Out of Home Care (OOHC) provides a unique perspective from which to inform the Royal Commission both in relation to general questions on the prevention of child abuse and specifically in relation to a number of questions set out on the Issues Paper.

## Summary

This submission sets out the history of the Alliance for Forgotten Australians and indicates that there is now a body of lived experience and knowledge available from the members of AFA about child institutionalisation and the way to prevent the abuse of children including the prevention of sexual abuse.

The key message in this submission is that the lived experience of the Forgotten Australians has provided a unique and highly relevant perspective on the issue of the prevention of child abuse in many forms of OOHC. The experience of this Group reinforces the results of key research and policy principles that early intervention and support is crucial to initially prevent occurrences of child sexual abuse and to cut off the chances of further harm to children when such abuse may have occurred.

AFA considers the key elements for the development of practices to ensure that children are safe from institutional abuse are: early Intervention and support to children and those working with them, the need for intensive capacity building projects to protect children in OOHC, a better understanding of the key risk factors for child abuse and an understanding of significant factors relating to the creation of safe and supportive families and communities. These factors have been widely identified through research<sup>1</sup> and through the lived experience of those who grow up in OOHC. Also important are reforms to the training and development of professionals working in child

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<sup>1</sup> *Safe and supportive families and communities for children: A synopsis and critique of Australian research* accessed at <http://www.aifs.gov.au/cfca/pubs/papers/a140415/07.html>

care and the involvement and recruitment of those with lived experience of institutional care to work with professionals and become part of their teams where appropriate.

## **Background**

Forgotten Australians is the name given by the Senate Inquiry to the group of around 500,000 Australians who, as children and young people, were placed in a range of institutional or OOHC settings including orphanages, Homes, asylums, children's gaols and foster care in the 20<sup>th</sup> century.

The reasons for institutionalisation varied:

- some were in State care, because the State considered their parents unfit;
- some had parents who were deceased, in prison, missing, damaged by war service or otherwise unable to care for them;
- others were given up by their parent/s because the parent/s could not provide for them. Sometimes these parents had to work and used the Home as a form of temporary child care. If they could, they paid maintenance to those running the Home.

The Forgotten Australians were the subject of the Australian Senate's Community Affairs References Committee inquiry and report, *Forgotten Australians: A Report on Australians who experienced institutional or out-of-home-care as children*, August 2004 (the Senate Inquiry). The Senate Inquiry centred on Australian-born children including Indigenous Australians but in estimating numbers of Forgotten Australians, it also included former British child migrants from the United Kingdom and Malta. Although other words are used by some of the people themselves, including 'care leavers', 'Homies' and 'ex-residents', 'Forgotten Australians' is generally considered to be the most unambiguous and the least offensive of the terms available.

The Senate Inquiry report revealed a history of neglect and cruelty, of abandonment and exploitation that left approximately half a million Australians, including many child migrants, physically and psychologically scarred. The sense of abandonment, the confusion and the self-blame and stigma created long-lasting trauma, often exacerbated by harsh treatment, humiliations and lack of education or adequate health care.

Large numbers of these children and young people experienced physical, sexual and emotional abuse and assault. However, even those who weren't abused have suffered from their experiences.

### The Alliance for Forgotten Australians

The Alliance for Forgotten Australians (AFA) is a national group of individuals and organisations from across Australia that promotes the interests of the Forgotten Australians who experienced institutional or other forms of OOHC as children in the last century in Australia.

AFA's vision is for recognition and healing for Forgotten Australians and encourages their active engagement in, and the development of, policy and services which are person-centred and strengths-based and which create opportunities and pathways to improve the lives of Forgotten Australians.

AFA has been active informing and educating the community and government representatives about past failures to protect children from sexual abuse and all forms of harm in OOHC. This failure was clearly demonstrated and documented through testimony provided to Parliamentary Inquiries and more recently to the Royal Commission, by members of AFA and others. Although the root causes of these abuses were complex, the failure to ensure professional and caring supervision, regulation and care for children in various forms of OOHC was always important, even more so for today's young people if we as a society are to interrupt the cycles of intergenerational family trauma.

There were other factors that operated to deprive children in institutions of the care and support they needed from government and community representatives. These factors, which are derived from the experience of the Forgotten Australians represented by AFA and from current research, are presented in this submission for the Commission's attention.

### Summary of Issues Covered in this submission

The Commission's Issues Paper has identified a key question that AFA wishes to respond to: *Are there core strategies to keeping children in OOHC safe from sexual abuse and what is the evidence that supports them?*

AFA considers that there are core strategies for keeping children safe in OOHC and these strategies are best developed through national leadership in standard-setting, policy and procedure. Through the development of nationally consistent standards that are also sufficiently flexible to take account of local needs and environments, it is possible to develop child-safe institutions that will be free of abuse of any kind, including sexual abuse. A range of research and policy reviews at federal and state level have supported this conclusion<sup>2</sup>.

A national policy agenda, focussed on the development of nationally consistent standards, has been developed by the Council of Australian Governments and federal and state and territory child support agencies. This agenda has produced a policy framework for providing consistent child-safe standards and resources which can assist institutions to prevent abuse of any kind to children. The key elements of this agenda are discussed below.

The other factors critical to the prevention of abuse to children are the need for more critical attention and understanding of the risk factors for child sexual abuse and support to communities and families at the local level to raise awareness of these risk factors. Related to this is the need for early support to families so that these key risk factors do not develop at all and families who may be vulnerable are supported to manage their situations and access support services.

Children in institutional settings particularly need support as early as possible to identify any emerging risks and to support them in their relationships with those who care for them.

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<sup>2</sup> The Attachment lists the key research and reports that support the need for nationally consistent standards.

## The National Framework for Protecting Australia's Children 2009-2020

A comprehensive, nationally consistent framework for child-safe organisations and institutions is crucial for the protection of Australia's children from harm, including the risks of sexual abuse and their welfare. We recognise the complex legal, contractual and other difficulties involved in the establishment of a national system but consider that development of a set of minimum requirements to apply in all States and Territories and agreed by the Council of Australian Governments is crucial to the establishment of child-safe institutions.

In 2009, the Council of Australian Governments adopted the National Framework for Protecting Australia's Children 2009-2020, with the aim of making 'a substantial and sustained reduction in child abuse and neglect in Australia over time'. In partnership with the NGO sector under the auspices of the Coalition of Organisations Committed to the Safety and Wellbeing of Australia's Children, to date, the National Framework for Protecting Australia's Children 2009-2020 has overseen the appointment of the National Children's Commissioner, the development of national standards for OOHC, the establishment of the national research agenda on child protection, and the convening of the first national Child Aware Approaches Conference.

The first three-year action plan (2009-12) under the National Framework for Protecting Australia's Children 2009-2020 released a Position Paper 'Toward a Nationally Consistent Approach to Working with Children Checks'. In addition, one of the actions under supporting Outcome six ('sexual abuse and exploitation is prevented') is the implementation of a national framework for inter-jurisdictional exchange of criminal history for people working with children. The second three-year action plan (2012-15) under the National Framework for Protecting Australia's Children 2009-2020 has focused on working together across governments and non-governments sectors to improve the safety and wellbeing of Australia's children. Both Action Plans remain key elements for the achievement of child-safe organisations and institutions.

A further action in support of Outcome 6 has been the development of National Standards for Out of Home Care<sup>3</sup>. These standards are designed to deliver consistency and drive improvements to the care of children who live in accommodation outside their family homes.

A nationally consistent framework will also provide a mechanism for the development of creative, locally based solutions to child safety. In addition, it offers to check OOHC practices through effective and closer regulation and consultation, whether through an audit approach, a regular supervisory visit, or an irregular visit by someone like a community visitor as suggested by Question 3 above.

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<sup>3</sup> *An outline of National Standards for out-of-home care: A Priority Project under the National Framework for protecting Australia's Children 2009-2020*, Department of Families, Housing Community Services and Indigenous Affairs together with the National Framework Implementation Working Group, July 2011

As the National Standards for Out of Home Care indicate<sup>4</sup>, children and young people must be active participants in decisions that affect their lives and must have opportunities for their views to be heard. This is particularly vital in order to pick up early warning signs of potential sexual abuse and mistreatment. There was none or inadequate complaints mechanisms for Forgotten Australians as children which was a key factor in the abuse, sexual and other forms, that many of them suffered. The need to listen and hear children's voices in OOHC is a key factor in preventing sexual abuse, and we strongly urge reforms to ensure that children have the capacity to speak freely.

### Awareness of the risk factors for child abuse

If we can create safe and supportive families and communities for children, they would be safe from abuse, and the number of children in OOHC should be reduced. The key factors involved in the creation of such communities have been identified in a major study as (a) community involvement, (b) locally relevant and accessible programs, integrated program design, the inclusion of children's views, addressing social exclusion, and importantly, identifying and addressing all significant risk factors for child safety<sup>5</sup>. However, these initiatives and programs need to be provided in a holistic and integrated manner to be effective.

The same study identified the key risk factors related to child abuse as gender, age, disability, and family characteristics such as parental mental health problems, substance abuse, domestic violence, social isolation and punitive parenting. Family-inclusive policies and early intervention can reduce the likelihood of abuse of children.

As indicated above, the lived experience of those who have been in different forms of OOHC is important in improving understanding and managing these risk factors. A number of AFA members have been in contact with the Royal Commission. Their evidence and insights are crucial to the development of successful strategies to ensure the safety of children from abuse of any kind.

### Reform Recommendations in State Government Reports

Recent government inquiries have provided a number of recommendations that will reduce the risk of child sexual abuse in a range of organisational settings. The Queensland Child Protection Commission of Inquiry<sup>6</sup> reported on the need to refocus attention away from coercion and onto early, preventive intervention, before families reach crisis point. Amongst its many important recommendations was the creation of a Family and Child Council which, amongst other functions, would ensure the establishment and maintenance of an online state wide information source available to families and children to enable access to services. The establishment of child and youth advocacy hubs from which services and support would operate and be easily accessible by children and family members is also strongly supported.

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<sup>4</sup> *National Standards for Out-of-Home Care*, <http://www.dss.gov.au/our-responsibilities/families-and-children/publications-articles/an-outline-of-national-standards-for-out-of-home-care-2011?HTML>; page 5

<sup>5</sup> *Safe and supportive families and communities for children: A synopsis and critique of Australian research* accessed at <http://www.aifs.gov.au/cfca/pubs/papers/a140415/07.html>

<sup>6</sup> *Taking Responsibility: A Roadmap for Queensland Child Protection*, Queensland Child Protection Commission of Inquiry, June 2013

The Victorian Government Parliamentary Inquiry into the handling of child abuse by religious and other organisations has made a series of recommendations which AFA supports, for reforms to the law that could significantly assist the development of more effective preventative measures<sup>7</sup>.

The report calls for a new law to ensure that anyone failing to report serious child abuse or concealing it is guilty of an offence. The report also recommends the creation of a criminal offence of "grooming" children and a new criminal offence of "endangerment" where figures of authority within institutions can be sanctioned for not taking enough precautions. The report calls upon the Victorian Government to work with the federal government to require religious and other non-government organisations to incorporate legal structures so that such organisations would face legal actions for compensation from victims. The Royal Commission may wish to review these recommendations and, where appropriate, take them up in their report to the Government to facilitate reform at a national level.

### Early Intervention and Support to Children in before and during OOHC

The Alliance for Forgotten Australians considers that programs to support early intervention to ensure the protection and care of vulnerable children and young people before they are placed in OOHC are a key strategy to ensure that they are protected when and if the need arises for them to be placed in OOHC.

An evidence base for the benefits of early intervention and support continues to grow. A recent report by the Murdoch Children's Research Institute provided recent evidence to show that acting early to support vulnerable children can improve lives<sup>8</sup>.

The report was also supported by other organisations, including the Alcohol and other Drugs Council of Australia, whose research consistently shows that early intervention reduces the harms of alcohol and drug abuse.

There should be adequate and effective training and information available to all child and family support services and in particular, child protection workers and others working in child safe practices, to enable them to become skilled in early intervention strategies and support for children and young people experiencing vulnerability. This is crucial because such support is essential for children who are suddenly taken away from one environment and placed in a new and unfamiliar one. The early support and guidance for these children before they are placed in OOHC may help to prevent abuse later.

Greater support for family support systems and services need to focus on building the capacity of parents to care for their children, the capacity of communities to support families, and the capacity of young people to develop the skills and knowledge to look after themselves as they mature.

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<sup>7</sup> *Betrayal of Trust: Inquiry into the Handling of Child Abuse by religious and other Non-Government Organisations*, Family and Community Development Committee, Victorian Parliament, November 2013

<sup>8</sup> *Acting Early, Changing Lives: How Prevention and early action saves money and improves wellbeing*, Murdoch Children's Research Institute, 2013

## The involvement of Those with Lived Experience in the Peer and Consumer Workforce

Mental Health consumer organisations advocate that mental health services can demonstrate better outcomes by developing and drawing on the experiences and resources of people with lived experience of mental illness, as well as their own expertise and resources<sup>9</sup>. This has been demonstrated through research<sup>10</sup>.

The recruitment of people with lived experience of OOHC or growing up in an institutional setting as peer workers and in child support roles is likely to also improve outcomes through the early identification of risks to children in care settings.

In Queensland, Child Support Officers are provided with tailored training during their induction period, from those with lived experience of OOHC and juvenile justice, to assist them to understand the background and needs of clients who were in OOHC or in church and other institutions as children. This training has been highly appreciated and provides a model for other jurisdictions, as it is likely to assist child support workers to understand client needs better and provide the support required more effectively.

Yours sincerely



Caroline Carroll  
Chair

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<sup>9</sup> For example the Mental Health Community Coalition in the ACT includes in its mission “to provide an infrastructure for maximising consumer participation in the development of mental health policy, planning, decision-making, service delivery and evaluation” accessed at <http://www.actmhc.org.au/about-us/objectives-philosophy-vision-and-mission.html> See also <http://www.peersupportvic.org/>

<sup>10</sup> Mental health peer support for hospital avoidance and early discharge: An Australian example of consumer driven and operated service, Dr Sharon Lawn, Ann Smith, Kelly Hunter, *Journal of Mental Health* Jan 2008, Vol. 17, No. 5: 498–508

## Attachment

### Reports on Child Institutionalisation

Many reports and inquiries in various jurisdictions into the history and current administration of child protection and safety which have provided valuable information about protecting children from harm including from the risk of sexual and other abuse. Some key reports are set out in the Attachment.

The experience of the Forgotten Australians has been documented in the following reports:

- Senate Community Affairs References Committee, *Lost Innocents and Forgotten Australians Revisited. Report on the progress with the implementation of the recommendations of the Lost Innocents and Forgotten Australians Reports*, June 2009;
- Senate Community Affairs References Committee, *Protecting vulnerable children: a national challenge. Second report on the inquiry into children in institutional or out-of-home-care Report*, March 2005; and
- Senate Community Affairs References Committee, *Forgotten Australians, A report on Australians who experienced institutional or out-of-home care as children*, August 2004.

### Key Studies and Research on Child Protection Mechanisms

Valuable learning is also available through studies, reports and reviews into child protection. A sample of the key studies is provided below

*Our Best Investment: A State Plan to protect and Advance the Interests of Children, the Child Protection Review* , by Robyn Layton QC (the Leyton review) , [http://www.decd.sa.gov.au/speced2/files/links/Child\\_Protection\\_Review\\_FU.pdf](http://www.decd.sa.gov.au/speced2/files/links/Child_Protection_Review_FU.pdf)

The Report of the Special Commission of Inquiry into Child Protection Services in NSW: November 2008;

The Senate Community Affairs References Committee, *Protecting vulnerable children: A national challenge, Second report on the inquiry into children in institutional care or out-of-home care*, March 2005.

NSW Government, Royal Commission into the NSW Police Service (Wood Royal Commission), 1995-1997

All volumes available here:

"<http://www.pic.nsw.gov.au/OtherReportsAndPublications.aspx>



## Report of the Review of Child Protection in South Australia.

The Report of the Review of Child protection in South Australia 2003 (the Leyton review) aimed to set out a best practice framework for child protection. Five major structural reforms were recommended in the framework, namely the creation of the a number of statutory bodies such as the South Australian Child Protection Board, Regional Child Protection Committees in country and metropolitan areas, a Commissioner for Children and Young Persons, a Guardian for Children and Young Persons who are in any out of home care situation, with a particular focus on those under the Guardianship of the Minister

## Academic Research and learning about Protecting Children

The Protection of children in out of home care has been the subject of academic work in several leading Australian universities and research bodies. For instance the “Community Capacity Building in Child Protection Project” produced through the Regulator Institutions Network (RegNet) at the Australian National University has contributed policy recommendations and analysis on child protection including out-of-home care standards. Their research puts forward a framework for the regulation of child protection based on a hierarchy of enforcement mechanisms known as ‘Responsive Regulation”

Capacity building is a key goal for child protection services. Child protection workers need to build the capacity of parents to care for their children, the capacity of communities to support families, and the capacity of young people to look after themselves. However, these aims are often undermined by a range of factors.

These include:

- Child protection intervention often occurs in contexts where there is limited knowledge about the extent of the problem and where what is considered acceptable parenting is contestable.
- Interventions are often perceived as threatening by families and sometimes as unjust, which can affect the degree to which trust and cooperation are developed.
- Substantial increases in reporting rates mean that services often struggle to identify which cases require the most attention and cope with mounting caseloads.
- Intense scrutiny and criticism often means that child protection services need to justify every decision they make, meaning that risk assessment procedures and child protection laws are often relied upon to justify interventions rather than providing frameworks for best practice.

These projects draw on various theories of responsive regulation, empowerment, restorative justice, shame management and defiance, and hope to explore how institutions can overcome these challenges in order to build the capacity of parents, communities and young people.