PREVENTING SEXUAL ABUSE OF CHILDREN IN OUT OF HOME CARE

SUBMISSION

This paper is submitted by the Royal Commission Working Group appointed by the Standing Committee of the General Synod of the Anglican Church of Australia to coordinate the Church's response to the Royal Commission. The submission responds to questions in Issues Paper 4 entitled Preventing Sexual Abuse of Children in Out of Home Care issued by the Royal Commission into Institutional Responses to Child Sexual Abuse on 11 September 2013.

SUBMISSIONS

1. An essential element of OOHC is for a child to be safe and secure. Are there core strategies to keeping children in OOHC safe from sexual abuse and what is the evidence that supports them?

Core strategies for keeping children in OOHC safe from sexual abuse are required at the following three levels:

first, organizations providing OOHC must develop and implement policies and procedures for the recruitment, training, supervision and discipline of their staff and carers, and have a robust quality assurance process to evaluate the effectiveness of these policies and procedures and their implementation;

secondly, bodies providing funding for OOHC must by contractual provisions require that organizations funded to provide OOHC develop and implement policies and procedures for the recruitment, training, supervision and discipline of their staff and carers, and have a robust quality assurance process to evaluate the effectiveness of these policies and procedures and their implementation;

thirdly, bodies regulating OOHC must by the exercise of statutory powers require that organizations providing OOHC develop and implement policies and procedures for the recruitment, training, supervision and discipline of their staff and carers, and have a robust quality assurance process to evaluate the effectiveness of these policies and procedures and their implementation.

While there is some evidence supporting these strategies at these three levels for OOHC, evidence of a similar approach in the aged care sector strongly supports the effectiveness of these strategies at these three levels.

2. Is there evidence for having different strategies to keep children in OOHC safe from sexual abuse depending upon whether a child is in relative or kinship care, foster care of one of the forms of residential care?

The core strategies at three levels for keeping children safe from sexual abuse (refer to the submission in response to Question 1) should not differ depending on whether a child is in relative or kinship care, foster care or one of the forms of residential care. However, the content and implementation of the applicable policies and procedures for the recruitment, training and supervision of staff and carers will necessarily differ according to the type of care. Currently residential care and, to a lesser extent, foster care are more regulated than relative or kinship care.

There is no evidence for having different core strategies according to the type of care.

3. What are the strengths and weaknesses of models that check OOHC practices by an audit approach, a regular supervisory visit, or an irregular visit by someone like a community visitor?

The three models of checking OOHC practices, namely, an audit approach, a regular supervisory visit or an irregular visit by someone like a community visitor can be undertaken both with notice and without notice to OOHC providers and their staff and carers.

The strength of each of these models is that there is a review of OOHC practices by a third person rather than self-regulation. Their strength is enhanced when they are undertaken without notice because there is no opportunity to hide departures from OOHC policies and procedures. The weakness of each of these models is that staff and carers providing OOHC will have the opportunity of hiding departures from OOHC policies and procedures where they are undertaken with notice.

Compliance with OOHC policies and procedures by providers is best assured by a combination of these three models undertaken both with notice and without notice to OOHC providers and their staff and carers.

4. What are the strengths and weaknesses of having OOHC providers regulated by the child protection department, or regulated by a body separate from the child protection department?

The strength of having OOHC providers regulated by the child protection department is that there is a single body dealing with all aspects of OOHC, being the children in OOHC and the organizations providing OOHC. There is the potential benefit of greater efficiencies where the child protection department undertakes this regulatory function. However, a weakness of this approach is that the regulation of OOHC providers has a far larger scope than the protection of children from harm including financial, policy and administrative dimensions. A further weakness is the lack of independence of the child protection department. Where the child protection department both funds and regulates OOHC providers there is tension between the department's roles because the amount of the funding the department provides may be insufficient to facilitate OOHC providers' compliance with OOHC policies and procedures which the child protection department mandates, thus compromising safety. This situation will be exacerbated where the child protection department funds and regulates OOHC providers and itself provides OOHC.

The weakness of having OOHC providers regulated by a body separate from the child protection department is the absence of a single body dealing with all aspects of OOHC. The strength of this approach is that the separate body dealing with the regulation of OOHC providers can be independent.

5. What are the core components of the training needs of those working with children who might be sexually abused including carers, caseworkers and staff of regulatory bodies? What priority should be given to training in relation to sexual abuse compared to other training needs?

The core training components for those working with children who might be sexually abused including carers, caseworkers and staff of regulatory bodies are the identification of "grooming behaviours" including the use of internet and other social media, and the behavior of children that may indicate that they have been sexually abused. This training should be given a high priority as it is fundamental for keeping children in OOHC safe.

6. Is there adequate and effective training and information available to carers who are caring for children who have sexually abused other children?

There is no adequate and effective training and information currently available for carers who are caring for children who have sexually abused other children.

7. How should the rate of sexual abuse of children in OOHC be determined, noting that the National Standards of Out-of-Home Care require reporting of substantiated claims of all types of abuse? Would a form of exit interview assist in capturing information? What should be introduced to ascertain whether information on child sexual abuse in OOHC is resulting in changed OOHC practices?

The rate of sexual abuse of children in OOHC can only be determined over time in view of the recognized substantial delay of children reporting sexual abuse. Strategies to encourage early disclosures of sexual abuse by children such as exit interviews should be developed. However, the effectiveness of such strategies will be dependent upon the child being ready to make the disclosure and trusting the person to whom the disclosure is made.

8. What is the usefulness and validity of different ways to address allegations of sexual abuse brought against carers? In particular, which approaches enhance participation by the child particularly approaches best suited to seeking possible disclosures of abuse (including disclosures that might be inferred from behavioural changes) from children? Are the current processes fair? What appeal processes should be available for carers?

Allegations of sexual abuse brought against carers which of their nature involve the alleged commission of criminal offences should be investigated by the police. The enhancement of the capacity and skill of the section of the police service of each jurisdiction dealing with child sexual abuse through adequate staff, training and funding is an important priority.

Where there are allegations of sexual abuse against carers, the carers concerned should be immediately suspended from any caring role.

If the carer is convicted of a criminal offence involving sexual abuse they should be disqualified from being a carer. If the carer is acquitted of a criminal offence or the police decide to take no action, the organization providing OOHC or an independent regulatory body must carry out a risk assessment to determine the suitability of the carer to continue in that role. In such a risk assessment the safety of children must be the paramount consideration. It is essential that each organization providing OOHC or the independent regulatory body have a fair and clearly documented risk assessment process which accords procedural fairness to the carer. There should be a right of appeal to the administrative decisions tribunal of the jurisdiction concerned.

9. What measures could be used to assess whether the safety of children from sexual abuse in OOHC is enhanced by independent oversight of the handling of allegations of sexual abuse?

The assessment of whether the safety of children from sexual abuse in OOHC is enhanced by independent oversight of handling of allegations of sexual abuse is a difficult exercise. Any increased rate of reporting of sexual abuse may be indicative of an increased confidence of those suffering abuse as children that allegations of sexual abuse are being appropriately handled where they are the subject of independent oversight.

10. What are the strengths and weaknesses of different oversight mechanisms in keeping children safe from sexual abuse in OOHC?

The submission in answer to Question 3 is repeated.

Oversight mechanisms for keeping children safe from sexual abuse in OOHC include internal oversight through the quality assurance section of the organization providing OOHC and external oversight by a regulatory body. The strength of internal oversight is that there will be ready access to information about the organization's staff and carers. The weakness of internal oversight is its lack of independence and the absence of statutory powers in relation to children and their carers. The weakness of external oversight is that it tends to be reactive where a problem has arisen. The strength of external oversight is its independence and the presence of statutory powers to protect children.

11. What implications exist for record keeping and access to records, from delayed reporting of child sexual abuse?

Good record management by organizations providing OOHC is essential. They should have an electronic case management system with easily searchable and retrievable databases, which should be regularly audited.

In view of the recognized delay in reporting child sexual abuse case files should not be destroyed but retained for a substantial period. If the organization ceases to exist it should have a statutory duty to archive its records and transfer their ownership to a regulatory body.

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