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The Chair
Joint Standing Committee on the Commissioner for Children and Young People
Parliament of Western Australia
Parliament House
Perth WA 6000

Please find enclosed CREATE Foundation's submission to the Parliamentary Inquiry into the functions exercised by the Commissioner for Children and Young People in related to a child abuse complaints support function.

CREATE Foundation welcomes the opportunity that this Review presents in ensuring the protection of children and young people across Western Australia, and would be happy to meet to discuss further development of a complaints-support function within the office of the Commissioner for Children and Young People.

Yours faithfully,

A handwritten signature in black ink, appearing to be "Katherine Browne", with a horizontal line extending to the right.

Katherine Browne
State Coordinator
Western Australia



**CREATE Foundation: Submission to the
Joint Standing Committee on the
Commissioner for Children and Young
People**

February 2015

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About CREATE Foundation

CREATE Foundation is the peak consumer body for children and young people with a care experience.

CREATE Foundation is national and has offices in all of Australia's states and territories. As the national consumer body advocating for children and young people with a care experience, CREATE seeks to provide opportunities for children and young people to have a voice and be heard. CREATE is unique in that it is one of only a handful of organisations in the world, and the only organisation of its kind in Australia expressly established to advocate on behalf of children and young people in care.

CREATE's vision is that all children and young people with a care experience reach their full potential. CREATE mission is to create a better life for children and young people in care. To do this we:

- **Connect** children and young people with a care experience to each other, CREATE and their community to
- **Empower** children and young people to build self-confidence, self-esteem, and skills that enable them to have a voice and be heard to
- **Change** the care system, in consultation with children and young people, through advocacy to improve policies, practices and services, and increase community awareness.

CREATE engages with children and young people at fun events, holding regular Youth Advisory Group meetings to discuss ideas and issues generated by children and young people, conducting formal consultations with children and young people to have input to resources, programs and policies, training young people to be advocates for themselves and others within child protection systems, and financial help and skills development to help young people transition to independence.

Young Consultants participate in child protection conferences and meetings to provide their direct experiences of child protection systems to child protection workers, senior staff and politicians. It is CREATE's view that improvements to the system must be informed by the knowledge and experiences of the children and young people who live or have lived in out-of-home care.

Introduction

CREATE Foundation thanks the Joint Standing Committee on the Commissioner for Children and Young People (the Committee) for the opportunity to respond to recommendations of the recent *Review of the Commissioner for Children and Young People Act 2006* (the Review). CREATE has commented previously on matters related to the Review through the following:

- *Submission to the Western Australian Special Inquiry, June 2012* (see Appendix 1);
- *Submission to the Review of the Commissioner for Children and Young People Act 2006 Western Australia, 2013* (see Appendix 2); and
- *Public comment on the Review of the Commissioner for Children and Young People Act 2006, 2014* (see Appendix 3).

CREATE Foundation is largely supportive of the recommendations made in the report of the Review, however, CREATE believes the Review's recommendations could be strengthened to better protect vulnerable children and young people, particularly those in out-of-home care.

The following document provides some background information about the overall themes that are important to consider as part of the Review, as well as specific recommendations on how to establish a complaints system, and the implications of this on the Commissioner's existing functions.

Background information:

Support for an independent complaints mechanism

CREATE Foundation supports establishing an independent complaints function for children and young people in the office of the Commissioner for Children and Young People to support the protection of vulnerable children and young people across Western Australia, particularly those in out-of-home care. Each State and Territory in Australia has a Commissioner or Guardian for Children and Young People whose responsibilities include some level of oversight of the services provided to children and young people in out-of-home care, however, there is inconsistency across the jurisdictions in their legislated powers to investigate individual complaints.

Western Australia has a number of avenues for complaints that children and young people can use to disclose abuse or neglect while in care. The majority of these sit with the police, child protection authorities, or with the organisations and agencies that children and young people are assigned to. For children and young people in out-of-home care, current complaint mechanisms exist internally within the Department for Child Protection and Family Support (through caseworkers, complaints management processes or The Advocate for Children in Care) and non-government care providers. An external complaints function exists through the Ombudsman Western Australia, where children and young people can make a complaint against the Department for Child Protection and Family Support, however, this function does not extend to complaints against non-government providers of out-of-home care. This particular mechanism does not appear child or young person friendly.

The Department for Child Protection and Family Support has identified the multiple responsibilities that it has to provide funding and regulation of out-of-home care services. The Department acknowledges additional regulation or monitoring processes must be examined especially given that

the *Royal Commission into Institutional Responses to Child Abuse* will be running until 2017 (Department for Child Protection and Family Support, 2014).

CREATE Foundation believes that there is a gap for children and young people in out-of-home care to be able to access an independent third party or complaints mechanism to disclose abuse or neglect against a care provider – either government or non-government. According to the Ombudsman Western Australia, the Department for Child Protection and Family Support established the role of the Advocate for Children in Care as a result of the Cant Report findings, to provide children and young people access to an independent third party (Parliamentary Commission for Administrative Investigations, 2006). The Ombudsman Western Australia acknowledged the achievements of the Advocate for Children in Care in supporting children's and young people's complaints. However, the Ombudsman also noted the discrepancy in the lack of an external and independent third party that could act for children and young people in care. The Ombudsman recommended that external monitoring functions, particularly for children and young people in both Department and non-government residential care, be explored, and held the view that the Commissioner for Children and Young People (at the time proposed) could be the appropriate body for this independent oversight (Parliamentary Commission for Administrative Investigations, 2006).

The Department for Child Protection and Family Support has flagged the increased role of non-government services in the provision of out-of-home care services for children and young people in Western Australia (Department for Child Protection and Family Support, 2014). This means it is vital that an independent complaints mechanism be set up which has the capacity to monitor and investigate individual complaints against both government and non-government providers of out-of-home care.

From the many case studies the Royal Commission into Institutional Responses to Child Sexual Abuse is conducting it is clear that internal investigation of allegations of child sexual abuse have failed victims when they were children and as adults, signalling the importance of independent oversight of child protection systems. Independent complaint mechanisms are important for children and young people in care to be able to air their concerns, complain and/or seek redress without fear of repercussions and potentially harming the relationship with their care provider. CREATE believes that if a complaint comes to the attention of Children's Commissioners or Guardians then it is imperative that they can fully investigate and act upon findings to avoid further harm to children and young people.

While there are different options for where and how this external complaints function is set up, CREATE Foundation believes that the office of the Commissioner for Children and Young People is best placed to perform this complaints function.

Children's and young people's knowledge of and access to complaints systems

Children and young people need to be aware of their right to make complaints, as well as understanding how to access complaints systems and mechanisms to report their concerns. CREATE's research has found that children and young people in care have varying levels of knowledge of how to make a complaint relating to being in care depending on a number of factors (McDowall, 2013a). As might be predicted, the strongest effect regarding this knowledge involved age. Larger numbers of those in residential care knew about the complaints process, but these placements also had most respondents who wanted to complain but reconsidered. Alarming, of all of the children and young people who stated that they had wanted to make a complaint but had reconsidered and decided not to, 11 per cent stated that it was because they didn't know what to do, with another 54 per cent choosing not to raise the issue because of concerns with possible negative outcomes (McDowall, 2013a). Barnes (2007) provides anecdotal evidence of situations where children and young people

faced adverse outcomes due to complaints about their treatment by carers, including ridicule by other care staff, and being moved on to alternative accommodation.

These statistics and stories highlight the importance of an independent complaints function for children and young people, and the importance of tailoring child safe programs and complaints processes to meet the needs of particular cohorts of children so they can understand concepts of safety, identify concerns and, if necessary, raise them as issues. It also highlights the importance of children and young people understanding complaints processes, and being educated about their right to make a complaint and how to go about doing so.

Response to proposed amendments:

1. The manner in which the Commissioner's proposed child abuse complaints support function should operate

Recommendation 12 of the Review proposed the additional powers that the Commissioner might exercise under a complaints support function.

CREATE has previously called for additional powers to be given to ensure a consistent mechanism to support, protect and encourage children and young people in out-of-home care to make complaints regardless of care type (eg, residential, foster or kinship) or whether the provider is a government or non-government service provider (CREATE Foundation, 2014). CREATE's recommendations included to:

- Expand the role of the Commissioner in complaints support and monitoring, and provision of education and outreach programs to cover all children and young people living in out-of-home care, whether they are supported by government or non-government services, or living in home based or residential care placements.
- Promote the Commissioner's role to children and young people in out-of-home care through a community outreach program that is child focused and encourages awareness of, and access to the complaints processes.
- Mandate the Commissioner to monitor the way in which non-Government organisations and community sector providers of out-of-home care respond to complaints of child abuse referred by the Commissioner or otherwise received by them.

CREATE recommends that the Commissioner's complaints support function be established as a independent complaints function specifically for children and young people in out-of-home care, who are making a complaint about abuse, neglect or maltreatment in their placement regardless to whether it is a government or non-government provider. This could be further extended for children and young people in juvenile detention, in health care facilities, or in education facilities.

A complaints function is a very specialised and specific service, and while it would sit easily alongside the current work of the Commissioner, it is important to distinguish and resource this function from the other functions and roles of the Commissioner's office. CREATE Foundation believes additional resourcing is required to deliver a complaints mechanism for children and young people in care.

Children and young people told CREATE that they wanted a complaints functions which:

- allowed children and young people to bring someone along with them to support them whilst making a complaint,
- ensured that children and young people feel validated and believed in what they are saying,
- ensured children and young people understand the terms of confidentiality,
- included a response and follow up, and
- clearly articulates the outcomes and next steps of the complaints process.

(CREATE Foundation, 2013).

This is consistent with feedback from consultations with children and young people undertaken to develop the Commissioner's guidelines for child-friendly complaints processes and systems (Commissioner for Children and Young People, 2013).

It is vital that complaints systems and processes are promoted to children and young people to ensure that they are aware of their rights to make a complaint, that they know how to make a complaint, are confident that they will be listened to and believed, and are clear about the possible outcomes (both positive and negative) that may result from them making a complaint (McDowall, 2013a). Approximately 50% of children and young people in out-of-home care participating in CREATE's Report Card 2013¹, knew how to make a complaint against the system, with this number fluctuating across jurisdictions age groups and different placement types (McDowall, 2013b). The Commissioner's role in promoting a complaints system and educating children and young people would occur through direct engagement with children and young people, through engagement with services and workers supporting children and young people, as well as through general communication and promotion strategies.

Children and young people told CREATE that they felt most supported to make complaints where they had a relationship with the adult taking their complaint, and that the perceived support and trustworthiness of the person taking their complaint would also impact on their decision to make a complaint. (CREATE Foundation, 2013). CREATE Foundation acknowledges that while the children and young people will likely speak first with an adult that they trust, it also submits that a community outreach role of the Commissioner would assist to develop these relationships on the ground and to establish the Commissioner as a person who children and young people could approach to make a complaint. The Commissioner for Children and Young People has developed extensive networks and relationships with children and young people and service providers across Western Australia through consultation, research, events and Advisory Committees, and has demonstrated to children and young people that their views and opinions are important and will be respected. CREATE believes that these existing relationships would position the Commissioner's office to be able to successfully establish and fulfil a complaints function.

Children and young people wanted a variety of methods to allow children and young people to make complaints to the Commissioner, including online complaints, face-to-face, phone or text (CREATE Foundation, 2013). This would be particularly important for children and young people living in regional and remote areas who may not be able to attend in person. Complaints processes and forms should be developed in consultation with children and young people to ensure that the language, design and accessibility of processes and products are appropriate for children and young people. The physical location and environment of an office is also important to consider, and needs to be in an accessible and easy to find location, be decorated and furnished in a way which is child and young

¹ CREATE Foundation acknowledges that Western Australia did not participate in the Report Card 2013, so these figures may be generally but not directly applicable to the situation of children and young people in Western Australia.

person friendly, and be independent from other organisations and agencies. CREATE believes the Commission should explore whether a community visitor's or external advocate's scheme for children and young people in out-of-home care would improve the support for children and young people to make complaints.

CREATE recommends the Committee establish a complaints support mechanism in the Office of the Commissioner for Children and Young People which:

- **Is able to receive and investigate complaints for children and young people in out-of-home care against both Government and non-Government service providers**
- **Is distinguishable from, and separate to, the other functions and roles of the Commissioner's office.**
- **Is delivered by a specialist person or team established within, or attached to, the Commissioner's office.**
- **Is responsive and accessible for children and young people, and developed through consultation with children and young people in care.**
- **Is promoted directly to children and young people in care to inform them of their rights to make a complaint and how to access complaints mechanisms.**
- **Explores a community visitor's or external advocate's scheme to support children and young people in out-of-home care to make complaints.**

2. The impact the proposed child abuse complaints support function may have on the Commissioner's existing functions

The Commissioner for Children and Young People plays a vital role in advocating and promoting the needs and wellbeing of children and young people across Western Australia. The Commissioner and the office have played a key role in instigating research into the wellbeing of children and young people across the State, and developing and promoting best practice for organisations and agencies working with children and young people.

CREATE Foundation acknowledges the significant impact that a child abuse complaints support function would have on the Commissioner's office as it is currently resourced. CREATE Foundation believes that the Commissioner for Children and Young People would require additional funding to ensure that these new functions did not have an impact on the other important areas of the Commissioner's work. Resourcing would need to be sufficient enough to develop, establish, train and maintain additional staff to support the new complaints function and the volume of work that this area will require. CREATE Foundation believes that a complaints support mechanism is vital, however acknowledge the impact that the proposed mechanism would have on the existing functions of the Commissioner and call for additional resourcing to deliver this important initiative.

CREATE Foundation recommends the Committee:

- **Provide additional resourcing to the Commissioner for Children and Young People to establish and maintain a complaints support function to prevent impacts upon its existing responsibilities.**

Age of young people who can access the Commissioner for Children and Young People

CREATE Foundation believes that the Commissioner for Children and Young People should work on behalf of all children and young people up to the age of 25 years. Young people who have a care experience are more likely to experience a range of adverse outcomes as they transition to independence when they turn 18 years of age, including unemployment, homelessness and mental health issues (McDowall, 2009). CREATE believes the Commissioner has an important role in supporting the needs of this vulnerable cohort.

CREATE Foundation recommends that:

- **The age range of young people mandated for the Commissioner for Children and Young People to act on behalf of be increased to 25 years.**

Summary

CREATE Foundation thanks the Joint Standing Committee for the Commissioner for Children and Young People for the opportunity to provide feedback on the development of a complaints support function with the Commissioner's office. CREATE is committed to seeing a child-friendly and child-safe complaints mechanism established for children and young people in out-of-home care in the office of the Commissioner for Children and Young People. CREATE believes that any complaints support function must be developed through direct consultation with children and young people to ensure it is accessible, child safe and child friendly. The additional functions must be resourced for them to work effectively. CREATE Foundation would also like to see the Commissioner have a mandate to work with and for all children and young people up to 25 years of age.

CREATE would be happy to meet to discuss how children and young people can be involved in the development of a complaints support function, or to discuss any other aspects of this submission.

References

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Appendix 1: Submission to the Western Australian Special Inquiry, June 2012



**Submission to the Western Australian
Special Inquiry**

June 2012

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CREATE Foundation is the peak body representing the voices of all children and young people in out-of-home care.

Vision

All children and young people with a care experience have the opportunity to reach their full potential

Mission

Creating a better life for children and young people in care

CREATE does this through:

- Connecting children and young people to each other, CREATE and their Community.
- Empowering children and young people to build self-confidence, self-esteem, and skills that enable them to have a voice and be heard.
- Changing the care system, in consultation with children and young people, through advocacy to improve policies, practices and services, and increasing community awareness.

CREATE's Core Principles

- Participation is the cornerstone of best practice
- Openness and transparency
- Children and young people are valued, respected and cared for
- Staff are valued and supported to excel
- Strong independent advocacy, informed by children and young people
- Partnerships with governments, organisations and individuals are pivotal to success
- Innovation, creativity and fun

1. Purpose

- 1.2 CREATE Foundation is a national non-government organisation which has been established to provide systems advocacy on behalf of children and young people in care.
- 1.3 CREATE encourages all Australian governments to adopt robust, evidence based policies and programs that promote child development and well-being while minimising the potential for service users to experience harm. Such policies and programs are particularly important in responding to the needs of children and young people who are particularly vulnerable to abuse, neglect and exploitation because of their contact with the child protection system.
- 1.4 The ability of the Western Australian child protection system to ensure the safety and well-being of children and young people living in out-of-home care is relevant to the St Andrew's Hostel Special Inquiry which is being conducted by the Hon Peter Blaxell under section 24(H) of the *Public Sector Management Act 1994* (WA). This inquiry is examining the response of Western Australian government agencies and officials to allegations of sexual abuse at St Andrew's Hostel, Katanning.
- 1.5 This submission is intended to assist the Special Inquiry to determine whether, and to what degree, the Western Australian service system prevents institutional or organisational physical and sexual abuse of children and the capacity of the service system to respond to allegations that such abuse has occurred.
- 1.6 This submission aims to provide information that may assist the Special Inquiry to determine:
1. The degree to which the Western Australian service system has the ability and capacity to appropriately receive and respond to allegations of maltreatment. This will be done with particular attention children and young people who do not have a parent or carer willing and able to protect them and reliance will be placed on departmental policies and guidelines.
 2. Any improvements that could be made to better support children and young people when initially disclosing maltreatment or making a complaint about maltreatment by an organisational worker or volunteer; and
 3. Any regional, geographic and service design issues that may impact on the system's ability to appropriately receive and respond to disclosures about alleged maltreatment.
- 1.7 CREATE acknowledges that maltreatment of children and young people takes many forms and includes physical abuse, sexual abuse, psychological or emotional abuse, witnessing domestic violence and neglect. However, this submission focuses on physical and sexual abuse in organisational or institutional settings, where the abuse is conducted by a person in a position of power or authority over a child or young person and the victim doesn't have a parent willing and able to protect them from the harm. It will examine the propensity for abuse in organisations and institutions by examining the capacity for the Western Australian government to reduce and respond to abuse using criteria developed to create child safe and child friendly organisations.
- 1.8 This submission presents CREATE Foundation's position on matters relevant to the safety and well-being of children and young people living in out-of-home care in Western Australia. CREATE has taken care to ensure that the opinions and recommendations expressed within this submission are evidence based by conducting a review of critical reports and documents. This review has included examining policies written by a number

of Western Australian government agencies that are involved in the provision of out-of-home care services to children and young people.

2. Background to developing assessment criteria

- 2.1 The degree to which an organisation is child friendly or child safe is the degree to which opportunities for maltreatment are managed.¹ This follows the ecological approach originally developed by Bronfenbrenner.² This theory suggests that child development is a process of reciprocal interactions between a child and their environment. The ecological context can be conceptualised as a “number of nested levels with varying degrees of proximity to the individual.”³ Lynch and Cicchetti suggest that the ecological-translational model has four levels: the macrosystem (cultural beliefs and values), the exosystem (neighbourhood and community setting), the microsystem (family or living environment), and ontogenic development (individual’s own adaptive behaviour).⁴ All of these levels interact to shape individual development.
- 2.2 Research has shown that preventing child abuse by focusing solely on perpetrator characteristics or child characteristics is not useful or successful.⁵ However, trends in perpetrator characteristics and behaviours place some children at greater risk than others.⁶ Sullivan and Beech define ‘professional perpetrators’ as those who use institutions or organisations to gain access and target children.⁷ Smallbone and Wortley’s study of convicted sex offenders in Queensland found that approximately 20% of their respondents found their child victims in organisations.⁸ This study suggests that very few offenders join organisations for the purpose of locating child victims.⁹ Smallbone and Wortley concluded that ‘many sexual contacts with children will be influenced very much by opportunity or other immediate situational factors’ and that situational strategies can be used to prevent child sexual abuse.¹⁰

¹ Beyer, L. R., Higgins, D. J., & Bromfield, L. M. (2005). *Understanding Organisational Risk Factors for Child Maltreatment: A Review of Literature*. Melbourne: National Child Protection Clearing House, Australian Institute of Family Studies; Irenyi, M., Bromfield, L., Beyer, L., & Higgins, D. (2006). *Child maltreatment in organisations: Risk factors and strategies for prevention. Issues*, 25, 1 – 23; Geary, B. (2006). *A Guide for Creating a Child-safe Organisation*. Victoria: Victorian Child Safety Commissioner.

² Bronfenbrenner 1979, cited in Beyer, above n 1; Irenyi, above n 1.

³ Lynch, M. & Cicchetti, D. (1998). ‘An Ecological-transactional analysis of children and contexts: The longitudinal interplay among child maltreatment, community violence, and children’s symptomatology.’ *Development and Psychopathology*, 10(2), 235-257, 235.

⁴ Ibid.

⁵ Irenyi, above n 1; Parkinson, P., Oates, K. & Jayakody, A. (2009). *Study of Reported Child Sexual Abuse in the Anglican Church*; Beyer, above n 1.

⁶ Beyer, above n 1; Parkinson, above n 5.

⁷ Sullivan, J., & Beech, A. (2002). ‘Professional Perpetrators: Sex Offenders Who Use Their Employment to Target and Sexually Abuse the Children With Whom They Work.’ *Child Abuse Review*, 11, 153-167.

⁸ Smallbone, S. W & Wortley, R. K. (2000). *Child Sexual Abuse in Queensland: Offender Characteristics and Modus Operandi*. Brisbane: Queensland Crime Commission.

⁹ Smallbone, above n 8.

¹⁰ Smallbone, above n 8, 10.

- 2.3 Child abuse is a multi-dimensional issue and research suggests that a number of factors interact to create opportunities for abuse and/or the continuation of abuse.¹¹ Irenyi et al. suggest that all children are vulnerable and that any individual has the capacity to perpetrate abuse if a number of factors occur that leads to a situation that may facilitate such behaviour.¹² Situational prevention 'shifts attention from the criminal disposition, or individual characteristics, of offenders to the features of the environment that might encourage or permit criminal behaviour'.¹³ Accordingly, a child friendly or a child safe organisation or system is one that reduces the opportunities for child abuse to occur and increases the risks of the perpetrator being detected.¹⁴ Well-developed service systems incorporate policies, programs and processes that are intended to create child safe and child friendly environments.
- 2.4 There are a number of organisational factors that influence the extent to which a person may have opportunities to abuse a child within a service environment. The Victorian Child Safety Commissioner has identified a *Child Safety Review Checklist* that enables an organisation to self-assess whether its systems reflect the factors necessary to develop and maintain a child safe and child friendly environment.¹⁵ The factors reflected in the checklist include organisations:
- Making a clear and public commitment to child safety. This might be in the form of a Child Safety Policy;
 - Encouraging children's rights to safety and participation in the organisation;
 - Employing staff and volunteers who have been screened and assessed;
 - Supporting staff and volunteers with a comprehensive Code of Conduct that explains acceptable and unacceptable conduct; and
 - Reporting child safety concerns and ensuring there is a process for disclosing suspicions of abuse.¹⁶
- 2.5 Irenyi et al. suggests that self-assessment is important but is only one aspect of developing a child safe and child friendly organisation.¹⁷ They suggest that external auditing and accreditation is a key and integral element of developing a child safe and child friendly organisation. This view is supported by the results of the Australian Council for Children and Youth Organisations pilot of the Safeguarding Children program, a national accreditation process for organisations working with children. The Australian Childhood Foundation now manages the *Safeguarding Children* initiative.¹⁸

¹¹ Beyer, above n 1; Irenyi, above n 1; O'Donnell, D. (2006). *Report on Allegations Concerning the Treatment of Children and Young People in Residential Care*. Western Australia: Ombudsman Western Australia – Parliamentary Commissioner for Administrative Investigations; Parkinson, above n 5; Smallbone, above n 8.

¹² Irenya, above n 1.

¹³ Smallbone, above n 8, 115.

¹⁴ Irenyi, above n 1, 18; Beyer, above n 1, 49 -51.

¹⁵ Geary, above n 1.

¹⁶ Geary, above n 1.

¹⁷ Irenya, above n 1.

¹⁸ See: Australian Childhood Foundation, <<http://www.safeguardingchildren.com.au/about-us/about-us.aspx>> at 28 May 2012.

- 2.6 The *Safeguarding Children* program identifies 7 key strategies to 'build the capacity of organisations to keep children and young people safe from abuse and exploitation by staff, volunteers or other relevant related individuals.'¹⁹ These strategies are:
1. Commitment to safeguarding children including the review, design and execution of specific policies and procedures to ensure the protection of children and young people;
 2. Personnel roles and conduct including the implementation of a consistent set of endorsed operational standards;
 3. Recruitment and screening practices;
 4. Personnel induction and training, including training of management, staff and volunteers;
 5. Involve children, parents and carers in safeguarding practices;
 6. Child abuse reports and allegations, including effective responses to situations of abuse or exploitation; and
 7. Support a child safe culture by enhancing and maintaining a collective culture that promotes the safety of children and young people.²⁰
- 2.7 The Western Australian Department for Child Protection identifies Child Wise's 12 step *Choose with Care: 12 Steps to a Child Safe Organisation* as an example of 'service excellence'.²¹ The 12 steps identified within the *Choose with Care* document are intended help organisations become child safe. The 12 steps of the *Choose with Care: 12 Steps to a Child Safe Organisation* framework are to:
1. Understand child abuse;
 2. Develop and maintain an open and aware culture;
 3. Identify and manage the risks and dangers to children in programs and activities;
 4. Develop a child protection policy;
 5. Create clear boundaries;
 6. Adopt best practice in recruitment and selection;
 7. Screen all staff and volunteers;
 8. Support and supervise staff and volunteers;
 9. Ensure there is a clear complaints procedure for reporting concerns;
 10. Know the organisation's legal responsibilities;
 11. Empower children and encouraging participation in the organisation's programs; and
 12. Provide education and training to all participants.²²
- 2.8 The 12 steps of the *Choose with Care* framework are consistent with the criteria identified within the Victorian Child Safety Commissioner's *Child Safety Review Checklist* and the *Safeguarding Children* program. Because the Western Australian Department for Child Protection has identified *Choose with Care: 12 Steps to a Child Safe Organisation* as an example of service excellence, CREATE Foundation has chosen these 12 criteria as the basis for the evaluation of the Western Australian child protection system contained within this submission.

¹⁹ Australian Childhood Foundation, <<http://www.safeguardingchildren.com.au/the-program/the-seven-key-strategies.aspx>> at 28 May 2012.

²⁰ Ibid.

²¹ Government of Western Australia, Department for Child Protection website: <<http://www.dcp.wa.gov.au/servicescommunity/information/Pages/Fundingoursectorpartners.aspx>> at 31 May 2012.

²² Child Wise, *Choose With Care: 12 steps to a child safe organisation*. Melbourne.

3. Ability and capacity of the Western Australian child Protection system to appropriately receive and respond to allegations of abuse

3.1 Understanding child abuse

- 3.1.1 According to Child Wise, understanding child abuse includes knowing the potential risks and indicators of child abuse.²³ This includes, among other things understanding the types and manifestations of abuse and understanding the 'activities, relationships, inadequate procedures and environmental factors' that place children at risk of abuse.²⁴
- 3.1.2 It is important that all organisations that work with children have an understanding of child abuse.²⁵ Government departments providing child protection, education, disability support services, health, emergency services and community development functions must all have adequate knowledge of child abuse. This knowledge is also essential in local government and non-government service providers who work with children. However, this submission focuses on the Department for Child Protection because it is the agency that leads child protection responses in Western Australia, provides a range of out-of-home care services to children and licences and monitors non-government service providers who provide out-of-home care to vulnerable children and young people who are in contact with the child protection system.
- 3.1.3 A number of publications demonstrate the Department for Child Protection's understanding of child abuse. The department has published the *Child Development and Trauma Guide* which aims to increase understanding of the 'typical developmental pathways of children and the typical indicators of trauma at differing stages'.²⁶ The guide identifies that being in 'state care' is an indicator that a child is particularly vulnerable to experiencing abuse or neglect.²⁷
- 3.1.4 The Department has also published *The Signs of Safety: Child Protection Practice Framework* that seeks to establish a service system that protects children and young people from the experience of abuse and harm.²⁸ Although the framework is child and family centred and excludes residential and institutional care facilities, it does suggest that risk assessments should not be a one-off event or a periodic undertaking but an activity that case workers must constantly engage in.²⁹ This further demonstrates that the department has an understanding of child abuse and the increased vulnerability status of children and young people. However, is this understanding predominantly theoretical or is it put into action by departmental workers?
- 3.1.5 In 2003, the Western Australian Ombudsman initiated an investigation regarding a complaint that had initially been made to the hostel and then to the Department for

²³ Child Wise, above n 22.

²⁴ Child Wise, above n 22, Step 1.

²⁵ Child Wise, above n 22.

²⁶ Government of Western Australia. *Child development and trauma guide*. Department for Child Protection.

²⁷ Ibid.

²⁸ Government of Western Australia. (2011, 2nd ed.). *The Signs of Safety: Child Protection Practice Framework*. Department for Child Protection.

²⁹ Ibid.

Community Development. The allegations included, among other things, alleged punitive measures being taken by staff at the facility such as denial of food and water, improper use of restraints, improperly locking young people out of the hostel and other forms of assault.³⁰ Following a preliminary investigation by the Department, the informant was informed that, among other things, there was insufficient evidence to support the claim and to make a statement to the police regarding the allegations of assault.³¹ The informant then contacted the Western Australian Ombudsman.³²

- 3.1.6 The Ombudsman found that at the time of the complaint (July 2003) the Department had:

[N]ot reviewed its hostel systems as a whole, including its place in the provision of direct care to children and young persons since the Family and Children's Services' *Accommodation Hostels: Report to the Minister for Community Development* in 2001.³³

This report stated that the department had:

[L]ost the capacity to deal effectively with the high-risk children and young persons in residential care and the indications that problems in the hostel environment had intensified, not the least being the problems caused by the lack of placement options.³⁴

- 3.1.7 The Ombudsman's investigation indicates that, at times, the government department responsible for child protection may experience issues in putting theoretical knowledge of abuse into practice, particularly with respect to children and young people who are at high-risk or who have extreme or complex support needs.³⁵
- 3.1.8 Research suggests that children and young people housed in group, non-family based, care settings tend to be those with high and complex needs.³⁶ For example, in both the 2008 and 2009 Queensland Commissioner for Children and Young People and Child Guardian's surveys, *Views of Young People in Residential Care*, approximately 26% of respondents reported experiencing a disability.
- 3.1.9 **CREATE submits** that the Western Australian Department for Child Protection ensure its publications demonstrate a high level understanding of child abuse.

³⁰ O'Donnell, above n 11, 29.

³¹ O'Donnell, above n 11, 29.

³² O'Donnell, above n 11.

³³ O'Donnell, above n 11p 31.

³⁴ O'Donnell, above n 11p 31.

³⁵ O'Donnell, above n 11.

³⁶ Government of Victoria. (2001). *Findings of the Audit of Children and Young People in Residential Care*. Melbourne: Victorian Department of Human Services; Fraser, E. (2008). *Views of Young People in Residential Care*. Brisbane: Queensland Commission for Children and Young People and Child Guardian; Fraser, E. (2009). *Views of Young People in Residential Care Queensland*. Brisbane: Queensland Commission for Children and Young People and Child Guardian; Flynn, C., Ludowici, S., Scott, E. & Spence, N. (2005). *Residential Care in NSW*. Association of Childrens Welfare Agencies.

- 3.1.10 **CREATE recommends** that the Special Inquirer examine the extent to which other key government and non-government organisations that work with children demonstrate an understanding of child abuse.
- 3.1.11 **CREATE recommends**, following the 2006 Ombudsman's report, that the Special Inquirer examine the Department for Child Protection's current capacity to protect high risk children and young people living in residential settings, particularly those with extreme or complex support needs.

3.2 Developing and maintaining an open and aware culture

- 3.2.1 According to Child Wise, developing and maintaining an open and aware culture includes, among other things, creating an organisation that combats the secretive nature of child abuse, encouraging the organisation to be open to outside influences and accountability and articulating the rights of children and acting upon them.³⁷
- 3.2.2 This submission does not address all issues relevant to developing and maintaining an open and aware culture. Instead, the submission focuses on factors relevant to the openness and awareness of the Western Australian child protection system. The submission will first examine the issue of secrecy and children fearing they may not be believed and thus being reluctant to report abuse.³⁸ The submission will then examine the extent to which a lack of independent oversight and monitoring can place children at risk.³⁹ Finally, the submission will explore the capacity of complaints mechanisms to respond to allegations of abuse.⁴⁰ The first two issues will be discussed in this sub-section. The capacity of complaints mechanisms will be discussed in section 3.9 below.

Ensuring children and young people are believed

- 3.2.3 Ensuring that children feel safe in voicing their experiences of abuse is important in developing and maintaining an open and aware culture. Research suggests that most disclosures of abuse occur a long time after the abuse starts and ends.⁴¹ This is particularly disturbing given research has also found that children who experience abuse are more likely to re-experience abuse.⁴²
- 3.2.4 The Australian Childhood Foundation has investigated community attitudes about child abuse and child protection in Australia. Their 2003 report found that 35% of respondents would not believe a child's story about being abused and in 2006 this had reduced to

³⁷ Child Wise, above n 22, Step 2.

³⁸ Barter, C. (2003). *Abuse of children in residential care*. United Kingdom: NSPCC.

³⁹ O'Donnell, above n 11; Barter, above n 38; 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*. Canberra: Commonwealth of Australia Senate.

⁴⁰ Scott, M. (2009). *Are you listening? Guidelines for making complaints processes accessible and responsive to children and young people*. Barbour, B. (2008). *Guidelines for dealing with youth complaints*. NSW Ombudsman; Western Australia: Commissioner for Children and Young People, Equal Opportunity Commission; Errington, A. (2001). *Report on the second survey of complaint handling in the Western Australian public sector*. Deputy Ombudsman, Parliamentary Commissioner for Administrative Investigations.

⁴¹ Smallbone S. W., & Wortley, R. K. (2001). Child Sexual Abuse: Offender Characteristics and Modus Operandi. *Australian Institute of Criminology: Trends & issues in crime and criminal justice*. No 193.

⁴² Barter, above n 38.

31%.⁴³ The recent 2010 report shows that approximately 25% of respondents would either not believe a child's story or could not make up their minds as to whether to believe a story if that child disclosed abuse to them.⁴⁴

- 3.2.5 Beyer et al suggest that '[k]nowledge of entrapment and control mechanisms (ie grooming) used by child sex abuse perpetrators to obtain compliance and silence from their victims is very important for staff and managers'.⁴⁵ Their study found that the majority of sex offenders engaged in some form of grooming prior to abusing their victim.⁴⁶ Smallbone and Wortley's study of sex offenders in Queensland found that a variety of grooming measures were used prior to the abuse and that these were designed to gradually desensitise the child to being touched.⁴⁷
- 3.2.6 Most grooming starts as non-sexual touching and Irenyi et al state that other adults in the child's life are also groomed.⁴⁸ Irenyi et al suggest that adult grooming can desensitise an adult to perceive potentially risky behaviours as harmless. They state that adult grooming can become so 'pervasive that perpetrators are able to use it to mask abuse that is happening directly in front of adults'.⁴⁹
- 3.2.7 Smallbone and Wortley found that almost 22% of the offenders in their study believed that the child's parent(s) knew about the sexual contact and did nothing to report it.⁵⁰ In their study, 44% of the extrafamilial offenders focused on making friends with the child's parent(s) or caretaker.⁵¹ Irenyi et al agree and suggest that the grooming of adults also minimises the likelihood the child will disclose the abuse and also the 'chance that a child who discloses will be believed'.⁵²
- 3.2.8 Irenyi et al suggest that grooming behaviours can be mitigated when organisations develop and implement policies that prevent physical contact that is commonly associated with grooming behaviour.⁵³
- 3.2.9 The Department for Child Protection has developed a policy position and a procedure regarding physical contact within residential care settings.⁵⁴ Appropriate and inappropriate physical contact is provided for in the Residential Care Manual and contains a provision for reporting suspected inappropriate touching by other staff members. However, this manual does not acknowledge how other adults (care staff, cleaners, gardeners) can be groomed and desensitised over time.

⁴³ Tucci, J., Mitchell, J., & Goddard, C. (2010). *Doing nothing hurts children: Community attitudes about child abuse and child protection in Australia*. Victoria: Australian Childhood Foundation.

⁴⁴ Ibid.

⁴⁵ Beyer, above n 1, p 30.

⁴⁶ Beyer, above n 1, p 38.

⁴⁷ Smallbone, above n 41, 4.

⁴⁸ Irenyi, above n 1, 10.

⁴⁹ Irenyi, above n 1, 10.

⁵⁰ Smallbone, above n 41, 5.

⁵¹ Smallbone, above n 41, 4.

⁵² Irenyi, above n 1, 10.

⁵³ Irenyi, above n 1, 10; see also Beyer, above n 1, 54.

⁵⁴ Government of Western Australian. (2011). *Residential Care Practice Manual: Residential Group Homes, Family Group Homes*. East Perth: Department for Child Protection. 66-67.

- 3.2.10 The manual does provide for staff 'believing' what a child or young person in residential care says in relation to bullying.⁵⁵ There appear to be no other references to staff 'believing what children say' in any other context.
- 3.2.11 **CREATE submits** that there are opportunities for the Department for Child Protection to promote child safe and child friendly out-of-home care services by strengthening policies, procedures and guidelines intended to minimise opportunities for adults to engage in grooming and abusive behaviour, particularly with respect to residential or institutional care settings.

Independent oversight and monitoring

- 3.2.12 The second issue relevant to establishing an open and aware culture is encouraging independent oversight and monitoring of residential or organisational care facilities. Child Wise suggests that developing an open and aware culture includes, among other things, encouraging open discussions and that organisations need to be open to outside influence and accountability.⁵⁶
- 3.2.13 The Queensland Department of Communities (Disability and Community Care Services) suggests that a:
- A whole-of-government approach focuses on working in partnership with other government agencies and recognises that the changing needs of the most vulnerable children and young people in our society can rarely be met by one agency or individual in isolation. Rather, an effective child protection response must be built on government agencies working with each other, the non-government sector and local communities in a cooperative, collaborative and integrative manner.⁵⁷
- 3.2.14 Barter suggests that contact between 'children and families (where appropriate), independent visitors, advocacy services and the local community' can contribute to the creation of a child safe culture along with regular monitoring, assessments and spot checks by social services and statutory bodies.⁵⁸ Sir William Utting's review of residential care services for children in the United Kingdom also stated that children's homes should be inspected by independent inspection units.⁵⁹
- 3.2.15 Barter cites the 1991 Westcott Report⁶⁰ that suggested allegations of abuse within residential settings may be due to 'the closed nature of institutions – facilities may be reluctant to open their systems to external scrutiny for fear of losing credibility, hence they strive to deal with the allegation internally.'

⁵⁵ Residential Care Manual, above n 64, 51.

⁵⁶ Child Wise, above n 22, Step 2.

⁵⁷ Government of New South Wales. (2009). *Transition and Post Care Support Program: Operational Practice Manual*. NSW Department of Communities (Disability, Home and Community Care Services), 4.

⁵⁸ Barter, above n 38, 8.

⁵⁹ Department of Health (England). (1991). *Local Authority Circular: Sir William Utting's Review of Residential Care Services for Children*. London.

⁶⁰ Barter, above n 38, 3.

- 3.2.16 In 2006 the Western Australian Ombudsman found that caseworkers experienced heavy caseloads and quoted the Cant Report where concerns were raised that there was 'compliance in only 73.5% of cases with the then requirement for Case Managers to have contact with wards on at least a quarterly basis'.⁶¹ The Ombudsman quoted a number of caseworkers who suggested that day to day practicalities impacted on their ability to manage their caseload and make regular contact with children and young people in residential and institutional settings.⁶²
- 3.2.17 Some of the caseworkers were quoted as saying that because children and young people in institutional settings have professional staff assisting them, their case management needs were a secondary consideration to other urgent matters involving children who were not in residential or institutional settings.⁶³ This is concerning because of the widely recognised vulnerability of children in residential or institutional settings.
- 3.2.18 According to the Western Australian Ombudsman, the Department for Child Protection established the position of Advocate for Children in Care as a result of the Cant Report.⁶⁴ According to O'Donnell, the purpose of this position is to provide children and young people in care with access to an "independent third party".⁶⁵
- 3.2.19 The Advocate for Children in Care is not a statutory office established by the *Children and Community Services Act 2004* (WA). The office of the Advocate for Children in Care is an internal position within the Department for Child Protection.⁶⁶
- 3.2.20 The Western Australian Ombudsman noted this discrepancy and recommended that the '[g]overnment give consideration to externally allocating the function of monitoring both Departmental and non-governmental residential care facilities'.⁶⁷
- 3.2.21 The Ombudsman stated that the value of an independent third party's access to residential care facilities was demonstrated by their own access during her investigation.⁶⁸ In her report, the Western Australian Ombudsman stated that the:
- Department advises that both the Advocate for Children in Care and the Executive Director regularly visit residential care facilities on an unscheduled and informal basis, so that they can meet and build relationships with children and young people.⁶⁹
- 3.2.22 The Ombudsman also identified that Departmental officers accessing organisational care facilities were often willing and able to raise welfare concerns.⁷⁰ However she also found

⁶¹ O'Donnell, above n 11, 72.

⁶² O'Donnell, above n 11, 71-73.

⁶³ O'Donnell, above n 11, 72.

⁶⁴ O'Donnell, above n 11, 74.

⁶⁵ O'Donnell, above n 11, 74.

⁶⁶ See <<http://www.dcp.wa.gov.au/ChildrenInCare/Pages/AdvocateforChildreninCare.aspx>>; See also *Advocacy for Children and Young People in Care*:

<<http://www.dcp.wa.gov.au/ChildrenInCare/Documents/Advocate%20for%20Children%20in%20Care/Advocacy%20Service%20and%20Protocols%202008.pdf>> at 29 May 2012.

⁶⁷ O'Donnell, above n 11, 158.

⁶⁸ O'Donnell, above n 11, 74.

⁶⁹ O'Donnell, above n 11, 158.

⁷⁰ O'Donnell, above n 11, 158.

that a lack of confidence in departmental management, as expressed by departmental officers, 'could inhibit them from divulging the same information to another departmental officer'.⁷¹

- 3.2.23 It also worth noting that some children and young people who have been traumatised whilst in care may not be willing to speak to departmental officers but may not have the same reservations about disclosing information to an independent third party. This issue is partially acknowledged by the Western Australian Advocate for Children in Care who suggests that children may stop speaking up and may find it hard to talk to adults – especially those in authority.⁷²
- 3.2.24 The Department's model of secure care facilities for children and young people who present a risk to themselves and/or others includes monitoring by an external assessor.⁷³
- 3.2.25 The assessor has the power to enter and inspect the secure care facilities, inquire into the operation and management of the centre, inquire into the wellbeing of any child in the centre, see and talk with any child in the centre, and inspect any document relating to the centre or to any child in the centre.⁷⁴
- 3.2.26 The external assessor is appointed by the Chief Executive Officer (CEO) of the Department and reports directly to this position.⁷⁵ This may compromise the intention to build an external accountability into this service model.
- 3.2.27 In 2012 the Minister for Child Protection and the Department for Child Protection have written to CREATE Foundation arguing that the internal *Viewpoint* program allows the department to collect information about the needs of children and young people in care and that there is no longer a need to rely on external research providers to independently report on the views of children and young people in care. CREATE is concerned that this demonstrates that the Western Australian child protection system is developing an insular culture that may not be in the best interests of the children and young people it supports.
- 3.2.28 CREATE also notes that the Western Australian child protection system does not appear to possess uniform service standards against which organisations that provide out-of-home care services to children and young people are externally assessed. This issue is discussed below at heading 3.10.
- 3.2.29 In addition, the role of the Commissioner for Children and Young People is currently limited to the provision of systems advocacy.⁷⁶ While the Western Australian Ombudsman is able to intervene in resolving complaints and initiating inquiries relating to individual cases, there is no external government agency in Western Australia which provides a broader individual monitoring and advocacy service for children and young people in care. CREATE is also concerned that the traditional role of an Ombudsman in

⁷¹ O'Donnell, above n 11, 158.

⁷² Garsed, J. *Helping Children Be Heard*. Better Care, Better Services Forum 2012: Showcasing practice and shared learning with colleagues. Government of Western Australia, Department for Child Protection.

⁷³ Government of Western Australia. (2011). *Background Paper*. Department for Child Protection, <<http://www.dcp.wa.gov.au/Resources/Documents/Policies%20and%20Frameworks/SecureCareBackgroundPaper2011.pdf>> at 1 June 2012.

⁷⁴ Ibid.

⁷⁵ Secure care paper, above n 73.

⁷⁶ *Commissioner for Children and Young People Act 2006* (WA), s 23

- resolving complaints about government agencies may limit the capacity of the office to influence funded non-government service providers.
- 3.2.30 **CREATE submits** that there is no accountability in the absence of external oversight and monitoring. CREATE is concerned that the Western Australian child protection system lacks adequate external oversight and monitoring.
- 3.2.31 **CREATE recommends** that the Western Australian Government publicly acknowledge the valuable role that external oversight and monitoring plays in developing and maintaining child safe and child friendly service environments and develops strategies to ensure that insular departmental cultures do not prevail.
- 3.2.32 **CREATE recommends** that the Western Australian Government establishes and supports an independent individual monitoring and advocacy service for children in care.

3.3 Identifying and managing the risks and dangers to children in programs and activities

- 3.3.1 Child Wise suggests that 'risk management is child abuse prevention'.⁷⁷ Risk management includes identifying potential risks and taking steps to reduce the potential for such risks to be realised.
- 3.3.2 The *Choose with Care* framework suggests that after asking questions to identify risks the organisation should determine what 'controls such as policies, procedure, and strategies are in or should be in place'.⁷⁸
- 3.3.3 The Department for Child Protection has a framework for managing risk within the organisation and a number of policies for minimising risks to children and young people in care. The Western Australian government also provides, or funds, a number of programs that are designed to provide early intervention in relation to factors that may prevent children or young people experiencing abuse.
- 3.3.4 Like most jurisdictions, the Department has a criminal history screening process that aims to 'increase the safety of children in our community by helping to prevent people who have a criminal history that indicates they may harm children from working with children'.⁷⁹ This topic will be discussed in more detail in section 3.7 below. However, criminal history checks are an important risk management strategy that assists organisations to prevent child abuse within service environments.
- 3.3.5 The Western Australian Ombudsman reported that, at the time of her investigation, the 'department does not act directly to investigate allegations of abuse of children involving people acting in their employment capacity'.⁸⁰ Such allegations were referred to the police and according to the Ombudsman, such allegations were not recorded on the Department's database.⁸¹ It is noted that the Ombudsman has acknowledged that the

⁷⁷ Child Wise, above n 22, Step 3.

⁷⁸ Child Wise, above n 22, Step 3.

⁷⁹ Government of Western Australia, Working with Children Check website <<http://www.checkwwc.wa.gov.au/checkwwc>> at 4 June 2012.

⁸⁰ O'Donnell, above n 11, 156.

⁸¹ O'Donnell, above n 11, 156.

department had started some major changes to the operations of its residential care service prior to the publication of the report.⁸² CREATE emphasises the importance of the department taking a lead role in ensuring that instances of abuse within service provision environments are appropriately investigated with a view to making organisational recommendations to minimise the potential for abuse to reoccur in the future.

3.3.6 The Ombudsman reports that in New South Wales there is a system where the Ombudsman has legislative power and 'responsibility for making sure that certain agencies deal properly with allegations that their employees have behaved in ways that could constitute abuse to children.'⁸³ In CREATE's view, such a provision goes to risk management and enabling the service system to be open and accountable to independent scrutiny.

3.3.7 **CREATE submits** that it has not identified significant systemic issues relating to the management of risks and dangers in programs or services.

3.4 Developing a child protection policy

3.4.1 Child Wise states that child safe and child friendly organisations need to develop and implement policies and procedures about child protection and to provide guidance about everyday practices within the organisation.⁸⁴

3.4.2 Child Wise suggests that each organisation should develop a child protection policy that includes a statement of the organisation's commitment to child safety and outlines how the organisation will meet this commitment.⁸⁵

3.4.3 The Department's website appears to contain numerous policies, position statements and other documents that clearly indicate the Department is committed to protecting children.⁸⁶

3.4.4 CREATE has been unable to assess the extent to which funded non-government service providers possess child protection policies.

3.4.5 **CREATE submits** that the Western Australian Department for Child Protection appears to demonstrate the commitment necessary to child protection that is needed to develop and maintain child safe and child friendly service environments.

3.5 Creating clear boundaries

3.5.1 Child Wise suggests that creating clear boundaries contained in a Code of Conduct (or similar document) is a logical outcome of the risk management process.⁸⁷ Codes of Conduct should contain statements guiding staff about appropriate behaviours that limit the risk of child abuse occurring within a service environment.⁸⁸

⁸² O'Donnell, above n 11, 153.

⁸³ O'Donnell, above n 11, 156; *Ombudsman Act 1974* (NSW), s 25B.

⁸⁴ Child Wise, above n 22, Step 4.

⁸⁵ Child Wise, above n 22, Step 4.

⁸⁶ See: <<http://www.dcp.wa.gov.au/Pages/Home.aspx>> at 4 June 2012.

⁸⁷ Child Wise, above n 22, Step 5.

⁸⁸ Child Wise, above n 22, Step 5.

- 3.5.2 At the time of preparing this submission, CREATE identified that the Department for Child Protection appears to have developed a Code of Conduct. However, the link providing online access to this document was not accessible and, as a result, CREATE is not in a position to evaluate the extent to which the code establishes appropriate staff boundaries and minimises the potential for children and young people to experience abuse within service environments.⁸⁹
- 3.5.3 CREATE notes that a number of other Western Australian statutory instruments establish boundaries for staff behaviour that are likely to contribute to establishing child safe and child friendly service environments.
- 3.5.4 CREATE has been unable to assess the extent to which funded non-government organisations that provide out-of-home care services to children and young people establish and maintain appropriate boundaries for staff and volunteers.
- 3.5.5 **CREATE submits** that no significant issues relating to boundaries for staff and volunteers have been identified.

3.6 Adopting best practice in recruitment and selection

- 3.6.1 Child Wise states that 'child sex offenders will target organisations that are unaware of the risks and dangers of child abuse and who conduct little or no screening.'⁹⁰ Child safe and child friendly organisations must ensure that they attract the best applicants for positions and reduce the risk of recruiting unsuitable people.⁹¹
- 3.6.2 Conducting police checks is only one aspect of recruitment and selection processes.
- 3.6.3 In their 2000 study of 323 offenders, Smallbone & Wortley found that the sex offenders in their study were almost 'twice as likely to have previous convictions for property or nonsexual offences (40.66%) than they were to have previous convictions for sexual offenders (22.2%)'.⁹² This demonstrates that organisations cannot rely on criminal history checking alone to safeguard children.
- 3.6.4 The Western Australian Government requires that people who are engaged in child related employment undergo a criminal history check under the *Working with Children (Criminal Record Checking) Act 2004* (WA). Mandatory criminal history screening is likely to reduce the potential for organisations to engage a person with a known previous history of committing offences that may place children or young people at risk.
- 3.6.5 Section 8 of the *Public Sector Management Act 1994* (WA) establishes principles for human resource management within government agencies. These principles are applied uniformly through a whole of government policy framework. It is likely that these

⁸⁹ See:
<<http://manuals.dcp.wa.gov.au/manuals/cpm/Pages/01PublicSectorResponsibilitiesandStandardsOfConduct.aspx#CPMProcedure1>> at 4 June 2012 and also <<http://dcpnet/NR/rdonlyres/34A5AD6A-DDDE-43A4-8942-FD2BBE1B9E3F/0/codeofconductA4FINAL0308.pdf>> at 4 June 2012.

⁹⁰ Child Wise, above n 22, Step 6.

⁹¹ Child Wise, above n 22.

⁹² Smallbone, above n 8; 15; See also Smallbone, above n 41.

principles and policies promote child safe and child friendly organisational environments by:

- Ensuring key selection criteria are relevant to positions and take into account the interests of children and young people;
- Ensuring that advertising material emphasises relevant information, such as the need to undergo Working with Children screening;
- Promoting the recruitment of people who are likely to act as positive role models for children and young people;
- Ensuring applicants are subjected to reference checking prior to engagement;
- Using appropriate assessment strategies in recruitment processes; and
- Ensuring that staff receive adequate training in recruitment and selection.

3.6.6 The Department for Child Protection also has a *Child Safe and Friendly Organisations: Introductory Factsheet* that includes a rigorous recruitment screening and assessment procedure.⁹³ In addition, the departmental website contains a link to the Community and Disability Services Ministers' Conference *Creating Safe Environments for Children – Organisations, Employees and Volunteers*.⁹⁴

3.6.7 **CREATE submits** that the organisation has not identified significant issues relating to recruitment and selection processes that may contribute to an increased risk of children or young people experiencing abuse.

3.7 Screening all staff and volunteers

3.7.1 Child Wise states that insufficient screening is a risk factor 'which could allow child abuse to occur in organisations through the placement of a child sex offender or otherwise unsuitable candidate'.⁹⁵

3.7.2 The issue of screening and recruitment in a child safe manner has been addressed under section 3.6 above.

3.7.3 **CREATE submits** that it has not identified any significant issues relating to employee screening processes that may contribute to an increased risk of children or young people experiencing abuse.

3.8 Supporting and supervising staff and volunteers

3.8.1 Child Wise states that 'child abuse is more prevalent in organisations that lack regular, formal supervision and performance monitoring'.⁹⁶ They also suggest that the 'approachability and supportiveness of managers is essential'.⁹⁷

3.8.2 The role of supporting and supervising staff and volunteers in protecting children is a matter of human resources best practice.⁹⁸

⁹³ Government of Western Australian. *Working with Children Check: Child Safe and Friendly Organisations – Introductory Factsheet*. Department for Child Protection.

<<http://www.checkwwc.wa.gov.au/NR/rdonlyres/D783A393-347E-45A8-AAC0-085F941C1989/0/ChildSafeandFriendlyOrganisations.pdf>> at 4 June 2012.

⁹⁴ See: <<http://www.checkwwc.wa.gov.au/NR/rdonlyres/E2CFD196-2BC7-4298-8D78-0E238BF6F5A6/0/DCDPOLFinalCapacityBuildingPDFfinal2006.pdf>> at 4 June 2012.

⁹⁵ Child Wise, above n 22, Step 7.

⁹⁶ Child Wise, above n 22, Step 8.

⁹⁷ Child Wise, above n 22, Step 8.

- 3.8.3 As suggested in section 3.2.17 above, the Western Australian Ombudsman reported that a number of caseworkers were not maintaining contact with children and young people in residential and institutional care settings.
- 3.8.4 The Ombudsman quotes a number of caseworkers suggested that their caseload restricted their ability to carry out their case management in the expected manner. Likewise, the caseworkers appeared to assume that because children and young people were being cared for by paid staff at the care facilities, that they could manage their caseloads better if they did not prioritise going to the residential care facilities.⁹⁹ In CREATE's view these staff attitudes either reflect the general perspective of the organisation about prioritising workloads or a lack of adequate supervision or support for staff. However CREATE believes that it does not obviate either the staff member or their supervisors responsibility. CREATE is unable to assess the extent to which these issues may persist in 2012.
- 3.8.5 **CREATE submits** that there is evidence that supervision and support may have been an issue for the Department for Child Protection in prior to 2006.
- 3.8.6 **CREATE recommends** that the Western Australian Government evaluate the adequacy of existing staff supervision and support frameworks in protecting children and young people, both in government and funded non-government agencies.

3.9 Ensuring there is a clear complaints procedure for reporting concerns

- 3.9.1 Child Wise identifies that perpetrators of sexual abuse towards children are secretive and are more likely to engage in offending behaviour when they are in a service environment which is naïve, insensitive or unresponsive to the possibility that such behaviour may occur.¹⁰⁰
- 3.9.2 Having clear reporting guidelines assists in developing and maintaining open and aware organisational cultures that minimise opportunities for people to engage in offending behaviour.¹⁰¹
- 3.9.3 The Western Australian system provides multiple avenues through which a child, young person or another person can report concerns.
- 3.9.4 Western Australian doctors, nurses, midwives, police officers and teachers have a legal duty to report a reasonable belief that a child has been, or is being, sexually abused.¹⁰²
- 3.9.5 The *Public Interests Disclosure Act 2005* (WA) also protects people who make appropriate disclosures of public interest information to a proper authority.¹⁰³
- 3.9.6 The Department for Child Protection and the Western Australian Ombudsman appear to have well developed complaints procedures for reporting concerns.

⁹⁸ Child Wise, above n 22, Step .8

⁹⁹ O'Donnell, above n 11, 72.

¹⁰⁰ Child Wise, above n 22, Step 9.

¹⁰¹ Child Wise, above n 22, Step 9.

¹⁰² *Children and Community Services Act 2004* (WA), s 124B.

¹⁰³ *Public Interest Disclosure Act 2003* (WA), s 5.

- 3.9.7 CREATE has not been able to assess the extent to which funded non-government organisations that provide out-of-home care services to children in Western Australia also possess clear complaints procedures.
- 3.9.8 The Western Australian Commissioner for Children and Young People has published a report titled *Are You Listening*.¹⁰⁴ This document provides guidelines for making complaints processes accessible and responsive to children and young people. *Are You Listening* emphasises that few children choose to make a complaint without the support of an adult and that child safe and child friendly organisations must develop appropriate ways to engage with, and listen to, children about matters of concern.¹⁰⁵
- 3.9.9 The report identifies accessibility and responsiveness as the key elements of child friendly complaints processes and details actions that organisations can take to ensure that their complaints processes are appropriate in meeting the needs of children.¹⁰⁶
- 3.9.10 CREATE Foundation has reviewed the online accessibility of the complaints processes maintained by the Department for Child Protection,¹⁰⁷ Western Australian Ombudsman¹⁰⁸ and the Police Service.¹⁰⁹ None of the complaints processes reviewed were assessed as being child friendly.
- 3.9.11 The Department for Child Protection does employ an Advocate for Children in Care who can receive complaints.¹¹⁰ This role does not appear to be adequately supported by child friendly information resources or processes. This is likely to reduce the efficacy of the position in promoting an accessible complaints system.
- 3.9.12 **CREATE submits** that government agencies in Western Australia are likely to possess clear complaints procedures for reporting concerns. However, these complaints processes do not appear to be child friendly. This is likely to reduce their effectiveness in promoting open and aware organisational cultures that minimise opportunities for people to engage in abusive behaviour towards children.
- 3.9.13 **CREATE recommends** that Western Australian agencies review their complaints processes with a view to ensuring that they are accessible and responsive to children and contain language that is child friendly.

3.10 Knowing the organisation's legal responsibilities

- 3.10.1 Individuals and organisations that support children and young people have a legal responsibility to take reasonable action to prevent foreseeable harm. Arguably, this duty

¹⁰⁴ Scott, above n 40.

¹⁰⁵ Scott, above n 40, 5.

¹⁰⁶ Scott, above n 40.

¹⁰⁷ See: <<http://www.dcp.wa.gov.au/ComplaintsAndCompliments/Pages/ComplaintsManagementUnit.aspx>> at 4 June 2012.

¹⁰⁸ See: <http://www.ombudsman.wa.gov.au/Complaints/Making_complaints.htm> 4 June 2012.

¹⁰⁹ See:

<<http://www.police.wa.gov.au/YOURSAFETY/ChildProtection/ReportingChildAbuse/tabid/1241/Default.aspx>> at 4 June 2012.

¹¹⁰ See: <<http://www.dcp.wa.gov.au/ChildrenInCare/Pages/AdvocateforChildreninCare.aspx>> at 4 June 2012.

of care extends to taking reasonable steps to prevent the abuse of children by creating child safe and child friendly service environments.

- 3.10.2 The Department for Child Protection highlights the twelve steps of Child Wise's Choose with Care Training Manual as an example of best practice in minimising the potential for abuse to occur. By publishing this, and similar documents, the West Australian Government acknowledges that sexual abuse of children within service environments is a foreseeable risk and that actions can reasonably be taken to minimise the potential for harm to occur.
- 3.10.3 However, as highlighted within this submission, there are significant opportunities for organisations to strengthen the extent to which their services and programs are child safe and child friendly.
- 3.10.4 It is also worth noting that external monitoring of funded non-government organisations that provide out-of-home care services to children and young people appears to occur primarily at a contractual level. There does not appear to be a uniform, or consistent, service standards or quality indicators at either the contractual, policy or statutory levels. However, the Department for Child Protection's service agreement template does provide for the introduction of service specific standards under schedules 2 and 3.
- 3.10.5 **CREATE submits** that the lack of a consistent policy framework underpinning the Department for Child Protection's role in monitoring out-of-home care service provision by funded non-government service may lead to a culture of overreliance on non-government service providers acting in an honest, open and transparent manner in meeting their duty of care to children and young people.
- 3.10.6 **CREATE recommends** that the Western Australian Government develop uniform legislative service standards against which out-of-home care services provided by government and non-government providers can be audited and assessed.

3.11 Empowering children and encouraging participation in the organisation's programs

- 3.11.1 Child Wise suggests that child abuse is more common in organisational settings where children and young people have no voice.¹¹¹ They also suggest that the active inclusion of children and young people in developing policies and strategies can help identify strengths, weaknesses, risks and dangers that may otherwise go undetected.¹¹²
- 3.11.2 Children and young people in residential or institutional care facilities have been described as a voiceless population.¹¹³ The Centre for Excellence in Child and Family Welfare state that:

¹¹¹ Child Wise, above n 22, Step 11.

¹¹² Child Wise, above n 22, Step 11; Child Safe Factsheet, above n 93.

¹¹³ Kendrick, A. (1998). 'Who Do we Trust': *The Abuse of Children Living Away from Home in the United Kingdom*. Paper presented to the 12th International Congress on Child Abuse and Neglect; Protecting Children: Innovation and Inspiration, ISPCAN – International Society for Prevention of Child Abuse and Neglect, Auckland 6-9 September, 1998.

Children, and adults who as children have been in care, have demonstrated how their attempts to speak out and voice their wishes, opinions and experienced have been, and continue to be, ignored or trivialised by their caretakers, the courts, program and policy makers and government.¹¹⁴

- 3.11.3 The Advocate for Children in Care aims to help children and young people in care to be heard.¹¹⁵ However as the Advocate suggests, children and young people '[m]ay find it hard to talk to adults, especially those in authority.'¹¹⁶
- 3.11.4 The *Better Care Better Services Standards* are silent on ensuring children and young people's voices are heard in the decisions that affect them. However, the standards do provide that the '[p]articipation of children and young people should occur in accordance with their age and development'.¹¹⁷
- 3.11.5 The Residential Care Practice Manual provides for giving a voice to children in relation to their care arrangements.¹¹⁸ The Manual also states that:

Residential care programs use democratic processes to enable all children or young people to have a say in the life of the residential care program. All children or young people have a voice with Residential Care Officers and in the house, as this reduces the propensity for bullying.¹¹⁹
- 3.11.6 The Manual suggests that "[o]ften the child or young person does not like admitting they are being bullied and will be reluctant to talk about it."¹²⁰ This is likely to also apply where children or young people are being bullied or abused by Residential Care Officers.
- 3.11.7 As suggested in section 3.2.27 above, the Department is reducing the ways children and young people can be heard by its reliance on its case management software *Viewpoint*. CREATE is concerned that this may demonstrate, or lead to, an insular departmental culture and limit the avenues through which children and young people in care can be supported to have a voice and to be heard.
- 3.11.8 **CREATE submits** that few avenues exist through which children and young people living in out-of-home care can have a voice and be heard in the decisions that affect them. This can lead to reluctance to children engaging with the adults who support them and reduce the potential that they will report experiencing abuse. CREATE is concerned that departmental overreliance on *Viewpoint*, at the expense of other avenues through which children and young people can be empowered and supported to express their views, is not consistent with best practice frameworks promoting child safe and child friendly environments.

¹¹⁴ Centre for Excellence in Child and Family Welfare. (2011). *Their voice: Involving children and young people in decisions, services and systems*. Melbourne.

¹¹⁵ See: <<http://www.dcp.wa.gov.au/ChildrenInCare/Pages/AdvocateforChildreninCare.aspx>> 4 June 2012.

¹¹⁶ Garsed, above n 72, 12.

¹¹⁷ Government of Western Australia. *Better Care, Better Services: Standards for children and young people in protection and care*. Department for Child Protection, [2.7].

¹¹⁸ Residential Care Manual, above n 54, 42-3.

¹¹⁹ Residential Care Manual, above n 54, 51.

¹²⁰ Residential Care Manual, above n 54, 51.

- 3.11.9 **CREATE recommends** that the Western Australian Government acknowledge the importance of empowering children and young people and providing them with multiple avenues through which they can have a voice and be heard in the service system.
- 3.11.10 **CREATE recommends** that the Western Australian Government explore ways that children and young people in care can be supported to have a greater voice and role in the services they access and the decisions that affect them thereby promoting openness and transparency.

3.12 Providing education and training to all participants

- 3.12.1 Child Wise states that education and training should be provided to staff, volunteers, children and their families about child safe and child friendly policies and practices.¹²¹
- 3.12.2 According to Smallbone & Wortley the 'most common means employed by victims to stop the sexual contact were telling the offender they did not want to do it (40.2%), saying no (31.2%), demanding to be left alone (25.9%), and crying (19.2%)'.¹²² It follows that in educating children and young people and empowering them with the ability to voice themselves, sex offenders may be prevented from engaging in abusive behaviour.
- 3.12.3 However, many children and young people in residential care may not have the confidence or be empowered to speak up for themselves. As such training staff, volunteers, independent monitors and advocates to identify risks becomes critical in establishing and maintaining child safe and child friendly service environments.
- 3.12.4 This is particularly the case where, as discussed in sections 3.2.5 & 3.2.6, adults in the life of the child or young person can also be unknowing subjects of a perpetrator grooming a child for abuse.
- 3.12.5 CREATE notes the importance of education and training in minimising the potential for child abuse within service environments. However, CREATE has been unable to assess the extent to which such training is currently provided by government and non-government service providers in Western Australia.

4 Recommendations

- 3.12.6 This submission contains a number of recommendations that CREATE believes would contribute to ensuring that out-of-home care services for children and young people in Western Australia are provided in child safe and child friendly service environments.
- 3.12.7 The following recommendations are made within this submission:

Recommendation 1: That the Special Inquirer examine the extent to which other key government and non-government organisations that work with children demonstrate an understanding of child abuse.

Recommendation 2: That the Special Inquirer examine the Department for Child Protection's current capacity to protect high risk children and young people living in

¹²¹ Child Wise, above n 22, Step 12.

¹²² Smallbone, above n 41, 5.

residential settings, particularly those with extreme or complex support needs.

- Recommendation 3:** That the Department for Child Protection strengthening policies, procedures and guidelines intended to minimise opportunities for adults to engage in grooming and abusive behaviour, particularly with respect to residential or institutional care settings.
- Recommendation 4:** That the Western Australian Government publicly acknowledge the valuable role that external oversight and monitoring plays in developing and maintaining child safe and child friendly service environments and develops strategies to ensure that insular departmental cultures do not prevail.
- Recommendation 5:** That the Western Australian Government establish a statutory role, independent of the Minister for Child Protection's portfolio, that provides an independent individual monitoring and advocacy service for children in care.
- Recommendation 6:** That the Western Australian Government evaluate the adequacy of existing staff supervision and support frameworks in protecting children and young people, both in government and funded non-government agencies.
- Recommendation 7:** That Western Australian agencies review their complaints processes with a view to ensuring that they are accessible and responsive to children and contain language that is child friendly.
- Recommendation 8:** That the Western Australian Government develop uniform legislative service standards against which out-of-home care services provided by government and non-government providers can be audited and assessed.
- Recommendation 9:** That the Western Australian Government acknowledge the importance of empowering children and young people and providing them with multiple avenues through which they can have a voice and be heard in the service system.
- Recommendation 10:** That the Western Australian Government explore ways that children and young people in care can be supported to have a greater voice and role in the services they access and the decisions that affect them thereby promoting openness and transparency.

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Government of Western Australia, Working with Children Check website <
<http://www.checkwwc.wa.gov.au/checkwwc>>

*Appendix 2: Submission to the Review of the Commissioner for Children and Young People Act 2006
Western Australia, 2013*



**Submission to the Review of the
*Commissioner for Children and Young
People Act 2006*
Western Australia**

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Acknowledgements

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- The Office for the Commissioner for Children and Young People and the Public Sector Commission.

CREATE Project Team

- Lead researcher and facilitator, Katherine Browne, State Coordinator, WA CREATE Foundation
- Consultation co-facilitator Laura Beegan, Community Facilitator, WA CREATE Foundation

Disclaimer

The views expressed in this report do not necessarily represent the views of CREATE Foundation; the project team or children and young people in care generally. The contents of this report have been developed in consultation with a non-representative group of young people in care and are not meant to represent the in care population in total.

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About CREATE Foundation

CREATE Foundation is a systems advocacy organisation that works with children and young people who are in, or have left, the child protection system to empower them to share their experiences in order to change the service system to improve services and outcomes.

CREATE Foundation's mission is to create a better life for children and young people in care. CREATE believes that all children and young people with a care experience should have the opportunity to reach their full potential.

CREATE is a systems advocacy organisation that works to:

- **Connect** children and young people with each other, CREATE and their community;
- **Empower** children and young people to build self-confidence, self-esteem and skills that enable them to have a voice and be heard; and
- **Change** the care system, in consultation with children and young people, through advocacy to improve policies, practices and services and increase community awareness

CREATE Foundation Limited was established in 1999 in the belief that a truly effective child protection system is one that listens to the views of the children and young people it seeks to protect and support. The importance of encouraging and facilitating the participation of children and young people in key decisions that affect their lives is a core principle of the organisation.

Purpose

The purpose of this consultation and submission was to hear the opinions of children and young people in care as part of the review of the *Commissioner for Children and Young People Act 2006* (WA). The Public Sector Commission is undertaking a review of the current Act, evaluating the operation and effectiveness of the Act and the role of the Commissioner for Children and Young People. The review will also consider whether any amendments to the Act are required in order for the Commissioner to provide a "child-focused complaints function to encourage and protect disclosure" as recommended as part of the St Andrew's Hostel Inquiry (Blaxell Inquiry).

The Office for the Commissioner of Children and Young People approached CREATE Foundation to consult with children and young people in care in WA as part of the Review of the *Commissioner of Children and Young People Act 2006* (WA). The participation of children and young people in care in this consultation and submission is vital to ensure that their views and thoughts on the role and functions of the Commissioner are considered as part of the review.

Voices of Children and Young People

CREATE spoke with 20 children and young people with a care experience ranging in age between 12 and 21 years old seeking their views about the role and responsibilities of the Commissioner. CREATE asked them a set of questions developed by the Office for the Commissioner of Children and Young People.

The quotes in this document have been taken directly from the voices of young people with a care experience. Four young people took part in a group discussion at a CREATE Youth Advisory Group activity on the 21 February 2013. Sixteen children and young people took part in a consultation workshop held on the 23 February 2013.

In order to protect their identities, we have changed the names of the children and young people who have provided CREATE with their thoughts and opinions.

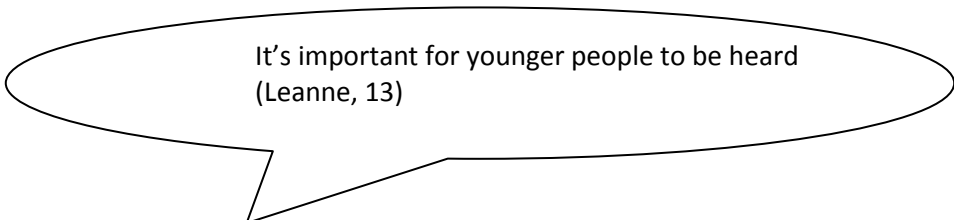
The headings below are based on the questions posed by the Commissioner for Children and Young People for the purpose of this submission.

The Purpose of a Commissioner for Children and Young People and what the Commissioner should do

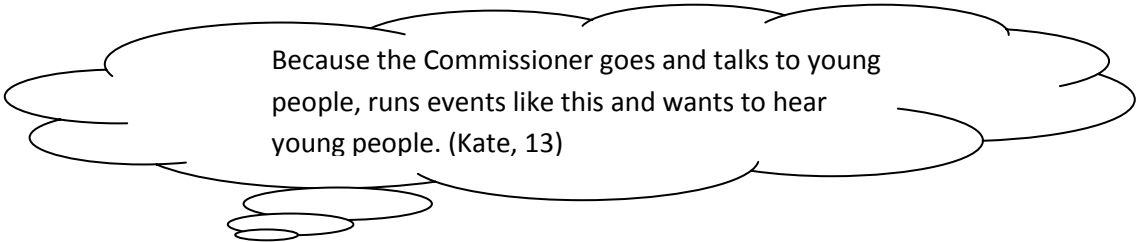
Generally the young people involved in the consultation agreed that the job of the Commissioner for Children and Young People is an important one. Many young people seemed to relate the importance of the role of the Commissioner to her ability to represent the needs and rights of children and young people and ensure that their voices are heard.

Hearing the voices of children and young people

When asked why the role of the Commissioner was an important one, a number of young people responded by discussing the role that the Commissioner plays in hearing the voices of children and young people.

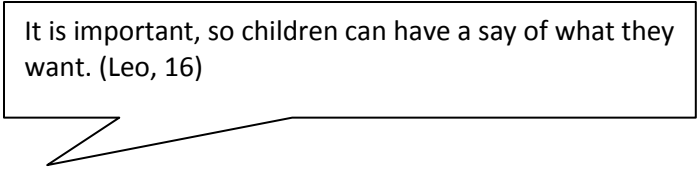


It's important for younger people to be heard
(Leanne, 13)

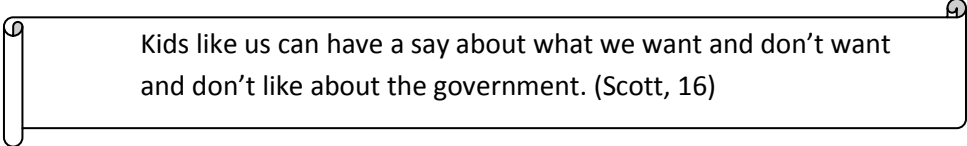


Because the Commissioner goes and talks to young people, runs events like this and wants to hear young people. (Kate, 13)

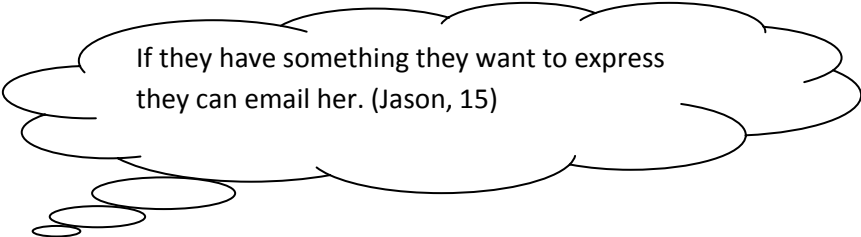
Some young people also acknowledged that the role of the Commissioner was important because it provides a space for children and young people to express their opinions and needs.



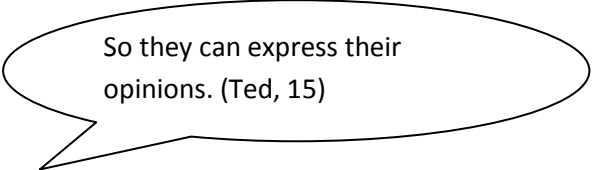
It is important, so children can have a say of what they want. (Leo, 16)



Kids like us can have a say about what we want and don't want and don't like about the government. (Scott, 16)



If they have something they want to express they can email her. (Jason, 15)

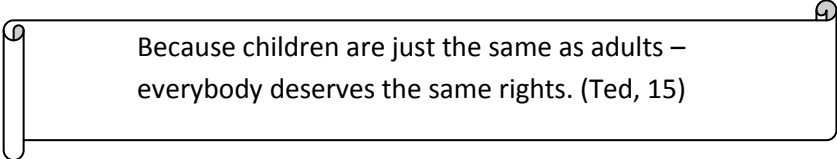


So they can express their opinions. (Ted, 15)

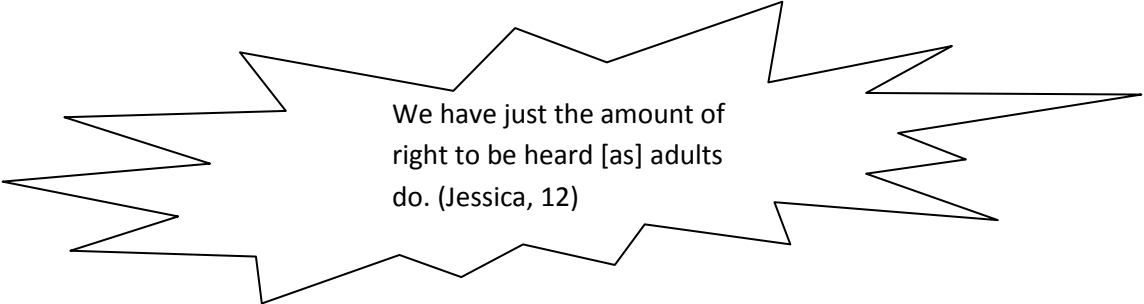
The rights of children and young people to be heard

Young people highlighted the importance of the role of the Commissioner to their fundamental right to be heard as children and young people.

A number of children and young people discussed that they deserve to have the same rights as adults to be heard.

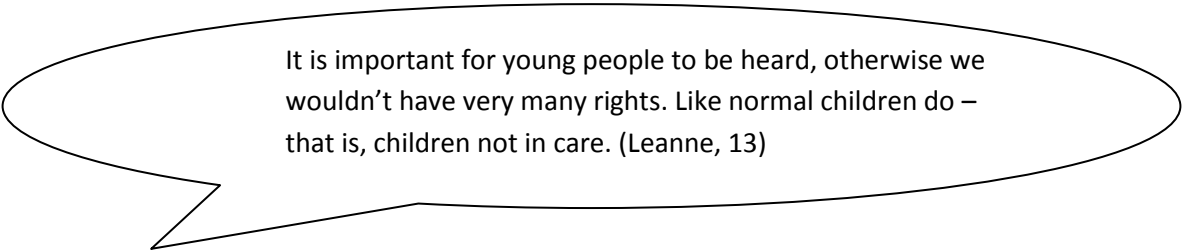


Because children are just the same as adults – everybody deserves the same rights. (Ted, 15)



We have just the amount of right to be heard [as] adults do. (Jessica, 12)

Leanne, 13, stated that if their voice went unheard, children and young people in care might have less rights than children who are not in care.

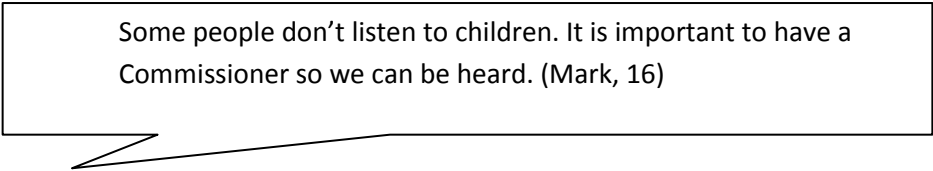


It is important for young people to be heard, otherwise we wouldn't have very many rights. Like normal children do – that is, children not in care. (Leanne, 13)

Advocating on behalf of children and young people

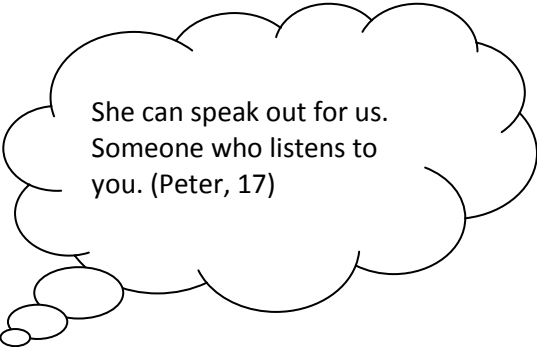
A number of responses touched on the importance of the role that the Commissioner plays in advocating on behalf of children and young people in Western Australia, and the role that the Commissioner plays in encouraging others to listen to children and young people.

Mark, 16, discussed that the Commissioner's role is important to ensure the voices of children and young people are heard by others in the community.



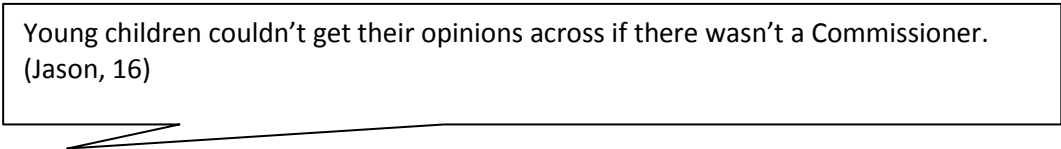
Some people don't listen to children. It is important to have a Commissioner so we can be heard. (Mark, 16)

Peter, 17, said the role of the Commissioner is to hear the voices of children and young people and advocate on their behalf.



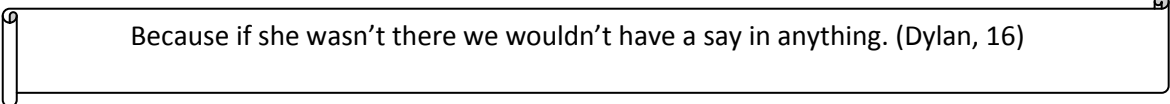
She can speak out for us. Someone who listens to you. (Peter, 17)

Jason, 16, stated that children and young people's voices in WA might not be heard without a Commissioner.



Young children couldn't get their opinions across if there wasn't a Commissioner. (Jason, 16)

Dylan, 16, felt similarly:

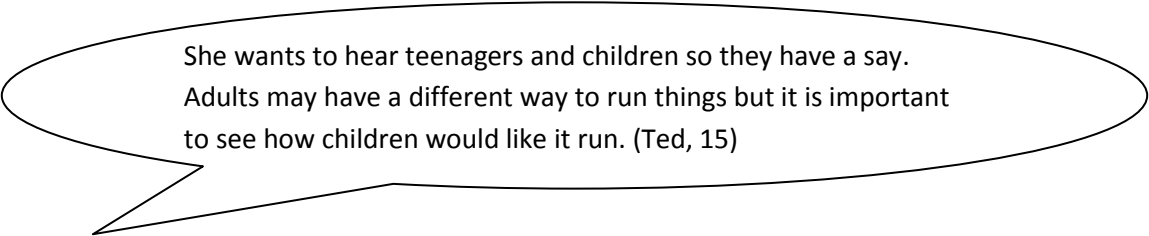


Because if she wasn't there we wouldn't have a say in anything. (Dylan, 16)

The importance of involving children and young people in decision making

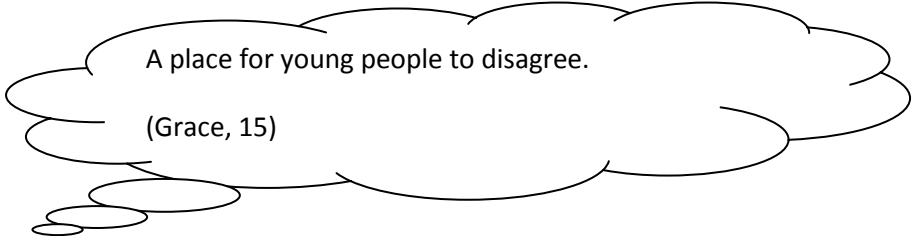
A number of young people spoke about the importance of ensuring that the voices, experiences and expertise of children and young people are included in decision making, and acknowledged the importance of the Commissioner's role in promoting this.

Ted, 15, suggested that adults and children think differently but that despite this children and young people need to have their say.



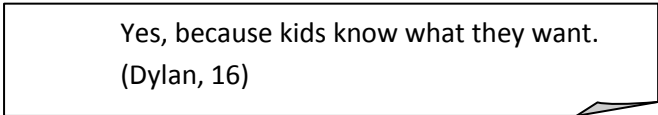
She wants to hear teenagers and children so they have a say.
Adults may have a different way to run things but it is important
to see how children would like it run. (Ted, 15)

Grace, 15, said that it is important to involve young people in decision making as they may have different ideas.

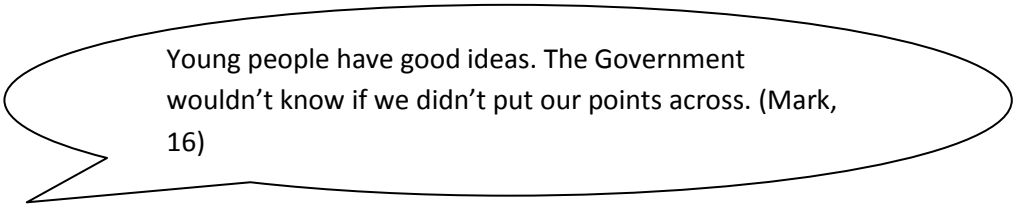


A place for young people to disagree.
(Grace, 15)

Dylan, 15, expressed the knowledge and awareness that children and young people have about their own needs, and that this makes it important to include them in decision making.

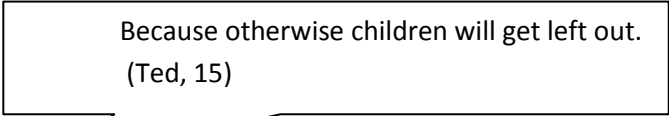


Yes, because kids know what they want.
(Dylan, 16)

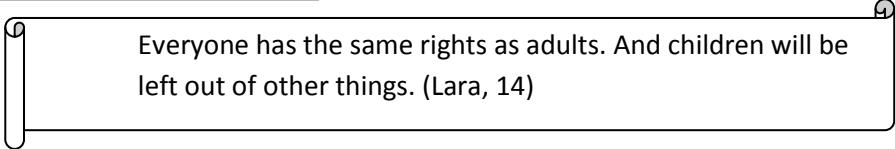


Young people have good ideas. The Government
wouldn't know if we didn't put our points across. (Mark,
16)

Some young people spoke about the importance of the role of the Commissioner to ensure that children and young people aren't excluded from decision making.

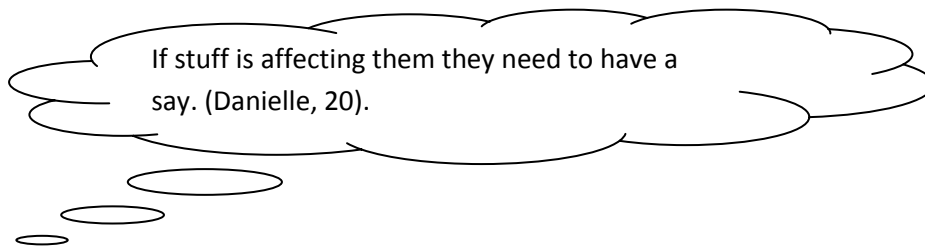


Because otherwise children will get left out.
(Ted, 15)

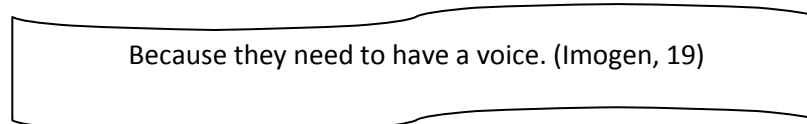


Everyone has the same rights as adults. And children will be
left out of other things. (Lara, 14)

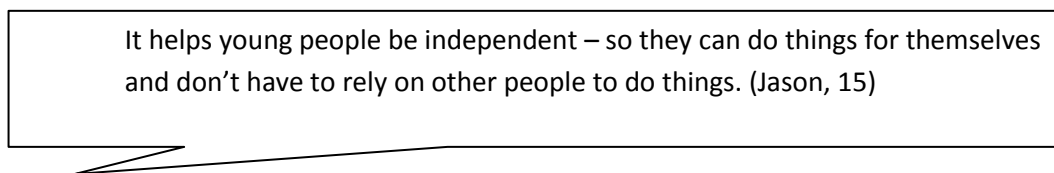
Danielle, 20 stated the legislative right to participate in decisions that affect their lives.



Imogen, 19, also stated that it is important for children and young people to be involved in decision making.

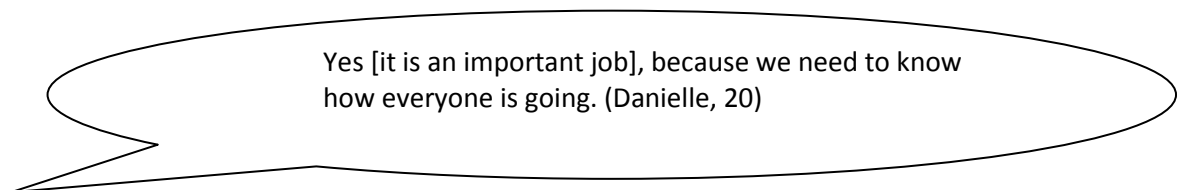


Jason, 15, discussed the importance of children and young people being involved in decision making as part of their personal development and independence.

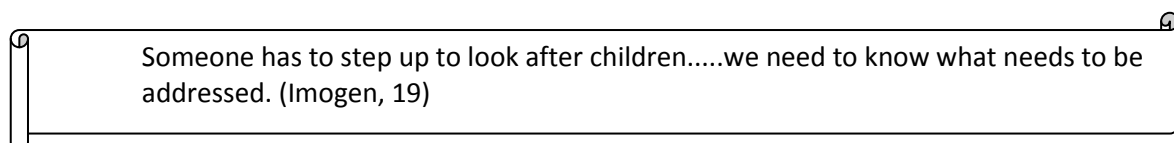


Monitoring and addressing issues for young people

Danielle, 20, emphasised the importance of the role of the Commissioner in overseeing children and young people in Western Australia.



Imogen, 19, further acknowledged the importance of the role of the Commissioner in identifying the needs of children and young people.



Peter, 17, spoke about the role of the Commissioner to improve outcomes for children and young people in Western Australia.

She can speak out for us.... she can improve stuff for children. She can make changes for children so they can have a better life style.....it can make a difference to your environment, place you live, neighbourhood and make it safer and healthier. (Peter, 17)

Other things a Commissioner could do

When asked what other things a Commissioner for Children and Young People could, young people responded by discussing the possibility of the Commissioner expanding her involvement at a community level, for example running local events, sporting carnivals, being more involved with local councils, community programs and youth groups.

Getting involved with community programs and youth groups. (Kate, aged 13)

Running local events.
(Tom, aged 13)

Going to events, visiting local schools. (Ted, aged 15)

One young person stated that they thought that the Commissioner should run more 'As Eye See It' projects (a photography project and exhibition for children and young people in care).

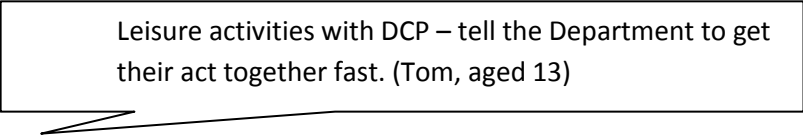
As Eye See It 2013 – there should be more of them.
(Tom, 13)

Some young people also identified sports and leisure as an area that the Commissioner could be more involved with.

Encouraging young people to do sport so people can be fit and healthy. (Dylan, 16)

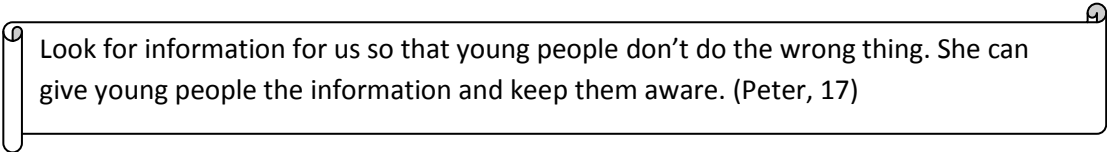
Run more events local – sporting events and carnivals. (Tom, aged 13)

Tom, 13, also suggested joint leisure activities with the Department for Child Protection with children in care.



Leisure activities with DCP – tell the Department to get their act together fast. (Tom, aged 13)

Peter, 17, also stated that the Commissioner could provide young people with important information that they might need.



Look for information for us so that young people don't do the wrong thing. She can give young people the information and keep them aware. (Peter, 17)

Overall, the young people CREATE consulted with appeared to view the role of the Commissioner as being linked to the following key themes and areas:

1. Hearing the voices of children and young people;
2. The rights of children and young people to be heard;
3. Advocating on behalf of children and young people;
4. The importance of involving children and young people and in decision making;
5. Monitoring and addressing issues for young people; and
6. Expanding the Commissioner's involvement at a community level.

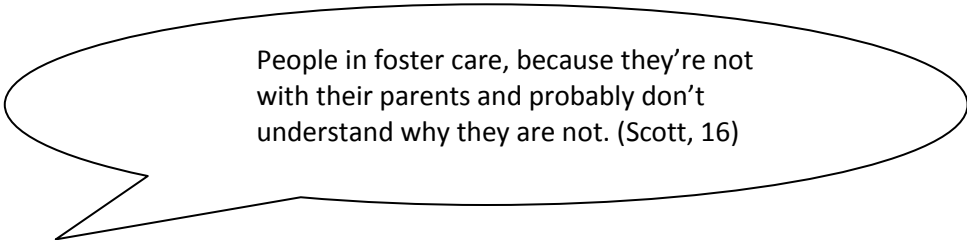
Who the Commissioner should represent

What children and young people might need the most support

The children and young people consulted identified a variety of classes of children and young people within the community who may need the most support from a Commissioner.

Almost all of the participants agreed that children and young people in care may need some of the most support from a Commissioner.

Scott, 16, believed that the Commissioner should provide more support to children and young people in care who have been removed from their families, and who may not understand the reasons behind this.



People in foster care, because they're not with their parents and probably don't understand why they are not. (Scott, 16)

Lara, 14, and Ted, 15, suggested that some young people in care are particularly vulnerable. They suggest that because of their vulnerability they may need extra support.

Young people in care – coz they don't get as much attention, and have been through more than other kids. (Lara, 14)

Some are very fragile.
(Ted, 15)

Some participants also acknowledged that children who have disabilities would need more support from the Commissioner to identify what their needs are and how they can be better assisted.

Children with disabilities – coz they don't get as many things, they need extra help. (Leanne, 13)

Children through DSC (Disability Services Commission). (Alex, 19)

Tom, 13, stated that children from culturally and linguistically diverse backgrounds, particularly those who have immigrated, may need more support from the Commissioner.

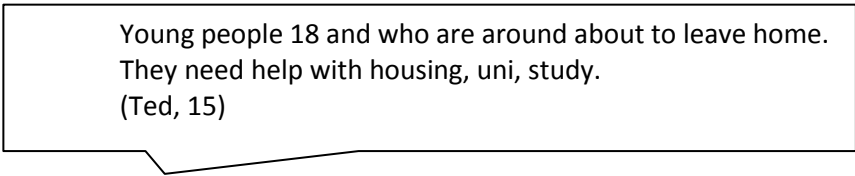
Children that have immigrated. Losing birth certificates and documents.
Not having a high level of education. (Tom, 13)

Ted, 15, also felt that teenagers needed additional support from the Commissioner as they are planning for their futures and involved in higher levels of education.

Teenagers – because they're in secondary school and thinking about their future. (Ted, 15)

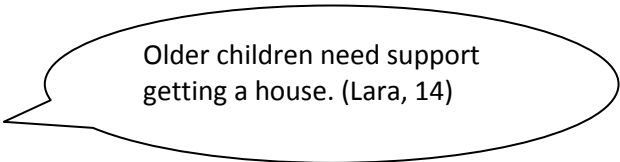
Some of the young people consulted also called out that newborn babies and infants, young carers, Aboriginal children and children and young people in remote or regional areas might need additional support from the Commissioner.

Ted, 15, believed that the Commissioner should also provide more support to young people who are leaving home to manage their transition.



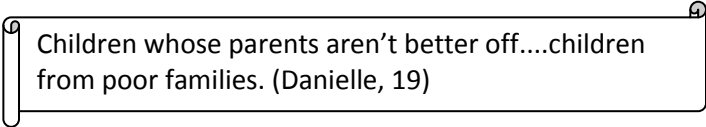
Young people 18 and who are around about to leave home.
They need help with housing, uni, study.
(Ted, 15)

Lara, 14, also stated that the Commissioner could better support older children and young people in getting access to housing.



Older children need support
getting a house. (Lara, 14)

Danielle, 19, also felt that the Commissioner could pay particular attention to children living in poverty or low socio-economic families.



Children whose parents aren't better off....children
from poor families. (Danielle, 19)

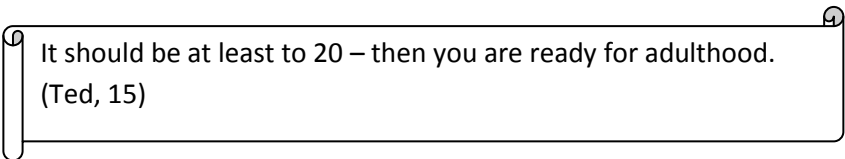
CREATE recognises that these classes of children and young people are not mutually exclusive and that children and young people in care may have additional vulnerabilities.

Representing and supporting young people over the age of 18

The young people participating in the consultation discussed the current function of the Commissioner to promote the needs of children and young people up to the age of 18, and whether or not this was sufficient.

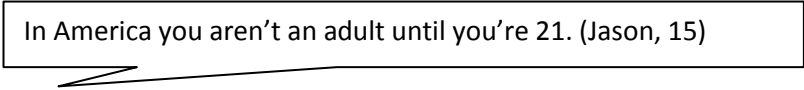
There were differing views about whether and to what degree the Commissioner should be able to look into the needs of young people over the age of 18, acknowledging that it depends on the young person.

Ted, 15, stated that the current age limit of 18 does not allow for that transition period between teen years and adulthood.



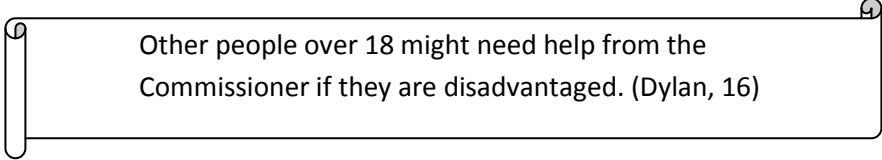
It should be at least to 20 – then you are ready for adulthood.
(Ted, 15)

Jason, 15, suggested that the age of majority can be changed with a stroke of the pen.



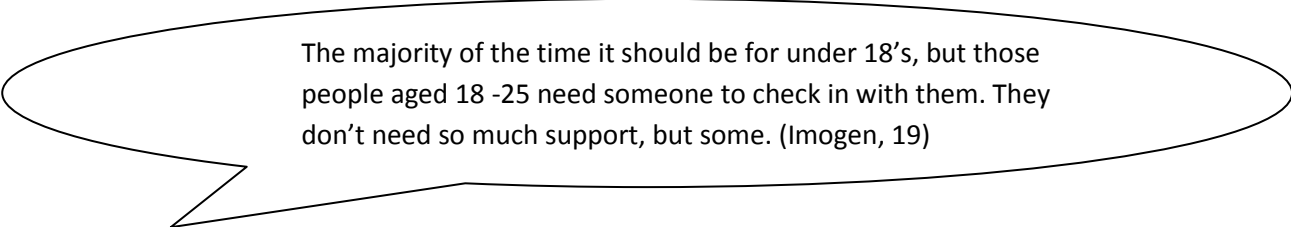
In America you aren't an adult until you're 21. (Jason, 15)

Dylan, 16, felt that there may be young people over the age of 18 who are experiencing particular disadvantage and may benefit from the support of the Commissioner.



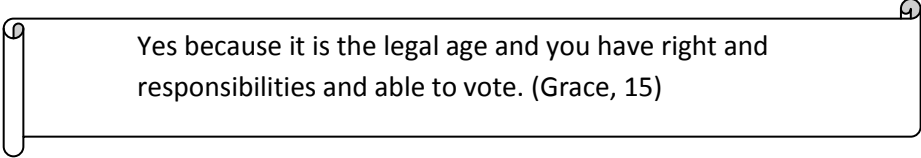
Other people over 18 might need help from the Commissioner if they are disadvantaged. (Dylan, 16)

Imogen, 19, felt that whilst the Commissioner's main focus should be on under 18's, that young people between 18 – 25 also need support and attention.



The majority of the time it should be for under 18's, but those people aged 18 -25 need someone to check in with them. They don't need so much support, but some. (Imogen, 19)

Another young person suggested that 18 was sufficient for the Commissioner's focus.



Yes because it is the legal age and you have right and responsibilities and able to vote. (Grace, 15)

Based on the responses of the young people consulted, they view the Commissioner as having a role to represent children and young people who are vulnerable or disadvantaged.

Listening to children and young people

Additional ways to hear the voices of children and young people

The participants had a variety of ideas about additional ways that the Commissioner could hear the voices of children and young people, and the responses are recorded below.

Newsletter - letting you know about her. (Ted, 15)

Write letters to young people. (Peter, 17)

Talking on the street. (Tom, 13)

She could make a facebook page – “Voice for the Kids” and seek the opinions of other children. (Dylan, 16)

Talk to young people at school. (Leo, 16)

By the phone (Leanne, 13)

Have surveys on the internet via email – not facebook as young people in care are not allowed it. (Ted, 15)

The best ways to hear the voices of children and young people

Young people identified a variety of effective ways to hear the voices of children and young people. The responses are recorded below:

Talking to young people. (Mark, 16)

Skype. (Tom, 13)

Have a committee to interview lots of young people. (Grace, 15)

Have meetings and focus groups. (Ted, 15)

At recreations centres and youth centres. (Ted, 15)

Do it through a game or activity with young people, rather than sitting down like this. (Dylan, 16)

Face to face contact. (Kate, 13)

The responses from young people can be summarised as follows.

1. Additional ways to hear the voices of children and young people are through direct contact with young people (at school, on the phone, writing letters); internet-based feedback mechanisms (e.g. email surveys); and promoting the Commissioner through a newsletter.
2. The best ways to hear the voices of children and young people occur where there is direct contact, interaction and discussion occurring with children and young people (e.g. face to face, Skype, in community spaces, meetings/focus groups).

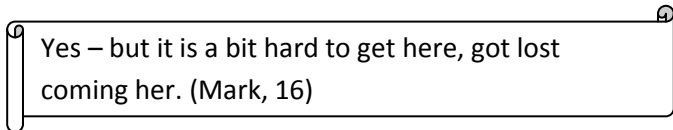
Helping children and young people make complaints

The young people participating in the consultation were asked whether they thought the Office for the Commissioner for Children and Young People was a good place where they could make a complaint. They were also asked what the Commissioner could do to best help children and young people who want to tell someone that they are feeling unsafe or abused.

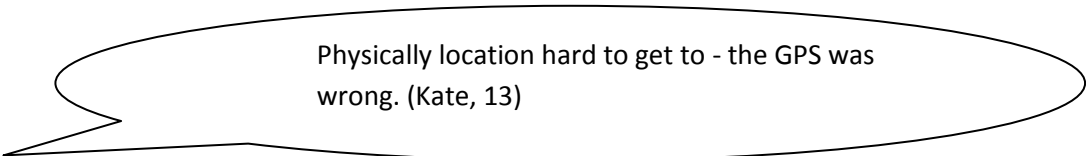
The Office for the Commissioner of Children and Young People as a place to make complaints

There were differing views about the physical location and environment of the office as somewhere that young people could access to make complaints.

Two young people identified the physical location as a barrier for young people making complaints.

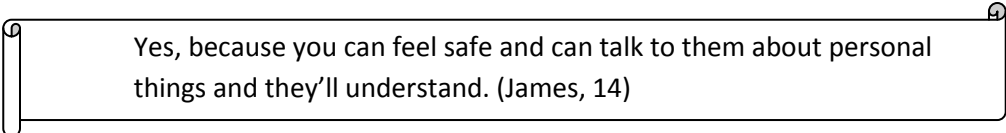


Yes – but it is a bit hard to get here, got lost coming her. (Mark, 16)

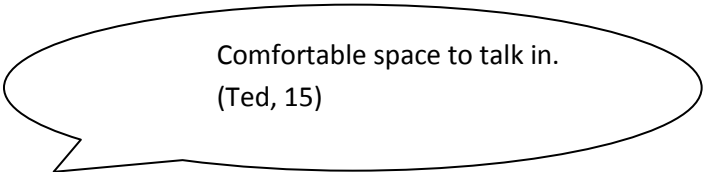


Physically location hard to get to - the GPS was wrong. (Kate, 13)

However, other young people spoke about feeling like the office was a safe and comfortable place to come to discuss their concerns.

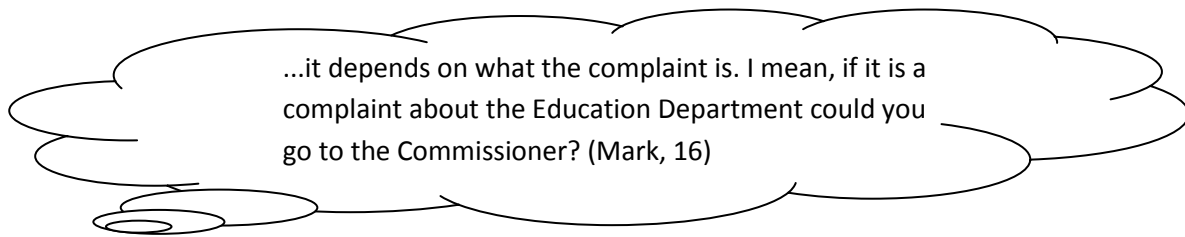


Yes, because you can feel safe and can talk to them about personal things and they'll understand. (James, 14)



Comfortable space to talk in. (Ted, 15)

Some of the young people said that it would depend on what kind of complaint they were making or who they were complaining about as to whether they would go to the Commissioner.

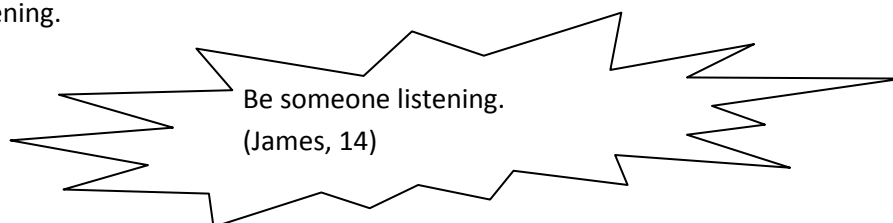


Depends on what you are complaining about (Jason, 15)

Depends who it is that you are complaining about and who to. (Leo, 16)

Ways to best help children and young people in making a complaint

James, 14, thought that the Commissioner could help children and young people make a complaint by simply listening.



Some of the young people participating in the consultation spoke about trust and support as being things that would assist and help them to make a complaint if they were feeling unsafe or being abused.

Imogen, 19, acknowledged that for young people who have experienced sexual abuse, they need to trust and have a relationship with the person that they are making the complaint to.

It needs to be someone they trust. Needs to have a relationship with them because it isn't so easy going to someone you don't have a relationship with and tell them you are being sexually abused. (Imogen, 19)

Jason, 15, stated that the Commissioner needed to have qualities such as being reliable and trustworthy for young people to feel that they could speak about their experiences of abuse or feeling unsafe.

Be reliable and trustworthy. (Jason, 15)

Some young people said that they would feel more comfortable making talking about their experience feeling unsafe or of abuse to the Commissioner if they were able to have someone there with them that they know and trust. Jessica, 13, said:

It would be better if a friend was there or someone you feel comfortable around.
(Jessica, 13)

Need to be supported by someone to go with you – someone you know well and trust to go with you.
(Dan, 13)

Imogen, 19, acknowledged that because abuse can be so horrifying, young people who speak up are often wrongly accused of lying and that the Commissioner could help by validating and believe young people who are making a complaint.

Feeling believed and not being accused of lying. (Imogen, 19)

Dan, 13, stated that children and young people would feel better making the complaint if they knew that there would not be any repercussions for the young person after the complaint was made.

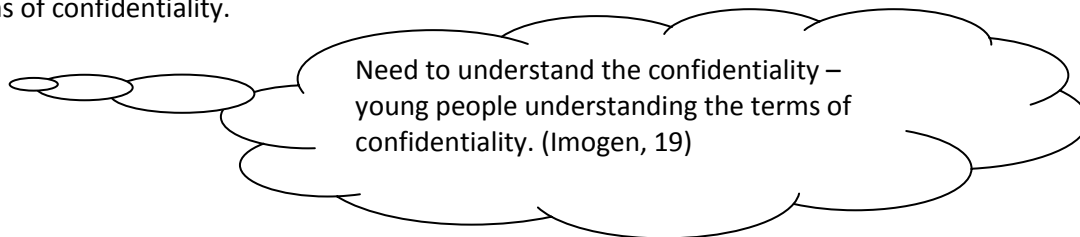
Knowing that you're not going to get in trouble. For example, people getting upset, like your carers, because you didn't tell them. (Dan, 13)

Young people also stated that understanding the terms of confidentiality was important for children and young people who might wish to discuss their concerns with the Commissioner.

Dylan, 16, believed that young people needed to feel secure in being able to make a confidential complaint to the Commissioner.

Young people having a sense of security. Knowing they won't tell anyone about anything unless it is going to cause us harm or others harm. (Dylan, 16)

Imogen, 19, said it is important for young people to understand the complaints process and the terms of confidentiality.



Danielle, 20, also recognised this and elaborated by saying that if confidential information needed to be discussed with others, that young people need to be made aware of this.

If you are telling them information and you are told your names will be confidential, for example, it needs to stay confidential or at least you need to be told if they're going to use your names etc. (Danielle, 20)

CREATE would suggest that children and young people that confidentially disclose need to be made aware of disclosure law before they disclose. It is not ok for children and young people to disclose under the presumption of confidentiality only to learn after the disclosure that they are not protected.

Responding to complaints

A number of young people thought that once the Commissioner received complaints from young people about abuse or feeling unsafe, that the Commissioner needed to work with young people to respond to their concerns and resolve these.

Having some kind of follow up after the complaint, within a week or reasonable time frame. (Alex, 19)

Work with you and address the situation.
(Grace, 15)

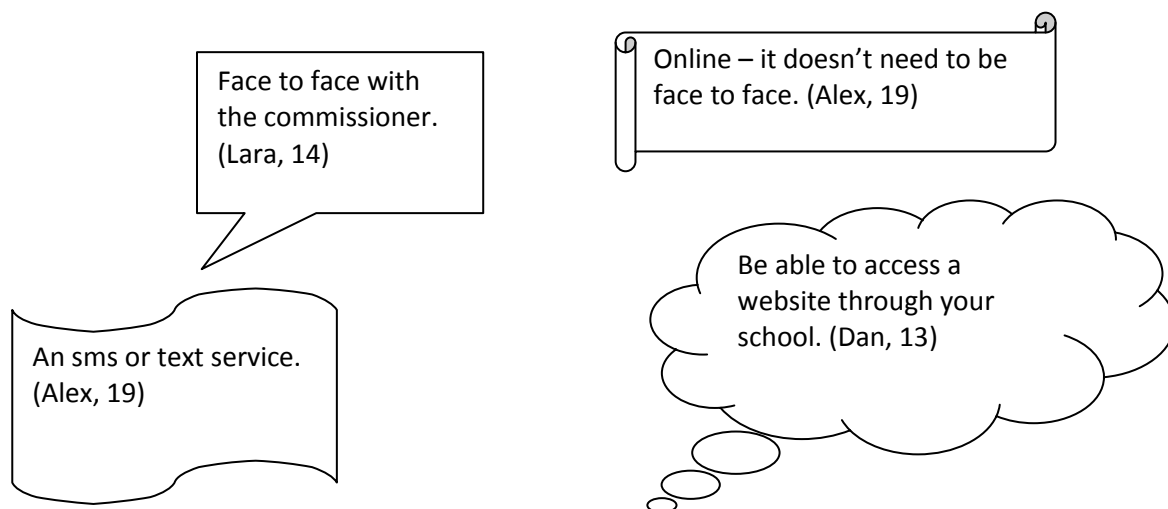
Respond (to the complaint). Give a solution and see something happening. (Dylan, 16)

Ted, 15, also thought that the Commissioner could assist by providing information about other organisations or people that could assist the young person.

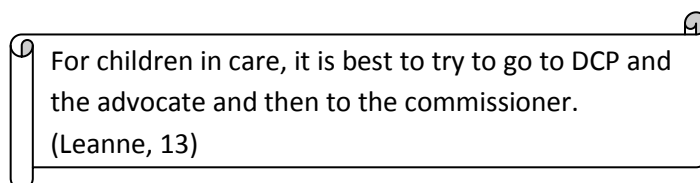
Give you numbers for people to call like the kids help line.
(Ted, 15)

Ways to hear complaints from children and young people

The young people participating in the consultation identified that there were a variety of ways that the Commissioner could hear or receive complaints from young people, including, face to face communication, through the internet and also by phone.



Leanne also thought that for children and young people in care who feel unsafe or who want to make complaints, it may be better to go through the Department, the Advocate for Children in Care and then the Commissioner.



The responses of the children and young people in relation to the set up of a complaints function within the Office for the Commissioner for Children and Young People were varied. However their responses can be summarised as:

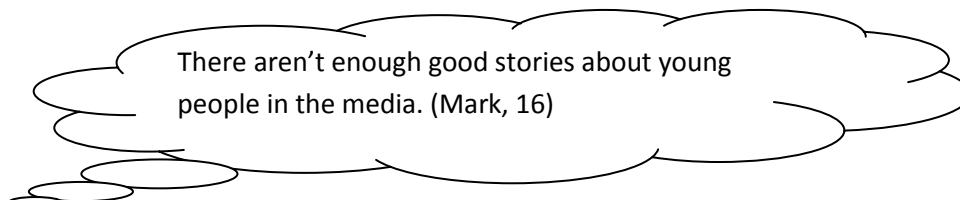
1. That the physical location of the office may be difficult to find, however once there, the space is comfortable and safe to talk in.
2. That whether the children and young people came to the office to make a complaint would depend on the kinds of complaints they want to make.
3. Perceived support and trust-worthiness might impact on whether a child or young person makes a complaint.
4. That the Commissioner could help children and young people through a complaints process in the following ways: by having a relationship with the person making the complaint; allowing young people to be supported by someone that they trust when they are making a complaint; validating and believing complaints; there not being repercussions for young people from making a complaint; and ensuring young people understand the terms of confidentiality.
5. That the Commissioner would have a responsibility to follow up on and respond to the complaint once it is made.
6. That complaints could be received by the Commissioner in a variety of methods – including face to face, internet based and phone.

Promoting positive things about children and young people

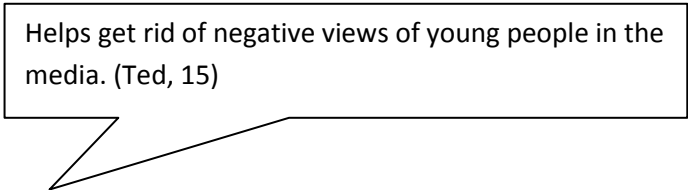
The role of the Commissioner is to promote positive things about children and young people

A number of young people acknowledged the important role that the Commissioner plays in promoting positive things about children and young people.

Mark, 16, feels that the media portrayal of children and young people is not overly positive.

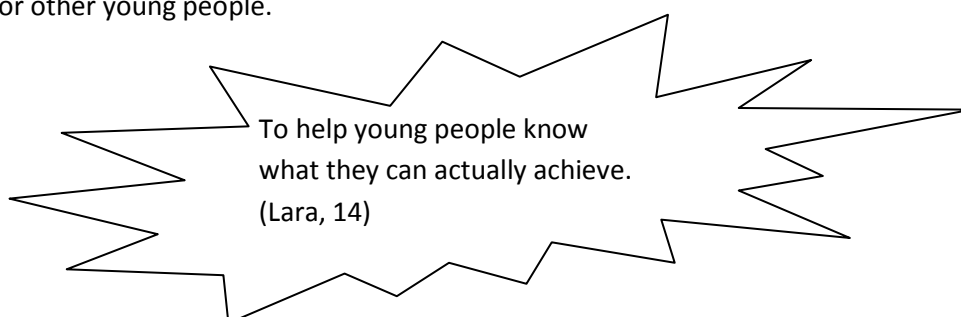


Ted, 15, believed that the role of the Commissioner to promote positive things about children and young people helps address this negative media portrayal, which a number of other young people in the group also agreed upon.

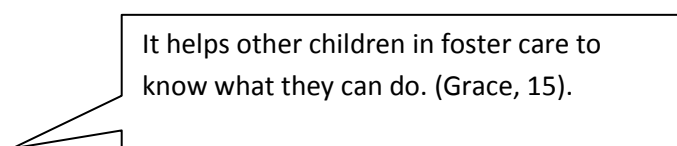


Helps get rid of negative views of young people in the media. (Ted, 15)

Lara, 14, stated that it was good to have these positive stories about young people to enable role modelling for other young people.

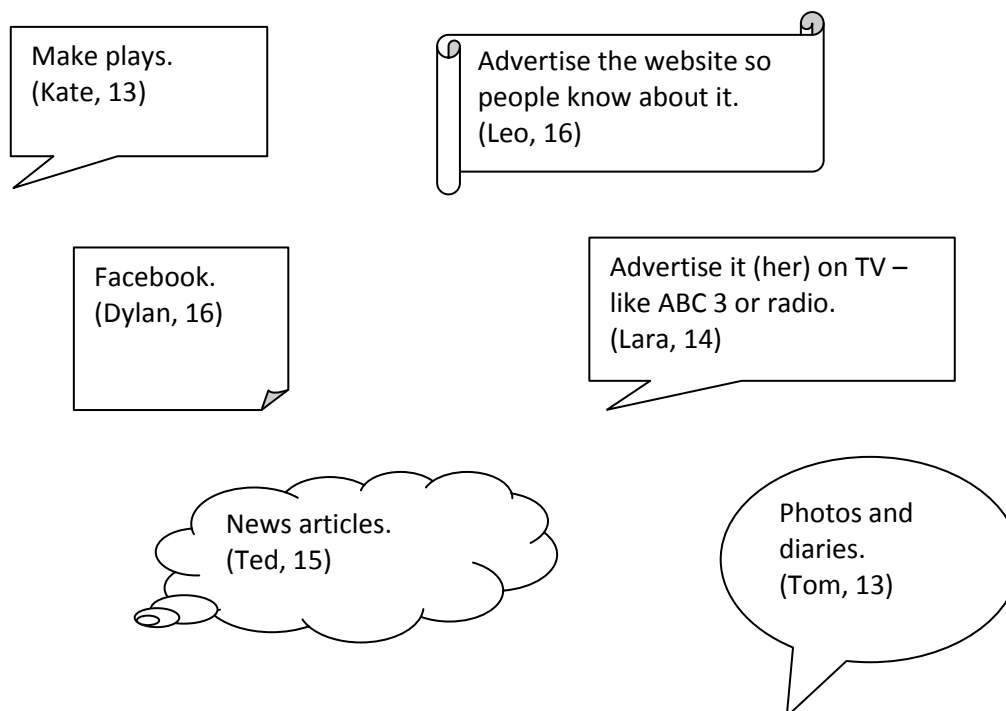


Grace, 15, also believed that it is beneficial for children in care also to have these positive stories.



Alternative ways to promote positive things about children and young people

Participants in the group suggested a variety of ways that the Commissioner could work to promote positive stories about children and young people.



The responses provided by young people regarding the role and potential for the Commissioner to promote positive things about children and young people can be summarised below:

1. The role of the Commissioner is important to promote positive stories for the following reasons: to balance the negative stories that exist about young people in the media; and to show children and young people (including those in care) what they can achieve and can do.
2. The Commissioner could further promote these stories through a variety of communication mediums, for example advertising, publicity and media; internet based platforms (Website and Facebook); photography and diaries; and plays.

Conclusion

This submission has collated the voices and opinions of 20 children and young people with a care experience and their thoughts on the Commissioner's current role and responsibility to listen to, and advocate on behalf of children and young people in Western Australia. The participants have provided their opinions about other ways that the Commissioner can connect with and hear the voices of children and young people in Western Australia, and reflected on how the Commissioner could best support children and young people in making complaints through the Office for the Commissioner. The opinions, insights and feedback of children and young people have a vital role to play in the review of the *Commissioner for Children and Young People Act 2006*, and it is encouraged that these voices are considered, reflected upon and acknowledged within the process of review.

Appendix 3: *Public comment on the Review of the Commissioner for Children and Young People Act 2006, 2014*



WA State Office

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21 November 2014

The Honourable Michael Mischin
Attorney General; Minister for Commerce
Level 10, Dumas House
2 Havelock St
WEST PERTH WA 6005

Dear Attorney General Mischin

RE: Public comment on the *Review of the Commissioner for Children and Young People Act 2006*

CREATE Foundation is the peak body representing children and young people in out-of-home care in Australia, and operates with the mission of creating a better life for children and young people in care. CREATE provided a submission to the Review of the *Commissioner for Children and Young People Act 2006*, where CREATE documented the views and opinions of a number of children and young people in care. Children and young people highlighted the important role that the Commissioner for Children and Young People (the Commissioner) plays in advocating on their behalf, hearing their voices, and representing their needs.

CREATE thanks you for the opportunity to respond to the Review tabled in Parliament on 20 August 2014. Below is CREATE's response to Recommendations 6, 12 and 15 of the Review that CREATE Foundation would like you to consider further when changes are made to the Act, as well as feedback about the implementation of those recommendations. In particular, CREATE draws your attention to the areas of expanding the age range of young people the Commissioner acts on behalf of to 25 years of age, including the voices of children and young people, and the importance of independent review mechanisms.

Recommendation 6:

While the review notes that opinions among some stakeholders are divided on this issue, on the basis of the submissions to the review, the operation of the Act to date and consistency with legislation in place in other jurisdictions, the review recommends that the age range within the Act remain unaltered.

Response to Recommendation 6:

- **CREATE recommends the WA Government:**

Expand the age range to mandate the Commissioner for Children and Young People to act on behalf of young people up to the age of 25 years. This includes the Commissioner being able to consult with and appoint to advisory committees young people with an out-of-home care experience to the age of 25 years.

CREATE Foundation acknowledges the Commissioner's comments in the Review that the Commissioner is not limited in being able to represent the views and experiences of young people over 18. However, CREATE Foundation believes that the age range of the Commissioner's mandate should be expanded to include young people over the age of 18 who are transitioning from out of home care, to ensure that the specific needs of this vulnerable group of young people are well represented and considered. This would be in line with the *Children and Community Services Act 2004*, and policies within the Department for Child Protection and Family Support which allows provisions to support young people with a care experience up to the age of 25.

CREATE Foundation's consultation on the Review of the Act identified the benefits of having the Commissioner represent and promote the needs of young people over the age of 18 years. Young people spoke about specific issues experienced, or support required, in the 18 – 25 year old age group, particularly for young people who are experiencing disadvantage as they transition to independence. For young people with a care experience, disadvantage and adverse life outcomes are very real, with young people leaving care more likely to experience unemployment, homelessness, mental health issues, substance abuse, and interactions with justice systems (Johnson et al., 2010; McDowall, 2009). In 2009, CREATE Foundation's research found that half of the young people who had turned 18 and left care reported being required to leave their placement when their care order expired, without necessarily having somewhere to move to (McDowall, 2009).

CREATE Foundation believes that the views of young people with an out-of-home care experience up to 25 years old should be heard when looking at the out-of-home care system and the outcomes for care leavers. The Act and Commission frameworks need to incorporate opportunities for young people with an out-of-home care experience, who are aged 18 to 25, to participate in consultations and advisory groups so that their views can be heard.

Recommendation 12:

The Commissioner should be given appropriate powers under the Act to provide a child abuse complaints support function that consists of:

- education and outreach programs for children and young people about how to disclose any child abuse that occurs while they are in the care of a government agency or service provider
- receiving complaints from children and young people, or adults acting in good faith on their behalf, about abuse alleged to have occurred in a government agency or service provider
- referring such complaints to the relevant investigative authority/s
- providing information and referrals to children and young people in relation to the support services available for victims of child abuse and their families
- monitoring the way in which government agencies deal with complaints of child abuse referred by the Commissioner or otherwise received by them.

The Commissioner should not have a role in investigating the substance of individual complaints that are received.

Response to Recommendation 12:

- **CREATE recommends the WA Government:**

Expand the role of the Commissioner in complaints support and monitoring, and provision of education and outreach programs to cover all children and young people living in out-of-home care, whether they are supported by government or non-government services, or living in home based or residential care placements.

Promote the Commissioner's role to children and young people in out-of-home care through a community outreach program that is child focused and encourages awareness of, and access to the complaints processes.

Mandate the Commissioner to monitor the way in which non-Government organisations and community sector providers of out-of-home care respond to complaints of child abuse referred by the Commissioner or otherwise received by them.

CREATE Foundation supports the Commissioner's role to provide a complaints support and education function focusing specifically on children and young people living away from home. CREATE acknowledges the importance of the Commissioner being able to contact children and young people across a variety of government and non-government placements and facilities, to be able to provide support and education. With only a small minority of children and young people in out-of-home care being in residential care placements in Western Australia (10%), CREATE Foundation believes it is important that the Commissioner provides education and outreach support to children and young people regardless of the placement type they live in (Australian Institute of Health and Welfare, 2014). That is, not only in residential care facilities, but also in family group homes, general foster care, specialised care placements, and kinship care placements.

CREATE Foundation understands that the Commissioner provides a complaints support function under the proposed changes to the Act but remains concerned that children and young people in out-of-home care have limited opportunities to access child-friendly, independent complaints mechanisms. The Review acknowledges the independent complaints mechanisms available for

children and young people, including the Ombudsman of Western Australia but CREATE believes that these external mechanisms are not very accessible for children and young people, which may be a barrier to children and young people being able to disclose abuse or complaints.

Children and young people identified the importance of ensuring young people know about the terms of confidentiality, of validating and believing complaints, and ensuring young people wouldn't face repercussions or penalisation. It is CREATE Foundation's belief that a community outreach program would be an important way of ensuring that children and young people are aware of complaints functions, and feel supported and empowered to make complaints or disclose abuse. It would be important for the Commissioner to clearly articulate to children and young people the Commissioner's role in the complaints process, including, but not limited to, how their complaints would be processed, to which agency, and the expected time frames for progression or resolution. Given this function is one that is quite different from the current mandate of the Commissioner, it will be vital that the Commission is adequately resourced and supported to manage complaints and disclosures from children and young people in out-of-home care.

Additionally, CREATE Foundation remains concerned that there is still no independent government body providing monitoring and individual advocacy for children and young people in care. CREATE Foundation acknowledges that the Advocate for Children in Care in the Department for Child Protection and Family Support provides individual advocacy for children in care but this role is not independent of the Department for Child Protection and Family Support. CREATE Foundation is also concerned about the gap in external monitoring and complaints mechanisms, such as the Ombudsman, which do not have provisions for investigating complaints for children and young people who are under the care of the Department and cared for through non-government and community sector agencies or service providers.

CREATE Foundation would like the role of the Commissioner expanded so it has the ability to monitor non-Government service providers of out-of-home care and the way that these agencies deal with complaints. The number of placements of children and young people in out-of-home care placements with the non-Government and community sector has grown by approximately 17% each year for the last four years (Department for Child Protection and Family Support, 2014), and the Department's 5 year Strategic Plan into out-of-home care identifies that there will be significant growth in this area. There are also case management delegation trials in place with a number of children and young people across different community sector agency providers. Given the growing number of children and young people in out-of-home care placed within the community sector, it would be important for the Commissioner to have the capacity and mandate to monitor complaints processes within these agencies.

Recommendation 15:

That the Act be amended to provide a specific power for the Commissioner to refer complaints received in the course of performing his or her functions to the relevant investigative or other government agency.

Response to Recommendation 15:

CREATE recommends the WA Government:

Provide the Commissioner with specific power to refer complaints or allegations of abuse against a specific agency or care provider to relevant independent bodies, where appropriate.

CREATE believes that complaints and allegations of child abuse made by a child or young person in out-of-home care against a care provider require independent investigation. From the many case studies the Royal Commission into Institutional Responses to Child Sexual Abuse is conducting it is clear that internal investigations of allegations of child sexual abuse have failed victims when they were children and as adults. The findings of the Royal Commission to date signal the importance of independent oversight of child protection systems. If a complaint comes to the attention of the Commissioner it is imperative that it is fully investigated by an independent body to avoid further harm to children and young people.

In conclusion, CREATE Foundation would like to acknowledge the important work of the Commissioner for Children and Young People and is supportive of an expansion of the Commissioner's role to better support children and young people to make complaints and its increased focus on children and young people living away from their families or in care. CREATE Foundation remains adamant about the importance of independent and accessible complaints mechanisms for children and young people in out-of-home care to be able to safely and confidentially disclose abuse or neglect, or make complaints about their circumstances, and that they feel supported through this process. CREATE Foundation is committed to continuing to work alongside the Commissioner for Children and Young People to address issues affecting children and young people in care and to ensure that they have access to child-friendly and child-safe complaints mechanisms.

If you would like any further information on the details of this document, or to discuss anything further, please do not hesitate to contact me on (08) 6399 0252 or email katherine.browne@create.org.au.

Yours sincerely



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