

Chapter 5

Support for families

5.1 This chapter examines the following terms of reference:

(h) consultation with individuals, families and communities affected by removal of children from the home;

(i) extent of children in out of home care remaining connected to their family of origin; and

(j) best practice solutions for supporting children in vulnerable family situations including early intervention.

5.2 As noted in Chapter 3, some of the most significant drivers for children entering and remaining in out-of-home are social factors linked to poverty and disadvantage, including family violence, alcohol and substance abuse and mental health issues.

5.3 The National Children's Commissioner, Ms Megan Mitchell, highlighted that one of the keys to reducing the number of children in out-of-home care is providing support to families to address these underlying social issues. Ms Mitchell told the committee at its Sydney hearing:

...building and supporting safe, resilient families where children can grow and thrive is fundamental to ensuring children's rights are upheld and giving them the opportunities they deserve, stemming the further growth of the out-of-home care system and breaking the cycle of intergenerational disadvantage.¹

5.4 During the inquiry the committee heard from a range of families and individuals affected by the removal of children by child protection authorities, and a number of organisations representing parents with children in care.² Mrs Denise Smith, secretary and treasurer of Family Inclusion Network Victoria (FINV), a support group for parents with children in care, told the committee that parents with children in out-of-home care 'are often an invisible population, about whom unspoken and unchallenged assumptions are made'.³

5.5 Submitters and witnesses emphasised the pain and trauma caused by child removal, and expressed concerns about the lack of support available to maintain contact with their children and, where appropriate, regain parental responsibility. This

1 Ms Megan Mitchell, National Children's Commissioner, Australian Human Rights Commission, *Committee Hansard*, Sydney, 18 February 2015, p. 1.

2 See: Family Inclusion Network Townsville, *Submission 13*; Family Inclusion Strategies Hunter, *Submission 32*; Family Inclusion Network Victoria, *Submission 75*; Family Inclusion Network Western Australia, *Submission 82*; Australian Legislative Ethics Commission, *Submission 91*.

3 Mrs Denise Smith, Secretary and Treasurer, Family Inclusion Network Victoria, *Committee Hansard*, Melbourne, 20 March 2015, p. 53.

evidence highlighted the need for a range of ongoing supports for parents and families beyond 'early intervention' and extending across a continuum of needs.

5.6 This chapter examines available support for parents with children who are in out-of-home care, or at risk of entering out-of-home care, and suggests areas for additional support for families and their children prior to entering care, entry into care and during care.

5.7 Specific supports for Aboriginal and Torres Strait Islander families and communities are examined in Chapter 8. Supports for families with disability are examined in Chapter 9.

Building safe and resilient families

Responsibilities of parents

5.8 The committee acknowledges that parents and families have a responsibility to provide safe and nurturing environments for their children, free from abuse and neglect. Recent consultations by the NSW Government highlighted the need to increase community awareness about the responsibilities of parents to their children:

We need to make sure parents understand the great value our community places on their role in raising children – but also that there may be consequences when they place their children at risk of significant harm. Parents also need to understand that they will be held accountable when they fail to meet their responsibilities as parents.⁴

5.9 Evidence to the committee highlighted that for some families may not be meeting these responsibilities, and placement in out-of-home care may be the safest and most stable option for their children. Barnardos Australia (Barnardos) submitted that 'children rarely enter care unnecessarily' due to issues of abuse and neglect.⁵

5.10 However, a large number of witnesses and submitters suggested there is not enough available support for families, particularly those from disadvantaged backgrounds, to meet their parental responsibilities and build safe and resilient families for their children.⁶

Early intervention and prevention

5.11 Overwhelmingly, evidence to the committee from service providers and families called for increased 'early intervention and prevention' to prevent child abuse and neglect.⁷ The National Children's Commissioner, Ms Mitchell, expressed

4 NSW Department of Family and Community Services, *A Safe Home for Life: Report on the outcomes of public consultation on the child protection legislative reforms discussion paper 2012*, p. 1, <http://www.facs.nsw.gov.au/safehomeforlife> (accessed 7 May 2015).

5 Barnardos Australia, *Submission 20*, p. 1.

6 See, for example: Benevolent Society, *Submission 30*; Berry Street, *Submission 92*.

7 See, for example: Australian Association of Social Workers, *Submission 18*; Salvation Army, *Submission 40*; Wanslea Family Services, *Submission 60*; Alliance for Forgotten Australians, *Submission 34*, p. 6.

particular concern 'that Australia's current approach to child protection is narrow in scope and designed to respond to harm rather than prevent it in the first place'.⁸

5.12 A number of witnesses highlighted the importance of early intervention strategies and programs in ultimately reducing the numbers of children in out-of-home care. Ms Wendy Norton from the Northern Territory Council of Social Services (NTCOSS) told the committee that:

...if we do not invest more in the early intervention and prevention space, then we will not stop the large number of children entering the system. As a long-time worker in the child and family area once said to me, 'We will never fix the child protection system. All we can do is stop children from entering it.'⁹

5.13 The committee heard that early intervention is widely recognised as having the potential to reduce the likelihood of poor long-term outcomes for children. Research commissioned by the Benevolent Society found that the benefits of early intervention range from reduced contact with juvenile and adult justice systems, reduced notifications of child abuse and neglect, through to improved school performance and better employment outcomes.¹⁰

5.14 In addition, early intervention is considered to be more cost effective than the current models of care. The Benevolent Society submitted that:

it is far better to intervene early to prevent problems from occurring, or escalating, than to try to address them once they have become entrenched. It also showed that it is far more cost effective.¹¹

5.15 However, Barnardos argued it is 'a myth to put in tons of early intervention'. Citing a 2010 evaluation by the Social Policy Research Centre (SPRC) into the NSW Government's Brighter Futures early intervention program, Barnardos suggested early intervention does not prevent children entering care.¹²

5.16 While the SPRC evaluation found a substantial proportion of families, particularly those who were more disadvantaged (including Aboriginal and Torres Strait Islander families, families with drug and alcohol problems, experience of domestic violence or intellectual disability), 'did not benefit from the program',¹³ it

8 Ms Megan Mitchell, National Children's Commissioner, *Committee Hansard*, Sydney, 18 February 2015, p. 1.

9 Ms Wendy Morton, Executive Officer, NTCOSS, *Committee Hansard*, Darwin, 2 April 2015, p. 1.

10 Dr Tim Moore & Dr Myfanwy McDonald, *Acting Early, Changing Lives: How prevention and early action saves money and improves wellbeing* (prepared for The Benevolent Society). Parkville, Victoria: Centre for Community Child Health at The Murdoch Children's Research Institute and The Royal Children's Hospital, 2013, p. 2.

11 Benevolent Society, *Submission 30*, p. 6.

12 Ms Louise Voight, Barnardos Australia, *Committee Hansard*, Sydney, 18 February 2015, p. 57.

13 Social Policy Research Centre (SPRC), *The Evaluation of Brighter Futures, NSW Community Services' Early Intervention Program: Final Report*, Report 13/10, September 2010, pp 3–4.

concluded that overall, the Brighter Futures program had a 'positive impact' on the out-of-home care system by reducing the upward trend in out-of-home care placements.¹⁴

Definition of early intervention (family support and building good families)

5.17 The committee heard that 'early intervention' is a problematic definition that may refer to a range of services and programs. Ms Mitchell told the committee that 'early intervention' is a 'fuzzy term' and suggested it should broadly encapsulate 'family support and building good families'.¹⁵ One of the key challenges in defining 'early intervention' is determining how 'early' interventions should be targeted at vulnerable families. Ms Emma White, Director General of the Western Australian Department of Child Protection and Family Support, told the committee early intervention and prevention can be a 'catch-all term':

...we often think of that [early intervention] as preventing the next step of intervention along what is already a tertiary system. We have lots of discussions with partners on this; it is a whole orientation of a service system and community around vulnerable children and families. So I think that we would support the notion that if you can do more earlier, then you prevent, but where do you start the do more earlier?¹⁶

5.18 'Early intervention' may be used to refer to any service provided to families prior to child removal. This may refer to both universal and secondary interventions. According to the Australian Institute of Family Studies (AIFS), universal services target 'whole communities in order to build public resources and attend to the social factors that contribute to child maltreatment'. Secondary interventions target families of children who are at-risk of abuse or neglect and generally involve 'early screening to identify children who are most at risk or targeting vulnerable families, followed by a combination of interventions'.¹⁷

5.19 As discussed in Chapter 2, under a public health model of out-of-home care services, the *National Framework for Protecting Australia's Children 2009–2020* (National Framework) aspires to a pyramid model of out-of-home care services, with emphasis on universal interventions for children and families, followed by secondary interventions, with tertiary interventions as a last resort.¹⁸ During the development of the National Framework, the Council of Australian Governments (COAG)

14 SPRC, Report 13/10, p. 115.

15 Ms Megan Mitchell, National Children's Commissioner, *Committee Hansard*, Sydney, 18 February 2015, p. 5.

16 Ms Emma White, Director General, Department for Child Protection and Family Support, *Committee Hansard*, Perth, 16 February 2015, p. 60.

17 Australian Institute of Family Studies, 'Defining the public health model for the child welfare services context,' *Child Family Community Australia Resource Sheet*, December 2014, <https://www3.aifs.gov.au/cfca/publications/defining-public-health-model-child-welfare-servi> (accessed 28 April 2015).

18 See: Chapter 2.

acknowledged that Australia's child welfare service systems 'more closely resemble an hourglass than a pyramid', with a focus on universal and tertiary services, with few secondary interventions targeted at vulnerable families.¹⁹

5.20 Evidence to the committee suggested that despite the aspirations of the National Framework and the work undertaken so far, there remains a significant disparity between resourcing for tertiary interventions and secondary and universal interventions.²⁰

Funding for secondary child protection interventions

5.21 The Productivity Commission reports on state and territory expenditure for some secondary child protection interventions, known as intensive family support services and family support services (see Box 5.1 for definitions).

Box 5.1 – Child protection services

The Productivity Commission measures real expenditure by states and territories on the following categories of child protection services:

Intensive family support services — specialist services that aim to prevent the imminent separation of children from their primary caregivers as a result of child protection concerns and to reunify families where separation has already occurred.

Family support services — activities associated with the provision of lower level (that is, non-intensive) services to families in need, including identification and assessment of family needs, provision of support and diversionary services, some counselling and active linking and referrals to support networks. These services are typically delivered via voluntary arrangements (as distinct from court orders) between the relevant agency and family.

Out-of-home care services – care for children placed away from their primary caregivers for protective or other family welfare reasons.

Child protection services – functions of government that receive and assess allegations of child abuse and neglect, and/or harm to children and young people, provide and refer clients to family support and other relevant services, and intervene to protect children.

These do not include all early intervention programs in all jurisdictions, and do not include services funded by the Commonwealth.

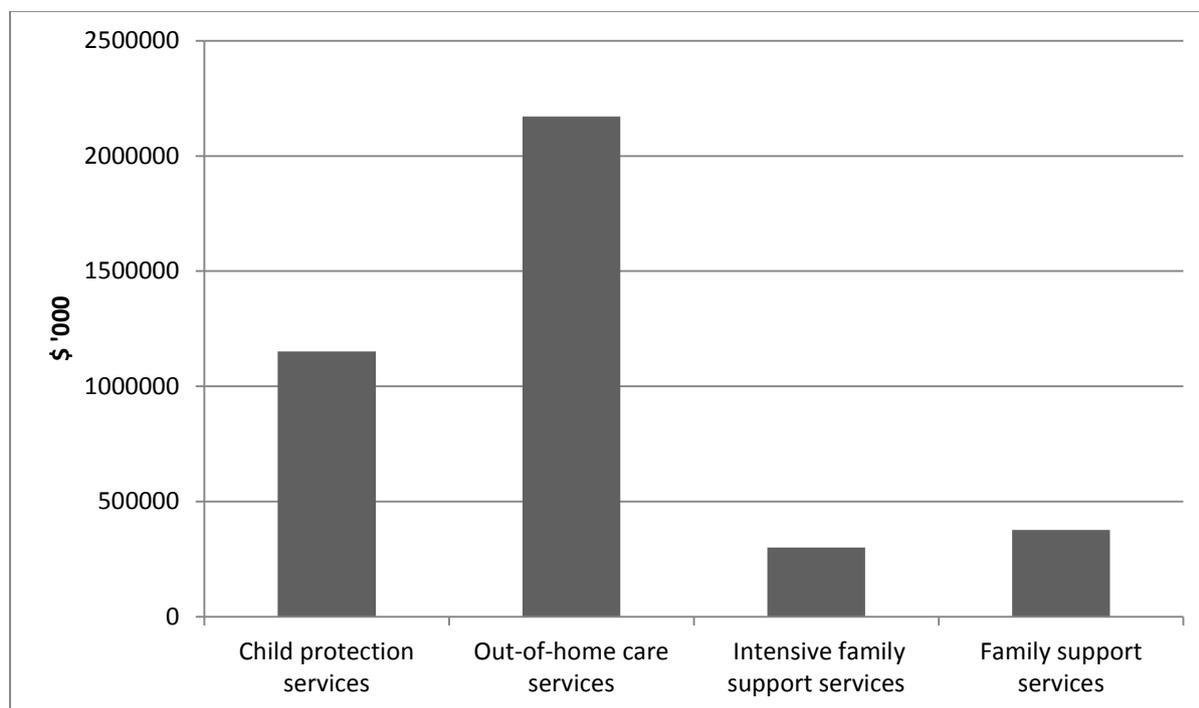
Source: Productivity Commission, Report on Government Services 2015, pp 15.1–15.2.

5.22 In 2013–14, combined real expenditure on intensive family support and family support programs was \$6.7 million, compared to \$2.1 billion for out-of-home care services. Figure 5.1 shows the real expenditure nationally on secondary interventions compared with out-of-home care and child protection services.

19 Council of Australian Governments (COAG), *Protecting children is everyone's business: National Framework for Protecting Australia's Children 2009-2020*, 2009, p. 8, <https://www.dss.gov.au/our-responsibilities/families-and-children/publications-articles/protecting-children-is-everyones-business> (accessed 22 April 2015).

20 See, for example: Benevolent Society, *Submission 30*; Salvation Army, *Submission 40*; Commission for Children and Young People Victoria, *Submission 45*; Child and Family Welfare Association of Australia, *Submission 65*; MacKillop Family Services, *Submission 70*, Northern Territory Council of Social Services, *Submission 72*.

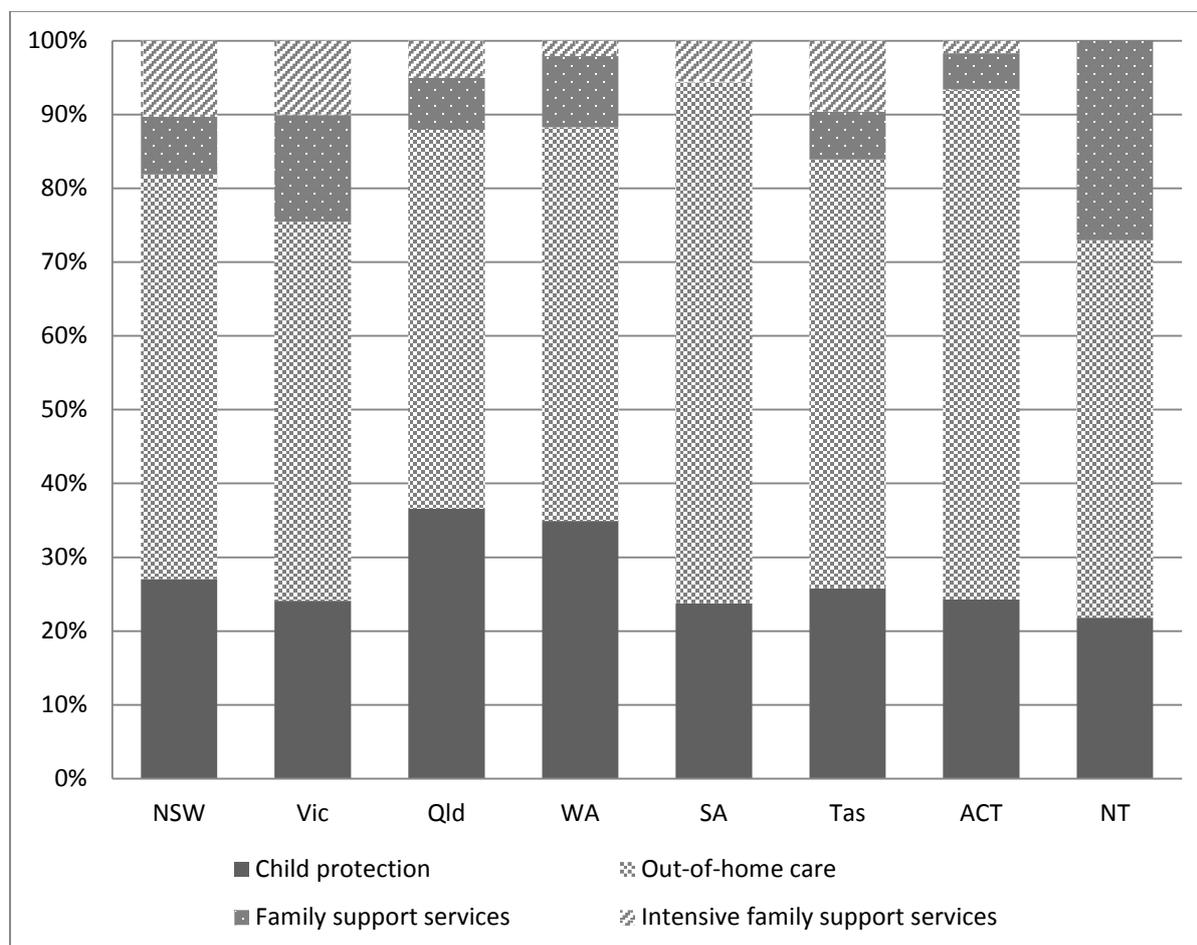
Figure 5.1 – Real expenditure on child protection services, by type of service, 2013-14



Source: Productivity Commission, Report on Government Services 2015, Table 15A.1

5.23 Across jurisdictions (where data is available), the proportion of funding for out-of-home care far exceeds the proportion of spending on secondary intervention services. Figure 5.2 shows the proportion of spending across jurisdictions on early intervention services, compared with out-of-home care and child protection services.

Figure 5.2 – Proportion of real expenditure on child protection services by jurisdiction, 2013/14



Source: Productivity Commission, *Report on Government Services 2015*, Table 15A.1.

5.24 The Productivity Commission noted that while development work is currently underway to report on performance data for family support services and intensive family support services, this data is not yet available.²¹ In 2013–14, 21 903 children commenced intensive family support services. Reporting for family support services is limited to expenditure data only.²² The committee notes that this data does not show the proportion of spending on universal services by state, territory and Commonwealth governments accessed by families who may be at risk of entering the child protection system.

5.25 The Australian Institute of Health and Welfare (AIHW) reported that in 2013-14 there were 296 intensive family support service providers nationally, delivering services across 320 locations. Of these, 80 per cent were in capital cities or

21 The Productivity Commission's 'Pathways Project' aims to provide performance data on a range of child protection services. This data is still in the development phase. See: Productivity Commission, *Report on Government Services 2015*, p. 15.2.

22 Productivity Commission, *Report on Government Services 2015*, Table 15A.31.

other urban centres.²³ Of the 21 903 children commencing services (excluding SA and the NT), 88.3 per cent were living with parents, and 7.6 per cent were in out-of-home care. This proportion differed across jurisdictions. For example, in Queensland, over 25 per cent of children in out-of-home care were receiving intensive family support services.²⁴

5.26 In addition, the Commonwealth provides some funding for secondary interventions. Through the National Framework, the Commonwealth has committed to provide funding for early intervention and prevention services in parallel with those services provided by state and territories.²⁵ Specific programs either funded or delivered by the Department of Social Services (DSS), including expenditure, are outlined below:

- **Communities for Children Facilitating Partners (CfC FPs)** – a whole of community approach to support and enhance early childhood development of children up to 12 years old, including funding other organisations to provide parenting support, group peer support, case management and other support services (\$250 million over five years from 2014-15);
- **Children and Parenting Support (CPS) activity** – funds early intervention and prevention services and resources aimed at improving children's development and wellbeing and supporting parents (up to \$140 million from 1 January 2015 to 30 June 2018);
- **Child Aware Local Initiative (CALI)** – a capacity building initiative which supports communities to work collaboratively and focus on early intervention and prevention approaches in eight sites across Australia (\$800 000); and
- **Intensive Family Support Service** – provides practical parenting education and support to parents and caregivers for approximately 12 months to help improve the health, safety and wellbeing of the child.²⁶

5.27 Responsibility for funding and delivering early intervention services is shared across the Commonwealth and states and territories; however, the proportion of spending differs across jurisdictions. For example, in the Northern Territory, Mr David Pugh from Anglicare told the committee that most early intervention

23 Australian Institute of Health and Welfare (AIHW), *Child Protection Australia 2013-14*, p. 61.

24 AIHW, *Child Protection Australia 2013-14*, Table A37, p. 104.

25 Ms Barbara Bennett, Deputy Secretary, Department of Social Services, *Committee Hansard*, Canberra, 16 April 2015, p. 2.

26 DSS, *Submission 78*, p. 13; Ms Barbara Bennett, Deputy Secretary, Department of Social Services, *Committee Hansard*, 16 April 2015, Canberra, p. 2. Recent changes to the DSS grants funding process is currently the subject of another inquiry by this committee. See: Senate Community Affairs References Committee, *Impact on service quality, efficiency and sustainability of recent Commonwealth community service tendering processes by the Department of Social Services*, www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Grants (accessed 17 August 2015).

services are funded by the Commonwealth, rather than by the Northern Territory Government:

...the Northern Territory government will clearly say, 'That early intervention is a federal responsibility. We won't do it. We're running a department of child protection.' Effectively, that is what they will say, and all the other stuff is federal responsibility. So what is only a small contribution in other states is the major component of early intervention in the Northern Territory.²⁷

5.28 The committee heard particular concerns in the Northern Territory that funding for early intervention was contingent on the funding available for out-of-home care services. As the cost of these services has increased commensurate with the increased numbers of children remaining in the system, funding for early intervention has declined. NTOCSS noted:

This should not have to be a discussion about taking money out of the statutory end of the system to fund early intervention programs. However, that has been the reality of the discussion in the Northern Territory in the last few years.²⁸

5.29 The available data suggest that across most jurisdictions, secondary intervention services are targeted at families whose children have not yet entered out-of-home care, with limited services available for families whose children have already entered care. Witnesses suggested that secondary interventions are not generally available to families with children in out-of-home care. Ms Teegan Bain, whose children were removed from her care, told the committee:

...when your child is removed, there is no support services that will assist you to liaise with FACS [Department of Family and Community Services] and their services. And there are no intensive family support programs available for people who do not have children in their care. I think if there were more of those available—or if there were some available—there would be a better success rate, as well as putting those things in place when children are restored and making sure that people have support outside of what they used to have.²⁹

5.30 Overall, spending on secondary interventions is disproportionately lower than spending on out-of-home care services. Noting this disparity, a number of submissions highlighted the need for equity in funding and resources for families at risk to keep their children at home.³⁰ Ms Susan Heylar from the ACT Council of Social Service highlighted the importance of equity in funding across the continuum of care:

27 Mr David Pugh, CEO, Anglicare NT, *Committee Hansard*, Darwin, 2 April 2015, p. 10.

28 Ms Wendy Morton, Executive Officer, NTCOSS, *Committee Hansard*, Darwin, 2 April 2015, p. 1.

29 Ms Teegan Bain, Committee Member, Family Inclusion Strategies Hunter (FISH), *Committee Hansard*, Sydney, 18 February 2015, p. 15.

30 See: Ms Karen Crossley, Parent Representative, Family Inclusion Network of Western Australia (Fin WA), *Committee Hansard*, Perth, 16 February 2015, p. 34.

It is a really fundamental equity issue that we should invest the same level of support and resources in a family trying to maintain a healthy and safe environment for their children as we do in taking a child away from their family, which costs thousands of dollars in court processes and then we have to fund another family to have access to resources to support those children. It is really important that we think about the equity of that.³¹

Secondary intervention models

5.31 The committee heard that due to resourcing constraints, there are limited examples of secondary interventions across jurisdictions. Most of the examples discussed below are in the initial pilot stage and are often localised to certain areas and regions.

5.32 The Victorian Government, in partnership with a range of non-government agencies, delivers a long-term intervention, Cradle to Kinder. The program offers tailored support to young women and their families from pregnancy until the child commences pre-school and promotes the health, safety and wellbeing of children and assists parents to make positive changes to their lives (see Box 5.2).³²

Box 5.2 – Best practice – Cradle to Kinder

The Cradle to Kinder program is an ante and post-natal support service in Victoria that provides intensive family and early parenting support to vulnerable young mothers and their children. The service commences during pregnancy and continues until the child is four years old. The target group for the service is young pregnant women under 25 years of age.

The Victorian Government noted in its submission that ten Cradle to Kinder programs, including two Aboriginal Cradle to Kinder programs, are currently being delivered across Victoria. The program aims to build the capacity of parents to provide for their children's health, safety and development and to build and maintain their self-reliance through access to education, vocational training and employment.

AIFS noted in its submission it is currently undertaking a comprehensive evaluation of the program in partnership with the Centre for Community and Child Health and funded by the Department of Human Services. AIFS noted this evaluation includes:

... six-monthly interviews with a group of the mums who are experiencing that program across a number of the sites. We will have four waves of data over two years to be able to track their progress over that time, as well as drawing on administrative data and information about the service-delivery aspects, particularly around the professional development and learning opportunities provided to those case workers who are working very closely with the mums.

Source: AIFS, Submission 41, p. [3]; Dr Daryl Higgins, Committee Hansard, Melbourne, 20 March 2015, p. 5; AIFS, 'Cradle to Kinder program evaluation', <https://aifs.gov.au/projects/cradle-kinder-program-evaluation> (accessed 1 July 2015).

31 Ms Susan Heylar, Director, ACTCOSS, *Committee Hansard*, Canberra, 16 April 2015, p. 12.

32 Melbourne City Mission (MCM), *Submission 76*, p. 31.

5.33 Another Victorian example of secondary interventions aimed at older children is the Finding Solutions Plus program delivered by Melbourne City Mission, a mediation service for children aged 10–15 years (see Box 5.3).³³

Box 5.3 – Best practice – Finding Solutions Plus

Finding Solutions Plus, funded by the Victorian Government and delivered by Melbourne City Mission, provides young people aged 10–15 years old and/or family with timely and intensive support to contain the family conflict issues being experienced, and to reduce the likelihood of placement in out-of-home care.

The program provides the following services:

- **Family Support** – intensive family-focused support for up to 12 months for young people and their families to nurture, strengthen and promote family relationships; strengthen broader community connections and link with education or training opportunities.
- **Individual Support** – for young people to help meet their safety, stability and developmental needs through identifying/resolving underlying issues and behaviours impacting on their relationship with their parents and other family members.
- **Family Mediation** – providing mediation to address underlying issues and provide strategies for resolution of conflict.
- **Parental support** – working with parents to assist them to identify and explore underlying issues and behaviours that are impacting on their parenting and relationship with their child.

All referrals to the program come from the Department of Human Services.

Source: MCM, *Submission 76*, p. 35; *Finding Solutions Plus*, Melbourne City Mission, <http://www.melbournecitymission.org.au/services/program-detail/finding-solutions-plus> (accessed 7 July 2015).

5.34 In Western Australia, the Department for Child Protection and Family Support provided the committee with details of its Family Support Network (FSN) program that provides secondary intervention services to vulnerable families (see Box 5.4). A 2014 review of the model by KPMG found that it 'significantly improved wrap-around services for families' and calculated a cost benefit ratio of \$3.65 for each dollar invested in the FSN program.³⁴

33 MCM, *Submission 76*, p. 35.

34 WA Department for Child Protection and Family Support, answer to question on notice, 16 February 2015 (received 12 April 2015), pp [1 – 2].

Box 5.4 – Best practice – Western Australian Family Support Networks

Western Australian Family Support Networks (FSNs) provide a common entry point to deliver targeted support to vulnerable children and families. FSNs are delivered by the Department for Child Protection and Family Support (DCPFS) in partnership with the community services sector (Parkerville Children and Youth Care and MercyCare). DCPFS noted FSN services 'can prevent a family situation deteriorating to the point where children enter the child protection system'.

Three FSN services have been implemented in WA since 2012 in Armadale, the Midwest and Mirrabooka. A fourth service is currently subject to a tender process and is expected to be operating in Fremantle from August 2015.

A 2014 review of the model by KPMG found FSNs had 'positively influenced improvements in circumstances for vulnerable children and their families'.

Source: WA Department for Child Protection and Family Support, answer to question on notice, 16 February 2015 (received 12 April 2015), pp [1 – 2].

Identifying vulnerable families

5.35 One of the most significant challenges for child protection authorities in delivering effective secondary interventions is the limited capacity to identify vulnerable families prior to concerns reaching the threshold for an investigation or substantiation. Mr Matthew Lupi, Executive Director of the Queensland Department of Communities, Child Safety and Disability Services told the committee:

[T]he most significant drivers for Queensland in the growth of out-of-home care in the last 10 years, like many other states, include limited capacity to respond to vulnerable families through mechanisms of early intervention.³⁵

5.36 As noted in Chapter 2, child protection notifications are assessed by child protection authorities for a response which may include an investigation, referral to support services or not acted upon.³⁶ AIHW reports in 2013-14, of the 304 097 child protection notifications, only 45 per cent (137 585) were investigated. The remaining 55 per cent were 'dealt with by other means', which may mean referral to support services.³⁷ The committee notes that it is not clear how these notifications are dealt with across jurisdictions.

5.37 Evidence provided to the committee by families with children in care indicated that in some cases, children at risk are known to authorities, but that no support is offered prior to child removal. Ms Felicity Kime from Family Inclusion Strategies Hunter (FISH) told the committee that her situation was well known to authorities in New South Wales:

I had lots of different issues around the removal and my parenting. I could not parent, and I did not know how to parent; at this time, I did not realise

35 Mr Matthew Lupi, Executive Director, Child and Family Services, Department of Communities, Child Safety and Disability Services, *Committee Hansard*, Brisbane, 17 April 2015, p. 57.

36 See: Chapter 2.

37 AIHW, *Child Protection Australia 2013-14*, p. 17.

this. I just thought, 'Yes, I have given birth; I know how to be a mother.' I gave birth at 16, nearly 17 years old, with no mother around, no father around, and an abusive partner—which the department was quite aware of ...as soon as somebody comes to light to the department, I believe they need to go and investigate straightaway, not leave it until they get multiple, multiple reports.³⁸

5.38 Similarly, Ms Teegan Bain, also from FISH, told the committee that although authorities were aware of her situation, no support was offered prior to removal:

The department was aware of what my situation was for several months—for nearly nine months of my pregnancy—and I did not have contact, and my son was removed at birth. I think it would be better if the department had come in earlier, rather than not allocating things that are high risk; they could work with parents rather than just coming in at the very last second when there are absolutely catastrophic things happening, and with a long history of that stuff happening. If the department came in earlier and wanted to work with families it would be better. In my situation, that would have been better.³⁹

5.39 In particular, there is a lack of support to address the underlying social issues that place the family and child at risk, including family violence. Ms Bain told the committee she was not offered any assistance in dealing with family violence:

I was in a domestic violent [DV] relationship. At no point did they confront him or help me escape that. They were just saying, 'You can leave.' When someone is in a DV relationship, it is not as simple as just getting up and leaving.⁴⁰

5.40 The committee also heard that in some jurisdictions, mandatory reporting requirements result in child protection authorities being overwhelmed with notifications, hindering their ability to provide each with an appropriate response.⁴¹ In June 2015, the South Australian Attorney-General announced that the high number of notifications were 'clogging' the investigative process in South Australia with only 6 500 out of 44 000 notifications being investigated.⁴²

5.41 The high numbers of reports received by child protection authorities means that many cases are not investigated, and families are referred away with limited

38 Ms Felicity Kime, Committee Member, FISH, *Committee Hansard*, Sydney, 18 February 2015, p. 13.

39 Ms Teegan Bain, Committee Member, FISH, *Committee Hansard*, Sydney, 18 February 2015, p. 11.

40 Ms Teegan Bain, Committee Member, FISH, *Committee Hansard*, Sydney, 18 February 2015, p. 12.

41 See: Ms Mary Moore, Alliance for Family Preservation and Restoration, *Committee Hansard*, Brisbane, 17 April 2015, p. 38.

42 Angelique Donnellan, 'Excessive number of child protection reports' clogging system, SA Government says, *ABC News*, 29 June 2015, <http://www.abc.net.au/news/2015-06-29/too-many-child-protection-reports-clog-system-overhaul/6581548> (accessed 7 July 2015).

support. In Queensland, only 19 per cent of the 128 534 child protection notifications in 2012-13 reached the statutory threshold for investigation. Cases that did not meet the statutory threshold for a child protection notification were recorded as Child Concern Reports, with the result that families were directed away from the child protection system with little or no support.⁴³

5.42 As noted in Chapter 2, most jurisdictions have a single pathway for reporting child protection concerns, which produces a high number of child concern reports. These reports cover a wide spectrum of concerns, from those requiring an immediate response to serious allegations of abuse, to less serious cases where family support services could be provided.⁴⁴

5.43 To better identify those families that would benefit from family support services, and reduce the number of child concern notifications received, the Queensland government has recently introduced changes to allow for differential pathways to report child protection concerns (see Box 5.5). The committee notes that although it is too soon to evaluate the effectiveness of this model in referring families to appropriate services, this approach may provide an innovative example for those jurisdictions that have a single reporting pathway.

Box 5.5 – Best practice – Queensland – differential response pathways

The 2013 Queensland Child Protection Commission of Inquiry recommended the Queensland Government establish a differential response that provided alternatives for responding to child protection notifications including:

- an investigation response by government of the most serious cases of child maltreatment;
- a family service assessment response by a non-government organisation where there is a low to moderate risk; and
- a family violence response by a non-government organisation where a child has been exposed to violence.

In its submission, the Queensland Government noted it has recently introduced legislative changes to allow for dual pathways to report child protection concerns, and differentiated responses to how concerns are responded to, with a greater capacity to refer to support services, including a family service assessment or family violence response.

Source: Queensland Government, Submission 69, pp 14–17.

43 Queensland Government, *Submission 69*, pp 14–17.

44 See: Chapter 2.

Respite services and 'shared care'

Respite services

5.44 A number of submitters and witnesses noted the importance of respite services for families to provide short term care while families resolve issues.⁴⁵ This includes 'respite from placement, where a child spends regular, short and agreed periods of time with another carer other than their primary carer'.⁴⁶

5.45 The committee heard that due to current demand for long-term care placements, existing models of care have limited capacity to provide respite services. Mr John Avent from the Salvation Army told the committee:

Because our foster care services are so overwhelmed by demands for protective placements, we do not have the capacity to work with family support agencies and provide respite placements. This is something that I think is a real shortfall, and if we were able to provide respite we would be better able to work with family support agencies to keep children at home.⁴⁷

5.46 Most jurisdictions do not have a framework or model for respite care which provides short-term assistance to families. The Commission for Children and Young People noted in Victoria:

...there is no formalised model of respite care. A few agencies have developed respite accommodation models through philanthropic funding, as an early intervention option before situations reach crisis. Agencies report that the respite trials have been successful, but cannot be sustained without ongoing funding.⁴⁸

5.47 One agency that provides a model of respite care is Kennerley Children's Homes in Tasmania. Mrs Carleene O'Brien from Kennerley Children's Homes told the committee of the benefits of the respite model:

That is a fantastic program because it is really proactive. Many of the children go into that program. We set it up as a holiday sort of thing. We always send the children back to the same carer and they have that for a block of time—up to about 28 days a year they can use it. It is about supporting families in the community who really need something to get them over the hurdle. Often, we are not the answer; we are part of the puzzle. We have agencies working with those families and then we just do that. Sometimes it is about having the child come out to give them a break

45 See: OzChild, *Submission 19*, p. 7; Wanslea Family Services, *Submission 60*, p. [8]; MCM, *Submission 76*, p. 6; Ms Kelly Stanton, General Manager Services, Wesley Mission Victoria, *Committee Hansard*, Melbourne, 20 March 2015, p. 14; Mr John Avent, Manager (Retired), Westcare, Salvation Army, *Committee Hansard*, Canberra, 16 April 2015, p. 13.

46 AIHW, *Child Protection Australia 2012-13*, pp 131 – 132.

47 Mr John Avent, Manager (Retired), Westcare, Salvation Army, *Committee Hansard*, Canberra, 16 April 2015, pp 13 – 14.

48 CCYPV, *Submission 45*, p. 18.

from it—they need a break while the parents are trying to interact together, I suppose—or it is getting the resources and the supports that they need.⁴⁹

5.48 However, in some jurisdictions, emergency respite programs do not fall within existing funding frameworks. Mr Barry Titmus from Kennerley Children's Homes told the committee that under Tasmania's funding structures, the emergency respite program:

...is not under the continuum of care, so the tendering that is coming up will not include emergency respite; we are hoping that that will be picked up somewhere.⁵⁰

5.49 The committee heard that emergency respite programs have been trialled and discontinued in other jurisdictions. Life Without Barriers drew the committee's attention to the 'Aunts and Uncles' planned respite program that operated on the NSW north coast in the 1990s by Centracare. The monthly respite-mentoring program aimed to relieve the pressure on families by providing opportunities for regular time out and new experiences for children, as well as support for care givers through positive mentoring relationships.⁵¹ Ms Jessica Cocks from FISH told the committee that:

...essentially, it provided a fostering families service, where families and foster families remained in close contact throughout the children's lives—or, throughout their childhoods.⁵²

Shared care

5.50 Witnesses suggested models of shared care that would 'foster the family' and not just the child. One example was the 'mirror families' model proposed by Professor Judy Cashmore from the University of Sydney, which, according to Ms Cocks, could 'happen quite easily' and have a positive impact on at risk families (see Box 5.6).⁵³

49 Mrs Carleene O'Brien, Operations Manager, Kennerley Children's Homes, *Committee Hansard*, Hobart, 12 March 2015, p. 16

50 Mr Barry Titmus, General Manager, Kennerley Children's Homes, *Committee Hansard*, Hobart, 12 March 2015, p. 15.

51 Debbie Brennan & Meredith Crowe, 'Aunts and Uncles: Working to Reduce Risks for Children and Young People in Taree through Planned Respite Care,' *Developing Practice: the Child, Youth and Family Work Journal*, n 4, 2002, pp 34–38.

52 Ms Jessica Cocks, Convener, FISH, *Committee Hansard*, Sydney, 18 February 2015, p. 11.

53 Ms Jessica Cocks, Convener, FISH, *Committee Hansard*, Sydney, 18 February 2015, p. 11.

Box 5.6 – Best practice – Shared family care or 'mirror families'

Shared family care involves fostering of whole families by community members who act as mentors and work with a team of professionals.

Professor Judy Cashmore, Professor of Socio-Legal Research and Policy at the University of Sydney notes shared family care:

...may be useful in providing another pool of carers, using the time and skills of older parents and professional carers, without requiring them to take over the full-time care of the child. This provides another option when there is a shortage of foster carers and adoption is unlikely to be an option. These 'shared care' or 'mirror family' arrangements may be suitable in some cases, especially for teenage and young mothers who do not have the skills or means to care for their child and need longer term supportive relationships themselves. It could also be used to support parents when children are returned home.

Shared family care has been explored in the US, UK and also previously by Barnados in NSW under their Temporary Family Care model. There has been limited evaluation and trialling of this approach. Evidence from some US states indicate the shared family care approach is 'very good' at locating housing and assisting families with making the transition to independent living as well as assisting families to 'budget and save money, become more stable and independent, get their children back, find employment, become better parents, maintain their recovery, get back on their feet, and start a new life'.

Professor Cashmore suggests there may be some value in trialling such approaches in Australia. If successful, it could diffuse some of the tension between 'protecting' children and providing for 'permanent' relationships that maintain their identity and family ties.

Source: Judy Cashmore, 'Children in the out-of-home care system', in Families, Policy and the Law: Selected essays on contemporary issues for Australia, Australian Institute of Families Studies, May 2014, pp 148–149.

5.51 Ms Cocks told the committee that while shared care 'has never been adequately funded', FISH are aware of examples of informal shared care arrangements in New South Wales where:

...the outcomes for those kids would have been far worse than what has been able to be achieved, because there was a foster family that fostered the whole family, not just the children.⁵⁴

5.52 Ms Cocks gave the following example:

I know of a family where there are four children, who now range in age from about seven to about 15. They have been working with a foster family for about the last five years and have a relationship. The foster family have a very close relationship with the mother. They regularly care for those children—I think it is one weekend a month, and then at other times if needed. So they have a very flexible arrangement with this family. It has reached the point where the relationships between the parties are very close, very informal and very flexible, which has only happened because of the

54 Ms Jessica Cocks, Convener, FISH, *Committee Hansard*, Sydney, 18 February 2015, p. 10.

initial support provided by an out-of-home care agency to support voluntary respite care for that family.⁵⁵

Integrated universal services

5.53 A number of submissions suggested that 'early intervention' should focus on universal, rather than secondary, interventions to address the broader social issues that lead to neglect and abuse.⁵⁶ Mr Andrew McCallum, CEO of the Association of Children's Welfare Agencies, emphasised that early intervention should address issues before they become child protection issues and need to have a 'non-welfare colour to it'.⁵⁷

5.54 It was put to the committee that where families reach the point of accessing secondary interventions, it is often too late to have a positive impact as these services are provided as 'last chance' option for families with complex and entrenched issues. Referring to the DSS funded intensive family support services offered in the Northern Territory, Ms Melissa Kean from the NPY Women's Council noted that for families in remote communities:

We do not always see positive outcomes in the work that we do, and that has been seen pretty much across the Territory in the rollout of intensive family support services. I think that once you start working right at the pointy end, at the tertiary end of the child protection spectrum, you cannot always effect change or work with families to overcome problems, and certainly not in a short time.⁵⁸

5.55 The committee heard that at-risk families need support to address a range of social issues associated with disadvantage that are beyond the capacity of child welfare authorities to address. Mr Tony Kemp, Deputy Secretary of the Department of Health and Human Services in Tasmania, noted the effects of a lack of support:

What we do find is that, in the absence of those supporting architectures to help families get back on their feet or at least resolve the risks that they have got, children stay longer in care, because families are not getting the level of intervention that they need and they are specialist supports. They are not things that child protection services offer; they are things that need to be resolved at a clinical, therapeutic, medical, housing, education level.⁵⁹

55 Ms Jessica Cocks, Convener, FISH, *Committee Hansard*, Sydney, 18 February 2015, p. 10.

56 See: Ms Emma White, Director General, Department for Child Protection and Family Support, *Committee Hansard*, Perth, 16 February 2015, p. 60.

57 Mr Andrew McCallum AM, CEO, Association of Children's Welfare Agencies, *Committee Hansard*, Sydney, 18 February 2015, p. 57.

58 Ms Melissa Kean, Child and Family Wellbeing Service Manager, Ngaanyatjarra Pitjantjatjara Yankunytjatjara (NPY) Women's Council, *Committee Hansard*, Darwin, 1 April 2015, p. 17.

59 Mr Tony Kemp, Deputy Secretary, Children and Youth Services, Department of Health and Human Services, Tasmania, *Committee Hansard*, Brisbane, 17 April 2015, p. 69.

5.56 A number of witnesses supported the development of universal services targeted at the wellbeing of the child. Ms Kelly Stanton from Wesley Mission Victoria told the committee:

I think universal services in the Australian community need to be more firmly focused on the safety and wellbeing of children, no matter the service. I think universal systems need to support our carers. For example, the Medicare and health systems, where there are many things that can be done in that space to support carers. I think our employment and education systems again need to have a particular focus on children in care and children leaving care.⁶⁰

5.57 For at-risk parents, the opportunity to identify and address issues early increases the likelihood of maintaining custody of their children. Ms Teegan Bain from FISH told the committee she wasn't offered any support until shortly before the birth of her child:

I guess I would have liked someone to come in and let us know that they were aware of our situation, that they would be monitoring it and that they would give us support services to go to or rehab—like give me a support plan to ensure that my baby would be safe and that I would be able to keep him in my care rather than place him in care straightaway. They left it until three or four days before he was born before they came and saw me.⁶¹

5.58 However, the committee heard there are significant challenges in developing targeted universal services. These services cover a broad range of state, territory and Commonwealth portfolios including health, employment, education and community services and are not generally integrated or targeted at particular groups, including children and families at risk of entering the statutory out-of-home care system. Dr Daryl Higgins from AIFS told the committee that 'we have both jurisdictional and siloed responsibilities for many of these other service delivery systems':

If you are really going to be dealing with prevention as well as early intervention, it means that you need to have engagement from those people who are responsible for running what you would call the universal services systems, be it schools, early childhood care and education or housing—any of those kind of broad platforms—so you can start to address problems as early as possible that provide supports for all families, so that all parents can improve their parenting so there is less chance of them needing to have the intense secondary services, less chance of needing the statutory system and therefore less chance of children coming into care.⁶²

60 Ms Kelly Stanton, General Manager Services, Wesley Mission Victoria, *Committee Hansard*, Melbourne, 20 March 2015, p. 8.

61 Ms Teegan Bain, Committee Member, FISH, *Committee Hansard*, Sydney, 18 February 2015, p. 12.

62 Dr Daryl Higgins, Deputy Director, Research, AIFS, *Committee Hansard*, Melbourne, 20 March 2015, p. 2.

5.59 Dr Higgins told the committee that the significant challenge was in integrating these services to 'break down the silos':

How do we get all those different parts of the broad service-delivery systems on board—not just grudgingly doing a few little things on the side, but actually seeing it as central to their work to say: 'I am an important part of the child safety and wellbeing system in Australia'—by providing better housing or care and education for vulnerable young people.⁶³

5.60 Mr Chris Twomey from the Western Australian Council of Social Service (WACOSS) suggested the introduction of 'proportionate universality' through mechanisms of identifying vulnerable families:

across your community you have universal services but, for those areas where you have got particular children, families and cohorts who are most at risk, you ensure those services are flexible enough to put more resources in where they are most needed. There is a greater opportunity where you have universal services if you build into those assessments, that early intervention, the signals around who is most at risk. You then ensure that you have an integrated service system so that there is that supported referral to actually help people who are identified within your universal services most at risk get the kind of follow-up supports that they need to prevent problems developing or to intervene early where those problems are.⁶⁴

5.61 It was put to the committee that the Child Aware Local Initiative (CALI) program, which is one of the key action items of the second action plan of the National Framework, provides an example of a community-based initiative to integrate universal services at the community level. Families Australia submitted that CALI is 'ground-breaking prevention and early intervention work of child aware approaches' which addresses 'parental risk factors that are associated with child abuse and neglect' (see Box 5.7).⁶⁵ The committee notes that the third annual CALI conference was held in Melbourne in May 2015.⁶⁶

63 Dr Daryl Higgins, Deputy Director, Research, AIFS, *Committee Hansard*, Melbourne, 20 March 2015, p. 5.

64 Mr Chris Twomey, Director of Policy, Western Australian Council of Social Service (WACOSS), *Committee Hansard*, Perth, 16 February 2015, p. 12.

65 Families Australia, *Submission 77*, p. 7.

66 *Child Aware Conference*, <http://www.childawareconference.org.au/> (accessed 17 July 2015).

Box 5.7 – Best practice – Child Aware Local Initiative (CALI)

Families Australia, in partnership with the Australian Centre for Child Protection (ACCP) at the University of South Australia, provide national leadership for the Child Aware Local Initiative (CALI). CALI is a central priority under the National Framework and receives \$800 000 from the Commonwealth government.

CALI is a capacity-building initiative that supports communities to undertake early intervention and prevention activities that contribute to keeping children safe and well. Families Australia and the ACCP aim to deliver CALI across 8 sites.

Families Australia noted communities will be supported to develop and implement sustainable local plans of action by bringing together existing resources and networks within communities. In each community a lead organisation will be identified to partner with a range of agencies, groups and individuals such as national, state and local government agencies, community leaders, community sector organisations and groups, corporate and small business, health and education institutions, child protection services and children, parents and families.

Source: DSS, Submission 78, pp 12–13; Australian Centre for Child Protection, Child Aware Local Initiative, <http://www.unisa.edu.au/Research/Australian-Centre-for-Child-Protection/Training-and-Coaching/Child-Aware-Local-Initiative/> (accessed 6 May 2015).

Early intervention framework

5.62 The committee notes that the CALI program is only in its early stages, but may provide a model for integration of universal services at the community level. The committee heard there is a need to address this integration at a broader, national level.

5.63 Witnesses noted the need for a nationally coordinated framework for 'early intervention'.⁶⁷ The National Children's Commissioner told the committee that a 'coordinated and strategic national investment in early intervention and prevention' should be the focus of third action plan of the National Framework.⁶⁸ Ms Mitchell summarised this view:

There are lots of good models around the country. But it is very patchy. There is no systematic evidence based investment. I think we need to do the research on what works for families in what kinds of different situations. What are the good drug and rehab programs, or substance abuse programs? What are the good domestic violence programs? What are the things that we know will work in a reasonable period of time that will support the child to gain a permanent and stable arrangement.⁶⁹

5.64 Similarly, Families Australia proposed a new joint commitment by the Australian, state and territory governments to a national early intervention and prevention framework that would:

67 See: Ms Helen Bedford, Families Australia, *Committee Hansard*, Canberra, 16 April 2015, p. 49.

68 Ms Megan Mitchell, National Children's Commissioner, *Committee Hansard*, Sydney, 18 February 2015, pp 1–2.

69 Ms Megan Mitchell, National Children's Commissioner, *Committee Hansard*, Sydney, 18 February 2015, p. 5.

...focus effort, avoid duplication, coordinate planning and implementation and ensure sharing of information and innovation to reduce child abuse and neglect.⁷⁰

Committee view

5.65 The committee recognises that for some children, placement in out-of-home care, at least temporarily, may be the safest option to prevent abuse and neglect. The committee acknowledges that parents have a responsibility to provide a safe and nurturing home for their children.

5.66 However, evidence to the committee suggested many parents would benefit from additional assistance and support to help build safe and resilient families for their children. The committee recognises that governments of all levels have an obligation to assist parents in caring for their children.

5.67 The committee recognises that 'early intervention' is a broad term used to describe a range of different universal and secondary interventions to assist families and children. The committee suggests the term 'family support' provides a clearer definition of the range of services available to families prior to interventions by child protection authorities, and more fully encapsulates the intention of these services.

5.68 The committee acknowledges the difficulties faced by child protection authorities in identifying vulnerable families before they reach the threshold of a child concern notification. The committee notes that the way these child concern notifications are handled differs across jurisdictions and that a large proportion of families are referred away with limited support. The committee notes the introduction of a differential response pathway in Queensland, which may provide a good example for ensuring that families receive the support they require.

5.69 The committee recognises that there is a need for increased family support services across all jurisdictions prior to intervention by child protection authorities, including the use of integrated universal services, secondary interventions, respite services and shared care models. In particular, the committee sees the potential benefits of 'proportionate universality' in developing targeted universal services that can help to identify vulnerable families and children.

5.70 Noting the lack of national coordination and consistency on how family support services are developed, funded and evaluated, and on how universal services are integrated to focus on the needs of children, the committee suggests the development of a family support framework as part of the National Framework. This framework should develop equitable funding models for all forms of family support, and evidence-based evaluations to determine the best and most effective family support models.

Support for families with children in care

5.71 While many submitters focussed on early intervention, the committee also heard that there is significant need for support for parents with children in care,

70 Families Australia, *Submission 77*, p. 24.

particularly those parents who wish to maintain contact or regain parental responsibility for their children.

Building relationships with child protection authorities

5.72 The committee heard that one of the key challenges for families with children in care was establishing positive and constructive relationships with child protection authorities. Across jurisdictions, the relationship between parents and child protection authorities is largely adversarial, with a significant level of distrust on both sides.⁷¹

5.73 The committee heard that parents with children in care feel a strong sense of powerlessness in dealing with child protection authorities. A 2008 study commissioned by Anglicare WA and undertaken by the Centre for Vulnerable Children and Families at the University of WA, 'The Experiences of Parents and Families' found parents experience:

...deep sense of grief, loss, despair and isolation following the removal of their children, and a significant amount of helplessness, powerlessness and hopelessness held toward statutory authorities.⁷²

5.74 Based on interviews with 42 participants affected by child removal, the study summarised that:

...parents and families of children who have been taken into the care system by statutory authorities constitute a population of people whose ongoing stress is palpable and often chronic. Most of them live with unresolved anger, guilt, shame and despair — and their experiences have left them feeling powerless and fearful of seeking assistance. They represent a group of people who have been judged as failing their children or grandchildren and they all spoke poignantly of what that 'sentence' means to them and their families.⁷³

5.75 A recent project by Family Inclusion Network WA (Fin WA), called the 'Parent Voice Project', found 'parents identified being shut out and not listened to' in dealing with child protection authorities.⁷⁴ Mrs Denise Smith from FINV noted while much attention is paid to 'care drift' for children churning through multiple placements:

...parents are often caught in a similar 'system drift': dealing with constantly shifting goalposts or a lack of monitoring of their progress, and constant changes of caseworker.⁷⁵

71 See: Family Inclusion Network Townsville, *Submission 13*; Family Inclusion Strategies Hunter, *Submission 32*; Family Inclusion Network Victoria, *Submission 75*; Family Inclusion Network Western Australia, *Submission 82*; Australian Legislative Ethics Commission, *Submission 91*.

72 Quoted in: Family Inclusion Network WA (Fin WA), *Submission 82*, p. 9.

73 Maria Harries, *The Experiences of Parents and Families of Children and Young People in Care*, Report Commissioned by Anglicare WA, August 2008, p. 34.

74 Fin WA, *Submission 82*, p. 8.

75 Mrs Denise Smith, Secretary and Treasurer, FINV, *Committee Hansard*, Melbourne, 20 March 2015, p. 53.

5.76 Similarly, research by the Australian National University's Regulatory Institutions Network examined community workers' views of the needs of families who are involved with the ACT child protection system. The research found that parents feel a deep sense of 'powerlessness and despair' when working with child protection authorities:

...parents and families in contact with community workers are dealing with complex needs, are socially marginalised and stigmatised. They are observed by community workers to have little to no trust that they will be treated equitably by child protection workers ... For both families and community workers engaged with child protection authorities there was a sense of powerlessness and despair: stigma was so great that parents were fighting against the odds to win respect from child protection workers for the steps they took to be better parents, and to convince the child protection authorities that their lives had changed and they were able to care for their children.⁷⁶

5.77 These research findings were strongly supported in evidence provided to the committee. Ms Karen Crossley, whose children were removed from her care in Western Australia, expressed the view that there is a power imbalance between parents and child protection authorities:

There is a lot of inequity of power in the current child protection process. Every time any child is taken away from their immediate family environment the parents feel totally powerless and hopeless and despair. They are robbed of the capacity to be a parent, and heaps of times the case workers will not involve them in trying to sort out a care plan that actually allows them to have meaningful relationships, regardless of whether they live at home or not. We, as parents, get totally jealous of the way in which foster carers are funded for resources to manage our kids when those resources were not chucked at us in the first place to keep our kids in our home environment. The inequity that we as parents have to deal with is considerable.⁷⁷

5.78 The Australian Legislative Ethics Commission (Alecomm), a volunteer organisation that 'provides help and support to children and parents involved with the child protection industry', provided the committee with collated data from 151 submissions by parents and families affected by child removal.⁷⁸ The submissions

76 Regulatory Institutions Network, Australian National University, *Submission 81 Attachment 6*, 'Complex Lives, Complex Needs, Complex Service Systems: Community worker perspectives on the needs of families involved with ACT Care and Protection Services', Regulatory Institutions Network, *Occasional Paper*, n 21, July 2014, pp i–ii.

77 Ms Karen Crossley, Parent Representative Fin WA, *Committee Hansard*, Perth, 16 February 2015, p. 32.

78 See: Alecomm, *Submission 91*, p. 4. The majority of the 151 submissions were received in confidence. Of these, 16 submitters gave permission for their submissions to be made public. These submissions were published on the inquiry's website. See: http://www.apf.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Out_of_home_care (accessed 1 August 2015).

highlighted the significant emotional, physical and psychological effect of child protection interventions, with around 90 per cent of respondents reporting feelings stress, grief and frustration caused by child removal and subsequent court proceedings. A further 73 per cent of respondents reported family separation or breakdown, with some even reporting family suicides and deaths attributed to the removal process.⁷⁹ One submission stated:

I was told immediately after my [child's] removal that a person's past represents their future and that my baby would never be coming home. Never ever was I offered any hope, encouragement, options or support.⁸⁰

5.79 Significantly, these submissions highlighted a high level of distrust felt by parents towards child protection authorities, reportedly compounded by a lack of participation in decision-making processes, and a lack of available support. The majority of submissions reported that child protection authorities 'did not work with them for a better outcome for their children and family'.⁸¹ The Alecomm submissions strongly argued for alternatives to child removal:

...the family should have been offered support to remain together, the allegations should have been investigated for validity prior to removal, and the department should have communicated with the family first as there was no consultation and families felt they were never given a chance or opportunity to know what was required of them to get their children back or given enough time, support or opportunity to make the required changes.⁸²

5.80 This evidence suggests that child protection authorities need to engage more effectively with the parents of children in care to provide services that meet their specific needs. Professor Valerie Braithwaite from the Regulatory Institutions Network told the committee that the relationship between at risk families and their children is often interpreted 'swinging pendulum and just have to settle on some level that is optimal'. However, Professor Braithwaite challenged this assumption and suggested that:

...in fact there is no one optimal level. We need many different options. Sometimes we need to be tough; sometimes we need to be soft. We need an approach to child protection which allows us to choose the right option for the right child, the right family and the right situation. Our work suggests that we would do better if we seriously included those people and organisations most affected by child protection decisions in our processes

79 Alecomm, *Submission 91*, pp 14–15.

80 Ms Susan Coleman, *Additional submission 4*, p. 3, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Out_of_home_care/Additional_Submissions (accessed 10 August 2015).

81 Alecomm, *Submission 91*, p. 7.

82 Alecomm, *Submission 91*, p. 7.

and deliberations. This is not happening at the moment by and large; neither has it happened in the past.⁸³

Community-based advocacy

5.81 The committee heard a number of community organisations have implemented strategies to improve the channels of communication between parents and child protection authorities. Specific advocacy groups for Aboriginal and Torres Strait Islander families are discussed in detail in Chapter 8.

5.82 In New South Wales, Family Inclusion Strategies Hunter (FISH) was formed in 2014 as 'a group of practitioners and family members who are concerned with trying to improve and increase family inclusion in out-of-home care and child protection practice' in the Hunter Valley region of NSW.⁸⁴ The necessity of organisations such as FISH to assist in improving relationships between parents and authorities was put to the committee by parents with first-hand experience of the removal of a child from their care. Ms Teegan Bain told the committee the importance of accessing services for parents:

...when your child is removed, there is no support services that will assist you to liaise with FACS and their services. And there are no intensive family support programs available for people who do not have children in their care. I think if there were more of those available—or if there were some available—there would be a better success rate, as well as putting those things in place when children are restored and making sure that people have support outside of what they used to have.⁸⁵

5.83 Ms Jessica Cocks, convenor of FISH, noted one of the key outcomes of the first family inclusion practice forum held in July 2014 was the need for better partnerships between carers, families and child protection authorities.⁸⁶ Ms Felicity Kime, whose children were removed from her care, told the committee that while the relevant department was aware of her situation, she was offered no assistance or advice to address her issues with alcohol abuse:

I never had the department come and speak to me constantly or really let me know that there was a problem. I grew up in a family of alcohol abuse and drug abuse, and when my children were getting removed I did not even realise that I had a problem with alcohol.⁸⁷

83 Professor Valerie Braithwaite, Regulatory Institutions Network, Australian National University, *Committee Hansard*, Canberra, 16 April 2015, p. 24.

84 Ms Jessica Cocks, Convenor, FISH, *Committee Hansard*, Sydney, 18 February 2015, p. 7.

85 Ms Teegan Bain, Committee Member, FISH, *Committee Hansard*, Sydney, 18 February 2015, p. 15.

86 Tabled document, Family Inclusion Strategies Hunter, *Building Better Relationships: Outcomes of the family inclusion practice forum 18 July 2014*, received 18 February 2015, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Out_of_home_care/Additional_Documents (accessed 18 August 2015).

87 Ms Felicity Kime, Committee Member, FISH, *Committee Hansard*, Sydney, 18 February 2015, p. 13.

5.84 Another important part of relationship building is assisting child protection authorities to assist parents to overcome their issues, rather than pass judgement. Ms Teegan Bain noted:

I admitted to using while I was pregnant and, basically, as soon as I said that they were not willing to help me. They were not willing to look at restoration or having my son returned to me. They were not giving me any clear guidelines as to what I needed to do to have him returned.⁸⁸

5.85 Another example of community based initiatives is being led by the Family Inclusion Network Australia (FINA), established in 2010. Throughout the inquiry, the committee heard from FINA branches in Western Australia, Townsville and Victoria.⁸⁹ FINA is one of the few community groups made up of parents with children in care that focuses on building relationships with child protection authorities. Family Inclusion Networks have been described by Ms Mary Ivec, a researcher at the ANU's Regulatory Institutions Network, as part of an international 'geography of hope' for improving child protection systems.⁹⁰

5.86 Evidence suggested that the impact of Family Inclusion Networks across jurisdictions was generally positive and assisted developing better relationships with child protection authorities, with WA raised as a potentially best practice model. Family Inclusion Network WA (Fin WA) told the committee that it is the only organisation in Australia funded by state or territory governments to advocate for parents whose children are in care or are at risk of entering care (see Box 5.8).⁹¹ Fin WA recommended establishing similar government funded advocacy services in all other states and territories to:

...help address the experience of imbalance of power between families and statutory authorities which by its very nature is adversarial and does not allow for a collegial working relationship.⁹²

88 Ms Teegan Bain, Committee Member, FISH, *Committee Hansard*, Sydney, 18 February 2015, p. 11.

89 See: FINV, *Submission 75*; FINT, *Submission 13*; Fin WA, *Submission 82*.

90 Quoted in: FINV, *Submission 75*, p. 4.

91 Fin WA, *Submission 82*, p. 1; Ms Debbie Henderson, Executive Officer, Fin WA, *Committee Hansard*, Perth, 16 February 2015, p. 30.

92 Fin WA, *Submission 82*, p. 9.

Box 5.8 – Best practice – Family Inclusion Network WA

Family Inclusion Network WA (Fin WA) was formally established in 2008 as an advocacy service for parents involved with the child protection system. Fin WA is funded by the WA Department of Child Protection and Family Services (DCPFS) to provide 'services to parents and family members who are in crisis following the removal and placement of their children', as well as working with families who have been identified at risk of having their children removed.

Fin WA began as an informal support group established by a community development worker from Anglicare WA in response to a number of parents who were expressing a lot of distress and seeking additional help and support because their children had been removed from their care.

Fin WA's mission is 'to have a child protection system that is respectful and inclusive of parents, family and community as key stakeholders'. Fin WA services include advocacy and information in a model of case management and crisis intervention. The strategic objectives of Fin WA are to:

- empower parents and families to participate meaningfully in the child protection system;
- foster a collaborative and inclusive child protection system;
- enhance the valuable role and intrinsic value of parents and families within the child protection system; and
- develop and sustain a viable, effective organisation based on best practice.

Fin WA noted in its submission that it also works systemically to promote a child protection system that is fair and equitable and works collaboratively and respectfully with the DCPFS to advise and advocate for the delivery of 'more inclusive and respectful' policies and practices.

Source: Family Inclusion Network WA, Submission 82; Ms Debbie Henderson, Executive Officer, Fin WA, Committee Hansard, 16 February 2015, pp 30–35.

5.87 Ms Debbie Henderson, Executive Officer of Fin WA, told the committee of the benefits of Fin WA's work for families:

I absolutely believe that the work we are doing has been at least somewhat helpful, if not very helpful, for a lot of families. That might be from assisting in ensuring the family has participated really rigorously in assessment and decision making and in the process around reunification or it might be around assisting a family to be able to sit at the table—come into a room and participate in a meeting—with the department. Sometimes there is so much hostility and anger that we will be a mediator and then eventually a negotiator. We work to assist families to develop their own skills and strength to manage alone. It is a really skilled and delicate piece of work.⁹³

5.88 The committee also heard from parents who were assisted by Family Inclusion Networks across jurisdictions. Sarah, a member of FINV, told the committee that prior to seeking assistance from FINV:

I did not get listened to. My workers do not listen to what I have to say concerning my children and kinship care. Now that I have actually got help

93 Ms Debbie Henderson, Executive Officer, Fin WA, *Committee Hansard*, Perth, 16 February 2015, p. 32.

of my own, they are starting to realise the points I am trying to get across in regards to my children.⁹⁴

5.89 Sarah highlighted the assistance FINV was able to provide regarding reunification:

...working to help me reunite with my children so I can get them to know them better and work on giving them a life that they deserve. They are just trying to help me get a better life for my children.⁹⁵

5.90 Ms Karen Crossley, a member of Fin WA whose child was removed from her care, told the committee of the positive impact of Fin WA's advocacy work:

Having someone come in and bat for you, especially when you are on the receiving end of being assessed by psychologists who wrote lots of damning reports about you in the beginning in pretrial conferences, means the world. It gives you the courage to speak and deal civilly with people who slammed you and criticised you to the hilt. You have to show that you have changed. Sometimes parents have a really tall order to go through all of the hoops the department expects of them in a constructive way.⁹⁶

Participation in decision making

5.91 In addition to improving relationships with child protection authorities, the committee heard strong support for greater involvement of parents in the decision-making processes once children are subject to child protection notifications.

Entry into care

5.92 As noted in the previous section, a number of submitters and witnesses expressed concern that parents are rarely involved in the decision-making process prior to a child being placed in out-of-home care. A number of submissions which were accepted in-confidence contained allegations that child protection authorities and courts had acted improperly and the justification removal was either inaccurate or misleading. These submitters alleged their children were forcibly removed in circumstances that amount to 'kidnap'.⁹⁷

5.93 As discussed in Chapter 2, each jurisdiction has its own legislated criteria for child removal, ranging from risk of harm to evidence of abuse and neglect. Families who had experienced child removal expressed concern that these criteria are not adequately investigated or substantiated, particularly in jurisdictions in which the risk of harm is taken into account.⁹⁸

94 Sarah, Member, FINV, *Committee Hansard*, Melbourne, 20 March 2015, p. 57.

95 Sarah, Member, FINV, *Committee Hansard*, Melbourne, 20 March 2015, p. 57.

96 Ms Karen Crossley, Parent Representative, Fin WA, *Committee Hansard*, Perth, 16 February 2015, p. 31.

97 See: Alecomm, *Submission 91, Attachment 1*.

98 See: Alecomm, *Submission 91*, pp 16–17.

5.94 Distrust and animosity was allegedly further compounded by the limited recourse to contribute to or challenge decisions by child protection authorities made about child removal. A number of witnesses stated that they felt there was little accountability for child protection authorities and few avenues to make complaints or raise concerns.⁹⁹ Ms Wightman from Grandmothers Against Removals told the committee at its Sydney hearing:

Quite often what happens is, when you make a complaint through the complaints line, it is referred back to the office where the case is being handled, and quite often it is referred back to the person you are making the complaint about. That is common. The organisation you are complaining about is investigating itself, so there is no overarching body.¹⁰⁰

5.95 Within and between jurisdictions, the level of involvement of parents in the decision making process differs widely. Ms Meredith McLaine from the Shoalcoast Community Legal Centre noted the differences:

we do see inconsistent practices between different out-of-home-care agencies in terms of how inclusive they will be in involving parents, and often there appears to be a lack of communication and parents feeling frustration. I think, similarly to the early intervention phase, that there is not really a culture amongst the out-of-home-care workers of actively inviting or supporting advocacy, and particularly legal advocacy, for the parents and families.¹⁰¹

5.96 A number of submitters recommended that parents and families be involved in the decision-making process, with child protection authorities.¹⁰² Ms Crossley from Fin WA emphasised that:

if we are consulted and involved in respectful manner, we will take ownership of the solutions to the problems a lot more keenly and with a lot less stress and trauma than if we are excluded.¹⁰³

5.97 One example that was raised as a best practice model by several witnesses was the New Zealand model of Family Group Conferencing (FGC) that involves families, children and child protection authorities (see Box 5.9).

99 See: Alecomm, *Submission 91*, p. 7.

100 Ms Wightman, Grandmothers Against Removals, *Committee Hansard*, Sydney, 18 February 2015, p. 24.

101 Ms Meredith McLaine, Solicitor, Shoalcoast Community Legal Centre, *Committee Hansard*, Sydney, 18 February 2015, p. 9.

102 See: Michelle Parker, *Submission 95*, p. [4]; Alecomm, *Submission 91*, pp 62–70.

103 Ms Karen Crossley, Parent Representative, Fin WA, *Committee Hansard*, Perth, 16 February 2015, p. 34.

Box 5.9 – Best practice – New Zealand Family Group Conferencing

Family Group Conferences (FCGs) were established in New Zealand in 1989 to 'provide families with a greater say in the resolution of both child protection and juvenile justice matters'. FCGs are mandatory for all children prior to entry into the out-of-home care system.

According to AIFS, conferences are arranged and facilitated by specialist 'Care and Protection Co-ordinators', employed by the New Zealand child protection authority and usually involve the child or young person, their advocate and/or legal representative; the parents, extended family members and any other support person the family wishes; and the referring care and protection worker. Other professionals may also provide information but are not involved in decision making.

The purpose of the conference is for the family to hear the child protection concerns, to decide whether the child is in need of care and protection, and to make plans that can address these concerns. All participants must agree for a conference agreement to come into effect. According to AIFS, conferences take place in the following three stages:

- sharing of information by child protection workers and other professionals with the family;
- family having time on their own to deliberate and agree on possible solutions; and
- arrive at agreement on whether the child is in need of care and protection, and a plan that will address these concerns.

An early evaluation of the program showed that approximately 2 000 conferences were convened in the first year of its introduction, with only a very low percentage of conferences failing to achieve agreement. Estimates in 2006 suggest that over 50 000 conferences have been convened since 1989, reflecting the central role that conferences play in New Zealand's child protection system.

Source: Nathan Harris, 'Family group conferencing in Australia 15 years on', National Child Protection Clearinghouse Issues, no. 27, February 2008, <https://aifs.gov.au/cfca/publications/family-group-conferencing-australia-15-years> (accessed 1 July 2015).

5.98 A 2008 review by AIFS on the use of FGC in Australia found that with the exception of South Australia and Tasmania, the use of family group conferencing was 'fairly limited' and concluded that 'while conferences have had an impact on practice, they have not yet become part of mainstream practice in most of Australia'.¹⁰⁴ FGCs were piloted in NSW in 2011, and another pilot is planned for four test sites. A 2012 evaluation by the Australian Institute of Criminology (AIC) of NSW's 2011 FGC pilot found that FGCs 'provided an important opportunity to resolve child protection matters and build support networks for families outside of the court process'.¹⁰⁵ However, the AIC also noted the small scale of the pilot and the voluntary basis for referrals.¹⁰⁶

104 Nathan Harris, 'Family group conferencing in Australia 15 years on', *National Child Protection Clearinghouse Issues*, n. 27, February 2008, <https://aifs.gov.au/cfca/publications/family-group-conferencing-australia-15-years> (accessed 1 July 2015).

105 Hayley Boxall et al, 'Evaluation of the Family Group Conferencing pilot program', *Australian Institute of Criminology Reports, Research and Public Policy Series*, no.121, 2012, pp xiii–xiv.

106 Boxall, 'Evaluation of the Family Group Conferencing pilot program', pp xii–xiii.

5.99 The North Australia Aboriginal Justice Agency (NAAJA) suggested that FGCs could be particularly effective for Aboriginal and Torres Strait Islander families. A research report by NAAJA suggested the Northern Territory is 'fertile ground' for implementing FGCs and other alternative dispute resolution mechanisms. The report proposed the development of a model of FGC 'specifically tailored to the characteristics of the Northern Territory' should be adopted as a matter of urgency.¹⁰⁷

5.100 Similarly, a number of submitters suggested FGCs be used in decision-making processes for parents with disability as an alternative to engagement with the court system.¹⁰⁸

5.101 Another alternative to the court system which was put to the committee is the concept of restorative justice. Professor Valerie Braithwaite from the Regulatory Institutions Network described restorative justice as:

...a process that acknowledges a harm has been done and works to understand the causes, the consequences and what can be done to repair or heal the harm that has occurred. All those affected have a voice and come together to find a solution and commit to an action plan...¹⁰⁹

5.102 A number of witnesses expressed support for the Practice First pilot in NSW, a restorative justice approach to 'group supervision' (see Box 8.10).¹¹⁰ The Women's Legal Service of NSW (WLSNSW) welcomed the development of approaches such as Practice First 'which seeks to engage and support families, rather than be focused on what our clients have often experienced as surveillance and a punitive response'. However, WLSNSW acknowledged that many clients continued to experience difficulties in their engagement with the department.¹¹¹

107 The report noted a successful pilot of FGCs in Alice Springs in 2012 provided evidence for the 'transformative power of FGCs' in the Northern Territory. See: Additional Information, North Australia Aboriginal Justice Agency (NAAJA), *The Northern Territory – Fertile Ground For Family Group Conferencing In Child Protection Matters*, received 2 April 2015, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Out_of_home_care/Additional_Documents (accessed 10 August 2015).

108 See: ADACAS, *Submission 71*, p. 7.

109 Professor Valerie Braithwaite, Regulatory Institutions Network, Australian National University, *Committee Hansard*, Canberra, 16 April 2015, p. 25.

110 Ms Mary Ivec, Researcher, Regulatory Institutions Network, Australian National University, *Committee Hansard*, Canberra, 16 April 2015, p. 23.

111 WLSNSW, *Submission 86*, pp 6–7.

Box 5.10 – Best practice – Practice First pilot

Ms Maree Walk from the NSW Department of Family and Community Services told the committee the Practice First approach is 'a relationship based way of working with children and families'. The Practice First model encourages 'group supervision' as a way to avoid risk aversion, and 'to enable a child protection worker to not feel that they are carrying the risk on their own'.

A 2014 report by the NSW Ombudsman noted that the Practice First pilot:

has a strong focus on enhancing practice culture through active engagement with very vulnerable and high risk families, based on building respectful relationships and preserving families where appropriate.

The pilot was first trialled in Bathurst and Mudgee in 2012, and was extended to 24 sites in 2013. On 9 July 2014, the then NSW Minister for Family and Community Services announced an expansion of the model to an additional 13 sites. The Minister noted early indicators from the initial 24 sites suggest 'the program is having a positive impact on families, workplace culture and service delivery'.

The NSW Ombudsman noted early results from a formal review of the program are positive, suggesting the program has led to:

- an increase in the number of home visits in trial regions;
- a decrease in the number of 'risk of significant harm' reports for families whose case-plan goals were achieved; and
- widespread support among front-line caseworkers and managers.

*Source: Ms Maree Walk, Deputy Secretary, Programs and Service Design, NSW Department of Family and Community Services, Committee Hansard, 18 February 2015, p. 69; Minister for Family and Community Services, the Hon Gabrielle Upton MP, 'Cutting edge child protection – expanding practice first across NSW', 9 July 2014, <https://members.nsw.liberal.org.au/news/state-news/cutting-edge-child-protection-%E2%80%93-expanding-practice-first-across-nsw> (accessed 1 July 2015); NSW Ombudsman, *Review of the NSW Child Protection System: Are things improving?* April 2014, p. 15.*

Legal assistance

5.103 As noted in Chapter 2, decisions about the placement of children in out-of-home care is determined by the relevant court in each jurisdiction. A number of submitters and witnesses expressed concern about the lack of support for families prior to and during the court process, especially in cases where the parents dispute the grounds for removal.¹¹²

5.104 The committee heard that for parents who attempt to challenge the decision by child protection authorities to remove children, the process can be lengthy and expensive. Mr Adam Fraser told the committee that is had taken four months and

112 See: Macarthur Legal Centre, *Submission 58*; Shoalcoast Community Legal Centre, *Submission 63*; WLSNW, *Submission 86*; Alecomm, *Submission 91*. In particular, submitters noted the lack of legal assistance for Aboriginal and Torres Strait Islander families. This will be examined in detail in Chapter 8. See: Family Violence Prevention and Legal Service Victoria, *Submission 24*; Aboriginal Legal Service of WA, *Submission 25*; National Aboriginal Family Violence Prevention Legal Services Forum, *Submission 29*.

significant legal expenses to have his children reunited, during which time he alleges that his children were neglected in care:

They went through four different foster carers and kinship carers over a period of four months. While in care, my children were neglected. They were sent to school without shoes or a proper lunch. They had staph infections on their arms after injuring themselves while in foster care. They were never seen by a doctor. They were not given any medical assessment for three months.¹¹³

5.105 As discussed in Chapter 3, most families who come into contact with the child protection system do not have the resources to fund expensive legal challenges in court. For these families, there is limited financial support available. Ms Mary Moore, convenor of the Alliance for Family Preservation and Restoration (AFPR), told the committee, that most child protection cases do not qualify for legal assistance:

[W]ith the legal aid solicitors, you have a situation where the vast majority say they are underfunded. I have been told by some solicitors: 'Look, I only get \$400 to defend your matter, so don't call me. Don't email me. We haven't got time to do an affidavit.' Realistically, what solicitor is going to do much for you for \$400? In addition to that, because there is no money in defending parents, and also it is extremely hard to find, in the years that I have been involved in support, I can count on my hand, probably, the number of solicitors that have actually gone out and fought for parents. In the vast majority of cases, they pressure parents into consenting to the orders of the department on the basis that it is the department and you just cannot win. Unfortunately, that is the way the system is.¹¹⁴

5.106 In addition, families experiencing the trauma of child removal are often not equipped, either financially or practically, to find adequate legal representation. Ms Crossley from Fin WA told the committee:

The moment we have our kids taken away, we lose all of our parenting allowances from Centrelink, we are in a state of shock, despair and grief, we cannot function properly at work and our income goes down to very minimal. And you expect us to find representation at a court hearing in a process that we are not familiar with? And you expect equitable outcomes when we are not resourced to get legal representation at such hearings?¹¹⁵

5.107 For disadvantaged families in particular, the court process can be particularly daunting. Ms Crossley told the committee that:

...because it is about court orders, you are an adversary to the department. You are opposing factions. They do not want to make friends with you; they just want you to sign a consent order for wardship until 18 and be done

113 Mr Adam Fraser, *Committee Hansard*, Hobart, 12 March 2015, p. 13.

114 Ms Mary Moore, Convenor, Alliance for Family Preservation and Restoration, *Committee Hansard*, Brisbane, 17 April 2015, p. 35.

115 Ms Karen Crossley, Parent Representative, Fin WA, *Committee Hansard*, Perth, 16 February 2015, p. 32.

with it. They do not want to engage with you, apart from getting your consent to get out of a trial. The affidavits that they come up with are sometimes 500 pages long. They get access to reports and information that we have never seen in our lives half the time. It can be hugely distressing to the families to read through all this stuff and not be familiar with the court processes and to have to behave in a sane, coherent manner while trying to deal with magistrates, the departmental workers and with family and friends. What do you say to friends when your kids have been taken away?¹¹⁶

5.108 A number of support organisations, such as FINA, Alecomm and AFPR provide ad hoc legal advice to parents on a voluntary basis. Ms Moore gave the example of a case where AFPR provided assistance, which resulted in reunification:

...a couple of months ago we had a situation where four Indigenous children were removed on a Friday night by police. It was extremely traumatic, as is a common occurrence. In this case the parents actually had not harmed their children; it was a possible future risk of harm not from the parents but someone who lived nearby. They qualified for legal aid and the day before they were to attend court, legal aid was dropped. They contacted me, and I then worked on their case. I subpoenaed all the evidence; I wrote their affidavits; I attended all the department meetings and attended court with them. I cannot speak for the parents. I am not a solicitor and that is problematic in itself: when you have no legal aid, you cannot even get an advocate to speak for you. In that case we were successful in having those four children returned. That case did have merit. You have someone in a legal aid office who is judge, jury and decision maker on whether a case has merit or not, whether you have a chance of winning. That case was an example of getting the children home, because I assisted the family in doing that.¹¹⁷

5.109 Submitters noted that where legal assistance may be available, it is often not provided to families until proceedings have commenced in court. It was suggested that legal advice which is provided as early as possible has the potential to assist families in settling matters before they proceed to court, and where they do proceed, increase the likelihood of parents continuing care of their children.¹¹⁸ Ms McLaine from the Shoalcoast Community Legal Centre expressed support for early legal assistance:

...if parents were provided with legal advice when Community Services is coming to see them and working with them about their options, their rights and how serious their situation is, it might make a difference. I feel there tends to be a lack of awareness in the families that this is a legal issue—that

116 Ms Karen Crossley, Parent Representative, Fin WA, *Committee Hansard*, Perth, 16 February 2015, p. 31.

117 Ms Mary Moore, Convenor, Alliance for Family Preservation and Restoration, *Committee Hansard*, Brisbane, 17 April 2015, pp 35–36.

118 See: Macarthur Legal Centre, *Submission 58*; Shoalcoast Community Legal Centre, *Submission 63*.

there is a legal framework—or about the likelihood of their children being removed in court proceedings starting.¹¹⁹

5.110 Without legal assistance or other financial supports, children may be removed and placed in care more often than may be necessary. One submission alleged that the financial status of a person may affect the outcome of a placement decision:

I've had workers tell me that if I had the money that my son would be home. It's so very sad to all involved that my son, myself, his brothers and all family members are suffering due to a lack of finance. A child is not a piece of property to own and control. I would like my son home.¹²⁰

5.111 The committee heard that families that oppose child protection authorities are not often successful. Dr Frank Ainsworth and Dr Patricia Hansen provided the committee with a 2012 study into the characteristics and outcomes of 117 completed applications for variation of care orders in NSW (known as section 90 applications) in 2006-07.¹²¹ The study found that 'there is a significant association between DoCS [Department of Community Services] being the applicant and the outcome being orders in favour of DoCS', whereas parents were less likely to have their applications approved.¹²²

5.112 A number of submitters supported providing legal assistance to parents prior to and during court proceedings.¹²³ Ms McLaine from the Shoalcoast Community Legal Centre suggested that in those cases where the best interests of the child could be met through remaining at home:

...if parents were provided with legal advice when Community Services is coming to see them and working with them about their options, their rights and how serious their situation is, it might make a difference. I feel there tends to be a lack of awareness in the families that this is a legal issue—that there is a legal framework—or about the likelihood of their children being removed in court proceedings starting.¹²⁴

119 Ms Meredith McLaine, Solicitor, Shoalcoast Community Legal Centre, *Committee Hansard*, 18 February 2015, p. 8.

120 Ms Susan Coleman, *Additional submission 4*, p. 19, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Out_of_home_care/Additional_Submissions (accessed 10 August 2015).

121 Under section 90 of the NSW *Children and Young Persons (Care and Protection) Act 1998*, parents seeking restoration of their children placed in out-of-home care on a care order can apply to the Children's Court change the care order. See: Ainsworth & Hansen, *Additional Documents*, 19 February 2015; Patricia Hansen, 'Rescission or Variation of Children's Court Orders: A Study of Section 90 Applications in New South Wales', *Children Australia*, vol. 37, no. 2, 2012, p. 69.

122 Hansen, 'Rescission or Variation of Children's Court Orders', p. 71.

123 See: Shoalcoast Community Legal Centre, *Submission 63*, p. 2.

124 Ms Meredith McLaine, Solicitor, Shoalcoast Community Legal Centre, *Committee Hansard*, 18 February 2015, p. 8.

Building relationships with children and carers

Contact services

5.113 As noted in Chapter 4, the National Standards recognise the significance of maintaining links between children in care and their families, particularly for children from Aboriginal and Torres Strait Islander communities. This will be examined in more detail in Chapter 8.

5.114 'Contact' refers to meetings arranged between families and children while in care. These can involve carers and/or supervision by child protection workers where required. The committee heard that these visits could be difficult and traumatic for both children and parents, particularly around family celebrations:

When you lose your kids, the whole scenario of family celebration goes out the window. If you do not have a supportive caseworker and you do not get to the stage of unsupervised access, you never get to see your kids on their birthdays or at Christmas because of the lack of resources and supervisors. Can you imagine the trauma for a kid not being able to celebrate their birthday with their family? Yet some caseworkers, who will not be named, reckon that it is in the best interests of kids for them to be with their foster carers instead of their birth families on their birthdays.¹²⁵

5.115 Submitters suggested that positive relationships established between parents and carers could contribute to positive outcomes for the child:

One of the myths that I think social workers believe is that the stability of a foster placement depends solely on the foster carer and how we resource the foster carer. In my view, the stability of the placement is also influenced strongly by whether that foster carer speaks respectfully about the birth family of the child and whether or not they realise and recognise the importance of maintaining and encouraging respectful contact and communication channels between the birth family and the foster carer.¹²⁶

5.116 Ms Crossley argued for greater support for parents during contact visits with their children, in order to develop a stronger relationship:

Either we threw more resources into paying for supervisors or we throw more resources at foster carers for fostering a family so that the family and the foster carer do not need supervision at times of access. Special days are very, very difficult for people who do not have their kids living with them.¹²⁷

125 Ms Karen Crossley, Parent Representative, Fin WA, *Committee Hansard*, Perth, 16 February 2015, p. 35.

126 Ms Karen Crossley, Parent Representative, Fin WA, *Committee Hansard*, Perth, 16 February 2015, p. 31.

127 Ms Karen Crossley, Parent Representative, Fin WA, *Committee Hansard*, Perth, 16 February 2015, p. 35.

5.117 UnitingCare Connections submitted a model for therapeutic contact support in Victoria that, in their view, may provide advice to other jurisdictions about how to better support parents and children during contact visits (see Box 5.11).¹²⁸

Box 5.11 – Best practice – Enhanced Therapeutic Contact Service

In June 2013, Connections UnitingCare implemented the Enhanced Therapeutic Contact Service (ETCS) to deliver therapeutic contact and transportation services to children in out-of-home care and their families in select locations in Victoria.

The program differs from traditional models of ‘supervision’ and ‘monitoring’ based contact, where contact is observed with minimal support. Instead ETCS dynamically transforms the contact environment into a physically and psychologically safe, child-centred environment for children, young people and families to connect using a coaching and empowerment based therapeutic approach. ETCS is staffed by a qualified and trained team of allied health professionals and support staff. Contacts and contact environments are tailored around the individual needs of children and families. The program is designed to complement other specialist services servicing the child, young person and family including home based care, Child Protection, reunification and other therapeutic services.

Connections Uniting Care reports the program has had a positive impact on children’s social, emotional and psychological development, the quality of contact has supported reunification of children to home care (along with input from other specialist supports), has empowered families through goal setting and planning activities, and finally has involved the community to support children, young people and families.

Source: Connections UnitingCare, Submission 10, pp 3–7.

5.118 The committee heard that an important part of improving contact visits for children and parents, is to build positive relationships with the child's carer. Ms Mary Ivec from the Regulatory Institutions Network outlined a number of programs used in the US, which are aimed at parents and carers in the US (see Box 5.12). Ms Ivec told the committee:

All of these could be trialled and evaluated in Australia if child protection authorities were committed to authentic community engagement through participatory and inclusive processes and to share their power. Heavily weighted formal systems of authority which utilise muscular regulatory activity and responses without widespread engagement, commitment and trust are destined for disaster and a never-ending cycle of crises.¹²⁹

128 Connections UnitingCare, *Submission 10*, pp 3 – 7.

129 Ms Mary Ivec, Researcher, Regulatory Institutions Network, Australian National University, *Committee Hansard*, Canberra, 16 April 2015, p. 23.

Box 5.12 – Best practice – Carer and parent contact

Ice-breaker meetings

Ice-breaker meetings are facilitated child focused meetings held shortly after a child is placed in out-of-home care to provide an opportunity for birth parents and foster parents or other caregivers to meet each other and share information about the child's needs. These meetings aim to promote easier adjustments for children and help form relationships of mutual respect between carers and foster parents.

Visit coaching

Visit coaches assist parents to prepare for contact visits and encourage communication to facilitate co-parenting between birth parents and foster parents. US child welfare authorities report that coached visits are more effective than supervised visits because 'coaching and support aims to directly address the issues that brought the child into care, build on family strengths and guide improved parenting' and 'can help families make significant changes within short time frames'.

Birth parent mentors and peers

Birth parent mentors and peers are employed by foster care agencies to help engage parents whose children are entering the foster care system. The US Foster Family-Based Treatment Association has identified parent engagement and support as critical to successful child outcomes and established seven programs that recognise positive connections between birth and foster families.

Source: Ms Mary Ivec, Researcher, Regulatory Institutions Network, Australian National University, Committee Hansard, Canberra, 16 April 2015, p. 23.

Reunification

5.119 Developing stronger relationships with children and carers is significant for families seeking to have children return to their care. A number of submitters noted there was no clearly defined pathway or support for parents seeking to regain parental responsibility for their children. Ms Kime from FISH told the committee that when her children were removed, she was not offered any ongoing assistance or advice to assist her in reunification:

No-one told me what I needed to do to help change my life, to better my children and to be able to parent my children. It was simply down to a parenting program I had to find out from other mothers going through the program, counsellors telling me what to do. I really believe these people removing children need to explain to the parents what they can do to try to better themselves, because until we better ourselves we cannot help our children. That is what the kids need: parents and carers coming together as one, being able to help the whole way around.¹³⁰

5.120 Where there was a pathway, many parents raised concerns about constantly 'shifting goalposts' and 'hoops' they needed to jump through to satisfy the requirements of child protection authorities. Ms Crossley from Fin WA told the committee that these changing requirements have a corrosive effect on parents:

130 Ms Felicity Kime, Committee Member, FISH, *Committee Hansard*, Sydney, 18 February 2015, p. 13.

Parents do not lose hope when the kids still want to keep in touch with them after they have been taken. You dare not lose hope of ever being reunified if your kids let you know that they still love you and they still think you are a central part of their lives. You would move heaven and hell to do whatever you needed to do to get those kids back home. But if you were working within a system that says, 'These are the goalposts we want you to jump through. There's long waiting lists for them all. We understand that, but we expect you to jump through them in two years or less.' And this is when you cannot access mental health counselling because the services are overstretched or you cannot afford it or whatever. And the goalposts keep changing. Every changed goalpost destroys part of your hope as a parent. Caseworkers must not be allowed to change goalposts. They must be taught that, if somebody dares to show a change, and a constructive change, in the family unit, that needs to be taken notice of. Do not stay in the old reports, of assessments saying, 'This person is useless.' Acknowledge what change has been happening and move on from there and move a lot closer to reunification.¹³¹

5.121 In some cases, parents who fulfil all the requirements are still not able to regain custody. Ms Teegan Bain told the committee:

My son has been in care for 2½ years. I filed a section 90 12 months ago, which the department supported until January. A month ago the department withdrew their support because my son's attachment to his carers was quite strong. So now, even though the restoration is meant to be supported where parents make the appropriate change, in my case it is not happening...Once there are 18-year orders they will not look at it again until you file the section 90, rather than people working together. It would [be] good if they could work together when they can see appropriate change, rather than the parent having to go through that section 90, getting legal aid and getting a solicitor to take it on.¹³²

5.122 Child protection authorities told the committee that it can be difficult to judge when children should be returned. Mr Tony Kemp, Deputy Secretary of the Tasmanian Department of Health and Human Services told the committee:

[W]hat I see both here and internationally is this extraordinary dilemma between the reunification of children when it is patently obvious that they should not be going home—we have a shifting environment in the courts, whereby very often applications for long-term orders are turned down and you end up going from multiple one-year orders. Yet we are trying to get children home that should not be going home, and that is a significant problem.¹³³

131 Ms Karen Crossley, Parent Representative, Fin WA, *Committee Hansard*, Perth, 16 February 2015, p. 33.

132 Ms Teegan Bain, Committee Member, FISH, *Committee Hansard*, Sydney, 18 February 2015, p. 12.

133 Mr Tony Kemp, Deputy Secretary, Children and Youth Services, Department of Health and Human Services, Tasmania, *Committee Hansard*, Brisbane, 17 April 2015, p. 68.

5.123 The committee heard that some service providers have developed programs specifically designed to assist parents with reunification, such as UnitingCare's Newpin Restoration Model (see Box 5.13).

Box 5.13 – Best practice – Newpin Restoration Model

Newpin (New Parent and Infant Network) is an intensive child protection and parent education program that works therapeutically with families under stress to break the cycle of destructive family behaviour and enhance parent-child relationships.

Newpin was established in the United Kingdom in response to the needs of new mothers experiencing issues such as isolation, mental illness, family violence, social disadvantage, low self-esteem and for those who were at risk of physically or emotionally harming their child or children.

Following the purchase of the Newpin licence from National Newpin UK, UnitingCare Burnside established Australia's first centre at Bidwill in Sydney's outer western suburbs in April 1998, focusing on the needs of parents or carers with children under five years of age. In addition to the original Bidwill program, Burnside operates a Newpin Fathers program and programs at Doonside and St Marys in Sydney. Other Newpin programs have since opened under licence in Victoria, Western Australia, Tasmania, ACT and South Australia.

The Newpin program specialises in the development of emotional maturity and wellbeing and promotes the skills that parents need to manage practical as well as emotional challenges. The Newpin process refers to the stages of empowerment and support that all parents who enter the program are encouraged to participate in. It reflects the core values of support, empathy, respect, equality and self-determination and the key elements that underpin the Newpin program. UnitingCare notes this process has been developed with the understanding that the individual needs and rate of engagement of each family is respected at all times.

The aim of the Newpin program is that parents attend for up to nine months prior to restoration and then for a further nine months post restoration. The post restoration period in Newpin is critical to facilitating the smooth transition of children from care. In addition parents are assisted as they integrate the knowledge and skills developed at Newpin into their home environment. The pre and post restoration periods involve the same commitment from families including the centre based attendance, home visits and parenting groups.

Source: Additional Information, UnitingCare, Newpin Restoration Model, received 2 March 2015, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Out_of_home_care/Additional_Documents (accessed 14 August 2015). See also: Newpin Australia, <http://www.newpin.org.au/> (accessed 1 July 2015).

5.124 The Salvation Army also runs a 15 week training program in Tasmania:

where parents are provided with the opportunity to explore their own past and the issues that have emerged in their current situation, where their children have been taken from their care.¹³⁴

5.125 The Salvation Army notes that this program is based on the Empowering Parents, Empowering Communities (EPEC) mode of parental support used in the United Kingdom (see Box 5.14). Mr Leith Cowley from the Salvation Army noted participation in the program had assisted parents in reuniting with their children:

134 Mr Leith Cowley, Manager, Children and Family Stream, Salvation Army Tasmania Division, *Committee Hansard*, Hobart, 12 March 2015, p. 12.

While I cannot give you figures for success rates, we are aware of many families that have participated and have been able to regain access to their children over a period of time.¹³⁵

Box 5.14 – Best Practice – Empowering Parents, Empowering Communities (UK)

Empowering Parents, Empowering Communities (EPEC) is a peer-to-peer programme that trains parents to deliver the ‘Being a Parent’ (BAP) course in their communities.

The BAP course aims to help parents develop positive communication and parenting skills, emotional literacy, and to encourage parents to be mindful of how their words and actions can impact on children’s wellbeing. The BAP program is aimed at parents or carers of children aged between 2 and 12 years old from disadvantaged backgrounds.

The EPEC program was developed in the United Kingdom by the Centre for Parent Child Support. A pilot of the EPEC was trialled in Tasmania by the Murdoch Children's Research Institute in 2012.

A 2013 evaluation of the EPEC model in Tasmania found the program improved 'confidence and self-esteem' for parent facilitators and recommended expanding the program across the state.

Source: Australian Institute of Family Studies, Child Family Community Australia, Communities for Children Facilitating Partners Evidence-based programme profiles, 'Empowering Parents, Empowering Communities', <https://apps.aifs.gov.au/cfca/guidebook/programs/empowering-parents-empowering-communities-epec> (accessed 16 July 2015).

Committee view

5.126 The committee recognises the importance of providing a range of family support services across a continuum of needs to assist children to remain with their families, where it is safe for children to do so.

5.127 The committee strongly asserts that the safety and wellbeing of children must be the primary consideration for child protection authorities, and any support for families must not come at the expense of children's safety. The committee recognises that in some cases, placement in out-of-home care and removal from their family may be appropriate to protect children from abuse and neglect.

5.128 The committee acknowledges that parents with children in out-of-home care often feel overlooked and ignored by child protection authorities. The committee acknowledges there is a power imbalance between families and child protection authorities and that families feel powerless in dealing with these authorities. The committee supports the introduction of services and advocacy groups that aim to build relationships between parents and child protection authorities to improve outcomes for children and young people. The committee also supports greater integration of families into the decision making processes about their children, and greater independent oversight of decisions affecting children and young people.

5.129 In particular, the committee recognises the lack of practical support and legal assistance available to families seeking to maintain parental responsibility for their

135 Mr Leith Cowley, Manager, Children and Family Stream, Salvation Army Tasmania Division, *Committee Hansard*, Hobart, 12 March 2015, p. 12.

children. The committee is concerned that families are unable to access legal assistance when challenging decisions by child protection authorities.

