



## Kinship care in Australia

Submission from ACWA *Kinship Care: Making it a National Issue* project

### Introduction

The United Nations defines kinship care as ‘family-based care within the child’s extended family or with close friends of the family known to the child, whether formal or informal in nature’ (United Nations, 2010, p.6). Kinship care is now recognised in many countries as offering children more stable care in which they can more easily retain their important family and community connections and experience a greater sense of normality than in other forms of alternative care. It accords with CROC Article 20 which provides that alternative care options should pay due regard to the desirability of continuity in child’s upbringing and culture. Legislation in all Australian States and Territories now mandates kinship care as the alternative care placement of preference for children who cannot live at home due to neglect or abuse.

*I never thought it was a form of care ... I just thought that it was going to stay with Nanna or Grandad for this long time and that’s it. It didn’t seem weird or strange to me anyway ... I think maybe one thing to do with that was because my Mum and Nanna had a good relationship (David, 21, quoted in Kiraly & Humphreys, 2011).*

The Commonwealth of Australia is responsible for the support families in need on a means-tested basis. The State and Territories are responsible for the policy and support in relation to children in statutory kinship care. In addition, the *National Framework for Protecting Australia’s Children 2009-2020* has aimed to provide some national overarching direction for policy and practice across the Commonwealth and at State and Territory levels.

This submission addresses issues for children in informal and statutory (formal) kinship care in Australia. Feedback is provided in relation to the **UN Committee on the Rights of the Child Concluding Observations 28 August 2012**. Observations are quoted in Italics at the beginning of each section.

### 1. Children in statutory kinship care

#### *Children deprived of their family environment*

*51. The Committee is deeply concerned at the significant increase, of approximately 51 per cent between 2005 and 2010, in the number of children placed in out-of-home care and the absence of national data documenting the criteria and decision leading to the placement of a child in care.*

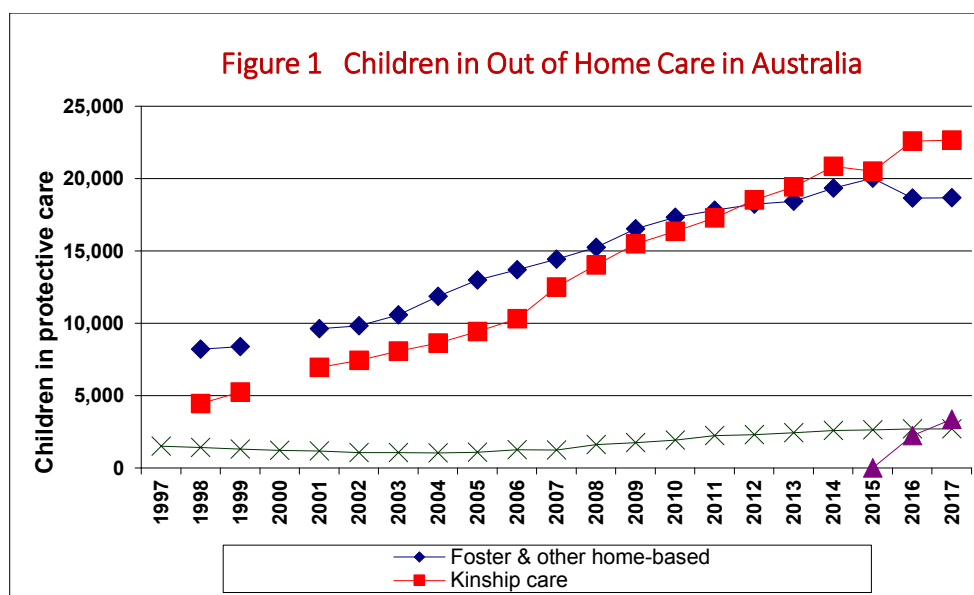
The number of children placed in out of home care in Australia has continued to rise since 2010.

The use of kinship care as a means of child protection has increased year on year since records were modified to identify this trend. Figure 1 presents data collected in the annual Child Protection Reports published by the Australian Institute of Health and Welfare (e.g. AIHW, 2018). The main

drivers of the growth of kinship care placements in Australia, as in the United States, are understood to be three-fold (AIHW, 2018; McFadden, 1998):

- A rise in the rate of children subject to child protection intervention
- A shortage of alternative care arrangements such as foster care and residential care.
- A growing awareness of the importance of maintaining children’s significant family relationships.

Australia’s relatively early closure of children’s institutions, the subsequent move to drastically reduce the usage of small group residential care and the increasing difficulty in recruiting foster carers has led to a heavy dependence on statutory kinship care, a usage rate among the highest in the world (Kiraly, 2016).



The Committee is also seriously concerned that there are widespread reports of inadequacies and abuse occurring in the State party’s system of out-of-home care, including:

(a) Inappropriate placements of children;

The Australian Institute of Health and Welfare (AIHW) (2018) defines kinship care in the following way:

*Relative/kinship care: A form of out-of-home care where the caregiver is:*

- a relative (other than parents)
- considered to be family or a close friend
- a member of the child or young person’s community (in accordance with their culture).

The last point of this definition has generated some drift in interpretation of who may be designated to be a kinship carer. Instances have come to light through recent research (Kiraly, 2018) where community members with little pre-existing relationship with specific children are approved as their kinship carers.

Resources have not been fully redeployed from the closure of residential services to the operational costs of kinship care programs. As a result, formal reporting processes to child protection programs and the State and Territory Children’s Commissioners have identified numbers of inappropriate

kinship placements of children. It appears likely that if more comprehensive monitoring of kinship care placements were achieved, more such inappropriate placements may come to light.

*(b) Inadequate screening, training, support and assessment of care givers;*

*I think because someone said 'We'll take on four', they just jumped at it straightaway. I can't believe how easily we got them (Stephanie, with her husband caring for four children of a family friend in addition to her own three).*

*I never did [have an assessment]. I actually had to ring the department to get them to come out. The family support worker brought the kids to me on that Friday. Then nothing happened ... so I actually rang the department and said, 'What's happening?' (Elizabeth, family day carer and kinship carer of four children all with disabilities with whom she had no pre-existing relationship apart from a short period of day care).*

*(Quotes taken from Kiraly, 2018)*

Protocols for the assessment of kinship carers are at an early stage across Australia. New South Wales has recently led in this area with an adaptation of the standard *Step by Step* foster care assessment package for kinship carers, and an assessment tool for Aboriginal carers developed by the Aboriginal organisation *Winangay*.

Kinship carer assessments are frequently compromised by being made after the placement of children has taken place rather than before. This has led to a confirmatory bias, and a lower standard for approval in order to minimise placement disruptions and the need to find alternative care. In Victoria, assessments are frequently delayed due to child protection resource limitations. In 2018 Victoria allocated some new funds to allow comprehensive assessments to be completed by non-government organisations (NGOs) for a minority of children. However the timing of these assessments post-placement, and the limited alternative care options available, continue to militate against the achievement of impartial assessments.

As indicated elsewhere, large numbers of kinship carers do not have an active support worker available as required. Training programs are commencing in some jurisdictions, but attendance is voluntary, and they have as yet not provided universal coverage of kinship carers.

*(c) Shortage of care options; poorly supported home-based carers and mental health issues exacerbated by (or caused in) care;*

The shortage of care options has been mentioned above. The demand for emergency care has outstripped the supply of approved and assessed emergency care options such as foster care and residential care such that kinship care is increasingly relied upon for emergency care, usually approved at the outset with only a brief 'safety check' followed by a post-placement assessment some time later.

Informal kinship carers receive no support apart from what they can obtain themselves from universal services or fee-for-service providers of mainstream services. A minority of statutory kinship carers receive active support from child protection or an NGO kinship care support service. The States and Territories have funded varying degrees of NGO kinship care service provision, but as yet such services provide only for a small minority of children in statutory kinship care across the country.

While many instances of safe and nurturing kinship care are observed by NGO caseworkers, they also report unsuitable, unsupported and unstable kinship placements (Kiraly, 2018). Such care

continues to threaten the mental health of children who have experienced abuse and trauma. The provision of safe and nurturing kinship care arrangements is thus effectively ‘hit and miss’.

*(d) Poorer outcomes for young people in care than for the general population in terms of health, education, well-being and development;*

It is apparent that the lack of resourcing for children in kinship care in Australia affects their life chances. However there is as yet no research addressing outcomes for children in kinship care as compared with children in foster care or the general Australian population.

*(e) Abuse and neglect of children in care;*

As yet Australia does not have consolidated data regarding reports of abuse and neglect in care. The Children’s Commissioners in the States and Territories are seeking to collect and collate such reports as are provided to them.

With little monitoring of children in statutory kinship care, the true prevalence of abuse and neglect of such children is unclear. Poor assessment and support suggest that more incidents of abuse and neglect in kinship care will come to light over time, as has occurred in the UK in recent years.

In response to concerns about quality of kinship care, the West Australian Children’s Commissioner prepared a scoping brief for an Own Motion Inquiry into kinship care in 2017. However the needed resources were not made available, and plans for this Inquiry are currently on hold.

The Children’s Commissioner in Victoria is commencing an Inquiry into out of home care in 2018 with a major focus on kinship care and its nexus with other forms of out of home care.

*(f) Inadequate preparation provided to children leaving care when they turn 18;*

‘Leaving care’ programs have commenced in some jurisdictions, but remain limited in scope. The Home Stretch campaign in Australia aims to extend support for care leavers to age 21. Tasmania is the first state to have committed to this approach in 2018, including dedicated housing assistance. Other States and Territories are yet to follow.

*(g) Aboriginal and Torres Strait Islander children who are often placed outside their communities, and in that context, the need for more Aboriginal care providers.*

The care rate for Indigenous children is 10.2 times higher than for non-Indigenous children (AIHW, 2018). Given the Aboriginal Child Placement Principle (ACCP) that prioritises care within the child’s family and care with Aboriginal carers, it is important to know how many Aboriginal children designated as being in kinship care may actually be in non-Indigenous, non-familial care. However as detailed below (see Data section), Australia does not yet have reliable data about the relationship between children in statutory kinship care in Australia and their kinship carers. AIHW Child Protection reports have commenced reporting this data for several States and one Territory, however as yet much of the data is still missing. Thus the percentage of children in the care of family members is as yet unknown, as is the percentage of children in the care of people designated as non-relative kinship carers. The extent to which Aboriginal children are actually being kept in contact with their family and culture through kinship care, as required under the ACCP, is thus also unknown.

## 2. Support for vulnerable children

*52. The Committee urges the State party to take all necessary efforts to examine the root causes of the extent of child abuse and neglect as well as to provide general data on the reasons that children are being placed in care with a view to addressing them in order to reduce the number of such children. It further reiterates its previous recommendations to the State party that **it take measures***

***to strengthen the current programmes of family support, inter alia, by targeting the most vulnerable families, in order to reduce the number of children placed in out-of-home care and, preferring family-based care if needed.*** Furthermore, the Committee calls upon the State party to provide all the necessary human, technical and financial resources required for improving the situation of children in alternative care placements and to:

*(a) Periodically review placements as required under article 25 of the Convention and in doing so to pay particular attention to signs of maltreatment of children;*

*Children in informal kinship care*

Unlike in the UK, there is no requirement to register informal care arrangements within an extended family or friendship network, even if extended in nature, and therefore there is no mechanism for oversight of such care arrangements. The only means available to evaluate the wellbeing of children in informal kinship care would be to report the number of such children who subsequently come to the attention of child protection services due to abuse or neglect in care. To date no such reports have been published.

*Children in statutory kinship care*

There are concerns about the capacity of the child protection services to achieve timely reviews of all kinship care placements in Victoria. In 2018 Victoria allocated additional resources promote a better response, however these resources still fall well short of ensuring an active caseworker for every child in kinship care. Thus it is difficult to be confident that Victoria can achieve full implementation of periodic reviews in the foreseeable future.

*(b) Develop criteria for the selection, training and support of childcare workers and out-of-home carers and ensure their regular evaluation;*

Please see comments under 1 (b).

*(c) Increase the number of social workers to ensure that the individual needs of each child can be effectively addressed;*

As mentioned above, Australian jurisdictions have yet to provide an active case worker for every child in kinship care such that the individual needs of each child can be effectively addressed.

*(d) Ensure equal access to health care and education for children in care;*

In addition to the lack of caseworkers, funding to assist carers with children's additional needs is frequently made available on a 'brokerage' basis. Such funding pools are limited and there is no guarantee that they will be ongoing from year to year.

*(e) Establish accessible and effective child-friendly mechanisms for reporting cases of neglect and abuse and commensurate sanctions for perpetrators;*

As mentioned above, many children in kinship care in Victoria still do not have allocated caseworkers. Cases of neglect and abuse in care may thus go unnoticed and unreported.

*(f) Adequately prepare and support young people prior to their leaving care by providing for their early involvement in the planning of transition as well as by making assistance available to them following their departure;*

See comments under 1 (f).

*(g) Observe the Committee's previous recommendations to fully implement the Indigenous Child Placement Principle and intensify its cooperation with indigenous community leaders and*

*communities to find suitable solutions for indigenous children in need of alternative care within indigenous families.*

The Child Placement Principle has been implemented in part. However, see issues raised under 1 (g) and on the last page of this submission under the heading **Data** regarding data that suggests the figures regarding the state of implementation may not be as clear as they would appear.

### 3. Financial resourcing for children in kinship care

#### *Allocation of resources*

*19. Bearing in mind that the State party is one of the most affluent economies of the world and that it invests sizeable amounts of resources in child-related programmes, the Committee notes that the State party does not use a child-specific approach for budget planning and allocation in the national and state/territories level budgets, thus making it practically impossible to identify, monitor, report and evaluate the impact of investments in children and the overall application of the Convention in budgetary terms.*

*20. In light of the Committee's recommendations during its day of general discussion in 2007 on "Resources for the Rights of the Child - Responsibility of States" and with emphasis on articles 2, 3, 4 and 6 of the Convention, the Committee CRC/C/AUS/CO/4 recommends that the State party **establish a budgeting process which adequately takes into account child needs at the national, state and territory levels, with clear allocations to children in the relevant sectors and agencies, as well as specific indicators and a tracking system.** In addition, the Committee recommends that the State party **establish mechanisms to monitor and evaluate the efficacy, adequacy and equitability of the distribution of resources allocated to the implementation of the Convention.** Furthermore, the Committee recommends that the State party **define strategic budgetary lines for children in disadvantaged or vulnerable situations that may require affirmative social measures (for example, children of Aboriginal and/or Torres Strait Island descent and children with disabilities)** and make sure that those budgetary lines are protected even in situations of economic crisis, natural disasters or other emergencies.*

Financial support remains a key issue for children in kinship care in Australia at both Commonwealth and State/Territory level. As mentioned above, resources freed from earlier residential care programs have not been fully redeployed to the operations of kinship care programs. There remains a belief among policymakers that kinship care is cheaper to provide than foster care evidence for this idea is lacking, however it is reflected in the fact that funding for kinship care programs is provided at a lower unit cost than for foster care in every Australian jurisdiction.

Aboriginal and/or Torres Strait Island children in kinship care are especially disadvantaged as their carers often have lower incomes than non-indigenous kinship carers and typically care for greater numbers of children as well as, frequently, vulnerable adult family members. Affirmative financial measures for this group remain limited at both Commonwealth and State/Territory level.

#### *The Commonwealth*

Grandparent and other kinship carers are little recognised by the Commonwealth and there are few services and benefits available. There is a small Grandparent Advisor program (eight Advisors for the whole country) whose availability for other kinship carers is unclear and patchy at best. This service is overwhelmed by the demand on their time. Kinship carers other than grandparents are not entitled to access to means-tested free child care as are grandparent carers.

Grandparent and other kinship carers are not included in the Commonwealth definition of a carer; currently this definition only includes those caring for a family member with a disability. As a result they do not have access to services and benefits available to other carers, such as respite care.

#### *The States and Territories*

Financial support to children in statutory kinship care falls well short of that provided to foster carers. Levels of support also vary from State to State. Victoria currently has the lowest level of carer allowance to both foster carers and kinship carers, with children in kinship care normally allocated to only the lowest of the tiers of carer reimbursement available. In Victoria, many carers of children with disabilities receive only this lowest level of carer reimbursement for costs. (Kiraly, 2018).

In 2017 the Victorian Ombudsman conducted an Own Motion Investigation into the financial support of children in statutory kinship care as a result of a large number of complaints made to the Ombudsman's Office. This Inquiry identified significant breaches of the Department's guidelines for financial support of children in kinship care. Following this Investigation, some attempts are being made to rectify allowances on a case by case basis. However the decision-making process for decisions about level of carer reimbursement remains at variance with the decision-making process for children in foster care, and is complex and cumbersome.

## 4. Data

*21. The Committee welcomed the ongoing work of the Australia Bureau of Statistics to improve its collection of data relevant to the implementation of the Convention...and noted as positive the State party's data collection initiatives such as the Australian Early Development Index, and the collation of nationally comparable data on government-funded services for persons with disabilities. However, the Committee remained concerned that these data are not disaggregated nor analysed regarding important areas of the Convention and are sparse or not available, such as on ethnicity, refugee, migrant and internally displaced children, child abuse and neglect and children who are victims of sexual exploitation.*

*22. The Committee reiterated its previous recommendation (CRC/C/15/Add.268, para. 20) that the State party strengthen its existing mechanisms of data collection in order to ensure that data are collected on all areas of the Convention in a way that allows for disaggregation, inter alia by children in situations that require special protection. In that light, the Committee specifically recommends that the data cover all children below the age of 18 years and pay particular attention to ethnicity, sex, disability, socio-economic status and geographic location.*

While data is as yet imprecise, it is estimated that there are at least three times as many children living in informal kinship care as in formal or statutory kinship care (Smyth & Eardley, 2007). This estimate suggests that there are at least 90,000 children in kinship care in Australia. However in the US and UK estimates place the proportion of children in informal kinship care as much higher. This may also prove true in Australia once better data is available.

Two particular concerns about the lack of data regarding children in kinship care in Australia are apparent. (Kiraly, 2018):

### 1. Limitations of census data for determining the number of children in kinship care in Australia

The number of children in kinship care can currently only be estimated by the use of proxy measures with significant limitations.



- a. The census does not include a question about which adult or adults have primary care for the children of the household.
- b. Relationships between children in a household and the Household Reference Person are collected, but are not available for public use due to the algorithm in place to process this data.
- c. The category of 'children' is outdated, including only persons age 0-14 years. Persons age 15-17 are included in the adult category. This makes it difficult to determine the number of legal minors (persons age 0-17 years) and their demographics.

## 2. Limitations in national Child Protection data regarding children in kinship care

The quality of the relationship between children and their kinship carers is seen as central to children's wellbeing (Gilligan, 2006). In the words of two young men:

*It was a family that I'd never seen before. Fully functional working family and that's what I loved, and I told Nina about my problems, about DHS and all that stuff, and she said she'll (sic) foster me ... Having security, having someone ... who is like a mother figure or just someone to listen, emotionally (Tas).*

*Well it's different being here because I've known them my whole life. But last year I was living with my best friend. I lived there for two to three months and I noticed there was no relationship between me and the parents. So it was just really hard (Kyle).*

*(Quotes taken from Kiraly, 2018)*

As mentioned under 2 (g), reliable data about the relationship between children in statutory kinship care in Australia and their kinship carers is not yet available. AIHW commenced reporting this data in the annual Child Protection reports 2017, however much of the data remains missing. Therefore we do not know what percentage of kinship children are in the care of grandparents as widely believed, and what percentage are in the care of other family members such as older siblings, aunts and uncles etc. Of most concern is that we do not know what percentage of children categorised as in kinship care are with non-family carers (Kiraly, 2018).

Accurate information about the carer-child relationship is important in relation to all children in statutory kinship care. However it is particularly important in relation to Aboriginal children who are vastly over-represented in out of home care. Given the Aboriginal Child Placement Principle that prioritises care within the child's family, and care with Aboriginal carers, it is important to know how many Aboriginal children designated as being in kinship care may actually be in non-indigenous, non-familial care.

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