

A child protection reform checklist

In the months following the release of [Commissioner Margaret Nyland's report](#) in August 2016, the team at the Guardian's Office identified 14 themes from her report that most affected children in need of protection, with a set of actions or outcomes for each. This is an edited compilation of a series of posts about those themes that appeared on the Guardian's website between September and November, 2016.

We will use this analysis to critique the protection system's response, assess improvements over time and to shape our own work in support of the reform process.

Though it reflects our own areas of interest and priorities, this analysis is general enough to make it of interest to our colleagues and community members. Many have a deep interest in reform and a part to play but lack the time to study all of Commissioner Nyland's 850 pages and 260 recommendations in detail.

Please use this for your own purposes, to discuss as appropriate or enhance as you will. We would be interested to hear what you are doing.



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Coordination and Collaboration

Children are affected by very many services on their journey into and through care. The ease of their passage is largely determined by how well those services work together.

In *her report* Commissioner Nyland states:

The new agency cannot operate in isolation. It should coordinate and collaborate with all other relevant departments and organisations, both government and non-government, to give children better outcomes. It must also be proactive and engage the community to play its part in developing programs and systems...

Services are often fragmented and poorly coordinated, leaving areas of duplication and service gaps ... People find it difficult to navigate the system to access the services they need.

Although guidelines exist for the sharing of information between agencies to protect children, the Commissioner describes major cultural barriers and legislative barriers to its use. She favours the NSW model in which prescribed agencies are *required* by legislation to share.

Information sharing between agencies is often poor and there is a siloed approach to service delivery, as opposed to a coordinated, multi-agency response, which may often be required.

This is also apparent in the investigation of care concerns, where children have been poorly served by a failure of clarity, rigor and consistency among the agencies designated to address them.

She observes that effective collaboration between levels of the former Families SA hierarchy has been undermined by removing decision-making from the professional staff who work directly with children to an unconnected management stream with a focus on budgetary matters.

She notes the progressive weakening of Rapid Response.

... gains made in service accessibility for children in care through the government's Rapid Response plan have not been sustained. The plan should be renewed and reinvigorated.

The Report notes that effective collaboration between professional staff and foster carers is lacking in a significant number of instances. The Commissioner gives credence to examples where 'carers were treated poorly and the value of their contribution was minimised.'

She notes:

Foster parents consistently complained about receiving insufficient information to help them manage the needs of the children.

[carers live] in fear that the Agency will remove the child from them at any time.

With reference to challenges facing the system the Commissioner observes that:

...change will only be effective if it is sustained and helps develop a culture of openness, where concerns are routinely discussed and addressed, and the issue of the ongoing risk to children is kept high on the agenda.

- Heads of relevant departments being required to meet at least quarterly** and putting in place protocols to ensure interdepartmental coordination and cooperation and key performance indicators against which their performance in this area can be measured.
- Revitalisation of Rapid Response** including 'establishing an inter-departmental committee to oversee Rapid Response and review its operation at least biannually'.
- Legislative change to **remove barriers to sharing of information between agencies** and 'an amendment to the Children's Protection Act [that] could impose a duty on the prescribed bodies to coordinate decision making and delivery of services for children.
- The child protection agency leading **state-wide workforce planning** in collaboration with NGOs and the tertiary sector.
- The establishment of **new bodies to manage care concerns** including rigorous guidelines for the allocation of responsibilities between agencies.
- Within the child protection hierarchy, **devolution of decisions about the resourcing of care to field staff** and away from senior management.
- Concrete and sustained efforts to **improve collaborative relationships between foster carers and professional staff** where carers are more informed and consulted and workers and foster carers collaborate more effectively in the interests of children in their care.





The voice of the child

Children are the experts in their own lives and throughout her report Commissioner Nyland has noted the benefits of listening to children and involving them with decisions that affect them.

A useful strategy is to engage children in the case planning process.

The low rate of young people's participation in case planning and annual review planning is concerning, and suggests practice that does not value their contribution in determining the course of their own lives, and understanding their own experiences.

She noted that at annual reviews for the period she considered, less than one in three children was involved and about one in seven attended any part of the process.

For some children, especially those who have not yet developed the skills or confidence to advocate for themselves, a trusted advocate can help.

Caseworkers, where appropriate, should advocate on behalf of children, as is expected of an involved and committed parent. For some young people their caseworker will be the only adult in their life with whom they have a reliable and trusting relationship.

This cannot work when children are not allocated a worker or where the worker's workload makes regular contact difficult.

The report noted that standards and principles about seeking children's views were already in place.

National out-of-home care standards require that children and young people in care participate in decisions that have an impact on their lives, in accordance with their age and developmental stage.

One of the overriding principles identified in the South Australian standards is that children and young people are given 'a voice in decision making and [are] involved in the design and delivery of services'

Involvement is important, not just listening. Adults working with children will need to adapt their communication styles and learn new skills to engage meaningfully.

Taking into account a child's views is not the same as involving them in decision making. For some decisions, including decisions made by the Youth Court, 'involvement' would not be appropriate. However, for some decisions, there is greater scope for involvement of a child, in addition to simply providing their views.

Listening to the voice of children can be a protective factor.

Keeping children safe relies on adults listening to them, understanding what they have to say and prioritising their experiences.

Prioritising the experiences of children, and creating an environment in which children can speak and be heard, can prevent sexual abuse.

As an essential precondition to children having a voice they need to be informed, provided with timely information and given options.

In residential care...

...the voices and perspectives of children living in residential care have not been heard and there are no clear pathways for those children to complain.

- Increased rates of attendance by children**, or accurate presentation of their views, at case planning meetings and annual reviews.
- Evidence in case files that **children's views are solicited, discussed with them and accurately recorded**.
- Legislation passed by Parliament to **require children to be included in decision making about their care** and to give them the right to information about a prospective carer before they enter a placement.
- Restructuring and resourcing of case management to ensure that **each child has an allocated worker** and that the worker is able to meet with them at least monthly.
- Introduction of a **community visitor scheme** to focus on children and young people in residential care and emergency care.
- Roll-out of an **education program to residential and emergency care** to inform residents of their rights.
- Amendments to the Family and Community Services Act 1972 to **require the Chief Executive to hear all issues raised by children who live in residential care or emergency care**.





A quality care environment— emergency care

About 85 percent of children under the guardianship of the Minister are cared for in home-based care arrangements with the remainder mostly in residential care and emergency care.

In emergency care children are housed in temporary accommodation (such as motels, caravan parks and short-term rentals) by rotating shifts of workers with minimal training who are provided mostly by commercial organisations.

Numbers in emergency care have grown to over 200 since the Commissioner considered the matter and it has become the defacto permanent care arrangement for numbers of children and some young children.

These 'emergency' arrangements are intended to be short-term and stop gap until a more suitable placement can be identified. However, children remain in these circumstances for much longer than the term 'emergency' implies.

These arrangements are very unsuitable for children coming into care, do not support their psychological needs and social development and place them at risk of abuse.

The risks of sexual abuse in rotational care have been well known by the Agency for many years.

Commissioner Nyland observed that not only is this style of care unsuitable for most children it is significantly more costly than either home-based or residential care.

She concluded:

Reliance on emergency care by commercial carers should cease in all but genuine emergency circumstances. This will take some time, and require considerable investment in building other care options, including the capacity of the residential care workforce in the Agency.

While this is being done she recommends 'greater scrutiny and supervision' of staff, their pre-registration with the responsible government agency and a tightening up of standards for their selection and appointment.

The risk of children being cared for by commercial care workers on single shifts (that is, working alone) is substantial. Single shifts should cease immediately. Carers employed through a commercial agency should be restricted to shifts with two workers at any one time.

- Plans and a schedule for reducing the numbers of children in emergency care to emergencies only,** aligned with plans to proportionately increase the supply of quality residential and home-based care.*
- The immediate **ending of single person shifts.**
- A review of service agreements with commercial agencies who supply emergency care staff** to tighten up staff selection criteria, prevent staff from working in emergency care for multiple agencies, seek pre-approval prior to placing staff and require agencies to report concerning behaviour.

*Efforts to 'get the numbers down' in the past without growing capacity in other areas have led to children being placed into unsuitable home-based or residential care placements. The experiences of children when moving placements must be central. Movements must be planned, new placements matched to the needs of the child and the child must have the opportunity to view and discuss the placement.





A quality care environment— residential care

About 10 percent of children and young people under the guardianship of the Minister are cared for in residential care.

Commissioner Nyland recommended a ‘wholesale reform of residential care’. She said that it should, ideally, be reserved for the few adolescents for whom home-based care is not suitable and for the short-term assessment of children entering care. She condemned the ‘warehousing’ of children, some as young as nine years, in larger facilities.

Commissioner Nyland recommended facilities housing more than four children should be closed because they created an ‘institutional atmosphere’ in which children did not feel safe and were vulnerable to physical and sexual abuse, including by other residents.

Large units do not provide the homely environment that children need, and the warehousing of a large number of children with complex behaviours under one roof inevitably leads to residents learning new behaviours from each other. It creates an unsafe living environment.

She said that standards of residential care needed to be addressed by the application of more consistent care standards, recruiting of additional staff, better staff training and supervision and the application of a therapeutic model of care. Single person shifts should be abandoned.

She recommended:

a fundamental change in the organisational culture in the residential care directorate...that helps develop a culture of openness where concerns are routinely discussed and addressed...

She observed that ‘records of the use of violence against residents have been systematically ignored’ and recommended that processes should be tightened to improve the reliability of reporting. Children in residential care should have the opportunity to have their version of events recorded. Their right to express their views and concerns should be supported with an education program about their rights.

Commissioner Nyland acknowledged that the ‘home-based care sector is...unlikely to experience sufficient growth in the immediate future to enable residential care to shrink quickly’ so she proposes a raft of reforms to residential care to improve the lives of children within it and increase their safety.

She also recommended that the Guardian for Children and Young People be requested to develop an education program for children and young people in residential care to explain and promote their rights and the establishment of a community visitors’ scheme.

- The **closure of all residential care facilities housing more than four children** except where necessary to keep siblings together.
- The **‘streaming’ of residential care to allow better placement matching**, the provision of appropriate care for residents with high and complex needs and short-term assessment units. *
- No child under ten years being housed in residential care** except where necessary to keep siblings together.
- The **abandonment of single-handed shifts**.
- The **recruiting and training of additional residential care staff**.
- Training of all staff in a therapeutic care model** to provide the theoretical basis for care decisions.
- The **training of all staff in the dynamics of sexual abuse** and how to respond and the formalisation of greater requirements on staff to report suspicious behaviour.
- The *establishment of a monitoring unit* within the new department to review information on the conduct of carers, from care concerns, critical incident reports, supervision records and reports from staff.
- Reforms to **enable young people in residential care to express their ideas, concerns and preferences**. (See page 2, [The voice of the child](#))
- Regular **reporting about systemic issues to the Guardian and Minister**.
- Conversations about the scope and resourcing of a **rights education and community visitors scheme for residential care**.

*Commissioner Nyland also recommended secure therapeutic care facilities where young people in care can be detained to receive therapy. The Guardian believes that this intervention will not produce significant long-term benefit for the young people and that the detention of young people who have committed no offence raises important human rights concerns.





A quality care environment— home-based care

About 85 percent of children under the guardianship of the Minister are currently cared for in home-based care arrangements, divided roughly equally between those cared for by foster carers and those cared for by family or kin.

Developing the number of home-based care placements is a key aim for a reformed child protection system. When children are removed from abusive or neglectful families they need quality, nurturing, consistent environments to help them heal.

Commissioner Nyland found to be credible foster carers' reports about problems which included:

- feeling that they were not valued by Families SA staff
- feeling that their role and contribution was not acknowledged
- the persistent threat of arbitrary removal of children, especially if they raised issues
- insufficient remuneration.

She identified other problems which included:

- carers receiving insufficient information about the history and issues that a child might be facing prior to placement
- a lack of the support, including respite, in time of difficulty in a placement which could, in many cases, prevent placement breakdown.

She also noted that there seemed to be a lack of clarity about the respective roles and responsibilities of carers and Families SA in the parenting of children.

The Commission is satisfied that if recruitment and retention of home-based carers is to improve, a shift in the way they are treated is essential.

Commissioner Nyland noted that the recent growth in home-based care had been mainly in the area of kinship care. She

noted that Families SA favoured placing children with kin but that this had not been matched by the development of an assessment, training and review process for kinship carers and appropriate regulatory arrangements.

The likelihood that kinship carers enter the caring arrangement at greater social disadvantage, with less training, and potentially more complicated family relationships to negotiate, highlights the need to provide a more, rather than less, rigorous assessment and support program.

In many cases, assessment of the suitability of provisional kinship carers had not been conducted within the required three months leaving children vulnerable. She recommended:

...amending the Family and Community Services Act 1972 (SA) to ensure that the registration and monitoring requirements apply to both foster parents and kinship carers for a child who is under the guardianship, or in the custody of, the Minister.

Kinship care regulation should be reformed and the assessment processes for kinship care should be brought into line with foster care.

Commissioner Nyland suggested that the difficulties in recruiting and retaining sufficient numbers of safe and appropriate foster care placements would not be easily resolved. Some possibilities involved developing a model in which potential foster carers could be offered a variety of roles, levels of skill development and remuneration to meet the needs of different children. She was not convinced of the need to move to a full professionalisation of the current voluntary foster care model but advised keeping alert for workable solutions from other jurisdictions.

A thorough review and changes to the way foster carers and the new Department cooperate to provide the best care to children should include:

- legislation to improve **access for foster carers to information** related to caring for the children in their care
- formal clarification and promotion of the **respective roles of foster carers and government social workers**
- formalisation and resourcing of **support, advocacy and complaint services for foster carers**
- a formal expert **panel-based decision making process to consider the termination of long-term home-based care placements**
- enhancement of the initial orientation training for foster carers** to include the effects and suitable responses to developmental trauma and the availability of therapeutic assistance.

An overhaul of the conduct of kinship care should include:

- an urgent program to **assess and register currently unassessed kinship carers**
- alignment of the standards, processes and responsibilities** for the assessment and registration for kinship carers with those applied to foster carers
- the **development of a culturally appropriate tool** that captures the strengths and needs of Aboriginal families and engages potential carers to deliver better quality care.
- a more **rigorous process for the screening of kinship care placements**.





Therapeutic care – everywhere

Commissioner Nyland’s description of the need for a therapeutic approach to child protection rests on three understandings.

1. Most, if not all, children taken into care will be experiencing trauma. It will have been caused, if not by prior abuse and neglect, by the dislocation of their lives caused by the experience of coming into care.
2. Treatment of developmental trauma is not rapid and cannot be delivered by professional intervention alone. Therapy requires consistent long-term work, with consideration of the child’s care environments, home and school, specialist therapy and support from others in the child’s life.
3. Supporting a child affected by trauma, especially one with high and complex needs, requires adults to collaborate closely and share an understanding of what causes behaviours and how to respond appropriately.

In residential care and emergency care, all staff need to be trained in the effects of developmental trauma, how to support a trauma-affected child and how to respond appropriately to challenging behaviour. Commissioner Nyland recommends a ‘streamed’ model of residential care where the specific needs of each child can be met in an appropriate setting.*

Home-based care, which provides the bulk of out-of-home-care, presents some particular issues.

Home-based carers are not experts in trauma. They rely on the professionals to support them by identifying and addressing issues which emerge as the child grows. Two

principal barriers to therapeutic support for placements were identified: one, that foster parents fail to communicate with support workers about the nature and severity of the problems with which they are grappling; and two, that professionals charged with supporting the placement do not refer the foster parents to appropriate support at an early stage.

There also remain serious barriers for children requiring specialist therapeutic services.

... the therapeutic needs of many children in care are still being neglected. While there are some examples of very good service from the Agency, not all children with a demonstrated need are receiving assessment and support.

... [therapeutic] services for children in care are scattered across a number of agencies, each of which apply their own criteria for eligibility.

... greater investment in therapeutic services is needed for children entering and living in care. The assessment of their needs, and the processes for referring them to the appropriate service, should be better coordinated.

* Commissioner Nyland also recommended the establishment of secure therapeutic care facilities where young people in care could be detained for a period of time during which they would receive therapy. Although the Commissioner sets out a number of safeguards and conditions, the Guardian believes that this model will not produce significant long-term benefit for the young people so detained and that the detention of young people who have committed no offence raises important human rights concerns.

- The **application of a therapeutic framework across all residential care environments** giving a theoretical basis for care decisions.
- Training, ongoing professional development and support for residential care workers** in working with children affected by developmental trauma.
- The initial and ongoing **training for all foster carers to include the effects of and suitable responses to developmental trauma** and the availability of therapeutic assistance.
- Improved systems for the **timely assessment and provision of therapeutic services** to children who need them, especially in rural and remote areas.
- The **provision of therapeutic support to home-based placements** that are identified as being at risk of breakdown.
- The inclusion of **Strategies for Managing Abuse Related Trauma (SMART) training in the professional development** of all educators who work with children in care.





Aboriginal and Torres Strait Islander children

Aboriginal children* are disproportionately represented in the care system. They comprise about one third, and the trend points to further increases. As well as the trauma and dislocation felt by all children coming into care, they face the extra risk of removal from, or loss of access to, their culture, language and community.

Greater effort is needed on specific issues for Aboriginal families both in helping them to care safely for children, and helping Aboriginal children in care retain or develop connections to their community and culture.

Children from remote communities who come into care with limited access to local foster care and no residential care are faced with the prospect of removal to a regional centre or even the metropolitan area with a resultant severing of family, cultural and language connections. One response has been increasingly to place children with kinship carers but Commissioner Nyland pointed out that the administration of kinship care for all children, itself has serious problems. (See page 5 on home-based care for her critique of current kinship care arrangements.)

Placing Aboriginal children in culturally appropriate environments has not proven easy.

The Agency continues to be challenged by its ability to comply with the Aboriginal and Torres Strait Islander Placement Principle (ATSICPP). In some cases suitable Aboriginal carers are not located for children until well after their placement into care.

Commissioner Nyland recommends the setting up of a family scoping unit to collect and coordinate information to quickly identify safe and appropriate placements.

The Commissioner also stressed the importance of building genuine partnerships with Aboriginal-led organisations.

The Agency has not always embraced this obligation. It needs renewed focus on consulting with prescribed agencies as required by the Children's Protection Act

Even so, not all Aboriginal children will be able to be placed with Aboriginal carers.

Better support for non-Aboriginal carers should include help in attending to the cultural needs of Aboriginal children in their care.

Commissioner Nyland notes that agency collaboration has not been a strong feature of work with Aboriginal families and children.

...new agencies [engaged in early intervention should] take advantage of referral pathways from existing credible services, especially those that are led by the health sector and those that have contact with Aboriginal parents in the prenatal period.

A working group should be established to promote collaborative practice between the South Australian, Western Australian and Northern Territory child protection agencies in the tri-border region including working towards an across-border legislative scheme for child protection in the three jurisdictions.

*As in Commissioner Nyland's report, we will use the term Aboriginal to refer to both Aboriginal and Torres Strait Islander children.

- Consultation and engagement with remote communities and other Aboriginal bodies** at the start of, and continuing through, the reform of Aboriginal child protection.
- An **overhaul of the conduct of kinship care** (as described on page 5 on home-based care.)
- A **strengthening of the training, support, resourcing and supervision of staff** to better work with, and support, the culture of Aboriginal children in all forms of out-of-home care.
- The provision of **foster care or residential care placements in locations close to the APY Lands.**
- Increase in the recruitment and retention of Aboriginal workers** in the child protection workforce.
- Adoption of a culturally appropriate tool to assess foster and kinship carers** in remote and other communities.
- Review of remuneration, work conditions and support arrangements** to secure core permanent child protection workers in the APY Lands.
- A **working group established to promote collaborative practice** between the South Australian, Western Australian and Northern Territory child protection agencies in the tri-border region.
- Renewed focus on the ATSICPP as the basis for culturally appropriate placement** of Aboriginal children in state care.

At the time of publication the Aboriginal community reference group is still considering its response to the Nyland Report recommendations. The Guardian's policy advocacy will be shaped in the light of their position.





Education

Engagement with schools can offer children in care opportunities for socialisation, a chance to achieve and the basis for success in further study and employment. However, the child's experience at school can be blighted by developmental delays and disability, broken school attendance. Sometimes, challenging behaviour caused by trauma may not be addressed or appropriately treated by conventional school discipline practices.

It is critical that Education regards itself as a partner of the Agency in delivering appropriate services to children in care ... remediation of psychological damage sustained when a child is abused or neglected is achieved through cohesive and consistent care across a child's environments. A child's education should be approached as a part of the therapeutic solution.

Commissioner Nyland observed that the responses by schools to children with these needs were mixed, with some schools embracing the opportunity and others regarding them as an imposition. She concedes that providing for the needs of children in care is not always simple.

School principals are obliged to provide a safe learning environment for school staff and students. Imposing special conditions on enrolment and providing additional support may be needed in some circumstances to mitigate risk. However, conditions must not be imposed that are so onerous as to effectively exclude high needs students from participation.

She noted that, 'It is helpful to some students experiencing challenges in the school environment to have their hours of attendance varied for a limited period of time.' but that the guidelines around suspension and exemption and exclusion were inconsistently applied and the process not always documented. She observed that excessive use of suspension and exclusion could place home-based care placements at risk by placing extra stress on the carers.

Resourcing to meet the extra needs of children in care was sometimes an issue, with wrangling over who was to fund support services delaying a student's commencement, as did the availability of suitably trained school services officers. This exacerbates the disadvantage that the children already face. The Commissioner suggested that responsibility for resourcing children with high needs should reside with Education.

Skills and attitudes among educators were seen as critical.

The Commission considers [Strategies for Managing Abuse Related Trauma (SMART) training] an important step towards changing the attitude of teachers to children facing educational challenges of this type. However, unless the training changes teaching practice, it is a hollow endeavour. The Department has held a contract to deliver this training since 2005, but evidence indicated that there remained a high level of misunderstanding of the needs of children in care.

Professional development as well as practical supports are necessary. The level of understanding of students with significant trauma backgrounds needs to be improved within all schools. All schools need to be 'trauma friendly'. To this end, Education should continue to encourage staff to undertake SMART training, and should ensure that these skills have a high profile in professional development programs.

The Commissioner pointed out that the commitments made by various agencies under Rapid Response, including the commitment to Individual Education Plans for all students in care, had been allowed to lapse and should be revisited and renewed in this as in other areas.

The Commissioner also drew attention to the need for improvements in the provision of education to Aboriginal children in isolated locations.

- The application of **SMART training for educators**, requiring it to be part of training and professional development.
- A **renewal of the DECD Rapid Response commitment** to ensure that all avenues for preschool, school and post-compulsory education-based supports were explored before suspension or exclusion are considered.
- A **review, and dissemination to educators, of DECD policies regarding school suspension, exclusion and expulsion.**
- Regular **audits of students in care who are on reduced hours of attendance** at school and review of progress on plans to re-engage them in mainstream education.
- Recruiting and training of a panel of school services officers** to support children with trauma-related behavioural challenges.
- Evidence that children's views about education options are solicited**, discussed with them and accurately recorded in case files.
- Clarification of DECD's responsibility for resourcing support services** provided for students in care in state schools.





Stability and certainty in care

We would hope for all children that they are safe and settled in a care situation that fulfils all of their needs.

Commissioner Nyland describes how this is not always the case for South Australia's children even from the point at which they enter care.

Once removed, the child's need for stability and certainty is given insufficient weight. Attempts to reunify children with their parents drag on for far too long, causing instability as well as denying young children the certainty of the attachment relationships crucial for their development... many children taken into care are subsequently reunified with their parents when the issues that undermined their safety in the first place have not been sustainably addressed.

She recommends that formal permanency planning should start with the imposition of the court order that places the child into care and that time limits be set for reunification efforts after which long-term orders should be sought.

The current system fails to assign to every child in care a social worker who regularly visits and this failure raises stability and safety issues for children. Annual reviews of the circumstances of each child in care, also required by legislation, are sometimes not done or done poorly, which removes another level of safety and continuity that should support stability and certainty for them.

South Australia has an extraordinarily high rate of placement instability compared to other Australian jurisdictions...Placements that appear to be in danger of breaking down should be promptly identified. Early therapeutic support would help carers who may be having difficulty in coping with the challenges of caring for children with high or complex needs.

Each time a child changes placement it can inhibit the formation of attachments to people, place and community, undermine formation of healthy identity and disrupt schooling. Children can be further distressed by having little or no say in the decision making, timing and destination of new placements.

A young person's need for stability and support does not cease when they turn 18. On [page 14](#) we look at how Commissioner Nyland proposed they can be assisted to make a smooth transition to independence and continue through further education, entry into the workforce and beyond.

- Permanency planning for children that commences at the time of an order bringing a child into care.**
- Concurrent planning being given greater emphasis** in case planning, especially for children while they are forming attachments.
- Annual reviews being universal, independently chaired and subject to revised and more rigorously enforced standards.**
- A review of the reasons for the low level of Other Person Guardianship** in South Australia.
- All children currently receiving a differential response be assessed for eligibility for Other Person Guardianship.**
- Every child in care being allocated a social worker** who visits them at regular intervals determined by an assessment of the circumstances and the child's preference.
- Involvement of the child in discussion about the need for placement change** and how and when it will occur.
- The inclusion of the voice of the child in all discussions** at which decisions are made about significant matters that affect them.





Responding to abused or neglected children

Commissioner Nyland proposed no change in the current responsibilities of mandated notifiers but recommended that there be two quite different pathways through which those duties can be fulfilled by notifiers. The Child Abuse Report Line (CARL), would be maintained and improved and another, non-statutory option, added.

She acknowledged the shortcomings of CARL, particularly the extended wait times for callers and the closing of cases due to workload issues which sees ‘children left in unacceptable circumstances in which they needed help’. She recommended the addition of extra call centre staff, making the call-back system widely available and promptly advising notifiers of the intended response so that they can take other action if required. The setting of service delivery standards for call answering times and call-back times are other measures aimed at restoring confidence in the system.

Once notifications were received by CARL, more problems were evident.

...consistently poor quality assessments undermined by excessive optimism, lack of focus on the child’s experience, too little reliance on the expertise of other practitioners and unrealistic reliance on informal agreements in which parents promise to reduce their dangerous behaviour.

She recommended substantial increases in and upskilling of the workforce, development of more rigorous and standardised assessment tools and giving greater powers to acquire information from government and non-government sources. Targets should be set for the reduction of backlogs and progress publicly reported.

For matters that proceed to court, she proposed a greater reliance on independent expert opinion to inform court decision-making and the granting of orders.

To take the load off CARL and to provide a way to divert appropriate families away from the statutory system, Commissioner Nyland recommended legislative change to allow mandated notifiers to discharge their obligations by referring concerns to one of a set of ‘child and family assessment networks’ to be established in metropolitan and larger regional locations. Specially trained staff in government agencies could assist and guide colleagues to understand their obligations to notify and the best options for troubled families.

The Commissioner recommended ways of reducing the numbers of children coming into care while still protecting those who need to be protected. This will require a substantial investment in preventative and early intervention services and a solid strategy to guide funding and service design and delivery. A cross-department *Early Intervention Research Directorate* would identify innovative and evidence-based services. They would be to be provided by non-government organisations and be of the type and in the locations identified by an analysis of needs.

A particular priority she identified was the need to provide services that were culturally appropriate for Aboriginal families and communities.

- Improvements to the CARL service** including system and staff changes to meet published service standards for call-answering and call-backs.
- Upskilling of investigation staff** to ensure that the voices of children are sought and heard in the investigation process.
- Setting of service standards** for the commencement and completion of investigations as set out by Commissioner Nyland*
- Establishment of a set of ‘child and family assessment networks’** in metropolitan and major regional locations and legislative changes to allow mandated notifiers to discharge their obligations by referring to them.
- Setting out a **five-year strategy for the provision of prevention and early intervention services** that is evidence-based and suited to local needs and conditions.
- Development of **prevention and early intervention services that are culturally appropriate for Aboriginal families and communities.**
- Regular training and the development of training tools to improve the knowledge of mandated notifiers** about their responsibilities.

* Recommendation 177: Ensure that all care concern notifications are investigated in a timely manner:

- investigations should commence within 48 hours of the receipt of a notification; and
- in the absence of ongoing criminal proceedings or special reasons, investigations should be completed within six weeks from receipt of the notification.





Children in care with disabilities

Children with disabilities are a higher proportion of the in-care population than in the population at large. Some children enter care with disabilities caused by the abuse or neglect that brought them into care. Some children who already have disabilities are relinquished into state care by parents who feel that they are not adequately supported to manage the parenting challenges they present.

Commissioner Nyland is particularly concerned that children in state care do not miss out on the services and opportunities on offer from the National Disability Insurance Scheme (NDIS).

Children in out-of-home care rely on attentive case managers to recognise their potential eligibility [for NSID funding] and negotiate on their behalf.

To do this entails a more rigorous identification of children's disabilities and their recording on the child's electronic case management file so that every child potentially eligible can have an application made prior to the March 2017 deadline. The respective role of foster and kinship carers and the Department for Child Protection (DCP) in relationship to NDIS will need to be clarified to avoid confusion and dislocation. Commissioner Nyland recommended the 'employment of disability specialists and additional training...to develop expertise in the Agency' about the NDIS.

The 'child and family assessment and referral networks' recommended by Commissioner Nyland (see page 10) will also need to have the skills and knowledge to support families who are caring for children with disabilities.

Foster families caring for children with disabilities sometimes face the simultaneous challenge of catering for a disability and dealing with trauma-related behavioural issues. Commissioner Nyland stresses the maintenance of the existing Alternative Care Therapeutics Team (ACTT) program though its integration with the NDIS. She also recommends determining the need for specialist disability foster care placements and funding those placements accordingly as well as funding the support and respite services needed to ensure those placements remain viable for foster parents and children.

Commissioner Nyland discusses the situation of children with disabilities whose care is voluntarily relinquished to the state by their birth parents. She forms the opinion that this group of children might not be best served by placing them in the care of the DCP but has insufficient information to make a formal recommendation.

- Every child who is potentially eligible has applied to the NDIS** by the 31 March 2017 deadline.
- The **electronic case management system modified to require a child's eligibility for NDIS entered** and caseworkers trained accordingly.
- Analysis of the unmet need for specialist disability foster placements** and provision of it expanded to meet that need.
- DCP caseworkers trained to meet the needs of children with disabilities and in the workings of NDIS** and the employment of specialist disability workers to support them.
- maintenance of the ACTT program** and its expansion through and beyond the introduction of the NDIS.
- the recommended '**child and family assessment and referral networks**' given the skills and responsibility to help families engage with the NDIS.





Children from culturally and linguistically diverse backgrounds

Commissioner Nyland noted that families from cultural and linguistic backgrounds that are different to the mainstream are prone to be in circumstances that can give rise to child protection issues. These include trauma, social and cultural isolation, discrimination, language barriers and poverty associated with poor employment opportunities.

She noted:

It appears that the Agency currently knows very little about the population of culturally and linguistically diverse families who might need a child protection response. Data about the origin of children reported to the system has been inconsistently recorded and retained, and is not likely to be reliable.

She recommended that information about the cultural background of children coming into contact with the child protection system be recorded in the electronic case management system and that this data be aggregated to inform a system-wide response.

She recommended a qualitative review of the capacity of the current Multicultural Community Engagement Team to provide the necessary state-wide response and that this review should include input from all stakeholders with special emphasis on the views of children.

She observed that, although current practice guides emphasised the importance of respecting and nurturing children's cultural and linguistic heritage, there existed very little information and support for staff to work in that way.

The Commissioner made recommendations that organisations support and develop the cultural competence of all staff and carers by setting cultural competency targets for the organisation and by developing training and practice guides.

- Comprehensive **recording of cultural and linguistic information** about children coming into contact with the child protection system.
- Analysis of emerging trends** from that data to inform planning and resourcing.
- A **review of the current Multicultural Community Engagement Team service's capacity and suitability** for the task with an emphasis on hearing the views of children.
- Development of the DCP's cultural competency by **setting cultural competency targets** and the developing **training programs and practice guides**.
- Every child in care with a diverse cultural heritage having a comprehensive cultural connection plan**.





Children in care in regional South Australia

Meeting the needs of children in care in regional areas presents additional and different challenges to those faced in metropolitan Adelaide.

In many regional areas, the limited number of foster care placements is compounded by there being no, or very few, residential care facilities.

Children removed from the care of their families are sometimes placed many kilometres away, interrupting their education, their stability and their ability to maintain contact with their family and friends.

The use of unsuitable rotational (emergency) placements, she noted, was particularly prevalent in some regional locations.

Commissioner Nyland found that services, particularly psychological assistance, were not able to be accessed easily.

Specialist therapeutic services necessary to respond to children who have experienced abuse and neglect are also limited in most regions.

The quality of justice for children also suffers in regional areas. It is undermined by the poor quality of the conferencing technology used and the need for families and witnesses to travel long distances to attend trials held in Adelaide.

It is unacceptable that child protection proceedings have less access to court facilities than many summary criminal matters.

Commissioner Nyland recommended the use of properly staffed videoconferencing facilities for pre-trial hearings and that 'care and protection trials should be held at the court location most convenient to the parties.'

She highlighted the success of examples of regional co-operation in the provision of services and that the 'child and family assessment and referral networks' she recommended elsewhere in her report would be instrumental in identifying, planning for and coordinating responses in regional centres.

The Commissioner acknowledged that working in human services and statutory roles in regional areas could be especially difficult and confronting and that recruiting and retaining suitable staff is a chronic problem. She advocated a suite of incentives, supports, professional development opportunities and rostering arrangements to assist in filling staff vacancies and improving staff continuity in regions.

The Commissioner noted that Aboriginal children and young people additionally 'faced the combined challenges of remoteness and high need'.

- Increased focus on the recruiting of foster carers** and the establishment of appropriate residential care facilities in regional areas.
- The development of a **specialist psychological service for children in regional areas.**
- Improvements to the videoconferencing facilities** for hearings for families and children in regional areas.
- Attraction and retention strategies** and improved opportunities for training and development for Department for Child Protection workers in regional areas.
- The **development of regional needs planning** and cooperative models of delivery in regional areas.
- Consultation with each remote Aboriginal community** about the implementation of the recommendations arising from the Nyland report.





Services for young people leaving state care

Commissioner Nyland was particularly critical of the support provided to young people during and after their transition from care at age 18. She presented data that showed proper transition planning had never been provided for more than one third of young people exiting care. Where it had been provided, she said, it had been delivered by under-qualified staff and the support services available were rendered inadequate by a lack of coordination and cooperation between services.

Young people...report receiving limited career planning and little information about what training and employment options may be available to them. All too frequently, young people approach the age of 18 without a clear understanding of how they will access adult services and accommodation.

The Commissioner recommended a change in legislation to oblige the Minister to continue to provide assistance to care leavers up to the age of 25.

Such assistance should specifically include the provision of information about services and resources (especially financial grants and assistance for care leavers); financial and other assistance to obtain housing, education, training and employment; and access to legal advice, health services, counselling and support.

Services funded by government and delivered by non-government organisations should start working with young people well before 18 and continue through the transition period and into adult life. Analysis of current post-care services usage could be used as an indicator of areas of need.

The Commissioner also recommended a review of the South Australian service model to align it with the principles and practice of the National Framework for Protecting Australia's Children, *Transitioning from out-of-home care to independence: A nationally consistent approach to planning*, commonly known as the National Approach.

The Commissioner recommended that a re-invigorated Rapid Response process also be reviewed to extend the range of priority services for young people up to age 25 and that home-based carers be funded to continue supporting care leavers where they were engaged in school, trade or tertiary training until that qualification was completed.

Independent living programs, she said, needed to be made more flexible about the ages at which young people could be admitted and leave and post-support programs should be more generously resourced to meet the unmet need. The Commissioner also pointed out the opportunity for Housing SA to develop new housing models more suitable to the needs of care leavers.

Recognising the central role of smartphones in the lives of many young people, she recommended the development of a smartphone app. to provide readily available information about the range of services available to them during and after transition from care.

The Commissioner also recommended changes to allow care leavers to see and make copies of documents held by the organisation that had provided services for them more easily.

- Amendments to the Children's Protection Act 1993 to **require the Minister to provide or arrange assistance to care leavers aged between 18 and 25 years.**
- Definition of a range of information services and practical supports to be provided for young people post-care** including financial, housing, education, health care, education and training, employment and legal advice.
- Payments to home-based carers continued past 18** while young people in their care pursue education and training.
- Review of the service model for care leavers** to align with the National Approach.
- Greater **age-flexibility in the provision of independent living programs.**
- Expansion of the **priority services provided under Rapid Response to care leavers up to age 25.**
- Provision of **intensive case management assistance to care leavers identified as particularly vulnerable.**
- Greater resourcing of post-care services.**
- Changes to **facilitate care leavers' access to documents about them** from carers and organisations that had provided services to them.

