creating a better life
for children and young
people in care

Submission to the Northern Territory Social Policy Scrutiny Committee:

Care and Protection of Children Amendment Bill 2019

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About CREATE Foundation

CREATE Foundation is the national consumer body representing the voices of almost 46,000 children and young people in the out-of-home care system, as well as those who have transitioned from care up to the age of 25.

Our vision is that all children and young people with a care experience reach their full potential, in line with our mission to:

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

We achieve our mission by providing a variety of programs and services for children and young people in care.

Introduction

CREATE welcomes the opportunity to comment on the Northern Territory's *Care and Protection of Children Amendment Bill 2019*. CREATE commends the Northern Territory Government on this commitment to improving outcomes for children and young people in their care by incorporating the recommendations of the 2017 *Report of the Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory* (*the Royal Commission)* into the proposed amendments. CREATE is committed to ensuring that relevant policy, legislation, and practice changes occur through the consideration of the lived experiences of children and young people who are or already have experienced out-of-home care, who can be regarded as experts. Particularly vital is ensuring that children and young people are supported to remain connected to culture, and are supported to achieve outcomes as outlined in the *National Standards for Out-of-Home Care* (FaHCSIA, 2011). Therefore, CREATE welcomes the increased focus on connection to culture in this Amendment Bill. Effective implementation of this Bill is dependent on commitments from Territory Families to resource front line practice, policies, and procedures so that best practice case work within care systems can be realised.

Submission Response

Care planning

CREATE commends requirements in the Bill, specifically Clause 9, amending Sections 70 and 72(a) of the *Care and Protection of Children Act 2007*, which highlights that a care plan must be developed in a manner that is understood by the child's family and that the CEO must take proactive steps to encourage and facilitate the participation of the child. This could be formalised with appropriate explanation to the child or young person in gaining their signature to the plan and providing them with a copy in accessible format.

CREATE's purpose is to enhance opportunities for children and young people to stand up for their rights and to have a say in issues affecting their lives. This closely aligns with the *National Standards for Out-of-Home Care* (FaHCSIA, 2011), specifically those relating to participation (see Table 1 below), but also the rights enshrined in the Charter of Rights for Children in Care, which every state and territory has articulated. CREATE continues to advocate to federal, state, and territory ministers, together with the child protection sector, to take action and ensure these rights are upheld.

Table 1. Standards and indicators relating to participation (FaHCSIA, 2011)

Standard	Indicators
Standard 2: Children and young people participate in decisions that have an impact on their lives	*Indicator 2.1:* The proportion of children and young people who report that they have opportunities to have a say in relation to decisions that have an impact on their lives and that they feel listened to
Standard 4: Each child and young person has an individualised plan that details their health, education and other needs	*Indicator 4.1* The proportion of children and young people who have a current documented case plan
Standard 10. Children and young people in care are supported to develop their identity, safety and appropriately, through contact with their families, friends, culture, spiritual sources and communities and have their life history recorded as they grow up	*Indicator 10.1* The proportion of Aboriginal and Torres Strait Islander children and young people who have a current cultural support plan.
Standard 13. Children and young people have a transition from care plan commencing at 15 years old which details support to be provided after leaving care	*Indicator 13.1* The proportion of young people aged 15 years and over who have a current leaving care plan. *Indicator 13.2* The proportion of young people who, at the time of exit from out-of-home care, report that are receiving adequate assistance to prepare for adult life.

Recently released research by the CREATE Foundation (McDowall, 2018) found that only 43.6% of children and young people knew about their case plan, and that only 57.1% of young people who knew of their plan had been involved in its development nationally, with only 23% of young people in the Northern Territory aware of their case plan. Young people also reported attending formal meetings only 28% of the time.

They just never really used my words. My case plan was pretty much just what they thought was best for me. (Female, 17 years)

I had my say in it. I went to meetings about the case plan. I had to read the case plan before the meetings and then discuss things I liked and didn't like about it. (Female, 14 years)

I don't know if I have a case plan, so it would be useful if I got to see it and choose my goals. (Female, 13 years)

Genuine participation requires caseworkers not only to understand the importance of participation, but also to uphold the principles of respect in working with young people by providing necessary opportunities and support to facilitate young people being involved in decision making (McDowall, 2016a). This requires the provision of appropriate resourcing and training to caseworkers, including how decision making processes are accessible to young people, such as utilising child-friendly resources and technology.

Research identifies that the formal decision making processes in child protection can be intimidating and alienating for young people, especially if they lack information and feel unsupported by adults attending the meetings, who may be strangers to the young people (Cashmore, 2002). Young people's choices must be treated with respect, including the choice, at times, to not engage in decision making.

Care Planning and Connection to Culture, Family, and Community for Aboriginal and Torres Strait Islander Children and Young People

CREATE's 2018 national survey identified that only 17.9% of Aboriginal and Torres Strait Islander young people knew about their cultural support plan nationally, with only 11% of young people in Northern Territory knowing of their cultural support plan. CREATE acknowledges and endorses the amendments proposed in Section 70(5) stipulating that care plans for Aboriginal children and young people must include reasonable actions to ensure the maintenance and development of an Aboriginal child's identity and encourage the young person's connection to the Aboriginal Culture, tradition, language, and country. These are essential and positive steps to rectify the lack of cultural planning which require genuine participation from children and young people.

I want to find out if I have a cultural support plan so I can get help finding more info about my culture and where my family was from. (Female, 14 years)

I want to know more about my Aboriginal culture. I want to know if my dad's dad has any Aboriginal blood in him, because I know about my mum's side. And I want to know where they came from, which mob he came from. (Female, 14)

I'd like to talk more with my caseworker. I'd love to learn everything about my culture. (Male, 14 years)

Aboriginal and Torres Strait Islander children are overrepresented in care. This is particularly true in the Northern Territory, where there is 11 times the number of Aboriginal and Torres Strait Islander children in care compared to non-Indigenous young people (Australian Institute of Health and Welfare, 2019). CREATE commends Territory Families on their development of the *Aboriginal Cultural Security Framework* which clearly articulates that Aboriginal Culture is a strength, and the stated commitment

to partner with Aboriginal children in supporting them to become the lead decision makers for their future. This Framework clearly reflects the importance of self-determination in the lives of children and young people as a fundamental human right, which is also embedded in the *United Nations Convention on the Rights of the Child* (1989), stating that a child has the right to "enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language" (Article 30).

The consideration of the development of cultural support plans as part of case planning must be incorporated and implemented as part of the amendments to the Act. This is noted by Hutt and Clarke (2012) as particularly important, as many Aboriginal and Torres Strait Islander children and young people are placed with non-Indigenous carers. It is essential that caseworkers, who have greater capacity and access to resources than young people and carers, become more involved, both in cultural support planning, and in the direct facilitation of connection to culture. However, "it is not sufficient merely for a Plan to be prepared for the individual; the children and young people must be involved in its development" McDowall (2016a, p. 24).

Ongoing engagement with Aboriginal and Torres Strait Islander communities and peak bodies is required to ensure the commitments made in this amendment continue to be informed by relevant cultural groups and are upheld. CREATE defers specific recommendations around Aboriginal and Torres Strait Islander children to Indigenous community organisations (such as Aboriginal Community Controlled Organisations and SNAICC).

Extending Care to 21

Standard 13 in the *National Standards* refers to ensuring children and young people are appropriately supported when transitioning to independence (FaHCSIA, 2011). Young people within their own families generally have access to ongoing emotional and practical support to learn skills for living independently, such as managing finances and navigating relationships. Young people transitioning from a care experience do not always have a family network of support, and it is vital that carers and caseworkers communicate with young people about the support that is available to them.

CREATE commends the Government on ensuring that transition planning is accommodated in the amendments, however raises concern about the discretionary powers that the CEO has to administer such support for young people over 18. To ensure positive outcomes for young people leaving care, CREATE advocates that the Northern Territory raises the age for which a young person receives support to 21 years as a standard, recognizing that removal from community and distanced care arrangements

also require flexibility in extended care packages to assist reunification with family and community. This is essential for Aboriginal young people as reintegration to their community poses significant challenges. Extending the provision of support enables young people and carers to navigate the early adult years, recognizing extended family supports and practical supports are often still required. Provisions of extending support must be provided to young people both in home based placements and in residential care/purchased Out of Home Care.

Don't feel like I'm getting enough support I need. I'm doing literally everything, I have to choose jobs myself, concerned about accommodation. I just don't know why I can't get enough help. So, I'm 17, everything is so full on. I'm starting Uni, have to manage my jobs, and I don't know why more people can't help me. (Female, 17 years)

How I will financially support myself without a job, transport, youth worker/foster carer support. How will I save for a car if I can't get a job? Feeling unstable without Child Safety as I don't necessarily have a parent to rely on. Child Safety is a safety net if I need advice. (Female, 17 years)

What if I'm not ready to leave? Who will help me? I'm scared and upset about it. (Male, 16)

What will happen if I run out of money? What if bad things happen to me? E.g. drug or alcohol abuse, will I get support to help me? What if I hit rock bottom? (Male, 15)

CREATE has noted in previous reports (e.g., McDowall, 2009; 2016b) that young people from the age of 15 years need to be involved in developing a leaving care plan that articulates the support that is available to assist them in practical ways, e.g., accessing affordable housing, training, and stable employment. It is important that young people actively contribute to their case plans, as this will ensure that they meet the individual needs and circumstances of the young person. However, McDowall (2018) found that only 24.4% of children and young people across Australia knew about their leaving care plan, with only 20% of young people in the Northern territory knowing of their leaving care plan.

I emailed her and the team leader multiple times about my leaving care plan. I have not gotten any response yet, my caseworker told me my case isn't a priority. I am turning 18 this year in 9 months and I strongly feel like nothing is happening. (Female, 17 years)

It might be useful if I knew what was going on with it. (Female, 17 years)

It's just more paperwork; more useful for caseworker. (Male, 16 years)

CREATE welcomes a commitment from government to formalising the need and responsibility of looking after care-leavers through an amendment of legislation. Young people require support to stay in placement, regardless of whether they are undertaking studies, until 21 and this right should be explicit in the legislation.

Conclusion

The proposed amendments to the *Care and Protection of Children Act 2007* are mostly consistent with the *National Standards for Out-of-Home Car*e (FaHCSIA, 2011). Ongoing support and resources through practice development and oversight will be required to ensure the purpose of these amendments are instilled and implemented at a local and front line level. The importance of participation in case plan development, whether relating to care plans, transition plans, or cultural support plans is highly critical in promoting opportunities for young people to achieve positive self-worth and confidence. Young people need to be supported to have a say and have some control over decisions that affect their futures. Ongoing formal support and care will assist in the success of care leavers across significant life domains and will lead to positive impacts across individual circumstances. Systems of care also require organisational accountability to young people in ensuring they can reach their full potential, and can do more to reduce the barriers and stigma that young people face throughout their time in care, and often continue to experience when they exit care.

References

Australian Institute of Health and Welfare. (2019). *Child protection Australia 2017-18.* Child welfare series no. 70. Cat. No. CWS 65. Canberra: AIHW.

Cashmore, J. (2002). Promoting the participation of children and young people in care. *Child Abuse and Neglect, 26,* 837-847.

Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA). (2011). *An outline of national standards for out-of-home care*. Canberra: Commonwealth of Australia.

Hutt, S., & Clarke, A. (2012). Improving Aboriginal and Torres Strait Islander cultural support in out-of-home care. *Children Australia,* 37(02), 76–79. doi:10.1017/cha.2012.16

McDowall, J. J. (2009). *CREATE Report Card 2009 - Transitioning from care: Tracking progress*. Sydney: CREATE Foundation.

McDowall, J. J. (2016a). Connection to culture by Indigenous children and young people in out-of-home care in Australia. *Communities, Children and Families Australia, 10*(1), 5-26.

McDowall, J. J. (2016b). *Go Your Own Way: CREATE's resource for young people transitioning from care in Australia: An evaluation*. Sydney. CREATE Foundation

McDowall, J. J. (2018). *Out-of-home care in Australia: Children and young people's views after five years of National Standards*. Sydney: CREATE Foundation.

United Nations. (1989). *The United Nations convention on the rights of the child.* London: doi: 10.1093/tropej/fmp024