
Joint Submission to the Special Commission of Inquiry into Child Protection Services in NSW

29 February 2008

Prepared with input from the
Catholic Education Commission of NSW

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About Catholic Social Services NSW/ACT

Catholic Social Services NSW/ACT is a branch of Catholic Social Services Australia, the Catholic Church's peak body for social services. Catholic Social Services NSW/ACT advises the Australian Catholic Bishops Conference on social policy issues¹ and supports the delivery of a wide range of social services to disadvantaged people and communities. Catholic Social Services NSW/ACT supports the dignity, equality and participation of all people and works with its members towards achieving a fairer, more inclusive society that gives preference to those most in need.

Catholic Social Services NSW/ACT has thirty two member organisations which provide services from more than sixty sites in metropolitan, regional and rural NSW. Services provided to children, young people and their families include child care (long day care, family day care, before and after school care and occasional care), early intervention, the NSW Parentline telephone help line, family support, family relationship and counselling, accommodation and support, out of home care, adoption and disability services.

About the NSW Catholic Social Welfare Committee

The NSW Catholic Social Welfare Committee advises the Bishops of NSW and the ACT on matters relating to social welfare and represents the needs of people who are disadvantaged, devalued and distressed. The Committee works closely with Catholic Social Services NSW/ACT and with the Catholic Education Commission through the Catholic Education and Social Welfare Co-ordinating Committee (CESWCC).

The Committee is comprised of members who have been appointed by the Bishops of NSW and the ACT. They have been chosen because of their professional qualifications in social work, psychology, and community development, extensive experience in leadership of non-government organisations and demonstrated record of working in partnership with non-government organisations and all levels of government. The members have been appointed for their personal qualities and experience and do not represent service delivery agencies.

About the Catholic Education Commission of NSW

The Catholic Education Commission of NSW is the official body established by the NSW Catholic Bishops to represent all NSW Catholic schools in matters requiring common action. There are 585 Catholic schools in NSW comprising: 418 Primary schools; 128 Secondary schools; 32 Combined Primary/Secondary schools; and 7 Special schools. These schools employ 18,051 teachers, 7,008 non-teaching staff and enroll 239,366 students, being 124,728 primary students, 114,202 secondary students and 436 students attending special schools.

¹ Via Catholic Social Services Australia.

Table of Contents

1. Executive Summary.....	4
2. Introduction	10
3. Early Intervention.....	11
3.1 DoCS: Child protection and early intervention.....	11
3.2 Early intervention for children and young people aged 8-15.....	14
4. Statutory Child Protection.....	16
4.1 Mandatory reporting and risk of harm.....	16
4.2 Management of child protection reporting.....	18
4.3 Neglect	23
4.4 The Children's Court.....	24
5. Out of Home Care.....	27
5.1 OOHC: DoCS V NGOs.....	27
5.2 Foster care.....	28
5.3 Kinship care.....	30
5.4 Support services for children in OOHC.....	30
5.5 OOHC and SAAP.....	34
6. Inter-agency Co-operation.....	35
6.1. The exchange of information.....	35
6.2. Co-operation between government agencies.....	36
6.3. Co-operation between government and the NGO sector.....	37
7. Mental Health Issues.....	39
8. Rural Issues.....	41
9. Indigenous Issues.....	44
Appendix 1: Letter of Support from the NSW Catholic Social Welfare Committee	
Appendix 2: Letter of Support from the NSW Catholic Education Commission	
Appendix 3: List of Catholic Social Services NSW/ACT Member Organisations	

1. Executive Summary

Catholic Social Services NSW/ACT and the NSW Catholic Social Welfare Committee welcome the opportunity to comment on the terms of reference of the *Special Commission of Inquiry into Child Protection Services in NSW*.

There are many views within the Catholic sector about how to address the problems with the NSW child protection system. While individual Catholic agencies may adopt slightly different positions on key child protection issues, in this submission we have been guided by the principles of Catholic Social Teaching. We thank the Catholic Education Commission of NSW for their input.

Our submission recommends significant reforms to the child protection system - we have developed recommendations regarding early intervention, statutory child protection, out of home care, inter-agency co-operation; and mental health, rural and indigenous issues as they relate to child protection. This continues our long standing commitment to supporting the ongoing dialogue between the NSW Government and the non-government sector about how best to respond to the needs of vulnerable children, young people and their families.

Early Intervention

We support the devolution of prevention, early intervention and family support responsibilities from DoCS to the NGO sector.

Recommendation 1

That responsibility for prevention, early intervention and family support is devolved incrementally from DoCS to the NGO sector.

That DoCS provide NGOs with an appropriate and corresponding funding increase to deliver these services.

That DoCS retain responsibility for statutory child protection including assessment, investigation and intervention.

Recommendation 2

That DoCS adopt a more focused approach to addressing the child protection needs of young adolescents through the provision of adolescent specific case workers and the exploration of alternative models of support that recognise the complex family and child trauma issues that are characteristic of this group.

Statutory Child Protection

The widening of mandatory reporting has resulted in a significant increase in the number of children and young people suspected of being ‘at risk of harm’. The sheer volume of reports has resulted in the child protection system becoming overloaded. DoCS response to this situation has been inadequate. The problems are systemic and require immediate attention.

Recommendation 3

That, given the ongoing debate in respect of both the interpretation and the application of the statutory basis for mandatory reporting (*Children and Young Persons (Care and Protection) Act 1998* - Sections 23 and 24), the Commission of Inquiry convene a special forum of both Child Protection practitioners and legal experts to explore:

- issues arising from the current wording of Sections 23 & 24 (also 27); and
- possible alternative statutory provisions, rights and duties.

Recommendation 4

That Section 27 of the Children and Young Persons (Care and Protection) Act 1998 be amended to reflect the wording developed in the Memorandum of Understanding on Mandatory Reporting for the Education Sector between DoCS, the NSW Department of Education and Training, the Catholic Education Commission of NSW and the Association of Independent Schools.

Recommendation 5

That DoCS procedures clarify the capacity of a service provider to continue to assist a child when the service provider becomes involved in a child protection case which involves an employee of the service provider.

Recommendation 6

That DoCS adopt a holistic process for assessing and investigating risk of harm and ensures that all assessments evaluate the child and family’s circumstances as a whole, especially where there is a risk of neglect and/or emotional harm.

Recommendation 7

That DoCS ensures that child protection case workers responsible for undertaking secondary risk assessments and investigations receive training on the DoCS Secondary Risk of Harm framework and utilise the Secondary Risk of Harm Assessment, Risk Analysis Practice Tool.

That an evaluation of the framework’s efficacy is undertaken.

Recommendation 8

That DoCS develop a partnership approach with NGOs and schools to responding to risk of harm.

Recommendation 9

That DoCS works more collaboratively with the NGO sector when responding to reports of neglect.

Recommendation 10

That DoCS develop strategies for allocating case-work responsibilities for families requiring intensive, long term support to NGOs when the primary issue of concern is neglect.

That DoCS provide NGOs with an appropriate and corresponding funding increase to deliver these services.

Recommendation 11

That DoCS take action to ensure that the terminology used to describe risk of harm, including neglect, is consistent across the child protection system.

Recommendation 12

That child protection matters are not removed from the Courts and the Children's Court is not replaced by a tribunal system.

Recommendation 13

That the *Special Commission of Inquiry* investigate the efficacy of family group conferencing and its potential as a mandatory precursor to NSW court proceedings.

Recommendation 14

That the Children's Court consider the efficacy of introducing evidence-based guidelines or benchmarks to assist Magistrates to determine the appropriate level of contact for the child or young person.

Out of Home Care

DoCS' dual role as purchaser and provider of OOHC has been the subject of debate for many years. We believe that outcomes for children and young people in care will be improved if DoCS devolves responsibility for OOHC service delivery to the NGO sector.

The transfer of service delivery to the NGO sector will allow DoCS to focus on its statutory child protection responsibilities and begin to address the many problems identified in Section 4 of this submission.

Recommendation 15

That DoCS devolve responsibility for providing all direct OOHC services to the NGO sector. The transition should be incremental and supported by a corresponding increase in funding.

Recommendation 16

That NGOs and schools work together on the design and delivery of new models to address the needs of children out-of-home and out-of-school, or at risk of homelessness or disengagement from education.

That Government and Non-Government authorities such as DoCS, DET, the CEC and the AIS develop systems that support collaboration and are responsive to innovative service models with the potential to deliver good outcomes for children and young people in OOHC

That an appropriate level of recurrent funding is provided to support the implementation of innovative service models that meet the specialist educational needs of children and young people in OOHC.

Recommendation 17

That DoCS consider establishing a specific service to meet the complex mental health needs of children and young people in out-of-home care. The *Take Two* model in Victoria could be examined.

Recommendation 18

That DoCS develop case management structures that ensure that the mental health needs of children in out-of-home care are assessed, monitored and met in a timely and appropriate fashion.

Recommendation 19

That DoCS consider residential treatment models for young people in out of home care with ongoing, pervasive and extreme mental health needs.

Recommendation 20

That DoCS investigate why young people in the OOHC system continue to be placed inappropriately in Supported Accommodation Assistance Program (SAAP) services.

That DoCS develop strategies to address this problem.

Inter-agency Co-operation

A number of initiatives have attempted to improve inter-agency co-operation; however collaboration between government agencies, between the public sector and the non-government sector, and between NGOs remains problematic. We believe that the NSW Government's recent 'whole of government' initiatives have not resulted in effective co-ordination on the ground and have delivered poor outcomes for vulnerable families. These failings are a source of considerable frustration to the NGO sector.

Recommendation 21

That the Children and Young Persons (Care and Protection) Act 1998 be amended to support the exchange of information between prescribed bodies (including NGOs) where the supply relates to the safety, welfare and well-being of children and young people.

Recommendation 22

That DoCS work with the Australian Law Reform Commission, the NSW Law Reform Commission and other relevant bodies (including the *Special Commission of Inquiry*) to explore Commonwealth and State privacy practices and legislation as they relate to interagency co-operation in child protection matters.

That DoCS convene a sector-wide forum to discuss privacy practices and legislation as they relate to interagency co-operation in child protection matters.

Recommendation 23

That the NSW Government establish and support a formal and powerful structure for directing cooperative action between government departments involved in delivering services to vulnerable families with complex care needs.

That a universal 'case management' guided practice system be adopted in NSW.

That the NSW Government's Human Services CEOs forum develop a strategy that addresses the failure of 'whole of government' approaches to the delivery of human services in NSW.

Rural Issues

Many communities in rural NSW experience multiple levels of disadvantage - high unemployment rates, low income levels, high rates of drug & alcohol abuse, low education levels, high levels of mental illness and disability, and a high incidence of crime including domestic violence and assault. They require additional support and targeted social policy interventions.

Recommendation 25

That the NSW Government liaise with the Rudd Labor Government regarding the development and implementation of its social inclusion policy so that learnings from the *Dropping off the Edge* report may be incorporated into social policies intended to address social disadvantage in NSW (including fairness and opportunity strategies in the NSW State Plan).

Recommendation 26

That the NSW Government develop a strategy to address the lack of services in rural and remote areas of NSW. This may be a suitable project for the Human Services CEO's forum to address through the Working Together for NSW Agreement.

Indigenous Issues

Indigenous people are overrepresented in the number of reports made to DoCS and in the number of children in out of home care. Issues such as poverty, illness, substance abuse and the inter-generational effects of previous government policies mean that Aboriginal and Torres Strait Islander children and families are more likely to need the services provided by child protection departments. Alternative responses must be considered.

Recommendation 23

That DoCS recognise the need to work with NGOs (and schools when appropriate) in engaging the indigenous community, building trust and delivering services in a non-adversarial manner.

Recommendation 24

That investment in partnership programs between indigenous and non-indigenous services and communities to address child protection concerns be increased.

Recommendation 25

That the NSW government adopt strategies to enhance the recruitment, training and retention of indigenous workers. Assistance should be sought from indigenous NGOs and indigenous community groups. The consultation process should be appropriately resourced.

2. Introduction

Catholic Social Services NSW/ACT and the NSW Catholic Social Welfare Committee welcome the opportunity to comment on the terms of reference of the *Special Commission of Inquiry into Child Protection Services in NSW*.

We would like to thank Diana Boswell for her expertise, support and assistance in developing this submission. We would also like to thank the Catholic Education Commission of NSW for their input.

The submission is informed by consultation with a number of working parties:

1. A Catholic Social Services NSW/ACT working party comprised of senior staff with expertise in child protection and a range of services that support children, young people and their families; and
2. A cross-Church working party comprised of representatives from Catholic Social Services NSW/ACT, the NSW Catholic Social Welfare Committee, the Catholic Education Commission of NSW and the Catholic Education and Social Welfare Co-ordinating Committee

Additional input was provided by several Catholic Social Services NSW/ACT member organisations which convened focus groups comprised of front line staff working with children, young people and families who have had contact with the NSW child protection system. Quotes from staff participating in these focus groups have been used throughout the submission. They appear in *italics* and are indented.

We have also drawn on material from a child protection forum co-convened by ACWA, NCOSS and NSW Family Services on 23 January 2008. Several representatives from Catholic Social Services NSW/ACT member organisations attended this forum and participated in discussion regarding key issues of interest to the *Special Commission of Inquiry into Child Protection Services in NSW*.

There are many views within the Catholic sector about how to address the problems with the NSW child protection system. While individual Catholic agencies may adopt slightly different positions on key child protection issues, in this submission we have been guided by the principles of Catholic Social Teaching².

Our submission recommends significant reforms to the child protection system - we have developed recommendations regarding early intervention, statutory child protection, out of home care, inter-agency co-operation, and mental health, rural and indigenous issues as they relate to child protection. This continues our long standing commitment to supporting the ongoing dialogue between the NSW Government and the non-government sector about how best to respond to the needs of vulnerable children, young people and their families.

² Information about Catholic Social Teaching is available at the Faith Doing Justice website. This web resource is a partnership between Church Resources and the Loyola Institute, a work of the Australian Province of the Society of Jesus. <http://www.faithdoingjustice.com.au/>

3. Early Intervention

Brighter Futures, the Department of Community Services' (DoCS) early intervention program aims to reduce child abuse and neglect by working with families before their problems escalate into crisis; improve parent-child relationships and the capacity of vulnerable families; achieve long-term benefits for children; break inter-generational cycles of disadvantage; and reduce demand for services such as child protection and mental health³. It does this within a child protection framework.

Catholic Social Services NSW/ACT and the NSW Catholic Social Welfare Committee welcome the inclusion of early intervention as an integral component of the child protection system. We support the aims of the *Brighter Futures* program and the role of non-government organisations (NGOs) in delivering early intervention services; and look forward to the program's full implementation across NSW in 2008.

We are concerned however that DoCS' dual role as the government's statutory child protection agency and provider of early intervention services may impinge on the effectiveness of the *Brighter Futures* program. We await the Social Policy Research Centre's evaluation of the program with great interest.

We support the devolution of prevention, early intervention and family support responsibilities from DoCS to the NGO sector.

3.1 DoCS: Child protection and early intervention

DoCS has a statutory responsibility to respond to reports of child abuse. DoCS must address the immediate safety issues, determine the level of risk to the child and make decisions about what should be done to reduce that risk. Reports are made through the DoCS Helpline.

Referrals to the *Brighter Futures* program are made following a report or request for assistance. The majority of *Brighter Futures* referrals (80 per cent) come from child protection reports or requests for assistance to the DoCS Helpline. The remaining 20 per cent come directly from NGOs⁴.

We believe that DoCS' dual role as the government's statutory child protection agency and provider of early intervention services is problematic and may impinge on the effectiveness of the *Brighter Futures* program.

The DoCS Helpline should not be the primary entry point for early intervention services. It is problematic for several reasons.

- Families can find it difficult to distinguish DoCS' early intervention role from its child protection role;

DoCS is both the agency to go to for help and the agency that removes children. This can be confusing for families.

³ Department of Community Services, nd, 'Providing Early Intervention Services', viewed 25 February 2008 http://www.community.nsw.gov.au/DOCS/STANDARD/PC_100980.html

⁴ DoCS, Annual Report 2006-07, p40.

- Parents requiring assistance can be reluctant to approach DoCS for support because of concerns that their parenting capability may be viewed negatively or that their child may be removed;

The Department of Community Services is well known as a child protection agency and there is a degree of fear amongst disadvantaged families about this role. These families are often the ones requiring early intervention support. We have had families and young people report that they do not feel comfortable accepting early intervention support from DOCS caseworkers.

- Indigenous families are unlikely to voluntarily seek support from a government welfare agency with mandatory child protection responsibilities because of their 'historical mistrust' of government welfare services. Aboriginal families with experience of the stolen generations are even less likely to access early intervention services through DoCS.

The Aboriginal community is still very fearful of DoCS. The perception is that if DoCS are around, they will take your children. This is a legacy of the stolen generations.

DoCS' dual role as statutory child protection agency and early intervention provider is confusing and may deter those most in need of early intervention services from accessing them, especially indigenous people, people from a CALD background and people experiencing social disadvantage.

NGOs have a long tradition of providing prevention and early intervention services. They have developed relationships with children, young people and their families over a long period of time, building trust and rapport, and supporting them to make positive changes.

While a significant number of these services are provided by NGOs with DoCS funding, and NGOs providing such services are also mandatory reporters; families seem less concerned about these issues than when accessing similar services provided by DoCS. This supports our position that early intervention service delivery should be devolved to the NGO sector.

Families will accept support from NGOs more readily than they will accept them from DoCS because of their separation from the statutory role.

Much of the early intervention work is done by NGOs and has been for years. Many families will accept support from NGOs, support that prevents them from needing child protection intervention. Many of the families that we work with never become involved with DOCS. On the other hand, some become involved with DoCS because of our intervention.

A further concern is that referral pathways to DoCS' funded early intervention programs are not always clear. While NGOs and individuals can refer a family directly to a *Brighter*

Futures lead agency, it is DoCS that determines the eligibility of families who are referred to the program⁵.

We made a notification to DoCS (via the DoCS Helpline) regarding a family and requested that they be referred to the early intervention program. Our caseworker and the family support worker from another NGO also made referrals for this client directly to the Brighter Futures lead agency in the area the family resides in. A letter was sent to the family support worker stating that the referral had been declined, but not outlining the reasons why.

Some time after this the family reported that the Brighter Futures program was now working with them. This has left our agency confused. Why was the original referral to Brighter Futures not accepted? Only a few months after the original referral was declined, the family is receiving early intervention services. To our knowledge, no new notifications or referrals have been made!

A final concern related to DoCS' dual role as statutory child protection agency and early intervention provider is the tension between DoCS' child protection and early intervention systems and the vastly different cultures within them.

This crisis driven / reactive practice environment is now impacting on the delivery of the Brighter Futures early intervention program with the co-location of early intervention caseworkers with child protection and out of home care caseworkers. In a number of CSC's in the Western Area many child protection caseworker positions are unfilled. I'm aware of early intervention caseworkers being called upon to attend to urgent child protection matters. Clearly this limits their capacity to effectively deliver the early intervention program.

Brighter Futures has the potential to bring many positive changes for families if implemented properly. This will not occur if DoCS continues to fulfill these two conflicting roles.

DoCS case workers are dedicated and passionate, however their caseloads are too high and they are under-resourced, often working in teams without a full complement of case workers; they are tertiary qualified but are frequently inexperienced and have little opportunity to participate in training. Some find it challenging to switch between the multiple roles they are expected to take on. They undertake complex and time consuming assessments, support families to access prevention and early intervention programs, liaise with NGOs, government agencies and other support services, and manage cases requiring intensive, long term casework, all while working within a crisis driven system.

The mother of a 13 year old girl contacted DoCS and requested their support to keep her daughter at home and make sure that her 2 younger children (9 months and 2 years) were safe - the girl was

⁵ Department of Community Services, nd, 'Providing Early Intervention Services', viewed 25 February 2008. http://www.community.nsw.gov.au/DOCS/STANDARD/PC_100980.html

continually hurting the babies. The DoCS worker informed the mother that it was her problem and that there was nothing that DoCS could do for her or her family, and that she (mother) should be more vigilant in regard to her children's wellbeing. After numerous calls and refusals of help the girl was placed in a refuge and eventually became a State Ward (sic). No stable placement was located for her and she entered the crisis circuit and led a transient life for the next 6 years. She suffered a number of undiagnosed medical conditions. She still contacts her family for support as they have always responded to her crises and kept the lines of communication open.

DoCS workers seldom have the time to work with families with such complex and long term needs. The NGO sector, is perfectly positioned to do so.

Catholic Social Services NSW/ACT member organisations have advocated strongly for the devolution of prevention, early intervention and family support responsibilities from DoCS to the NGO sector. The NGO sector has the capacity to take on this responsibility provided services are devolved incrementally.

Recommendation 1

That responsibility for prevention, early intervention and family support is devolved incrementally from DoCS to the NGO sector.

That DoCS provide NGOs with an appropriate and corresponding funding increase to deliver these services.

That DoCS retain responsibility for statutory child protection including assessment, investigation and intervention.

3.2 Early intervention for children and young people aged 8-15

There is an expectation that over time, the *Brighter Futures* early intervention initiative targeting vulnerable families with children aged 0-8 will reduce the number of child protection notifications. However, there is a widely held view within the NGO sector that a similar reduction in the number of reports involving older children and young people is unlikely.

Older children and young people require support, advocacy and services, some will need them continuously. Failure to meet these needs when they arise can have long term consequences for individuals and for society as a whole. Transition points causing stress for older children and young people include entry to high school; puberty; and the transition to adulthood.

Catholic Social Services NSW/ACT member organisations report that requests for assistance made by families with adolescent children are seldom given appropriate attention by the child protection system, and preventative services targeting this age group are poorly funded.

There are not enough intervention services that target family breakdown in the adolescent group

Early intervention services should be available to all children and adolescents at risk of harm, irrespective of their age. Investment in the early years shouldn't mean that there is a diminution of resources for older children and young people.

Better Futures is the NSW Government's prevention and early support strategy for children and young people aged 9-18. It aims to improve outcomes for children and young people by encouraging their development, improving family and community support and getting them involved in the community⁶. The *Community Services Grants Program* (CSGP), also adopts a community-based approach, assisting young people through the provision of youth support services and family counselling. However, neither program appears to meet the needs of older children or adolescents with at risk behaviours or high support needs. Intensive support similar to that provided via *Brighter Futures* and the *Out of Home Care* program is not available to this age group. This is a concern considering vulnerable families are more susceptible to breakdown when children reach adolescence.

We frequently see breakdowns in family placements for young adolescents (13-14 years) because of conflict with parents and lack of family support.

A Catholic Social Services NSW/ACT member organisation providing a targeted youth support service for 'high risk' young people reports that DoCS consistently fails to respond

to reports of young people who are experiencing family violence or other abuse, and young people requiring parental responsibility because of their age. Prior to 15 (when they can enter a SAAP service) the young people and their families cannot access assistance.

We note that in the past, DoCS employed caseworkers who worked specifically with adolescents. Several Catholic Social Services NSW/ACT members report that this approach worked well and suggest that it may warrant further investigation.

The innovative models of support provided by some Catholic Social Services NSW/ACT member organisations also merit further exploration.

Recommendation 2

That DoCS adopt a more focused approach to addressing the child protection needs of young adolescents through the provision of adolescent specific case workers and the exploration of alternative models of support that recognise the complex family and child trauma issues that are characteristic of this group.

⁶ Department of Community Services, n.d. *Better Futures*, viewed 25 February 2008.
http://www.community.nsw.gov.au/DOCS/STANDARD/PC_100931.html

4. Statutory Child Protection

4.1 Mandatory reporting and risk of harm

Mandatory reporting

Catholic Social Services NSW/ACT and the NSW Catholic Social Welfare Committee support mandatory reporting as a key element of the child protection system, its role as a pathway into the early intervention program and as a means of identifying those children whose cumulative exposure to risk is potentially life threatening.

Catholic agencies support the retention of Section 27 1 (a) and 1 (b) of the *Children and Young Persons (Care and Protection) Act* 1998 which describe those classes of people categorised as ‘mandatory reporters’ (with the exception of teachers as noted in Recommendation 4).

Risk of harm

Discussion within the Catholic sector about mandatory reporting and risk of harm, centres on what should be reported and the response by DoCS.

There is ongoing debate in the NSW NGO sector⁷ about the ‘risk of harm’ reporting threshold. Risk of harm has also been discussed in recent international forums⁸. There are a range of views within the Catholic sector regarding risk of harm. Some agencies believe that the present low threshold of reporting creates a situation where the large number of reports means that those at high risk can be missed and those at low risk do not receive the services they need (a ‘dangerous system’ as described by Dorothy Scott⁹). They propose raising the threshold.

*We believe that it is essential that **actual or imminent** harm be reported. This is where the core business of DoCS should be centred.*

Others are concerned that raising the threshold would result in a lack of reporting of multiple instances of ‘low risk’ behaviours that form a pattern that is indicative of ongoing neglect and/or abuse and the urgent need for early intervention services. Concern centres not so much on what is reported, but DoCS’ response to ‘low risk’ reports. Such reports are often low priority.

Several Catholic Social Services NSW/ACT members suggest that pressure on the DoCS mandatory reporting system could be alleviated through the timely referral of low level reports directly to NGOs, especially those providing prevention and early intervention services.

⁷ DoCS (2006) *Statutory Child Protection in NSW: Issues and Options for Reform*.

⁸ Scott, E. (2006) *From Family Crisis to State Crisis: the impact of overload on child protection in New South Wales*, 16th ISPCAN International Congress on Child Abuse and Neglect, York, United Kingdom.; and Scott, D. (2006) *Sowing the Seeds of Innovation in Child Protection* 10th Australasian Child Abuse and Neglect Conference, Wellington, New Zealand.

⁹ Ibid.

There is an opportunity for the NGO sector to relieve some of the pressure on the DoCS system through the timely referral of cases at a lower level of risk. These often receive little attention.

Any change to the definition of ‘risk’ in an attempt to resolve ambiguity could well lead to further confusion¹⁰. There is little public consensus around the meaning of terms such as ‘serious’ or ‘likely’, and legal definitions do not necessarily reflect the understanding of those making reports. Given that the definition of ‘risk of harm’ determines what is reported to DoCS and by whom, it is suggested that the most productive course of action could be to bring together representatives from both the Child Protection and Legal sectors to explore this complex issue further.

Recommendation 3

That, given the ongoing debate in respect of both the interpretation and the application of the statutory basis for mandatory reporting (*Children and Young Persons (Care and Protection) Act 1998* - Sections 23 and 24), the Commission of Inquiry convene a special forum of both Child Protection practitioners and legal experts to explore:

- issues arising from the current wording of Sections 23 & 24 (also 27); and
- possible alternative statutory provisions, rights and duties.

Reporting issues

There are a set of associated issues that arise with respect to the proper application of Section 27 of the *Children and Young Persons (Care and Protection) Act 1998*. This is of particular concern to schools but it applies to a broad range of professional services. The interpretation of the present wording has led to a situation where a teacher who has reason to suspect that a child is at risk of harm is directed to report to DoCS. The legislation does not include provision for the school principal to be informed nor for their more extensive knowledge about the child and family to be accessed. The principal is thus left in a position of not knowing about situations ‘of risk’ affecting a student (and possibly other students) for whom they have responsibility. The Memorandum of Understanding (MOU)¹¹ between DoCS and the three bodies providing schools in NSW addresses this dysfunctional process and allows teachers to relay notifications through their principal.

Since the scope of Section 27 covers a broad range of workers and agencies providing professional services, the new wording could also address similar concerns from NGOs.

Recommendation 4

That Section 27 of the *Children and Young Persons (Care and Protection) Act 1998* be amended to reflect the wording developed in the Memorandum of Understanding on Mandatory Reporting for the Education Sector between DoCS, the NSW Department of Education and Training, the Catholic Education Commission of NSW and the Association of Independent Schools.

¹⁰ See the discussion by Scott, E (2006), op cit.

¹¹ MOU between the NSW Department of Community Services, the NSW Department of Education and Training, the Catholic Education Commission of NSW and the Association of Independent Schools.

Child protection incidents involving employees

Where an allegation involves an employee of an NGO or school, the employer must first decide whether the allegation is one which must be reported to DoCS, the NSW Ombudsman, or both. In making this decision the employer is required to decide if the allegation fits the criteria for the particular types of reporting required. This process is hampered by confusion as to thresholds and also as to how to provide the appropriate child support response while not ‘contaminating’ any further investigation of the employee’s conduct.

The provision of assistance to the child can become secondary to the imperatives of the employee focused reporting process and any subsequent investigation of the employee.

Recommendation 5

That DoCS procedures clarify the capacity of a service provider to continue to assist a child when the service provider becomes involved in a child protection case which involves an employee of the service provider.

4.2 Management of child protection reporting

The widening of mandatory reporting has resulted in a significant increase in the number of children and young people suspected of being ‘at risk of harm’. The sheer volume of reports has resulted in the child protection system becoming overloaded. DoCS response to this situation has been inadequate. The problems are systemic and require immediate attention.

Catholic agencies have identified problems at all levels of the reporting system, including the DoCS Helpline and Community Services Centres. There are concerns about how information is gathered, how assessments are carried out, how cases are prioritised and allocated, and how feedback is provided to reporters. They are particularly concerned that during the investigation and assessment of reports, DoCS does not evaluate the child and family’s situation holistically; and instead uses an incident-based system.

Catholic Social Services NSW/ACT member organisations believe the knowledge and expertise of NGOs is under-utilised and have called for greater collaboration with the NGO sector. Some agencies have called for a return to using local intake workers in order to support the development of a more collaborative response to child protection reports.

There is a view that the centralised reporting system - the DoCS Helpline and the system underpinning it - is failing to respond in a timely and effective manner to the needs of many children and families suspected of being at risk of harm.

The DoCS Helpline

The system for reporting child protection matters has improved considerably since the introduction of the DoCS Helpline. Reporting processes are more streamlined and the centralised collection of data has supported the identification of children whose cumulative exposure to risk is potentially life threatening.

However, Catholic agencies providing services in rural NSW report that the introduction of the Helpline and its centralised intake system, has had significant implications for rural and Indigenous communities. The previous system, which used local DoCS intake workers, ensured that 'local knowledge' was part of the assessment process. Intake workers understood the community, had connections with local support services and were able to build relationships with them. A considerable number of Catholic agencies believe that while the Helpline has strengthened DoCS ability to gather and analyse child protection data, the strengths of the previous system have been lost.

We acknowledge that managing a complex child protection reporting system like the DoCS Helpline is challenging and commend DoCS for the improvements it has made in recent years. However, Catholic agencies report that they continue to experience considerable difficulties in their interactions with the Helpline and have identified several problems with Helpline systems, including how information is gathered, the initial assessment process, and the perceived disconnect between Helpline staff and Community Services Centres.

Helpline staff are 'information gatherers'. They are often unable to comment on the probable DoCS response.

*There are problems with the centralised Helpline system.
Cases are measured against other cases in order to prioritise action.
An objective risk assessment tool should be used instead.*

There are concerns that the Helpline role is too broadly defined. Catholic agencies report that some Helpline staff are responding to reports that are not directly related to imminent risk of harm; reports that could be better managed through a separate system.

There have been times where our reports, even when supported clearly by the legislation, have not been addressed. For example, a child who has been in a voluntary placement without a clear plan to be returned home for a period longer than what is stated in the legislation. Our responsibility as a mandatory reporter is to notify the Helpline. On one occasion, staff were told to call back once the child became homeless. This leads me to wonder what are the individual thresholds/demands/Level 1 and 2 reports of the staff on the Helpline; and whether or not there are some reports (that we are bound to make under mandatory reporting requirements) that could be directed elsewhere, for example directly to the local Community Services Centre; or perhaps powers given to the agency where the child is placed to take action once they deem this child is in need of formal care and protection.

DoCS Helpline staff are respected for their professionalism, competence and commitment. The Catholic sector recognises that Helpline staff are under enormous pressure to capture information accurately and assess the risk of harm to vulnerable children and young people. However several Catholic agencies report that some Helpline staff engage in 'gatekeeping' rather than making a 'professional judgment' about the degree of risk.

They also report that some Helpline staff are reluctant to take calls about adolescents at risk of harm. This supports the view expressed in Section 3.2 of this submission that requests for assistance made by families with adolescent children are seldom given appropriate attention by the child protection system.

*The Helpline is very reluctant to take up calls about adolescents at risk due to homelessness or behaviour or unsafe situations.
'Professional judgment' shifts the blame onto the young person.*

The investigation and assessment of reports: incident-based v holistic

Many Catholic Social Services NSW/ACT member organisations believe that the system for investigating and assessing reports should be more holistic and are critical of the current incident-based system.

While there are some exceptions, we believe that assessment of risk is more effective when the child and family's circumstances are evaluated as a whole. Holistic assessment recognises that it is often necessary to consider a series of events to assess risk accurately, particularly when there is a risk of neglect and/or emotional harm. It also assesses the availability of support resources.

If more holistic strengths-based assessments were conducted many families would be directed to more appropriate support earlier. The inadequate assessment that currently occurs results in families not receiving any support/intervention, cases are closed without assessment, problems escalate and risks increase, multiple reports are made and then DoCS intervenes in a reactive manner.

Assessment at all levels of intake – including the Helpline and the local Community Services Centre – is inadequate. This leads to blocking of timely and appropriate services.

The current assessment process has a forensic focus. Low level reports suitable for referral to early intervention services are forwarded to Community Services Centres for secondary assessment and investigation. This can mean that vulnerable families experience considerable delays before they are linked to appropriate support services.

When the Helpline was introduced, the intention was that it would conduct a more comprehensive initial assessment including consultation with other services and referral where appropriate. There is no evidence that this is occurring. So 'low level reports' that don't require statutory intervention and could be referred on to the NGO sector are not being identified at intake but are referred on to local Community Service Centres.

While referral to the local Community Services Centre is clearly an important step in the process of engaging and monitoring support services, action needs to be taken to address the long delays currently experienced by vulnerable families.

DoCS introduced a Secondary Risk of Harm Assessment framework in 2001-02. The framework is a comprehensive, strengths based, holistic approach to assessing risk of harm. We suggest that the *Special Commission of Inquiry* investigate whether DoCS case workers are implementing this framework and are utilising the Secondary Risk of Harm Assessment, Risk Analysis Practice Tool when assessing and investigating reports. An evaluation of its efficacy should also be undertaken.

NGOs and schools are well positioned to contribute to a holistic assessment process. Their knowledge of individual cases and the circumstances leading to reports could lead to significantly improved outcomes for children, young people and families. However, Catholic agencies are rarely consulted by DoCS during the assessment process.

NGOs are rarely consulted during the assessment phase, even when they have knowledge about the family's circumstances that could influence DoCS' decision. There are numerous instances where my agency has been working with families who have come to the attention of DoCS. Had DoCS consulted with us, further intervention by the Department could have been avoided. I have experienced multiple instances of DoCS not taking into account the knowledge of the NGO making the report, including incidents of violence and the seriousness of the situation.

Feedback on reports

Catholic Social Services NSW/ACT member organisations report that they receive very little feedback after making a report to the DoCS Helpline. When feedback is received it is invariably in the form of a standard DoCS fax acknowledging receipt of the report and advising that the matter has been forwarded to the local Community Services Centre (or JIRT).

Any attempt to follow up with the Helpline is met with an instruction to phone the local CSC and quote ++ reference number. When you do this, the CSC usually advises that the matter is yet to be assessed/allocated. Unless we continue to phone, we hear nothing.

There is very limited information provided to NGOs at the point of notification. This sets up a situation where you have to 'chase the system' to establish what, if any, intervention has occurred.

Our members believe that the existing feedback process impacts on their ability to support families effectively in the days and weeks after a report has been made. Families are often in crisis during this time and many would benefit from knowing more about what follow up action is being taken, including whether referrals have been made to appropriate support services.

We need to know if DoCS will be engaging with the family and what referrals are to be made, if any. Sometimes the reporter will be able to provide the necessary support.

As professionals, we need to know whether there is going to be any follow up or not. Clients are usually aware that we have made the report. It would be beneficial in some cases for us to provide feedback to them.

Some Catholic agencies report that they receive less feedback now than they did when the previous system, using local DoCS intake workers, was in place.

The older system of having local intake workers was much more successful and allowed for the development of local relationships with intake workers who would provide more open dialogue about DoCS responses.

Role of NGOs

NGOs are well positioned to monitor risk situations. Closer collaboration between DoCS and NGOs after a report has been made could lead to improved outcomes for children and young people at risk of harm, particularly if it occurred as the secondary assessment and investigation is being undertaken by DoCS. Catholic Social Services NSW/ACT member organisations report that little collaboration between DoCS and NGOs currently takes place during this stage of the reporting process.

There is very poor recognition that service providers could play a role in monitoring risk situations whilst decisions are made about the nature of the intervention.

We need to adopt a partnership approach to responding to risk of harm rather than DOCS being viewed as the experts and the gatekeepers of information. During the period immediately after a report is made NGOs are often unaware of the action DoCS is taking or whether referrals to other services have been made.

We understand that most of these reports are not acted upon. There is little collaboration on reported matters for this reason.

Recommendation 6

That DoCS adopt a holistic process for assessing and investigating risk of harm and ensures that all assessments evaluate the child and family's circumstances as a whole, especially where there is a risk of neglect and/or emotional harm.

Recommendation 7

That DoCS ensures that child protection case workers responsible for undertaking secondary risk assessments and investigations receive training on the DoCS Secondary Risk of Harm framework and utilise the Secondary Risk of Harm Assessment, Risk Analysis Practice Tool.

That an evaluation of the framework's efficacy is undertaken.

Recommendation 8

That DoCS develop a partnership approach with NGOs and schools to responding to risk of harm.

4.3 Neglect

Catholic Social Services NSW/ACT and the NSW Catholic Social Welfare Committee support mandatory reporting as a means of identifying those children whose cumulative exposure to risk is potentially life threatening. We note that 'neglect' cases represent the second highest number of reports after domestic violence¹² and that long term outcomes for children who have experienced neglect are extremely poor¹³.

Assessment and response

Catholic agencies are concerned that the DoCS child protection system does not have the resources to respond effectively to reports of neglect (especially emotional neglect). When reports are investigated and assessed as isolated incidents without careful consideration of the family's history, past incidents or present circumstances; they are allocated a low priority and are not responded to appropriately. We are concerned that children and families in this situation are not receiving appropriate support services until their situation escalates and the level of risk is re-assessed.

Investigating neglect and responding appropriately requires holistic assessment and intensive, long term case work. We believe that the NGO sector is well placed to support families requiring such casework.

We suggest that unless DoCS introduces a comprehensive holistic assessment system and works more collaboratively with NGOs (particularly during the secondary assessment and investigation phase), that children who are at risk of harm from neglect will continue to slip through the gaps.

We are concerned that several Catholic Social Services NSW/ACT member organisations have reported that some early intervention services funded through the *Brighter Futures*

¹² DoCS (2006) Statutory Child Protection in NSW: Issues and Options for Reform.

¹³ Parton (2006).

program are being used to respond to the needs of children and families identified as Level 1& 2. These families need much more intensive interventions.

Recommendation 9

That DoCS work more collaboratively with the NGO sector when responding to reports of neglect.

Recommendation 10

That DoCS develop strategies for allocating case-work responsibilities for families requiring intensive, long term support to NGOs when the primary issue of concern is neglect.

That DoCS provides NGOs with an appropriate and corresponding funding increase to deliver these services.

Defining neglect

We believe that there is a need to further define neglect as it relates to children and young people at risk of harm. We suggest that the terminology used to describe risk of harm, including neglect, should be consistent across the child protection system. This would mean ensuring that the *Children and Young Persons (Care and Protection) Act 1998*, the *Interagency Guidelines*¹⁴, DoCS child protection policies and material developed for child protection training use the same terminology to describe neglect. We note that the *Children and Young Persons (Care and Protection) Act 1998* currently does not use the term ‘neglect’ and that the Interagency Guidelines use the term ‘abuse and neglect’.

Recommendation 11

That DoCS take action to ensure that the terminology used to describe risk of harm, including neglect, is consistent across the child protection system.

4.4 The Children’s Court

The Children’s Court is well regarded by Catholic agencies. In our response to the DoCS Discussion Paper “*Statutory Child Protection: Issues and Options for Reform*”¹⁵ we argued against a DoCS proposal to remove child protection matters from the Courts and replace the Children’s Court with a tribunal system. Our position on this matter has not changed.

While there is scope for improvement in several areas relating to the role of the Courts in child protection matters, namely the role of alternative dispute resolution once Court proceedings have begun, the making of contact orders, the consideration of care plans, the

¹⁴ The Interagency Guidelines provide extensive information about neglect, including the definition of neglect and the indicators of neglect.

¹⁵ DoCS (2006) *Statutory Child Protection: Issues and Options for Reform*.

making of orders allocating parental responsibility, and the duration of court proceedings; we believe that decisions about the removal of children from their families must be made independently of government by a specialist judicial body like the Children's Court.

We do not believe that a tribunal with semi-judicial status and panel members appointed by government is an appropriate model for decisions relating to child protection matters, especially those concerning the removal of children from their families. Catholic agencies are concerned about the authority and status of a tribunal relative to that of the Children's Court and the independence of tribunal members appointed by government.

Recommendation 12

That child protection matters are not removed from the Courts and the Children's Court is not replaced by a tribunal system.

Family Group Conferencing

The court process can be very stressful for children, young people and families. Some Catholic agencies advocate the introduction of family group conferencing¹⁶ to allow parents and their extended families to make alternative and appropriate care and protection plans for their children.

The court process is very daunting and difficult for families to understand. There is limited opportunity to support the parent's transition and grieving. This has implications for future relationships and contact matters.

We think the use of family group conferencing as a mandatory precursor to court proceedings has merit. This model is used in New Zealand.

Recommendation 13

That the *Special Commission of Inquiry* investigate the efficacy of family group conferencing and its potential as a mandatory precursor to NSW court proceedings.

The Children's Court: Areas for Improvement

Duration of court proceedings

The duration of court proceedings can mean that children remain in emergency placements for up to 2 years. This can be extremely stressful for carers and harmful for the child.

After 18 months in care, the court made a decision to restore J to his birth mother. He was now just under 4 years old and had formed a loving, yet anxious, attachment to his foster carer. The case had been before the court for all this time.

¹⁶ Hetherington et al (1997) *Protecting children: Messages from Europe*.

Contact orders

Catholic Social Services NSW/ACT member organisations have expressed concerns in the past about the expertise of some magistrates dealing with child protection matters, especially when making contact orders. We suggest introducing evidence-based guidelines or benchmarks to assist Magistrates (particularly those in rural and regional areas), to determine the appropriate level of contact for the child or young person.

This position is supported by a literature review referred to in the DoCS discussion paper “*Statutory Child Protection: Issues and Options for Reform*”¹⁷ which states that “expert opinion and research... recommends that the process of determining the frequency, duration and who should be involved in the contact be guided by decision making frameworks that utilise a strong theoretical and evidence base”¹⁸.

Recommendation 14

That the Children’s Court consider the efficacy of introducing evidence-based guidelines or benchmarks to assist Magistrates to determine the appropriate level of contact for the child or young person.

¹⁷ DoCS,(2006) Op cit.

¹⁸ Scott, D (et al) “Contact between children in out of home care and their birth families – a review of the literature”, 2005 in ‘*Statutory Child Protection in NSW: Issues and Options for Reform*’, DoCS, October 2006, p.39.

5. Out of Home Care

The Out of Home Care (OOHC) system supports children and young people who are unable to live at home. Services are provided by DoCS and a number of NGOs, including several Catholic Social Services NSW/ACT member organisations.

DoCS is both a provider and purchaser of OOHC. In its purchaser role, it funds NGOs and monitors their performance.

The NGO component of the OOHC system is being improved through two initiatives:

- the DoCS OOHC reform process; and the
- Children's Guardians statutory accreditation system.

Both initiatives have been well received by the NGO sector.

In December 2002 the NSW Government announced additional funding of \$617 million (over five years) to strengthen the out-of-home care (OOHC) system in NSW. The final component of enhancement funding will be rolled out in 2008.

5.1 OOHC: DoCS v NGOs

DoCS' dual role as purchaser and provider of OOHC services has been the subject of debate for many years. In 1992, the Usher Report¹⁹ recommended that DoCS should not be a major provider of substitute care (as OOHC was then known). The NSW Government did not support this recommendation because of concerns about the capacity of the NGO sector. However since 1992, a number of initiatives have been implemented to increase the NGO sector's capacity and programs like the Children's Guardian's *Accreditation and Quality Improvement Program* have led to significant improvements in the quality of OOHC services provided by NGOs.

In recent years, the Victorian Government has transferred a significant proportion of foster care and residential care to the NGO sector. In NSW however, DoCS is committed to maintaining a mixed OOHC service system²⁰. Its reasons include:

- Flexibility to ensure services to children, young people and their families are provided in the most effective and efficient manner by the provider who is best placed, depending on the circumstances;
- DoCS retains an effective capacity to respond as a provider of last resort in the event of NGO service gaps; and
- DoCS retains service delivery expertise and remains an informed purchaser.

While we acknowledge DoCS' rationale for maintaining the existing service system, we believe that outcomes for children and young people in care will be improved if DoCS

¹⁹ Usher, J (1992) "Ministerial Review Committee: Review of substitute care services in NSW".

²⁰ Department of Community Services (2007) *Improving the Out of Home Care System: Some Emerging Issues* p.2.

devolves responsibility for OOHC service delivery to the NGO sector. The Association of Children's Welfare Agencies (ACWA) and many OOHC providers support this position.

The transfer of service delivery to the NGO sector will allow DoCS to focus on its statutory child protection responsibilities and begin to address the many problems identified in Section 4 of this submission.

One of the reasons NGOs are able to deliver better outcomes for children and young people is that they maintain much lower case loads than DoCS²¹. This allows them to build relationships with children and young people, support carers more effectively and maintain placement stability.

DoCS has been progressively transferring responsibility for case management and parental responsibility to the NGO sector. As NGOs build on their existing case management expertise they will be well positioned to increase service delivery levels.

We are confident that the NGO sector has the capacity to increase OOHC service delivery and continue to provide good outcomes for children and young people. However the transition from DoCS must be incremental and be supported by a corresponding increase in funding.

Additional funding is critical to ensure that NGO OOHC providers are able to maintain current case loads and continue providing support services that prevent placement breakdown and maximise outcomes for children and young people.

Recommendation 15

That DoCS devolve responsibility for providing all direct OOHC services to the NGO sector. The transition should be incremental and supported by a corresponding increase in funding.

5.2 Foster care

DoCS and NGOs alike struggle to recruit and retain enough foster carers to support all of the children and young people requiring foster care placements. It is widely recognised that there are not enough people willing and qualified to provide foster care in NSW. While NGOs find it difficult to support foster care placements in this environment, they are able to do so more effectively than DoCS because their caseworkers maintain much lower caseloads than DoCS caseworkers. DoCS acknowledges that caseload ratios are lower in the NGO sector and has increased the number of caseworkers supporting foster carers, however carers continue to leave the system because they feel that they are unsupported and not valued.

Foster carers require ongoing training and support. The support must be consistent, reliable, practical, available 24/7, tailored to the carer's individual needs and accessed before the placement is in crisis. The relationship between foster carer and case worker is critical.

²¹ According to ACWA NGO case loads are approximately 1:10 – 1:12. DoCS caseloads are as high as 1:30.

Carers need to understand what they're being asked to do and matched carefully with the child or young person requiring care. They require information about the child's needs at the beginning of the placement so that they are able to respond appropriately. They should be involved in making decisions about the placement and participate in case reviews, court proceedings and other critical processes. Carers also need to feel that they are respected and valued.

The following case study demonstrates some of the problems foster carers experience:

T, a one month old baby, entered a short term placement with our agency and stayed for 10 months. DoCS made a long term placement with another agency without consulting us or the carer. Very little information was collected from our caseworker or the carer before the transition. It soon became clear to us that T's new carers were not aware of her significant medical issues. The new carers contacted T's first carer every night during the transition and for some time afterwards. However they were encouraged by DoCS and the NGO to continue with the placement. During the transition significant issues arose. The new carers sought support from T's first carer. We advised DoCS and the new carer's NGO of these issues.

We later discovered that the placement had broken down and that T had been placed with a third carer. We were not consulted about this, nor was T's first carer. T's first carer felt that she had valuable information to share with the new carer but she was not given the opportunity to do so. T's first carer had been prepared to provide some stability for T but because DoCS placed T with a new carer without consulting us this opportunity was lost.

A long term criticism of DoCS is that payments to foster carers are inadequate. The NSW Government recently boosted payments to carers following a review of allowances and contingency payments, making NSW carers the highest paid in Australia²². However, NGOs, peak bodies and foster carers suggest that remuneration continues to be an issue.

Catholic agencies suggest a number of practical initiatives to address recruitment and retention issues:

- *Recruitment should be informed by the latest research- the University of Wollongong's Faculty of Commerce recently secured a \$350,000 ARC Grant to research the recruitment of foster carers;*
- *Recruitment should be coordinated across the sector. Agencies should not be competing against each other;*
- *Previous accreditation/experience should be taken into consideration during the foster carer accreditation process;*
- *Foster carers (and kinship carers) should be provided with additional support and paid appropriately and promptly..*

²² Department of Community Services (2007) 'DoCS: Corporate Directions 2007-08', p.6.

5.3 Kinship care

Kinship care places children and young people with familiar people, in familiar surroundings. It is now a major component of the Australian OOHC service system and is the preferred placement option for a significant number of children and young people entering OOHC. Kinship care arrangements have increased significantly over the past decade. In NSW, 57% of all children and young people in OOHC are in kinship care, including 69% of all Aboriginal children and young people in care²³

An effective kinship care service provides children and young people with case management, casework and support services and carers with training and support. Until recently, kinship care placements in NSW have not received the same level of financial support that other OOHC placements receive.

In 2007, DoCS formally recognised kinship care as an OOHC service model. We commend DoCS decision and look forward to much improved support for children and carers in kinship care arrangements.

5.4 Support services for children in Out of Home Care

While there are a range of support services available for children and young people in OOHC, there are not enough of them and they are difficult to access. Catholic agencies report that more support services are urgently required to support kids with complex needs including assessment, therapy, specialist educational support, tutoring and intensive mental health services. It is uncertain how successful the wraparound services funded through the recent DoCS OOHC EOI process will be or whether they will be able to meet demand. We suggest that DoCS should consider allowing children and young people to access support services outside the OOHC system until these services are fully established and it has been established that they are able to meet the needs of kids in care.

Approval to use private providers would be helpful.

Educational support services

Of critical concern to Catholic agencies is the lack of specialised educational services for children and young people in OOHC. While the research indicates that these children experience poorer educational outcomes than their peers, education has been identified as being the most significant factor in producing long term positive outcomes for children in care. Clearly, accessing appropriate educational services is a priority for children in OOHC. However, Catholic agencies report that many of the young people they support are unable to access and participate in education and have become disengaged from the mainstream system.

Some NGOs, including Catholic agencies, have developed unfunded 'alternative education' programs for young people in OOHC with the intention of assisting them to transition successfully into mainstream education. While these services are delivering good outcomes, we believe that a more appropriate response to meeting the needs of these disengaged young

²³ Department of Community Services (2007) "Improving the Out of Home Care System: Some Emerging Issues" p.6.

people would be for the NSW Government, including DoCS and the Department of Education and Training (DET), to review the alternative education models being used and fund them as wraparound services through either the DoCS OOHC program or another appropriate government program.

There are many examples of successful collaboration between schools and NGOs, however Catholic agencies have found it difficult to replicate successful programs in other parts of the system. They suggest that a silo approach is preventing more effective collaboration between DoCS, DET, the Catholic Education Commission (CEC), the Association of Independent Schools of NSW (AIS) and the NGO sector.

It is more complicated than just saying 'schools and NGOs need to work together'. There is often great collaboration. Rather, it is the systems that need to collaborate. We constantly see DoCS with one set of procedures, DET with another and the NGO with yet another set. The needs of kids get lost when we try to find a way forward. Systems need to be more responsive when agencies and schools are working together.

Over the years there have been a number of State and Commonwealth initiatives for the provision of 'students at risk' programs, including the Full Services Schools pilot. Such initiatives need ongoing financial support from the government and powerful structures to enable interagency models of service delivery.

Recommendation 16

That NGOs and schools work together on the design and delivery of new models to address the needs of children out-of-home and out-of-school, or at risk of homelessness or disengagement from education.

That Government and Non-Government authorities such as DoCS, DET, the CEC and the AIS develop systems that support collaboration and are responsive to innovative service models with the potential to deliver good outcomes for children and young people in OOHC

That an appropriate level of recurrent funding is provided to support the implementation of innovative service models that meet the specialist educational needs of children and young people in OOHC.

Mental health support services

Many children and young people in OOHC have experienced severe neglect and trauma. This has often had a pervasive effect on their development. Catholic OOHC providers report that a high percentage of the young people in their care have been diagnosed with a mental illness – ranging from 55% to 'nearly all' service users. Multiple diagnoses are common.

For example:

A seven year old child with an intellectual disability has been diagnosed with

Oppositional Defiant Disorder, Attention Deficit Disorder, Post Traumatic Stress Disorder, Reactive Attachment Disorder and Intermittent Explosive Disorder

A teenage boy has been diagnosed with

Tourette's Disorder (coprolalia), Obsessive Compulsive Disorder, and high levels of anxiety and aggressive behaviour.

Young people with ongoing mental health issues and multiple mental health diagnoses can experience multiple placement breakdowns and chronic suspension from school. Often the only mental health response they can access is medication. A high number of young people in OOHC are prescribed psychotropic medication. Access to therapy to address the effects of trauma, or counselling to develop a greater capacity for emotional regulation and behaviour control is very limited.

This is partly because the young people refuse to engage in existing mental health programs (through DoCS, schools and community-based mental health services), and partly because the complexity and pervasiveness of their problems do not 'fit' easily into mainstream mental health frameworks. There is currently no mental health diagnostic category that describes the effects of ongoing and complex trauma on a child's cognitive, emotional and social development.

Recommendation 17

That DoCS consider establishing a specific service to meet the complex mental health needs of children and young people in out-of-home care. The *Take Two*²⁴ model in Victoria could be examined.

Mental health issues are not seen as important health issues in case management.

Treatment for children and young people with mental health issues is often inconsistent and fragmented. This is partly because multiple short term placements are common and case work is crisis driven. But there also appears to be a systemic lack of recognition of the complexity of mental health problems experienced by young people in OOHC.

Despite serious behaviours, school interventions focused on 'misbehaviour and disobedience' for at least 4 years before any assessment was instigated.

Mental health issues are often not seen as important health issues in case planning.

If the young person had diabetes or heart disease they would be receiving consistent treatment and it would be an important part of the case plan. However, for mental health issues it is only when

²⁴ Victorian Department of Human Services, (nd) 'Take Two', viewed 25 February 2008
http://www.office-for-children.vic.gov.au/child_protection/library/publications/protection/take_two

there are significant issues, such as suicide attempts, that it is included as something to be addressed.

Recommendation 18

That DoCS develop case management structures that ensure that the mental health needs of children in out-of-home care are assessed, monitored and met in a timely and appropriate fashion.

Responding to extreme and complex mental health problems involves multiple agencies in collaborative practice over long periods of time

J was referred to an out-of-home program from a secure adolescent mental health unit at a children's hospital. She was not quite ten years old and had been at the ward for nearly 5 months. She had been in foster and residential care placements since the age of 5 years (when she was removed from her birth parents). Of concern were her aggressive and sexualised behaviours and running away. She has been diagnosed with Post Traumatic Stress Disorder, Attention Deficit Hyperactivity Disorder, Oppositional Defiant Disorder, and Reactive Attachment Disorder.

The Children's Court specified that J would be returned to her last foster care placement following a period of stabilisation in a 1 bed residential placement. In order to support this process there needed to be close collaboration between the psychological services offered by the children's hospital and those available within the OOHC agency; a good working relationship with the police and local hospital; a good working relationship with the school to support gradual attendance; adequate funding from DoCS to allow for intensive staffing and a high level of ongoing support for the foster placement.

Such complex cross-agency arrangements have to be put in place on a case by case basis and have a high cost in terms of time and resources. It is possible that a programmatic approach rather than an individual approach could allow for more effective use of resources.

Accessing intensive mental health programs can be difficult for children in OOHC, especially those with ongoing pervasive mental health problems.

The child was referred by the school to a hospital based intensive care and assessment team where he was diagnosed. He was then referred to residential mental health services but refused placement.

When a young person is admitted to a mental health facility for a short time, finding an appropriate out-of-home care placement after they are discharged can be very difficult.

DoCS continue to be pessimistic about their capacity to find a suitable placement for the young person when he leaves the mental

health facility. This is despite a major funding rollout in OOHC that was supposed to address service gaps.

Recommendation 19

That DoCS consider residential treatment models for young people in out of home care with ongoing, pervasive and extreme mental health needs.

5.5 OOHC and SAAP

The Supported Accommodation Assistance Program (SAAP) is a joint State/Commonwealth initiative that provides funding for more than 400 services to help people who are homeless or at risk of homelessness. The program is an important part of DoCS' early intervention strategy.

SAAP services provide innovative, flexible accommodation and outreach services that achieve positive outcomes for adolescents who are unable to live with their families. However, they have a long history of being used inappropriately to bridge the gaps in the OOHC service system.

We operate several youth refuges under the SAAP program. They regularly take in young people aged between 15-16 years whose foster care placements have broken down or who have been unable to find OOHC because they are not classified as high need. The Minister has Parental Responsibility for approximately 10% of the young people (over the past 3 years) and another 10% have been formally involved with DoCS but are not on an order. Staff regularly make reports to DoCS based on the risk of harm due to homelessness and lack of a guardian but they have not yet received a response on those grounds alone. This leaves SAAP funded services in a tricky legal situation and the young people vulnerable.

We have also experienced a number of DoCS staff stating that their regular practice is to refer young people who are 'state wards' (sic) to SAAP services as there are no other options and SAAP services are 'cheaper'.

The role of SAAP services in the OOHC service system has been considered in a number of reviews, inquiries and forums; however the inappropriate placement of young people in OOHC in SAAP services continues to be a problem.

Recommendation 20

That DoCS investigate why young people in the OOHC system continue to be placed inappropriately in Supported Accommodation Assistance Program (SAAP) services.

That DoCS develops strategies to address this problem.

6. Inter-agency Co-operation

A number of ‘whole of government’ initiatives (Two Ways Together, Better Together, City of Cities etc.) and inter-agency initiatives (Interagency Guidelines for Child Protection Intervention, Working Together for NSW etc.) have been implemented in recent years with the intention of improving inter-agency co-operation; however collaboration between government agencies; between the public sector and the non-government sector; and between NGOs remains problematic.

6.1 The exchange of information

Section 248 of the Children and Young Persons (Care and Protection) Act 1998 enables DoCS to exchange information relating to the safety, welfare and well-being of children and young people with a prescribed body. There is currently no ability for agencies that receive child protection information from DoCS to share it with another agency; irrespective of whether the other agency is prescribed or not. The Docs discussion paper “*Statutory Child Protection in NSW: Issues and Options for Reform*”²⁵ outlines the issues regarding the exchange of information in detail.

In our response to the DoCS discussion paper, we recommended that the *Children and Young Persons (Care and Protection) Act 1998* be amended to support the exchange of information between prescribed bodies (including schools and NGOs) where the supply relates to the safety, welfare and well-being of children and young people. This would ensure that OOHC providers would be provided with information which enabled them to make an informed decision about the placement of a child or young person and determine the support they required. Our position on this issue has not changed.

To our knowledge no action has been taken regarding the proposals DoCS outlined in the discussion paper, including those relating to the exchange of information. In the absence of legislative change, NGOs continue to experience barriers to the exchange of information.

Catholic agencies report ongoing problems related to the exchange of information when children and young people enter a new OOHC placement. When only minimal information is available, agencies can find it difficult to respond appropriately to the needs of children and young people.

It makes it difficult to carry out foster care matching effectively or determine the appropriate ‘mix’ of young people in multiple-bed placements.

In addition to the legislative barriers described above, NGOs routinely experience cultural barriers to the exchange of information. These include:

- Confidentiality issues between DoCS and NGOs;
- Lack of understanding of the roles of NGOs;
- Turnover of caseworkers; and
- Competition between NGOs.

²⁵ DoCS (2006) Op cit.

There seems to be considerable confusion across the sector regarding ‘confidentiality’ and ‘privacy’.

Recommendation 21

That the Children and Young Persons (Care and Protection) Act 1998 be amended to support the exchange of information between prescribed bodies (including NGOs) where the supply relates to the safety, welfare and well-being of children and young people.

Recommendation 22

That DoCS work with the Australian Law Reform Commission²⁶, the NSW Law Reform Commission²⁷ and other relevant bodies (including the *Special Commission of Inquiry*) to explore Commonwealth and State privacy practices and legislation as they relate to interagency co-operation in child protection matters.

That DoCS convene a sector-wide forum to discuss privacy practices and legislation as they relate to interagency co-operation in child protection matters.

Note: Both the Australian Law Reform Commission and the NSW Law Reform Commission are currently conducting privacy inquiries.

6.2 Co-operation between government agencies

Many vulnerable families, especially those most in need, require support services from several government agencies including housing, education, mental health, disability services, early intervention and family support. Families with complex needs (particularly when they occur in the context of a statutory child protection intervention), should benefit from a ‘whole of government’ approach across the NSW Government’s human services agencies.

However, we believe that the NSW Government’s recent ‘whole of government’ initiatives have not resulted in effective co-ordination on the ground and have delivered poor outcomes for vulnerable families. These failings are a source of considerable frustration to the NGO sector.

Catholic agencies report that despite the existence of Memorandums of Understanding (MOUs) between several government departments (e.g. the Department of Community Services and NSW Health; the Department of Community Services and the Department of Ageing, Disability and Home Care; and the Department of Community Services and the Department of Education and Training), vulnerable children, young people and families do not receive the coordinated response that their needs demand.

²⁶ Australian Law Reform Commission, (nd) *Privacy Inquiry*, viewed 25 February 2008, <http://www.alrc.gov.au/inquiries/current/privacy/about.html>

²⁷ NSW Law Reform Commission, (nd) *Privacy Inquiry*, viewed 25 February 2008, http://www.lawlink.nsw.gov.au/lawlink/lrc/lrc.nsf/pages/LRC_cref113

The things that stop government departments from communicating are the same things that stop NGOs – privacy and confidentiality requirements.

Clearly a new approach must be developed.

A formal structure for co-operation must be developed around the needs of children at risk. Co-operation needs to be at government and inter-government level for resource provision and at agency level for service provision. Co-operation between agencies needs to be outcome focused and in the best interests of the child and their family. A case management approach should be used for all families and children at risk. Staff in all government agencies should receive training in interagency cooperation and case management and a cultural change program should be implemented to ensure that it is bedded down.

Catholic agencies suggest two possible models:

- the MAPS program in the ACT; and
- the system developed to coordinate aged care services.

Recommendation 23

That the NSW Government establish and support a formal and powerful structure for directing cooperative action between government departments involved in delivering services to vulnerable families with complex care needs.

That a universal ‘case management’ guided practice system be adopted in NSW.

That the NSW Government’s Human Services CEOs forum develop a strategy that addresses the failure of ‘whole of government’ approaches to the delivery of human services in NSW.

6.3 Co-operation between government and the NGO sector

The Working Together for NSW Agreement²⁸ was intended to improve the quality of human services delivery for the people of NSW by providing a set of shared goals, values and principles that guide working relationships between the two sectors. There is a view within the NGO sector that projects attached to the Agreement are driven by the agendas of government departments and that the NGO sector has little ability to influence the Agreement’s implementation. We direct the *Special Commission of Inquiry to the Good*

²⁸ The Working Together for NSW Agreement is an agreement between the NSW Government and the community sector. <http://www.communitybuilders.nsw.gov.au/site/govinfo/150.html>
“The Good Practice Guide: NGO Participating in Regional Human Services Planning Processes”

*Practice Guide: NGO Participation in Regional Human Services Planning Processes*²⁹ as an example of co-operation between the sectors. The implementation of the *Good Practice Guide* has not been evaluated and it is difficult to know how widely it has been taken up by either sector.

The Forum of Non-Government Agencies (FONGA)³⁰ recently advocated for a Working Together for NSW project to address the critical recruitment and retention issues being experienced by the NGO sector. A proposal to develop a comprehensive workforce development strategy for the NGO sector was not taken up by the NSW Government's Human Services CEOs forum. This decision was met with great disappointment by the NGO sector. We direct the *Special Commission of Inquiry* to the *NCOSS Sector Development Strategy*³¹ which advocates for a workforce development strategy for the NGO sector and the workforce development page on the NCOSS website³² for resources on workforce development issues, including a paper on the various models available to the NSW NGO sector.

Workforce development will become an even more critical issue for the NGO sector should the *Special Commission of Inquiry* decide to take up our recommendations regarding the devolution of early intervention and OOHC services from DoCS to the NGO sector.

Catholic Social Services NSW/ACT is a FONGA member and has been actively involved in discussion regarding the implementation of the Working Together for NSW Agreement.

Recommendation 24

That the *Special Commission of Inquiry* give consideration to the workforce development challenges currently being experienced by the NGO sector when reviewing the service delivery functions of the NSW Department of Community Services.

²⁹ <http://www.ncoss.org.au/hot/compact/wtfnsw-good-practice-guide-ngo-participation.pdf>

³⁰ FONGA is a forum of NCOSS, the peak body for the community sector.

³¹ The NCOSS Sector Development Strategy is available on the NCOSS website: www.ncoss.org.au

³² www.ncoss.org.au

7. Mental Health Issues

The system's capacity to manage mental health issues

We discussed the complex mental health issues experienced by children and young people in OOHC in Section 5.4 of this submission. We raised many issues including the high number of children and young people in OOHC:

- with multiple mental health diagnoses;
- unable to access therapy or counselling;
- using psychotropic medication;
- experiencing chronic suspension from school;
- experiencing multiple placement breakdowns, especially after short term placements in mental health facilities; and
- requiring responses necessitating ongoing intensive collaboration between multiple agencies.

There are many other children who remain at home and do not enter the out of home care system, who are the subject of multiple child protection reports over many years. While they do not always receive a mental health diagnosis, as a consequence of their life experiences many will have great difficulty in forming trusting relationships with adults or peers, and in regulating their emotions and behaviours. This can lead to multiple adjustment problems at home, school and in the community.

These issues are most critical in schools where teachers have a responsibility for the well being of all children in their class. The behavior of a particular child can both severely restrict their educational opportunities and impact very negatively on other children. This creates a dilemma for schools who must balance their commitment to maintaining vulnerable children at school, with addressing basic safety issues for others. Referrals are made to mental health services, but the extreme behaviours of the children indicate that more specialised intervention is necessary.

The experience of Catholic schools and NGOs is that children with very concerning and 'risky' behaviour patterns are referred to child and adolescent mental health services in the absence of other specialised programs to address their needs. Since the children often do not have a mental health diagnosis they do not meet the criteria for mental health services. Nevertheless, their behaviour is of such a level of risk to themselves or others that some immediate intervention is needed. This is particularly crucial when young people have problematic sexualised behaviours that put others at risk. In the schools this can be a source of great concern. In Sydney, there is one NGO that provides assistance in this area. Schools report that children are only referred to it if DoCS takes an active role. Many children and families cannot access these services and schools struggle with managing multiple dimensions of risk – to the child, other students, and the school.

Catholic Social Services NSW/ACT member organisations report that there is very little evidence of effective inter-agency co-operation between DoCS and the key agencies responsible for delivering mental health services. Some problems stem from DoCS practices...

Some of this relates to the inexperience of DoCS caseworkers and the fact that assessments are not holistic. Communicating with mental health professionals early and working with them to assess risk and develop appropriate case plans would lead to more coordinated and informed responses to child protection matters involving mental health issues.

Others from the practices of mental health professionals...

There is a perception amongst some mental health professionals that workers in a supported accommodation service will have the expertise to manage complex mental health issues.

Some mental health professionals have difficulty developing co-ordinated management plans for young people who have attempted suicide or are suicidal, especially when the young person has been placed in a supported accommodation service..

Some of the problems are systemic and stem from service delivery models that adopt a silo approach...

Assessment and service provision to parents with a mental illness occurs completely independently of risk to children. Mental health services assess and develop treatment plans and care plans that are focused on the parent –they fail to consider the parent's situation holistically and the impact of the mental illness on the child. Improved communication and shared case management would go some way to addressing these issues.

The lack of resources in rural and regional NSW also impacts on inter-agency collaboration.

Both the Adult Mental Health and Child & Adolescent Mental Health Services in the Greater Western Area Health Service cover huge areas and are generally limited to assessment and referral. In smaller communities this service is often only available on a visiting basis once a fortnight. There is minimal ongoing treatment/intervention provided by these services. This is a significant issue for children and young people experiencing mental health issues.

9. Rural Issues

Many communities in rural NSW experience multiple levels of disadvantage - high unemployment rates, low income levels, high rates of drug & alcohol abuse, low education levels, high levels of mental illness and disability, and a high incidence of crime including domestic violence and assault. The disadvantage in these communities is compounded by a lack of services and the ever increasing cost of essential goods and services like food, fuel and transport in comparison to metropolitan areas.

We refer the *Special Commission of Inquiry* to a report commissioned by Catholic Social Services Australia (our parent body) and Jesuit Social Services, “*Dropping off the Edge: The Distribution of Disadvantage in Australia*”³³. The report measures the distribution of social disadvantage across Australia and provides policy makers with accurate data about social disadvantage at the postcode level. The research found that a very high proportion of the most disadvantaged communities in NSW are located in rural NSW.

The Rudd Labor Government has drawn heavily on data presented in *Dropping off the Edge* in its policy on social inclusion.

We believe that the message delivered by *Dropping off the Edge* is one of hope. These complex and difficult circumstances are not beyond our control. They are, to use the jargon, ‘susceptible to policy’. The right policies, in the right places, with the right resources, for the right period of time can level the playing field for all people in NSW.

There are specific service delivery challenges for organisations providing services to vulnerable children, young people and families in rural communities. A major concern is the tyranny of distance.

There is NO public transport in many small communities so it is impossible for families to access many services on a regular basis. For some families, services such as Centrelink, Department of Housing, mental health, paediatricians, dentists and disability services can be between 100 and 200km's drive away.

The capacity of NGOs to deliver services is limited.

Most NGOs are based in the larger regional centres. Limited resources make it difficult for them to maintain a regular presence in smaller centres.

Funding formulas used by DoCS for services such as Families NSW, Family Support Services and SAAP do not take into account the additional costs associated with service delivery in rural/isolated locations including fuel, lack of public transport, staff recruitment, access to professional development.

³³ Vinson, T (2007) “*Dropping off the Edge: The Distribution of Disadvantage in Australia*”.
<http://www.australiandisadvantage.org.au/>

Service delivery models are city based with no consideration or real appreciation of issues unique to rural communities. The expression of interest process for the Brighter Futures program is a good example. There was no consideration or attention to issues unique to rural communities in the development of the model.

And conflict can arise when families are unable to meet the expectations of DoCS staff who are based in cities.

DoCS Helpline staff lack real understanding or appreciation of the unique issues faced by people living in rural and remote NSW – the distances, the limited services available. This is significant and impacts negatively on assessment outcomes. There is no real link or relationship between the Helpline and DoCS staff at the local level.

Small communities often lack access to specialist legal practitioners in child protection matters.

In rural areas care matters are presided over by local magistrates with limited experience of care matters or detail of the principles. Access to legal representation for families is a problem in rural areas. Many solicitors don't do legal aid and are reluctant to get involved and have very limited knowledge of the legislation.

This has a deleterious effect on the process and outcomes in child protection cases.

The size of rural communities also creates special problems for workers in child protection who must manage the challenges of living and working in the same small community as client families. This can work both for and against NGOs and their capacity to develop relationships with the community.

Of significant concern for rural NGOs are the difficulties they experience recruiting trained and experienced staff. While this is an issue for metropolitan NGOs as well, the difficulties are probably more acutely felt in rural areas where a staff vacancy can mean a total lack of service provision to a large geographical area. The NGO sector urgently requires a workforce development strategy to address this issue.

Recommendation 25

That the NSW Government liaise with the Rudd Labor Government regarding the development and implementation of its social inclusion policy so that learnings from the *Dropping off the Edge* report may be incorporated into social policies intended to address social disadvantage in NSW (including fairness and opportunity strategies in the NSW State Plan).

Recommendation 26

That the NSW Government develop a strategy to address the lack of services in rural and remote areas of NSW. This may be a suitable project for the Human Services CEO's forum to address through the Working Together for NSW agreement.³⁴

³⁴ Working Together for NSW is a compact between the NSW Government and the community sector. See <http://www.communitybuilders.nsw.gov.au/site/govinfo/150.html> for more information.

10. Indigenous Issues

Over the past 5 years, there has been a significant increase in the number of Aboriginal children and young people in the NSW out of home care (OOHC) system, with Aboriginal children now representing 25% of the total number of children and young people in OOHC³⁵. 85% of these children were placed in accordance with the Aboriginal and Torres Strait Islander principles outlined in Part 2 of the *Children and Young Persons (Care and Protection) Act 1998*³⁶.

According to the Secretariat of National Aboriginal and Islander Child Care (SNAICC)³⁷

Issues such as poverty, illness, substance abuse and the inter-generational effects of previous Stolen Generations policies mean that Aboriginal and Torres Strait Islander children and families are more likely to need the services provided by child protection departments

We refer the *Special Commission of Inquiry* to the NSW Council of Social Service (NCOSS) submission to the NSW Legislative Council Standing Committee on Social Issues Inquiry into Closing the Gap: Overcoming Indigenous Disadvantage³⁸. This submission provides an excellent overview of the challenges associated with meeting the complex needs of Aboriginal children, young people and families who are involved with (or are likely to become involved with) the NSW child protection system.

We suggest that the *Special Commission of Inquiry* also considers the recommendations developed by Aboriginal Child Sexual Assault Taskforce as part of the report “*Breaking the Silence, Creating the Future: Addressing child sexual assault in Aboriginal communities in NSW*”³⁹ and the NSW Government’s response the *NSW Government Interagency Plan to tackle child sexual assault in Aboriginal communities*⁴⁰. NCOSS provides a useful critique of the Government’s response in its submission to the Closing the Gap Inquiry.

We also refer the *Special Commission of Inquiry* to *Dropping off the Edge: The Distribution of Disadvantage in Australia*⁴¹. This report measures the distribution of social disadvantage across Australia and provides policy makers with accurate data about social disadvantage at the postcode level. *Dropping off the Edge* found that a very high proportion of the most disadvantaged communities in NSW are located in rural communities with large indigenous populations.

Catholic Social Services NSW/ACT member organisations report that there is widespread support for the Aboriginal and Torres Strait Islander principles contained in Part 2 of the

³⁵ DoCS (2007) Annual Report 2006-07.

³⁶ DoCS (2007) *ibid*.

³⁷ SNAICC (2002) “*Briefing paper: The Seven Priorities for Children*.”

³⁸ NCOSS (2007) “Submission to the NSW Legislative Council Standing Committee on Social Issues Inquiry into Closing the Gap: Overcoming Indigenous Disadvantage. This submission is available on the NCOSS website www.ncoss.org.au

³⁹ Aboriginal Child Sexual Assault Taskforce, <http://www.lawlink.nsw.gov.au/acsat>

⁴⁰ NSW Government (2006) *Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities*, [http://www.lawlink.nsw.gov.au/lawlink/acsat/acsat.nsf/vwFiles/NSWGovtPlantoTackleCSAinAboriginalCommunities.pdf/\\$file/NSWGovtPlantoTackleCSAinAboriginalCommunities.pdf](http://www.lawlink.nsw.gov.au/lawlink/acsat/acsat.nsf/vwFiles/NSWGovtPlantoTackleCSAinAboriginalCommunities.pdf/$file/NSWGovtPlantoTackleCSAinAboriginalCommunities.pdf)

⁴¹ Vinson, T (2007) “*Dropping off the Edge: The Distribution of Disadvantage in Australia*”. <http://www.australiandisadvantage.org.au/>.

Children and Young Persons (Care and Protection) Act 1998. However they report considerable difficulties with their implementation.

The current forensic, reactive approach to practice is completely inappropriate and continues to contribute to the lack of trust and suspicion indigenous families feel towards DoCS as the statutory child protection body.

Alternative models of service delivery that adopt a community-based approach appear to be both more sensitive to cultural issues and more effective in meeting the needs of Aboriginal people.

The *Strong Young Mums* program⁴² uses a model which enables the community to work together to support young indigenous mothers to re-engage with education and develop confidence and skills as parents. The program is delivered in partnership with the local community and services work collaboratively to support vulnerable families in order to prevent problems becoming child protection issues.

The *Strong Young Mums* program has the potential to create systemic change and to break the generational cycle of disadvantage in Indigenous communities. Young mothers are developing an appreciation of education and learning and becoming more certain about the quality of life they want for themselves and their children. They are taking action to end violence in their relationships and are developing a sense of future opportunities. Their children are developing social skills and are being exposed to early learning opportunities.

Recommendation 23

That DoCS recognise the need to work with NGOs (and schools when appropriate) in engaging the indigenous community, building trust and delivering services in a non-adversarial manner.

Community based models have also been applied in urban and metropolitan services with some youth services providing early intervention support through specialised indigenous community based programs.

We note that some indigenous communities have a capacity to respond to the needs of vulnerable community members without any external intervention.

We have also found that the indigenous community will often respond to the needs of people in their community without NGO intervention such as accommodating a young person who has left home.

⁴² Strong Young Mums is an initiative of Centacare Wilcannia Forbes (a Catholic Social Services NSW/ACT member organisation). The program operates in Bourke and Lake Cargelligo and is funded by the Department of Families, Housing, Community Services and Indigenous Affairs (FAHCSIA).

Recommendation 24

That investment in partnership programs between indigenous and non-indigenous services and communities to address child protection concerns be increased.

Catholic agencies report several concerns regarding the way in which the child protection system is providing services to indigenous communities.

Aboriginal status is given more importance than biological connection and capacity to care.

I am aware of 2 of our Aboriginal clients who were taken into care and placed with carers who were chosen because they identified as Aboriginal. The carers were inappropriate and the children suffered extensive abuse. When the children informed the Aboriginal DoCS workers, nothing was done to address their issues and concerns. Years later the clients found out that the carer was related to the worker. When the children's natural father was eventually contacted he was unable to secure custody – he felt this was because he was not Aboriginal. The children were then refused contact with him as the foster carer said that he was an unstable influence. These children were made 'State wards' (sic) despite their biological father being in a position to offer them a home.

Lack of trained and experienced indigenous workers in child welfare agencies, schools and juvenile justice facilities.

There is a need to enhance the supply of trained indigenous child and youth support workers. There is an acute shortage of trained indigenous workers for both NGO and school roles.

Recommendation 25

That the NSW government adopt strategies to enhance the recruitment, training and retention of indigenous workers. Assistance should be sought from indigenous NGOs and indigenous community groups. The consultation process should be appropriately resourced.

Appendix 1.

Letter of Support from the NSW Catholic Social Welfare Committee



25 February 2008

Commissioner James Wood AO QC
Special Commission of Inquiry into
Child Protection Services in NSW
PO Box K1026
SYDNEY NSW 2001

RE: LETTER IN SUPPORT OF CATHOLIC SOCIAL SERVICES NSW/ACT SUBMISSION

Dear Commissioner Wood,

I am writing on behalf of the NSW Catholic Social Welfare Committee to express my full support for the recommendations put forward by Catholic Social Services NSW/ACT in its submission to the Special Commission of Inquiry into child protection services in NSW.

Catholic Social Services NSW/ACT has consulted extensively with the Catholic sector regarding the Special Commission of Inquiry's terms of reference and has developed a comprehensive submission in response to input provided by its member organisations, the NSW Catholic Education Commission and the NSW Bishops via the NSW Catholic Social Welfare Committee.

While there are many views within the Catholic sector about what specific changes within the child protection system are required to address future levels of demand, in developing recommendations relating to early intervention, statutory child protection, out of home care, mental health, indigenous child protection issues and rural issues; Catholic Social Services NSW/ACT has been guided by the principles of Catholic Social Teaching.

The NSW Catholic Social Welfare Committee commends the Special Commission of Inquiry for conducting such a thorough review of the NSW child protection system. I look forward with great interest to reading your final report.

Yours sincerely,

(on behalf of) Neil Harrigan
Chair, NSW Catholic Social Welfare Committee

About the NSW Catholic Social Welfare Committee

The NSW Catholic Social Welfare Committee advises the Bishops of NSW and the ACT on matters relating to social welfare.

The Committee is comprised of members who have been appointed by the Bishops of New South Wales and the Australian Capital Territory. They have been chosen because of their professional qualifications in social work, psychology, and community development, extensive experience in leadership of significant non-government organisations and demonstrated record of working in partnership with other non-government organisations and all levels of government including the NSW Department of Community Services. The members have been appointed for their personal qualities and experience and as members of the Committee they do not represent any service providers.

A main focus of the Committee is to represent the needs of the distressed, disadvantaged, and devalued people living in New South Wales.

The Committee meets six times a year. The Committee also works directly in collaboration with Catholic Education Commission through the Catholic Education and Social Welfare Coordinating Committee (CESWCC).

The committee is comprised of the following representatives:

- Bishop Terence Brady, the NSW Bishops' representative on the Committee
- Mr Neil Harrigan (Director of Centacare Canberra-Goulburn), Committee Chair
- Monsignor John Usher EV (Chancellor of the Archdiocese of Sydney), Secretary
- Kathleen McCormack (Director of Centacare Wollongong)
- Mr Jim Grainger, (Psychologist)

Appendix 2. Letter of Support from the NSW Catholic Education Commission



CATHOLIC EDUCATION COMMISSION NEW SOUTH WALES

ABN 33 266 477 369
PO Box A169, Sydney South NSW 1235
Level 9, 133 Liverpool Street, Sydney NSW 2000
Telephone: (02) 9287 1555 Fax: (02) 9264 6308
Email: commission@cecnsw.catholic.edu.au Website: <http://www.cecnsw.catholic.edu.au>

29 February 2008

The Hon James Wood AO, QC
Commissioner
Special Commission of Inquiry into Child Protection Services in NSW
PO Box K1026
HAYMARKET NSW 1240

Dear Commissioner,

I write with reference to the Special Commission of Inquiry into Child Protection Services in NSW to advise that the Catholic Education Commission, NSW, endorse and support the inquiry response as developed by Catholic Social Services NSW/ACT.

In this context CEC, NSW would be pleased to provide such other input to the inquiry as may be of assistance.

Officers of the Inquiry may contact CEC, NSW through myself.

Brian Croke
Executive Director

Appendix 3:

List of Catholic Social Services NSW/ACT Member Organisations

- Boys' Town Engadine
- Catholic Care (incorporating Centacare Newcastle)
- Catholic Social Services Parramatta (incorporating Centacare Parramatta)
- Centacare Ballina
- Centacare Bathurst
- Centacare Broken Bay
- Centacare Canberra Goulburn
- Centacare Casino
- Centacare Coffs Harbour
- Centacare New England North West
- Centacare Port Macquarie
- Centacare Sydney
- Centacare Wagga Wagga
- Centacare Wilcannia Forbes
- Centacare Wollongong
- Conference of Leaders of Religious Institutes of NSW
- Daughters of Charity of St Vincent de Paul
- Edmund Rice Community Services
- Marist Youth Care
- Maronite Community and Social Services
- Marymead Child and Family Centre
- Mercy Community Services, Hunter Region
- Presentation Sisters, Wagga Wagga
- Seasons for Growth
- Sisters of Charity of Australia
- Sisters of Mercy, Parramatta (incorporating St Michael's Family Centre and Mamre Plains Ltd)
- Sisters of Saint Joseph of the Sacred Heart
- St Carthage's Family Services
- St Francis Welfare (incorporating the Come In Youth Resource Centre)
- St John of God Casa Venegas
- St Joseph's Parish, Tweed Heads
- St Joseph's Cowper, (Sisters of Mercy, Grafton).