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Connecting Foster & Kinship Carers SA submission to the Independent Inquiry into Foster and Kinship Care

About us

Connecting Foster and Kinship Carers SA Inc (CF&KC-SA) is the independent peak representative body for foster and kinship carers (Carers) in South Australia. Our organisation began over 20 years ago and for many years was run voluntarily by Carers, for Carers. In July 2018, after a rigorous tender process, we were awarded triennial funding by the Department for Child Protection (DCP) to run the state's first funded Carer Advocacy Service. In July 2021, we were awarded a further three years funding for the Advocacy Service.

Full details of our organisation, our work, our primary functions, our activities and our achievements can be found on our website, www.cfc-sa.org.au.

About this submission

The content of our submission is drawn from many sources.

- Our work is to support the people who care for children and young people under guardianship of the Chief Executive. We have over 1,000 members, and provide our services (for free) to the entire South Australian Carer community of over 3000 individuals. Our work is also drawn on by a number of the agencies subcontracted to attract, manage and retain Carers, and DCP Kinship staff. While we haven't always had the resources to keep statistical data we do know that that since July 2017, our team has supported approximately 900 individual advocacy cases and received more than 4,873 phone call enquiries.
- We carry out an annual survey (and have done for the last 5 years) asking Carers to tell us about the challenges and successes of providing family based care across topics such as accessing support, barriers within the system and what Carers would like to see change. Past surveys have found Carers **greatest worries** include:
 - care concerns
 - removal of their child or young person
 - child protection workers making decisions without Carer consultation, and
 - not having enough support to meet the needs of the child.



Carers have previously reflected their **greatest challenges** regarding their caring journey includes:

- lack of respite
- challenging behaviours of their young people
- inadequate support from the child protection system, and
- poor communication and feeling disrespected by DCP.

As the peak for Carers, we actively pursue the areas of greatest worry and challenges identified in these surveys and use the information to shape our systemic advocacy efforts. Our survey results have been invaluable in the development of this submission.

- In addition to our advocacy work we provide a number of opportunities for Carers to meet and connect. These include:
 - regular Family Fun days (COVID permitting)
 - an annual 'Recharge' connection events (COVID permitting)
 - regular information sessions, virtual or face to face, based on what Carers need
 - Diploma and Certificate IV qualifications in Community Services for Carer members, in addition to graduation ceremonies traditionally hosted at Parliament House
 - annual open board meetings
 - Annual General Meetings
 - In 2021, the National Foster and Kinship Care conference, which attracted over 400 delegates from across Australia. Speakers presented across four streams over two days, with the program including six plenary sessions and 20 In Conversation workshop sessions.

All of these events give us opportunities to hear direct from Carers about their daily lived experiences and enrich our understanding of the challenges they face (and their joys).

- We have developed and published many Carer Guides, the topics based on what Carers have shared they want more information on. Guides are available on our website and cover topics such as:
 - the Youth Court
 - wills and estate planning
 - how to draft a South Australian Civil and Administrative Tribunal (SACAT) application
 - Long Term Guardianship Specified Person Application process
 - the Carer Non Approval Process
 - what is a Care Team meeting
 - understanding the *Children and Young People (Safety) Act 2017*
 - reviewable decisions
 - external review at SACAT
 - what is a Complex Case Review meeting.
- We have, over the years, convened a number of Carer reference groups, to identify the main elements of our systemic advocacy efforts. Our reference groups have covered topics such as:
 - care concerns

- respite
 - superannuation
 - parental entitlements
 - carer payments
 - navigating the education system, and
 - the Statement of Commitment for South Australian Foster and Kinship Carers.
- We have two peer led support groups we offer to Carers, developed as a result of requests by Carers:
 - Kinship Carers
 - Grief and Transition support group for Carers who have had a young person leave or removed from their care
 - We also regularly engage with our sister peak body organisations interstate - successfully forming a National Foster and Kinship Care Collective. This collective consists of the peak bodies in WA, NT, QLD, Vic, Tasmania and SA and is dedicated to lifting the national presence of foster and kinship carers within federal policy development. The group is committed to pursuing much needed systemic change and lobbying for recognition, safety and financial security for the Australian foster and kinship community. We have liaised closely with our interstate partners with regard to our submission and utilised their best practice examples as evidence.
 - Since the establishment of the Inquiry we have convened 13 engagement sessions with Carers on a range of topics relevant to the Inquiry, including:
 - Foetal Alcohol Spectrum Disorder (FASD)
 - care concerns
 - carer payments
 - meaningful decision making
 - Aboriginal & Torres Strait Islander Carers (2 sessions via Zoom and one face to face)
 - therapeutic supports for Carers
 - complaints management processes
 - non-Aboriginal Carers
 - what is an Inquiry and how to take part (2 sessions via Zoom)
 - how to stay mentally safe and well whilst participating in an Inquiry.

We have assisted those attending these sessions to prepare joint submissions to the Inquiry on the topics discussed. The process has also given us the opportunity to hear the experiences of, and garner the knowledge and wisdom of, the Carers in these groups.

- We have met with a number of individual Carers to assist them in the preparation of their individual submissions.
- We have, since the establishment of the Inquiry, undertaken 6 regional visits to engage with the regional Carer community. We have visited and met Carers and others in
 - Riverland/Berri

- Port Augusta
 - Whyalla
 - Port Pirie
 - Port Broughton and
 - Mt Gambier.
- In addition to organised engagement outlined above, our advocacy team report that they have, since the announcement of the Inquiry, recorded over 620 hours engaging with Carers about the Inquiry – informing, discussing, listening and reassuring Carers as they consider whether to make a submission and (if so) the contents of their submission.
 - We have tapped into the experience and wisdom of our staff – who prior to working for us have worked in other parts of the child protection system (including for a residential care service, for a respite service and within DCP itself).
 - We have also tapped in the collective experience of our board – most of whom have lived experience as Carers, some of whom have relevant professional experience (including working with Carers).

We believe that all of the activities listed above put us, as the peak body, in a unique position and provide us with a window into what works (and what can be improved) in the child protection system. We are grateful for the opportunity to share what Carers have told us and what we have learned and to make this submission on behalf of our members and of Carers more generally.

Our submission

We have structured our submission to address each of the Inquiry Terms of Reference in turn.

1. Term of Reference (a)

Must review existing complaints mechanisms in the Department as they relate to foster care and kinship care, including consideration of—

- (i) how such complaints are processed by the Department; and**
- (ii) the independence of the complaints process; and**
- (iii) outcomes and actions arising from such complaints; and**
- (iv) the extent to which outcomes and feedback relating to such complaints are communicated to foster carers and kinship carers.**

CF&KC-SA note that the complaints mechanisms currently available to Carers are wide ranging. They include

- using the complaints process
- referring a matter to the Ombudsman
- seeking an internal review
- seeking an external review at the South Australian Civil and Administrative Tribunal (SACAT).



This submission addresses all of these mechanisms.

In relation to Term of Reference (a) CF&KC-SA calls on the Inquiry to make the following recommendations and findings:

1.1. That DCP complaint handling mechanisms be reviewed and updated to ensure they are 'best practice'

A well-constructed complaints mechanism is an important part of driving change and process improvement in any organisation. For that to happen complaints need to be easy to make, taken seriously, and managed in a way that resolution focused, fair, and consistent with the Statement of Commitment for South Australian Foster and Kinship Carers.

To that end we submit that DCP complaint processes need to meet the following criteria:

- Complaints need to be welcomed as opportunities to improve the system.
- Carers (and other complainants) need to be provided with clear and encouraging information about complaint handling. We draw the Inquiry's attention to the Queensland department website as an example of good practice. It is informative and encouraging. It sets out clearly how complaints can be made and the process after a complaint has been made. It includes fact sheets on how to make a complaint, and how to seek an internal review. It provides re-assurance about the privacy and confidentiality of complaints.
- Carers (and other complainants) need to be provided with full access to the DCP's policy and procedures including the policies and procedures relevant to complaint handling so they understand DCP processes – and can see for themselves if and when a policy is not being followed. This information should be available on-line. (We will expand on this later in this submission.) The complaint handling policy and procedure should also be provided to all complainants in writing when a complaint is laid.
- The complaints process should (where appropriate) be resolution focussed and ensure that genuine attempts are made to resolve complaints in a way that maintains a respectful relationship between DCP, agencies and Carers. As the process currently stands Carers report that when they make a complaint they receive an email confirming receipt of their complaint, and then often hear nothing more until the complaint is 'finalised'. It appears (to the complainant at least) that little or no effort is made by the complaint handler to get a better understanding of the issue, or to solve the problem. As a consequence, the 'resolution' is often unsatisfactory for the complainant. CF&KC-SA has recently noted a couple of complaints that have been handled differently. The complaint handler has
 - contacted the complainant and asked questions about the complaint
 - spoken to a cross section of relevant staff within the department and agency
 - been inquisitive (rather than defensive)
 - apologised on behalf of the department for things that were not done according to policy
 - treated the complainant with respect
 - worked to find a resolution that satisfied the complainant and improved relationships

- kept the complaint 'open' until the resolution was found
- 'stayed' the decision while the inquiry has taken place.

This approach is to be applauded. We submit that it should be standard practice.

- Complaints need to be managed in a way that – as its starting point – believes Carers and recognises that, in making their complaint, Carers are often not only trying to solve something for themselves, but to also make the system better for others. Too often Carers report being dismissed, disbelieved or even discredited.
- Complaints need to be managed in a way that ensures no detriment to the complainant. The experience of some Carers is that to complain is dangerous. Carers who press for assistance for the children in their care report being characterised as '*not coping*'. Carers who speak up report being characterised as '*pushy*'. And Carers who complain at times report that they put themselves at risk of retribution (for example by becoming the subject of a care concern regarding the standard of care they are providing). We are confident that the Inquiry will receive a number of submissions on this topic. It is vital that all complaints mechanisms include adequate safeguards for complainants. That includes a mechanism to accommodate and respond to anonymous complainants.
- Complaints need to be managed in a timely way. The experience of Carers is that some complaints can take months (even up to a year) to be resolved. Again, the experience in Queensland is instructive – where complaints are triaged into low complexity, medium complexity and high complexity and clear time limits are set for the resolutions of each type of complaints.
- Complainants need to be kept up to date about the progress of their complaint. Carers advise that they are often provided with little or no information about the progress of their complaint and that they have to make contact with the department to seek updates. Even then many report that they are advised that '*someone will get back to you*', but no-one does. This needs to be rectified. Carers need to be given a time frame for resolution as soon as possible after a complaint has been filed, and be regularly kept up to date about progress against that time frame. Tight lines are critical because of the pace of child development. Where the time line cannot be met, the onus must rest on DCP to account for this.
- Complainants also need to know who they can contact if the complaint process is not working as they expected it. This information should be provided as soon as possible after a complaint has been filed.
- Outcomes of complaints need to be provided to complainants in writing – with details of what was found, and what (if anything) is being done as a consequence of the complaint, by whom and by when.
- Carer feedback needs to be regularly and systematically sought on all aspects of the complaints system – both from those that have used the process and those that haven't – to look for system improvements.
- Internal complaints need to be managed by an appropriate part of the DCP- separate and independent of the section or office about whom the complaint is being made, and with authority to instigate change.

- Care needs to be taken that staff tasked with handling internal complaints have no prior relationship with, or prior knowledge of, the complainant or with the staff involved with the complaint. Ideally they should be recruited from outside the department – so that they are truly independent and without potential bias when making their consideration.
- We are advised that in Queensland complaints are managed in the office of the Chief Practitioner. The complaints process is used to identify practice issues and instigate system changes – rather than defend the department. We applaud and commend this approach.

In addition to the criteria listed above (which have all been generated by Carers with lived experience of the current process) we submit that all complaints handling mechanisms also need to meet objective international and national best practice standards.

- The International Organisation for Standardisation (ISO) standard (ISO 10002:2022 Guidelines for Complaint Management in Organizations) sets an international benchmark for best practice in complaint handling. Implementation of the standard is designed to:
 - (a) provide a complainant with access to an open and responsive complaints process;*
 - (b) enhance an organization's ability to manage complaints in a consistent, systematic and responsive manner;*
 - (c) enhance an organization's ability to identify trends, eliminate causes of complaints and improve the organization's operational effectiveness;*
 - (d) encourage and support staff to improve their skills in complaint management;*
 - (e) provide a basis for the ongoing review and analysis of the complaint management system, the management of complaints, and any process improvements made; and*
 - (f) reduce the likelihood of complaints developing into ongoing disputes.*
- We are advised that the [Better Practice Complaint Handling Guide](#) recently published by the Commonwealth Ombudsman is considered 'best practice' in modern complaint handling nationally.

CF&KC-SA calls for all DCP complaints handling mechanisms to be measured against the ISO Standard and the Commonwealth Ombudsman Guide and, if necessary, be brought up to the standards they set.

1.2. That support agencies contracted by DCP be required to maintain similar high quality and transparent internal complaints handling mechanisms

Carers do not only have to interact with DCP. They also have regular contact with the NGO support agencies with which DCP contracts. This means at times they will want to make complaints about those agencies and the people who work within them.

It is our submission that it is DCP's responsibility to ensure each of the agencies with which it contracts also maintains a high quality and transparent internal complaints system – ideally one that is compatible and comparable with the DCP complaints system to ensure that data can be collated across the sector.

This requirement of agencies - to maintain a high quality and transparent complaints management mechanism - needs to be (and perhaps already is) embedded in the contracts between DCP and its agencies. It also needs to be made publicly available so that DCP's contractual expectations of its agencies is visible to, and can be accessed by, Carers and others.

1.3. That an additional complaints process be established – one that is wholly independent of DCP and the support agencies

While some non-controversial complaints can best be managed within the organisations they relate (not least because they offer opportunities for practice improvement), Carers also need urgent access to a complaints process that is wholly independent of both DCP and its support agencies.

Carers report that there is a very significant imbalance between them (as Carers) and the DCP and agency support workers with whom they interact. Workers have powers to make decisions that impact directly (and sometimes profoundly) on the lives of Carers including:

- to approve or not approve a Carer request for resources for a child
- to call a meeting and insist the Carer attends
- to visit a Carer's home
- to assess and comment on a Carer's parenting ability, and
- ultimately, to remove a child.

In addition, some Carers report having experienced significant misconduct at the hands of workers including not limited to:

- being threatened, bullied, harassed and intimidated
- having their biological children threatened
- having documents changed
- having signatures forged, and
- suffering retribution when they speak up.

CF&KC-SA is confident the Inquiry will receive a number of individual submissions attesting to these concerns.

Carers report feeling powerless in the face of these issues. They have little or no recourse when adverse decisions are made. When they have the courage to complain about misconduct, they feel they are dismissed and their complaints not addressed.

Carers therefore need a mechanism to redress the imbalance of power – one that that will support and protect them when:

- their complaint relates to the inappropriate conduct of a DCP or agency support worker – such as bullying, discrimination, harassment or intimidation

- their complaint is serious
- the complainant fears retribution
- the complainant has no confidence in the internal complaint system, or
- the internal complaints system has failed to satisfy the complainant.

The Ombudsman already has powers to investigate some matters to identify ‘administrative errors’. Recent changes in legislation (in late 2021) mean that the Ombudsman now also has powers to investigate the ‘misconduct’ of DCP staff and (in some circumstances) the staff of support agencies contracted by DCP – but only where that ‘misconduct’ can be shown to meet the high threshold of being both ‘serious’ and ‘intentional’. These powers are welcome but have real limitations when it comes to addressing Carer concerns – including that the remedies they provide are often not what an aggrieved Carer is after.

CF&KC-SA therefore calls for an additional complaint handling mechanism that:

- is wholly independent of DCP and its contracted support agencies
- reviews the actions and decisions of, and binds, both DCP and its contracted support agencies
- is based on principles of natural justice and procedural fairness
- meets all of the best practice complaints handling criteria outlined already in our submission,
- (importantly) provides remedies that Carers value, and
- is enshrined in legislation.

Carers have indicated that the range of potential remedies should include (but not necessarily be limited to):

- an apology
- a written explanation
- an opportunity to meet with the relevant agency support worker to have the complainant’s view considered
- access to further information
- the opportunity for the complainant to access his or her file and (where appropriate) to have inaccurate, inappropriate, insulting and subjective material expunged or corrected
- the opportunity to provide feedback
- the opportunity to have questions answered and requests responded to,
- the opportunity for the complainant to have a decision-making process explained (including how a decision was made, who made it, on what evidence it was based)
- the opportunity to refute evidence or provide further evidence in order to improve or challenge the decision-making process
- the opportunity to have input into DCP and support agency policy and procedure with a view making practice improvements
- importantly, in the case of misconduct on behalf of a DCP or agency support worker a mechanism for
 - the misconduct to be fully investigated

- disciplinary action to be taken against the worker (up to and including dismissal), and
- the Carer to be advised of the outcome of the investigation.

CF&KC-SA draws the Inquiry's attention to Schedule 5 of the *Return to Work Act 2014* – which establishes a specific independent complaints mechanism for injured workers. We expressly do not advocate this as a model – but rather as a precedent. It is an example of where the state government has carefully designed an independent complaints mechanism specific to the needs of a particular group of potentially vulnerable citizens (in this case injured workers) – and enshrined it in legislation.

CF&KC-SA calls on the Inquiry to recommend that the government accord Carers the same respect. We note that Carers are also vulnerable.

- They do 'work' for DCP – but are not employees (and so are accorded with none of the usual work place protections).
- By virtue of their role Carers are required, as individuals, to interact with a large and powerful institutions and navigate significant and complex bureaucracies (DCP and NGO support agencies) without the protection of any enshrined rights.
- Perhaps most concerningly, Carers open their families and their homes to children – and then live with the precarious knowledge that those children might be taken from them. The stakes, for Carers (and we submit, for the children and young people in their care) are enormously high.

It is not, we submit, just because of this vulnerability that Carers deserve their own independent complaints mechanism. Carers provide a unique and immeasurable service to the community - caring for the state's most vulnerable (and often traumatised) children and young people - in their homes, 24 hours a day, on limited resources, often for years or even decades. They do this willingly and with love. The establishment of an independent complaints mechanism that supports and protects them, is a reflection and acknowledgment of the value society places on their work.

Carers will, or course, need to be consulted in the development of any independent complaints mechanism designed for them.

1.4. That the contractual relationship between DCP and its support agencies transparently addresses service and conduct issues

In addition, we call for 'service standards' and a 'code of conduct' to be included all contracts between DCP and support agencies. (These may already be in place.) CF&KC-SA submits that these documents need to:

- be public
- prescribe the relationship between DCP, its support agencies, children and young people (including biological children and young people) and Carers
- include an imperative that Carers and children and young people (including biological children and young people) are treated '*fairly and with integrity, respect and courtesy*'

- include the requirement that each support agency maintains a best practice complaints mechanism that meets DCP standards
- include the mechanism by which complaints data is shared across the sector and used to improve processes
- include clarity as to how DCP ensures that the service standards and code of conduct requirements are upheld and the complaints mechanism monitored for effectiveness (for example, through auditing and contract management processes), and
- include clarity as to how Carer feedback is sought and responded to.

1.5. That the Ombudsman Act 1972 be amended so that complaints can be made to the Ombudsman by Connecting Foster and Kinship Carers South Australia

Currently the SA *Ombudsman Act 1972* states at s 12B (1) that

A complaint about public administration may be made—

(a) if the complaint relates to alleged misconduct or maladministration in public administration—by any person; or

(b) in any other case—

(i) by a person or body of persons directly affected by the acts to which the complaint relates; or

(ii) in accordance with subsection (4).

Section 12B (4) then lists those bodies that can make a complaint even *despite the fact that they are not directly affected by the acts to which the complaint relates*. These listed bodies are

- the Commissioner for Children and Young People,
- the Commissioner for Aboriginal Children and Young People
- the Guardian for Children and Young People under the Children and Young People (Oversight and Advocacy Bodies) Act 2016.

CF&KC-SA seeks an amendment to s12B (4) to add our organisation to this list of bodies so that we too can make a complaint *despite the fact we are not directly affected by the acts to which the complaints relate*.

This amendment would enable us to better advocate for Carers. In particular it would enable us to

- make a complaint on behalf of a Carer who wishes to remain anonymous
- make complaints in relation to collective issues or repeated behaviour.

We understand that an amendment of this nature would bring us into line with the legislation and practice in Queensland.

1.6. That the *Children and Young People (Safety) Act 2017* be amended to provide clear advice as to what is, and what is not, a reviewable decision

The types of decisions that are reviewable are limited to decisions made under Chapter 7 of the CYPS Act (other than Part 4 of that Chapter) and pursuant to section 40 of the CYPS Regulations.

DCP has reported that the over a 2-year period, 40% of the internal review applications it has received were not within scope. Applications for review deemed out of scope and are not reviewed.

SACAT have published several decisions regarding the effect of the scope limitation on reviewable decisions. The published decisions highlight the difficulty Carers have in determining what is a reviewable decision.

- In the matter of *REM & PVR v Department for Child Protection [2020] SACAT 9 (28 February 2020)* the Tribunal Member found that some sections in Chapter 7 provide that certain conduct amounts to an offence and other sections set out a obligations imposed on individuals.
- In the matter of *XVS v Department of Child Protection [2021] SACAT 38 (19 April 2021)* the Tribunal found that a refusal by the Department to make a placement decision was not a 'placement decision' and accordingly no internal review had been, or could have been, conducted; thus, the Department's decision in 2020 was not a 'reviewable decision'. SACAT found that the application was misconceived as the Tribunal had no jurisdiction to entertain or determine it.
- In the matter of, *BKM & SEU v Department for Child Protection [2020] SACAT 16 (10 March 2020)* found that a 'placement decisions' in Chapter 7 which are subject to review in SACAT clearly are not intended to encompass decisions made by the Chief Executive to reunite a child with the biological parent or parents from whom the child has previously been removed.

It is clear that what is, and what is not, a reviewable decision is not easily identifiable for Carers or DCP. Carers should not have to seek legal advice in order to identify what they can and cannot ask to be reviewed.

It should also be noted that once an application is deemed not within scope the timeframe to make an application within scope (30 days) will likely have elapsed - eroding the aggrieved person the opportunity for review. The right to review a decision should not be hindered by ambiguous legislative drafting.

CF&KC-SA calls for Inquiry to recommend that the CYPS Act be amended to include a simple chart – setting out what is, and what is not, a reviewable decision. We draw the Inquiry's attention to the *Queensland Child Protection Act 1999* which includes a schedule for that purpose.

1.7. That the *Children and Young People (Safety) Act 2017* be amended to ensure that, when a reviewable decision is made, Carers are provided with a written and prescribed statement of reasons from the actual decision maker.

CF&KC-SA notes that in a number of instances Carers are confronted with important, even life-changing, decisions being made about their role as Carer (for example the decision to remove a child) – without being provided with the decision, and the reasons for the decision, in writing.

To illustrate:

- When a decision is made to remove a child, a Carer is typically provided with a one-page letter which states *The Department for Child Protection [region office] sought approval from Director, Southern Region, ABC to formally terminate the placement. On [date], ABC approved the formal termination of DEF placement with you, therefore, they will not return to your care.*
- The letter goes on to outline the procedure by which a Carer may review the decision, but provides no statement of reasons.

This issue was recently commented on by SACAT in the matter of *RHN and Anor v DCP [2021] SACAT 75 (9 November 2021)* where the Tribunal stated *We strongly recommend that, in future, the respondent produce a considered statement of reasons from the actual decision-maker when making a placement decision.*

To not provide a written decision, including reasons for the decision, when making a decision that is reviewable is, in our submission, to deny a Carer procedural fairness. It significantly disadvantages the Carer. It provides no basis on which the decision can be scrutinised for the purposes of an internal review application. It is untenable.

It also hampers SACAT, who went on to note in *RHN and Anor v DCP* that

... significant weight cannot be placed on the original decision because the Department's statement of reasons (which is in the form of a recommendation) is inadequate and fails to weigh up all of the relevant considerations set out in the placement principles

CF&KC-SA submits that, given the gravity of these decisions, the issue needs to be remedied by way of legislation.

In relation to **all reviewable decisions**, CF&KC-SA calls for an amendment to the CYPS Act to ensure that Carers be provided with a written 'notice of decision' including a 'statement of reasons' from the decision maker (as suggested by SACAT) as soon as practicable after a reviewable decision has been made.

In relation to **placement decisions**, CF&KS-SA calls for the legislative reform to go further. We submit that, in addition to the requirements set out above, a statement of reasons **in a placement decision** must:

- include an express consideration of harm that might be done to children when severing the attachment relationship with Carers
- be based on, and include, a full written recent assessment from an independent psychologist (external to DCP), not the personal views of a case worker, and
- include advice to that Carer that they have the right to apply for a stay of the decision.

The first of these recommendations arises again from the recent SACAT case of *RHN and Anor v DCP* where the Tribunal noted:

Most glaringly, there is a failure by the decision-maker (as set out in the recommendation), or in the respondent's submissions on review to articulate the harm that might be experienced by the boys from severing the attachment relationship with the foster carers and moving them to an alternative placement, or any weighing up of that potential future harm against the harm of leaving them in the previous placement. This gives rise to a concern that the severed attachment harm was not given sufficient weight by the original decision-maker.

The second recommendation arises from the lived experience of Carers who have had children removed on the strength of case worker opinion without the benefit of an up-to-date report from an independent psychologist who has met with and assessed the children.

The third recommendation is based on the Queensland legislation which states at section 90(3)(a) of the *Queensland Child Protection Act 1999* that Carers must be advised of their rights to stay a placement decision.

90 Notice of removal from care

(1) This section applies if the chief executive—

- (a) has custody or guardianship of the child under a child protection order; or*
- (b) has custody of the child under a care agreement.*

(2) As soon as practicable after making the decision to remove the child from the care of the child's carer, the chief executive must give written notice of the decision to the carer and the child unless—

- (a) the child is placed in the carer's care for less than 7 days; or*
- (b) if the child is in the care of an approved carer—the child is removed under a provision of the agreement under section 84 relating to the duration of the child's care.*

(3) The notice to the carer must state the following—

- (a) the reasons for the decision;*
- (b) if, under section 91, the carer is entitled to apply to have the decision reviewed—*
 - (i) the carer may apply to the tribunal to have the decision reviewed; and*
 - (ii) how, and the time within which, the carer may apply to have the decision reviewed; and*
 - (iii) **any right the carer has to have the operation of the decisions stayed.***
[emphasis added]

1.8. That the *Children and Young People (Safety) Act 2017* be amended to ensure that an application for internal review:

- **is considered and completed within a legislated time frame**
- **does not unfairly delay an application for external review**

As the CYPS Act currently stands:

- an internal review application must be submitted to the DCP within 30 days of a reviewable decision being made
- a DCP member of staff who was not involved in the reviewable decision will carry out the review, but
- there is no legislated timeframe within which to the internal review must be complete.

Some internal reviews take many months to be completed.

Under the current legislation, an application for **external** review (by SACAT) cannot be made until an application for **internal** review has been determined. This means a Carer's right to have a matter considered by SACAT is completely contingent on how long DCP takes to address an internal review application. This leads to considerable and unfair delays, with considerable developmental implications for the children involved (for example: attachment disruption).

In cases where a child has already been removed a delay can be decisive. Children (even if they are unfairly removed) are settled with new Carers, in new schools, in new environments. The new 'status quo' mitigates against the child ever being returned. In these circumstances a delay in processing an internal review may be an abuse of process.

CF&KC-SA calls for a change to the legislation to address this unfairness. In particular we seek amendments to the CYPS Act to provide:

- a legislated time frame for internal reviews to be completed by DCP (for example: within 30 days)
- the right for an applicant to make an application for external review 30 days after an internal review application regardless of whether the internal review has been completed.

1.9. That the *Children and Young People (Safety) Act 2017* be amended to ensure that an internal review decision

- **is properly made,**
- **comprehensively addresses the facts, the law, and applicant's reasons for seeking a review, and**
- **provides a 'decision' and reasons that can be reviewed by SACAT.**

Carers seeking an internal review are currently asked to complete an internal review application which asks:

- What is your request for review about?
- Why do you want the decision reviewed?



- Please provide details of any relevant information we may not have considered when the decision was made that you would like to be taken into account by the reviewer.
- Please describe how the department's decision has affected you.
- Please tell us what outcome you would like from a review.

The applications for internal review that Carers submit in response to these questions are extensive. In contrast, the internal review decision (called an 'Outcome of Review') received by Carers from DCP in response usually:

- is brief (1-2 pages)
- does not include a comprehensive statement of reasons that addresses the facts and the law on which the internal reviewer relies
- does not refer or respond to the issues raised by the Carer in their application, and
- simply states that the reviewer considers the original decision is 'correct and preferable'.

This is problematic for Carers seeking an external review by SACAT (and for SACAT itself).

- Firstly, the original decision is sometimes not in writing, poorly articulated, or lacking a statement of reasons, or all of these things. (We have addressed this earlier in our submission.)
- Carers feel that the information they include in their internal review applications is overlooked and that the effort they gave to completing their application is wasted.
- Carers seeking to exercise their rights to take the issue to SACAT for external review are left without a complete understanding of DCP's position. This is a denial of procedural fairness.
- SACAT finds it hard to determine what 'decision' they are tasked with reviewing. In some cases, because there is no clear 'decision' in relation to the internal review, SACAT is forced to go back to the review of the original decision. This effectively makes the internal review process redundant.
- Where the original decision is also inadequate (not in writing, poorly articulated, no statement of reasons) SACAT has in some instances found itself without a 'decision' to review. Rather than remit the matter back to DCP (for a proper 'decision' to be made) SACAT has decided in some cases to simply determine the issue itself.
- While SACAT's view is understandable, it totally undermines the process for Carers. Carers have a fair expectation that SACAT is there to provide a merits review of a DCP decision, not to make a decision in DCP's stead. And given there is no clear 'decision' Carers are effectively left with no idea what case they have to meet at SACAT.
- In instances where SACAT has decided it is not considering the internal review 'Outcome of Review Decision' as the relevant 'decision', the information (and in some cases the hours of work) put by Carers in support of their internal review application also becomes redundant.

These concerns and inadequacies have been discussed by SACAT in recent decisions.

In the matter *WWZ & Anor v The Department for Child Protection [2020] SACAT 111 (3 November 2020)*, SACAT found:

The internal reviewer did not articulate the process to be undertaken when making a decision to move a child from one placement to another, or the question the decision-maker had to address.

The Department submitted and we accept that this Tribunal's review is of the original decision made under sec 84 and not the internal review outcome.

We consider it appropriate to observe that as WWZ had not contributed directly to the original decision, and as her contribution to the internal review had not been listed as having been considered, and given that neither decision was expressed in a manner that lent itself to being understood in its legislative context, we are not surprised that WWZ was not satisfied with the process or the outcome.

In the most recent published decision *RHN & Anor v Department for Child Protection [2021] SACAT 75 (9 November 2021)* the Tribunal confirmed that the original decision would be relied on for review, effectively referring to *WWZ & Anor v DCP* as a precedent:

Significant weight cannot be placed on the original decision because the Department's statement of reasons (which is in the form of a recommendation) is inadequate and fails to weigh up all of the relevant considerations set out in the placement principles.....the Tribunal considered remitting the matter to the original decision-maker.

An internal review under s 157 of the CYPs Act was conducted on 20 April 2021 following which the placement decision was affirmed. The review to SACAT is not a review of the internal review decision so we do not intend to address those reasons nor analyse that process further.

CF&KC-SA submits that in order to ensure the integrity of the internal reviews, DCP must implement a best practice model for internal reviews. CF&KC-SA has recently been privy to two occasions where an internal review has been carried out well. In those cases, the reviewer:

- re-assessed the facts
- contacted the applicant (Carer) to discuss the issues and their point of view
- provided a detailed summary of the investigation and highlighting inconsistencies in the original decision
- assessed the reasons for review provided by the applicant in their internal review application
- provided a written Outcome of Review decision that listed the steps taken, noted the inconsistencies of the original decision maker, and reviewed the legislation relied on in the original decision, and
- stayed the decision while the investigation took place.

CF&KC-SA endorses and commends this approach.

It is important that this best practice approach be supported in legislation. To that end CF&KC-SA calls for the *Children and Young People (Safety) Act 2017* to be amended to ensure that internal review Outcome of Review decisions:

- are properly considered and made
- comprehensively address the facts, the law, and the applicant’s reasons for seeking a review
- are provided within a clear time frame, and
- provide a ‘decision’ and reasons that that can be reviewed by SACAT and responded to by a Carer.

1.10. That Carers are provided with access to free legal advice and representation so they can pursue their rights at SACAT

CF&KC-SA is proud of the significant role it played (acknowledged by the government of the day) in ensuring that the CYPs Act included the right for Carers to have decisions reviewed, including by SACAT. These provisions represented the first time Carers had been provided with specific legal rights by virtue of legislation in SA. But rights are only useful if they can be enforced, and our experience is that Carers find themselves at a significant disadvantage when matters reach SACAT.

When a Carer attends a SACAT hearing they are regularly confronted with what one Carer characterised as a ‘*cast of thousands*’. This can include a DCP case worker, a DCP supervisor, a member of the DCP legal team, a representative from the Crown, DCP’s independent barrister and lawyers and barristers for other parties (for example the biological family).

By contrast the Carer may appear alone, or perhaps accompanied by a lay advocate from CF&KC-SA. This is manifestly unfair. It is intimidating. It immediately puts the Carer at a disadvantage.

CF&KC-SA is not funded to provide legal advocacy. In order to support Carers needing legal advice and representation, and with the generous support of a Law Foundation grant, CF&KC-SA has entered into five Memoranda of Understanding with the following community legal services in SA:

- Women’s Legal Service South Australia
- Aboriginal Legal Rights Movement
- Northern Community Legal Service
- Community Justice Services, and
- JusticeNet SA.

These agencies have agreed to act for Carers who otherwise meet their agency requirements (for example: fall within their catchment area, meet their means tests, etc).

CF&KC-SA has also:

- established a pool of lawyers who are prepared to act ‘pro-bono’ or ‘low bono’ for Carers, and
- employed a Legal Consultant – who while not able to provide legal advice, can give legal information and provide support to Carers and CF&KC-SA’s advocates.

Even with these arrangements in place CF&KC-SA has observed that Carers are still ‘*falling between the cracks*’. Over the past 12 months we have observed many Carers being unable to find legal representation when they need it. Barriers include:

- income means testing deeming a Carer ineligible to access community legal support (ironically a Carer must demonstrate income safety to be a Carer to begin with), and
- conflicts of interest due to biological parents previously having previously accessed legal support through the service or law firm.

As just one example: recently a Carer couple had a matter at SACAT against DCP and the biological grandparents. DCP was represented by two lawyers and a Crown Solicitor; the biological grandparents had their own private lawyer. Our Carers were unable to get community legal assistance as they fell outside of the catchment areas and were deemed to earn too much for JusticeNet's means testing. They recently received a quote from a private lawyer for a minimum of \$10,000. CF&KC-SA has been unable to find an available pro bono lawyer. The Carers are currently self-represented.

This is a new and complex area of administrative law where the benefit of legal advice cannot be understated. The legal issues being decided at this early stage of legislative reform are of vital importance to Carers and the quality of advocacy on each side has the power to significantly determine the direction taken in the case law and by virtue of that, whether Carers' interests are sufficiently represented. While SACAT is essentially welcoming to self-represented parties, the feedback that we have received from Carer clients is that it can be an intimidating environment given that the DCP is always represented by solicitors and Crown counsel. There can be no denying that it is preferable, and would indeed be more equitable, if Carers were to have the same access to legal representation, by way of a funded lawyer.

The experience in Queensland is instructive.

- Our sister organisation in Queensland, Queensland Foster and Kinship Care (QFKC), advises that it has experienced the same challenges as our organisation regarding Carers unable to access legal services.
- QFKC have noted that it is increasingly evident that other parties including the Department and biological families engage legal representation. QFKC advise, in the case of birth families and others, this is mostly undertaken through legal aid without cost. However, in the case of a Carer wanting to engage legal services the costs are met by the Carer and are expensive. As a consequence, QFKC note that many Carers are self-represented and have been cross examined by solicitors and barristers from Crown law, independent children's lawyers and birth family barristers. QFKC is of the firm belief that this should not be the case and that these Carers and others like them who are volunteers for the Department are being placed at a significant disadvantage.
- To balance this anomaly, QFKC sought government funding for a trained lawyer to provide legal services on behalf of Carers. Due to the nature of QFKC as an organisation, the legal position could not be fulfilled directly under QFKC, so the organisation partnered with a community legal service to facilitate the position. Under the partnership QFKC refer Carers directly to the employed child protection lawyer at the legal service. The lawyer works only on matters that have been referred by QFKC, but has the support and guidance of other legal professionals and a supervisor who oversees the lawyer's cases.

- The program is now in its fourth year and has successfully provided legal advice and representation to 260 Carer clients. The guiding principle of the program is to ensure that every Carer has access to free legal advice and representation.

It is CF&KC-SA's submission that the Inquiry recommend a similar model for SA to ensure that every SA Carer also has access to free legal support when they need it.

It is CF&KS-SA's strong view that access to legal advice for Carers is essential to ensure the system is fair. Well represented Carers will be better positioned to understand their legal position, prepare their arguments and evidence, negotiate with the DCP and Crown lawyers, and present their case accurately and concisely to the Tribunal. This is likely to result in outcomes that are less fraught, more easily arrived at and – ultimately – more just.

1.11. That the *Children and Young People (Safety) Act 2017* be amended to ensure that children who are the subject of SACAT applications be separately represented so that their voice is heard

While this Inquiry has Carers as its focus, we should point out that the voice of the child is also critical in many SACAT hearings. CF&KC-SA calls for s159 of the CYPS Act to be amended to ensure that children who are the subject of SACAT application be provided with separate legal representation before SACAT (as they are in other jurisdictions such as the Family and Youth Courts).

1.12. That before during and after a SACAT external review, that DCP (and its legal representatives) act in a way that is consistent with the Statement of Commitment for South Australian Foster & Kinship Carers and meets its obligations to be a model litigant

Another way to make the system fairer for Carers is for the SACAT process to be constructively approached acknowledging that, unlike in many other dispute resolution settings, the parties have an important ongoing relationship before, during (and sometimes after) the hearing.

To that end CF&KC-SA calls for the Inquiry to make the following recommendations.

- As a default position, all SACAT matters start with a mediation (available under section 51 of the *SACAT Act 2013* to facilitate an early exploration of the issues with the hope of resolving them. To facilitate this DCP will need to ensure that its representatives at mediation
 - are limited in number (to avoid the 'cast of thousands')
 - have the appropriate authority (for example, to override an earlier decision, to proffer an apology when one is due)
 - are not over legalistic in their approach, and
 - have a Carer focused, constructive approach to dispute resolution

We understand that an approach like this is taken in Queensland and that it works well. We are advised that in that state the process is called a 'compulsory conference'.

- All decisions to remove children be stayed while SACAT matters are heard, except where a child's safety is at immediate risk.
- All parties commit to progressing child protection matters as a matter of urgency. CF&KC-SA have attended a number of hearings where no effective progress has been made because DCP's legal representatives have not provided documents or have not attended to issues

ordered by the Tribunal at the previous hearing. One of our Carers pointed out that a one-month delay in her SACAT matter (which related to an infant) amounted to delay equivalent to one tenth of that child's life.

- That, in particular, s35 documents always be provided as a matter of urgency. CF&KC-SA have been involved in matters where DCP legal representatives have sought adjournments to give them time to prepare s35 documents – even when a child in question was reportedly self-harming in residential care.
- DCP introduce measures to ensure that the s35 documents provided to SACAT do not include material that is false, inaccurate, unfair, or prejudicial. CF&KC-SA has recently supported a Carer couple who were confronted by s35 documents that:
 - referred to, and inaccurately categorised, an incident that took place almost 10 years prior to the SACAT hearing
 - included other irrelevant information
 - included a statement about the Carers intelligence that was insulting and prejudicial (and wrong), and
 - included a number of factual inaccuracies.

Given that the current right of a Carer to 'correct the record' is limited (and that most Carers don't know that the right even exists) CF&KC-SA submits that DCP and support agencies have a special duty to ensure that their files and records fairly represent the facts. This is especially so when documents are presented to a decision-making Tribunal.

2. Term of Reference (b)

Must review the adequacy of existing consultation processes between the Department, other persons and bodies involved in foster care or kinship care, and foster carers and kinship carers

In relation to Term of Reference (b) CF&KC-SA calls on the Inquiry to make the following recommendations and findings.

2.1. That consultation between DCP, support agencies and Carers be improved

Carers report the DCP's lack of meaningful consultation with Carers has caused serious and unnecessary stress, and for some, a decline in mental health and wellbeing. Serious changes regarding decision-making in the DCP must occur to ensure Carers, as well as the children and young people in their care, are viewed as a family unit where the DCP's decisions are made in partnership with Carers.

Carers report the DCP regularly make decisions regarding the care of a young person without discussing the process with them. Examples include:

- altering percentage loadings
- declining to pay for supports and services
- making care concerns
- neglecting to mention how long a child will be emergency care with a Carer (only to leave them and expect the Carer to take child on long-term)

- scheduling a care team meeting without regard to their Carers commitments
- not listening to the Carers perspective when having voiced their concerns
- not involving Carers in NDIS planning
- not providing details to assist Carers in risk managing the psycho-social needs of the children and young people in their care.

'Foster and Kinship care is in disarray. Carers are not supported and are given false information as to the supports that will be available to them as Carers.'

'The system is broken. Broken people working with broken people makes for a lot of trauma. Someone needs to be brave and step up. Carers will keep leaving unless we are respected and valued for what we do - not by lip service, but by actions. In any other organisation, if people were treated the way carers are, there would be action and outcry. We are a small minority doing a massive job and saving the Government millions of dollars every year.'

Carers must be heard and their input taken into consideration when the DCP plans to make decisions that affect the child or young person in care.

To address these and other issues, CF&KC-SA calls for the following:

- that DCP and support agencies only make appointments for meetings that Carers are expected to attend **after** consultation with Carers to ensure the time and venue of meetings are convenient
- that DCP include Carers in consultations prior to **any** decisions being made about the Carer, their family and the children and young people in their care
- that DCP, when appropriate, include children and young people in consultations prior to any decisions being made about them
- that DCP integrate the Statement of Commitment for South Australian Foster & Kinship Carers into all their policies and procedures – particularly as it pertains to consultation with Carers
- that DCP ensures all their employees know their policies and procedures, and that they carry out and reiterate those policies and procedures to Carers accurately
- that DCP responds to Carer enquiries in a timely manner (at the bare minimum, an acknowledgment of their enquiry within 48 business hours, and an action within 48 business hours after that acknowledgment)
- that DCP's correspondence and communications with Carers are informative, inclusive, and transparent
- that the DCP includes Carers in NDIS consultations and progression, and approves the NDIS funding available to them when requested (more on this later)
- that Carer support agencies offer support that is consistent, fair, and accessible to all the agency's Carers.



2.2. That collaboration with the peak body by DCP, support agencies and government be strengthened

The collaboration between the peak body, DCP and support agencies has progressed positively over the past few years. CF&KC-SA is keen to see the collaborative, respectful relationships develop further to thoroughly address the needs of Carers.

As a voice for Carers, and as the peak body, CF&KC-SA offers an informed position on matters that impact Carer families. We can also facilitate direct input from our Carer community to provide feedback and guidance to enrich the development of legislation and DCP and agency policy (for example: by convening Carer forums and Carer reference groups, by undertaking Carer surveys). Collaboration with CF&KC-SA will ensure the child protection system can better involve Carers and their fundamental roles, and further build and enhance protective factors around children and young people in care through legislation, policy, procedure and practice.

Acknowledging Carers as the experts in their families will allow them to seek support, communicate more effectively and be the best parents they can be for all the children and young people in their care.

CF&KC-SA calls for:

- early consultation with CF&KC-SA, and the Carers we represent, in the development of all legislation, policy, procedure and practice that impact Carer families
- early consultation with CF&KC-SA, and the Carers we represent, in the relation to all government funded research
- DCP to facilitate the automatic free 'opt in' membership for Carers to the peak body, to ensure all SA Carers are aware of their rights and responsibilities from the beginning of the caring journey. (We have had many discussions with DCP about this issue, over a number of years, and are awaiting a mechanism to achieve it.)

2.3. That Carers be provided with consistent access to mental health support that is comprehensive, Carer friendly, trauma informed, easy to access and confidential

Providing foster and kinship care is hard. Carers open their hearts and family homes to vulnerable children and young people, often with complex emerging needs resultant from trauma. Many Carers need proactive, ongoing mental health and wellbeing support. There is a negative, shameful rhetoric circulating amongst the sector suggesting if Carers request psychological support they '*must not be coping*'. According to the Black Dog Institute, one in five Australians aged 16-85 experience mental illness in any year. The Australian Institute of Health & Welfare state 54% of people with a mental illness do not access any treatment.

We are aware that Carer access to mental health support is inconsistent and may vary depending on the Carer's support agency. Some Carers report having access to an Employee Assistance Scheme through their support agency. The extent of this access appears to differ between agencies (for example, some Carers report getting two appointments free, some report getting six appointments free). Other Carers report having no entitlement, or at least no entitlement of which they are aware.

It is crucial for the retention of family-based Carers, the prevention of placement breakdowns, and (above all) the benefit of children in family-based care, that DCP and its support agencies work together to ensure that all Carers have access to funded psychological support as a matter of priority. Such support needs to be provided for the benefit of the Carer (not to support the placement).

To that end, CF&KC-SA calls for:

- DCP to work with agencies to ensure that all Carers are offered the professional psychological support they need, and that this offer is consistent across all agencies
- the professional psychological support offered to Carers to be easy to access, free of charge, highly confidential, and provided by clinicians who are familiar with the child protection sector (and ideally with the complex nuances associated with providing family-based care)
- DCP and agencies to immediately address the stigmatisation of Carers accessing psychological support
- DCP and agencies to ensure that this professional psychological support is offered to all Carers across South Australia including kinship Carers (either, virtually or face to face) and with the dedicated endorsement by DCP and support agency staff
- DCP and agencies to proactively provide Carers with consistent, regular and easy to access, information about their entitlement to professional psychological support, and how to access it (including in induction packs for new Carers, and on the DCP website)
- the care concern process be updated to include an obligation on DCP and agencies to ensure that Carers who are the subject of a care concern are reminded of their right to free professional psychological advice.

We understand that in Queensland regular professional counselling support is provided to Carers free of charge, especially if a care concern investigation is underway. It is considered a proactive, supportive mechanism to strengthen the mental health and wellbeing for their state's family-based Carers.

2.4. That agencies support their Carers at all times

Carers are often shocked to understand that their support agency worker is not in place to support the Carer, but rather is there to support 'the placement'.

This particularly becomes apparent when an issue or conflict arises. Support workers are often absent in their support, both figuratively and literally, with Carers left in meetings to fend for themselves. Carers feel that support workers are not standing up for them, listening to their needs or proactively providing support. Carers believe that support agencies will not challenge DCP as they are fearful of '*biting the hand that feeds them*' as DCP funds their contracts. This leaves Carers to feel isolated, anxious and ill-equipped to provide the best possible care for their young people.

'Agencies are only concerned about their funding and pander too much to DCP and forget that their job is to support carers. This is one of the most inefficient, corrupt, abusive and bullying departments.'

'We soon figured out that no one was honest about how Carers would be treated, how medical recommendations would be refused or as a Carer, being told 'you want it you can pay for it', that no NGO would speak up for us for what we can only assume is for fear of risking their relationships with DCP and funding.'

CF&KC-SA calls for a fundamental change in the role of support agency workers and DCP Kinship workers – so that they advocate for and defend Carers, particularly in relation to DCP decision making. Carers need to know that their support worker is *'in their corner'*, working with them not against them. This change in focus is another important step in addressing the significant power imbalance inherent in the current structure. It will, we submit, support the retention of Carers.

2.5. That Carers be given standing in the Youth Court

CF&KC-SA is proud of the work it has done to ensure that Carers get a voice in the Youth Court. We became aware a number of years ago that Carers were rarely heard in the Youth Court – despite the fact they often hold important information about the children who are the subject of Youth Court orders. (They live with the children, and often know more about the children than any of the actual parties to the Youth Court proceedings.)

This can result in relevant information not being put before the court, and in perverse outcomes. For example:

- Carers have reported that their detailed knowledge of a child's wishes are not always presented to the Court
- Carers have reported that their observations about a child's behaviour (for example: before or after an access visit) is not before the Court
- Carers have also reported their own circumstances not being taken into account. One Carer reported that DCP applied for an order permanently placing her two grandchildren with her, without consulting her first.

CF&KC-SA therefore approached Judge Penny Eldridge, the Youth Court's senior judge, to raise these issues. Judge Eldridge made it very clear that she and her court were extremely interested in the views of Carers and that they are welcome in her court.

She advised us, and the staff of her court's registry, that Carers can present information to the court in a number of ways including:

- by attending the Court
- by presenting information to the Court by email or in writing.

CF&KC-SA have prepared a Carer Guide on this topic – which Judge Eldridge approved. A copy is available on our website.

All of that said, Carers can currently have their say in the Youth Court really only by virtue of these somewhat informal arrangements, rather than by having formal standing in the Court and recognition in the Youth Court Act.

CF&KC-SA calls for this to be remedied through an amendment to the *Youth Court Act 1993* – to give Carers standing. CF&KC-SA would be happy to work with DCP and the Youth Court to more fully consider this proposal.



2.6. That the independent status of the peak body, CF&KC-SA, be formally guaranteed

As mentioned in the introduction to this submission, CF&KC-SA was established by Carers for Carers over two decades ago. The organisation has grown considerably in that time. We are incredibly proud of the work we do – advocating for, informing, connecting and supporting Carers.

We receive some outstanding feedback.

‘The Carer Advocate heard my voice, they empathised with the situation and they were always on the same page with me. They understood my goals and what I wanted to achieve’

‘They left no stone unturned, they sent email after email and made themselves available all the time. Prior to that I had no one, they validated how I was feeling and understood what I was trying to get. They made me feel safe and it wasn’t just a job to them, they wanted to help. I never felt that I was burden.’

‘The experience with DCP was very daunting, however having our advocate we felt like they were the perfect match and we felt very supported throughout the challenges we faced’

‘The advocate did a phenomenal job in supporting us and I wish I knew your organisation existed earlier’

That said, there are some Carers who tell us that are wary of, and reluctant to use, our organisation because we funded by DCP. Some Carers see us as being not truly independent, or implicitly aligned with DCP because we are reliant on DCP funding.

CF&KC-SA is confident that it acts at all times independently of DCP. As the peak CF&KC-SA does not feel constrained. CF&KC-SA will happily ‘take DCP on’ including by way of our advocacy, and our support of Carers through challenging DCP decision in Youth Court and SACAT. However, it is of deep concern to us that all Carers feel confident in CF&KC-SA’s independent representative role.

CF&KC-SA believes there are two potential ways to address this issue:

- one is to move the funding we receive to another department (for example, to Premier and Cabinet or Treasury and Finance)
- the other is to enshrine our independent status in legislation, or in our contract of service, or both.

Our board has considered both options and discussed the pro and cons with our sister organisations interstate (who are all in the same position).

CF&KC-SA is open to both solutions – but lean to the second option for the following reasons:

- being part of the same department and (importantly sharing a Minister) does provide advantages (for example, access to senior and executive staff in order to raise and resolve issues)
- all of our work relates to child protection so that it makes sense we are within the department with responsibility for, and an understanding of, that sector.

Wherever our funding is sourced, we are very keen to address the ‘independence’ issue so that all Carers can access our support and advocacy with absolute confidence. To that end CF&KC-SA calls

for our organisations independent status to be enshrined in legislation, or in our contact of service, or both.

Further consultation on this issue (including with those Carers who hold concerns) would be welcomed.

3. Term of Reference (c)

Must review the transparency and availability of documentation and information held by the Department and other persons and bodies involved in foster care or kinship care to foster carers and kinship carers (including care concerns and manuals of practice)

In relation to Term of Reference (c) CF&KC-SA calls on the Inquiry to make the following recommendations and findings

3.1. That all DCP policies and procedures be made publicly available

The fair administration of the child protection system needs to be supported by access to information.

Carers do not have access to many internal DCP and agency policies and procedures. Carers and their children and young people appear to operate within invisible rules and regulations issued by DCP, reporting the goal posts consistently shift. They do not know what is expected of them, and they do not know what they are entitled to expect. Some Carers report feeling like they are operating in a system that they don't understand. One Carer referred to it as playing a game where only one side (DCP) has the rule book.

CF&KC-SA also notes that sometimes even DCP staff don't seem to know their organisational policies and procedures that apply to their work. On a number of occasions CF&KC-SA staff have drawn DCP and agency support workers attention to policies and procedures of which the workers were unaware, or had to advise DCP staff that they were referring to and applying superseded versions of policies that have been updated.

The current situation is wasteful. Work done preparing detailed (and in some cases very good) policies and procedures is overlooked because the policies and procedures are not well known. It results in poor and ad hoc decision making. Significantly it results in inconsistency in practice. Carers report that rather than one practice being adopted across DCP, individual offices (sometimes even individual workers) ignorant of DCP wide policies and procedures invent their own systems and apply their own rules.

To counter these issues, CF&KC-SA calls for all DCP policies and procedures to be made outward facing – that is publicly available (for example via hyperlinks on the DCP website). This includes (but is not limited to) publishing:

- the DCP Manual of Practice
- all DCP policies and procedures (including but not limited to the policies and procedures that relate to complaints handling)



- the DCP organisational chart including departmental inter-relationships, roles and responsibilities
- all delegation documents
- the Complexity Assessment Tool (CAT).

Access to this information is important.

- In relation to the Manual of Practice: Access to the Manual of Practice document would enable each stakeholder to fully understand what is required of them within the child protection system.
- In relation to the DCP organisational chart: CF&KC-SA and Carers interact with a wide cross section of DCP staff. Access to the organisational chart would enable us to identify the role held by each staff member. It would also enable us to direct enquiries and requests to the right employees, at the right level (for example: office managers, regional managers, Principal Aboriginal Consultants, etc) and with the right expertise (for example: NDIS officers)
- In relation to delegation documents: CF&KC-SA is advised that some reviewable decisions are made by senior staff under CEO delegation. Access to the delegation document would enable us to ensure that decisions maker have the required delegated authority.

This open attitude to information is not to be feared. It is about working together, in partnership, to understand the roles, rights and responsibilities of each individual to progress better outcomes for children. It can provide a one-stop-shop for everyone (Carers, children and young people, DCP and support agencies, and others). It increases fairness. It generates a culture of working collectively and collaboratively. Importantly, it gives people the tools to hold each other to account.

In Queensland and Northern Territory, the DCP equivalents have their manuals of practice as outward facing documents available online, with hyperlinks to relevant resources. Some sections are locked, for specific reasons, however the bulk is available to Carers, children and young people 24/7, on demand.

3.2. That DCP staff, agency support workers and kinship workers receive consistent, compulsory, trauma informed, up to date and regular training – including in the role of Carers and their biological children

The administration of the child protection system also needs the support of well trained and knowledgeable staff.

Good thorough training can help address a number of issues including by:

- improving staff retention, through investment in existing employees
- lifting the knowledge and skills of employees (which is especially important in a high staff turnover environment)
- improving consistency of practice (as discussed above)
- increasing the knowledge of, and embedding the values outlined in, the Statement of Commitment for South Australian Foster and Kinship Carers
- improving the understanding of, and respect for, the role of Carers

- setting standards of conduct (and identifying unacceptable conduct), and
- fostering a true partnership approach to child protection.

CF&KC-SA therefore calls for compulsory, up to date and regular training for all DCP and support agency staff – including training to specifically address the important role of Carers, and the responsibility of all workers to treat Carers respectfully.

We also call for training in relation to the protection of biological children. It is our submission that the DCP has a responsibility to all children – including the biological children of Carers. We can relate a number of instances where biological children have been distressed by the actions of DCP, for example by:

- having foster children (whom they regard as siblings) abruptly and forcefully removed in their presence
- being interviewed without their parent’s consent, knowledge or presence
- being interviewed without any adult present
- being threatened with removal themselves (*‘if this care concern is made out, you might also need to be removed’*)
- seeing their biological Carer parents distressed.

In some instances, this has left biological children in need of psychological support. It is totally unacceptable. It must be stopped.

Given that many children under guardianship have experienced trauma and have complex needs, it is crucial that trauma informed training is provided.

CF&KC-SA calls for DCP to take responsibility for ensuring this training is provided consistently across the sector.

3.3. That Carers be provided responsive and targeted training that is consistent across the sector

We are aware regular training is provided to Carers. However, in our annual surveys, Carers have indicated a desire for more training and information. They have identified the following areas for priority:

- behaviour management training (including managing challenging behaviours)
- helping their child reach their full potential
- dealing with (and responding to) the impact of trauma experienced by their young person; and
- Carer self-care.

CF&KC-SA calls for:

- DCP and support agencies to actively ask Carers about their training needs
- DCP and support agencies to provide responsive training for Carers that is trauma informed, easy to access (for example face to face or virtual) and cognisant of Carers availability
- training that is provided consistently and can be accessed easily, irrespective of what support agency the Carer is with (for example, by providing a shared calendar of training opportunities across all agencies).



Our agency, as the peak body for Carers across SA, is well placed to engage (with our Carer members) in the development (and the delivery) of training programs to address these important issues. With additional resources, CF&KC-SA could develop a training program for DCP and support agency staff, regarding Carer issues, that could be provided consistently across the sector.

3.4. That the Statement of Commitment for South Australian Foster & Kinship Carers be given the same status and recognition as the Charter of the Rights of Children and Young People

The Statement of Commitment is a document developed in collaboration with the DCP, CF&KC-SA and Child Family Focus SA. It was prepared after extensive cross sector consultation. It is as a co-designed tool to ensure the sector works in collaboration with Carers as an essential and respected part of the care team for children and young people.

We are proud of the work our organisation did to pursue the development of the Statement of Commitment. We are mindful though that it is just a statement. And we know that many people, including many DCP staff, agency support workers and many Carers do not even know it exists. Many Carers report that, even where it is known, it is not followed by the frontline workforce.

It needs to be made visible – a living, breathing document – and be embedded in daily practice.

One important first step to achieve that is to give the Statement of Commitment the same status and recognition as the Charter of the Rights of Children and Young People (Charter).

Section 13 of the CYPs Act establishes the Charter, states that it must be reviewed at least every 5 years, ensures that variations are consulted on, provides for the Charter is published on the DCP website and laid before both Houses of Parliament and states that *each person engaged in the administration, operation or enforcement of a relevant law must, to the extent that it is consistent with section 7 to do so in a particular case, exercise their powers and perform their functions so as to give effect to the Charter.*

CF&KC-SA calls for the Statement of Commitment to be included in the CYPs Act in the same way as the Charter is included in the Act.

Including the Statement of Commitment in the CYPs Act in the same way as the Charter would be a simple way to lift its profile, to give it recognition and status and to ensure that it is kept up to date through regular reviews.

'For Foster and Kinship Carers to have the Statement of Commitment - it's empowering'

It is important to note that including the Statement of Commitment in this way would not give Carers additional legally enforceable rights or entitlements (just as the Charter does not give children and young people additional legal rights).

3.5. That DCP ensure that all DCP staff, agency support workers and kinship workers know about, understand, and uphold the Statement of Commitment for South Australian Foster and Kinship Carers

Clearly, simply including the Statement of Commitment in legislation is not all that needs to be done to bring the document to life.



CF&KC-SA calls for the following additional initiatives to support a better understanding and implementation of the Statement of Commitment and the principles it embodies:

- training and educational resources be developed on the contents of the Statement of Commitment and what it means in practice (including measurable outcomes or indicators of compliant practice where feasible)
- all staff (DCP, support agency and kinship workers) at all levels (including senior staff) be provided with a copy of the Statement of Commitment and appropriate training – at induction and regularly thereafter
- all support agency workers be asked to refer to the Statement of Commitment as a proactive, collaborative foundation for supporting their Carers
- recruitment and promotion of workers take account of their demonstrated commitment to, and compliance with, the Statement of Commitment (for example integrated into regular supervision practice, strategic planning and performance management)
- every Carer be provided with a copy of the Statement of Commitment
- the Statement of Commitment be made visible in all DCP and support agency offices, and
- a timeframe be prepared for all this to be done – and that the timeframe be published.

CF&KC-SA would be delighted to participate in the development and provision of relevant Statement of Commitment training resources, and in the development of indicators of compliant practice that can be reported against.

3.6. That the *Children and Young People (Safety) Act 2017* be amended to embed a partnership approach between DCP, its support agencies and Carers in legislation

CF&KC-SA also calls for the embedding, in legislation, of a respectful partnership approach to the relationship between DCP, support agencies, children and young people and Carers.

Again we draw the Inquiry's attention to Schedule 5 of the *Return to Work Act 2014*. Again we note that schedule not as a model, but because it sets a precedent. In that Act the government developed and included a set of 'service standards' to provide a legislative basis for the relationship between all relevant parties serving the needs of injured workers (in that case RTWSA, its agents, employers and injured workers themselves). The service standards exist to '*encourage positive relationships*' between the relevant parties and acknowledge that the parties '*need to work together in order to achieve the best outcomes for all*'. The service standards outline and prescribe many aspects of the relationship between the parties and include the imperative that all parties '*treat a worker and an employer fairly and with integrity, respect and courtesy, and comply with stated timeframes*'.

CF&KC-SA calls for a similar set of prescriptive rules (for example 'service standards' or a 'code of conduct' or both) to be developed and included in the CYPS Act – to provide a legislative basis for the relationship between DCP, its support agencies, children and young people (including biological children and young people), and Carers - to which all parties can refer. These 'rules' should include (among other things) the imperative that all parties treat Carers and children and young people '*fairly and with integrity, respect and courtesy*'.

3.7. That the *Children and Young People (Safety) Act 2017* be amended to outline the powers and responsibilities of the Care Concerns Investigation Unit (CCIU) and prescribe the care concern investigation process

The current care concerns process, and the management of care concerns generally, is an issue that is repeatedly raised by Carers as an area of deep concern. Carers raise the following issues.

- The care concern process is, at times, used to raise petty issues.
- The care concerns process does not provide Carers with natural justice.
- Concerns are often not raised directly, or clearly, with Carers.
- Concerns are not raised in writing.
- Carers are often not given a proper opportunity to consider the allegations and respond to them.
- Care concerns are often raised well after the event.
- Carers are not advised of their rights at the time a care concern is raised.
- Carers are not provided with, nor do they have access to, an explanation of the role and powers of the CCIU or care concern investigation process.
- Carers are not advised of an investigation timeframe.
- Carers are *'left in the dark'*, while the investigation takes place – often for months.
- Investigations are often inadequate. For example, Carers report that independent third parties (for example teachers, doctors, friends of the Carers) are not approached or questioned.
- Investigations sometimes include children (including biological children) being interviewed without an adult present and without parental consent.
- Carers report being treated as though they are *'guilty until proven innocent'* – even when they have given years of exemplary service as Carers.
- Care concerns allegations remain on the Carer's file (even if they are unsubstantiated) as a permanent record – some would say a *'permanent stain'*.
- Carers are not provided with support during or after a care concern investigation.
- After completion of a care concern investigation, Carers report they are sometimes required to continue to interact with DCP and agency support workers who during the period of the investigation treated them with contempt.

A care concern investigation can have disastrous and life changing consequences.

- It can result in a child being removed.
- It can result in a Carer's registration being revoked.
- It is distressing and stressful for Carers, the children in their care and (sometimes) also for biological families.
- It can result in reputations being ruined.
- It can result in a Carer being stood down from, or losing, his or her paid or voluntary employment (in particular where the Carer's employment role involves working with children). As just a few examples:
 - a husband and wife Carer couple (one a teacher, one a school principal) were both stood down from their employment for years while an investigation took place and appeals were pursued – with devastating personal and professional consequences
 - one Carer was stood aside from Emergency Services Officer duties while an investigation took place

- one Carer was forced to resign from a pre-school board because of an investigation.

There is no doubt that the care concern process as it currently stands impacts negatively on the wellbeing of Carers. It also impacts on Carer retention and recruitment. Even Carers who have not been the subject of a care concern express real fear about these consequences. They worry that they might lose the children in their care. They see what happens to their Carer friends. They know how a care concern might affect their own employment. Many Carers will openly state that if they knew about the risks associated with care concerns investigations before becoming a Carer they would '*never have taken it on*'. They counsel other potential Carers not to do it because of these risks. CF&KC-SA are also aware of a number of professionals who have opted not to take on the role as a Carer for the same reasons.

Fear and anger about the care concern process is regularly raised with CF&KC-SA. It emerges in every annual survey and is the top issue for support each quarter since offering the Carer Advocacy Service officially in July 2018.

CF&KC-SA submit that these issues need to be remedied as a matter of urgency by an amendment to the CYPS Act to:

- establish the composition, purpose, nature and extent of the powers and responsibilities of the CCIU
- establish a clear and reasonable threshold for what is a care concern
- embed principles of natural justice and procedural fairness into the care concern investigation process
- prescribe the process by which care concerns are investigated, and the duties owed to Carers during investigations
- ensure that unsubstantiated care concerns are removed from Carer files, and
- make CCIU decisions 'reviewable'.

These changes will not only make the process fairer for Carers, they will provide certainty for DCP staff and those employed in the CCIU.

CF&KC-SA further submits that it is important that Carers (particularly Carers who have been through the care concern process) be involved in the development of these amendments.

3.8. That Carers right to move from one support agency to another be widely understood and easily accessed

The ultimate 'feedback' – the ultimate way for a Carer to express his or her dissatisfaction with a support agency - is to leave that agency and move to another.

This process needs reviewed to ensure it is:

- openly available and well publicised
- easily understood
- Carer friendly
- supported both by the departing and the incoming agencies

- reflected in DCP contract management and complaint management statistics (a support agency or office ‘losing’ Carers presents a ‘red flag’ that may warrant investigation).

The process should also include an ‘exit interview’ from an independent body (not from the departing agency or DCP) which includes (but is not limited to) questions on:

- compliance with the Statement of Commitment
- the conduct of support agency workers and
- complaint handling and resolution.

A de-identified summary of the results of these ‘exit interviews’ – and from exit interviews of Carers leaving the system – need to also form part of the continuous improvement processes within for DCP and agencies.

More information on exit interviews is included later in this submission.

4. Term of Reference (d)

Must consider the adequacy of internal procedures and arrangements within the Department and other persons and bodies involved in foster care or kinship care in ensuring that —

- (i) there is a sound partnership between the Department, those persons and bodies and foster carers and kinship carers; and**
- (ii) the rights of children in foster care and kinship care (including their rights relating to safety, cultural identity, access to services and opportunities, autonomy and decision-making) are respected, addressed and realised**

In relation to Term of Reference (d) CF&KC-SA calls on the Inquiry to make the following recommendations and findings

4.1. That the South Australian government adopt a whole of government approach to provide children under guardianship (and their Carers) with improved and priority access to services

Carers face the ongoing prospect of having to navigate complex systems and multiple bureaucracies to access services for the children in their care (for example: DCP; support agencies; Centrelink; NDIS; child care, preschools, kindergartens, primary and secondary schools and tertiary education institutions; health services including mental health services, housing authorities).

They tell us that:

- navigating these systems is at time exhausting and dispiriting
- many of these government services have no specific understanding of the needs of children under guardianship (for example many schools do not have staff who are trauma informed, many mental health services do not have staff with experience in child protection issues)

- worse, children under guardianship are sometimes stigmatised by government services (for example: one Carer also a teacher, recalls a school principal announcing in the staff room, to groans, *'we have another GOM kid'*)
- there is no consistent, collaborative approach to service delivery
- the efforts that have previously been made to prioritise the children under guardianship don't seem have worked (or have not 'stuck')
- previous reports (for example: the Layton Report) have made recommendations about this issue, but no real progress has been made *'on the ground'* for Carers
- Carers don't know, what, if any, priority services exist for the children in their care, and they don't know where to access that information
- there doesn't appear to be a recognition that, for a child under guardianship, the state is effectively 'in loco parentis' and therefore has a responsibility to advocate for the child, and to 'stand by' the child in the same way a parent would
- Carers often feel they have no standing when interacting with government services (for example NDIS or Centrelink) because they are a *'just a Carer'* not a guardian.
- they have to fight to access to the therapeutic services their children need.

'As Carers we have all the responsibilities and none of the rights'

CF&KC-SA notes that the outcomes for children under guardianship are still poor. Many young people leaving care experience unemployment, homelessness and poverty. CF&KC-SA's chairperson sits on the Dame Roma Mitchell Trust Fund board. That board reviews applications from young people who are or have been in care, and makes recommendations for small grants of financial support. The work of that board provides a brutal insight into the very significant disadvantage that these young people are experiencing.

They say *'it takes a village to raise a child'*. When that child is under guardianship, that village includes a number of government agencies and departments.

CF&KC-SA calls for an overall strategy for service provision across all government departments and non-government agencies to be developed (in accordance with Layton Report recommendation 6). The strategy should include, but not be limited to the following

- each government agency to be tasked with identifying what (if any) additional things that agency can do to improve the lives of children under guardianship – during their time in care, as they transition out of care, and after leaving care.
- clear, public, Carer-friendly information on what each of these government agencies provides specifically for those children and young people (for example: waiver of TAFE fees, priority access for health services, free access to services).
- this information to be collated centrally – to provide a one stop shop for Carers and young people to access
- a simple, child friendly system (for example: a 'gold card', or an app) that gives children under guardianship, and their Carers, easy and discreet access to all state services described above

- a DCP hot line to call – if services are denied – so that DCP can step in to troubleshoot (for example: by reminding staff in other agencies what their agency has committed to provide)
- all relevant government services to be ensure at least some of their staff are ‘trauma informed’
- the sharing of information across all government agencies and support agencies (with permissions and privacy issues addressed) to ensure that children get a ‘joined up service’ from the state rather than fragmentary services from separate agencies
- a full suite of therapeutic services to be provided to each child as they enter care (basic medical checkups to assess hearing, speech, physical supports, psychological support, etc) in order to identify all needs from day one
- ongoing case management to include consideration of how this whole of government approach might benefit each child under guardianship.

4.2. That the support provided to Kinship Carers be increased

The disparity in support, education & training for Kinship Carers in comparison to Foster Carers is inappropriate. Kinship Carers report they feel like the ‘*poor cousins*’. Statistics available on the DCP website (as at 31 January 2022) indicate 58% children and young people under guardianship (2,314) are in Kinship Care, in comparison to 41% in Foster Care (1,657). It is therefore vital that Kinship Carers receive the adequate, tailored support.

Carers report that:

- many Kinship Carers do not have Kinship Support Workers assigned to them, thus not supported throughout their caring role
- there is an imbalance of power for Kinship Carers, with the DCP case management for the young person, and a DCP Kinship Worker providing support for the Carer (it has been described as ‘*a double dose of DCP*’)
- most Kinship workers are employed by DCP, raising challenges to the capacity to impartially support the Kinship Carer
- DCP Kinship Support workers are often not included or not informed in decision making relating to their children and young people
- DCP Kinship Support Workers are not always providing practical support to their Carers
- as Kinship Carers are traditionally ‘instant Carers’, training is offered retrospectively, if at all, leaving them to feel extremely under educated with regard to caring for their young person
- the scoping for Kinship Carers within existing family is sometimes insufficient
- they are not provided with enough information about the true cost of providing care and how it may impact savings, superannuation & employment
- there is a significant lack of respite for Kinship Carers (as one Carer put it ‘*its hell to try to get respite*’)
- there are ongoing barriers to accessing NDIS for young people in kinship care
- there is a high turnover of Kinship worker staff within DCP, resulting in inconsistent and irregular support, which often times leads to a lack of trust between Carer and worker

- non-Aboriginal Kinship Carers caring for Aboriginal & Torres Strait Islander children and young people are not provided access to cultural training or local support (granny) groups.

'Kinship Carers are pushed into poverty. All of a sudden we need a bigger house, a bigger car and have unexpected immediate expenses to care for our young people'

CF&KC-SA calls for:

- DCP to ensure immediate allocation of a Kinship worker for every Kinship Carer
- immediate trauma informed training for Kinship Carers at point of placement (not necessarily mandated but easily accessible and highly supported by their workers)
- immediate, comprehensive scoping of suitable family members to be Kinship Carers (we understand the model adopted by the Kinship Programs delivered by Aboriginal Community Controlled Organisations (ACCOs) is working well)
- respite access to be available, flexible and regularly booked for Kinship Carers
- immediate discussion with Kinship Carers regarding financial planning required to provide care, including what DCP will fund, particularly for Kinship Carers that may be more vulnerable financially, including managing superannuation & mortgage risks (we believe this could be mapped out initially as part of the first plan)
- DCP to facilitate priority access to NDIS support and other clinical supports for young people in Kinship Care (for example: psychologists, physiotherapists, speech pathologists etc)
- DCP to urgently address the staff retention of Kinship Support Workers
- immediate cultural support for Kinship Carers (irrespective if they are Aboriginal or non-Aboriginal) to ensure their Aboriginal young people are supported and connected to culture from the beginning

Nyland recommendation 102 suggested Kinship Support be outsourced from DCP (not unlike the current Foster Care support model). This recommendation was initially not adopted, however we understand it has now been partially implemented with the Kinship Support Program hosted by a selection of ACCOs. We imagine an assessment of this pilot program will be made shortly. CF&KC-SA calls for Kinship Carers (both supported within the DCP and with ACCOs) to be extensively consulted as part of this assessment.

4.3. That better support be provided for Carers of children & young people with Foetal Alcohol Spectrum Disorder (FASD)

CF&KC-SA is aware of many Carers presently caring for a child or young person formally diagnosed with Foetal Alcohol Spectrum Disorder (FASD). Many Carers that have not received a formal FASD diagnosis, suspect their child or young person may have this condition. Carers report that raising a child with problems associated with FASD is the *'hardest job in the world'*.

Carers report complexity in accessing professional support and testing to facilitate a diagnosis for their young person. Carers feel the DCPs lack of understanding is a barrier in pursuing the process. They report DCP at times ignores Carer concerns and ideas, and blames the Carer for their children and young people's behaviour. Many Carers are in need of additional support, yet fear if they reach out their young person may be removed, or a care concern will be made against them.

Carers in this situation feel taken advantage of, disrespected, and not seen as experts in their young people's lives.

CF&KC-SA notes the recommendations of the recent Senate Inquiry into Effective Approaches to Prevention, Diagnosis and Support for Foetal Alcohol Spectrum Disorder, tabled on 17 March 2021, in particular, Recommendations 26 and 30. Recommendation 26 goes to early screening for FASD of all children going into care, and Recommendation 30 goes to increased support for carers of children with FASD. We fully support both these recommendations and call for them to be implemented in.

As previously mentioned, CF&KC-SA recently convened a group session for Carers to formulate a collective submission on FASD. CF&KC-SA endorses the Carer group submission recommendations (which have already been provided to the Inquiry) and calls for:

- DCP to provide early intervention by way of testing all children and young people in care for FASD as early as possible
- FASD testing to be cost-free
- DCP to document the needs related to FASD
- children and young people diagnosed with FASD to be provided with the appropriate therapeutic and other supports after diagnosis
- the provision of other therapeutic support to the child or young people and to the Carer to assist in dealing with the neuro-atypical behaviours, where a formal diagnosis of FASD cannot be made
- DCP (as legislated by the CYPs Act) to ensure support systems are free and accessible for Long Term Guardians who still need support for children and young people with FASD
- DCP to cover all financial costs associated with FASD children and young people, and reimbursements are made in a timely manner
- DCP to fully fund the primary and secondary education fees for FASD children and young people under guardianship care for both public and private schools (Private schools are often best placed to offer the higher level of individualised support needed to keep a child living with FASD engaged with school and to meet their additional learning needs.)
- DCP to ensure employees include workers who specialise in FASD, and accessible within all DCP offices
- DCP to provide considerable respite to FASD children and young people, to recognise the unrelenting pressure of raising a child or young person with FASD, including respite care that acts like an emergency response or 'hotline' to give Carers a break in emergencies and at short notice
- DCP to acknowledge Carers as the experts in their lives by listening and considering Carers experiences, ideas, and concerns around their children and young people with FASD
- DCP to provide for longer, more comprehensive, targeted transition support for young people with FASD leaving family-based care – including support to move into supported accommodation settings.

4.4. That dedicated support systems be provided for Carers after a child or young person is removed from or leaves their care

We draw attention to a topic not often raised by Carers - the feelings of grief and loss experienced when a young person leaves their placement. This may include a forced removal by DCP, transitioning to another Carer family, reunification with biological family or aging out of the system. The feelings of loss experienced by Carers as being similar to that of death, and are considered 'disenfranchised grief'.

Carers from the CF&KC-SA Grief and Transition support group tell us that grief and loss experienced after a child leaves care, is not traditionally recognised by DCP, support workers, Carer family members and social connections. Recent research conducted by Flinders University (in collaboration with CF&KC-SA) supports this observation.

One Carer reported when they shared with a friend that their young person had left their care, the response received was *'well, they were not really your child, were they? They've gone back to their family now'*. Comments such as this have the potential to place a Carer in an immense state of grief and guilt – that their feelings are not valid. There is a suggestion Carers should *'just feel relieved that the child is no longer in their care'*. These feelings of grief and loss must be considered and must be validated.

Placement breakdowns can occur between the child or young person and their Carer family. Often these breakdowns happen rapidly- giving the Carer and young person little time to fully digest the process. Sometimes these breakdowns happen after Carers have repeatedly asked for support and education to better care for their young person and had these requests overlooked and ignored.

Often Carers are not consulted about the decision making that leads to young person being removed. Leaving Carers out of this decision-making process can lead to more grief and loss, with feelings they have failed their child. It is crucial to note the impact on biological 'foster siblings' in these scenarios and the level of grief, loss, guilt and sadness experienced. One Carer shared their family felt completely unsupported by DCP and their agency with regard to the stress and sadness they experienced when their young person left their family. Due to the significant distress their biological children experienced, the Carer elected to not continue providing family-based care, stating it was too traumatic for their biological children.

CF&KC-SA is aware that in many cases, once a child is removed or transitioned from the Carer family, contact with that child disappears and is not actively facilitated or supported by DCP or support agency.

CF&KC-SA calls for:

- DCP and support agencies to provide Carers (and their family members) access to confidential grief and loss counselling after a young person exits their care
- DCP and support agencies to provide Carers with sufficient advance notice of the removal of child to prepare their young person, themselves and their family as best as possible

- DCP and support agencies to include Carers in the decision-making process related to the removal or transition of their young person out of their care (we suggest removal is the last option and agreed to by both parties)
- DCP and support agencies to facilitate ongoing contact with the young person and their Carer family, post removal or transition (if deemed safe) to respect the attachment built (contact should not be cut permanently, unless requested by the child or Carer)
- DCP and support agencies to work collaboratively with the new Carer family and the previous Carer, to facilitate gradual relationship building
- DCP to fund grief and loss support groups for Carers and their families, to share their thoughts and feelings about their grief and loss within a safe, confidential environment (CF&KC-SA presently provides this function but in an unpaid capacity)
- DCP to consider the young person's views in regards to the removal process and work with the child or young person and Carer to form a solution
- Importantly, DCP to actively consult with Carers who have been through this process in order to significantly improve and strengthen current internal policy and procedures. (CF&KC-SA would be very happy to convene a reference group to help with this work.)

4.5. That better support be provided for Aboriginal and Torres Strait Islander Carers of Aboriginal and Torres Strait Islander children and young people

Aboriginal Carers report feeling scrutinised for their parenting, unsupported by DCP and their support agencies, racially judged whilst providing care and undermined by the child protection system. Many Aboriginal Carers feel they are playing an active part in the very welfare system that has undermined their culture and community for decades. Aboriginal Carers reluctantly share the significant level of fear they feel when dealing with DCP. Carers report feeling that the Aboriginal Placement Principle is not upheld by DCP, and it is viewed as a 'tick box' requirement. Aboriginal Carers report that DCP and agency workers do not appear to understand Aboriginal family kinship models and are not culturally sensitive in their practice, despite receiving cultural training.

Aboriginal Carers share they are not supported to connect their young people to culture. Aboriginal Carers are fearful of asking for additional support, concerned this is considered '*not being able to cope*' resulting in their children being removed. Carers report they feel they are constantly on high alert that their young people will be taken, and that they are judged through a '*white lens of parenting*' and they are not sufficiently resourced to successfully raise their children and young people.

'I will take a day off of work the day before DCP social workers come to visit, so the house is really clean and tidy, so I am not judged racially. I fear a box of toys on the floor or books on the table will get me reported. It's different for Aboriginal families, we are always trying to prove we can parent' – Aboriginal Kinship Carer

Aboriginal Carers report that access visits for their young people and the biological family are traditionally held in cold, sterile DCP locations and wish for this to change. Aboriginal Carers report they feel culturally unsafe when meetings are held within DCP offices.

'I regret shaking hands with the system. It's safer to shut up than say anything at all.' – Aboriginal Kinship Carer

As previously mentioned, CF&KC-SA recently convened a group session for Aboriginal Carers to formulate a collective submission.

CF&KC-SA endorse the Carer group submission recommendations (which have already been provided to the Inquiry) and calls for:

- ongoing, regular and non-judgemental support for Aboriginal Carers that is culturally safe and competent
- DCP and all support agencies to ensure their workforce include highly trained specialist workers who understand Aboriginal Carers and the issues they face whilst providing care
- DCP to utilise Aboriginal services and cultural spaces available across SA for meetings and access visits for Aboriginal Carers and their children (for example: Neporendi Centre, Tandanya, The Living Kurna Cultural Centre)
- DCP and support agencies to actively hear the Aboriginal voice, appreciate, and validate their experience as Carers
- Aboriginal Carer support to be consistent and transparent – that negotiations with social workers are not subjective and based on a Carer's ability to speak up, but underpinned by culturally appropriate and safe policies and procedures
- DCP to implement a culturally aware and culturally safe organisational culture for Aboriginal workers, in an effort to retain these employees
- the Child Abuse Report Line to apply a culturally appropriate filter over reports made about Aboriginal families
- DCP to immediately set up children and young people with cultural appropriate counselling that utilises narrative therapy (or equivalent culturally appropriate counselling)
- DCP to use assessment tools that are culturally appropriate for, and carried out, by Aboriginal people.
- DCP to see Aboriginal people as having the knowledge and capability to make informed decisions about their own lives
- DCP and the Department for Education to work together to improve educational outcomes for Aboriginal and children and young people
- DCP employees, and all other persons associated with the Department (volunteers and students) to receive sufficient education about Aboriginal people from both historical and contemporary perspectives, that this kind of education and training is also in relation to the child protection system, is regular and ongoing, and controlled by Aboriginal people
- DCP to ensure the workforce includes additional Aboriginal people in position of leadership, (ideally with more than one Aboriginal leader or representative per DCP office)
- DCP to work with Carers to ensure the safety of Aboriginal children and young people who have absconded their placements
- DCP to ensure Aboriginal Carers, and their children and young people, have frequent and easy access to an Aboriginal culture advisor who will ensure cultural safety, protocol, and

understanding of connection to culture and country are embedded and respected in DCP's practice at both systemic and individual levels

- DCP to provide additional support to access, or funds to secure, appropriate housing for larger family groups.

4.6. That better support be provided for non-Aboriginal Carers of Aboriginal & Torres Strait Islander children and young people

Non-Aboriginal Carers of Aboriginal children and young people understand the deep and important responsibility bestowed upon them to ensure their young people are connected to culture, country and community.

Non-Aboriginal Carers report deficits in support by both DCP and support agencies, impacting their ability to connect their young people meaningfully to culture, country and community.

These include:

- insufficient access or use of the family scoping unit within DCP
- lack of resources and support for Carers who are trying to help young people to connect to culture, country and community
- insufficient numbers of Aboriginal Workers within DCP and support agencies
- confusion regarding the Long Term Guardianship (LTG) process.

Non-Aboriginal Carers report feeling unsupported in their efforts to connect their young people to culture, community and country. They feel DCP and support agencies are not educated sufficiently in how to connect young people to culture, and do not understand the complexity of this process for Non-Aboriginal Carers.

Non-Aboriginal Carers report that DCP either avoids discussion of the option of LTG or state clearly that it cannot progress as their child is Aboriginal. Non-Aboriginal Carers want to plan for the future for their families and their young people. Many report wanting to give permanence to their young people through the LTG model, and fully commit to their young person connecting safely to culture, community and country. Currently the LTG application process for Non-Aboriginal Carers caring for Aboriginal children is not transparent.

CF&KC-SA calls for:

- sufficient resourcing to ensure every Aboriginal young person, at first point of entering the child protection system, is provided thorough family scoping and their genogram
- every non-Aboriginal Carer to be provided with resources and support to ensure Aboriginal children in their care are connected to culture, community and country
- that every non-Aboriginal Carer and their Aboriginal child to be provided with access and support from an Aboriginal Worker from the DCP, and
- the pathway to LTG to be available to non-Aboriginal Carers of Aboriginal children, particularly if the young person requests it and when it is in consultation with their biological family.

'Our Agency has an Aboriginal worker who has been amazing to give me resources, translators and working together as a team. I know some families she visits weekly or fortnightly to do art and meet with an Aboriginal person in case they don't have any connection with family.'

'If the Aboriginal family support and encourage Long Term Guardianship DCP should accept this, at the moment DCP don't even consider the voice of the Aboriginal family.'

4.7. That Carers leaving the system, or moving agencies, are exit interviewed by CF&KC-SA

It is widely understood that there are not enough family-based carers in South Australia to meet the increasing number of children entering care. There is an overwhelming need to not only recruit new Carers into the system but to also retain the Carers currently providing care. We believe there is a crucial opportunity to learn from Carers when they leave the child protection system, from the perspective of quality improvement, embedding best practice for future Carers. CF&KC-SA believes the use of exit interviews offer an opportunity to hear from Carers about their experiences and involvement in the system, and believe that the peak body is best positioned to execute this function. It is our understanding that the current the exit interview process is not executed by an independent body, but facilitated by DCP and support agencies.

The advantages of capturing information after exit from the system through a central, independent body such as CF&KC-SA include:

- Carers do not have further obligations to DCP or to the support agency, and so can be frank
- Carers may have had time to reflect on their caring experiences and offer both positive and negative views
- the ability to see trends, identify emerging themes and issues that could help current and future Carers sustain their caring roles and relationships.

CF&KC-SA calls for funding to the peak body to execute this function. CF&KC-SA calls can provide a service that is personable, confidential, culturally safe and wholly independent from DCP and support agencies.

Peak Carer bodies in Queensland and the Northern Territory have been commissioned to conduct structured exit interviews with Carers. (The ACT also offered exit interviews for Carers changing foster agencies.) The following link provides more information about this work occurring in Queensland:

Queensland Foster & Kinship Care Exit Interview report 2020/21: <https://www.fcq.com.au/18-resources/reports/184-exit-interview-report-2020-2021>

'Being a Carer is incredibly worthwhile but I would suggest that you need to be aware that you need to protect yourself so much. You just can't make a mistake. It's whether people want that risk. The kids are worthwhile but we just felt nervous about it all.' CF&KC-SA 2019 Exit survey respondent

4.8. That Carers be given consistent and comprehensive written advice about their rights in relation to Long Term Guardianship

Not every Carer wants to make the huge decision to apply for long term guardianship of a child in their care. But those that do, are heavily invested in (and often quite anxious about) the decision-

making process. They feel themselves under additional scrutiny. They are concerned they will be knocked back. They worry about delays. And they sometimes do not fully understand the practical implications of what long term guardianship means (particularly the financial implications).

Carers often turn to other Carers for advice, and the anecdotal information they receive is sometimes contradictory. This is particularly the case at the moment for non-Aboriginal Carers of Aboriginal children and young people.

CF&KC-SA calls for Carers to have access to a clear and consistent information regarding long term guardianship which addresses:

- how to apply
- how long the process will take
- how the process works
- what the considerations are (including considerations for non-Aboriginal Carers of Aboriginal children)
- what the legal implications are
- what the financial implications are (particularly in relation to expenses not foreseeable at the time the application is granted – for example significant but unexpected medical expenses)
- how the financial review process for this arrangement works
- other relevant matters (to be determined by Carers who have been or are currently going through the process).

Even this morning, I have my kinship worker coming to do a safety assessment of my home for LTG. I'm going crazy!!!! Second guessing everything, making sure everything is perfect so that they can't "get me" on anything. It is so stressful! And, to top it off, my child has picked up on the fact that DCP will be here this afternoon, so she thought it be fitting to create more mess than usual! I just can't wait until this is over.

CF&KC-SA would be very happy to collaborate in the development and promulgation of such information.

This information may already be available. If so, we simply call for it to be more readily accessible for Carers.

4.8.1. That more information be provided to Carers about adoption, and that Carers be consulted in relation to any proposed legislative changes relating to adoption

As you might expect Carers voice mixed views about adoption – some are keen to adopt themselves, others are not.

Many Carers are not sure of their rights in relation to adoption. There is a perception that it is '*not an option*' for foster Carers. Carers are aware that the last government proposed some legislative changes '*to make adoption easier*' – and that those changes were not accepted by the Parliament. Carers therefore report being unsure about the current legal position on adoption, and what legislative changes might be afoot.

CF&KC-SA calls for:

- good, current, easy to read, and readily accessible information on adoption by Carers
- Carers to be consulted, as a stakeholder group, if and when legislative changes are being considered.

CF&KC-SA would be very happy to help facilitate consultation with Carers for the purpose of considering legislation.

'Adoption should be made easier and more accessible'

'Continued funding must remain in place as adoption doesn't remove the high needs of these children caused by abuse of not only parents/family members but also by the system'

4.9. That funding to CF&KC-SA, the independent peak representative body for Carers, be increased

CF&KC-SA is funded (by DCP) to provide a Carer Advocacy Service. That funding, provided in response to a recommendation of the Nyland Royal Commission, allows us to employ the following staff:

- 1 CEO (0.8 FTE)
- 1 Administration and Events Coordinator (0.6FTE)
- 1 Senior Advocate (0.8 FTE)
- 2 Carer Advocates (0.6 FTE each)

This staffing level has been in place since July 2018. Since that time our workload has increased significantly – in response to a growing membership (over 1000 members) and increasingly complex requests for support and advocacy.

In September 2021 we wrote to the DCP requesting additional resources to better meet these increasing demands and to enable us to better service regional and remote Carers. We have not yet received a response to this request.

In June 2021 we had our funding extended (with CPI applied only) and found our contract had changed from a three year model to a 12 month + 12 month + 12 month contract.

'Our organisation is working at maximum capacity. It is simply unsustainable' – Fiona Endacott, CF&KC-SA Chief Executive Officer

As the independent peak representative body for Carers in SA we require an increase in funding that is not only long term but meets the needs of the growing Carer community.

CF&KC-SA calls for a substantial increase in funding to increase the FTE of our current staff and employ additional staff to:

- expand our services to
 - meet our increasing workload (and protect our current employees from negative physical and mental consequences of overwork)
 - better support regional Carers
 - offer legal support to Carers

- provide specific support to Culturally & Linguistically Diverse Carers
- provide specific support to Aboriginal & Torres Strait Islander Carers
- develop a thriving peer support network
- partner with research institutions to ensure research is directed to improving Carers' lives
- undertake exit interviews
- work with DCP and support agencies to develop appropriate Carer focused training programs
- work with DCP and support agencies to embed the Carer voice in policies and procedures
- long term, ongoing funding to:
 - facilitate longer term strategic planning (5 + years)
 - retain existing staff (including their associated skills, knowledge and experience) thus benefitting Carers
 - counter the perceived 'conflict of interest' that accompanies short term contracts
- funding for an independent peak representative body to be guaranteed in legislation.

5. Term of Reference (e)

May make such recommendations for changes to matters affecting foster care or kinship care that the inquiry considers necessary or appropriate to improve outcomes for children and young people in foster care or kinship care, as well as foster carers and kinship carers (including, for example, the need for an independent, legislatively protected complaints system, changes to compliance procedures within the Department and any legislative changes needed to enable the recommendations to be implemented)

In relation to Term of Reference (e) CF&KC-SA refers to earlier submissions - particularly those made in relation to Term of Reference (a) - and calls on the Inquiry to make the following additional findings and recommendations:

5.1. That the state government ensure Carer payments adequately provide for the full financial needs for raising children and young people

South Australian Carer payments:

- are still inadequate to meet full cost of caring for young people in family-based care
- are not based on any research of the true cost of caring (we address this further in paragraph 5.2)
- do not stack up well when benchmarked against other states and territories
- are complex and hard to understand
- are administered in a way that is not Carer friendly and sometimes put families under financial stress.

Carers report the following:

- The payments they receive (base payments and loadings) do not meet the full costs associated with the caring for the children in their care. Many Carers pay for things out of their own pocket. There is a perception that DCP knows that this is happening and, by

keeping payments low, is preying on the goodwill of Carers.

- The Complexity Assessment Tool (CAT) and Special Needs Loading Tool are not age appropriate and so, in some cases, are not fit for purpose. As just one example: one Carer reported that an infant child in her care on permanent oxygen and requiring multiple medications and multiple medical interventions was categorised as CAT 1 (the lowest possible CAT score indicating that the child required no more care than any other infant of his age). This categorisation was clearly wrong.
- CAT and Special Needs re-assessments are often delayed, and Carers are not provided back pay. For example, in the situation described above the Carer sought a CAT reassessment. The child was reassessed at 6 months and given a CAT 3 rating. The new rating applied from the date of reassessment not from the date of placement.
- There is inconsistency in what additional expenses DCP and agencies will approve. As just one example: some offices seem to support private school fees in some the appropriate circumstances, other offices appear to have a blanket policy that they will not.
- Expenses that relate to disabilities are an issue, as DCP will sometimes indicate that the expense should be met by NDIS and vice versa. One Carer reported that a child in her care waited almost 6 months for an appropriate bed while DCP and NDIS *'argued over who was responsible to meet the costs'*.
- The process for getting additional expenses approved is cumbersome and reimbursement is often slow.
- The process for getting insurance claims (for example for damage to homes caused by children in care) is also very cumbersome and slow. One Carer reported years of *'back and forth with DCP'* over an insurance claim for \$400 relating to damage in her home. In the end she gave up and paid the cost of repair herself. Another Carer recalled a child in her care living for months in substandard conditions (with significant holes in the walls of her bedroom) waiting for DCP to approve the cost of repairs.
- When a child is temporarily absent from the Carer's home (for example because the child is hospitalised beyond 21 days) Carer payments are reduced for the time of the child's absence. It takes no account of the fact that the child still has a home with the Carer (for example that their bedroom and belongings are at the Carers home).
- Carer payments are considered a 'reimbursement' for volunteering to care rather than 'income'. This significantly disadvantages Carer seeking a loan (for example: to secure sufficient sized housing for caring).

These are just some of the ways that the issue of payments impacts on Carers. Together these issues and other like them – often experienced by Carers over years, even decades – have a corrosive effect on the relationship between Carers and DCP.

They can result in:

- Carers feeling exhausted and devalued - fighting for basic needs for their children and young people
- Carers feeling stigmatised as 'only in it for the money'
- Carers feeling 'taken for granted' or even 'used and abused' by the state for whom they are providing an invaluable service
- importantly, children missing out on crucial support and services in their formative years.

This is particularly galling for Carers who understand the huge differential between the costs



associated with home-based care, and the costs associated with residential care. Carers feel that - given home based care is a '*cheaper option*' for the state, and has significantly better outcomes for children – the state ought to take a generous and Carer friendly approach to Carer payments. To quote one Carer: '*We know we save the government a lot of money. We know we do a good job. This is no place for penny pinching*'.

CF&KC-SA therefore calls for:

- an increase in base level Carer payments across all ages ranges to either meet or exceed the national average
- an immediate review of the Complexity Assessment Tool and Special Needs Loading Tool to ensure they are age appropriate
- the paying of back payments when CAT and Special Needs loadings are adjusted
- a review of the process for approving and paying additional expenses - to ensure the process is generous, easy to access, Carer friendly and quick
- a complete overhaul of the insurance claims arrangements to ensure Carers are not out of pocket and children are not living in poor conditions
- that the practice of docking carer payments when children are temporarily absent be reviewed
- an improvement in the way DCP and NDIS interact (more on this in section 5.3)
- DCP to immediately engage with banks and other lending institutions to find a solution to Carers being locked out of access to bank loans
- importantly, Carers to be directly involved in the design of **all** processes relating to Carer payments. Carers know what Carers need. In order for a process to be Carer friendly its design needs direct Carer input. CF&KC-SA would be delighted to help facilitate Carer input in payment process design.

CF&KC-SA is aware that the review of some of the items called for here is included in the 'every effort for every child' strategy for implementation as part of phase 3 in 2022. We call for these initiatives to be bought forward for the immediate benefit for children and young people and their Carers.

5.2. That the government commission research into the true cost of caring

CF&KC-SA is lucky enough to sometimes to have the benefit of university students on placement. These students undertake research projects that relate to our work and the work of Carers. In 2021 we were joined by Emma Feagan, a social science undergraduate. We tasked Emma with looking at the true monetary costs of foster and kinship caring to Carers in South Australia.

Emma's research paper is extensive. We have attached a copy to our submission. Emma found, amongst other things:

- there has been no solid research undertaken in South Australia on the true cost of caring for a child in care
- the last time there was any extensive report into true cost of caring for a child in care in Australia was in 2002

- there is some more recent research on the cost of caring for children generally
- there is academic literature to support the view that the costs of raising a child in care are significantly (up to 1.5 times) higher than the cost associated with ‘a conventionally raised’ child. (We submit this is intuitively right given the complexity associated with childhood trauma and other issues.)
- the current rates of payments to Carers in South Australia are therefore not based on, or justified by, any current academic research.

Given this lack of academic inquiry, it is not clear to Carers on what basis the current payment rates have been determined. It is also not clear on what basis increases to Carer payments are determined (other than as a percentage increase on the base rate).

CF&KC-SA therefore calls for the state government to commission high quality research to ascertain the true monetary cost to Carers of caring for a child or young person. Given the lack of national data we believe this research will be of national value.

5.3. That Carers of children and young people with disabilities be more involved in NDIS assessments and arrangements

CF&KC-SA acknowledges the great work DCP has done – working with NDIS to ensure that more children can access the disability support they need. The effort that has been put in, and the results achieved, are outstanding.

That said, Carers still report a number of issues in relation to NDIS. They include:

- Carers, who know the children and young people best, report that they are not always fully included in preparation of NDIS applications. This can lead to children missing out because important assistance has not been requested and so does not appear in the NDIS plan.
- Carers are sometimes unable to access treatment and support included in the NDIS plan due to DCP and support agency delays in approving expenditure. One Carer reported that because she was not approved to spend money on a treatment approved in a NDIS plan for one year, that treatment was deleted from the plan the next year. It was seen as being redundant – despite the fact the child would certainly have benefited from the treatment.
- Carers are having to navigate two government systems – one state and one federal.

CF&KC-SA calls for:

- a partnership approach to NDIS applications – with DCP and support agency staff including Carers in the application process and by seeking and valuing their input
- an improvement in the process for approving NDIS approved expenditure, and
- Carers to be directly involved in designing the internal policies and procedures relating to NDIS access for children in care. CF&KC-SA would be delighted to help facilitate Carer input into policy and procedure design.

5.4. That medical treatment and support, and educational support, for children and young people be determined on the basis of expert advice only

Carers repeatedly report that they are advised by medical practitioners that children in their care require certain medical treatments or supports – only to have approval for those treatments and supports refused. Similarly, Carers receive recommendations from expert educators as to the educational needs of their children – only to have those recommendations overridden.

It appears to Carers that at least in some instances this refusal to fund expert recommendations is a cost saving measure.

'DCP override education and medical expert advice in order to save money. Children in care are raised with poverty funding.'

This is deeply distressing for Carers. They want the children in their care to thrive – physically and emotionally. They rely on the advice of experts to help to achieve this. To have that advice ignored, and a child's needs unmet, leaves them feeling unable to properly do their job.

Carers also report that they often simply pay for things themselves (rather than argue the issue) so that children have the supports they need. This includes paying for equipment and even expensive medical support.

CF&KC-SA calls for DCP policy and practice to be amended to ensure that the provision of medical treatment and support, and educational needs, is based on expert advice at all times (and not on the subjective views of DCP and support agency workers). We call for Carers to be involved in the development of policy in this area.

5.5. That the government fund research to identify best practice in child protection

There is a crucial need for current, local, academic resources identifying national and international approaches to family-based care and sustainable, healthy placements for children and young people. Research will support innovation and justify a range of system improvements, with the potential to:

- reduce multiple placements for children and young people in the care system
- increase stability and security for children and young people with their Carer families
- support new initiatives through pilot projects
- support Carer families to better manage a range of issues, including challenging behaviours and appropriate responses to trauma.

CF&KC-SA calls for:

- a commitment to fund ongoing research into foster and kinship care specific to South Australia
- research to be developed in partnership with Carers and CF&KC-SA (as their peak body) to ensure the relevance and applicability of research questions to improving the lives of Carers
- CF&KC-SA to be funded to conduct focus research and recruitment in partnership with university-based research to ensure solution based and applied research that has the potential to address Carers needs.

We understand the previous state government provided funding to the Australian Centre for Child Protection to support ten PhD students to undertake research on child protection issues. CF&KC-SA calls for some (for example four of the ten places) of that PhD research to be directed to research into foster and kinship care.

5.6. That government address the issue of superannuation entitlements for Carers

The issue of superannuation (generating, accruing and accessing) is consistently raised by Carers.

Carers report that a reduction in working hours, often required to sufficiently care for a young person, reduces their earning potential and results in reduced superannuation. Their ability to generate or accumulate superannuation during their caring journey causes them significant worry, particularly when they consider their retirement years.

Carers have shared:

- there is an unspoken expectation when Carers take on a child that they will either decrease or end employment to support their young person if it is required
- many Carers do this willingly, but suffer financially
- at times, and because the resources provided by the state are limited, Carers are forced to use their superannuation (or money they intended to contribute to superannuation) to fund services, activities and daily living needs for their young people
- they have a strong desire to contribute towards their superannuation for example, they want to *'put money towards the future'* rather than watch their money *'just go'* whilst caring
- they are aware their superannuation, and future financial security at retirement, is directly impacted
- superannuation is not discussed with Carers at first point of caring or throughout the caring journey
- it is challenging for rural Carers to find work that fits with the needs of their young person and school hours, therefore their superannuation is impacted
- they often choose to take a lower paying position in order to fit in school drop offs and pickups and any *'unexpected pickups'* that were required to best care for their young person, which in turn impacts the ability to generate superannuation
- that they are aware that Carers in residential care settings receive superannuation entitlements, and that this seems unfair
- that workplace flexibility is a critical issue for Carers, often leading to them self-selecting out of work as the only option and as a result impacting superannuation
- predominantly it is female Carers of a specific age group that are impacted negatively with regard to the ability to generate superannuation.

'I am a single middle aged woman who took on my family member, and now taken on her 2 younger siblings- as a result I have had to reduce to 2 days a week work- I am worried! I still have a mortgage, how am I going to be able to create a future for myself? I just don't know. Do I contribute now? Later?'

'Even if we could co-contribute to our superannuation, I just don't have that kind of spare money floating around, it is all invested in ensuring my young person has the supports they need now'

CF&KC-SA calls for:

- the state government to investigate and commit to a mechanism to provide superannuation to Carers (for example, in addition to carer payments, an ex-gratia lump sum each year of caring)
- clear and accessible information regarding superannuation as it pertains to Carers, right from the beginning (and throughout) the care journey
- the research about the true cost of caring (as called for in paragraph 5.2) to include a consideration of superannuation
- accessible, transparent information regarding voluntary superannuation payments for Carers
- consideration of other methods to financially support Carers (including tax offsets or a care bonus directly into superannuation)

5.7. That Carer families have access to respite that is regular, flexible, innovative and appropriate

South Australian Carers are not receiving adequate, appropriate and consistent respite support for their children and young people, especially since the beginning of the COVID-19 pandemic.

Carers report that:

- they are not receiving respite in a timely manner (in many cases respite is not offered at all)
- there is ongoing stigmatisation when accessing respite
- the current formal respite arrangements are often inaccessible or inappropriate
- a one-size-fits all approach does not meet Carer needs.

This is an ongoing and sustained issue. Carers have been raising it for years. It is regularly raised in surveys and at Carer forums. CF&KC-SA have regularly raised it with the department. Groups have been convened and reports written. But Carers see no significant or sustained improvement.

The proper provision of appropriate respite care is an issue that impacts directly on Carer retention. CF&KC-SA know of a number of Carers who feel they cannot continue to offer themselves as Carers without better respite support. It also directly impacts the health of Carers and their families.

Carers ask for alternatives that fit with their lifestyles and are inclusive of all the children and young people in their family. Provision of services that support Carer families to have a break or help relieve pressure (for example: babysitting, cleaning, gardening, holidays) would in some cases be more suitable support than traditional respite.

CF&KC-SA calls for:

- a commitment to respite care as a necessary, legitimate and skilled form of care that promotes children's wellbeing
- an increased commitment to recruiting more respite Carers across all of South Australia
- formal acknowledgement that Carers have the right to respite, which is not to be stigmatised as a reflection on their level of skill, commitment and love for their child or young person

- respite that is flexible and suitable to individual need (for example: delivered in the home)
- innovative respite services – including services
 - that take the whole family unit into account
 - support families to have a break
 - relieve some of the daily burden of family life (for example: cleaning, gardening) to free up Carers to care
 - provide opportunities for ‘self-care’ for Carers
- Carers to be directly involved in the design of respite programs.

Given the long-standing nature of this issue (and the fact that many Carers have lost faith that it will ever be resolved) we also call for a plan to address the issues raised above (with timeframes) to be published as a matter of priority.

5.8. That Carer support payments for children and young people to age 25 be increased

Research indicates young people who leave care at an early age have a higher instance of substance abuse, homelessness, unemployment and poor educational outcomes. Support for young people in care past the age of 18 helps reduce uncertainty and the risk of homelessness.

Under the current system, DCP can provide payments to age 21 for young people under guardianship.

CF&KC-SA understands that:

- education and employment parameters must be met by the young person in order for carer payments to be made after 18
- the carer payments are only base rate (meaning loadings no longer apply after 18)
- there are limited resources to support young people aged 18 to 21 to successfully transition out of care (for example: accessing and retaining housing, daily living skills, financial management and psychosocial support)
- the transition for young people with a disability may be never be complete or may be protracted.

CF&KC-SA calls for:

- the extension of carer support payments to assist Carers to continue to care for young people until the age of 25
- sufficient resources available to best support young people transition from care successfully
- additional resources for Carers of young people with disabilities.

Extending support for young people and their Carer families to age 25 based on their individual needs would allow young people additional time to establish themselves as young adults within community, reducing the odds of homelessness, interaction with the judicial system and reliance on further government issued financial supports.

5.9. That access to, and information about, parental entitlements for Carers be improved

Carers are sometimes – by virtue of having a child in their care – able to claim ‘parental entitlements’ (for example: childcare support through Centrelink). These entitlements are in addition to the carer payments paid by DCP.

Carers are unfamiliar with the range of entitlements they can access. Often it is through trial and error that Carers find out the financial supports they are entitled to.

In particular Carers report:

- they do not have access good clear information on parental entitlements
- support workers are also not always fully aware of parental entitlements
- available information on parental entitlements is not be culturally appropriate or accessible to Aboriginal and Torres Strait Islander Carers
- feeling embarrassed to ask what they are entitled to, for fear of being stigmatised and being *‘in it for the money’*
- the process of securing entitlements can be both physically and emotionally demanding (it can include having to attend a Centrelink office with children in tow)
- not being able to prove eligibility for parental entitlements because they don’t have the appropriate documentation.

‘The time I use to navigate entitlements, I can actually put towards building my relationship with my young person and developing the attachment that is important for their development and safety’

CF&KC-SA calls for:

- clear and easy to access information about all parental entitlements to be on the DCP website and included in Carer starter/induction pack
- training programs for DCP and support agency workers to include information about what parental entitlements Carers can access
- information (such as the young person’s birth certificate) to be provided as part of the information sharing checklist to ensure Carers can access required Centrelink payments promptly and stress free
- assistance from support workers to access entitlements (for example: support workers who will go to Centrelink with or for Carers).

5.10. That ‘parental leave’ be extended to foster and kinship Carers

As the law currently stand, parental leave is provided to an employee on:

- the birth of a child of the employee or the employee’s spouse or de facto partner, or
- the placement of a child with the employee for adoption.

In many cases children are placed with Carers as infants. Neuroscience tells us that it is vitally important to a child’s ongoing development that they form a bond with their Carer. In order to facilitate that some Carers take time off work. Others give up their paid employment. Carers also make these sacrifices when an older child is placed with them – to spend time with the child, to settle the child in.



It is CF&KC-SA's understanding that no allowance is made for 'parental leave' for Carers in our current industrial relations laws – either at state level or federally.

CF&KC-SA submits that consideration should be given to extending the definition of 'parental leave' to include Carers in much the same way as it includes adoptive parents. There are some practical considerations (for example: short term Carers could not reasonably expect parental leave every time they take on a new child). But, we submit, these practical issues can be overcome with careful thought. The benefits to a child of a period close contact with a new parental figure warrants that consideration.

CF&KC-SA also notes that some Carers are public servants, 'working' for the state in two ways – as an employee and as a Carer. We submit that these Carers should be given every consideration available as part of the whole of government approach discussed in paragraph 4.1.

'I work for a government department but I've spent so much time down in the Youth Court in relation to my grandchild, that my boss has told me, my job is at risk. Apparently I've taken too much leave, but have only taken leave to care for my young person under state orders'

Thank you for the opportunity to make this submission. CF&KC-SA would be delighted to expand on, or meet with you to discuss, the content of this document.

Sincerely,

Fiona Endacott
Chief Executive Officer
CF&KC-SA

Megan Hender
Board Chairperson
CF&KC-SA