



**Submission to the Queensland Child  
Protection Commission of Inquiry**

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# 1 Introduction

CREATE Foundation is a systems advocacy organisation that works with children and young people who are in, or have left, the child protection system to empower them to share their experiences in order to change the service system to improve services and outcomes.

Over the last five years CREATE Foundation has worked extensively with Queensland children and young people. These young people have shared their stories and opinions about life in out-of-home care with CREATE. This submission aims to provide the Queensland Child Protection Commission of Inquiry with information about issues that Queensland children and young people have told CREATE are important to them.

CREATE Foundation's mission is to create a better life for children and young people in care. CREATE believes that all children and young people with a care experience should have the opportunity to reach their full potential.

CREATE is a systems advocacy organisation that works to:

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

CREATE Foundation Limited was established in 1999 in the belief that a truly effective child protection system is one that listens to the views of the children and young people it seeks to protect and support. The importance of encouraging and facilitating the participation of children and young people in key decisions that affect their lives is a core principle of the organisation.

Following publication of the 2004 Crime and Misconduct Commission report titled *Protecting Children: An Inquiry into Abuse of Children in Foster Care* (CMC Report), CREATE Foundation, as the peak consumer body for children and young people in care, was provided with additional funding from the Queensland Government to ensure that the voices of children and young people in the children protection system were heard by those delivering their services.

Since the CMC Report, CREATE has played a significant role in ensuring that views of children and young people are considered in the development of child protection policies and programs. CREATE seeks information from children and young people in a number of ways. CREATE regularly surveys children and young people about issues of interest to the government through the Be.Heard project. This project enables the Department of Communities (Child Safety Services) and individual Child Safety Service Centres to be given external feedback about service delivery in a way which is comfortable for children and young people and outside the formal monitoring function provided by the Commission for Children and Young People and Child Guardian (CCYPCG). CREATE also regularly consults with children and young people on specific topics and obtains general feedback about the child protection system through Youth Advisory Group activities and the National Youth Advisory Council (NYAC).

Youth Advisory Groups exist to give young people a voice that effectively drives change within the care system. CREATE conducts Youth Advisory Groups regularly in each state and territory, where children and young people meet to engage in fun activities and to discuss ways to improve life in care. The information gathered at Youth Advisory Groups helps to shape CREATE's advocacy messages and informs the development of child protection policy and practice.

The National Youth Advisory Council was established to give young people with an out-of-home care experience a voice and an opportunity to be heard by key decision makers at both a state and national level. Three young people from each state and territory are appointed to represent their

jurisdiction as NYAC delegates each year. CREATE works closely with NYAC to ensure that young people have an opportunity to help influence child protection policy at both the state and national levels. Each year, CREATE convenes a NYAC Summit to bring delegates together with key decision makers from across the sector to discuss issues, as determined by the young people, and develop a strategies for the next year.

Since 2008 CREATE Foundation has advocated extensively for improvement in the way in which young people are supported to make the transition from the child protection system to adult life. In many ways the experiences before, during and after transition is an indicator of the child or young person's experiences during statutory care. For example, research suggests that education outcomes are linked to, among other things, placement stability whilst in care.<sup>1</sup> Likewise, education outcomes are also linked to future employment opportunities.

CREATE recognises that the transition from care to adulthood and independence is a critical step in a young person's life – a step many young people make without the support of a reliable and caring adult. CREATE's campaign, known as *What's the Plan?*, has been driven by successive groups of young people who have been concerned about the significant risk of adverse experiences (such as homelessness, unemployment and involvement in the criminal justice system) faced by people who have been in care.

CREATE's advocacy has resulted in significant legislative and practice change throughout Australia. However, there is significant evidence that, despite the significant progress made, more needs to be done to assist children and young people who are, or have been, in contact with the child protection system to reach their potential and live successful, productive and happy adult lives.

In order to determine the degree to which the Queensland child protection system is equipping children and young people with the skills they will need as adults, this submission will consider key life domains such as: safety and wellbeing, education, health, family and community connectedness and the active participation of the child or young person. As such this submission will provide a framework broadly based on the significant rights provided for by the Charter of Rights under the *Child Protection Act 1999* (Qld).

## 2 Charter of Rights framework

The Charter of Rights for a Child in Care applies to children and young people under the age of 18 years who are in the custody, or subject to the guardianship, of the Chief Executive under the *Child Protection Act 1999* (the Act).<sup>2</sup> Section 74 of the Act requires the Chief Executive, to the extent that is reasonably practicable, to comply with the Charter of Rights in relation to the provision of services to a child in care.

The Charter of Rights for a Child in Care under the Act is consistent with Australia's treaty obligations under the Convention on the Rights of the Child.<sup>3</sup> These rights are universally recognised as minimum standards that underpin the provision of child protection services. State child protection policies, procedures and practices should be consistent with the administrative rights afforded to children in care under the Act.

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<sup>1</sup> Cashmore, J., & Paxman, M. (2007). *Longitudinal study of wards leaving care: four to five years on*. Report of Research Project commissioned by the NSW Department of Community Services; National Disability on Council. (2008). Youth with disabilities in the foster care system: Barriers to success and proposed policy solutions, United States of America.

<sup>2</sup> *Child Protection Act 1999* (Qld), s 74, Schedule 1.

<sup>3</sup> UN General Assembly, Convention on the Rights of the Child, 20 November 1989, United Nations, Treaty Series, Vol. 1577, Articles 3, 5, 8, 9, 12, 19, 20, 23, 24, 27, 28, 29, 31, 39.

This submission uses the Charter of Rights for a Child in Care under the Act to provide a framework to inform the Queensland Child Protection Commission of Inquiry about opportunities to improve services and outcomes for children and young people who have come into contact with the child protection system. This submission will comment on the extent to which children and young people in care in Queensland are supported to:

1. access a safe and stable living environment;
2. be placed in care that best meets the child's needs and is most culturally appropriate;
3. maintain relationships with the child's family and community;
4. be consulted about, and to take part in making, decisions affecting the child's life (having regard to the child's age or ability to understand), particularly decisions about where the child is living, contact with the child's family and the child's health and schooling;
5. have access to dental, medical and therapeutic services, necessary to meet the child's needs;
6. have access to education appropriate to the child's age and development; and
7. receive appropriate help with the transition from being a child in care to independence, including for example, help about housing, access to income support and training and education.<sup>4</sup>

This submission will present information children and young people have provided to CREATE Foundation that is relevant to evaluating the extent to which the Queensland child protection system is currently implementing the Charter of Rights for a Child in Care is the provision of services. In order to protect their identities, we have changed the names of the children and young people who have provided CREATE with quotes and case stories.

## 2.1 The right to a safe and stable living environment

Being raised in a safe and stable living environment maximises opportunities for a child or young person to grow and develop to meet their potential.<sup>5</sup> Safe and stable living environments include a stable connection with family and community (where appropriate), providing for the child or young person's developmental, educational, emotional, health, intellectual and physical needs.<sup>6</sup> In other words, a safe and stable living environment is a durable placement that enables a child to flourish.

Most of the children and young people in statutory care are victims of some form of abuse or neglect and have not had the benefit of a family that has been able to protect them from harm. Australian researchers, Osborn and Delfabbro found that most families in their study had been contacted by child protection authorities four years prior to their son or daughter being placed in out-of-home care. They suggest that 'it is likely that children were usually exposed to four more years of difficult circumstances after the initial child protection notifications had been made.'<sup>7</sup> The four year delay between notification and placement in out of home care may be due to efforts to ensure families have the capacity to meet the child's care and protection needs within the family home.<sup>8</sup> If this is the

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<sup>4</sup> The Act, above n 2, Schedule 1.

<sup>5</sup> Cashmore, J., & Paxman, M. (2006). Predicting after-care outcomes: the importance of 'felt' security. *Child and Family Social Work*, 11, 232-241; Schofield, G. (2002). The significance of a secure base: A psychosocial model of long-term care. *Child and Family Social Work*, 7(4), 259 – 272; Schofield, G., (2001). Resilience and family placement: A lifespan perspective. *Adoption & Fostering*, 25(3), 6-19.

<sup>6</sup> The Act, above n 2, s 5B(k).

<sup>7</sup> Osborn, A., & Delfabbro, P. (2007). Children with stable and unstable placements in South Australian out-of-home care: A comparison of their family background, care history and behavioural functioning, *Communities, Children and Families Australia*, 3:1, 55-67; Osborne, A.L., Delfabbro, P., & Barber, J.G. (2008). The psychosocial functioning and family background of children experiencing significant placement instability in Australian out-of-home care. *Children and Youth Services Review*, 30, 847-860, p 857.

<sup>8</sup> Ibid, 2007; the Act, above n 2, s 5B(c).

case, the capacity of the state to provide effective early interventions resources within the family home is a key consideration in determining whether the child's best interests are being met.

The effects of abuse or neglect are well documented and it is incontestable to suggest that children do not have a fundamental and basic right to be protected from harm. CREATE Foundation's 2010 Be Heard report found that 92% of the children and young people in care who were interviewed as part of the research reported feeling safe. This is comparable to the Queensland Commission for Children and Young People and Child Guardian (CCYPG) 2011 report that found that 97% of children and young people felt safe in their current placement.<sup>9</sup> The CCYPG also reported that the average length of time a child spends in any one out-of-home care placement was three years and three months.<sup>10</sup>

Research published by the Australian Institute of Health and Welfare in 2012 indicates that approximately 65% of children and young people in care in Queensland had been in the same placement for more than two years.<sup>11</sup> Cashmore and Paxman define a stable care experience as a child spending at least 75% of their time in care in a single placement.<sup>12</sup> In 2012 the CCYPCG reported that the mean length of time that Queensland children and young people currently spend in out-of-home care through the child protection system is four years and nine months.<sup>13</sup> Applying the Cashmore and Paxman definition of placement stability, the minimum time that the average Queensland child in care should spend in a single out-of-home placement in order to be described as having had a stable placement history is three years seven months. This indicates that the majority of Queensland children and young people who are placed in out-of-home care through the child protection system do not experience a stable care.

Children require a stable environment in order to form positive attachments and trusting relationships with the significant people in their lives.<sup>14</sup> This includes developing a sense of belonging within the family environment and the school environment. It is the development of this secure base that enables the child to develop cognitively and emotionally.<sup>15</sup> Schofield says that in childhood, protective factors include:

... placements that built internal resources of resilience through offering a secure base and promoting self-esteem and self-efficacy, not only within the family relationships but also in the range of other relationships/activities where children need to feel confident and effective. These internal resources included the young adult's capacity to achieve comfortable intimacy, to think and reflect on situations, to make choices and to seek out/use support. [In adulthood, protective factors include] the continuing availability of significant adults, former caregivers in particular but also other networks, who offered love and support to young people who remain vulnerable and continue to need family.<sup>16</sup>

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<sup>9</sup> Queensland Commission for Children and Young People and Child Guardian. (2012). *2011 Views of Children and Young People in Foster Care Survey: Overview and selected findings*. Brisbane, p 10.

<sup>10</sup> Ibid, p 7.

<sup>11</sup> Australian Institute of Health and Welfare, (2012). *Child Protection in Australia, 2010-11, Child Welfare Series, Number 53*. Canberra: AIHW, p 34.

<sup>12</sup> Cashmore, above n 1; Cashmore, above n 5; Cashmore, J. & Paxman, M. (2006). Wards leaving care: Follow up five years on. *Children Australia*, 31:3, 18-25.

<sup>13</sup> Qld Child Commission, above n 9, p 7.

<sup>14</sup> Cashmore, above n 5; Schofield, above n 5.

<sup>15</sup> Schofield, above n 5.

<sup>16</sup> Schofield, G., (2001). Resilience and family placement: A lifespan perspective. *Adoption & Fostering*, 25(3), 6-19, p 17.

Australian research has suggested that stability in care is a key factor in developing a sense of security, belonging and a network of social support.<sup>17</sup> These three elements have been found to be vital for children and young people who will one day, transition from care and enter adulthood where all of the skills they have learnt are tested. However, research suggests that '[p]lacement instability, in part, is a result of poor administrative processes, lack of agency support of foster parents and behavioural problems of youth.'<sup>18</sup>

### 2.1.1 To what degree are living environments safe and stable for children and young in care?

Peter spoke with CREATE about how placement disruption affected his sense of self.

*Peter*

*Moving placements affects you developmentally. Because you move around so much it affects your ability to build relationships. It affects your self-worth, you feel like you are being chucked around.*

Placement instability is recognised as a key factor that negatively affects a child or young person's sense of wellbeing. In one study of 394 children and young people with a high level of placement instability, 75% were found to have conduct disorders, 66% had peer problems and approximately 50% were clinically depressed or anxious.<sup>19</sup> Like other studies, this research found that children with conduct problems and high placement instability were born to high-risk families (poverty, domestic violence, parental substance abuse, physical abuse).<sup>20</sup>

Anthony says that placement instability did not affect him. Yet when you read his story it becomes clear that placement instability has left him detached from his community and socially isolated.

*Anthony*

*My personal experience of moving was never anything of real significance as it happened so much that it didn't take any toll on me. I was never in a placement long enough to develop a personal or emotional attachment to my then home. So moving to me was just another part of my life. Unfortunately I was never anywhere for a significant enough time to have friends and miss them when I left.*

Anthony's experience of constantly moving from placement to placement has impacted upon his life to such a degree that he does not have any friends from his childhood and does not have any relationships with reliable adults to call upon when times get tough.

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<sup>17</sup> Cashmore, above n 12; Cashmore, above n 5.

<sup>18</sup> Pecora, P.J. (2012). Maximising educational achievement of youth in foster care and alumni: factors associated with success. *Children and Youth Services Review*, 34, 1121-1129.

<sup>19</sup> Osborn, (2008), above n 7.

<sup>20</sup> Osborn, (2008), above n 7; McCue Horwitz, S., Hurlburt, M.S., Cohen, S.D., Zhang, J., & Landsverk, J. (2011). Predictors of placement for children who initially remained in their homes after an investigation for abuse or neglect. *Child Abuse & Neglect*, 35, 188-198.

Kylie spoke with CREATE about some of her experiences and how it took many years for her to be removed from her family. She also informed CREATE that after her foster placement broke down, she became homeless and contacted the Department of Communities for help only to be told that that she was no longer on file.

*Kylie*

*When I was 14 years of age I was finally removed from my mother's care after years of the department ignoring calls of concern from family members and neighbours. I was placed in foster care without much information about what was happening to me and where I was going. I got along relatively well with my foster family, but lacked any connections with [my] immediate family members. I continuously asked the Department of Communities about this, but due to the constant change of caseworkers, this was never addressed.*

*When I was 16 years of age, my placement broke down. This was the only placement I had ever had and, due to having no family connections, I lived with friends and couch surfed. I contacted the department a number of times during this period of homelessness, but they didn't offer me any help, and sometimes told me that I wasn't currently in the system... that I had been 'lost in the cracks' and that they would get in contact with me in the future when I was located on the system. They never did, and they weren't helpful during this stressful period.*

*During this state of homelessness, by chance, I ran into my school guidance officer. I had a relatively good relationship with her so we had a quick chat in which I informed her that I was no longer in my foster placement and was staying at friends houses. She was horrified to say the least and within the hour had gotten me an interview with [a youth refuge]. Half an hour later we were on our way to [the youth refuge] for an interview. The interview was a success and they offered me a bedroom.*

Child protection departments need to have the capacity to actively respond to the individual needs of children and young people.<sup>21</sup> Kylie's story supports the findings of Osborn and Delfabbro where they suggested it took, on average, four years from the point of initial notification of concerns about a child's welfare to placement in care.<sup>22</sup> With that lead time it should have been possible to provide the family with services to increase their capacity to care for her and reduce the likelihood of her

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<sup>21</sup> Government of Queensland. (2004). *A blueprint for implementing the recommendations of the January 2004 Crime and Misconduct Commission Report "Protecting Children: An inquiry into abuse of children in foster care"*. Department of Communities.

<sup>22</sup> Osborn, above n 7.



needing to be placed into out-of-home care. However, recent research has suggested that caseworker success in predicting future maltreatment is low.<sup>23</sup> That study confirmed previous findings on the matter and also found that without prior history of child welfare involvement, caseworkers are unlikely to correctly identify whether, and to what degree, a child will be at risk of harm in the future. This suggests that if caseworkers are responsible for identifying who receives early intervention services, then as McCue Horwitz et al found, the majority of families with risk factors may not be receiving intervention services.<sup>24</sup>

CREATE often hears stories like Kylie's. Older adolescent children are often required to use their own resources to meet their needs with little or no support from the child protection system that removed them from the care of their biological family. It is CREATE's view that every child has an unqualified right to care and protection and that it is inappropriate to discriminate against older children based on age in order to ensure that limited resources are available to be allocated for the care and protection of younger children.

In providing for the safety and stability of children and young people, regard must be had to the child as a whole human being. Caseworkers must be trained and have sufficient resources to more accurately identify at risk families and to ensure effective interventions are offered and used.

Likewise, any behavioural or complex issues experienced by the child or young person need to be identified by a team of experts to ensure they are placed with an appropriately trained, informed and resourced carer.

## **2.2 The right to care that best meets the child's needs and is culturally appropriate**

'Child centred' is a term that is often used to describe departmental practices. It is widely accepted that services should be tailored to meet the needs of individual children and young people. However, can the services typically delivered by the Queensland child protection system be accurately described as being delivered through a culturally competent child centred approach?

Stories about children and young people experiencing frequent placement changes or being placed in culturally inappropriate environments, the department experiencing difficulty recruiting foster carers and poor case planning practices are common within the child protection system. These stories indicate that the department often develops care responses that are based on making the most of limited resources, such as the limited availability of foster carers, rather than developing placements that are designed to best meet the developmental, care and protection needs of individual children and young people.

The participation of children and young people in the decisions that affect their lives is central to child centred practice. How can case work be centred on meeting the individual needs of a child or young person if that individual has not had the opportunity to discuss their goals for the future or their preferences about how they are supported? If a child or young person is not informed and is not a part of the decisions that affect them then, foreseeably, they may feel powerless and at the mercy of others.<sup>25</sup>

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<sup>23</sup> McCue Horwitz, above n 20.

<sup>24</sup> McCue Horwitz, above n 20.

<sup>25</sup> Checkoway, B. (2011). What is youth participation? *Children and Youth Services Review*, 33, 340-345.

### 2.2.1 Do children and young people receive care that best meets their needs and was it culturally appropriate?

Kelly says that despite 10 different placements during her time in care, she experienced care that made her feel like part of the family. She experienced a sense of belonging and credits that for her confidence as an adult.

*Kelly, 22*

*I was in foster care for 14 years and had at least 10 different placements. When I think back to my time in care and the various foster carers and placements I had, I'm reminded of the overwhelming feeling I had of belonging. I often felt like I was included in the family and was made to feel like I was my carers own child without being forced to call them my parents.*

*When I was a teenager, I remember my carers respecting that I wanted space, like most teenagers want. It was based on mutual respect and understanding... That even though I was in care, I still had the same wants and needs as other young people. The independence I gained through these trusting relationships has helped me to now feel confident as an adult.*

Kelly speaks positively about her experiences in care. The quality of the relationships she formed during that time are central to her positive experience. The quality of relationships between children and young people and their caseworkers and carers is a key element of effective child protection practice. It is important that adults maintain appropriate boundaries with children and young people. However, it is also important that adult carers and case workers are able to develop meaningful and trusting relationships with the children and young people that they work with. These relationships need to be both formal and informal. As one young person told a 2012 conference audience:

*... young people don't like people in suits telling them what to do. You need to feel a sense of control over what you do. Workers who listen to young people and involve them in decisions are more likely to guide young people to reach the right decisions...*

It is widely recognised that Aboriginal or Torres Strait Islander children and young people should be placed in environments where they can be supported to 'develop and maintain a connection with the child's family, culture, traditions, language and community.'<sup>26</sup> The Indigenous Child Placement

<sup>26</sup> The Act, above n 2, s 5C(a).

Principle provided for in s 83 of the Act requires the department to give proper consideration to placing the child, in order of priority, with, among others:

1. A member of the child's family;
2. A member of the community or language group;
3. Another Aboriginal or Torres Strait Islander person who is compatible with the child's community or language group;
4. Another Aboriginal or Torres Strait Islander person.<sup>27</sup>

Being placed within an environment that respects, supports and maintains a person's cultural identity is part of person-centred practice.

Sharmayne is an Aboriginal woman who is recognised by her local Aboriginal community and the non-Aboriginal community as Aboriginal. Sharmayne sees herself as being Aboriginal, and receives Abstudy. Sharmayne told CREATE that her mother provided the Department of Communities with the relevant paperwork to prove that she was of Aboriginal descent. Despite this, Sharmayne says that her caseworker researched her heritage and found that she had Maori ancestry. This had a significant effect on case planning and service delivery.

Sharmayne

*The department had told me [a certain case worker] who used to transport my brother [to see mum], did a 'family tree' and that we originated from New Zealand... this made me so confused I had no idea who I was and I didn't feel like I belonged... I felt like no one... I felt unknown.*

*.... The last 2 carers I have lived with ... are from New Zealand they speak the Maori language and have grown up with the Maori culture. For the last 5 years I have learnt a lot about the Maori culture, the language, different beliefs...*

Sharmayne's story is inconsistent with child-centred practice. Sharmayne identifies as being part of the Aboriginal community and felt a sense of loss and displacement when she was placed in a Maori foster family. Although the Department may have conducted accurate research about Sharmayne's ancestry, officials failed to listen to her and accurately identify her cultural needs at the time she was placed in care.

Emmanuel spoke to CREATE about how he moved from placement to placement and from school to school during his three years in care. He had numerous case workers and before entering care had routinely attended his local church. However, whilst in care he found it difficult to go to church. He therefore experienced a disconnection from his community and his religion.

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<sup>27</sup> The Act, above n 2, s 83.

*Emmanuel, 24*

*I went into care... when I was 15 years old. I was shifted around the place a lot. I stayed in about 5 or 6 different places. It was a bit hard and awkward staying in that many different places. Because of all the shifting I never knew what was going to happen which made me feel uncomfortable.*

*I have lived in both foster homes and residential care. I have one good memory that sticks out in my mind during this time – one of the families taught me how to train a dog.*

*[I] had a not so good experience where I was hurt and then I had to move placements again. I went to 6 different schools whilst I was in care from the age of 15. It was hard changing schools because it is hard having to get used a new school.*

*I liked meeting new people though. My friends helped me with my school work a lot. I think that school was harder when I was in care than when I was not in care. I started to get low grades because I was having to change schools and things were going downhill.*

*I had 4 CSO's whilst I was in care. They were funny and really, really kind. They helped me to get settled into my new homes and they would come around every second day to check in with me. That made me feel comfortable. As I got closer to 18 we started writing up a case plan. It started off slow but then it got better because things started going uphill....*

*When I turned 18 I left care and I moved in with a group of people [in a private rental]. I still live there now and I have been there for 5 years. I have a worker from [a disability support service] and I am starting to make friends very quickly.*

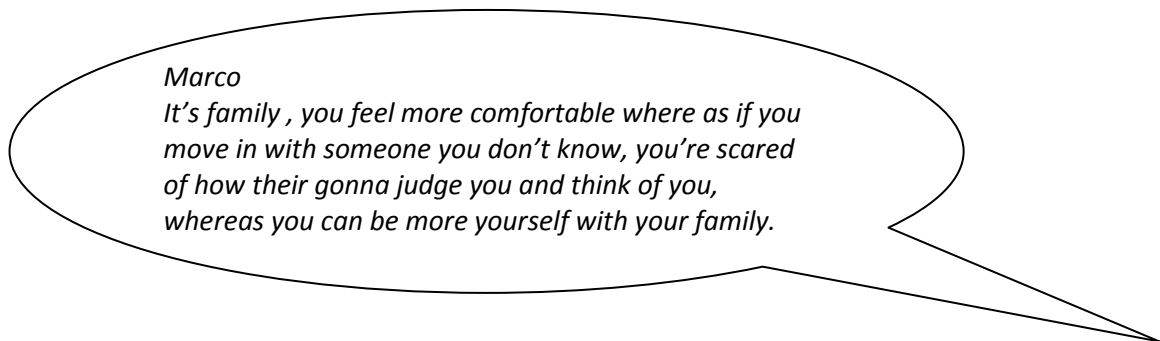
*I am starting to get involved with the church. I have always gone to church even before I was in care. Sometimes it was hard for me to keep going to church when I was in care because the people that I was staying with would not take me. This was upsetting. I now go to church every week.*

*... I knew a week and a half before I turned 18 that I was going to go and move to where I currently live. Prior to this I did not know where I was going and that was a bit scary not knowing. [The disability support service] helped me to get some furniture when I first left care. I don't remember my CSO ever helping me with this.*

Emmanuel has deep personal religious beliefs. Although Emmanuel is positive about his time in care he notes that he was not supported to attend church when he lived in some placements. Children and young people should always be supported to exercise their right to religious freedom and expression. Children should be placed within care environments that respect and support their cultural and religious backgrounds and beliefs.

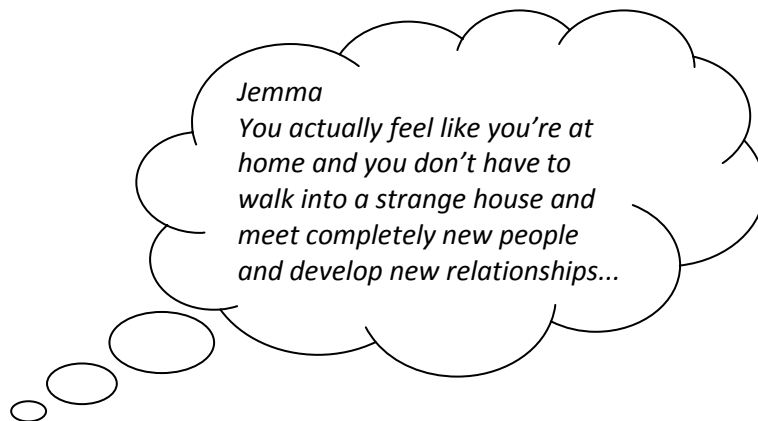
Care that best meets a child's needs in a culturally appropriate manner can be care that makes a child feel at home. All jurisdictions, including Queensland, recognise that appropriate placement within a child's existing family network is better than placement outside of the family.

Marco says he felt more comfortable with family. He said that his family know him and he does not feel like he's going to be judged by them.



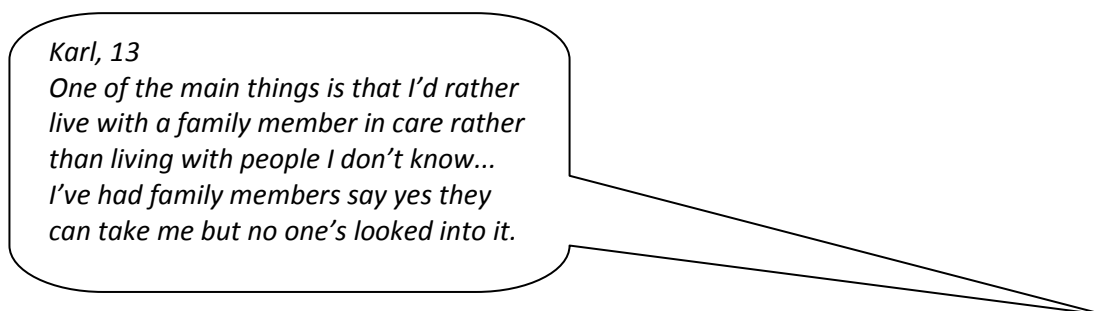
*Marco*  
*It's family , you feel more comfortable where as if you move in with someone you don't know, you're scared of how their gonna judge you and think of you, whereas you can be more yourself with your family.*

Jemma's comment reflects Marco's statement:



*Jemma*  
*You actually feel like you're at home and you don't have to walk into a strange house and meet completely new people and develop new relationships...*

One young boy, Karl, suggested that he would rather live with people he knows and that some members of his family have offered to care for him. Despite this, Karl remains in foster care.



*Karl, 13*  
*One of the main things is that I'd rather live with a family member in care rather than living with people I don't know... I've had family members say yes they can take me but no one's looked into it.*

Queensland child protection legislation and policy provide that services should be tailored to meet the needs of individual children and young people. Despite the principles under which services are delivered, there appear to be large numbers of children and young people who experience being

placed within environments that are not suited to meet their individual needs. This may be because of factors such as limited available family based or culturally appropriate placements, the workload of Child Protection Officers or deficiencies in departmental training programs.

### 2.3 The right to maintain relationships with family and community

The family is 'the fundamental group unit of society'.<sup>28</sup> It is a principle of international and domestic law that family based care offers the best opportunities for children to grow and develop to reach their potential.<sup>29</sup> Government intervention to remove a child from their family should be a response of last resort where there is no less restrictive way through which a child's care or protection needs could be met.

Every jurisdiction in Australia, including Queensland, aims to reunify a child or young person in out-of-home care with their biological, or core, family unit.<sup>30</sup> It is important that children and young people are given a choice as to whether and to what degree they will maintain relationships with their biological, or core, family unless such contact would pose significant risk to the child that could not be minimised by the department.

Some children and young people choose not to maintain familial relationships or relationships with particular family members and may attempt to avoid them. Forcing a child or young person to maintain a relationship with a person who abused and/or neglected them might expose them to further trauma.<sup>31</sup>

A child or young person who maintains a connection with family, particular family members or community is likely to experience a greater sense of security and stability.<sup>32</sup> Where intervention services are utilised by families or parents, reunification is more likely to succeed where contact with the family has been maintained.<sup>33</sup> A child or young person may feel less isolated and alone if they have contact with those they are familiar with. This includes the child or young person's wider community such as particular neighbours, their school (teachers and friends and friends parents), extended family, their church or other connections a child or young person has formed prior to entering out of home care.

#### 2.3.1 Are children and young people being supported to exercise their right to maintain relationships with their family and community?

Jacinta states that she was taken from the family home against her will and without an explanation. For a child, being taken from a parent is a major and traumatic event. The manner in which it is done can add to the child or young person's trauma. Likewise, to a child, being placed in care can appear as if the government is substituting a fictional parent for the real parent. Children and young people

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<sup>28</sup> UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), Article 16(3).

<sup>29</sup> Child Rights Convention, above n 3, Preamble; The Act, above n 2, ss 5B 5C.

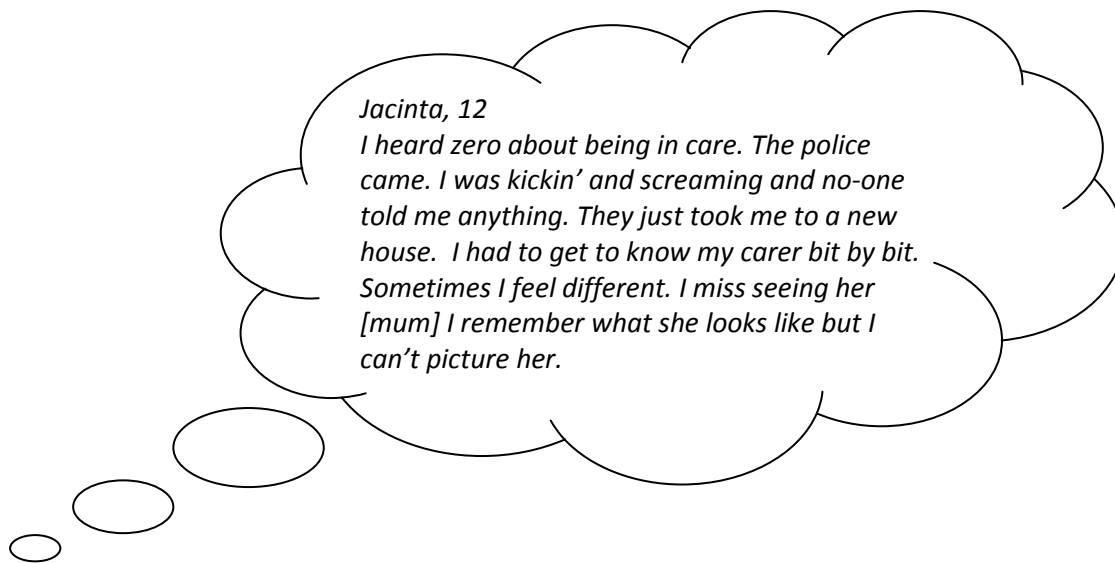
<sup>30</sup> The Act, above n 2, s 5B(f); Queensland Department of Communities, Child Safety and Disability Services website: <<http://www.communities.qld.gov.au/childdisability/foster-care/case-planning-for-a-child-in-care/family-contact-and-reunification>> Retrieved 26 September 2012.

<sup>31</sup> Tufnell, G., & DeJong, M. (2008). Stress and post-traumatic stress disorder. *Paediatrics and Child Health*, 19:2, 79-83. Kilpatrick, K.L., & Williams, L.M. (1998). Potential mediators of post traumatic stress disorder in child witnesses to domestic violence. *Child Abuse & Neglect*, 22(4), 319-330; Wilson, K.R., Hansen, D.J., & Li, M. (2011). The traumatic stress response in child maltreatment and resultant neuropsychological effects. *Aggression and Violent Behaviour*, 16, 87-97.

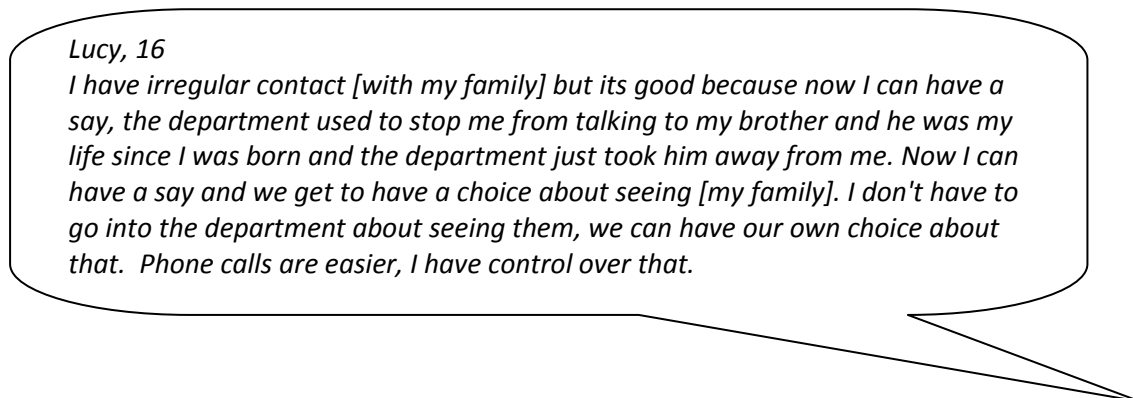
<sup>32</sup> Department of Communities, above n 30.

<sup>33</sup> Department of Communities, above n 30; McCue Horwitz, above n 7.

should be informed about key decisions, including the reasons they are in care. They should also be given the opportunity to have input into decisions, such as the design of their case plan and whether they have ongoing contact with family members.



Lucy told CREATE that she wanted to maintain contact with her brother after she was placed in care. However, the department denied her contact with her brother until she was older. Lucy did not feel like she had a say in this decision. Like Lucy, every child has the legislative right to participate in decisions that affect them. Although the department may need to, on occasion, make decisions that deny a child ongoing contact with their family because of safety concerns, it is important that children have the opportunity to have their views listened to and be given information about the reasons for the decision. The department should never deny a child having contact with their family because limited departmental resources need to be prioritised on other activities.

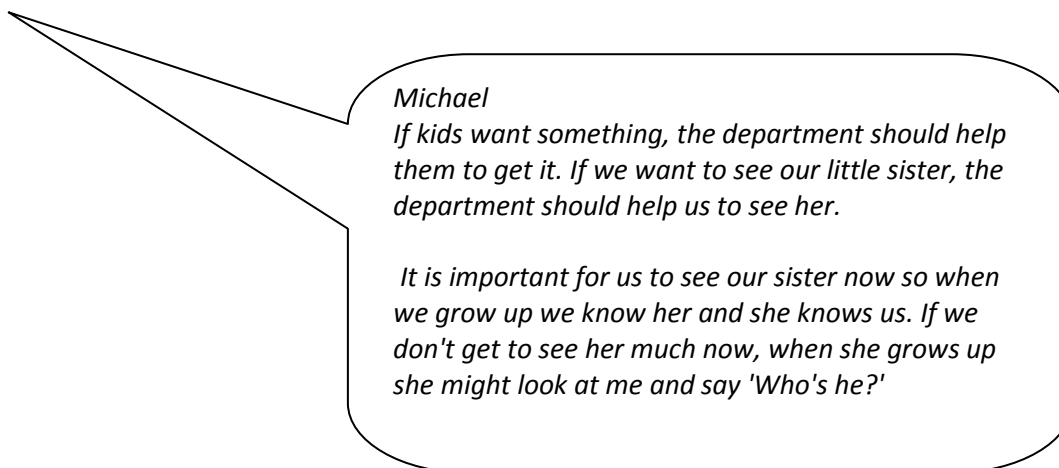


Children and young people often raise concerns with CREATE that far too often they are separated from their siblings and that sibling contact may not be encouraged, facilitated or maintained. Leathers suggests that where siblings have been placed together and are later separated, the risk of

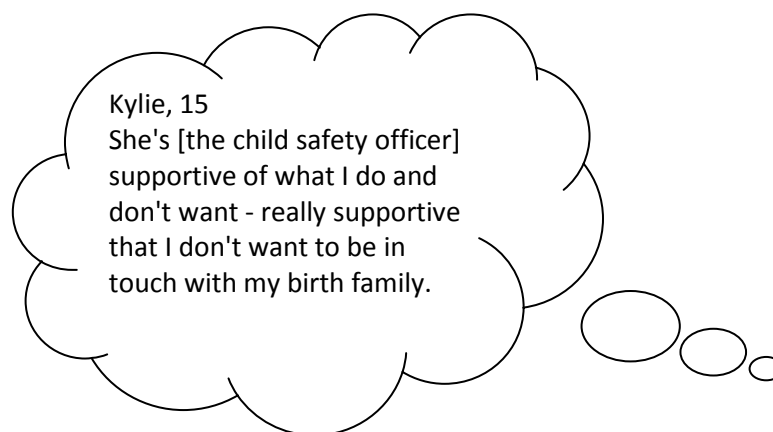
placement disruption increases.<sup>34</sup> Another study found that placement with an older sibling may reduce emotional and behavioural issues for the younger sibling(s).<sup>35</sup>

Hegar and Rosenthal's study of 1701 children and young people in care found that siblings that are placed together tend to attain better academic performance than siblings that are separated or split (some siblings being placed together but not all).<sup>36</sup>

As Michael suggests in his quote below, if for no other reason, siblings should be in contact with each other because they want to know them.



As suggested by Michael, Lucy and Jacinta, some children and young people want to exercise their right to maintain contact with their family and community. However some children and young people prefer not to exercise this right.



<sup>34</sup> Leathers, S.J. (2005). Separation from siblings: Associations with placement adaptation and outcomes among adolescents in long-term foster care. *Children and Youth Services Review*, 27, 793-819.

<sup>35</sup> Smith, M. C. (1998). Sibling placement in foster care: An exploration of associated concurrent preschool-aged child functioning. *Children and Youth Services Review*, 20:5, 389-412.

<sup>36</sup> Hegar, R. L., & Rosenthal, J. A. (2011). Foster children placed with or separated from siblings: Outcomes based on a national sample. *Children and Youth Services Review*, 33, 1245-1253.



## 2.4 The right to be an active participant in decisions that affect their lives

Children and young people in care are, like everyone else, active participants in their own lives. These children have thoughts, dreams, desires, goals, abilities and capacities that, as they grow and mature, become more refined and increasingly define who they are as individuals. There is no doubt that actively engaging in the opportunities our environment presents us produces rewards such as language acquisition, sporting prowess, artistic skill, musical ability, high academic achievement and leadership skills – all of which are refined by practice.<sup>37</sup>

Active participation, or actively participating in decisions that affect one's life is not a privilege; it is a developmental process, just like learning to walk.<sup>38</sup> The more a child engages in a behaviour the better they become at it and the more confident they are. Rather than feeling like powerless victims, unable to express an opinion or have their opinion considered, their active participation in decisions that affect them gives children and young people a sense of being active agents in relation to their own care.<sup>39</sup> For some, enabling a child or young person to actively engage in decisions affecting them may take a paradigm shift... from viewing children as the objects of concern to viewing them as the subjects with concerns.<sup>40</sup>

### 2.4.1 Are children and young people actively involved in decisions that affect them?

Kate spoke with CREATE about how her care experience involved a series of other people telling her what was going to happen in her life. She felt restricted, alone and excluded from a process that would have otherwise helped her to make decisions for herself.

*Kate*

*As a young person in care I never really felt involved. I don't feel like I was given the opportunity to make decisions to create the life that I wanted. I didn't know what my rights were and what I could and couldn't do.*

*I felt restricted by the decisions that people made for me and because of the limitations that were put in place. I felt like decisions were made for me, not with me. Not being encouraged to participate when I was in care has had a negative impact upon me as an adult. Although I appreciated the help that I did get, I now feel alone. I think that it is important for workers to know that although you may think that you are helping a young person by making decisions for them, this leads to them not having the skills to make decisions for themselves once they leave care.*

*Like anybody, kids in care have to make very big decisions when they become adults. If a young person has never been encouraged to be involved in decision making, how can you expect them to have the skills to do this as an independent adult? If they have never had to make decisions, how can you expect them to have the confidence to do this?*

<sup>37</sup> Davies, D. (2011). *Child Development: A Practitioner's Guide*, (3<sup>rd</sup> edn.). New York: The Guilford Press.

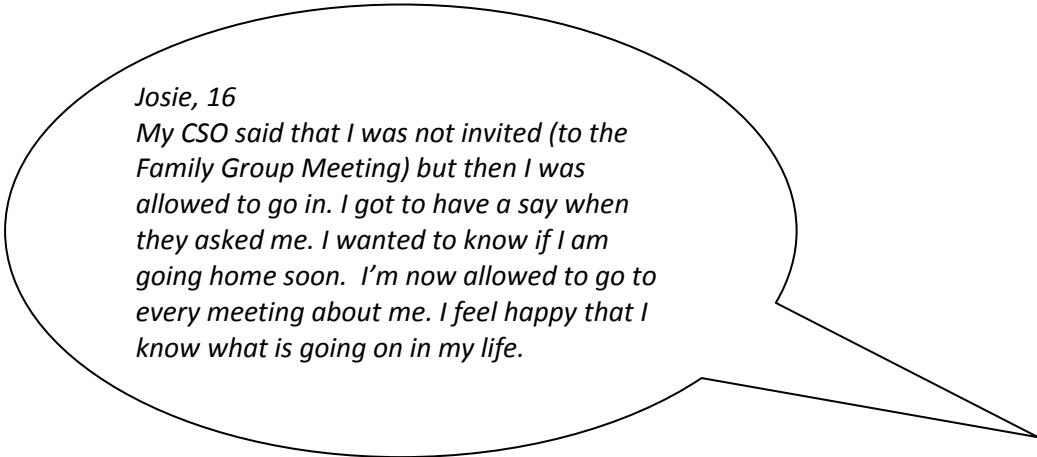
<sup>38</sup> Ibid.

<sup>39</sup> Landsdown, G. 'The realisation of children's participation rights: critical reflections'. In Percy-Smith, B. & Thomas, N. (2010, eds). *A Handbook of Children and Young People's Participation: Perspectives from Theory and Practice*. New York: Routledge; Cashmore, J. (2002). Promoting the participation of children and young people in care. *Child Abuse & Neglect*, 26, 837-847; Roche, J. (1999). Children: Rights, Participation and Citizenship. *Childhood*, 6, 475-493.

<sup>40</sup> Woodhead, M. (2005). Early childhood development: A question of rights. *International Journal of Early Childhood*.

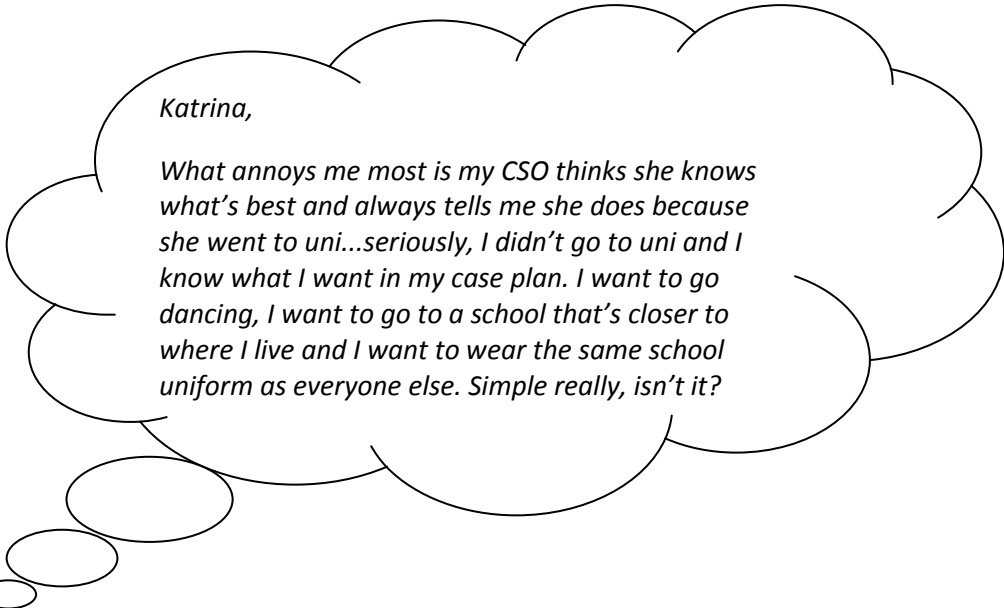
Kate's experience is indicative of a system that prioritises minimising risks faced by children at the expense of building confidence and independence. Kate's statement of how she felt decisions were made *for her* and not *with her* and the subsequent impact on her adult life shows the consequences of whether or not a young person is invited to participate in a decision can have impacts far beyond the perceived impact of the decision itself. There is dignity in experiencing risk. If people are prevented from making any mistakes then how can they learn from the experience?

Josie informed CREATE that she wanted to engage in Family Group Meetings but was told that she was not invited but that she could sit in on the conversation as if she were the object of concern, rather than the subject with concerns.



*Josie, 16  
My CSO said that I was not invited (to the Family Group Meeting) but then I was allowed to go in. I got to have a say when they asked me. I wanted to know if I am going home soon. I'm now allowed to go to every meeting about me. I feel happy that I know what is going on in my life.*

Being listened to is a way that adults can validate the thoughts and opinions of a child or young person and in turn help them to development confidence.<sup>41</sup> Sometimes a young person is interested in expressing themselves in ways that adults may view as trivial. However as Katrina states, not being listened to made her angry.



*Katrina,  
What annoys me most is my CSO thinks she knows what's best and always tells me she does because she went to uni...seriously, I didn't go to uni and I know what I want in my case plan. I want to go dancing, I want to go to a school that's closer to where I live and I want to wear the same school uniform as everyone else. Simple really, isn't it?*

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<sup>41</sup> Cashmore, above n 39.

The type of participation Katrina is talking about is both formal and informal. Formal approaches to participation tend to be those provided for in legislation and policy. They tend to include consultations, group meetings, input into case plans and transition plans, suggestion boxes, and documentation. Informal approaches include ongoing dialogue, spontaneous communication, and engaging in joint activities. Informal participation is about the quality of the relationship between a child and workers. Both forms of participation are valuable and need to be actively valued and encouraged in child protection work.

Informal participation is process oriented.<sup>42</sup> It is this form of participation that tends to be seen as most important by children and young people. Research suggests that when young people are involved in decisions regarding their next placement, that placement tends to be more stable.<sup>43</sup>

Michael spoke to CREATE about how his ability to participate in his placement decisions, and his feelings of being listened to made him feel validated and empowered him to make other decisions following his transition from care to adult life.

*Michael*

*I was in a position when I was self-placing. I was really unstable in my placements, moving to different friends' houses every few nights. My Team Leader contacted me and was trying to make sure I was safe because she knew I was moving around... She recommended that I go to one placement but I didn't like it. I tried it for a night and went back to self-placing. We had an argument about this and we didn't talk for a while. I tried the placement my Team Leader recommended twice more and still didn't like it. I had a lot of placements at this time where I had to move around a lot and meet new carers. After talking to the department and the Commission for Children and Young People and Child Guardian, I was able to sit down and have a proper talk to my Team Leader about what I liked and didn't like about my placements. She was able to find me a temporary placement that suited my needs. My Team Leader was supportive because she helped me with transport to school and work during my temporary placement.*

*My Team Leader did some more research and found my current placement. After about ten days, we met up again and I told her I decided I wanted to stay at the placement. We were both happy with the decision and I felt like I was treated like a young adult in this adult world. This showed me that she really cared for me and my wellbeing. She worked hard to find placements for me and listened to what I really wanted. My Team Leader worked hard to listen to what I needed for a placement and was able to find somewhere to meet my needs.*

*When I was able to have a say about where I lived, I felt respected as a person. I felt that I had a choice about my wellbeing and where my life was going to take me.*

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<sup>42</sup> Testro, P. (2010). *Participation of children and young people: A review of the literature*. Sydney: CREATE Foundation.

<sup>43</sup> Ibid; Cashmore, above n 39.

Empowering a child or young person might include their choice not to participate. For example, a young person may not want to attend a Family Group Meeting face-to-face, but may be interested in writing a letter or telling a worker what they would like said on their behalf. Children and young people should be informed about decisions that are made, have their opinions heard, and be given choice where possible. This can help develop a sense of responsibility and support the ability to be independent when they reach adult life.

Meaningful participation can promote citizenship and social inclusion, as well as personal and social education and development.<sup>44</sup> Checkoway views (formal) participation as a fundamental right that is linked to citizenship and a healthy democratic society.<sup>45</sup> As less powerful citizens, children and young people need to be encouraged to engage with adults and to learn the skills of critical thinking, planning and asserting their opinion. However, research suggests that time constraints, unsupportive work environments and high caseloads act as barriers to participation.<sup>46</sup>

Perceived lack of capacity to participate due to disability, age or other factors should not be assumed by the worker or any person making a decision about another person. A perceived lack of capacity should not result in the young person not having the opportunity to participate at all.

Paul told CREATE about his inability to participate in legal proceedings that resulted in him entering and staying in statutory care. He says that he wanted to inform the court that he felt safer at home than in care but that no one asked him.

*Paul*

*I hated knowing that other people were deciding what was going to happen in my life and that no one seemed interested in what I wanted. I wanted to be able to tell the judge that home was okay – that my mum was doing a better job than the department. I wanted to be able to tell the judge that I felt safer at home than I did in care. When I was younger I wanted to do ballet and play a musical instrument and I wanted that put in my case plan. But no one asked me what I wanted. I wanted the judge to know that what they were being told by the department wasn't the full picture that I had hopes and dreams that I wanted to go into my case plan.*

*I think it's important for children and young people to be involved in the decision making process so that they can give their side of the story. Parents get to have a lawyer and are told how they can access one but young people aren't told that they can have a lawyer or even how to get one. I think all young people should have a lawyer because sometimes the department doesn't see the bigger picture or ask what I want. I think the courts have a job to ensure that young people know that they can have a lawyer and that they can go to court and speak to the judge.*

<sup>44</sup> Checkoway, above n 25.

<sup>45</sup> Checkoway, above n 25.

<sup>46</sup> Darlington, Y., Healy, K., & Feeney, J.A. (2010). Challenges in implementing participatory practice in child protection: A contingency approach. *Children and Youth Services Review*, 32, 1020-1027.

Involvement of children and young people in decisions that matter to them needs to be ongoing, with an emphasis on informal participation as well as engagement in court and departmental procedures. The participation of children and young people in decision making needs to start at the point where the child protection systems makes a decision to intervene within a family.

The participation of children and young people cannot be thought of exclusively in terms of individual case management and decision-making. The full benefits of participation of young people will only be realised when there is maximum participation in service development, policy, legislation, and systemic reform.

## 2.5 The right to have access to appropriate health care

Children and young people in out-of-home care are at a higher risk of medical and health issues than their non-care peers.<sup>47</sup> Increasingly children and young people with health issues are entering out-of-home care. Children and young people with a disability are also significantly over represented in the care system.<sup>48</sup>

Queensland was among the first jurisdictions to attempt to introduce mandatory health screening for children entering care following the 2004 Crime and Misconduct report titled *Protecting children: an inquiry into abuse of children in foster care*.<sup>49</sup> The policy was to ensure that the health of all children was assessed on entering care to inform case planning and to ensure that children in care had priority access to health, dental and behavioural services. Several other jurisdictions, including NSW have since implemented similar policies supporting mandatory initial health screening for every child and young person upon entry into care. Regular health assessments can help identify issues that may affect the child or young person and enable appropriate services to be provided to ensure a child's health does not deteriorate.

It is well recognised that health issues can contribute to reduced fitness, reduced cognitive agility and academic performance and reduced life outcomes.<sup>50</sup> It is essential that all children and young people in care have regular health checkups and that a child or young person is given appropriate health care as and when they ask for it.

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<sup>47</sup> Clarke, M., & Gwynne, K. (2011). Health needs and outcomes for children in out-of-home care in Australia. *The NSW Doctor*, Sydney: Australian Medical Association (NSW); Committee on Early Childhood, Adoption and Dependent Care. (2000). Developmental Issues for Young Children in Foster Care. *Pediatrics*, 106(5), 1145-1150; Committee on Early Childhood, Adoption and Dependent Care. (2002). Health Care of Young Children in Foster Care. *Pediatrics*, 109(3), 536-541; Nathanson, D., & Tzioumi, D. (2007). Health needs of Australian children living in out-of-home care. *Journal of Paediatrics and Child Health*, 43, 695-699; United Cerebral Palsy, & Children's Rights. (2006). *Forgotten Children: A Case for Action for Children and Youth with Disabilities in Foster Care*, United States of America: United Cerebral Palsy, & Children's Rights.

<sup>48</sup> Lightfoot, E., Hill, K., & LaLiberte, T. (2011). Prevalence of children with disabilities in the child welfare system and out of home placement: an examination of administrative records. *Children and Youth Services Review*, 33, 2069-2075; Cross, S. B., Kaye, E., & Ratnofsky, A.C. (1992). *A report on the maltreatment of children with disabilities*. Westat Inc., and James Bell Associates for the National Centre on Child Abuse and Neglect, U.S. Department of Health and Human Services; Miller, D., (2003). 'Disabled children and abuse.' In National Working Group on Child Protection and Disability (Eds.), *It doesn't happen to disabled children: Child protection and disabled children*, United Kingdom: National Society for the Prevention of Cruelty to Children; Sullivan, P.M., & Knutson, J.F. (2000). Maltreatment and disabilities: A population-based epidemiological study. *Child Abuse & Neglect*, 24, 1257-1274.

<sup>49</sup> CMC Report, above n 21, recommendation 9.

<sup>50</sup> Lyons, Z., & Janca, A. (2012). Indigenous children in Australia: Health, education and optimism for the future. *Australian Journal of Education*, 56:1, 5-21.

The former Queensland Government's policy of mandatory initial health screening and prioritised access to health, dental and behavioural services was an admirable objective. The policy also resulted in several examples of innovative program responses to children and young people with complex and challenging behaviour, such as the Evolve Interagency Services initiative. However, despite the objective of the policy, CREATE continues to hear concerning stories from children and young people about their lack of access to appropriate health care during their time in the child protection system.

### 2.5.1 Are children and young people able to access appropriate health care?

When Dillon was a child he and his carer requested a dental check up because he was experiencing tooth pain. Dillon told CREATE that he waited eight years to obtain three fillings. Some research suggests that placement instability and moving from carer to carer can result in poor communication about health history and delays in accessing appropriate health services.<sup>51</sup> It is important that children and young people are supported to identify health concerns and access appropriate health services in a timely and child friendly manner. It is also important that the department obtains, maintains and updates each child's health history so that this information is not lost when a child changes primary worker or moves from one placement to another.

*Dillon, 16*

*I had to wait eight years to get my teeth fixed because the department won't pay the \$500 to get it fixed. I only needed three fillings, but I probably need more by now.*

There can be issues even where children and young people are screened and have their health assessed in a specifically designed health clinic. The Child Protection Unit of Sydney Children's Hospital has conducted health screening and health assessments since 2005.<sup>52</sup> According to Nathanson and Tzioumi, approximately 30% of children and young people in care who presented to the hospital for a health assessment had dental problems.<sup>53</sup> They found that this rate of dental health was comparable to the non out-of-home care population.

This suggests, *prima facie*, that children and young people in care do not have significantly worse dental health than their peers living with their families. However, Nathanson and Tzioumi suggested that it is 'possible that the rate in the sample is an underestimate on account of the dental assessment being performed by a paediatric trained doctor with no dental experience.'<sup>54</sup>

Initial health screening and assessments are critical for children entering care. However children and young people also need assistance in maintaining their health. Sometimes this will require an

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<sup>51</sup> Clarke, M., & Gwynne, K. (2011). Health needs and outcomes for children in out-of-home care in Australia. *The NSW Doctor*, 16-17.

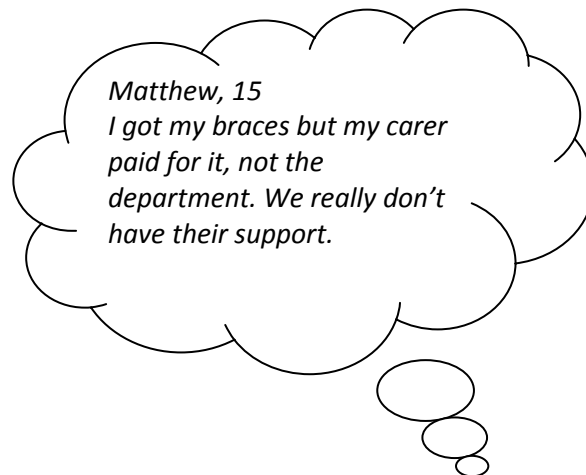
<sup>52</sup> Nathanson, above n 47.

<sup>53</sup> Nathanson, above n 47.

<sup>54</sup> Nathanson, above n 47, p 390.

investment that is not covered federally funded medical subsidies. In 2004 the Australian Foster Care Association reported that many carers of children with a disability are financially disadvantaged and that it was not uncommon for foster carers to contribute to the cost of medical equipment, home alterations and other costs to ensure the child or young person for whom they care are able to participate more fully in family and community life.<sup>55</sup>

Matthew told CREATE that he needed braces and that his carer paid for them.



The Queensland Foster and Kinship Care Allowances and Benefits fact sheet suggests that the allowance 'is a contribution toward the real costs of caring for a child or young person in care'.<sup>56</sup> It is not considered a payment or an income but a reimbursement. According to that factsheet, the fortnightly caring allowance is \$508.82 for caring for a young person over the age of 10. If that same young person has 'high support needs' the fortnightly allowance increases by \$152.77. That equates to approximately \$17,200 per annum. CREATE maintains the position that carers should not be responsible for paying for the medical, dental, psychological or support needs of the children or young people placed within their care and that as guardian, the State, must provide appropriate health services and support.

Some young people experience difficulty in accessing the support that they need to obtain available health care. Sharmayne speaks of an incident where she could not contact a support person, in a timely manner, to take her to hospital during an emergency. Her reliance on departmental assistance when she could not contact her carer highlights her dependence on child protection authorities and her lack of a wider support network.

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<sup>55</sup> Australian Foster Care Association, (2004). *Securing a Safe and Effective Foster Care System: Priorities and Position Statements for Foster, Relative and Kinship Care Across Australia*. Australia: Australian Foster Care Association.

<sup>56</sup> Government of Queensland. (2012). Foster and kinship care allowances and benefits fact sheet 9. <<http://www.communities.qld.gov.au/resources/childsafety/foster-care/carers-allowances.pdf>> Retrieved 10 April 2012.

Sharmayne,

I went out to dinner at [a] restaurant in [a particular suburb] I ordered a seafood platter. The next day at TAFE I felt really sick. I had nausea, shivering, headache and constant cramping in my lower stomach. I called the department to come and get me as I couldn't get onto my carer at the time. The receptionist said [my case worker] is not there and there is no car to take you home. Twenty minutes later I got a call from the department asking if I could catch a bus home. I couldn't even move I was that sick and I was crying on the phone. Ten minutes later [my case worker] called asking what was up?

I waited there for [about] an hour and a half all up just to be picked up. I couldn't keep anything in my system would just go straight out of my body. I ended up going to hospital. The hospital said it was a bad case of food poisoning and I had a tear in my bowel lining. My doctor called me a day or two later and said [I] most likely had salmonella poisoning. The department never even called to see if I was going to be okay no interest was shown.

It is important that health services and supports are designed in a way that enables all children and young people in care to have the benefit of appropriate health support. It is important that the health of children and young people is assessed when they enter care and that they have access to prioritised, government funded medical, dental and behavioural support. It is also important that the department obtains, maintains and updates accurate medical histories for children and young people in care. Children and young people also want the Department for Communities to respond to situations where they require help to overcome illness or injury with more compassion and understanding.

## 2.6 The right to have access to appropriate education

Quality education outcomes are directly linked to future economic independence and the ability to provide for oneself.<sup>57</sup> Education is a key determinant of future quality of life and the possession of a tertiary degree is associated with better health, more meaningful employment and higher economic status.<sup>58</sup> Unfortunately, research suggests that children and young people with a care experience do not do as well in school as their peers.<sup>59</sup> A recent Queensland survey, found that just over 50% of young survey respondents had an Education Support Plan.<sup>60</sup> Twenty five per cent of the young people surveyed reported having unresolved problems at school. Almost 50% of these young people said their unresolved problems related to school work and 40% said their unresolved problems related to bullying.<sup>61</sup>

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<sup>57</sup>Social Exclusion Unit. (2003). *A better education for children in care*. United Kingdom: Office of the Deputy Prime Minister; National Working Group on Foster Care and Education. (2011). Education is the lifeline for youth in foster care. *Research Highlights on Education and Foster Care*. Casey Family Programs. <<http://www.casey.org/Resources/Publications/pdf/EducationalOutcomesFactSheet.pdf>> Retrieved 5 September 2012.

<sup>58</sup> Day, A., Reibschleger, J., Dworksy, A., Damashek, A., & Fogarty, K. (2012). Maximising educational opportunities for youth aging out of foster care by engaging youth voices in a partnership for social change. *Children and Youth Services Review*, 34, 1007-1014.

<sup>59</sup> Ibid; Kessler, M. (2004). *The transition years: Serving current and former foster youth ages eighteen to twenty-one*, Oklahoma: National Resource Centre for Youth Development.

<sup>60</sup> Qld Child Commission, above n 9, p 9.

<sup>61</sup> Qld Child Commission, above n 9.



There are a number of factors that are experienced by children and young people in care that may impact on academic performance. These include a lack of developmental opportunity in early childhood, frequent placement changes, social and emotional disruption while in care, enrolment problems due to misplaced school records, being held back and having to repeat, and untreated medical and/or mental health conditions.<sup>62</sup> Research suggests that the rate of expulsion for children and young people with a care experience is significantly higher than that of the general student population. The Queensland Commission for Children and Young People and Child Guardian's 2010 report stated that 40% of young people had been suspended and 10% had been expelled.<sup>63</sup> There is a dearth of research that suggests that suspension and expulsion is in the best interests of the child or society. A better resourced child protection system that works in collaboration with the education system might enable teachers and other personnel such as school counsellors, to better understand the challenges that young people in care face.<sup>64</sup>

The identification of health issues, learning issues or developmental delays should result in a child or young person receiving increased educational assistance. While the child protection system and education authorities have made some effort to ensure that increased education support is available for children and young people in care, little emphasis has been placed on ensuring that there is consistency in planning education goals and outcomes between child protection and school authorities. Teachers, counsellors, carers and caseworkers need to work together to ensure the educational requirements of each and every child and young person in care are being satisfied. This requires joint planning and the implementation of shared strategies across stakeholders.

### 2.6.1 Are children and young people receiving appropriate education?

It is unknown how many young people with a care experience complete grade 12. Many young people report to CREATE that they are planning to leave, or had left, school at the end of grade 10. Jason shared his story with CREATE. By year nine Jason had attended five different high schools. Frequently changing accommodation placements and schools is an experience that is shared by many children and young people within the child protection system.

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<sup>62</sup> Pecora, above n 18; See also Dworsky, A., & Courtney, M. (2010). Does extending foster care beyond age 18 promote postsecondary educational attainment? *Chapin Hall Issue Brief*, University of Chicago. <<http://www.chapinhall.org/research/brief/does-extending-foster-care-beyond-age-18-promote-postsecondary-educational-attainment>> Retrieved 5 September 2012.

<sup>63</sup> Queensland Commission for Children and Young People and Child Guardian. (2010). *Views of Children and Young People in Foster Care, Queensland, 2010*. Brisbane, p vii.

<sup>64</sup> Pecora, above n 18.

Jason

*I am in Year 9. I have been to 5 primary schools and 5 high schools. One of these included the [a distance education school]. I was with the [distance education school] for about 1 year which is the longest that I have been with one school. Since I finished at the [distance education school] in June this year, my schooling has been better because I have not changed schools very much. I now attend a mainstream high school 3 days per week and an alternative education school 2 days per week. I would prefer just to go to my mainstream school 5 days per week because I don't like the teachers at my other school and because all of my friends are at my mainstream school but I have to wait until next year. I also find it hard going to 2 schools because I learn about something one week but because I then have to go to my other school I fall behind and this makes my grade low.*

*A youth worker from one of my support services helped me with my school work when I was with the [the distance education school]. We had a really good bond and she explained things better than my other teachers. We had fun at the same time and she could understand what I was like for example, with my disability and how I have trouble focussing. When I had to change schools a lot it was hard because I had to learn different things depending on what school I was at. I also found it hard to socialise and make new friends. I have a vision impairment and ADD and this was hard at school because the teachers treated me differently to other people. This made me feel like other people thought I was weird and that I was 'special'. This made me feel weird because they didn't want to hang around me. I think that if the teachers had made me a part of the class and not 'different' this would have been a better experience for me. Over the course of my schooling I have had many suspensions and I have been expelled once. Now that I'm older I understand what was happening but at the time I didn't because they didn't explain it very well to me. This made me feel weird like 'what the hell's going on?' and I felt confused.*

*I felt like the Department didn't care about my schooling. I think that if they had taken time to listen to me I would have felt like they did care. I don't know if I want to finish high school or if I just want to finish year 10 and then get a job.*

It is unknown how many university entrants and graduates have a care experience. Some statistics suggest that 1%<sup>65</sup> of the care community enter university whilst others suggest the figure may be up to 2.8%.<sup>66</sup> Dworsky and Courtney suggest that estimates on the rate of participation in tertiary education vary between 1% and 11%.<sup>67</sup>

Research suggests that some children and young people in care may be eligible for special education services, yet only a small number actually receive it.<sup>68</sup> Some children with chronic health issues miss

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<sup>65</sup> Social Exclusion Unit, above n 57, p 3; Institute of Education. (2011). *Case study on the impact of IOE research into 'Going to University from Care'*. University of London.

<sup>66</sup> McDowall, J.J. (2009). *CREATE Report Card 2009 – Transitioning from care: Tracking progress*. Sydney: CREATE Foundation, p 55.

<sup>67</sup> Dworsky, above n 62.

<sup>68</sup> Cross, above n 48; National Collaborative on Workforce and Disability for Youth. (2007). *Negotiating the curves toward employment: A guide about youth involved in the foster care system*. Washington DC: Institute for Educational Leadership; National Council on Disability. (2008). *Youth with disabilities in the foster care system: Barriers to success and proposed policy solutions*. United States of America; United Cerebral Palsy &

out on school because of time spent in hospital and this can lead to them missing out on obtaining the credits required to complete the course work.<sup>69</sup>

Placement disruption can result in a child or young person moving schools.<sup>70</sup> Not only can this negatively affect the flow of education and result in duplication or missing coursework but it also fragments the child's social network and sense of belonging.<sup>71</sup>

Shelly told CREATE that she changed schools six times. This left her feeling confused and anxious.

*Shelly*

*I was in and out of foster homes for around 15-16yrs, up until I turned 18. Unfortunately a bit of my memory from back then has gone on a permanent vacation, but from what I can remember I had about 8-10 different foster families and even going back to the same families twice. During that journey I went through 5+ different Child Safety Officers and all up changed schools 6 times.*

*One of the main things that got to me was that feeling of being "different" compared to the other students who were living with their parents. It was like being the only cat dressed up as a dog surrounded by a pack of real dogs. Another [thing that got to me] would have to be having to get permission to go on school trips or camps from my CSO, which sometimes took a while.*

*But the main issue I found was all the problems and feelings I had bottled up inside, constantly there inside me. Confusion, hate, sadness and many more emotions tugging at my mind while trying to deal with studying, focusing on school work and even figuring out how to fit in. Eventually it all got too heavy to handle, which lead to low grades, skipping school, and entirely giving up on my education in grade 10.*

*All of those issues, plus many more, have had a huge impact on my life and my future. I missed out on a lot of education that would have helped me greatly when trying to get a job or even dealing with everyday things. But with so many things running through my head, I wasn't thinking about how important school was for me back then. My mind was too busy trying to make sense of the situation I was in and trying to find answers to the billions of questions I had. In fact I became oblivious to all the important stuff, not just school. Now I'm a young adult struggling to get into the work force with what little education I have.*

Like Shelly, far too many young people leave care and experience unemployment, poverty, homelessness, drug and alcohol addiction and/or involvement in the criminal justice system.

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Children's Rights. (2006). *Forgotten children: A case for action for children and youth with disabilities in foster care*. United States of America.

<sup>69</sup> Greenen, S.J., Powers, L.E., Hogansen, J.M., Pittman, J.O.E. (2007). Youth with disabilities in foster care: developing self-determination with a context of struggle and disempowerment. *Exceptionality*, 15:1, 17-30.

<sup>70</sup> Pecora, above n 18; National Council on Disability, above n 68.

<sup>71</sup> Pecora, above n 18; National Council on Disability, above n 68; Cashmore, above n 1; Cashmore, above n 5.

Quality case and transition planning is a key method through which key stakeholders in a child's life can be brought together to plan and implement strategies to reduce the risk of adverse outcomes in later life. Children and young people should be central to this planning process with the support of all the major stakeholders in their life. Child protection and education authorities should participate in the planning process and ensure that the vision, goals and strategies that are agreed upon are pursued at school as well as by child protection workers.

## 2.7 The right to receive appropriate help with the transition from being a child in care to adulthood and independence.

Transitioning from statutory care to adult life presents major challenges for young people involved in the child protection system. The years leading up to adulthood for a young person in care and the preparation that should take place are integral to successful independent living in adulthood.<sup>72</sup>

A key reason that young people remain in care up until the age of majority is ongoing concern that their biological family is unable or unwilling to meet their care and protection needs.<sup>73</sup> If this were not the case, the young person would have been reunified with them.<sup>74</sup> Many young people leaving care lack the adult support that children and young people in the wider community rely on to make the transition to adult life.<sup>75</sup> Becoming instantly independent and self-sufficient is a big expectation for anybody turning 18. Unfortunately it is an expectation that is often placed on the shoulders of young people leaving the care and protection of the statutory child protection system.

Compared with their peers in the general population, young people leaving care are more likely to be undereducated, underemployed, parents at a younger age, involved with the criminal justice system, homeless, dependent on social welfare, experiencing mental health issues, and at a higher risk of substance misuse<sup>76</sup>. Helping young people to plan for, and make, the transition from care to adult life is likely to significantly reduce the potential for these risks to be realised.

Over the last five years all Australian jurisdictions have invested significant time and effort into improving the rate and quality of transition planning. However, recent data indicates that the Department for Communities needs to invest more energy into ensuring that every young person leaving care has the benefit of a quality transition plan. In 2011, CREATE Foundation found that only 31.6% of young people in care in Queensland between the ages of 15 and 17 were aware that they had leaving care plan.<sup>77</sup> The other 68% did not have a plan or were not aware that they had one.

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<sup>72</sup> Mendes, P., Johnson, G., & Moslehuddin, B. (2011). *Young people leaving state out-of-home care: Australian policy and practice*. Melbourne: Australian Scholarly Publishing. CREATE Foundation. (2010). *What's the Answer?: Young people's solutions for improving transitioning to independence from out of home care*. Brisbane; Krinsky, M.A. (2010). A not so happy birthday: The foster youth transition from adolescence into adulthood. *Family Court Review*, 48:2, 250-254; Greenen, S., & Powers, L.E. (2007). "Tomorrow is another problem": The experiences of youth in foster care during their transition into adulthood. *Children and Youth Services Review*, 29, 1085-1101.

<sup>73</sup> The Act, above n 2, ss 5B(g), 10.

<sup>74</sup> The Act, above n 2, sB(f).

<sup>75</sup> Cashmore, above n 5; Cashmore, above n 12; Schofield, above n 5.

<sup>76</sup> Cashmore, above n 5; Mendes, above n 72; Natalier, K., & Johnson, G. (2012). Housing pathways of young people who have left out-of-home state care. *Housing, Theory and Society*, 29:1, 75-91; Tweddle, A. (2007). Youth leaving care: How do they fare? *New Directions for Youth Development*, 113, 15-31.

<sup>77</sup> McDowall, J. J. (2011). *CREATE Report Card 2011 - Transitioning from Care in Australia: An Evaluation of CREATE's What's the Plan? Campaign*. Sydney: CREATE Foundation. Note this was based on a sample size of 152 Queensland young people. This compares to the 31.4% found nationally, with a sample of 605 young people.

Some researchers suggest that if a young person does not know they have a plan then it is likely that they did not participate in its development and therefore it is not a plan *per se*.<sup>78</sup>

The CREATE data is supported by recent research conducted by the Queensland Commission for Children and Young People and Child Guardian.<sup>79</sup> The Commission suggests that the department indicated transition planning had occurred for almost 64% of young people aged between 16 and 18 and that almost 90% of young people had participated in their planning process.<sup>80</sup> This suggests that at least 35% of young people on the brink of transitioning from care have not engaged in a formal planning process. The Commission also stated that only 55% of young people reported having a leaving care plan, 95% of whom report some level of involvement.<sup>81</sup>

One interpretation of this is that the rate of transition planning is improving in Queensland but that there remains a significant number of young people who leave care having received little, or no, transition support. Moreover, it is unknown whether and to what degree the transition plans are relevant to each individual young person. This is particularly disturbing given up to 35% of young people may experience homelessness within 12 months of leaving care<sup>82</sup> and 50% may experience homelessness within 5 years of leaving care.<sup>83</sup>

Transition planning in Queensland is provided for in the Act but the process through which planning occurs is established under policy.<sup>84</sup> The policy currently states that transition planning commence at the age of 15, ought to gain 'clarity and intensity at age 17' and 'continues after the age of 18, if required, through the opening of a support service case'.<sup>85</sup>

Transitioning from care is not limited to the event of a young person leaving the care system at 18 years of age. Rather, three critical phases of the process have been identified:

- 1) the Preparation Phase, which includes clear, detailed planning from when the young person turns 15;
- 2) the actual Transition Phase, marked by leaving the care environment and the establishment of an independent life; and
- 3) the After Care Independence Phase in which young people are living their interdependent lives in the community, with skills and resources to draw upon when extra support is required.<sup>86</sup>

CREATE is of the view that minimum requirements for transition planning should be included in the *Child Protection Act 1999*.

### **2.7.1 Are young people with a care experience receiving appropriate supports during and after their transition from care to adulthood and independence?**

Despite evidence that the rate of transition planning in Queensland is slowly improving, many young people are not currently supported to plan for, or make, the transition from child protection services

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<sup>78</sup> Hall, A. (2012). It's not a transition plan if the young person wasn't involved. *Developing Practice: The child, Youth and Family Work Journal*. 33, 4-9.

<sup>79</sup> Qld Child Commission, above n 9.

<sup>80</sup> Qld Child Commission, above n 9, p 15.

<sup>81</sup> Qld Child Commission, above n 9, p 15.

<sup>82</sup> McDowall, above n 66.

<sup>83</sup> Cashmore, above n 1; Cashmore, above n 12; See also Forbes, C., Inder, B., & Raman, S. (2006). Measuring the cost of leaving care in Victoria. *Children Australia*, 31:3, 26-33.

<sup>84</sup> Government of Queensland, Child Safety Services, *Policy Statement: Transitioning from care to adulthood*, Policy No. CPD349-7.

<sup>85</sup> *Ibid*, p 1.

<sup>86</sup> Mendes, P., & Moslehuddin, B. (2006). From dependence to interdependence: Towards better outcomes for young people leaving state care. *Child Abuse Review*, 15, 110-126.

to adult life. Young people regularly talk to CREATE about the importance of quality transition support.

Lisa told CREATE that her transition from care process started six weeks prior to receiving a letter from the department on her 18<sup>th</sup> birthday that she was leaving care. She relays that she felt alone and empty on her birthday.

Lisa

*Transition from care for me was awful and traumatizing. On my 18<sup>th</sup> birthday I received a letter from the department congratulating me on leaving care and reinforcing that what happened was not my fault. That day I felt like the world had finally given up on me and it was my fault because if I stayed at home I wouldn't be made to leave today. A day meant to be filled with celebration and joy left me feeling alone and empty.*

*Fortunately for me I was involved with CREATE when I was in my transition, so I had a good idea of my rights and entitlements. I thought I had the ability to advocate for myself but this belief ended up giving me false hope. Knowing I was educated and had a good idea of how the system worked, I felt betrayed and let down that I wasn't able to achieve much despite my knowledge.*

*I went to my transition from care meeting, the first to be held, with 6 weeks to go until I was to leave care. My school youth worker and counsellor also attended. Although I wasn't offered a lot, I was offered a fridge and washing machine and youth worker hours until I was 18 to help me see my sister. I was grateful for this but I had problems after leaving care getting my fridge and washing machine because there was no documentation from the meeting. I'm pleased to say though that my washing machine arrived a few months ago. However this was only made possible through self-advocacy and through the relationships I built that could support and encourage me to advocate for my rights and basic needs.*

*What has given me the knowledge, understanding and strength to do all of this without the typical supports of a family network is the family I have been able to create along the way. The key to my success to date is my own determination and the support of my friends, colleagues and mentor. When I have problems academically or emotionally I can phone someone and I don't have to leave messages and wait days for a response. When I feel like a failure I'm not told to go away and deal with it, I'm supported and encouraged that I've done my best and we'll work together to achieve better next time. It is this family that support and guide me through everyday life and are there to help pick me up when times are hard.*

Lisa's story is one of a young person who did not have the benefit of a transition plan. Rushed, tokenistic, planning within a few weeks of a young person turning 18 is a common experience for many young people leaving care. These young people do not have the benefit of considered transition planning where all of the key stakeholders in their life are brought together to help them plan a vision and goals for their future, assist them to obtain the services and support they will need in adult life and to work with them to ensure that they have the knowledge and skills they will need to live successfully within the community.

A recent longitudinal study conducted in New South Wales found that 57% of young people had contemplated suicide within 12 months of leaving care.<sup>87</sup> Thirty three percent had acted upon such

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<sup>87</sup> Cashmore, above n 1, p 88.

thoughts and had attempted to end their lives. That study also found that within four to five years of leaving care, 71% of young people had contemplated, attempted or committed suicide.

Meaningful transition planning involves the young person in all aspects of the plan, ultimately giving them ownership over the process, as well as the final product. This ownership will help to create better outcomes for the young person as they feel they own and have control over their life.

It is important that, in both policy and practice, transition from care is seen as a process over several years that requires planning, support, and follow up, but, most importantly, meaningful participation from the young person throughout the process.

Melinda told CREATE that she felt pressured by the department to develop a plan during grade 12. She says that so much happens for a young person about to turn 18, not the least of which was finishing year 12. She suggests the leaving care age be lifted.

*Melinda, 19*

*I felt a lot of pressure from the Department of Child Safety to come up with a life career plan whilst I was still completing grade 12. When you are in grade 12 it's really important to focus on school, to focus on things like the QCS. Meanwhile it seems like the system wants you to decide what you are doing for the rest of your life because you are no longer care when you turn 18, and all the workers are rushing to have some sort of plan sorted out. And even now having finished school and turned 18, Centrelink is hassling me to choose any full time work even though I already work part-time. I think if the Department of Child Safety and other parts of the system know we are at school we shouldn't be pushed to [commit] to long-term future plans – looking for jobs, working on case plans, TFC plans - this on top of grade 12 is too much. I think that the leaving care age should be lifted - to give young people the time to be in the right headspace to start thinking about their future.*

Melinda's story again illustrates the importance of commencing the transition planning process early. Melinda felt enormous pressure to make huge life decisions within a few months of leaving care. With earlier and higher quality support Melinda could have entered year 12 with a clearer idea about her transition from care and her goals for her future. This may have reduced the pressure she felt and better equipped her for life after care.

It is important that departments adhere to departmental policy and do not place additional pressure upon young people in the process of transitioning. Policy states that the type of support provided as part of transition from care might include: housing, education, training, employment, social connectedness and necessary life skills.<sup>88</sup> Despite that the legislation does not identify an upper age limit where transition from care services cease to apply, the Practice manual states that the support services aim to be provided 'until the identified goals of the support plan have been achieved'.<sup>89</sup>

Transition planning needs to start early. It needs to help the young person gain clarity of their goals and dreams. Where there is not clarity, the process should facilitate the development of clarity. Most importantly, as the Australian White Paper states, no young person should exit care and enter a state of homelessness.<sup>90</sup>

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<sup>88</sup> Government of Queensland, Child Safety Practice Manual, Chapter 7, p 7.

<sup>89</sup> Ibid, p 5.

<sup>90</sup> Government of Australia. (2008). *The Road Home: A National Approach to Reducing Homelessness (The White Paper)*. Canberra: Department of Families, Housing, Community Services and Indigenous Affairs.