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**CREATE Foundation Submission to the Royal Commission into
Institutional Responses to Child Sexual Abuse**

Response to Issues Paper 3: Child Safe Institutions

About CREATE Foundation

As the national consumer body advocating for children and young people with a care experience, CREATE seeks to provide opportunities for children and young people to have a voice and be heard. CREATE is unique in that it is one of only a handful of organisations in the world, and the only organisation of its kind in Australia, expressly established to advocate on behalf of children and young people in the care system.

CREATE Foundation appreciates the opportunity to provide a response to the Royal Commission into Institutional Responses to Child Sexual Abuse third issues paper on child safe institutions. CREATE believes that children and young people with a care experience can play an important role in providing the Royal Commission an insight into their experiences within Australia's statutory care system.

CREATE Foundation's policy positions are informed by the voices of children and young people gathered through consultation and survey. CREATE believes there are benefits for the Royal Commission in providing opportunities, when appropriate, for children and young people to participate in dedicated consultations on issues such as the developing child safe institutions.

CREATE advocates for the rights of children and young people in out-of-home care; therefore this response is informed by the experiences young people have relayed to CREATE in various forums. The points discussed herein may be generalised across institutions and organisations that work with children and young people.

In response to Issues Paper 3, CREATE focuses on the importance of institutions fostering a culture which empowers children to speak up on a variety of issues (including any concerns about safety or disclosures of harm), the importance of clear and accessible complaints mechanisms, the value of independent oversight and the importance of developing processes and guidelines which are consistent with relevant legislation and best practice.

Child Safe Institutions core strategies

A child safe organisation is one in which children are aware of the standards of treatment they are entitled to and empowered to speak up on issues of concern. This involves both providing children with information on acceptable standards of behaviour as well as how to raise concerns if they feel unsafe or concerned about something.

A child safe organisation should strive to make children and young people aware of the standards of care they are entitled to (in an age-appropriate and child-friendly manner). Awareness of child rights was one of the issues examined in CREATE Foundation's 2013 Report Card.¹ The Report Card involved a detailed analysis of the results of a survey of over 1,000 children and young people in statutory out-of-home care in Australia.

In Australia most states and territories have adapted the guiding principles of the Convention on the Rights of the Child (UN General Assembly 1989) to develop their own individual Charter of Rights for Children and Young People in Out-of-Home Care (or similar).²

¹ <http://www.create.org.au/create-report-card-2013>.

² McDowall, J.J. (2013). *Experiencing out-of-home care in Australia: The views of children and young people (CREATE Report Card 2013)*. Sydney: CREATE Foundation, page 72.

Interestingly CREATE Foundation's Report Card found that of all respondents in the 15-17 year age group, only 17.8% knew about the Charter of Rights in their state or territory.³ For 'child safe' strategies to be effective, children and young people need to be aware of the standards of care they are entitled to and they must be empowered to raise any concerns about safety and to disclose harm.

Children and young people's confidence in raising complaints and concerns is also an important component of an organisation which is 'child safe'. The 2013 Report Card identified that knowledge of the complaints process was variable across jurisdictions. Nationally, only half of all respondents claimed that they knew how to complain about any concerns they may have. In some states this was lower; in NSW for example only 38% said they knew how to make a complaint. Additionally, as might be expected, the strongest effect on variations to this question involved age. More of the older respondents had the necessary knowledge of the system and had been confident enough to speak up about their concerns.⁴ This highlights the importance of tailoring programs to meet the needs of particular cohorts of children so that they can understand concepts of safety, identify concerns and, if necessary, raise them as concerns.

The CREATE Report Card also analysed the reasons given by respondents for not complaining to determine the reasons for not making a complaint. In total, 195 children and young people provided thoughts on why they changed their minds about making a complaint. Of these, 35.4% indicated that the situation improved and the issues were no longer worth worrying about. However, of concern, a further 28.7% stated that they felt scared or were concerned about possible consequences. Some were also advised not to complain by others (10.3%).⁵ Ensuring complaints mechanisms are accessible and clear for children is a crucial component of fostering a 'child safe' environment.

In developing 'child safe' policies and processes it is crucial for organisations to consider not only the age-appropriateness of strategies but also potential barriers to children and young people being able to identify and raise concerns. Identifying and addressing such barriers is a crucial aspect of minimising the potential for harm to occur to children in the organisation and should also assist in developing an understanding of what is meant by 'child safe' for children and young people in a variety of contexts. For example, programs and supports may need to be tailored to the particular needs of children with disability, those from cultural and linguistically diverse backgrounds and Aboriginal and Torres Strait Islander children. Awareness of power dynamics between children and adults should also be fostered in organisations and taken into account in the development of child related policies and procedures. Fostering an organisational culture which recognises the barriers children and young people may face in being aware of their own rights and enabling them to speak up is an important step to addressing organisational factors which may have provide opportunities for harm to be undetected.

Examining complaint processes in closed environments such as detention centres is also a useful way to assess children's confidence in raising issues in particular types of institutions. The *2011 Queensland Views of Young People in Detention Centres Report*⁶ identified that around one third of young people (34%) reported either having made a complaint about their care in detention or having thought about making a complaint. However, of these, 56% did not go through with making a complaint. Of those who decided not to go through with making a complaint, the most common

³ McDowall, J.J. (2013). *Experiencing out-of-home care in Australia: The views of children and young people (CREATE Report Card 2013)*. Sydney: CREATE Foundation, page 70-72.

⁴ McDowall, J.J. Above (2013).

⁵ McDowall, J.J. Above (2013).

⁶ Commission for Children and Young People and Child Guardian. (2011). *Views of Young People in Detention Centres, Queensland, 2011*. Brisbane, page 11.

reason given for not doing so was that they did not believe that they would be taken seriously (55%). The second most common reason given for not going ahead with a complaint was concerns about losing privileges or being treated differently.⁷

Once again, this highlights the importance of ensuring children and young people feel comfortable with raising any issues or concerns and that processes for handling complaints are fair, transparent and easy to understand. Any complaints or concerns raised by children and young people should be taken seriously and dealt with in a supportive and fair way. Efforts should be made to foster an environment where concerns can be raised via a variety of mechanisms and organisational culture should focus on encouraging young people to speak up on a variety of issues without fear of potential punitive action. It is also crucial to encourage and facilitate children and young people's contact with adults who are not the usual carer of the child or young person. If children and young people are encouraged to develop multiple positive, trusting relationships then this may assist in preventing children and young people who are being harmed from being fearful of raising concerns.

Effectiveness of child safe strategies

Child safe strategies developed by organisations must be consistent with relevant legislation and should also be guided by identified best practice in the area. Organisations should be able to access information to support the development of these strategies easily and then tailor this to their own specific contexts. For example, information detailed in policies in relation to handling potential abuse or neglect should be consistent with relevant state and territory legislation. Organisations could then tailor this to their own specific contexts through the use of examples and scenarios.

The monitoring and oversight of organisations and institutions is an important component of assessing the effectiveness of child safe strategies. While individual organisational responsibility is crucial it is also important that independent oversight and reporting mechanisms are in place. Oversight should encompass complaints mechanisms so that individuals, including children and young people, have easy access to an independent process.

CREATE subscribes to and actively champions the internationally recognized right of children and young people to have a say in decisions that affect their lives, as outlined in Article 12 of the United Nations Convention on the Rights of the Child. CREATE recognises that this particular right is paramount to the building and maintenance of a robust child protection system and includes independence from government and oversight of government as a system of care.

Enforceable requirements for child safe environments

As highlighted in CREATE Foundation's previous submission to Issues Paper 1, employment screening frameworks for working/volunteering with children form an important component of developing child safe institutions and organisations.

Consultation

Consulting directly with children and young people on their views of what is meant by 'child safe' should be considered as a way to ensure that strategies developed are ones which are suitable to the needs of children and young people. Incorporating the views of children and young people in

⁷ Commission for Children and Young People and Child Guardian. (2011). *Views of Young People in Detention Centres, Queensland, 2011*. Brisbane, page 43.

developing core strategies also demonstrates the value an organisation places on the voices of children and young people. This emphasises the importance of listening to their views and taking these into account in decision making processes and can have a positive impact on the culture of an organisation.

Organisations should also be aware of ensuring strategies are suitable to the needs and capabilities of children and relevant to the particular context of their organisation. For example, organisations working with children with particular vulnerabilities (such as disability) should take this into account when developing policies and strategies for those who may have difficulty communicating.

Should the findings of the Royal Commission determine the need for changes to policy and legislation in terms of developing organisational cultures which foster a child safe environment, CREATE Foundation strongly recommends the involvement of children and young people, key child protection organisations in the development of any proposed changes. In addition to consulting with state and territory governments and key non-government organisations, CREATE recommends consultation with children and young people in care and key Aboriginal and Torres Strait Islander and Culturally and Linguistically Diverse organisations.

Thank you for providing the opportunity to respond to the Royal Commission's third issues paper. CREATE commends the Royal Commission for encouraging discussion of these important issues.

CREATE Foundation Contact:

Claudia Whitton
Policy and Research Manager
CREATE Foundation
Email: claudia.whitton@create.org.au
Phone: (07) 3255 3145