

Review of Children’s Guardian accreditation and monitoring functions

The following responses have been compiled by ACWA based on feedback from a consultation forum jointly hosted by ACWA/AbSec on 30 November 2021 which involved around 40 participants. In addition, ACWA has taken into account the separate submissions prepared by member agencies that have been provided to ACWA, along with the results from a survey we issued to ACWA member agencies following the forum. We note that AbSec has prepared its own submission, however, ACWA member agencies had the benefit of hearing the views of AbSec member agencies at the forum before submitting survey responses.

Accreditation of designated agencies and adoption service providers	
Key proposals	
<p>Applications for accreditation as a designated agency may be made by a Government Service agency or a charitable or not-for-profit organisation. This provision would only apply to new providers seeking provisional accreditation. Existing for-profit providers currently delivering services to children and young people in statutory out-of-home care would be eligible to apply for a renewal of accreditation.</p>	<p>Just over half of our members indicated that they supported this proposal. Comments included:</p> <ul style="list-style-type: none"> - <i>“There is too much risk associated with monetary gain. In regard to current “for profit” providers who wish to apply for renewal, it is recommended that they are assessed in more detail by the OCG to ensure no conflict of interest from a governance and financial perspective. Outcomes for children at the centre of the work must be demonstrated.”</i> - <i>“The provision of both OOHC and adoption services should not be delivered by for-profit organisations. There is an inherent conflict of interest with financial outcomes and child focused outcomes. For profit providers should not only be prohibited from obtaining a new accreditation but they should not be able to renew their accreditation.”</i> - <i>“There are sufficient not-for-profit providers who are capable of delivering quality OOHC and adoption services.”</i> - <i>“Not For profits should also be funded at the same rate and have the same accountabilities as the not for profit sector.”</i> <p>Around one third were ‘unsure’.</p> <p>The remainder said that they did not believe ‘for profit’ providers should be excluded from being accredited designated agencies, noting that the accreditation process itself provides appropriate safeguards, and that having more options rather than less for children was the best approach.</p>

	<p>Amongst the group who did not oppose the inclusion of for profits, there was support for having certain additional criteria to more carefully guard against the potential conflict of interests that could arise when the issue of profit is in the mix. For example, extra due diligence should be exercised during the accreditation process regarding for profits and include all relevant oversight and regulatory expectations on the agency from bodies such as ASIC.</p> <p>This group also expressed some concern that the paper does not make clear whether this proposal has arisen from particular problems identified with for profit providers, and if this is the case, there should be greater visibility over any identified problems to allow agencies to give a more informed view on this proposal.</p>
<p>Retain the existing provisions regarding applications for accreditation as an accredited adoption provider.</p>	<p>Almost two thirds of our members indicated that they supported this proposal.</p> <p>One agency who provides adoption services did not support the proposal, and around one third were 'unsure'.</p>
<p>Questions</p>	
<p>Should accreditation to provide statutory OOHC services be limited to Government Sector agencies and charitable or not-for-profit organisations?</p>	<p>Almost all providers supported this proposal – see reason provided above.</p>
<p>Are there benefits in having a mix of for-profit and charitable or not-for-profit providers in the statutory OOHC system?</p>	<p>An overwhelming number of providers did not agree that a mix of NFP and for profit providers would bring benefits to the system.</p> <p>In addition, it was noted that the inclusion of for profits creates more competition for workers in an already scarce workforce. It was also noted that certain for profits – for example, those providing ACA services – are able to pay staff at rates non-profits cannot afford because of the very high rate at which they are funded to provide these services, and that this results in the loss of skilled staff in the non-profit sector.</p>

Application for accreditation as a designated agency	
Key proposals	
Applications must be made in a form approved by the Children’s Guardian.	<p>Almost all providers supported this proposal. It was noted that:</p> <ul style="list-style-type: none"> - <i>“This could provide a guide/basis for what is required.”</i> - <i>“Could reduce the time wasted if further information is required.”</i> - <i>“Depends on the nature of the application.”</i> - <i>“Proposed changes must be communicated to allow for consideration and feedback.”</i> - <i>“As long as the sector is consulted on any significant changes and limits regulatory burden.”</i>
Applications for accreditation are no longer required to include a behaviour management and support policy.	<p>Just over half of our members indicated that they supported this proposal and noted that relevant policies and procedures could be reviewed during on-site audits.</p> <p>Around one third did not support the proposal. Comments include:</p> <p style="padding-left: 40px;"><i>“This is such a crucial area for children, young people, and those who care for them. Mind you, it could have a better term than Behaviour Management that is more representative of the trauma informed care that the children and young people need.”</i></p> <p style="padding-left: 40px;"><i>“Provision of this policy should be mandatory.”</i></p> <p><i>Other comments included:</i></p> <p style="padding-left: 40px;"><i>“This area requires assessors to have sound understanding and capability. It can be a bit hit and miss.”</i></p> <p>The remainder of agencies ‘were unsure’ about the proposal.</p>
Remove provisions regarding an agency taking on the application for accreditation of another agency	<i>Most agencies supported this proposal.</i>
Questions	
Do you agree that an application for accreditation should set out how the	All but three agencies said that, while they agree with this proposal in principle, it is essential that the OCG produces guidance for the sector – in collaboration with AbSec – about what good practice

agency intends to meet the particular needs of Aboriginal children and young people?

actually looks like in a practical sense in seeking to meet the needs of Aboriginal children and young people in care, and that this work should dovetail with the guidance for agencies about effectively implementing the Aboriginal Case Management Policy (ACMP). It would not be appropriate to introduce this requirement in the absence of such guidance being made available.

Agencies also stressed that it is important to recognise that the 'best placement' is with an ACCO, but when this cannot occur, guidance of the type noted above is essential for mainstream agencies. It is also essential that there is transparency around how agencies intend to transition Aboriginal children and young people in their care to ACCOs.

See also **Appendix 1** – Feedback DCJ in connection with the recommissioning process – in response to this question:

'What adjustments to the PSP service system could be made to maximise opportunities for greater compliance of the Aboriginal Child Placement Principles to enable more Aboriginal children to be supported by Aboriginal agencies, cared for by Aboriginal carers and receive culturally appropriate supports'

What things should an agency applying for accreditation consider when reflecting on its capacity to provide culturally safe care?

The NSW Government must urgently develop a strategy and transition plan to grow the Aboriginal Community Controlled Sector so that more Aboriginal children, young people and their families can be supported by ACCOs with an emphasis on prevention and early intervention. This strategy must be co-designed with Aboriginal peaks, ACCOs and communities and include a clear vision, targets and strong monitoring and reporting on Government's performance. It must also be adequately resourced, incorporating implementation requirements and the role of ACCO's in supporting their local communities.

In addition, there is an urgent need for government to work with Aboriginal leaders and Aboriginal organisations on clearly articulating what is meant by, and embedding in practice, the principle of self-determination. If this work is properly carried out, along with a strong emphasis on early intervention and prevention, it has the potential to reduce the number of children in OOHC.

Culturally informed and safe care can only be delivered when agencies are provided with sufficient resources to enable quality assured organisational support and guidance for ongoing caseworker training and development regarding the ATSICPP and ACMP.

While the above strategy is developed and implementation occurs, non-ACCOs require additional resources and supports. This issue has been emphasised with DCJ as part of the commissioning process – **see Appendix 1.**

	<p><i>Other specific factors to consider noted include:</i></p> <ul style="list-style-type: none"> - <i>Having a RAP in place</i> - <i>Partnering with an Aboriginal agency and evidence of this, example, MOUs/Collaboration Agreements</i> - <i>Having Aboriginal board members</i> - <i>Employing Aboriginal staff and engaging culturally competent carers</i> - <i>Robust cultural awareness training for staff and carers</i> - <i>Ensuring that all Aboriginal children have a meaningful cultural care plan</i> - <i>Ensuring that Aboriginal people have a role in the organisation where they are shaping the OOHC program and providing the guidance, and wherever possible, providing the direct care and casework to children and young people, and working with their family and community.</i> - <i>Connection to family, culture, community/ policy and procedures that reflect the Aboriginal placement principles and guidance in the ACMP</i> - <i>A robust guiding framework including policies, procedures, learning and development, relationships with ACCOs</i> - <i>Aboriginal led decision making, access to culturally appropriate services, adequate funding to provide necessary supports and services</i> - <i>Good quality community engagement. restoration, and family finding work</i> - <i>Program design and family assessments are culturally appropriate</i>
Experience and Qualifications of principal officers and structure of governing bodies	
Key proposals	
<p>An agency must be able to demonstrate that the principal officer has relevant qualifications or experience in delivering services to children and young people, noting that an agency may await the outcome of its application for accreditation before appointing a principal officer.</p>	<p>The responses on this proposal were mixed.</p> <p>However, there was a shared view that the OCG should make clear what type of qualifications they have in mind for Principal Officers to enable agencies to properly consider the merits of the proposal, and that whatever may be developed should not be overly prescriptive and needs to take account of relevant experience. The consultation group also noted that it would be useful to have an understanding of what problem the OCG was attempting to fix in making this suggestion. And, that the OCG needs to be bear in mind that POs are often responsible for delivering a range of programs, and their range of skills, experience and leadership abilities are all factors in deciding their suitability as PO.</p>

	<p>Comments regarding the potential complexities involved with introducing this type of requirement are noted below:</p> <ul style="list-style-type: none"> - <i>“This is crucial to ensuring best practice and care is provided to children and young people, and support to carers, staff, and the Executive who also have responsibilities that they may not always understand if they do not have these qualifications and experience.”</i> - <i>“Many agencies are not just providing OOHHC so cannot prescribe these quals.”</i> - <i>“The autonomy of agencies to employ/appoint should be respected.”</i> - <i>“The proposed requirement is very broad”</i> - <i>“Consideration should be given to whether it is appropriate to apply a criteria similar to that for PO's in cl.32 of the Adoption Reg.”</i> - <i>“Clarity would need to be given around how ‘experience’ is viewed, and not just formal quals.”</i> - <i>“The OCG and DCJ need to understand the compliance functions of the PO and not assign clinical/therapeutic functions to an administrative role.”</i> - <i>“The OCG should not seek to circumvent communicating with the CEO by only communicating with the PO.”</i> - <i>“The OCG needs to issue an updated formal guideline setting out the requirements of POs in the Act (to act as a ready reckoner)”</i> - <i>“This requirement could be discriminatory in terms of its impact on smaller Aboriginal organisations who have yet to build capacity to employ staff with relevant skills and qualifications.”</i>
<p>An applicant for accreditation must be able to demonstrate that it has a governing body with at least four members who are independent of the organisation (that is, not engaged by the agency as an employee, a volunteer or an authorised carer), before the Children’s Guardian will consider its application for accreditation.</p>	<p>Just over half of our member agencies disagreed with this proposal. A shared view was once again held about the importance of the OCG revealing what problem they are trying to fix in making this suggestion in order to have a more informed debate about its merits.</p> <p>There was also universally strong concern expressed about seeking to limit the voluntary work carried out by board members for agencies, as this type of support is often critical to small and larger agencies accessing advice and expertise that might otherwise be prohibitively expensive, but is provided by members as part of their commitment to and working knowledge of the agency.</p> <p>The following additional comments were made:</p> <ul style="list-style-type: none"> - <i>“All of our existing board are independent of the organisation, however I am aware that lots of agencies are not in the same position, and I am unsure how this would affect them.”</i>

- *“Absolutely not. It is not up to the OCG to prescribe Board Members and agencies are broader than just OOHC. This is overstepping the mark.”*
- *“Need to clarify volunteer.”*
- *“Since when does a state-based regulator impose conditions on a national platform e.g., corporate requirements defined in National legislation?”*
- *“Perhaps upon initial accreditation, however not ongoing once accredited”.*
- *“This would be hard in rural and remote areas“*
- *“This may exclude smaller, culturally specific agencies.”*
- *“As long as orgs can demonstrate independence and good governance which focuses on the best outcomes for the child, this should be all that is needed in this sphere.”*
- *“Yes there should be a portion of the Board who are independent and clear of any conflicts of interest. However, how does this work for Board Members who are unpaid and therefore volunteering in their Board role?”*

Questions

Do you agree that the principal officer for an agency must have relevant skills and experience in working with children and young people?

Around two thirds of agencies supported this proposal. See also answers above.

A suggestion was also made that agencies should be able to have more than one PO noting that agencies can be very large and widely spread geographically, with multiple service areas – allowing more than one designated individual could in fact enhance the quality of oversight expected of a PO.

Those who disagreed noted:

- *“No as agencies’ service footprints are often broader than OOHC.”*
- *“Agencies employ supervised Staff.”*
- *“Not until such time as DCJ and OCG get their PO requirements clear.”*
- *They need to demonstrate an understanding of the issues.*
- *“The PO should only need to evidence that they have access to personnel and external advisors with the relevant skills and experience in working with children and young people.”*
- *“POs/ CEO's/Heads of Agencies come from a range of backgrounds, for example, Chartered Accountants, Lawyers, etc., and may not necessarily have a child and family background. The Principal Officer can employ social workers with the relevant qualifications and experience in working with children and young people.”*
- *“Please define what ‘relevant’ is.”*

What skills and experience do you believe are most relevant for the principal officer role?

Broadly, the principal officer should ideally possess relevant skills and experience in delivering services to children and young people and have the relevant tertiary qualifications or equivalent to enable them to do so. Capabilities are also inclusive of leadership and management, financial literacy, program design, strategy, research and advocacy.

Other comments regarding relevant skills and experience include:

- *Statutory child protection/OOHC experience*
- *Statutory OOHC experience*
- *Skills and experience in applying and working with the Care Act/Children’s Guardian Act*
- *The assessment, supervision, training and development of authorised carers.*
- *Case Management with children and young people in OOHC.*
- *Experience in administrative law, decisions, and processes.*
- *Management and Leadership experience in a child protection role*
- *Tertiary qualifications in the relevant field, such as social work, psychology.*
- *Qualification in a child/ family related field and experience working with children and vulnerable families*
- *Understanding of culturally safe practices*
- *Experience in strategic planning, management and leadership*
- *Understanding regulation, ideally, accreditation processes and requirements*
- *Understanding restrictive & prohibited practices*
- *Understanding of child safe practice*
- *Understanding of evidenced based & trauma informed practices.*
- *Understanding of the resources required to sustain a workforce experienced in dealing with healing and recovery Management*
- *Compliance/governance*
- *Budgeting/financial planning*

Do you agree that having an appropriate governance structure in place should be a pre-requisite to apply for accreditation?

Agencies support the proposal that a governing framework, inclusive of a governing body, should be in place prior to accreditation. The governing framework is critical for setting and overseeing the agency’s governance, strategy, culture, finance and audit, and that there are systems in place to ensure best practice service delivery. A governance framework should include a board, sub-committees (where relevant) and have clear engagement mechanisms with the CEO and Executive Leadership Team.

Accreditation of new providers	
Key proposals	
As part of fulfilling responsibilities to accredit designated agencies or adoption service providers within the available resources of the OCG, the Children's Guardian may prioritise applications for accreditation.	Just over half of the agencies supported this proposal but with a caveat that it would not be appropriate to create a priority approach without being transparent regarding the criteria/parameters to avoid it being used as a way of dealing with internal workload management issues. Ideally, all accreditation applications should be dealt with in accordance with standards and be processed in a timely manner without the need for such an approach.
In the exercise of the Children's Guardian's discretion, the Guardian may prioritise applications from Aboriginal Community Controlled Organisations, organisations specialising in services where there may be a gap in the system, such as mental health or disability services, or organisations operating in geographical areas where there is a shortage of services. Applications from other providers would be considered after priority applications have been assessed. The OCG will make the basis for determination of priority groups publicly available	Just over half of the agencies supported this proposal but restated the desire for clear parameters and transparency. Ideally, the OCG should be appropriately resourced to process all applications in a timely manner.
An agency that has had its accreditation shortened or cancelled may not re-apply for accreditation for two years, even if constituted as a new entity within the two-year period.	The vast majority of agencies agreed with this proposal.

Questions	
Do you agree that the Children's Guardian should exercise discretion in prioritising applications for accreditation?	<p>See answer above.</p> <p>Agencies support the prioritisation of applications which address gaps and unmet needs in the sector, however the sector requires further information on the criteria the OCG will apply to exercise its discretion and this should be settled in collaboration with the sector.</p>
Do you agree with the proposed priority groups at (9) above? Are there other organisations that should be prioritised?	<p>Agencies agree that prioritising accreditation of ACCOs is essential. However, there is a missing step in the proposed solution. DCJ and the OCG should be working collaboratively with existing accredited agencies to address service gaps, as opposed to introducing new providers into an already crowded service system.</p>
Do you agree that a designated agency or an adoption service provider that has had its accreditation shortened or cancelled should be prohibited from applying for accreditation for a period of time?	<p>Three quarters of agencies support this proposal and noted that no agency should remain operational if they are not meeting sufficient standards of service delivery within a 12-month period.</p>
Accrediting 'models' of statutory OOHC	
Questions	
Do you agree with the proposal to accredit an agency to provide statutory OOHC, rather than specifying whether the agency can provide foster care, residential care or both?	<p>Around two thirds of agencies did not support this proposal. There are inherent and fundamental differences in providing home-based care and residential care. There should not be an assumption that because organisations are accredited to deliver one type that they can competently deliver the other. Foster care and residential care are discrete child placement types with research proven differential life outcomes for children.</p>
Would this approach provide greater flexibility for the way your organisation delivers services?	<p><i>No.</i></p>

	<p>The relevant issue is better alignment of the home-based and residential care systems. Further work is required by agencies working with DCJ to address the barriers that are preventing CYP with very complex needs from timely placement into Intensive Residential Care and avoiding them entering Alternative Care Arrangements.</p> <p>However, some agencies who were not against the proposal indicated that it would make it easier when they cannot find options for children and young people and may need to consider a residential model, however, in saying this, agencies would be concerned that such an approach may not be in the best interests of children and young people if it isn't carefully planned, managed and resourced. There would be merit in the OCG discussing this issue with the sector further.</p>
<p>Are there any risks or challenges in providing agencies greater flexibility in how they deliver services?</p>	<p>Most agencies indicated that there would be risks and challenges.</p> <p>Although there are similarities in both care types, the risks associated with delivering a different service include the following:</p> <ul style="list-style-type: none"> - <i>A foster care agency may lack expertise, resources and facilities to provide high quality specialised, therapeutic residential service. There is inherent risk in a foster care agency adapting its core function of delivering home based care to providing a robust model of residential care. For example, residential care requires oversight of a different staff/carer cohort and has additional compliance obligations.</i> - <i>There will be an increased reliance by foster care providers to use residential care solutions for home-based care disruptions. Residential placements are at risk of becoming long term solutions to short term placement challenges. This is particularly concerning for Aboriginal children and young people who are already over-represented and places agencies at risk of repeating past mistakes.</i> - <i>Agencies are already experiencing significant challenges with obtaining appropriate insurance coverage. This change has the potential to exacerbate the problem with unqualified and inexperienced agencies delivering sub-par residential care and witnessing a rise in reportable conduct allegations, workers compensation claims, legal claims and correspondingly further impacting insurance availability.</i>

An alternative accreditation process for short-term emergency care providers

Questions

What are your views on creating a new class of accreditation for providers that provide short-term emergency care only?

Most agencies did not consider this to be a good idea; others indicated that more information was needed.

Examples of responses received that were against the idea of a new class of accreditation include:

- *Not supported. Firstly, this proposal is a direct contradiction with the proposal regarding home-based care and residential care. Short-term emergency care is a sub-set of home-based care.*
- *Again, it will lead to a lower quality of care.*
- *No, it could also increase work and red tape.*
- *Care needs to be taken that any move to accredit services to provide short-term emergency care does not limit the options available to agencies when needing these type of placements*
- *This is not supported. It contradicts OCG recommendation to combine foster care and residential care. Short-term care is a subset foster care or residential care.*
- *I think the system for accreditation is not working well, I don't know how you would add to the administrative burden or how the OCG would manage that workload.*
- *For what purpose? This would just add to the current systemic abuse of moving children between carers/agencies. Hardly seems in line with permanency principles.*
- *It doesn't make sense to have a broad accreditation.*
- *Need more information.*
- *Whilst it could improve service delivery and expectations and therefore outcomes for children, accrediting these providers could lead to DCJ using them more frequently as they would be perceived as credible.*
- *Current providers are already providing this. No new class of accreditation needed.*

Examples of responses who supported the idea include:

- *Depending on the type of new class of accreditation, and if applied to current providers it may allow for the expansion of greater flexibility in responsive options.*
- *Absolutely necessary as currently services are mostly available via non-accredited for profit agencies. But still would need to cover all processes etc. that are in the best interests of the Children Young people.*

<p>Do you agree that providers accredited to provide emergency care only, should have limits placed on the types of services they can provide?</p>	<p>The majority of agencies said ‘yes’.</p>
<p>Do you agree that case management and decision making about the child’s care should remain with a fully accredited agency?</p>	<p>The majority of agencies said ‘yes’.</p>
<p>What risks or challenges do you foresee with the proposed model?</p>	<p>A common view was again expressed about the problem the OCG was trying to address here and understanding the background to the proposal would be helpful.</p> <p><i>Responses provided are reflected below:</i></p> <ul style="list-style-type: none"> - <i>By creating a new accreditation system for short-term emergency care this will further segment the service system and cause children to become “bed-blocked” as agencies seek to move children from one part of the service system to another. Further, short-term emergency care, as envisaged in this consultation paper, will become the primary (and only) means to address “hard-to-place” children and placement disruptions. Children will be at risk of multiple short term placement solutions instead of addressing their permanency needs in a timely manner and as informed by their development needs.</i> - <i>Rather than potentially introducing new providers to the sector, existing agencies should be provided with resources to build their capacity and remove the administrative burdens to providing emergency short-term care.</i> - <i>Further, introducing more providers in an already overcrowded sector will continue to reduce and dilute existing resources and funding which could be effectively utilised by long established, accredited agencies. The PSP initiatives have created opportunities for agencies to pursue permanency outcomes with specific, tailored care packages for children. Resources should be directed towards creating different service and funding models, which would be tailored to the individual needs of children.</i> - <i>Agencies in this category may not have a sufficient understanding of the system</i>

	<ul style="list-style-type: none"> - <i>Creating an accreditation for short-term care will end up creating another bottle neck in the system where children languish where they cannot move to another placement. This would be exacerbated by having different providers.</i> - <i>Poor communication between services (the placement provider if non accredited and the agency holding case management) could cause gaps in systems and processes leaving children and young people more vulnerable.</i> - <i>Agency would need to show capacity to meet standards.</i> - <i>Fundamentals not in place to support the CYP and staff.</i> - <i>'Drift' occurs with unaccredited agencies continuing to care for children for long periods of time and the standards are not maintained.</i>
Provisionally accredited agencies progressing to full accreditation	
Key proposals	
<p>Change to OCG policies to provide for provisional accreditation to commence on the date on which an agency first makes arrangements to provide statutory OOHC or adoption services.</p>	<p>The majority of agencies supported this proposal.</p>
<p>The Children's Guardian has the discretion to extend the accreditation of a provisionally accredited agency.</p>	<p>It is difficult for agencies to respond to this item as it's not framed as a proposal.</p> <p>The agencies who gave comments mostly highlighted that they had concerns about OCG having the discretion to extend provisionally accreditation, with the exception of new ACCOs or existing ACCOs that are growing under a wider capacity building strategy. Generally, agencies with small numbers should not be providing OOHC and adoption.</p> <p>Provisional authorisation should be consistent with the identified priorities of the OOHC and adoption sector, inclusive of special consideration for new ACCO providers. There should be no extension of provisional authorisation for non-ACCO agencies if they have not met prescribed minimum client numbers.</p>

It is a prerequisite for an application to renew accreditation that the agency has provided care in the 12 months prior to its application.

All but two agencies supported this proposal.

A new approach to monitoring and accreditation

Key proposals

The Children’s Guardian will determine applications to renew accreditation based on an assessment of an agencies’ compliance against the Standards and accreditation criteria. Evidence of compliance with the Standards and accreditation criteria may include:

- (i) assessment of an agency’s practices
- (ii) assessment of indirect evidence such as policies and procedures
- (iii) discussions with representatives of the agency

A strong and unanimous view was expressed that it is very difficult for agencies to respond to this proposal in a meaningful way without having more information about what it would involve in practice.

Agencies expressed concerned about the potential burden on them if the proposed changes result in the OCG visiting agencies more often, as this will often disrupt ‘business as usual’ even though that is not the OCG’s intention.

Agencies are also keen to understand from the OCG how the proposals will change the approach taken by assessors on the ground, especially against the background of there being quite varied approaches amongst assessors. In this regard, there was strong support for the OCG to consult the sector on the strengths and weaknesses of the approaches used by different assessors and distilling the feedback into a ‘best practice in accreditation assessment’ document that is made publicly available. (It is worth noting that a number of agencies noted the very constructive approach taken by Assessor, Allison Prior.)

It is important to note that generally, agencies are supportive of the OCG’s proposed ‘...restructure of its accreditation renewal and monitoring processes, to provide for briefer, but more regular monitoring of agencies’ practices, for the purpose of providing feedback regarding areas of strength and areas for improvement.”

Agencies are also generally supportive of the OCG’s proposal that, “*when the agency is due to renew its accreditation, the agency’s performance over the course of its accreditation period will determine what type of accreditation renewal assessment will be required. For agencies where there have been no concerns regarding compliance with the Standards, the accreditation renewal assessment will be*

	<p><i>brief and only focus on a small number of core Standards. For agencies where there have been compliance issues, the renewal assessment will be more comprehensive”.</i></p>
<p>The Children’s Guardian has discretion to determine an agency’s application to renew accreditation as a designated agency or an adoption service provider based on an assessment of compliance with specific Standards, or all Standards and accreditation criteria.</p>	<p>See above.</p>
<p>The Children’s Guardian may, in determining an agency’s accreditation, consider information gathered during monitoring of the agency’s compliance with the Standards and accreditation criteria over the course of the agency’s accreditation period.</p>	<p>See above comments.</p> <p>The consultation paper was not clear on how the OCG will determine which 'focus/theme' standards will be assessed at what point, and how the OCG will avoid its assessors applying their discretion unfairly regarding the emphasis they will place on compliance with certain standards. Agencies have strongly called for transparency around the proposed process and its potential practical and logical impacts. As noted above, agencies are concerned about multiple visits occurring in relatively short timeframes.</p> <p>In addition, the OCG should clearly articulate the framework it intends to use to conduct assessments under the proposed model and ensure that it is well communicated and implemented. In this regard, the OCG should work with ACWA/AbSec and the sector to develop model policies and procedures so that what constitutes best practice is widely understood across the sector, with the focus of assessment being on agencies demonstrating how they intend to implement policies and procedures and avoiding duplicated effort taking place across the sector.</p> <p>An effective model also requires every assessor to have appropriate qualifications and experience.</p>
<p>The processes for determining applications to renew accreditation as a designated agency will be replicated to the greatest extent possible for adoption service</p>	<p>Half of the agencies supported this proposal, but the other half said further information is needed.</p>

providers applying to renew accreditation.	
Questions	
<p>What are your views on the proposal for more regular monitoring of agencies' compliance with the Standards and a more streamlined accreditation renewal process?</p>	<p>See above comments.</p> <p>While agencies support the emphasis on streamlining the current monitoring program and accreditation renewal process, the paper lacks detail and without further information on how this will be operationalised and implemented, agencies are unable to support the change.</p> <p>Without this information, there is a real risk of the process becoming more burdensome and increasing compliance activity as compared to the current system.</p> <p>Agencies requires more detail about how the OCG will execute monitoring visits, otherwise the risk is a more frequent duplication of the existing monitoring five-year monitoring regime.</p>
<p>Do you agree that the Children's Guardian should have discretion to undertake a briefer accreditation renewal assessment where an agency has demonstrated compliance with the Standards and accreditation criteria over the course of its accreditation period?</p>	<p>Agencies all supported this proposal but again noted the lack of detail about how the system would be streamlined.</p>
<p>Do you agree that information gathered by DCJ or other oversight bodies, or information gathered by the OCG for other regulatory purposes should be considered as evidence of compliance with the Standards and other accreditation criteria? What sorts of information should be relevant to the Children's</p>	<p>It is a reasonable suggestion that the OCG may seek feedback about an agency's performance from other relevant entities, including from within divisions of the OCG such as the Reportable Conduct Division. However, this would depend on clear, transparent guidelines of the type of information required and its quality assurance together with commitments to procedural fairness, if information is to be relied on for decision-making purposes. Ideally, any division of the OCG or external body should have already shared any concerns with an agency before sharing it with the OCG, and we would suggest that the OCG seeks to clarify this as part of obtaining such feedback from other sources.</p>

Guardian's decision whether to renew accreditation?	<p>This proposal requires consultations with agencies as the parameters of the proposal should reflect a mutually shared agreed intent for ongoing quality improvement in the sector and allow for reciprocal responses.</p> <p>Agencies also support the OCG considering an agency's performance outcomes with other regulatory oversight bodies, such as NDIS and ASES, as these accreditations have many areas of duplication relating to governance, financial management, risk management and client focussed practice.</p>
Do you agree that the proposed processes for determining applications for renewal for designated agencies should be replicated for adoption service providers?	<p>Most agencies supported this proposal, as there should be no differentiation between OOHC and adoption services.</p> <p>This response is subject to the above concerns being taken into account.</p>
Accreditation criteria	
Key proposals	
Retain existing provisions for the Minister to approve criteria and other Standards, on the recommendation of the Children's Guardian, for determining applications for accreditation as a designated agency.	The majority of agencies supported this proposal.
Clarify that the Standards and accreditation criteria must address practices that promote the safety, welfare and wellbeing of children and young people.	The majority of agencies supported this proposal provided that there isn't an attempt to prescriptively demonstrate this issue over and above compliance generally.

<p>Retain the existing provisions for the Minister to approve criteria and other Standards, on the recommendation of the Children’s Guardian, for determining applications for accreditation as an adoption service provider.</p>	<p>The majority of agencies supported this proposal, provided there is appropriate, prior consultation with agencies.</p>
<p>Retain existing provisions regarding a requirement to integrate to the greatest extent possible, accreditation criteria for adoption service providers with accreditation criteria for designated agencies.</p>	<p>The majority of agencies supported this proposal.</p>
<p>Questions</p>	
<p>Do you agree that the provision regarding what must be included in the Standards should be broadened to include practices that promote the safety, welfare and wellbeing of children and young people in OOHC?</p>	<p><i>See answer above.</i></p> <p>The majority of agencies supported this proposal, however as noted, it requires more detail, particularly if the OCG intends to focus on quality improvement of service delivery to children rather than compliance monitoring.</p>
<p>Transfer of accreditation</p>	
<p>Key proposals</p>	
<p>A designated agency or adoption service provider can apply to transfer its accreditation to another entity. The application to transfer accreditation</p>	<p>Agencies were mixed on this question.</p> <p>Barnardos indicated that it supports the OCG’s decision to retain the provision of the current arrangements that, <i>“the accreditation of a designated agency or an accredited adoption service provider (other than a departmental designated agency) may be transferred to another entity (such as</i></p>

<p>must be in a form approved by the Children’s Guardian.</p>	<p><i>an organisation that is not accredited) in accordance with requirements in the Care Regulation or the Adoption Regulation. Barnardos also noted it is a rare occurrence and should only occur under the circumstances described by the OCG, that is, when a designated agency is undergoing a restructure or merging with another agency.</i></p> <p>Other agencies said that they would support the approach, but caution was needed; and that it would depend on the circumstances.</p>
<p>The transfer of accreditation must be in accordance with guidelines issued by the Children’s Guardian.</p>	<p>Agencies mostly supported this proposal. See above response.</p>
<p>Conditions on accreditation and process of accreditation</p>	
<p>Key proposals</p>	
<p>Retain existing provisions regarding accreditation periods for designated agencies and accredited adoption services providers including provisions to vary or extend accreditation periods to align periods of accreditation for agencies that are accredited as both designated agencies and accredited adoption service providers.</p>	<p>Most agencies supported this proposal.</p>
<p>Where the Children’s Guardian defers a determination of an agency’s application to renew accreditation the agency must participate in a risk management program approved by the Children’s Guardian.</p>	<p>Most agencies supported this proposal, but they also commented on the lack of clarity about what a risk management program might entail.</p>

<p>Where a determination on an application for accreditation has been deferred for two years the application is automatically refused, unless the Children's Guardian is satisfied the risk management program should be extended for a further period.</p>	<p>Agencies support this proposal for a period of 1 year only.</p>
<p>Retain provisions regarding accreditation periods for agencies where a decision on an application to renew accreditation has been deferred.</p>	<p>Most agencies supported this proposal.</p>
<p>Retain provisions to extend accreditation to accommodate change in the administration of the OOHC and adoption sector.</p>	<p>As stated above, agencies generally support this proposal, however it should be limited to restructure or mergers.</p>
<p>Transfer conditions of accreditation requiring agencies to notify the Children's Guardian of certain things or to comply with guidelines issued by the Children's Guardian to Schedule 3.</p>	<p>Most agencies supported this proposal.</p>
<p>Impose a condition on all designated agencies that care may not be provided in a private home unless the care is provided by a person authorised as a care under clause 30 or clause 31 of the Care Regulation.</p>	<p>Most agencies supported this proposal, but it was noted that some flexibility may be needed in limited circumstances, such as during the COVID pandemic.</p>

<p>Retain provisions for the Children's Guardian to impose other, reasonable conditions on an agency's accreditation in addition to conditions of accreditation imposed by the regulations.</p>	<p>Most agencies supported this proposal.</p>
<p>Questions</p>	
<p>Do you agree that there should be a restriction on providing care to children and young people in a carer's private home unless the carer has been authorised under clause 30 or 31 of the Care Regulation? This means, for example that workers authorised to provide emergency care or workers authorised by DCJ to provide special care cannot care for children in their own homes.</p>	<p>Most agencies supported this proposal.</p>
<p>Do you agree that where a decision on an agency's accreditation is deferred, the agency should be required to participate in a risk management program?</p>	<p>Most agencies supported this proposal.</p>
<p>Shortening, suspending, or cancelling accreditation</p>	
<p>Key provisions</p>	
<p>The Children's Guardian may shorten or cancel the accreditation of a designated agency or an accredited</p>	<p>Most agencies supported this proposal.</p>

<p>adoption service provider in circumstances where:</p> <ul style="list-style-type: none"> • the agency or a principal officer made a statement or provided information that it knew to be false or misleading • the agency failed to comply with a condition of accreditation • the agency or the principal officer failed to comply with any obligations or restrictions imposed by the Children and Young Persons (Care and Protection) Act 1998 (or the Adoption Act 2000 in the case of an AAP) • the agency has failed to either wholly or substantially satisfy accreditation criteria. 	
<p>Providing greater clarity on the Children’s Guardian’s functions</p>	
<p>Key proposals</p>	
<p>Do you agree with providing greater clarity in the CG Act regarding the Children’s Guardian’s current monitoring and investigation functions in relation to designated agencies and accredited adoption service providers.</p>	<p>Most agencies agreed with this question, but also noted that more information being shared with the sector about this work would be helpful.</p>

Questions	
Do you agree with the proposal to provide greater clarity regarding the Children's Guardian's current work in monitoring and investigating designated agencies and accredited adoption service providers?	Most agencies said that they would like more information about this work to be shared with the sector.
Intersection with the Child Safe Scheme	
Questions	
What are your views on the statutory OOHC and adoption sectors combining under the Child Safe Scheme?	Subject to further information being provided about how the harmonization of the two schemes will be operationalised, agencies were generally supportive. Agencies have stressed that whatever approach is adopted needs to be efficient and streamlined.
What are your views on the 10 Child Safe Standards (and additional sector-specific accreditation criteria) becoming the new standards for the accreditation of statutory OOHC and adoption providers in the future?	Subject to further information being provided about how the harmonization of the two schemes will be operationalised, agencies were generally supportive. Agencies have stressed that whatever approach is adopted needs to be efficient and streamlined.
Are there benefits to having one set of standards across all child-related organisations? Or should the statutory OOHC and adoption sector remain as a separate scheme with its own Standards?	The majority of agencies support one set of standards across all child-related organisations to enable simplicity and consistency in oversight and accountability of these services as many are related or integrated with OOHC providers. However, a strong message came through that there should be investment in the development of model policies and procedures tailored to suit the OOHC environment to avoid duplicated effort by agencies, and which highlight best practice, with the support of the OCG. ACWA has advocated for this position for the past three years – see also submission on the Child Safe Standards Bill earlier this year – in our submission we argued that this approach will deliver a strong baseline for measuring quality and consistency, and will be far more cost efficient.

<p>If your agency provides other child-related services in addition to statutory OOHC/adoption, and the sector supports a separate set of standards for statutory OOHC and adoption providers, do you anticipate any challenges with operating under two sets of standards?</p>	<p>Most agencies indicated their support for one set of standards and raised concerns about the regulatory burden associated with compliance with two schemes.</p>
<p>If the 10 Child Safe Standards were to replace the existing standards, what other accreditation criteria should be included to reflect the particular needs of children and young people in statutory OOHC or adoption?</p>	<p>The national child safe standards are very broad and are directed towards safety primarily rather than life outcomes for CYP which must remain a focus for OOHC. Therefore, it would be necessary for the OCG to develop a supporting evidence framework tailored to suit the OOHC environment to ensure that this focus isn't lost if the 10 CS Standards replaced the OOHC standards.</p>
<p>What are your views on how enforcement would operate for statutory OOHC and adoption providers, under the child safe scheme?</p>	<p>Agencies are unable to comment on this proposal due to the lack of information provided by the OCG about how the proposed amendments to shorten and streamline the OOHC and adoption accreditation and monitoring system will operate in practice.</p>

APPENDIX 1: PSP FOSTER CARE AND FAMILY PRESERVATION RECOMMISSIONING FORUM

6 DECEMBER 2021

DCJ Paper Issues for Discussion	
<p>1. Overrepresentation of Aboriginal CYP in OOHC</p> <p>Aboriginal children continue to be overrepresented across the child protection and out-of-home care system. Addressing this overrepresentation is a key focus of the NSW Government in line with the Family is Culture (FIC) review and Closing the Gap.</p> <p>Aboriginal children, where possible, should be supported to remain safely at home or be cared for by members of their family and community. There is strong commitment shown by all service providers to improving outcomes for Aboriginal children, families and communities and more work needs to be done to reduce the number of Aboriginal children entering care.</p> <p>Aboriginal children and families are therefore a priority for preservation and early intervention supports. Under the PSP, the majority of family preservation packages (380 or 55%) have been allocated to and successfully delivered by Aboriginal Community Controlled Organisations (ACCO) or in partnerships.</p> <p>Around 50% of Aboriginal children in care are managed by the non-government sector, half of which are supported by ACCOs. Currently, out of the 44 Foster Care providers delivering PSP there are 14 ACCOs. More needs to be done to increase the number of Aboriginal carers in NSW and strengthen the service delivery capacity of ACCOs to best meet the needs of Aboriginal children and families, comply with the Aboriginal Child Placement Principles and reduce the number of Aboriginal children in care.</p> <p><i>Q: What adjustments to the PSP service system could be made to maximise opportunities for greater compliance of the Aboriginal Child Placement Principles to enable more Aboriginal children to be supported by Aboriginal agencies, cared for by Aboriginal carers and receive culturally appropriate supports?</i></p>	
Transition planning, capacity building and increased investment in cultural care	
	<ul style="list-style-type: none">• In light of the significant over-representation of Aboriginal children and young people in care, it is critical that as part of the re-contracting process, DCJ puts flesh on how it will work with the Aboriginal and mainstream OOHC sectors to develop a transition plan aimed at building the capacity of the Aboriginal OOHC sector and progressively moving Aboriginal children into the care of Aboriginal agencies. This work needs to take place alongside efforts by DCJ to reduce the number of Aboriginal children coming into care in the first place.

	<ul style="list-style-type: none">○ There must be a greater investment in family preservation packages to significantly stem the flow of Aboriginal children coming into care in the first place (over and above the current 50% of packages which clearly isn't making enough of a difference to reducing the overall numbers).○ As part of developing a transition plan, DCJ should provide greater and ongoing visibility over the number of Aboriginal children placed with ACCOs/NGOs and those in placements with DCJ, together with its plans for transitioning children across to the NGO sector with the priority being placement with an ACCO wherever possible. This type of clarity is essential for solid partnership work to take place between both sectors.○ In order to give effect to the commitment to transition Aboriginal children into the care of Aboriginal agencies, DCJ needs to examine the adequacy of the investment it has made to date to build the capacity and coverage of the ACCO sector.○ Increased investment in supporting ACCOs to provide advice and guidance to mainstream agencies – there is a cost for this collaborative work.○ Ensuring that quality data is collected about the placement type and agency type (ACCO/NGO/DCJ), experience and outcomes for Aboriginal children; and that this data is regularly analysed and shared with the whole sector. (This is linked to feedback that will be provided about enhancing key PSP activity and outcome data generally.)○ Building the capacity of the ACCO sector and complying with the ACCP in a 'structural sense' requires concerted efforts to increase the number of Aboriginal carers. There is strong support for a dedicated Aboriginal carer recruitment and support agency. It is unrealistic to expect a mainstream agency like My Forever Family to attract the interest of sizeable numbers of Aboriginal people to a caring role without the connections and networks into community that an experienced Aboriginal body would already possess. Feedback from ACCOs is that carers sent their way via MFF are often not authorised because they have a very different idea of what their role will entail, with many carers being less attracted to supporting children where restoration is the ultimate goal – a challenge also faced by the mainstream sector.○ More needs to be done by DCJ in relation to carers transitioning from DCJ/mainstream NGOs over to Aboriginal OOHHC agencies. Currently, allowing carers to have this choice can mean that they are resistant to this move taking place and this is often based on an ill-informed view that they won't be accepted and supported by an Aboriginal agency in the same way as they would with a mainstream agency. Work needs to be undertaken by the sector to address this critical issue. For example, this could include returning to a requirement that carers of Aboriginal children must transition across to an Aboriginal provider, ensuring the involvement of Aboriginal agency staff in transition discussions with carers to ensure that appropriate messaging occurs as
--	--

	a matter of course, and being clear about this transition at the point of recruitment by the mainstream agency/DCJ.
	<ul style="list-style-type: none"> • As long as there is a need for non-Aboriginal agencies to provide care to Aboriginal children, there needs to be recognition of the investment needed in order to enable mainstream agencies to undertake meaningful and quality cultural activities that are core to a child’s wellbeing and identify, such as: <ul style="list-style-type: none"> ○ supporting detailed family finding – including stronger work being carried out by DCJ initially to ideally avoid the child coming into statutory care, but when this can’t be avoided, providing the care agency with more detailed information about the extent of family finding undertaken by DCJ before the transfer, as agencies are often having to start this work again with little detail; Information about children at point of transfer from DCJ is sometimes inaccurate, for example, children being flagged as Aboriginal that in fact are not, and effort is then misdirected for considerable time periods ○ cultural support planning – adequate funding is not currently provided to engage Aboriginal experts who are critical to this type of work being carried out in a culturally appropriate way – the lack of dedicated funding for this work is inconsistent with the strong messaging from the department about its commitment to culturally competent care ○ DCJ should invest in or allow for investment in programs to attract more Aboriginal carers, such as ‘Aunties and Uncles’. ○ Supporting Aboriginal children and young people to return to Country is a challenge. DCJ may wish to consider introducing a specific funding package to enable this.
	<ul style="list-style-type: none"> • DCJ should work with the AbSec/ACWA to deliver state-wide rollout of (mandatory) cultural training for non-Aboriginal practitioners to improve outcomes for families.
	<ul style="list-style-type: none"> • More careful consideration around where cultural support sits e.g., consider whether there is an opportunity for more supervision orders to encourage greater involvement and self-determination by families.
	<ul style="list-style-type: none"> • Concerns were raised by certain mainstream agencies that due to them adopting a position that it is inappropriate for them to manage cases where guardianship with a non-Aboriginal carer is the goal, they have experienced push back from DCJ districts, despite this position being consistent with the principle of self-determination.
Building a robust evidence framework	

	<ul style="list-style-type: none"> • There is no reference in the recommissioning documentation to the <i>Aboriginal Case Management Policy</i> (ACMP) developed by AbSec. In this regard, there should be a clear accountability framework which builds in measures and indicators of evidence to assess the adequacy of both DCJ and NGO agencies' general cultural competence and compliance with both the ACPPs and the ACMP.
	<ul style="list-style-type: none"> • While the ACMP provides the basis for such an accountability framework, there is clear merit in AbSec and the ACCO sector being funded to develop a set of practical measures and evidence/indicators so that what 'good practice' looks like on the ground in this area is clear. (This issue has also arisen in the context of the OCG's current review of its accreditation processes, and the sector has similarly noted that being measured against cultural competence, without a practical framework of this type being in place, is unlikely to achieve the desired results.
	<ul style="list-style-type: none"> • The enhanced data collection and analysis referred to in the previous section will also be critical to supporting the implementation of an accountability framework and driving improved practice.
Governance and oversight	
	<ul style="list-style-type: none"> • Strong support for the recommendations in the FIC review around establishing an independent community services oversight body for vulnerable adults and children, with a dedicated Aboriginal Commissioner role.
	<ul style="list-style-type: none"> • Strong support for a separate statutory entity for Aboriginal Child Protection similar to the Aboriginal Housing Office approach.
	<ul style="list-style-type: none"> • Support for DCJ to share regular updates on how it is progressing in relation to the FIC Review.