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Inquiry into the WA Children and Community Services Amendment Bill 2019

2020 Submission

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1. Introduction

Mission Australia is a national organisation whose overall goal is to end homelessness and ensure people and communities in need can thrive. In Western Australia (WA), Mission Australia operates 38 services, 17 of which are in regional and remote locations. These services reached approximately 20,000 individuals in 2019/20.

Of these services a number are specifically for children and young people who are at high risk and have complex needs, including alcohol and drug services, mental health services, homelessness services and disability services (Mission Australia is a NDIS partner providing Local Area Coordination). These services interface with the Department of Child Protection and Family Support (DCPFS) when children or young people are at risk of abuse or neglect. Some of these services also work with children moving in and out of care, for example when a foster care placement breaks down and accommodation is required. The DCPFS funds a number of these services, three (3) of which are:

Youth Accommodation Support Service: provides crisis accommodation, case management and other supports to young people living in Perth who are homeless or at risk of homelessness as well as longer term transitional housing.

Youthbeat: provides outreach case management for young people across the Perth metropolitan area and works collaboratively with the WA Police, DCPFS Crisis Care Unit and the Nyoongar Outreach Services to operate the Youth at Risk Strategy (YARS). YARS operates on Friday and Saturday nights in the Perth city and provides young people with a safe youth friendly place for them to wait while arranging their return to appropriate accommodation.

Family Support and Accommodation Service, Maddington: provides families who are homeless or at risk of homelessness with transitional housing, case management and referrals, to ensure they obtain and maintain long term stable housing.

In addition, Mission Australia is funded by DCPFS for two (2) services specific to child protection:

Navig8, South West: a service for young people aged between 14–25 years who are currently in or have left the care of the CEO assisting them for example, to find accommodation, access education, find employment, or access community services when required such as mental health services.

Intensive Family Support Service (IFSS), Midwest/Gascoyne: in collaboration with DCPFS, works with families whose child or children are at imminent risk of being taken into care, to build the families capacity to care for their child or children in collaboration with DCPFS.

Since July 2018, Mission Australia has been actively implementing the *National Principles for Child Safe Organisations (National Principles)*, Australian Human Rights Commission. The *National Principles* were endorsed by COAG in February 2019 and build on the *National Standards for Child*

Safe Organisations (National Standards) as recommended by the Royal Commission into Institutionalised Responses to Child Sexual Abuse (Royal Commission).

In alignment with the services Mission Australia provides to children and young people, the interface of those services with DCFPS and Mission Australia's commitment to the *National Principles*, this submission on the *Children and Community Services Amendment Bill 2019* (the Bill) focuses on children being included in decisions that impact on their life; minimising the risk of further harm to children and maximising opportunities to improve their wellbeing; and young people leaving care.

2. Recommendations

The recommendations made in this submission are as follows.

Recommendation 1

The amendment to section 14 (2) (2) of the Act, be changed as underlined to 'The wishes and views of the child must be actively sought and considered, taking into account the maturity and understanding of the child, using communication aids when required for children with disability...'

Recommendation 2

The amendments to Section 39 (2B) and Section 89 (3A) of the Act to include the requirement that provisional care plans and care plans respectively must be discussed and developed with the child from the commencement of the development of the plan with the use of communication aids as required by children with disability.

Recommendation 3

The amendments to Section 89 (2) of the Act to replace (as underlined) that the care plan is to be completed 'As soon as practicable after a child first comes into the CEO's' with (as underlined) that the care plan is to be completed 'Within 20 working days of the child coming into the CEO's care unless there are exceptional circumstances in which case this must be documented in the care plan'.

Recommendation 4

The amendments to Section 8 (1) of the Act to include the need for a child to form a secure attachment to a caregiver.

Recommendation 5

The amendment to Section 9 (ga) of the Act to include the need for a child to form a secure attachment with a caregiver and the amendment to Section 9 (gb) of the Act to specify that the child's needs include their physical, emotional, social and developmental needs (as underlined): '... subject to protecting the child from harm and meeting the child's physical, emotional, social and developmental needs.'

Recommendation 6

The amendments to Section 9 of the Act include a principle that every child must be sighted in a manner that verifies whether they are at risk of harm or further harm.

Recommendation 7

The amendments to Section 8 and Section 9 of the Act to specify preserving and maintaining a child's relationships with friends, and continuity and stability with regard to a child's school whenever possible.

Recommendation 8

The amendments to Section 28 (1) of the Act to include stating that sexual abuse includes harmful sexual behaviour and sexual exploitation, and to include definitions of these terms in the amendments to Section 3 of the Act.

Recommendation 9

The amendment to Section 9(l) of the Act to specify that preferably an interpreter must be a trained and qualified adult; where a trained and qualified interpreter is not available another adult may act as the interpreter; children must not be used as interpreters in any circumstance; and for people with disability the use of communication aids must be considered and provided for.

Recommendation 10

The amendments to Section 89 (5) of the Act to be changed (as underlined) from a leaving care plan being included in the care plan 'as soon as practicable after the child turns 15 years of age' to (as underlined): 'The CEO must modify a care plan to include a leaving care plan as soon as a child turns 15 years of age unless there are exceptional circumstances and when this is the case these are documented in the care plan'.

Recommendation 11

The amendments to Section 89B (a) in the Act to be expanded to include the requirement for:

- (i) the child to be included in identifying their needs;
- (ii) the leaving care plan to cover the domains of accommodation, employment, education and training, health and counselling services, legal assistance, and communication.
- (iii) the child to have a mobile phone as a minimum communication requirement to take with them when they leave care.

Recommendation 12

The amendments to Section 89B (b) of the Act be expanded to include the requirement for adequate funds to be allocated where the social services proposed to be provided may or will require financing.

Recommendation 13

The amendments to Section 89B of the Act to include that the leaving care plan must be reviewed six (6) monthly in the 18 months prior to the child leaving care.

Recommendation 14

The amendments to Section 100A of the Act to include:

- (i) as underlined, *'the child being provided with a written explanation and advice of where the information is available on-line or via social media*;
- (ii) the requirement that information provided must include details of how to access these supports, and that these supports are available up until the young person turns 25 years of age.

Recommendation 15

The amendments to Section 3 of the Act to include changing the definition of a child (as underlined) to *'a person who is under 21 years of age, and in the absence of positive evidence as to age, means a person who is apparently under 21 years of age.*

3. Children being included in making decisions that impact on their life

The *Children and Community Services Act 2004* (the Act), *Section 10, Principles of Child Participation*, includes the requirement for children to be included in making decisions that impact on their life.

Mission Australia supports Section 10 of the Act.

In 2011 however, an own motion investigation undertaken by the Ombudsman WA to examine whether care plans met the requirements of the Act, found they did not. The Ombudsman WA examined in detail the care planning documentation for 61 children. Fifty of these children had care plans, however, the examination found that of these care plans the child had participated in the care planning process in only 20 (40%). The then Department for Child Protection's (DCP) own monitoring of care planning found that most children could not recall an opportunity to be involved in their care plan and that this was not always due to age or the developmental level of the child.¹ The Ombudsman WA made a number of recommendations to increase the participation of children and young people in developing their care plans.

In addition, it must be taken into consideration that there is a myriad of reasons as to why children may be reluctant to express their views and wishes in the development of their plan based on their previous experiences. These reasons may include, for example, fear of retribution if they express their views and wishes, complacency as they are used to their wishes and views not being considered, low self-esteem, and little to no sense of entitlement. Children with disability may need very specific support to be involved in developing their care plan.

In light of the above points, and to reinforce the requirements to include children and young people as per Section 10 of the Act and ensure the requirements are enacted, Mission Australia makes the following recommendations.

Recommendation 1

The amendment to section 14 (2) (2) of the Act, be changed as underlined to '*The wishes and views of the child must be actively sought and considered, taking into account the maturity and understanding of the child, using communication aids when required for children with disability...*'

Recommendation 2

The amendments to Section 39 (2B) and Section 89 (3A) of the Act to include the requirement that provisional care plans and care plans respectively must be discussed and developed with the child from the commencement of the development of the plan with the use of communication aids as required by children with disability.

The Act currently requires that '*...as soon as practicable after a child first comes into the CEO's care the CEO must prepare and implement a care plan for the child*'.² At the time of the WA Ombudsman's own motion investigation, DCP's policy was that care plans should be prepared and implemented within 20 working days of the child entering the care of the CEO (excluding children in provisional protection and care). Of the WA Ombudsman's cohort of 282 children who should have had a care plan prepared and implemented within this timeframe this had only occurred for 26 (9%) of these children. The WA Ombudsman recommended DCP review its approach to meeting time frames including reconsidering the use of the terminology '*as soon as practicable*'.

¹ Western Australian Government (2011), Ombudsman WA, *Planning for children in care: An Ombudsman's own motion investigation into the administration of the care planning provisions of the Children and Community Services Act 2004*, p.14.

² Western Australian Government (2004), *Children and Community Services Act*, s.89(2).

In light of the above, Mission Australia makes the following recommendation.

Recommendation 3

The amendments to Section 89 (2) of the Act to replace (as underlined) that the care plan is to be completed 'As soon as practicable after a child first comes into the CEO's care...' with (as underlined) that the care plan is to be completed 'Within 20 working days of the child coming into the CEO's care unless there are exceptional circumstances in which case this must be documented in the care plan'.

4. Minimising the risk of further harm to children and maximising opportunities to improve their wellbeing

4.1 Children need to form a secure attachment with a care giver

Children's attachment experiences are thought to be the foundation for their later social, emotional and cognitive development. The nature of a child's attachment experience is shaped by how consistently and reliably a caregiver responds to the child's distress signals. Consistent, reliable and responsive caregiving is associated with an optimal attachment experience.³ The caregiver does not have to be the parent.

Children who do not have the opportunity to form a secure attachment with a caregiver, such as children in out-of-home care where, for example, multiple attempts at reunification with their parents are unsuccessful and as a result the child has multiple placements with different caregivers, are likely to experience difficulties in the following areas:

- cognitive development (internal representations of self and others);
- emotional regulation (ability to experience, tolerate, express and regulate strong emotions);
- exploratory play and other behaviour (ability to show initiative to investigate the world through play and socialisation).⁴

To ensure the Act specifies the need for a child to form a secure attachment with a caregiver to meet their cognitive, emotional, social and developmental needs, Mission Australia makes the following recommendations.

Recommendation 4

The amendments to Section 8 (1) of the Act to include the need for a child to form a secure attachment to a caregiver.

Recommendation 5

The amendment to Section 9 (ga) of the Act to include the need for a child to form a secure attachment with a caregiver and the amendment to Section 9 (gb) of the Act to specify that the child's needs include their physical, emotional, social and developmental needs (as underlined): '... subject to protecting the child from harm and meeting the child's physical, emotional, social and developmental needs'.

³ Australian Government (2016), Australian Institute of Family Studies, *Children's attachment in the context of out-of-home care*, CFCA Practitioner Resource

⁴ Ibid

4.2 Sighting a child

June 2016 saw the tragic death of 22-month old Mason Lee after suffering months of abuse and neglect. At the time of his death Mason's mother, Ms Lee, was subject to an Inter-Parental Agreement (IPA) from the Queensland Department of Child Safety, Youth and Women (Child Safety), and was part of an IFS Program provided by Mission Australia.

An IPA allows Child Safety to provide intensive support and assistance to a child and family in circumstances where it is determined that it is safe for the child to stay with the family while the support and assistance is provided. This is similar to Intensive Family Support that can be provided by DCPFS where there is an open child protection case and families are at imminent risk of their child or children coming into care. As referred to in section 1, in the Mid/West Gascoyne, Mission Australia provides an IFSS in collaboration with DCPFS.

One of the key findings of the Queensland Coroner's Court (Coroner's Court) was that there had been a failure to sight Mason by Child Safety. Over a three (3) month time frame where Mason should have been sighted by Child Safety 24 times, in accordance with Child Safety policy and procedure, he was sighted once for five (5) minutes. The Coroner's Court found that:

*'Had anyone from the department seen Mason in the weeks before his death they could have saved his life.'*⁵

Child Safety staff would have seen the severe nappy rash, down to Mason's knees at times, potentially other inflicted bruising and injuries, and most importantly they would have found out Mason was living with his step-father, not his mother. The step-father was known to Child Safety and had a history of extremely violent behaviour and methamphetamine use. It was the step-father, in the end, whose kick to Mason's stomach, ruptured his duodenum and resulted in Mason's slow and painful death from septicaemia a number of days later at his step father's house – Mason was never taken to hospital.

The Coroner's Court further found that:

*'Every [Child Safety staff member] ... involved in Mason's case was more concerned about Ms Lee and her issues than ensuring the safety of Mason and his siblings. Whilst it is accepted that supporting families is a recognised and successful method of keeping children with their parents and out of the child protection system, that consideration cannot override the primary consideration of protecting vulnerable children.'*⁶

The Coroner's Court however, made no recommendations with regard to sighting a child for the following reasons:

- *'Sighting of the child has always been a fundamental part of child protection and a requirement of which all [Child Safety staff] should be aware; and*

⁵ Queensland Government, Coroners Court of Queensland (2020), *Findings of Inquest, Inquest into the death of Mason Jet Lee*, p. 2

⁶ Ibid

- *The Department submits that failure to sight children has been addressed ... by the introduction of ...a predictive planning tool that shows....case load[s] and the dates for required home visits and whether they have been undertaken which can be viewed by an [senior practitioner] who should follow up on the omission’.*⁷

Mission Australia is of the view that the requirement to sight a child must be included in the Act as well as DCPFS policy and procedure, as it is, to ensure the best interests of the child are paramount in all decision making, not the best interests of the parent/s. Relying on staff working with highly vulnerable children to consider this a fundamental part of child protection and Child Safety policy and procedure was clearly not enough for Mason.

Recommendation 6.4 of the *Royal Commission* states:

*‘All institutions should uphold the rights of the child. Consistent with Article 3 of the United Nations Convention on the Rights of the Child, all institutions should act with the best interests of the child as a primary consideration....’*⁸

In light of the findings of the Coroner’s Court and the above *Royal Commission* recommendation, Mission Australia makes the following recommendation.

Recommendation 6

The amendments to Section 9 of the Act include a principle that every child must be sighted in a manner that verifies whether they are at risk of harm or further harm.

4.3 The importance of friends and school in a child’s life

To maximise the wellbeing of children, Mission Australia is of the view that the importance of a child being able to preserve and maintain relationships with friends and continue to attend the same school whenever possible must be specified in Section 8 of the Act that covers the best interests of the child and Section 9 the principles of the Act.

Preserving and maintaining friendships and attending the same school aligns with:

- *Royal Commission National Child Safe Standard 2b and National Principle 2, Key Action Area 4: The importance of friendships is recognised and support from peers is encouraged, to help children and young people feel safe and be less isolated; and*
- Research undertaken by the Commissioner for Children and Young People WA on children and young people’s wellbeing that found that:
 - Good friends were very important to children and young people’s lives, contributing significantly to their sense of wellbeing and happiness.⁹

⁷ Ibid

⁸ Australian Government (2017), *Royal Commission into Institutional Responses to Child Sexual Abuse, Final Report Recommendations*, p 6.

⁹ Commissioner for Children and Young People WA (2009), *Speaking out about wellbeing – children and young people’s views*, p. 10

- There was widespread agreement from children and young people who participated in the research that being at school was important to their wellbeing as it gave them an opportunity to spend time with friends.¹⁰

Recommendation 7

The amendments to Section 8 and Section 9 of the Act to specify preserving and maintaining a child's relationships with friends, and continuity and stability with regard to a child's school whenever possible.

4.4 Further defining sexual abuse

Harmful sexual abuse

Harmful sexual behaviour (HSB) can be defined as any behaviour of a sexual nature expressed by children under 18 years old that:

- is outside of what is culturally accepted as typical sexual development and expression;
- is obsessive, coercive, aggressive, degrading, violent or causes harm to the child or others; or
- involves a substantial difference in age or developmental ability of participants.¹¹

Accurate statistics on the incidence of HSB are difficult to obtain. Researchers estimate however, that in Australia 30–60% of all experiences of childhood sexual abuse are carried out by children and young people who exhibit HSB.¹²

The *Royal Commission*, among other things, found that despite the existence of the *National Framework for Protecting Children*, no State or Territory government has a comprehensive and coordinated policy approach for preventing, identifying and responding to children with HSB. The *Royal Commission* went on to make a number of holistic and comprehensive recommendations¹³ with regard to these findings, one of which was:

Recommendation 10.1: The Australian Government and state and territory governments should ensure the issue of children's harmful sexual behaviours is included in the national strategy to prevent child sexual abuse that we have recommended.

In addition, the *Royal Commission* made two (2) recommendations with regard to what State and Territory Governments should be doing with regard to harmful sexual behaviour as it impacts on children in out-of-home care.¹⁴

¹⁰ Commissioner for Children and Young People WA (2009), *Speaking out about wellbeing – children and young people's views*, p. 14

¹¹ Commissioner for Children and Young People WA (2018), *Discussion Paper – Children and young people with harmful sexual behavior*, p.4

¹² Commissioner for Children and Young People WA (2018), *Discussion Paper – Children and young people with harmful sexual behavior*, p. 5

¹³ Australian Government (2017), *Royal Commission into Institutional Responses to Child Sexual Abuse, Final Report Recommendations*, pp 33&34.

¹⁴ Australian Government (2017), *Royal Commission into Institutional Responses to Child Sexual Abuse, Final Report Recommendations*, p 38.

Sexual exploitation

With the prevalence of children and young people accessing the internet, online safety is becoming an increasing concern around the world. The increase in children and young people accessing the internet has seen a corresponding upward trend in cases of online child sexual exploitation, including grooming, image-based abuse, and the spread of self-generated sexually explicit material.

In 2018, the Australian Government commissioned the Australian Centre for Child Exploitation (ACCE) to drive a collaborative national response to counter the online exploitation of children. In 2018 alone, the ACCE Child Protection Triage Unit received almost 18,000 reports of child sexual exploitation, each of which can contained hundreds or thousands of images and videos.¹⁵

The *Royal Commission* made a number of recommendations regarding preventing and responding to on-line sexual abuse in institutions¹⁶ and made the following recommendation specific to children in out-of-home care:

Recommendation 12.15: Child protection departments in all states and territories should adopt a nationally consistent definition for child sexual exploitation to enable the collection and reporting of data on sexual exploitation of children in out-of-home care as a form of child sexual abuse.

The *Royal Commission National Standard 8* is 'Physical and online environments minimise the opportunity for abuse to occur'. Similarly, *National Principle 8* is: 'Physical and online environments promote safety and wellbeing while minimising the opportunity for children and young people to be harmed'.

The Northern Territory (NT) Government specifically refers to exploitation of children in their child protection legislation. One of the objectives of the *Care and Protection of Children Act 2007* (the NT Act) is *to protect children from harm and exploitation.*¹⁷ The NT Act defines exploitation of a child as sexual and any other form of exploitation. Sexual exploitation of a child in the NT Act includes sexual abuse of the child; and involving the child as a participant or spectator in any act of a sexual nature, prostitution or pornographic performance.¹⁸

As a step towards harmful sexual behaviour and sexual exploitation being recognised at WA State Government policy level, Mission Australia makes the following recommendation.

Recommendation 8

The amendments to Section 28 (1) of the Act to include stating that sexual abuse includes harmful sexual behaviour and sexual exploitation, and to include definitions of these terms in the amendments to Section 3 of the Act.

¹⁵ Australian Government (2020), Australian Centre for Child Exploitation, website: <https://www.acce.gov.au>.

¹⁶ Australian Government (2017), *Royal Commission into Institutional Responses to Child Sexual Abuse, Final Report Recommendations*, pp 14-16.

¹⁷ Northern Territory Government, *Care and Protection of Children Act 2007*, s4 (a) (i).

¹⁸ Northern Territory Government, *Care and Protection of Children Act 2007*, s16.

4.5 Children must not be used as interpreters

It is not an uncommon practice for migrant children to act as interpreters for adults, including for their parents. This occurs for a number of reasons including that children tend to learn English more quickly as they are attending school and mixing with children who speak English, while the parents may be more socially isolated and they may not be interacting with other adults who speak English. As a result, adult's proficiency in English may remain low. Using children as interpreters, however, disturbs the parent-child relationship, and poses risks to immigrant children and their families. The children may find they need to mature quickly and the act of being responsible for their parents can lead to social problems, risk-taking attitudes, and aggression.¹⁹

The use of trained and qualified interpreters as a first option is also important. Interpreting requires a very specific skill set and way of interpreting. For example, a trained and qualified interpreter interprets everything exactly as it is said in the '1', as if the interpreter is a tape recorder; they do not have conversations on the side with the person they are interpreting for; or 'edit' what the person has said. A lay person who is 'interpreting' would not necessarily interpret this way and important information may be lost.

With the above matters in mind, and to more accurately reflect the communication requirements for people with disability, Mission Australia makes the following recommendation.

Recommendation 9

The amendment to Section 9(l) of the Act to specify that preferably an interpreter must be a trained and qualified adult; where a trained and qualified interpreter is not available another adult may act as the interpreter; children must not be used as interpreters in any circumstance; and for people with disability the use of communication aids must be considered and provided for.

5. Young people leaving care

5.1 Improving outcomes for young people leaving care

A considerable body of research from small-scale qualitative studies and international research indicates that young people who have left care experience significant social and economic marginalisation, including a range of poor educational and health outcomes.²⁰

Research undertaken by the Telethon Institute WA (2019) on the outcomes for young people who have experienced out-of-home care found life outcomes for young people who have spent time in out-of-home care were far worse than their peers on measures including mental health, health, education, and involvement with the justice system:

- 80 per cent had not completed a high school certificate.
- Only 4 per cent were university-bound.
- 27 per cent had a mental health contact.
- 20 per cent had a juvenile detention and/or adult imprisonment.

¹⁹ Dynamic Language (2020), *The dangers of using children as their parents interpreters*, website: <https://www.dynamiclanguage.com/the-dangers-of-using-children-as-their-parents-interpreters/>

²⁰ Australian Government (2016), Australian Institute of Family Studies, *Supporting young people leaving care*, CFCA Paper No 41.

- 38 per cent had a juvenile and/or adult community-based sentence.²¹

These young people also experienced higher rates of hospitalisation, especially for injuries, mental health issues, and pregnancy, and other research has shown they are more likely to become homeless.²²

The Act requires that the CEO supports young people who are leaving care up to 25 years of age to access services related to obtaining accommodation, employment and legal advice, undertaking education and training, and accessing health and counselling services. The Act also requires the CEO to provide financial assistance to assist young people up to 25 years of age in these areas.

The DCPFS makes approximately \$900,000 available to help young people who have left care with furnishing and equipment for accommodation, expenses connected with education or training, and any other expenses that the CEO considers appropriate. Under the Act, however, the provision of the financial support is discretionary.²³ The DCPFS also provides \$2 million per annum to three (3) leaving care providers, one of which is Mission Australia for Navig 8 as referred to in section 1, to support young people leaving care to secure accommodation, access education and employment and so on.

In 2018-19 the WA Auditor General, found that:

- Of the cases they reviewed, 65% of young people leaving care who were eligible for support from DCPFS did not get it early enough if at all, putting them at increased risk of homelessness, unemployment, not being able to access education and training opportunities, and not being able to access the physical and mental health care they require.
- Although DCPFS policy requires that planning of leaving care commence at 15 years of age, in 82% of cases reviewed this had not happened, increasing the risk of crisis intervention being required as there is not enough time for well-considered and thought out planning to occur.
- Of the care plans for young people leaving care that were reviewed, over 80% did not contain a clear plan for the young person's immediate future, nor did they reflect the need or the situation of the young person at the time of leaving care.
- Over half (64%) of cases reviewed showed that young people did not access further support despite having high needs for assistance.²⁴

Amendments to the Act alone will not see improvements to the Auditor General's findings, however Mission Australia is of the view that the Act must:

- Be more explicit as to the age at which the leaving care plan must commence, the requirements of what is covered in the leaving care plan, and include communication

²¹ Western Australian Government (2019), Telethon Institute WA, *Exploring outcomes for young people who have experienced out-of-home care*, pp 1 – 5.

²² Ibid

²³ Western Australian Government, (2018-19), *Western Australia's Auditor General's Report, Young People Leaving Care, Report 2*, p5.

²⁴ Western Australian Government, (2018-19), *Western Australia's Auditor General's Report, Young People Leaving Care, Report 2*, pp 7-8.

requirements of a young person when they leave care with a minimum requirement being that they have a mobile phone.

- Require that the information on the supports available to young people leaving care and up to 25 years of age is provided in formats other than *'written information'* as per the Act. This is to address the difficulties these young people often face with regard to securing stable accommodation and that they are at increased risk of homelessness - a written explanation could readily be misplaced or lost.
- Require leaving care plans to be reviewed more regularly as the child approaches 18 years of age.

To cover the above points Mission Australia makes the following recommendations.

Recommendation 10

The amendments to Section 89 (5) of the Act to be changed (as underlined) from a leaving care plan being included in the care plan *'as soon as practicable after the child turns 15 years of age'* to (as underlined): *'The CEO must modify a care plan to include a leaving care plan as soon as a child turns 15 years of age unless there are exceptional circumstances and when this is the case these are documented in the care plan'*.

Recommendation 11

The amendments to Section 89B (a) in the Act to be expanded to include the requirement for:

- (i) the child to be included in identifying their needs;
- (ii) the leaving care plan to cover the domains of accommodation, employment, education and training, health and counselling services, legal assistance, and communication.
- (iii) the child to have a mobile phone as a minimum communication requirement to take with them when they leave care.

Recommendation 12

The amendments to Section 89B (b) of the Act be expanded to include the requirement for adequate funds to be allocated where the social services proposed to be provided may or will require financing.

Recommendation 13

The amendments to Section 89B of the Act to include that the leaving care plan must be reviewed six (6) monthly in the 18 months prior to the child leaving care.

Recommendation 14

The amendments to Section 100A of the Act to include:

- (iii) as underlined, *'the child being provided with a written explanation and advice of where the information is available on-line or via social media*;
- (iv) the requirement that information provided must include details of how to access these supports, and that these supports are available up until the young person turns 25 years of age.

5.2 Supporting young people in care to 21 years of age

In response to the outcomes of the research undertaken by the Telethon Institute WA (2019) in March 2019, the Community Services Minister advised that DCPFS would partner with Anglicare WA to implement a 12-month trial providing extra support for 15 young people who had recently left care. Mission Australia is not aware of the status of this trial.

The WA Auditor General in 2018-2019 recommended and DCPFS agreed, that within a 12-month timeframe they would ‘...consider extending Departmental support and case management for those that need it after 18’.²⁵

The Victorian Government in April 2020 took the lead in extending care arrangements until the end of December 2020 so young people are not forced into homelessness if they turn 18 years of age in the middle of the coronavirus pandemic. Other countries such as Canada have also acted to extend care in current circumstances.

Mission Australia is a member of the *Home Stretch* campaign, which is aimed at extending state care to the age of 21 for young people in foster, kinship and residential care. As stated by Paul McDonald, CEO of Anglicare Victoria and Chair of *Home Stretch*:

‘It’s hard to imagine many parents telling their 18-year-old son or daughter it’s time to move out of home right now, as everyone continues to struggle with our new reality of lockdown and social distancing. But as stand-in parents for young people in state care, that’s essentially the message from many governments across the country in the middle of the coronavirus pandemic.’²⁶

The recommendation for the extension of out-of-home care to the age of 21 was one (1) of a range of actions recently recommended in the report *A Roadmap to Recovery – A Report for the Nation*, released by the Group of Eight (Go8) universities:²⁷

‘Funding for the evidence-informed “Home Stretch26” program to offer in-care and post-care support to children in OOHC until they are 21 to foster their COVID-19 recovery process because those are young people who are forced to live out of home (OOHC). It is also recommended that police are conscious of the vulnerability of those in OOHC.’²⁸

Whilst the Victorian Government’s announcement to extend care arrangements for young people past 18 years of age to the end of December 2020 is commendable, it clearly falls short of meeting the on-going needs and rights of these young people. Mission Australia strongly believes that it is time for the WA Government to act and increase their support to young people leaving care - a highly vulnerable group of people with complex needs, made more vulnerable due to COVID-19 - by

²⁵ Western Australian Government, (2018-19), *Western Australia’s Auditor General’s Report, Young People Leaving Care, Report 2*, p 10.

²⁶ Home Stretch 2020, *Young people in care should have a place that they can call home and support until they turn 21*, website: <http://thehomestretch.org.au/>

²⁷ The Go8 is made up of the top universities in the Australia, including Melbourne University, the Australian National University, the University of Sydney, the University of Queensland, the University of Adelaide, the University of Western Australia, Monash University and UNSW Sydney.

²⁸ Group of Eight, Australia (2020), *COVID-19, Roadmap to Recovery – A Report for the Nation*, p.165.

continuing to provide case management supports, residential care and paying the subsidy to foster carers, until these young people turn 21 years of age. These young people cannot adequately advocate for themselves and it is the responsibility of the WA Government who has removed them from the care of their parents and taken over the role of being a 'better parent' to make this change. As such Mission Australia makes the following recommendation.

Recommendation 15

The amendments to Section 3 of the Act to include changing the definition of a child (as underlined) to '*a person who is under 21 years of age, and in the absence of positive evidence as to age, means a person who is apparently under 21 years of age*'.

6. Conclusion

Mission Australia thanks the Legislative Council WA, Standing Committee on Legislation for the opportunity to make this submission and would like to take this opportunity to express their support for other amendments in the Bill, particularly Section 124BA as it pertains to ministers of religion being legally required to report child sexual abuse.

Of most concern to Mission Australia is that young people leaving care for well over a decade remain a highly disadvantaged group in our community, made even more vulnerable now with COVID-19. There are strong indicators of the need for further and ongoing legislative, policy and service delivery reform over and above that which has been achieved to date for these young people.

The recommendations Mission Australia has proposed for consideration in this submission are intended to strengthen the legislation and, consequently, to improve the opportunities and outcomes for all children and young people at risk of harm of abuse and neglect and for those in care in WA.