



**Submission to the Queensland Child Protection Commission
of Inquiry: Response to Discussion Paper**

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Acknowledgements

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- The 15 young people who shared their time, experiences and expertise for the purpose of informing this submission.

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Disclaimer

The views expressed in this report do not necessarily represent the views of CREATE Foundation; the project team or children and young people in care generally. The contents of this report have been developed in consultation with a non-representative group of young people in care and are not intended to represent the in care population in total.

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Purpose

The Queensland Child Protection Commission of Inquiry (Commission of Inquiry) began on 1 July 2012. Since that time, CREATE has sought to ensure that children and young people's experiences and views are heard. Initially CREATE worked to raise awareness amongst young people about the Commission of Inquiry via its membership network and sector partners throughout the state. CREATE encouraged and supported interested young people to make their own submissions. CREATE also spoke with many young people with a care experience for the purpose of informing the initial CREATE submission to the Commission of Inquiry.¹

The Commissioner asked CREATE to assist in facilitating opportunities for the Commission of Inquiry to obtain information directly from children and young people with a care experience. As a result, CREATE organised a series of focus groups held in locations throughout Queensland. The results were published in the CREATE consultation report.²

This submission is a direct response to issues raised in the Queensland Child Protection Commission of Inquiry: Discussion Paper February 2013 (the Discussion Paper). CREATE identified some key issues in the Discussion Paper and then held group discussions with young people via its Youth Advisory Group. Other themes within the Discussion Paper (ie among others, long term guardianship and adoption without consent) have recently been canvassed in other jurisdictions.

CREATE recently submitted its report responding to a New South Wales discussion paper and believes that some of the information in that submission is relevant to this submission. These will form Appendices to this report. The body of this report outlines the key points the young people discussed in relation to:

- Children and young people with high and complex needs;
- Transition from care; and
- The child protection system generally.

Most of the views informing this submission have been from children and young people with a care experience in Queensland. However, due to time constraints, some views are from children and young people in other jurisdictions. Interjurisdictional voices have only been used where relevant issues are raised in the Discussion Paper and where the previous CREATE submissions have not addressed the issue. All care has been taken to clearly identify where the voices are not from Queensland. In order to protect their identities, we have changed the names of the young people who have provided CREATE with quotes and case stories.

About CREATE Foundation

CREATE is the national consumer body representing the views of children and young people in care. To be an effective advocate, CREATE balances the engagement and connection with children and young people with the independent role we play to gain their views about what is important to them, and change the system for the better. CREATE believes that all children and young people with a care experience should have the opportunity to reach their full potential.

CREATE Foundation's mission is to create a better life for children and young people in care.

¹ CREATE Foundation. (2012). *Submission to the Queensland Child Protection Commission of Inquiry*. Brisbane, author.

² CREATE Foundation. (2013). *Consultation Report for the Queensland Child Protection Commission of Inquiry*. Brisbane: author.

CREATE does this through:

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

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

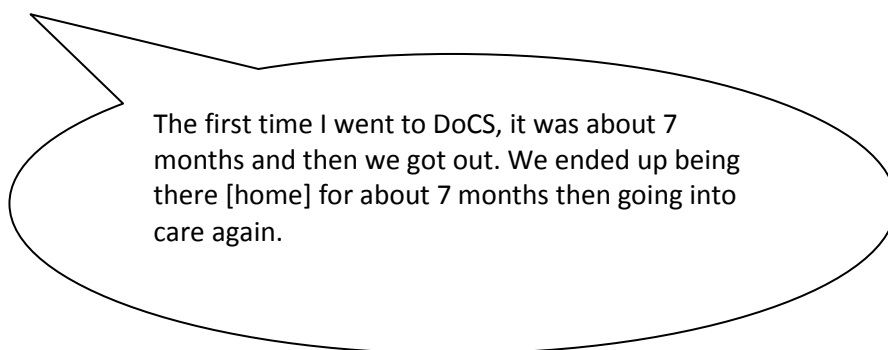
Response to key issues in the Discussion Paper

This submission provides responses to a number of the questions contained in the Discussion Paper. This does not mean that CREATE views the other questions or issues as less important. CREATE has already provided two reports: *Submission to the Queensland Child Protection Commission of Inquiry*; and *Consultation Report for the Queensland Child Protection Commission of Inquiry*. Both of these reports canvas some of the other areas and/or questions in the Discussion Paper. Therefore, this report aims to add to the two previous reports and address issues that may not have been fully canvassed.

1. Response to question 10 – At what point should the focus shift from parental rehabilitation and family preservation as the preferred goal to the placement of a child in a stable alternative arrangement?

CREATE's recent Report Card surveyed 1069 children and young people aged between 8 and 17 across Australia.³ That study found that a total of 835 young people across Australia (78% of the survey population) had never returned to their pre-care family homes. McDowall suggests that children and young people in foster care are reunited with their pre-care families at a rate less than those in residential care.⁴ CREATE received 37 responses from young people in New South Wales about their experiences of family restoration and reunification.

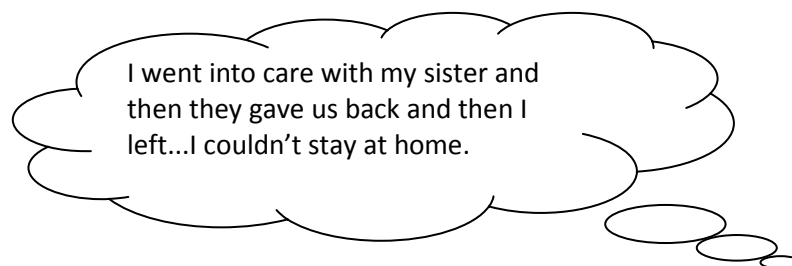
Matthew, 16 told CREATE that he entered care for a short time and then went back home to his family but soon after that re-entered care:



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

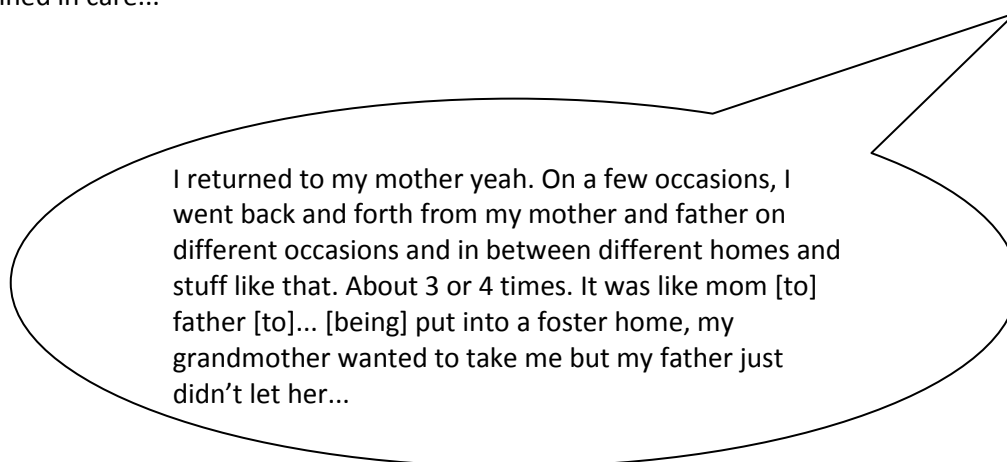
⁴ *Ibid*, p 51.

Jenny, 21 reflected on her experience of entering care and returning home and comments on how she felt about the process of 'being given back':



I went into care with my sister and then they gave us back and then I left...I couldn't stay at home.

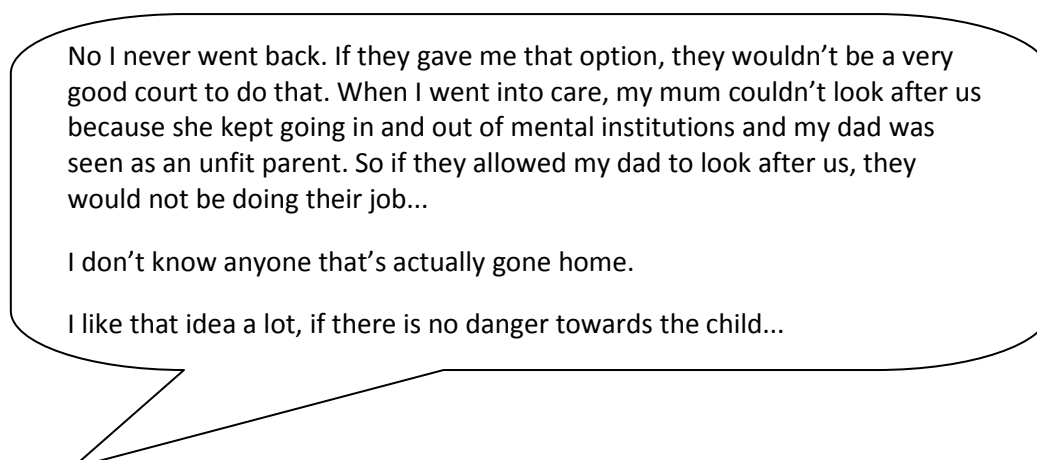
Ted, 18 said that he moved from his mother's home then to his father's home and then to foster care. He said his grandmother was prepared to take him but that his father objected. So Ted remained in care...



I returned to my mother yeah. On a few occasions, I went back and forth from my mother and father on different occasions and in between different homes and stuff like that. About 3 or 4 times. It was like mom [to] father [to]... [being] put into a foster home, my grandmother wanted to take me but my father just didn't let her...

Ted suggested that he had an opportunity to be cared for by his grandmother but that objections by one of his parents prevented this. In all jurisdictions in Australia, including New South Wales, kinship care is preferred over foster and residential care. Indeed, if family restoration is not possible, then appropriate kinship care should be sought.⁵

Leah, 23 told CREATE that she never returned to her pre-care family and that family restoration did not work for her:



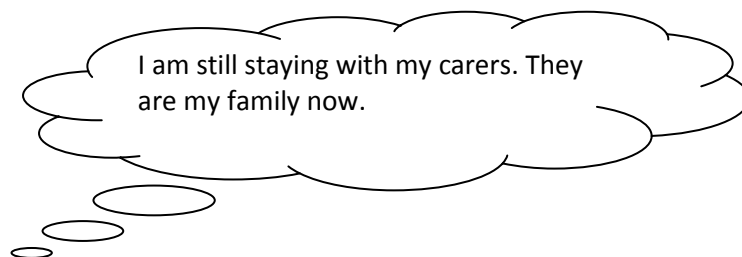
No I never went back. If they gave me that option, they wouldn't be a very good court to do that. When I went into care, my mum couldn't look after us because she kept going in and out of mental institutions and my dad was seen as an unfit parent. So if they allowed my dad to look after us, they would not be doing their job...

I don't know anyone that's actually gone home.

I like that idea a lot, if there is no danger towards the child...

⁵ See definition of "permanent placement", *Children and Young Persons (Care and Protection) Act 1998* (NSW).

Jesse, 18 says that she never returned home and doesn't consider her pre-care family her family:



The young people CREATE consulted had various experiences of family restoration including:

- Returning to the pre-care family home does not necessarily mean they will stay there as some young people re-enter care or run away; and
- Some young people never return to their pre-care family home.

CREATE believes that where family contact is frequent, and where support services are timely, appropriate and effective, there is an increased likelihood of permanent family restoration.⁶

Pre-care family restoration and increasing parenting capacity to the required threshold within 12 months

Recently CREATE responded to a legislative reform discussion paper in New South Wales that considered a 6 month waiting period for children less than two years of age and a 12 month waiting period for children over two years of age. This section is relevant to the question 10 of the Discussion Paper with particular reference to a 12 month waiting period.

In section 2 of this report (below) we showcase a diversity of voices from young people about the types of services that may have helped their parents' capacity to care for them. Responses range from stating that, to their knowledge, their parents did not receive any support services; to their parents received support but that it did not help them and they entered the care system.

A key issue theme that emerged from the discussion in section 2 below is the need to individually tailor support services to the needs and complexities of individual families and to ensure services are relevant and accessible. Whilst that discussion is relevant to pre-care services to increase parenting capacity, this section is relevant to increasing parenting capacity once in care for the purpose of the child or young person returning to their pre-care families. Similar themes are found in both sections.

Casey, 16 suggested a flexible approach based on individual cases is required. Casey suggests that in some cases 12 months might be appropriate but to have a time cut off when a family is making progress could be detrimental:

This is a tricky one. Some birth families may not be up to standard by 12 months but may be on their way to resolving their issues. It won't take 12 months for someone to give up drugs who has been doing it their whole lives, but they may be seriously trying to make a recovery. It should be based on progress.

⁶ See Macaskil (2002) cited in Government of NSW. (2005). *Research Report: Contact between children in out-of-home care and their birth families: Literature Review*. Sydney: Department of Community Services, p 16.

Lachlan, 18 made similar observations as Casey when he states that a hard and fast rule with the clock ticking would not be appropriate for some families with complex problems:

No I don't think so – in my mum's situation it took her quite a few years to get into the right state of mind. It depends on the situation – on what the parent's problems are. Like with the example of drug problems it takes a while to get off them and to deal with that and then learn how to look after your kids and do a good job and keep them safe.

Julia, 21 also suggested that where there are drug problems, 12 months might not be appropriate. However, Julia said that after many years her mother is still not capable of looking after her:

Maybe a year? It would also depend on the situation. Drugs can take a long time, to get over them. Some people might need more help than other people... She [mum] still sees them now, my uncle and the other people she was hanging around then, when I was taken away. So no she wouldn't have been able to and still isn't [able to take care of me] now.

Jared, 18 told CREATE that his mother had a lot of time to increase her capacity but that she didn't manage to meet the required threshold:

Honestly I doubt it in my situation – mum had a lot of time to get her priorities straight and she still couldn't really get it sorted out.

Tracey, 18 focused on the needs of the child or young person when she says that the time frame should be short to stop the placement instability:

There should be a time limit. It should be quick – to stop the kids from moving around. It is too much for a little kid to take in. All that moving around and staying with different people in different homes. If it's an abusive situation and stuff then six weeks is a good time limit I think. If they (the parents) are on drugs and stuff it will take them longer to sort themselves out. Basically I believe that if someone wants to change they will change.

Harriet, 17 told CREATE about another foster child who believed she was going home for a year and grew angry and frustrated whilst she waited:

... they shouldn't have the kids in limbo. At one of my old placement, there was a little girl and they told her that she'd be going home. It went on for about a year and she thought she was going home for a year. She got really frustrated and angry about that and you can't really get a kids' hopes up like that. And you need to get a kid used to the lifestyle. Like if they're sitting around for a year and not getting used to this foster family, it like 'oh I'm not going to do this, I'm not going to do that because I'm going home' and half the time they don't. I think it would be good to let parents know that there is a time limit and if they don't, then goodbye...

I think if people think there is a time limit, they would be more inclined to get their act together and try everything that they can because if they think they have all the time in the world to make it better, then they just won't.

Tara, 18 suggested that 12 months is appropriate if the parent really wants their child back however she also says that parents should be given another chance:

If they really want their kids that much, it's enough time. Especially babies. I know some people can't deal with babies but if they really want their child, they would make the change in the amount of time...

Our friends foster and they have two little girls. One's 9 and one's 2. They had them for 9 months and like, at the start, [the foster mum] would do everything for [the 2 year old]. By the end when they found out they were going back to their Mum, [the 9 year old] would do everything for the little one, like she wouldn't let the foster carers do anything for her cos she had it in her head that as soon as she went home, she'd have to do everything. Like cook, clean, taking the kids to pre-school. Like, she's 9. And they were back at their house for 2 weeks then they were taken again. It's just so sad...

I think 12 months is a good timeframe. If they haven't changed, they've lost their chance. Or even until they're a bit older and then they want to have another try at it, not every year and not 'I'm going to have a try at it and then give up.' Once they've proven themselves that they can change, then give them another chance.

Twenty four young people (in NSW) responded to the issue of whether 12 months was a long enough period to determine whether or not reunification was possible. Responses varied along a number of themes including:

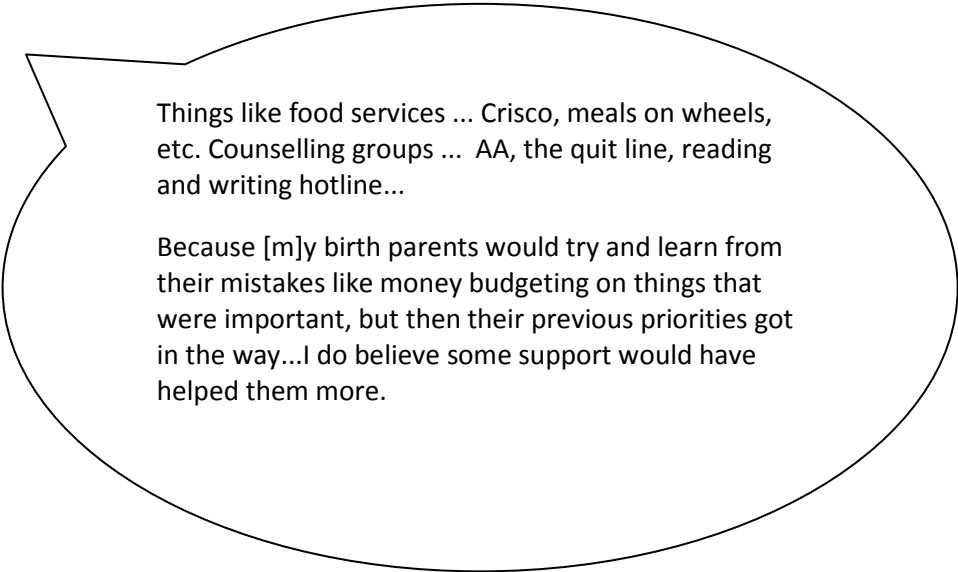
1. People with high and complex needs may not be able to improve their capacities within 12 months;
2. Some parents would not be able to increase their parenting capacity even if a long time frame were given; and
3. Any time limit should be based on the needs of the child or young person and that a stable home life is the most important consideration.

2. Response to question 11 – Should the *Child Protection Act* be amended to include new provisions prescribing the services to be provided to a family by the chief executive before moving to longer-term alternative placements?

CREATE recently consulted 26 young people in New South Wales regarding parental access to support services prior to the child or young person entering care. The overwhelming theme is that families are diverse, family issues are complex and that support services need to be individually tailored. Young people from New South Wales have commented on support services prior to entering care.

Casey, 16 suggested that her family would have benefited from, among others things: food; counselling; and literacy services. What she says suggests that her family was living in poverty and had few resources to help them manage out of their situation. She says that her parents tried to budget and allocate financial resources appropriately but that a lack of macro planning hindered their progress. Casey also implied that her family did not receive any support services before she was taken into care.

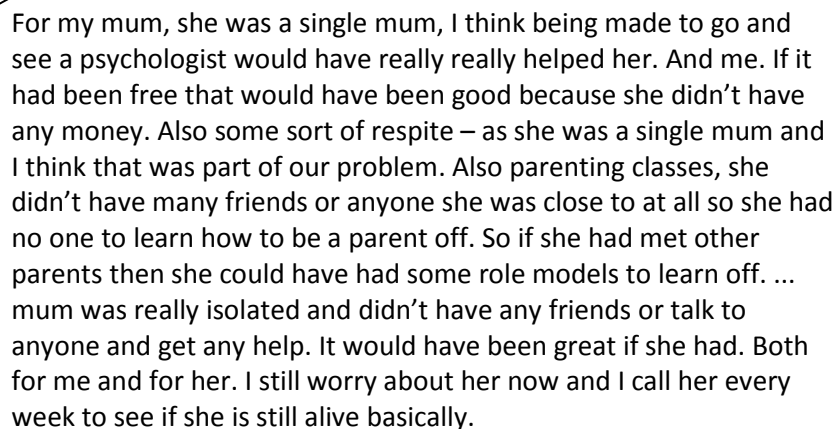
Casey said:



Dana, 23 told CREATE that her mother did not have the support of a partner and that her mother was raising her by herself and had a fragile social network. She said that there were a number of support services that she believed would have helped her mother's ability to be a good parent and keep her from out-of-home care.

Like other young people, Dana raised counselling, respite, parenting classes and the need for a social network to reduce the impact of social isolation.

Dana said:



For my mum, she was a single mum, I think being made to go and see a psychologist would have really really helped her. And me. If it had been free that would have been good because she didn't have any money. Also some sort of respite – as she was a single mum and I think that was part of our problem. Also parenting classes, she didn't have many friends or anyone she was close to at all so she had no one to learn how to be a parent off. So if she had met other parents then she could have had some role models to learn off. ... mum was really isolated and didn't have any friends or talk to anyone and get any help. It would have been great if she had. Both for me and for her. I still worry about her now and I call her every week to see if she is still alive basically.

Social isolation impacts people in many ways and there are many ways that people might subjectively feel or objectively be socially isolated. The United Nations Development Program suggests that social isolation, unemployment and poverty are the three key elements contributing to social exclusion.⁷ Linked to unemployment and poverty is education: education being the key to employment and manoeuvring out of poverty. Other elements of social exclusion include ethnicity, class, gender and age.⁸

Research suggests that social exclusion and a lack of belonging can negatively affect intellectual functioning, pro-social behaviour and self-regulatory conduct.⁹ The support services that Dana says may have helped her mother cope are also services that may have increased her mother's engagement in her community and increased her sense of inclusion and belonging. Therefore parenting classes may serve a dual purpose - the content of the classes may provide information to increase parenting capacity and they may facilitate a sense of belonging and increased social inclusion.

⁷ United Nations Development Program. (2006). *Poverty, employment and social exclusion*. Croatia, author, p 12.

⁸ Ibid.

⁹ Jean M. Twenge, Natalie J. Ciarocco, Roy F. Baumeister, C. Nathan DeWall, & J. Michael Brtels. (2007). Social exclusion decreases prosocial behaviour. *Journal of Personality and Social Psychology*, 92:1, 56-66; Roy F. Baumeister, C. Nathan DeWall, Natalie J. Ciarocco, & Jean M. Twenge. (2005). Social exclusion impairs self-regulation. *Journal of Personality and Social Psychology*, 88:4, 589-604; Roy F. Baumeister, Jean M. Twenge, & Christopher K. Nuss. (2002). Effects of social exclusion on cognitive processes: Anticipated aloneness reduces intelligent thought. *Journal of Personality and Social Psychology*, 83:4, 817-827; Jean M. Twenge, Kathleen R. Catanese & Roy F. Baumeister. (2002). Social exclusion causes self-defeating behaviour. *Journal of Personality and Social Psychology*, 83:3, 606-615.

Andrew, 17 told CREATE that his family may have been helped by a parenting support group that would enable parents to learn parenting skills and to ensure they know that they are not alone in struggling to provide care and protection to their children.

Andrew also suggested a family facilitation model where the family dynamic is facilitated by a professional so that the entire family can work together:

It would be good to have like an adult CREATE where the parents get together and actually support each other....a big peer support group

Like an adult CREATE or something where adults can have a weekend off and kids go into care or something. Where they can do stuff like this [a camp] and they can go, 'right we're not the only ones.' Cos my mother says 'I feel like I'm the only one who has to go through this shit.' And when I see that I think, well if the parents could get together they'd think, 'right, I'm not the only one dealing with this shit. Tommy over here and Larry over there is going through the same crap as well. So they'd be able to see they're not the only ones...

There's this place I know where the whole family can go and live at this place for a while and there are counsellors and stuff there and they can all be there together and try to help the situation. So if we had more of them, I can see that working.

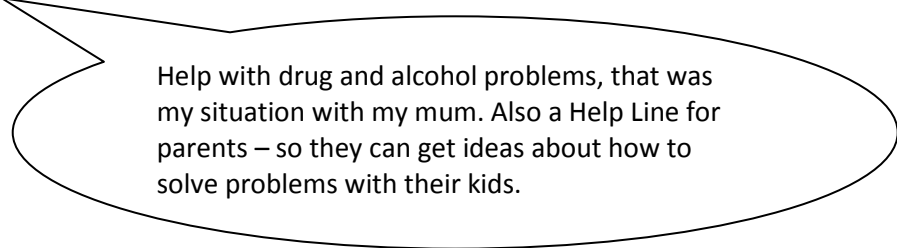
Georgie, 17 mentioned a mediation model similar to Andrew's. Georgie focused on the need to have mediated or facilitated communication between family members and suggests that outside assistance with daily life would have been helpful:

Mediation services between parents and teenagers to resolve issues. Support services that come to the home and work in the home every day with parents to help them fix their problems.

Tessa, 16 told how respite with her grandmother helped her and her family. She said that her grandmother was her main support prior to entering care:

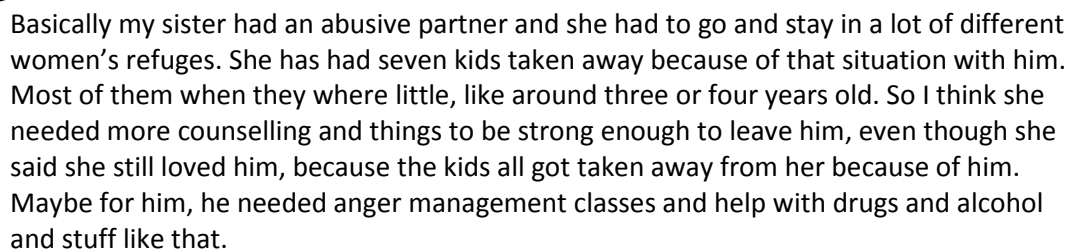
Cos that's what happened to me cos when I was at home, like I had problems at home so I would stay at my Nan's for a weekend then we would talk about it and stuff and then move on and it helped me a lot because when I was home, I was stressing and stuff and I did like, silly things but when my Nan took me for weekends, I was all calm and I came back and stuff....it helped out a lot....I like where I am and stuff but I'd rather be at home.

Lachlan, 18 told CREATE that his mother struggled with drug and alcohol problems. He did not mention his father. However, he also raised the issue of a lack of information for struggling parents and the need for a service that helps parents deal with parenting issues. He suggested a parents helpline:



Help with drug and alcohol problems, that was my situation with my mum. Also a Help Line for parents – so they can get ideas about how to solve problems with their kids.

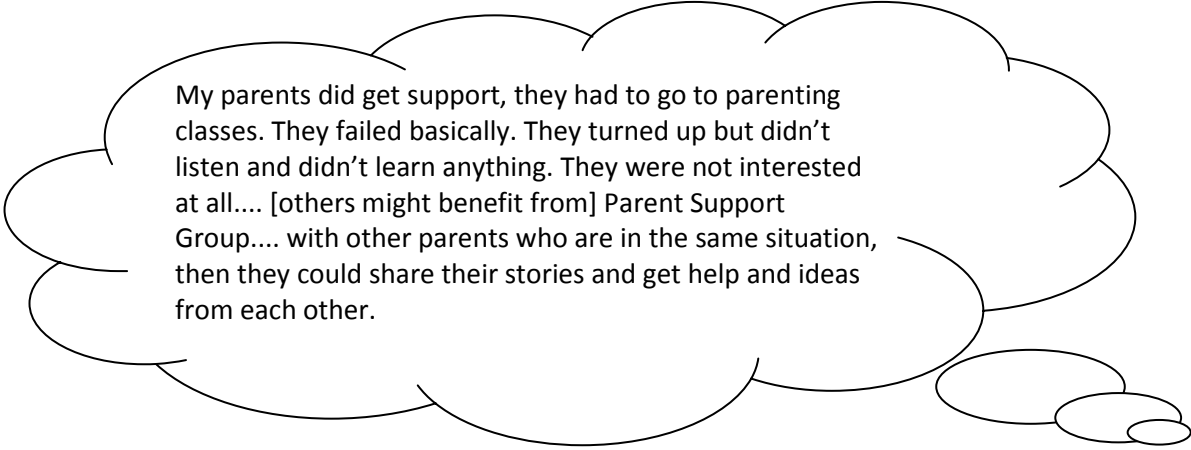
Julia, 21 also said that her parents did not receive support services and she decided to speak about her adult sister's situation that has its foundation in domestic violence. Her sister's situation took her from the family home into refuges whilst her abuser remained in the family home:



Basically my sister had an abusive partner and she had to go and stay in a lot of different women's refuges. She has had seven kids taken away because of that situation with him. Most of them when they were little, like around three or four years old. So I think she needed more counselling and things to be strong enough to leave him, even though she said she still loved him, because the kids all got taken away from her because of him. Maybe for him, he needed anger management classes and help with drugs and alcohol and stuff like that.

Julia's story suggests that there were two very different issues active in the family dynamic. The key issue appears to be the mother's inability to protect herself and her children from harm. According to Julia, her sister's learned helplessness was relevant to her sister's seven children being taken into care. The second issue relates to the victims having to leave the family home whilst the perpetrator remains...

Tracey, 18 said that her parents received parenting classes and group support but that they lacked motivation to change their behaviour:



My parents did get support, they had to go to parenting classes. They failed basically. They turned up but didn't listen and didn't learn anything. They were not interested at all.... [others might benefit from] Parent Support Group.... with other parents who are in the same situation, then they could share their stories and get help and ideas from each other.

From what young people in New South Wales have said it appears then that some parents may change their ways and start providing more appropriate care and protection to their children. It is also clear that parents do not exist in a vacuum and that social support may be a key element in increasing their capacity to respond. The 26 young people (NSW) who responded to this question suggested one or more of the following:

1. Support services need to be individually tailored to the family circumstances;
2. It is important that children and parents do not feel alone in their situation and can access group supports that enable them to have a sense of belonging;
3. Focusing on the primary care giver may not improve a family dynamic and that there may be other members of the family or residence that prevent parenting capacity; and
4. Support services may not work for everyone but are well worth pursuing and may prevent harm to a child or young person and may also keep a child or young person from entering care.

CREATE believes that timely, effective and appropriate support services are an essential factor to increase parents capacity to learn skills and to develop a sense of inclusion and combat feelings of social exclusion. Whilst support service may not be valued by every parent, they should be tailored to each family's individual situation and families should be involved in determining the support services that are appropriate for them.

CREATE recognises that a list of prescribed support services may increase the rate of access for standardised services. However an exhaustive list can reduce creativity and can exclude innovative services from reaching key families. Therefore, **CREATE suggests** that any list should not be exhaustive and provision should be made that all services are to reflect the mutually agreed supports the family requires. Any support services that are offered or denied should be met with a statement of reasons.

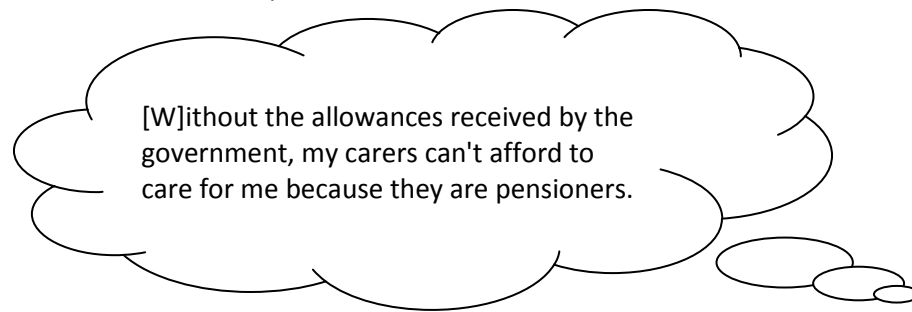
3. Response to question 13 - Should adoption, or some other more permanent placement option, be more readily available to enhance placement stability for children in long term care?

CREATE recently consulted young people in New South Wales about a proposal to increase the rate at which foster carers become adopted parents without the consent of the pre-care biological parent(s).

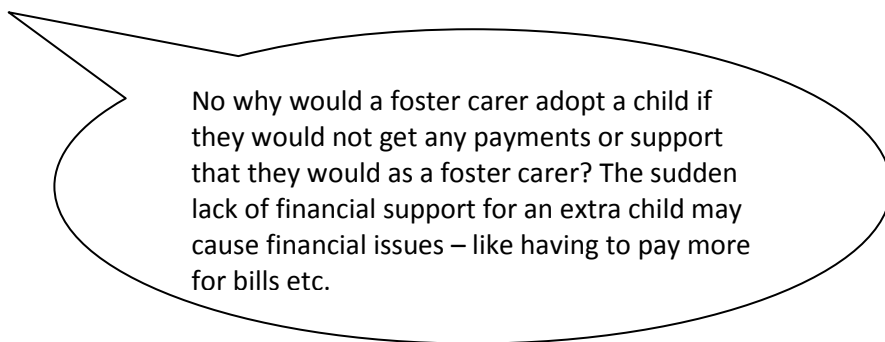
Adoption is a very contentious issue as it takes parental rights from one family and places it with another. There are contemporary issues regarding historical forced adoptions where the rights of children and parents were negated under a government policy. CREATE acknowledges that adoption without consent of the biological parent(s) and/or the child has been and continues to be a traumatic experience in the Australian community and Australia's stolen generations continue to suffer trauma due to forced family separation.

Eighteen young people responded to CREATE's question regarding foster carers becoming adoptive parents. However it must be stressed that the young people CREATE spoke to were not informed of the legal, cultural and political issues associated with adoption. Likewise, none of the young people CREATE spoke with had direct experience of being adopted. However, a number of the young people CREATE spoke with had direct experience of attempting to be adopted.

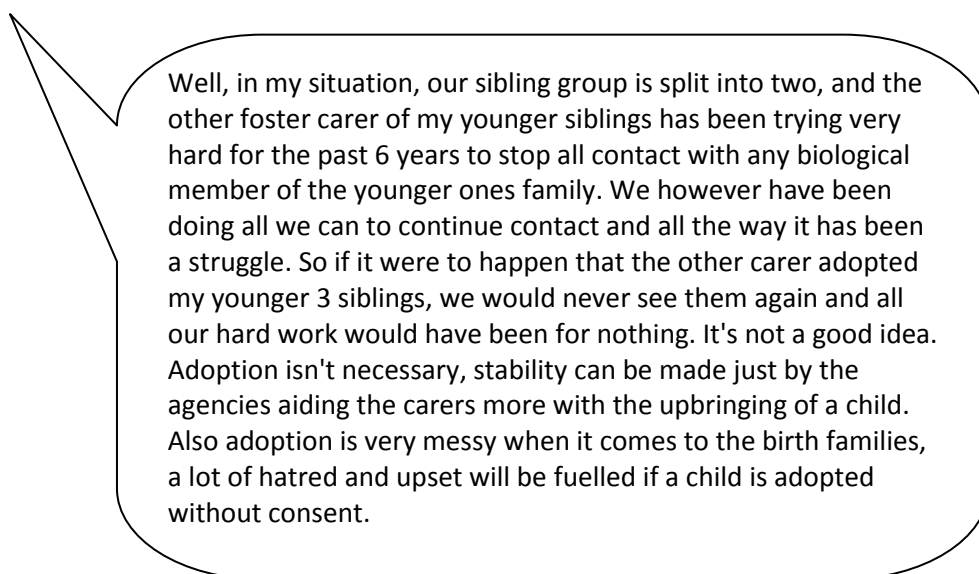
Laurie, 15 suggested that without financial compensation his foster parents would not be able to keep him and this would rule out adoption for him:



Dana, 23 also questioned why foster parents would elect to adopt and receive no compensation:



Casey, 16 told CREATE how her siblings were split between two foster families and how the other foster family stopped her siblings from contacting any of their family. She hypothesised that if her siblings foster family were to adopt her siblings then she would not have seen them until they were adults:



Nina, 17 said she has been cared for by her foster family for 16 years and that for 12 of those years she has wanted to be adopted by them. She suggested she has experienced significant trauma because of this and that she is about to turn 18:

I have been with my foster family for 16 and a half years and have wanted to be adopted for 12 years. Adoption has also been in the case plan for the last 3 years but there has been no action by docs or my foster agency. Still to this day I am not adopted, and I am faced with further complications as I turn 18 and try to fight to be adopted by my loving [foster] parents. No child should have to wait 12 years and suffer the emotional trauma that my family and I have faced in adopting a foster child.

Melissa, 15 suggested that if adoption is being considered as an option then there should be a period of time where the foster carers have care of the young person but they are unable to rely on the Department:

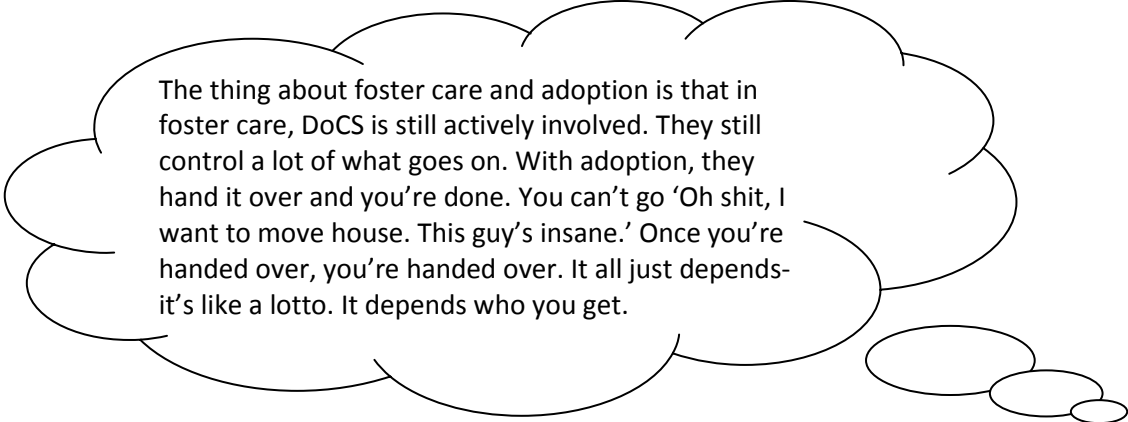
Well with my carers- I've been with them since 2008, we looked at adoption; we even talked to DoCS about it and everything. But my Mum refused....

Question: What issues can you see arising with kids being adopted by foster families?

I reckon that there should be a time....like 6 months or so where DoCS doesn't interfere at all. Then you could see, like the carers make all the decisions, they don't ask DoCS anything. Like, when I wanted to stay at a friend's house in year 5, they had to get a police check. Like, they could have just got the foster carers to meet them and make sure they're ok. So yeh, then see how the foster carers go. Like a trial period....

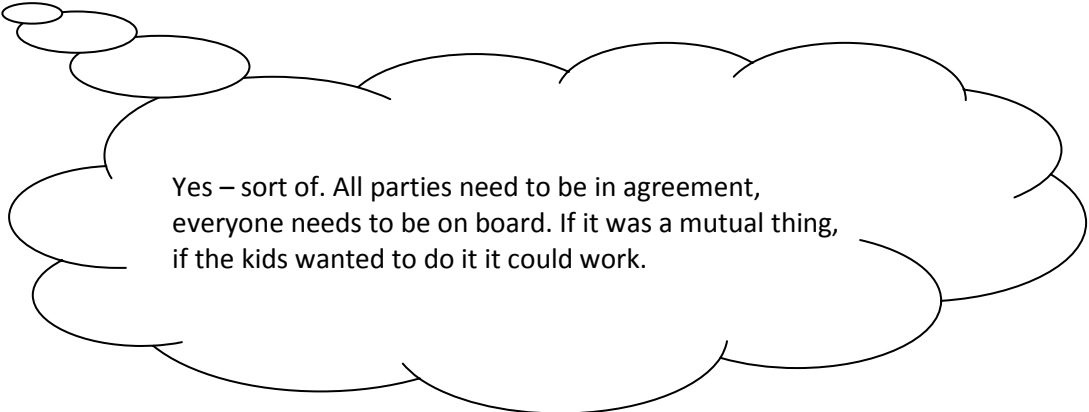
I think that with the adoption process, that they should live with the carers for a minimum of two years before they are able to adopt and then try that cooling off period where DoCS doesn't interfere. Use it as a trial. I know a girl who did get adopted by her carers and they adopted her straight away cos' she didn't have parents. And she ended up running away. She's pregnant with twins and she's 14.

Barry, 15 seemed to carry similar concerns to Melissa because he suggested that with foster care the Department still has involvement but that with adoption, he said it's like the lotto one has to live with:



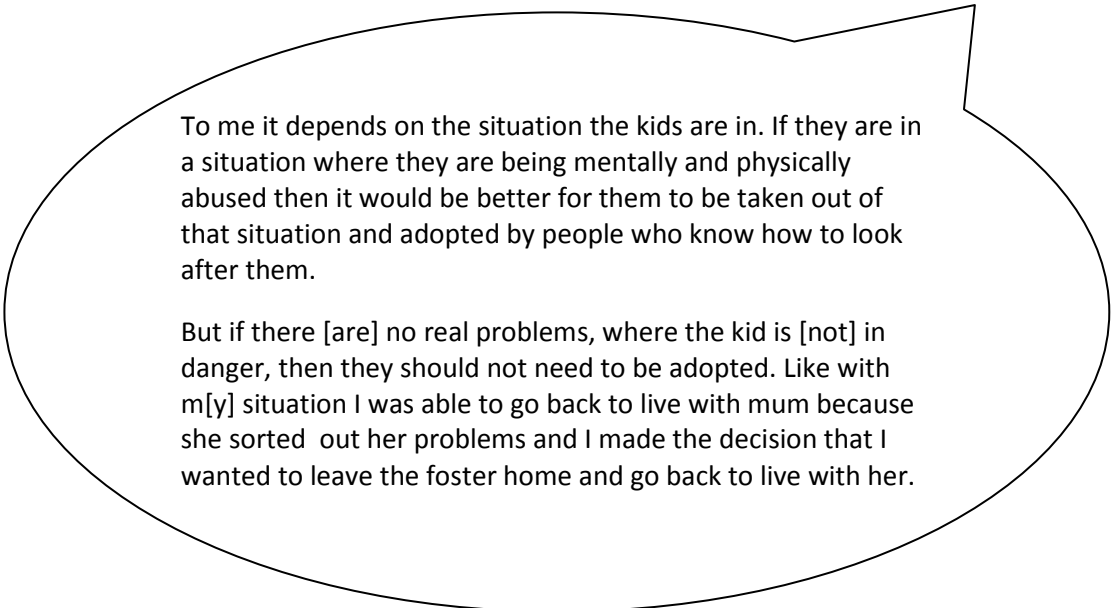
The thing about foster care and adoption is that in foster care, DoCS is still actively involved. They still control a lot of what goes on. With adoption, they hand it over and you're done. You can't go 'Oh shit, I want to move house. This guy's insane.' Once you're handed over, you're handed over. It all just depends- it's like a lotto. It depends who you get.

Jared, 18 seemed unconvinced on the merits or demerits of adoption from foster care. He told CREATE that any adoption would need to be mutually agreed to by all parties... he said the child or young person would also need to agree. This suggests he is against adoption without the consent of all parties affected:



Yes – sort of. All parties need to be in agreement, everyone needs to be on board. If it was a mutual thing, if the kids wanted to do it it could work.

Lachlan, 18 said that adoption by foster parents depends on the family situation:



To me it depends on the situation the kids are in. If they are in a situation where they are being mentally and physically abused then it would be better for them to be taken out of that situation and adopted by people who know how to look after them.

But if there [are] no real problems, where the kid is [not] in danger, then they should not need to be adopted. Like with m[y] situation I was able to go back to live with mum because she sorted out her problems and I made the decision that I wanted to leave the foster home and go back to live with her.

Leah, 23 said she wishes she had been adopted by a number of her foster families. She suggests that adoption may foster a sense of belonging for a child or young person in care but that it should not be forced upon a child. Like Jared, Leah states that the child or young person should be fully informed and consent to the proposed adoption:

I like that a lot. There were a few foster families that I wish adopted me but I never got that option. I'm actually still in contact with the very first foster home I was in and they're a good family and I would have felt like I belonged...

But if a family says to a 7 or 8 year old, 'your parents can't look after you but I'd love you to be my child', that would make you feel like you belonged somewhere. Especially having the same last name...

The only problems I can think of is that the foster family has to be thoroughly checked out because I know of some foster families that didn't even get police checks...

Some foster families are more abusive than the actual parents themselves... I don't think that adoption should be forced. It shouldn't be like 'ok, you've lived here for two years, you're adopted now.' It should be a choice. Kind of like becoming an Australian citizen or something... Will they still get access to their birth parents?

Harriet, 17 recalled her foster mother trying to adopt one of the other children in her foster family and said the process was very difficult:

Being with an adoptive carer, someone that wants to adopt you, it's a better sort of family feel. You know that they care about you and you know that you have a family. It's not the end of the world- there are people there that love you and stuff.

DoCs make it very hard. My carer who had me for 14 years, she tried adopting one of her other foster children and they just made it hard. I remember the struggles they went through. This is back 10 years now. It was the dark ages back then. I think they are now more open to it because there really are no homes.

This raises the question of how other children in a foster placement may feel if they themselves are not the subject of a proposed adoption when other children are. Many children and young people

may already harbour feelings of rejection, invalidation and betrayal simply because of maltreatment by their pre-care families. If family restoration is not possible, and/or if extended family do not take responsibility for the child, then it is likely that these negative feelings about their self worth will be exacerbated. It is foreseeable that cumulative harm would result where a child or young person is in a placement with other children or young people, and not all of those children are being considered for adoption.

Harry, 21 told CREATE that a parent should lose the right to refuse an adoptive situation once their child enters care. He says that three of his younger siblings were adopted by their foster carers and they are very much a part of that family. Like Jared and Leah, Harry says that when a child is old enough they need to be a part of the decision making process and they need to be fully informed and consent to the adoption before it proceeds. This reiterates the importance of children and young people having an inherent right to have their opinions heard and considered:

I believe if the child has had to enter the care sector due to the parents actions or umm misparenting [sic]. I believe that they should not have a say about adoption because they have not fulfilled their role as a parent and if someone else is willing to take role they should be.

I approve of being adopted. For example, my 3 youngest siblings have been adopted by their foster carer, now they have been there since birth so they are a part of that family. Changing diapers, first day of school. The foster mom has been the 'mother' not our birth mother. Adopting those 3 girls has completely been justified because she has been the mother, not our birth mother.

Question: What issues can you see arising with kids being adopted by foster families?

If the child has no say in it they will run away and feel trapped. Mental health is another thing that will have to be addressed. Depression because they do not have a choice in the matter.

In the case that the child gives approval and consent: the child has to feel loved and cared for they would say yes, a child will have to feel love and feel completely comfortable and actually feel like a family member. If a child is saying no to the adoption it is because they do not feel welcome in the house. They are not saying no for the sake of it, they feel uncomfortable in that home.

Depending on age, a child should always be asked, say..10 and over once a child can make judgments on some of those issues, like being comfortable feeling safe, wants and needs are more thought out. Say when you are 13 because that is when a child can make those calls.

CREATE received 18 relatively varied responses (in NSW) to the question of whether a child or young person in care should be adopted by their foster parents. However because the 18 young people CREATE consulted did not have direct experience with adoption outcomes, their responses are considered hypothetical.

CREATE believes that permanency and living in a family environment is conducive to helping a child or young person being happy and maximising their potentials. However, **CREATE is concerned** that adoption scenarios, without the consent of the parent(s) would be akin to previous forced adoption practises.

CREATE believes that where a child or young person has been cared for by the same foster parents for many years (such as in Nina’s case) and where the foster family and the child or young person consents, adoption without the consent of the parent(s) may be appropriate.

4. Response to question 17 - What alternative out-of-home care models could be considered for older children with complex and high needs?

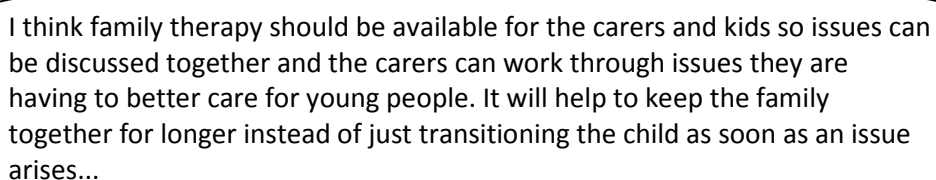
4.1 Appropriately resourced family environment

The Discussion Paper states that secondary services (support services) are lacking and have been for well over a decade. Whilst Queensland is not alone in struggling to provide support services, the Discussion Paper states that there are wide gaps in families accessing timely, appropriate and effective support services.

CREATE believes that children and young people are more likely to flourish and reach their potential in a caring family environment. **CREATE acknowledges** the difficulties associated with caring and protecting young people with complex and high needs.

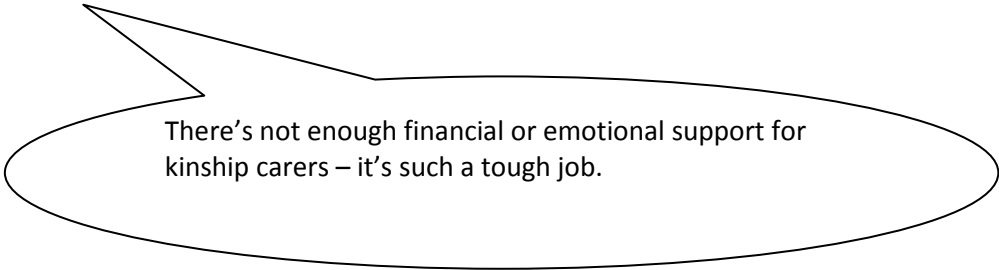
However, **CREATE believes** that an appropriately resourced family based care sector is an alternative option to an under-resourced family based care sector.

Jacinta, suggested that carers should obtain supports so that the foster family is more likely to function effectively and the placement is less likely to breakdown:



I think family therapy should be available for the carers and kids so issues can be discussed together and the carers can work through issues they are having to better care for young people. It will help to keep the family together for longer instead of just transitioning the child as soon as an issue arises...

Mike, said that kinship carers need more supports:

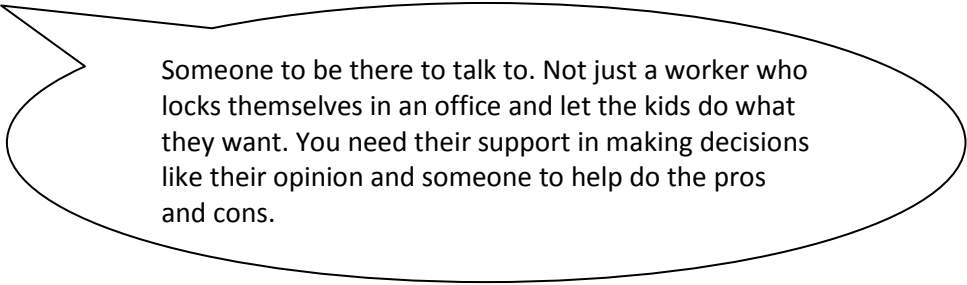


There’s not enough financial or emotional support for kinship carers – it’s such a tough job.

4.2 Residential care

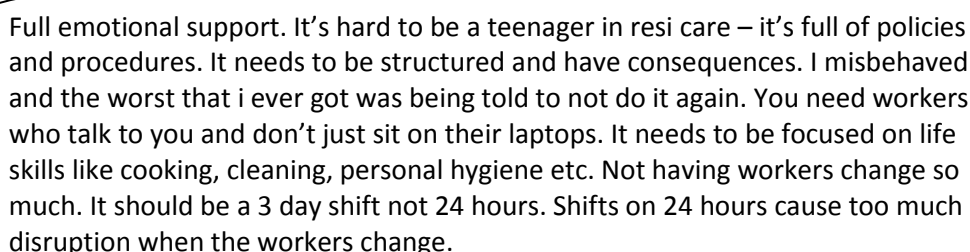
The literature suggests that residential care has been an option of last resort since a policy change against institutionalisation.¹⁰ As the Discussion Paper suggests, it is the placement model of choice where children and young people with high and complex needs are not successfully placed with family based placements.¹¹ McLean, Price-Robertson and Robinson state residential care ‘has become a last resort, used when other approaches, such as family support and/or foster care, have not been successful.’¹² As will become apparent, **CREATE is concerned** that options of ‘last resort’ are being utilised before timely, appropriate and effective support services are being put in place i.e. before options of first resort are exhausted.

Three young people CREATE spoke with appear to view stability as something achieved through consistent and nurturing relationships with adults. Susan, 16 told CREATE that residential care facilities in general need to provide more than casework. They need to provide a sense of family, belonging and mentoring:



Someone to be there to talk to. Not just a worker who locks themselves in an office and let the kids do what they want. You need their support in making decisions like their opinion and someone to help do the pros and cons.

Bianca, 19 also suggested that residential care needs to provide more than just food, shelter and clothing. She says that it needs to provide structure and teach young people how to appreciate that actions have consequences. She also stated that residential care facilities need to be teaching young people life skills:



Full emotional support. It’s hard to be a teenager in resi care – it’s full of policies and procedures. It needs to be structured and have consequences. I misbehaved and the worst that i ever got was being told to not do it again. You need workers who talk to you and don’t just sit on their laptops. It needs to be focused on life skills like cooking, cleaning, personal hygiene etc. Not having workers change so much. It should be a 3 day shift not 24 hours. Shifts on 24 hours cause too much disruption when the workers change.

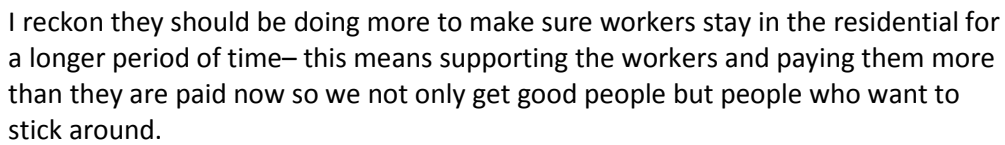
Bianca seems to suggest that her sense of stability becomes challenged as workers clock off and clock on. This suggests that the professionalisation or perhaps institutionalisation of her care is not providing her with the sense of care she feels she requires.

¹⁰ Sara McLean, Rhys Price-Robertson and Elly Robinson. (2011). Therapeutic residential care in Australia: Taking stock and looking forward. *Issues*, National Child Protection Clearinghouse, Issues Paper 35; Karen M. Frensch & Gary Cameron. (2002). Treatment of choice or a last resort? A review of residential mental health placements for children and youth. *Child & Youth Care Forum*, 31:5, 307-339; Ombudsman Victoria. 2010. *Own motion investigation into Child Protection – out of home care*. Melbourne.

¹¹ Queensland Child Protection Commission of Inquiry. (2013). *Discussion Paper*. Brisbane, author.

¹² McLean, above n 10, p 1.

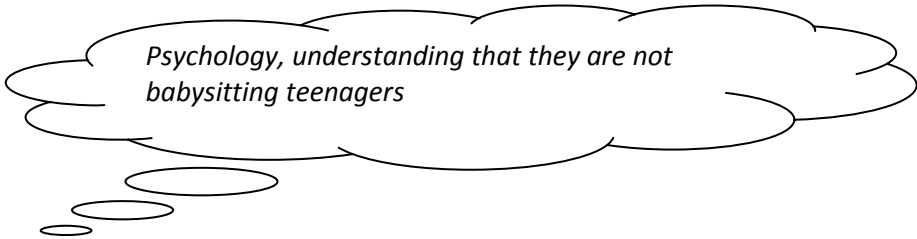
Paul, 17 also suggests that he would like an increased continuity of caring workers in residential care:



I reckon they should be doing more to make sure workers stay in the residential for a longer period of time– this means supporting the workers and paying them more than they are paid now so we not only get good people but people who want to stick around.

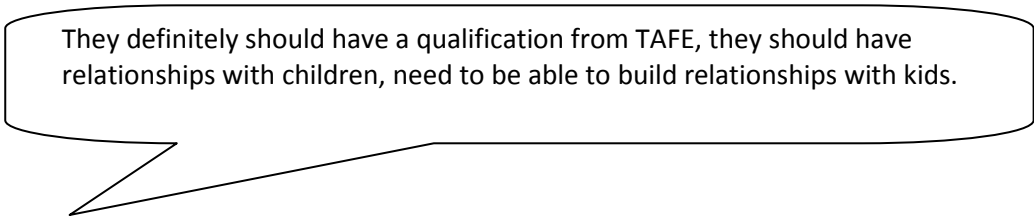
CREATE consulted 16 young Queenslanders with a care experience in June and July 2012 about their experiences in residential care.¹³

Belinda, 17 stated that residential care workers need to have a psychology degree:



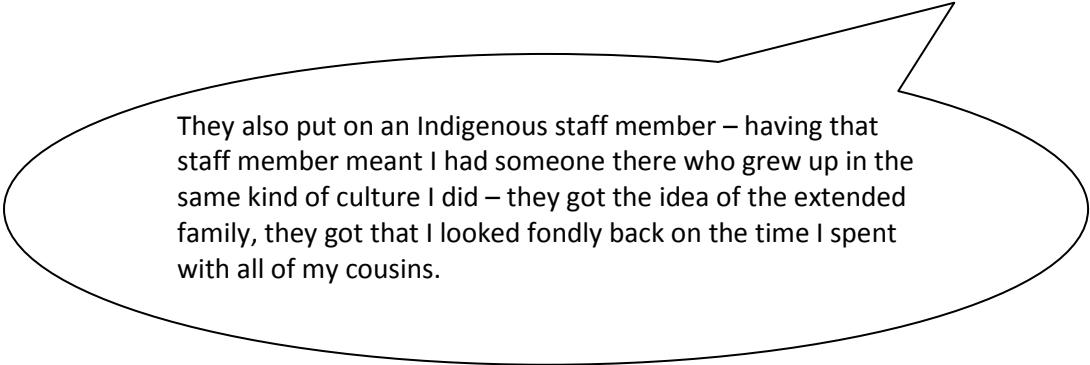
Psychology, understanding that they are not babysitting teenagers

Paul, 18 focused on the need for residential care workers to be able to communicate with children:



They definitely should have a qualification from TAFE, they should have relationships with children, need to be able to build relationships with kids.

Amanda 22, spent time in a variety of care placements, including in residential services and believes she would have been classified as having high and complex needs during her time in care. She said that as an Aboriginal herself, having an Aboriginal worker helped her:



They also put on an Indigenous staff member – having that staff member meant I had someone there who grew up in the same kind of culture I did – they got the idea of the extended family, they got that I looked fondly back on the time I spent with all of my cousins.

¹³ CREATE Foundation. (2012). *Reducing the Criminalisation of Young People in Residential care Facilities*. Brisbane, author.

CREATE recognises that emergency accommodation can and has been used to house young people who are otherwise difficult to place. The Victorian Ombudsman discussed how the inability of the out-of-home care system to meet the demand of children and young people in and entering care is met by the use of contingency placements.¹⁴ The Ombudsman states that the use of fixed term, non-recurrently funded accommodation is due to a lack of capacity and difficulty in placing a child or young person with high and complex needs in pre-existing funded models.¹⁵ Examples of contingency accommodation can include: caravan parks, motels, hotels and even a caseworker's own home.¹⁶

In some cases, a young person might be placed in residential care in order to avoid a contingency placement. This is despite the theory that residential care is supposed to be a placement of last resort, when compared with family based care placement. Where family based placements are not adequately resourced, residential care becomes a first resort placement type.

CREATE believes that options of last resort (out-of-home care generally, and residential care as a placement option) can only be accessed when options of first resort have been truly exhausted.¹⁷ This includes timely, appropriate and effective support services being offered to and utilised by the child or young person's pre-care parents. It also includes timely, appropriate and effective support services being offered to kinship and foster parents. Without these supports and without carer training with regards to the high and complex needs of some children and young people in care, **CREATE believes** that options of last resort are operationalised prematurely due to a lack of appropriate placements.

4.3 Therapeutic residential care

Therapeutic residential care is a model that incorporates a paradigm shift from the tradition model of residential care.¹⁸ It is a model of care where carers and caseworkers purport to provide for the emotional and developmental needs of the child as well as the physical needs. The national definition of therapeutic residential care is: intensive and time-limited care for a child or young person in statutory care that responds to the complex impacts of abuse, neglect and separation from family.¹⁹ This is achieved through the creation of positive, safe, healing relationships and experiences informed by a sound understanding of trauma, damaged attachment, and developmental needs.²⁰

The Victorian government has stated in its latest annual report that it intends to expand therapeutic residential care.²¹ The theoretical framework that underpins therapeutic residential care relates to attachment, trauma and the neurobiological development of maltreated children. Whilst children and young people may not be aware of these theories, young people tend to view the care system through the way they interact with others.

CREATE recognises that most children and young people entering care have experienced significant or substantial harm. CREATE also recognises that many children and young people experience

¹⁴ Ombudsman Victoria, above n 10, [378-393].

¹⁵ Ombudsman Victoria, above n 10.

¹⁶ Ombudsman Victoria, above n 10, [385] ; see also: <http://www.perthnow.com.au/news/at-risk-kids-in-carer-crisis-as-department-for-child-protection-struggles-to-find-accommodation/story-e6frg12c-1226589130907>

¹⁷ See also, Ombudsman Victoria, above n 10, [426].

¹⁸ McLean, above n 10.

¹⁹ McLean, above n 10, p 2.

²⁰ McLean, above n 10; Verso Consulting Pty Ltd. (2011). *Evaluation of the therapeutic residential care pilot programs: Final summary and technical report*. Victoria: Department of Human Services.

²¹ Government of Victoria. (2012). *Annual Report 2011-12 Victorian Department of Human Services*, Victoria, author, p 32.

ongoing trauma and that most if not all children and young people in care require therapeutic intervention and rehabilitation.

CREATE believes that the personal injury sustained by many children and young people in care requires a rapid response to rehabilitation. **CREATE is concerned** however that children and young people have to be found to fail at the least restrictive interventions before accessing rehabilitative services.

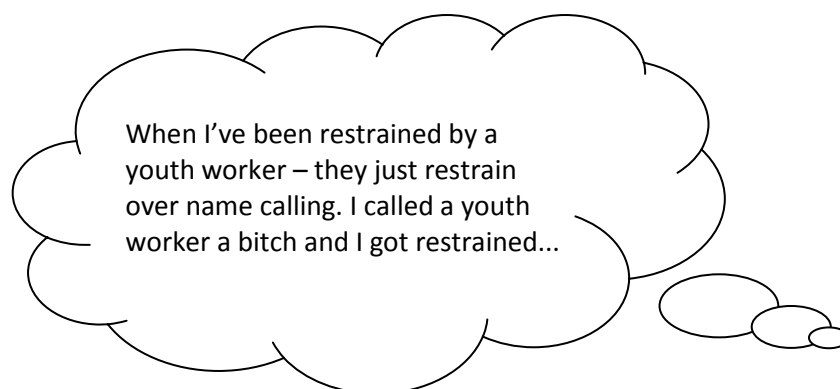
4.4 Secure care

The Discussion Paper canvasses the option of therapeutic secure care as an option for young people with high and complex needs. CREATE notes that secure care in Victoria is called Secure Welfare Services.²² In Victoria, children aged 10 to 17 who are deemed to be at immediate and substantial risk of harm and for whom no alternative safe options exist and are subject to a Protection Order or Interim Order may be placed in secure care.²³ It is considered 'the most extreme form of protective intervention and all other options must be explored first, and relevant human rights considered.'²⁴

In New South Wales secure care is called Therapeutic Secure Care.²⁵ Children who are deemed to pose an immediate and substantial risk of harm to themselves can be placed in these short term facilities.²⁶ The New South Wales model appears to be guided by a philosophy of care in a similar way to therapeutic residential care.²⁷ In 2010-11 there were 118 children and young people with 'complex care needs' in therapeutic secure care in New South Wales.²⁸

CREATE asked Queensland Youth Advisory Group members about the potential introduction of a secure care model in Queensland. CREATE staff explained the documented rationale behind this model of protection and talked about examples at a state and international level. The 15 young people who responded to this issue suggested that the idea of secure care can be used to unjustly restrict the movement of young people in care and that abuses of power can occur.

Anne, 17 said she had been restrained because she called a worker a 'bitch':



²² Government of Victoria. (2012). *Secure Welfare Services (SWS): Advice No: 1069*. Department of Human Services. 5 November 2012.

²³ Ibid.

²⁴ Government of Victoria, above n 22.

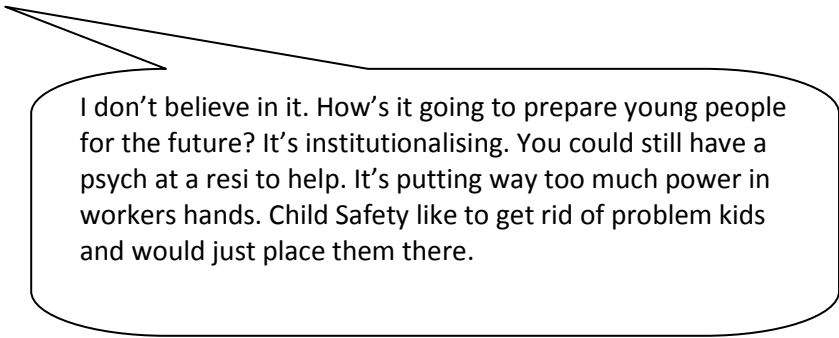
²⁵ Government of New South Wales. (2010). *Out of home care service model: Therapeutic secure care programs*. Department of Community Services.

²⁶ Ibid.

²⁷ Government of NSW, above n 25, p 10.

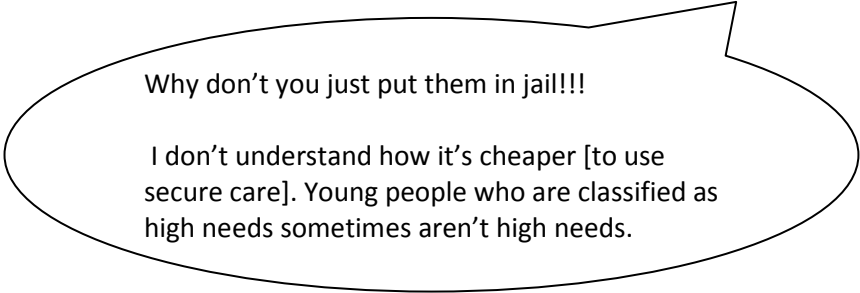
²⁸ NSW Department of Family and Community Services. (2011). *Annual Report 2010-11*. Sydney, author, p 105.

Bianca, 19 is concerned that the secure care is not rehabilitative and can lead to abuses of power:



I don't believe in it. How's it going to prepare young people for the future? It's institutionalising. You could still have a psych at a resi to help. It's putting way too much power in workers hands. Child Safety like to get rid of problem kids and would just place them there.

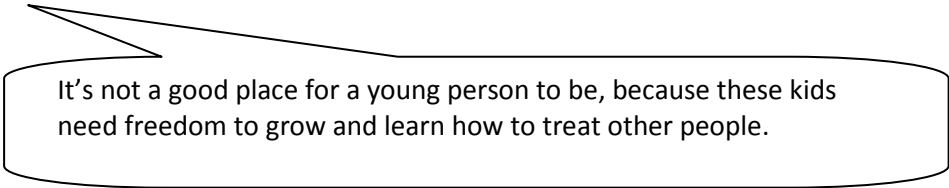
Trish, 22 suggested that mis-classifications can occur and young people can be detained without appropriate safeguards in place:



Why don't you just put them in jail!!!

I don't understand how it's cheaper [to use secure care]. Young people who are classified as high needs sometimes aren't high needs.

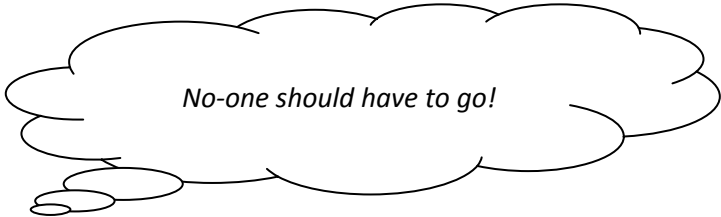
Martin, 19 stated that secure care centres are inappropriate for children and young people:



It's not a good place for a young person to be, because these kids need freedom to grow and learn how to treat other people.

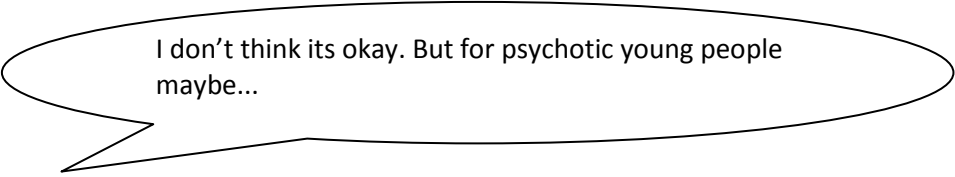
CREATE staff clarified that secure care is a model for young people who are classified as being in immanent or immediate risk of harm to themselves or others.

David, 19 suggested that secure care is not appropriate for anyone, irrespective of the risk classification:



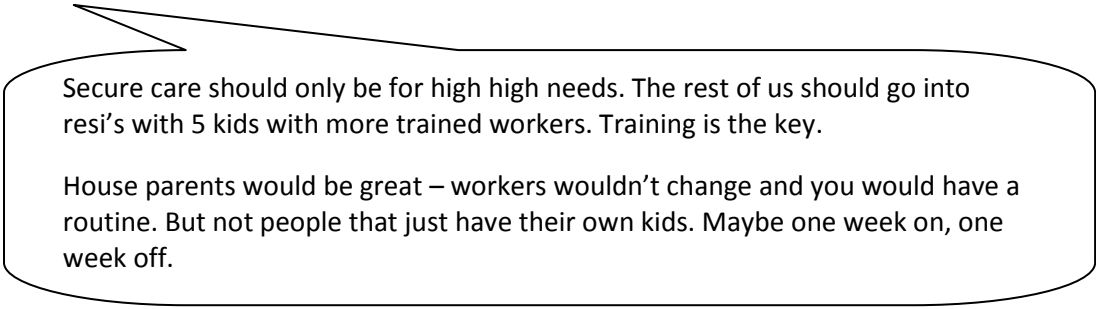
No-one should have to go!

Will, 16 said that it might be ok for young people who are having a psychotic incident:



I don't think its okay. But for psychotic young people maybe...

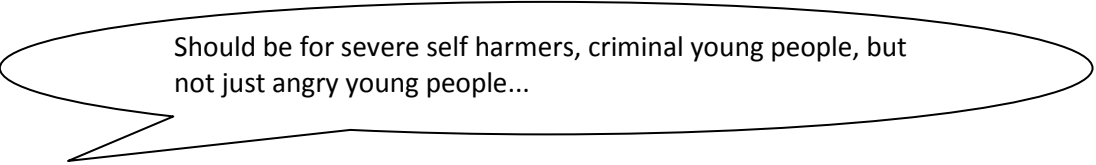
Natalie, 16 said that secure care should be for very high needs kids and focused on the need for residential care facilities to be staffed with appropriately qualified workers. She also identified a preference for a 'house parent' model of residential care. The house parent model is based on the belief that residential care is best provided in a 'family like' environment, achieved through by live-in workers referred to as house parents.²⁹ Natalie speculated that the live in staff would need regular respite and suggested a one week on: one week off situation:



Secure care should only be for high high needs. The rest of us should go into resi's with 5 kids with more trained workers. Training is the key.

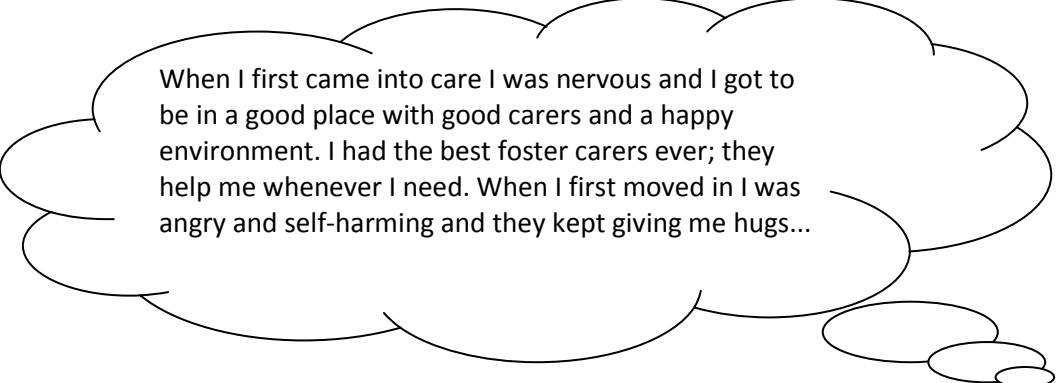
House parents would be great – workers wouldn't change and you would have a routine. But not people that just have their own kids. Maybe one week on, one week off.

Layla, 17 says that secure care should not be for young people who are angry:



Should be for severe self harmers, criminal young people, but not just angry young people...

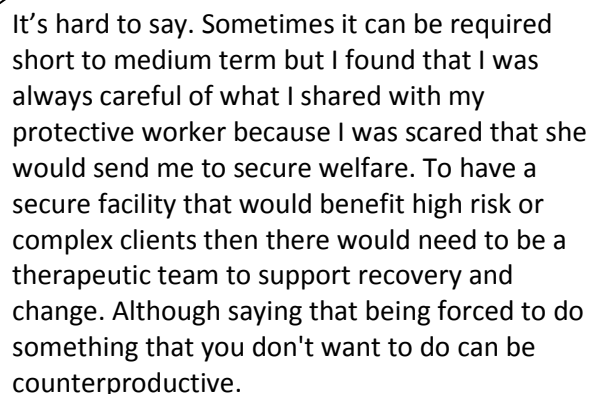
However Anna disagrees with a one size fits all approach. She suggested that without her supportive foster carers she may have been placed in some form of therapeutic or restrictive care. She was self harming and that may have made her eligible for secure care. However, Anna received the emotional support she required from her foster family:



When I first came into care I was nervous and I got to be in a good place with good carers and a happy environment. I had the best foster carers ever; they help me whenever I need. When I first moved in I was angry and self-harming and they kept giving me hugs...

²⁹ Loring Jones, John Ladsverk & Ann Roberts. (2007). A Comparison of Two Caregiving Models in Providing Continuity of Care for Youth in Residential Care. Kluwer Academic Publishers-Plenum Publishers.

Jennifer, 23 shared how her experience of secure care in another Australian jurisdiction impacted on her interactions with supportive adults:

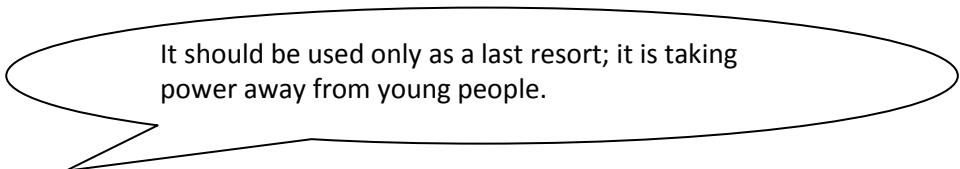


It's hard to say. Sometimes it can be required short to medium term but I found that I was always careful of what I shared with my protective worker because I was scared that she would send me to secure welfare. To have a secure facility that would benefit high risk or complex clients then there would need to be a therapeutic team to support recovery and change. Although saying that being forced to do something that you don't want to do can be counterproductive.

Jennifer's comments tend to suggest that her ability to be open with her caseworker was reduced because of the enduring threat of being taken to the secure care facility.

CREATE believes that children and young people in care need to be able to develop trusting relationships with adults in their life.

Paul, 18 (QLD) stated that secure care takes power away from people and it should only be used as a last resort:



It should be used only as a last resort; it is taking power away from young people.

CREATE acknowledges that some children and young people in care present with complex and challenging behaviour and support needs that arise through factors such as trauma and disability. These young people require significant and ongoing therapeutic support to promote their development and well-being and to reduce the risk that their troublesome behaviour poses to themselves and others.

CREATE believes that the involuntary detention (secure care) of a child who has not committed a crime is a gross violation of the individual right to liberty. Such an action is only justifiable where it is clearly in the child's best interests and is the least restrictive manner through which the child's needs could be met.

CREATE is concerned that secure care models that are based on containment could be interpreted in a manner which would allow for the detention of children in response to the social factors such as substance abuse, homelessness and involvement in the criminal justice system.

CREATE is not convinced that establishing a framework for therapeutic detention (secure care) is in the interests of young people who receive child protection services. **CREATE is concerned** that the detention of young people to protect the public from harm arising from complex and challenging behaviour may be a major factor driving the development of these types of facilities.

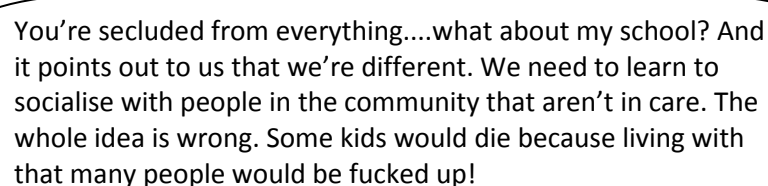
CREATE believes that any introduction of secure care should be underpinned by the following:

- a shared therapeutic framework for all residential care providers;
- processes for regular external audits to ensure that facilities meet minimum environmental, security and service provision standards; and
- systems for monitoring and safeguarding the well-being of children who are subject to an order placing them in therapeutic detention. This should include, but not be limited to, provision for an independent, external party to regularly visit secure facilities to monitor the well-being of children placed in therapeutic detention; and
- processes for regulating, or prohibiting, the use of restrictive practices such as seclusion, containment, sedation, pharmacological intervention and physical restraint in the provision of services to young people who are detained in secure care; and
- strict time limitations on how secure care is used to avoid institutionalisation of young people; and
- processes ensuring that young people placed in secure therapeutic care are provided services that address their cultural needs; and
- procedures to assist young people to transition from therapeutic detention to general services within the community and supports within child protection; and
- clauses providing an express right for a child, whose primary method of communication is a language other than English, to have the benefit of a translator; and
- have the right to have the decision of being placed in secure care reviewed as soon as practicable; and
- the young person being informed of the right to review and provided with independent legal representation before placement if possible.

4.5 Campus based residential care

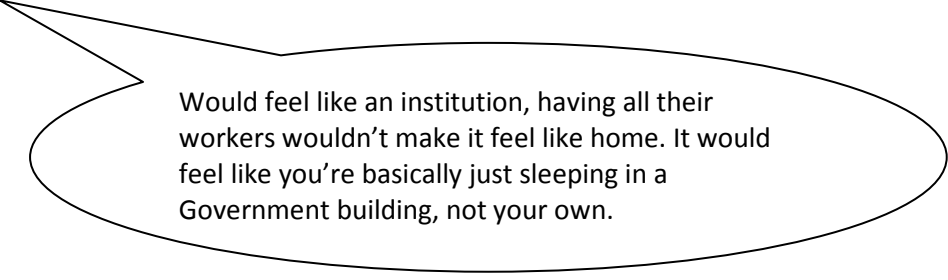
The Discussion Paper raises the possibility of a large scale campus-based residential care services. CREATE consulted with the Queensland Youth Advisory Group on this model and its applicability in the Queensland context. None of the young people consulted on this option have experienced a large scale campus-based residential care facility and therefore their responses should be considered hypothetical.

Jane, 19 raised the issue of young people in care being excluded. She said that putting kids in facilities isolates them from the real world:



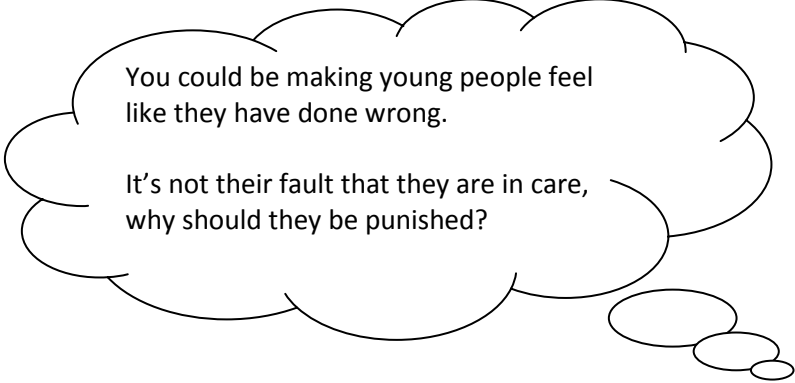
You're secluded from everything....what about my school? And it points out to us that we're different. We need to learn to socialise with people in the community that aren't in care. The whole idea is wrong. Some kids would die because living with that many people would be fucked up!

Arnold, 20 said he would not like to be in a residential campus:



Would feel like an institution, having all their workers wouldn't make it feel like home. It would feel like you're basically just sleeping in a Government building, not your own.

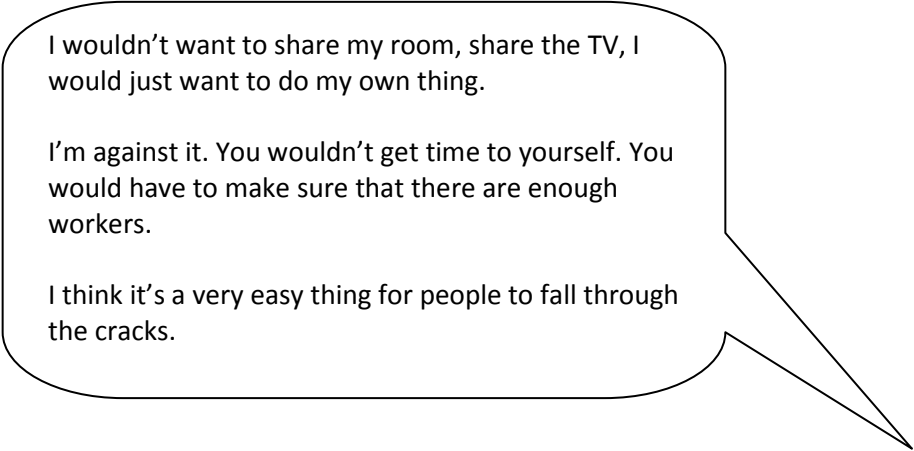
Amelia, 18 said that such a place would make young people feel like they are being punished:



You could be making young people feel like they have done wrong.

It's not their fault that they are in care, why should they be punished?

Destiny, 21 said that there would be issues with privacy and personal space:

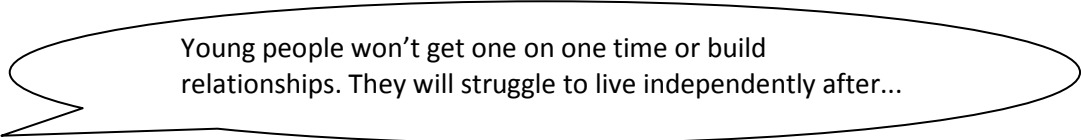


I wouldn't want to share my room, share the TV, I would just want to do my own thing.

I'm against it. You wouldn't get time to yourself. You would have to make sure that there are enough workers.

I think it's a very easy thing for people to fall through the cracks.

Claudia, 19 identified that in a professional facility building relationships would be an issue:



Young people won't get one on one time or build relationships. They will struggle to live independently after...

CREATE believes that children and young people are more likely to flourish in family based care.

CREATE recognises that children and young people in non-family based care can be deprived of loving bonds with caring adults who are consistently available to them for emotional support.

CREATE is concerned that various forms of non-family based care would not provide children and young people with the care that they require and would therefore prevent them from reaching their full potential.

4.6 Use of medication to control behaviour

The issue of the use of medication does not appear to be included in the Discussion Paper. However CREATE recently consulted young people in New South Wales on this issue. CREATE believes that it is appropriate to include the young people's responses here because from those discussions, the use of medication, particularly in residential care appears widespread. In Queensland, there is some evidence to suggest that the use of medication, particularly in the treatment of children and young people with conditions such as ADHD, is more frequent than in the general population.³⁰

Sixteen young people in New South Wales spoke to CREATE about their exposure to medication whilst in care. Fifteen young people stated that either they or someone they know (in care) had been medicated for the purpose of controlling or modifying behaviour. Of the young people who gave CREATE detailed accounts of their experiences via one to one interviews (as opposed to focus groups) one young person mentioned being medicated by a doctor, one said she saw a psychiatrist and the other mentioned his friend was prescribed medication and did not receive counselling.

Harry, 21 told CREATE that he refuses to take medication but that he has many friends who are prescribed with anti-depressants and suggests that medication is not what kids in care need. Harry says that kids in care need support from caring people:

I know a lot of friends who have [been] medicated for depression. I have always been quite headstrong when it comes to medication. Even when I'm sick I don't like taking pills. Whenever I have mental health issues I try and combat it the best I can, really trying to sit there and think it through.

I have had a best friend who is now off it. He lost his job, his girlfriend, living out of his grandmother's spare room you know they were things that were rather depressing for him and it got to the stage where he didn't want to be on this earth anymore. He was just given medication, there was no counselling, no help, 'here have this medication, and sort yourself out, your own your way'.

Question: How was his behaviour affected by this?

Anger, angry because he had no help. He had me, and that's what always cheered him up whenever he was feeling down he could come over and play video games with me. That was his only support network. He didn't feel like he could speak to anyone else.

He didn't have someone there to help - not even within his family. He was just given pills and told to work [it out] from there...

You can't just give someone a pill and expect that it will have some magical effect ... it all comes down to support networks not pills.

No quick fix.

³⁰ Youth Affairs Network of Queensland. (2012). *Use of Psychotropic Drugs on Children in State Care*. Brisbane, author.

Leah, 23 shared her story with CREATE and suggested that kids in care don't need medication, they need proper parenting.

I was on ADHD medication. They thought I was a bit of a hypo child I guess. I mean, it didn't bother me but when I lived with my Nan, she got me checked out and I would go to the Paediatrician every six months and I got weighed and measured and we'd talk to the doctor and he'd look at my medication and if I needed to up the dose or down the dose or whatever. But as soon as I changed foster homes, they were like 'Oh, well I'm not going to Sydney and I'm not paying for your medication.' But also with the medication, I was also not allowed certain foods, like things with additives. I was very good with keeping to that and checking the box. I never did anything behind my Nan's back. But as soon as I changed foster homes, they were like 'Oh, we think you can have orange juice now.'

I did experience some side effects on one medication when I was 17, like an antidepressant. They took me to a Psychiatrist actually. But DoCS would only pay for two visits with the Psychiatrist. I thought that was ridiculous because he put me on medication and then I never saw him again. I never got monitored on it and that's really bad. Because I already knew about being monitored on it because when I was a kid, I had been on Ritalin and stuff.

My caseworker was like, 'we've got funding for two visits.' And then it never got fixed and then I turned 18. It was so stupid. And especially because my Mum was in and out of mental facilities, I knew that you had to get monitored on it.

That happened to me again when I was homeless when I left care. I ended up in a psych ward for two weeks. I had just moved to a refuge ... and the hospital closest to [the refuge] was full so they took me to another hospital. And once I left there and went back to my refuge, they were like 'well now you're classified as out of area.' They wouldn't let me come back on a daily thing or a weekly thing to evaluate me because I was out of area. So the medication they gave me in the hospital, I would just keep going round to doctors filling my script thinking I was doing a good thing. When you go into hospital, they drug you up with so much stuff to make you so sedated so you can't cause problems to anybody. I took myself off that medication eventually. I put on weight, it makes you incredibly hungry. And I didn't know if I needed it or not.

I don't think you should take kids to a GP once and say 'they're depressed, they need medication'. When I was a kid, I got taken to a Paediatrician and had a whole two day assessment, where they put a cap with wires and everything on my brain to really check me out. Sometimes they just give kids medications for the sake of it. Like they may be hypo but it's the home life as well. Like if you don't have a good home life, of course you're going to be one of those violent bullies at school. Cos that's what's happening at home and they don't have boundaries. They don't need medication, they just need to be parented properly...

Dana, 23 told CREATE how easy it is for children and young people in residential care to have medications prescribed for them and that to her knowledge the children are not informed of their right not to take the medication. She says that she has seen children and young people swapping medications to obtain a high. This suggests that drug abuse occurs prior to leaving care.

Yes almost everyone I have met who has been in care has been put on some type of medication. Mostly anti-depressants. Because when you go to live in resi they take you to see a psychiatrist and it's free.

The psychiatrists just put everyone who acts up at all on meds. It's just like that in refuges and residential units. I have seen quite a few psychiatrists and they all just put me on meds after like the first visit.

I would say about 2/3 of YP in residential units are on meds from my experience. I lived in a bunch of different places like that from when I was 13 till when I was 18 years old....

Well the psychiatrists just see you alone, the caseworker just takes you there and waits outside the room, and they don't brief the staff at the refuge about it. So yeah it needs to be monitored better I think. Instead of just handing it out like candy...

I remember kids swapping and trading their meds with each other, because they thought you could get high off them... So the kids need to be educated on what the meds are and what they do.

They also need to make it really clear that you are not obliged to take the medication. Because no one ever explained that to me. The young people need to be told that it is not obligatory to take the medication.

Of the three young people (in NSW) who gave detailed accounts of their experiences with medication, all three suggested that the use of medications by children and young people in care is high.

There is no doubt that many, if not all children and young people in care have experienced significant trauma, including being taken from the family home. **CREATE believes** that children and young people should have all reasonable opportunities to voice their concerns, their doubts and their feelings about their life and that psychological counselling may give them an avenue to express themselves in a safe environment. Indeed, psychological counselling may assist them to develop increased understanding of their childhood experiences and help them develop healthy coping mechanisms.

CREATE is concerned that the use of medication for behavioural control may be high in the care community. **CREATE is also concerned** that children and young people may not have frequent access to professional psychological rehabilitation.

CREATE believes that it is in the best interests of children and young people in care to receive regular psychological counselling and rehabilitation rather than medication. Medication of children should be a short term option only and access to counselling may reduce their need for medication in the medium to long term. **CREATE acknowledges** that there may be an increased short term cost implication but that the long term costs may be recovered.

5. Response to question 18 - To what extent should young people continue to be provided with support on leaving the care system?

Transitioning from care, like child protection itself, is best achieved via a community response, that is - in a collaborative manner. Factors such as budgeting, cooking, cleaning and communication need to be coupled with access to affordable health (medical, dental, mental) and affordable, safe and stable housing which is dependent upon education, training and obtaining employment. Transition is, by its very nature, an interagency process.³¹

The United States National Council on Disability reported that successful transition from care to adulthood is more likely to occur where there is a comprehensive, multisystem transition support network. The network and the plan both need to be multisystemic because it needs to address an array of life domains including gaining and maintaining employment, increasing educational qualifications, accessing and maintaining health care, housing and family challenges.³² This is the case for young people with and without a disability.³³

CREATE believes that a collaborative and flexible approach to transitioning from care is required. CREATE has consulted thousands of young people in and out of care about their transition from care experiences over the past 5 years.³⁴

CREATE's recent Report Card shows that in all jurisdictions most young people surveyed had spoken to someone regarding their aftercare life.³⁵ However in Queensland, it appears that approximately 25% of young people surveyed reported they had not even spoken with someone about their life after transitioning from statutory care.

CREATE is concerned that such a large number of teenagers are not having conversations with their teachers, their caseworkers, their carers, their mentors about what they are going to do to achieve their dreams. This puts them at a severe disadvantage. CREATE would argue that most parents plan for their children's futures by selecting good schools, assisting them with homework, helping them to achieve academic results required to enter university or to obtain a good job.

CREATE is concerned that the expectations of adults in the lives of children and young people are far too low as evidenced by so many young people reporting not even having the aspiration, goal oriented conversations that many of their peers are experiencing.

Given many young people are not being assisted to plan for their adult life whilst in care, and given the high cost of living and the emotional supports young people need, **CREATE believes** that young people should be supported until at least the age of 25.

³¹ CREATE Foundation (2012). *Supporting children and young people with a disability in out-of-home care in Australia: Literature Review*. Brisbane: author, p 39.

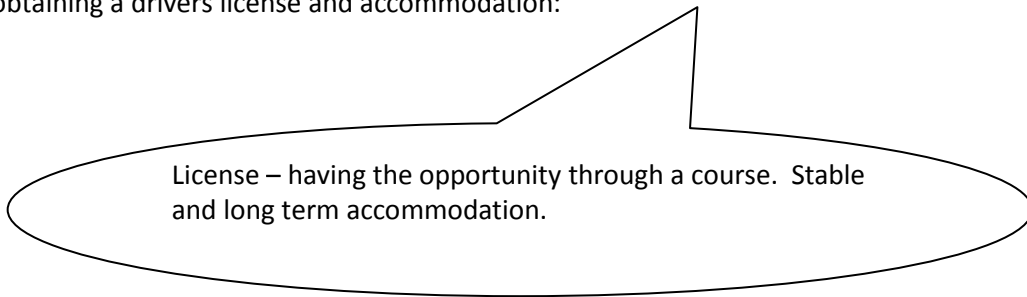
³² Ibid.

³³ Note that the legal definition of disability includes mental health impairments: See CREATE above n 31, pp 9-10.

³⁴ See McDowall, above n 3; McDowall, J. J. (2011). *Transitioning from Care in Australia: An Evaluation of CREATE's What's the Plan? campaign* (CREATE Report Card 2011). Sydney: CREATE Foundation; McDowall, J. J. (2010). *What's the Answer? Young people's solutions to improving the transition to independence from out of home care*. Department of Families, Housing, Community Services and Indigenous Affairs; McDowall, J. J. (2009). *CREATE Report Card 2009 – Transitioning from care: Tracking progress*. Sydney: CREATE Foundation; McDowall, J. J. (2008). *Report Card 2008: Transitioning from Care*. Sydney: CREATE Foundation.

³⁵ McDowall, above n 3.

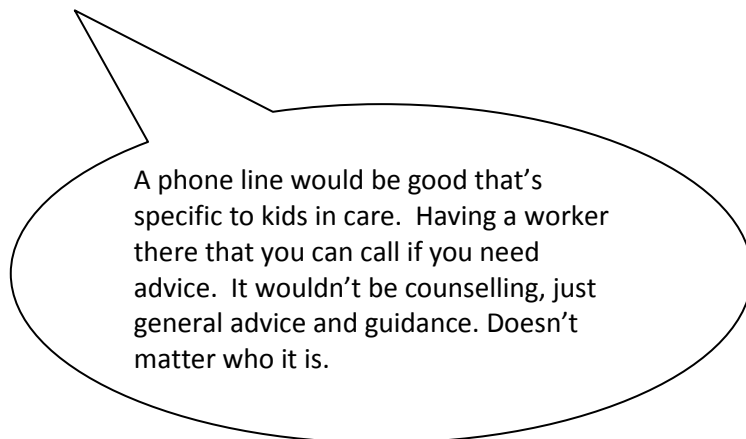
Amelia, 18 identified a need for help and support beyond 18 and said that right now she needs help with obtaining a drivers license and accommodation:



License – having the opportunity through a course. Stable and long term accommodation.

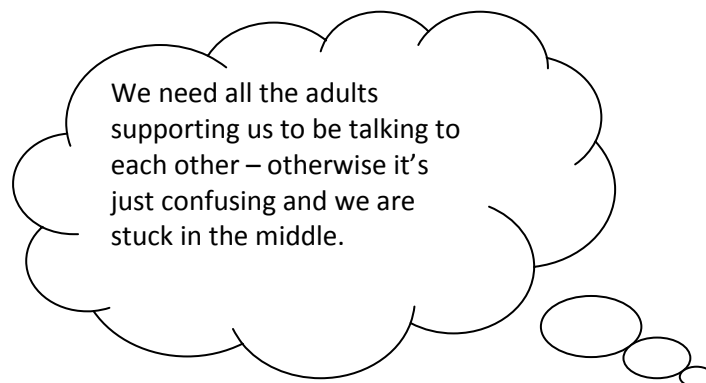
For young people, meaningful service coordination means having one entry point to the service system, rather than having to find their way through a maze of well intended support. There is nothing new in this and CREATE believes that access to services can be frustrating for anyone if there is no single entry point.

Simone, 22, continues to experience a range of health and accommodation issues after leaving care and said that one point of contact for young people is essential:



A phone line would be good that's specific to kids in care. Having a worker there that you can call if you need advice. It wouldn't be counselling, just general advice and guidance. Doesn't matter who it is.

Peter, 21 agreed that inter-agency communication and collaboration is key:



We need all the adults supporting us to be talking to each other – otherwise it's just confusing and we are stuck in the middle.

Shaniqua, 18 said that a lack of resources and a lack of skills detrimented her transition from care:

I was linked into one place before I turned 18 but only a few weeks before, I think you need to be linked into to people who can help before you turn 18 but that doesn't happen – sometimes because child safety are just too busy, sometimes because the workers don't have the skills. I think they need more specific TFC training and more information, it would be easier if they had a person who was just dedicated to just TFC. TFC is important and deserves this attention, it's the beginning of a whole new adult life and you don't want to stuff that up.

Monica supported a whole of government approach to helping care leavers:

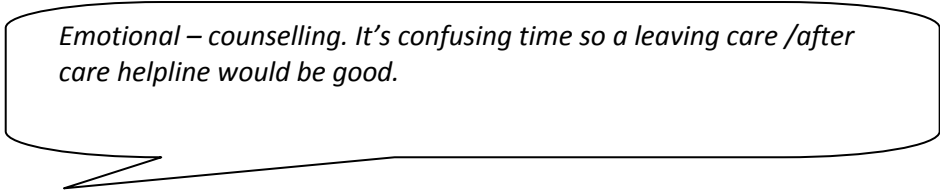
Better mental health services. A transitions worker from CYMHS who could assist in the transition to adult mental health. For other services like health etc, also having a transitions officer. A key person in an organisation to assist with the transition.

Most of the young people's statements reflect a general assumption in Australia society that young people are from 'normal' families and do not require specialist services. **CREATE suggests** that where children and young people have had corporate parents in the form of the State, then State services need to be aware of the particular needs of young people in and out of care and cater for those needs accordingly. Mainstream Australia does not consider the needs of young people with a care experience. Despite ideological rhetoric, our society is not a level playing field and more needs to be done to help young people with a care experience.

Simone, 22 suggested that there is not enough access to psychologists, general medical practitioners, dentists or optometrists and that services are expensive:

More counselling – there's not enough available and what is available is expensive. Access to more healthcare in general and dentists and optometrists. What is available is difficult to access in the community as there's not a lot of info available.

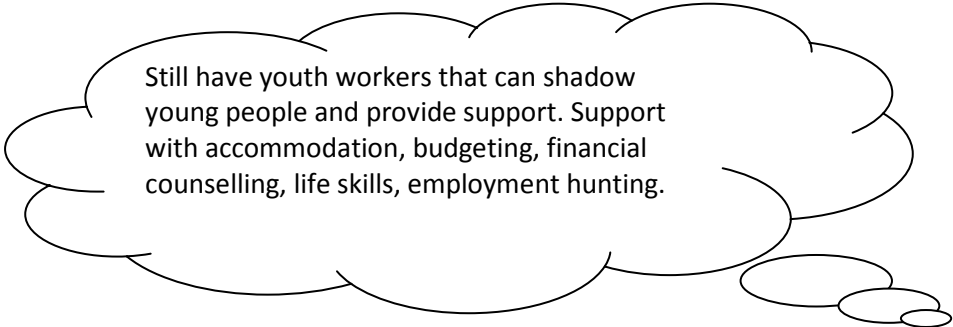
Cindy, told CREATE that she missed the emotional support and mentorship of foster care and suggests a helpline for care leavers:



Emotional – counselling. It’s confusing time so a leaving care /after care helpline would be good.

Cindy’s suggestion implies that she does not have an adult in her life that can help her with decision making. She suggests that leaving care is confusing and stressful.

Jack, 16 told CREATE that after he leaves care he thinks he’ll need access to a young worker to provide help and guidance with decision making and general mentoring:



Still have youth workers that can shadow young people and provide support. Support with accommodation, budgeting, financial counselling, life skills, employment hunting.

Both Jack and Cindy touch on an unmet need often highlighted in the experiences of young people transitioning from care, particularly those exiting from residential care: a lack of continuity in relationships with significant adults after the age of 18. This arises because youth workers or other supportive professionals are employed as part of the child protection system. Therefore, when the State ceases to become the legal guardian of the young person, so does the financial resourcing for these supportive adults. Generally professionals paid to work with an age designated clientele must bid farewell to the young person in order to work with a new group of younger clients.

Typically, the bond between the young person and these supportive adults gets severed and the young person finds themselves in a position where they effectively have to ‘start again’ with services and supportive adults after turning 18. Appropriate mentoring services can offer a way of addressing this issue.

CREATE notes the positive outcomes reported in the Whiltelion RAMP evaluation.³⁶ That project offers mentoring services to 64 young people in residential care in Victoria. The evaluation report states the program showed “many positive effects and substantial promise, including the possibility that it will produce long-term savings and benefits to the community through successful intervention in the lives of high risk, difficult to engage young people.”³⁷

³⁶ The Nucleus Group. (2008). *Evaluation of the RAMP Mentoring Program*. Office for Children. Victoria: Department of Human Services.

³⁷ Ibid, p 3.

CREATE suggests that mentoring services, in combination with the post care brokerage and information may assist young people transitioning to independence.

Another positive example of an initiative which enables young people to build positive relationships prior to turning 18 that can last into adulthood is the Transition and Post Care Support Program currently funded by the Commonwealth Government and run by the Queensland Department of Communities, Child Safety and Disability Services. The transition officers are co-located with Evolve Behaviour Support Services. This team that provides Positive Behaviour Support services to children and young people with a disability who are in care and who have high and complex support needs and display challenging behaviours.³⁸ The transition officer can continue working with the young person up to the age of 21 years. This means that at age 18 when all the ‘child’ services cease and the ‘adult’ services begin, the transition officer may be the only – or one of a few – people who remain involved with the young person. This provides the young person with not only a point of contact but importantly, consistency and continuity through a period of significant change.

The Discussion Paper notes that Queensland is the “only state where legislation, policy and practice are unclear as to how long the state must deliver support for young people after 18 years of age.”

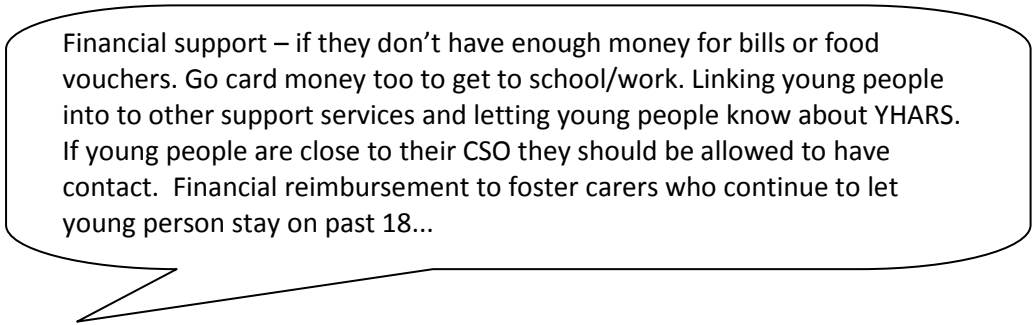
CREATE believes that all key stakeholders should have clarity regarding their duty of care and the scope that the duty entails. Likewise, all stakeholders, including young people should be able to have clarity regarding the services and supports they can expect and request.

CREATE believes that there needs to be clarity regarding the post care support services. **CREATE believes** that young people transitioning from care to adulthood should be supported until the age of 25. Whilst legislation would provide greater authority, a policy with legislative backing would also provide clarity. Domestic and international examples could be considered to create a legislative framework that would facilitate a more coordinated and comprehensive response to the needs of young people transitioning from care. It would also provide a further impetus for a whole of government approach to the issue, with the aim to increasing efficiencies and improving outcomes.

A Bill has recently been passed in Missouri (USA) where young people over the age of 18 but under 21 can elect to re-enter care if they are struggling with being out of care. The decision can also be made by other relevant persons if it is in the young person’s best interests.³⁹ Therefore, in some cases the age of majority can be effectively extended until the age of 21 in Missouri.

CREATE believes that extending services, including carer compensation, beyond the age of 18 is likely to enable some young people to stay in their final placements and less likely to face risky environments.

Stacey, 19 suggested that assistance to young people and carers after 18 could help young people to become self sufficient adults:

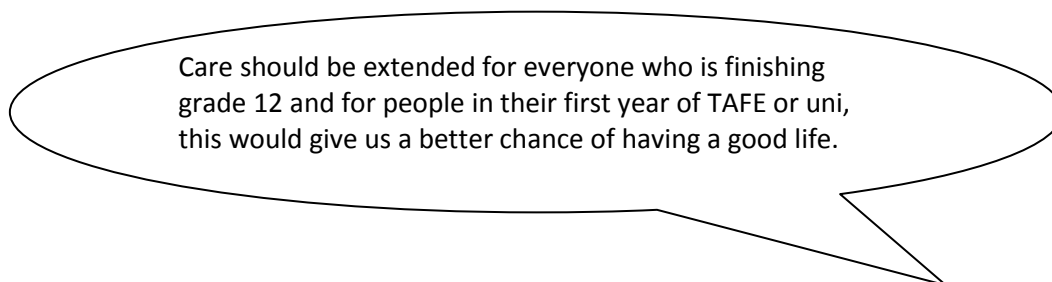


Financial support – if they don’t have enough money for bills or food vouchers. Go card money too to get to school/work. Linking young people into to other support services and letting young people know about YHARS. If young people are close to their CSO they should be allowed to have contact. Financial reimbursement to foster carers who continue to let young person stay on past 18...

³⁸Government of Queensland. (2012). *Fact Sheet: Transition and Care Support Program*. Brisbane: Department of Communities, Child Safety and Disability Services.

³⁹ See: http://www.senate.mo.gov/13info/BTS_Web/Bill.aspx?SessionType=R&BillID=17429942

Michaela, agreed with her peers that support should be extended beyond the age of 18. She also stated that this is particularly the case for young people who are still at school, TAFE or university:



She suggested that care be extended for the first year of tertiary education, however CREATE is not sure this is a good idea. Although CREATE has not personally investigated this space, there is research that suggests care and support needs to be extended until tertiary education is completed.

A longitudinal study (the Midwest study) involving 732 young people from three states (Illinois, Iowa and Wisconsin) in the United States of America questioned whether and to what degree remaining in foster care until the age of 21 would significantly increase educational engagement to the university level.⁴⁰ That study found that young people residing in jurisdictions that provided statutory care until the age of 21 were more likely to enrol and start their degrees compared with young people from jurisdictions that ended statutory care at 18. However they also found that once statutory care ended (at 21), the likelihood of those young people completing their degree reduced. That research revealed that a lack of support and housing increased the need for money; and the need to work was the reason most often given as to why former college students, in reaching the age of majority, had dropped out of college.⁴¹ It may be that the young people who were able to stay on in their final placement also finished their degrees.

Research in England found that young people with a care experience at university continued to experience financial problems.⁴² Jackson et al found that many of the students with a care experience did not know about scholarships or funding opportunities and that many of them continued to experience housing issues.⁴³ Of great concern is that many of the young students were experiencing difficulty with the coursework. The cause of this was attributed to gaps in their schooling and having never established a homework routine or that they needed paid work and had difficulty managing their time.⁴⁴

Missouri has recently also passed a Bill providing that all young people in care from the age of 15 are to receive assistance to increase their educational engagement post care. This includes receiving help to apply to university or technical colleges and to access financial support to access the

⁴⁰ Dworsky, A., & Courtney, M. (2010). *Does extending foster care beyond the age of 18 promote postsecondary educational attainment?* University of Chicago, Chapin Hall.

⁴¹ Ibid.

⁴² Jackson, S., Ajayi, S., & Quigley M. (2011). *Case study on the impact of IOE research into 'Going to University from Care'*. London: Institute of Education, University of London.

⁴³ Jackson, above n 42.

⁴⁴ Jackson, above n 42.

courses.⁴⁵ Jurczynszyn and Tilbury also suggest that these types of supports are likely to help young Queenslanders.⁴⁶ A whole of government approach in Australia could make the same provisions.

CREATE would like to see more non government organisations working directly with young people whilst still in care to ensure their living skills, their study skills, their employment skills are all being harnessed. **CREATE would also like to see** more children and young people experiencing educational stability and **CREATE believes** that moving from school to school does not contribute to this stability.

CREATE acknowledges that there currently exists some financial support for young people transitioning from care, such as the Transition to Independent Living Allowance and the Aftercare brokerage provided through Youth Housing and Reintegration (YHARS) services around Queensland. However, future Commonwealth funding of the YHARS service is currently uncertain past 2014. CREATE's consultations with young people suggest that a majority of this funding is accessed between 17 and 19. This means there is less available when young people experience 'false starts' in their transition to adulthood and independence. Likewise, receiving assistance for transitioning from care is not an entitlement: young people have to apply and be eligible.⁴⁷

Of upmost importance **CREATE believes** it is essential young people are consulted with in the design and development of services established for their benefit. Where young people are not involved in their transition planning or the development of a transition plan, CREATE believes that such a plan is tokenistic.⁴⁸

6. Response to question 19 - In an environment of competing fiscal demands on all government agencies, how can support to young people leaving care be improved?

In considering how support for young people transitioning from care can be improved in an environment of competing fiscal demands, it is important to recognise that within the community of young people aging out of care each year there exists a variety in level and nature of need. The 2009 CREATE Report Card found that 50.5 percent of those surveyed in the post care group were required to leave their placement when their child protection order expired at age 18.

The needs of young people who have a stable and positive relationship with family based carers would vary from those young people exiting care from residential placements who often experience a much sharper transition. Therefore, the key to improvement in this area is recognising that different assistance is required for different young people. Young people experiencing greater emotional stability and social connection tend to benefit more from practical supports such as educational scholarships and more encouragement to stay with supportive adults. Whereas, young people with more complex needs who tend to be in residential care (but not always) tend to require services to help them build positive relationships and achieve emotional stability as well as more practical assistance.

⁴⁵ See: http://www.senate.mo.gov/13info/BTS_Web/Bill.aspx?SessionType=R&BillID=17428987

⁴⁶ Reeny Jurczynszyn & Clare Tilbury. (2012). Higher and further education for care leavers: A road less travelled. *Developing Practice: The Child and Family Work Journal*, 33 Spring, 11-22.

⁴⁷ See: <http://www.tila.org.au/eligibilitycriteria.html#C1>

⁴⁸ Amber Hall. (2012). It's not a transition plan if the young person wasn't involved. *Developing Practice: the Child and Family Work Journal*, 33 Spring, 4-9.

CREATE believes that there is considerable evidence to suggest that investment in the improved coordination and provision of services to young adults leaving the care system will decrease costs to community and government.⁴⁹

To improve support for young people leaving care, CREATE supports in principle, the following options canvassed in the February 2013 Discussion Paper:

- Provide a range of supported accommodation options with appropriate caregivers however CREATE believes that young people should be equipped with living skills prior to leaving care. Living skills should form a part of the care experience;
- Develop policies on how a young person could 'pay board' to a caregiver should they wish to remain in their placement after discharge from care;
- Develop a policy for supporting young people who self-place, including the provision of ongoing support in an appropriate manner, until the age of 25 years;
- Provide 'ring-fenced' whole of government funding for post-care support up to age 25 years. This would include brokerage funds. This support may be delivered by specialist teams within Child Safety or by non-government organisations, and young people would access this funding through any Child Safety service centre (in similar fashion to the Victorian model);
- track and publish data on the number of young people subject to support service cases after leaving care;
- implement a model similar to the Tasmanian Transition Program, allowing for the gradual handover of tenancy from Child Safety to the young person;
- develop initiatives to help young people in care to remain at school as long as possible, including provision of training to teachers on how to understand and manage the impact of abuse (on behaviour) for young people in educational settings, and development of alternative education pathways for young people in care to prevent exclusion;
- reduce or waive fees for young people leaving care who want to access tertiary education (both at state level, for example TAFE fees, and at federal level by negotiating with the Australian Government for HECS waivers) and ensure supported accommodation until after graduation; and
- Any other provision that helps to support young people to develop into healthy adults.

CREATE acknowledges, as noted in the Discussion Paper, that the costs of the needs of young people leaving care is likely to be disproportionate to their numbers. However if carried out appropriately as part of a shared framework, better coordination and more efficiency in the delivery of services to this vulnerable community could be realised. **CREATE recommends** that, as a starting point, the current Child Safety Directors Network ensure the prioritisation (such as TAFE fee waivers) of government services for young people leaving care.

7. Response to question 47 - What other changes might improve the effectiveness of Queensland's child protection system?

CREATE acknowledges the discussion held at the Commission of Inquiry on 26 February 2013 with regards to young people who are frequently absconding from approved placements and the degree to which efforts should be made to keep these young people in out of home care. This discussion appears to be based on the presumption they are 'self protective' at 15 years of age.⁵⁰

⁴⁹ McDowall, (2010), above n 34.

⁵⁰ Transcript of Proceedings 26 February 2013. Queensland Child Protection Commission of Inquiry, p 33.

Shaniqua, 18 said that even where teenagers think they know what is best for them and return to their pre-care family, they continue to be vulnerable and continue to need the Department's services and supports:

Especially for young people who come into care late, most of them have behavioural problems and going 'home' back to their family is them returning to their comfort zone if they freak out in care. Coming into care is overwhelming, its a massive change and you have to adapt to it. Some people don't take that change very well.

Also most of the time young people have their teen angst and are cocky, like I was, most of them don't realise they need the support and protection of child safety. I was one of those young people who absconded and didn't appreciate child safety being there for me, but now that I look back on it I definitely do appreciate it. There's a reason you are not living with you[r] parents. Only if the young person is ready, not a danger to their siblings or other family members and their parents have changed should they go back.

The CREATE Report Card 2009 found, among other things, that of the young people under 18 who were surveyed: 22% reported they planned to move back to live with one or more pre-care family members. Approximately 13% of the over 18 year olds who participated suggested that they intended to return to their pre-care home.⁵¹ Therefore, a significant number of young people intended to return to their pre-care homes and a significant number may have already returned.

Jane, 16 urged for caution when deciding to place a young person:

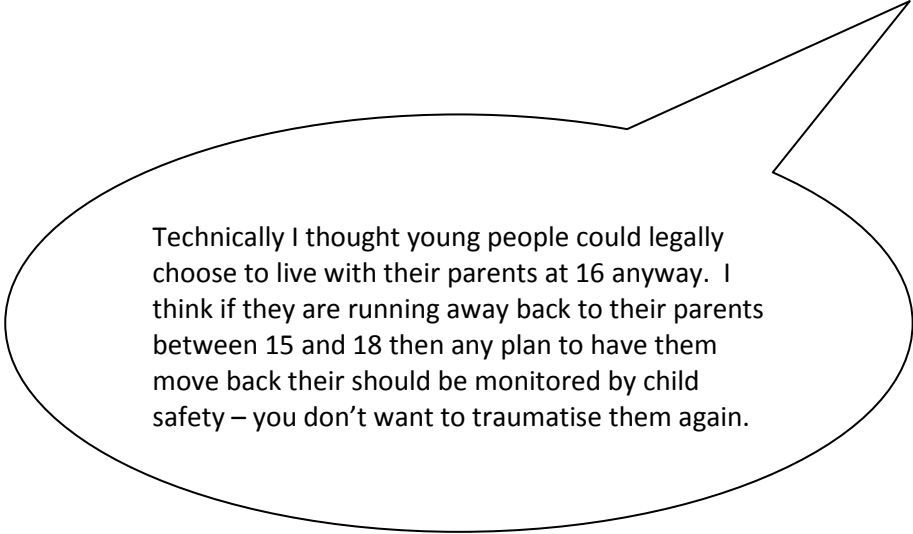
If people are running away, they are running away from something. Don't put them somewhere that's probably worse.

Meryl, 16 said that if a young person isn't choosing to return to the pre-care family then they should not be sent there:

It depends where these young people are absconding to – if they aren't absconding to parents then I don't think they should be sent back to parents – doesn't that go against the whole point of child safety?

⁵¹ McDowall, (2009), above n 34.

Todd, 21 told CREATE that young people should still be able to contact the Department even when they choose to live in a place that the Department does not agree with:



Technically I thought young people could legally choose to live with their parents at 16 anyway. I think if they are running away back to their parents between 15 and 18 then any plan to have them move back their should be monitored by child safety – you don't want to traumatise them again.

CREATE supports this process of young people returning to the pre-care family if:

- It is in the best interests of the young person;
- It the young person is informed and expressly consents to return to the pre-care home; and
- Where support services continue to be available to the young person.

There is a family living (or frequently visiting) model of residential care that may assist the young person and the family with an intended return to the pre-care family home. That model purports to facilitate assessments and/or enable family members to receive the practical, educative and therapeutic supports they require to enable a successful reunification.⁵²

Many young people who have left care, have informally reported to CREATE that a primary reason they return to their pre-care family home is due to housing necessity and a lack of financial resources. Many young people in this community have still not secured stable and well paying employment. Some may intend to return home for a short duration, however in many cases the underlying issues may not have been addressed. Therefore the continuum of abuse and neglect can potentially and possibly still occur upon return to their pre-care homes. For this reason, CREATE believes that support services need to be available to them even if they are viewed as self placing and self protective. The reality is, they are still vulnerable and they may still require help.

⁵² Paul Carlo & William A Shennum. (1989). Family reunification efforts that work: A three year follow-up study of children in residential treatment. *Children and Adolescent Social Work Journal*, 3:6; see also <http://studentsfirstproject.org/supports-services/local-mental-health-resources/specialized-residential-services/crisis-stabilization-assessment-and-family-reunification/>

Conclusion

There is no doubt that there are changes required in the child protection system in Queensland. The number of children and young people entering and in care has doubled in the past 10 years. If we are to stop this escalating crisis **CREATE believes** that timely, effective and appropriately designed support services need to be increasingly offered and accessible to parents before children and young people enter care. **CREATE believes** that out-of-home care is a last resort option in and of itself. **CREATE believes** that good carers, good caseworkers and good non-government organisations are being overwhelmed by the sheer numbers and complexity of issues facing Australian families and children.

Historically, the pendulum tends to shift from providing quality care to children and young people in the child protection system to early intervention and prevention. Resources are allocated to one or the other as policy changes occur. However, despite policy changes, there are real children and young people who are being affected by diverted funds. Resources should not be focused at one end of the spectrum to the detriment of the other.

CREATE believes that a true community approach to child protection is required. Schools need to be informed and this includes universities informing our future teachers of the needs of children and young people and being trained accordingly. It means our definition of 'family' needs to be fluid and include families that do not contain biological ties. It means our aversion to risk and our focus on protection needs to be truly balanced with our duty to provide each and every child and young person with love, nurturing and care.

Our business community needs to be encouraged to employ young people with a care experience. Our business community need support and need to understand that some young people may not have a work ethic of a young person brought up in a loving and disciplined home. Patience, discipline and compassion are required. It means our government departments need to be informed that the duty of care expands beyond the Departments of Child Protection and that we must, at all times, be cognisant of those young people who are marginalised, victimised and otherwise unheard.

Children and young people are our future leaders. They are our future decision makers. Some more than others need a helping hand. Some more than others need supports beyond what we might otherwise call reasonable. When children have been substantially maltreated by those that are supposed to care and protect them; when they have been taken from their homes and placed with a corporate parent, we need to respond with compassion. When families are struggling - and more now than ever are struggling - we need to respond not with a stick but with a heart. We need to help families develop coping mechanisms that will benefit all of society. We need to help them feel less isolated and alone. We need to increase our compassion and reduce our judgements so that we can help families better themselves. Only when we do this will we start seeing cost savings and start living in a truly civil society.