

# Policies on Children, Youth and Families

SA State Election 2018



**SACOSS**

*South Australian Council  
of Social Service*



## Children, Young People and Family Wellbeing Policies

### Introduction

SACOSS has long maintained an interest in issues of child and family wellbeing. SACOSS accepts that children, as vulnerable members of our society, must be supported to develop their full potential as contributing adults of the future.

Where there are failures in our ability to provide opportunity and protection for children in families and communities, there is both individual suffering and significant flow on effects, feeding other areas of social breakdown and disadvantage.

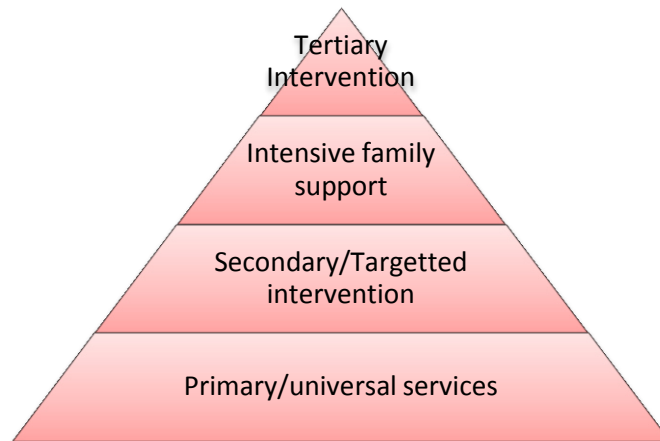
An effective child welfare system should support families and children to thrive through measures that react meaningfully, flexibly and considerately to them. It should seek to diminish the wider societal drivers of social disadvantage and dysfunction. Where necessary, it should provide timely intervention, as early as possible, to improve children's opportunity to thrive.

Our current system of child welfare is not fit for purpose and is even failing to prevent abuse and neglect of children and young people. Each year we are seeing a growth in the need for tertiary child protection services. The SA Early Childhood Data Project (BetterStart Child Health and Development Research Group, 2017), using de-identified data from the Department of Child Protection, shows that currently, in each birth cohort, before the age of 10:

- 25% of children will experience one or more notifications to child protective services,
- 19% will have one or more screen-in notifications,
- 10% will have one or more notifications investigated,
- 5% will have had one or more substantiations of child abuse/neglect, and
- 1.8% will have experienced one or more out of home care placements.

Child welfare and protective services vary in terms of their target group and intensity of intervention. To depict this diagrammatically, commonly the child welfare service system is shown as a pyramid (see over the page).

## Public health model of child welfare system interventions

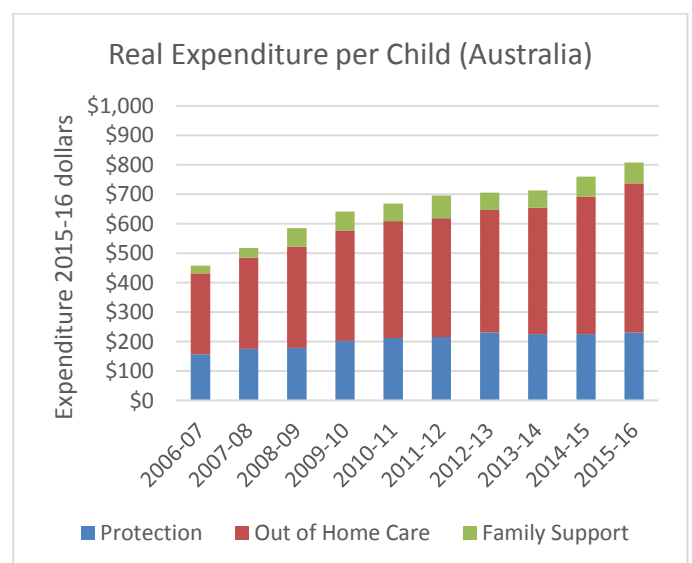
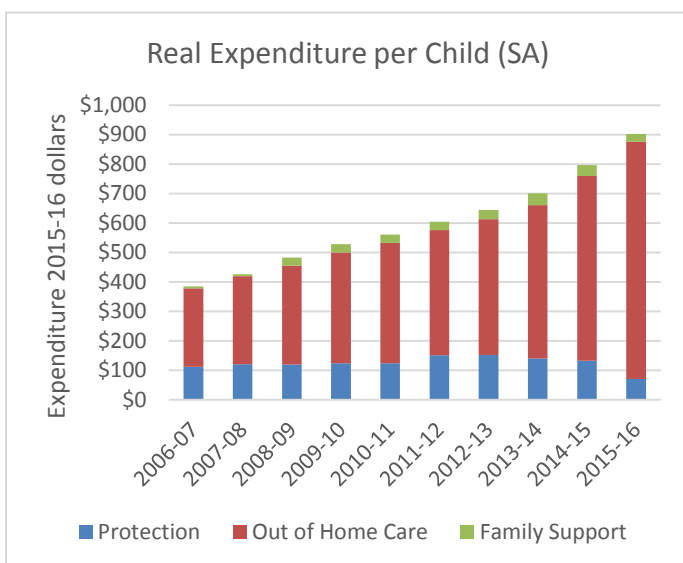


Adapted from Bromfield and Holzer (2008)

However, this representation is not accurate in terms of the responses currently available and patterns of expenditure, which should be more accurately represented in an hourglass shape, with effort and funds loaded at each end of the service system.

Government investment in children and young people is primarily directed towards universal services, for example in child health and education, or after a crisis arises and a child or young person is removed from the care of their parents by child protection services (or juvenile justice services). The federal and state governments share responsibility for funding health and education, whereas the state government provides for child protection services and the juvenile justice system. In the area of child welfare there is a substantial gap in investment in targeted secondary support services and intensive family support interventions.

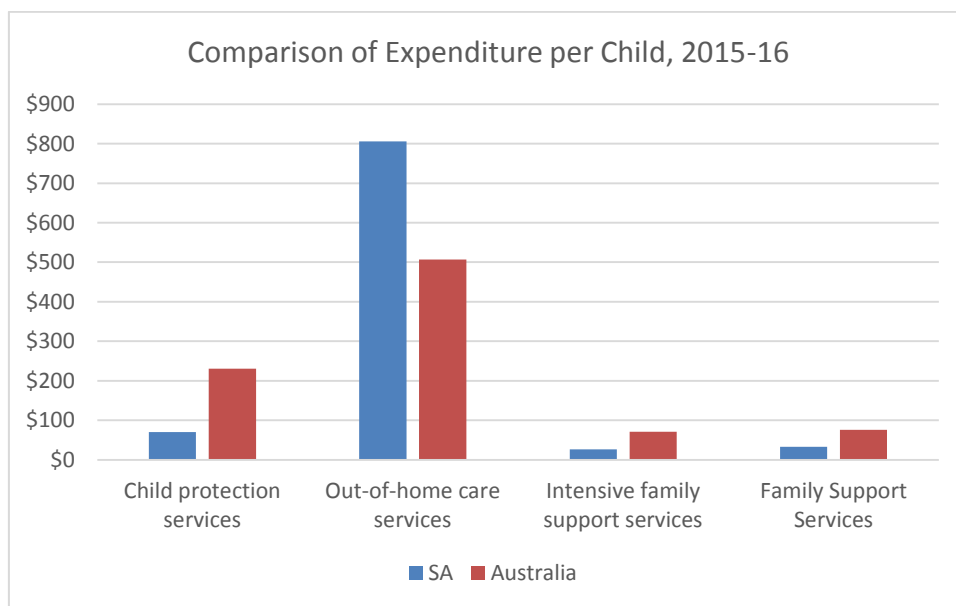
Data from the Productivity Commission (2017) shows South Australia's real expenditure patterns per child, which differ considerably from the Australian figures.



The most recent data available for SA, from 2015-16 financial year, shows a decline in the overall spend per child on child protection services and an enormous blowout in the amount spent on out of home care. SA's investment in intensive family support has reduced each year since 2013-14, which may have contributed to extra demand for out of home care.

The graph below compares SA expenditure with Australian averages in four areas of expenditure for a single year. Unlike the time series data above, this also includes a figure for family support services, which are less intensive services to families in need, for example including assessment of their needs, provision of support, diversionary services, counselling, and referral to support networks (Steering Committee for the Review of Government Service Provision 2016).

For children Australia wide, on average, much less is spent on out-of-home care per child and significantly more is spent on intensive family support services and family support services, evidence that SA's expenditure patterns are inconsistent with other jurisdictions. In 2015-16 SA was spending more in total per child (\$934.70) than the Australian figure (\$883.09) but this cost is driven primarily by an over spend on out-of-home care. Underinvestment in services that strengthen families and support children to remain with parents will continue to increase the need for and cost of out-of-home care in SA.



Our pattern of expenditure is concerning not only because of the cost but also because it is a result of more children requiring to be removed from parents and requiring placement, sometimes in expensive and undesirable residential homes. While for many children and young people this may be a safer situation than life with abusive or neglectful caregivers, the reality is that these situations are far from ideal.

SACOSS wants to see our approach to children, young people and families change with the government taking a more proactive approach to fostering the wellbeing of children and young people. There are numerous other peak organisations and experts who agree and we

are working with them in an alliance for children and young people's wellbeing. Our policy asks draw upon good practise models and evidence. Some would require investment upfront, but would lead to significant savings in the medium to longer term.

## Policy Summary

SACOSS is calling on all parties in this election to commit to:

- Legislative reform to ensure a greater focus on early intervention and children's best interests i.e. addressing gaps in the *Children and Young People (Safety) Act 2017* and introducing measures to provide for a whole of government approach to prevention and early intervention for children and families.
- Funding for Prevention and Early Intervention
- Establishing a Commissioner for Aboriginal Children and Young People
- Support for young people in out of home care until 21y.o.

## Policies

### Legislative Reform- Prevention and Early Intervention for Children and Young People

The final report of the Royal Commission into Child Protection Systems was handed to the SA Governor on the 5<sup>th</sup> of November 2016. Royal Commissioner Nyland's report *A Life They Deserve* highlighted various problems with the *Child Protection Act (CPA) 1993*, which was the legislation directing child protection services, particularly some of the incorrect assumptions underpinning the legislation.

The Royal Commission report (Nyland, 2016) recommended a number of amendments to the *CPA 1993*, but did not go as far as suggesting completely new legislation, which has been the priority of government since the conclusion of the Royal Commission (Government of South Australia 2016 p.18). During 2017 the parliament passed a suite of new legislation including *Children and Young People (Oversight and Advocacy Bodies) Act 2016*, *Child Safety (Prohibited Persons) Act 2016* and the *Children and Young People (Safety) Act 2017*.

Whilst broadly supportive of many of the legislative amendments recommended by Royal Commissioner Nyland, a number of which were incorporated in the new legislation, SACOSS and other significant stakeholders and advocates identified several important gaps in the bills that have now become legislation.

#### **The Best Interests of Children and Young People**

SACOSS is calling for the *Children and Young People (Safety) Act 2017* (hereafter referred to as the *Safety Act*) to be amended at Chapter 2, Part 2, Priorities in the operation of this Act, and specifically for Section 7 to be deleted.

Section 7 sets out the paramount consideration of safety of children and young people as the priority in the operation of the Act. However, we hold that the best interests of the child must be of primary consideration, which accords with Article 3.1 of the *United Nations Convention on the Rights of the Child (UNCROC)*.

We accept that in the context of child protection, the 'safety of children' is a central and clear concern but this would be best encompassed under the 'best interests' principles. The *Safety Act*, as it currently stands, fails to recognise that children have a number of rights which must be considered in reaching life changing decisions about their future. For example, it is in the child's best interest where they are capable of forming a view to have this taken into account, for Aboriginal children, it is in their best interests to be raised in community and culture (articles 5, 8.2 and 30) (Australian Human Rights Commission 1999).

The 'safety of children' test in the *Safety Act* is also inconsistent with other SA legislation, most notably the *Children and Young People (Oversight and Advocacy Bodies) Act 2016*, which incorporates the UNCROC principles, giving primacy to the child's best interests throughout. The need to act in the best interest of the child and determine what is in the

child's best interest was repeatedly noted as important in Royal Commissioner Nyland's Report recommendations, and it should be applied consistently across all SA legislation.

The *Safety Act* needs to be amended to identify acting in the best interests of the child as the paramount consideration and guiding principle in its interpretation and application.

### **Prevention and Early Intervention**

A tragic flaw in the current suite of legislation is the lack of provisions directing prevention and early intervention work. The numbers of children and young people reported to child protection authorities and the numbers who require a statutory response demonstrates that child abuse and neglect is a serious public health issue requiring a systematic and layered response. However, we continue to focus on how our system should react when there is evidence of child abuse and/or neglect. This is often too late to address safety concerns, which drives a growing need for out of home care.

SACOSS and other stakeholders have repeatedly called for the gap in prevention and early intervention legislation to be addressed either through amendments to the *Safety Act* or with new legislation.

The *Safety Act* provides a function of the Minister in Chapter 2, Part 5 (14) (1) (c) which says the Minister must:

‘promote, support and adequately resource evidence-based programs delivering preventative and support services directed towards strengthening and supporting families, reducing the incidence of child abuse and neglect and maximising the wellbeing of children and young people’.

But the *Safety Act* lacks specific measures or a strategic focus on the prevention of child abuse or intervention when risk is identified, but *before* harm to a child or young person has occurred.

The Child and Family Assessment Referral Networks (CFARNs) are included in the *Safety Act* and have some potential in building a better response to issues that are identified, but when a tertiary child protection response is deemed unnecessary. Previously concerns of this nature, when reported to the Child Abuse Report Line, elicited no action, offer of service or intervention. But the CFARNs ongoing place and role within our child welfare system is uncertain. In the *Safety Act* there is little detail regarding their role and function, and their very existence is entirely at the discretion of the Minister.

Before the *Safety Act* passed the Legislative Council of the SA Parliament, in response to concerns raised by critics of the bill (including SACOSS), the government committed to drafting new legislation to drive prevention and early intervention work in the state. The Prevention and Early Intervention for the Development and Wellbeing of Children and Young People Bill 2017 was subsequently drafted and tabled in the Legislative Council. Although not perfect, the Bill was promising as it provided for a Whole of State Strategy for Prevention and Early Intervention for Children and Young People and their Families. We were very disappointed that the government failed to prioritise the Bill before the end of

the Parliament's sitting year. With the upcoming election in early 2018, this Bill will not progress unless it is reintroduced into the new parliament after the election.

We are calling on all parties to commit to **legislative reform to ensure a greater focus on the best interests of children and young people i.e. addressing current gaps in the *Children and Young People (Safety) Act 2017* and introducing measures to provide for a whole of government approach to prevention and early intervention for children and families.**

## **Funding for Prevention and Early Intervention**

The previous policy proposal called for changes to legislation to mandate a better focus on early intervention and prevention of harm. However, this needs to be backed with increased funding for those family supports and services that can impact before a child is harmed and which keep families together safely.

The data in the introduction to this policy document highlighted how skewed the South Australian child welfare expenditure is – an hour-glass rather than a pyramid of primary to tertiary care. This malapportionment has poor outcomes, both for children who are not protected until after harm has occurred, and also for the state budget in the long term.

The precise economic cost of child abuse and neglect is difficult to calculate, although we know that the expense incurred by not intervening is considerable. Segal (2015 p.5) highlights the direct impacts on individual children who are subject to maltreatment, which can cause immediate distress and suffering. However, the work also explores downstream impacts, because a person with a history of child maltreatment has a greater risk, of between 1.5 to 12 times, that they will experience the following issues:

- developmental delay
- poor/severe mental health
- use of drug and alcohol and other harmful lifestyle activities
- compromised physical health
- placement in care
- involvement in crime as victim and or perpetrator
- low educational attainment
- welfare dependency
- unemployment
- difficulty with intimate relationships
- teenage pregnancy
- likelihood of maltreating their own children, and
- premature death.

These downstream impacts have huge budgetary implications for state and federal governments, for example, in justice expenditure, housing, health, income and other supports and services. Therefore strategies that prevent and/or minimise harm to children have both a moral and an economical imperative.



The disproportionately large expenditure on out-of-home care will decrease with a change of policies that keep children safe in families, but to get this saving without sacrificing child wellbeing, investment is needed in both intensive family support services, which are provided to prevent the imminent separation of a child or sibling group from parents when there are concerns of child protection authorities, as well as lower level non-intensive family services. Each state's expenditure is reported on against these categories of service in the Report on Government Services.

Accordingly, SACOSS is calling **for a shift in funding priorities stepped over four years, with a doubling of the investment in services funded for both the areas of intensive family support and family support services by the end of the 4 year period.** This would bring our priorities and expenditure roughly in line with Australian averages in these areas.

### **Commissioner for Aboriginal Children and Young People**

SACOSS welcomed the passing of the *Children and Young People (Oversight and Advocacy) Bill 2016*, after having long called for the establishment of a Commissioner for Children and Young People. The Commissioner was recommended in the Layton Review into child protection in 2003. However, prior to the legislation being passed by Parliament, an alliance of social service peak bodies including SACOSS, child advocates and the Australian Medical Association called on the government to make changes to the draft bill, including asking for the inclusion of provisions for an Aboriginal Commissioner for Children and Young People (SACOSS, 2016).

Given the poorer outcomes of Aboriginal children and young people in the areas of poverty, education, health, justice and child protection, there is still good reason to establish a Commissioner who would focus on Aboriginal children and young people, working side by side with the Commissioner for Children and Young People.

The Victorian model with the Commissioner for Aboriginal Children and Young People as a strong advocate, bringing the lived experience of Aboriginal children and young people to the forefront, particularly in the child protection milieu, is a good example of how this would operate.

The Victorian example indicates that issues to be addressed by a Commissioner for Aboriginal Children and Young People (Jackomos, 2014; Commission for Children and Young People, 2016) would include:

- The strong nexus between child protection and justice systems with current high levels of progression of Aboriginal children and young people from out of home care to the youth justice system;
- The development of systems, in conjunction with stakeholders, to better resource the number of Aboriginal people working at all levels in child protection, kinship care and prevention and early intervention programs, particularly in addressing family violence; and
- Connection to culture and community networks: children who become isolated from culture and community networks when placed in out of home care are more vulnerable

to being abused. They are less able to seek help, falling into further disengagement, hardship and suffering.

In establishing a Commissioner for Aboriginal Children and Young People reference needs to be given to the *Charter for Human Rights and Responsibilities* as well as to the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP). Aboriginal leadership is needed across the roles and functions of oversight and advocacy bodies including their involvement in all aspects of decision making, consultation, planning, strategic development, policy and program development and implementation, community engagement, monitoring, evaluation and reporting.

The government committed \$6m to establish the Office for the Commissioner for Children and Young People in South Australia, as a part of its response to the Nyland Royal Commission. We expect that there would be some savings in the establishment of a Commissioner for Aboriginal Children and Young People because they would be able to share some resources.

***We are calling on all parties to commit to establishing a Commissioner for Aboriginal Children and Young People.***

## **Independence Following Protective Care**

Young people in out of home care (OOHC) are often ill-equipped to cope with an abrupt transition to independence at age 18 (Uniting Care, 2014). Because of their individual experiences with biological families and then within the care system, they are at greater risk of housing instability or homelessness, unemployment and low incomes, poorer educational achievement, justice system involvement, poor physical and mental health, substance abuse, social isolation and early pregnancy and parenthood (Mendes, Snow & Baidawi, 2012).

Their peers outside of the care system typically access parental support and resources well into their mid-20s, certainly during post-school education and training and their first experiences of employment. It is now typical for young adults to leave and return to the family home several times while they navigate study, employment and housing independence. But the state, as the effective parent, does not provide this important supportive environment for young people who have been removed from biological families because of inadequate parenting. Currently, young people leaving care have no legislative right to care or support beyond the age of 18.

There have been many calls to bolster support for young people in the OOHC system in their preparation for independence. SACOSS believes support for this group in early adulthood is essential to align our standards of support with those provided for the general population and to ensure that this group of young people who have already been subject to the disadvantage of inadequate parenting are provided with the same opportunities as other young people to study, train and work towards independence and wellbeing.

Research commissioned by Anglicare Victoria (Deloitte Access Economics, 2016) found there was a significant economic case for bringing our supports in line with international comparators. Investment leads to better outcomes in education and employment with significant savings in housing, drug and alcohol, health and criminal justice areas.

The national Home Stretch campaign has highlighted that all Australian jurisdictions including South Australia are behind international comparators in the UK, Canada, New Zealand and some states of the US in their transition planning and post-care support (Baidawi, 2016). Again, in South Australia the right to support ceases at age 18, although section 112 of the *Safety Act*, does enable the Minister to arrange assistance for eligible care leavers up to the age of 26. However, it is explicit that the offer of assistance is not a legally enforceable right or entitlement, that the support is entirely discretionary and may take the form of anything from providing information about available services or providing assistance with finding accommodation and employment.

Legislative amendment is needed to ensure the specific rights of young people in care for their transition planning and support beyond the age of 18. Financial investment is also necessary.

AHW data cited by Deloitte Access Economics (2016) shows that in 2013-14, 205 young people left care between the ages of 15 to 18 in South Australia, while figures from the Anglicare Victoria report (Deloitte Access Economics, 2016) suggest approximately 25% of care leavers will utilize extended support services. Based on these two starting points, we could expect 50 to 60 young people should be costed for.

The Anglicare Victoria report estimated that in Victoria extended support services would likely cost \$20,000 for each child per year for three years. We estimate that funds of \$1.5 million per annum should be committed as the cost will be higher in South Australia due to our higher use of more expensive forms of care e.g. residential care; some contingency is included for this.

The Liberal Party has already committed to extending foster and kinship payments for young people in OOHC up to the age of 21. We commend the Liberal party for taking leadership in this area and we ask that the government and all parties match this commitment and go further.

***Amend the Safety Act to clearly detail care leavers entitlements to support and provide funding of \$1.5m per annum (indexed) for extended services to young people in out of home care until at least the age of 21.***

## References

- Australian Human Rights Commission (1999) *Human Rights Brief No.1: The Best Interests of the Child*, viewed online <http://www.humanrights.gov.au/publications/human-rights-brief-no-1#what#what> 17 December 2017
- Baidawi S (2016) *Continuing Care in Australia: an analysis of state and territory legislation and policy*, Anglicare Victoria, Melbourne
- BetterStart Child Health and Development Research Group (2017) *Child Protection in South Australia*, viewed online <https://health.adelaide.edu.au/betterstart/publications/reports/child-protection-in-south-australia.pdf> 13 December 2017
- Commission for Children and Young People (2016) *Always was always will be Koori Children – systemic inquiry into services provided to Aboriginal children and young people in out-of-home care in Victoria*, Melbourne
- Deloitte Access Economics (2016) *Raising Our Children: guiding young Victorians in care into adulthood*, Canberra, for Anglicare Victoria
- Government of South Australia (2016) *Child Protection: A Fresh Start*, viewed online <https://www.childprotection.sa.gov.au/sites/g/files/net916/f/a-fresh-start.pdf> 13 December 2017
- Jackomos A (2014) *International Human Rights Day Oration*, viewed online [http://www.cyp.vic.gov.au/searchresults.htm?q=human+rights+oration&as\\_sitesearch=http%3A%2F%2Fwww.cyp.vic.gov.au&btnG](http://www.cyp.vic.gov.au/searchresults.htm?q=human+rights+oration&as_sitesearch=http%3A%2F%2Fwww.cyp.vic.gov.au&btnG) 5 January 2017
- Mendes P, Snow P, Baidawi S (2012) “Young people transitioning from out-of-home care in Victoria: Strengthening support services for dual clients of Child Protection and Youth Justice”, cited in *Empowering All Victorians, VCOSS State Budget Submission 2017-18*, p36
- Nyland M (2016) *The Life They Deserve: Child Protection Systems Royal Commission Report*, viewed online [https://agdsa.govcms.gov.au/sites/g/files/net2876/f/complete\\_report\\_child\\_protection\\_systems\\_royal\\_commission\\_report.pdf?v=1494388953](https://agdsa.govcms.gov.au/sites/g/files/net2876/f/complete_report_child_protection_systems_royal_commission_report.pdf?v=1494388953) 13 December 2017
- Productivity Commission (2017) *Report on Government Services, Community Services, Child Protection*, viewed online <https://www.pc.gov.au/research/ongoing/report-on-government-services/2017/community-services/child-protection> 13 December 2017
- SACOSS (2016) *Media Release: Sector demands change to strengthen children’s commissioner bill*, viewed online <https://www.sacoss.org.au/sector-demands-change-strengthen-childrens-commissioner-bill> 13 December 2017
- Segal L (2015) *Economic Issues in the Community Response to Child Maltreatment*. In Mathews B, Bross D (eds) *Mandatory Reporting Laws and the Identification of Severe Child Abuse and Neglect. Child Maltreatment (Contemporary Issues in Research and Policy)*, vol 4. Springer, Dordrecht
- Steering Committee for the Review of Government Service Provision (2016) *Report on Government Services 2016*, viewed online [www.pc.gov.au/research/recurring/report-on-government-services/2016](http://www.pc.gov.au/research/recurring/report-on-government-services/2016) 13 December 2017
- Uniting Care (2014) *Young People transitioning from out-of-home care to adulthood: Review of policy and program approaches in Australia and overseas*, cited in *Empowering All Victorians, VCOSS State Budget Submission 2017-18*, Melbourne