

# **Improving care for children in institutional care in Pakistan: protection from abuse and progression to family-based care**

## **Background**

Since 2000, Pakistan has made considerable inroads into protecting children from abuse and supporting a "Child Rights" movement. From December 5<sup>th</sup> to 7<sup>th</sup> 2010, the 10<sup>th</sup> National Conference on Child Rights was held in Lahore.

During this conference, reference was made to the global reports concerning the abusive treatment suffered by children in institutional care. Particularly appalling examples included evidence from Ireland and Australia. As a result of these inquiry findings (see below for details) it was suggested that an action plan be prepared by the Pakistan Paediatric Association and in particular by the Child Rights Committee to examine ways of addressing the safety and well-being of children living in institutions in Pakistan.

## **Introduction**

*"I want to become someone that matters..."* (Child, in an institution in Central Java)<sup>1</sup>

During the last 20 years in well resourced countries such as the United Kingdom, Ireland and many other European countries, Australia and the USA, the abusive conditions under which children living in institutions away from their homes run by the state or private (including religious and faith-based) organisations, have been exposed.

Examples included in this section come from inquiries published in the past few years into what happened to more than 35,000 children placed in a network of 250 institutions run by the Irish Government and the Roman Catholic Church up until 1990s when the problems were exposed (see Appendix 1). Also included, are the results of a similar inquiry from Australia (Appendix 2).

In all countries (see references below for details), children were admitted to institutions from households beset by poverty and destitution, following family breakdown (often involving domestic violence), because their mothers were unmarried and because some of these children were living on the streets (often as a result of abuse in their family homes) Some institutions were established for children, often of very young ages, as punishment for petty crimes.

The findings of the above inquiries, with evidence from other countries described in the references, reveal that childhood in institutions was, and still is, an unacceptably abusive experience for so many children. Sexual and emotional abuses were endemic in institutions with many children being raped by their carers and subject to levels of sadistic physical abuse that constituted torture. A climate of fear, created by pervasive, excessive and arbitrary punishment, permeated most of the institutions. Children lived with the daily terror of not knowing where the next beating was coming from and constantly witnessed abuse of their siblings or other children. Older children sexually and physically sometimes abused younger and weaker children without intervention by staff. Children were starved of, food, adequate clothing, personal possessions, medical attention, love, kindness and dignity. They were also forced to undertake arduous physical labour, such as scrubbing

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<sup>1</sup> Save the Children Someone that Matters: The quality of care in childcare institutions in Indonesia

floors, for grossly prolonged periods regardless of whether or not they were ill or too weak to continue. When children told about the abuse they had been suffering, their carers usually responded by further abusing them. Furthermore, there were no effective inspections made by the authorities regarding the standards of care being given to each child at each institution. The power of the abusers, the culture of secrecy, and fear and isolation inhibited most children from making any complaints. Many children were prevented from having contact their families and some described how they had lost all sense of self-worth.

Following a literature review of the situation and level of care in child institutions throughout countries in Europe, the USA, Australia, Asia and Africa, this paper draws on recommendations from the United Nations and other bodies in relevant countries.

This paper also provides a possible action plan that could be implemented in Pakistan to prevent the abusive issues in child institutions outlined above. The evidence reveals that, without question, institutional care for children is almost always harmful. Therefore, the Government of Pakistan (with help from professionals, experts, health workers, child carers, and citizens) should do all it can to move from providing child care through institutions to implementing a family-based system as soon as possible.

*The whole time I was in the institutions all I wanted to do was not to be seen, I just wanted to disappear so I wouldn't be singled out.<sup>2</sup>*

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<sup>2</sup> A report on Australians who experienced institutional or out-of-home care as children.

## What is institutional care?

An institution has been defined as *"a group living arrangement for more than ten children, without parents or surrogate parents, in which care is provided by a much smaller number of paid adult carers"*. This definition includes boarding schools as a parent does not live with the child. Although many institutions are called orphanages, the vast majority of children in them have at least one living parent, sometimes both parents—a fact often known to the authorities involved. For example, more than 85% of the children placed in institutions in Indonesia after the 2004 tsunami had at least one parent alive. In 2005, in Liberia, 88% of children in institutions had at least one living parent. 80% of children in Sri Lankan orphanages had at least one parent.

Institutions can be state owned or private. The latter can be established by faith-based organisations, NGOs or private individuals or corporations. UNICEF estimates that the total number of children in institutional care in the world is 2.2 million, but accepts that this number is likely to be an underestimate.

In Eastern Europe, institutional care is six times more expensive than providing social services to vulnerable families or voluntary kinship carers (extended family member or close friend of the family known already to the child); three times more expensive than professional foster care; and twice as expensive as community residential/small group homes (Carter, 2005).

Poverty is overall the main reason for placing children in institutions. Children born to single mothers or within families with large numbers of children constitute a major reason for admission. The death or chronic illness of a parent, family breakdown because of divorce or domestic violence, family destitution and children being separated from their families during natural disasters or conflict are also major causes. Many parents, lacking other forms of support, perceive that putting their children into institutions appears to be the best way to help them access sufficient nutrition, education and health care.

Children with mental illnesses, developmental delay, physical disabilities or from ethnic minorities are over-represented in institutions. In some cultures, girls are more likely to be institutionalised. Institutions are often the only alternative to living on the street for children who have been abandoned, orphaned, separated from their families or abused. Limited support for care by relatives in the extended family or the absence of fostering or adoption services may mean institutional care is the only option.

Although there is a great deal of research showing that growing up in institutions is harmful to development and education as well as exposing the child to abuse and/or neglect, it is often considered by society as a good way of managing the upbringing of children from problem families rather than by trying to improve the circumstances of the family.

Save the Children have highlighted some of the worrying factors concerning institutional care. They have thus stated *"Once investment is made in an institution, it becomes a fixed resource – even when the alternatives are more cost-effective. When child care is not regulated and anyone can set up an institution, it can also become a business – by*

*capturing donor funds or organising international adoption. The danger is that institutions lose focus on the best interests of the child and are driven much more by the best interests of the institution”.*

Save the Children also point out that: *“There is strong support for institutions after a natural disaster or, for example, in relation to HIV/AIDS because they seem to be the easiest and most practical way to support vulnerable children. This support- including from many faith-based organisations - means they’re often the best funded form of care even though the evidence shows they’re not good for children overall”.*

Article 9 and other articles of the UN Convention on the Rights of the Child state that children have a right to live within a family and be with their parents unless this is proven to be against their best interests. Institutions cut children off from their families and take away their critical role in promoting children’s care and well-being.

Most children in institutions wouldn’t be there if their parents received adequate support.

## **Potential problems that have been reported within institutions caring for children in many countries across the world (see references).**

### **1. High risk of system failure**

*“The whole time I was in the institutions all I wanted to do was not to be seen, I just wanted to disappear so I wouldn’t be singled out.”<sup>3</sup>*

Carers were found to have become adjusted to conditions in which abuse and neglect were accepted as normal.

Carers had not been trained in how to recognise and report abuse

Most institutions had no clear policies regarding the prevention of abuse.

Managers were found to have failed to supervise staff adequately, failed to identify those who were abusing children and failing to refer abusers to appropriate statutory authorities, such as the police.

Many of those appointed as carers had not been properly screened to prevent potential abusers working in the institution.

Many of those appointed as professional or volunteer carers had not been trained to recognise or prevent abuse.

It was not only individual persons (carers) who abused children. The system itself was frequently found to have become abusive by default as those organising the institution gradually permitted an abusive system to develop that they themselves did not necessarily recognise as abusive even though those living outside the institution recognised it as abusive.

Many abusive carers, having been caught out in one institution, were found to have moved to another institution in order to undertake their abusive acts.

Adequate supervision of residential care-workers has been difficult, regardless of a will to do so by management, especially for over-night care.

The lack of continuing professional education in child care for residential care-workers who were isolated in their placements was found to have added to their potential to abuse children.

There was evidence that many managers and care workers disliked children, sometimes even blaming them for requiring institutional care.

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<sup>3</sup> A report on Australians who experienced institutional or out-of-home care as children

## **2. Lack of nurturing, love and individual attention for children living in institutions**

The low ratio of carers to children made it very difficult to provide children with the affection, attention, personal identity and social connections that families and communities could offer.

The lack of a mother or father was found to be almost impossible to compensate for: no matter how good and well trained the staff.

*There was no one to trust, to confide in, to cuddle, to read us bedtime stories. No one gave us an affectionate 'goodnight' or stopped for a chat. And yet all the while I ached with a question that would not go away. What can be so wrong with our parents that makes it better to be brought up by such cruel and uncaring people as this?<sup>4</sup>*

The temporary nature of the appointments of individual carers meant that long term attachment was not possible.

The low ratio of carers and lack of individual attention has been shown to delay the physical and neurological development of infants and young children

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<sup>4</sup> A report on Australians who experienced institutional or out-of-home care as children

### 3. High risk of physical abuse, sexual abuse or exploitation

*“So began my life of fear, confusion, humiliation and shame as an orphan of the living in the Ballarat Orphanage”<sup>5</sup>*

Institutions were found from inquiries to be very risky places for children, exposing them to more abuse than would be the case for children living in families.

Research has shown that most persons undertaking abuse were male, that girls were more likely to be sexually than physically abused and that boys were at high risk of both physical and sexual abuse.

Corporal punishment was widely used and often escalated to a point at which it constituted torture. The methods used were designed to be sadistic and result in the most extreme pain possible.

*“This man seemed to take great pleasure in humiliating us publicly, flogging us with his heavy leather belt while we knelt naked at his feet. You could receive anything up to 60 lashes and you always ended up bleeding profusely. Sometimes boys lost consciousness. They were the lucky ones”<sup>6</sup>.*

Older children were found to abuse younger weaker children and especially those with physical or mental disabilities or from an ethnic minority. Abuse by older child inmates was likely to be more common than by staff members.

Night times and periods when staff supervision was least (such as when children were going to bed or waking in the morning) were found to be the most common times for abuse to occur.

*“I did not know what cruelty was like until I went into Parramatta Girls Home. I still do not understand exactly why I was sent to the home. I was no more than 16 years of age, an innocent child with a whole life ahead of me. Nevertheless regardless of what the reason no child should have endured the neglect, the cruelty, the brutality, malice and immorality that were shown by many of the staff to many of the girls in the home. From the day I entered the home I did not realise that my life would never be the same again, that my childhood would be taken from me”<sup>7</sup>.*

Abuse and/or neglect has resulted in death, either as an immediate consequence, or later from suicide

Inappropriate restraints were used on children and sometimes inappropriate and dangerous sedative drugs administered to control a child and make him/her more compliant. Treatments such as Electro-Convulsive Treatment (ECT) were administered without analgesia, sedation or anaesthesia.

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<sup>5</sup> A report on Australians who experienced institutional or out-of-home care as children

<sup>6</sup> A report on Australians who experienced institutional or out-of-home care as children

<sup>7</sup> A report on Australians who experienced institutional or out-of-home care as children

Some medical/psychological problems, such as nocturnal enuresis (bed-wetting), were managed by abusive procedures such as beatings and leaving the child to sleep in soiled bed clothes.

*“As I was a bed-wetter, I used to be belted daily. They used to throw me under a cold shower then belt me really hard with a large strap while I was wet. This was extremely painful especially in winter and left big red marks on my body. They also used to rub my face in the wet sheets and then my brother had to wash them”<sup>8</sup>.*

Carers sometimes recruited children for prostitution to persons outside the institution for financial gain

Female carers frequently were aware that abuse was occurring but were too frightened to report it, having been threatened by abusing male care-workers.

Children who were abused were threatened with other more violent acts or even death if they should report the abuse to managers of the institution.

Managers of institutions were themselves frequently abusive or may not have been aware of the abuse that was happening.

Children were not empowered to report abuse or were too frightened to report it because of threats. When they did report abuse it was usually not attended to.

*“We lived in fear during most of our childhood. And our childhood was stolen from us.”<sup>9</sup>*

Allegations of abuse were not dealt with urgently or there was no proper system for managing the allegations.

The low ratio of carers to children often did not permit adequate internal surveillance to safeguard children from abuse.

*“I was bashed by the nuns and estranged from my brothers and sister. We didn’t get much food and were made to feel stupid. It was a very bad place and I was confused and very scared. I tried to pretend that I wasn’t really there so that when I was being abused sexually and mentally, I pretended it was happening to someone else”.<sup>10</sup>*

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<sup>8</sup> A report on Australians who experienced institutional or out-of-home care as children

<sup>9</sup> A report on Australians who experienced institutional or out-of-home care as children

<sup>10</sup> A report on Australians who experienced institutional or out-of-home care as children

#### **4. High risk of neglect**

Medical problems were not immediately managed by appropriate referral to a doctor responsible for healthcare in the institution.

The standards of nutrition were reported to be very poor and, sometimes, the distribution of food failed to ensure that the weakest and youngest children received adequate amounts.

The standards of hygiene, especially for adolescent girls, were found to be very poor.

Minimal attempts were made to ensure the dignity of children during activities such as bathing and showering and attendance at toilets.

## **Suggested action plan for Pakistan to overcome the unacceptable damage to children living in institutions as shown by research in many other countries**

### **1. Developing a family based system of care and eventual closure of institutions**

#### **1.1 Transfer of children into family based care**

The most important action that Pakistan can do for its children is to close down all of the institutions providing "care" for children. Even with the best managed institutional system, children living there will not be nurtured in the natural and loving ways that can be achieved within a family (as per UN Convention on the Rights of the Child- Article 9 and the UN General Assembly resolution A/61/299-Report of the independent expert for the UN study on violence against children 2006). Of course, children will need to be placed in more suitable environments which may take time to find, so, such closures will have to be a gradual process. Transfer of children from institutions should ideally be accomplished by re-integration with the child's own parent (or parents) with State support. If that is not possible or fails, the child should be adopted (or kafala), fostered or placed within a kinship family (a relative other than a parent or close family friend).

#### **1.2 Education of the community**

The community must be educated in the need for home-based care to be the standard. The community must be made aware of the harmful nature of institutional care as shown by research in many other countries, both rich and poor.

#### **1.2 Recommendations to ensure that those children who do have to remain temporarily in institutional care are safe from abuse and neglect and are nurtured in a loving environment**

#### **2.1 Linking children in institutional care with family members or a close family friend/guardian and with the community local to the institution**

2.1.1 In the immediate future where closure of all institutions is not realistically possible in Pakistan, every effort should be made to link each child (and where appropriate sibling groups) living in each institution with either a close family member or family friend living in the community close to the institution.

2.1.2 Every effort should be made to ensure that there are regular (at least weekly meetings) between the child and the designated family member or friend. These should be facilitated and recorded. Meetings could be at the institution or ideally at the family or friend's home. It is essential that this family member or family friend is vetted to ensure that they will not abuse the child.

2.1.3 The institution must encourage children to be involved in their local community and attend schools there on a regular basis. Each child, as they reach school leaving age, should be given an opportunity for vocation related education

#### **2.2 Appointment of a Children's Commissioner in the Federal Government responsible for child social care**

2.2.1 A Children's Commissioner to oversee the management of all institutions should be appointed. This Commissioner should develop a framework of policy, procedures and good practice which through relationships of integrity, respect, truthfulness and trustworthiness leads to the best possible care for each individual child in an institution within a culture of informed vigilance.

2.2.2 The Commissioner should be experienced in the needs and care of children and in many ways, it would be ideal if the person appointed was a paediatrician or senior children's nurse.

2.2.3 The Commissioner would have powers to ensure that each institution is regularly inspected (at least every 3 months) and that systems are in place to ensure that these inspections occur both randomly without warning and on schedule. Inspections must be undertaken by highly trained persons committed to the needs of children. The inspections must include confidential discussions with randomly selected children of different ages and genders.

### **2.3 Recommended changes to the staffing structure in institutions**

2.3.1 Every attempt should be made to ensure that as many of the **resident carers** in the institution are women.

2.3.2 All staff (paid and voluntary) employed in the institution to care for children must be interviewed and appointed in a careful manner. The interviewing panel should include at least one of the children in care. Applicants should provide a job history and references which are checked by staff in the institution. They should complete a job application form and confidential declaration as attached (Appendix 3).

2.3.3 Staff should only be offered a post subject to a 3 month probationary period so that if during this time they are deemed not to be suitable for this work their employment is ended without difficulty. Each employee must be formally commissioned for the post and given a letter of appointment containing details of the probationary period.

2.3.4 There should be a written policy to protect all staff who have made allegations against either the system or against individuals who they suspect of being abusive or exploiting a child in their care ("whistle-blowing").

2.3.5 All staff employed in caring for the children must have a certificate indicating that they have undergone training in the care of children. A course on this subject needs to be designed as soon as possible. Each care-worker must also undergo a course on child protection and have achieved a certificate that they understand the issues involved.

2.3.6 All care-workers should be asked when they apply to be appointed whether they envisage working for a long time period in the institution. One of the most important problems for children in care is that they need consistent, reliable, long lasting relationships with their carers.

2.3.7 Consideration must be made about whether or not to suspend any care-worker who is the subject of an allegation of abuse whilst investigations are undertaken.

2.3.8 Any care-worker who is found by the above investigation to have abused a child must be reported to the local police. It is essential that they do not find work in another institution.

## **2.4 Measures to ensure love and individual attention to each child living in institutions**

2.4.1 The senior manager of each institution should ensure that there is a child-friendly system in place as per the UN Convention on the Rights of the Child. He/she should encourage their staff to work in a professional, caring and loving way with the children in their care.

2.4.2 Siblings must be kept together and if they are of different genders then a suitable institute on where they can live together should be chosen for them.

2.4.3 Each child in the institution must have one individual resident carer who they are linked to and mentored and supported by at all times. If the child is unhappy about the person chosen, then the senior manager must remedy this as soon as possible.

2.4.4 Every child must have a written life-record kept in a safe and confidential place by the senior manager of the institution. This should document all family and medical history of the child as well as any allegations made about the possible abuse of that child and the results of investigations into the allegation.

2.4.5 To promote the child's sense of self-identity, an additional "life story" book comprising appropriate information, pictures, personal objects and mementoes regarding each step of the child's life should be maintained with the child's participation and made available to the child throughout his/her life in the institution.

2.4.6 All children in care should be encouraged to practice the religion or belief of their choice. If the institution is owned and run by a "faith based" organisation a decision by the child to participate in religious activities must at all times be voluntary. The institution should encourage visitors appropriate to the religious wishes of the child.

2.4.7 The institute must provide facilities for play and leisure activities appropriate to the age of the children.

2.4.8 The institute should encourage reasonable liberties comparable with those available to children of the same age living in the community.

## **2.5 Preventing physical, sexual and emotional abuse living in institutions**

2.5.1 Staff caring for children during bed times, at night time and in the early mornings must never work alone. There should always be a minimum of two staff on duty throughout the night and they should make regular joint patrols of the sleeping area and record each in a designated logbook.

2.5.2 There must be a complaints procedure established which ensures that every serious allegation of possible abuse made by a child or staff member is properly investigated by an outside independent organisation established by the Commissioner which works with

the senior manager. In many respects it might be helpful if such an outside professional would be a paediatrician or children's nurse. The child or children making the allegations must receive special protection until the allegation has been fully investigated.

2.5.3 A "punishment policy" must be established to ensure discipline in the institution. Corporal punishment must be banned. If a child is aggressive or abusive to other children, they need to be stopped from undertaking further abuse and this may mean referring them to a different institution where there is higher staffing levels and where there are less vulnerable (perhaps older) children. However, this new institution must also abide by all the policies contained above, including an absence of corporal punishment.

2.5.4 It must be illegal for an implement used to apply corporal punishment to be present in the institution.

2.5.5 Restriction of contact with outside family members must never be used as a form of punishment.

2.5.6 Force and restraints should not be used unless absolutely necessary for the protection of the child or other children. If used they must be proportionate. Restraints by drugs must only be used with the support of a paediatrician.

2.5.7 Systems must be in place to address any bullying or peer abuse that is identified in the institution. Every effort must be made to ensure that gangs do not become established and that addictive drugs are kept out of the institution.

2.5.8 Any child who has been abused in the past must receive a program of support that helps them to overcome some of its effects.

2.5.9 No child in the care of an institution should be employed in a money-making labour unless within Pakistan Law and with full attention to the ethics involved.

## **2.6 Preventing neglect and ensuring adequate healthcare for children living in institutions**

2.6.1 Adequate standards of nutrition must be ensured and checked by regular growth monitoring. The system for the distribution of food must ensure that the weakest and youngest children received adequate nutrition.

2.6.2 The standards of hygiene, especially for adolescent girls, must be ensured.

2.6.3 A system to ensure the dignity of children during activities such as bathing and showering and attendance at toilets must be in place.

2.6.4 All adolescents should be given advice over reproductive health matters in a way that ensures confidentiality and dignity. Discussions should be gender sensitive.

2.6.5 Each institution should have a paediatrician and designated nurse who are funded to visit on a regular basis (at least monthly) and work together to see any child with healthcare needs. The paediatrician/nurse pair should be able to speak to and examine each child in a confidential environment. They will thus be able to document and act on

any injuries which may be due to abuse as well as to ensure that all children in the institution are adequately cared for with respect to immunisations, nutritional status and health.

2.6.6 All children in the institution must be seen by the paediatrician and nurse at least every 3 months and a record of their consultation made and then kept by the Senior Manager of the institution. Health checks should ensure growth and development are addressed.

## **1. Ensuring that legal responsibilities relevant to the institutional care of children are upheld**

Details of legal responsibilities relevant to the care of a child outside his/her family have been recently formulated by a UN General Assembly Resolution and shown in Appendix 4.

### **Conclusions**

Pakistan has enormous problems relating to poverty and global politics. However, Pakistan is trying to help promote the rights of children. Institutional care is widespread and it is difficult to know just how many children are living in these dangerous places. This paper outlines possible ways in which children can be better cared for. It requires considerable re-organisation but should not be more expensive than the existing system. For many children implementation will undoubtedly change their lives for the better and be seen as a way forward for so many other poorly resourced countries with similar problems for children.

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21. Conclusions to the Executive Summary of the Commission to inquire into child abuse in Ireland by Mr. Justice Ryan 2009  
<http://www.childabusecommission.ie/rpt/ExecSummary.php>

## Appendix 1

### Conclusions to the Executive Summary of the Commission to inquire into child abuse in Ireland by Mr. Justice Ryan 2009

<http://www.childabusecommission.ie/rpt/ExecSummary.php>

- 1. Physical and emotional abuse and neglect were features of the institutions. Sexual abuse occurred in many of them, particularly boys' institutions. Schools were run in a severe, regimented manner that imposed unreasonable and oppressive discipline on children and even on staff.**
- 2. The system of large-scale institutionalisation was a response to a nineteenth century social problem, which was outdated and incapable of meeting the needs of individual children. The defects of the system were exacerbated by the way it was operated by the Congregations that owned and managed the schools. This failure led to the institutional abuse of children where their developmental, emotional and educational needs were not met.**
- 3. The deferential and submissive attitude of the Department of Education towards the Congregations compromised its ability to carry out its statutory duty of inspection and monitoring of the schools. The Reformatory and Industrial Schools Section of the Department was accorded a low status within the Department and generally saw itself as facilitating the Congregations and the Resident Managers.**
- 4. The capital and financial commitment made by the religious Congregations was a major factor in prolonging the system of institutional care of children in the State. From the mid 1920s in England, smaller more family-like settings were established and they were seen as providing a better standard of care for children in need. In Ireland, however, the Industrial School system thrived.**
- 5. The system of funding through capitation grants led to demands by Managers for children to be committed to Industrial Schools for reasons of economic viability of the institutions.**
- 6. The system of inspection by the Department of Education was fundamentally flawed and incapable of being effective.**

The Inspector was not supported by a regulatory authority with the power to insist on changes being made.

There were no uniform, objective standards of care applicable to all institutions on which the inspections could be based.

The Inspector's position was compromised by lack of independence from the Department.

Inspections were limited to the standard of physical care of the children and did not extend to their emotional needs. The type of inspection carried out made it difficult to ascertain the emotional state of the children.

The statutory obligation to inspect more than 50 residential schools was too much for one person.

Inspections were not random or unannounced: School Managers were alerted in advance that an inspection was due. As a result, the Inspector did not get an accurate picture of conditions in the schools.

The Inspector did not ensure that punishment books were kept and made available for inspection even though they were required by the regulations.

The Inspector rarely spoke to the children in the institutions.

**7. Many witnesses who complained of abuse nevertheless expressed some positive memories: small gestures of kindness were vividly recalled.** A word of consideration or encouragement, or an act of sympathy or understanding had a profound effect. Adults in their sixties and seventies recalled seemingly insignificant events that had remained with them all their lives. Often the act of kindness recalled in such a positive light arose from the simple fact that the staff member had not given a beating when one was expected.

**8. More kindness and humanity would have gone far to make up for poor standards of care.**

## **Physical abuse**

**9. The Rules and Regulations governing the use of corporal punishment were disregarded with the knowledge of the Department of Education.**

The legislation and the Department of Education guidelines were unambiguous in the restrictions placed on corporal punishment. These limits however, were not observed in any of the schools investigated. Complaints of physical abuse were frequent enough for the Department of Education to be aware that they referred to more than acts of sporadic violence by some individuals. The Department knew that violence and beatings were endemic within the system itself.

**10. The Reformatory and Industrial Schools depended on rigid control by means of severe corporal punishment and the fear of such punishment.**

The harshness of the regime was inculcated into the culture of the schools by successive generations of Brothers, priests and nuns. It was systemic and not the result of individual breaches by persons who operated outside lawful and acceptable boundaries. Excesses of punishment generated the fear that the school authorities believed to be essential for the maintenance of order. In many schools, staff considered themselves to be custodians rather than carers.

**11. A climate of fear, created by pervasive, excessive and arbitrary punishment, permeated most of the institutions and all those run for boys. Children lived with the daily terror of not knowing where the next beating was coming from.**

Seeing or hearing other children being beaten was a frightening experience that stayed with many complainants all their lives.

**12. Children who ran away were subjected to extremely severe punishment.**

Absconders were severely beaten, at times publicly. Some had their heads shaved and were humiliated. Details were not reported to the Department, which did not insist on receiving information about the causes of absconding. Neither the Department nor the school management investigated the reasons why children absconded even when schools had a particularly high rate of absconding. Cases of absconding associated with chronic sexual or physical abuse therefore

remained undiscovered. In some instances all the children in a school were punished because a child ran away which meant that the child was then a target for mistreatment by other children as well as the staff.

**13. Complaints by parents and others made to the Department were not properly investigated.**

Punishments outside the permitted guidelines were ignored and even condoned by the Department of Education. The Department did not apply the standards in the rules and their own guidelines when investigating complaints but sought to protect and defend the religious Congregations and the schools.

**14. The boys' schools investigated revealed a pervasive use of severe corporal punishment.**

Corporal punishment was the option of first resort for breaches of discipline. Extreme punishment was a feature of the boys' schools. Prolonged, excessive beatings with implements intended to cause maximum pain occurred with the knowledge of staff management.

**15. There was little variation in the use of physical beating from region to region, from decade to decade, or from Congregation to Congregation.**

This would indicate a cultural understanding within the system that beating boys was acceptable and appropriate. Individual Brothers, priests or lay staff who were extreme in their punishments were tolerated by management and their behaviour was rarely challenged.

**16. Corporal punishment in girls' schools was pervasive, severe, arbitrary and unpredictable and this led to a climate of fear amongst the children.**

The regulations imposed greater restrictions on the use of corporal punishment for girls. Schools varied as to the level of corporal punishment that was tolerated on a day-to-day basis. In some schools a high level of ritualised beating was routine whilst in other schools lower levels of corporal punishment were used. The degree of reliance on corporal punishment depended on the Resident Manager, who could be a force for good or ill, but almost all institutions employed fear of punishment as a means of discipline. Some Managers administered excessive punishment themselves or permitted excesses by religious and lay staff. Girls were struck with implements designed to maximise pain and were struck on all parts of the body. The prohibition on corporal punishment for girls over 15 years was generally not observed.

**17. Corporal punishment was often administered in a way calculated to increase anguish and humiliation for girls.**

One way of doing this was for children to be left waiting for long periods to be beaten. Another was when it was accompanied by denigrating or humiliating language. Some beatings were more distressing when administered in front of other children and staff.

## **Sexual abuse**

**18. Sexual abuse was endemic in boys' institutions. The situation in girls' institutions was different. Although girls were subjected to predatory sexual abuse by male employees or visitors or in outside placements, sexual abuse was not systemic in girls' schools.**

**19. It is impossible to determine the full extent of sexual abuse committed in boys' schools. The schools investigated revealed a substantial level of sexual abuse of boys in care that extended over a range from improper touching and fondling to rape with violence. Perpetrators of abuse were able to operate undetected for long periods at the core of institutions.**

**20. Cases of sexual abuse were managed with a view to minimising the risk of public disclosure and consequent damage to the institution and the Congregation. This policy resulted in the protection of the perpetrator. When lay people were discovered to have sexually abused, they were generally reported to the Gardai. When a member of a Congregation was found to be abusing, it was dealt with internally and was not reported to the Gardaí.**

The damage to the children affected and the danger to others were disregarded. The difference in treatment of lay and religious abusers points to an awareness on the part of Congregational authorities of the seriousness of the offence, yet there was a reluctance to confront religious who offended in this way. The desire to protect the reputation of the Congregation and institution was paramount. Congregations asserted that knowledge of sexual abuse was not available in society at the time and that it was seen as a moral failing on the part of the Brother or priest. This assertion, however, ignores the fact that sexual abuse of children was a criminal offence.

**21. The recidivist nature of sexual abuse was known to religious authorities.**

The documents revealed that sexual abusers were often long-term offenders who repeatedly abused children wherever they were working. Contrary to the Congregations' claims that the recidivist nature of sexual offending was not understood, it is clear from the documented cases that they were aware of the propensity for abusers to re-abuse. The risk, however, was seen by the Congregations in terms of the potential for scandal and bad publicity should the abuse be disclosed. The danger to children was not taken into account.

**22. When confronted with evidence of sexual abuse, the response of the religious authorities was to transfer the offender to another location where, in many instances, he was free to abuse again. Permitting an offender to obtain dispensation from vows often enabled him to continue working as a lay teacher.**

Men who were discovered to be sexual abusers were allowed to take dispensation rather than incur the opprobrium of dismissal from the Order. There was evidence that such men took up teaching positions sometimes within days of receiving dispensations because of serious allegations or admissions of sexual abuse. The safety of children in general was not a consideration.

**23. Sexual abuse was known to religious authorities to be a persistent problem in male religious organisations throughout the relevant period.**

Nevertheless, each instance of sexual abuse was treated in isolation and in secrecy by the authorities and there was no attempt to address the underlying systemic nature of the problem. There were no protocols or guidelines put in place that would have protected children from predatory behaviour. The management did not listen to or believe children when they complained of the activities of some of the men who had responsibility for their care. At best, the abusers were moved, but nothing was done about the harm done to the child. At worst, the child was blamed and seen as corrupted by the sexual activity, and was punished severely.

**24. In the exceptional circumstances where opportunities for disclosing abuse arose, the number of sexual abusers identified increased significantly.**

For a brief period in the 1940s, boys felt able to speak about sexual abuse in confidence at a sodality that met in one school. Brothers were identified by the boys as sexual abusers and were removed as a result. The sodality was discontinued. In another school, one Brother embarked on a campaign to uncover sexual activity in the school and identified a number of religious who were sexual abusers. This indicated that the level of sexual abuse in boys' institutions was much higher than was revealed by the records or could be discovered by this investigation. Authoritarian management systems prevented disclosures by staff and served to perpetuate abuse.

**25. The Congregational authorities did not listen to or believe people who complained of sexual abuse that occurred in the past, notwithstanding the extensive evidence that emerged from Garda investigations, criminal convictions and witness accounts.**

Some Congregations remained defensive and disbelieving of much of the evidence heard by the Investigation Committee in respect of sexual abuse in institutions, even in cases where men had been convicted in court and admitted to such behaviour at the hearings.

**26. In general, male religious Congregations were not prepared to accept their responsibility for the sexual abuse that their members perpetrated.**

Congregational loyalty enjoyed priority over other considerations including safety and protection of children.

**27. Older boys sexually abused younger boys and the system did not offer protection from bullying of this kind.**

There was evidence that boys who were victims of sexual abuse were physically punished as severely as the perpetrator when the abuse was reported or discovered. Inevitably, boys learned to suffer in silence rather than report the abuse and face punishment.

**28. Sexual abuse of girls was generally taken seriously by the Sisters in charge and lay staff were dismissed when their activities were discovered. However, nuns' attitudes and mores made it difficult for them to deal with such cases candidly and openly and victims of sexual assault felt shame and fear of reporting sexual abuse.**

Girls who were abused reported that it happened most often when they were sent to host families for weekend, work or holiday placements. They did not feel able to report abusive behaviour to the Sisters in charge of the schools for fear of disbelief and punishment if they did.

**29. Sexual abuse by members of religious Orders was seldom brought to the attention of the Department of Education by religious authorities because of a culture of silence about the issue.**

When religious staff abused, the matter tended to be dealt with using internal disciplinary procedures and Canon Law. The Gardaí were not informed. On the rare occasions when the Department was informed, it colluded in the silence. There was a lack of transparency in how the matter of sexual abuse was dealt with between the Congregations, dioceses and the Department. Men with histories of sexual abuse when they were members of religious Orders continued their teaching careers as lay teachers in State schools.

**30. The Department of Education dealt inadequately with complaints about sexual abuse. These complaints were generally dismissed or ignored. A full investigation of the extent of the abuse should have been carried out in all cases.**

All such complaints should have been directed to the Gardai for investigation.

The Department, however, gave the impression that it had a function in relation to investigating allegations of abuse but actually failed to do so and delayed the involvement of the proper authority. The Department neglected to advise parents and complainants appropriately of the limitations of their role in respect of these complaints.

## **Neglect**

**31. Poor standards of physical care were reported by most male and female complainants.**

Schools varied as to the standard of physical care provided to the children and while there was evidence from many complainants that conditions improved in the late 1960s, in general no school provided an adequate standard of care across all the categories.

**32. Children were frequently hungry and food was inadequate, inedible and badly prepared in many schools.**

Witnesses spoke of scavenging for food from waste bins and animal feed.

In boys' schools there was so little supervision at meal times that bullying was widespread and smaller, weaker boys were often deprived of food.

The Inspector found that malnourishment was a serious problem in schools run by nuns in the 1940s and, although improvements were made, the food provided in many of these schools continued to be meagre and basic.

**33. Witnesses recalled being cold because of inadequate clothing, particularly when engaged in outdoor activities.**

Clothing was a particular problem in boys' schools where children often worked for long hours outdoors on farms. In addition, boys were often left in their soiled and wet work clothes throughout the day and wore them for long periods.

Clothing was better in girls' schools and some individual Resident Managers made particular efforts in this regard but in general girls were obliged to wear inadequate ill-fitting clothes that were often threadbare and worn.

In all schools up until the 1960s clothes stigmatised the children as Industrial School residents.

**34. Accommodation was cold, spartan and bleak. Sanitary provision was primitive in most boys' schools and general hygiene facilities were poor.**

Children slept in large unheated dormitories with inadequate bedding, which was a particular problem for children with enuresis.

Sanitary protection for menstruation was generally inadequate for girls.

**35. The Cussen Report recommended in 1936 that Industrial School children should be integrated into the community and be educated in outside national schools. Until the late 1960s, this was not done in any of the boys' schools investigated and in only in a small number of girls' schools.**

**36. Where Industrial School children were educated in internal national schools, the standard was consistently poorer than that in outside schools.**

National school education was available to all children in the State and those in Industrial Schools were entitled to at least the same standard as that available in the country generally. Internal national schools were funded by a national school grant and teachers were paid in the same way as in ordinary national schools. The evidence was however that the standard of education in these schools was poor.

There was evidence particularly in girls' schools that children were removed from their classes in order to perform domestic chores or work in the institution during the school day. In general, Industrial School children did not receive the same standard of national school education as would have been available to them in the local community. This lack of educational opportunity condemned many of them to a life of low-paying jobs and was a commonly expressed loss among witnesses.

**37. Academic education was not seen as a priority for industrial school children.**

When discharged, boys were generally placed in manual or unskilled jobs and girls in positions as domestic servants. There were exceptions, and particularly in girls' schools in the later years, some girls received the opportunity of a secretarial or nursing qualification. Education usually ceased in 6th class, after which children were involved in industrial trades, farming and domestic work with very limited education thereafter. Even where religious Congregations operated secondary schools beside industrial schools, children from the Industrial Schools were very rarely given the opportunity of pursuing secondary school education.

**38. Industrial Schools were intended to provide basic industrial training to young people to enable them to take up positions of employment as young adults. In reality, the industrial training afforded by all schools was of a nature that served the needs of the institution rather than the needs of the child.**

This was a problem that had been pointed out by the Cussen Commission in 1936 and continued to be a feature of industrial training in these schools throughout the relevant period. Child labour on farms and in workshops was used to reduce the costs of running the Industrial Schools and in many cases to produce a profit. Clothing and footwear were often made on the premises and bakeries and laundries provided facilities to the school and in some cases to the general public. The cleaning and upkeep of girls' Industrial Schools was largely done by the girls themselves. Some of these chores were heavy and arduous and exacting standards were imposed that were difficult for young children to meet. In girls' schools also, older residents were expected to care for young children and babies on a 24-hour basis. Large nurseries were supervised and staffed by older residents with only minimal supervision by adults.

## **Emotional abuse**

**39. A disturbing element of the evidence before the Commission was the level of emotional abuse that disadvantaged, neglected and abandoned children were subjected to generally by religious and lay staff in institutions.**

Witnesses spoke of being belittled and ridiculed on a daily basis. Humiliating practices such as underwear inspections and displaying soiled or wet sheets were conducted throughout the Industrial School system. Private matters such as bodily functions and personal hygiene were used as opportunities for degradation and humiliation. Personal and family denigration was widespread, particularly in girls' schools. There was constant criticism and verbal abuse and children were told they were worthless. The pervasiveness of emotional abuse of children in care throughout the relevant period points to damaging cultural attitudes of many who taught in and operated these schools.

**40. The system as managed by the Congregations made it difficult for individual religious who tried to respond to the emotional needs of the children in their care.**

Witnesses from the religious Congregations described the conflict they experienced in fulfilling their religious vows, whilst at the same time providing care and affection to children. Authoritarian management in all schools meant that staff members were afraid to question the practices of managers and disciplinarians.

**41. Witnessing abuse of co-residents, including seeing other children being beaten or hearing their cries, witnessing the humiliation of siblings and others and being forced to participate in beatings, had a powerful and distressing impact.**

Many witnesses spoke of being constantly fearful or terrified, which impeded their emotional development and impacted on every aspect of their life in the institution. The psychological damage caused by these experiences continued into adulthood for many witnesses.

**42. Separating siblings and restrictions on family contact were profoundly damaging for family relationships. Some children lost their sense of identity and kinship, which was never recovered.**

Sending children to isolated locations increased the sense of loss and made it almost impossible for family contact to be maintained. Management did not recognise the rights of children to have contact with family members and failed to acknowledge the value of family relationships.

**43. The Confidential Committee heard evidence in relation to 161 settings other than Industrial and Reformatory Schools, including primary and second-level schools, Children's Homes, foster care, hospitals and services for children with special needs, hostels, and other residential settings. The majority of witnesses reported abuse and neglect, in some instances up to the year 2000. Many common features emerged about failures of care and protection of children in all of these institutions and services.**

Witnesses reported severe physical abuse in primary schools, foster care, Children's Homes and other residential settings where those responsible neglected their duty of care to children.

The predatory nature of sexual abuse including the selection and grooming of socially disadvantaged and vulnerable children was a feature of the witness reports in relation to special needs services, Children's homes, hospitals and primary and second-level schools. Children with impairments of sight, hearing and learning were particularly vulnerable to sexual abuse.

Witnesses reported neglect of their education, health and aftercare in all residential settings and foster care. No priority was given to the special care needs of children who were placed away from their families.

Children in isolated foster care placements were abused in the absence of supervision by external authorities. They were placed with foster parents who had no training, support or supervision. The suitability of those selected as foster parents was repeatedly questioned by witnesses who were physically and sexually abused.

Many witnesses described losing their sense of family and identity when placed in out-of-home care, they reported that separation from siblings and deprivation of family contact was abusive and contributed to difficulties reintegrating with their family of origin when they left care. Witnesses reported emotional abuse in institutions, foster care and schools when they were deprived of affection, secure relationships and were exposed to personal denigration, fear and threats of harm.

When witnesses left care the failure to provide them with personal and family records contributed to disadvantage in later life. Many witnesses spent years searching for information to establish their identity.

The failure of authorities to inspect and supervise the care provided to children in hospitals and special needs services was noted as contributing to abuse which occurred in those facilities. The absence of structures for making complaints or investigating abuse allowed abuse to continue.

When opportunities were provided for children to disclose abuse they did so.

Witnesses reported that the power of the abuser, the culture of secrecy, isolation and the fear of physical punishment inhibited them in disclosing abuse.

## Appendix 2

**Forgotten Australians. A report on Australians who experienced institutional or out-of-home care as children. August 2004 Community Affairs References Committee. The Senate of the Australian Government**

[http://www.aph.gov.au/senate/committee/clac\\_ctte/completed\\_inquiries/2004-07/inst\\_care/report/report.pdf](http://www.aph.gov.au/senate/committee/clac_ctte/completed_inquiries/2004-07/inst_care/report/report.pdf)

### Executive Summary

Upwards of, and possibly more than 500 000 Australians experienced care in an orphanage, Home or other form of out-of-home care during the last century. As many of these people have had a family it is highly likely that every Australian either was, is related to, works with or knows someone who experienced childhood in an institution or out of home care environment.

Children were placed in care for a myriad of reasons including being orphaned; being born to a single mother; family dislocation from domestic violence, divorce or separation; family poverty and parents' inability to cope with their children often as a result of some form of crisis or hardship. Many children were made wards of the state after being charged with being uncontrollable, neglected or in moral danger, not because they had done anything wrong, but because circumstances in which they found themselves resulted in them being status offenders. Others were placed in care through private arrangements usually involving payment to the Home. Irrespective of how children were placed in care, it was not their fault.

Children were placed in a range of institutions including orphanages, Homes, industrial or training schools that were administered variously by the state, religious bodies and other charitable or welfare groups.

The Committee received hundreds of graphic and disturbing accounts about the treatment and care experienced by children in out-of-home care. Many care leavers showed immense courage in putting intensely personal life stories on the public record. Their stories outlined a litany of emotional, physical and sexual abuse, and often criminal physical and sexual assault. Their stories also told of neglect, humiliation and deprivation of food, education and healthcare. Such abuse and assault was widespread across institutions, across States and across the government, religious and other care providers.

But the overwhelming response as to treatment in care, even among those that made positive comments was the lack of love, affection and nurturing that was never provided to young children at critical times during their emotional development.

The long term impact of a childhood spent in institutional care is complex and varied. However, a fundamental, ongoing issue is the lack of trust and security and lack of interpersonal and life skills that are acquired through a normal family upbringing, especially social and parenting skills. A lifelong inability to initiate and maintain stable, loving relationships was described by many care leavers who have undergone multiple relationships and failed marriages. Many cannot form trust in relationships and remain loners, never marrying or living an isolated existence.

It is not just the impact that tragic childhood experiences have had for the care leavers. Their children and families have also felt the impact, which can then flow through to future generations.

The legacy of their childhood experiences for far too many has been low self-esteem, lack of confidence, depression, fear and distrust, anger, shame, guilt, obsessiveness, social anxieties, phobias, and recurring nightmares. Many care leavers have tried to block the pain of their past by resorting to substance abuse through life long alcohol and drug addictions. Many turned to illegal practices such as prostitution, or more serious law-breaking offences which have resulted in a large percentage of the prison population being care leavers.

For far too many, the emotional problems and depression have resulted in contemplation of or actual suicide. Anecdotal evidence has shown an abnormally large percentage of suicides among care leavers.

Care leavers harbour powerful feelings of anger, guilt and shame; have a range of ongoing physical and mental health problems, often directly associated with beatings or lack of health care as a child; and struggle with employment and housing issues.

A large number of positive stories were heard by the Committee from people who with a great deal of love and support from partners, families and friends are now able to better come to terms with their past and live fuller and more satisfying adult lives.

The Committee considers that there has been wide scale unsafe, improper and unlawful care of children, a failure of duty of care, and serious and repeated breaches of statutory obligations.

The Committee further considers that many comments in recent years by governments, churches and care providers reveal a complete lack of understanding of or acceptance of responsibility for the level of neglect, abuse and assault that occurred in their institutions.

The Committee believes that governments, the Churches and agencies should issue formal statements acknowledging their role in past institutional care policies and practices and the impact this had on the lives of many care leavers. These statements should express sorrow and apologise for the physical, psychological and social harm caused as a result of the care leavers' experiences as children in institutional care. The Committee also considers that these acknowledgments must be accompanied by other positive measures as recommended in the report to ensure that they are not regarded as merely 'empty gestures' by the care leavers and the community generally.

The Committee considered various reparation and redress schemes including access to civil litigation and the legal and other barriers to pursuing claims through the civil system. The Committee examined international and Australian reparation schemes before concluding that a national reparations fund for victims of institutional and out of home care abuse should be established.

The Committee also considered the internal church processes for dealing with allegations of abuse and their commitment to address past grievances. Such processes need to be

open, rigorous and accountable; however many of those that do exist are deficient in these areas and so the Committee has made a number of recommendations to improve transparency and accountability.

Questions of identity both for themselves and of other family members through locating and accessing records has become very important for many care leavers. A range of issues are discussed including locating and accessing records (overcoming FOI hurdles and barriers), the lack of or destruction of personal files, the quality of record keeping at the time and the nature of information and personal comments contained in records, and the need for support when care leavers are viewing their records.

The provision of services to address the needs of care leavers is seriously lacking at many levels. The Committee discusses many issues surrounding what services need to be provided or improved, and how and by whom should they be provided. In particular, support and advocacy services, counselling and the need for specialised counselling services, and programs to tackle health and ageing, housing and homelessness, and adult literacy and numeracy and other education services are addressed.

Recognition of care leavers and their history in Australia in more tangible ways is discussed through the erection of memorials, creation of memorial gardens, construction of heritage centres and in other forms such as reunions. To ensure that the experiences of care leavers are not lost to current and future generations, the Committee recommends that an oral history project be undertaken to collect life stories and that the Museum of Australia should consider the establishment of a permanent exhibition as part of its collection.

Finally the Committee recommends that research needs to be undertaken into a number of areas including the role of institutional care in Australia's social history, the social and economic impact and cost, and interdisciplinary research into the relationship between child protection and welfare dependency. This research needs to be combined with the establishment of courses of study at the tertiary level focusing on these and a range of related subject issues, since the links between how a child is raised and their totality as an adult will continue to influence the creation of policies affecting all Australians.

This report is not just concerned with the past, it is very much about the present and it informs the future of our nation.

### Appendix 3

### CONFIDENTIAL DECLARATION

For all employees and volunteers working for the institution

*This form is confidential and will only be seen by the appointments committee and senior manager of the institution. It will be shown to the police only under the compulsion of law.*

If the answer is YES to any of these questions, please complete the separate page 2 of this form with details.

1. Have you ever been convicted of a criminal offence? YES  NO
2. Have you ever been investigated by the police? YES  NO
3. Have you ever been found by a Family court to have harmed a child or adult? YES  NO
  
1. Has your conduct at any time placed a child at risk of harm? YES  NO
2. Has a child in your care as a parent ever been taken into care as a result of your actions? YES  NO
3. Have you any health problem which might affect your ability to work with children? YES  NO
4. Have you ever been known by a name different to the one you are now using? YES  NO
5. Have you during the last 5 years lived at a different address to the one in your application? YES  NO

#### Declaration

I declare that the information above and in the next sheet is accurate and complete to the best of my knowledge

**Signed:** ..... **Date:** ..... **Date of birth** .....

**FULL NAME:** .....

**ADDRESS:** .....

**Details of any answers on the preceding page:**

**1. Details of any criminal offence:**

.....

**2. Details of any investigation by the police:**

.....

**3. Details of any Family Court findings:**

.....

**4. Details of any conduct that has placed a child at risk of harm:**

.....

**5. Details of any child in your care as a parent taken into care:**

.....

**6. Any health problems that could affect your ability to work with children,  
including any involvement with drugs:**

.....

.....

.....

**7. Any previous name:**

.....

**8. Any previous address:**

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**All material will be checked and looked at with respect to the position you have applied for but will remain confidential whatever the outcome of your application to be employed**

## Appendix 4

### Extract of UN General assembly Resolution A/RES/64/142 regarding legal issues pertaining to the out-of-home care of a child

#### Legal responsibility for the child

101. In situations where the child's parents are absent or are incapable of making day-to-day decisions in the best interests of the child, and the child's placement in alternative care has been ordered or authorized by a competent administrative body or judicial authority, a designated individual or competent entity should be vested with the legal right and responsibility to make such decisions in the place of parents, in full consultation with the child. States should ensure that a mechanism is in place for designating such an individual or entity.

102. Such legal responsibility should be attributed by the competent authorities and be supervised directly by them or through formally accredited entities, including non-governmental organizations. Accountability for the actions of the individual or entity concerned should lie with the designating body.

103. Persons exercising such legal responsibility should be reputable individuals with relevant knowledge of children's issues, an ability to work directly with children and an understanding of any special and cultural needs of the children to be entrusted to them. They should receive appropriate training and professional support in this regard. They should be in a position to make independent and impartial decisions that are in the best interests of the children concerned and that promote and safeguard each child's welfare.

104. The role and specific responsibilities of the designated person or entity should include:

(a) Ensuring that the rights of the child are protected and, in particular, that the child has appropriate care, accommodation, health-care provision, developmental opportunities, psychosocial support, education and language support;

(b) Ensuring that the child has access to legal and other representation where necessary, consulting with the child so that the child's views are taken into account by decision-making authorities, and advising and keeping the child informed of his/her rights;

(c) Contributing to the identification of a stable solution in the best interests of the child;

(d) Providing a link between the child and various organizations that may provide services to the child;

(e) Assisting the child in family tracing;

(f) Ensuring that, if repatriation or family reunification is carried out, it is done in the best interests of the child;

(g) Helping the child to keep in touch with his/her family, when appropriate.

#### Agencies and facilities responsible for formal care

105. Legislation should stipulate that all agencies and facilities must be registered and authorized to operate by social welfare services or another competent authority, and that failure to comply with such legislation constitutes an offence punishable by law.

Authorization should be granted and be regularly reviewed by the competent authorities on the basis of standard criteria covering, at a minimum, the agency's or facility's objectives, functioning, staff recruitment and qualifications, conditions of care and financial resources and management.

106. All agencies and facilities should have written policy and practice statements, consistent with the present Guidelines, setting out clearly their aims, policies, methods and

the standards applied for the recruitment, monitoring, supervision and evaluation of qualified and suitable carers to ensure that those aims are met.

107. All agencies and facilities should develop a staff code of conduct, consistent with the present Guidelines, that defines the role of each professional and of the carers in particular and includes clear reporting procedures on allegations of misconduct by any team member.

108. The forms of financing care provision should never be such as to encourage a child's unnecessary placement or prolonged stay in care arrangements organized or provided by an agency or facility.

109. Comprehensive and up-to-date records should be maintained regarding the administration of alternative care services, including detailed files on all children in their care, staff employed and financial transactions.

110. The records on children in care should be complete, up to date, and confidential and secure, and should include information on their admission and departure and the form, content and details of the care placement of each child, together with any appropriate identity documents and other personal information. Information on the child's family should be included in the child's file as well as in the reports based on regular evaluations. This record should follow the child throughout the alternative care period and be consulted by duly authorized professionals responsible for his/her current care.

111. The above-mentioned records could be made available to the child, as well as to the parents or guardians, within the limits of the child's right to privacy and confidentiality, as appropriate. Appropriate counselling should be provided before, during and after consultation of the record.

112. All alternative care services should have a clear policy on maintaining the confidentiality of information pertaining to each child, which all carers are aware of and adhere to.

113. As a matter of good practice, all agencies and facilities should systematically ensure that, prior to employment, carers and other staff in direct contact with children undergo an appropriate and comprehensive assessment of their suitability to work with children.

114. Conditions of work, including remuneration, for carers employed by agencies and facilities should be such as to maximize motivation, job satisfaction and continuity, and hence their disposition to fulfil their role in the most appropriate and effective manner.

115. Training should be provided to all carers on the rights of children without parental care and on the specific vulnerability of children, in particularly difficult situations, such as emergency placements or placements outside their area of habitual residence. Cultural, social, gender and religious sensitization should also be assured. States should also provide adequate resources and channels for the recognition of these professionals in order to favour the implementation of these provisions.

116. Training in dealing appropriately with challenging behaviour, including conflict resolution techniques and means to prevent acts of harm or self-harm, should be provided to all care staff employed by agencies and facilities.

117. Agencies and facilities should ensure that, wherever appropriate, carers are prepared to respond to children with special needs, notably those living with HIV/AIDS or other chronic physical or mental illnesses, and children with physical or mental disabilities.

### **Residential care**

123. Facilities providing residential care should be small and be organized around the rights and needs of the child, in a setting as close as possible to a family or small group situation. Their objective should generally be to provide temporary care and to contribute actively to the child's family reintegration or, if this is not possible, to secure his/her stable

care in an alternative family setting, including through adoption or *kafala* of Islamic law, where appropriate.

124. Measures should be taken so that, where necessary and appropriate, a child solely in need of protection and alternative care may be accommodated separately from children who are subject to the criminal justice system.

125. The competent national or local authority should establish rigorous screening procedures to ensure that only appropriate admissions to such facilities are made.

126. States should ensure that there are sufficient carers in residential care settings to allow individualized attention and to give the child, where appropriate, the opportunity to bond with a specific carer. Carers should also be deployed within the care setting in such a way as to implement effectively its aims and objectives and ensure child protection.

127. Laws, policies and regulations should prohibit the recruitment and solicitation of children for placement in residential care by agencies, facilities or individuals.

#### **D. Inspection and monitoring**

128. Agencies, facilities and professionals involved in care provision should be accountable to a specific public authority, which should ensure, inter alia, frequent inspections comprising both scheduled and unannounced visits, involving discussion with and observation of the staff and the children.

129. To the extent possible and appropriate, inspection functions should include a component of training and capacity-building for care providers.

130. States should be encouraged to ensure that an independent monitoring mechanism is in place, with due consideration for the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). The monitoring mechanism should be easily accessible to children, parents and those responsible for children without parental care. The functions of the monitoring mechanism should include:

(a) Consulting in conditions of privacy with children in all forms of alternative care, visiting the care settings in which they live and undertaking investigations into any alleged situation of violation of children's rights in those settings, on complaint or on its own initiative;

(b) Recommending relevant policies to appropriate authorities with the aim of improving the treatment of children deprived of parental care and ensuring that it is in keeping with the preponderance of research findings on child protection, health, development and care;

(c) Submitting proposals and observations concerning draft legislation;

(d) Contributing independently to the reporting process under the Convention on the Rights of the Child, including to periodic State party reports to the Committee on the Rights of the Child with regard to the implementation of the present Guidelines.