



## Celebrating Grandparents as Kinship Carers

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### Introduction

As the National Children's Commissioner, my role is to champion and monitor the rights and wellbeing of all children in Australia. So today I want to bring a child rights perspective to the conversation about children who are being cared for by grandparents and other kin.

The relationships that grandparents and kin have with children are fundamentally different from those with their own children and different again from a foster care relationship. First, they know the child first hand and usually have a pre-existing emotional, physical and genetic connection. They have attended their birthday parties, looked after them from time to time, and ferried them to and from school or sport. They are already an important person in the child's life - They are a source of wisdom and mentoring, they are confidantes, and sometimes, like many in the audience today, they end up as substitute parents.

### Children as rights holders

When the UN Convention on the Right of the Child came into force in 1990, children were recognised as rights-bearers for the first time in international human rights law. The Convention recognises that children have the same basic human rights as adults, while also needing special protection due to their vulnerability as children.<sup>1</sup>

Apart from its ethical and moral force, the Convention is a legal document which sets out standards, and assigns responsibility for making sure these standards are met. By ratifying the human rights treaty, Australia has accepted obligations to realise the rights set out in the Convention for children.

The story of children's rights is not one that competes with the rights of grandparents or other carers but in fact is a complimentary set of pre-conditions to ensure that children and their families thrive. It is fundamentally about the human rights that we all have and need to do well and go well in life. In this context it is important that grandparent and kin carers know about the convention and what it says about what all children need in relation to basic things like

education, health, safety and identity, and the obligations of the state to ensure these needs are met.

The Convention explicitly recognises the primary responsibility of parents and family members to guide, protect and support their children. Under the Convention, Australia is required to provide support to families and those who care for children to help them do this job.

At the core of the Convention are four guiding principles: the right to life, survival and development; non-discrimination; the best interests of the child, and the right to participate and be heard. These principles mirror those of the Universal Declaration on Human Rights adopted by the United Nations in 1948 and International Covenant on Civil and Political Rights, which Australia signed in 1972, pertaining to the rights of all adults in Australia.

According to the Convention, children should only be separated from their parents and family when separation is necessary for the best interests of the child.

- **Article 19** of the Convention gives to every child the absolute right to live free from all forms of violence, including violence and abuse in the family. The UN Committee on the Rights of the Child has interpreted Article 19 of the Convention to place an 'immediate and unqualified obligation' on Australia to 'undertake all possible measures' to protect the child.
- **Article 18** of the Convention recognises the family's responsibilities for the upbringing and development of the child and requires Australia to assist parents and legal guardians in these childrearing responsibilities.
- **Article 27** of the Convention relates to ensuring the child's access to a standard of living adequate for the child's physical, mental, spiritual, moral and social development. This article puts a duty on the state to help families in both material and programmatic ways, especially in relation to nutrition, housing and clothing.

Where it is clearly in the child's best interests to be in the care of someone other than their parents, the State is obliged to afford them special protection.

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Taking all this into account, a child rights-based approach to child protection recognises the need to intervene in families if children are exposed to harm, but it prioritises interventions that strengthen family life, support families and work with families with challenges. As such, the Convention and the articles contained in it serve as important advocacy tools for grandparent and kin carers.

## Grandparents and kinship care

As we know, grandparents may come to care for their grandchildren in both formal and informal ways. They might see it coming or it might be completely unexpected. It might be for a short time, a long time or an unknown length of time. No doubt, many will feel a duty and obligation to protect and care for their grandchildren even if they are not well prepared and have to 'drop everything'. In some cases there may be formal orders from the Family Court of Australia or the Federal Magistrates Court, or a state or territory Children's Court. There may also be informal care agreements involving grandparents who do not have a legal order in place but have negotiated an arrangement that may not be known to child protection authorities.

***Kinship care, of which grandparent care is the largest subcategory, is growing in Australia. In 2013/14, 49% of all out-of-home care placements were with relatives or kin, translating to between 21,000 and 25,000 children in kinship care with 15,099 households.<sup>2</sup>***

***We know that the large majority of grandparent care is provided by grandmothers. The 2006 Census by the Australian Bureau of Statistics shows that 88 per cent of 'one grandparent families' were grandmother families.<sup>3</sup>***

***We also know that grandparent headed families are more likely to experience social and economic disadvantage generally. The 2006 ABS census shows that 35 per cent of 'one grandparent families' had an income of less than \$499 per week.***

***Grandparent carers often also have to bear the financial cost of establishing a suitable and stable care environment for the child they care for.<sup>4</sup>***

These carers have additional demands on their time and financial resources when they assume care of a grandchild. Caring for a child is labour-intensive and grandparents may be forced to leave paid employment when they take on carer responsibilities, and some may be required to take on additional work to meet the financial demands. Employment of any type is less likely for kinship carers than foster carers. Research from the UK has found that almost half of working kinship carers give up work when they become carers.<sup>5</sup>

There is some variation between how the different states and territories in Australia financially support grandparents in kinship care. With the exception of Tasmania and New

South Wales, state and territory governments do not provide allowances to informal carers. However, each state and territory provides identical rates of financial support to foster carers and formal kinship carers.

A 2012/13 survey by the Social Policy Research Centre found that more than 50 per cent of grandparents reported that at least one of their grandchildren have physical problems, and more than 80 per cent of grandparents reported that the grandchild in their care has emotional or behavioural problems. Grandparents also reported abuse and abandonment by parents as the cause of many psychological symptoms and physical injuries.<sup>6</sup>

The same survey shows that 62 per cent of grandparent respondents perceived that their own health had deteriorated due to taking care of their grandchildren. Almost half of the grandparent respondents reported that they themselves had a long-term illness or disability.

The Social Policy Research Centre has suggested that grandparent carers struggle to access support and practical help. They note the difficulties of negotiating service systems, and the complexity of these systems, with family payments from the Commonwealth government, kinship care payments from state and territory governments, and support groups and other service providers by state, local and NGO agencies.

Of particular concern, is ensuring carers are able to access the benefits they are entitled to through the income support system: such as family tax benefit, rent assistance, health care cards, remote area allowance, child care benefits and rebates, and access to the lower threshold of the Medicare safety net. While grandparents may be entitled to these supports they may not be aware of them, or may face complex family relationships that prevent them from accessing them. Or it all might just seem too complex and arduous to try to organise all this themselves in the face of the everyday rigors of caring for a child again full time. For this reason Centrelink Grandparent adviser positions are a critical component of effectively supporting carers.

However, this is just one area where improvements are needed. There is much ongoing work to be done to improve the accessibility and relevance of the systems and services for grandparent and kin carers overall.

## Aboriginal and Torres Strait Islander grandparent families

We know that Aboriginal and Torres Strait Islander children are nearly ten times more likely to be in out-of-home care than non-Indigenous children, with around 69 per cent of Indigenous children in out-of-home care placed with their extended family, within the Indigenous community, or with other Indigenous people.<sup>7</sup>

Aboriginal and Torres Strait Islander grandparents are a source of great strength in Indigenous communities and essential to the transmission of cultural knowledge.

Article 14 of the UN Declaration on the Rights of Indigenous Peoples requires Australia to take measure so that indigenous individuals, particularly children, including those living outside their communities, have access to an education in their own culture and provided in their own language.

The UN Committee on the Rights of the Child has expressed concern about the large numbers of Aboriginal and Torres Strait Islander children being separated from their homes and communities and placed into care that does not preserve their cultural and linguistic identity.

While data is limited, we know that many Aboriginal and Torres Strait Islander grandparents are involved as both formal and informal carers. This role can fit with extended family kinship structures in Aboriginal and Torres Strait Islander communities where grandparents take an active role in caring for grandchildren as well as passing down important cultural knowledge and traditions.

Like non-Indigenous grandparents, Aboriginal and Torres Strait Islander grandparents need support in their role. Given many arrangements are informal, there can be significant difficulty accessing income support and other services.

### Senate Inquiry into Grandparent Carers

Last year the Australian Human Rights Commission made a submission to the Senate Inquiry into grandparent carers, and in our submission we highlighted the key features of grandparent carers I have discussed here today.<sup>8</sup>

The submission made 15 recommendations for system reform and additional supports targeted at grandparent carers. To highlight some of them. The Commission recommended that states and territories work to expand existing support services that foster carers and formal kinship carers are entitled to so they include grandparent carers, regardless of whether the caring arrangement is formalised. A review of Commonwealth benefit entitlement and application processes was also recommended, along with an increase in the number of grandparent advisers.

We also recommended that work be done to implement the UN Committee on the Rights of the Child's previous

recommendations to fully implement the Indigenous Child Placement Principle, and that efforts to cooperate with indigenous community leaders and communities are intensified to find suitable solutions for indigenous children in need of alternative care within indigenous families.

The National Framework for Protecting Australia's Children which commenced in 2009 identifies "improving support for carers" as a national priority. One of the actions under National Framework's priority is to "expand training and support for grandparent and kinship carers, including Indigenous and culturally and linguistically diverse kinship carers." <sup>9</sup>

In our submission to the Senate Inquiry we recommended that the priority of "supporting carers" under the National Framework should explicitly refer to the important role of grandparent carers, and that the role of grandparent carers also be formally recognised in the National Disability Insurance Scheme as it rolls out.

The Commission also recommended that the Australian Government, with the states and territories, investigate official but non-court based options to recognise informal grandparent carers. Given the unknown, large and almost certainly growing number of informal grandparent carers who may not be accessing support, there is a strong case to find ways to recognise these carers. That's not to say it will be an easy task.

Any method of identification must take into account the fears grandparents may have about onerous processes and oversight. It must also take into account the complex family circumstances that may give rise to grandparents informally caring for their grandchildren. The privacy rights of children and the need to make sure that carers of children are subject to appropriate approval processes must also be considered.

Not only can 're parenting' be exhausting, it can also be very isolating. There is a need to link carers in to peer support groups and programs, especially in relation to carers from culturally and linguistically diverse groups, and programs to help older people get across digital technology.

Ongoing training of front line staff at both Commonwealth and state levels was also recommended to foster sensitivity to age and culture, in addition to a deeper understanding of the complex circumstances of grandparent carers' lives. Finally, the Commission recommended that an appropriate NGO or government body be funded and tasked to develop a national resource consolidating all information and practical support that may be available to grandparent carers – including their entitlements, access to respite, childcare, and contact details for peer to peer support groups.

The grandparents who are providing care to their grandchildren deserve our recognition and support. Many have had to make massive and difficult adjustments – like

coming to terms with what has happened with their own children who for whatever reason have been unable to safely care for their kids. There may be feelings of guilt and shame associated with the situation. They may have been forced to go from being the 'fun grandparent' to someone who has to constantly dish out rules and boundaries, in a world that has significantly changed from when they were young parents. They may continue to confront issues associated with their own children, and their grandchildren's contact with them. Instead of looking forward to a quiet carefree retirement, many will feel anxious about how to get by and also about the child's future. At a time when they might have thought they could wind down, they are called on to access new reserves of energy to parent all over again. And they will need even more energy to become a tenacious advocate for the basic rights of their grandchildren.

But despite all of these challenges and more, grandparents and kin continue to willingly step up in large numbers. Many greatly value the opportunity to care for their grandchildren, watching them grow and ensuring that they are stable and safe. Many in fact report significant rewards from the experience, despite the challenges they face.

There is no doubt that it is grandparent and other kin carers that are helping to ensure that the rights of our most vulnerable children are protected and upheld. They are making sure they get a good education, understand their identity, be healthy, are free from violence and abuse, are listened to and valued.

I congratulate you for the work you do and the love and support you give to children. And if they were here I am sure they would thank you too.

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<sup>1</sup> Convention on the Rights of the Child (CRC), 1966. At: <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

<sup>2</sup> AIHW 2015. Child Protection Australia 2013-24. Child Welfare series no.61.Cat no.CWS 52. Canberra: AIHW

<sup>3</sup>Brennan, D., Cass, B, Flaxman, S, Hill, T, Jenkins, B., McHugh, M., Purcal, C., Valentine, K (2013): Grandparents raising children: Towards Recognition, Respect and Reward (SPRC Report 14/13, 2013). Social Policy Research Centre, University of New South Wales,

<sup>4</sup> Brennan, D., Cass, B., Flaxman, S., Hill, T., Jenkins, B., McHugh, M., Purcal, C., & valentine, k. (2013), Grandparents raising grandchildren: Towards recognition, respect and reward (SPRC Report 14/13). Social Policy Research Centre, University of New South Wales, p 19. At: <https://www.sprc.unsw.edu.au/research/publications/sprc-report-series/>

<sup>5</sup> Gautier, A. and Welland, S., Giving up the day job? Kinship Carers and Employment, Grandparents Plus, Survey Findings Report, July 2012, at p 9. At: <http://socialwelfare.bl.uk/subject-areas/services-client-groups/families/grandparentsplus/givingup12.aspx>

<sup>6</sup> Brennan, D., Cass, B., Flaxman, S., Hill, T., Jenkins, B., McHugh, M., Purcal, C., & valentine, k. (2013), Grandparents raising grandchildren: Towards recognition, respect and reward (SPRC Report 14/13). Social Policy Research Centre, University of New South Wales, p 3. At: <https://www.sprc.unsw.edu.au/research/publications/sprc-report-series/>

<sup>7</sup> Australian Government, Annual Report to the Council of Australian Governments 2011-12, Protecting children is everyone's business: National Framework for Protecting Australia's Children 2009-2020, 2013, p 1 and 141. At: <http://www.dss.gov.au/our-responsibilities/families-and-children/publications-articles/protecting-children-is-everyones-business/protecting-children-is-everyones-business-national-framework-for-protecting-australia-s-children-2009-2020-annual-report-2011-12>

<sup>8</sup> Australian Human Rights Commission: Grandparents who take primary responsibility for raising their grandchildren: submission 133 to the Senate Standing Committee on Community Affairs, March 2014 <https://www.humanrights.gov.au/sites/default/files/Community%20affairs%20reference%20committee%20-%20Grandparent%20Carers.pdf>

<sup>9</sup> Council of Australian Governments, Australia. Protecting children is everyone's business: National Framework for Protecting Australia's Children 2009-2020 : second three-year action plan 2012-2015, 2012, p 23. At: [http://www.dss.gov.au/sites/default/files/documents/09\\_2012/second\\_action\\_plan.pdf](http://www.dss.gov.au/sites/default/files/documents/09_2012/second_action_plan.pdf)

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