

Quality of care concerns in out-of-home care

A guide for carers



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May 2011

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- carers
- community service organisations
- Centre for Excellence in Child and Family Welfare
- Foster Care Association of Victoria
- Department of Human Services.

The input of all people involved has been invaluable in developing this guide and in ensuring it will be a useful resource for all carers providing out-of-home care to children and young people.

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1. Introduction

The great majority of children and young people in out-of-home care receive good quality care from dedicated carers who have made a commitment to making a difference in the lives of these young people. From time to time, quality of care concerns may be raised about carers by the child or young person that they are caring for, the child or young person's family or members of the community.

Carers, like teachers and others who are placed in a position of trust with children, are especially vulnerable to complaints and allegations which may arise for many different reasons. Allegations may be said to 'come with the territory' and carers therefore can expect it is likely they will be the subject of an allegation at some time during their involvement in the system.

As the safety and wellbeing of children and young people is the paramount responsibility of the Department of Human Services, community service organisations (CSO) and carers, every concern must be taken seriously and thoroughly explored to ensure the safety of the child.

When a quality of care concern is raised, it can be unsettling and stressful for a carer. It is important that processes are in place which, whilst ensuring the safety of the child, also ensure that carers are treated in a fair and just manner and are informed and supported throughout the process.

The *Guidelines for investigating allegations against home-based carers* were introduced in Victoria in 2005 and were the first such procedures to specifically outline the process of managing quality of care concerns. In 2007 these procedures were reviewed and have now been replaced by the *Guidelines for responding to quality of care concerns in out-of-home care* (the guidelines). These guidelines now include procedures for managing quality of care concerns in all out-of-home care placements including foster care, lead tenant, residential care and kinship care.

This carer's guide summarises some of the key information contained in the guidelines that is specifically relevant to out-of-home carers. As the guide may use terms that are unfamiliar to carers a definitions section has been included in Appendix 1 of this guide. You may also find some helpful information in the frequently asked questions section which can be found in Appendix 4.

All carers are encouraged to discuss any queries regarding information and/or processes outlined in this guide with their case worker.

2. Out-of-home care in Victoria¹

In Victoria approximately 7,800 children and young people spend some time living away from their family in out-of-home care each year. Of these children and young people approximately 5,300 are in care at any one time. The effective functioning of the out-of-home care system is dependent on the carers who provide care to these children and young people.

‘Out-of-home care’ is the term used in Victoria when a child or young person is placed in care away from their parents.

In Victoria, the vast majority of children and young people in care are placed in out-of-home care following Child Protection intervention and the granting of an order by the Children’s Court. A small number of children and young people are placed in out-of-home care on a voluntary basis with no court order.

There are two types of voluntary placements:

- those arranged for children and young people by Child Protection but without a court order
- those arranged by families or young people directly with CSOs as a solution to a difficulty they may be experiencing.

These guidelines apply for the following types of out-of-home care:

- residential care
- home-based care including foster care, lead tenant and kinship care.

The guidelines do not apply to carers who provide care to children or young people who are subject to permanent care orders.

¹ Section adapted from *The home-based care handbook*, Department of Human Services, Melbourne, September 2007.

3. Legislative requirements

3.1 Registration of carers

The *Children, Youth and Families Act 2005* introduced a register for carers who have been approved to care for children and young people in out-of-home care. The Department of Human Services keeps this confidential register, which records details such as the date of a carer's approval and the name of the carer's CSO. The carer's CSO arranges the carer registration process for each carer.

During a carer's assessment and approval process, a check of the register is made to be sure they have not previously been disqualified from caring. People who are not registered or are currently disqualified from caring cannot be carers.

3.2 Suitability Panel

As well as introducing a register for carers, the Children, Youth and Families Act also established an independent panel called the Suitability Panel. It is the role of the Suitability Panel to find whether a carer has abused a child, and whether they pose an unacceptable risk of harm to children and young people and should be disqualified from registration. Only allegations of sexual or physical abuse are referred to the Suitability Panel. The Suitability Panel is made up of people independent of the department with a range of qualifications and experience.

Referrals to the Suitability Panel can only occur after an independent investigator, appointed by the department, investigates and reports back on a serious physical or sexual abuse allegation against a registered carer. When the report is received, a decision is made by the department about whether the matter will be referred to the Suitability Panel.

You can expect:

- to be placed on a confidential carer register once you have been accredited by a CSO or the Department of Human Services
- that an agency or the Department of Human Services will check the carers register before accrediting you as a carer to ensure whether you are still registered.

Tip:

- if you are not clear about the process of being placed on a carer register or have any concerns with this process, please discuss directly with your case worker.

4. Quality of care concerns in out-of-home care

There is a broad range of issues considered to be quality of care concerns which can include minor quality issues through to possible physical or sexual abuse and neglect. A quality of care concern is any concern about a child or young person's safety, stability or development within their out-of-home care placement.

All quality of care concerns are initially screened by an Investigation Planning Group to determine the most appropriate response. Different responses are then implemented dependent upon the nature of the concerns. Quality of care concerns relating to children and young people in out-of-home care can be raised by anyone.

4.1 Who can be involved in the management of a quality of care concern?

Given the nature and complexity of some of the concerns raised about the quality of care provided to children and young people, a number of professionals may be involved at any one time.

- **Child Protection** will be involved in the management of quality of care concerns where the child or young person is a Child Protection client.
- A **community service organisation** will also be involved in all quality of care concerns with respect to any carer who is accredited with them.
- **Victoria Police** will be notified of all allegations of physical abuse, sexual abuse or serious neglect by Child Protection. The police will then assess whether they will have an ongoing role in the investigation of these concerns from a criminal investigation perspective.
- A **quality of care coordinator** who is employed in each Department of Human Services region to ensure that quality of care concerns are effectively and consistently managed throughout Victoria. Quality of care coordinators are the coordinating and monitoring point for receipt and investigation of quality of care concerns and queries in relation to the new requirements of the Children, Youth and Families Act related to out-of-home carers which are outlined in section 8 of this guide.

When quality of care concerns are raised, you can expect:

- the quality of care concerns to be taken seriously
- a fair, transparent and respectful process while quality of care concerns are followed up
- to be provided with support and information
- for concerns to be treated in accordance with the *Guidelines for responding to quality of care concerns in out-of-home care*
- that there will be times when your worker will not be in a position to immediately inform you of any quality of care concerns. Sometimes the worker may have been requested to withhold information until further assessment is conducted either by the Police or the Department of Human Services.

Tip:

- take the time to read through this guide to familiarise yourself with some of the processes that you will be involved in should a quality of care concern be raised
- talk to your case worker about any points of clarification required to ensure you have as much information as possible.

5. Guiding principles when managing quality of care concerns

There are guiding principles which are intended to promote and support the effective management of quality of care concerns. These guiding principles are as follows.

The best interests of the child will always be paramount

- In making decisions, there must be consideration given to protecting the child from harm, protecting the child's rights, promoting the child's development in age appropriate ways and to the appropriate supports for the child to maintain their cultural identity and links to their community.
- Responses to quality of care concerns must be managed in a way that minimises the trauma to the child.

Children and young people will be listened to and heard

Children and young people must be:

- supported, in a child-friendly way, to tell their story and express any concerns
- provided with ongoing support during and after any investigation or formal care review process
- provided with information in a child-friendly and age-appropriate manner about their rights, the support available to them and the procedures and processes of the investigation or formal care review
- informed of the outcome of an investigation or Review process in a child friendly and age-appropriate manner.

Carers will be treated fairly, honestly and with respect

They will be:

- listened to and heard
- supported through the investigation or formal care review process and given as much information as is possible without interfering with the process
- given information about the investigative or review process, the timeframes and what support is available to them
- informed of the outcome of an investigation or review and the implications for them
- informed about complaints and review procedures and processes.

Parents will be told about concerns for the welfare of their child

Parents will be:

- listened to and heard and their concerns taken seriously
- given information about any concerns
- advised of the investigation or formal care review process to be followed
- advised of the outcomes
- informed about complaints and review procedures and processes.

Collaboration

- Child Protection and CSOs will work together in a spirit of partnership, collaboration and cooperation to ensure fair and transparent investigation and decision-making processes that protect the child or young person, and act in their best interests, while maintaining their statutory responsibilities.

Communication and timeliness

- Decision making, investigation and formal care review processes will be well informed, clearly communicated and timely. These characteristics are consistent with effective management of quality of care concerns for children and young people in care, their families and the carers who are providing care.

6. Support for carers

Child Protection and CSOs have a duty of care to children and young people in out-of-home care and therefore have an obligation to identify and manage quality of care concerns and to ensure the safety and wellbeing of children and young people placed in the out-of-home care system. As such, reports of quality of care concerns must be taken seriously.

It is acknowledged that most people who provide care to children and young people involved with Child Protection do so because they want to make a difference to a child's life.

A person who becomes a carer never expects that they may one day be subject to allegations or concerns raised about the care they provide. When this happens, it can cause stress and anxiety. Understandably, carers may also feel angry about both the concerns being raised and about the processes that they will be subject to.

When quality of care concerns are raised, you can expect to be treated fairly, honestly and with respect. You will be supported through the process and given as much information as possible without interfering with the relevant quality of care processes.

It is the role of CSOs, or Child Protection if a CSO is not involved, to provide support and assistance to you. Support can take the form of keeping you up to date with the progress of the investigation, ensuring you are clear on who to call if you require further information and referral for independent counselling if you feel this would be beneficial for you or your family to manage during or after the process. If you are a foster carer and you feel you need further assistance, you could consider contacting the Foster Care Association of Victoria (please find contact details in Appendix 2 of this guide).

Child Protection and CSOs will provide the following supports to you during and after quality of care processes:

- allocating a liaison person
- advice regarding relevant procedures and timeframes
- information about services available to you
- provision of access to appropriate support services
- information about how to seek a review, resolve disputes or make a complaint.

You will also be advised of any other processes that may need to occur such as:

- an internal CSO (or Department of Human Services if a department employee) investigation into a quality of care concern raised about you if you are a residential carer
- possible referral for independent investigation under section 86 of the Children, Youth and Families Act if an allegation of physical or sexual abuse is made about you if you are a home-based carer or residential carer.

Child Protection, CSOs, carers and, where necessary, the police, must work together to ensure that the child or young person's safety is assured and that the best interests of the child or young person are paramount. At the same time carers must be treated fairly, honestly and with respect.

7. Quality of care procedures

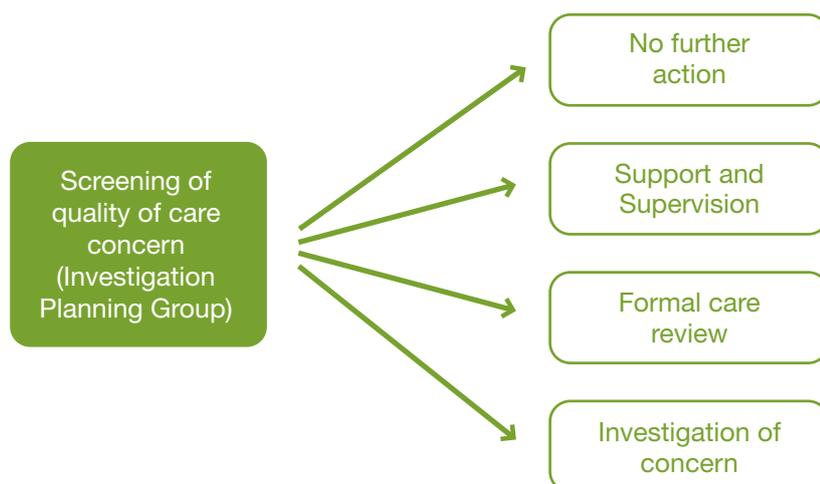
7.1 Screening quality of care concerns

The guidelines specify that all concerns about possible physical or sexual abuse, neglect or other quality of care concerns must initially be screened through a discussion between the CSO manager, Child Protection unit manager and the quality of care coordinator. This is known as an Investigation Planning Group. The Investigation Planning Group will determine the exact nature of the concern and the most appropriate response.

There are four possible responses to quality of care concerns:

- **Take no further action** – in some cases, it can be clearly established that the report of the concern is inaccurate or there is no basis for concerns about the safety of the child or the quality of care the child or young person is receiving.
- **Recommend that concerns are managed via support and supervision** – it is expected that the majority of quality of care concerns will be managed through support or supervision of the carer, either by the CSO or by Child Protection depending on the placement arrangements.
- **Recommend a formal care review** – this response occurs when there are serious or repeated concerns about possible poor quality care provision that has been assessed not to relate to possible abuse or neglect.
- **Commence an investigation into the concerns** – this response, which may or may not involve the police, will be implemented in response to allegations of possible abuse or neglect.

Flowchart 2: Screening outcomes



When quality of care concerns are screened, you can expect:

- to be advised of the allegation and provided information regarding the process to be undertaken
- that the quality of care concern will be assessed via an initial screening process to determine what action is to be taken
- to be advised of the outcome of the initial screening process
- that due to the protocol between the Department of Human Services and Victoria Police, the police will have been notified if the quality of care concern alleges physical or sexual abuse or serious neglect. This will have occurred prior to you being contacted about the concern
- that the Aboriginal Child Specialist Advice and Support Service (ACSASS) and the Aboriginal community-controlled organisation will be consulted if the child or young person in placement is of Aboriginal descent
- that the outcome of all initial screenings of quality of care concerns will be documented and filed on both the child or young person's file and on your CSO file
- that any quality of care concern will be investigated despite how minor the concern may appear to you

Tip:

- keep in mind... screening of a quality of care concern to determine the appropriate course of action will occur for ALL carers where concerns are raised about the care that children and young people are receiving in an out-of-home care placement. While some carers will feel upset and frustrated by processes undertaken and sometimes feel 'guilty until proven innocent', these processes are undertaken both to ensure the safety and wellbeing of the child and to protect you against allegations of abuse or quality of care concerns.

7.2 Child Protection investigation into a quality of care concern

An investigation into a quality of care concern may occur in response to allegations of possible sexual abuse, physical abuse or neglect. The investigation process is led by Child Protection and conducted in partnership with the CSO, if a CSO is involved in supporting and supervising the placement. The Child Protection unit manager or quality of care coordinator will coordinate the investigation.

7.2.1 Investigation process

The Child Protection unit manager will assess the immediate safety of the child or young person together with the safety of any other child or young person living in the placement. This may include your biological or permanent care children if the concerns are relevant to them.

It is preferable that a child or young person remains in their placement throughout an investigation, however, it is acknowledged that in some circumstances it will be necessary for a child or young person to be removed from a placement.

In residential care, the residential unit is the home of the child or young person rather than the carer. In a situation where it is necessary to separate the child or young person from the residential carer, then the CSO may consider your employment options during the investigation process. These options may include standing you down from the residential unit, engaging additional staffing or redeployment to other duties.

In a quality of care investigation, it would be usual for out-of-home carers to be interviewed by Child Protection together with the CSO, if a CSO is involved. The principles in the guidelines include that carers be treated fairly, honestly and with respect. Consistent with these principles, the CSO manager, or Child Protection unit manager (if there is no CSO involved), should ensure that you have access to appropriate levels of information, unless this would compromise the safety of the child or young person or the integrity of the assessment and investigation process.

You will be advised of:

- the purpose of the interview
- the role of the people conducting the interview
- your right to have a support person present at the interview
- the nature of the concern
- how the interview will be recorded and that a copy of the interview record will be provided to you
- how the information collected may be requested by an authorised investigator under section 90 of the Children, Youth and Families Act or Child Protection if they are not involved in the interview
- the expected investigation procedures and timeframes
- who will be your liaison person to provide ongoing information and updates to you, including the outcome of the investigation
- support services available to you
- placement arrangements for any children and young people in your care during the investigation, including details of your reimbursement or salary arrangements
- how to seek a review, resolve disputes or make a complaint.

7.2.2 Police investigations

When a quality of care concern involves an allegation of possible physical or sexual abuse or serious neglect, Child Protection must report the matter to Victoria Police. The police will determine if a criminal investigation will occur. A police investigation and Child Protection investigation may occur at the same time.

Where the police decide that an investigation is warranted they will interview you as soon as possible after all relevant evidence is obtained. The police will endeavour to conduct an investigation in a timely manner taking into account the safety and wellbeing of the child and young person and your rights. However, some police investigations may be lengthy due to the complexity of gathering evidence for a criminal investigation.

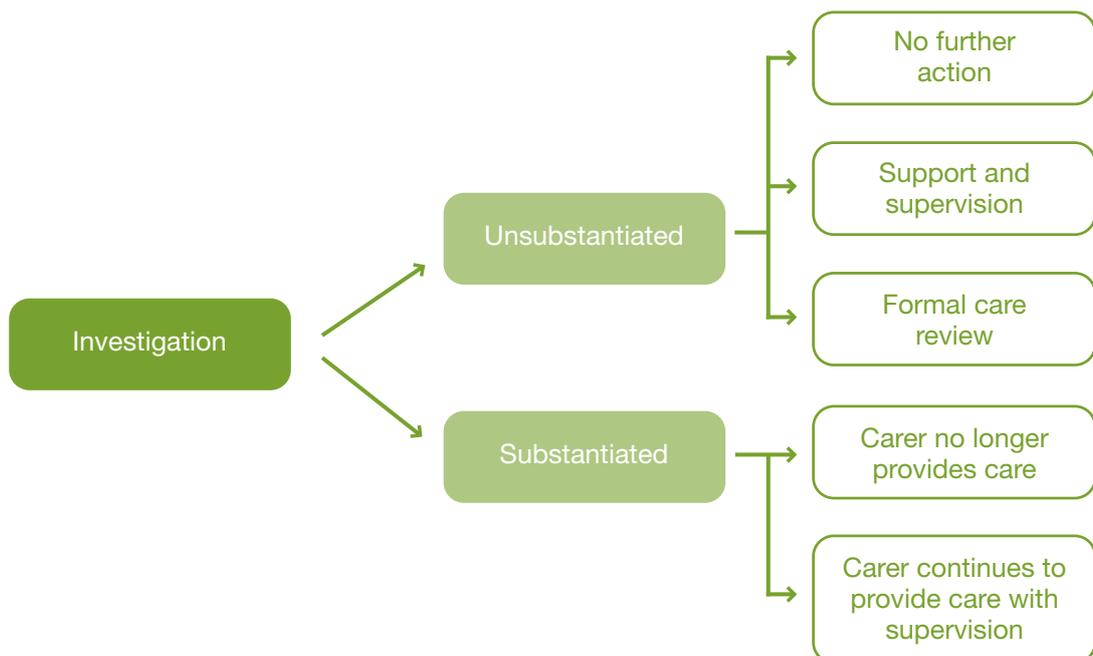
To ensure that a criminal investigation is not jeopardised, Child Protection will liaise with police regarding what information can be shared with you, the CSO and the child or young person and their family.

The decision to lay criminal charges is determined by the police, however, Child Protection can substantiate the allegation of abuse or neglect even when the police decide not to lay criminal charges.

7.2.3 Investigation outcomes

There are two possible outcomes of a Child Protection investigation. The allegation of possible abuse or neglect will either be substantiated or unsubstantiated.

Flowchart 3: Investigation outcomes



If an allegation is unsubstantiated, Child Protection has determined that on the balance of probabilities, abuse or neglect is not likely to have occurred. If the allegation is unsubstantiated there are three possible additional outcomes:

- no further action will be taken
- a decision may be made that there are still some issues that may require additional support and supervision of you by the CSO to ensure these issues do not impact upon your ability to provide safe and appropriate care to children and young people
- a decision may be made to commence a formal care review. The decision to commence a formal care review would occur where there remain serious concerns about the capacity of the carer to ensure the safety, stability or development of children or young people in their care.

If an allegation is substantiated, Child Protection has determined that on the balance of probabilities, abuse or neglect is likely to have occurred. When the department substantiates an allegation of abuse, decisions need to be made about whether the child or young person, or any other child or young person, should remain in the placement. Decisions also need to be made about whether it is appropriate for you to continue in your role.

Where abuse or neglect has been substantiated, there is a strong basis for considering that continuing in the existing placement arrangements is not in the child's best interests. This decision should however be made on a case-by-case basis allowing for the particular circumstances to be appropriately considered. The placement history, relationship with the carer, nature of abuse or neglect and degree to which the circumstances surrounding the abuse or neglect constitute an exceptional set of events may all need to be considered. It will be essential that there is very clear evidence that there is no risk to the safety, stability and development of the child or young person or any other child or young person placed in your care in the future for the placement to be continued.

Where the allegation is substantiated against a person other than yourself as the carer (for example, family members or friends), arrangements must be made that will ensure that there is no longer a risk of harm to the child or young person in the placement. If this cannot be arranged then you will not be able to continue to provide care.

7.3 Determining the continued suitability of a carer

The broader decision regarding the future suitability of a carer must be based on assessments regarding the best interests of children or young people who may be placed in their care. It is possible to have a situation where an allegation of abuse or neglect has been substantiated, but a decision is made that it is in the best interests of the child or young person to remain in placement. This decision would only be made where there is strong evidence that the child or young person is no longer at risk of harm, the carer has addressed the identified issues and the placement is stable.

If it is determined that you are no longer suitable to provide care, or you choose to cease providing care following a quality of care investigation, the CSO will offer you professional independent debriefing.

7.3.1 Investigation timeframes

The guidelines are intended to ensure that an investigation into a quality of care concern occurs in a timely manner.

Within 28 working days of receiving a quality of care concern a Child Protection investigation should be completed. If an investigation cannot be completed within this timeframe the regional Child Protection manager must provide approval to extend the investigation time. The CSO manager must be informed that the investigation period has been extended and you will be subsequently advised.

When a Child Protection investigation occurs, you can expect:

- to receive information regarding the quality of care concerns and the process of investigation. However, be aware that the information that can be provided to you, where the police are involved, and the timing of the provision of this information, will be determined by the police. You should be aware that this can be a very lengthy process
- to be encouraged to identify a support person that can assist you through the process
- that the police will be notified if the quality of care concern alleges physical or sexual abuse or serious neglect
- that decisions will be made as to the ongoing placement of the child or young person with you and your ongoing role as a carer in the out-of-home care sector
- that an investigation will be completed within 28 days of the department receiving the concern. If this cannot occur, the Child Protection manager will be required to endorse the extension of time and you will be notified of this
- to be offered professional independent debriefing if the placement is terminated or you chose to no longer provide care
- that all records of an investigation into a quality of care concern will be kept on both the child's and your file even if the matter is not substantiated.

Tip:

- keep a record of any contact made regarding a quality of care concern including who made the contact, what the concern was and any interview details. This may be useful to have if you need to recontact someone for further information or clarification
- confirm with your case worker who your liaison person is throughout the investigation and how you are able to contact them should the need arise
- remember that recording and filing details of any investigation undertaken, including those that are not substantiated, is also in your best interests as, if any query was raised in the future, there is clear documentation around the matter being considered and investigated if appropriate.

7.4 Formal care review

A decision to recommend a formal care review may occur when there are repeated or serious concerns raised about the care being provided to a child or young person that do not relate to possible abuse or neglect but where the safety, stability or development of a child or young person is placed at risk by the concerns.

A formal care review can arise from:

- an initial screening decision
- an investigation that has been unsubstantiated but where serious quality of care concerns remain
- where there is a decision to shift a quality of care concern that is being managed through the usual support and supervision provided to carers, to a formal process.

When determining whether a formal care review is required, consideration will be given to:

- the seriousness of the concern
- the repeated nature of the concern
- whether a similar concern has previously been managed by the CSO or Child Protection
- the length of time that a carer has been in the role
- the attitude of the carer towards the concern
- whether the concern is an isolated event or of an ongoing nature.

7.4.1 Formal care review process

It is the role of the CSO to lead a formal care review. If there is no CSO involved, the regional quality of care coordinator will lead the process.

When conducting a formal care review a panel consisting of the CSO manager (if involved), the Child Protection unit manager and the quality of care coordinator will meet to determine the most appropriate response to the concerns.

The panel will consider:

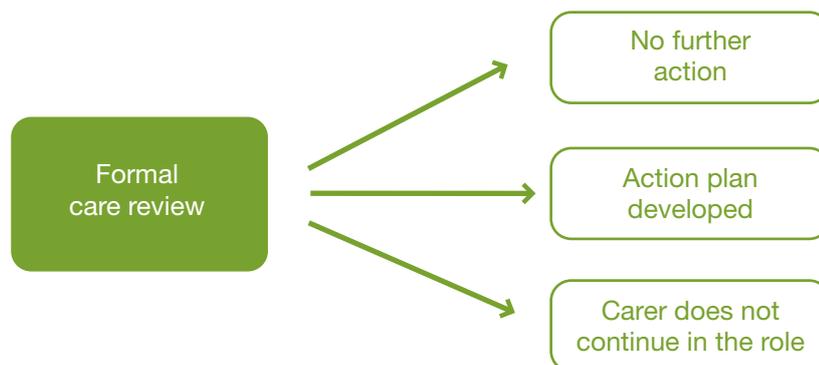
- the nature and seriousness of the quality of care concern
- the length of time you have been in the role
- any previous quality of care issues
- how successful the CSO has been in managing this, or previous concerns
- your attitude towards the concern
- whether the quality concern is of an isolated or an ongoing nature.

You will usually continue to care for the child or young person throughout a formal care review unless the child or young person's safety or wellbeing is at risk. This will be assessed by Child Protection.

Formal care reviews should be conducted in such a way as to best allow those involved to learn from the review's findings. The review is intended to be a supportive process, which enhances your skills and capabilities. The CSO has a responsibility to support you and may offer support services such as counselling during a formal care review.

7.4.2 Formal care review outcomes

Flowchart 4: Formal care review outcomes



Following the formal care review, the panel will determine whether:

- the concerns identified have been addressed as part of the formal care review process and no further action should be taken
- the concerns identified should be addressed by implementing an action plan over a three month period
- the concerns identified have not and are unlikely to be addressed, and that it is inappropriate for the carer to remain in the role.

7.4.3 Formal care review action plans

If the panel determines that an action plan should be developed, the plan will specify the quality of care concerns, how they will be addressed, tasks, responsibilities and timelines.

A formal care review action plan will be developed in conjunction with you so that the concerns and strategies to address these are agreed upon and clear.

The panel will decide how often you should be visited to ensure the child or young person's safety. At a minimum, the CSO worker, or if a CSO is not involved, a Child Protection worker will visit you at least fortnightly.

Within three months of implementing an action plan the formal care review panel will reconvene to review your progress against the action plan. If the panel decides that the quality of care concerns have been fully addressed then there will be no further action.

If the panel considers that concerns remain, and you have the capacity to make the necessary improvements then you will be provided with a further three-month period to fully address the identified concerns. The formal care review process will not extend beyond the further three month period whether the concerns have been addressed or not. If the concerns have not been addressed, the panel will review your capacity to provide out-of-home care.

If it is assessed that you are unable to provide an ongoing suitable level of care, a report will be prepared clearly outlining the unresolved quality of care concerns and the impact on the safety, stability and development of children and young people in your care. Arrangements would then be made to find alternative placements for these children and young people. Further consideration would need to occur regarding the ongoing appropriateness of your role as a carer and, in this instance, a recommendation would be made that your approval to provide care is withdrawn.

7.4.4 Formal care review timeframes

The guidelines are intended to ensure that a formal care review is conducted in a timely manner. Within 20 working days of deciding to undertake a formal care review, the panel must decide whether the concerns have been addressed and there will be no further action or whether concerns continue to exist and a three-month action plan will be implemented as outlined above.

When a formal care review occurs, you can expect:

- to continue to provide care for the child or young person unless their safety and wellbeing is assessed to be at risk
- to be involved in the development of any action plan and a formal review within three months
- a minimum of fortnightly visits from a worker throughout the review period.

Tip:

- ask questions! Make sure you are clear about exactly what is required of you, how progress will be monitored and by whom.

8. Resolving differences

You are encouraged to initially discuss your concerns and options with your CSO (if involved) as it is the role of CSOs to provide information and support to you including the processes to resolve differences.

The *Registration standards for community service organisations* require CSOs to have written procedures for the resolution of disputes or complaints by staff, carers, children, young people and families. These procedures should include the process for lodging and managing complaints, steps and timeframes in assessing and resolving disputes and the process to appeal decisions that are made such as where a carer disagrees with a decision or recommendation made during the course of a formal care review.

If you have any concern about a decision to withdraw your accreditation or to terminate your employment, you must discuss this directly with the relevant CSO and pursue the CSO internal dispute resolution procedures.

In the quality of care context, you are able to access two separate review processes regarding an investigation into a quality of care concern.

8.1 Request to review a substantiation decision

If you wish to request a review of the substantiation decision regarding an allegation of abuse that has resulted from a quality of care investigation, you must request a review of the process in writing to the Children, Youth and Families manager.

Children, Youth and Families managers will consider requests for a review on a case by case basis. The review process may involve an audit of the investigation process and interview of key individuals.

The review must occur within 28 days of your request for review being received and written advice of the review decision must be provided to you within two weeks of the review hearing.

If you are unhappy with the outcome of this first level of review, you may request a further review by the regional director. Review by the regional director is the final avenue of internal review for carers.

8.2 Request to review a recommendation of a quality of care investigation

If you wish to request a review of any recommendation that has come from a quality of care investigation that directly affects you, you must request a review of the process in writing to the CSO's senior regional manager.

CSO senior regional managers will consider requests for a review of a recommendation of a quality of care investigation on a case by case basis.

Any request for review must occur within 28 days of request for review being received and written advice of the review decision must be provided to you within two weeks of the review hearing.

Where the outcome of this first level of review is disputed, a further review may be requested to be undertaken by the chief executive officer of the CSO. Review by the CSO chief executive officer is the final avenue of internal review for carers.

If you are a Department of Human Services employee or a kinship carer and are not involved with a CSO, all requests for review of any recommendations must be forwarded to a Children, Youth and Families manager.

You can expect:

- to be provided with information regarding the management of complaints by both the CSO and Department of Human Services if required
- that prior to becoming involved in resolving any dispute, a senior CSO or Department of Human Services manager will confirm that you have discussed any complaint / issues with the allocated case worker in an attempt to resolve the issue
- written advice regarding the outcome of any formal review.

Tip:

- make all attempts possible to resolve any differences with allocated case workers prior to raising issues with senior management
- for further information regarding the management of complaints, please discuss directly with your case worker.

Appendix 1: Definitions

Aboriginal Child Specialist Advice and Support Service (ACSASS)

Aboriginal Child Specialist Advice and Support Service (ACSASS) must be consulted when a quality of care concern is raised in relation to an Aboriginal child or young person in out-of-home care. The protocol between the Department of Human Services Child Protection Service and the Victorian Aboriginal Child Care Agency (VACCA), inclusive of the agreement between Child Protection and Mildura Aboriginal Corporation (MAC), establishes the consultation process necessary for ensuring a culturally informed and effective response to the protection of Aboriginal children from harm. Aboriginal Child Specialist Advice and Support Service is provided by the Victorian Aboriginal Child Care Agency or Mildura Aboriginal Corporation depending upon the region and location of the child.

Abuse

Child abuse is an act or omission by an adult that endangers or impairs a child or young person's physical or emotional health and development. Abuse in the out-of-home care context may relate to any act by a carer or member of their household that endangers a child or young person's physical or emotional health and development.

Throughout this document the terms abuse, harm and neglect are used to describe situations where a child or young person may need protection. The term assault is used when an injury requires medical intervention. This distinction is consistent with the wording and philosophy of Child Protection legislation and protocols, which focus broadly on the prevention of harm, not merely on response to assault.

Emotional abuse

Emotional abuse occurs when a child or young person is repeatedly rejected, isolated or frightened by threats or the witnessing of family violence. It also includes hostility, derogatory name calling and put-downs, or persistent coldness from a person, to the extent where the behaviour of the child or young person is disturbed or their emotional development is at serious risk of being impaired.

Neglect

Neglect includes a failure to provide the child or young person with an adequate standard of nutrition, medical care, clothing, shelter or supervision to the extent where the health and development of the child or young person are significantly impaired or placed at risk. A child or young person is neglected if left uncared for over long periods of time or abandoned.

Neglect of medical care refers to a situation where a parent or caregiver's refusal to agree to a certain medical procedure may be determined to be an unacceptable deprivation of the child or young person's basic right to life or health.

Physical Abuse

Physical abuse consists of any non-accidental form of injury or serious harm caused by the application of force inflicted on a child or young person by any person. Physical abuse may include beating, shaking, burning and assault with weapons. Physical injury and significant harm to a child may also result from neglect by a parent or caregiver. Physical abuse may also include serious threatened or attempted assault that results in discomfort or pain. The failure of a parent or caregiver to adequately ensure the safety of a child or young person may expose them to extremely dangerous or life threatening situations, which result in physical injury and significant harm. Physical abuse or assault of any type is unacceptable, regardless of the intent of the person committing the violence.

Sexual abuse

A child or young person is sexually abused when any person uses their authority or power over the child or young person to engage in sexual activity. Sexual abuse involves a wide range of sexual activity and may include fondling genitals, masturbation, oral sex, vaginal or anal penetration by finger, penis or any other object. Sexual abuse can also include behaviour that does not involve actual touching such as forcing a child or young person to watch pornography or masturbation, voyeurism and exhibitionism. It can also include exploitation through pornography or prostitution. Children under 16 cannot give consent to sexual activity (except under very strict guidelines as identified in the Victorian *Crimes Act 1958*). Consent is not a defence to sexual abuse of children.

Carer(s)

Carers provide temporary, short and long term out-of-home care services for children and young people who are unable to live with their families due to issues of abuse or neglect.

For the purpose of this document, the term 'carer(s)' refers to:

- people who are registered under division 3 of part 3.4 of the Children, Youth and Families Act to provide out-of-home care placements for community service organisations registered under division 3 of part 3.3 of the Children, Youth and Families Act and provide residential care or home-based care;
- people who act as lead tenants. These carers are not registered under the Children, Youth and Families Act; and
- people who provide out-of-home care as kinship carers, generally for children and young people who are related to them or a member of their wider network. Kinship carers are not registered under division 3 of part 3.4 of the Children, Youth and Families Act.

Child or young person

For the purpose of the guidelines a child or young person is defined in the Children, Youth and Families Act as being aged 17 years or under but can be up to 18 years if subject to a protection order or an interim order is in place.

Children, Youth and Families Act 2005

Victorian legislation that governs the way the Children's Court, Child Protection and Family Services and registered community service organisations operate.

Community service organisation (CSO)

A community service organisation is established to provide services to meet the needs of children, young people and families requiring care, support, protection or accommodation.

A CSO is a non-government organisation registered in accordance with division 3 of part 3.3 of the Children, Youth and Families Act to deliver out-of-home care services on behalf of the government. The CSO may have responsibilities including the recruiting, assessing, training, supervising and supporting home-based carers and kinship carers and the management of residential facilities.

Department of Human Services

The Victorian state government agency responsible for the provision of human services programs, such as Child Protection, Youth Justice, Disability Services, Housing and Community Building programs, including the funding and monitoring of funded agencies. In this guide the Department of Human Services may be referred to as 'the department'.

Emotional abuse

Refer to definition under 'abuse'.

Home-based care

Home based care is defined as out-of-home care provided by volunteer carers in their own homes for children and young people where it has been determined by the department that living at home is not consistent with their best interests due to the risk of abuse and neglect.

The term 'home-based care' in the context of these guidelines includes foster care, adolescent community placement and lead tenant care as defined in the *Department of Human Services policy and funding plan 2010–2012*.

For all forms of home-based care, approved carers receive reimbursement to contribute to the costs associated with the day to day care of a child or young person. Community service organisations are responsible for recruiting, training and supporting carers and case management.

Kinship care

Kinship care, as defined in the *Department of Human Services policy and funding plan 2010–2012*, involves relatives or members of a child or young person's social network being approved to provide accommodation and care to children or young people who require out-of-home care due to abuse or neglect. The placement is supervised and supported according to the child or young person's level of assessed need. Like those in home based and residential care, children in kinship care are clients of Child Protection.

Liaison person

A liaison person is different to a support person. A liaison person is usually a CSO worker who will keep the carer updated with ongoing information about the progress and outcome of the investigation. The liaison person should also provide information to carers about support available throughout the process.

Neglect

Refer to definition under 'abuse'.

Physical abuse

Refer to definition under 'abuse'.

Poor quality care

Poor quality care refers to general concerns about the quality or standard of care being provided to a child or young person in out-of-home care. This may relate to a failure to meet standards as defined in the *Registration Standards for community service organisations*.

Residential care

Residential care is defined as out-of-home care provided by employed staff in a residential facility for children and young people where it has been determined by the department that living at home is not consistent with their best interests due to the risk of abuse and neglect. Residential care services are generally provided by community service organisations.

The term 'residential care' in the context of these guidelines includes general, intensive and complex residential care, as defined in the *Department of Human Services policy and funding plan 2010–2012*.

Sexual abuse

Refer to definition under 'abuse'.

Significant harm

A common feature of each definition listed in this section is the emphasis on significant harm. Significance is influenced by features such as events that are acute or longstanding, or that interrupt, alter or impair the child or young person's development. It is the role of the Child Protection practitioner to undertake risk assessments based on the information gathered from a notifier and determine whether significant harm exists.

Support person

A support person is a person chosen by a carer, child or young person to provide support through quality of care processes, possibly including attendance at interview.

For children or young people, this person must be an adult and can include a family member, significant other, case manager or culturally specific worker.

For carers, this person can be recruited from within the carer's own personal network or can be another carer available and willing to provide support. It is the CSO's responsibility to manage the provision of this support. If the carer is an employed staff member, this support person could be a person from a relevant union. If the carer is a foster carer, this support person could be a person from the Foster Care Association of Victoria.

Appendix 2: Handy numbers and resources

Helplines

A number of useful helplines can be found in the Community Section of your local telephone directory.

Other contact numbers

Foster Care Association of Victoria (FCAV)

(03) 9489 9770 or email: admin@fcav.org.au

Website: www.fcav.org.au

Legal Aid

(03) 9269 0234 or 1800 677 402 (country callers)

Department of Human Services contact details

| Region | Office location | Telephone |
|--|---|--|
| Head office – Child Protection and Family Services Branch | Melbourne | 9096 0000 |
| Barwon-South Western | Geelong Portland Warrnambool | 5226 4540 5523 1600 5561 9444 |
| Eastern Metropolitan | Box Hill | 9843 6000 |
| Gippsland | Bairnsdale Leongatha Morwell Sale Warragul | 5150 4500 5662 4311 5136 2400 5144 9100 5624 0600 |
| Grampians | Ballarat Horsham Stawell | 5333 6530 5381 9777 5358 4374 |
| Hume | Benalla Seymour Shepparton Wangaratta Wodonga | 5761 1222 5793 6400 5832 1500 5722 0555 (02) 6055 7777 |
| Loddon Mallee | Bendigo Mildura Swan Hill | 5434 5555 5022 3111 5032 0100 |
| North and West Metropolitan | Fitzroy Footscray Preston | 1300 360 408 1300 360 462 1300 664 977 |
| Southern Metropolitan | Cheltenham Dandenong Frankston | 8585 6000 9213 2111 9784 3100 |

Appendix 3: References

Children, Youth and Families Act 2005

Crimes Act 1958

Guidelines for investigating allegations against home-based carers,
Department of Human Services, Melbourne (2005)

Guidelines for responding to quality of care concerns in out-of-home care,
Department of Human Services, Melbourne (December 2009)

Information Privacy Act 2000

Public Records Act 1973

Registration standards for community service organisations,
Department of Human Services, Melbourne (2007)

The home-based care handbook, Department of Human Services, Melbourne (2007)

Appendix 4: Frequently asked questions

| Key words | Question | Response |
|--|---|---|
| Information provision | If a quality of care concern is raised about me, will I be told who raised the concern? | The identity of anyone who makes a report to Child Protection remains confidential by law therefore you will not be informed about who has raised the concern. |
| Confidentiality | Will confidentiality be respected throughout an investigation or formal care review? | <p>You are entitled to your right to privacy and as a general rule this should not be compromised. However, in some cases, you may be engaged or employed in more than one setting. In these cases, the significance of the quality of care concerns may override the obligation of staff to observe your rights regarding the privacy of information.</p> <p>Before Child Protection and CSO staff pass on information regarding quality of care processes to other staff or third parties, they must be mindful of the use and disclosure of personal information requirements in the <i>Information Privacy Act 2000</i>.</p> |
| Biological children | What will happen with regard to my biological children should a concern be raised about me or my care? | <p>If a concern is raised about the quality of care you are providing to children and young people in out-of-home care, consideration will need to be made as to whether there is any potential risk to your own biological children. It is expected that this will generally occur in the initial screening phase.</p> <p>While this is not common, if it is assessed that your biological children are potentially at risk of harm, a report may be made to Child Protection for consideration, as would occur for concerns raised about any child in the community. If Child Protection makes the decision to investigate the concerns, this will occur independently of the investigation into the quality of care concern.</p> <p>Biological children will only ever be removed from their parents care if it is assessed that they are at immediate and significant risk of harm.</p> |
| Children on permanent care orders | What will happen to any children living with me who are on permanent care orders, should a concern be raised about me or my care? | As stated at the beginning of this guide, children on permanent care orders are not subject to quality of care investigations, however they will be treated in the same manner as any biological children you may have. Therefore, as outlined above, if a concern is raised about the quality of care you are providing to children and young people in out-of-home care, consideration will need to be made as to whether there is any potential risk of harm to the child who is subject to a permanent care order. |

| Key words | Question | Response |
|---|--|---|
| Other children in out-of-home care | What will happen to other children I have placed with me if a concern is raised? | <p>Other children or young people who are placed in your care will not be automatically removed from your care if a quality of care concern is raised about you. However, if a concern is raised about the care you are providing, an assessment will need to be made as to whether there is any potential risk of harm to other children and young people placed in your care.</p> <p>If it is assessed that there is any potential risk, the child or young person may be removed from your home during the investigation period. Careful consideration will occur by Child Protection and the CSO (if involved) prior to making the decision to remove a child from placement during an investigation period taking into account what is in the child or young person's best interests.</p> <p>Even if a child or young person is removed from your care during an investigation period, the decision can be made to return the child or young person to your care once it is assessed that they are not at risk. Again, careful consideration will need to occur prior to this happening, taking into account the child or young person's best interests.</p> |
| Kinship care | How will quality of care concerns be managed in kinship care? | While the same procedures apply to kinship carers as they do to other types of out-of-home care carers, quality of care concerns in kinship care must be sensitively managed to minimise the impact that they may have on existing relationships within an extended family or broader social network. |
| Aboriginal children and young people | What happens if the child or young person is Aboriginal? | If a child is Aboriginal, consultation will occur with Aboriginal Child Specialist Advice and Support Service (ACSASS) and the Aboriginal community-controlled organisation to ensure a culturally sensitive response is provided. |

| Key words | Question | Response |
|---|---|---|
| Timeliness of advice | When will I be advised that a quality of care concern has been raised about me and what the concerns are? | <p>All attempts will be made to advise you of any concern raised about your care as soon as is possible. However, the timing of advice to you regarding the concern may vary depending upon the type of concern.</p> <p>If there is an allegation of physical abuse, sexual abuse or serious neglect, Child Protection is required to notify Victoria Police. The police then make the decision as to whether they will become involved in the investigation. If this is the case, the police will determine when and how the investigation is to occur. Sometimes, if there are no immediate safety issues for the child or young person, this might not occur immediately while further information is being gathered. Sometimes your case worker may be aware that a concern has been raised but are not in a position to tell you about it until the matter is ready to proceed to investigation.</p> <p>Further, there are times when the concern raised may not be clear and will require further information gathering prior to the decision being made to investigate the concern. This occurs to ensure that those concerns assessed as requiring no further action at an early stage do not cause unnecessary stress for either the child or the carer.</p> |
| My capacity to respond | Do I have an opportunity to respond to quality of care concerns raised against me? | Yes. If the decision is made to proceed with an investigation or a formal care review, you will have an opportunity to tell your side of the story and provide information that is important to you. |
| Contact with parents | Are parents informed of quality of care concerns made about me? | <p>Yes. The guidelines require that the parents of a child or young person are advised of a quality of care concern made against their child's carer, of the progress of the investigation or review and the outcome of the investigation and/or review.</p> <p>In kinship care placements you, as the carer, are generally known to or related to the parents and as such information will be provided in a planned and sensitive way to minimise the potential impact that a quality of care concern may have on existing relationships within the family or broader social network.</p> |
| Contact with children / young people | What information is given to children or young people when a quality of care concern is made about me? | <p>The guidelines require that a child or young person be informed of a quality of care concern made about their carer, of the progress of the investigation or review and the outcome of the investigation and/or review.</p> <p>Children and young people in out-of-home care need to be told about decisions that affect them. When a quality of care concern relates to a child or young person, they will need to be told what will happen in relation to any concerns raised, their placement and the outcome of the investigation.</p> |

| Key words | Question | Response |
|-------------------------------|--|--|
| Residential employment | What happens to my employment as a residential carer if a quality of care concern is made about me? | <p>Residential carers are subject to the employment and disciplinary procedures of their employer. An employer may take actions consistent with your terms and conditions of employment during an investigation or formal care review. The ultimate decision regarding your employment rests with your employer.</p> <p>An employer has a range of options available to them to manage your employment during an investigation. Such options could include you continuing to work as usual, you continuing to provide care in the same residential unit but with additional staffing, you providing care in a different residential unit, you being reassigned to non carer duties or you being temporarily removed from duty.</p> |
| Residential care | As a residential carer, am I subject to other processes if a quality of care concern is raised? | <p>Whilst a Child Protection investigation or police investigation is in process your employer may want to conduct an internal investigation into the quality of care concern that has been raised about you.</p> <p>If an allegation of physical or sexual abuse has been made about a registered home-based or residential carer a report may also be made to the Secretary of the Department of Human Services under sections 81–82 of the Children, Youth and Families Act.</p> |
| Carer reimbursement | If a child or young person is moved from my home before, during or after an investigation what happens to my carer reimbursement (only for home-based and kinship carers)? | In home-based care and kinship care if a decision is made for a child or young person to be moved from your home before, during or after an investigation the caregiver reimbursement will stop while the child or young person is not living with you. |
| Documentation | If a concern raised is not substantiated, is the outcome still recorded and placed on my file permanently? | <p>Yes. <i>The Public Records Act 1973</i> requires all documentation regarding quality of care concerns to be kept and filed appropriately. This involves placing a copy of the outcome report on both the child or young person's and carer's files.</p> <p>The benefit of this for all carers is that there is a clear record kept of any concerns raised. If the matter is again raised in the future, there is a record of the investigation and outcome. Some carers find this comforting, particularly if they are subject to numerous unsubstantiated complaints by either a particular child or young person or parents of a child or young person.</p> |

| Key words | Question | Response |
|----------------------------------|---|--|
| Outcomes | <p>What happens if a quality of care concern is untrue?</p> <p>Am I informed of the outcome of an investigation?</p> | <p>The Child Protection unit manager, community service organisation manager and regional quality of care coordinator will make every effort during the screening process to establish whether a report of a quality of care concern should be investigated further. If necessary, further information will be sought to clarify the concern.</p> <p>All decisions and outcomes of this nature are documented and clearly communicated once completed.</p> <p>Yes. You will receive a letter confirming the outcome of the investigation for your own records.</p> |
| Review of decision | <p>Can I request that an outcome be reviewed?</p> | <p>Yes. Carers are entitled to access the two separate review processes regarding quality of care processes. The substantiation decision can be reviewed via the department and any recommendations affecting you can be reviewed by the CSO. Section 8 of these guidelines outlines the processes to be undertaken.</p> <p>Should you require further information regarding this, please contact your case worker.</p> |
| Independent investigation | <p>What will happen if a decision is made to refer my matter for independent investigation under section 81 of the Act?</p> | <p>A CSO is required by section 81 of the Children, Youth and Families Act to make a report to the Secretary if they receive or become aware of an allegation that a registered carer has sexually or physically abused a child or young person placed in their care and are reasonably satisfied that an investigation of the allegation by the Secretary is warranted. In these circumstances the completed section 81 should be forwarded to the regional quality of care coordinator. The regional quality of care coordinator will then forward the report onto the Assistant Director Placement and Support (Child Protection, Placement and Family Services Branch) for consideration. The Assistant Director will then make the decision as to whether the matter should be referred under section 86 for independent investigation. If this occurs, you will be notified about this in writing.</p> |
| Suitability panel | <p>Can a decision made by the Suitability Panel be appealed?</p> <p>If the Suitability Panel disqualify me from caring, is this disqualification permanent?</p> | <p>Yes. If the Suitability Panel makes a finding that you should be disqualified from registration and you disagree with this finding you can appeal through the Victorian Civil and Administrative Appeals Tribunal (VCAT) pursuant to section 105 of the Children, Youth and Families Act.</p> <p>No. Carers do have the right to request a review of their disqualification as a carer after a 12 month period. It will be the decision of the Suitability Panel to assess whether your circumstances have changed and that you no longer pose a risk to children and young people.</p> |

Appendix 5: Record sheet for carers

Quality of care concern carer record sheet

| | |
|---|--|
| Name of carer: | |
| Date concern raised: | |
| Child or young person involved: | |
| Summary of concern: | |
| My liaison person: Telephone: | |
| Interview details: – Time: – Date: – Venue: – Present: | |
| My notes from interview: | |
| Questions to ask: | |
| Outcome of investigation: | |

