

# Children in out-of-home care

## What drives the increase in admissions and how to make a change

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*In Australia the number of children removed from birth parents and admitted to State care, i.e. foster care, kinship care, other home-based care, group homes or residential care, continues to rise. Because the number of foster carers (the preferred care option after kinship care) has fallen and the recruitment of new carers has become more difficult, this rise in admissions to care is a critical issue. This paper explores those factors that drive the increase in the number of children that are taken into State care and makes suggestions about how this trend might be reversed. New South Wales is used as the example for this purpose although the points made are applicable in other States and Territories.*

In Australia the number of children removed by child protection authorities from birth parents and admitted to State care has risen each year for the last twelve years. The rise has been from 14,078 at 30 June 1997 to 28,441 at 30 June 2007. In the last three years, namely 2005-2007, the increase has been from 23,695 to 28,441. This is an increase of 8.3% (Australian Institute of Health and Welfare 2008). Tables 1 and 2 present this data which shows that the rise is unevenly distributed between the various States and Territories. New South Wales, Western Australia and South Australia are leading the way with increases of 1.5% for New South Wales and 0.9% for each of the other two States. The extent to which these increases can be attributed to the over-representation of Aboriginal children in care in some States is unclear.

Factors that may influence the rise include the rates of admissions and discharges from care, and the length of stay of children removed from parental care. Tables 3 and 4 report these data.

Again there are significant differences between the various States and Territories although the number of children admitted to care was higher than in 2004-05 in all jurisdictions. Notably, over one-third (40.7%) of the children admitted to out-of-home care were aged under 5 years, with 14.9% under 1 year of age (AIHW 2008).

Exact comparison with other countries is difficult due to different data collection periods. Nevertheless, the rise in the number of children in care in Australia is in contrast to England where the number of 'looked after children' has declined from 61,200 at 31 March 2003 to 61,000 at the same date in 2005, with a further decline to 60,000 by 31 March 2007 (Department for Education and Skills 2007). Full Care Orders (the equivalent of Children's Court orders that give parental responsibility for a child to the Minister) have dropped from 31,000 in 2003 to 30,800 in 2005 and more dramatically to 28,800 by 2007. Table 5 summarises this information.

The latest US data also shows a decline since 30 September 2003 in the number of children in out-of-home care from 512,905 to 509,662 at the same date in 2004. This is a small decline of 3,243 or less than 1% (Child Welfare League of America 2007).

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**Table 1. Number of children aged 0-17 years in out-of home care in Australia by State and Territory, 30 June 2005 – 30 June 2007**

At 30 June	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
2005	9,230	4,408	5,657	1,829	1,329	576	342	324	23,695
2006	9,896	4,794	5,876	1,968	1,497	683	388	352	25,454
2007	11,843	5,052	6,034	2,371	1,678	667	399	397	28,441

Adapted from Australian Institute of Health and Welfare (2008), *Child protection Australia 2006-07*, Table 4.3.

Note: The data collection standards, tables and counting rules, 2004-05 that shaped the Australian data presented in this article can be found on the AIHW website <http://www.aihw.gov.au>.

**Table 2. Rates of children in out-of-home care, per 1000 children, by State and Territory, 30 June 2005 – 30 June 2007**

At 30 June	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
2005	5.8	3.8	5.8	3.8	3.9	4.9	4.5	5.5	5.4
2006	6.2	4.1	6.0	4.0	4.3	5.8	5.1	5.9	5.2
2007	7.3	4.3	5.9	4.7	4.8	5.7	5.2	6.4	5.5
Increase	1.5	0.5	0.1	0.9	0.9	0.8	0.7	0.9	0.1

Adapted from Australian Institute of Health and Welfare (2008), *Child protection Australia 2006-07*, Table 4.7.

**Table 3. Children admitted and discharged from out-of-home care by age group and State and Territory in 2006-07**

Age (years)	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
<b>Admitted</b>									
<1	605	408	na	209	130	63	32	50	1,497
1-4	1,123	729	na	281	189	96	45	111	2,574
5-9	1,119	693	na	239	167	95	47	89	2,449
10-14	1,151	806	na	221	172	99	65	99	2,613
15-17	333	358	na	40	70	19	18	35	873
Unknown	3								3
<b>TOTAL</b>									10,009
<b>Discharged</b>									
<1	142	248	na	38	21	23	2	35	509
1-4	533	739	na	126	72	71	14	99	1,654
5-9	526	771	na	140	65	77	10	82	1,671
10-14	706	803	na	130	83	89	34	87	1,932
15-17	508	645	na	132	124	44	48	50	1,551
Unknown	4								4
<b>TOTAL</b>									7,321
<b>Total In-care population</b>	11,843	5,052	6,034	2,371	1,678	667	399	397	28,441

Adapted from Australian Institute of Health and Welfare (2008), *Child protection Australia 2006-07*, Tables 4.1, 4.2 and 4.3.

Part of this decline may be associated with the more active approach to adoption that has increased the number of children adopted from State care in both England and the US (for full discussion of this issue, see Hansen & Ainsworth 2006).

Significantly, at the same time as the increase in the number of children in out-of-home care in Australia, the number of family foster carers has fallen. Reports from the National Foster Care conference in Adelaide in 2006 indicate that there has been a decline from 14,000 to 9,000 carers in the last five years (Overington 2006). This is occurring at a time when the recruitment of new carers is problematic (Campbell 2007; McHugh 2004). Moreover, such is the crisis in foster care in Australia that there has been a call for the recreation of State-run residential homes for abused children (Hannan & Wallace 2006; Liddell, Donegan, Goddard & Tucci 2006). Notwithstanding this crisis, foster care remains the placement of choice for most children admitted to care, although family placements with kin are now commonplace, especially in the Aboriginal community. For example, in NSW 2,233 (60.7 %) of Aboriginal child placements are with an indigenous relative/kin. In Western Australia the figures are 512 (53.0%), and there are 89 (33.2%) in the Northern Territory (AIHW 2008). Given this data, it is not surprising that there are many calls for research into ways to improve the effectiveness of foster care (Campbell 2007; Maluccio & Ainsworth 2006; Maluccio, Canali & Vecchiato 2006)

This paper explores factors that may drive the increase in the number of children taken into care. The intention is to highlight legislation, policy and practices that may warrant close examination if the continuous rise in the in-care population is to be stemmed. In the authors' opinion, this objective should be a priority given the equivocal record of the 'State as parent' (Bullock, Courtney, Parker, Sinclair & Thoburn 2005; Dominelli, Strega, Callahan & Rutman 2005; Schwartz & Fishman 1999). From many sources it is clear that foster care may produce for some children a less than desirable outcome (Barber & Delfabbro 2004; Doyle 2007; Rubin, O'Reilly, Luan & Localio 2007).

## WHAT ARE THE KEY DRIVERS?

There are a range of key drivers that are associated with the increase in admissions of children into State care. The first group of factors are those associated with the population of individuals and families who find themselves in contact with

**Table 4. Children in out-of-home care: Length of time in continuous placement, by State and Territory, at June 30 2005**

Time in placement	NSW	Vic	Qld	WA	SA	Tas	ACT	NT
<i>Number</i>								
<1 month	402	192	na	56	105	27	15	148
1 month to <6 months	1,334	444	na	310	287	63	51	48
6 months to <1 year	1,389	759	na	271	252	97	44	63
1 year to <2 years	1,661	1,033	na	351	285	136	63	45
2 years to <5 years	2,908	1,312	na	630	416	213	121	62
5 years or more	4,149	1,312	na	753	333	131	105	31
<b>TOTAL</b>	<b>11,843</b>	<b>5,052</b>		<b>2,371</b>	<b>1,678</b>	<b>667</b>	<b>399</b>	<b>397</b>
<i>Per cent</i>								
<1 month	3.4	3.8	na	2.4	6.3	4.0	3.8	37.3
1 month to <6 months	11.3	8.8	na	13.1	17.1	9.4	12.8	12.1
6 months to <1 year	11.7	15.9	na	11.4	15.0	14.5	11.0	15.9
1 year to <2 years	14.0	20.4	na	14.8	17.0	20.4	15.8	11.3
2 years to <5 years	24.6	26.0	na	26.6	24.8	31.9	30.3	15.6
5 years or more	35.0	26.0	na	51.8	19.6	19.6	26.3	7.8
<b>TOTAL</b>	<b>100.00</b>	<b>100.00</b>		<b>100.00</b>	<b>100.00</b>	<b>100.00</b>	<b>100.00</b>	<b>100.00</b>

Adapted from Australian Institute of Health and Welfare (2008), *Child protection Australia 2006-07*, Table 4.6.

Note: In those jurisdictions where children in out-of-home care for respite reasons could be identified they were included in the 'less than 1 month' category. NSW (38), Victoria (3), ACT (17) and South Australia (3) children.

**Table 5. Number of looked after children (LAC) aged 0-17 years in England on care orders 31 March 2003 - 2007**

At 31 March	2003	2004	2005	2006	2007
All LAC	61,200	61,200	61,000	60,300	60,000
Interim care orders	9,500	8,700	9,000	9,200	9,800
Full care orders	31,000	31,000	30,800	30,300	28,800

From the Department for Education and Skills (2007), *Research and Statistics Gateway, Looked after children 2003-07*, Table A2.

the child protection system. The second group of factors is reflected in the system's underlying philosophy, legislative mandate and service procedures. The next group of factors relates to legal matters while the final group of factors relates to political processes and media coverage of child abuse and neglect issues.

## FAMILY FACTORS

It is beyond doubt that drug and alcohol misuse by parents/carers is an important factor in the increase in the number of children, especially young children, entering State care (Ainsworth 2004; Libby, Orton, Barth & Burns 2007). In a recent report from the NSW Department of Community Services, it is noted that of the 2004-05 child protection

notifications that numbered 217,386, a total of 19,286 (8.9%) were concerned with parental drug use (Department of Community Services 2006, p. 12). It is also noted that domestic violence accounted for 58,758 (27.2%) of these reports. Added to the above are parent/carer mental health issues that accounted for a further 16,919 (7.8%) reports. In some instances, reports of children at risk concern families who have multiple issues such as mental health, substance abuse and domestic violence.

A detailed review of an unspecified number of departmental case files indicated that parent/carer alcohol abuse was present in 42% of the cases while parent/carer drug use was an issue in 40% of cases (Department of Community Services 2006, p. 12). A factor not noted in this report, but which is known to be an issue, is the incidence of intellectual disability amongst parents/carers who find themselves in contact with child protection authorities (McConnell, Llewellyn & Ferronato 2000; Swain, Goodfellow, Lee, Cameron & Bennett 2002). On all these counts

there is no reason to think that the situation is different in other States and Territories.

Indeed, such is the concern in NSW about drug and alcohol misuse that there is a proposal to amend Section 23 of the Children and Young Persons (Care and Protection) Act 1998 to include in the list of circumstances in which the well-being of a child or young person is considered to be at risk of harm, a new ground which is as follows:

- (f) the child or young person is living in a household where there is evidence of serious and persistent parental use of illicit drugs and as a consequence the child is at risk of suffering serious physical or psychological harm.  
(Department of Community Services 2006, p. 23)

The evidence to support this proposal is drawn from a National Council on Drugs research report *Drug use in the family: Impacts and implications for children* (Dawe, Frye, Best, Lynch, Atkinson, Evans & Harnett 2006). If this proposal is enacted, it is likely to add to the number of children admitted into the care of the State.

## SYSTEMS FACTORS

Increasingly, it seems as if the underlying principles of State and Territory child protection systems have moved beyond the prevention of child abuse and neglect to even more

ambitious goals. At times it seems to the authors that the goal is now to make sure that 'every child has a perfect childhood'.

It can be argued that this shift is a product of mandatory reporting systems that hold the hope that every case of child abuse and neglect can be detected and every child can be protected from harm or risk of harm. Certainly it can be argued that the increase in notifications of possible cases of child abuse and neglect reflects this position. There were 286,033 notifications in the year to June 2007 in NSW alone, which is an increase of 45,030 since 2005-2006 (Department of Community Services 2007). It can also be argued that these increases are an artefact of the way mandatory reporting systems actually work given the ever expanding definition of what constitutes child abuse and neglect, widening the range of mandatory reporters, and the introduction of fines for failure to report (Ainsworth 2002).

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A strong argument against this view is also possible (Department of Community Services 2006, p. 15). This argument relies on the fact that notifications have increased in jurisdictions without mandatory reporting. It is then suggested that a broader awareness of child protection issues and an increased community commitment to reporting observed risks is what has driven the growth in notifications rather than new legislation. However, this is a disingenuous argument. If it is true that increased community awareness has led to increased notification of children at risk, then the legislation in 1998 (NSW Children and Young Persons (Care and Protection) Act 1998) expanding mandatory reporting was not necessary.

Nonetheless, the argument in support of mandatory reporting is now being extended to incorporate its use not just as a mechanism for detecting possible cases of child abuse and neglect but also as a source of information that can be garnered and stored as 'valuable contextual information for any subsequent reports' (Department of Community Services 2006, p. 19). In essence, then, mandatory reporting is now promoted as providing for the ongoing surveillance of a particularly vulnerable group of parents/carers.

What is worrying is the view of senior child protection authorities who claim that child protection caseworkers 'set the threshold too high' and view things in isolation rather

than looking at cumulative risk (van Tiggelen 2006). The implication is that a series of minor instances of abuse or neglect places a child at severe risk. This has to be regarded as a spurious and unsubstantiated assertion. This is because the nature of the minor events, the level of risk to the child and the availability of protective factors and supports to address concerns, have to be examined before such a claim can justifiably be made.

There are also statements that claim that while the public understands that child abuse occurs, 'What it doesn't understand is how big it is. We now have a situation where the *probability* (italics added) of a child born today being reported to the [department] before it reaches adulthood is one in five'. And when asked about Aboriginal children, where the rate of removal is six times higher than for other sections of the population, the same official replied to the paraphrased question, 'Do I think we have removed as many Aboriginal children as we should have? The answer is no' (van Tiggelen 2006).

#### LEGAL FACTORS

In the Children's Court, decisions are made on the basis of the civil law standard 'balance of probability' test rather than against the higher 'beyond reasonable doubt' standard as in criminal matters (Kennedy & Richards 2007). Unlike other legal jurisdictions, the rules of evidence (Bayne 2003) do not necessarily apply in the Children's Court (NSW Children and Young Persons (Care and Protection) Act 1998, S93). This means that a Magistrate can decide to what extent the rules of evidence will apply and that the Court does accept hearsay and circumstantial evidence. Thus, a lower level of proof is required to establish that parents/carers have allowed a child to be harmed or placed at risk of harm than applies in civil or criminal law matters (NSW Children and Young Persons (Care and Protection) Act 1998, S72). This change in legal procedure took place because of concern that some abusive parents were able to hide behind legal technicalities and prevent the child protection authority from taking action.

Recently in NSW, new legislation, namely the Children and Young Persons (Care and Protection) Amendment (Parent Responsibility Contracts) Act 2006, has been introduced. A parent responsibility contract is an agreement between the Director-General and one or more primary caregivers for a child or young person that contains provisions aimed at improving the parenting skills of the caregivers and encouraging them to accept greater responsibility for the child or young person.

If parents cannot or do not make the required changes within a six month period, the Department may give notice to the Children's Court of a breach of contract. The Department is then able to proceed directly to the care plan stage for the child without having to further prove that a child or children are in need of care and protection. The parents' breach of a

contract is sufficient foundation for removal of the children from parental care. Furthermore, in a case where an application for a Care Order is made by filing a contract breach notice, any presumption arising that the child or young person is in need of care has to be rebutted by the parents/carers (Children and Young Persons (Care and Protection) Act 2006, S38E (4)).

What this does is shift the 'onus of proof' from the child protection authority to the parent. The parent must now 'rebut' the claim rather than the authority arguing their case. This would seem to be contrary to the rule of law (Gleeson 2000) where action cannot be taken against a person until a breach of law has been proven. The removal of the rules of evidence has almost certainly increased the number of children admitted to State care. It is also possible that the very recent change in the 'onus of proof' will lead to an increase in the number of children admitted to State care, although to date very few parental responsibility contracts have been constructed and agreed (New South Wales, Legislative Assembly 2007).

## POLITICAL FACTORS

There is no doubt that as the level of community awareness about child abuse and neglect has grown, so has the politicisation of the issue. The major problem with this is that politicians of all parties are focussed on problem resolution. They want and need to be seen to be doing something about the problem – hopefully by finding an easy and ideal solution. The imperative becomes stopping child abuse and neglect and a zero tolerance approach prevails. Indeed, political anxiety is palpable every time the media generates a story, good or bad, about child protection services that may embarrass a government (Horin 2006; van Tiggelen 2006). There is also a media tendency to support the proposition that child protection authorities have promoted family preservation approaches and have carelessly returned children to neglectful and abusive parents instead of ensuring the children's safety (Horin 2006). But the figures show that this is unlikely since there has been a rise in the number of children admitted to State care every year for the last ten years (AIHW 2008). This often ignored fact has to be emphasised.

The dilemma is that child abuse and neglect may arguably best be defined as a 'difficulty' to be lived with rather than a 'problem' to be solved (Watzlawick, Weakland & Fisch 1974). In the Watzlawick and colleagues' formulation, a problem is seen as resolvable provided you focus enough energy and resources on it. Over the last five years most State governments have directed resources into child protection services and not into prevention and early intervention, but to little avail (Ainsworth & Hansen 2006). The one possible exception is Victoria where, following the Allen Report (Allen Consulting Group 2003), there have been major reforms to the child protection system. There are

also signs that other States and Territories are increasing prevention and early intervention services. Nevertheless both notifications and substantiations continue to grow in all States and Territories as does the number of children admitted to care (AIHW 2006). In fact, child abuse and neglect has all the characteristics of a 'difficulty' as defined by Watzlawick and colleagues (1974). In their formulation, a difficulty is not amenable to resolution. A difficulty remains regardless of the energy and resources that are used in an attempt to resolve the issue. It is a phenomenon to be humanely managed. This surely is what child abuse and neglect is! That is not to say that child abuse and neglect should be accepted rather than vigorously addressed. Child abuse and neglect cannot be tolerated, but it has to be realistically managed by politicians and child protection organisations. In the end, passing new legislation in an attempt to diminish the incidence of child abuse and neglect is unlikely to make much difference as experience seems to show.

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## DO WE HAVE TO REVERSE THE TREND?

There appears to be high level agreement that the child protection system is 'under pressure' (Meagher 2006), if not in crisis. Professor Scott from the Australian Centre for Child Protection described the situation as even more serious. She suggests that the child protection system nationally is in danger of collapsing and that we are at 'a minute to midnight' in terms of such a disaster (Scott 2006b). The point is that the rise in notifications, substantiations and admissions to care are simply overwhelming the system. The burgeoning financial cost of child protection services is also a matter of concern (Ainsworth & Hansen 2006).

Added to these facts is the inability of child protection authorities to recruit and retain sufficient foster carers (McHugh 2004) for the ever increasing number of children admitted to care. Basically we cannot continue along the present route. Instead the focus has to be on finding better ways of working with parents/carers to protect children while they remain in parental care.

## HOW DO WE REVERSE THE TREND?

To reverse the current trend there needs to be a careful review of attitudes and actions that shape the current child

protection system. Listed below are changes that would, if acted on, start to reshape the system.

1. The first shift needs to be away from a zero tolerance approach to child abuse and neglect to one that recognises child protection not as a problem to be solved but as an ongoing difficulty that has to be humanely managed (Watzlawick, Weakland & Fisch 1974). This change needs to be made with the understanding that child abuse and neglect is not acceptable at any time and that there must be intervention to prevent further and continuing harm to children. In that regard, Victoria currently leads the way primarily as a result of the child protection outcomes project (Allen Consulting Group 2003).
2. We need to acknowledge that the rise in the number of children who have been admitted to State care over the last ten years is a repudiation of the argument that child protection authorities favour family preservation over protecting children from neglect and abuse (Horin 2006). Family preservation and child protection are not mutually exclusive approaches.
3. Care should be taken in relation to any proposed amendments to child protection legislation to ensure that they do not have the potential to increase admissions. An example is a change of definition which broadens what constitutes abuse or neglect. An already over-burdened system does not need more work. Instead we need to rethink the difficulty.
4. Any proposed amendments to child protection legislation that increase either the number of mandatory reporters or what has to be reported should be rejected. Again, a system that is already over-burdened does not need more work.
5. Stop expecting the State to provide a perfect childhood for every child. The standard can only be to use Winnicott's (1965) famous phrase 'good enough' parenting (Mortley 1998; Schofield & Beek 2006; Winnicott 1965).
6. It is recognised that abuse and neglect creates trauma for a child or young person. What is less recognised is that removing a child or young person from parental care, even abusive and neglectful parental care, is also traumatising. This is why every effort should be made to avoid removal (Schofield & Beek 2006).
7. Accept that foster care is rarely perfect care (Barber & Delfabbro 2004; Doyle 2007; Pecora et al. 2003; Pecora et al. 2006; Zinn et al. 2006).
8. Balance imperfect out-of-home care against less than adequate parenting, using (as in the United Kingdom) the *least detrimental alternative* argument and the notion of gaining *maximum life chances* (Department of Health 1998), rather than the more nebulous principle of 'in the best interest of the child' (Goldstein, Freud & Solnit 1973). History and available research teaches us that the children and young people often have a very different view to those of child protection workers in terms of what is in their best interests.
9. Continue to develop innovative ways of supporting families much more intensively (O'Neill 2006). Many children do not want to be in foster care. Most children want to be well looked after by their own family. Child protection services should spearhead educational and support services for families, i.e. parent education and training, child care, homemaker programs. These developments should not only include focus on early intervention and prevention but also on long-term ongoing services. These services are also likely to be less expensive than the current crisis-driven formats.
10. Stop trying to build a perfect decision making system. Child protection work involves risk. Risk management and regulation strategies decrease caseworker morale and initiative. Accept some 'risk' and reduce regulation (Shlonsky 2007; Webb 2006).
11. Mount a national campaign against child abuse and neglect that is at least as powerful as that run by all levels of government against domestic violence. Make family support that starts with prevention and early intervention services continuously and readily available.
12. Finally, we need to accept that those who raise questions about the child protection system are also supportive of services that protect children so that open debate can occur about how to best proceed.

Action on these twelve points would be a start of a process designed to stem the increase in admissions to State care.

## CONCLUSION

The State's ability to effectively parent an increasing number of children that have been removed from parental care is in doubt. There is no question that there is a need for the State to intervene in serious cases of abuse and neglect and to take such action that is necessary to protect children. But both sides of this equation have to be addressed. This means that strategies that have the potential to reduce

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admissions to care must be emphasised. A focus on early intervention (Social Policy Research Centre 2006) and prevention (Peltola & Testro 2006), along with high level family support services which are available on a continuous basis throughout a family's child rearing years, are vital parts of this effort (Ainsworth 2005). As Scott (2006a, 2006b) has indicated, time is running out and the child protection system is heading for disaster unless there is urgent action. ■

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## Book Review

THRIVING AT SCHOOL: A PRACTICAL GUIDE TO HELP YOUR CHILD ENJOY THE CRUCIAL SCHOOL YEARS, 2<sup>ND</sup> EDITION

J. Irvine and J. Stewart

Finch Publishing, Sydney, 2008.

*Thriving at School: A practical guide to help your child enjoy the crucial school years*, by Dr John Irvine and John Stewart, joins a range of books that assist parents (see Connor & Linke 2007) with the transition of their children to school. However, this book is unique in that it goes beyond the first year of school and provides strategies for parents to help their children thrive throughout their primary school years.

This book is written in simple, clear language and the informality of the 'teacher says' and 'true tale' vignettes add humour and reality to the topics. The initial focus in Part 1 is on school readiness and choosing the right school which, although not an option for many, provides some insight into what might be reasonably expected from every primary

school. The 'readiness for school' checklist is helpful and aligns with other sources of information available (Dockett & Perry 2006). Part 2 explores the new '3 Rs' of respect, responsibility and relationships, essential to developing confident, resilient, creative and flexible learners, before the authors move to specific strategies for the development of the more traditional 3 Rs of reading, 'riting' and 'rithmetic'.

Particularly useful is Part 4, *Thriving in the playground*, which provides insight into bullying (including cyber bullying) and ways of dealing with it. The emphasis in this book on developing social skills and emotional intelligence is warranted given the complexity of modern day living and the known links between emotional intelligence and academic success (Downey, Mountstephen, Lloyd, Hansen