



# System review into out-of-home care

Final report to the NSW Government

October 2024







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## Acknowledgement of Country

The NSW Department of Communities and Justice pays respect to the Traditional Custodians throughout NSW. We listen and learn from the knowledge, strength, and resilience of Aboriginal communities.

We extend our respects to all Elders past and present, and to Stolen Generation Survivors and their descendants.

We celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of NSW.

We recognise the important role that families and communities play in providing children with a sense of safety, belonging and resilience.

We thank and acknowledge the First Nations people who contributed to the system review into out-of-home care.

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# More information

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## Acknowledgements

The system review team engaged with over 500 people from across government and non-government organisations, carers, advocates, researchers and other experts. We extend our appreciation and thanks to all for your time, honesty and insights. The information and stories provided have been invaluable for our examination of the system and for helping us put forward a report aimed at improving outcomes for our most vulnerable children and young people in NSW.

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# Contents

More information .....	iii
Contents.....	iv
Terms of Reference.....	vii
<b>1 Executive summary.....</b>	<b>1</b>
1.1 Executive summary.....	2
1.1.1 Conclusion.....	2
1.1.2 Key findings and recommendations .....	4
<b>2 Context and process.....</b>	<b>14</b>
2.1 Introduction.....	17
2.2 Children and young people in care .....	18
2.3 The out-of-home care system in NSW .....	20
2.3.1 Current budget and providers.....	24
2.3.2 Legislation and oversight bodies and processes .....	24
2.4 Past reviews and issues in the system.....	25
2.4.1 Current challenges .....	28
2.5 Methodology .....	33
2.6 Limitations .....	36
2.7 Definitions and concepts .....	36
<b>3 Findings.....</b>	<b>37</b>
3.1 Overview .....	38
3.2 Increasing system level accountability and oversight .....	39
3.2.1 Coordination across NSW Government agencies.....	40
3.2.2 Early intervention and investment in family supports.....	41
3.2.3 Legislation and courts .....	43
3.2.4 Stewardship, accountability, outcomes and performance .....	46
3.2.5 Data and information .....	51
3.2.6 Role of the regulator .....	54
3.3 Improving contracting and fiscal management .....	57
3.3.1 Governance, performance, and accountability in contract management.....	57
3.3.2 Due diligence and management of conflicts of interest in contracting and sub- contracting.....	58
3.3.3 Fiscal management in contracting with service providers .....	59
3.3.4 Inconsistent decision-making and practices across DCJ districts.....	61
3.4 Streamlining and improving models of care .....	62
3.4.1 Working with families.....	64
3.4.2 Home-based care .....	66



3.4.3	Professionalised and therapeutic foster care .....	68
3.4.4	Therapeutic residential care.....	69
3.4.5	Leaving care and aftercare .....	72
3.4.6	Assessing needs and levels of care.....	73
3.5	Elevating the voice of children and young people, families, and carers .....	74
3.5.1	Voice of children and young people .....	75
3.5.2	Voice of families.....	76
3.5.3	Voice of carers .....	77
3.6	Valuing and partnering with carers .....	79
3.6.1	Carer recruitment, training, and support.....	80
3.6.2	The effectiveness and efficiency of current arrangements .....	84
3.6.3	Caseworker relationships, information sharing and placement support .....	85
3.7	Improving case management and placement support .....	87
3.8	Collaborating in the best interests of the child.....	90
3.8.1	Health and wellbeing .....	90
3.8.2	Education.....	95
3.8.3	National Disability Insurance Scheme (NDIS) and disability support.....	102
3.8.4	Justice and police .....	103
3.8.5	Cultural collaboration .....	107
3.8.6	Aboriginal out-of-home care transition .....	108
3.9	Building workforce and capability .....	108
<b>4</b>	<b>References.....</b>	<b>110</b>
4.1	References.....	111
<b>5</b>	<b>Appendices .....</b>	<b>118</b>
5.1	Appendix A – System review into out-of-home care recommendations.....	119
5.2	Appendix B – List of figures (infographics, diagrams, tables and graphs) .....	123
5.3	Appendix C – Acronyms used in this report.....	124
5.4	Appendix D – Glossary of terms used in this report .....	126
5.5	Appendix E – Published reviews and inquiry reports .....	133
5.5.1	Published reviews .....	133
5.6	Appendix F – Overview of Children’s Court of NSW and NSW Civil and Administrative Tribunal (NCAT) decisions that raised several concerns in respect to the out-of-home care system.....	134
5.7	Appendix G – Overview of Permanency Support Program service packages.....	135

**‘Every child deserves a champion. An adult who will never give up on them. Who understands the power of connection and insists that they become the best that they can possibly be.’**

Rita Pierson<sup>1</sup>

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<sup>1</sup> Pierson, R 2024, *Every child needs a champion - video*, [https://www.ted.com/talks/rita\\_pierson\\_every\\_kid\\_needs\\_a\\_champion?language=en](https://www.ted.com/talks/rita_pierson_every_kid_needs_a_champion?language=en).

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# Terms of Reference

## 1 Purpose

1.1 On 2nd of May 2024, the NSW Government announced the establishment of a system review into out-of-home care.

1.2 The review will examine the performance and sustainability of the current out-of-home care system, with a particular focus on High-Cost Emergency Arrangements, residential care, and the effectiveness of the current hybrid model of government and non-government service delivery.

1.3 The purpose of the review is to identify the key issues that are impacting outcomes for children and young people and affecting value for money for taxpayers.

1.4 This will result in immediate and long-term recommendations to be considered as part of an overarching strategy for out-of-home care by the end of 2024.

## 2 Scope

2.1 The scope of the review is to inquire into, report on and make relevant findings and recommendations regarding:

2.1.1 The underlying drivers of placement unavailability and the resulting need for High-Cost Emergency Arrangements.

2.1.2 The effectiveness and efficiency of the current arrangements for foster carer recruitment and support in providing sufficient, stable placements for children and young people.

2.1.3 The effectiveness of foster carer utilisation by out-of-home care providers in meeting placement demand.

2.1.4 The contractual and fiscal management arrangements for out-of-home care and how taxpayer value could be better realised, including the suitability of subcontracting, and:

- i. Situations when subcontracting occurs and why
- ii. Mechanisms to establish and monitor subcontracting arrangements and parameters, and how these could be improved to ensure positive outcomes and value for money
- iii. Possible contractual and policy changes to prevent real or perceived conflicts of interest.

## Not in scope

2.2 The review will be conducted in the context of, and informed by, other recent reviews, inquiries, and reports into relevant aspects of the child protection and OOHC systems, without duplicating previous areas of focus.

## 3 Deliverables

3.1 A final report will be completed by 21 October 2024. The government intends to publicly release the review, although the sensitivities and legal restrictions concerning child protection matters may necessitate de-identified or redacted information.

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# Executive summary

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## 1.1 Executive summary

In NSW, the Department of Communities and Justice (DCJ) is the key agency with statutory powers and responsibilities for the safety and wellbeing of children. It is also the key agency with the power to remove a child or young person from their parents. Where DCJ believe the child or young person is in need of care and protection, they are obligated to bring a care application before the Children's Court of NSW. If the court deems care and protection is necessary, DCJ is legally obliged to find an out-of-home care solution.

DCJ is both a purchaser and a provider of out-of-home care. It has delivered out-of-home care through this 'hybrid' or mixed model since 2012. Under this model DCJ provides some residential care, relative and kinship care, and foster care. It commissions non-government organisations (NGOs) to deliver foster care, most residential care, and some relative and kinship care. Since 2017, services delivered by NGOs have been funded through the Permanency Support Program (PSP). Accountability for the out-of-home care system and its stewardship sits with the NSW Government and DCJ. However, numerous actors and stakeholders play a role in the administration and delivery of services to children and young people in care.

This review placed its primary focus on DCJ as the steward of the system. To achieve this, the review team took an operational lens to look at elements across the entire system.

This review assesses:

- The effectiveness and efficiency of the current hybrid model of government and non-government service delivery, residential care, and the drivers of High-Cost Emergency Arrangements.
- Key issues impacting outcomes for children and young people and value for money.
- Current arrangements for foster carer recruitment and support, and the effectiveness of foster carer utilisation by out-of-home care providers in meeting placement demand.
- The contractual and fiscal management arrangements for out-of-home care and how taxpayer value could be better realised, including the suitability of subcontracting.

### 1.1.1 Conclusion

We found the out-of-home care system in NSW is not fit for purpose and fails to meet the needs of children and young people at an efficient cost.

Regrettably, we found a system characterised by a profound lack of accountability and ineffective oversight. A system founded on flawed assumptions and an incorrect cost basis, resulting in a hybrid model largely devoid of robust evidence-based practices and sound fiscal architecture. A system that is overly complex, fragmented and slow to respond in the best interests of children and young people. The system is siloed, with excessive compliance in the wrong areas. This creates administrative burdens that do not enhance service quality or safety for vulnerable children and young people.

At the same time, there is significant variation in practice with some pockets of excellence across different service providers and DCJ districts. There are effective and innovative services delivered by many dedicated people, carers and organisations who are doing their best to make a positive difference in the lives of children, young people, families and communities. These service providers have strong leadership, relationships, and local partnerships in place. They are committed to accountability and transparency and have created strong results-driven cultures permeating from the top-down. They have implemented trauma-informed care models with robust

operating systems. They have wraparound services for children and carers, and have fostered workplace cultures that prioritise outcomes, child voice, carer representation as well as having a supported, engaged workforce.

However, these positive examples are undermined by several system failures and barriers.

One of these barriers is a lack of data collection and sharing of crucial information. DCJ, service providers and agencies lack the necessary data to assess what is effective and what is not, hindering their ability to achieve the best outcomes and value for money. Findings from the recent Independent Pricing and Regulatory Tribunal (IPART) Interim Report<sup>1</sup> indicated DCJ has limited visibility of services delivered by out-of-home care providers. This makes assessing the cost effectiveness of different delivery approaches challenging. We, too, found this challenging and similarly could not follow the dollar on the actual delivery of services to children and young people. We observed that Permanency Support Program (PSP) providers have high expenditure on employee-related expenses and report huge variances in direct and indirect service costs. This means there is little consistency in, or accountability for, the use of taxpayer dollars.

We found a system that has failed to listen to the voice of parents, carers and children. A system that had effectively punished parents, carers and children through inconsistent decision-making, inadequate consultation and poor policy implementation. We heard of carers helping children recover from trauma with limited information about the child they were caring for or the training to do so. Carers wanted to be listened to and treated as partners in delivering better outcomes for children in their care. We also saw examples of children and young people not being central to decision-making, where at times decisions were made about children and young people ignoring input from key adults in their lives. However, when we saw good outcomes for a child or young person achieved it was often because of a particular leader, individual or organisation in the constellation of a child's life. These individuals advocated for the child and placed a supportive network around them.

We also found significant inconsistencies in how DCJ districts manage service providers. This leads to fragmented service delivery, duplication of effort and administrative burdens. The disconnect between DCJ's executive, policy and operational levels, policy and practice frameworks and service providers, undermine coherence and hamper the identification and sharing of best practice across the sector. Additionally, the lack of monitoring and feedback mechanisms perpetuates these inconsistencies and contributes to inefficiencies, decreased accountability and diminished trust among stakeholders. A standardised approach to decision-making, clearer communication, and robust monitoring are required to ensure alignment, accountability and enhanced management of service providers across districts.

Significant improvements and reform must be made to reset expectations, accountability and stewardship across the system. DCJ needs to commence making immediate short-term changes that include incremental improvements to performance metrics, financial and contract management. At the same time, it needs to embed system reform into the more comprehensive out-of-home care program redesign. This needs to take place before recommissioning and as part of the out-of-home care reform strategy being developed.

DCJ now has an opportunity to action the considerations delivered by this review and to implement the proposed recommendations with NSW Government and key stakeholders. Doing this effectively will require a commitment to building the necessary capability.

## 1.1.2 Key findings and recommendations

### Accountability and oversight are significantly lacking

Achieving the best outcomes for children and young people in, or at risk of entering, care requires strong accountability, collaboration and coordination across DCJ, relevant statutory agencies, and service providers. Stronger governance structures and an inter-agency working-together framework are needed to drive comprehensive reform of the out-of-home care system and enhance delivery of services to children and young people in care. It is critical that out-of-home care services delivered to children and young people meet high standards of quality and effectiveness.

Accountability for a \$2 billion investment requires oversight mechanisms that scrutinise actions, ensure adherence to best practice, and promote equitable service delivery. Inter-agency collaboration is essential at all levels to overcome the siloed operations that continue to contribute to service gaps and inefficiencies across the system. This was also confirmed in a recent Audit Office of NSW report that found inefficiencies in past cross-agency coordination efforts.<sup>2</sup> The system requires stronger authorising and oversight mechanisms, with a strategic shift from reactive models to early intervention and family preservation to achieve meaningful system reform. Overall system transparency and accountability are vital for rebuilding trust in the NSW out-of-home care system.

#### Recommendation 1

The current out-of-home care arrangements across all levels are ineffective in driving change and delivering outcomes within a system that has limited accountability for achieving results. The NSW Government should establish a quadripartite agreement (the Council) between secretaries of the relevant statutory departments to drive comprehensive reform in out-of-home care. This agreement must enhance multi-agency collaboration, improve service coordination and shift investment toward early intervention and family preservation, with clear objectives and performance metrics. It should not add another level of governance into the system, but instead review current governance arrangements to streamline decision-making, enhance collaboration and ensure a more coordinated approach. This Council should convene regularly and report to the Minister for Families and Communities, other relevant ministers and the Premier.

### Investment must be as early as possible to have the most impact

DCJ must shift resources from its crisis-driven approach to early intervention and family preservation services. In 2022 to 2023, DCJ spent 61 per cent of its child protection budget on out-of-home care, with only 13 per cent spent on family support services. This lack of investment is a key driver of rising demand and long-term costs in the out-of-home care system.

Our review calls for dual investment in out-of-home care and early intervention, with a focus on non-statutory models that support families before reaching the crisis stage. A whole-of-government funding strategy is needed to support early intervention, family preservation, and the out-of-home care system concurrently. This should include a reinvestment plan to shift resources as the demand for out-of-home care decreases, fostering a more sustainable child protection system.

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<sup>2</sup> Audit Office of NSW 2024, *Oversight of the child protection system: performance audit*, <https://www.audit.nsw.gov.au/our-work/reports/oversight-of-the-child-protection-system>.

## Recommendation 2

There is a need for dual investment in the out-of-home care, early intervention and family preservation programs for a defined period. Strong investment is required to reduce demand in out-of-home care, while increasing family preservation.

- a. The NSW Government should implement a whole-of-government integrated funding strategy supporting early intervention, family preservation and out-of-home care systems concurrently. This should be administered by the Council.
- b. DCJ should create a reinvestment plan that gradually shifts focus and resources from out-of-home care to family preservation as out-of-home care demand decreases over time (noting there will always be some children and young people who cannot remain with their family of origin).

## The current legal framework needs to be reformed to improve outcomes for children in care

The *Children and Young Persons (Care and Protection) Act 1998* (Care Act)<sup>3</sup> plays a crucial role in safeguarding vulnerable children, with the Children's Court of NSW overseeing care arrangements, and the Federal Circuit Court and Family Court of Australia handling overlapping family law issues. While we heard that court proceedings can be adversarial, the delays and instability caused by protracted court proceedings and biased evidence presentation, are likely not helped by the inexperience of caseworkers, a lack of oversight by DCJ, and application of the current case management policy.

Key issues identified from court judgments examined during this review include inadequate permanency planning, poor agency coordination and a need for early intervention. Overburdened and inexperienced caseworkers contribute to inefficiencies that lead to poor outcomes for children and delays in court proceedings. Frequent placement relocations may also disrupt a child's social, educational, and emotional stability. We recommend a comprehensive and independent review of the Care legislation and introducing provisions like the United Kingdom's duty-to-act and working together framework, which hold agencies accountable for children's wellbeing and promote better inter-agency collaboration.

## Recommendation 3

The review team supports a comprehensive and independent review of the *Children and Young Persons (Care and Protection) Act 1998* (Care Act) and the *Children and Young Persons (Care and Protection) Regulation 2022* (Care Reg) (collectively, the Care legislation) to ensure the legislation is contemporary, culturally sensitive and appropriate to address the complex needs of children and young people within the out-of-home care system. The review should consider:

- a. Inclusion of a 'duty to act' being placed on relevant statutory agencies to safeguard and deliver timely and effective services to children and young people in out-of-home care. The legislation change must be accompanied by legal and policy ramifications for non-compliance.
- b. The state having clear responsibility for delivering early intervention services and support to help families avoid entering the statutory child protection system.
- c. Providing the necessary powers to the state to mandate engagement, or remove children, that can only be accessed once preventative supports have failed. This should be reinforced through the principles of legislation.

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<sup>3</sup> Children and Young Persons (Care and Protection) Act 1998 (NSW), <https://legislation.nsw.gov.au/view/html/inforce/current/act-1998-157>.



## Stewardship needs to ensure responsibility and accountability

Effective stewardship is lacking across the system, leading to inefficiencies and poor outcomes. This review calls for an Accountability Framework to clarify roles, responsibilities, and expectations across stakeholders, including governance and risk, performance management and fiscal oversight.

A shift away from compliance-focused practices to those that prioritise human relationships is also essential for improving service quality and child wellbeing. Clear key performance indicators and industry-wide metrics will enable better evaluation, promote best practice, and improve decision-making. Implementing fit-for-purpose frameworks for performance evaluation, accountability and strategic planning is crucial for resource allocation and improving system outcomes.

### Recommendation 4

To strengthen accountability and value for money across the allocated \$2 billion out-of-home care system, DCJ must create an Accountability Framework that ensures it remains accountable for interventions in the lives of citizens, funding, and overall system stewardship. This framework must include rigorous mechanisms for evaluating the efficiency, effectiveness and equity of services provided by, and on behalf of, DCJ (including sub-contractors). Specifically, DCJ should:

- a. Establish clear key performance indicators and performance outcomes, introduce cost-benefit and program funding analysis and conduct outcomes-based evaluations across the out-of-home care program.
- b. Complete a comparative analysis of service providers to ensure competitive value and continued improvement in the delivery of high-quality services to children and young people in out-of-home care.
- c. Conduct a comprehensive review of the out-of-home care contract management and governance arrangements, focusing on enhancing oversight, ensuring compliance and establishing clear monitoring and accountability measures.

## Poor data capture, management and sharing creates gaps and risks

Fragmented and siloed information capture hinders effective service delivery and outcome measurement. DCJ's lack of a comprehensive digital and data strategy exacerbates these issues. This impacts reconciliation processes, information sharing, decision-making, and fiscal management.

An enterprise digital and data strategy must provide a single source of truth. This needs to deliver sufficient integration to ensure technology-enabled solutions connect critical information, facilitate timely information sharing, and align financial expenditure with direct service delivery. This will support increased accountability and improved service coordination. DCJ must also review all relevant information sharing protocols, practices, and legislation to strengthen the sharing of information to enable coordinated service delivery and accountability.

### Recommendation 5

There is lack of capability, fragmentation and significant information gaps about children and young people across the whole out-of-home care system. DCJ must:

- a. Ensure its data sharing, integration and storage capabilities enhance security and enable key stakeholders to have timely access to critical care information.
- b. Create a single source of truth that incorporates all information relating to children and young people, including services provided, funding, performance, and contract management information.
- c. Review all relevant information sharing protocols, practices and legislation to strengthen the sharing of information to enable coordinated service delivery.

## Regulatory roles must support improved service quality

Despite the vital role of the NSW Office of the Children's Guardian in promoting safety and wellbeing, there is overlap with its role and that of DCJ. This lack of clarity creates significant administrative burdens for service providers and a compliance-driven approach, without driving performance and service quality across the system. There is limited measurement of service quality beyond minimum standards.

The Reportable Conduct Scheme is burdened by inconsistent actions, a lack of procedural fairness and lengthy investigations, that negatively impact both carers and children.

Additionally, the Official Community Visitors<sup>4</sup> outlined areas of concern regarding residential care, including poor housing quality, unmet health needs for children and young people, and inadequate communication with DCJ. Improved collaboration between the NSW Office of the Children's Guardian, the Official Community Visitors and DCJ is required, as well as revision of the Reportable Conduct Scheme procedures and Official Community Visitor program to enhance service quality and safety.

### Recommendation 6

The NSW Office of the Children's Guardian should:

- a. Collaborate with DCJ to clarify roles and responsibilities in the administration of duty, including the principles for sharing information and decision-making related to performance of service providers across the out-of-home care system and non-compliance with the Children's Guardian Act (2019) and related instruments.
- b. Review the Reportable Conduct Scheme, ensuring improved timeliness of investigations, procedural fairness and evaluation of the unintended consequences that can cause further harm and trauma on children, young people and carers affected by the scheme.
- c. Review the effectiveness of the Official Community Visitor Scheme. Observations pertaining to the safety of children and young people, and quality of services must be expeditiously shared with DCJ and the NSW Office of the Children's Guardian.

## Models of care must be streamlined to deliver a coordinated, evidence-informed continuum of care that can cost-effectively pivot to meet demand

The system is overly complex, with models of care being delivered quickly and without sufficient design and planning. High-Cost Emergency Arrangements are a clear example of service delivery that has grown quickly and lacks sufficient rigour and accountability. This has led to serious adverse effects on children and young people who are placed in them. They are unsuitable care models for children and young people and the use of unaccredited services and unqualified labour hire must cease.

The importance of stewardship in the design and delivery of a coordinated continuum of care catering for all children and young people has been considered in depth during this review. There must be a focus on streamlining the system and improving the models of care across the continuum. These models should be evidence-informed and ensure all children and young people are receiving relational-centred practice, in homelike settings where they feel safe and supported to thrive. It is essential to understand the needs of children and young people, the needs of carers, and the role of

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<sup>4</sup> Official Community Visitors (OCVs) are appointed by the Minister for Families and Communities and the Minister for Disability Inclusion to promote the rights of children, young people and people with disability in care. OCVs visit accommodation services for children, young people, people with disability, and people living in assisted boarding houses and help to resolve issues of concern by raising them with services. They report serious concerns to the Minister and NSW Children's Guardian.

family and other supports. DCJ must ensure they are able to pivot where there is a need, noting they remain the provider of last resort.

### **Recommendation 7**

There is inconsistent application of care models across the out-of-home care system with limited oversight and evaluation regarding effectiveness. The NSW Government and DCJ should create effective models of care within the out-of-home-care system that cater for all children and young people. These models need to be clearly defined, evidence-informed and culturally appropriate. The continuum must cover:

- Family preservation.
- Restoration.
- Relative/kin care.
- Foster care.
- Intensive and/or professionalised foster care.
- Residential care.
- Semi-independent and independent living.
- Leaving care.
- Aftercare.

### **The voice of children, young people, families and carers is not heard**

During the review we consistently heard the voice of children and young people, families and carers was missing. We saw decisions being made in isolation and on the basis that system workers knew best. We heard that decisions were often made without consultation and when challenged, we heard those decisions were allegedly being made ‘in the best interests of the child.’ The review team impresses upon all those working in the system that the best interests of the child or young person needs to include their voice and the voice of the people who know them best. The culture within the system should be constantly looking for input from those who are impacted by decisions. Likewise, those with lived experience should be engaged in a way that facilitates their ability to influence policy, practice, and broader system reform.

Carers play a vital role in supporting children and young people in care, but they often feel undervalued and unsupported. Many carers we met with expressed frustration about limited communication, insufficient financial support, inadequate advocacy within the system and a lack of involvement in key decisions regarding children in their care. A common sentiment was carers felt a deep sense of responsibility without corresponding authority or support to meet the complex needs of the children and young people they cared for.

Carer recruitment and retention are increasingly challenging, with a declining pool of carers that is not likely to improve in the short term. Although carers report a high sense of fulfillment, surveys show many feel they do not receive adequate support from their agency or DCJ.<sup>5,6</sup> Issues such as low care allowances, inadequate respite, and a lack of information sharing and trust contribute to placement instability and carer burnout. Additionally, carers feel unprepared for, and uninformed of, the complexities of caring for children and young people who have experienced trauma, and the training programs provided often fail to meet their requirements.

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<sup>5</sup> My Forever Family NSW 2022, *NSW carer survey 2022: report of findings*, [https://www.myforeverfamily.org.au/wp-content/uploads/2023/04/MFF-2022-Carer-Survey-Report\\_FINAL.pdf](https://www.myforeverfamily.org.au/wp-content/uploads/2023/04/MFF-2022-Carer-Survey-Report_FINAL.pdf).

<sup>6</sup> NSW Department of Communities and Justice 2024, *Unpublished data from the 2024 NSW Carer Survey*.

There is a need for greater transparency in funding, improved caseworker-carer relationships, and better support systems for both general and relative/kin carers. They need timely and accurate information about the child or young person they are caring for, timely access to funding and support services, and to be seen as a partner in decision-making. Better support systems, training, clearer information-sharing and improved caseworker-carer relationships are needed to ensure stability and positive outcomes for children in care.

### **Recommendation 8**

The NSW Government and DCJ should empower and elevate the voice of children, young people, carers, and families across the out-of-home care program to ensure services are responsive to their needs and they can raise issues and influence system design, improve services and outcomes.

- a. The NSW Government and DCJ should establish mechanisms and processes (including advisory structures, advocacy support, surveys, and feedback systems) that actively seek, incorporate, and respond to feedback from children and young people, carers, and families.
- b. DCJ and service providers need to reorient themselves to ensure all carers feel valued and are treated as partners in decision-making relating to children and young people in their care, and without fear of reprisal.
- c. Relational approaches should be embedded in all out-of-home care service delivery and practice.

### **Weak contractual and fiscal management is undermining efficient and effective program delivery**

Weak governance, lack of clarity in contract and fiscal management, and inadequate program oversight have led to inefficiencies, weak performance management and the poor use of resources. Performance metrics and fiscal transparency must be rigorously enforced to ensure government funds benefit children and young people.

DCJ contract service providers to deliver services to DCJ clients 'on behalf of' the department. This contractual relationship has not been effectively managed, leading some service providers to believe that the relationship with DCJ should be based on 'blind trust', with greater flexibility and less accountability for how government money is spent. However, a \$2 billion program designed to provide quality care to our most vulnerable children and young people, must be accountable and transparent about how money is being spent. This must be a rigorously upheld non-negotiable.

There is a widespread lack of performance metrics, ineffective oversight, and a general reluctance by DCJ contract managers and districts to enforce compliance among service providers. Furthermore, due diligence and conflict-of-interest management processes undertaken by DCJ are inadequate, with instances of subcontracting arrangements that raise concern in respect to financial integrity.

Fiscal management deficiencies, including delays in reconciliations, lack of financial controls, and weak asset management oversight, are contributing to budget overruns and poor financial accountability. To restore public trust and confidence in the system, contract and performance management needs to be strengthened, oversight mechanisms enhanced, and regular audits implemented. In addition to the earlier recommendation for a comprehensive review of the out-of-home care contract management and governance, there must be increased visibility in the funding and spending for children and young people in care.



## Recommendation 9

There is a lack of transparency and accountability regarding expenditure for children and young people in out-of-home care.

- a. DCJ should maintain a system-wide financial policy that standardises and governs care allowance, expenses, and additional supports that carers can access for children and young people in their care from the case management agency.
- b. Providers must be transparent with carers as to the funding they receive from DCJ for children and young people in their care. This should be provided to carers on an annual basis.
- c. Carers must be provided with a list of services that every child and young person in out-of-home care is automatically entitled to receive.

## Case management policies and practices are inefficient and compliance driven, creating significant delays and gaps in service delivery

Case management must meet children and young peoples' needs for stability, connection and wellbeing, ensuring each child receives tailored support and coordinated communication from service providers, carers and other agencies. The review team found the design of the current case management policy is poor, has implementation challenges, and is fundamentally inefficient and ineffective in its current state. The current system of PSP packages is complex to navigate, inefficient and inequitable. There should be increased transparency to ensure dollars spent are on direct services to children and young people. We heard on numerous occasions examples of children and young people on interim orders before the Children's Court of NSW experiencing casework drift and a lack of responsibility taken for their case. The lack of collaboration, lack of basic services, and the inherent blockers to information sharing, exchange and storage has led the review team to recommend that all case management should remain with DCJ while the child or young person's case is before the Children's Court of NSW. The review team also heard numerous examples where case management transfer within DCJ was delayed, allowed to drift, or where service providers with case management experienced lengthy delays waiting for approval or action from DCJ.

The system needs to incorporate effective placement support for every child and young person. This should be a key feature of the out-of-home care case plan and be the mechanism that drives support needs for the child or young person and their carers.

We similarly found cultural plans often appeared as a procedural task. They were generally fragmented, whereby cultural issues were considered in isolation and did not include all relevant family or community members. To address a child's cultural needs, cultural support plans must be developed in consultation with the child, their family and community. An integrated approach is needed, with cultural plans serving as dynamic documents that foster meaningful connections to culture, community and Country.

As NSW transitions the case management of Aboriginal children to Aboriginal Community Controlled Organisations (ACCOs), it is crucial to ensure that Aboriginal children, young people, families, and carers are included in decision-making processes. The recent Audit Office of NSW report also highlighted gaps in governance and safeguarding for Aboriginal children and emphasised the need for an Accountability Framework co-designed with ACCOs to ensure effective oversight and support.<sup>7</sup> We support that recommendation. Overall, the system must prioritise self-determination, relationships, and cultural connection, with a focus on stewardship, accountability and policy improvement to support long term success.

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<sup>7</sup> Audit Office of NSW 2024, *Safeguarding the rights of Aboriginal children in the child protection system*, <https://www.audit.nsw.gov.au/our-work/reports/safeguarding-the-rights-of-aboriginal-children-in-the-child-protection-system>.

## Recommendation 10

The current case management policy has created significant gaps in service delivery and contributed to lengthy delays in court proceedings. DCJ should:

- a. Retain case management for all children and young people until final court orders.
- b. Accept service provider requests for case management to be transferred back to DCJ.
- c. All plans relating to children and young people in out-of-home care should be completed to a high standard. This should include taking a holistic approach, involve all key people and the Principal Officer should regularly review for quality assurance.

## Cross-agency collaboration is currently not meeting the best interests of children and young people

Effective cross-agency collaboration is critical for meeting the complex needs of children in care. However, inconsistent cooperation has led to service gaps, delays in treatment, inadequate support and poor outcomes. We found health, education, and cultural support plans, and delivery of those plans and services, to be inadequate, with significant disparities in care quality.

Several findings from this review highlight that while some positive examples of collaboration exist, system inefficiencies, such as slow information sharing and poor accountability, undermine the overall quality of care delivered.

The NSW Ministry of Health (NSW Health) is the government agency that provides coordinated health assessments for children in care. Despite the best endeavours of NSW Health to provide coordinated health assessments and develop appropriate health management plans for children entering care, substantial barriers remain in the coordination and delivery of health and mental health services for children and young people in care. Those barriers include a lack of prioritisation, accountability, timeliness, and integration of health care (including mental health) for children and young people.

Our recommendation highlights the need to enhance systemic monitoring of health outcomes by making sure comprehensive health profiles for children in care are shared among relevant agencies. Additionally, the NSW Government should establish integrated health care coordination teams with dedicated professionals responsible for comprehensive and prioritised access to physical, social and health (including mental health) services that improve the health outcomes for vulnerable children in out-of-home care.

This review also considered education for children and young people in care, as we understood the significant challenges facing these children and young people due to adversities, such as trauma, disability and instability in schooling and placement. These challenges, outside of a supportive environment, can contribute to lower educational outcomes for children in care. We draw attention to the importance of school attendance for providing routine and stability, noting that consistent attendance leads to better academic outcomes and social wellbeing. Data, however, shows that secondary school students who are in residential care have much lower attendance rates than younger children in care and in foster care.

Whilst we heard there is significant administrative burden placed on NSW Department of Education (NSW Education) staff with respect to supporting children in care within educational settings, the education plans examined and the feedback we received highlight these plans and support strategies are generally of a low standard. There is a lack of clarity as to agencies' roles and who is responsible for what when it comes to the welfare and learning support of children in care, and there is in general a lack of appropriate trauma-informed training and support for teachers and students who are in care.

Children in out-of-home care are more likely to experience school exclusion due to suspensions, which negatively impacts their sense of belonging and academic performance. We urge enhanced

collaboration among DCJ, service providers and the education system to improve outcomes for these children and young people. There is a pressing need for wraparound services, such as tutoring, trauma-informed teaching and stable learning environments. This includes support for alternative specialist schools or learning services for children unable to attend mainstream schools. Additionally, the Out-of-Home Care Education Pathways Program should be urgently reviewed to better support the learning and development of students in out-of-home care.

### **Recommendation 11**

There is a lack of prioritisation, timeliness, and integration of health care (including mental health) for children and young people in out-of-home care.

- a. The NSW Government should establish integrated health care coordination teams, where dedicated professionals are responsible for providing comprehensive and priority access to physical, social and health (including mental health) services that improve overall health outcomes for vulnerable children in out-of-home care.
- b. If integrated health care coordination teams are not feasible, the current Out-of-Home Care Health Pathway Program model is to be immediately enhanced, and NSW Health out-of-home care coordinators should be held responsible for the implementation of health plans for children and young people in the out-of-home care system.

### **Recommendation 12**

Current education plans and practices are deficient in achieving the best learning outcomes for children and young people in care.

- a. The NSW Education Standards Authority should consider mandating the training of trauma-informed practice. This training should be completed within the next 12 to 18 months as an initial strategy with refreshers offered to ensure all staff are contemporary in their application of trauma-informed practice.
- b. Where a child or young person in out-of-home care is excluded from school (for any period), the NSW Department of Education must ensure suspension plans include reintegration strategies that support academic, wellbeing and behavioural needs.
- c. Where children or young people in out-of-home care are not able to attend mainstream schools, the NSW Government and NSW Department of Education should ensure appropriate alternative specialist schools or ensure learning services are supported.
- d. The current Out-of-Home Care Education Pathways Program model is to be immediately reviewed to enhance learning and development for children and young people in care. The NSW Department of Education should be responsible for overseeing education plan implementation for children and young people in the out-of-home care system.
- e. DCJ and the NSW Department of Education should jointly and publicly report on education outcomes for children and young people in out-of-home care.

### **The out-of-home care system is facing critical workforce challenges, requiring urgent reform in recruitment, retention, and cultural capability**

The out-of-home care system faces significant workforce challenges, with high staff turnover, shortages, and experienced workers leaving the sector due to administrative burdens, low engagement, and a lack of support. The good intent and diligence of those working in the industry was evident during our review, with people working hard and doing their best, despite the system challenges described throughout this report. Many staff feel overburdened, undervalued, and unable to focus on achieving meaningful outcomes for children and young people.

A sector-wide workforce strategy is urgently needed to address recruitment, retention and recognition. Additionally, increasing the recruitment of Aboriginal staff and improving cultural capability is vital for better service delivery, particularly for Aboriginal families.

### **Recommendation 13**

The industry workforce is under immense pressure including a high caseworker vacancy rate and high workforce turnover.

- a. The NSW Government should consider a sector-wide strategy to attract, recruit, retain and recognise the value of the workforce.

### **Important note**

Recommendations from the system review should be included in the out-of-home care reform agenda.



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# Context and process

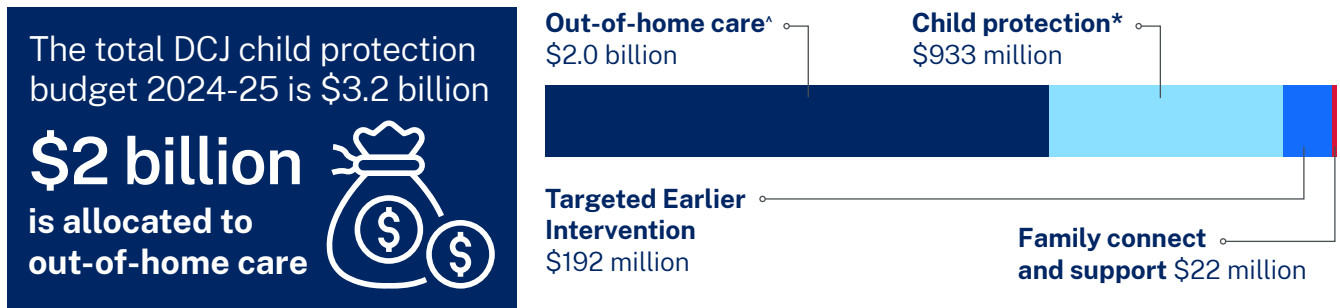
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# Children and young people in out-of-home care in New South Wales at a glance Figure 2.1

Key facts and figures about children and young people in out-of-home care (OOHC) in New South Wales

## Budget



**53** Non-government (NGO) providers of out-of-home care

**21** Aboriginal Community-Controlled Organisations (ACCOs)  
**32** Non-government providers (non-ACCO)

## Children and young people in out-of-home care in NSW as at 30 June 2024

**13,987**  
Children and young people in OOHC



**6,315 (45%)**  
**Aboriginal** children and young people in OOHC



**1,767**  
Entering OOHC in 2023-24



**2,532**  
Exiting OOHC in 2023-24

The number of children and young people in OOHC has trended downward since 2019

20% ↓ over 5 years

11% ↓ over 5 years

### Children and young people exiting out-of-home care in 2023-24



**251**  
Exiting to guardianship



**419**  
Exiting to restoration



**69**  
Exiting to adoption



**944**  
Turning 18

40% ↓ over 5 years

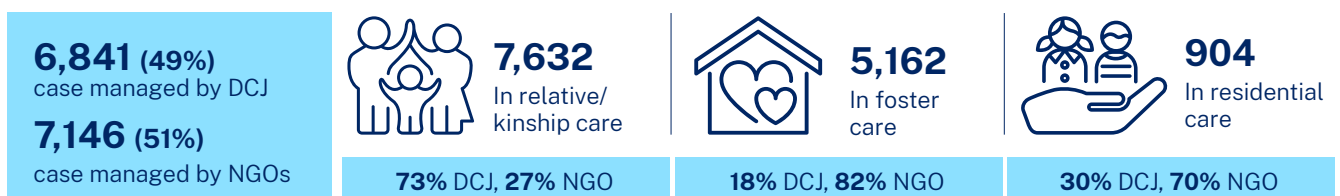
24% ↓ over 5 years

57% ↓ over 5 years

11% ↑ over 5 years

## Types of care arrangements as at 30 June 2024

Children and young people in out-of-home care by placement type and case management responsibility



**415** Required high cost emergency arrangements (HCEA)

266 DCJ,  
149 NGO

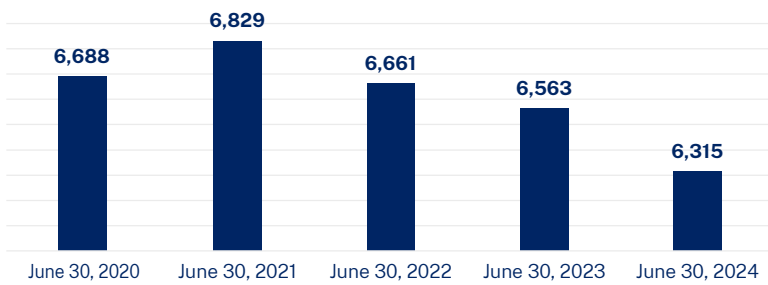


**54** of these required Alternative Care Arrangements (ACA)

34 DCJ,  
20 NGO

# Aboriginal children and young people in care as at 30 June 2024

## Aboriginal children and young people in out-of-home care



**6,315**

Aboriginal children and young people in out-of-home care



**4,448 (70%)**

Aboriginal children and young people placed with **relative/kin or an Aboriginal carer**

## Case management for Aboriginal children and young people in out-of-home care



**1,308 (21%)**

Aboriginal children and young people in OOHC case managed by Aboriginal Community-Controlled Organisations (ACCOs)



**1,705 (27%)**

Aboriginal children and young people in OOHC case managed by non-Aboriginal NGOs

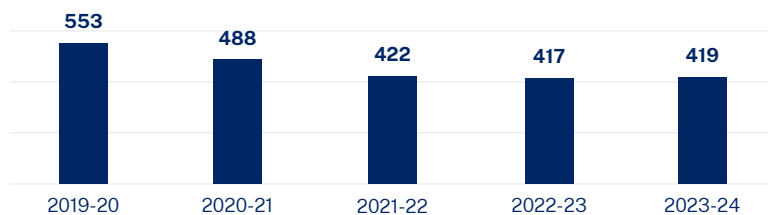


**3,302 (52%)**

Aboriginal children and young people in OOHC case managed by DCJ

## Outcomes for children and young people in care as at 30 June 2024

### Children and young people who exited out-of-home care to restoration



**82%**

of children and young people had no placement changes in the previous 12 months at 30 June 2024



**11,177 (86%)**

of children and young people 0-17 years had a **case plan** (90% DCJ, 84% NGO)



**2,301 (80%)**

of young people 15-17 years had a **leaving care plan** (82% DCJ, 79% NGO)

**4,677 (77%)**

of Aboriginal children and young people 0-17 years had a **cultural support plan** (81% DCJ, 74% NGO)

**8,614 (70%)**

of all school aged children with parental responsibility to the Minister (PRM) were enrolled in NSW government schools in the 2023 school year



only

**3,854 (45%)**

had an attendance rate of

**90%**  
or more



## Family support services for children and young people to avoid entry to care in 2023-24

**16,696**

Children and young people received Family Preservation services

**176,888**

Individual clients received Targeted Earlier Intervention services



**19,123**

Individual clients received Family Connect and Support services

**954**

Family Group Conferences were convened (for 1,815 children) and of these, 522 were for Aboriginal families (1003 children)

### Data sources

- Finance and Procurement: Corporate Services, DCJ.
- Partnerships: Strategy, Policy and Commissioning, DCJ.
- Out-of-Home Care/High Cost Emergency Arrangement: ChildStory – Corporate Information Warehouse (CIW) and ChildStory – Federated Analytics Platform (FAP) Annual data.
- Data from Education and DCJ data from the Corporate Information Warehouse (CIW), extracted 2023.

- Family Preservation: infoShare – Federated Analytics Platform (FAP) Annual snapshots.
- Targeted Earlier Intervention (TEI) and Family Connect and Support (FCS): Department of Social Services (DSS) – Federated Analytics Platform (FAP) Annual data.
- Family Group Conferencing (FGC): ChildStory – Corporate Information Warehouse (CIW) production 12 September 2024.

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## 2.1 Introduction

Children and young people in out-of-home care deserve a responsive and effective system that addresses their needs and delivers meaningful services and support. The removal of a child from their family is inherently traumatic for both the child and their family and must always be considered a last resort. When it is not possible for children and young people to remain safely at home, every effort must be made to place them in home-based care that prioritises their safety and stability. This care should be integrated with their extended family and community, preserving their connections to family, identity and culture, while fully addressing their wellbeing needs.

The out-of-home care system in NSW involves many actors with various responsibilities for delivering services and support. DCJ is responsible for overseeing the system. Care and services are delivered through a mixed or 'hybrid' model involving both DCJ and NGOs. Other government agencies and independent oversight bodies likewise have a role in delivering outcomes and overseeing service standards. Families and carers are also vital partners in providing care, nurturing, and support to meet children and young people's needs over their complex and often-challenging life journeys.

The child protection system has been the subject of reviews, reports, audits and evaluations for over two decades. Each of these reviews have highlighted failures to consistently provide children and young people with the safe and stable homes they deserve. Recent reports from the NSW Auditor General,<sup>8</sup> <sup>9</sup> NSW Ombudsman,<sup>10</sup> Advocate for Children and Young People<sup>11</sup> and the NSW Office of the Children's Guardian<sup>12</sup> highlight significant concerns about performance and the urgent need for systemic reform.

Our approach to these reviews was guided by our terms of reference that directed us not to duplicate their work. We distilled their findings and themes and evaluated them alongside our observations and operational experience to develop practical recommendations.

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<sup>8</sup> Audit Office of NSW 2024, *Oversight of the child protection system: performance audit*, <https://www.audit.nsw.gov.au/our-work/reports/oversight-of-the-child-protection-system>.

<sup>9</sup> Audit Office of NSW 2024, *Safeguarding the rights of Aboriginal children in the child protection system*, <https://www.audit.nsw.gov.au/our-work/reports/safeguarding-the-rights-of-aboriginal-children-in-the-child-protection-system>.

<sup>10</sup> NSW Ombudsman 2024, *Protecting children at risk: an assessment of whether the Department of Communities and Justice is meeting its core responsibilities*, <https://www.ombo.nsw.gov.au/news/protecting-children-at-risk-an-assessment-of-whether-the-department-of-communities-and-justice-is-meeting-its-core-responsibilities-report-tabled-in-parliament-5-july>.

<sup>11</sup> NSW Advocate for Children and Young People 2024, *Moving cage to cage: final report of the of the Special Inquiry into Children and Young People in Alternative Care Arrangements*, <https://www.acyp.nsw.gov.au/special-inquiry>.

<sup>12</sup> NSW Office of the Children's Guardian 2024, *Strengthening out-of-home care and the broader child protection system*, <https://ocg.nsw.gov.au/news/new-report-proposes-better-safeguards-out-home-care>.

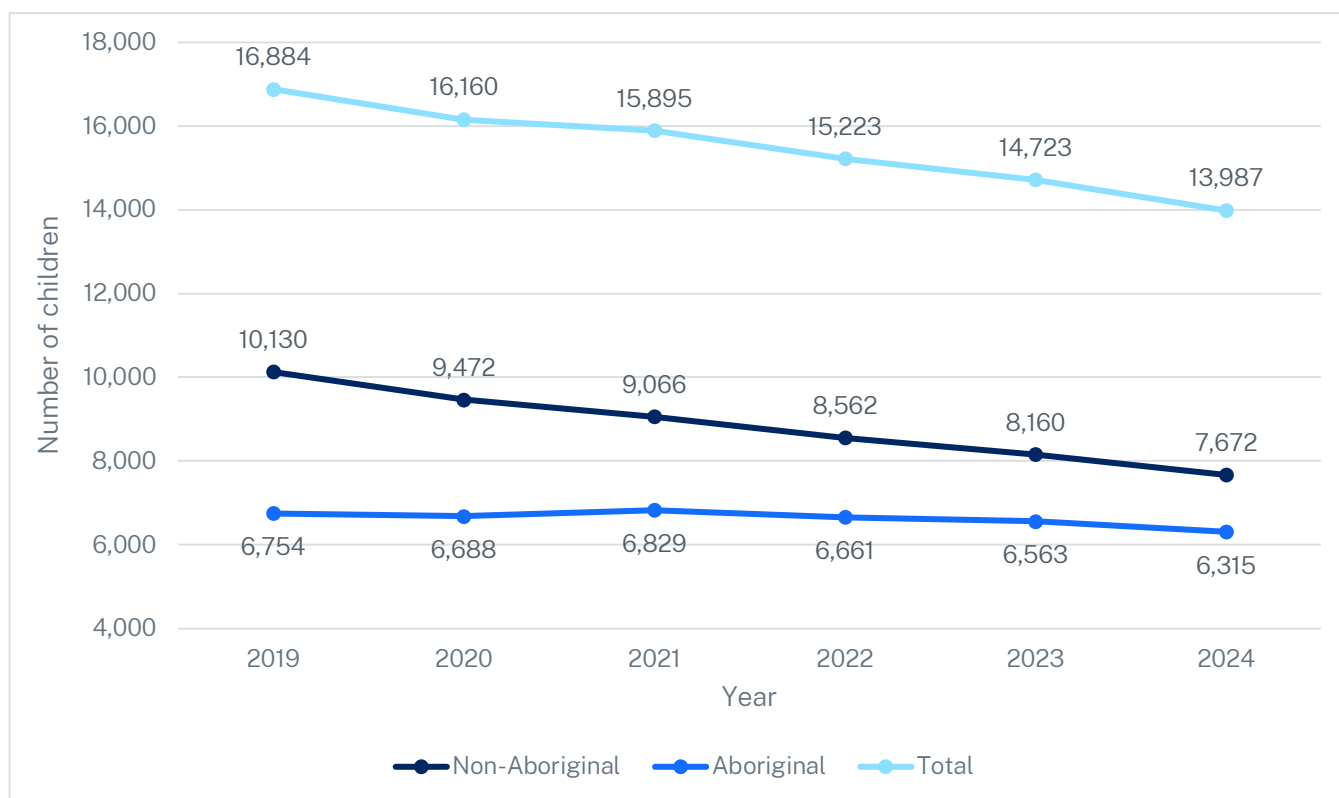


## 2.2 Children and young people in care<sup>13</sup>

There were almost 14,000 children and young people in out-of-home care in NSW at the end of June 2024 (Figure 2.2), with nearly 1,800 entering care in the previous year. Most of these children were in home-based placements, living with relative/kin (7,632) or foster carers (5,162) with a smaller number (904) in residential care arrangements.

Around 6,300 (45 per cent) of these children and young people were Aboriginal, reflecting the ongoing significant overrepresentation of Aboriginal children in the child protection and out-of-home care systems. More than two-thirds (70 per cent) of Aboriginal children were placed with family/kin or an Aboriginal carer.

Figure 2.2: Total number of children in out-of-home care by Aboriginality as at 30 June 2019 to 2024



Source: Corporate Information Warehouse and ChildStory – Federated Analytics Platform Annual data, DCJ.

There are some positive indicators in the current system. Since 2019, the number of children and young people in out-of-home care has trended downwards. The latest data shows the number of children and young people entering out-of-home care in 2023–24 fell 19 per cent compared to the previous year. More importantly, there was a 21 per cent drop in Aboriginal children entering care, the largest percentage year-to-year drop in the last seven years.

The rate of entries of children and young people into out-of-home care per 1,000 population in NSW for 2023–24 is not yet available. However, in 2022–23 it was the second lowest across all

<sup>13</sup> Unless otherwise indicated, DCJ data in this section (2.2) is sourced from the Corporate Information Warehouse and ChildStory – Federated Analytics Platform Annual data, DCJ.

jurisdictions. This is like the result in the previous five years where NSW had the lowest rate (noting that in 2020–21 the ACT and Tasmania had the same rate of entry per 1,000 as NSW).<sup>14</sup>

In line with falling numbers of children and young people entering and in care over the last five years (since 2019–20), there has been a 32 per cent drop in exits to permanency, with restorations and exits to guardianship all down. At the same time there has been an increase in exits for other non-permanency reasons (three per cent) including an 11 per cent rise over five years in the number of young people aging out of care. Again, this partially reflects the longer-term decline in the out-of-home care population as children who entered care when numbers were higher grow older.

It is important to note that DCJ is not able to respond to all reported at Risk of Significant Harm (ROSH). While not all reports may require statutory intervention, this issue highlights a broader systemic challenge that falls outside the scope of this review. Additionally, the absence of face-to-face safety and risk assessments could be correlated with the reduced rate of entry into care. This issue was explored in the Audit Office of NSW report,<sup>15</sup> and warrants further consideration by DCJ as part of the broader system reform.

Figure 2.3 shows the age breakdown of children in out-of-home care in 2024, including for first time entries and for all entries.

Figure 2.3: Age of children in out-of-home care (OOHC) as at 30 June 2024

Age	Number of children in OOHC (as at 30 June 2024)	% No of children in OOHC	Number of children entering OOHC for the first time (year to 30 June 2024)	% No of children entering OOHC for the first time	Number of children entering OOHC (all entries) (year to 30 June 2024)	% No of children entering OOHC (all entries)
<1	252	2%	357	29%	359	20%
Age 1-4	2017	14%	365	30%	402	23%
Age 5-13	7722	55%	444	36%	624	35%
Age 14-17	3996	29%	67	5%	382	22%
Total	13987	100%	1233	100%	1767	100%

Source: Corporate Information Warehouse and ChildStory – Federated Analytics Platform Annual data, DCJ.

Children in out-of-home care are more likely to have complex needs and diagnosed disability than in the broader population. As at 30 June 2024:

- 18 per cent of children in out-of-home care were recorded as having a disability.
- Of the 904 children and young people in residential care 439 (49 per cent) were recorded as having a disability (noting that 10 per cent had a disability status of ‘not stated’).

It is likely that some children with disability are not identified in the data as there are no systematic processes to screen for or diagnose disability on entry to care. Actual rates are likely to be higher.

<sup>14</sup> Australian Institute of Health and Welfare 2024, *Child protection Australia 2022-23*, Table S5.17, AIHW, Canberra <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-insights/data>

<sup>15</sup> Audit Office of NSW 2024, *Oversight of the child protection system: performance audit*, <https://www.audit.nsw.gov.au/our-work/reports/oversight-of-the-child-protection-system>.

## 2.3 The out-of-home care system in NSW

In NSW, DCJ is the key agency with statutory powers and responsibilities for the safety and wellbeing of children and the key agency with the power to remove a child or young person from their parents. DCJ is legally obliged to find a care solution for children and is the provider of ‘last resort’. Where DCJ believe the child or young person is in need of care and protection, they are obligated to bring a care application before the Children’s Court of NSW.

Accountability for the out-of-home care system and its stewardship sits with the NSW Government and DCJ. However, numerous actors and stakeholders play a role. The system operates in a complex combination of legislation, policies, and practice frameworks that set out the overarching rules, objectives and roles within the system that are operationalised in a complex landscape of contracts, guidelines, business rules, procedures, and decisions (see Figure 2.4).

A ‘hybrid’ or mixed model of service delivery has been in place since 2012. This followed a recommendation from the 2008 Special Commission of Inquiry into Child Protection Services in NSW<sup>16</sup> with some services subsequently transferred to the NGO sector. This continued with the establishment of the Permanency Support Program (PSP) in October 2017. The PSP funds NGOs to deliver out-of-home care services to achieve safety, permanency and wellbeing for children and young people. PSP service providers include NGOs with out-of-home care accreditation. They deliver social care, supports and services including case management under PSP contracts. In NSW, NGOs are the provider of first preference for foster care, deliver all residential care, and some relative and kinship care. DCJ provides relative and kinship care, a small number of foster care placements (as the provider of last resort) and operates a residential care program. Figure 2.5 shows the various care models, and which ones are provided by PSP providers.

Just over half (51 per cent) of all children in out-of-home care are case managed by PSP providers, with the remainder case managed by DCJ. Roles and responsibilities of DCJ and NGOs are dependent on case management, as shown in the box below. Where an NGO has case management responsibilities, DCJ retains secondary responsibilities, including undertaking court work, setting and approving permanency goals, approving funding requests, and assessing safety in care. DCJ also has overall responsibility for program management, policy and practice advice and contract management.

Roles and responsibilities for DCJ	Roles and responsibilities for NGOs
<ul style="list-style-type: none"> <li>• Court work including filing applications, seeking legal orders, legal advice, responding to court applications from parents/relatives, court appeals, seeking changes to legal orders, filing permanency care and cultural plans.</li> <li>• Set and approve the permanency goal.</li> <li>• Approve funding requests.</li> <li>• Statutory role to file birth registration, apply for passports, victims' compensation claims etc.</li> </ul>	<ul style="list-style-type: none"> <li>• Casework to manage the child including monthly home visits, regular case plan reviews.</li> <li>• Casework to assess, review and support foster carers.</li> <li>• Casework to achieve the permanency goal i.e. assessments, increasing parenting capacity, goal setting, preparing affidavits etc.</li> <li>• Managing and responding to reportable conduct.</li> </ul>

<sup>16</sup> Wood, J 2008, *Report of the Special Commission of Inquiry into Child Protection Services in NSW*, NSW Government, Sydney, <https://www.nsw.gov.au/the-cabinet-office/special-commissions-of-inquiry/child-protection-services-nsw>.

Roles and responsibilities for DCJ	Roles and responsibilities for NGOs
<ul style="list-style-type: none"> <li>Practice advice during Children’s Court of NSW proceedings: casework specialists, permanency, psychological, legal etc.</li> <li>Assessment of safety in care.</li> <li>Contract management including provider payments/reconciliation/acquittals.</li> </ul>	<ul style="list-style-type: none"> <li>Maintaining OCG standards and PSP service requirements for quality of care.</li> </ul> <p>Not a complete list but an example of some key tasks. Refer to the PSP Permanency Case Management Policy<sup>17</sup> for more detail.</p>

In 2023, DCJ contracted a consortia led by the Centre for Evidence and Implementation to undertake a rigorous three-year evaluation of the PSP.<sup>18</sup> It found the PSP does not result in the positive, transformative change envisaged for children at the beginning of the reform effort. It recommended overhauling its design and discontinuing specific components. DCJ is currently collaborating closely with sector partners and peak bodies on incremental changes to PSP as well as the development of the out-of-home care reform strategy that will include strengthening DCJ’s ability to be a provider of last resort.

Other government agencies also have specific responsibilities under the system. These are addressed more closely in later sections of this report and include among others:

- The Out-of-Home Care Health Pathway Program:<sup>19</sup> a joint initiative of DCJ and NSW Health aimed at ensuring that every child or young person entering statutory out-of-home care receives timely and appropriate health, assessment, planning, services and ongoing review of their health needs.
- The Out-of-Home Care Education Pathways Program:<sup>20</sup> an agreement between DCJ and the three major education sectors in NSW (government, Catholic and Independent) on how pre-school and school-aged children and young people in statutory out-of-home care will be supported at school.
- The Joint Protocol<sup>21</sup> to reduce the contact young people in residential care have with the criminal justice system. This is a partnership between DCJ, NGO service providers and the NSW Police.

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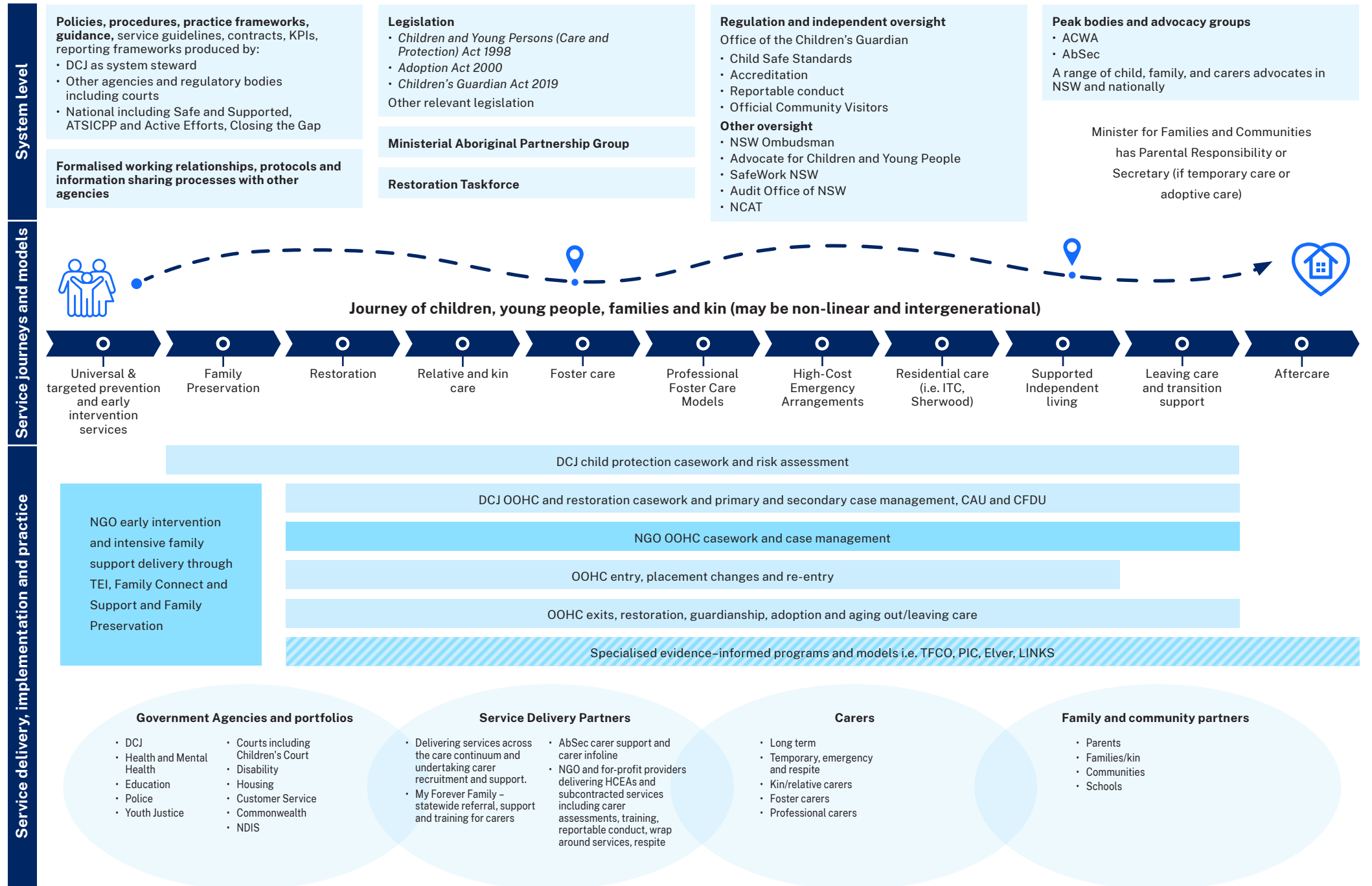
<sup>17</sup> NSW Department of Communities and Justice 2024, *Permanency Support Program Permanency Case Management Policy*, <https://dcj.nsw.gov.au/service-providers/oohc-and-permanency-support-services/permanency-case-management-policy.html>

<sup>18</sup> Rose, V, Jacob, C, Roberts, J, Hodgkin, L, Shlonsky, A, Kalb, G, Meekes, J, Etuk, L and Braaf, R 2023, *Evaluation of the Permanency Support Program: final report*, Centre for Evidence and Implementation, Sydney, [https://dcj.nsw.gov.au/documents/service-providers/out-of-home-care-and-permanency-support-program/about-permanency-support-program-and-overview-childstory-and-oohc-resources/PSP\\_Evaluation\\_-\\_Final\\_Report\\_April\\_2023.pdf](https://dcj.nsw.gov.au/documents/service-providers/out-of-home-care-and-permanency-support-program/about-permanency-support-program-and-overview-childstory-and-oohc-resources/PSP_Evaluation_-_Final_Report_April_2023.pdf).

<sup>19</sup> NSW Health and NSW Department of Communities and Justice, n.d., *Health Pathway*, <https://www.nsw.gov.au/community-services/foster-relative-and-kinship-care/caring-for-children-and-young-people/supporting-children-and-young-people-your-care/health-pathway>.

<sup>20</sup> NSW Department of Education and NSW Department of Communities and Justice, n.d., *School and education*, <https://www.nsw.gov.au/community-services/foster-relative-and-kinship-care/caring-for-children-and-young-people/supporting-children-and-young-people-your-care/school-and-education>.

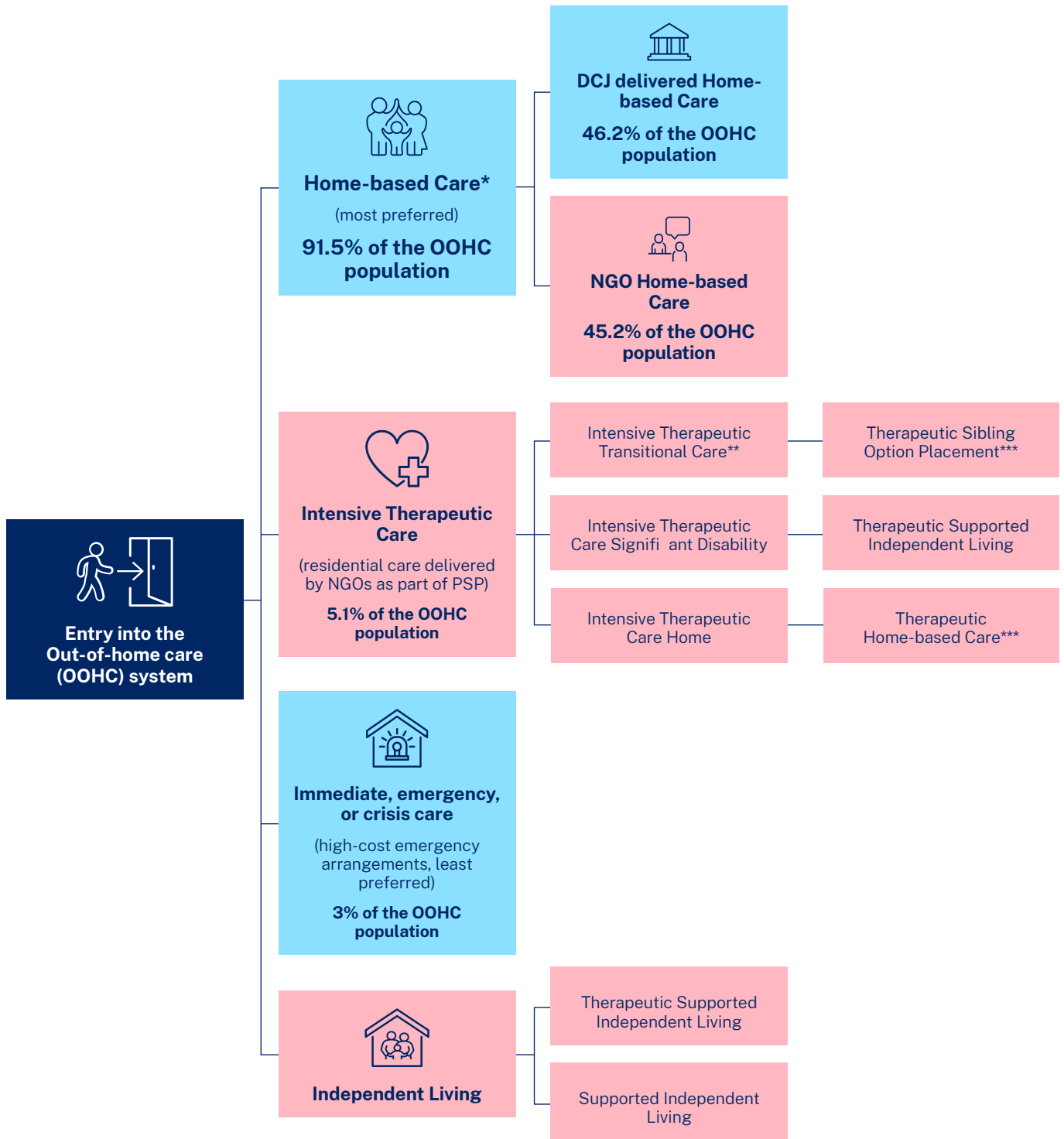
<sup>21</sup> NSW Ombudsman 2019, *Joint protocol to reduce the contact of young people in residential out-of-home care with the criminal justice system*, <https://dcj.nsw.gov.au/children-and-families/joint-protocol.html>.





# Care models delivered through the Permanency Support Program

Figure 2.5



**Legend:**

■ Program delivered under the Permanency Support Program (PSP)

\*Note home-based care includes foster and relative/kinship care

\*\*In some cases children will bypass Intensive Therapeutic Transitional Care and be placed in a longer-term Intensive Therapeutic Care option in the first instance

\*\*\*Therapeutic Sibling Option Placement and Therapeutic home-based care are provided within a foster home under Intensive Therapeutic Care

Data source: ChildStory – Corporate Information Warehouse – Federated Analytics Platform Annual data, DCJ. OOHC population as at 30 June 2024.

### 2.3.1 Current budget and providers

Of the \$3.2 billion child protection budget for 2024–25, close to two-thirds or \$2 billion is allocated to out-of-home care services delivered by DCJ and NGOs. Over half (\$1.1 billion) of the out-of-home care budget is allocated across 53 NGO providers to deliver services through the Permanency Support Program. This includes 21 Aboriginal Community Controlled Organisations (ACCOs) (three ACCOs do family preservation only).<sup>22</sup>

The other third of the child protection budget (approximately \$1.2 billion) is spent on early intervention, family preservation and child protection. The overall budget includes around \$390m in 2024–25 for targeted earlier intervention (TEI) and intensive family preservation supports, primarily delivered by NGOs to address risk and protective factors for child abuse and neglect, stabilise families and avoid entries to care. This provides 4,500 family preservation places every year, supporting around 12,500 children, and almost 200,000 further individual clients through less intensive TEI and Family Connect and Support programs. As well, to prevent entry into care and support family restoration, DCJ offers Alternative Dispute Resolution models including Family Group Conferencing, Pregnancy Family Conferencing and Early Resolution Assistance.

### 2.3.2 Legislation and oversight bodies and processes

The *Children and Young Persons (Care and Protection) Act 1998* (Care Act)<sup>23</sup> and the *Children's Guardian Act 2019*<sup>24</sup> are the primary acts for the regulation of the delivery of the NSW child protection system. However, various other legislative instruments and policies play essential roles.

The Care Act is the main legislation which outlines legal obligations in the provision of care for children and young people who cannot live with their families. This Act sets standards for DCJ and other agencies which provide out-of-home care, including foster care. The Care Act sets objective thresholds that trigger the DCJ Secretary's power to intervene in a child's life to:

- Investigate whether a child is at risk of significant harm (ROSH).
- Take action (including removing a child from their caregiver) where a child is in need of care and protection.
- Remove a child from their caregiver without a warrant where necessary to protect the child from the immediate risk of serious harm.

All decisions under the Act must be based on the best interests of the child, the least intrusive intervention possible, and involve the participation of children and families in decision-making.

Adoption of children in out-of-home care can be facilitated by DCJ under the *Adoption Act 2000*.

NSW's child protection system is subject to a multi-faceted regulatory framework involving oversight by various independent agencies including:

- The NSW Children's Guardian and NSW Office of the Children's Guardian who are the regulators of out-of-home care agencies.
- The NSW Ombudsman who handles complaints about community services, which includes out-of-home care.
- The Advocate for Children and Young People, has a role to improve the safety, welfare and wellbeing of children and young people in NSW.

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<sup>22</sup> Data source is Partnerships, Strategy, Policy and Commissioning, DCJ as at 1 July 2024.

<sup>23</sup> Children and Young Persons (Care and Protection) Act 1998, <https://legislation.nsw.gov.au/view/html/inforce/current/act-1998-157>.

<sup>24</sup> Children's Guardian Act 2019, <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-2019-025>.

Each of these statutory offices is accountable to NSW Parliament and plays a unique role, with specific responsibilities in regulating, conducting reviews or investigations into, and making recommendations for improvements to the NSW child protection and out-of-home care systems.

As the regulator of out-of-home care, the responsibilities of the NSW Children's Guardian and NSW Office of the Children's Guardian include:

- Managing the Working with Children Check scheme.
- Overseeing the Reportable Conduct Scheme, for organisations to respond to allegations of inappropriate conduct by their employees, volunteers, or contractors toward children.
- Accrediting agencies providing statutory out-of-home care (including both DCJ, NGO and for-profit providers).
- Maintaining registers of authorised carers and residential care workers, and a Specialised Substitute Residential Care register.
- Enforcing the Child Safe Scheme, which requires adherence by child safe organisations to 10 Child Safe Standards recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse.

Official Community Visitors are likewise involved in the oversight of residential out-of-home care services. Official Community Visitors are appointed by the Minister for Families and Communities and the Minister for Disability Inclusion under the *Ageing and Disability Commissioner Act 2019*<sup>25</sup> and the *Children's Guardian Act 2019*.<sup>26</sup> Official Community Visitors are independent from the services they visit and come from a wide cross-section of the community, including people who have direct experience and expertise in areas such as disability services and supports, mental health, child protection, out-of-home care, advocacy and health care. Official Community Visitors have authority to inspect and visit services without providing notice and inspect documents related to the operation of the service. They consider matters raised by residents, staff and others and help to resolve complaints or matters of concern directly with service providers or by further referral. They report serious concerns to the Minister and the Children's Guardian.

As the funder of out-of-home care services, DCJ has the important commissioning, contract management and oversight role for the whole system.

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## 2.4 Past reviews and issues in the system

For over two decades, successive reviews and inquiries into the child protection and out-of-home care systems have been undertaken with numerous commitments made under various strategic reforms. In particular, the 2015 Independent Review of Out-of-Home Care (the Tune Review)<sup>27</sup> and the 2019 Family is Culture Report<sup>28</sup> both articulated the need for fundamental reform of the child protection system. Both reports recommended 'frontloading' the system towards early intervention and prevention efforts to shift from crisis-driven responses and provide better support for vulnerable families. Those recommendations are still pertinent today.

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<sup>25</sup> Ageing and Disability Commissioner Act 2019, <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-2019-007>.

<sup>26</sup> Children's Guardian Act 2019, <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-2019-025>.

<sup>27</sup> Tune, D n.d. *Independent Review of Out-of-Home Care in New South Wales: final report*, Department of Premier and Cabinet, Sydney.

<sup>28</sup> Davis, M 2019, *Family is Culture review report: independent review of Aboriginal children and young people in OOHc*, NSW Department of Communities and Justice, Sydney, <https://dcj.nsw.gov.au/documents/children-and-families/family-is-culture/family-is-culture-review-report.pdf>.

Findings from recent reviews - including reports from the NSW Auditor General<sup>29</sup>, NSW Ombudsman,<sup>30</sup> Advocate for Children and Young People<sup>31</sup> and Children’s Guardian<sup>32</sup> – highlight concerns about the performance of the child and family service system. Recommendations cover DCJ's performance across almost all areas of the current child protection system from early intervention and support to family preservation, child protection responses and support for children in out-of-home care and High-Cost Emergency Arrangements.

Appendix E provides a list of these reviews and a timeline of review and response. At least eight reports have been published during 2023 to 2024. Below is a snapshot of key themes.

Snapshot of themes from reviews and inquiries	
<ul style="list-style-type: none"> <li>• Inadequate investment and lack of progress in prioritising early intervention.</li> <li>• Listening to the voices of children and young people.</li> <li>• Oversight mechanisms and quality assurance.</li> <li>• Clear and transparent DCJ governance and accountability.</li> <li>• Collaboration, information-sharing and accountability across agencies.</li> <li>• Data systems, monitoring and reporting on performance and outcomes.</li> <li>• Services not evidence-based or evaluated.</li> <li>• Aboriginal partnership, shared-decision-making and culturally specific service delivery.</li> <li>• Improving service referrals – therapeutic and other support services.</li> <li>• High-Cost Emergency Arrangements reduction and oversight.</li> </ul>	<ul style="list-style-type: none"> <li>• Foster carer recruitment, retention and support.</li> <li>• Placement stability and matching.</li> <li>• Aftercare and care leavers.</li> <li>• Care options for children and young people with complex needs.</li> <li>• Streamlining NGO reporting and reducing administrative burden.</li> <li>• Review of assessment tools.</li> <li>• Streamlining financial approvals.</li> <li>• Consistent and streamlined contract management and communication.</li> <li>• Internal complaint handling.</li> <li>• Increased focus on restorations and improved restoration reporting.</li> <li>• Funding sustainability and efficient and effective pricing of services and supports.</li> <li>• Financial accountability.</li> <li>• Workforce and training needs.</li> </ul>

Collectively, these inquiries and reviews have made hundreds of recommendations, not all yet implemented, and until the recent establishment of DCJ’s system reform division, there was no central oversight of implementation or coordination. The department must ensure that, as system recommendations are implemented, there is an agreed way to capture the change and measure

<sup>29</sup> Audit Office of NSW 2024, *Oversight of the child protection system: performance audit*, <https://www.audit.nsw.gov.au/our-work/reports/oversight-of-the-child-protection-system>.

<sup>30</sup> NSW Ombudsman 2024, *Protecting children at risk: an assessment of whether the Department of Communities and Justice is meeting its core responsibilities*, <https://www.ombo.nsw.gov.au/news/protecting-children-at-risk-an-assessment-of-whether-the-department-of-communities-and-justice-is-meeting-its-core-responsibilities-report-tabled-in-parliament-5-july>.

<sup>31</sup> NSW Advocate for Children and Young People 2024, *Moving cage to cage: final report of the of the Special Inquiry into Children and Young People in Alternative Care Arrangements*, <https://www.acyp.nsw.gov.au/special-inquiry>.

<sup>32</sup> NSW Office of the Children’s Guardian 2024, *Strengthening out-of-home care and the broader child protection system*, <https://ocg.nsw.gov.au/news/new-report-proposes-better-safeguards-out-home-care>.

impact. The review team commends DCJ on the establishment of the system reform division to deliver central oversight and coordination.

It is important to highlight in this report that NSW is not unique in the challenges it is facing, with many of the same system challenges yet to be effectively addressed by any jurisdiction, either independently or collaboratively. This was made evident in a recent report systematically analysing findings from 61 relevant inquiries conducted across Australian jurisdictions between 2010 to 2022.<sup>33</sup>

Three specific reviews that directly inform the current work to redesign the out-of-home care system in NSW are highlighted below.

### **Family is Culture 2019**

The Family Is Culture Review (2019)<sup>34</sup> conducted by Professor Megan Davis examined the reasons for the disproportionate and increasing number of Aboriginal children in out-of-home care in NSW. It made 126 recommendations to help reduce the number of Aboriginal children in out-of-home care. With the NSW Government and Aboriginal stakeholders agreeing that major changes are needed to address the overrepresentation of Aboriginal children and young people in statutory out-of-home care, this report still provides an important roadmap to build on. These changes include increasing the role families and communities have in making decisions about their own children. A Ministerial Aboriginal Partnership (MAP) Group was recently established to help design significant structural reform and oversee its implementation. This marks an important commitment by the NSW Government to working with Aboriginal families, communities and representatives to change the trajectory of outcomes for Aboriginal children and families.

### **Permanency Support Program (PSP) Evaluation 2023**

The rigorous three-year evaluation of the PSP took place between 2019 to 2022 and was published in August 2023.<sup>35</sup> The evaluation found that PSP did not result in the positive, transformative change envisaged and that its design should be overhauled with specific components discontinued.

The five overarching recommendations were to:

- Shift PSP from a focus on administrative processes to a focus on practice and child wellbeing, safety, and permanency outcomes.
- Facilitate the performance of PSP service providers to achieve children's wellbeing, safety, and permanency outcomes.
- Review the full incentive structure which emerges from the PSP funding model, PSP operating model and external system factors to incentivise the achievement of wellbeing, safety, and permanency outcomes.
- Grow and embed system mechanisms to reduce waste.
- Shift investment toward the 'front end' of the system and across the care continuum.

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<sup>33</sup> Stevens, E and Gahan, L, 2024, *Improving the safety and wellbeing of vulnerable children: A consolidation of systemic recommendations and evidence*, Research Report, Australian Institute of Family Studies, Southbank, Vic., <https://aifs.gov.au/research/research-reports/improving-safety-and-wellbeing-vulnerable-children>.

<sup>34</sup> Davis, M 2019, *Family is Culture review report: independent review of Aboriginal children and young people in OOHc*, NSW Department of Communities and Justice, Sydney, <https://dcj.nsw.gov.au/documents/children-and-families/family-is-culture/family-is-culture-review-report.pdf>.

<sup>35</sup> Rose, V, Jacob, C, Roberts, J, Hodgkin, L, Shlonsky, A, Kalb, G, Meekes, J, Etuk, L and Braaf, R 2023, *Evaluation of the Permanency Support Program: final report*, Centre for Evidence and Implementation, Sydney, [https://dcj.nsw.gov.au/documents/service-providers/out-of-home-care-and-permanency-support-program/about-permanency-support-program-and-overview-childstory-and-oohc-resources/PSP\\_Evaluation\\_-\\_Final\\_Report\\_April\\_2023.pdf](https://dcj.nsw.gov.au/documents/service-providers/out-of-home-care-and-permanency-support-program/about-permanency-support-program-and-overview-childstory-and-oohc-resources/PSP_Evaluation_-_Final_Report_April_2023.pdf).



DCJ is collaborating closely with sector partners and peak bodies on incremental changes to PSP, as well as the development of an Out-of-Home Care Reform Strategy.

## **Independent Pricing and Regulatory Tribunal review of out-of-home care costs and pricing**

Partly in response to the PSP evaluation findings, the NSW Government requested the Independent Pricing and Regulatory Tribunal (IPART) to investigate and report on the cost of delivering out-of-home care and pricing arrangements with NGOs who deliver care under contract with the NSW Government. As part of this commission, IPART are looking at the allowance that foster carers, relatives and kinship carers receive to meet the costs of providing care and support to children and young people. Their final report is due to the Minister for Families and Communities and Minister for Disability Inclusion in May 2025. Some of the findings in their recent interim report are particularly relevant to this system review as they pertain to the efficiency and effectiveness of the hybrid system and transparency around achieving value for money.<sup>36</sup> These include interim findings that:

- DCJ appears to have limited visibility of the services delivered by NGOs. This makes assessing the cost effectiveness of different delivery approaches challenging.
- Foster care placements delivered by NGOs cost the government around \$18,000 more per child each year than DCJ-delivered foster care. Around \$5,000 of this is additional cost incurred by DCJ and around \$13,000 is a result of differences in the delivery cost. The main difference in delivery cost is higher expenditure on casework by NGOs.
- For foster care placements, NGOs spend more of the funding they receive on casework and administrative costs and less on child-related expenses than was anticipated when the funding levels were established.

IPART have published an overview of the issues they heard were facing carers and plan to undertake a cost-of-caring study to help inform recommendations they will make for the care allowance.<sup>37</sup> Their interim findings suggest the care allowance requires review and there is a need for clearer guidance for carers on which costs are funded by the care allowance and which costs are covered by contingencies.

### **2.4.1 Current challenges**

Recent reports and the latest data highlight persistent challenges in the system, providing essential context for this review. Many of these challenges are not unique to NSW.

#### **Costs are rising despite declining numbers**

While there has been a positive 19 per cent drop in new entries to out-of-home care in 2023–24 compared to the previous year, and the total out-of-home care population has declined over the last five years, costs of service delivery have risen with \$2 billion allocated to the program in 2024–25.

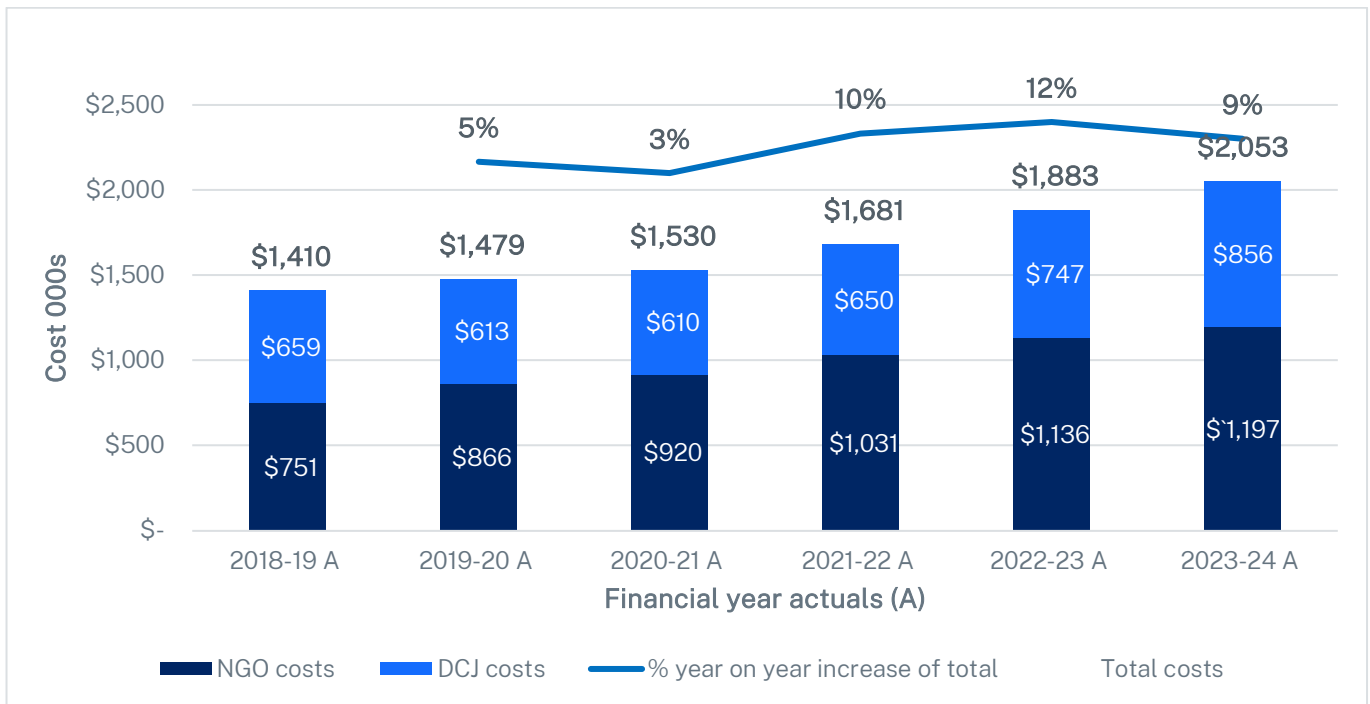
Overall, out-of-home care expenditure has increased by 45 per cent from \$1,410 million in 2018–19 to \$2,053 million in 2023–24. This includes a 59 per cent increase in NGO costs and 30 per cent increase in DCJ costs including escalation (see figure 2.6). It is of concern that during the same period the overall population of the number of children in out-of-home care has declined and the number of children in High-Cost Emergency Arrangements has increased.

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<sup>36</sup> NSW Independent Pricing and Regulatory Tribunal 2024, *IPART out-of-home care costs and pricing – interim report*, [https://www.ipart.nsw.gov.au/sites/default/files/cm9\\_documents/Interim-Report-Out-of-home-care-costs-and-pricing-September-2024.PDF](https://www.ipart.nsw.gov.au/sites/default/files/cm9_documents/Interim-Report-Out-of-home-care-costs-and-pricing-September-2024.PDF).

<sup>37</sup> NSW Independent Pricing and Regulatory Tribunal 2024, *IPART out-of-home care costs and pricing – interim report - overview for carers*, [https://www.ipart.nsw.gov.au/sites/default/files/cm9\\_documents/Information-Paper-Interim-Report-Overview-for-Carers-September-2024.PDF](https://www.ipart.nsw.gov.au/sites/default/files/cm9_documents/Information-Paper-Interim-Report-Overview-for-Carers-September-2024.PDF).

Figure 2.6: Out-of-home care expenditure 2018–19 to 2023–24



Source: DCJ Finance and Procurement, Corporate Services, October 2024.

### Fewer permanency outcomes achieved

Fewer children are being restored to their parents or exiting to permanent homes through adoption or guardianship. The PSP evaluation<sup>38</sup> found the program failed to incentivise and improve permanency outcomes. In 2023–24, the number of children exiting to permanency was 32 per cent lower than in 2019–20. (See Figure 2.1).

### Aboriginal children are significantly over-represented in the out-of-home care population

Aboriginal children make up 45 per cent of children in out-of-home care as at 30 June 2024. While there have been declining rates of both Aboriginal and non-Aboriginal children in care in recent years, drops have been larger for non-Aboriginal children. There is a need for more culturally appropriate services, with only 20.7 per cent of Aboriginal children currently managed by an Aboriginal provider. As recent Audit Office of NSW reports<sup>39 40</sup> have highlighted there has been limited progress on the transition of case management for Aboriginal children from non-Aboriginal to Aboriginal Community Controlled Organisations (ACCO) with several on-going challenges that need to be addressed by the NSW Government and DCJ.

<sup>38</sup> Rose, V, Jacob, C, Roberts, J, Hodgkin, L, Shlonsky, A, Kalb, G, Meekes, J, Etuk, L and Braaf, R 2023, *Evaluation of the Permanency Support Program: final report*, Centre for Evidence and Implementation, Sydney, [https://dcj.nsw.gov.au/documents/service-providers/out-of-home-care-and-permanency-support-program/about-permanency-support-program-and-overview-childstory-and-oohc-resources/PSP\\_Evaluation\\_-\\_Final\\_Report\\_April\\_2023.pdf](https://dcj.nsw.gov.au/documents/service-providers/out-of-home-care-and-permanency-support-program/about-permanency-support-program-and-overview-childstory-and-oohc-resources/PSP_Evaluation_-_Final_Report_April_2023.pdf).

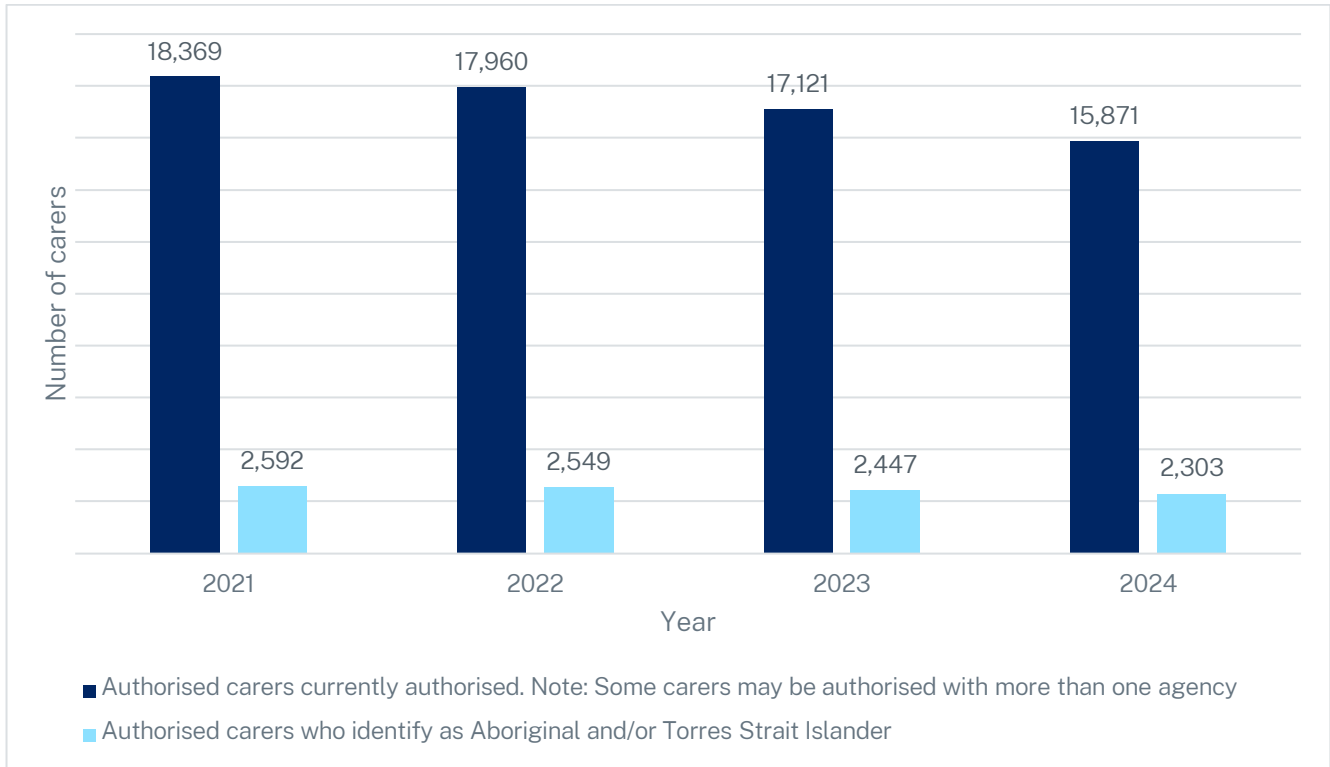
<sup>39</sup> Audit Office of NSW 2024, *Safeguarding the rights of Aboriginal children in the child protection system*, <https://www.audit.nsw.gov.au/our-work/reports/safeguarding-the-rights-of-aboriginal-children-in-the-child-protection-system>.

<sup>40</sup> Audit Office of NSW 2024, *Oversight of the child protection system: performance audit*, <https://www.audit.nsw.gov.au/our-work/reports/oversight-of-the-child-protection-system>.

## There are declining numbers of new carers

Demographic forecasting indicates this may not improve,<sup>41</sup> and recent surveys and reports suggest there is insufficient support for existing carers.<sup>42</sup> The number of authorised carers in NSW has decreased by 14 per cent over the last four years and is declining at a faster rate than the number of children in out-of-home care. Over the same period there was a 17 per cent decrease in carer applications.<sup>43</sup> (See Figure 2.7).

Figure 2.7: Number of authorised carers on the NSW Carers Register as at 30 June 2021 to 2024



Source: NSW Office of the Children’s Guardian, 2024, Key Statistics NSW Carers Register.

## High-Cost Emergency Arrangements are being used to plug gaps

A lack of foster carers and placement options has resulted in many children being placed in High-Cost Emergency Arrangements. These are inappropriate places for children and young people who need to be placed in stable, therapeutic placements that are responsive to their needs. Figure 2.8 shows the types of High-Cost Emergency Arrangements in place. Such placements contribute to significant out-of-home care budget overruns each year. This overrun is not sustainable, and other less expensive options need to be explored. Recent numbers show DCJ has been successful in reducing Alternative Care Arrangements (ACA) over the last year (see figure 2.9). However, the growing number of Individualised Placement Agreements (IPA) is a concern, noting the difference between an ACA and IPA is the accreditation status of the agency (noting out-of-home care accreditation is granted by the NSW Office of the Children’s Guardian). It is important to note,

<sup>41</sup> Association of Children’s Welfare Agencies (ACWA) and The Demographics Group 2024, *Demographic Outlook: impacts on the availability of foster parents*, ACWA, Sydney, [https://www.acwa.asn.au/wp-content/uploads/2024/08/2024\\_ACWA\\_Demographic-Outlook\\_R\\_2307.pdf](https://www.acwa.asn.au/wp-content/uploads/2024/08/2024_ACWA_Demographic-Outlook_R_2307.pdf).

<sup>42</sup> Association of Children’s Welfare Agencies (ACWA) and Lumenia 2024, *The future of foster care in NSW*, ACWA, Sydney, <https://www.acwa.asn.au/wp-content/uploads/2024/09/ACWA-The-Future-of-Foster-Care-in-NSW-WEB.pdf>.

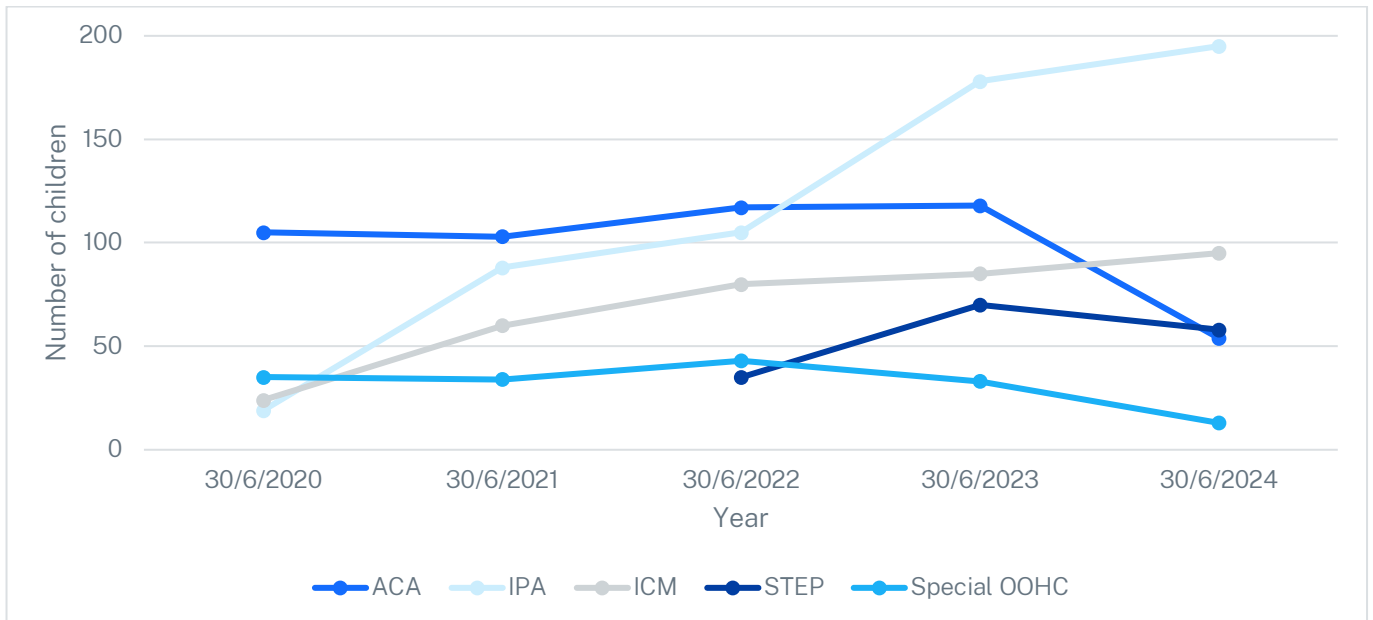
<sup>43</sup> NSW Office of the Children’s Guardian 2024, *Key statistics NSW Carers Register*, <https://ocg.nsw.gov.au/statutory-out-of-home-care-and-adoption/carers-register/key-statistics-nsw-carers-register>.

it was evident during the review that most accredited providers are subcontracting to non-accredited agencies and or labour hire companies. Other drivers in the use of High-Cost Emergency Arrangements have been the limited access to effective residential care volume and a lack of professional foster care options.

Figure 2.8: Overview of types of High-Cost Emergency Arrangements

Children and young people with low/medium/high needs	Children and young people with low/medium/high needs	Children and young people with high needs	Children and young people with low/medium needs	Children and young people with low/medium/high needs
Alternative Care Arrangement (ACA)	Individual placement arrangement (IPA)	Short term emergency placement (STEP)	Interim care model (ICM)	Special out-of-home care (OOHC)
Temporary accommodation (e.g., hotel, motel), and/or direct care provided by staff from an agency not accredited by the NSW Office of the Children’s Guardian (OCG) to delivery residential out-of-home care.	Home-like accommodation (e.g., house, unit, serviced apartment). Direct care is predominantly provided by staff from a residential care accredited agency.	1:1 (child to care worker) placement. Home-like accommodation (e.g., house, unit, serviced apartment). Direct care is predominantly provided by staff from a residential care accredited agency. Up to 12 weeks duration (extension possible in exceptional circumstances).	Group 4-bed model shared with other children and young people. Home-like accommodation (e.g., house, unit, serviced apartment). House manager and direct care staff provided by staff from a residential care accredited agency. Up to 3 months duration (extension possible if required).	Home-like environment or hospital setting. Staff trained to support significant disability needs. Direct care provided by staff from a non-designated agency that is both registered as a NDIS provider and is registered as a specialised substitute residential care (SSRC) provider or a specialised health care or mental health care setting. The child meets the special OOHC eligibility requirements and Regulation 27. Consultation with the OCG occurs prior to the child being referred to special OOHC. Special OOHC can be medium to long term arrangement – placements approved up to 6 months at a time.
0 to 17 years	0 to 17 years	12 to 17 years	9 to 14 years	0 to 17 years

Figure 2.9: Number of children and young people in High-Cost Emergency Arrangements (HCEA) by HCEA type as at 30 June 2020 to 2024



Source: Corporate Information Warehouse and ChildStory – Federated Analytics Platform Annual data, DCJ.

### Despite best intentions, children’s needs are often unmet

Children's need for stability, developmental, educational and therapeutic support are often unmet. Children and young people in out-of-home care continue to experience poorer outcomes. Trauma, complexity and high rates of disability mean additional support is required. Recent reviews, including the Hughes review,<sup>44</sup> the Advocate for Children and Young People’s Special Inquiry into Alternative Care Arrangements<sup>45</sup> and relevant Children’s Court caselaw decisions (summarised at Appendix F) point to system failures. These include unsatisfactory and overall inefficiency of case management across the system, concerns about services not meeting the necessary standards for children and young people, and ineffectiveness in the documenting and planning for children’s needs including health and education needs.

### Funding models are too complicated

‘...the failure to achieve positive outcomes for children through PSP is related to the interaction between all three factors – poor design of the PSP funding model, and challenges within, and between, DCJ and PSP providers.’<sup>46</sup>

<sup>44</sup>Mitchell, M 2023, *Summary report: Independent Review of two children in OOHC*, Department of Communities and Justice, Sydney, <https://dcj.nsw.gov.au/documents/service-providers/out-of-home-care-and-permanency-support-program/about-permanency-support-program-and-overview-childstory-and-oohc-resources/independent-review-of-two-children-in-oohc-summary-report.pdf>.

<sup>45</sup> NSW Advocate for Children and Young People 2024, *Moving cage to cage: final report of the of the Special Inquiry into Children and Young People in Alternative Care Arrangements*, <https://www.acyp.nsw.gov.au/special-inquiry>.

<sup>46</sup> Rose, V, Jacob, C, Roberts, J, Hodgkin, L, Shlonsky, A, Kalb, G, Meekes, J, Etuk, L and Braaf, R 2023, *Evaluation of the Permanency Support Program: final report*, Centre for Evidence and Implementation, Sydney, [https://dcj.nsw.gov.au/documents/service-providers/out-of-home-care-and-permanency-support-program/about-permanency-support-program-and-overview-childstory-and-oohc-resources/PSP\\_Evaluation\\_-\\_Final\\_Report\\_April\\_2023.pdf](https://dcj.nsw.gov.au/documents/service-providers/out-of-home-care-and-permanency-support-program/about-permanency-support-program-and-overview-childstory-and-oohc-resources/PSP_Evaluation_-_Final_Report_April_2023.pdf).



The original funding model for the PSP was fundamentally flawed and built on underlying assumptions that were incorrect.<sup>47</sup> The PSP was established to provide tailored services to children through a complex arrangement of individualised packages (see Appendix G). The packages are the means to fund PSP providers to deliver out-of-home care services. While intended to cater individually for children and young people, instead, the packages are used to cover high employee-related expenses, varying management fees and overheads, and in some instances PSP providers have very small direct client costs. A concerning feature of the PSP package structure is that PSP providers can spend minimally on low-needs children and utilise or re-point the remaining package money to higher-needs children and young people. The costing is inaccurate and while designed for flexibility, poor implementation and ineffective governance has resulted in an over-engineered and overly complex system. Staff consequently struggle to administer the program, and children and young people are not receiving the basics such as trauma therapy and general dental.

### **The system is crisis-driven, reactive, and risk-focused**

The system has been under intense scrutiny with multiple reviews highlighting failures to consistently provide children and young people with the safe and stable homes they deserve. Numerous reviews have highlighted a failure to invest in early intervention and to shift the investment profile from out-of-home care to earlier supports. Recent reports have highlighted the failure of the system to invest in relationships and holistic care for children in out-of-home care and ensure families are supported 'at all stages of their journey, not just at the point of crisis'.<sup>48</sup>

The persistent challenges outlined above highlight the urgent need for this system review. While previous reviews and recommendations have delivered some positive change, they have failed to deliver the significant improvements necessary for meaningful change to the overall system. Children and young people in out-of-home care deserve a responsive and effective system that addresses their care needs and delivers meaningful services and support. It is imperative that the NSW Government remain accountable, providing the community and taxpayers with confidence that the \$2 billion invested annually in out-of-home care is being used to achieve high-quality outcomes for all children and young people in the system.

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## 2.5 Methodology

This report draws on insights from meetings with over 500 stakeholders, academic research, as well as reports, reviews and inquiries into child protection and out-of-home care. These were synthesised by the review team and integrated with the team's access to key documents and essential knowledge regarding policies, practices and the system. This was then integrated with external expertise in program management, governance, risk management and investigation.

The project's focus on delivering findings and recommendations that can be implemented within the existing system in a coordinated way, had implications for the methodology. International experience shows that improvements or 'fixes' recommended by reviews of child protection

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<sup>47</sup> Rose, V, Jacob, C, Roberts, J, Hodgkin, L, Shlonsky, A, Kalb, G, Meekes, J, Etuk, L and Braaf, R 2023, *Evaluation of the Permanency Support Program: final report*, Centre for Evidence and Implementation, Sydney, [https://dcj.nsw.gov.au/documents/service-providers/out-of-home-care-and-permanency-support-program/about-permanency-support-program-and-overview-childstory-and-oohc-resources/PSP\\_Evaluation\\_-\\_Final\\_Report\\_April\\_2023.pdf](https://dcj.nsw.gov.au/documents/service-providers/out-of-home-care-and-permanency-support-program/about-permanency-support-program-and-overview-childstory-and-oohc-resources/PSP_Evaluation_-_Final_Report_April_2023.pdf).

<sup>48</sup> James Martin Institute for Public Policy 2024, *Supporting children and families to flourish: putting human relationships at the centre of transformational reform of the child protection and out-of-home care system in NSW*, James Martin Institute for Public Policy, Sydney, [https://jmi.org.au/wp-content/uploads/2024/08/Web-Version-JMI\\_Supporting-children-and-families-to-flourish\\_Final.pdf](https://jmi.org.au/wp-content/uploads/2024/08/Web-Version-JMI_Supporting-children-and-families-to-flourish_Final.pdf).

systems, if implemented or considered in isolation from each other and the system they are being implemented in, could be counterproductive and can reinforce a compliance culture.<sup>49</sup>

For this reason, it was methodologically important to take a systems lens and examine the interconnections of elements across the system including operational constraints across DCJ. Through this lens we looked at the interplay between system components, positive and negative feedback loops, and the functions, structures, goals, capacity, and context of the system.<sup>50 51</sup> This was done within the parameters of the terms of reference and looked at:

- The effectiveness and efficiency of the current hybrid model of government and non-government service delivery, residential care, the drivers of High-Cost Emergency Arrangements.
- Key issues impacting outcomes for children and young people and value for money.
- Current arrangements for foster carer recruitment and support, and the effectiveness of foster carer utilisation by out-of-home care providers in meeting placement demand.
- The contractual and fiscal management arrangements for out-of-home care and how taxpayer value could be better realised, including the suitability of subcontracting.

In practice our methodology included:

- Meeting with over 500 stakeholders, engaging with service providers, carers, carer advocacy groups, researchers, experts, child and family advocates, magistrates, oversight bodies, and agency staff in frontline and leadership roles from across the sector.
- The extensive review of documents, policies, guidelines, practices, and frameworks.
- Data and financial analysis.
- Reviews of past reviews and their recommendations.
- Meetings with foster and relative/kin carers and carer advocates.
- Consideration and integration of findings from a mixed method Carer Utilisation Study conducted by DCJ in partnership with the Australian Community Workers Association (ACWA) during the review period and intended to inform the Terms of Reference 2.12 and 2.13.
- Workshops and online consultation sessions with contracted service providers including Aboriginal community-controlled organisations, High-Cost Emergency Arrangements including Alternative Care Arrangement (ACA) providers, peak bodies, other non-government organisations, and legal and policy experts.
- Meetings with a sample of service providers and review of related documents relevant to our Terms of Reference, including those related to performance and financial reporting, contract management, subcontracting, management of conflicts of interest, care models, carer utilisation, recruitment and support.
- Visits to services and residential homes (including meetings with staff, carers and young people).

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<sup>49</sup> Lane, D C, Munro, E, and Husemann, E 2016, Blending systems thinking approaches for organisational analysis: Reviewing child protection in England, *European Journal of Operational Research*, Volume 251, Issue 2, Pages 613-623 <https://doi.org/10.1016/j.ejor.2015.10.041>.

<sup>50</sup> Wulczyn, F, Daro, D, Fluke, J, Feldman, S, Glodek, C, and Lifanda, K 2010, *Adapting a Systems Approach to Child Protection: Key Concepts and Considerations*, United Nations Children's Fund (UNICEF) available at [https://www.researchgate.net/publication/265279836\\_Adapting\\_a\\_Systems\\_Approach\\_to\\_Child\\_Protection\\_Key\\_Concepts\\_and\\_Considerations](https://www.researchgate.net/publication/265279836_Adapting_a_Systems_Approach_to_Child_Protection_Key_Concepts_and_Considerations).

<sup>51</sup> Lane D C, Munro, E, and Husemann, E 2016, Blending systems thinking approaches for organisational analysis: Reviewing child protection in England, *European Journal of Operational Research*, Volume 251, Issue 2, Pages 613-623 <https://doi.org/10.1016/j.ejor.2015.10.041>.

- Meetings with academics, legal professionals and international out-of-home care professionals.
- Meetings with relevant staff from key government agencies and portfolios including NSW Health, NSW Education, the NSW Office of the Children’s Guardian, the National Disability Insurance Agency (NDIA), NSW Courts, NSW Police and Legal Aid NSW.

Professor Lynne McPherson and her research team kindly gave us permission to use soon-to-be published findings and quotes from their research and interviews with young people about their lived experience of relational practices in Therapeutic Residential Care in NSW.<sup>52</sup> This has been invaluable in bringing the direct voice of young people into this review.

We have been incredibly fortunate in NSW to have access to data, findings, and recommendations from the Pathways of Care Longitudinal Study (POCLS) the first large-scale prospective longitudinal study of children and young people in out-of-home care in Australia. We refer to these throughout this report. The POCLS tracks the experiences and outcomes of a cohort of children who entered care in 2010 and 2011 until after they turn 18.<sup>53</sup>

The two co-leads of the report, Lauren Dean from DCJ and Gelina Talbot with a background in law enforcement, acted as translators of insights with the ability to shape them into practical operational solutions and recommendations.

This was important because in reviewing over 20 years of reports, audits and evaluations, we saw recurring themes and issues that continue to hamper the effectiveness and efficiency of the out-of-home care system. Within the overlapping recommendations there was little evidence of coordination and evaluation in the implementation of recommendations, raising concerns about their impact on improving the system’s overall effectiveness.

For this reason, a particular aspect of our methodology has been ongoing identification and sharing of risks, issues and considerations as they emerge with the DCJ executive leadership to enable responsive and proactive action to be taken while the review was in progress. This approach makes this review different from others, as we have proactively worked with DCJ to commence improvements on several internal processes and practices that directly impact on the out-of-home care system.

Embedding our review into reform processes currently being undertaken by DCJ increases the impact of our findings and recommendations and we welcome actions already taken by the NSW Government and DCJ, such as the recent banning of Alternate Care Arrangements, and work to:

- Expand DCJ's role as a foster care provider and increase the recruitment of urgently needed longer-term foster carers to move vulnerable children and young people out of emergency accommodation.
- Increase government-delivered residential care so there are more quality options for children and young people who cannot be placed with family or in foster care.
- Roll out a statewide quality assurance framework for children in out-of-home care.

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<sup>52</sup> McPherson, L, Canosa, A, Gilligan, R, Moore, T, Gatwiri, K, Day, K, Mitchell, J, Graham, A, and Anderson, D, 2024, *Young people’s lived experience of relational practices in therapeutic residential care in Australia*, Pre-print, Southern Cross University,, <https://doi.org/10.25918/preprint.407>.

<sup>53</sup> NSW Department of Communities and Justice, *The Pathways of Care Longitudinal Study*, <https://dcj.nsw.gov.au/about-us/facsiar/pathways-of-care-longitudinal-study/about-the-study.html>.

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## 2.6 Limitations

This review was conducted within a relatively short six-month timeframe and with finite resources. Although time constraints prevented extensive engagement with all stakeholders, we were provided with valuable information and perspectives from the 500 people we met with.

Given the scale of this review, the large volume of information posed challenges in examining every issue raised in our consultations. To mitigate these challenges, the review team analysed information efficiently and regularly engaged with key stakeholders to test assumptions and stay informed of concurrent system reform work.

It was important to avoid bias that excuses the status quo. We were conscious that our working knowledge of the system could have the dual effect of challenging the status quo too much or too little. We harnessed this as an opportunity rather than a threat and built regular testing of our assumptions into our methodology. We did this by maintaining open dialogue with stakeholders and testing of our assumptions with both internal and external experts over the course of this review.

We recognise that implementing our recommendations will require sufficient capacity and capability, and that achieving and sustaining the desired outcomes will depend on continued investment in whole-of-system change by the NSW Government, DCJ, relevant partners and the sector.

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## 2.7 Definitions and concepts

We have included a list of acronyms (Appendix C) and a glossary of terms used in this report (Appendix D).

‘Value for money’ is a key concept in our Terms of Reference. We follow the NSW Treasury definition of value for money in this report. Value for money is achieved when the maximum benefit is obtained from the available resource. Value for money is supported by:

- Maximising output from the use of available inputs.
- Effectiveness in achieving the intended outcomes.
- Maximising benefits and achieving a new social benefit (benefit exceeds cost).

This is about using public resources in an efficient, effective, economical, and ethical manner that is consistent with NSW Government policies.

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# Findings

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### 3.1 Overview

Many children and young people in out-of-home care are supported to achieve good outcomes and have their needs met. During this review, we have seen evidence of effective and innovative services with dedicated people, carers and organisations doing their best to make a difference in the lives of children, young people, families, and communities. In presenting our key findings we have tried to show some of these practices. As one non-government organisation (NGO) leader told us, ‘Please don't kill what is good.’

Generally, we have seen a system that lacks accountability and effective oversight. A system that is fragmented and siloed, with too much compliance in the wrong places, resulting in administrative burden that does not improve quality, or assure safety. We have seen significant variation in practice across different service providers and DCJ districts, and a lack of ability to know what is working and not working to get outcomes and value for money. The collection and sharing of data that would enable this is lacking across the entire system, and DCJ has limited visibility of services delivered by out-of-home care providers to children and young people.

Children and young people are not consistently placed at the centre. Carers and families who should be treated as partners in delivering outcomes for children to help them recover from trauma are also not listened to. When good outcomes are achieved, it is because a particular individual or organisation in the constellation of a child’s life advocated for them. However, the system is not set up to consistently support and deliver these positive outcomes and puts many barriers in the way.

The current hybrid model was implemented in a system without the necessary architecture to deliver positive outcomes for children and young people, and value for money. DCJ is at a critical juncture. Significant improvements and reform must be made to reset expectations, accountability and stewardship across the program and system. DCJ needs to make immediate short-term changes that include incremental improvements to performance metrics, financial and contract management. At the same time, it needs to embed system reform into the more comprehensive out-of-home care program redesign. This needs to take place before recommissioning and as part of the out-of-home care reform strategy being developed.

This section of the report presents our key findings and recommendations in the structure outlined in the table below. Each sub-section is mapped to the relevant recommendations and specific term of reference each address. Given the systemic nature of this review, many of these recommendations target what we have identified as the underlying causes of failure to improve outcomes efficiently and effectively at a system level.

Figure 3.1: System review into out-of-home care key findings and recommendations against the Terms of Reference

Section	Recommendation	Changes proposed to	Terms of Reference
Increasing system level accountability, oversight and stewardship	1, 2, 3, 4, 5, 6	Governance Legislation Funding Data and information systems Program management	1.2 1.3
Improving contracting and fiscal management	5	Program management Contract management Policy and practice	2.1.4

Section	Recommendation	Changes proposed to	Terms of Reference
Streamlining models of care	7	Service design Policy and practice	1.2 1.3 2.1.2 2.1.1
Elevating the voice of children young people, families and carers	8	Policy and practice Data and information	1.3 2.1.1
Valuing and partnering with carers	9	Policy and practice Data and information	2.1.1 2.1.2 2.1.3
Case management and practice	10	Policy and practice Legislation Data and information systems	1.2 1.3 2.1.1 2.1.4
Collaborating in the best interests of the child	11, 12	Policy and practice Legislation Data and information systems	1.2 1.3
Building workforce and capability	13	Policy and practice	1.2 1.3 2.1.1

## 3.2 Increasing system level accountability and oversight

The out-of-home care system requires effective structures to ensure accountability, coordination, capability and oversight across multiple agencies and actors. Efforts need to be effectively and efficiently directed towards meeting the best interests of children and young people in, or at risk of, entering out-of-home care. Recommendations 1 to 6 of this review target critical system-level changes to improve accountability across governance, resourcing, legislation, regulation, data, and performance.

Our vision to identify accountability issues across the system led us to focus on strengthening decision-making responsibility and enhancing coordination, collaboration and information sharing. This was with a view to developing appropriate oversight mechanisms that create a more transparent, responsive, and equitable out-of-home care system. One that not only prioritises children and young people in care, but includes rigorous accountability measures, improved oversight, and a strong shared authorising environment.

This level of accountability is important for a \$2 billion dollar program that delivers services to, and cares for, vulnerable children and young people in the care of the state. Our goal was to develop recommendations that ensure services provided to children and young people in out-of-home care meet the highest standards of quality and effectiveness, while rebuilding trust and confidence in the system. Past policies to remove children from their families of origin, along with

attempts at reform failing to achieve meaningful change, has led to understandable distrust in the system. We are now at the point where the public discourse is one of a broken system. System reform must work to rebuild trust in the system's ability to be transparent and accountable for the achievement of positive outcomes and the provision of value for money.

### 3.2.1 Coordination across NSW Government agencies

'Children in out-of-home care need to be prioritised within other government agencies (e.g. health and education) to have their needs met. Acknowledging the increased needs of these children as a government we need to collectively push for better outcomes.' DCJ leadership workshop

The NSW Government must be collectively responsible for services and outcomes for children and young people when they cannot live at home. Risk and protective factors experienced by families in contact with the out-of-home care system and their needs are complex. Levers for impact do not all sit in one department or even one level of government. It is important to enhance the capacity to deliver services to children in care through improved coordination and integration of all services in the system. Currently, those who are most in need are falling through the service system gaps.

Audit Office of NSW reviews<sup>54</sup> <sup>55</sup> have found previous governance and cross-agency partnership arrangements used to deliver the Their Futures Matter (TFM) reform were ineffective, lacking 'sufficient independence, authority and cross-agency clout' to deliver their intent. The review team's observation is that current governance efforts are fundamentally lacking on all levels. Improved collaboration and coordination are needed across all levels of government and require a stronger authorising mechanism than what is currently in place.

It was evident during this review that while there are committed bureaucrats and leaders, and each agency is committed to working in collaboration and achieving the stated outcomes for the out-of-home care program, there is limited evidence at the system level of this working in practice. Government agencies still operate primarily in silos, with some activities being undertaken at the local/district level to coordinate services as required. These too can be hit and miss as to their effectiveness. Throughout this report we present evidence of children and young people in out-of-home care being failed by government agencies responsible for their wellbeing – failing to receive critical health, mental health, disability and education support, and failing to have their social and cultural needs met.

We acknowledge there are challenging service and workforce gaps, and a key role for Commonwealth agencies, in particular health, in delivering outcomes. However, there is an evident need for NSW Government agencies with clear statutory roles and responsibilities for the wellbeing of children and young people in out-of-home care to engage more meaningfully and equitably in delivering quality services to children and families, and to be held to account for their duties in ensuring appropriate resources are available and delivering those services. Meeting the needs of the current out-of-home care population is vital to breaking the cycle of disadvantage and preventing future populations from requiring more intensive services. This means we must shift from a reactive model to one focused on family preservation and early intervention, keeping children and young people with their families wherever possible.

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<sup>54</sup> Audit Office of NSW 2024, *Oversight of the child protection system: performance audit*, <https://www.audit.nsw.gov.au/our-work/reports/oversight-of-the-child-protection-system>.

<sup>55</sup> Audit Office of NSW 2020, *Their Futures Matter: performance audit*, <https://www.audit.nsw.gov.au/sites/default/files/documents/Their%20Futures%20Matter%20-%20PDF%20Report.pdf>.

The review acknowledges the existence of the current 'Investment Approach' as a framework designed by the NSW Government to improve cross-agency decision-making by using data to better understand service demand and outcomes for children and families. The approach is underpinned by a cross-agency Stronger Communities Investment (SCI) Pool, intended to enable investment in effective, evidence-based early interventions rather than costly acute/tertiary services, with DCJ currently administering the SCI Pool. The review team is advised that the NSW Investment Approach Cross-agency Steering Committee (an executive director level committee) currently guides the approach, with decision-making sitting with secretaries and ministers. This is currently under review, with the prevailing perspective being that the SCI pool has impeded rather than enhanced cross-agency work, and that improved cross agency co-ordination is not dependent on the SCI pool.<sup>56</sup>

The review team has thoroughly examined this issue, noting persistent service gaps and lack of coordination across government despite efforts from key individuals. A stronger commitment to proactive duty, transparency, and shared accountability is required to shift the performance of the out-of-home care system. Government needs to take responsibility for ensuring services and outcomes are delivered and are accountable through regular public reporting on the performance of the system.

The review team therefore recommend an agreement be established between secretaries of the relevant statutory agencies to drive comprehensive reform in out-of-home care and delineate clear responsibilities. It should not add another level of governance into the system, but instead review current governance arrangements to streamline decision-making, enhance collaboration and ensure a more coordinated approach. Without a strong unified approach across critical government agencies, the out-of-home care system will remain hindered in achieving meaningful reform.

### Recommendation 1

The current out-of-home care arrangements across all levels are ineffective in driving change and delivering outcomes within a system that has limited accountability for achieving results. The NSW Government should establish a quadripartite agreement (the Council) between secretaries of the relevant statutory departments to drive comprehensive reform in out-of-home care. This agreement must enhance multi-agency collaboration, improve service coordination and shift investment toward early intervention and family preservation, with clear objectives and performance metrics. It should not add another level of governance into the system, but instead review current governance arrangements to streamline decision-making, enhance collaboration and ensure a more coordinated approach. This Council should convene regularly and report to the Minister for Families and Communities, other relevant ministers and the Premier.

## 3.2.2 Early intervention and investment in family supports

Successive reviews have recommended that DCJ redirect its resource profile from crisis responses and out-of-home care to spend more on early intervention and intensive supports for families before they reach crisis point. The Audit Office of NSW recently found DCJ has failed to make this shift, spending 61 per cent of the child protection budget in 2022 to 2023 on out-of-home care and only 13 per cent on family support services.<sup>57</sup>

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<sup>56</sup> Some of the challenges have included: administrative complexity, limited evidence-base and data linkage requirements, and that as the SCI Pool is largely comprised of essential service delivery programs targeted to vulnerable children/families it is not feasible to scale down or cease most programs within the SCI Pool to redirect funding elsewhere.

<sup>57</sup> Audit Office of NSW 2024, *Oversight of the child protection system: performance audit*, <https://www.audit.nsw.gov.au/our-work/reports/oversight-of-the-child-protection-system>.

A failure to invest in earlier non-statutory responses is a key driver contributing to demand and costs for the out-of-home care system and impacts other agency budgets over the longer term. Given the significant intergenerational and longer-term impacts for children and young people who are in the system,<sup>58 59</sup> simultaneous investment is needed in both parts of the system to ensure better outcomes and life trajectories for children in care, and for their children, and over time to reduce the demand and entries into the out-of-home care system.

During this review, agencies told us about the need to expand family preservation services, including early and intensive family finding and restoration work where possible. Non-statutory models were seen as particularly important for assisting Aboriginal families to engage with programs and seek support, given the justified fear they may have of child removal leading to lower engagement levels.<sup>60 61</sup> We heard from ACCOs about effective locally-designed targeted earlier intervention services having good reach with small funding. There is significant benefit in using a public health approach that enables families to access information and supports as early as possible.<sup>62</sup> Likewise, we heard examples where carers were provided with supports to enable them to care for a child that if provided to families earlier may have enabled those families to meet their child's needs and prevent entry into care. We see this as a key driver of poor outcomes and budgetary pressures over the longer term.

## Recommendation 2

There is a need for dual investment in the out-of-home care, early intervention and family preservation programs for a defined period. Strong investment is required to reduce demand in out-of-home care, while increasing family preservation.

- a. The NSW Government should implement a whole-of-government integrated funding strategy supporting early intervention, family preservation and out-of-home care systems concurrently. This should be administered by the Council.
- b. DCJ should create a reinvestment plan that gradually shifts focus and resources from out-of-home care to family preservation as out-of-home care demand decreases over time (noting there will always be some children and young people who cannot remain with their family of origin).

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<sup>58</sup> Audit Office of NSW 2020, *Their Futures Matter: performance audit*, <https://www.audit.nsw.gov.au/sites/default/files/documents/Their%20Futures%20Matter%20-%20PDF%20Report.pdf>.

<sup>59</sup> Haslam, D, Mathews, B, Pacella, R, Scott, JG, Finkelhor, D, Higgins, DJ, Meinck, F, Erskine, HE, Thomas, HJ, Lawrence, D and Malacova, E 2023, *The prevalence and impact of child maltreatment in Australia: findings from the Australian Child Maltreatment Study: brief report*, Australian Child Maltreatment Study, Queensland University of Technology, [https://www.acms.au/wp-content/uploads/2023/04/3846.1\\_ACMS\\_A4Report\\_C1\\_Digital-Near-final.pdf](https://www.acms.au/wp-content/uploads/2023/04/3846.1_ACMS_A4Report_C1_Digital-Near-final.pdf).

<sup>60</sup> Davis, M 2019, *Family is Culture review report: independent review of Aboriginal children and young people in OOHc*, NSW Department of Communities and Justice, Sydney, <https://dcj.nsw.gov.au/documents/children-and-families/family-is-culture/family-is-culture-review-report.pdf>.

<sup>61</sup> Little, C, Gray, P, Burton, J, Prideaux, C, Solomon, N, Cackett, J, Jones, M, Bhathal, A, Corrales, T, Parolini, A, Tan, WW and Tilbury, C 2021, *The Family Matters report 2021: Measuring trends to turn the tide on the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care in Australia*, SNAICC – National Voice for our Children, Melbourne, <https://www.familymatters.org.au/wp-content/uploads/2021/12/FamilyMattersReport2021.pdf>.

<sup>62</sup> James Martin Institute for Public Policy 2024, *Supporting children and families to flourish: putting human relationships at the centre of transformational reform of the child protection and out-of-home care system in NSW*, James Martin Institute for Public Policy, Sydney [https://jmi.org.au/wp-content/uploads/2024/08/Web-Version-JMI\\_Supporting-children-and-families-to-flourish\\_Final.pdf](https://jmi.org.au/wp-content/uploads/2024/08/Web-Version-JMI_Supporting-children-and-families-to-flourish_Final.pdf).



### 3.2.3 Legislation and courts

The *Children and Young Persons (Care and Protection) Act, 1998* (the Care Act)<sup>63</sup> in NSW serves as a crucial legal framework for safeguarding the welfare of children and young people, particularly those in need of protection and in out-of-home care. This legislation aims to ensure that the best interests of vulnerable children are prioritised, providing a legal foundation for intervention when a child or young person's safety is compromised.

The objectives of the Care Act include:

1. **Safety and wellbeing:** To ensure the safety, welfare, and wellbeing of children and young people.
2. **Prevention of harm:** To prevent children from experiencing harm, abuse and neglect.
3. **Family preservation:** To support families to stay together wherever possible, promoting family preservation and reunification when safe and appropriate.
4. **Out-of-home care standards:** To provide a framework for the provision of out-of-home care services that meet the needs of children and young people.
5. **Best interests of the child:** To prioritise the best interests of the child or young person in all decisions and actions taken regarding their care and protection.
6. **Participation of children:** To promote the participation of children and young people in decisions that affect them, ensuring their voices are heard.
7. **Cultural respect:** To respect and consider the cultural identity of children and young people, particularly Aboriginal and Torres Strait Islander children.
8. **Collaboration:** To foster collaboration among government agencies, service providers, and communities to improve outcomes for children and families.

Overall, the objectives of the Care Act guide the implementation and administration of child protection and out-of-home care services, ensuring a comprehensive approach to the care and protection of children and young people. Implementation challenges impacted the adherence to these objectives.

The Children's Court NSW plays a pivotal role in determining care arrangements and guardianship for children and young people in care, while the Federal Circuit Court and Family Court of Australia address family law issues that intersect with child protection. Together, these courts navigate complex cases to ensure that children's rights are upheld and their safety paramount in an ever-evolving legal landscape. We were not, unfortunately, due to time, able to consider the Federal Circuit Court and Family Court of Australia processes within the out-of-home care system.

The Children's Court NSW has several key functions which the review team considered. They are a specialised court system and matters before them are often referred to as 'Care' matters. They have specialist magistrates and legal practitioners who hear applications for care and protection orders for children and young people who are at risk of significant harm. This includes the court deciding on temporary and permanent care arrangements for children and young people in care. The Children's Court NSW is crucial in ensuring the protection and welfare of children and young people in the out-of-home care system and plays an important role in safeguarding the legal rights of children and young people, providing legal oversight and holding child protection services to account for decisions made or not made.

DCJ is expected to be a model litigant in care proceedings, that is, they are required to present all information to the court for their consideration, with the court making the ultimate decision

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<sup>63</sup> Children and Young Persons (Care and Protection) Act 1998, <https://legislation.nsw.gov.au/view/html/inforce/current/act-1998-157>.



regarding care orders, the length of such orders and requirements of the parties involved. The review team heard on multiple occasions that DCJ staff present biased information or only present information that supports their position or desired outcomes. This is concerning, as it is essential that DCJ staff act with integrity on all occasions, presenting all information to the court, engaging with families in a respectful manner and ensuring that each child and young person is given every opportunity to remain with, or connected to, their family of origin.

Throughout the review period, we heard and noted the impact of protracted court proceedings on children and young people who are often lost in long, drawn-out, adversarial proceedings. In these instances, children and young people have further disruption in their relationships, placements, school, and friendships. This is problematic for children and young people of all ages. The review team are of the view that there is opportunity to reduce the perceived adversarial nature of care orders by exploring the use of informal dispute resolution processes like care circles. This less adversarial process could be used to enhance the information provided to the court, and enable the voices of children, young people, carers and families to be considered in less formal court settings.

During our review, we considered several recent Children's Court NSW and NSW Civil and Administrative Tribunal (NCAT) decisions that raised concerns in respect to the out-of-home care system.<sup>64 65 66 67 68 69 70</sup> The key issues and areas of primary concern include:

- A critical need for early intervention with families by DCJ to prevent harm and improve outcomes for children and young people.
- A need for improved oversight of service delivery provided by DCJ and service providers to ensure children and young people's welfare is being met effectively.
- Inefficiencies in case management across the system.
- High caseloads, inexperienced caseworkers and agency staff, high staff turnover and insufficient resources.
- Excessive and multiple placements of children and young people in out-of-home care, which are highly disruptive and harmful to children. This includes placement into High-Cost Emergency Arrangements. This can often lead to social isolation and educational instability. As such, there is a need for stability and improved efforts in identifying and ensuring placement certainty.
- There is inadequate permanency and restoration planning, where restoration must be well-considered and must prioritise a child or young person's safety, stability and wellbeing. Restoration planning should not be commenced without court approval.

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<sup>64</sup> NSW Department of Communities and Justice (DCJ) and the Yarran Taylor Children 2024, NSWChC 3, <https://www.caselaw.nsw.gov.au/decision/18f2cf0a91949bdf7b563c62>.

<sup>65</sup> NSW Department of Communities and Justice (DCJ) and the Dalton Tomkins Children 2023, NSWChC 10, <https://www.caselaw.nsw.gov.au/decision/18a05dcd89cb6237bffabbc4>.

<sup>66</sup> NSW Department of Communities and Justice (DCJ) and Phoebe and Katelyn Wilson 2024, NSWChC 9, <https://www.caselaw.nsw.gov.au/decision/18a05dcd89cb6237bffabbc4>.

<sup>67</sup> NSW Department of Communities and Justice (DCJ) and Paul Robertson and Sadie Ford 2024, NSWChC 13, <https://www.caselaw.nsw.gov.au/decision/191926d21a467e05297320bd>.

<sup>68</sup> FWY v Biripi Aboriginal Corporation Medical Centre 2024, NSWCATAD 70, <https://www.caselaw.nsw.gov.au/decision/18e30b21fa7dd0e4638e01ad>.

<sup>69</sup> Finn, Lincoln, Marina, and Blake Hughes 2022, NSWChC 4, <https://www.caselaw.nsw.gov.au/decision/1838153002ff448386fd6cb9>.

<sup>70</sup> Mitchell, M 2023, *Summary report: Independent Review of two children in OOHC*, Department of Communities and Justice, Sydney, <https://dcj.nsw.gov.au/documents/service-providers/out-of-home-care-and-permanency-support-program/about-permanency-support-program-and-overview-childstory-and-oohc-resources/independent-review-of-two-children-in-oohc-summary-report.pdf>

- There is poor communication and coordination between DCJ, service providers and other statutory agencies that significantly hamper the coordination of care and services to children and young people. This has led to delays and inefficiencies in matters being dealt with through the Children’s Court of NSW.
- Assessments must be comprehensive, and courts should be provided with all proper documentation with respect to a child or young person’s health, education and welfare needs.
- There needs to be improved support for families to achieve better outcomes for children and young people, who should remain connected to family, community, culture and Country wherever possible.
- There are systemic issues that impact on care. These include workforce shortages, lack of skilled foster carers and inadequate housing options for children and young people with complex needs.

These concerns, in addition to the information we gleaned from discussions with key stakeholders, have led us to believe that the current system is failing children and young people, and they are being exposed to additional trauma due to those systemic failures.

In the search for better practice, the review team examined international best practice in out-of-home care, in particular the United Kingdom’s (UK) safeguarding and ‘duty to act’ legislation.<sup>71 72</sup> This framework enhances agency accountability and promotes collaboration across agencies in the best interest of children. Our research and discussions with UK child protection representatives highlighted several benefits that could improve the system in NSW, including better inter-agency collaboration, enhanced safeguarding practices and increased training for professionals. While challenges remain, particularly with data sharing and confidentiality concerns, the UK’s approach to agency accountability and coordinated efforts appears to be a valuable framework for the NSW Government and DCJ to further consider.

We also explored the legal and policy consequences of non-compliance with the UK’s duty-to-act provision. These include potential court-ordered costs, government compliance measures, and the imposition of ‘special measures’ where a government inspector intervenes to ensure agency compliance. The most serious consequence is a judicial review of an agency’s decision-making. This heightened accountability is a key reason we recommend introducing similar legislative changes in NSW. This legislation could address the persistent siloed approaches and strengthen accountability to deliver better outcomes for our most vulnerable children and young people.

While the principles in the *Children and Young Persons (Care and Protection) Act 1998* (Care Act)<sup>73</sup> and the *Children and Young Persons (Care and Protection) Regulation 2022* (Care Reg)<sup>74</sup> (collectively, the Care legislation) are clear, they have over time been poorly implemented. There have been legislative amendments, provisions and other independent legislation enacted, potentially causing confusion and overlap for people administering the legislation. In addition, the current whole-of-system reform being undertaken by DCJ and the sector is likely to require legislative change to accommodate the upcoming reform and provide for greater accountability and stewardship across the system. The review team suggest an independent and comprehensive review of relevant

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<sup>71</sup> Children Act 2004, Section 16E, <https://www.legislation.gov.uk/ukpga/2004/31/section/16E>.

<sup>72</sup> Department of Education 2023, *Working together to safeguard children: a guide to multi-agency working to help, protect and promote the welfare of children*, HM Government, London, [https://assets.publishing.service.gov.uk/media/669e7501ab418ab055592a7b/Working\\_together\\_to\\_safeguard\\_children\\_2023.pdf](https://assets.publishing.service.gov.uk/media/669e7501ab418ab055592a7b/Working_together_to_safeguard_children_2023.pdf).

<sup>73</sup> Children and Young Persons (Care and Protection) Act 1998, <https://legislation.nsw.gov.au/view/html/inforce/current/act-1998-157>.

<sup>74</sup> Children and Young Persons (Care and Protection) Regulation 2022, <https://legislation.nsw.gov.au/view/html/inforce/current/sl-2022-0479>.

legislation to facilitate alignment of legislation, and to ensure the government has the required legislative basis to act across its mandates regardless of departmental perimeters. The need for independence in that review is based firmly on the lack of trust in the current system and application of legislation. Additionally, the legislative basis should confirm that the government always holds the responsibility for making sure that alternative action is inherent in all systems to keep children at home. Lastly, the legislative basis needs to ensure the government must always be the provider of last resort.

The review team heard from several stakeholders of the need for enhancements in the support services available to families and carers within the legal system. The review team noted those concerns, however, recognise that Legal Aid NSW and the Aboriginal Legal Service (NSW/ACT) play a critical role in advocating for the rights of children, young people, parents, and families and have solid infrastructure already in place to ensure the voice of lived experience is accessible during court proceedings. The review team suggest that enhancement to these support services should be further considered prior to establishing any new or competing services.

### Recommendation 3

The review team supports a comprehensive and independent review of the *Children and Young Persons (Care and Protection) Act 1998* (Care Act) and the *Children and Young Persons (Care and Protection) Regulation 2022* (Care Reg) (collectively, the Care legislation) to ensure the legislation is contemporary, culturally sensitive and appropriate to address the complex needs of children and young people within the out-of-home care system. The review should consider:

- a. Inclusion of a 'duty to act' being placed on relevant statutory agencies to safeguard and deliver timely and effective services to children and young people in out-of-home care. The legislation change must be accompanied by legal and policy ramifications for non-compliance.
- b. The state having clear responsibility for delivering early intervention services and support to help families avoid entering the statutory child protection system.
- c. Providing the necessary powers to the state to mandate engagement, or remove children, that can only be accessed once preventative supports have failed. This should be reinforced through the principles of legislation.

## 3.2.4 Stewardship, accountability, outcomes and performance

'We need more role clarity – what is ours to deliver and lead and what relies on other parts of the system.' DCJ leadership workshop participant

'PSP has never been implemented properly, and new expectations and interpretations consistently added. It is not clear what performance should look like, both for DCJ and NGOs.' NGO workshop representative

The NSW Government and DCJ are responsible for stewardship of the out-of-home care system, and accountable for its overall effectiveness and sustainability. While this is the case, all key stakeholders, including statutory and NSW Government agencies, service providers and those who work within the system, are likewise stewards. This means they are also responsible for promoting and driving collaboration among all stakeholders, making informed decisions, and fostering an environment and system driven by continuous improvement. System stewardship needs to ensure:

- The out-of-home care system is accountable and transparent.
- The system delivers value for money.
- System planning is underpinned by evidence.
- Services deliver positive outcomes for children and families.

Leadership is critical to stewardship, driving focus and collaboration around shared purpose, shaping culture, and building capability and performance within organisations and across the system. The review team acknowledges the important work and stewardship of the Minister for Families and Communities, and the DCJ Secretary, in this space and during this review process. They are both eager for change. The DCJ Secretary has been supportive and engaged in every step of this review, responding appropriately and with rigour to evidence as it has emerged.

During the review there were pockets of inspiration and purpose. The sense of stewardship was visibly present across some areas, and we have seen excitement across leadership about reform possibilities. However, the review team expected to see stewardship responsibility exercised across all layers of the system, and this was not the case. Instead, we found many leaders and staff 'swimming in their swim lane', quoting the boundaries of their role to avoid stepping on the toes of others, or the limitations of the system with the disclaimer they 'could not influence further.' The review team found the current system is not delivering outcomes for many reasons, but the lack of layered stewardship is one reason undermining successful system functioning.

A commonly expressed concern, especially from DCJ leaders, was the need for more clarity in roles and responsibilities across the system. We heard for example that there needed to be:

'Clearer delineation between NGO and government responsibilities. There is too much bleed between the two making it impossible to anchor accountability.' DCJ leadership workshop participant

This lack of clarity can have unintended consequences. We heard numerous accounts of administrative and compliance burden. We heard about social work staff writing dot points to manage risk or duplicating data entry due to inefficient systems rather than spending time with children and families and centring solid relational work with them to achieve outcomes. As one leader suggested, DCJ needs to:

'Be clear on expectations and then give agency to people to act and deliver on those expectations.' DCJ leadership workshop participant

We have observed significant gaps in capability with no clear understanding of performance expectations and shared outcomes across the program. This was unsurprising as the program currently lacks a performance and outcomes framework and robust cross program reporting, which is a major gap and risk for a program of this significance.

### **An out-of-home care Accountability Framework**

We recommend an Accountability Framework be developed for the out-of-home care program to better clarify roles, responsibilities, and expectations among all key stakeholders. The framework should be designed and implemented to ensure greater transparency and facilitate effective and more consistent decision-making across the system.

An effective Accountability Framework should serve as a foundational tool for driving program performance and achieving strategic alignment across the entire out-of-home care system. It can promote ownership and foster a culture of responsibility, integrity, and success, and should encompass several interrelated support frameworks, including:

- Governance to establish clear roles and responsibilities.
- Risk management to address potential challenges and mitigate them proactively.
- Performance and outcomes to measure effectiveness and ensure objectives are met.
- Financial oversight to ensure responsible resource use.
- Compliance to guarantee adherence to relevant laws and standards.

- Communications and reporting to foster transparency and stakeholder engagement that enables informed decision-making.

Together, these supporting frameworks can create a cohesive structure across the out-of-home care system, enhance accountability and drive continuous improvement.

They can also provide the appropriate scaffolding for staff to exercise agency. During this review, we observed considerable examples of compliance and administration in the wrong places.

An Accountability Framework can:

'Give space and time for quality relationship-based work to occur – with a focus on actual outcomes rather than compliance.' DCJ leadership workshop participant

Redesigning governance that sits within the proposed Accountability Framework invites DCJ to pivot and start again. It must be intentional and ambitious, and it should be accompanied by a well-considered implementation plan. The review team strongly encourages the importance of implementation and the need for that implementation to be adequately resourced with appropriate and capable people. It was evident throughout the course of the review that DCJ needs to improve its implementation capability. We heard from many stakeholders that 'implementation is as important as the recommendations'. Ensuring well-designed governance, along with well supported and sophisticated implementation, will be significant contributors to the new Accountability Framework. This will support DCJ staff to, as one DCJ workshop participant urged: 'deliver on what we say we will do'.

Figure 3.2: Proposed Accountability Framework



### Outcomes and performance

'Without an outcomes framework and a way to properly evaluate the system, how can evidence of a return on investment be collected?' NGO workshop representative

Frameworks designed for performance and outcomes must include rigorous mechanisms for evaluating the efficiency, effectiveness, quality and equity of services provided by, and on behalf of DCJ (including sub-contractors). It must establish clear key performance indicators and performance outcomes, introduce cost-benefit and program funding analysis and conduct outcomes-based evaluations across the out-of-home care program.

Throughout this review we heard the out-of-home care program lacks a framework to guide the measurement and delivery of outcomes, service quality and performance. We heard we are not measuring the right things, including measures related to the wellbeing of children and young people and their relationships, and that we need to know what is working and showcase it. Stakeholders told us:



'Quality is not measured. The focus is on numbers, compliance and dollars.'  
NGO representative

'If the wellbeing and thriving of children and young people is our ultimate outcome and the definition of quality, this is missing from the system. The OCG process is really the only measurement of quality and even then doesn't put listening to kids central to their processes.'  
NGO representative

'We need transparent quality assurance – to show what we do well and where we need to do better.'  
DCJ leadership workshop participant

Further, the PSP evaluation found the 'lack of available data, and mechanisms for collection, means DCJ and PSP providers are unable to systematically track services and supports delivered, how much specific services cost, and determine which services matter most for children's safety, permanency and wellbeing.'<sup>75</sup>

It is evident that timely, reliable, and meaningful data collection is currently lacking across the program, impeding evaluation and program improvement. In this absence many providers we met with, especially larger NGOs, have developed their own outcomes and practice frameworks that often span multiple programs across jurisdictions. Little of the data collected is available to DCJ and there is inconsistency in metrics used by individual NGOs to track outcomes and performance. However, we did observe a desire to collaborate with DCJ to improve this aspect of the program, with many providers telling us that they were just waiting for guidance from DCJ in this space. The review team welcomes recent commitments by DCJ to develop fit-for-purpose frameworks to provide this guidance and believe this must form part of an out-of-home care strategy going forward.

It is essential that the right information can be collected from the right partners across the program, in a timely way. Without quality meaningful measures, it is not possible to conduct evaluation, understand performance, outcomes or assess value for money. Data must be collected about who gets how much of what, how much it costs and what the impact is.

Data, and reporting of data, must also address more than a decade of community feedback that government data does not adequately reflect Aboriginal experiences, and that data is used for deficit-based reporting. This can include co-design of new data collection and transparent reporting in collaboration with community.<sup>76</sup>

'There is a need to create industry-wide metrics in consultation with the sector. Things that need measuring include metrics associated with improved wellbeing, quality of life, economic advancement of the community

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<sup>75</sup> Rose, V, Jacob, C, Roberts, J, Hodgkin, L, Shlonsky, A, Kalb, G, Meekes, J, Etuk, L and Braaf, R 2023, *Evaluation of the Permanency Support Program: final report*, Centre for Evidence and Implementation, Sydney, [https://dcj.nsw.gov.au/documents/service-providers/out-of-home-care-and-permanency-support-program/about-permanency-support-program-and-overview-childstory-and-oohc-resources/PSP\\_Evaluation\\_-\\_Final\\_Report\\_April\\_2023.pdf](https://dcj.nsw.gov.au/documents/service-providers/out-of-home-care-and-permanency-support-program/about-permanency-support-program-and-overview-childstory-and-oohc-resources/PSP_Evaluation_-_Final_Report_April_2023.pdf).

<sup>76</sup> Some shared decision-making forums have been established in this space that are yielding practical benefits. For example, DCJ has established a forum for the Pathways of Care Longitudinal Study (POCLS) that focused attention on cultural connection being a protective factor for Aboriginal children. DCJ has also developed an Aboriginal-led Data sharing dashboard to report ATSICPP key performance indicators.

## and wealth creation, resilience of communities' social cohesion, reduction in crimes etc.' NGO representative

Over the course of this review, we have likewise seen various models and practices implemented across the sector. We acknowledge the commitment to those models of care and practices in the absence of clear guidance from DCJ but have concern that such practices are not being comparatively analysed. A comparative analysis is important for several reasons. It enables performance to be benchmarked, helps to identify best practice and performance standards within the sector, and measures their effectiveness in delivering the objectives of the out-of-home care system. In addition, if completed on a regular basis, this type of analysis would help DCJ to pinpoint areas for improvement and provide opportunity to enhance the quality of services being provided to children and young people. Lastly, it would provide important insights to inform strategic planning and resource allocation for the out-of-home care system. This would enhance the sustainability of the program by making sure the NSW Government and DCJ invest in those specific areas that yield the best outcomes for children and young people.

### Recommendation 4

To strengthen accountability and value for money across the allocated \$2 billion out-of-home care system, DCJ must create an Accountability Framework that ensures it remains accountable for interventions in the lives of citizens, funding, and overall system stewardship. This framework must include rigorous mechanisms for evaluating the efficiency, effectiveness and equity of services provided by, and on behalf of DCJ (including sub-contractors). Specifically, DCJ should:

- a. Establish clear key performance indicators and performance outcomes, introduce cost-benefit and program funding analysis and conduct outcomes-based evaluations across the out-of-home care program.
- b. Complete a comparative analysis of service providers to ensure competitive value and continued improvement in the delivery of high-quality services to children and young people in out-of-home care.
- c. Conduct a comprehensive review of the out-of-home care contract management and governance arrangements, focusing on enhancing oversight, ensuring compliance and establishing clear monitoring and accountability measures.

## 3.2.5 Data and information

As outlined in the previous section, an Accountability Framework needs a solid foundation of accurate, reliable, timely, and meaningful information and data to enable its full functioning and to ensure the effective and efficient delivery of meaningful outcomes at an efficient cost. Operationally, organisations and partners in delivery, including caseworkers, support staff and carers, require such information to make timely decisions in the best interests of the child.

During the review it was evident that critical information relating to children and young people was not held in any one place and is not consistently accessed. This results in significant information gaps and inefficiencies throughout the system.

It is evident that DCJ must have a digital and data strategy to facilitate a source of truth across the out-of-home-care program, including any provider it funds. This also needs to facilitate data capture, information access, performance, and accountability. There must be financial investment at an enterprise level to mitigate current risks and ensure technology solutions are being used to enable business processes and client outcomes. All those working with children and young people should have access and be able to record critical information about children and young people in out-of-home care within one source of truth.

While DCJ implemented ChildStory in late 2017, and it underwent significant improvements in its first few years, it does not yet have a bidirectional application programming interface (API) with PSP providers. This means that DCJ uses ChildStory to record services delivered where it holds case management, and where PSP providers hold case management, they use their own data management system (noting there are 53 providers)<sup>77</sup> with most using their own Client Relationship Management (CRM) system. PSP providers continue to have restricted access and limited functionality via ChildStory Partner as its usability is impacted by policy decisions made since 2017 and the lack of an enterprise digital strategy from DCJ. Several PSP providers do not have a client relationship management system at all and are using spreadsheets.

The review team considered what information is held by DCJ where case management is allocated to a PSP provider. The team has formed the view this is minimal and insufficient as it relates to the individual child or young person, the requirements of DCJ, and the performance evaluation of PSP providers. This is a significant finding and concern for the review team.

Additionally, there is no integration between DCJ and the NSW Office of the Children’s Guardian, meaning PSP providers spend considerable time evidencing their work against the out-of-home care standards relating to accreditation. That same information is relevant for DCJ to assess against the PSP agencies’ performance. However, in the absence of an API to facilitate information sharing, resources are doing the work multiple times, both capturing the data, and then analysing it in multiple places. This is inefficient and ineffective.

The review team found there are considerable risks for children and young people and carers because of this fragmented system. A child or young person changing placements and across providers, does not have their history stored in one place, nor is it accessible from one place. In fact, parts of it are stored in multiple places. Additionally, when care leavers request to access their care history, they receive redacted documents from all different providers (including DCJ).

### **Case study 1**

Sam receives child protection services from DCJ. These services are not sufficient to assure his safety, so he enters care. This information is stored in ChildStory. Sam is then placed with Provider A for a short-term emergency placement, services received are recorded in their database. That placement ends and another short-term placement is found with Provider B. Information about Sam’s time in care with that provider is recorded in their data system. Sam is then moved to another carer, with Provider C. This information is recorded in their database.

Neither DCJ, nor Providers A, B or C, have an integrated digital solution, so the information remains stored in their respective databases. This creates poor visibility for those working with Sam. It means that when Sam is an adult and reviews his government records, it is possible he will not get access to all information and if he does, it will all look different and reflect the disconnected service system Sam experienced.

During the review, a consistent theme from service providers was to ‘fix ChildStory.’ The review team has considered this in depth. We consider many of the challenges in this space arise from the absence of a digital and data strategy for the out-of-home care program and DCJ policy restrictions that directly impact user experience of the system. These must be reviewed and reconsidered in responding to our recommendations.

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<sup>77</sup> Data source is Partnerships, Strategy, Policy and Commissioning, DCJ as at 1 July 2024.

There is considerable need to improve sharing of data to inform better decision-making between:

- Providers and DCJ.
- DCJ, providers and other agencies.
- DCJ, agencies and carers.
- DCJ and the regulator.

We heard about significant issues with agencies lacking information, and carers not having critical information to help meet the needs of children in their care, e.g. health needs. As the next section highlights, information sharing between DCJ, as the program funder and system steward, and regulatory bodies is inadequate.

The review team strongly recommend a review be undertaken of all relevant information-sharing protocols, practices and legislation to strengthen the sharing of information and enable coordinated service delivery. This review should incorporate Indigenous Data Sovereignty and Governance considerations.<sup>78</sup> This includes the expressed needs of community for access to data and the systems and capability needed to support capture and use.

### **Recommendation 5**

There is lack of capability, fragmentation and significant information gaps about children and young people across the whole out-of-home care system. DCJ must:

- a. Ensure its data sharing, integration and storage capabilities enhance security and enable key stakeholders to have timely access to critical care information.
- b. Create a single source of truth that incorporates all information relating to children and young people, including services provided, funding, performance, and contract management information.
- c. Review all relevant information sharing protocols, practices and legislation to strengthen the sharing of information to enable coordinated service delivery.

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<sup>78</sup> Indigenous Data Sovereignty and Indigenous Data Governance are inherent rights of Aboriginal peoples and communities to exercise ownership over and govern the collection and application of Aboriginal data. Resources can be found at <https://www.gida-global.org/>, <https://www.maiamnayriwingara.org/>, <https://www.kowacollaboration.com/>.

### 3.2.6 Role of the regulator

'Everything is provided to the Office of the Children's Guardian already who monitor performance. Maybe there needs to be more collaboration between the Office of the Children's Guardian and DCJ as often meeting standards can be in conflict with meeting contracting requirements.'

NGO representative

'We spend far too much time collecting evidence and not enough time working with the kids. We have non-stop reporting to the department, family and government bodies such as the Office of the Children's Guardian.'

NGO representative

The review team acknowledges the vital role the Office of Children's Guardian undertakes in promoting the safety and wellbeing of children and young people, including making sure that services provided to children and young people in out-of-home care meet established standards. Like the Advocate for Children and Young People, the Office of Children's Guardian advocates for children's rights and interests and is obligated to make sure that their voices are heard. Our review indicates unfortunately that the voices of children and young people remain absent across the entire out-of-home care system.

In discussion with service providers, it became clear that there is a lack of clarity between the roles and responsibilities of the Office of Children's Guardian and DCJ for monitoring performance, service quality, and delivery standards. While the Office of Children's Guardian performance reviews and accreditation assessments focus heavily on compliance against standards, service quality and assurance are often overlooked. Service providers have reported during this review that this process is cumbersome, onerous and often reduces itself to a mere 'tick-the-box' compliance exercise. This imposes significant administrative burdens on service providers and reduces time spent with children and young people in care. Additionally, service providers must repeatedly supply the same information to DCJ due to the department's lack of access to Office of Children's Guardian information, complicating reporting efforts for service providers and offering little value to the children and young people in their care. While service provider accountability for upholding standards cannot be diminished, the review team are of the opinion that there is opportunity for the Office of Children's Guardian and DCJ to work more collaboratively to reduce unnecessary demands and burdens on service providers, while maintaining accountability to standards and the delivery of quality services to children and young people in out-of-home care.

#### Reportable Conduct Scheme

During the review we heard harrowing stories of the impact of the Reportable Conduct Scheme, where allegations were made against carers, and children removed from school, without warning or notice. We heard instances where children and young people were removed from carers and placed in hotel/motel situations with untrained and inexperienced labour hire staff. Additionally, we heard these investigations were protracted in length and had significant consequences for carers' employment and livelihoods.

While the scheme is important to ensure that allegations against authorised carers are considered appropriately, we could not see evidence of natural justice, procedural fairness or consistency of action. The review team could see punitive, judgemental action taken by DCJ and PSP providers with little rigour, and careless regard for the impact of their decision on the children, young people or carers.

The 2022–23 NSW Office of the Children’s Guardian Annual Report<sup>79</sup> notes an increase in the number of notifications, inquiries initiated, and notifications closed (attributed to increased resources in 2022–23) in relation to the Reportable Conduct Scheme. For the 2022–23 reporting period:

- 3,661 matters were reported.
- There were 2,054 notifications, 34 per cent higher compared to the previous year.
- 746 inquiries were initiated under their general oversight, monitoring, complaint-handling and systems inquiry powers with all inquiries responded to and resolved. This was a 57 per cent increase in inquiries on the previous year (attributable to increased resources).
- 1,925 notification cases were closed over the reporting period, a 20 per cent increase on the previous year.
- 2,408 entity investigations were finalised. 54 per cent took more than 6 months to investigate.
- The average investigation completion time was over one year (440 days) - of those, 29 per cent were deferred or suspended. The average deferral period was 196 days.
- Of the 1,617 matters still open on 30 June 2023, 61 per cent had been active for over 6 months.

The Office of Children’s Guardian reports there are legitimate reasons for a deferral or suspension (such as health concerns for alleged victims or police investigations), however a portion of these matters are unreasonably delayed.

## Official Community Visitors

The review team had the opportunity to meet with several Official Community Visitors, who are independent statutory appointees of the Minister for Families and Communities, and Minister for Disability Inclusion and operate independent of service providers and government agencies. They carry out their role under the *Ageing and Disability Commissioner Act 2019*<sup>80</sup> and *Children’s Guardian Act 2019*<sup>81</sup>, and within the out-of-home care system they are primarily concerned with promoting the rights, needs and interests of children and young people in residential care by raising individual issues, and having regard to the overall conduct of services provided. Official Community Visitors have authority to inspect and visit services without providing notice and inspect documents related to the operation of the service. They help to resolve complaints or matters of concern directly with service providers or by further referral and report serious concerns to the Minister and the Children’s Guardian.

The Official Community Visitors raised several concerns about the quality of services when we met with them. These included concerns about the poor quality and suitability of housing, lack of engagement by casual staff with young people, overdue medical appointments, missing leaving care or transition plans, lack of learning engagement with young people when not attending school, insufficient clothing and food, and addressing safety concerns when young people feel unsafe due to placement mismatches. They also faced challenges in accessing information when visiting residential locations and were impacted by the lack of communication and timely information sharing across the system, including the movement of young people and a lack of knowledge about young people’s support plans.

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<sup>79</sup> NSW Office of the Children’s Guardian 2023, *NSW Office of the Children’s Guardian annual report 2022-23*, [https://ocg.nsw.gov.au/sites/default/files/2023-10/R\\_OCG\\_AnnualReport22-23.pdf](https://ocg.nsw.gov.au/sites/default/files/2023-10/R_OCG_AnnualReport22-23.pdf).

<sup>80</sup> Ageing and Disability Commissioner Act 2019, <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-2019-007>.

<sup>81</sup> Children’s Guardian Act 2019, <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-2019-025>.



While the review team commend the Official Community Visitors scheme and the commitment of those visitors to advocating for young people in residential care, concerns remain regarding unresolved safety, health and wellbeing issues, inadequate accommodation for young people in residential care and the limited and delayed communication with DCJ on critical matters. We recommend a review of the scheme to ensure that observations pertaining to the safety of children and young people, and the quality of services, are expeditiously shared with DCJ and the NSW Office of the Children's Guardian.

### **Recommendation 6**

The NSW Office of the Children's Guardian should:

- a. Collaborate with DCJ to clarify roles and responsibilities in the administration of duty, including the principles for sharing information and decision-making related to performance of service providers across the out-of-home care system and non-compliance with the Children's Guardian Act (2019) and related instruments.
- b. Review the Reportable Conduct Scheme, ensuring improved timeliness of investigations, procedural fairness and evaluation of the unintended consequences that can cause further harm and trauma on children, young people and carers affected by the scheme.
- c. Review the effectiveness of the Official Community Visitor Scheme. Observations pertaining to the safety of children and young people, and quality of services must be expeditiously shared with DCJ and the NSW Office of the Children's Guardian.

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## 3.3 Improving contracting and fiscal management

'I think it is important for DCJ to know which agencies are performing, and which ones are not. The agencies who are doing the right thing should be rewarded with more flexibility. There needs to be more oversight for HCEAs regarding performance.' NGO representative

The scope of our Terms of Reference specifically asked us to investigate the contractual and financial arrangements for out-of-home care and how value for money can be better realised including the suitability of subcontracting. Our key findings in relation to this are presented in this section and must be considered for immediate remedial action. These are essential elements of the Accountability Framework as we found overall the program lacks clarity in current contract management processes, resulting in the ineffective management of contracts. While service providers are contracted by DCJ to deliver services to DCJ clients 'on behalf of' the department, this relationship has not been effectively managed. This lack of clarity has led some service providers to believe the relationship should be based on 'blind trust' with less accountability on how government money is spent. However, a \$2 billion program designed to provide quality care and services to our most vulnerable children and young people, must have accountability and transparency - that should be a non-negotiable and must be rigorously upheld.

### 3.3.1 Governance, performance, and accountability in contract management

'Expectations are sufficient but standardised measures of performance against expectations is lacking.' NGO representative

As outlined in the previous section, this review has identified that the out-of-home care program has significant governance, performance, and accountability issues, which critically undermine the effectiveness of the program in achieving its overall objectives. These deficiencies not only hinder the program's ability to deliver value for money, but they also compromise the quality of services provided to children and young people. As a result, the intended out-of-home care benefits have not been realised, with significant overspend and a general failure in delivering the services that improve the overall wellbeing of children and young people. Additionally, without robust contract management practices, performance metrics and accountability across the program, the system will continue to struggle to meet its overall objectives.

We have found there is:

- A lack of clarity regarding roles, responsibilities, and accountability across the system. This has led to ineffective and inconsistent decision-making, reduced trust among stakeholders and the development of unclear performance expectations that negatively impact on program performance.
- Limited input from subject matter experts (SMEs) in the design and build of contracts by DCJ, has created ineffective terms and conditions.
- A lack of well-defined performance metrics (KPIs and outcomes) and inconsistent performance monitoring across the system, making it difficult to measure and ensure the quality and efficiency of services provided by service providers and DCJ are in the best interest of children and young people. Overall, there is a general lack of accountability by DCJ to hold service providers to account for performance and compliance.
- A lack of strong oversight, resulting in inconsistent decision-making and application of contract requirements. This weakness has limited transparency in contract management processes across DCJ districts and within the agency's hierarchy, and includes ad-hoc

practices, variability in contract execution and a general failure to monitor contract compliance, which potentially undermine public trust and accountability in the system.

- Limited consequences for service providers where non-compliance is identified, with DCJ lacking effective mechanisms and appetite for enforcing contract terms and imposing penalties for non-compliance, reducing the deterrent effect against deficient performance.
- District-level contract management staff lack sufficient training, supervision, and guidance on contract management, often focusing on relationships, rather than enforcing service provider performance. The review found a general reluctance to use proper contract management mechanisms when necessary.

Given the above findings, we consider a full review of the funding deed and agreements with the required SMEs is required to enhance governance and ensure service delivery expectations for the program are in line with the current system reform strategy. Clarity around roles, responsibilities and expectations is required, with agreement as to what practices and processes require standardisation so that enhanced transparency, accountability, and trust is restored in the contractual relationship with service providers. There is a need for DCJ to reconsider its current contract management resourcing, practices, and capability, as this review has identified several instances of contract inefficiencies, despite the best intentions of those managing and delivering the current commissioning and contracts for the out-of-home care program.

### **3.3.2 Due diligence and management of conflicts of interest in contracting and sub-contracting**

Effective due diligence and management of conflicts of interest by DCJ and service providers is fundamental to maintaining the integrity of out-of-home care contracting and subcontracting arrangements. The reasons for this include:

- It builds trust and credibility among key stakeholders and strengthens the credibility of DCJ, service providers and their decision-making processes.
- It assists in identifying and managing conflicts of interest and ensuring appropriate risk mitigation strategies are in place to avoid favouritism or biased decision-making that compromise contract and system credibility.
- It establishes clear accountability, responsibilities, and fairness in the process.
- It ensures adherence to legal and regulatory requirements, so organisations avoid potential penalties and maintain operational legitimacy.
- It builds credibility and trust in the services being provided and ensures transparency across the contract management process.

This review aligned itself with the NSW Treasury definition of value for money, which emphasises accountability in the use of public resources and the procurement of services in an efficient, effective, and ethical manner, consistent with NSW Government policies. The review evaluated due diligence, conflict of interest processes and contract management mechanisms to identify improvements that could improve positive outcomes and value for money across the system.

Clarifying the meaning of value for money in this context is essential, with a common misconception that efficiency in government spending is distinct from maximising benefits with available resources. This misunderstanding poses a significant risk to the out-of-home care system, potentially undermining accountability in spending decisions and particularly in how funds are allocated and utilised for services to children and young people. The NSW Government and DCJ must address this misunderstanding and risk diligently in consultation with service providers.

We have found there is/are:

- A lack of due diligence and processes utilised across the system to assess the suitability and reliability of those contracted and sub-contracted to perform a service 'on behalf of' the agency. DCJ has not stipulated this requirement clearly with service providers when they are conducting contracting or approving sub-contracting arrangements.
- A lack of robust procedures and oversight in place by DCJ to identify, manage and address non-compliance with conflicts of interest by service providers, with inadequate mechanisms for addressing and mitigating such conflicts.
- A lack of rigour and transparency in the current DCJ approval processes for sub-contracting by service providers.
- No current DCJ conflict of interest policy and procedures for managing conflicts by service providers. The review team note that a policy is currently being considered by DCJ.
- Identified instances of properties owned by companies in which a director/shareholder held a significant role within the service provider's corporate structure, with some of these properties contracted for use in the out-of-home care scheme. This may suggest that key individuals may be benefitting financially from the services provided by DCJ and the NSW Government.
- Certain service providers have established 'for profit' or 'legal related' entities to which services to the department are subcontracted at a higher cost, or where funds are moved out of the required holding trust once provided by DCJ.

To build trust and credibility within the out-of-home care system, DCJ must strengthen its due diligence and conflict of interest practices. This includes implementing rigorous due diligence processes, such as financial assessments and risk evaluations, selecting reliable and cost-effective service providers and expecting similar due diligence by service providers when they undertake sub-contracting. DCJ must enhance the oversight of conflicts of interest by enforcing stricter disclosure requirements and establishing clear procedures for managing conflicts and funding to ensure transparency and accountability. The review team are of the opinion that the last two practices being undertaken by service providers should be reviewed as to their appropriateness, especially where an entity or individual/s may be benefitting financially from the services being provided (in the short or long term), or where funds allocated are not able to be audited and accounted for.

### 3.3.3 Fiscal management in contracting with service providers

'Measuring contract volume and acquitting funding isn't sufficient.'  
NGO representative

Effective fiscal management within the out-of-home care system is critical for ensuring contracts are executed efficiently, outcomes are achieved, and DCJ and service providers operate within an allocated budget. During this review it was evident there are significant deficiencies in how the out-of-home care fiscal management systems and processes are administered by DCJ which potentially impact on contract performance, contribute to the current budget overrun and impact the financial integrity of the overall out-of-home care system.

We have found there is:

- Insufficient financial controls over the out-of-home care program, with inconsistencies identified with the current structure and funding level detail (Income and Expenditure) prepared by service providers. There is a lack of consistency in reporting direct and indirect costs and DCJ's review of Income and Expenditure Statements appear to be primarily limited to income accounts only.

- Weak fiscal management by DCJ, including a lack of timely reconciliation. As of August 2024, PSP Unspent Funds Reconciliation<sup>82</sup> had been prepared up to the period ending September 2022. The income and expenditure data post that date remained unreconciled, although statements were available up to the period ending June 2023. There would appear to be a timing delay between the receipt of income and expenditure and preparation of unspent funding reconciliations which has a significant impact on service providers.
- Limited monitoring or review procedures performed by DCJ regarding how service providers are using government funding provided to deliver services for children and young people.
- Lack of oversight by DCJ in the purchase and use of DCJ funds to purchase out-of-home care assets, nor their location or ownership status. There is likewise a lack of rigour by the department in assessing asset registers, viewing properties funded to deliver services or ensuring compliance with the funding deed as to their management.
- Inefficiencies in how DCJ undertakes invoice management processes, with evidence of limited processes and validation of invoices from service providers, discrepancies in payment amounts, and disjointed verification procedures that make it difficult for DCJ to track and address issues related to contract execution and financial performance.
- No evidence of regular financial audits of contract-related activities being conducted, which heighten the risk of financial errors and potential fraud and funding mismanagement practices going undetected.

## Considerations for improvement

DCJ must strengthen its budget control mechanisms, including its monitoring and reporting systems to ensure adherence to budgetary constraints, as current controls and financial reporting appear to lack rigour and may contribute to the current budget overrun being experienced across the out-of-home care system.

DCJ should develop and enforce standards for timely and accurate financial reporting and enhance invoice management practices to deliver processing and validation efficiencies, prevent discrepancies, and ensure services are provided directly to, and in the best interests of children and young people.

DCJ should implement regular and comprehensive financial and asset audits of contract-related activities and held assets by service providers to promote adherence with contracts, rectify discrepancies or potential issues and provide overall financial integrity and accountability of out-of-home care program deliverables. Improvements to the reconciliation and payment process for service providers are necessary, as current DCJ arrangements hinder providers' ability to fulfill contractual agreements.

Improvements should include a requirement for service providers to supply a detailed financial program breakdown, including operating costs (direct and indirect) and financial records that directly report on the allocation of funding to a child or young person's needs. While the review team acknowledge there is an operating cost in caring for these vulnerable children and young people, the money allocated by government should primarily be used to provide essential and direct services to children and young people, and there should be full transparency as to that spend. DCJ also has a responsibility to ensure its reconciliation process and payment schedules are undertaken in an expedient manner that does not leave service providers with a significant financial burden to

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<sup>82</sup> Unspent funds are funds provided by DCJ in relation to the services or project agreed in a contract that haven't been spent, including as a result of an underspend of the funds, and haven't been contractually committed to be paid to a third party (commitment to third party must be related to contracted services), NSW Department of Communities and Justice 2024, *Unspent funds*, dated 9 August 2024, <https://dcj.nsw.gov.au/service-providers/working-with-us/contract-management-policies-resources/unspent-funds.html>.

carry for unreasonable periods of time. The NSW Government in turn should consider the proper allocation of funds to effectively meet the requirements for administering service delivery to children and young people in the out-of-home care system. This funding should be subject to regular reviews to account for cost increases and guarantee that services remain responsive and sustainable to cater for the evolving needs of children and young people.

### 3.3.4 Inconsistent decision-making and practices across DCJ districts

'Ensure processes are consistent across districts, as an NGO that works across a number of districts it is hard to keep up with what is required.'  
NGO workshop representative

'DCJ district variances is a problem, what can we standardise to support processes?' NGO workshop representative

The effective management of service providers requires consistent and transparent decision-making and alignment with legislation, program objectives and operational practices. This review has identified and been told by service providers that there are significant inconsistencies across DCJ districts that affect coherence and the effectiveness of service delivery. Service providers who operate across multiple districts are significantly affected with the requirement to accommodate different processes and practices while delivering the same service.

We found and heard:

- DCJ districts exhibit a lack of uniformity in the application of DCJ procedures and decision-making processes as they relate to service provider management and delivery of the out-of-home care program. The current level of variability by decision makers leads to inconsistent contract application, standards and practices. This affects service quality and accountability.
- There is a disconnect between the DCJ executive, policy level and districts that appear to contribute to the inconsistent decision-making identified during this review. This fragmentation hampers the ability of DCJ to coordinate the delivery of services effectively and to identify and share best practice.
- There is a lack of monitoring and feedback mechanisms within DCJ to ensure alignment of district practices with established DCJ requirements. This lack of oversight and monitoring perpetuates the disconnect at the district level. This disconnect and lack of governance has created operational inefficiencies, duplication, and inconsistent implementation across the out-of-home care program and contracts.
- The disconnect has created operational inefficiencies, duplication, and inconsistent implementation of the out-of-home care program and contracts.

DCJ must standardise its decision-making procedures across all districts to ensure consistency in managing service providers and applying operational and administrative practices. Current and future policies must be clearly communicated and effectively operationalised within districts with appropriate accountability created to ensure compliance. DCJ should also establish appropriate monitoring and feedback mechanisms to regularly assess alignment of districts' practices.



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## 3.4 Streamlining and improving models of care

'The models of care need to be modernised and we need to pay carers accordingly. There will be no new carers very soon.' NGO workshop representative

'For children and young people with significant challenges, there needs to be more flexible options for this cohort of kids. Not just four-bed homes and we need more flexibility for high-needs foster care.' NGO workshop representative

A model of care describes the purpose and intent of a service, how it is to operate, what it is intended to achieve and how it is informed by evidence and best practice. Over the course of this review, we have seen inconsistent application of care models across the system with limited oversight and evaluation regarding effectiveness. We recommend the NSW Government and DCJ create effective models of care within the out-of-home-care system that cater for all children and young people, are clearly defined, evidence-informed, culturally appropriate, and cover a continuum from family preservation through to aftercare (see Figure 3.3).

This is essential to ensure the system can meet the needs of all children and young people where they are at in their care journey, and that the least intrusive and most effective and culturally appropriate response is provided, in a timely way and at an efficient cost. Such responses must be trauma informed and actively recognise the importance of relationships with and for children, young people, families and carers.

During this review, stakeholders have told us we need to 'reimagine' and modernise our models of care and expand effective models and practices. We heard that:

- The needs of children have changed and what we need from carers has changed.
- There should be 'more flexibility for high needs foster care,' including professional care models.
- We should 'scale good practice approaches and support providers to have the time to embed.'
- Relational approaches need to be embedded in the design and implementation of service models. This means meeting children and families where they are at and recognising their context and relationships, not viewing a child through the lens of managing risks to their physical safety.<sup>83</sup>

We heard it can be challenging for the sector to gain expertise in difficult and complex cases and that 'the sector needs to come together far better to have joint responses.'

The 'hybrid' system has created complexity and poor incentive structures. During this review we have seen evidence of effective programs and practices and share some of these in this section. We note that many organisations, especially larger ones with multiple services operating across jurisdictions have practice frameworks. But across the system we saw variation, duplication and unnecessary complexity without a clear and consistent evidence-informed basis for practice.

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<sup>83</sup> James Martin Institute for Public Policy 2024, *Supporting children and families to flourish: putting human relationships at the centre of transformational reform of the child protection and out-of-home care system in NSW*, James Martin Institute for Public Policy, Sydney [https://jmi.org.au/wp-content/uploads/2024/08/Web-Version-JMI\\_Supporting-children-and-families-to-flourish\\_Final.pdf](https://jmi.org.au/wp-content/uploads/2024/08/Web-Version-JMI_Supporting-children-and-families-to-flourish_Final.pdf).

Strong trauma-informed therapeutic supports must be supported by care models and DCJ has a role in setting the standards and expectations for these. The presence of a practice framework is positive, however where PSP providers had a practice framework, we could not see it connected to DCJ's. Additionally, DCJ potentially focuses and relies too heavily on their practice framework, in the absence of an Accountability Framework that defines roles and responsibilities and clear policies.

To reduce the need for High-Cost Emergency Arrangements, care models must be able to meet expected demand in coming years. While there has been a positive reduction in care numbers in recent years, there has not been a reduction in children entering or re-entering care at older ages and children who entered care when numbers were higher are now ageing through the system. High-Cost Emergency Arrangements are typically, although not exclusively, used for older children.<sup>84</sup> The system must be able to meet their needs, and scale effective supports up and down over time.

In our recommended care continuum, we do not include High-Cost Emergency Arrangements. We agree with the view shared with us by service providers that 'there needs to be more oversight for High-Cost Emergency Arrangements regarding performance'. However, we consider there should be a strategy to end all ACAs and IPAs where possible and ensure all service models and responses are underpinned by a consistent model of care. There is clear evidence that the models are not being implemented as intended, for example, the STEP model was designed for a 12-week setting but many children and young people are on extension after extension. A set and forget consequence was evident throughout the course of our review. Going somewhere, just anywhere is a low bar and DCJ should be setting a bar high enough for children and young people in out-of-home care to be in the best possible place, their progress tracked, safety assured and where loneliness is not the common denominator. High-Cost Emergency Arrangements are a symptom of poor system functioning, poor design and poor implementation and should reduce if the multiple recommendations in this review and considerations shared with the DCJ Secretary are effectively implemented.

The care model continuum may need to cater for one-on-one situations; however, they should be on an exception basis and time limited. Large rotating care teams should be avoided. The longer children and young people are left in these one-on-one situations it becomes their 'normal', inhibiting their ability to transition to step down options. It is important to reaffirm that one-on-one situations are costly. While the average cost of a one-on-one arrangement is currently around \$1m per annum, the review team have seen some costings seeking approval for upward of \$3m per annum. While achieving positive outcomes for children and young people is paramount, of equal importance is the fiscal environment and the expectation to spend within budget and justify the use of taxpayer dollars.

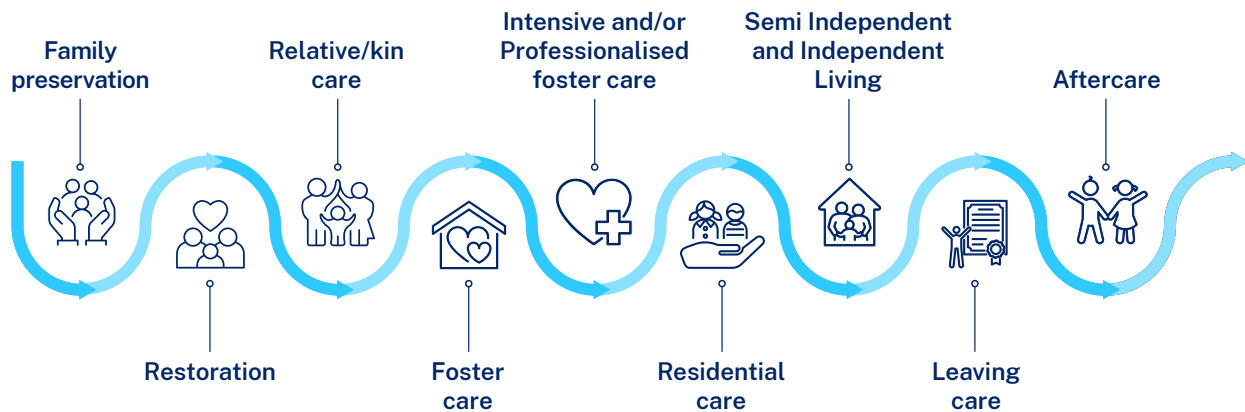
The care model continuum must be developed with the ability to increase and decrease volume quickly. Additionally, the review team suggests caution where new terms are created to hide undesirable arrangements. This review calls for an end to smoke and mirror models, where a new name is given to an arrangement that just becomes a place where children and young people get lost in a chaotic, reactive system. There must be greater oversight and accountability in the system to ensure we do not accept mediocrity in the care of children and young people in out-of-home care.

Models of care must be evidence informed and evaluated to ensure they are delivering the desired outcomes, and there must be ability to pivot where models need to look different for different children and young people in out-of-home care.

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<sup>84</sup> Internal Family and Community Services Insights, Analysis and Research (FACSIAR) reporting shows two-thirds of children in High-Cost Emergency Arrangements at the end of August 2024 were aged 11 to 17 years, NSW Department of Communities and Justice.

Figure 3.3: Continuum of care models



The following sub-sections share findings and insights from this review related to the effectiveness of aspects of the continuum of care and include suggestions for improvement.

### Recommendation 7

There is inconsistent application of care models across the out-of-home care system with limited oversight and evaluation regarding effectiveness. The NSW Government and DCJ should create effective models of care within the out-of-home-care system that cater for all children and young people. These models need to be clearly defined, evidence-informed and culturally appropriate. The continuum must cover:

- Family preservation.
- Restoration.
- Relative/kin care.
- Foster care.
- Intensive and/or professionalised foster care.
- Residential care.
- Semi-independent and independent living.
- Leaving care.
- Aftercare.

### 3.4.1 Working with families

Every effort should be made to provide the least intrusive action that stabilises and holds families together. Family preservation, family finding, family time and contact, and restoration all need to be effectively supported across the system.

As already outlined at recommendation 2 (section 1.3), the system needs to resource effective work with families and ensure that children are not removed from families to worse and more costly situations that could have been avoided with earlier support for the parent. Promising models that improve pre-natal support and reduce the incidence and trauma of removals at birth, such as

Pregnancy Family Conferencing, currently being rolled out statewide, are a critical part of the system.<sup>85</sup>

Effective family finding is essential for children and young people in care, as it connects them with relatives who can potentially provide stability, support and a sense of belonging. This process can strengthen family and cultural ties and can lead to long-term placements that improve their mental health and overall stability.

We have observed both strong and insufficient examples of family finding efforts, with DCJ and service providers often failing to initiate this work comprehensively or early enough. It too has become a 'tick-the-box' compliance activity, where staff do it at some point, and consider it done, including counting a Facebook message as 'good enough' family finding. Good family finding should be a continuous and proactive process to engage known family and constant seeking to find unknown family. When done well, it plays a crucial role in supporting connection. Barriers to engagement in Family Group Conferencing should likewise be addressed to enhance the effectiveness of the process. In the Children's Court of NSW *Department of Communities and Justice (DCJ) and Paul Robertson and Sadie Ford, 2024* case, the magistrate criticised inadequate permanency planning, and a lack of thorough family finding and parallel planning, with attempts reported to the court described as scant, superficial and confusing.<sup>86 87</sup>

Service providers told us about challenges in enabling continuity in case management and relationships when delivering programs across the service continuum from family preservation, to out-of-home care, to restoration. Significant improvements must be made in enabling restorations. This was not sufficiently incentivised under the PSP. Practice improvement could be achieved by ensuring a separation between the DCJ casework teams that remove a child from those that work on restoration and permanency goals. To avoid return breakdowns, which research has shown leads to poorer outcomes for children and young people, reunification decisions need to involve early intervention, proactive planning, robust assessments, engagement and collaboration with children and their families, maintenance of family time, and post-reunification support and services.<sup>88</sup>

Encouraging quality engagement and family time is important in improving outcomes for children and promoting positive relationships between children and their families. While contact does not directly lead to reunification, it can be helpful in making reunification successful. Carers need to be supported in their engagement with families and in managing uncertainty and complexity, especially where there is a restoration goal.

It was evident throughout the review that many young people when exiting care reconnect with their family of origin. The system must ensure these young adults are 'not strangers'<sup>89</sup> within their own family units. When exploring out-of-home care systems internationally, other jurisdictions have different legislative powers and do not sever or remove parental responsibility from birth families. The review team did not have sufficient time to consider this in greater depth and as such have not made any recommendations or considerations on this aspect. However, it should be carefully

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<sup>85</sup> Eastwood, JG, Shaw, M, Garg, P, De Souza, DE, Tyler, I, Dean, L, MacSween, M and Moore, M 2019, 'Designing an integrated care initiative for vulnerable families: operationalisation of realist causal and programme theory, Sydney Australia', *International Journal of Integrated Care*, vol. 19, no. 3, Art. 10, <https://doi.org/10.5334/ijic.3980>.

<sup>86</sup> NSW Department of Communities and Justice (DCJ) and Paul Robertson and Sadie Ford 2024, NSWChC 13, <https://www.caselaw.nsw.gov.au/decision/191926d21a467e05297320bd>.

<sup>87</sup> National Institute for Permanent Family Connectedness 2020, *What is family finding and permanency*, <http://www.familyfinding.org/>.

<sup>88</sup> Farmer et al. 2011 cited in Farmer, E 2018, *Reunification from out-of-home care: a research overview of good practice in returning children home from care*, University of Bristol, [https://research-information.bris.ac.uk/ws/portalfiles/portal/174570240/web\\_Reunif\\_LitRev\\_12\\_.pdf](https://research-information.bris.ac.uk/ws/portalfiles/portal/174570240/web_Reunif_LitRev_12_.pdf).

<sup>89</sup> Aunty Debra Swan, Grandmothers Against Removal NSW, via personal communication, 2024.

considered with legislative reviews in due course. While DCJ has not historically sought an order for shared parental responsibility between the government and the family of origin, a serious change to the current system is needed to honour relationships and keep children and young people connected to their families of origin.

### 3.4.2 Home-based care

Most children in out-of-home care (90 per cent) are in home-based care looked after by relatives, kin or foster carers. This will continue to be the core of the system and provides the best opportunities for children to grow up in stable, connected environments. However, to deliver the best possible outcomes, models of home-based care need to be based on a partnership with carers and meet the realities of family and economic life in the twenty-first century.

Placement with kin and family where it is safe to do so should always be a priority. Findings from the NSW Pathways of Care Longitudinal Study<sup>90</sup> show that compared to children in foster care placements, children in relative/kinship placements have slightly better developmental outcomes, are less likely to experience placement instability, and have more frequent family and sibling contact. However, relative/kin carers may be less prepared for their carer role, be less resourced financially and have less access to pre-placement and ongoing training and support.<sup>91</sup> The system needs to be able to recognise and support the needs of relative/kinship carers as this group of carers grow.

Numerous recent reports have identified the factors contributing to a declining foster carer pool including economic, social and system factors.<sup>92 93 94</sup> While most foster carers have indicated they are not motivated by economic factors, this can nonetheless be a barrier to caring.<sup>95 96</sup>

Section 3.6 addresses our findings about carer recruitment and support (in response to Terms of Reference 2.1.2) in greater detail. It outlines how to better partner with carers to achieve outcomes for children and young people across the system.

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<sup>90</sup> NSW Department of Communities and Justice 2024, *How do relative/kinship carers and foster carers differ in their characteristics, wellbeing and support needs?*, Pathways of Care Longitudinal Study Evidence to Action Note Number 13, <https://dcj.nsw.gov.au/documents/about-us/facsiar/pocls/pocls-publications/how-do-relative-kinship-carers-and-foster-carers-differ.pdf>.

<sup>91</sup> NSW Department of Communities and Justice 2024, *How do relative/kinship carers and foster carers differ in their characteristics, wellbeing and support needs?*, Pathways of Care Longitudinal Study Evidence to Action Note Number 13, <https://dcj.nsw.gov.au/documents/about-us/facsiar/pocls/pocls-publications/how-do-relative-kinship-carers-and-foster-carers-differ.pdf>.

<sup>92</sup> Association of Children's Welfare Agencies (ACWA) and Lumenia 2024, *The future of foster care in NSW*, ACWA, Sydney, <https://www.acwa.asn.au/wp-content/uploads/2024/09/ACWA-The-Future-of-Foster-Care-in-NSW-WEB.pdf>.

<sup>93</sup> Association of Children's Welfare Agencies (ACWA) and The Demographics Group 2024, *Demographic Outlook: impacts on the availability of foster parents*, ACWA, Sydney, [https://www.acwa.asn.au/wp-content/uploads/2024/08/2024\\_ACWA\\_Demographic-Outlook\\_R\\_2307.pdf](https://www.acwa.asn.au/wp-content/uploads/2024/08/2024_ACWA_Demographic-Outlook_R_2307.pdf).

<sup>94</sup> NSW Independent Pricing and Regulatory Tribunal 2024, *IPART out-of-home care costs and pricing – interim report - overview for carers*, [https://www.ipart.nsw.gov.au/sites/default/files/cm9\\_documents/Information-Paper-Interim-Report-Overview-for-Carers-September-2024.PDF](https://www.ipart.nsw.gov.au/sites/default/files/cm9_documents/Information-Paper-Interim-Report-Overview-for-Carers-September-2024.PDF).

<sup>95</sup> Qu, L, Lahausse, J and Carson, R 2018, *Working Together to Care for Kids: a survey of foster and relative/kinship carers*, Research Report, Australian Institute of Family Studies, Southbank, Vic., [https://aifs.gov.au/sites/default/files/publication-documents/working\\_together\\_to\\_care\\_for\\_kids\\_research\\_report\\_0\\_0.pdf](https://aifs.gov.au/sites/default/files/publication-documents/working_together_to_care_for_kids_research_report_0_0.pdf).

<sup>96</sup> My Forever Family NSW 2022, *NSW carer survey 2022: report of findings*, [https://www.myforeverfamily.org.au/wp-content/uploads/2023/04/MFF-2022-Carer-Survey-Report\\_FINAL.pdf](https://www.myforeverfamily.org.au/wp-content/uploads/2023/04/MFF-2022-Carer-Survey-Report_FINAL.pdf).



Terms of Reference 2.1.3 asked us to consider the effectiveness of foster care utilisation by providers in meeting placement demand. To answer this question DCJ partnered with ACWA to examine the availability and utilisation of foster and relative/kinship carers authorised by NGOs in NSW. Findings from this analysis were provided for use in this review. These show only a small proportion of current carers authorised by non-Aboriginal NGOs, 3.1 per cent, are available for a placement.

In terms of the model of care, the carer utilisation project and our review have heard concerns about the need for more home-based options and solutions to prevent entry to and transition children out of High-Cost Emergency Arrangements. These include interim care models, supported independent living models, innovative staffing and carer recruitment, and wraparound supports during staged transitions. Providers have reported that PSP packaging does not enable flexible child-centred strategies to move children out of High-Cost Emergency Arrangements and the pressure to move children quickly may lead to poor decisions and outcomes. The need to increase specialised and professionalised care models has been a consistent theme.

### **Utilisation of carers by service providers to meet demand**

DCJ conducted data analysis by matching its ChildStory placement data with that from the NSW Office of the Children's Guardian's Carers Register. This was provided to agencies for review and remediation. The updated data was then used to support semi-structured interviews with all NGO foster care providers to understand how many carers were available to take placements, and the barriers and facilitators of carer utilisation.

The initial data matching identified 1,850 carer households authorised by non-government agencies not matched to a current placement, out of a total of 4,776 carer households across all 27 non-Aboriginal NGOs. At the conclusion of the project 149 of these carer households were available for a placement in NSW (of which 31 were in the process of being matched with a child). This represents 3.1 per cent of all NGO authorised carer households who participated in the project. Of those available carers, the majority had authorisation restrictions or preferences in place that limited their ability to be matched to a placement. These included child-related factors such as only wanting children with no behavioural concerns or diagnoses, or carer household considerations such as work and family commitments.

Interviews with providers identified a range of system issues related to placement processes, poor information sharing, varied systems to monitor and manage carer availability, inconsistent and duplicative processes across districts, and concerns about rigidity, delays and inefficiencies with the system of complex needs and additional carer support packages.



### 3.4.3 Professionalised and therapeutic foster care

'Children with more complex needs, usually for those that come into care later and have experienced more trauma, need highly skilled carers that are remunerated in a way to allow them to do what is required. This is not the standard family unit with young children.' NGO workshop representative

A common theme we have heard throughout this review has been the need to introduce and support better scaling and utilisation of therapeutic, intensive and professionalised models of care within the system. These models enable professional paid carers or specialised carers who may be paid a higher care allowance, to be provided with training and support to work more closely with children and young people. This is seen as a critical piece in the service mix to stabilise placements, avoid entry to High-Cost Emergency Arrangements and residential care, and support successful restorations and improved outcomes.

In NSW, a range of approaches are used (see below). We consider these should be more intentionally built into the system and welcome announced commitments by DCJ to develop a local professionalised model. This must be evidence-informed and build on learning from existing models within the system. Where existing models of therapeutic home-based care are working and cost-effective, consideration should be given to how they can be supported, improved and if appropriate expanded to meet demand.

#### Professionalised and therapeutic foster care programs

The therapeutic foster care programs with the most robust evidence internationally include Treatment Foster Care Oregon (formerly Multidimensional Treatment Foster Care), Together Facing the Challenge (TFTC), Intensive Alternative Family Treatment (IAFT®), Teaching Family Model (TFM) and Keeping Foster and Kin Parents Supported and Trained (KEEP).

TFCO is currently implemented in NSW, while still on a small scale. Other approaches include Professional Individualised Care (PIC) and Therapeutic Home-Based Care (THBC). THBC is currently implemented through the residential care program and provides one-on-one home-based care for children and young people over 12 years old who have complex care needs. Other programs that modify the traditional foster care model, and pay a higher carer allowance, include the temporary foster care (TFC) program implemented by Barnardos. TFC carefully recruits carers to provide short-term care to actively support restoration, family contact and parenting skills. While the program has not been evaluated it appears to be seeing some positive outcomes.

#### Treatment Foster Care Oregon (TFCO)

Treatment Foster Care Oregon is a model of intensive therapeutic foster care developed by the Oregon Social Learning Centre in 1983. In the TFCO program, young people with complex needs are placed with a skilled foster carer in a home-based setting, who provides one-on-one supervision and support.<sup>97</sup> TFCO has been rigorously evaluated and implemented in several countries.<sup>98</sup> In NSW it is delivered by OzChild. The model employs specially trained foster carers who work as part of a team, including a program supervisor, family therapist, individual therapist, and skills trainer. Carers

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<sup>97</sup> The California Evidence Based Clearinghouse for Child Welfare n.d., *Treatment Foster Care Oregon - Adolescents (TFCO-A)*, CEBC, San Diego, CA., <https://www.cebc4cw.org/program/treatment-foster-care-oregon-adolescents/>.

<sup>98</sup> Åström, T, Bergström, M, Håkansson, K, Jonsson, AK, Munthe, C, Wirtberg, I, Wiss, J, and Sundell, K 2020, 'Treatment Foster Care Oregon for delinquent adolescents: a systematic review and meta-analysis', *Research on Social Work Practice*, vol. 30, no. 4, pp. 355–367, <https://doi.org/10.1177/1049731519890394>.

receive intensive training and support with children and young people placed for 6 to 12 months in their home. The model is not designed as a long-term care option.

### Professional Individualised Care (PIC)

Professional Individualised Care (PIC)<sup>99</sup> is a relationship-based model where one young person lives in the home of a professional therapeutic carer and receives professional and therapeutic intervention. PIC allows skilled paid carers the time and autonomy to build genuine, lasting relationships with children, in contrast with clinical models of care. The model has been implemented in NSW and is based on a model from Germany. The evidence-base for PIC in NSW is still developing. To date, there has not been a formal outcome evaluation of PIC in NSW due to the sparse numbers of young people in the program. PIC is based on the social pedagogy approach which has been implemented in Denmark, France, Germany, Sweden and more recently, in the UK. The approach 'takes a holistic view of the child as a person with mind, body, feelings, sociability and creativity' (p.74) where the pedagogue (worker) is a highly trained professional in either a theoretical field or social policy.<sup>100</sup> The approach operates differently in each country.

### 3.4.4 Therapeutic residential care

'If I do have a friend, which I don't, I can't even invite them over... I can't even invite my aunty in, if she comes and visits, which rarely happens because she works all the time I can't invite any family over, because of the other kids.'  
Felix, 15 years, residential care research participant

'I would actually like a pet...teach me more responsibilities and I won't hurt the pets. I'm really good with pets.'  
Owen, age 12, residential care research participant

Intensive Therapeutic Care (ITC) is a service system that helps children who are recovering from the most severe forms of trauma, neglect, abuse or adversity. ITC is for children over 12 years of age with complex needs who are either unable to be supported in foster care or require specialised and intensive supports to maintain stability in their care arrangements. ITC is in line with the NSW Therapeutic Care Framework<sup>101</sup> and was intended to replace residential care across NSW over a two-year period (transition to be completed by December 2024). Children are referred to ITC through a centralised referral pathway (the Central Access Unit).

Under the ITC system, short-term Intensive Therapeutic Transitional Care (ITTC) is provided for up to 13 weeks to help children step down into less intensive types of care. The ITC system was designed to decrease the time children spend in intensive out-of-home care services and help provide clearer pathways to permanency.<sup>102</sup>

Funding for Intensive Therapeutic Care Homes (ITCH) and Intensive Therapeutic Care Significant Disability (ITC SD) is made up of a combination of a house package (a payment for two- or four-

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<sup>99</sup> Professional Individualised Care nd, *About PIC*, <https://pic.care/about-pic>.

<sup>100</sup> Petrie, P 2007, 'Foster care: a role for social pedagogy?' *Adoption and Fostering*, vol. 31, no. 1, pp. 73–80, <https://doi.org/10.1177/030857590703100111>.

<sup>101</sup> NSW Department of Family and Community Services and The Association of Children's Welfare Agencies 2017, *NSW Therapeutic Care Framework*, [https://dcj.nsw.gov.au/documents/service-providers/out-of-home-care-and-permanency-support-program/itc-icm-and-sil/3859\\_FTOOHC-Detailed\\_WEB\\_R2.pdf](https://dcj.nsw.gov.au/documents/service-providers/out-of-home-care-and-permanency-support-program/itc-icm-and-sil/3859_FTOOHC-Detailed_WEB_R2.pdf).

<sup>102</sup> Centre for Excellence in Therapeutic Care (CETC) 2019, *The 10 essential elements of Intensive Therapeutic Care in NSW*, CETC, Sydney, <https://www.cetc.org.au/wp-content/uploads/2022/07/10-essential-elements-practice-guide.pdf>.

bedroom houses), and a child baseline package (per child in a placement). Throughout the review period we heard from service providers about the challenges with the current four-bedroom model (noting there were a couple of providers who preferred this model). We heard there were volume issues, vacancy management issues and significant challenges in matching the right young people to co-exist in a four-bedroom model.<sup>103</sup> There is commentary from young people interviewed in other reports and research projects, where they say that being in a house with three other high-needs young people and forming relationships is difficult due to trauma needs and that they would like to see smaller numbers of young people matched to share the same house.

There are also two-bedroom set ups, which are a formal part of the system. Emerging in greater numbers are three-bedroom arrangements. While these do not feature as part of the formal model, potentially DCJ should accept that matching three young people with high needs is more likely to be achievable than matching four young people with high needs.

The other significant consideration is access to houses. Given the current housing crisis in NSW, we heard from many service providers that securing large enough premises is exceedingly difficult (noting four-bedroom models required a fifth bedroom for staff overnight). It is useful to note that in the review team's global scan, governments in some other jurisdictions held all the residential care stock ensuring that access to property remained within the government's direct purview. If considered in NSW, this might lend itself to more strategic risk assessments for matching, property damage and insurance.

The review team commends the NSW Government taking steps to ensure it can be the provider of last resort in the residential care component of the system and encourages future expansion for DCJ-delivered residential care.

The review team encourages policy makers to ensure local engagement plans are developed and implemented. This would include advising local police, school, and health facilities of the establishment of an ITC house, and ensuring all government agencies are advised and prepared to deliver the right services, at the right time, to young people with high needs.

The review team noticed that while considerable effort was directed to make the houses we visited feel homely, they are not normal homes. There are multiple cars at each address, numerous people coming and going, locks on some doors, security cameras and an artificial home-like environment. DCJ should conduct regular global scans to see how residential care is being improved in other jurisdictions and look to continuously improve the model.

This includes ensuring models are genuinely therapeutic and based on evidence, and where the model of care, staffing, and practice strengthen young people's connections. Young people in out-of-home care do not only need somewhere to live and resources provided for appropriate services, in a relational system, 'therapeutic care integrates meaningful relationships that set up children for a lifelong sense of connectedness and purpose.'<sup>104</sup> The box below shares findings from recent research involving young people in residential care in NSW and their suggestions for improvement that strengthen relational practice.

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<sup>103</sup> Compatibility issues are frequently identified by Official Community Visitors as impacting young people in residential care. OCVs examined this systemic issue in their 2022 to 2023 annual report, NSW Ageing and Disability Commission 2023, *Official Community Visitors annual report 2022 to 2023*, [https://ageingdisabilitycommission.nsw.gov.au/documents/submissions/Official\\_Community\\_Visitor\\_2022\\_2023\\_Annual\\_Report.pdf](https://ageingdisabilitycommission.nsw.gov.au/documents/submissions/Official_Community_Visitor_2022_2023_Annual_Report.pdf).

<sup>104</sup> James Martin Institute for Public Policy 2024, *Supporting children and families to flourish: putting human relationships at the centre of transformational reform of the child protection and out-of-home care system in NSW*, James Martin Institute for Public Policy, Sydney, [https://jmi.org.au/wp-content/uploads/2024/08/Web-Version-JMI\\_Supporting-children-and-families-to-flourish\\_Final.pdf](https://jmi.org.au/wp-content/uploads/2024/08/Web-Version-JMI_Supporting-children-and-families-to-flourish_Final.pdf).

The review team encourages more strategic development of residential care models and while DCJ has been undertaking the ITC expansion, it (for many reasons) is taking too long. DCJ procurement needs to be more effective in expanding or procuring new providers when considering the models of care for high needs children and young people. Providers need to ensure they can deliver when committing to the procurement requirements. Timeframes need to be effectively managed to ensure this is not another area of drift in the system.

The Official Community Visitor scheme is important to mention at this point in the report. The Official Community Visitors described some of the accommodation they visited as 'slums.' They spoke of damage to the properties and of vulnerable young people living in environments worse than the ones they were originally removed from. The current process is for the Official Community Visitors to liaise with the service provider and report to the NSW Office of the Children's Guardian. Given DCJ is responsible for overall stewardship of the system, contract managing and funding, the review team recommends the Official Community Visitors be obliged to report service-delivery concerns and performance-quality concerns directly to DCJ. DCJ should respond immediately to allegations of poor living conditions in residential care.

### **Strengthening connections and relationships for young people in residential care in NSW**

A current participatory research project in NSW<sup>105</sup> is examining the relational practices that enable and constrain positive trusting relationships and social connections for young people living in Therapeutic Residential Care within and beyond the immediate care setting. As part of this project young people made suggestions about what needs to change. Their top suggestions included:

- Changes to the policies and rules to tailor to individual child's needs and facilitate building relationships and connections inside and outside ITC.
- Ensure staff are spending enough time with young people and display genuine care and interest.
- Make sure the environment is 'homely' and young people feel comfortable in every space of the house not just their bedroom.
- Have a consistent care team and more staff who genuinely care for young people.
- More funding for essentials such as food, clothes, activities and transition out of ITC.

Some of **what young people said** about relational practice:

*'They're [workers] rude. You can tell they're not there to interact with you. You can tell they're not full of heart for you. They don't care. They're just here because it's an easy job because they run a house and they're getting paid for it.'* Girl, 17 years

*'A good worker, for me, is someone who's dedicated, who won't complain about how much work they're being given, who won't be on their phone all the time. I like workers who are dedicated, who really love people, love working with these people.'* Evelyn, 14 years

*'I don't get a choice. I don't get a say on where I live. I go through the right complaints and everything, but they end up nowhere. Nothing really happens. One of the bosses came to speak with me, and I spoke with them and I told them all my concerns and issues, and nothing's happened.'* Felix, 15 years.

*'Every time I got sad, she [worker] knows actually what to do. She'll talk to me about it. She's the one*

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<sup>105</sup> McPherson, L, Canosa, A, Gilligan, R, Moore, T, Gatwiri, K, Day, K, Mitchell, J, Graham, A, and Anderson, D, 2024, *Young people's lived experience of relational practices in therapeutic residential care in Australia*, Pre-print, Southern Cross University, <https://doi.org/10.25918/preprint.407>.

*that knows for people that have ADHD what to do. And with depression, anxiety, she actually knows what to do.' Boy, 16 years*

*'Interact more with the kids because some carers don't interact with us all that much. They're in the office probably on their phones or doing reports.' Boy, 17 years*

*'She [worker] used to be one of my workers in [town name]. I still talk to her occasionally. One of the best women I've ever met in my life. She genuinely cared.' (girl, 18 years)*

*'This time, he [worker] organised it without me asking but it's just he noticed I want more contact with them, so he's trying to make more. I think he said he's trying to get me to see them every holiday.' Boy, 15 years*

### 3.4.5 Leaving care and aftercare

**'Our kids need to do life skills programs, to prepare for independent living, more age-appropriate cultural programs during school holidays for our young Indigenous teenagers.' Aboriginal relative/kinship carer, 2024 Carer Survey**

Children and young people are supported to commence leaving care conversations from the age of 15. While the review team agrees that this type of planning is critical to start early, it is essential to recognise that most young people in out-of-home care at this age are unsure about life plans, are still trying to achieve a sense of belonging and are searching for connection. The review team heard that leaving care planning is inconsistently delivered across the hybrid model. The lack of accountability and stewardship from DCJ and PSP providers impacts the ability to plan and support adolescents as they move into adulthood.<sup>106</sup>

The cycle of poverty is one that should be considered by government when planning to support adolescents in out-of-home care as they transition to adulthood. The focus should be on education, employment, housing, independence, building life skills like budgeting, cooking, physical, social connection and mental wellbeing. The system should work with these young people to ensure they have strong relationships, important and lifelong connections, and an ability not just to be able to function as an individual but ideally contribute to community.

During this review we observed agencies and programs that were actively working with young people to prepare for their future and support their transition to independence.<sup>107</sup> We also saw evidence of inconsistent practice and lack of implementation. Aftercare programs funded by the government should help young adults continue to achieve best outcomes after they exit from care. The review team would like to see employment programs, housing programs and other key components for successful futures feature as part of leaving care and aftercare policy settings.

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<sup>106</sup> As at 30 June 2024, 80 per cent of young people in out-of-home care aged 15 to 17 years had a leaving care plan. A range of systemic issues have been identified with leaving care planning and aftercare support, including by Official Community Visitors in their recent annual report for 2022 to 2023.

<sup>107</sup> For example, Uniting has developed and evaluated (over a five-year pilot) their Extended Care Program and offer other NSW Government-funded programs such as the Premier's Youth Initiative, and Specialist Aftercare, which provide a strengths-based model tailored to the individual needs of the young person. Information on their evaluation is available here <https://nousgroup.com/case-studies/oohc-evaluation?r=AU>.



### Systemic issues with leaving care planning identified by Official Community Visitors

Official Community Visitors in their 2022 to 2023 annual report<sup>1</sup> identified a range of systemic issues with leaving care planning for young people they visited in residential care. They found leaving care plans were not consistently in place and young people were not always engaged in the leaving care process. Some of the factors contributing to this were outside the control of the service provider as they were waiting for a leaving care plan to be provided or endorsed by DCJ who had primary case management responsibility. While the Official Community Visitors observed good practices, a major overall concern was lack of implementation. This has a significant impact on young people. Official Community Visitors observed some of the young people they visited were highly anxious about what would happen to them once they turned 18. For example, one Official Community Visitor expressed that a young person said, 'they were scared and distressed that they would become homeless when they leave care, as they have friends who had been in care and were now homeless'.

### 3.4.6 Assessing needs and levels of care

'The application of CAT to align with child needs is more often than not inadequate, so would recommend a different approach to measuring and corresponding with funding.' NGO workshop representative

'The funding model and administrative burden is negatively impacting capacity to meet kids' needs. For example kids with a CAT of medium may not qualify for Additional Carer Support (ACS) packages and therefore don't allow for additional resources to meet the kids needs.' NGO workshop representative

Crucial information is required to decide the appropriate model and level of support needed, and to monitor and evaluate the performance of services and the impact of that support. During the review, it was evident that most decisions regarding the model of care a child or young person can access are underpinned by the Child Assessment Tool (CAT). We heard that the CAT can be flexed where needed to move children and young people in and out of residential care (noting it is mostly moving them in) and does not pick up all the aspects of children and young people (such as disability and trauma). We have widely heard that the CAT is ineffective in assessing children's needs and allocating appropriate funding. The Hughes review,<sup>108</sup> supported by financial data we reviewed, found that the CAT lacks flexibility and may not adequately address disability and trauma needs in terms of directing supports that should be in place. Further, CAT scores are primarily only available for NGO case-managed children and young people.

A more comprehensive and consistent tool for use by NGOs and DCJ is recommended as a key area for improvement in our workshops and interviews and would facilitate comparative analysis of performance. We therefore support the Hughes review recommendation to 'review the efficacy of

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<sup>108</sup> Mitchell, M 2023, *Summary Report: Independent Review of two children in OOHC*, Department of Communities and Justice, Sydney, <https://dcj.nsw.gov.au/documents/service-providers/out-of-home-care-and-permanency-support-program/about-permanency-support-program-and-overview-childstory-and-oohc-resources/independent-review-of-two-children-in-oohc-summary-report.pdf>.



the Child Assessment Tool, as a means of determining a child's level of need, and/or develop add-on tools to support more comprehensive assessments.<sup>109</sup>

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### 3.5 Elevating the voice of children and young people, families, and carers

'They should be listening to the kids. They never listen to my voice and that is the reason why I am like the way I am. That's why I can't trust people, I can't open up, why I can't do anything, because how can I trust an adult when every adult in my life has let me down, set me up to fail.'

Mia, 15 years, residential care research participant

Under the Care Act<sup>110</sup> all decisions must be based on the best interests of the child and involve the participation of children and families in decision-making. Throughout this review we have found the system lacks representation for children, young people, carers, and families. While many people we spoke with mentioned the 'best interests of the child' there was no consistent explanation of what this meant, what it looked like, or by whose standard. While there was evidence that many service providers are making active efforts to improve client and carer engagement through feedback mechanisms, the voices of these key stakeholders unfortunately remain undervalued, and insufficiently addressed across the system. In general, there is insufficient transparency and ineffective complaint processes for those impacted by the system, a matter also considered in the recent review by the NSW Office of the Children's Guardian.<sup>111</sup>

All voices in the system must be valued, and the existing power imbalance needs to shift. The voices of children, young people, their families, and carers must be elevated, heard, and acted upon so they have an opportunity to influence current policies and future reform. This is essential for the system's effectiveness in meeting participants' needs.

Engaging children, young people, families and carers in planning and decision-making processes fosters their sense of agency, efficacy, strengthens shared problem solving and builds trust. This in turn makes services more impactful and supports a learning system.

'...the system should value direct feedback from children and families about their experience as part of judging success, and actively learn through reflection about what is working well.'<sup>112</sup>

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<sup>109</sup> Mitchell, M 2023, *Summary Report: Independent Review of two children in OOHC*, Department of Communities and Justice, Sydney, <https://dcj.nsw.gov.au/documents/service-providers/out-of-home-care-and-permanency-support-program/about-permanency-support-program-and-overview-childstory-and-oohc-resources/independent-review-of-two-children-in-oohc-summary-report.pdf>.

<sup>110</sup> Section 9, Children and Young Persons (Care and Protection) Act 1998, <https://legislation.nsw.gov.au/view/html/inforce/current/act-1998-157#sec.9>.

<sup>111</sup> NSW Office of the Children's Guardian 2024, *Strengthening out-of-home care and the broader child protection system*, <https://ocg.nsw.gov.au/news/new-report-proposes-better-safeguards-out-home-care>.

<sup>112</sup> James Martin Institute for Public Policy 2024, *Supporting children and families to flourish: putting human relationships at the centre of transformational reform of the child protection and out-of-home care system in NSW*, James Martin Institute for Public Policy, Sydney, [https://jmi.org.au/wp-content/uploads/2024/08/Web-Version-JMI\\_Supporting-children-and-families-to-flourish\\_Final.pdf](https://jmi.org.au/wp-content/uploads/2024/08/Web-Version-JMI_Supporting-children-and-families-to-flourish_Final.pdf).

### 3.5.1 Voice of children and young people

In terms of listening to the voice of children and young people we heard:

- DCJ and agencies rarely listen to the voice of young people and need to do better. Young people want to be heard and genuinely heard because people care about them.
- More needs to be done to involve young people in decisions about their health (e.g. scheduling visits with a doctor), education (e.g. which school to attend) and general wellbeing (e.g. how much food is available in the home), as well as planning for their future and transition out of the care system.<sup>113</sup>
- It is important for good case management practice to be undertaken where trauma-informed workers are well trained, engaged and listen to children, and planning is centred around what they need. Training and practice frameworks must incorporate these elements.
- There are several initiatives being provided by some providers that facilitate good relational practice, but this could be scaled up, for example the Power to Kids in Out-of-Home Care program developed by MacKillop Family Services in partnership with the University of Melbourne (see further information below).<sup>114</sup>
- DCJ and agencies should prioritise relationships, belonging and safety at every stage of a child or young person's journey to adulthood, ensuring that all decisions made consider their lifelong impact.
- Technology could be used to facilitate and enhance feedback and interaction with young people, who like to interact through multiple channels. Several apps are being used in different jurisdictions. DCJ should explore and consider functionality upgrades in ChildStory to directly collect their feedback.
- There are opportunities to incorporate children's perspectives more directly into court processes. This requires a cultural shift, changing perceptions, and creating avenues for children and young people to actively participate, as the process fundamentally centres on them. It is important that they have a choice as to whether they want to attend court proceedings or dispute resolution conferences, particularly with older children and young people who are old enough to understand the process and to actively contribute to the decision-making process.

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<sup>113</sup> From: McPherson, L, Canosa, A, Gilligan, R, Moore, T, Gatwiri, K, Day, K, Mitchell, J, Graham, A, and Anderson, D, 2024, *Young people's lived experience of relational practices in therapeutic residential care in Australia*, Pre-print, Southern Cross University, <https://doi.org/10.25918/preprint.407>.

<sup>114</sup> The MacKillop Institute, *Power to Kids*, <https://www.mackillopinstitute.org.au/programs/power-to-kids/#KB-PowertoKidsGallery>.

### Power to Kids in Out-of-Home Care<sup>115 116</sup>

Power to Kids is a multidisciplinary approach developed by MacKillop Family Services in partnership with the University of Melbourne. Power to Kids is a professional learning program that upskills out-of-home care professionals to strengthen prevention and responses to child sexual exploitation, harmful sexual behaviours and dating violence. Power to Kids supports carers with the knowledge and practical skills to hold 'brave conversations' around sexual health and safety. The Power to Kids program has been adapted for school settings to upskill educators and schools.

Power to Kids was initially piloted in MacKillop Family Services residential care homes and its effectiveness measured through an independent evaluation. The program has been informed by the voices of young people in care and residential care workers. Over the following two years, Power to Kids has reached over 45 organisations and over 2,000 out-of-home care professionals nationally. Key findings include:

Children and young people:

- Experienced increased protection against harmful sexual behaviour, child sexual exploitation and dating violence
- Experienced enhanced safe relationships with their carers
- Were observed to be missing from home less often
- Improved their knowledge, skills and attitudes towards sexual health and safety.

Carers:

- Increased their knowledge about harmful sexual behaviour, child sexual exploitation and dating violence
- Improved their capabilities to identify harmful sexual behaviour, child sexual exploitation and dating violence to ensure advocacy, exit and treatment
- Increased self-efficacy in having sexual health and safety conversations with children and young people.

### 3.5.2 Voice of families

In terms of listening to the voice of families we heard:

- Families commonly have limited access to advice, advocacy, and support to engage with court processes. While there could be value in exploring peer support/advice models engaging those with lived experience, the review team acknowledges that existing family advocacy programs, such as those run by Legal Aid NSW, offer a potential model that is already in existence.
- There is less than ideal practice in family finding, family engagement and case planning, and limited communication and involvement of families in key decisions.
- Positive work occurs with families where services/caseworkers 'walk through the door' with families and encourage quality family time. Evidence shows family time is important in

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<sup>115</sup> The MacKillop Institute, *Power to Kids*, <https://www.mackillopinstitute.org.au/programs/power-to-kids/#KB-PowertoKidsGallery>.

<sup>116</sup> McKibbin, G, Bornemisza, A and Humphreys, C 2020, *Power to kids: respecting sexual safety evaluation report*, MacKillop Family Services, Melbourne, [https://www.mackillop.org.au/uploads/Service-documents/Institute/Power-to-Kids\\_Respecting-Sexual-Safety\\_Evaluation-Report.pdf](https://www.mackillop.org.au/uploads/Service-documents/Institute/Power-to-Kids_Respecting-Sexual-Safety_Evaluation-Report.pdf).

improving outcomes for children and young people and promotes positive relationships between children and their families.<sup>117 118 119</sup> While contact does not directly lead to reunification, it can be helpful in making future attempts at reunification successful, and for ensuring there is family connection in the event a young person seeks to re-engage with family after they leave care.

### 3.5.3 Voice of carers

In terms of listening to the voice of carers we heard:

- More examples of direct feedback through surveys, carer reference groups and consultation processes. However, these were not regular or consistently embedded in service delivery with feedback loops leading to improved support. We understand that DCJ is planning future work to improve this.
- Many stories where carers had not spoken up and were afraid of reprisal. There is a power imbalance where some carers feel scared that if they speak up the children in their care will be taken away or permanency goals will be put at risk. Several carers told us agency staff had 'threatened' them that their child would be removed when they tried to advocate for the child.
- Examples where carers who had spoken up about their needs for support or the needs of the child in their care, felt a child had been removed because of this.
- Carers often know the needs of a child currently in their care best. Valuing and empowering them to share and use this information in making care decisions is important as well as ensuring carers having access to information to inform caring for the child.
- There are significant barriers to engagement and information sharing in court cases. A carer may want to share relevant information about what is in the best interests of the child, but risks being deauthorised if they become a party to a case. Where a carer is engaged, the perception is that their involvement can draw out proceedings, and while child representatives may reach out to carers because they want to know what children need and what is going well, there is no consistency in how this is done.
- A lot of emotion is involved in being a carer including love, altruism, grief, and loss. Services and the system need to acknowledge and respect this.
- Examples of carer support driven by strong engagement and feedback practices, including the use of regular surveys and reflective action.

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<sup>117</sup> Boyle, C 2017, 'What is the impact of birth family contact on children in adoption and long-term foster care? A systematic review', *Child, and Family Social Work*, vol. 22, no. S1, pp. 22-33, <https://doi.org/10.1111/cfs.12236>.

<sup>118</sup> Poitras, K, Porlier, S and Tarabulsky, G 2021, 'Child's adjustment and parent-child contact after child's placement into foster care: a systematic review', *Journal of Public Child Welfare*, vol.16, no.5, pp. 575-606, <https://doi.org/10.1080/15548732.2021.1940416>.

<sup>119</sup> Thoburn J, Robinson, J, and Anderson, B 2012, *Returning children home from public care*, SCIE Research Briefing 42, Social Care Institute for Excellence, London, <https://ueaeprints.uea.ac.uk/id/eprint/42371/1/briefing42.pdf>.

- Carers had inconsistent access to advocacy including through engagement with My Forever Family NSW. Many relied on the quality of their relationships with their caseworker or agency, while others set up formal or informal support groups or were part of service models like the Mockingbird Program.<sup>120</sup>

### **Recommendation 8**

The NSW Government and DCJ should empower and elevate the voice of children, young people, carers, and families across the out-of-home care program to ensure services are responsive to their needs and they can raise issues and influence system design, improve services and outcomes.

- a. The NSW Government and DCJ should establish mechanisms and processes (including advisory structures, advocacy support, surveys, and feedback systems) that actively seek, incorporate, and respond to feedback from children and young people, carers, and families.
- b. DCJ and service providers need to reorient themselves to ensure all carers feel valued and are treated as partners in decision-making relating to children and young people in their care, and without fear of reprisal.
- c. Relational approaches should be embedded in all out-of-home care service delivery and practice.

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<sup>120</sup> Theofelis, J 2024, *The Mockingbird Society: transforming foster care and ending youth homelessness*, <https://mockingbirdsociety.org/>.

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## 3.6 Valuing and partnering with carers

'The children I care for are a part of our family and are loved for who they are.' Carer, NSW Carer Survey 2024

'I want to help the child in my care, but the system makes it so hard. It's the feeling that I have to fight for every little thing that is exhausting.' Carer, NSW Carer Survey 2024

'Previously it was a much clearer system for a carer, but now we ask them to take on a family and a restoration goal... and that comes with a lot of challenges and uncertainty.' NGO respondent, Carer Utilisation Project

There is a need to ensure carers feel valued, supported, and provided with all information that is essential for them to provide the highest level of care, belonging and support for a child or young person they care for. Carers are a critical partner in delivering outcomes for children. During this review we heard many positive carer stories and much love and advocacy. However, we heard that carers were often not consulted on important decisions as to the child or young person in their care, and they did not have suitable voice or advocacy within the system.

'One thing that has characterised my experience, I've felt an incredible sense of responsibility with zero authority.' Carer, OOHC System Review interview

Recent reports in NSW highlight the declining carer pool and challenges to carer recruitment and retention.<sup>121 122 123</sup> This puts significant pressure on the system to offer stable, home-based placements. While there are cohorts still motivated, there are challenges in ensuring carers are supported and adequately prepared for the caring role, especially given the level of complexity of trauma and need among children and young people currently entering care. The 2022 NSW Carer Survey<sup>124</sup> found most carers feel a high sense of achievement and fulfillment in their caring role, however, only half reported they felt they receive adequate support.

In May 2024, DCJ conducted a survey of carers asking them, among other topics, about their top issues and areas for improvement (Figure 3.4).<sup>125</sup> The responses reflect consistent themes identified

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<sup>121</sup> Association of Children's Welfare Agencies (ACWA) and Lumenia 2024, *The future of foster care in NSW*, ACWA, Sydney, <https://www.acwa.asn.au/wp-content/uploads/2024/09/ACWA-The-Future-of-Foster-Care-in-NSW-WEB.pdf>.

<sup>122</sup> NSW Independent Pricing and Regulatory Tribunal 2024, *IPART out-of-home care costs and pricing – interim report*, [https://www.ipart.nsw.gov.au/sites/default/files/cm9\\_documents/Interim-Report-Out-of-home-care-costs-and-pricing-September-2024.PDF](https://www.ipart.nsw.gov.au/sites/default/files/cm9_documents/Interim-Report-Out-of-home-care-costs-and-pricing-September-2024.PDF).

<sup>123</sup> Association of Children's Welfare Agencies (ACWA) and The Demographics Group 2024, *Demographic Outlook: impacts on the availability of foster parents*, ACWA, Sydney, [https://www.acwa.asn.au/wp-content/uploads/2024/08/2024\\_ACWA\\_Demographic-Outlook\\_R\\_2307.pdf](https://www.acwa.asn.au/wp-content/uploads/2024/08/2024_ACWA_Demographic-Outlook_R_2307.pdf).

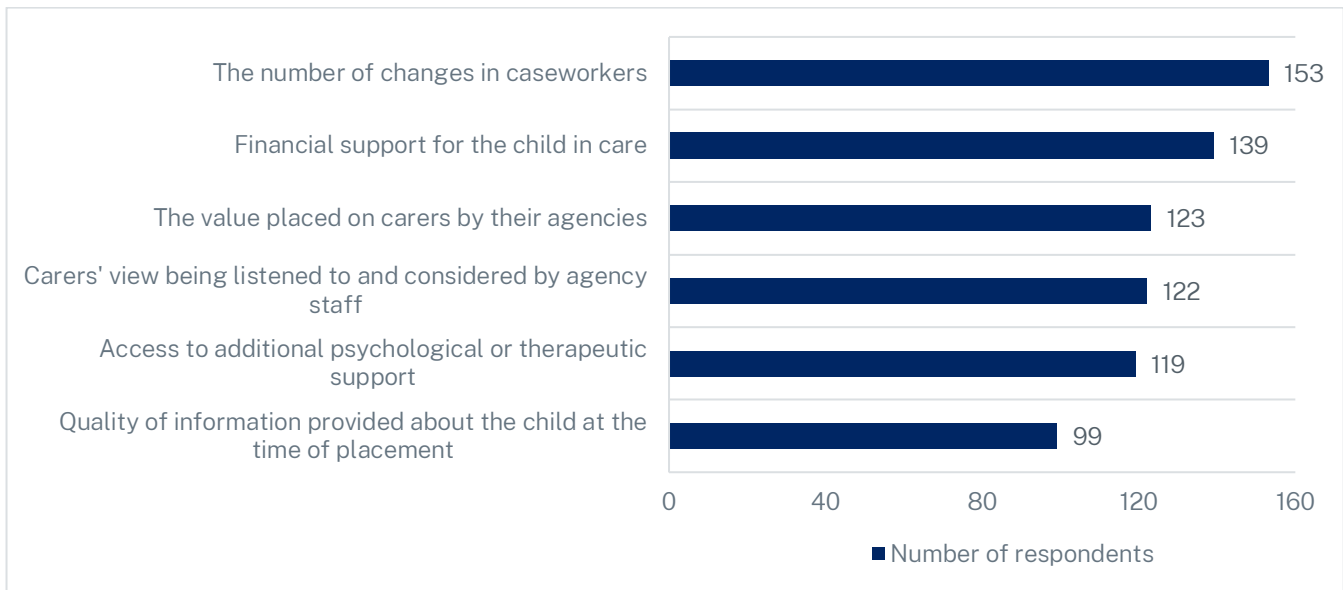
<sup>124</sup> My Forever Family NSW 2022, NSW carer survey 2022: report of findings, [https://www.myforeverfamily.org.au/wp-content/uploads/2023/04/MFF-2022-Carer-Survey-Report\\_FINAL.pdf](https://www.myforeverfamily.org.au/wp-content/uploads/2023/04/MFF-2022-Carer-Survey-Report_FINAL.pdf).

<sup>125</sup> NSW Department of Communities and Justice 2024, *Unpublished data from 2024 NSW Carer Survey*.



from other surveys and research conducted, highlighting the importance of the carer relationship with caseworkers and agencies, communication and the level of support provided for their child.<sup>126 127</sup>

Figure 3.4: Top six areas for improvement in out-of-home care reported by carers, DCJ NSW Carer Survey 2024



Note: The survey was distributed via email to approximately 5,600 carers with the June 2024 edition of the Foster and Kin Connect newsletter and distributed through other channels. A total of 418 carers answered the survey. All respondents answered this question and were required to provide 3 responses.

Source: Unpublished data from 2024 NSW Carer Survey, DCJ

### 3.6.1 Carer recruitment, training, and support

During this review we have observed that while the cost of living is putting pressure on carers and the pool of those available, remuneration is not the main motivator to care. Carers need to have confidence they have the capability to do the job, and support will be there for them. We have heard and observed:

- The care allowance and financial support are prominent issues for carers. We have heard the current allowance is inadequate to cover costs and there are inconsistencies in rates across providers, as well as essential information about what additional supports can be sought and provided. Many organisations appear to be pooling carer supports across packages.
- There is widespread agreement that despite pockets of excellence and commitment by people working to make a difference, the system is broken. Carers are very concerned with the wasted resources and poor outcomes in Alternative Care Arrangements and believe this money could be better spent supporting and stabilising placements. Trust and confidence need to be rebuilt in the system to attract and retain carers. There is an opportunity to reframe this narrative by acknowledging certain elements within the system are failing and that there is an urgent need to adjust the whole system to embed and promote better outcomes.

<sup>126</sup> My Forever Family NSW 2022, NSW carer survey 2022: report of findings, [https://www.myforeverfamily.org.au/wp-content/uploads/2023/04/MFF-2022-Carer-Survey-Report\\_FINAL.pdf](https://www.myforeverfamily.org.au/wp-content/uploads/2023/04/MFF-2022-Carer-Survey-Report_FINAL.pdf).

<sup>127</sup> NSW Department of Communities and Justice 2024, *How do relative/kinship carers and foster carers differ in their characteristics, wellbeing and support needs?*, Pathways of Care Longitudinal Study Evidence to Action Note Number 13, <https://dcj.nsw.gov.au/documents/about-us/facsiar/pocls/pocls-publications/how-do-relative-kinship-carers-and-foster-carers-differ.pdf>.

- In terms of the carer journey, we have heard respite is critical and a pathway to successful longer-term caring, with many starting their carer experience as respite carers. Agencies often keep some of their carers available to support respite to avoid carer burnout and manage placement instability.
- Carer matching and flexibility is important – often there is someone in the child’s life or the sector who has a connection with a child. Providers shared numerous examples of positive placement outcomes where a worker or sector professional, for example, became a carer or where assessment processes were expanded in terms of who an agency will accept as carers e.g. younger people, and the age groups carers are authorised to care for i.e. 0 to 18. Some agencies were specifically recruiting temporary or professional carers to support children with complex needs and achieve varied care planning outcomes, including restoration.
- The complexity of needs and significant trauma 'can make it difficult for carers to support young people while maintaining full-time jobs,' which can lead to placement breakdown. Care models must adapt to address this, and carers need a realistic understanding of the role.
- Relative/kin carers need additional supports. They often do not choose the caring role, may be less prepared for it, and may need to manage complex family relationships. Relative/kin carers may likewise have fewer financial resources and less access to pre-placement and ongoing training and support.<sup>128</sup>
- We observed training and support make a difference – but is variable and carers often are not told what the reality is before they take on the initial caring role. More could be done to enhance initial training to better support carers and improve flexibility as many carers found training opportunities irrelevant and inaccessible. Although we heard that ‘nothing can really prepare you for what happens to you.’ For carers at the beginning of their journey, we heard it would be helpful to have experienced carers tell their lived carer experience as part of the recruitment and training.
- Many carers feel connected to their agency's values, staff, and the relationships they form with other carers.
- We heard numerous examples of workers, agencies and the system failing to respect and support carers in their roles. This is a significant concern.
- Carers do not have adequate information about the children and young people in their care and there is little transparency or consistency about funding.
- We heard that carers were often asked, with some feeling pressured, to take multiple children and/or were given insufficient information about these children that led to placement breakdown (see case study 2).

Out-of-home care service providers shared a range of recruitment approaches and supports during our consultation with them, including several innovative approaches to providing carer support currently being trailed in NSW. This includes the Mockingbird Family program and the use of virtual reality to enhance the support provided to carers. Some of these initiatives are shown below (Figure 3.5) and in broader evidence from research on effective carer training and supports.

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<sup>128</sup> NSW Department of Communities and Justice 2024, *How do relative/kinship carers and foster carers differ in their characteristics, wellbeing and support needs?*, Pathways of Care Longitudinal Study Evidence to Action Note Number 13, <https://dcj.nsw.gov.au/documents/about-us/facsiar/pocls/pocls-publications/how-do-relative-kinship-carers-and-foster-carers-differ.pdf>.

## Case study 2

Jane and her partner told us about a time a young boy came into their care and the only information they were told was that he was a 'busy boy', and everything was 'fine.' The carers only discovered after the boy arrived that he required twenty-four seven care. As both were working full time and did not have the capacity to care for the child, additional supports needed to be put in place.

Jane understood they could not necessarily have all the information about the boy, but the care this child required was intensive and the information they required was essential for them to care for the child and prepare and plan their lives around. Jane was genuinely concerned, especially as 'the biggest loser is the child if they have to move to another placement.' Jane shared that there were several times where they had to relinquish care because they were not informed about the child's needs beforehand, and they could not provide the required level of care.

Figure 3.5: Carer recruitment activities and support offered by agencies

<b>Carer recruitment activities and support offered by agencies</b>	
<p><b>Recruitment, training, and induction</b></p> <p>Comprehensive marketing strategies based on local campaigns.</p> <p>Promotional videos and social media.</p> <p>Simplified induction and orientation practices.</p> <p>Leveraging word of mouth.</p> <p>Re-engaging carers.</p> <p>Leveraging existing carers as most recruitment happens via positive word of mouth.</p> <p>'Pounding the pavement' forming strong reputation locally.</p> <p>Streamlined assessment processes.</p> <p>Wider criteria i.e. young people or IVF.</p> <p>Using human-centred design methodology to understand pain points.</p> <p>Family finding, including Kevin Campbell model.</p> <p>Shared lives training and ongoing carer training and support: trauma-informed training and ways to therapeutically respond to a child's needs and behaviours; training on cultural respect and awareness; training on crisis prevention and intervention.</p> <p>Trauma training including using virtual reality headsets.</p> <p>AbSec NSW provide an Aboriginal carer support service that aims to improve the information, support, and training opportunities for carers of Aboriginal children and young people.</p>	<p><b>Carer support</b></p> <p>Regular respite to avoid burnout.</p> <p>Carer reference groups, carer roundtables.</p> <p>Increased support in first 12 weeks.</p> <p>Written resources to support caring for kids, carer resource manual, links to free resources.</p> <p>Building local carer villages.</p> <p>Carer development plans.</p> <p>Home visits.</p> <p>Social activities, morning teas, check-in with dedicated care engagement consultant or worker.</p> <p>Monthly supervision.</p> <p>On call and after-hours support.</p> <p>Access to Employee Assistance Programs i.e. carer assistance program with Converge.</p> <p>1:1 carer coaching.</p> <p>Therapeutic support for children and young people.</p> <p>In-house psychologists to support carers and children with behaviour support plans.</p> <p>Financial assistance, vouchers, gifts.</p> <p>Use of interpreters for reportable conduct matters.</p> <p>Counselling and therapeutic support for carers.</p> <p>Dedicated carer support teams.</p> <p>Partnering in research to provide insights about carer journey.</p>

## Carer training and support – research and evidence

There is variation across jurisdictions in the training and support available to carers<sup>129</sup> and in Australia, most training programs for carers are locally developed with limited evidence-base supporting them.<sup>130</sup> A recent qualitative study involving interviews and focus groups with 30 carers in NSW found that many carers felt inadequately prepared for the caring role despite attending pre-placement training and kinship carers generally received minimal or no pre-placement training. Carers identified several different training options to better prepare them for the caring role:

- Training in the initial stages of a placement to provide them with the skills to address issues as they arise.
- Group training sessions about trauma.
- Ongoing training for specific issues including trauma, advocacy, self-care, parenting older children and teenagers, managing family time, guardianship, grandparent care, and social media.
- Post training support from facilitators or caseworkers.<sup>131</sup>

Internationally, while there is limited evidence about the effectiveness of training and parenting interventions with carers,<sup>132 133</sup> a paper published by the Australian Institute of Family Studies identifies several strategies to better support foster, kinship and permanent carers including financial support, training, support with transitions, positive relationships with caseworkers, respite, support in managing birth family relationships, access to specialist services, peer support, and cultural support.<sup>134</sup>

**The Mockingbird program** was developed in the United States (US) and has been implemented in the US, United Kingdom (UK) and Australia. It is being delivered in Australia by NGOs including Life without Barriers, OzChild and Anglicare Victoria. The model involves bringing together clusters of between six and ten 'satellite homes' to form a 'constellation', supported by 'hub carers' that provide support to carers and children and young people.<sup>135</sup> An implementation and impact evaluation of the Mockingbird program in the UK found the program created an 'extended family environment' that provided a sense of normality to children, young people and foster carers with staff reporting that the program improved peer support for foster carers and increased foster carer satisfaction.<sup>136</sup> While there was no difference in placement stability of children and young people who participated in the program, compared with a matched group of children and young people, children and young people in the program could move to foster carers they knew from within their 'constellation' if a placement breakdown occurred. The evaluation found that foster carers participating in the Mockingbird program were less likely to de-register and had higher levels of wellbeing compared with other foster carers. An earlier mixed methods evaluation of the Mockingbird program in the UK found that the program promoted development of supportive peer relationships for children, young people, and foster carers as well as one-on-one support from hub carers.<sup>137</sup> Around four per cent of the children in the Mockingbird program experienced an unplanned placement change and none of the foster carers involved in the program stopped fostering during the evaluation.

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<sup>129</sup> Smart, J, Muir, S, Hughes, J, Goldsworthy, K, Jones, S, Cuevas-Hewitt, L and Vale, C 2022, *Identifying strategies to better support foster, kinship and permanent carers: final report*, Australian Institute of Family Studies, Southbank, Vic., [https://aifs.gov.au/sites/default/files/2022-07/22-01\\_identifying-strategies-to-better-support-carers-final-report.pdf](https://aifs.gov.au/sites/default/files/2022-07/22-01_identifying-strategies-to-better-support-carers-final-report.pdf).

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### 3.6.2 The effectiveness and efficiency of current arrangements

Under the current hybrid model, responsibility for carer recruitment and support primarily rests with NGOs, with central support provided by My Forever Family NSW, and AbSec NSW for Aboriginal carers. DCJ has relied on foster care agencies to provide carers for both emergency and longer-term placements, as well as to support placements at risk of breakdown. When these services are not available, it creates significant challenges, contributing to the use of High-Cost Emergency Arrangements.

In terms of the effectiveness and efficiency of current arrangements for foster carer recruitment and support, we consider there is value in reviewing what functions should be centralised and what should be undertaken by agencies, with a view to standardising and sharing effective practices. We have seen duplication and wide variation in processes across agencies that lead to inefficiencies and a lack of clarity and accountability when required. We heard centralised functions delivered through My Forever Family NSW were not functioning as effectively as they could in the system and roles and resourcing should be reviewed. Many carers connect with My Forever Family NSW, and independent advocacy services are critical for carers in the system, but we heard this was inconsistent.

Few agencies we spoke to reported that My Forever Family NSW referrals contributed significantly to the recruitment of new carers or placements, compared to previous arrangements. While we heard positive stories about local targeted approaches we heard:

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<sup>130</sup> Luu, B, Wright, AC, Blythe, B, and Wilkinson, D 2020, *Standards of training for out-of-home carers: the views of carers in NSW*, Institute of Open Adoption Studies, The University of Sydney, <https://www.sydney.edu.au/content/dam/corporate/documents/faculty-of-arts-and-social-sciences/research/research-centres-institutes-groups/ioas/ioas-2020-training-standards-carer-views.pdf>.

<sup>131</sup> Luu, B, Wright, AC, Blythe, B, and Wilkinson, D 2020, *Standards of training for out-of-home carers: the views of carers in NSW*, Institute of Open Adoption Studies, The University of Sydney, <https://www.sydney.edu.au/content/dam/corporate/documents/faculty-of-arts-and-social-sciences/research/research-centres-institutes-groups/ioas/ioas-2020-training-standards-carer-views.pdf>.

<sup>132</sup> Cooley, ME, Newquist, J, Thompson, HM and Colvin, ML 2019, 'A systematic review of foster parent preservice training', *Children and Youth Services Review*, vol. 107, pp. 104552, <https://doi.org/10.1016/j.childyouth.2019.104552>.

<sup>133</sup> Thomson, L, Watt, E, and McArthur, M 2016, *Literature review: foster carer attraction, recruitment, support and retention*, Institute of Child Protection Studies, Australian Catholic University, Canberra, [https://acuresearchbank.acu.edu.au/download/60ea77b3754e4a7faad33831ace1fe673ff84b9b2e0f682dd8e9f092a18d763b/1030576/Thomson\\_2016\\_Foster\\_carer\\_attraction\\_recruitment\\_support\\_and.pdf](https://acuresearchbank.acu.edu.au/download/60ea77b3754e4a7faad33831ace1fe673ff84b9b2e0f682dd8e9f092a18d763b/1030576/Thomson_2016_Foster_carer_attraction_recruitment_support_and.pdf).

<sup>134</sup> Smart, J, Muir, S, Hughes, J, Goldsworthy, K, Jones, S, Cuevas-Hewitt, L and Vale, C 2022, *Identifying strategies to better support foster, kinship and permanent carers: final report*, Australian Institute of Family Studies, Southbank, Vic., [https://aifs.gov.au/sites/default/files/2022-07/22-01\\_identifying-strategies-to-better-support-carers-final-report.pdf](https://aifs.gov.au/sites/default/files/2022-07/22-01_identifying-strategies-to-better-support-carers-final-report.pdf).

<sup>135</sup> McDermid, S, Baker, C, Lawson, D, and Holmes, L 2016, *The evaluation of the Mockingbird Family Model: final evaluation report*, Department of Education, London, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/560625/FE-RR528-Mockingbird\\_family\\_model\\_evaluation.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/560625/FE-RR528-Mockingbird_family_model_evaluation.pdf).

<sup>136</sup> Ott, E, McGrath-Lone, L, Pinto, V, Sanders-Ellis, D and Trivedi, H 2020, *Mockingbird programme: evaluation report*, Department of Education, London, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/933119/Fostering\\_Network\\_Mockingbird.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/933119/Fostering_Network_Mockingbird.pdf).

<sup>137</sup> McDermid, S, Baker, C, Lawson, D, and Holmes, L 2016, *The evaluation of the Mockingbird Family Model: final evaluation report*, Department of Education, London, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/560625/FE-RR528-Mockingbird\\_family\\_model\\_evaluation.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/560625/FE-RR528-Mockingbird_family_model_evaluation.pdf).



'Carer recruitment has become increasingly difficult in recent times and all NGOs and DCJ are spending money in the same small market.'  
NGO workshop representative

We consider the entry of DCJ back into the space of carer recruitment through its new foster care recruitment program is a positive move that will provide DCJ greater control over carer utilisation and stronger ability to be a provider of last resort, in turn reducing the need for High-Cost Emergency Arrangements.

### 3.6.3 Caseworker relationships, information sharing and placement support

The relationship between carers and caseworkers is critical. High turnover of caseworkers is a problem in building and maintaining positive relationships, but so are current policies and practices that guide caseworkers in the management of children in out-of-home care and the significant role that carers play in this space. The review team observed numerous examples where carers were disempowered, 'treated as babysitters,' or made to go through unnecessary processes for compliance reasons that impacted the wellbeing and sense of security of the child in their care. One carer couple were required to do first aid training as carers when they already had first aid qualifications through their respective work. Many carers reported that despite the stability of the placement, and the child's needs or wishes, monthly visits still occur to meet accreditation standards. In stable long-term placements this can make children and young people feel like a 'foster kid' and add to a sense of instability that they may be moved from their home and the relationships that they have developed with their carers.

We consider case management could be more sophisticated in its attention to risk and the need to provide a sense of stability and security for a child or young person. Empowering carers as partners in decision-making and normalising the care experience is also needed.

'We're told to parent as closely to what a natural parent would, but the agency definitely reinforces the differences. There's often a lot of discussion around what you can't do. For example, you can't show the child too much affection due to the risk of allegations.' Carer, OOH System Review interview

Analysis of carer responses and data from the NSW Pathways of Care Longitudinal Study (POCLS) has shown a direct link between carer satisfaction, psychological stress, placement stability and child development.<sup>138</sup> The analysis found children placed with carers who were satisfied with the information about the child in their care, and were satisfied with the working relationships with other agencies, had a higher likelihood of being in the typical range for socio-emotional development.<sup>139</sup> Similarly, children who were placed with carers who reported high levels of psychological distress were less likely to be in the typical range for socio-emotional and verbal development. The analysis found that carers who were satisfied with assistance from the child's caseworker were less concerned about their caregiving and wellbeing, compared with carers with below average

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<sup>138</sup> NSW Department of Communities and Justice 2024, *How do relative/kinship carers and foster carers differ in their characteristics, wellbeing and support needs?*, Pathways of Care Longitudinal Study Evidence to Action Note Number 13, <https://dcj.nsw.gov.au/documents/about-us/facsiar/pocls/pocls-publications/how-do-relative-kinship-carers-and-foster-carers-differ.pdf>.

<sup>139</sup> NSW Department of Communities and Justice 2024, *How do relative/kinship carers and foster carers differ in their characteristics, wellbeing and support needs?*, Pathways of Care Longitudinal Study Evidence to Action Note Number 13, <https://dcj.nsw.gov.au/documents/about-us/facsiar/pocls/pocls-publications/how-do-relative-kinship-carers-and-foster-carers-differ.pdf>.



satisfaction.<sup>140</sup> Recent POCLS carer feedback identifies support provided to carers differs. Some carers get a lot of support even if they do not need it, while others who need it get little, and some do not want support at all. The assessment undertaken by agencies regarding placement needs and support is critical to good outcomes and stable placement.

A critical issue driving carer satisfaction, wellbeing and outcomes is having enough information about the child in their care and ensuring children have appropriate support in place to meet their needs. We heard from carers that they were often 'parenting blind' with agencies refusing or unable to share information with them about the child placed with them. This can lead to placement breakdown and hinder a carer's ability to parent appropriately to meet the needs of the child in their care. For example, one carer couple we met had a child with serious health conditions who they have now adopted. Because they are unable to access information about her health history, every time they attend a hospital and are asked for this, they have to say they do not know.<sup>141</sup>

This is compounded by a lack of visibility and information about funding and supports, and time delays in access. Numerous carers told us they had to 'battle' to ask for the required services for their child and many times were required to pay out of their own pocket when they knew the services were funded. One carer reported their agency deliberately failed to tell them they could have funding they would have been entitled to (the child's before and after school care and uniforms) until two or three years after they had signed a contract, putting them thousands of dollars out of pocket. When they raised it with the agency, they were told 'it's too late now' and the costs were not recouped. Another carer requested their agency's help in applying for NDIS funding for their child, but the agency failed to submit the application, resulting in a loss of funding. The carer discovered this when seeking support for counselling services for their child who had formed a therapeutic relationship with a private psychologist after experiencing significant trauma.

The review team believes greater transparency and accountability for out-of-home care funding is essential. Carers must have clear, accessible information about the financial and additional support services available to them and the children in their care from their case management agency. They should not be left guessing about their entitlements. Case management agencies must be transparent about the funding available to carers, and this information should be readily available to them and be made publicly available, to enhance transparency and information for carers. Providers should also report carer and child expenditure breakdowns to DCJ to ensure accountability for the distribution of taxpayer funds.

## Recommendation 9

There is a lack of transparency and accountability regarding expenditure for children and young people in out-of-home care.

- a. DCJ should maintain a system-wide financial policy that standardises and governs care allowance, expenses, and additional supports that carers can access for children and young people in their care from the case management agency.
- b. Providers must be transparent with carers as to the funding they receive from DCJ for children and young people in their care. This should be provided to carers on an annual basis.
- c. Carers must be provided with a list of services that every child and young person in out-of-home care is automatically entitled to receive.

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<sup>140</sup> NSW Department of Communities and Justice 2024, *How do relative/kinship carers and foster carers differ in their characteristics, wellbeing and support needs?*, Pathways of Care Longitudinal Study Evidence to Action Note Number 13, <https://dcj.nsw.gov.au/documents/about-us/facsiar/pocls/pocls-publications/how-do-relative-kinship-carers-and-foster-carers-differ.pdf>.

<sup>141</sup> These carers have since been in touch with the adoption unit to try and obtain more information.

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## 3.7 Improving case management and placement support

'I have felt extremely let down by the system since we were all made to go to agencies. The wall put up to keep carers at bay from asking questions and been given real answers has grown so tall. Foster care used to be about the kids but after being a carer for 20 plus years, it is rather sad to see the difference in the quality of care given to them.' Aboriginal relative/kinship carer, 2024 Carer Survey

Case management is the structural framework ensuring each child receives tailored support from an experienced case worker. This includes emotional, educational and health. It should play a significant role in coordinating communication among service providers, carers and other agencies and providing stability in care and schooling, tracking progress, and advocating for a child's best interests.

The PSP Case Management Policy<sup>142</sup> is the main tool for the administration of the hybrid model. In its current state it fails to ensure that DCJ have ultimate responsibility for the care quality, and outcomes while a child or young person is in out-of-home care. Case management tends to be a compliance-driven exercise, rather than focused on quality delivery of outcomes. The current case management policy is administered in a way that creates a visible 'us and them' culture. Instead of delivering the intended outcome, allowing for the right service at the right time, the policy inhibits true collaboration and minimises collective accountability. Often cases result in significant escalation before basic needs are met, or rights delivered. This has added lengthy delays to cases while before the Children's Court of NSW. Additionally, this is replicated throughout the system and is of significant concern. Any policy or process that allows for the needs of children and young people to drift should be remediated promptly.

The notion of 'secondary' case management is the residual casework tasks that DCJ does while the service provider holds primary case management. The review team found that the design of the current case management policy is poor, with implementation challenges and is fundamentally inefficient and ineffective in its current state.

While the intent of case management allocation was to move decision-making closer to the child or young person, instead it allowed DCJ to be removed from its responsibility and allowed the sector to function as it does today. DCJ holds fiscal management for the application of excess funds – even the design of this component is inefficient and in many cases during the review, PSP providers shared examples where the carer was asking for an amount lower than the amount paid under the additional payments. This seems nonsensical and given the financial issues for DCJ a more efficient and effective process should be developed and implemented. While PSP providers suggested moving financial delegation to the PSP provider, given the financial overspend in out-of-home care, this is not supported by the review team. Instead, DCJ should redesign its governance, streamline it, and increase efficiencies. The system should be responsive to children and young people in catering for their needs. There should be increased transparency regarding the dollars spent, and the dollars spent should be on direct services to children and young people.

We heard on numerous occasions of the drift, and lack of responsibility shown while children and young people were on interim orders, before the Children's Court of NSW. The lack of collaboration, lack of basic services, and the inherent blockers to information sharing, exchange and storage led the review team to recommend that all case management should remain with DCJ while the child or

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<sup>142</sup> NSW Department of Communities and Justice 2020, *Permanency Case Management Policy: policy statement*, [https://www.facs.nsw.gov.au/\\_data/assets/pdf\\_file/0007/595195/PSP-PCMP-Policy-Statement-2020.pdf](https://www.facs.nsw.gov.au/_data/assets/pdf_file/0007/595195/PSP-PCMP-Policy-Statement-2020.pdf).

young person's case is before the Children's Court of NSW. The review team note this was the policy position prior to the implementation of the PSP. As the PSP did not realise expected outcomes, this aspect should be rectified expeditiously.

This recommendation does not extend to section 90 applications, as it is expected that where those applications are brought before the court, there are existing, established relationships between children and young people, their carers and the service provider. It is essential however, that all information is shared, and presented to the Children's Court of NSW and the model litigant expectations of DCJ would likewise extend to the service providers, given they are delivering services on behalf of DCJ.

The current system of PSP packages is complex to navigate, and the flexibility it creates delivers a disservice to children and young people with low needs in the system. The review team heard that it is a common practice for children and young people with low needs to have less money spent on them, allowing unspent funds from their packages to 'top up' packages for children and young people with higher needs. Additionally, many children and young people access counselling through the Commonwealth Medicare mental health scheme, rather than through their allocated packages. The federal mental health plan scheme offers a limited number of counselling sessions, which is often insufficient for children and young people healing from trauma. Moreover, some children have been waiting years for dental treatment. DCJ should ensure all children and young people in out-of-home care receive basic services including counselling, medical and dental while balancing government and private resources, means and expenditure.

Adequate dental should also be fundamental for children and young people in the care of the NSW Government. Throughout the course of the review, the team consistently tested with providers the delivery of annual dental treatment and the system's responsiveness (or lack thereof as the case may be) in meeting the dental needs of these children.

Throughout the review we heard it was frequent practice to not spend the packages in full for the allocated individual, instead, saving or banking left over money to cover the expenses of the higher needs' children or young people. This is symptomatic of a flawed financial model and a case management policy that does not adequately cater for the children and young people in out-of-home care.

The review team heard that at times, service providers requested case management transfer to return to DCJ. In some instances, this was due to the child or young person being in locations beyond the reach of the service provider. Other times it was due to the complexity of behavioural needs and the inability to find a suitable placement. These situations in themselves provide insights and evidence of the failings of the current system, the lack of responsiveness from DCJ and the lack of collaboration within the sector. The review team has recommended that where service providers request case management to transfer back to DCJ, it should be facilitated (with haste where safety concerns are held for the child or young person).

Additionally, the review team heard numerous examples where case management transfer within DCJ was delayed, allowed to drift, or where service providers with case management experienced lengthy delays waiting for approval or action from DCJ. Often this is where case management is sitting with a Community Services Centre (CSC) and awaiting transfer to the Child and Family District Unit (CFDU). While CFDU executes the secondary case management responsibility on behalf of DCJ and in collaboration with the service providers, there are huge inconsistencies across CFDUs, and the review team has shared considerations with the DCJ Secretary regarding restructuring the mechanics of DCJ's operational division to drive efficiencies. It is essential that any structure that retains the notion of 'districts' must enable statewide serviceability. That is, each district should not function as its own entity independent or fragmented from the core DCJ function, and where accreditation or Principal Officer requirements are cited as the specific reason or requirement, this should be redesigned in consultation with the NSW Office of the Children's Guardian.

DCJ must be ambitious and intentional in their policy settings, reflecting they are responsible for children and young people when it is determined they cannot remain with their family of origin. The state cannot, under any circumstances, remove itself, or abrogate its responsibility.

## Placement support

Prior to the PSP implementation, there were separate carer development plans and placement support plans. Both components are important and DCJ should reconfigure and strengthen the expectations around placement support. Supporting each placement and ensuring everyone impacted by the placement has an opportunity to contribute to the decision ensures everyone's support needs are heard and met. Casework teams should be facilitating a holistic support plan for each placement. While children and young people should be at the centre of placement support, the plan needs to encompass more than just the needs of the individual child or young person.

Annual case plans for children and young people focus on the child or young person, instead of considering that child or young person in their current place. Placement support plans should be developed in consultation with the child or young person, their carer, and their family of origin. The plan of support should cover all aspects necessary to support the child, the carer, and the placement holistically.

In some respects, the missing components of placement support exist due to the chaotic and reactive nature of DCJ's practice. The annual case plans for children and young people in out-of-home care have become a 'tick-the-box' compliance process. While children and young people have somewhere to go, the whole picture is not considered.

DCJ has a current project underway to reintroduce formal placement support. The review team commend DCJ for this focus. DCJ should consider expanding this project, ensuring responsibility is allocated to one executive sponsor responsible for system reform. This will ensure it has a sufficient authorising environment and is subject to the new Accountability Framework.

The system needs to incorporate effective placement support for every child or young person. This should be the mechanism that drives support needs for the child or young person and their carers. Placement support should be a key feature of the out-of-home case plan.

### Recommendation 10

The current case management policy has created significant gaps in service delivery and contributed to lengthy delays in court proceedings. DCJ should:

- a. Retain case management for all children and young people until final court orders.
- b. Accept service provider requests for case management to be transferred back to DCJ.
- c. All plans relating to children and young people in out-of-home care should be completed to a high standard. This should include taking a holistic approach, involve all key people and the Principal Officer should regularly review for quality assurance.

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## 3.8 Collaborating in the best interests of the child

‘Fears about sharing information must not be allowed to stand in the way of the need to safeguard and promote the welfare and protect the safety of children.’<sup>143</sup>

Effective collaboration between agencies is essential for the wellbeing of children and young people in out-of-home care. Cross-agency cooperation allows for diverse perspectives and expertise to be brought together to provide comprehensive care and support to children and young people in care. These children often have complex health needs, significant trauma symptoms and disabilities. Where a child or young person is removed from their families and home, the government takes ultimate responsibility for that child or young person’s care. It must therefore ensure all relevant agencies and service providers work collaboratively to improve outcomes for these children and young people. That responsibility cannot be abrogated.

While there are successful examples of cross-agency collaboration in NSW, it is not consistent across the entire out-of-home care system. This inconsistency can often add another layer of harm to the very children and young people the system is meant to protect and lead to delays in health and mental health treatment, educational exclusion, inadequate learning support, and unmonitored and ineffective care plans.

Our review has identified inefficiencies in collaboration, exacerbated by slow and incomplete information sharing. We have found a ‘tick-the-box’ compliance culture around health, education and culture plans that further undermines the quality of care to children. Timely access to, and sharing of, information must be improved, with greater accountability for cross-agency cooperation to improve collaboration across the whole system so children and young people are receiving the appropriate and timely support and treatment they require.

This review underscores the need to prioritise effective collaboration across all agencies to enhance service delivery and provide the comprehensive care these children and young people deserve. An authorising environment at the highest levels in NSW Government must be created with an expectation of improved service delivery including measurable outcomes and appropriate accountability.

The following key areas: health and wellbeing, education, disability, justice and police, and cultural collaboration, were identified by the review team for further exploration. Collaboration between key stakeholders in each of these areas is of crucial importance, as the system currently impedes the timely delivery of quality services in the best interests of children and young people in out-of-home care.

### 3.8.1 Health and wellbeing

‘Trauma comes at a significant cost. And early intervention has been shown to be much more cost effective than investing in health needs for adults. I cannot understand why I need to constantly argue about the health needs of our children to be met and why this needs to be reviewed at every case plan meeting rather than being carried over without a fight.’ Foster carer, 2024 Carer Survey

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<sup>143</sup> Department of Education 2023, *Working together to safeguard children: a guide to multi-agency working to help, protect and promote the welfare of children*, HM Government, London, [https://assets.publishing.service.gov.uk/media/669e7501ab418ab055592a7b/Working\\_together\\_to\\_safeguard\\_children\\_2023.pdf](https://assets.publishing.service.gov.uk/media/669e7501ab418ab055592a7b/Working_together_to_safeguard_children_2023.pdf)



‘The availability of psychological support for children (and carers) needs to be radically improved. It is so difficult to get access to the right services that these kids desperately need.’ Foster carer, 2024 Carer Survey

Children and young people in out-of-home care have significantly higher rates of chronic and complex conditions compared to the general population (see Figure 3.6). Their health needs must be assessed as a priority, with timely access to specialised health, mental health, and developmental services to address their immediate and long-term needs. We have heard that these children experience much higher levels of trauma, often due to abuse, neglect, and instability, leading to increased mental health challenges and behavioural issues. This trauma can negatively affect their emotional development, educational outcomes, and overall wellbeing, making early intervention and tailored health and mental health support essential. Given these children and young people are removed by the state, the government must prioritise their care and provide comprehensive services throughout their time in care as their health and support needs change.

The early identification of vulnerabilities and developmental delays in infants and children is equally crucial, as maltreatment (including abuse, neglect, trauma, and exposure to domestic and family violence) increases the risk of developmental delays, long-term health issues and future mental health problems.<sup>144 145</sup>

NSW Health is the government agency that provides coordinated health assessments for children and young people aged 0 to 17 years in statutory out-of-home care who are expected to remain in care for longer than 90 days. Children and young people entering care are referred by DCJ to NSW Health so a primary health assessment can be commenced as soon as possible, ideally within 30 days of a child or young person entering care. These assessments are undertaken by a range of health care providers, including general practitioners, Aboriginal medical services, child and family health nurses, Headspace and youth health services where available.

After the primary health assessment is completed, the health professional may then refer the child or young person for a comprehensive multidisciplinary health assessment. Based on these assessments, each child or young person has a Health Management Plan developed for or with them. This plan identifies their state of health, recommended interventions, and appropriate review process. The program is also designed to support young people as they plan to leave care, including supporting the young person to establish and maintain an ongoing relationship with a primary health care provider.

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<sup>144</sup> Gregory-Wilson, R, Handsley, E, Spencer, L and Raeburn, T 2024, 'Out-of-home care, contact order and infant mental health: recognising a unique developmental stage in law, policy and practice', *University of NSW Law Journal*, vol. 47, no. 1, pp.69-70, <https://www.unswlawjournal.unsw.edu.au/wp-content/uploads/2024/04/Issue-471-03-Gregory-Wilson-et-al.pdf>.

<sup>145</sup> Haslam, D, Mathews, B, Pacella, R, Scott, JG, Finkelhor, D, Higgins, DJ, Meinck, F, Erskine, HE, Thomas, HJ, Lawrence, D and Malacova, E 2023, *The prevalence and impact of child maltreatment in Australia: findings from the Australian Child Maltreatment Study: brief report*, Australian Child Maltreatment Study, Queensland University of Technology, [https://www.acms.au/wp-content/uploads/2023/04/3846.1\\_ACMS\\_A4Report\\_C1\\_Digital-Near-final.pdf](https://www.acms.au/wp-content/uploads/2023/04/3846.1_ACMS_A4Report_C1_Digital-Near-final.pdf).



# Health and wellbeing of children in out-of-home care

Figure 3.6

## Socio-emotional development

The Pathways of Care Longitudinal Study (POCLS)\* found:

Of the children entering care as infants:

**36%** were at risk of developmental delay in physical health



**70%** were at risk of delay in cognitive ability and socio-emotional development<sup>1</sup>



About 5 years after first entering care:

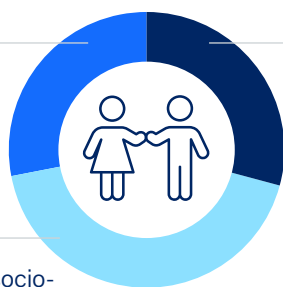
Around **40%**

of children aged 5 to 12 years presented with high needs and around half were Aboriginal<sup>2</sup>



Three socio-emotional trajectories among children in OOHC were identified:

**27.8%** with clinical difficulties



**29.4%** with persistently low difficulties

**42.8%** with a normal socio-emotional trajectory

The clinical socio-emotional trajectory was associated with:



being male



exposure to pre-care maltreatment



frequent placement changes



caregiver's psychological distress<sup>3</sup>

## Mental health

The NSW Child Development Study found that for children with an OOHC placement:

**19.7%** had a mental disorder diagnosis in middle childhood



The odds of being diagnosed with a mental disorder in middle childhood was greatest for children in OOHC, compared with children with no child protection history:



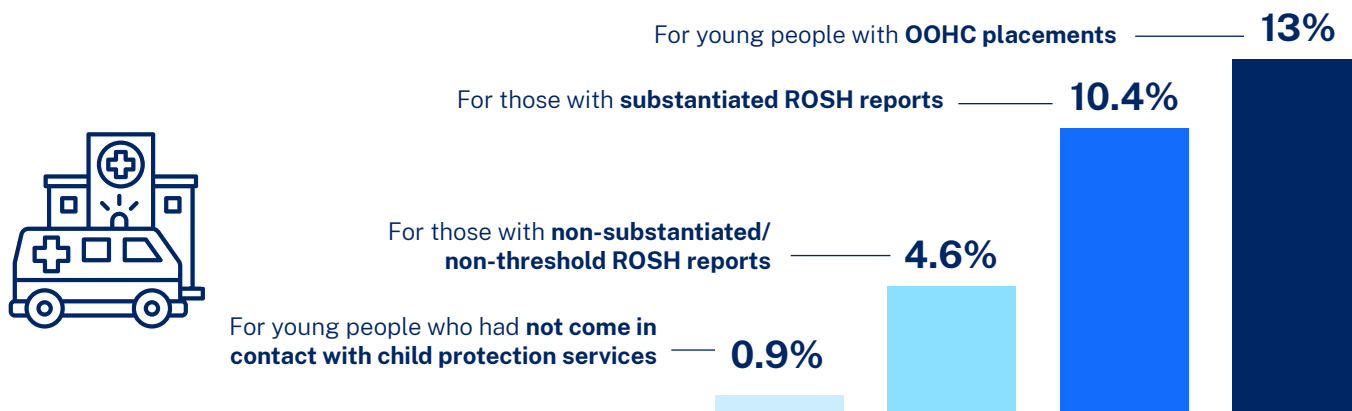
**5.3x** as likely to be diagnosed with a mental health disorder

**10x** as likely to be diagnosed with stress reactions

**12.3x** as likely to be diagnosed with hyperkinetic disorders

**11.8x** as likely to be diagnosed with conduct disorders<sup>4</sup>

Children in OOHC have a higher incidence of self harm or suicidal ideation<sup>†5</sup>



1. Lima, F, Taplin, S, Maclean, M & O'Donnell, M 2023, 'Infants entering out-of-home care: Health, developmental needs and service provision', *Child Abuse & Neglect*, vol. 149, no. 106577, <https://doi.org/10.1016/j.chiabu.2023.106577>.

2. Hopkins, M, Zhou, J, Watson, J, Paxman, A, Butler, M, & Burke, S 2021, *Experiences and service needs of children in out-of-home care aged 5-12 years with cognitive and/or behaviour problems: Pathways of Care Longitudinal Study: Outcomes of children and young people in out-of-home care*, Research Report Number 22, NSW Department of Communities and Justice, Sydney.

3. Hu, N, Gelaw, YA, Katz, I, Fernandez, E, Falster, K, Hanly, M, Newton, BJ, Stephensen, J, Hotton, P, Zwi, K, Lingam, R 2024, 'Developmental trajectories of socio-emotional outcomes of children and young people in out-of-home care - Insights from data of Pathways of Care Longitudinal Study (POCLS)', *Child Abuse & Neglect*, vol. 149, <https://doi.org/10.1016/j.chiabu.2023.106196>.

4. Allen, N & Anderson, C 2020, *What is the impact of early childhood maltreatment on mental health outcomes in middle childhood? Findings from the NSW Child Development Study*, NSW Department of Communities and Justice, Sydney.

5. Jakob, L & Anderson, C 2024, *Supporting young people involved with child protection services who are at risk of self-harm and suicide: Findings from the NSW Child Development Study*, NSW Department of Communities and Justice, Sydney.

\* The POCLS sample may not be representative of all children and young people in OOHC. It is therefore important to consider the population that the sample was drawn from when considering the generalisability of the findings.

† Cumulative incidence of self-harm or suicidal ideation by 17 years recorded by emergency departments, admitted patient records or mental health ambulatory services

The 2022 evaluation report on the Out-of-Home Care Health Pathway Program enhancement funding<sup>146</sup> highlighted several improvements during the enhanced funding period, including increased assessments, enhanced reviews, timely health evaluations, strengthened partnerships, and successful staff recruitment. However, critical barriers persist, such as funding uncertainty, unclear roles, and responsibilities among NSW Health, DCJ, and NGOs, the increased complexity of children's health needs, data limitations, and insufficient system integration for information sharing, all of which affect service delivery.

This review supports the recommendations within that evaluation report. These remain relevant today and have the potential to enhance health outcomes for children and young people in out-of-home care. Key recommendations emphasise the need for improved engagement with carers and children, clearer guidelines for prioritising reviews and Leaving Care Assessments, ensuring all children entering care are referred to the Health Pathway Program, and balancing privacy concerns with children's health needs.

Our review found evidence that some children and young people are not receiving timely or sufficient health or mental health services. This was evident from Children's Court of NSW judgments (see Appendix F), care plans we reviewed, and feedback we received from carers and Official Community Visitors. We identified a lack of oversight and accountability in monitoring health plans. This included significant variation in local practices, waiting times for essential health and mental health services, pricing for services and minimal evaluation of those services as to their effectiveness.

The 2022 evaluation of the Out-of-Home Care Health Pathway Program enhancement funding also reported similar findings.<sup>147</sup> It highlighted that only 19 per cent of children and young people had their health plans reviewed on time, there were delays in accessing services and inconsistent approaches to care across the state. Additionally in 2024, the NSW Ombudsman<sup>148</sup> noted a 21 per cent decline in completed health plans between 2017–18 and 2022–23 and only 17 per cent of children and young people had their health plans reviewed by the Out-of-Home Care Health Pathway Program. In our meeting with the Official Community Visitors they also reported that it was common to identify health plans not being updated regularly and appointments missed.

These findings underscore the systemic inefficiencies, unclear responsibilities and poor coordination among responsible agencies that remain in the system and continue to lead to delays and gaps in the delivery of essential treatment for children and young people in out-of-home care. This was likewise exemplified in a recent Children's Court of NSW judgment where a child had gone for an extended period without receiving necessary dental treatment. It was only through the magistrate's criticism of the negligence by others that the necessary treatment was finally provided.<sup>149</sup>

We heard from health professionals that there is a need for improved access and functionality within ChildStory to facilitate timely and accurate information sharing, which included the recommendation that automatic direct referral reporting capability must be built into the system to

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<sup>146</sup> Nous Group 2022, *Final evaluation report executive summary: OOHC Health Pathway Program enhancement funding*, Nous Group, Sydney, <https://www.health.nsw.gov.au/kidsfamilies/MCFhealth/Documents/exec-summary-2022-OOHC-HPP-eval.pdf>

<sup>147</sup> Nous Group 2022, *Final evaluation report executive summary: OOHC Health Pathway Program enhancement funding*, Nous Group, Sydney, <https://www.health.nsw.gov.au/kidsfamilies/MCFhealth/Documents/exec-summary-2022-OOHC-HPP-eval.pdf>.

<sup>148</sup> NSW Ombudsman 2024, *Protecting children at risk: an assessment of whether the Department of Communities and Justice is meeting its core responsibilities*, [https://www.ombo.nsw.gov.au/\\_data/assets/pdf\\_file/0018/145242/Protecting-children-at-risk-report-2024.pdf](https://www.ombo.nsw.gov.au/_data/assets/pdf_file/0018/145242/Protecting-children-at-risk-report-2024.pdf).

<sup>149</sup> NSW Department of Communities and Justice (DCJ) and the Dalton Tomkins Children 2023, NSWChC 10, <https://www.caselaw.nsw.gov.au/decision/18a05dcd89cb6237bffabbc4>.

replace the current manual, time-consuming referral form process. This change alone would lead to timeliness of referrals and close some information gaps.

Frequent placement changes, inconsistencies across DCJ and Local Health Districts, and a lack of health system understanding among service providers, caseworkers and carers hinder effective health and mental health service delivery. While the Health Pathway Program intends for children and young people to be assessed within 30 days, access to critical services post assessment remains inadequate. Information sharing under Chapter 16A of the Care Act must be improved to ensure comprehensive health profiles are shared with relevant agencies for timely and informed decisions to be made in the best interests of the child.

Overall, the lack of coordination, clarity of roles, accountability and information sharing across agencies impedes the delivery of effective health services for children and young people in out-of-home care. Systematic improvements are needed in monitoring and overseeing health outcomes, aligned with a quality framework and improved health plans that include physical, developmental, psychosocial, and mental health.

The review team acknowledges examples of practices and programs that have a positive impact.

### **Health and wellbeing programs and initiatives with positive impact**

The review team commends the ongoing collaboration between NSW Health and DCJ to develop the **'Mind My Wellbeing' Mental Health Framework** aimed at improving the coordination and access for children and young people in care to appropriate and timely mental health support services, and to those at risk of entering care.

**The Elver Program**<sup>150</sup> is a partnership between DCJ and South Western Sydney Local Health District that delivers specialist multidisciplinary clinical services to children under 18 years in statutory out-of-home care with intensive and complex needs.

The Elver Program is a unique multidisciplinary and trauma-informed service designed to fill a gap in services delivery for children and young people in out-of-home care. Elver addresses the complex developmental and mental health needs of children in residential or intensive therapeutic care by impacting the child, their immediate care system and the broader DCJ, NGO, and NSW Health systems. The team includes a lead clinician, consultant psychiatrist, clinical psychologist, occupational therapist, speech pathologist, clinical nurse consultant, and social worker. Elver also provides seminars about trauma and supporting children's clinical needs.

**LINKS Training and Support**<sup>151</sup> develops targeted, evidence-based training and resources for out-of-home care professionals and carers. Delivering on the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse, LINKS Training and Support works to improve sector-wide capacity across NSW. The team is part of DCJ Psychological and Specialist Services.

Nearly all children in out-of-home care have experienced at least one traumatic event. LINKS Training and Support equips carers and professionals with practical skills and strategies to help children thrive after trauma.

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<sup>150</sup> NSW Department of Communities and Justice 2024, *Supporting young people involved with child protection services who are at risk of self-harm and suicide*, FACSIAR Evidence to Action Note, <https://dcj.nsw.gov.au/documents/about-us/facsiar/facsiar-publications-and-resources/Supporting-young-people-involved-with-child-protection-services-who-are-at-risk-of-harm-and-suicide-E2A-Note.pdf>.

<sup>151</sup> NSW Department of Communities and Justice 2024, *LINKS training and support*, <https://dcj.nsw.gov.au/children-and-families/links-training-and-support.html>.

## Recommendation 11

There is a lack of prioritisation, timeliness, and integration of health care (including mental health) for children and young people in out-of-home care.

- a. The NSW Government should establish integrated health care coordination teams, where dedicated professionals are responsible for providing comprehensive and priority access to physical, social and health (including mental health) services that improve overall health outcomes for vulnerable children in out-of-home care.
- b. If integrated health care coordination teams are not feasible, the current Out-of-Home Care Health Pathway Program model is to be immediately enhanced, and NSW Health out-of-home care coordinators should be held responsible for the implementation of health plans for children and young people in the out-of-home care system.

## 3.8.2 Education

'I'm going to be completely honest; I barely ever went to school, and they did nothing about it. But yet, if that happens in our parents' care, oh yes, they're getting taken off you.' Mia, 17 years, residential care research participant

Every child has the right to an education and it plays a critical role in the lives of children and young people in out-of-home care, who constitute one of the most disadvantaged educational groups in Australia.<sup>152</sup> Children in out-of-home care, both nationally and internationally, face a high risk of educational failure. This is due to several factors, including background adversities, disabilities, trauma, frequent changes in placements and schools, and poor communication and collaboration among professionals. Together, these issues create gaps in their educational progress and achievement, hinder their ability to perform well in school and exacerbate existing educational gaps.<sup>153</sup> Data from the Australian Institute of Health and Welfare (AIHW) consistently shows that children in out-of-home care have lower reading and numeracy skills.<sup>154</sup>

Regular school attendance provides stability, routine, and access to essential learning opportunities for all children. Research shows that consistent attendance increases the likelihood of academic success, emotional wellbeing, and long-term life outcomes, making it a crucial factor in the overall development of all children and young people.<sup>155</sup> Children and young people within the out-of-home care system, however, are likely to be excluded and suspended from mainstream schools at a higher rate than other children and to have low attendance rates (See Figure 3.7).

During this review, we looked at the attendance of children and young people in out-of-home care in NSW. In the 2023 school year, there were 12,215 school aged children under the parental

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<sup>152</sup> Lund S and Stokes C 2020, 'The educational outcomes of children in care – a scoping review', *Children Australia*, vol. 45, no. 4, pp.249-257, <https://doi.org/10.1017/cha.2020.55>.

<sup>153</sup> Lund S and Stokes C 2020, 'The educational outcomes of children in care – a scoping review', *Children Australia*, vol. 45, no. 4, pp.249-257, <https://doi.org/10.1017/cha.2020.55>.

<sup>154</sup> Australian Institute of Health and Welfare 2011, *Educational outcomes of children under guardianship or custody orders: A pilot study, Stage 2*, Child welfare series no. 49. Cat. no. CWS 37. AIHW, cited in Lund S and Stokes C 2020, 'The educational outcomes of children in care – a scoping review', *Children Australia*, vol. 45, no. 4, pp.249-257, <https://doi.org/10.1017/cha.2020.55>.

<sup>155</sup> Townsend, M, Robinson, K, Wright, I, Cashmore, J and Grenyer, B 2020, *Educational outcomes of children and young people in out-of-home care in NSW*, Pathways of Care Longitudinal Study, Research Report Number 14, NSW Department of Communities and Justice, Sydney, <https://dcj.nsw.gov.au/documents/about-us/facsiar/pocls/pocls-publications/educational-outcomes-of-children-young-people.pdf>.

responsibility of the Minister, two-thirds were enrolled in NSW Government schools, with nearly half (44.7 per cent) of these students achieving an attendance rate of 90 per cent or more, compared to 61.6 per cent nationally. Primary school students and those in foster care had the highest average attendance rates, at 86.1 per cent and 83.1 per cent, respectively. In contrast, secondary school students (65.0 per cent) and those in residential care (57.7 per cent) had the lowest attendance. Attendance rates were similar for students who were Aboriginal (75.1 per cent) and non-Aboriginal (75.1 per cent).<sup>156</sup>

These findings suggest that while a considerable proportion of children in out-of-home care in NSW maintain strong attendance, especially in primary school and foster care arrangements, there are some notable disparities. Attendance rates drop significantly for young people in out-of-home care, especially in secondary school and residential care. The similar attendance rates between Aboriginal and non-Aboriginal students suggest that factors beyond cultural background, such as the care settings and educational support provided to young people may play a larger role in attendance outcomes for these students.

### Stability, relationships, and maintaining engagement

While educators are responsible for creating a safe and supportive learning environment, research shows that strong relationships with other supportive adults such as caseworkers, carers, and others who value education are crucial.<sup>157</sup> Throughout the course of the review, it was evident that children and young people in out-of-home care need all key adults in their lives to be trauma-informed and for this to have a strong link to how adults respond to complex and at times escalating behaviours. Vulnerable children and young people need safety, predictability, allies, advocates and trauma-informed educators so they can learn in a positive and supportive environment. These positive relationships foster resilience and provide essential educational support that can significantly influence improved educational and career outcomes for children and young people in out-of-home care.<sup>158</sup>

'I've changed schools a lot...So, I was just like, no. The social anxiety... because being the new kid and I felt like everyone's looking at me, and I still do, I don't go outside much anymore.' Sofia, 16 years, residential care research participant

Stability is crucial for the wellbeing and educational development of young people, particularly for those in out-of-home care. Frequent changes in placement and schooling disrupt their sense of security, belonging and education outcomes. Research consistently shows that instability and loss of social connections exacerbate the challenges that these young people face, making it hard for them to succeed.<sup>159</sup> Those responsible for their care, including the government, DCJ, NSW Department of Education and service providers must therefore prioritise minimising disruptions and reducing instability.

'At school, I used to get suspended a lot because I used to hate most of the teachers.' Ben, 16 years, residential care research participant

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<sup>156</sup> Data received from NSW Department of Education and Department of Communities and Justice data from the Corporate Information Warehouse, extract dates are: 12 July 2023, 11 August 2023, 1 January 2023, 13 October 2023, 13 November 2023, 11 December 2023.

<sup>157</sup> Lund S and Stokes C 2020, 'The educational outcomes of children in care – a scoping review', *Children Australia*, vol. 45, no. 4, pp.249-257, <https://doi.org/10.1017/cha.2020.55>.

<sup>158</sup> Lund S and Stokes C 2020, 'The educational outcomes of children in care – a scoping review', *Children Australia*, vol. 45, no. 4, pp.249-257, <https://doi.org/10.1017/cha.2020.55>.

<sup>159</sup> Lund S and Stokes C 2020, 'The educational outcomes of children in care – a scoping review', *Children Australia*, vol. 45, no. 4, pp.249-257, <https://doi.org/10.1017/cha.2020.55>.



While the review team acknowledge that children and young people in out-of-home care often have significant and complex needs, and safety must be prioritised for all students, exclusion should not be the default response for these children and young people. The frequent use of exclusion and suspension has been shown to have a negative impact on academic achievement and school disengagement by weakening students' sense of belonging.<sup>160</sup>

While suspensions and exclusions data are not regularly reported for children in care, research using linked data has shown children in out-of-home care are four times more likely than children with no child protection contact to be suspended from school.<sup>161</sup> Removing these children and young people from their learning environment will not help them to thrive academically and socially. Instead, greater support, guidance, and trauma-informed responses are needed rather than removing them from this important learning environment.

## Challenges faced by schools

This review considered the challenges schools may face when integrating children and young people from out-of-home care into mainstream education. In doing this the review team heard that:

- Out-of-home care coordinators are often burdened with paperwork and administrative demands.
- Education plans are primarily compliance-led, and their standard is often poor. One high school principal told us, 'It is just lip service and ticking the box.'
- Teachers would benefit from increased training regarding the welfare needs of school children and young people in care.
- There is a lack of timely information provided to schools to enable the necessary support when required or to understand the situation a child may be going through while in care. Information sharing needs to be improved.
- The student's voice is missing.

## Tailored trauma-informed and wraparound supports

More sustainable welfare and trauma-informed approaches are needed to promote inclusion and support for children and young people with complex learning needs and trauma backgrounds. This includes better equipping, training, and supporting educators, as well as increasing specialist learning centres designed to cater for children with complex and trauma needs. These centres can provide targeted care by qualified trauma-informed teaching professionals who can provide emotional and academic guidance needed for them to succeed. It would offer a safe and supportive environment that creates a sense of belonging, social inclusion, learning and personal development.

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<sup>160</sup> Noltemeyer, AL, Ward, RM and McLoughlin, C 2015, 'Relationship between school suspension and student outcomes: a meta-analysis, *School Psychology Review*, vol. 44, no. 2, pp. 224-240, viewed 9 June 2022, <https://doi.org/10.17105/spr-14-0008.1>, cited in NSW Department of Communities and Justice 2022, *Are children who are known to child protection services more likely to be suspended from school?* FACSIAR Evidence to Action Note, <https://dcj.nsw.gov.au/documents/about-us/facsiar/facsiar-publications-and-resources/Evidence-to-Action-Note-CDS-School-suspensions.pdf>.

<sup>161</sup> NSW Department of Communities and Justice 2022, *Are children who are known to child protection services more likely to be suspended from school?* FACSIAR Evidence to Action Note, <https://dcj.nsw.gov.au/documents/about-us/facsiar/facsiar-publications-and-resources/Evidence-to-Action-Note-CDS-School-suspensions.pdf>.



This is supported by the findings in the Pathways of Care Longitudinal Study that found a strong connection between wellbeing and educational outcomes.<sup>162</sup> This study highlights compelling evidence that wellbeing is directly related to educational engagement and performance. To improve the outcomes of children it is essential to appropriately resource their educational needs.

Figure 3.7 illustrates several key insights on educational outcomes from a range of NSW datasets including the Pathways of Care Longitudinal Study.<sup>163</sup> Other recommendations from the study include:

- A strong focus on the early years to help children start out well, and ongoing support to ensure they do not fall behind.
- A need for quality childcare undertaken by qualified trauma-informed professionals who can identify and refer a child or young person to appropriate services in a timely manner.
- Children should attend a quality pre-school in the year before starting school. i.e. early intervention supporting school readiness and catch-up growth, with ongoing interventions for children who experience out-of-home care.
- Additional supports provided to children, as well as supports and training for carers to help children thrive at school and improve their reading achievement.
- Tutoring should be explored as a learning tool for all children in out-of-home care. This should not just be provided to those identified as requiring additional support.

During this review, several service providers shared examples of wraparound services they use to provide educational support for children and young people. This included homework centres, homework clubs, school holiday programs, access to tutoring and school camps. Several key stakeholders and service providers also shared examples of alternate education programs that are provided to engage young people who have disengaged from mainstream education, such as vocational colleges, specialist schools and education centres. Service Providers and DCJ must ensure there is a wraparound learning and development support service for children and young people in their care. Additionally, carers should receive the support they need so they have the capability to assist the educational development of the child and young person in their care. They should also be actively involved in the child's education planning activities and the evaluation of outcomes. Schools must be better equipped to support children and young people affected by trauma, with appropriate trauma training being provided to teachers. That training should not fall to service providers to provide to schools. This obligation rests with the NSW Department of Education to ensure its staff are appropriately trained by accredited services to meet the needs of children attending their schools. Additionally, it is also essential to acknowledge the limits of education staff in managing trauma while ensuring their own wellbeing and the wellbeing of other students.

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<sup>162</sup> NSW Department of Communities and Justice 2020, *Educational outcomes: children and young people in out-of-home care*, Pathways of Care Longitudinal Study Evidence to Action Note Number 5, NSW Department of Communities and Justice, Sydney, <https://dcj.nsw.gov.au/documents/about-us/facsiar/pocls/pocls-publications/educational-outcomes-children-young-people.pdf>.

<sup>163</sup> Townsend, M, Robinson, K, Wright, I, Cashmore, J and Grenyer, B 2020, *Educational outcomes of children and young people in out-of-home care in NSW*, Pathways of Care Longitudinal Study, Research Report Number 14, NSW Department of Communities and Justice, Sydney, <https://dcj.nsw.gov.au/documents/about-us/facsiar/pocls/pocls-publications/educational-outcomes-of-children-young-people.pdf>.

# Education and children in out-of-home care

Figure 3.7

## At school entry

Compared to children without a child protection report, children with an OOHC placement are around

**3x**  
more likely

to show developmental vulnerability on

**2** or more domains

on the Australian Early Development Census (AEDC)<sup>1</sup>



## Attendance and suspensions

**8,614 (70%)**

of all school aged children with parental responsibility to the Minister (PRM) were enrolled in NSW government schools in the 2023 school year



only

**3,854 (45%)**

had an attendance rate of

**90%**  
or more<sup>2</sup>



The NSW Child Development Study found that compared with children without a child protection report:

Children in OOHC were over

**4x**  
more likely

to be suspended from school



**1 in 4**

children in out-of-home care received a suspension during primary school<sup>3</sup>



## Engagement and learning outcomes

The Pathways of Care Longitudinal Study (POCLS)\* found:



About 5 years after first entering OOHC, children aged 12-17 years had attended an average of

**3.7**  
schools



**20%**

of children aged 12-17 years

reported they '**rarely or never**' or only '**sometimes**' understood the work in class<sup>4</sup>

About 5 years after children first entered OOHC, caregivers reported:

**1 in 4**

children aged 6-11 years have academic or other problems at school



**1 in 3**

young people aged 12-17 years have academic or other problems at school<sup>5</sup>



Compared to all NSW children:

NAPLAN reading and numeracy scores for children in OOHC were **substantially lower** across Years 3, 5, 7 and 9



By year 9, **67.9%** of children in OOHC participated in NAPLAN compared to **93%** of all NSW children



**Aboriginal children in the POCLS** were significantly less likely to participate in NAPLAN than **non-Aboriginal children** in Years 7 and 9<sup>4</sup>

**46%**

of children in OOHC scored in the '**higher achieving**' range in year 3 NAPLAN



Education plans, carers attending training, and sibling contact were associated with higher achievement in reading<sup>6</sup>

1. Blair, K & Alam, O 2020, *Developmental vulnerability and contact with the child protection system: Findings from the NSW Child Development Study*, NSW Department of Communities and Justice, Sydney.

2. Anderson, C & Allen, N 2021, *What is the relationship between childhood maltreatment and early educational outcomes? Findings from the NSW Child Development Study*, NSW Department of Communities and Justice, Sydney.

3. NSW Department of Communities and Justice 2020, *Educational outcomes: Children and young people in out-of-home care. Pathways of Care Longitudinal Study: Outcomes for Children and Young People in Out-of-Home Care*, Evidence-to-Action Note Number 5, NSW Department of Communities and Justice, Sydney.

4. Townsend, ML, Robinson, L, Lewis, K, Wright, I, Cashmore, J, & Grenyer, B 2020, *Pathways of Care Longitudinal Study: Educational Outcomes of children and young people in out-of-home care*, Research Report Number 14, NSW Department of Communities and Justice, Sydney.

5. Maclean, M, Lima, F, & O'Donnell, M 2023, 'Positive reading achievement outcomes in children who experience out-of-home care: Characteristics and predictors', *Child Abuse & Neglect*, vol. 149, no. 106282, <https://doi.org/10.1016/j.chiabu.2023.106282>.

\* The POCLS sample may not be representative of all children and young people in OOHC. It is therefore important to consider the population that the sample was drawn from when considering the generalisability of the findings.

## The effectiveness of the Out-of-Home Care Education Pathways Program and education plans

The Out-of-Home Care Education Pathways Program<sup>164</sup> is an agreement between DCJ and the three major education sectors in NSW (government, Catholic and independent). It supports all children and young people in out-of-home care, regardless of who they are case managed by (funded service provider or DCJ) and which school they attend (government or private). The program provides collaborative and consistent educational support, early identification of learning needs, proactive planning, regular monitoring, and review of educational progress. It was designed to improve school engagement and includes appropriate funding to support learning, wellbeing, or curriculum access in government schools.

The Out-of-Home Care Education Pathways process begins when an agency or caseworker submits a Notice to School (NTS) to the NSW Department of Education or the school principal (for Catholic or independent schools) within 14 days of a child entering out-of-home care or starting school.

Within 30 days, the school is required to hold a Personalised Learning and Support Planning (PLaSP) meeting to collaboratively determine the best educational support a child or young person may need. This meeting should involve the caseworker, teachers, the child or young person and other relevant professionals, who are focused on identifying and addressing the child or young person's specific educational needs. The PLaSP process is required to be reviewed annually or when a child's circumstances change to ensure ongoing support and to address any emerging concerns.

In addition, Aboriginal children must have a Personalised Learning Pathway (PLP) completed as part of the PLaSP process. This plan should be tailored to the learning and engagement strategies that help the Aboriginal child or young person reach their full educational potential. The education plan should promote self-determination and encourage genuine participation, while supporting meaningful connections to culture and Country.

On reviewing the effectiveness of the Education Pathways process, the review team identified significant deficiencies in its application and effectiveness, underscored by inadequate learning and development strategies, insufficient support for children and young people, a 'tick-the-box' compliance culture to ensure compliance, and a lack of effective monitoring and oversight by key stakeholders. During discussions with the Official Community Visitors we heard that education plans are extremely poor. One Official Community Visitor mentioned they have seen more than one plan with the wrong young person's name listed throughout the plan. Others said many young people they have met are unable to read.

There was limited evidence identified during this review that the Education Pathways or education plans developed under the pathway program are effective in supporting outcomes for children and young people in out-of-home care.

The Education Pathways process is often perceived as a mere compliance exercise completed to meet standards and accreditation requirements. The education plans examined during this review were notably variable and simplistic in nature, lacking the comprehensive support necessary for fostering positive education and learning outcomes of children and young people in care. While some plans were well-developed and yielded positive results, this often stemmed from the dedication of specific individuals – carers, teachers, principals, and case workers – who provided advocacy and a trauma-informed wraparound support approach.

A significant gap exists in accountability for education plans, with DCJ and the sector frequently shifting responsibility to the NSW Department of Education. This must be improved. It is crucial to recognise that the responsibility for the development and implementation of these plans, and for

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<sup>164</sup>NSW Department of Education and NSW Department of Communities and Justice n.d., *School and education*, <https://www.nsw.gov.au/community-services/foster-relative-and-kinship-care/caring-for-children-and-young-people/supporting-children-and-young-people-your-care/school-and-education>.

achieving positive learning and development outcomes that maximise the educational outcomes for these children and young people rests with all persons who have a duty to care, including DCJ, Education, service providers, case workers and carers. All must hold a level of accountability for the achievement of learning and development outcomes for these children and young people. The accountability alone does not rest with the NSW Department of Education.

### **Systemic issues with education and vocation support identified by Official Community Visitors**

Official Community Visitors in their 2022 to 2023 annual report<sup>165</sup> raised systemic issues around how young people were not supported and encouraged to participate in appropriate educational or vocational activities.

While Official Community Visitors found positive work by some providers, there was overall a need for greater involvement of young people in residential out-of-home care in meaningful activities including skill development. Reasons for this include young people spending substantial amounts of time away from placement, not attending school or other educational options, a lack of after school activities and a lack of information on file about how young people were meeting their goals. There was an acknowledgement of challenges that face providers, but it was not always evident that providers were making all reasonable efforts to engage young people in meaningful activities.

A significant issue was the lack of school attendance by young people due to mental health reasons, problems experienced at school e.g. bullying, suspension or embarrassment about literacy issues, refusal to attend and unable to function to attend as they had been up late.

### **Alternative education pathways**

Some children and young people who enter out-of-home care will unfortunately not be able to function within a mainstream school environment. Strong consideration must be given to using alternative learning and development pathways by registered and accredited (with NESA) schools that can provide a flexible and supportive approach to the specific learning and development needs of children and young people in out-of-home care. Providing wellbeing, psychological and counselling services, with highly skilled teaching staff and youth workers, is vital for these children and young people. If this cannot be accommodated within mainstream schools, the government must consider alternative learning environments. These children and young people are already vulnerable due to instability and trauma. Educational neglect exacerbates these challenges and can cause severe and long-lasting consequences.

Without the proper support for children and young people in care they can fall behind, leading to lower grades, school non-attendance and limited career opportunities and underemployment as adults. These outcomes perpetuate cycles of poverty, welfare dependence and social exclusion. It can lead to higher school exclusion and disciplinary action due to behavioural problems caused by the child or young person's frustrations and embarrassment in struggling to cope. In addition, schools provide an important environment for social learning and connection. Insufficient educational support can limit the opportunity for children and young people to build healthy relationships, impacting their emotional and social development.

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<sup>165</sup> NSW Ageing and Disability Commission 2023, *Official Community Visitors annual report 2022-2023*, pp.38-39, [https://ageingdisabilitycommission.nsw.gov.au/documents/submissions/Official\\_Community\\_Visitor\\_2022\\_2023\\_Annual\\_Report.pdf](https://ageingdisabilitycommission.nsw.gov.au/documents/submissions/Official_Community_Visitor_2022_2023_Annual_Report.pdf).

## Bringing education, health and wellbeing together

We have made a range of recommendations in this review targeting improved trauma-informed training, re-integration strategies for excluded students, and improvement of education plans and supports. More broadly, it is imperative that relevant agencies, including DCJ and other key stakeholders, do more to prioritise the health (including mental health), wellbeing, and education of children and young people in out-of-home care. This is critical to the long-term development and success of these children and young people. We suggest DCJ prioritise the holding of an out-of-home care education, health and wellbeing roundtable with NSW Health and the NSW Department of Education's key staff to review the current pathway models. This should have a clear mandate to focus on identifying effective approaches to improve the support and address the needs of children and young people in care. It should also, in collaboration with other key stakeholders, identify how the health and education systems can better support their needs. Health (including mental health), wellbeing and education approaches for these vulnerable children should never be a compliance-driven exercise, but one that places these children as a priority and at the centre of any approach.

### Recommendation 12

Current education plans and practices are deficient in achieving the best learning outcomes for children and young people in care.

- a. The NSW Education Standards Authority should consider mandating the training of trauma-informed practice. This training should be completed within the next 12 to 18 months as an initial strategy with refreshers offered to ensure all staff are contemporary in their application of trauma-informed practice.
- b. Where a child or young person in out-of-home care is excluded from school (for any period), the NSW Department of Education must ensure suspension plans include reintegration strategies that support academic, wellbeing and behavioural needs.
- c. Where children or young people in out-of-home care are not able to attend mainstream schools, the NSW Government and NSW Department of Education should ensure appropriate alternative specialist schools or ensure learning services are supported.
- d. The current Out-of-Home Care Education Pathways Program model is to be immediately reviewed to enhance learning and development for children and young people in care. The NSW Department of Education should be responsible for overseeing education plan implementation for children and young people in the out-of-home care system.
- e. DCJ and the NSW Department of Education should jointly and publicly report on education outcomes for children and young people in out-of-home care.

## 3.8.3 National Disability Insurance Scheme (NDIS) and disability support

Children in out-of-home care are more likely to have complex needs and diagnosed disability than in the broader population. As at 30 June 2024, one in five children or young people (18 per cent) in out-of-home care and half (49 per cent) of young people in residential care were recorded as having a disability.<sup>166</sup> Children and young people in out-of-home care, with diagnosed disability and approved NDIS plans, should be accessing their support services via the approved NDIS plan. During the review, we heard multiple instances where carers were unable to access NDIS plans for children and young people in their care. Additionally, we heard that on numerous occasions both DCJ and PSP

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<sup>166</sup> Noting actual rates are likely to be higher as there are no systematic processes to screen for or diagnose disability on entry to care, there are high rates of 'not stated' e.g. 10 per cent of children in residential care had a disability status of 'not stated'.



providers were accessing supports, and requesting DCJ pay for these supports, which in fact, should have been accessed by the NDIS. This is important to call out, as the NSW Government contributes to both the NDIS and supporting children and young people in out-of-home care. Effectively this is costing the NSW Government twice and is being inefficiently managed.

It is essential that the NSW Government delivers an aligned and sophisticated service to children and young people who have a disability and who are in out-of-home care. Carers should be enabled to engage with, and ensure, the NDIS offers the best possible services to the children and young people they are caring for.

The review found instances where organisations had established internal companies and were invoicing for services from these internal companies. The NDIS should consider this in the context of fraud risk and ensure that segregation of duties is valid. Additionally, there should be a Memorandum of Understanding (MOU) between federal and state systems to ensure efficiency of services, transparency of expenditure and robust governance to reduce the likelihood of fraudulent activity.

The review team heard that many children and young people had disability-like complexities, but not all had been identified or diagnosed. This can sometimes be masked by complex needs in the care population. Recording issues were noted during the review, and while explored in other sections of this report, it is essential DCJ creates a digital and data strategy to facilitate accurate and timely recording of information including information related to disability. This needs to have a direct influence on data-informed practice. Additionally, as noted in other sections of the report, the current tool to assess complex needs, the Child Assessment Tool (CAT) is inadequate for assessing complex needs and fails to consider disability information when evaluating children and young people for residential care.

The review team support all efforts to improve access to disability supports and the NDIS, including improved information sharing about plans with carers and caseworkers.

### 3.8.4 Justice and police

The criminalisation of children and young people in out-of-home care must be avoided and protocols, policies, and practice within and across agencies need to be more clearly aligned to achieve this.

While most children in out-of-home care do not have criminal justice system contact, placement in out-of-home care is associated with increased contact that can result in poor immediate and longer-term, outcomes.<sup>167</sup> <sup>168</sup> 'Care criminalisation' and the trajectory of 'crossover' or 'dual system' children in the child protection and youth justice systems is a significant and longstanding concern for policymakers and practitioners.<sup>169</sup>

In Australia, crossover children comprise up to 10 per cent of child protection-involved children, and around 50 per cent of justice-involved children.<sup>170</sup> This group of children experiences pervasive systemic disadvantage compounded by placement instability, factors in residential care

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<sup>167</sup> McGrath A, Gerard A and Colvin E 2020, 'Care-experienced children and the criminal justice system', *Trends and Issues in Crime and Criminal Justice*, no. 600, <https://doi.org/10.52922/ti04602>.

<sup>168</sup> Zhou, A 2020, *Offending among young people in contact with the out-of-home care system*, Pathways of Care Longitudinal Study, Research Report Number 18, NSW Department of Communities and Justice, Sydney, <https://dcj.nsw.gov.au/documents/about-us/facsiar/pocls/pocls-publications/offending-among-young-people.pdf>.

<sup>169</sup> Baidawi, S, and Ball, R 2023, 'Multi-system factors impacting youth justice involvement of children in residential out-of-home care', *Child and Family Social Work*, vol. 28, no. 1, 53–64, <https://doi.org/10.1111/cfs.12940>.

<sup>170</sup> Baidawi, S, and Ball, R 2023, 'Multi-system factors impacting youth justice involvement of children in residential out-of-home care', *Child and Family Social Work*, vol. 28, no. 1, 53–64, <https://doi.org/10.1111/cfs.12940>.

environments, and interactions with police, lawyers, courts, and youth justice systems. Research shows a correlation between histories of trauma and situational factors relating to the care environment with an increase in a child or young person's contact with the criminal justice system.<sup>171</sup> We know police are often called out to manage situations that could have been resolved by carers, service providers or DCJ. This can also contribute to a negative association for young people with police and will often result in a police report being generated. Research highlights trauma-informed care as best practice to avoid the criminalisation of children in care. A culture of understanding a child or young person holistically is needed rather than just the individual management of problematic behaviour.<sup>172</sup> Other factors of note are the need for additional support to navigate legal and youth justice processes, service collaboration challenges sentencing considerations.<sup>173</sup>

During this review we have seen research and evidence that well-functioning care teams and therapeutic services can contribute to positive justice outcomes for young people in residential care settings.<sup>174</sup> We have seen evidence of effective collaboration across agencies. Case study 3 from the Blacktown Intensive Therapeutic Care Hub shows how police and house managers worked closely together to build positive relationships and get to know young people. This has a positive impact in managing bail conditions, at-risk behaviour, police call outs and missing person reports. It also increased the opportunity to link young people with necessary diversionary programs.

### **Joint Protocol to reduce the contact of young people in residential out-of-home care with the criminal justice system**

The ongoing issue of young people in out-of-home care having contact with police and the criminal justice system (CJS) is often linked to non-compliance with DCJ policies and the 2019 *Joint Protocol to reduce the contact of young people in residential out-of-home care with the criminal justice system* (the Protocol).<sup>175</sup> While police involvement is necessary when a young person's behaviour poses a significant risk to themselves, or others, its use should be limited.

Our review has identified a general failure to adhere to the Protocol, with many residential workers calling police as their first response when a young person leaves a placement without authorisation. It was evident staff called police when they were unsure how to respond to escalating behaviours, and staff lacked the necessary trauma-informed training or sufficient industry experience to utilise other behaviour management strategies.

We heard during this review that many young people leave to visit family, or friends, or to escape threats, bullying, or conflict with co-residents. This raised concerns about their safety and wellbeing. Sometimes they leave just to cool off or to get some space. Unplanned or prolonged absences can however expose young people to additional risks, such as criminal behaviour, drug use or sexual exploitation. Other times they are leaving in search of connection, belonging and relationships which they have not found in out-of-home care.

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<sup>171</sup> McGrath A, Gerard A and Colvin E 2020, 'Care-experienced children and the criminal justice system', *Trends and Issues in Crime and Criminal Justice*, no. 600, <https://doi.org/10.52922/ti04602>.

<sup>172</sup> McGrath A, Gerard A and Colvin E 2020, 'Care-experienced children and the criminal justice system', *Trends and Issues in Crime and Criminal Justice*, no. 600, <https://doi.org/10.52922/ti04602>.

<sup>173</sup> Baidawi, S, and Ball, R 2023, 'Multi-system factors impacting youth justice involvement of children in residential out-of-home care', *Child and Family Social Work*, vol. 28, no. 1, 53–64, <https://doi.org/10.1111/cfs.12940>.

<sup>174</sup> Baidawi, S, and Ball, R 2023, 'Multi-system factors impacting youth justice involvement of children in residential out-of-home care', *Child and Family Social Work*, vol. 28, no. 1, 53–64, <https://doi.org/10.1111/cfs.12940>.

<sup>175</sup> NSW Ombudsman 2019, *Joint protocol to reduce the contact of young people in residential out-of-home care with the criminal justice system*, <https://dcj.nsw.gov.au/children-and-families/joint-protocol.html>.

## What is the Joint Protocol?

The Joint Protocol to reduce the contact of young people in residential care with the criminal system<sup>1</sup> aims to:

- Reduce the frequency of police involvement in responding to behaviour by young people living in residential and Intensive Therapeutic Care (ITC) services, which would be better managed solely within the service.
- Promote the principle that criminal charges will not be pursued against a young person if there is an alternative and appropriate means of dealing with the matter.
- Promote the safety, welfare and wellbeing of young people living in residential and ITC services by improving relationships, communication and information sharing both at a corporate level and between local police and residential services.
- Facilitate a shared commitment by police and residential and ITC services to a collaborative early intervention approach.
- Enhance police efforts to divert young people from the criminal justice system by improving the information residential and ITC services provide police about the circumstances of the young person to inform the exercise of their discretion.
- Ensure appropriate responses are provided to young people living in residential and ITC services who are victims.

The review found that where staff followed the Protocol, positive outcomes were achieved. This included fostering effective relationships between police, young people, and residential staff.

However, the review found inconsistent application of the Protocol, with some staff making insufficient efforts to locate or support absent young people. This inconsistency is attributed to factors such as limited knowledge of the Protocol, high staff turnover, reliance on unqualified workers and a culture of using police as a default risk-management tool. Police who we met with during this review, reported frequent calls for missing young people without residential staff referencing the Protocol in the first instance. This was despite its guidance that police should only be involved as a last resort in cases of significant risk to personal safety, or to the safety of others. It is essential that DCJ (as chair of the Statewide Steering Committee) reinforces sector compliance with the Protocol. Recommendations from the Family is Culture<sup>176</sup> and the NSW Office of the Children's Guardian reports<sup>177</sup> for enhancing the Protocol's effectiveness. This has included recently updating the governance structure, finalising the DCJ and NSW Police Memorandum of Understanding on data sharing, and development of a training strategy. The objectives of the training strategy include best practices for professionals, understanding the needs of vulnerable children and young people in residential care, overcoming siloes, and providing consistent standards and messaging across agencies and organisations. The sector must ensure staff receive appropriate training on managing challenging behaviour and correctly applying the Protocol to determine when police involvement is necessary, particularly for young people at higher risk of contact with the criminal justice system.

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<sup>176</sup>Davis, M 2019, *Family is Culture review report: independent review of Aboriginal children and young people in OOHc*, NSW Department of Communities and Justice, Sydney, <https://dcj.nsw.gov.au/documents/children-and-families/family-is-culture/family-is-culture-review-report.pdf>.

<sup>177</sup> NSW Office of the Children's Guardian 2024, *Strengthening out-of-home care and the broader child protection system*, <https://ocg.nsw.gov.au/news/new-report-proposes-better-safeguards-out-home-care>.

### **Case study 3 - Supporting Mike to reduce violence and improve wellbeing**

Over the Christmas period, the behaviour of Mike, a young person in an ITC House, escalated resulting in physical violence. After the incident, the youth workers at the house spoke with the young person to help him reflect on his behaviour and strategies he could use to manage his behaviour. The therapeutic specialist spoke with the boys in the house about their interactions with each other and discussed ways to update Mike's behaviour support plan with the house staff.

The house manager asked the youth officer to come to the house to speak with the young person. Their focus was on how to help Mike through the emotionally difficult Christmas period which sees behaviours and emotions escalate for a lot of young people. If the physical violence continued, Mike was at risk of being charged. Their discussion included possible diversionary programs and other programs that included mentoring and positive social interactions with role models and peers.

The youth officer came and spoke with Mike and the other boys in the house. He suggested a referral to the mentoring program RuffTRACK, which is modelled on the BackTrack program in Armidale. The program engages with young people through bonding with and caring for dogs and agricultural education and work. This takes them on a journey of learning responsibility, caring for others, and communicating without violence.

The house manager made the referral, and the youth officer contacted the service to learn more about the program to gauge its suitability for Mike. The house manager supported Mike to visit RuffTRACK to learn more about it and meet with the team to commence the program. The youth officer followed up with the program team to hear their feedback on the engagement with Mike, which was positive. Mike looked forward to spending time with a pet dog and this drew him into the program. Engaging in the program was included in Mike's behaviour support plan.

RuffTRACK was a positive experience for Mike and improved his behaviour and wellbeing, reducing his risk of entering the criminal justice system. He enjoyed the program and responded well to the mentoring, interactions with dogs and farm work. While he did not finish the program, Mike began a TAFE course. The ITC provider did not see the same level of violence from Mike who stabilised and was accepted into a Therapeutic Supported Independent Living (TSIL) placement.

As a result of the collaboration between the house manager and youth officer, Mike's trajectory changed from violence and increased risk of contact with the criminal justice system to pursuing education and building independent living skills.

### 3.8.5 Cultural collaboration

'Aboriginal children and young people have a right to be raised in their own culture. They have a right to learn and use the languages and customs of their communities and to take part in a wide range of cultural activities.'<sup>178</sup>

'Bridging the gap between cultural safety and the current standard of practice is an ongoing collaborative journey for practitioners and services.'<sup>179</sup>

Cultural support plans must be done as part of the Children's Court of NSW Care Plan when a child in out-of-home care is Aboriginal, Torres Strait Islander or from a migrant or refugee background. They need to have information about how the individual child's cultural needs and interests will be met while they are in care, and caseworkers should write these plans with children, family, and community.<sup>180</sup>

For Aboriginal children and young people, cultural support aims to deliver transparent and accountable practice and can support participation in cultural activities. Comprehensive family finding and genealogy work can also support connection to family, community, and culture. Unfortunately, what we saw during this review was support composed of fragmented components (culture, education, and health) that have become a 'tick-the-box' compliance casework activity, often completed in isolation and disconnected from the larger case management plan. In some instances, we read cultural plans that could be considered adequate, however on balance, they were lacking appropriate rigour and depth.

As stipulated in other sections of this report, there is a need for an outcomes framework to measure challenges and successes, allowing for adjustments to system settings and policies to improve outcomes. Cultural plans should be part of an integrated approach, focusing not just on the child or young person, but fostering cultural connection to key people, events, culture, and Country within the context of the care environment.<sup>181</sup>

Additionally, NSW is a multicultural society, cultural diversity should be valued - it is what makes our communities thrive. Cultural plans should be living documents for all children, from all cultures. They should be reviewed regularly and have input from key people, such as relatives, community leaders and teachers. In NSW, we continue to have unaccompanied humanitarian minors, at times, having contact with the out-of-home care system.

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<sup>178</sup> NSW Department of Communities and Justice n.d., *Keeping kids connected: cultural planning for Aboriginal children and young people*, <https://olsc.nsw.gov.au/content/dam/dcj/dcj-website/documents/children-and-families/oohc/keeping-kids-connected.pdf>.

<sup>179</sup> McVicar, K and White, S 2024, *Improving cultural safety: recommendations for child protection practitioners*, Australian Institute of Family Studies, Southbank, Vic., <https://aifs.gov.au/resources/short-articles/improving-cultural-safety-recommendations-child-protection-practitioners>.

<sup>180</sup> McMahon, T, Mortimer, P, Karatasas, K, Asif, N, Delfabbro, P, Cashmore, J and Taylor, A 2021, *Culturally diverse children in out-of-home care: safety, wellbeing, cultural and family connections*, Pathways of Care Longitudinal Study, Research Report Number 20, NSW Department of Department of Communities and Justice, Sydney.

<sup>181</sup> NSW Department of Communities and Justice, FACSIAR 2020, *Culturally and linguistically diverse children in out-of-home care: Safety, developmental outcomes, connections to family and culture*, Evidence to action note, number 12, <https://dcj.nsw.gov.au/documents/about-us/facsiar/pocls/pocls-publications/culturally-and-linguistically-diverse-children.pdf>.



These children and young people can have complex trauma needs and it is essential DCJ, and other statutory agencies work collaboratively to provide necessary cultural support.<sup>182 183</sup>

### 3.8.6 Aboriginal out-of-home care transition

As DCJ continues the transition of case management to Aboriginal Controlled Organisations (ACCOs), it must work in partnership with ACCOs and service providers to ensure smooth transition where children, young people and carers are included in key decision-making. Throughout the course of the review, it was evident there is staunch support of Aboriginal children and young people being case managed by Aboriginal people and supported to remain connected to mob and Country and embrace culture.

The recent Audit Office of NSW report on safeguarding the rights of Aboriginal children, found that the audited PSP providers 'did not have governance, policies, practice and quality assurance systems to ensure safeguards for Aboriginal children in out-of-home care.'<sup>184</sup> This is further evidence that DCJ must co-design and implement an effective Accountability Framework that provides governance, performance, and appropriate oversight. The system inherently needs to be mindful; it is the system settings, policies and fixed rules enforced by government that must value self-determination, voice, and relationships. The notion of stewardship should be strong here and underpin the foundation of policy improvements, to ensure the longevity of success.

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## 3.9 Building workforce and capability

'Better caseworker training, so they don't burn out. We had 40+ caseworkers, and my girl hates to keep telling her story, not enough information about the child is passed to the next worker so they have no idea about the child.' Relative/kinship carer, 2024 Carer Survey

The people who work in the industry are well-intentioned and hard-working individuals. Their qualifications and experiences vary. In some instances, people can dedicate their entire working careers to help support children and young people in the out-of-home care system. Throughout the course of the last decade, experienced staff have been leaving in high-numbers and workforce shortages are at an all-time high.

In recent years with the growth of the High-Cost Emergency Arrangements, there has been an increase of newer organisations. These organisations are, in some instances, for profit and are enticing staff from both DCJ or PSP providers, by providing higher pay but less administrative requirements as these newer organisations have less responsibility in the system.

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<sup>182</sup> McMahon, T, Mortimer, P, Karatasas, K, Asif, N, Delfabbro, P, Cashmore, J and Taylor, A 2021, *Culturally diverse children in out-of-home care: safety, wellbeing, cultural and family connections*, Pathways of Care Longitudinal Study, Research Report Number 20, NSW Department of Department of Communities and Justice, Sydney.

<sup>183</sup> Delfabbro, P 2018, *Aboriginal children in out-of-home care in NSW: developmental outcomes and cultural and family connections*, Pathways of Care Longitudinal Study, Research Report Number 11, NSW Department of Family and Community Services, Sydney, <https://dcj.nsw.gov.au/documents/about-us/facsiar/pocls/pocls-publications/aboriginal-children-in-out-of-home-care-in-nsw.pdf>

<sup>184</sup> Audit Office of NSW 2024, *Safeguarding the rights of Aboriginal children in the child protection system*, <https://www.audit.nsw.gov.au/our-work/reports/safeguarding-the-rights-of-aboriginal-children-in-the-child-protection-system>.

Additionally, staff are leaving the industry as they feel their work is administrative, they are pulled in many different directions, and the system is too complex. DCJ should have a workforce of system experts, offering the ability to navigate the system for their clients and colleagues. In the past decade, caseworkers have become a 'jack of all trades, and master of none.' They feel restricted by administrative work behind a screen and not supported to engage with and drive outcomes for the children and young people they are working with. They feel undervalued and placed at the bottom of the food chain, their expertise and efforts need to be elevated, while their awareness of fiscal responsibility also requires uplift.

The system does need to have administrative requirements to record the stories of these children. Not only are they important to them, government has an obligation to record their actions. Greater accountability needs to be administered regarding expenditure, appropriateness of the workforce, outcomes for the children and young people in the system and fundamentally greater transparency of the taxpayer dollar.

Organisations where leadership was engaged, child focused, and energetic, created inspiration and purpose. This was evident in all layers of staff. These organisations had created their own ways to reward and recognise their workforce. DCJ and other PSP providers need to do the same. The industry would benefit from a sector-wide strategy that facilitates movement for those staff who want to progress their career, to move between government and non-government, or move from policy to practice and vice versa. Aboriginal families face additional challenges and barriers to effective service delivery, often due to cultural misconceptions and misunderstandings.

A workforce strategy must include improving cultural capability, communication, and engagement. Recruiting more Aboriginal staff across the sector and creating culturally safe and strengths-based workplaces is vital. Recruiting more Aboriginal caseworkers to work in the field and phone services is particularly important. Aboriginal caseworkers provide an Aboriginal perspective, advocate on behalf of Aboriginal people and provide services to Aboriginal and non-Aboriginal children, young people, and families. Aboriginal caseworkers can build strong relationships with partner agencies to support and strengthen families and cultural connections and use their cultural knowledge to help inform and shape service delivery.

Consideration of workforce capability is essential. Fiscal rigour is expected by the NSW public. All those working in the system must have a sufficient level of financial acumen, focusing on best interests of children and young people.

During the review we heard of staff shortages, high turnover and many service providers, including DCJ, experiencing pressures on the workforce. There were some service providers who had stable staff and low turnover, these agencies have been referred to above. The importance of proactive, supportive and inspirational leadership plays a role in the stability of the workforce. Additionally, the use of High-Cost Emergency Arrangements, the lack of role clarity and increasing administrative burdens are factors contributing to the exit of experienced staff. There needs to be an increase in role clarity, reduction of administrative burden and the inclusion of relational practice to help rebuild a clear and confident workforce. A sector-wide strategy is required to attract, recruit, retain and recognise the value workforce.

### **Recommendation 13**

The industry workforce is under immense pressure including a high caseworker vacancy rate and high workforce turnover.

- a. The NSW Government should consider a sector-wide strategy to attract, recruit, retain and recognise the value of the workforce.

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# Appendices

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## 5.1 Appendix A – System review into out-of-home care recommendations

The review team is confident that implementing these recommendations will lead to significant and tangible improvements in the out-of-home care system's efficiency, performance, and sustainability. Immediate attention to these recommendations is crucial for reforming the out-of-home care system and delivering better outcomes for children and young people in the out-of-home care system.

Within 12 months of the release of this report DCJ should report back to the NSW Government on how it has established implementation of these recommendations within the broader out-of-home care system reform.

1. The current out-of-home care arrangements across all levels are ineffective in driving change and delivering outcomes within a system that has limited accountability for achieving results. The NSW Government should establish a quadripartite agreement (the Council) between secretaries of the relevant statutory departments to drive comprehensive reform in out-of-home care. This agreement must enhance multi-agency collaboration, improve service coordination and shift investment toward early intervention and family preservation, with clear objectives and performance metrics. It should not add another level of governance into the system, but instead review current governance arrangements to streamline decision-making, enhance collaboration and ensure a more coordinated approach. This Council should convene regularly and report to the Minister for Families and Communities, other relevant ministers and the Premier.
2. There is a need for dual investment in the out-of-home care, early intervention and family preservation programs for a defined period. Strong investment is required to reduce demand in out-of-home care, while increasing family preservation.
  - a. The NSW Government should implement a whole-of-government integrated funding strategy supporting early intervention, family preservation and out-of-home care systems concurrently. This should be administered by the Council.
  - b. DCJ should create a reinvestment plan that gradually shifts focus and resources from out-of-home care to family preservation as out-of-home care demand decreases over time (noting there will always be some children and young people who cannot remain with their family of origin).
3. The review team supports a comprehensive and independent review of the *Children and Young Persons (Care and Protection) Act 1998* (Care Act) and the *Children and Young Persons (Care and Protection) Regulation 2022* (Care Reg) (collectively, the Care legislation) to ensure the legislation is contemporary, culturally sensitive and appropriate to address the complex needs of children and young people within the out-of-home care system. The review should consider:
  - a. Inclusion of a 'duty to act' being placed on relevant statutory agencies to safeguard and deliver timely and effective services to children and young people in out-of-home care. The legislation change must be accompanied by legal and policy ramifications for non-compliance.
  - b. The state having clear responsibility for delivering early intervention services and support to help families avoid entering the statutory child protection system.
  - c. Providing the necessary powers to the state to mandate engagement, or remove children, that can only be accessed once preventative supports have failed. This should be reinforced through the principles of legislation.
4. To strengthen accountability and value for money across the allocated \$2 billion out-of-home care system, DCJ must create an Accountability Framework that ensures it remains accountable

for interventions in the lives of citizens, funding, and overall system stewardship. This framework must include rigorous mechanisms for evaluating the efficiency, effectiveness, and equity of services provided by, and on behalf of DCJ (including sub-contractors). Specifically, DCJ should:

- a. Establish clear key performance indicators and performance outcomes, introduce cost-benefit and program funding analysis and conduct outcomes-based evaluations across the out-of-home care program.
  - b. Complete a comparative analysis of service providers to ensure competitive value and continued improvement in the delivery of high-quality services to children and young people in out-of-home care.
  - c. Conduct a comprehensive review of the out-of-home care contract management and governance arrangements, focusing on enhancing oversight, ensuring compliance and establishing clear monitoring and accountability measures.
5. There is lack of capability, fragmentation and significant information gaps about children and young people across the whole out-of-home care system. DCJ must:
- a. Ensure its data sharing, integration and storage capabilities enhance security and enable key stakeholders to have timely access to critical care information.
  - b. Create a single source of truth that incorporates all information relating to children and young people, including services provided, funding, performance, and contract management information.
  - c. Review all relevant information sharing protocols, practices and legislation to strengthen the sharing of information to enable coordinated service delivery.
6. The NSW Office of the Children's Guardian should:
- a. Collaborate with DCJ to clarify roles and responsibilities in the administration of duty, including the principles for sharing information and decision-making related to performance of service providers across the out-of-home care system and non-compliance with the Children's Guardian Act (2019) and related instruments.
  - b. Review the Reportable Conduct Scheme, ensuring improved timeliness of investigations, procedural fairness and evaluation of the unintended consequences that can cause further harm and trauma on children, young people and carers affected by the scheme.
  - c. Review the effectiveness of the Official Community Visitor Scheme. Observations pertaining to the safety of children and young people, and quality of services must be expeditiously shared with DCJ and the NSW Office of the Children's Guardian.
7. There is inconsistent application of care models across the out-of-home care system with limited oversight and evaluation regarding effectiveness. The NSW Government and DCJ should create effective models of care within the out-of-home-care system that cater for all children and young people. These models need to be clearly defined, evidence-informed and culturally appropriate. The continuum must cover:
- Family preservation.
  - Restoration.
  - Relative/kin care.
  - Foster care.
  - Intensive and/or professionalised foster care.
  - Residential care.
  - Semi-independent and independent living.
  - Leaving care.
  - Aftercare.

8. The NSW Government and DCJ should empower and elevate the voice of children, young people, carers, and families across the out-of-home care program to ensure services are responsive to their needs and they can raise issues and influence system design, improve services and outcomes.
  - a. The NSW Government and DCJ should establish mechanisms and processes (including advisory structures, advocacy support, surveys, and feedback systems) that actively seek, incorporate, and respond to feedback from children and young people, carers, and families.
  - b. DCJ and service providers need to reorient themselves to ensure all carers feel valued and are treated as partners in decision-making relating to children and young people in their care, and without fear of reprisal.
  - c. Relational approaches should be embedded in all out-of-home care service delivery and practice.
9. There is a lack of transparency and accountability regarding expenditure for children and young people in out-of-home care.
  - a. DCJ should maintain a system-wide financial policy that standardises and governs care allowance, expenses, and additional supports that carers can access for children and young people in their care from the case management agency.
  - b. Providers must be transparent with carers as to the funding they receive from DCJ for children and young people in their care. This should be provided to carers on an annual basis.
  - c. Carers must be provided with a list of services that every child and young person in out-of-home care is automatically entitled to receive.
10. The current case management policy has created significant gaps in service delivery and contributed to lengthy delays in court proceedings. DCJ should:
  - a. Retain case management for all children and young people until final court orders.
  - b. Accept service provider requests for case management to be transferred back to DCJ.
  - c. All plans relating to children and young people in out-of-home care should be completed to a high standard. This should include taking a holistic approach, involve all key people and the Principal Officer should regularly review for quality assurance.
11. There is a lack of prioritisation, timeliness, and integration of health care (including mental health) for children and young people in out-of-home care.
  - a. The NSW Government should establish integrated health care coordination teams, where dedicated professionals are responsible for providing comprehensive and priority access to physical, social and health (including mental health) services that improve overall health outcomes for vulnerable children in out-of-home care.
  - b. If integrated health care coordination teams are not feasible, the current Out-of-Home Care Health Pathway Program model is to be immediately enhanced, and NSW Health out-of-home care coordinators should be held responsible for the implementation of health plans for children and young people in the out-of-home care system.
12. Current education plans and practices are deficient in achieving the best learning outcomes for children and young people in care.
  - a. The NSW Education Standards Authority should consider mandating the training of trauma-informed practice. This training should be completed within the next 12 to 18

months as an initial strategy with refreshers offered to ensure all staff are contemporary in their application of trauma-informed practice.

- b. Where a child or young person in out-of-home care is excluded from school (for any period), the NSW Department of Education must ensure suspension plans include reintegration strategies that support academic, wellbeing and behavioural needs.
  - c. Where children or young people in out-of-home care are not able to attend mainstream schools, the NSW Government and NSW Department of Education should ensure appropriate alternative specialist schools or ensure learning services are supported.
  - d. The current Out-of-Home Care Education Pathways Program model is to be immediately reviewed to enhance learning and development for children and young people in care. The NSW Department of Education should be responsible for overseeing education plan implementation for children and young people in the out-of-home care system.
  - e. DCJ and the NSW Department of Education should jointly and publicly report on education outcomes for children and young people in out-of-home care.
13. The industry workforce is under immense pressure including a high caseworker vacancy rate and high workforce turnover.
- a. The NSW Government should consider a sector-wide strategy to attract, recruit, retain and recognise the value of the workforce.

### **Important note**

Recommendations from the system review should be included in the out-of-home care reform agenda.



## 5.2 Appendix B – List of figures (infographics, diagrams, tables and graphs)

Reference	Title	Page
Figure 2.1	<u>Children and young people in out-of-home in NSW at a glance</u>	15-16
Figure 2.2	<u>Total number of children in out-of-home care by Aboriginality as at 30 June 2019 to 2024</u>	18
Figure 2.3	<u>Age of children in out-of-home care as at 30 June 2024</u>	19
Figure 2.4	<u>The NSW out-of-home care system</u>	22
Figure 2.5	<u>The various care models delivered through the out-of-home care and Permanency Support Program</u>	23
Figure 2.6	<u>Out-of-home care expenditure 2018-19 to 2023-24</u>	29
Figure 2.7	<u>Number of authorised carers on the NSW Carers Register as at 30 June 2021 to 2024</u>	30
Figure 2.8	<u>Overview of the types of High-Cost Emergency Arrangements</u>	31
Figure 2.9	<u>Number of children and young people in High-Cost Emergency Arrangements (HCEA) by HCEA type as at 30 June 2020 to 2024</u>	32
Figure 3.1	<u>System review out-of-home care key findings and recommendations against the Terms of Reference</u>	38-39
Figure 3.2	<u>Proposed Accountability Framework</u>	49
Figure 3.3	<u>Continuum of care models</u>	64
Figure 3.4	<u>Top six areas for improvement in out-of-home care reported by carers, DCJ NSW Carer Survey 2024</u>	80
Figure 3.5	<u>Carer recruitment activities and support offered by agencies</u>	82
Figure 3.6	<u>Health and wellbeing of children in out-of-home care</u>	92
Figure 3.7	<u>Education and children in out-of-home care</u>	99
Figure 5.1	<u>Reviews and government responses over time</u>	135
Figure 5.2	<u>Permanency Support Program Package Model</u>	137

## 5.3 Appendix C – Acronyms used in this report

Acronym	Meaning
AbSec NSW	Aboriginal Child, Family and Community Care State Secretariat
ACCO	Aboriginal Community-Controlled Organisation
ACA	Alternative Care Arrangement
ACT	Australian Capital Territory
ACWA	Association of Children's Welfare Agencies
ACYP	Advocate for Children and Young People
ACS	Additional Carer Support
ATSIPP	Aboriginal and Torres Strait Islander Child Placement Principle
CAT	Child Assessment Tool
CFDU	Child and Family District Unit
DCJ	Department of Communities and Justice
HCEA	High-Cost Emergency Arrangement
ICM	Interim Care Model
IPA	Individual Placement Arrangement
ITC	Intensive Therapeutic Care
ITTC	Intensive Transitional Therapeutic Care
ITCH	Intensive Therapeutic Care Homes
ITC SD	Intensive Therapeutic Care Significant Disability
KPI	Key Performance Indicator
NDIS	National Disability Insurance Scheme
NCAT	NSW Civil and Administrative Tribunal
NGO	Non-government organisation
OCG	Office of the Children's Guardian
OCV	Official Community Visitor
OOHC	Out-of-home care
PIC	Professional Individualised Care
POCLS	Pathways of Care Longitudinal Study
PR	Parental Responsibility
PSP	Permanency Support Program
ROSH	Risk of Significant Harm
SCI Pool	Stronger Communities Investment Pool
SIL	Supported Independent Living
SIL-18	Supported Independent Living over 18s
STEP	Short Term Emergency Placement
TEI	Targeted Early Intervention
TFCO	Treatment Foster Care Oregon
TFM	Their Futures Matter

Acronym	Meaning
THBC	Therapeutic Home-Based Care
TSIL	Therapeutic Supported Independent Living
TSIL-18	Therapeutic Supported Independent Living over 18s
THBC	Therapeutic Home-Based Care
TSOP	Therapeutic Sibling Option Placement

## 5.4 Appendix D – Glossary of terms used in this report

Out-of-home care is denoted as OOHC in this glossary.

Term	Meaning
Aboriginal	The term 'Aboriginal' in this report refers to both Aboriginal and Torres Strait Islander peoples. It is used to refer to the numerous nations, language groups and clans in NSW. 'Indigenous' is retained when it is part of the title of a program, report, or quotation, or when the context requires it.
Aboriginal Community-Controlled Organisation (ACCO)	An independent, not-for-profit organisation that is incorporated as Aboriginal organisation, is controlled, and operated by Aboriginal people, is based in the local Aboriginal community and delivers services to Aboriginal communities.
Aboriginal out-of-home care transition	The NSW Government has committed to transferring the case management of Aboriginal children and young people in statutory OOHC care to ACCOs to assist in maintaining connections to culture and community. This means that Aboriginal children and young people who cannot live at home with their families will have their case management transferred to an ACCO as part of the Aboriginal OOHC Transition.
AbSec NSW	AbSec NSW is the peak organisation for Aboriginal children and families in NSW. AbSec NSW is a not-for profit organisation that aims to empower Aboriginal children and families impacted by the child protection system and supports ACCOs in the child and family sector.
Accreditation	The NSW Office of the Children's Guardian is responsible for accrediting provider of OOHC and adoption services, including DCJ. In NSW, accreditation to provide statutory OOHC and adoption services is based on the NSW Child Safe Standards for Permanent Care 2015. The standards focus on providing permanent care for children and young people.
Additional Carer Support (ACS)	The additional carer support package funding allows funded service providers (FSP) to conduct additional carer recruitment and matching to reflect the additional support needs of children; provide additional financial support, training, and respite to carers; and provide additional hours of casework support for each child every week. Eligibility is determined on a case-by-case basis.
Adoption order	Made by the Supreme Court of NSW and legally transfers all parental rights and responsibilities, guardianship, and custody from the child's parents to the adoptive parents. The main factor considered by the court in deciding whether to grant an order is the 'best interest' of the child – adoption must be a better option than any other legal action that could be taken in relation to the care of the child.
Advocate for Children and Young People (ACYP)	The ACYP is an independent statutory office reporting to the NSW Parliament through the Parliamentary Joint Committee on Children and Young People. The office is established under the <i>Advocate for Children and Young People Act 2014</i> .
Aftercare	The ongoing support, a young person receives from the age of 18 up to 25 years, after they have legally left OOHC. In some cases, this care can extend beyond the age of 25. It is the final stage of support available under the Permanency Support Program.
Alternative Care Arrangement (ACA)	An emergency bespoke arrangement where the child is in a non-home like environment (e.g. a hotel, motel, or other temporary accommodation that can be terminated at short notice). Most direct care is provided by staff from an agency that is not accredited for residential care.

Term	Meaning
Alternative dispute resolution (ADR)	ADR is a term used to describe a variety of different voluntary processes where an impartial facilitator helps people resolve disputes (section 37 of the Care Act).
Association of Children's Welfare Agencies (ACWA)	ACWA is the NSW non-government peak body representing the voice of community organisations working with vulnerable children and their families.
Care order	An order of the Court made with respect to the care and protection of a child/young person.
Carer/authorised carer	A carer engaged by a designated agency, authorised under section 137 of the Care Act. Unless otherwise specified, 'carer' refers to: <ul style="list-style-type: none"> <li>an authorised carer (foster carer, relative/kin carer, or respite carer) of a child in OOHC</li> <li>employees providing OOHC to a child in residential settings, including Intensive Therapeutic Care.</li> </ul>
Case management/ Permanency case management	Case management is comprised of two types of case responsibility, primary case responsibility and secondary case responsibility. Permanency case management is guided by the PSP Case Management Policy that is designed to: <ul style="list-style-type: none"> <li>explain the way we achieve safety, permanency and wellbeing for children and young people by keeping them with or returning them to family, arranging a permanent legal guardian, supporting open adoption, or providing long term care</li> <li>clarify the different roles and responsibilities of DCJ and funded service providers in responding to child protection reports, assessing safety, and case planning for permanency and wellbeing</li> <li>embed in practice a culture that focusses on safety, permanency, and wellbeing.</li> </ul>
Case planning	A participatory process that identifies required goals, objectives, and tasks to protect and support children and their families.
Case responsibility or primary case responsibility	When a PSP provider has primary case responsibility, the primary casework relationship is between the provider and the child, their carer, parents, and family/kin.  Or refers to primary case responsibility for achieving a child's case plan goal of preservation within two years (not in OOHC).  Or refers to primary case responsibility for supervising SIL/TSIL placements for young adults (previously in OOHC).
Child and Family District Unit (CFDU)	A DCJ CFDU acts as the key interface between PSP providers and the department. CFDUs exercise secondary case responsibility as the nominated unit. CFDUs are the point of contact for PSP providers, when there has been a significant change in relevant circumstances for the child, their parents, siblings, or family/kin requiring review by DCJ.
Child Assessment Tool (CAT)	The tool designed to identify the most appropriate level of care for a child. It focuses on the safety and wellbeing needs of the child, including developmental milestones, health, and behavioural needs as well as social skill attainment. The CAT outcome determines the child's level of needs and assists with placement matching.
Children's Court of NSW	A specialist court that deals with cases involving the care and protection of children and young people under 18 years of age. This includes criminal cases where the defendant is under 18 years of age at the time of the alleged offence,



Term	Meaning
	applications for apprehended violence orders where the defendant is under 18 years of age, and applications for Compulsory Schooling Orders where a child or young person is required by law to attend school.
ChildStory	DCJ's information management system (client relationship management (CRM) system) for children and young people in OOHC and child protection. ChildStory records and recalls the right information in real time, which helps a child or young person's network of family, carers, caseworkers, and service providers make the best possible decisions. ChildStory provides a holistic view for informed decision-making which enables the network to work together and focus on the safety and wellbeing of a child or young person.
ChildStory Partner	ChildStory Partner makes it easier for service partners to interact with DCJ and enables partners to securely send and receive information about the children and young people they work with.
Commissioning	DCJ's strategic approach for delivering DCJ-funded human services. Commissioning includes the full range of activities DCJ undertakes to plan and implement services: from service design, procurement and contracting, right through to monitoring and evaluation.
Contract management	Refers to funded contract management that consists of the systems and processes that support the way DCJ manages contracts with funded service providers including monitoring that service providers are delivering quality services and ensures both parties are meeting their responsibilities and obligations agreed in the contract.
Early intervention	Refers to activities, programs and services designed to support families who show signs of needing support or vulnerabilities that may escalate into child abuse or neglect. Early interventions provide families with resources and skills designed to interrupt the growth of emerging problems and encourage positive child development.
Family Connect and Support (FCS)	A whole-of-family service for children, young people and their families experiencing or at risk of experiencing vulnerability in NSW. It is for families who could benefit from support to address and prevent the escalation of current issues. FCS is for families with identified concerns that fall below the threshold of statutory child protection intervention. By providing an earlier assessment of needs and supporting families to remain safe and well in their family, FCS seeks to avert the need for statutory intervention and that will have a positive impact on a person's life outcomes.
Family finding	A model developed by Kevin Campbell and colleagues in the US that seeks to connect children and young people who are in OOHC, or at risk of entering care, with family or their supportive adults. Family finding supports children's emotional permanency and helps DCJ and service providers to identify permanency options and/or lifelong support people in permanency case planning.
Family Group Conferencing	A voluntary process in which family members and other significant people in a child's life meet with case workers to jointly discuss and plan strategies to address child protection concerns. This process is intended to be a family-centred, strength based, culturally sensitive approach, which empowers families to support their children by deciding issues such as support, placement, contact, restoration, and services and, in turn, prevent the need for Children's Court of NSW proceedings.
Family Preservation or preservation	A voluntary program that strengthens the ability of parents to respond to their children's needs and to create a safe and nurturing home. DCJ funds a range of Family Preservation services across NSW. These services aim to provide a range of supports to promote parenting skills, family functioning, child development,

Term	Meaning
	and therapeutic supports to address the trauma often experienced by children and young people in contact with the child protection system.
Foster care	Refers to services delivered by DCJ or service providers for children in statutory OOHC, which are provided by authorised carers, prospective guardians, and prospective adoptive parents in the carer's own home, or rarely in a home owned or rented by the service provider.
Funding Deed	The Funding Deed sets out the terms that apply to a DCJ contracted organisation.
Guardianship	Where a guardian takes on full parental responsibility of the child or young person, making all decisions about their care until they reach 18 years of age. A child or young person under a guardianship order is not considered to be in OOHC but in the independent care of their guardian.
High needs children	Children with a CAT outcome of high.
High-Cost Emergency Arrangement (HCEA)	HCEAs are only used when children cannot be placed within preferred foster care or ITC placements. There are five types of HCEAs - Interim Care Model (ICM), Short Term Emergency Placements (STEP), Special OOHC, Individual Placement Agreement (IPA), and ACAs. All children in HCEA are case managed by an agency who has been accredited by the NSW Office of the Children's Guardian - this is either DCJ or a PSP provider.
Individual Placement Arrangement (IPA)	A home-like accommodation (e.g., house, unit, serviced apartment). Direct care is predominantly provided by staff from a residential care accredited agency.
Intensive Therapeutic Care (ITC)	The service system that supports children with identified high needs assessed as CAT 5 or 6 who are either 12 years or over and unable to be adequately supported in foster care or require specialised and intensive supports to maintain stability in their care arrangements. ITC placements (ITTC, TSOP, TSIL, THBC and ITC Homes) ensure children's case plans are implemented and facilitate transitions to less intensive placements with ongoing supports. The Ten essential elements of therapeutic care guide program development and service delivery.
Intensive Therapeutic Care Homes (ITC Home)	Provision of time limited, Intensive Therapeutic Care in a safe and home-like environment that has a dedicated in-house care team guided by an overarching therapeutic philosophy of care.
Intensive Therapeutic Care Significant Disability	Baseline package for service providers to support a child in statutory OOHC where they are placed in an ITC Significant Disability placement.
Intensive Therapeutic Transitional Care (ITTC)	Time limited interim placements (up to 13 weeks) delivered by service providers. ITTC provides a higher intensity of therapeutic care and thorough assessments to identify young people's needs. These units develop and implement case plans incorporating therapeutic interventions, permanency goals and planned transitions to less intensive placements with ongoing supports.
Interim Care Model (ICM)	A short term (up to three months) grouped placement for children and young people with low and medium needs 9-14 years and is delivered under the Permanency Support Program contract.
Kinship care	Refers to services delivered by DCJ or service providers for children in statutory out-of-home care, which are provided by a family member including extended family member.

Term	Meaning
Long term care	An OOHC placement longer than two years. The case plan goal is reviewed every 12 months and may change to restoration, guardianship, or adoption, as appropriate.
Low needs children	Children and young people with CAT scores of one and two.
Magistrate	In NSW, a magistrate is a judicial officer who presides over lower courts, which deal with less serious criminal and civil cases. The role of the magistrate in NSW is to interpret and apply the law, and to make decisions based on the evidence presented in court.
Medium needs children	Children and young people with CAT scores of three and four.
My Forever Family NSW	My Forever Family NSW is currently a contracted service provider with DCJ and provides support, training and services for kinship and relative carers, foster carers, guardians, and adoptive parents from OOHC.
National Disability Insurance Scheme (NDIS)	The NDIS provides funding to eligible people with disability to gain more time with family and friends, greater independence, access to new skills, jobs, or volunteering in their community, and an improved quality of life. The NDIS also connects anyone with disability to services in their community.
Non-government organisation (NGO)	A provider of OOHC who is not government-affiliated. Typically, these are not-for-profit non-government organisations including ACCOs. Interchangeably used with PSP or OOHC service provider.
NSW Civil and Administrative Tribunal (NCAT)	The NSW Civil and Administrative Tribunal (NCAT) decides a range of civil and administrative cases in New South Wales. The law that establishes NCAT and governs its operations is the Civil and Administrative Tribunal Act 2013. NCAT provides a simple, quick, and effective process for resolving disputes and reviewing administrative action.
Office of the Children's Guardian (OCG)	The NSW Office of the Children's Guardian is a statutory NSW Government agency. The OCG oversee organisations that provide services to children. The powers and functions of the Children's Guardian are defined in the Children's Guardian Act 2019.
Official Community Visitors (OCVs)	Official Community Visitors (OCVs) are appointed by the Minister for Families and Communities and the Minister for Disability Inclusion under the Ageing and Disability Commissioner Act 2019 and the Children's Guardian Act 2019 to promote the rights of children, young people and people with disability in care, and help to resolve issues of concern by raising them with services.  OCVs visit accommodation services for children, young people, people with disability, and people living in assisted boarding houses, throughout NSW. They actively encourage the speedy resolution of issues at a local level. They report serious concerns to the Minister, the NSW Ageing and Disability Commissioner, and to the NSW Children's Guardian.
Out-of-home care (OOHC)	All types of OOHC services unless otherwise specified. OOHC is a pathway to a permanent home for a child or young person, not a long-term form of support. This is assisted using shorter term and interim court orders rather than long term parental responsibility for a child or young person to the Minister until they reach 18 years.
Out-of-home care provider or Permanency Support Program (PSP) service provider	The OOHC accredited not-for-profit agencies, including ACCOs, who are funded to deliver services as part of PSP and under PSP contracting arrangements and service agreements.  Interchangeably referred to as a contracted or funded service provider.

Term	Meaning
Packages – see Appendix D	The Permanency Support Program (PSP) funds PSP providers to deliver services to children and young people in OOHC. The PSP packaged care service model is comprised of a case plan goal package, baseline package and child needs package. Specialist packages are available depending on the child's circumstances and eligibility. The packages are provided to cover the cost of case management, services and supports required to address the individual child's needs across the continuum of care. More information about PSP packages can be found here.
Permanency outcome	Children and young people achieve permanency in their living situation, by: <ul style="list-style-type: none"> <li>• maintaining children and young people with their family</li> <li>• restoring children and young people to their family</li> <li>• guardianship to relative/kin</li> <li>• open adoption (this is not the preferred option for Aboriginal children and young people due to past policies of forced removal).</li> </ul>
Permanency planning or permanency case planning	Helps DCJ and PSP providers work collaboratively to achieve safety, permanency, and wellbeing for children by keeping them with or returning them to family, arranging a permanent legal guardian, supporting open adoption, or providing long term care as described in the permanent placement principles (section 10A, the Care Act).
Permanency Support Program (PSP) Program Level Agreement (PLA)	The PSP PLA contains details of service engagement, funding and contracting period that apply to a DCJ contracted service provider delivering permanency supports services to children and young persons under the Care Act.
Placement	An OOHC placement is a place, other than the usual home of a child, when care is provided to a child by a person other than their parents (section 135(1), the Care Act). A placement may be a relative/kin care or foster care placement; or ITC placement or another type of placement in OOHC.
Residential care	Care provided in a property owned or rented by a service provider, staffed by direct care workers and with access to multidisciplinary specialist services. Services provided are referred to as Intensive Therapeutic Transitional Care (ITTC), Therapeutic Supported Independent Living (TSIL), Therapeutic Sibling Option Placement (TSOP), Therapeutic Homed Based Care (THBC) and Intensive Therapeutic Care Homes (ITC Homes).
Restoration	The return of a child to the care of their parents after they have been in out-of-home care.
Risk of significant harm (ROSH)	A child or young person is assessed as a ROSH if the circumstances that are causing concern for the safety, welfare or wellbeing of the child or young person are present to a significant extent. This means it is sufficiently serious to warrant a response by a statutory authority, irrespective of a family's consent.
Secondary case management or case responsibility	Responsibility for carrying out DCJ's statutory role including safety and risk assessment, alternate assessment to ensure a child's safety in care, and exercising the residential aspect of parental responsibility on behalf of the Minister.
Service provider	All agencies delivering services across NSW's child protection and OOHC system including PSP funded service providers and other service providers.
Short Term Emergency Placement (STEP)	A short term (approvals for up to three months), on demand 1:1 emergency accommodation and support model for children and young people 12 years and over with high and complex needs.

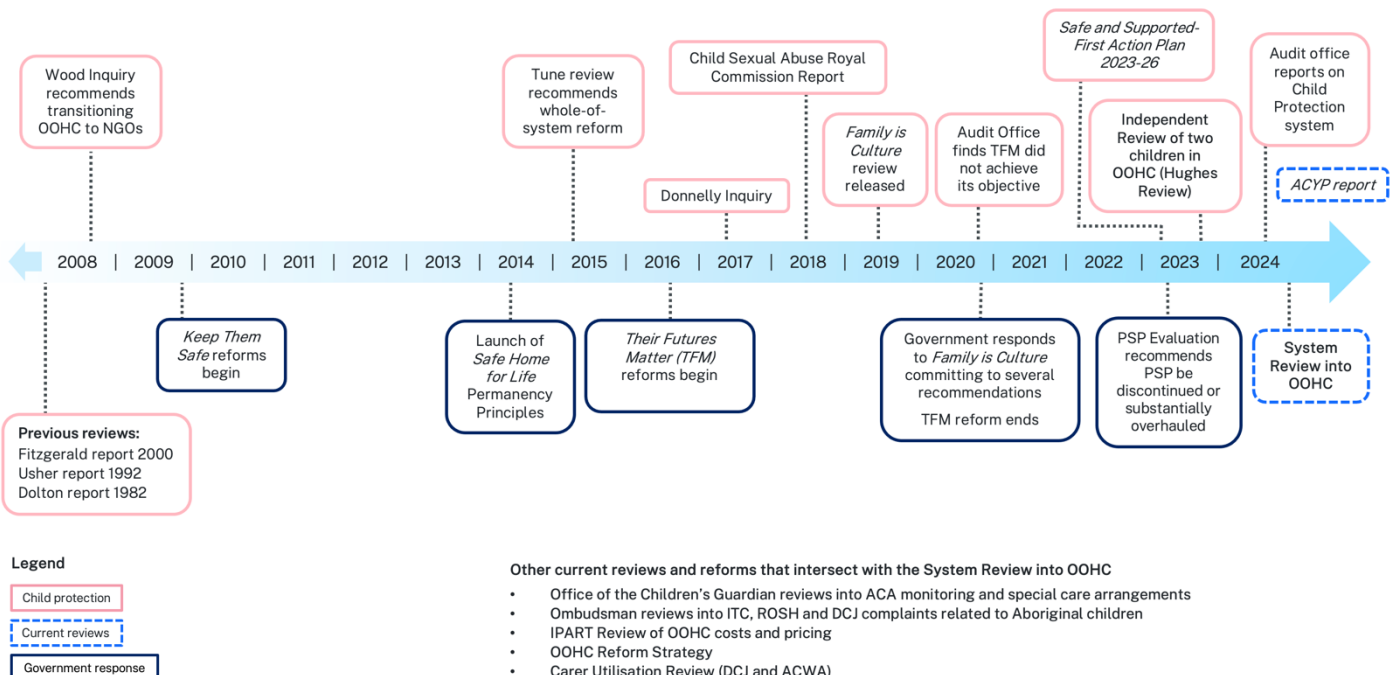
Term	Meaning
Special OOHC	There are occasions when a child's disability support needs are so specific, they are unable to be placed with a designated agency and require a specialist disability provider or health setting to meet their placement and care needs.
Statutory OOHC	OOHC provided to children and young people for a period of more than 14 days either pursuant to an order of the Children's Court of NSW, where parental responsibility is transferred to the Minister, or by virtue of the child or young person being a protected person.
Subcontracting	For DCJ's purposes, subcontracting is when a service provider uses the department's funds to pay a third party, whether an organisation or an individual, to fulfil part or all the services DCJ has contracted the service provider to deliver.
Supported Independent Living (SIL)	Placement options and supports for young people over 16 years of age, who are CAT 1-4, to successfully acquire independent living skills through the provision of accommodation, case management and structured and individualised life skills programs.
Therapeutic Home-Based Care (THBC)	Innovative, tailored, and flexible placement options for children and young people in ITC to enable their step down from ITCH or alternate placement to an ITCH, Therapeutic Supported Independent Living (TSIL) or Therapeutic Sibling Option Placement (TSOP) and better achieve exit from ITC and improve their safety, permanency, and wellbeing outcomes.
Therapeutic Sibling Option Placement (TSOP)	A foster care placement for siblings or related groups of children and young people (with at least one child or young person with high and complex needs). Care is provided by permanent authorised live-in carers in a house maintained by a service provider.
Therapeutic Supported Independent Living (TSIL)	A placement option and supported for young people over 16 years of age, who are CAT 5-6, to successfully acquire independent living skills through the provision of accommodation, casework, and structured and individualised life skills programs.
Trauma-informed care	Care and interventions that are informed by an understanding of the psychological and physical impacts of trauma experiences on the developing child.
Value for money	<p>Value for money is a key concept in the system review into OOHC Terms of Reference. We follow the NSW Treasury definition of value for money in this report. Value for money is achieved when the maximum benefit is obtained from the available resource. Value for money is supported by:</p> <ul style="list-style-type: none"> <li>• Maximising output from the use of available inputs.</li> <li>• Effectiveness in achieving the intended outcomes.</li> <li>• Maximising benefits and achieving a new social benefit (benefit exceeds cost)</li> </ul> <p>This is about using public resources in an efficient, effective, economical and ethical manner that is not inconsistent with NSW Government policies.</p>
Wellbeing	Covers the breadth of mental health, cognitive functioning, cultural and spiritual identity, physical health and development, and social functioning. It ensures a child or young person's basic needs are met and they have the opportunity to grow and develop in an environment that provides consistent, nurture, support, and stimulation. It means that a child or young person is able to develop a sense of identity, an understanding of their cultural heritage and have skills for coping with a variety of situations.

## 5.5 Appendix E – Published reviews and inquiry reports

### 5.5.1 Published reviews

- IPART Review of OOHC costs and pricing Interim Report September 2024
- NSW Office of the Children’s Guardian review in ACAs Strengthening out-of-home care and the broader child protection system August 2024
- NSW Ombudsman special report Protecting children at risk: an assessment of whether the Department of Communities and Justice is meeting its core responsibilities July 2024
- Oversight of the child protection system - Audit Office of NSW June 2024
- Safeguarding the rights of Aboriginal children and young people in the child protection system - Audit Office of NSW June 2024
- Moving from Cage to Cage – Advocate for Children and Young People (ACYP) June 2024
- Permanency Support Program Evaluation – DCJ 2023
- Independent Review of two children in Out-of-home Care (Hughes review) 2023
- Their Futures Matter Performance Audit - Audit Office of NSW 2020
- Contracting non-government organisations - Audit Office of NSW 2019
- Family is Culture (FIC) 2019
- Donnelly Inquiry 2017
- Tune Review 2015
- Wood report 2008
- Fitzgerald report 2000
- Usher report 1992
- Dolton report 1982

Figure 5.1: Reviews and government responses over time





## 5.6 Appendix F – Overview of Children’s Court of NSW and NSW Civil and Administrative Tribunal (NCAT) decisions that raised several concerns in respect to the out-of-home care system

### **Overview of Department of Communities and Justice (DCJ) and the Yarran Taylor Children 2024, NSWChC 3** <https://www.caselaw.nsw.gov.au/decision/18f2cf0a91949bdf7b563c62>

- Engaging families early enough in the child protection process.
- Improving oversight of services being provided by service providers, so that children’s welfare needs are being effectively met.
- The use of Alternative Care Arrangements (ACAs) for children and young people in out-of-home care was ineffective and harmful, with multiple and inconsistent workers.
- The overall inefficiency of case management across the system to meet the needs of children and young people in out-of-home care
- The need to reduce the number of placements of children and young people, with excessive placements used.

### **Overview of Department of Communities and Justice (DCJ) and the Dalton Tomkins Children 2023, NSWChC 10** <https://www.caselaw.nsw.gov.au/decision/18a05dcd89cb6237bffabbc4>

- Unsatisfactory case management and concerns as to whether services provided met the necessary standards for children and young people.
- The drive for restoration should be well considered and in the best interests of the children.
- Ineffectiveness in the documenting and planning for children’s needs, including health and education needs to be addressed. Educational and health outcomes for the children should be met.
- Poor communication and collaboration between DCJ and other relevant agencies to be addressed, as this hampers coordination to ensure the children’s best interests were prioritised.
- DCJ and service providers need to provide timely and appropriate permanency planning for children and young people in out-of-home care, including the need to have clear goals for reunification with family or transition into permanent care arrangements.

### **Overview of Department of Communities and Justice (DCJ) and Phoebe and Katelyn Wilson 2024, NSWChC 9** <https://www.caselaw.nsw.gov.au/decision/190576792deb1a1f13db9db9>

- Support should be provided to families to improve the parents' caregiving abilities.
- There should not be delayed response in addressing the risks that children face. Earlier intervention can potentially reduce harm to children and young people and provide better support for the family.
- Accurate and comprehensive evidence should be gathered and presented to the court.
- Improved transparency and accountability for decision-making is needed in the system.
- High caseloads, inexperienced caseworkers, and insufficient resources for caseworkers to rely on impacts on the case management of children and young people in out-of-home care.

### **Overview of Department of Communities and Justice (DCJ) and Paul Robertson and Sadie Ford 2024, NSWChC 13** <https://www.caselaw.nsw.gov.au/decision/191926d21a467e05297320bd>

- Decisions regarding restoration must prioritise the children’s best interests, and include the child’s safety, stability, and emotional wellbeing.
- Comprehensive assessments must be completed before considering recommendations for restoration, including the necessity of evaluating risks related to parents and how those risks could affect or harm the children or young people.

- Stability should not be compromised by premature restoration efforts.
- The importance of adherence to court orders and the legal framework by DCJ and service providers.

### **Overview of FWY v Biripi Aboriginal Corporation Medical Centre 2024, NSWCATAD 70**

<https://www.caselaw.nsw.gov.au/decision/18e30b21fa7dd0e4638e01ad>

- The importance of comprehensive assessments being completed, with substandard placement assessments potentially resulting in a child or young person being further harmed or placed at risk of harm, wrongly placed and/or placement breakdown.
- The importance of well-considered placement and transition planning. Short notice and poorly considered transitions can be reckless, unreasonable and lack the proper consideration of a child or young person's welfare, safety, and wellbeing.
- There must be appropriate consideration of reportable conduct matters.
- The importance of the relationship between a service provider, DCJ and carers in ensuring the ongoing stability and placement of children and young people.
- The need for DCJ and service providers to adhere to the principles as set out in s9(2)(c) of the CARE Act, and s12A, with the least intrusive intervention to occur in the lives of children that is consistent with the paramount concern to protect each child from harm and promote each child's development.
- The importance of children and young people remaining connected to family, community, culture, and Country.

### **Overview of Finn, Lincoln, Marina, and Blake Hughes 2022, NSWChC 4 and Hughes review<sup>185</sup>**

<https://www.caselaw.nsw.gov.au/decision/1838153002ff448386fd6cb9>

- Delays in the timely intervention in the best interests of children – need for a stronger focus on the welfare of children.
- The lack of consistent and effective case management.
- The use of ACAs and other High-Cost Emergency Arrangements with children exposed to a high number of staff turnover and use of agency staff with only basic qualifications.
- The inappropriate amount of time children are left in High-Cost Emergency Arrangements (including Alternative Care Arrangements).
- The negative impact on children and young people who through numerous placement movements are exposed to multiple changes in schools and increased social isolation.
- Lack of coordination of services by service providers and a general failure to provide adequate support for both the children and the parents.
- The breakdown of communication between agencies which impacts on the timely and effective provision of care and protection for the children.
- A need for a more structured and responsive service delivery to children and young people in care, including access to meaningful activities and therapeutic care and support.

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<sup>185</sup> Mitchell, M 2023, *Critical incident commissioning review – Hughes siblings*, <https://dcj.nsw.gov.au/documents/service-providers/out-of-home-care-and-permanency-support-program/about-permanency-support-program-and-overview-childstory-and-oohc-resources/independent-review-of-two-children-in-oohc-summary-report.pdf>.

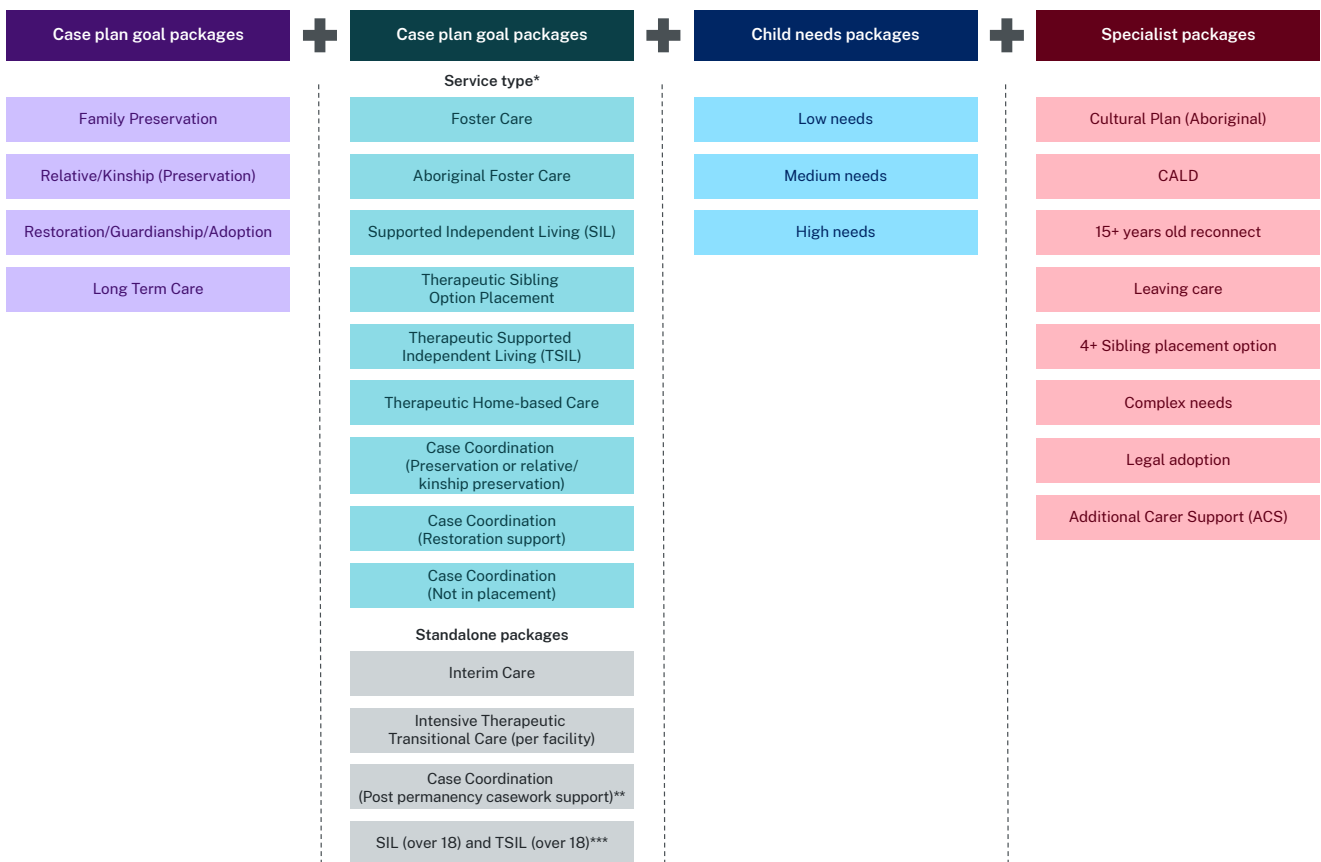
# 5.7 Appendix G – Overview of Permanency Support Program service packages

The Permanency Support Program (PSP) funds PSP providers to deliver services to children and young people in out-of-home care.

The PSP packaged care service model is comprised of a case plan goal package, baseline package and child needs package. Specialist packages are available depending on the child’s circumstances and eligibility.

Refer to the Permanency Support Program Packages: Eligibility Rules and Inclusion document for further information.

Figure 5.2: Permanency Support Program Package Model



\*Intensive Therapeutic Care Homes and Intensive Therapeutic Care Significant Disability are separate to this funding model.

\*\*A stand-alone package is available on a case-by-case basis for up to six months.

\*\*\*These packages came into effect from 1 July 2023.

