



Schedule 5 – Definitions

This Schedule explains the definitions of words referred to in the Agreement.

Service Provider Name	«Provider_name»
PLA ID	«PSP_PLA_ID»
Program	Permanency Support Program

1. Introduction

The purpose of this Schedule is to identify the definitions of words and acronyms referred to in the Agreement.

2. Definitions

In this Agreement, unless the context indicates a contrary intention:

Abatement means the Service Activity Compliance Abatement, applicable where a Performance Failure has occurred in respect of a Service Activity Compliance KPI as set out in Appendix A of Schedule 2 of the Program Level Agreement;

Aboriginal and **Aboriginal child or young person** have the meanings given in s 5(1) of the Care Act.

Aboriginal and Torres Strait Islander Child Placement Principles means Principles outlined in Part Two (sections 11-14) of the Care Act. Section 13 of the Care Act outlines the order for placement for Aboriginal or Torres Strait Islander Children and Young People. Preservation, Restoration and Relative and Kinship care the most preferred support directions for Aboriginal and Torres Strait Islander Children and Young People.

Aboriginal Care means Permanency Support Program Services provided to Aboriginal Children and Young People by Aboriginal Organisations and non-Aboriginal Organisations.

Aboriginal Community Controlled Organisation (ACCO) means an incorporated Aboriginal Organisation that is determined by DCJ in accordance with s 44 of the National Agreement on Closing the Gap to be:

- (a) an independent, not-for-profit organisation, that is incorporated as an Aboriginal and Torres Strait Islander organisation and/or is a registered community service;
- (b) initiated, based, governed and operated by the local Aboriginal and Torres Strait Islander community;
- (c) Accountable to their local community and facilitates local Aboriginal and Torres Strait Islander peoples to have input into service design, delivery and performance; and
- (d) endorsed by the local community leadership to deliver holistic and culturally appropriate services/activities that benefit Aboriginal and Torres Strait Islander communities and people, including building strength and empowerment.

Aboriginal Foster Care means Permanency Support Program Services provided by Aboriginal Community Controlled Organisations.

Aboriginal Transition Plan is the plan that agencies are required to develop that supports the transfer of Aboriginal Children and Young People to ACCOs in accordance with Schedule 1 of this agreement.

Aboriginal Transition Support Payment means the payment made to Aboriginal Community Controlled Organisations (if eligible) to enable the transition of Aboriginal children from non-Aboriginal providers.

Actual Vacancy means the difference, if any, between a Service Provider's Contracted Volume and Actual Volume. This applies only to Interim Care.

Actual Volume in Foster Care means the number of Children and Young People receiving a service from a Service Provider over the Service Delivery Period. For Foster Care, this includes children and young people receiving a case coordination package.

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Actual Volume in Intensive Therapeutic Care Homes and Intensive Therapeutic Care - Significant Disability means the number of 4 bed and 2 bed homes the provider is expected to have available for children and young people.

Address means a party's address set out in the Notices clause of the Funding Deed.

After Care Plan means a plan that documents identified support needs of a Young Person for transitioning to independence and actions to achieve the planned goals.

Agreement means this program level agreement.

Alleged Misconduct means an allegation which raises a reasonable suspicion of:

- (a) misconduct in connection with the Funds or the Services, including serious or persistent harassment or bullying; or
- (b) a criminal offence having been committed, including theft, fraud or assault.

Alternative Care Arrangement (ACA) means:

- (a) an emergency and temporary arrangement for a Child or Young Person in, or entering, statutory or supported out-of-home care (OOHC) after every effort has been made to place them with an accredited OOHC provider and where the Child or Young Person is to be:
 - i. cared for in a hotel, motel or other temporary accommodation which can be terminated at short notice; or
 - ii. directly cared for and supervised solely by sub-contracted staff from an ACA service provider who are authorised under clause 31B of the Care Regulation;
- (b) such other definition as is agreed by DCJ and OCG and notified to the Service Provider from time to time; or
- (c) where a legislative definition is applicable, as defined in that legislation.

Approval means any certificate, licence, consent, permit, approval or other requirement of any Authority having jurisdiction in connection with the activities contemplated by the Funding Deed.

Asset in respect of a Program means an item of tangible property purchased or leased either wholly or in part with the use of Funds provided under the Funding Deed.

Authorised Carer has the meaning given in s 137 of the Care Act.

Authority means any government, semi-governmental, statutory, administrative, fiscal or judicial body, department, commission, authority, tribunal, public or other person.

Barred Person means a "disqualified person", or a person who is subject to an "interim bar" under the CPWC Act; or a "registrable person" as defined in section 3A of the *Child Protection (Offenders Registration) Act 2000*.

Baseline Package means the package based on costs to support the Child or Young Person either:

- (a) in an Out of Home Care (OOHC) placement (Foster Care, Temporary Care, Interim Care, Supported Independent Living or Intensive Therapeutic Care);
- (b) in the care of their parent(s) in accordance with a Court approved restoration plan under the parental responsibility of the Minister; or
- (c) when away from, or not in an authorised OOHC placement;

as set out in Appendix A, Table 3 of Schedule 3 – Payment Provisions.

Best Practice in trauma-informed practice means, at a minimum, that Service Provision is based on:

- (a) research evidence including the impact of early childhood trauma on brain development;
- (b) relevant trauma and attachment theories;
- (c) an understanding:
 - i. that trauma can occur not only in a Child or Young Person's relationship with an individual or individuals, but in his or her relationship with society;
 - ii. of the impact of shame and the nature of resistance;
 - iii. of inter-generational trauma experienced by Aboriginal families;
 - iv. of refugee trauma;
 - v. of the imbalance of power and privilege in our work with families and the importance of implementing and promoting participation and rights of Children and Young People;
 - vi. that consistency, reliability and predictability in casework is crucial to working with People with experiences of complex trauma;
 - vii. that positive, safe and healing relationships and experiences are key to trauma-informed practice.

Business Day means a day other than Saturday, Sunday or a gazetted public holiday in New South Wales.

Care Act means the *Children and Young Persons (Care and Protection) Act 1998* (NSW).

Carer refers to Foster Carers, kinship carers, prospective guardians and prospective adoptive parents.

Care Team includes the caseworker (NGO or DCJ), Therapeutic Specialist, DCJ, House Manager, direct care staff, multidisciplinary specialists including (but not limited to) allied health professionals, psychologists, psychiatrists, occupational therapists, speech pathologists, drug and alcohol workers. Care Teams should also integrate critical partners such as Health, Education, Justice, NDIA and disability service providers.

Care Team Meetings are facilitated and led by Therapeutic Specialists. Care Team meetings must include the participation of Children, Young People, carers and families (this may occur prior to the meeting or through partial attendance).

Case Coordination means coordinating the provision of Services to a Child, Young Person and family:

- (a) where the Child or Young Person is in the full time care of their parent(s) in accordance with a Court approved restoration plan whilst under the parental responsibility of the Minister;
- (b) who are away from their authorised foster care or ITC placement or not in a placement;
- (c) where the Child or Young person is in an Interim Care, Intensive Therapeutic Transitional Care or Short Term Emergency Placement and the referring agency maintain primary case responsibility; or

- (d) where the Child or Young Person has been restored (and no longer in the parental responsibility of the Minister); or become subject to a Guardianship or Adoption Order (if eligible) and step down supports are required and approved by DCJ.

Case Coordination - Not in Placement package means the baseline package that may be provided to service providers to continue supporting a child 'Not in placement' to work towards returning the child to an authorised placement.

Case Coordination – Restoration Support package means the package that applies when a Service Provider restores a child or young person to their parent/s full time in accordance with an approved restoration plan; and the child or young person remains under the Parental Responsibility of the Minister.

Case Plan means the document that identifies required goals, objectives and tasks to protect and support Children, Young People and their families.

Case Plan Goal Package means the package that applies to the Services required to achieve the Case Plan Goal.

Case Planning means the participatory process that identifies required goals, objectives and tasks to protect and support Children, Young People and their families.

Central Access Unit (CAU) means the DCJ unit responsible for coordinating entries, transitions within and exits from the Intensive Therapeutic Care (ITC) system.

Change of Control means any change in the Service Provider's direct or indirect beneficial ownership or control.

Child has the meaning given in section 3 of the Care Act.

Child Assessment Tool (CAT) means the tool designed to identify the most appropriate placement type and level of need for a Child or Young Person. 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 provides an indication of the child's needs (low, medium or high) and potential referral to Supported Independent Living (SIL) for young people 16-17 years of age and referral for potential entry to Intensive Therapeutic Care (ITC).

Child Needs Package means Services required to address the specific needs of the Child or Young Person. This is determined by the outcome of the Child Assessment Tool. The default Child Needs Package is 'Low'.

Child-related work has the meaning given in the CPWC Act and the CWPC Regulation.

Children's Guardian has the meaning given in the Children's Guardian Act and includes, where the context requires, a reference to the Office of the Children's Guardian (or OCG) under that Act.

Children's Guardian Act means the *Children's Guardian Act 2019* (NSW).

Child Safe Standards means the child safe standards administered by the Children's Guardian that NSW child-related organisations are required to implement to better prevent and responds to child abuse as recommended by the Royal Commissioning into Institutional Responses to Child Sexual Abuse.

ChildStory is an information technology system that places a child or young person at the centre of their story. It brings together a child's network of family and carers, caseworker and service providers. ChildStory helps a child's network focus on their safety and wellbeing by working together. ChildStory provides a holistic view for informed decision-

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making to help ensure a child or young person has the best life outcomes. It records and recalls the right information at the right time. This helps a child and their network of people, make the right decisions. The capabilities of the system allows users from DCJ practitioners, and key child protection practitioners in police, health and education, to access ChildStory through [ChildStory Casework](#); non-government organisations and other government agencies through [ChildStory Partner](#); and mandatory reporters through [ChildStory Reporter](#).

Claim means any claim, demand, proceedings, dispute or complaint of any nature or any kind.

Client or Client Group means any person to whom Services are provided under a Program Level Agreement.

Committed in respect of a Program at a particular date, means Funds paid by or on behalf of DCJ to the Service Provider, that the Service Provider (or Subcontractor) is obliged to pay to a third party in respect of any part of the Services (including the activities) making up the Program.

Complex Needs is a one-off or time limited payment that is only accessible in extraordinary circumstances for children in out-of-home care or under the parental responsibility of the Minister.

Confidential Information means information that:

- (a) is by its nature confidential;
- (b) is designated by DCJ as being confidential; or
- (c) the Service Provider knows or ought to know is confidential,

but does not include information that:

- (a) is or becomes public knowledge, other than by breach of the Funding Deed or a Program Level Agreement; by its nature confidential;
- (b) is in the possession of the Service Provider without restriction in relation to disclosure before the date of receipt from Community Services; or
- (c) has been independently developed or acquired by the Service Provider.

Conflict of Interest means having an interest (whether personal, financial or otherwise) which conflicts, or which may reasonably be perceived as conflicting, with the Service Provider's ability to fairly, objectively and independently perform its obligations under the Funding Deed or any Program Level Agreement.

Consequential Loss means any loss recoverable at law (other than loss arising in the usual course of things) which is consequential upon other loss, including:

- (a) loss of income or revenue;
- (b) a loss of opportunity or goodwill;
- (c) a loss of profits;
- (d) a loss of anticipated savings or business; and
- (e) loss of value of any equipment,

Contracted Volume means the maximum volume that the Service Provider will be contracted for as described in Appendix B of Schedule 3 to this Agreement.

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Contracted Volume Increase has the meaning given to it in clause 7.5 of this Agreement.

Contract Particulars means the particulars set out under the heading “Contract Particulars” in this Agreement.

CPWC Act means the *Child Protection (Working with Children) Act 2012* (NSW).

CPWC Regulation means the *Child Protection (Working with Children) Regulation 2013* (NSW).

Cultural Care Plan means the section within the overall care plan. It outlines critical information on the cultural identity of the child or young person, their family, community and Country, as well as identifying key community people in the child’s life. It provides specific details about how the cultural needs and interests of Aboriginal, migrant and refugee Children and Young People will be met, and how their cultural and spiritual identity and sense of belonging will be maintained and preserved.

Cultural Support Plan builds on the Cultural Care Plan, providing evidence and actions for how a child’s cultural connections and relationships will be maintained and strengthened in an active, ongoing way. It includes specific, age appropriate strategies for developing and maintaining a positive sense of identity and belonging. Cultural Support Plans are reviewed annually to address the changing needs of Aboriginal and CALD Children and Young People throughout their time in care.

Culturally and Linguistically Diverse (CALD) Children and Young People means a Child or Young Person who identifies with particular groups based on their birthplace, ethnicity, language, values, beliefs or world views.

DCJ Representative means:

- (a) in respect of the Funding Deed, the DCJ representative named in clause 24.2(a) of the Funding Deed or as otherwise notified to the Service Provider in writing; or
- (b) in respect of this Agreement, the Person specified in Item 5 of the Contract Particulars or their replacement advised in writing from time to time by an authorised representative of the Service Provider.

DCJ website means the dedicated website maintained by DCJ where policies and processes applicable to Service Providers are to be found, at www.facs.nsw.gov.au/providers or as otherwise advised by DCJ to the Service Provider.

Default Event means any of the events described in clause 19.1 of the Funding Deed or specified as a Default Event under a Program Level Agreement.

Designated Agency has the meaning given in s 72 of the Children’s Guardian Act.

Family is a household group where a child and their siblings are living with and being cared for by one or both birth parents; one or more children, who may or may not be related, are living with and being cared for by one of their birth parents and that parent’s partner; a child is living with and being cared for by, one or both adoptive parents; or a child is living with a relative or kin under an informal arrangement which the birth parents have agreed to.

Family Action Plan for Change is a plan developed by the family to address the worries and dangers to support a restoration case plan goal.

Family Finding means a model developed by Kevin Campbell and colleagues in the United States that seeks to connect Children and Young People who are in out-of-home care, or at risk of entering care, with family and other supportive adults. Family Finding supports

Children's emotional permanency and helps caseworkers to identify permanency options and/or lifelong support People in permanency Case Planning.

Family Group Conferencing (FGC) means a voluntary process in which family members and other significant People in a Child's life meet with caseworkers to jointly discuss and plan strategies to address Child protection concerns. The process is intended to be a family-centred, strength-based, culturally-sensitive approach, which empowers families to support their Children by deciding issues as placement, support, contact, restoration and treatment interventions and, in turn, prevent the need for Children's Court proceedings.

Financial Year means a year commencing on 1 July and ending on 30 June.

Formulation means the process in Intensive Therapeutic Care by which all the information known about the Child or Young Person [and their] environment (system) is integrated with clinical knowledge and theory in order to understand presenting issues, the formulation becomes a shared, working hypothesis that directs the choice [and prioritisation] of interventions.¹

Foster Care means services delivered by Service Providers for children in statutory out-of-home care, which are provided by Authorised Carers, prospective guardians and prospective adoptive parents generally in the carer's own home, or rarely in a home owned or rented by the Service Provider. This includes relative and kinship care provided by an extended family member or Persons of significance to the Child or Young Person.

Funding Deed or Deed means the deed between DCJ and the Service Provider whereby DCJ has agreed to advance funds to the Service Provider in consideration of the Service Provider providing or procuring the provision of the Services.

Funding Package Payment means the fixed annual amount paid per Actual Volumes delivered by the Service Provider.

Funds in respect of a Program, means the amount or part thereof payable by DCJ under the Funding Deed for the Program, as specified in the relevant Program Level Agreement.

GIPA Act means the *Government Information (Public Access) Act 2009* (NSW).

GST has the meaning given in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Guardianship or Guardianship order means an order made under s 79A(2) of the Care Act.

Health, Education or Justice means the NSW government agencies that sit within these clusters.

Health Information has the meaning given in section 6 of the HRIP Act.

Health Management Plan means the record of the Child or Young Person's needs as determined through primary and comprehensive health assessments and how these needs will be addressed and by whom.

House Package means the package based on costs to operate a 2 bedroom or 4 bedroom Intensive Therapeutic Care Home or Intensive Therapeutic Care Significant Disability home.

HRIP Act means the *Health Records and Information Privacy Act 2002* (NSW).

¹ State-wide Behaviour Intervention Service (2017) Clinical Formulation Practice Guide: A collaborative approach.

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Immediate Placement (*for Foster Care placements*) means:

- (a) a Child or Young Person is in need of Placement confirmation of acceptance within four hours' notice to the Service Provider; and
- (b) the Service Provider is requested to place the Child or Young Person on the same business day regardless of that Child or Young Person's need level, Case Plan Goal, age, gender or other characteristics (unless DCJ agrees that there is a legitimate reason in accordance with section 4.1 of this Agreement).

Immediate Placement (*for Intensive Therapeutic Care and Interim Care placements*) means:

- (a) a Child or Young Person is in need of Placement confirmation within four hours' notice to the Service Provider; and
- (b) the Service Provider is requested to place the Child or Young Person on the same business day.

Implementation Plan means the implementation plan, if applicable, attached as Schedule 6 to this Agreement.

Individual Placement Arrangement (IPA) means an emergency and temporary arrangement for a child in, or entering, statutory or supported out-of-home care (OOHC) after every effort has been made to place them in a contracted OOHC placement (e.g. accredited PSP provider) where:

- (a) direct care is predominately provided by internal staff of an agency accredited by the OCG to provide residential care which can include staff from the agency with case management or staff sub-contracted from a residential care accredited agency, and
- (b) the accommodation is stable and 'home-like' – such as a long-term serviced apartment or rental property.

Insolvency Event means:

- (a) where the Service Provider is an individual or partnership, including an individual person, he or she or they cannot pay his, her or their debts when they fall due or he, she or they is or are declared bankrupt;
- (b) in relation to a trust:
 - (i) an application or order is sought or made (and is not stayed or dismissed within 20 Business Days after being sought or made) in any court for the property of the trust to be brought into, or administered by, the court or brought under the court's control; or
 - (ii) the assets of the trust are not sufficient to satisfy the trustee's debts when they fall due and in respect of which the trustee has a right to be indemnified out of the assets of the trust; or
- (c) where the Service Provider is a body corporate (within the meaning of the Corporations Act 2001 (Cth)):
 - (i) it is unable to pay its debts when they fall due;
 - (ii) it becomes insolvent or is deemed to become insolvent under applicable Laws;

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- (iii) a receiver, receiver and manager, administrator (voluntary or otherwise) provisional liquidator, liquidator, controller or like official is appointed in relation to the Service Provider liquidator has been appointed;
- (iv) the Service Provider enters into a scheme of arrangement with its creditors;
- (v) the Service Provider assigns property for the benefit of creditors or a class of creditors;
- (vi) a winding-up order is made in respect of the Service Provider;
- (vii) a secured creditor of Service Provider exercises rights to take possession of the Service Provider's assets or a power of sale; or
- (viii) the Service Provider ceases to carry on business or threatens to do so.

Intellectual Property Rights means all present and future rights conferred by statute, common law or equity in, or in relation to, copyright, trademarks, patents, designs, inventions and other results of intellectual activity in the industrial, commercial, scientific, literary and artistic fields, whether non-registrable, registrable or patentable.

Intensive Therapeutic Care (ITC) means services which support Children and Young People over 12 years of age with identified high needs assessed as High CAT who are either 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 ITCH and ITC SD) ensure Children and Young People's Case Plans are implemented and facilitate transition 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 Homes) means the provision of time limited, intensive therapeutic care in a safe and home-like environment that has a dedicated direct care team of qualified, consistent staff guided by an overarching therapeutic philosophy of care.

Intensive Therapeutic Care Significant Disability means the therapeutic placement option for a very limited cohort of Children and Young People who have extremely high support needs related to significant, complex and often multiple disabilities.

Intensive Therapeutic Transitional Care (ITTC) means time limited (up to 13 weeks) interim placements delivered by Service Providers. ITTC provides a higher intensity of Therapeutic Care and thorough assessments to identify Children and Young People's needs. These units develop plans for immediate and future therapeutic interventions, review and set permanency goals and plan transitions to less intensive placements with ongoing supports.

Interim Care Model (ICM) means a time-limited placement for up to 3 months for children with low and medium support needs aged between 9 and 14 years, who are in or would otherwise be at imminent risk of entering an Alternative Care Arrangement.

Interim Care Vacancy Payment means a payment that compensates Interim Care Service Providers for the costs of resources of having a Placement immediately available.

Intervening Event means a circumstance beyond the Service Provider's reasonable control including:

- (a) a fire, flood or natural disaster;

- (b) an explosion;
- (c) an unavoidable accident;
- (d) an act of terrorism; or
- (e) a strike, lockout or other industrial dispute that is not limited to the Service provider's workplace.

IPPs means the Information Privacy Principles set out in the PIPP Act.

Joint Protocol means the Joint Protocol to reduce the contact of young people in residential out-of-home care (OOHC) and intensive therapeutic care (ITC) with the criminal justice system.

Key Performance Indicators or **KPI** means the indicators set out in Appendix A of Schedule 2 to the Program Level Agreement.

Laws mean, in relation to the Funding Deed, the Program Level Agreement to which the Funding Deed relates and any matters contemplated under those agreements:

- (a) applicable legislation, ordinances, regulations, by-laws, or subordinate legislation in force from time to time anywhere in Australia and includes the common law as applicable from time to time; and
- (b) any Approval, including any condition or requirement under an Approval.

Leaving Care planning means the process of developing a plan with a Young Person (from the age of 15 years) to identify supports that needs to be put in place and actions that needs to occur to assist the Young Person transition into independence until the age of 25 years.

Leaving Care Plan means the plan developed from when a Young Person turns 15 years of age to plan for their transition from out-of-home care to independence.

Long Term Care is the Case Plan Goal allocated to children under the Parental Responsibility of the Minister until 18 years, or the Case Plan Goal Package where permanency has not been achieved within the two year timeframe. For children with a Case Plan Goal of Long Term Care it is reviewed every 12 months and may change to Restoration, Guardianship or Adoption, as appropriate.

Long Term Care package is the package designed to promote stability and healing for children who need to remain in long term statutory OOHC.

Loss means any loss, damage, liability, action, suit, Claim, demand, charge, cost or expense of any kind (including reasonable legal costs and expenses on a full indemnity basis), including Consequential Loss.

Material means documents, records, software (including source code and object code), goods, images, information and data stored by any means, including all copies and extracts of the same.

Minister means the Minister for Families, Communities and Disability Services or as otherwise titled from time to time, the Minister administering relevant responsibilities under the Care Act.

Ministerial Code of Conduct for Authorised Foster, Relative and Kinship Carers means the Code of Conduct that sets out the standards of behaviour that apply to carers.

Minimum Contracted Volume means the minimum volume that the Service Provider will be contracted for as described in Appendix B of Schedule 3 to this Agreement.

National Agreement on Closing the Gap means the National Agreement on Closing the Gap (July 2020) to which the NSW Government is a signatory.

NDIA means the National Disability Insurance Agency.

NDIS means the National Disability Insurance Scheme.

Notification Requirement means a notification requirement set out in clause 3.4 of the Funding Deed or in a Program Level Agreement or a Policy notified to the Service Provider.

NSW Child Safe Standards for Permanent Care means the standards of that name that establish the minimum requirements for the accreditation of out-of-home care and adoption service providers.

NSW Government Cloud Policy means the policy of that name issued on behalf of the Crown in right of the State of New South Wales in September 2020 and any updated version or replacement of that policy issued from time to time.

OCG means Office of the Children's Guardian.

Officer means a person who:

- (a) is an office holder of the Service Provider;
- (b) makes, or participates in making decisions that affect the whole, or a substantial part, of the business of the Service Provider;
- (c) has the capacity to affect significantly the Service Provider's standing;
- (d) has the capacity to manage the Provider and its property;
- (e) participates in the governing body, board of directors or any decision making body of the Service Provider; or
- (f) in accordance with whose instructions or wishes the directors of the Service Provider are accustomed to act (excluding advice given by the person in the proper performance of functions attaching to the person's professional capacity or their business relationship), whether or not such person is a volunteer or receives payment in respect of his or her role.

OOHC Reporting Requirements means the data requirements set out in Appendix B of Schedule 2 to the Program Level Agreement.

Open Adoption means that an adoption order has been made by the Supreme Court of NSW to legally transfer all parental rights and responsibilities from the parents to the carers. Open Adoption is considered to have occurred on the day that the order is made.

Operating Year means:

- (a) for the first Operating Year, the period commencing on the date the Agreement is signed and ending on the next 30 June;
- (b) each subsequent 12 month period commencing on 1 July and ending on 30 June; and

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- (c) for the final Operating Year, the period from the end of the last full Operating Year to the date the Agreement ends.

Organisation-Wide means that practice is:

- (a) clearly articulated in program guidance materials (e.g. policies, procedures and staff position descriptions)
- (b) present in organisation-wide approaches (e.g. Child and family assessment protocols)
- (c) required in casework and reflected in caseworker training and support
- (d) required of Authorised Carers and reflected in carer training and support.

Other Specialist Package means costs for the provision for other specialist packages for supports required for the Child or Young Person.

Outcome Domains means those set out in Appendix C of Schedule 2 to the Program Level Agreement.

Out-of-Home-Care has the meaning given in section 135 of the Care Act.

Post Care Education Financial Support (PCEFS) means the allowance paid by DCJ to carers to continue to provide a home and support for young people ages 18 to 24 while they complete their Higher School Certificate (HSC).

Parties means the parties to this Agreement as set out at Item 1 of the Contract Particulars to this Agreement.

Payment Reconciliation Date means the date at which payments are reconciled for performance against the Service Requirements, annually.

Performance Failure or Failure means a failure to meet any of the Key Performance Indicators.

Performance Improvement Plan means a performance improvement plan issued to the Service Provider under a Program Level Agreement.

Performance Measurement Cycle means the process for measuring and managing the Service Provider's Performance Measures as set out in DCJ Policies available on the DCJ website, in a Program Level Agreement, or as otherwise notified to the Service Provider.

Performance Measures means the level of service or number of services required to be achieved, as set out in a Program Level Agreement.

Performance Outcomes and Data Reporting means the document set out at Schedule 2 to this Agreement.

Permanency means suitable permanency goal via restoration, guardianship or open adoption for Children and Young People.

Permanency outcome means a suitable permanency outcome, which is considered to be any of the following:

- (a) restoring Children and Young People to their parent/s;
- (b) Guardianship to a relative/kin or other suitable person;
- (c) Open Adoption (this is the least preferred option for Aboriginal Children and Young People); and

- (d) parental responsibility to the Minister until 18 years is not considered a suitable permanency outcome and is not the intent of the Permanency Support Program.

Permanency Support Program provides services to vulnerable children so they can grow up in stable, secure and loving homes. It supports safety, wellbeing and positive life outcomes for children and young people in the child protection and OOHC systems in NSW.

Personal Information has the meaning given in s 4(1) of the PIPP Act.

Personalised Learning and Support Planning (PlaSP) means a plan that is monitored and reviewed that supports and encourages the child to learn, considering their needs, capacity, academic supports and key information.

Personnel means officers, employees, Authorised Carers, volunteers, agents or Subcontractors.

Physical environment means a key care element that goes beyond the nature of the home to encompass how Young People 'experience' their day to day living space.

PIPP Act means the *Privacy and Personal Information Protection Act 1998 (NSW)*.

Placement means the service provided by a Service Provider for a single Child or Young Person. A Placement may be either filled, in which case the Services are actually being provided, or it may be vacant, in which case the Service Provider has the necessary resources available to provide Services, but the Services are not being provided.

Placement Capacity Payment or PCP means a payment to Service Providers for Actual Vacancies. The payment applies to Foster Care only. The payment is effective until 30 June 2023. From 1 July 2023, the Placement Capacity Payment will no longer apply.

Placement Change has the meaning given in KPI 103 (Schedule 2, Appendix A).

Placement Data means the information specified in Appendix B of Schedule 2 of the Program Level Agreement which relates to a Child or Young Person who is currently or has been receiving Services.

Placement Establishment Payment or PEP means a single, one-off payment that compensates Service Providers for the costs of establishing a new Intensive Therapeutic Transitional Care home, Intensive Therapeutic Care Home, Intensive Therapeutic Care Significant Disability home or Interim Care home where the Service Provider is requested to increase Contracted Volume.

Placement Referral means a referral for a placement of a Child or Young Person in statutory out-of-home care made to a Service Provider through ChildStory (via a Broadcast).

Placement Referral Acceptance means accepting a Placement Referral in line with clause 4.3.1 (Foster Care) or clause 7.6 (ITC) of Schedule 1 of this Agreement.

Placement Referral Decline means the Service Provider declines a Placement Referral without a legitimate reason agreed to by DCJ.

Policy means any policy, guideline, or code of DCJ or the NSW Government, as amended or replaced from time to time, that are contained on the DCJ website, in a Schedule to the Program Level Agreement or about which DCJ notifies the Service Provider from time to time during the Term.

Principal Officer has the meaning given in s 74 of the Children's Guardian Act.

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Program means a program of activity to be undertaken by the Service Provider, as identified in a Program Level Agreement.

Program Level Agreement means this Agreement, including its Schedules.

Program Material means all Material:

- (a) brought into existence for the purpose of a Program Level Agreement or the Funding Deed;
- (b) incorporated in, supplied or required to be supplied along with the Material referred to in paragraph (a); or
- (c) copied or derived from the Material referred to in paragraphs (a) or (b).

Quality Assurance Framework (QAF) is an organising framework setting out the outcomes for Children and Young People in OOHC where parental responsibility is with the Minister across 3 overarching domains: safety, permanency and wellbeing.

QAF Trial means a trial of the QAF by ITC Service Providers at selected sites.

Quarter means every three-calendar month period commencing on a Quarterly Date, except as follows:

- (a) the first Quarter following the Service Start Date will be the period from the Service Start Date until the day before the first Quarterly Date following the Service Start Date; and
- (b) the last Quarter of the Term will be the period from the last Quarterly Date during the Term until the Service End Date.

Quarterly Date means every 1 July, 1 October, 1 January and 1 April of each Financial Year during the Term.

RCTI has the meaning given to "recipient created tax invoice" in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Reflective Practice means the process by which ITC staff and carers develop their skills and practices, through becoming aware of their actions and responses, and their impact on the children and young people while they are working. Staff will also reflect on the actions, interactions and triggers within a framework that attributes meaning to the child or young person's behaviour.

Related Body Corporate has the meaning given to that term in s 9 of the *Corporations Act 2001* (Cth).

Reportable conduct has the meaning given in s 20 of the Children's Guardian Act.

Reportable Conduct Scheme has the meaning given in s 11 of the Children's Guardian Act.

Reportable Conduct Unit means the DCJ Unit responsible for investigating allegations of reportable conduct made against DCJ employees, specifically DCJ authorised carers.

Reputational Proceedings means any inquiry, investigation, conciliation, mediation, arbitration or similar proceedings against the Service Provider, its Personnel or Officer that could, or in DCJ's reasonable opinion has the potential to, have an adverse effect on the reputation of DCJ, the Services or the NSW Government, including any investigation by the Independent Commission Against Corruption.

Restoration means when a Child or Young Person returns to live full time with their parent/s in accordance with a court approved restoration plan, and their primary placement is closed.

Risk Management Plan means the plan that is undertaken to identify and mitigate risk when Children or Young People enter, exit and as needs change in the ITC Home. It looks at the needs of Children and Young People within the house in order to determine the required levels of care, including staffing.

Safety Legislation means any:

- (a) Laws applicable to work health and safety, environment protection, dangerous goods and electricity safety; and
- (b) directions on safety or notices issued by any relevant authority or any code of practice or compliance code appropriate or relevant to the Services.

Serious Incident means any incident that:

- (a) is likely to impact on the Service Provider's ability to provide the Services or otherwise fulfil its obligations under the Funding Deed or any Program Level Agreement;
- (b) may affect or has affected the Service Provider's obligations, or the Service Provider's performance of its obligations, under the Funding Deed or any Program Level Agreement and requires an emergency response or involves death, serious injury or any criminal activity; or
- (c) has or may attract adverse public interest and attention.

Services means one or more of the services to be delivered by the Service Provider under this Program Level Agreement as set out in the Contract Particulars and Schedule 1.

Service Activity Compliance Abatement means, in respect of an Operating Quarter, the Abatement calculated in accordance with Appendix A of Schedule 2 to this Agreement.

Service Delivery Period means the period of time that a Service Provider must provide continuous care to be eligible for the Service Payment for that period.

Service Delivery Schedule means the service delivery schedule contained in Schedule 2 to this Agreement, corresponding to the category or categories of Services specified in Item of the Contract Particulars.

Service End Date means the date specified in Item 3 (b) of the Contract Particulars or any revised date advised to the Service Provider under clause 1.1(b).

Service Outlet means the usual place at which Services will be provided, as specified in the Program Level Agreement.

Service Payment means an activity based payment of Funds calculated based on Actual Volume in care at the time of payment calculation.

Service Price to apply from the Service Start Date means the fixed price list, from which Service Providers will be paid for Services undertaken subsequent to the Service Start Date.

Service Provider means the party identified as the Service Provider at Item 1 of the Contract Particulars of this Agreement.

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Service Provider Representative means the person identified at Item 4 of the Contract Particulars or their replacement advised in writing from time to time by an authorised representative of the Service Provider.

Service Requirements means the various obligations given that name as set out in Schedule 1 to this Agreement.

Service Start Date means the date specified in Item 3 (a) of the Contract Particulars.

Shared Stories, Shared Lives means the training program for potential foster carers to help them understand what it means to become a carer, noting updates are made from time to time to address developments in the out-of-home care sector.

Sub-contract includes entering into a joint venture, partnership or agency relationship with one or more persons.

Supported Independent Living (SIL) means the placement option and supports for Young People over 16 years of age who are low/medium CAT to successfully acquire independent living skills through the provision of accommodation, case management and structured and individualised life skills programs.

Ten Essential Elements means the essential elements for delivering Intensive Therapeutic Care.

Term, in relation to this Agreement, means the period starting from the Service Start Date and ending with the Service End Date.

Therapeutic Care means a holistic, individualised, team-based approach to the complex impacts of trauma, abuse, neglect, separation from families and significant others and/or other forms of severe adversity. Therapeutic care is achieved through the provision of a care environment where responses to the Child or Young Person are consistent and predictable. The individual programming for each Child or Young Person is developed with clinical input and is evidence-informed, culturally respectful and responsive; and provides positive, safe, reparative and healing relationships and experiences to address the complexities of trauma, attachment and developmental needs.

Therapeutic Home Based Care (THBC) means the innovative, tailored and flexible placement options for Children and Young People in ITC to enable their step down from an ITC or alternate placement to an ITC, TSIL or TSOP and better achieve exit from ITC and improve their safety, permanency and wellbeing outcomes.

Therapeutic Sibling Option Placement (TSOP) means a carer-based ITC 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 carer/s in a house maintained by a Service Provider.

Therapeutic Specialist means a clinical expert (with minimum skills and qualifications as outlined in this Schedule) who works across the ITC service system. They have a primary role in facilitating Care Team Meetings and provide expertise and guidance during the formulation of Case Plans. Therapeutic Specialists have a role in mentoring staff to transfer knowledge and best practice.

Therapeutic Supported Independent Living (TSIL) means the placement option and supports for Young People over 16 years of age who have a high CAT to successfully acquire independent living skills through the provision of accommodation, casework and structured and individualised life skills programs.

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Transition to Independent Living Allowance (TILA) means the one-off payment provided by the Department of Social Services (DSS) available to eligible young people aged 15 to 25 years who are leaving or have already left formal or court ordered out-of-home care.

Torres Strait Islander and Torres Strait Island child or young person have the meanings given in section 5(1) of the Care Act.

Uncommitted means Funds paid under the Funding Deed or any associated Program Level Agreement that at a particular date cannot be identified in arrangements with third parties as amounts that the Service Provider is contractually obligated to pay in respect of the Program for which those Funds were provided.

Unspent at a particular date means Funds that have not been spent by the Service Provider.

Young Person has the meaning given in section 3 of the Care Act.

Year, in relation to the Agreement, means an Operating Year.