

## **Joint Operational Practice Guidelines**

**To accompany the**

**Memorandum of Understanding**

**Between**

**Department of Family and Community Services**

**And**

**Department of Justice, Juvenile Justice**

**About**

**Children or young people who are shared clients of  
Family and Community Services and Juvenile Justice**

**2014**

## TABLE OF CONTENTS

1. Introduction .....	4
2. Legislative Context .....	4
3. Guiding Principles of Collaborative Joint Work .....	4
4. Target Group .....	5
5. Information Exchange .....	6
Circumstances to share information .....	6
Information exchange processes .....	7
6. Case Management .....	8
Case management of a shared client under the parental responsibility of the Minister for Family and Community Services .....	8
Case management of a shared client in the community .....	8
Case management of a shared client in custody .....	9
Case planning .....	9
7. Supporting Children and Young People at Youth Justice Conferences and Court .....	10
For shared clients in under the parental responsibility of the Minister for Family and Community Services .....	11
For shared clients subject to a current ROSH report.....	11
8. Bail Conditions (Accommodation Requirements) .....	11
For shared clients in under the parental responsibility of the Minister for Family and Community Services .....	12
For shared clients subject to a current ROSH report and other young offenders who are not shared clients .....	12
Accommodation requirements and reporting to the court .....	14
9. Record Keeping .....	14
Family and Community Services recording processes .....	14
Juvenile Justice recording processes .....	15
10. Dispute Resolution .....	15

## Appendices

1. Glossary .....	16
2. Legislative Context .....	27
Family and Community Services Legislation .....	27
Juvenile Justice Legislation .....	28
NSW Bail Act 2013 .....	30
3. Legislation under the <i>Children and Young Person's (Care and Protection) Act 1998</i> governing disclosure of information .....	34
4. Table of agreed responsibilities for reporting and planning for both shared and non shared clients of Juvenile Justice and Family and Community Services (under s28 of the amended Bail Act commencing 20 May)	36
5. List of Family and Community Services and Juvenile Justice Units by District and Region.	37
6. Letter Of Request For Information (Chapter 16A) – Example of ...	39
7. Youth Justice Conferences .....	41
8. Criminal Justice process for indictable and serious indictable offences committed by children and young people – Process Map	42

## 1. Introduction

- 1.1. These *Joint Operational Practice Guidelines* are designed as a practical resource for staff working in Family and Community Services and Juvenile Justice to support collaborative cross-agency work for children/young people who are shared clients.
- 1.2. These guidelines should be read in conjunction with the *Memorandum of Understanding between the Department of Family and Community Services and the Department of Justice (Juvenile Justice) about children and young people who are shared clients of Community Services or Juvenile Justice 2014* (MoU).
- 1.3. For Family and Community Services staff, these guidelines are consistent with, and reflect, current Family and Community Services policies, procedures and best practice.

## 2. Legislative Context

A synopsis of the legislation which Family and Community Services and Juvenile Justice work under is located in Appendix 2.

## 3. Guiding Principles of Collaborative Joint Work

- 3.1. Collaboration between Family and Community Services and Juvenile Justice is fundamental to achieving good outcomes for children/young people who are shared clients. The agencies are committed to working together to enhance service delivery, supported by an understanding of each agency's operating environment (legislation, policies, systems, roles, responsibilities and constraints).
- 3.2. Family and Community Services and Juvenile Justice will co-operate, communicate and resolve issues at the earliest opportunity to achieve the best outcome for a child/young person.
- 3.3. The joint responses of Family and Community Services and Juvenile Justice will be child focussed and based on the individual needs of a child/young person. Joint work by Family and Community Services and Juvenile Justice will focus on finding a solution to best meet the needs of the child/young person.
- 3.4. Family and Community Services and Juvenile Justice recognise the detrimental impact of juvenile detention on children/young people and agree to work collaboratively to prevent detention being used as a form of crisis accommodation when bail is dependant upon suitable accommodation. The responsibilities of each agency in fulfilling obligations under *the NSW Bail Act 2013* are further discussed in Chapter 8 and Appendices 2 and 4.
- 3.5. Regardless of which designated out-of-home-care (OOHC) agency has case management responsibility, the principle of collaboration and partnership between service providers, government and non government, will always guide practice.
- 3.6. Wherever possible, the parties together with other agencies will work together to facilitate access to government and non government programs and services to meet the assessed needs of shared clients, e.g. Ageing,

Disability and Home Care, National Disability Insurance Agency, Housing NSW, NSW Health.

3.7. Effective collaboration requires:

- a mutual commitment to engage at the outset to identify and respond to the needs of shared clients
- clearly defined roles and responsibilities
- a planned, proactive, strengths-based approach
- clear accountability and coordination in the delivery of services
- effective use of resources and systems in government, non-government services and other providers to meet the complex needs of shared clients
- clear and streamlined pathways, information sharing and communication processes to prevent service blockages
- clearly defined dispute resolution processes.

## 4. Target Group

4.1. The MoU and these Guidelines relate to children/young people between the ages of 10 and 17 who are shared clients of Family and Community Services and Juvenile Justice.

4.2. A shared client is any child/young person who is:

- a subject in a current risk of significant harm (ROSH) report [as screened in by the Child Protection Helpline (CP Helpline)], and/or
- under the parental responsibility (including interim parental responsibility) of the Minister or Secretary for Family and Community Services, regardless of whether they are case managed by Family and Community Services or a non government designated OOH agency, or
- under the shared parental responsibility of the Minister or Secretary for Family and Community Services (where the Minister has parental responsibility for the aspect of residence).

AND

- eligible for any Juvenile Justice service:
  - following a referral to a Youth Justice Conference
  - during the preparation of a Juvenile Justice Background Report requested by the court
  - during the provision of one-off bail and remand services
  - during a period of community supervision (including bail supervision), following an order of the court
  - during a period of custodial incarceration (including remand), following an order of the court.

For the purpose of the MoU and these Guidelines, Family and Community Services defines a <u>current</u> ROSH report as any of the following:
--

- an open and allocated case
- a ROSH report awaiting an allocation or closure decision at the Community Services Centre (CSC) or other Family and Community Services unit
- a case that was closed within the previous 28 days after Family and Community Services case management and/or achieving the case plan goal
- a ROSH report which was unable to be allocated for a face to face response and that was closed within the previous 28 days.

NB: Family and Community Services' will remain involved with these cases until the immediate child protection issues (brought to the attention of Family and Community Services by Juvenile Justice or the Children's Court) are resolved.

## 5. Information Exchange

### Circumstances to share information

- 5.1. To confirm whether a child/young person is a shared client, Juvenile Justice may request Family and Community Services to inform:
  - whether the child/young person is the subject of a current ROSH report, and/or
  - whether the child/young person is under the parental responsibility of the Minister for Family and Community Services.
- 5.2. To determine the case management of a shared client:
  - Family and Community Services may request Juvenile Justice to inform which Juvenile Justice Centre or Family and Community Services Office the child/young person is allocated at and the contact details of the relevant centre/office.
  - Juvenile Justice may request Family and Community Services to inform which:
    - CSC/other Family and Community Services unit holds case management responsibility (i.e. the owning unit of a shared client who is the subject of a ROSH report) and the contact details of that unit, or
    - designated OOHC agency holds case management responsibility of a shared client who is under the parental responsibility of the Minister for Family and Community Services, and the contact details of that designated OOHC agency.
- 5.3. As part of case management, Family and Community Services and Juvenile Justice:
  - may share any information that relates to the safety, welfare and wellbeing of a shared client that contributes to joint case planning and joint casework, such as orders imposed by the court and bail conditions

- must inform each other as soon as possible<sup>1</sup> when they become aware that:
    - a shared client is unable to return home or to their placement
    - a shared client's accommodation or placement has broken down
    - the court has stipulated bail conditions such as a conduct requirement, or an accommodation requirement<sup>2</sup>.
- 5.4. When preparing a Background Report for a magistrate, Juvenile Justice may request that Family and Community Services provide information to be included in a Background Report. The request should be in writing and indicate the specific information sought and timeframe.
- 5.5. In considering accommodation options for a young offender, Juvenile Justice:
- may request Family and Community Services to provide:
    - information about the identity of any known extended family or kin of the child/young person
    - any relevant information known in relation to a person nominated to provide accommodation and their household members.

For example, where a young offender expresses a wish to reside with a relative or kin, Juvenile Justice may request Family and Community Services to confirm that there are no known risks with that relative/kin or, if there are risks, the nature of those risks.

- may seek and examine information from other sources of enquiry to inform their decision.
- 5.6. Where Family and Community Services is undertaking a history check<sup>3</sup> of person(s) nominated to provide accommodation and their household members, it may seek information from Juvenile Justice as to whether the child/young person has an offending history<sup>4</sup>:
- that would make accommodation with the nominated person inappropriate, or
  - whether the child/young person's welfare and well-being would be adversely affected if put into a situation where he/she is known to be a risk to third parties.

For example, if the nominated person has children, Family and Community Services may request Juvenile Justice to share all known information about a young offender's sexual or violent offending record including any current charges or past findings of guilt<sup>5</sup>, so as not to expose other children/young people to ROSH.

<sup>1</sup> If the case management of a child/young person under the parental responsibility of the Minister for Family and Community Services rests with a non government designated OOHC agency, Juvenile Justice will liaise directly with the non government designated OOHC agency about the child/young person's placement.

<sup>2</sup> Appendix 2 and 4 provide information about *the NSW Bail Act 2013*.

<sup>3</sup> A Family and Community Services history check comprises of a review of KiDS records including but not limited to an address check and a check of persons residing at the address. A history check does not constitute a placement assessment.

<sup>4</sup> The *Child Protection (Offenders Registration) Act 2000 No 42* prohibits Juvenile Justice disclosing whether the child/young person is a registrable person. NSW Police is authorised to disclose this information as appropriate to specific circumstances.

<sup>5</sup> For other information about the child/young person's offending history or previous unproven charges, Family and Community Services may also contact NSW Police for provision of information under Chapter 16A of the Care Act.

- 5.7. Juvenile Justice will determine and share on a case-by-case basis, all relevant information in relation to a young offender's sexual or violent offence history<sup>6</sup>.
- 5.8. Family and Community Services will inform NSW Police if they believe the child/young person is in breach of an order imposed by the court, such as bail conditions which impose conduct requirements.

### **Information request processes**

- 5.9. When requesting information from Juvenile Justice, Family and Community Services staff are:
  - during business hours, to contact their local Juvenile Justice Community Office
  - after hours, to contact 1300 135 330 between 4 pm – 3 am<sup>7</sup>.
- 5.10. When requiring information from a non government designated OOHC agency, Juvenile Justice will contact the agency directly, if known. If not known Family and Community Services can provide the name and contact details of the agency.
- 5.11. When requesting urgent or non urgent information from Family and Community Services, Juvenile Justice staff are:
  - during business hours, to contact a Manager from the owning CSC/other Family and Community Services unit or if not known, to a Manager from the CSC closest to where the child/young person usually resides<sup>8</sup>
  - after hours, to contact the CP Helpline on ph: 133 627.
- 5.12. Where a Family and Community Services case has been closed for over three months or the CSC/other Family and Community Services unit is unknown, Juvenile Justice is to contact the Family and Community Services Information Exchange Unit (IEU) on ph: 02 9716 3488. The IEU is available during business hours and only accepts written requests on a *Request for Information (Chapter 16A) form*<sup>9</sup>. The completed form can be emailed to the Information Exchange mailbox at [Information.Exchange@facs.nsw.gov.au](mailto:Information.Exchange@facs.nsw.gov.au).

## **6. Case Management**

### **Case management of a shared client under the parental responsibility of the Minister of Family and Community Services**

- 6.1. Where case management of a shared client under the parental responsibility of the Minister for Family and Community Services rests with a non government designated OOHC agency<sup>10</sup>, Juvenile Justice will collaborate and negotiate with that agency to secure services required to meet the assessed needs of the child/young person. If, for any reason, Juvenile

---

<sup>6</sup> The criminal record review conducted by Juvenile Justice does not constitute a placement appraisal.

<sup>7</sup> Between 3:00am and 7:00am, Family and Community Services staff can leave a message which will be followed up by Juvenile Justice at 7:00am.

<sup>8</sup> Appendix 5 provides a list of Family and Community Services and Juvenile Justice units by district and region

<sup>9</sup> Appendix 6 provides an example of a *Letter or Request for Information (Chapter 16A)*.

<sup>10</sup> Where a non government designated OOHC agency has case management responsibility for a child/young person under the parental responsibility of the Minister for Family and Community Services, it has responsibility for assessment, case planning, implementation, monitoring, review, placement and case closure. The placement of a child/young person with an authorised carer is a function of case management, in accordance with the [Community Services Case Management Policy 2013](#).

Justice cannot secure the services required from the non government designated OOHC agency, it will refer the matter to the Director Community Services in relevant district for resolution<sup>11</sup>.

### **Case management of a shared client in the community**

- 6.2. The relevant designated OOHC agency has primary case management responsibility for shared clients under the parental responsibility of the Minister for Family and Community Services.
- 6.3. Family and Community Services and Juvenile Justice will share case management responsibility for shared clients who are subject to a current ROSH report.

### **Case management of a shared client in custody**

- 6.4. Juvenile Justice has primary case management responsibility of a shared client in custody.
- 6.5. For shared clients under the parental responsibility of the Minister for Family and Community Services, the relevant designated OOHC agency will collaborate with Juvenile Justice and Justice Health to ensure all provisions of the [Model Health Pathway](#)<sup>12</sup> are adhered to particularly where a Health Management Plan exists.
- 6.6. The parental responsibility of a shared client remains unchanged when entering custody.
- 6.7. Family and Community Services (or non government designated OOHC agency) and Juvenile Justice will undertake joint case planning and/or facilitate multi-agency transition planning<sup>13</sup>, particularly with Housing NSW and other relevant agencies and support services, to ensure that no child/young person exits care or custody into homelessness.

### **Case planning**

- 6.8. Family and Community Services (or non government designated OOHC agency) and Juvenile Justice will undertake joint case planning for shared clients to minimise any risks associated with a child/young person's offending behaviour and to provide for their ongoing safety, welfare and well-being<sup>14</sup>.
- 6.9. Joint case planning ensures there is formal coordination and communication about the shared client's needs and the response to their identified needs.
- 6.10. Family and Community Services (or other designated OOHC agency) and Juvenile Justice will provide each other with all relevant information as part of joint case planning processes.
- 6.11. Wherever possible other government and non government agencies and services already linked with the shared client, will be engaged to meet their assessed needs, e.g. Ageing, Disability and Home Care, National Disability Insurance Agency, Housing NSW, NSW Health.

---

<sup>11</sup> The Dispute Resolution Escalation Protocol is detailed in section 8 of these guidelines.

<sup>12</sup> Part 11 of the *Children (Detention Centre) Regulation 2010* notes the responsibility for health matters is a Justice Health responsibility. Justice Health as a health agency is required to comply with the [Clinical Practice Guidelines](#) when a child/young person in OOHC is in custody.

<sup>13</sup> [Framework for Multi-Agency Client Transition Planning to Reduce Homelessness](#)

<sup>14</sup> Other non government designated agencies with case management responsibility for a shared client under the parental responsibility of the Minister for Family and Community Services are responsible for developing a case plan with Juvenile Justice. This includes collaboration and communication with interagency partners in line with the principles of any Memoranda of Understanding.

- 6.12. Joint case planning is best achieved through case meetings (face to face, teleconference or videolink) which ensure that a joint case plan is developed/updated, identifying goals and assigning tasks and responsibilities across agencies.
- 6.13. Effective joint case planning involves the shared client and if appropriate the parent/carer(s). It should be person centred, identify services required and address individual needs.
- 6.14. Joint case planning should be culturally appropriate for Aboriginal, culturally and linguistically diverse (CALD) and other children and young people with specific needs, taking into account the unique needs of their community.
- 6.15. Joint case planning for shared clients will occur at significant points, including but not limited to:
- when charged with or makes admissions to a criminal offence
  - when appearing before a court or Youth Justice Conference (YJC)
  - prior to Juvenile Justice submitting a background report to the court before sentencing
  - when Juvenile Justice begins or concludes supervision
  - when breach action is initiated
  - when entering custody, particularly for transition planning and support to return to, or secure, appropriate accommodation and associated support services
  - at a case planning meeting or the review of a Family and Community Services' case plan including the review date of a Health Management Plan
  - when there is a critical or reportable event in a shared client's life that indicates that the case plan goal, objectives and tasks<sup>15</sup> need to be reviewed
  - when accommodation/placement changes as part of a planned or unplanned move, particularly where a bail condition such as an accommodation requirement, stipulates that accommodation/placement be identified to avoid a period on remand
  - in the period leading up to being released from custody (as part of transition planning and in the development of a Discharge Plan), including accommodation arrangements and support services
  - in the period leading up to leaving statutory care (as part of transition planning and when a Leaving Care Plan is being developed).

Family and Community Services and Juvenile Justice staff are required to monitor the case plan and that case plan tasks are being undertaken through agreed processes, such as; contact with the child/young person, their parent/carer(s) or reports from agencies or people responsible for completing specific tasks.

Wherever possible, casework activities, such as contact with the child/young person, are conducted jointly to promote collaborative practices, achieve

---

<sup>15</sup> Juvenile Justice objectives and tasks are sometimes referred to as outcomes and responsibilities

good outcomes for the child/young person and demonstrate that Family and Community Services and Juvenile Justice are committed to working together to meet the complex needs of the child/young person.

## **7. Supporting Children and Young People at Youth Justice Conferences and Court**

- 7.1. Children/young people require practical and emotional support from a responsible adult in preparing for court and legal processes, such as Youth Justice Conferences (YJCs)<sup>16</sup>.
- 7.2. A YJC requires a person responsible for the child/young person to attend the conference to provide emotional support and assist in the development of an Outcome Plan that is achievable and realistic to the child/young person's circumstances. Failure of the person responsible to attend the YJC will prevent the child/young person from accessing this diversionary option.
- 7.3. Juvenile Justice will at the earliest opportunity (and providing sufficient notice where possible) advise Family and Community Services (or non government designated OOHC agency) that a shared client is required to attend a YJC or court in regard to a criminal matter, including when breach action has been initiated.

### **For shared clients under the parental responsibility of the Minister for Family and Community Services**

- 7.4. The relevant designated OOHC agency with case management responsibility will make all reasonable effort(s) to ensure that a child/young person appearing before a YJC or court in regard to a criminal matter, is provided with sufficient support to participate in the YJC or attend court. This may include a representative of the relevant designated OOHC agency (such as a Family and Community Services caseworker, other appropriate Family and Community Services officer, an employee of non government designated OOHC agency), or an authorised carer attending the YJC or court as a support person for the child/young person.

### **For shared clients subject to a current ROSH report**

- 7.5. The Family and Community Services Manager Casework or a more senior officer may approve the attendance of a Community Services caseworker at court or at a YJC if the parent/carer(s) are not available to attend.
- 7.6. The Family and Community Services caseworker is to consult with a Manager Casework or a more senior officer prior to committing Family and Community Services to tasks that are not in the current approved Family and Community Services' case plan for the child/young person.

## **8. Bail Conditions (Accommodation Requirements)**

- 8.1. An accused person is presumed innocent of charges and has a right to be at liberty (unless found guilty or otherwise). Bail is the authority for an accused

---

<sup>16</sup> This diversionary pathway is detailed further in Appendix 7.

person to be at liberty for an offence. Bail may be authorised, with or without conditions.

- 8.2. An accommodation requirement is a bail condition imposed by the court which requires that suitable arrangements be made for the accommodation of the accused child/young person before he or she is released on bail. Accommodation requirements can only be imposed on a child/young person.
- 8.3. The court will re-list a matter for further hearing, at least every 48 hours until the accommodation requirement is complied with.
- 8.4. The *NSW Bail Act 2013* places responsibility on agencies to report to the court, when children/young people with bail granted but not entered, due to the lack of suitable accommodation or other conduct requirements. This is discussed further at 8.19 through to 8.22.
- 8.5. The court can also impose a bail condition requiring the accused person to reside at the relevant accommodation while at liberty on bail (this is known as a conduct requirement).

### **For shared clients under the parental responsibility of the Minister for Family and Community Services**

- 8.6. When the court has stipulated that suitable accommodation be identified to meet bail conditions (known as conduct and/or accommodation requirements), particularly where time is limited to plan and locate accommodation, such as during a court bail hearing, Juvenile Justice will, as soon as possible, inform the relevant designated OOHC agency with case management responsibility.
- 8.7. The relevant designated OOHC agency with case management responsibility is responsible for locating a suitable placement for the child/young person.
- 8.8. Where Family and Community Services has case management responsibility<sup>17</sup>, Juvenile Justice is to contact a Manager from the owning CSC/other Family and Community Services unit or if not known, the CSC closest to where the child/young person usually resides<sup>18</sup>.

### **For shared clients subject to a current ROSH report and other young offenders who are not shared clients**

- 8.9. When the court has stipulated that suitable accommodation be identified to meet the child/young person's bail conditions (known as conduct and/or accommodation requirements), Juvenile Justice will contact and inform the parent/carer(s) that the child/young person is to be released from custody into their care and as person's legally responsible for the child/young person, the parent/carer(s) are responsible for arranging suitable accommodation, if they are unable/unwilling to allow their child to return home<sup>19</sup>.

---

<sup>17</sup> If the case management of a child/young person under the parental responsibility of the Minister for Family and Community Services rests with a non government designated OOHC agency, Juvenile Justice will liaise directly with that agency about the child/young person's placement. The agency is responsible for locating a suitable placement in accordance with the [Community Services Case Management Policy 2013](#).

<sup>18</sup> Appendix 5 provides a list of Family and Community Services and Juvenile Justice units by district and region

<sup>19</sup> Parent/carer(s) unable or unwilling to allow their child to return home or to provide accommodation, shelter etc. for their child, are not necessarily relinquishing their parental responsibility of the child/young person. These circumstances do not constitute relinquishing parental responsibility of a child/young person and further casework is required to assist the child/young person and their family to resolve issues which may allow the child/young to return home. Relinquishing parental responsibility is a formal and legal process affected by the Children's Court or Family Court. The court may reallocate parental responsibility if evidence is presented demonstrating that an irretrievable breakdown has occurred between the child/young person and their parent/carer(s)

- 8.10. If the child/young person refuses to return home or the parent/carer(s) are unable/unwilling to allow their child to return home, Juvenile Justice may mediate between the child/young person and their parent/carer(s), for the child/young person to return home.
- 8.11. Juvenile Justice may provide assistance to the parent/carer(s) to locate suitable accommodation, however where the parent/carer(s) are unable or unwilling to locate suitable accommodation for their child, Juvenile Justice will make all reasonable efforts to find and transport the child/young person to suitable accommodation.
- 8.12. Reasonable efforts comprise of fully exploring all avenues of enquiry to secure suitable accommodation for the young offender.

Some examples include, but are not limited to, directly contacting:

- extended family, kin or friends, where NSW Police criminal history checks and Family and Community Services probity checks confirm that there are no known risks with that person or a member of their household<sup>20</sup>
- Specialist Housing Services such as youth refuges and other suitable accommodation services, to secure short term accommodation for the child/young person.

- 8.13. Where Juvenile Justice is unable to locate suitable accommodation and it is confirmed that the parent/carer(s) are unwilling to allow their child to return home or to find suitable accommodation for him/her, Juvenile Justice:
- will for a *child*, complete the MRG and contact the CP Helpline to make a report if the MRG final decision is to report to Family and Community Services.
  - may for a *young person*, complete the MRG and contact the CP Helpline to report the young person as homeless if the MRG final decision is to report to Family and Community Services AND if the young person consents to the making of the report<sup>21</sup>.
  - will in its report to the CP Helpline, detail what efforts were made to find suitable accommodation for the child/young person.
- 8.14. The CP Helpline will provide feedback to Juvenile Justice about whether or not their report was screened in<sup>22</sup>. If screened in, the CP Helpline will also inform Juvenile Justice which CSC/ other Family and Community Services unit is the owning unit.
- 8.15. Where its report is screened out, Juvenile Justice is responsible for locating suitable accommodation for the child/young person.
- 8.16. Where its report is screened in, Juvenile Justice will contact a Manager from the owning unit, or the CP Helpline if after hours, to discuss the shared

---

and that casework, mediation and counselling have been unsuccessful in resolving the issues between the child/young person and their parent/carer(s) or reconciling their relationship.

<sup>20</sup> Juvenile Justice will not allow a shared client to reside with an extended family member, kin or friend where NSW Police criminal history checks and Family and Community Services history checks confirm risk(s) with that person or a member of their household.

<sup>21</sup> S.121 of the Care Act requires the consent of the young person to a homelessness report.

<sup>22</sup> The CP Helpline usually processes urgent reports within two hours. Urgent reports are those assessed as requiring a Family and Community Services response in less than 24 hours. In cases where a young offender requires immediate assistance due to an appearance before the court, the CP Helpline will make all reasonable efforts to finalise the report as quickly as possible.

client's current situation and what actions Family and Community Services may take.

8.17. Family and Community Services can undertake a number of actions to:

- assess and/or investigate a child/young person's current situation
- intervene to address the safety, welfare and wellbeing of a child/young person.

Some example include but are not limited to:

- making referrals
- providing casework services
- facilitating the child/young person's return home where appropriate
- locating suitable accommodation.

Any actions may be undertaken in collaboration with other agencies including Juvenile Justice.

8.18. Family and Community Services may request Juvenile Justice assistance in identifying and canvassing accommodation options suitable for the needs of the child/young person.

### **Accommodation requirements and reporting to the court**

8.19. The court may direct any officer of a division of government to provide information about actions taken to secure suitable arrangements for accommodation of an accused child/young person, including progress of locating suitable arrangements for accommodation and available suite of options (including any relevant risks)<sup>23</sup>.

8.20. The information provided to the court must identify the address at which the child/young person will reside while on bail (if such an address has been determined).

8.21. This information may be lodged in writing or can be provided orally in court by officers from the Department of Family and Community Services or the Department of Justice.

8.22. Appendix 4 describes an agreement between Family and Community Services and Juvenile Justice for the division of responsibilities for each client cohort<sup>24</sup>.

## **9. Record Keeping**

9.1. Section 12 of the *State Records Act 1998* prescribes that each public office make and keep full and accurate records of the activities of the office.

9.2. Good record keeping assists Family and Community Services and Juvenile Justice:

- in working towards service improvements and better outcomes for children/young people who are shared clients
- to improve case practice and case management

<sup>23</sup> Appendices 1 and 2 provide further information about accommodation requirements.

<sup>24</sup> It is to be noted that the client cohort in Appendix 4 differs from the target group defined in the MoU and these guidelines.

- to monitor and review the implementation of this MoU
- in meeting the reporting and counting requirements.

**Family and Community Services recording processes include:**

9.3. Recording in the Key Information Directory System (KiDS):

- a request for information in a Contact record.

For an existing open plan, the Contact Record is created within the plan.

If there are no open plans on KiDS, the Contact Record is created from the Records screen tab.<sup>25</sup>

- in a Legal Record:
  - any Children’s Court criminal proceedings<sup>26</sup>
  - any Children’s Court orders
- a Youth Justice Conference in a Meeting Record
- Juvenile Justice as a Service Provider in the Parties Applet of a KiDS Plan and relevant KiDS Record
- a Juvenile Justice Officer in the child/young person’s Relationships Tab. The relationship must be end dated (on KiDS) when the Juvenile Justice order expires.

**Juvenile Justice recording processes include:**

9.4. Adding, in the Client Details screen on the Client Information Management System (CIMS), that the child/young person is under the parental responsibility of the Minister for Family and Community Services or is the subject in a current ROSH report.

**10. Dispute Resolution**

10.1. When attempts to resolve the issues at the local level have been unsuccessful, there should be evidence that reasonable efforts have been made to resolve the dispute prior to any escalation.

10.2. Where case management of a shared client rests with a non government designated OOHHC agency and attempts to resolve a dispute at the local level have been unsuccessful, Juvenile Justice may escalate the matter to the Director Community Services in the relevant district for resolution.

<sup>25</sup> For further information Family and Community Services staff can see Casework Practice topic ‘Exchanging Information’

<sup>26</sup> For further information Family and Community Services staff can see KiDS Business Rule 006

## Glossary

Accommodation Requirement	<p>Bail conditions can impose an accommodation requirement on an accused child/young person.</p> <p>An accommodation requirement is a requirement that suitable arrangements be made for the accommodation of the accused child/young person before he or she is released on bail.</p> <p>Section 28 (5) of the <i>NSW Bail Act 2013</i> provides that a court may direct any officer of a Division of the Government Service to provide information about the action taken to secure suitable arrangements for accommodation of an accused child/young person.</p> <p>Regulation 31 (2) of the <i>Bail Regulation 2014</i> provides that the information provided to the court under s.28(5) of the <i>NSW Bail Act 2013</i> must identify the address at which the accused child/young person will reside while on bail (if such an address has been determined).</p> <p>This information may be lodged in writing or can be provided orally in court.</p>
Aspects of Parental Responsibility	<p>Parental responsibility may be shared between the Minister for Family and Community Services and another person. Certain aspects of parental responsibility may be allocated solely to the Minister and other aspects allocated solely to another person/s.</p> <p>For example, the Minister may be responsible for residence and a parent may be responsible education and religious upbringing</p> <p>In some circumstances the Minister may exercise parental responsibility (or aspects of parental responsibility) jointly with another person(s).</p> <p>Aspects of parental responsibility include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Residence</li> <li>• Contact arrangements</li> <li>• Education and training</li> <li>• Religious upbringing</li> <li>• Medical treatment</li> </ul>
Authorised Carer	<p>A person who is authorised as a foster or relative carer by a non government designated OOHC agency, the principal officer of a non government designated OOHC agency, or any person authorised according to the regulations (Chapter 8, Part 1, section 137 of the <i>Children and Young Persons (Care and Protection) Act 1998</i>).</p>
Background Report	<p>The primary purpose of a Background Report is to provide the Magistrate or Judge with a general survey of the child/young person and their circumstances at the time that the offence was committed. Background Reports are prepared only for criminal offences that are awaiting final determination i.e. the child/young person has pleaded guilty or has been found guilty by the courts. The contents of a Background Report include circumstances surrounding the offence, family background, employment, education, friends and associates, health and disabilities and any other matters as the Children's Court may require.</p> <p>Under Section 25(1) and (2) of the <i>Children (Criminal Proceedings) Act 1987</i>, the court cannot impose a control order under s.33 (1) g or sentence to a term of imprisonment unless a Background Report has been tendered to the court.</p>
Bail	<p>Bail is an agreement entered into by a child/young person accused of a criminal offence. By signing a bail undertaking, the accused child/young person is agreeing to appear at court on a particular date. The bail undertaking may also</p>

	<p>require the child/young person to comply with certain conditions such as a conduct requirement.</p> <p>Juvenile Justice operates an intensive bail supervision service with the aim of supporting children/young people to be released from detention on bail and into supervision in the community. The program aims to provide practical diversionary support as well as being a more cost-effective alternative to custody.</p>
Bail Assistance Line	<p>The <a href="#">Bail Assistance Line</a> is an after hours service for Police who are considering granting bail to a child/young person who is in their custody but who cannot be released as the child/young person cannot meet the accommodation requirement of their bail conditions.</p> <p>Police are able to contact a Juvenile Justice Bail Coordinator on 1300 135 330 who can provide a range of assistance options. These may include assistance in locating a responsible adult, coordination of transport or accommodation placement and support. This service operates to provide Police with an option other than custody for children/young people being considered for bail. From time to time the Bail Assistance Line contacts the CP Helpline for consent to place a child/young person under the parental responsibility of the Minister for Family and Community Services.</p> <p>The Bail Assistance Line currently only operates in Newcastle and Metropolitan Sydney between the hours of 4pm and 3am every day.</p>
Bail and Remand Services	<p>Juvenile Justice provides bail and remand interventions as well as intensive bail supervision with the aim of supporting children/young people to be released on bail and into supervision in the community. Bail and Remand services aims to provide practical diversionary support to help ensure that children/young people in custody are able to meet the conditions of their bail.</p>
Bail Breach	<p>Bail is an agreement that an accused person agrees to appear at court on a particular date. In many instances bail will require the accused person to comply with certain conditions such as a conduct requirement or an accommodation requirement. If the accused is found not complying with the conditions or has not attended court on the required date they are considered in breach of bail.</p> <p>Under the <i>NSW Bail Act 2013</i>, Police have a number of options if a breach occurs, including issuing a warning or arrest warrant. If arrested, a magistrate makes a decision whether to remand the accused in a detention centre or release them with continuing or changed bail conditions such as a conduct requirement.</p>
Bail Condition Rules	<ul style="list-style-type: none"> <li>• A bail condition can be imposed only for the purpose of mitigating an unacceptable risk.</li> <li>• Bail conditions must be reasonable, proportionate to the offence for which bail is granted, and appropriate to the unacceptable risk in relation to which they are imposed.</li> <li>• A bail condition is not to be more onerous than necessary to mitigate the unacceptable risk in relation to which the condition is imposed.</li> <li>• Compliance with a bail condition must be reasonably practicable.</li> </ul>
Carer	<p>A person who may or may not have parental responsibility but has day-to-day care of a child. A carer may provide the care with or without fee or reward. Carers may be relatives, friends or acquaintances of a parent, residential care workers, childcare workers, youth workers, nursing staff or authorised carers.</p>

Casework	<p>The term casework refers to the practical day-to-day involvement with children/young people, their parent/carer(s) and families. It generally comprises:</p> <ul style="list-style-type: none"> <li>• implementation of the case plan and associated tasks</li> <li>• continuous assessment of safety and risk</li> <li>• building relationships with the child/young person and their parent/carer(s), families and communities to create change</li> <li>• coordination of services and supports</li> <li>• monitoring</li> </ul> <p>The child/young person's safety and well-being are paramount objectives in the casework process, which is planned with consideration to resources and carried out in the best possible and professional manner.</p>
Child	<p>This definition will vary depending upon the legislation that governs the particular situation. Under <i>the Children and Young Persons (Care and Protection) Act 1998</i> a child is a person under the age of 16 years. Under <i>the Crimes Act 1900</i> or <i>the Commission for Children and Young People Act 1998</i> a child is a person under the age of 18 years.</p>
Client Information Management System (CIMS)	<p>The Client information Management System is a Juvenile Justice IT application that records the details of delivery of services including case plans and program participation.</p>
Criminal Court Order	<p>Comprises an order of a court or an administrative order.</p> <p>A Children's Criminal Court Order is a document developed by a Magistrate or Judge that defines the actions expected to be completed or conducted by the child/young person. The following options are available to the Children's Court under the <i>Children (Criminal Proceedings) Act</i>:</p> <ul style="list-style-type: none"> <li>• Dismissal/Caution</li> <li>• Good Behaviour Bond (with or without Juvenile Justice Supervision)</li> <li>• Fine</li> <li>• Release on Conference Outcome Plan</li> <li>• Probation</li> <li>• Community Service Order (CSO)</li> <li>• Suspended sentence</li> <li>• Control Order.</li> </ul> <p>Some offences are strictly indictable, which means they cannot be finalised by a magistrate. These matters are held in the District Court, except for extremely serious offences such as murder, which go to the Supreme Court.</p>
Critical Event	<p>A critical event is one that requires immediate attention by Family and Community Services staff or other emergency services. These events have had, or may have, a significant or serious impact on a child/young person, their parent/carer(s) and family, and/or Family and Community Services staff. Some examples include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• serious injury to a child/young person in out-of-home care, when emergency hospitalisation or the attention of emergency medical aid is required</li> <li>• serious injury to a child/young person while attending a children's service, when emergency hospitalisation or the attention of emergency medical aid is required</li> </ul>

	<ul style="list-style-type: none"> <li>• life threatening non-accidental injury to a child/young person, for example as a result of family violence or other criminal activity</li> <li>• impropriety or illegal activity by a children's service</li> <li>• highly likely or actual media interest (e.g. high profile matters that involve other agencies, threats to call the media, letters to editors, local Members of Parliament)</li> <li>• death of a child/young person in Family and Community Services care</li> <li>• death or serious injury to a child/young person when the circumstances of death or injury is suspicious or unexplained</li> <li>• risk of significant harm events affecting a class of children</li> <li>• death or serious injury to a Family and Community Services carer</li> <li>• significant event involving a person with a public profile (therefore media interest is highly likely)</li> <li>• matter raised by a Member of Parliament or by the Ombudsman's office</li> <li>• children left unattended in cars where this results in the death or serious injury of the child</li> <li>• exposure of a child/young person to a known paedophile or cult.</li> </ul>
Community Services Case Management	<p>The process of assessment, planning, implementation and monitoring that aims to strengthen families and decreases risks to children/young people through integrated and coordinated service delivery.</p> <p>When case management has been transferred by FACS to a non-government organisation, the non-government organisation as a designated OOHC agency has responsibility for assessment, case planning, implementation, monitoring, review, placement transition and case closure.</p> <p>The roles and responsibilities of Family and Community Services and other non government designated agencies that have case management of children/young people in OOHC are described in <a href="#">Community Services Case Management Policy 2013</a>.</p>
Family and Community Services Case Plan	<p>A Family and Community Services case plan is developed within 45 days of it being determined that a child/young person is in need of care and protection i.e. following completion of a child protection assessment. For a child/young person in OOHC, a case plan is developed within 30 days of them entering statutory OOHC.</p> <p>The case plan focuses on areas of strengths and needs, with clear targets for the actions and time frames required. The eight essential topics considered in case planning include: Placement and Permanency; Health and Medical; Education or Vocation; Emotional and Behavioural Functioning; Family Relationships; Social Skills and Peer Relationships; Cultural Identity and Living Skills; and Self Care. The case planning process involves gathering and analysing information to identify goals, consulting with all parties involved and deciding on the necessary resources.</p> <p>Effective case planning involves children, young people and their families, professionals and significant others (e.g. volunteer mentors) who are working with the family.</p>
Conduct Requirement	<p>Bail conditions can impose conduct requirements on an accused person.</p> <p>A conduct requirement is a requirement that the accused person do or refrain</p>

	from doing something.
Designated OOHC agency	A division of government service or an organisation (or branch or part of an organisation) that is accredited in accordance with the regulations to provide out-of-home care services, including Family and Community Services and Ageing, Disability and Home Care (ADHC) or the National Disability Insurance Agency.
Health Management Plan	<p>The Health Management Plan is a comprehensive, transferrable health record developed for, and with, children/young people under the parental responsibility of the Minister of Family and Community Services. The Health Management Plan is completed by a health professional as part of the health screening, assessment, intervention and review process for children/young people on the Model Health Pathway. It identifies the ongoing health and developmental needs of the child/young person.</p> <p>The Health Management Plan must be integrated into the child/young person's case plan and remains with the child/young person if they change placement, are restored or transition from OOHC.</p> <p>A Health Management Plan should (at minimum) include details of the:</p> <ul style="list-style-type: none"> <li>• Health Case Manager</li> <li>• Carer(s)</li> <li>• Caseworker (Family and Community Services or NGO)</li> <li>• Service(s) required for targeted intervention(s)</li> </ul> <p>There is currently no standard Family and Community Services/NSW Health template for the Health Management Plan. The format will differ across FACS Districts depending on local arrangements with Local Health Districts.</p> <p>For example, for children/young people with limited health needs, the Health Management Plan may be outlined in a letter from their General Practitioner, whilst for children/young people with more complex health needs and who have had a Step 2b Comprehensive Assessment, the Health Management Plan may be in a formal report.</p>
Interim Parental Responsibility to the Minister of FACS	An order of the Children's Court placing the child/young person under the parental responsibility of the Minister for Family and Community Services while a Children's Court case is being heard.
Juvenile Justice Case Plan	<p>The Juvenile Justice case plan documents the proposed action and goals to address the child/young person's offending related needs. Case plans are developed in consultation with the child/young person, family and significant others. The plan addresses areas relating to offending behaviours including offence history, family and living circumstances, education and employment, peer relations, substance abuse, recreation, behaviour and attitudes and beliefs about offending. The case plan also focuses on building the child/young person's strengths and abilities. It documents who is responsible for planning, monitoring, reviewing and implementing the case plan.</p> <p>The Youth Level of Service/Case Management Inventory – Australian Adaptation is the assessment tool used to determine the goals of the case plan.</p>
Juvenile Justice Discharge Case Plan	Prior to a detainee being released from custody a Discharge Case Plan is developed based on comprehensive assessments from Juvenile Justice, Health and Education in consultation with the child/young person, family-carers and a Post Release Support Agency. The Discharge Case Plan ensures that the

	child/young person has supports in place such as accommodation, school attendance, vocational and employment programs, counselling and other relevant services.
Juvenile Justice Intensive case management	Intensive case management is guided by a case plan developed with a young person and their family that focuses on addressing the young person's individual risk needs identified through the YLS-CMI. The case plan includes a high level contact and program, participation involving a range of relevant services and coordinated by Juvenile Justice.
Key Information and Directory System (KiDS)	Family and Community Services' electronic system for keeping records and plans of its clients.
Leaving Care Plan	<p>Leaving Care plans are case plans developed to address the needs of children/young people who are leaving out-of-home care (OOHC), as are requirements under Sections 165 and 166 of the <i>Children and Young Persons (Care and Protection) Act 1998</i>, and the <i>Guidelines on the provision of leaving and after care assistance</i>.</p> <p>The leaving care plan should include reasonable steps that will prepare the young person for the transition from out-of-home care and should be informed by a needs assessment. Plans should generally cover accommodation, employment and income support, access to education and training, knowledge and understanding of personal history including cultural background, contact with family members, and independent living skills, including financial management and health and lifestyle issues. The plan should also specify, as far as can be determined, the agency/ies or person/s that will provide the services and/or provide the resources to implement the plan.</p>
Mandatory reporter	A mandatory reporter in NSW is an individual required under Section 27 of the <i>Children and Young Persons (Care and Protection) Act 1998</i> to report to the CP Helpline when he/she has reasonable grounds to suspect that a child, or a class of children, is at risk of significant harm from abuse or neglect, and those grounds arise during the course of or from the person's work. Mandatory reporters include those who as part of their work deliver health care, welfare, education, children's services, residential services or law enforcement to children. The NSW legislation also mandates any person who manages an employee or volunteer from the above services to report suspected risk of significant harm of a child.
Mandatory Reporter Guide (MRG)	<p>The SDM<sup>®</sup> Mandatory Reporter Guide (MRG) is intended to assist mandatory reporters who are concerned about possible abuse or neglect of a child/young person and must make a decision whether or not to report their concerns to the CP Helpline or take other appropriate action. To access the MRG, click on the following link.</p> <p><a href="http://sdm.community.nsw.gov.au/mrg/screen/DoCS/en-GB/summary?user=quest">http://sdm.community.nsw.gov.au/mrg/screen/DoCS/en-GB/summary?user=quest</a></p>
Memorandum of Understanding (MOU)	A written agreement between two or more parties that defines the relationship between those parties in relation to a specific subject or issue and their roles and responsibilities with regard to a specific issue.
Model Pathway for the Comprehensive Health and	The <a href="#">Model Health Pathway</a> outlines the agreed process in relation to the role of Family and Community Services and NSW Health in undertaking comprehensive health and developmental screening and assessment of

<p>Developmental Assessments for all children/young people entering out of home care (Model Health Pathway)</p>	<p>children/young people in statutory Out-of-Home Care.</p> <p>NSW Health and Family and Community Services have agreed to a staged implementation of the Model Health Pathway.</p> <ul style="list-style-type: none"> <li>• Stage one – every child/young person who enters statutory OOHC after 30 June 2010 who is expected to remain in OOHC for more than 90 days.</li> <li>• Stage two – every child up to the age of five, who entered statutory OOHC before 30 June 2010.</li> <li>• Stage three – From 2014, every child and young person aged 15 - 17 years who is anticipated to leave OOHC within the next 12 months (as rolled out across FACS districts).</li> </ul>
<p>Non Delegable Powers</p>	<p>Family and Community Services always retains responsibility for decisions in matters related to non delegable powers. These are:</p> <ul style="list-style-type: none"> <li>• consent to marriage</li> <li>• residency outside the NSW jurisdiction</li> <li>• application for a passport</li> <li>• consent to end of life medical treatment</li> <li>• consent to medical treatment involving termination of pregnancy, rendering a child/young person infertile or medical treatment involving potential terminal illness</li> <li>• initiating an application to a court or tribunal or appearing in proceedings as a delegate of the Minister</li> <li>• sub-delegating any function to an authorised carer.</li> </ul> <p>Family and Community Services has the key decision making role in restoration decisions at the point of developing and approving the initial care plan. Family and Community Services and the non government designated OOHC agency have joint responsibility for decisions to seek to change Court Orders.</p>
<p>Non-government organisations (NGO)</p>	<p>An NGO is any non-profit, legally constituted organisation. NGOs perform a variety of service and humanitarian functions and may be funded totally or partially by governments.</p> <p>In this MoU, NGOs refers to agencies that are accredited by the NSW Children's Guardian and funded by Family and Community Services to arrange and supervise the provision of OOHC services.</p>
<p>Notification of breach action</p>	<p>Breach action is only considered when a child/young person fails to comply with the conditions of their court order. Prior to proposing breach action all efforts are made to assist the child/young person to comply with the conditions of their court order. If the child/young person persists with non compliance, breach action will be referred to the relevant Juvenile Justice manager for endorsement.</p> <p>Breach action may result in a police warrant for arrest and a return to court. The court may reissue the court order, or vary the court order. In some cases the child/young person may be detained in custody.</p>
<p>Offences</p>	<p>Summary offences – are usually less serious charges such as traffic offences, offensive conduct/language and petty crime for example; shoplifting or graffiti, which are tried by a magistrate (alone without a jury) in the Local Court. In NSW, summary offences have a maximum penalty of two years imprisonment.</p>

	<p>Indictable offences – are serious charges such as armed robbery, that are tried by a judge and jury in the District Court after prima facie is established.</p> <p>Serious indictable offences - are extremely serious charges such as murder, that are tried by a judge and jury in the Supreme Court after prima facie is established. In NSW, serious indictable offences have a penalty of five or more years imprisonment.</p>
Out of home care (OOHC)	The care and control of a child/young person that is provided by a person other than their parent/carer(s) and residing at a place other than their usual home, whether or not for fee, gain or reward.
Owning unit	The Community Services Centre (CSC) or other Family and Community Services unit that holds case management responsibility for a case.
Parent	<p>The definition of 'parent' depends on the section of <i>the Children and Young Persons (Care and Protection) Act 1998</i> under which it is applied.</p> <p>The general definition of a parent under the Act means “a person having parental responsibility for the child/young person”.</p> <p>For a child/young person in out-of-home care (under a court order) a parent means the person (other than the Minister or the Secretary) who had parental responsibility for the child/young person immediately before the child/young person was placed in out-of-home care.</p> <p>In regards to the Structured Decision Making (SDM<sup>®</sup>) system of assessment used by Family and Community Services and by other mandatory reporters, the definition of parent/carer(s) is: Parents, guardians or other adults in the household who provide care and supervision for the child/young person.</p>
Parental responsibility	The duties, powers, responsibilities and authority which, by law, parents have in relation to their children. It is a legal responsibility that entails decision making for the health, welfare and wellbeing of a child/young person.
Parental responsibility to the Minister of FACS	An order of the Children's Court placing the child/young person under the parental responsibility of the Minister under Chapter 5, Part 2, section 79(1)(b) of <i>the Children and Young Persons (Care and Protection) Act 1998</i> .
Placement	Family and Community Services use the term placement in the context of referring to where a child/young person resides whilst in out of home care. Most children/young people in statutory out of home care live with authorised foster carers, relative carers, or kinships carers. In some cases they live in residential care units such as group homes.
Protected person	<p>A child/young person who is:</p> <ul style="list-style-type: none"> <li>• a ward of the Supreme Court</li> <li>• a non-relative child/young person awaiting adoption</li> <li>• under the guardianship or custody of the Minister or Secretary for Family and Community Services, by order of the Family Court or the Supreme Court</li> <li>• a non-citizen child/young person in respect of whom the Secretary exercises the functions of guardianship.</li> </ul> <p>A protected person is considered to be in out-of-home care according to Chapter 8, Part 1, s.135 of the <i>Children and Young Persons (Care and Protection) Act 1998</i>.</p>

Relative	<ul style="list-style-type: none"> <li>• Parent/carer(s), parent’s spouse, grandparents, brothers, sisters, step-brothers, step-sisters, cousins, nieces, nephews, uncles or aunts, (whether by blood or marriage) of the child/young person;</li> <li>• A person having parental responsibility for the child/young person or care responsibility under <i>the Children and Young Persons (Care and Protection) Act 1998</i> or <i>the Adoption Act 2000</i> but not including the Minister or the Secretary of Family and Community Services, or a person having parental or care responsibility other than in his/her personal capacity.</li> </ul>
Report, risk of significant harm	<p>A report made to Family and Community Services, usually via the CP Helpline, to convey a concern about a child/young person who may be at risk of significant harm under the provisions outlined in sections Chapter 3, Part 2, or sections 23, 24, 25 and 27, Chapter 7, Part 2, sections 120, 121 and 122 of <i>the Children and Young Persons (Care and Protection) Act 1998</i>.</p> <p>A person may call the CP Helpline to report directly; however a mandatory reporter should always be informed whether or not to report to Family and Community Services by having used the MRG, which defines the statutory reporting threshold for statutory child protection reports.</p>
Reportable Event	<p>A reportable event is a situation that must be reported to an oversight body. A number of organisations oversee various aspects of the child protection system in NSW. These organisations include but are not limited to NSW Ombudsman, State Coroner, Independent Commission Against Corruption, Police and Children’s Guardian. Some examples of reportable events include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• allegations made about a Family and Community Services employee (includes authorised carers) that involve alleged criminal acts, alleged corruption or serious inappropriate conduct towards clients or their family members, including a child/young person</li> <li>• events that affect a class or group of children/ young people, including those in child care, educational and community groups, for example a bus accident, child sex offences/child pornography, ritualised sexual bullying at a school or membership of a cult (when there is reason to believe that the children/ young people are at risk of significant harm)</li> <li>• death of a child/young person in care</li> <li>• death of a child/young person in respect of whom a ROSH report was made to Family and Community Services, within the period of three years immediately preceding the child/young person’s death</li> <li>• death of a child/young person who is a sibling of a child/young person in respect of whom a ROSH report was made to Family and Community Services, within the period of three years immediately preceding the child/young person’s death,</li> <li>• death of a child/young person whose death is or may be due to abuse or neglect or that occurs in suspicious circumstances</li> <li>• person including a child/young person who, at the time of death was living in or was temporarily absent from residential care provided by a service provider and authorised or funded under the Disability Services Act 1993 or a residential centre for disabled persons</li> </ul>
Risk of Significant Harm (ROSH)	<p>A child/young person is at risk of significant harm if the circumstances that are causing concern for the safety, welfare and well-being of the child/young person are present to a significant extent.</p>

	<p>What is meant by ‘significant’ in the phrase ‘to a significant extent’ is that which is sufficiently serious to warrant a response by a statutory authority irrespective of a family’s consent.</p> <p>What is significant is not minor or trivial, and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child/young person’s safety, welfare and well-being.</p> <p>In the case of an unborn child, what is significant is not minor or trivial, and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child after the child’s birth.</p> <p>The significance can result from a single act or omission or an accumulation of these.</p>
Screened In	The decision by the CP Helpline after applying the SDM <sup>®</sup> Screening & Response Priority Tool that a report meets the statutory threshold of risk of significant harm and that the matter is deemed to be core Family and Community Services business and requires an investigation and/or assessment by Family and Community Services.
Screened Out	The decision by the Child Protection Helpline after applying the SDM <sup>®</sup> Screening & Response Priority Tool that a report does not meet the statutory threshold of risk of significant harm. Some non-ROSH matters may still require a Family and Community Services response.
Shared Client	<p>In these Joint Operational Practice Guidelines, a shared client is any child/young person who is:</p> <ul style="list-style-type: none"> <li>• a subject in a current risk of significant harm (ROSH) report [as screened in by the Child Protection Helpline (CP Helpline)], and/or</li> <li>• under the parental responsibility (including interim parental responsibility) of the Minister or Secretary for Family and Community Services, regardless of whether they are case managed by Community Services or a non government designated OOHC agency, or</li> <li>• under the shared parental responsibility of the Minister or Secretary for Family and Community Services (where the Minister has parental responsibility for the aspect of residence).</li> </ul> <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> <li>• eligible for any Juvenile Justice service: <ul style="list-style-type: none"> <li>○ following a referral to a Youth Justice Conference</li> <li>○ during the preparation of a Juvenile Justice Background Report requested by the court</li> <li>○ during the provision of one-off bail and remand services</li> <li>○ during a period of community supervision (including bail supervision), following an order of the court</li> <li>○ during a period of custodial incarceration (including remand), following an order of the court.</li> </ul> </li> </ul> <p>For the purpose of the MoU and these Guidelines, Family and Community Services defines a <u>current</u> ROSH report as any of the following:</p> <ul style="list-style-type: none"> <li>• an open and allocated case</li> <li>• a ROSH report awaiting an allocation or closure decision at the Community Services Centre (CSC) or other Family and Community Services unit</li> </ul>

	<ul style="list-style-type: none"> <li>• a case that was closed within the previous 28 days after Family and Community Services case management and/or achieving the case plan goal</li> <li>• a ROSH report which was unable to be allocated for a face to face response and that was closed within the previous 28 days.</li> </ul> <p>NB: Family and Community Services' will remain involved with these cases until the immediate child protection issues (brought to the attention of Family and Community Services by Juvenile Justice or the Children's Court) are resolved.</p>
Structured Decision Making (SDM <sup>®</sup> )	<p>The SDM<sup>®</sup> system structures decisions at several key points in case processing through use of assessment tools and decision guidelines. SDM<sup>®</sup> tools used by Family and Community Services include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• the Mandatory Reporter Guide for use by all mandatory reporters across NSW</li> <li>• the Screening &amp; Response Priority tools used by the CP Helpline</li> <li>• the Safety and Risk Assessment tools used by Family and Community Services staff in NSW.</li> </ul>
Transfer of case management to a non government designated OOHC agency	<p>The NSW Government has made a commitment to transfer all statutory OOHC placements where parental responsibility rests with the Minister for Family and Community Services to non-government agencies. In line with this direction, Family and Community Services has commenced transferring case management of children and young people in statutory OOHC who are under the parental responsibility of the Minister for Family and Community Services to the non-government sector.</p> <p>When case management has been transferred to a non-government organisation, the non-government organisation as a designated OOHC agency has responsibility for assessment, case planning, implementation, monitoring, review, placement, transition and case closure.</p>
Young person	<p>Under <i>the Children and Young Persons (Care and Protection) Act 1998</i> a young person is aged 16 years or above but under the age of 18 years. However, under <i>the Crimes Act 1900</i> or <i>the Commission for Children and Young People Act 1998</i> any person under the age of 18 years is defined as a child.</p> <p>For the purposes of the <i>Children (Criminal Proceedings) Act 1987</i> a <i>child</i> means a person who is under the age of 18 years.</p>
Youth Justice Conference (YJC)	<p>YJC is a diversionary option designed to divert young offenders from the formal criminal justice system. Summary offences and some minor indictable offences can be dealt with by NSW Police by YJC.</p> <p>YJC is guided by provisions in the <i>Young Offenders Act 1997</i> and bring young offender(s), their families and supporters face-to-face with victim(s) and their support people, and others who have been harmed by the offence or who can contribute to the formulation of a realistic and achievable outcome, including Police and other parties deemed relevant.</p>

## Legislative Context

### Family and Community Services Legislation

#### ***The Children and Young Persons (Care and Protection) Act 1998 (the Care Act)***

- 1.1. Family and Community Services has statutory responsibility under the Care Act for, amongst other things, child protection services for children/young people in NSW.
- 1.2. The Minister for Family and Community Services is to promote a partnership approach between the government, non-government agencies, families, corporations, business agencies and the community in taking responsibility for and dealing with children/young people who are in need of care and protection<sup>27</sup>.
- 1.3. The Secretary of Family and Community Services is to promote the development of procedures and protocols with government departments and agencies and with the community sector that promote the care and protection of children/young people and to ensure that these procedures and protocols are implemented and regularly reviewed. This includes the development of co-ordinated strategies for the care and protection of children/young people and for the provision of support services directed towards strengthening and supporting families<sup>28</sup>.
- 1.4. In deciding what action should be taken to promote and safeguard the safety, welfare and well-being of a child/young person, the Secretary of Family and Community Services may request a government department or agency, or a non-government agency in receipt of government funding, to provide services to the child/young person or to his or her family<sup>29</sup>.
- 1.5. The government department or agency, or the non-government agency, must use its best endeavours to comply with a request made to it under s.17 of the Care Act if it is consistent with its own responsibilities and does not unduly prejudice the discharge of its functions<sup>30</sup>.
- 1.6. Family and Community Services is authorised to accept reports<sup>31</sup> of a child/young person at risk of significant harm and is responsible for any investigation or assessment of the allegation.
- 1.7. A child/young person is at risk of significant harm if current concerns exist for the safety, welfare and well-being of the child/young person because of the presence, to a significant extent, of any one or more of the circumstances listed in s.23 of the Care Act.
- 1.8. The Secretary of Family and Community Services has the power to make such investigations or assessments as considered necessary to determine if a child/young person is at risk of significant harm. This includes a decision to

---

<sup>27</sup> S 15 of the Care Act

<sup>28</sup> S 16 (2) and (3) of the Care Act

<sup>29</sup> S 17 of the Care Act

<sup>30</sup> S 18 of the Care Act

<sup>31</sup> Reports are information provided under ss23, 25 or 27 of the Care Act by a person who suspects on reasonable grounds that there are current concerns for a child/young person, or a class of children/young persons, due to risk of significant harm from abuse or neglect, or under ss. 120 or 121 that a child/young person is homeless.

take no further action if, on the basis of the information provided, the Secretary considers that there is insufficient reason to believe that the child/young person is at risk of significant harm.<sup>32</sup>

- 1.9. If Family and Community Services forms the opinion, on reasonable grounds, that a child/young person is in need of care and protection it must take whatever action is necessary to safeguard or promote the safety, welfare and well-being and to reduce the level of risk to the child/young person.<sup>33</sup>
- 1.10. The action that Family and Community Services might take includes:
- providing or arranging for support services;
  - developing, in consultation with the parent/carer(s), a case plan, and/or a registered care plan (with or without orders by consent) or a parental responsibility contract;
  - ensuring the protection of the child/young person by exercising the Secretary's emergency protection powers;
  - seeking appropriate orders from the Children's Court.<sup>34</sup>
- 1.11. Prescribed bodies are, in order to effectively meet their responsibilities in relation to the safety, welfare and well-being of children/young people, required to take reasonable steps to co-ordinate decision-making and the delivery of services regarding children/young people.<sup>35</sup>

### Juvenile Justice Legislation

Juvenile Justice has the statutory responsibility for administering youth justice conferences and for supervising children/young people who receive community-based orders or custodial sentences from the courts.

The agency operates under the terms of the *Children (Criminal Proceedings) Act 1987*, the *Children (Detention Centres) Act 1987*, the *Children (Community Service Orders) Act 1987*, and the *Young Offenders Act 1997*.

#### ***The Children (Criminal Proceedings) Act 1987***

- 1.12. Section 33 of the *Children (Criminal Proceedings) Act* permits the courts to make any of the following orders:
- a dismissal and/or caution
  - a good behaviour bond with or without supervision
  - a fine
  - referral to a youth justice conference
  - conditional or unconditional probation
  - a community service order

---

<sup>32</sup> SS 30 and 35 of the Care Act.

<sup>33</sup> S 34 (1) of the Care Act.

<sup>34</sup> S 34 (2) of the Care Act.

<sup>35</sup> S 245E of the Care Act

- an order that confines a child/young person for a specified period to detention.
- 1.13. Interventions delivered through Juvenile Justice community-based services aim to reduce re-offending through intensive case management strategies provided by professional staff, other agencies and through offence-focused programs.
- 1.14. Services provided by community based staff include:
- assessment reports prepared to assist courts in determining sentences
  - court-directed supervision of young offenders placed on good behaviour bonds, probation, community service or parole orders and suspended sentences
  - support for children/young people with problems seeking bail or remanded in custody
  - the provision of counselling with a focus on alcohol and other drug misuse, counselling, group work, living skills and the provision of forensic and other psychological testing and assessment
  - specialist alcohol and drug programs, a sex offender program and a violent offender program.
- 1.15. Casework management and extensive networking with other government and community-based services help staff support young offenders by addressing their offending behaviour and complying with court orders.
- 1.16. Under Section 25(1) and (2) of the *Children (Criminal Proceedings) Act 1987* the Court may request a Background Report. The primary purpose of a Background Report is to provide the Magistrate or Judge with a general survey of the child/young person and their circumstances at the time that the offence was committed. Background Reports are prepared by community based staff for criminal offences that are awaiting final determination i.e. the child/young person has pleaded guilty or has been found guilty by the courts.
- 1.17. The Court cannot impose a community service order or control order under Section 33(1)g or sentence to a term of imprisonment, unless a Background Report has been tendered to the Court.

### ***The Children (Detention Centres) Act 1987***

- 1.18. The *Children (Detention Centres) Act 1987* requires to agency to provide services to young offenders to decrease their re-offending and increase their capacity to successfully reintegrate into their communities.
- 1.19. Section 15 of the Act notes that a detainee shall, while detained in a detention centre, be deemed to be in the custody of the centre manager of the detention centre.
- 1.20. Centre Management and staff focus is on developing and delivering strategies that will help children/young people address their offending and antisocial behaviour and successfully reintegrate into their community. To achieve this, Juvenile Justice provides a range of programs and interventions within custodial environments including counselling, group work programs

which focus on alcohol and other drug issues, programs for sex offenders and violent offenders, and programs for Aboriginal children/young people.

- 1.21. The agency has also developed a range of partnerships to assist detainees including the delivery of education, health and mental health support, post release support and employment skilling programs, disability support, and legal services.

### ***The Young Offenders Act 1997***

- 1.22. Referrals for youth justice conferences are made under Part 5 of the *Young Offenders Act 1997 Act*. If accepted, a conference is arranged and it determines a legally binding outcome.
- 1.23. Youth justice conferences are a community-based approach to dealing with children/young people who have committed a crime. Conferences are a formal legal process based on the principles of restorative justice. They bring young offenders, their families and supporters face-to-face with victims and their support people. Together, they agree on a suitable outcome that can include an apology, reasonable reparation to victims, and steps to reconnect the child/young person with their community in order to help them desist from further offending.

### ***The NSW Bail Act 2013***

- 1.24. The overall objective of Juvenile Justice on issues of bail is to appropriately divert children and young people who are before the courts or in custody on criminal offences.
- 1.25. The *Bail Act 2013* provides a legislative framework for a decision as to whether a person who is accused of an offence should be detained or released, with or without conditions.
- 1.26. The Act has regard to the presumption of innocence and the general right for an accused person to be at liberty.
- 1.27. Bail is the authority for an accused person to be at liberty for an offence he/she has been charged. Bail may be authorised, with or without conditions.
- 1.28. The following bail decisions can be made under this Act:
- a decision to release the person without bail for the offence,
  - a decision to dispense with bail for the offence,
  - a decision to grant bail for the offence (with or without the imposition of bail conditions),
  - a decision to refuse bail for the offence.
- 1.29. Bail does not entitle a person to be at liberty until all pre-release requirements of bail conditions have been complied with and the accused person signs a copy of the bail acknowledgment for the decision to grant bail
- 1.30. Bail can only be considered where there are no unacceptable risks. An unacceptable risk is risk that an accused person, if released from custody, will:
- fail to appear at any proceedings for the offence, or

- commit a serious offence, or
- endanger the safety of victims, individuals or the community, or
- interfere with witnesses or evidence.

1.31. The following matters are considered when bail is being determined:

- the accused person's background, including criminal history, circumstances and community ties,
- the nature and seriousness of the offence,
- the strength of the prosecution case,
- whether the accused person has a history of violence,
- whether the accused person has previously committed a serious offence while on bail,
- whether the accused person has a pattern of non-compliance with bail acknowledgments, bail conditions, apprehended violence orders, parole orders or good behaviour bonds,
- the length of time the accused person is likely to spend in custody if bail is refused,
- the likelihood of a custodial sentence being imposed if the accused person is convicted of the offence,
- if the accused person has been convicted of the offence and proceedings on an appeal against conviction or sentence are pending before a court, whether the appeal has a reasonably arguable prospect of success,
- any special vulnerability or needs the accused person has including because of youth, being an Aboriginal or Torres Strait Islander, or having a cognitive or mental health impairment,
- the need for the accused person to be free to prepare for their appearance in court or to obtain legal advice,
- the need for the accused person to be free for any other lawful reason.

1.32. Bail may be refused if there is an unacceptable risk that cannot be sufficiently mitigated by the imposition of bail conditions.

1.33. Bail conditions must be reasonable, proportionate to the offence for which bail is granted, appropriate to the risk in relation to which they are imposed and must be reasonably practicable.

1.34. Bail conditions can impose conduct requirements on an accused person. A conduct requirement is a requirement that the accused person do or refrain from doing anything.

1.35. Bail conditions can require security to be provided. A requirement of this kind is a security requirement.

1.36. Bail conditions can require one or more character acknowledgments to be provided. A character acknowledgment is an acknowledgment, given by an acceptable person, that he or she is acquainted with the accused person and

that he or she regards the accused person as a responsible person who is likely to comply with his or her bail acknowledgment.

- 1.37. Bail conditions can impose accommodation requirements. This requires that suitable arrangements be made for the accommodation of the accused person before he or she is released on bail.
- 1.38. An accommodation requirement can be imposed only if the accused person is a child, or
- 1.39. The court must ensure that, if an accommodation requirement is imposed in respect of a child, the matter is re-listed for further hearing at least every 2 days until the accommodation requirement is complied with.
- 1.40. The court can also impose a bail condition requiring the accused person to reside at the relevant accommodation while at liberty on bail (known as a conduct requirement).
- 1.41. Further, the court may direct any officer of a Division of the Government Service to provide information about the action being taken to secure suitable arrangements for accommodation of an accused person.
- 1.42. An accommodation requirement is complied with when the court is informed by an appropriate Government representative, in writing or in person that suitable accommodation has been secured for the accused person.
- 1.43. An appropriate Government representative means:
  - the Secretary of the Department of Family and Community Services or a delegate of the Secretary (if the accused person is a child), or
  - the Secretary of the Department of Justice or a delegate of the Secretary, or
  - the Commissioner of Corrective Services or a delegate of the Commissioner.
- 1.44. Bail conditions may include one or more enforcement conditions that are imposed for the purpose of monitoring or enforcing compliance with another bail condition. An enforcement condition is a bail condition that requires the person granted bail to comply, while at liberty on bail, with one or more specified kinds of directions usual given for the purpose of monitoring or enforcing compliance with the bail condition. For example, an enforcement condition imposed in connection with an underlying bail condition that requires a person to refrain from consuming drugs or alcohol may require the person to undergo testing for drugs or alcohol as directed by a police officer and may include specifications as to when such directions may be given.
- 1.45. An enforcement condition can be imposed only if the court considers it reasonable and necessary in the circumstances, having regard to the following:
  - the history of the person granted bail (including criminal history and particularly if the person has a criminal history involving serious offences or a large number of offences),

- the likelihood or risk of the person committing further offences while at liberty on bail,
  - the extent to which compliance with a direction of a kind specified in the condition may unreasonably affect persons other than the person granted bail.
- 1.46. A police officer who believes, on reasonable grounds, that a person has failed to comply with, or is about to fail to comply with, a bail acknowledgment or a bail condition, may:
- decide to take no action in respect of the failure or threatened failure, or
  - issue a warning to the person, or
  - issue a notice to the person (an application notice) that requires the person to appear before a court or authorised justice, or
  - issue a court attendance notice to the person (if the police officer believes the failure is an offence), or
  - arrest the person, without warrant, and take the person as soon as practicable before a court or authorised justice, or
  - apply to an authorised justice for a warrant to arrest the person.
- 1.47. The following matters are to be considered by a police officer in deciding whether to take action, and what action to take (but do not limit the matters that can be considered):
- the relative seriousness or triviality of the failure or threatened failure,
  - whether the person has a reasonable excuse for the failure or threatened failure,
  - the personal attributes and circumstances of the person, to the extent known to the police officer,
  - whether an alternative course of action to arrest is appropriate in the circumstances.
- 1.48. Juvenile Justice's bail policy and procedures are guided by the *Bail Protocol between the NSW Children's Court and Juvenile Justice* (2005) and the *Bail Act 2013*.

## Legislation under *the Children and Young Person's (Care and Protection) Act 1998* governing disclosure of information by Family and Community Services and Juvenile Justice

- 1.1. Chapter 16A of the Care Act provides for the exchange of information and co-operation between "prescribed bodies". Both agencies, being part of a Division of the Government Service and other non government designated agencies, fall within the definition of "prescribed body".

### Chapter 16A

- 1.2. Section 245C(1) of Care Act authorises the agencies to share information, provided the following two conditions are met:

- (a) that the information relates "to the safety, welfare and well-being of a particular child/young person";
- (b) that the agency "reasonably believes" that providing the information would "assist the recipient to:
  - make any decision, assessment or plan or to initiate or conduct any investigation, or to provide any service, relating to the safety, welfare and well-being of the child/young person or class of children/young persons, or
  - manage any risk to the child/young person (or class of children/young persons) that might arise in the recipient's capacity as an employer or designated OOH agency."

- 1.3. A prescribed body may, in relation to the safety, welfare and well-being of a particular child/young person:

- voluntarily provide information to another prescribed body
- request information from another prescribed body
- direct that information be provided<sup>36</sup>.

- 1.4. A prescribed body is required to comply with a request if it reasonably believes that the information may assist the requesting agency for any purpose referred to in ss.245C(1), 245D(1) and 245D(2)<sup>37</sup>.

- 1.5. Section 245D(4) of the Care Act lists exclusions when a prescribed body is not required to provide any information that it has been requested to provide if the body reasonably believes that to do so would:

- prejudice the investigation of a contravention (or possible contravention) of a law in any particular case
- prejudice a coronial inquest or inquiry
- prejudice any care proceedings
- contravene any legal professional or client legal privilege
- enable the existence or identity of a confidential source of information in relation to the enforcement or administration of a law to be ascertained
- endanger a person's life or physical safety
- prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention (or possible contravention) of a law, or
- not be in the public interest.

<sup>36</sup> S 245C(1) & s 245D (1) of the Care Act

<sup>37</sup> s 245D (3) of the Care Act

**Section 248**

- 1.6. Section 248 of the Care Act authorises the Secretary of Family and Community Services to do either of the following:
  - (a) furnish a prescribed body with information relating to the safety, welfare and well-being of a particular child/young person or class of children/young persons,
  - (b) direct a prescribed body to furnish the Secretary with information relating to the safety, welfare and well-being of a particular child/young person or class of children/young persons.
- 1.7. Section 248 powers will only be used in strictly limited circumstance, when Family and Community Services has a compelling need for information and an agency has declined to provide the information under Chapter 16A i.e. considers that one of the exclusions in s.245D(4) of the Care Act applies.
- 1.8. The Care Act makes it an offence to disclose information obtained in connection with its administration or execution except in any one of the following circumstances:
  - (a) with the consent of the person from whom the information was obtained;
  - (b) in connection with the administration or execution of the Care Act;
  - (c) for the purposes of any legal proceedings arising under the Care Act;
  - (d) in accordance with a requirement imposed by the *Ombudsman Act 1974*;
  - (e) with other lawful excuse.<sup>38</sup>

---

<sup>38</sup> S254 of the Care Act

## Table of agreed responsibilities for reporting and planning for both shared and non shared clients of Juvenile Justice and Family and Community Services (under s28 of the amended Bail Act commencing 20 May)

*JJ assumes initial lead responsibility for all remand interventions and will inform CS of successful interventions for CS clients. This table applies when a child or young person is at risk of remaining in detention due to accommodation issues and contact with CS is able to be made.*

Client Cohort	Lead Agency
Child or Young person is under the sole Parental Responsibility of the Minister, or shared responsibility of the Minister with residency.	Joint responsibility with CS (or OOHC provider) as lead
Child or Young person is under the Parental Responsibility of a parent, Relative or third party with no aspect of Parental Responsibility to the Minister	Where this relates to a child (Under 16): Joint responsibility with JJ as lead. Where this relates to a person over the age of 16, JJ will have the sole lead.
Child or Young person where the Minister holds some aspects of parental responsibility (shared) but not residence or day to day care responsibility	CS will lead an interagency discussion for the purposes of tabling a plan with the Court ( <i>Note: This arrangement will be reviewed within 6 months of the s28 commencement</i> ).
No current care orders but CS has an Open and Allocated case	Joint responsibility with CS as lead
No current care orders but CS has an Open unallocated ROSH report on the child that is unable or unlikely to be allocated	An interagency discussion is triggered for the purposes of tabling a plan with the Court. At this meeting, lead agency will be determined.
Child or young person is not the subject of an open CS case	Joint responsibility with JJ as lead

### Notes:

1. Any child not involved with either agency, that is at immediate risk of homelessness, may trigger a ROSH report made by the Magistrate
2. The 'lead agent' in each instance will develop the plan and the secondary agent will provide support.
3. Interagency discussions may take any format (they need not be face-to-face). This includes for example, the use of teleconferences.
4. Reporting can be verbal or written:
  - The lead agency will develop the plan
  - Either agency can submit the first report to the Court
  - The lead agency will submit any subsequent reports

### Short Glossary:

- FACS: Family and Community Services
- JJ: Juvenile Justice
- ROSH: Risk of Significant Harm
- OOHC: Out of Home Care

As agreed by Juvenile Justice and Community Services officers: 16 May 2014.

## List of Family and Community Services and Juvenile Justice Units

<u>Family and Community Services Districts</u>	<u>Community Service Centres</u>	<u>Juvenile Justice Regions</u>	<u>Juvenile Justice Community Services</u>	<u>Courts</u>	<u>Juvenile Justice Centres</u>
Northern NSW	Ballina Clarence Valley Lismore Tweed Heads	Northern	Lismore Tweed Heads Kempsey Coffs harbour Armidale Glen Innes Moree Tamworth Taree Newcastle Maitland	Local Courts are used in these areas to hear Children's Criminal cases.	Acmena (Grafton)
Mid North Coast	Coffs Harbour Kempsey Port Macquarie				
Hunter New England	Armidale Glen Innes Inverell Moree Narrabri Tamworth Taree				
	Cessnock Charlestown Edgeworth Maitland Mayfield Muswellbrook Raymond Terrace			Broadmeadow Children's Court	Baxter (Kariong)
Central Coast	Gosford Lakes Peninsula Wyong	Metro North	Gosford	Woy Woy Children's Court Wyong Children's Court	Cobham (St Mary's)
Nepean Blue Mountains	Katoomba Hawkesbury Lithgow Penrith St Marys		Penrith Blacktown East	Parramatta Children's Court	
Western Sydney	Auburn Blacktown Mount Druitt Parramatta				
Northern Sydney	Chatswood Epping	Metro South	Sydney Petersham	Bidura Children's Court	Juniperina (Lidcombe)
Sydney	Burwood Central Sydney Eastern Sydney Lakemba				
South Eastern Sydney	St George Sutherland				
South Western Sydney	Bowral Bankstown Campbelltown Fairfield Ingleburn Liverpool		Campbelltown Fairfield	Campbelltown Children's Court	Reiby (Campbelltown)



## **LETTER OF REQUEST FOR INFORMATION (Chapter 16A) – Example of**

(To be used by prescribed bodies<sup>39</sup> seeking information under Chapter 16A)

Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998* provides for the exchange of information between prescribed bodies relating to the safety, welfare or wellbeing of a particular child/ young person (or class of children/ young persons) to assist the recipient to make any decision, assessment or plan or to initiate or conduct any investigation, or to provide any service, relating to the safety, welfare and well-being of the child/ young person (or class of children/young persons), or to manage any risk to the child/young person (or class of children/ young persons) that might arise in the recipient agency's capacity as an employer or designated agency.

**To:** <name/position>

**At:** <organisation>

**From:** <name/position>

**At:** <organisation>

**Ref:** <insert>

**Date of request:** <insert>

**Due date:** The information is required by <insert> *(this should be negotiated with the providing agency)*

This request is made in regard to: <name of child or young person>

Date of Birth: <D.O.B>

Gender:

Information is also sought regarding the following persons:

Name	Gender	Relationship to child/young person	DOB	Other identifying information
<insert>		<insert>	<D.O.B>	<insert>
<insert>		<insert>	<D.O.B>	<insert>
<insert>		<insert>	<D.O.B>	<insert>
<insert>		<insert>	<D.O.B>	<insert>
<insert>		<insert>	<D.O.B>	<insert>
<insert>		<insert>	<D.O.B>	<insert>

This information is sought in relation to the following issues of concern held for the above mentioned child/young person (or class of children/young persons):

<insert details as to how the information is relevant to the safety, welfare and well-being of child/young person (or class of children/young persons)>

<sup>39</sup> A prescribed body is any organisation specified in section 248 (6), *Children and Young Persons (Care and Protection) Act 1998* or in clause 7, *Children and Young Persons (Care and Protection) Regulation 2000*. Both Family and Community Services and Juvenile Justice are prescribed bodies under the Act and Regulation.

This information is sought because it will assist with *(can tick more than one box)*:

- making a decision, assessment or plan relating to the safety, welfare and well-being of the child/young person (or class of children/young persons)
- initiating or conducting an investigation relating to the safety, welfare and well-being of the child/young person (or class of children/young persons)
- providing a service relating to the safety, welfare and well-being of the child/young person (or class of children/young persons)
- managing a risk to a child/young person.

Specific information is requested in regard to:

- relevant current and/or historical concerns about safety, welfare and well-being of the child/young person and/or their family
- current and/or past history of involvement with the child/young person and/or their family
- family/relationship dynamics (if known)
- attitude of the child/young person and/or their family to agency/service involvement
- other details required <insert>

This request is for existing information only. You are not required to collect new information or to undertake a separate assessment or report.

Please provide the requested information by:

- phone
- email\*
- fax\*
- mail.

\* Care should be taken in providing sensitive information via fax or email. This procedure must be negotiated with and agreed to by the organisation providing the information.

*The Act authorises the exchange of information under Chapter 16A without consent where concerns are held about the safety, welfare and well-being of a child or young person. However the child/young person or parent/carer should be informed if practicable that information about them is being disclosed to another organisation so long as this does not place the child/young person at further risk.*

- The child/young person/parent/carer has been informed of this request for information.

**OR**

- The child/young person/parent/carer has not been informed of this request for information. The reason for this is: <insert>

Contact details of the person making the request:

Phone: <insert>

Fax: <insert>

E-mail: <insert>

Mailing Address: <insert>

## Youth Justice Conferences

- 1.1. [Youth Justice Conferences](#) together with police warnings and cautions, are an integral part of the scheme set out in the *Young Offenders Act 1997* designed to divert a significant proportion of young offenders from the formal criminal justice system.
- 1.2. YJC require a person responsible for the child/young person to attend the conference to support and assist them to complete their Outcome Plan. Failure of the person responsible for the child/young person to attend the youth justice conference will prevent the child/young person from accessing this diversionary option.
  - The person responsible for a child/young person under the parental responsibility of the Minister for Family and Community Services is a suitable delegated officer from Family and Community Services (or non government designated OOHC agency).
- 1.3. Youth justice conferences bring together victims and young offenders, their respective families, carers and support people, to discuss what happened, who has been harmed and how, and what needs to be done to address the harm caused by the offence.
- 1.4. Youth justice conferences are designed to:
  - promote acceptance by the child/young person concerned of responsibility for his or her own behaviour,
  - strengthen the family or family group of the child/young person concerned,
  - provide the child/young person concerned with developmental and support services that will enable the child/young person to move on from the offending behaviour, and
  - meet the needs and respect the rights of victims.
- 1.5. All participants at a YJC work towards consensual agreement on an Outcome Plan. The Outcome Plan is a legally binding document, signed by the offender/s and the victim/s participating in the conference. It contains a set of tasks for the young offender to complete within a specified time. The tasks are most commonly reparative and reintegrative, but must be realistic, achievable, and in total, no more 'severe' than an order a court would make for a similar offence in similar circumstances.
- 1.6. The Youth Justice Conferencing Unit in Juvenile Justice is responsible for the administration and management of youth justice conferences in NSW. Around 400 community based youth justice conference convenors (statutory appointees, not public servants) prepare and facilitate youth justice conferences.
- 1.7. Convenors are drawn from the community in which the conference is held and are statutory office holders contracted to prepare participants and to facilitate individual youth justice conferences.
- 1.8. Convenors meet with and prepare all potential participants prior to a youth justice conference.

# Criminal Justice process for indictable and serious indictable offences committed by children/young people

