

More than Shelter – addressing legal and policy gaps in supporting homeless children: A progress report (2020)
NSW Ombudsman further recommendations (September 2020) and the Department of Communities and Justice (DCJ) response

| | NSW Ombudsman further recommendations at September 2020 | DCJ formal response to NSW Ombudsman further recommendations at September 2020 <i>(incl Support, not support and rationale)</i> | Dependencies <i>(e.g. other further recommendations)</i> | Timeframe proposed to complete work <i>(Short, medium or long term)</i> |
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| 1 | NSW Ombudsman recommend that DCJ: (a) within three months of the tabling of this report in Parliament, publish a plan that outlines what DCJ will do, and by when, to implement each of our further recommendations below; the plan should extend no further than December 2021, and (b) provide the NSW Ombudsman with a final outcomes report on its implementation of the recommendations by no later than March 2022. | Supported | | Short term Medium term |
| 2 | NSW Ombudsman recommend that: DCJ determine what approach is to be taken to close the current legal gap in decision-making authority for unaccompanied homeless children, and take all necessary steps to close that gap by ensuring that legal authority is available and applied when required to meet the needs of such children. | Not supported - DCJ considers that the legal framework on decision making authority for unaccompanied homeless children is appropriate. There are adequate mechanisms under the <i>Children and Young Persons (Care and Protection) Act 1998</i> to obtain necessary decision making authority when a child is in need of care and protection. It would not be appropriate to have provisions which automatically provide specialist homelessness services (SHS) providers with parental responsibility of a child. Any change in parental responsibility for a child should be through an order of a court. DCJ also notes the SHS providers preference is to not amend the current legislation. Next Steps - DCJ will work with SHS providers and frontline DCJ staff to ensure there is clear policy and practice guidance about the legal framework. | | Medium term |
| 3 | NSW Ombudsman recommend that: DCJ revise the policy on <i>Unaccompanied Homeless Children and Young People aged 12-15</i> , and: (a) specify in the revised policy the role and responsibilities of the 'nominated contacts' (b) include, in the revised policy, requirements for case reviews for unaccompanied homeless children who 'overstay' in youth SHS, and (c) following revision of the policy, also finalise the district protocols. | Policy review – supported – a Steering Group with key stakeholders including SHS provider representatives has been established to drive the policy review. Following the publication of the HYAP evaluation report consultation will commence and the updated policy will be finalised by June 2021. Part a – supported – nominated contacts and information about their role and responsibilities have been provided. This will be incorporated into the revised policy. Part b – supported in principle - dependent upon outcome of review and OCG support (noting that the NSW Ombudsman's intention is for the OCG to oversee case reviews). Part b – supported in principle – a review of the policy is likely to result in a review of the protocols and the mechanism itself. If the review identifies a more suitable alternative mechanism, then the alternative mechanism will replace the protocols | 2(d) – Office of the Children's Guardian | Medium term |
| 4 | NSW Ombudsman recommend that: In consultation with the Children's Guardian, establish mandatory reporting arrangements to ensure timely reporting to the Guardian of all children in statutory out-of-home care (OOHC) who present to homelessness services. | Supported - DCJ currently reports quarterly to the Office of the Children's Guardian on children in statutory out-of-home care residing in refuges, and will consult with the Office of the Children's Guardian on expanding the reporting on the placement of children in OOHC in homelessness services. | Office of the Children's Guardian | Short term |
| 5 | NSW Ombudsman recommend that: DCJ conduct and publish a review of children in statutory OOHC staying in youth refuges and publish the results, together with any action it intends to take in response. | Supported – Individual case reviews. Children in OOHC are currently reviewed at least annually as part of their case plan review. Children who are not in an authorised placement have more regular reviews and may be discussed and reviewed in DCJ District High/Complex Needs Children Panels. In addition, all children and young people in statutory out-of-home care who are away from their placement and self-place in a specialist homelessness service are reviewed according to the Permanency Case Management Policy and Away from Placement / Not in Placement Policy. | | Long term/ongoing (as per case plan reviews timeframes) |

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| | | <p>Not supported – Publication of results. Consideration needs to be given to any publishing of results, as this would be quite a small cohort and public reporting should always be at a high enough level to ensure that data remains de-identified.</p> | | |
| 6 | <p>NSW Ombudsman recommend that: DCJ either:</p> <ul style="list-style-type: none"> (a) detail, in the plan referred to in Recommendation 1, how implementation of the Australian Service Excellence Standards fully addresses our previous recommendation relating to the establishment of regulatory standards to govern the quality of care provided by youth homelessness services, or (b) otherwise develop and adopt its own regulated standard for the quality of care required for homeless children. | <p>Part a - Supported – this information is already available within The ASES Policy Framework: Implementing a new quality framework for specialist homelessness services in NSW which is published on the DCJ website and through the Department of Human Services South Australia ASES webpage.</p> <p>Whilst it doesn't include specific standards for youth, there are evidence requirements that youth services need to adhere to as part of ASES. DCJ will work with the intellectual property owners of ASES to incorporate additional information where relevant.</p> <p>Key summary points about the ASES:</p> <ul style="list-style-type: none"> • The ASES are a set of standards owned and administered by the Department of Human Services and available nationally. ASES is internationally accredited by the International Society for Quality in Health and Social Care. The ASES is underpinned by a three year continuous improvement cycle. To maintain accreditation, services are required to be externally assessed every three years and demonstrate that they continue to comply with the ASES. A wide range of organisations in the community services sector use the ASES including homelessness, mental health, neighbourhood house, low income support, employment agency, health and community centres. The ASES can be applied to any size organisation. See the Department of Human Services South Australia ASES webpage for more information. • As a condition of specialist homelessness services funding in NSW, providers need to demonstrate compliance with the ASES across all elements of their organisation, including their business and financial systems, governance and management, and person centred service practices, by 30 June 2023. See the ASES Policy Framework for more information. • The ASES is recognised by other service area contracts such as NSW Health drug and alcohol programs and by the Victorian Department of Health and Human Services. • A list of ASES accredited organisations is published on the Department of Human Services South Australia website. Many are organisations related to children and young people. <p>The ASES Policy Framework will be updated within the coming months to reflect how the ASES is equivalent to other industry standards and accreditation systems.</p> <p>Part b – not supported - ASES is not a cohort-specific set of standards. Recent mapping shows that the NSW Child Safe Standards for Permanent Care are around 30% equivalent to the ASES. Mapping indicates that the ASES has more practice and evidence requirements than the NSW Child Safe Standards for Permanent Care.</p> <p>Under Standard 2.2 of ASES (Policy and Procedure) youth services are required to demonstrate that “The Organisation identified and documented its legislative obligations and related actions”. Relevant legislation includes Child Protection, and Child safety and Wellbeing. Examples of evidence the provider is required to produce include board handbook, acts and legislative requirements document, complaints and feedback policy and procedure, privacy policy and consent forms.</p> <p>Under the ASES, youth services are required to provide evidence of policies and procedures that support consistent provision and the safety of children, young and vulnerable people in</p> | | |

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| | | <p>accordance with organisational objectives, industry and legislative requirements. These include the Child Protection Act.</p> <p>If additional policy requirements are identified for NSW youth services, DCJ will discuss any new NSW policy requirements that need to be noted in the ASES assessments with South Australia who own the intellectual property for ASES, and the homelessness peak bodies. This is a standard procedure and South Australia regularly engages with ASES assessors on any relevant policy and program changes impacting ASES assessments.</p> <p>In addition, DCJ would like to invite the NSW Ombudsman to be involved in a phased implementation and program improvement project being tested with a youth service provider in NSW. This project looks at reducing ‘red tape’ for providers with multiple accreditations.</p> | | |
| 7 | <p>NSW Ombudsman recommend that DCJ:</p> <ul style="list-style-type: none"> (a) develop and commence reporting against appropriate performance measures to monitor outcomes for unaccompanied homeless children, (b) commence regular reporting on DCJ’s capacity to respond to risk of significant harm (ROSH) reports by youth homelessness services and the ROSH re-reporting of unaccompanied homeless children, and (c) commence regular public reporting on outcomes for unaccompanied homeless children. | <p>Part a – supported—information about performance and outcomes delivered by the program and the measures used to evaluate those will be provided through release of the Homeless Youth Assistance Program (HYAP) Final evaluation report. Unaccompanied minors receiving services from mainstream Specialist Homelessness Services (SHS), will be documented through the broader SHS Outcomes Framework. The recommissioning process, will collectively integrate a stronger focus on client outcomes and service quality in the new contracting terms for the recommissioning of the sector. Part b – supported in principle – DCJ is in the process of undertaking work to assess the quality and completeness of data being captured through the new field added to ChildStory in July 2020. Internal dashboards to monitor performance are being scoped. Provision of this information publically will be possible once the data is assessed as “fit for reporting” based on an assessment of data quality. Reporting will also be dependent on counts being sufficiently large enough to maintain client confidentiality.</p> <p>Part c – supported – Unaccompanied minors receiving services from mainstream Specialist Homelessness Services (SHS), will be documented through the broader SHS Outcomes Framework. The recommissioning process, will collectively integrate a stronger focus on client outcomes and service quality in the new contracting terms for the recommissioning of the sector.</p> | | Long term |