

**INQUIRY INTO TRANSITION SUPPORT FOR STUDENTS  
WITH ADDITIONAL OR COMPLEX NEEDS AND THEIR  
FAMILIES**

**Organisation:** NSW Government

**Date received:** 5/09/2011

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# **NSW Government Submission**

to the

Legislative Council  
Standing Committee on Social Issues

**Inquiry into transition support for students with  
additional or complex needs and their families:  
*overview***



**August 2011**

## OVERVIEW

Transition starts well before and extends far beyond a child's first day at school. It is a recognised characteristic of human life that starts from a baby's entrance into the world through the many subsequent changes he or she experiences throughout life. Transition is the passage from one stage to another and is a lifelong process.

There are many transitions for a child and their family. Vertical transitions as described by Johansson in Dunlop and Fabian (2007) are the best known and occur when a child moves from home to school, from grade to grade, from school to school, from community to school or from school to community. Whereas, horizontal transitions involve the transitions in everyday life for example social networks in school and before or after school care situations, and in the home or community setting. These transitions often involve frequent changes between settings within a short time frame and are increasingly becoming part of everyday life.

Transition at any point is a time of change and can be a time of vulnerability for children and their families. Successful transitions improve the quality of the lives of children, young people and their families. For children with additional or complex needs and their families, the transition points are even more important, and where effective, can establish a network of coordinated support to build on the child's strengths and reduce vulnerabilities.

Children with additional and complex needs have been defined by Katz, Spooner, & Valentine (2007) .....*as those experiencing multiple challenges related to children, parents or the whole family. These could encompass poverty, unemployment, ill health, substance abuse, experiences of violence or trauma, poor educational outcomes, truancy, behavioural problems, isolation and/or responding to family members with disabilities or special education needs.*

Docket and Perry (2011) identify cultural diversity and language differences such as those experienced by Aboriginal children and children from refugee families as other challenges.

The challenges during transition can be difficult for all children and young people. However, these can be exacerbated for those with additional and/or complex needs. Challenges result from changes to the social and physical environments, relationships and the different approaches in educational settings. These include the:

- child and family centred play environment in the home or early childhood setting
- school curriculum which tends to be more structured and teacher directed, and
- post school environment that requires greater independence.

The transitions between the stages in education present a range of issues and challenges for young children under school age; school aged children and/or young adults with additional or complex needs. Varying issues are also present for their families and those who support them. These challenges can present themselves in the home environment, the school, further educational settings, employment situations and/or in the broader community.

Moving from the home environment to the early childhood setting, moving into kindergarten, moving to high school and moving to post school life all occur in the context of different educational circumstances and provisions.

### **Adequacy and accessibility of appropriate support for children and their families**

Transitions can be a time of great excitement and anticipation for all children, young people and their families and are often associated with changing school settings, meeting new friends, building new networks and adapting to new expectations. For some children, young people and their families, including those with additional or complex needs, these same factors can make transitions daunting or even anxious times.

Every child, young person and family is different and every educational setting is different. Children and young people vary widely in the type and level of support they need for successful transitions from one stage of education to the next. Families have widely varying needs, preferences for information and support at different points in transition.

Educational services operate in widely varying contexts reflecting the socio-economic characteristics of their community, leadership, experience and skills of staff, and access to other support services. Relationships between different educational settings and with other organisations involved at transition stages are also variable. All of these factors contribute to the transition experience of children, their families and staff in their educational settings.

#### Knowledge and understanding of rights and obligations

Sound planning for transitions is more likely when all involved have a good understanding of their respective rights and obligations. This includes rights and obligations under discrimination legislation.

For example, all education providers are required to make 'reasonable adjustments' for 'students' with a disability in consultation with the student and/or their parents under the Commonwealth *Disability Standards for Education 2005*. Many of the adjustments will be needed for students as they transition through each stage of education.

These obligations apply to all government and non-government providers of education across all stages. However, not all education providers fully understand their obligations in this area and not all parents fully understand their children's rights under the legislation.

In addition to legislative requirements, the understanding of policy obligations and procedures around transition is also important. While many educational settings have clear policies and procedures, not all staff have a consistent understanding of the importance of transition processes, particularly for students with additional or complex needs. This means that transition planning does not always occur consistently across all educational settings.

The Commonwealth is currently reviewing the *Disability Standards for Education 2005* and the outcome of this work is anticipated later in 2011. This may provide some opportunities for improving the understanding of parents and educators of their respective rights and obligations. It may also shape and/or influence changes to policies and procedures.

#### Complexity of the service landscape

In New South Wales, support is provided for children and their families through the following government agencies: the Department of Education and Communities, the Department of Family and Community Services (Ageing Disability and Home Care, Community Services and Housing NSW), and NSW Health.

Detailed information on government supports can be found in the attached document: *NSW Government Submission to the Legislative Council Standing Committee on Standing Issues – Inquiry into transition support for students with additional or complex needs and their families: detailed information on government support services.*

In addition to the support provided by government agencies, a range of non-government organisations provide valuable services and supports to children and their families.

This extensive range of services reflects the diversity of children, young people and their families in NSW and their varying needs for support for different reasons and at different stages of life.

While there is a wide range of programs and services for children and young people with additional or complex needs, many families report that they face difficulties in accessing information about services and how to get help. They report feeling as though they are in a 'maze' of processes, options and supports, particularly at the key transition stages in their child's education. It is not always easy for families to navigate the service system, particularly if they do not have a strong social support network, an individual case worker, or an advocate.

It is important to note that the way in which families navigate support for their children has implications for their child or young person's ongoing engagement in education and life. An examination of service delivery from the child and family point of view highlights system barriers, particularly for those who are less confident and less proficient in English.

The provision of services and support for children with additional or complex needs varies across settings, including educational settings and further stages of life. This in part is due to the different policy and funding arrangements at national and state levels, for the provision of certain services. These differences can add to the 'maze' of processes and options that families have to navigate.

For example, through the Australian Government's initiative *A Better Start for Children with a Disability* ('Better Start'), from July 2011 children who are aged under 6 years of age and have been diagnosed with Down syndrome, cerebral palsy, Fragile X syndrome, or a moderate or greater vision or hearing impairment, including

deaf blindness, can be registered to access funding of up to \$12,000 for early intervention services.

The Better Start initiative builds on a previous Commonwealth initiative which provided funding for early intervention services for children under 6 years diagnosed with autism.

These funding provisions complement the early intervention services provided by the NSW Government. However, while these services are intended to complement the work of states and territories, they have their own criteria for eligibility and families find it difficult to understand why they may be eligible for one program yet not another.

Similarly, there is wide array of post-school provisions for young people leaving school. This includes mainstream tertiary education and vocational training and employment options, specialist services that support access to these mainstream options and specialist services that support young school leavers to develop skills for work or to access and participate in the community. These services are provided by government and non-government providers through State and Commonwealth programs.

These are just some examples - there are many others across the layers and services supporting children with additional and/or complex needs and their families.

While the agencies work collaboratively, there is no NSW (or National) integrated action plan or policy for children with additional and/or complex support needs. Services, policy and programs can seem fragmented and poorly coordinated with varying degrees of provision and accessibility, particularly in rural and remote locations. There is duplication in some areas, yet gaps in provision, strategy and infrastructure in others.

There are specific groups where there are challenges at transition points that relate specifically to the social characteristics of that group that require a high level of service coordination and integration that may be difficult to achieve.

For example, 90% of children from refugee families who settle in NSW attend government schools. Learning English is a priority. However, it is essential that the transition into an educational setting (at any age) is not just focused on learning English as the vast majority of such children have experienced trauma and/or torture which manifests in the setting in a variety of ways – from an inability to focus and learn through to extensive aggression and acting out behaviours.

Supporting students to overcome these experiences requires educational settings to draw on the services of other agencies. The educational setting often acts as a centre point for the identification and referral to appropriate support services for refugee children and their families. This requires educational settings to establish and maintain strong and positive relationships with the family, the community and other service providers that may be able to support the child, young person or their family as they transition into a very new and different environment.

The end of schooling can be a vulnerable period for some young people with additional or complex needs as they move from a familiar environment into adulthood and what can be the 'unknown'. There are choices to make that can impact on many aspects of a young person's life well into the future.

Education providers such as TAFE NSW, the Adult and Community College, Universities and other registered training organisations can provide an important link for the young person as they move into adulthood and prepare for future work, develop greater independence and/or increase their participation in different aspects of the community.

As a further example, some children need support for language or mobility difficulties so that they can participate fully in their educational setting. Therapy interventions, including physiotherapy and speech pathology services minimise the impact of language and mobility difficulties. Therapy plays a critical role in supporting growth and development and in access to educational activities, recreation and work.

The therapy service system in NSW is complex. Services are provided by a range of government and non-government organisations, including Ageing, Disability Home Care, NSW Health, funded non-government agencies and private providers. These providers have different purposes, operating contexts and areas of focus. As a result, they provide different services, use different eligibility criteria and have different assessment requirements and processes. In addition, their purpose and focus differs from that of educational services.

While this presents many positive options for those requiring therapy supports, it can also present challenges for service coordination where the need for therapy services to support educational outcomes and service availability do not align as the child moves through the key transition points of life.

#### Expectations of families and service providers

The emerging coordination at the early childhood end of the spectrum through the State and Commonwealth governments' shared focus on the early years has been encouraging. However, there is the potential for families to experience changes in service provision or support at each stage of education, for example from the early childhood setting into school or from primary to high school, and beyond into further training or the workforce.

While the needs of children with additional or complex needs may not change significantly when they turn 6, families receiving early intervention services through State or Commonwealth funded services, bring their experience and expectations of targeted or intensive family focused intervention support to school. Intervention and support services and their arrangements can then take on a different purpose and focus.

There may also be differences between the support options available to children and young people across the various educational environments which can become evident to families as their children move from one setting to another. The structures and resources across different settings may vary and impact on the child, young

person, parent or service provider expectations and the planning required for transition.

### Information and communication

Through all of the stages of education, children and their families need information about each 'stage' of education, including the standard arrangements and expectations, options or alternatives, and how additional support is provided where needed.

Information about early childhood education, school and post school systems needs to be accurate, relevant, accessible and user-friendly for children, young people and their families so that they can make informed decisions about options and supports at the different stages of education. Information needs to be available in a range of formats, and accessed through a range of sources, including childrens' services, schools, health and allied health services and family support services.

No less important is the need for educators and other service professionals to have accurate and relevant information about the services and supports that are available so they can provide sound advice to children, young people and/or their families and other service providers.

In addition to families and professionals needing information about services, the educational settings where children and young people are moving to also need good information about the child's strengths, abilities and needs to inform transition planning.

Government and non-government agencies hold a wealth of information about the strengths, abilities, needs and supports provided to children and young people with additional or complex needs. Transition is more successful where the sharing of this information has taken place. Transition could be strengthened if processes were established to enable the sharing of relevant information for all children and young people across educational settings, with the consent of parents.

### **Best practice approaches to ensure seamless and streamlined assistance during transitions**

A tiered approach to providing support ensures that resources are directed where they are needed. This includes:

- *Universal support* which includes effective planning and support for transitions for all children and young people in all educational settings. This is characterised by inclusive approaches to practice, welcoming settings for all and close collaboration between early childhood settings, schools, alternate and/or post school settings, parents and their children.
- *Targeted support* provides effective mechanisms for identifying and responding to those children or young people with additional or complex needs. This is characterised by effective processes that provide teachers with support and assistance in identifying and responding to children and young people with additional or complex needs.



- *Intensive support* is provided for children and young people with the highest, most complex needs. This is characterised by holistic planning and coordination of support across settings and providers.

There are very successful practices in many settings in NSW that support the transition of children, young people and families between the stages of education including vocational education and training and higher education. Some examples are outlined below.

#### Transition to School

In NSW, schools adopt localised models of transition into school which have varying degrees of quality and success. It is often the relationship between key players that determines the success of these programs.

A *Transition to School* matrix has been developed and is used by some government schools to plan and self evaluate their current practice in transition. It encourages strong regular and ongoing collaboration between the school, early childhood settings, families and the local community. The matrix highlights shared responsibilities between all key players to coordinate and monitor transition to school while promoting a strong partnership with the community. The matrix is a practical tool to assist in identifying current strengths and future directions for improved support to children and their families.

Through Reform 6 of the Low SES School Communities National Partnership, a resource package has been developed to assist schools considering an extended transition to school program. The package provides a range of options to encourage partnerships with local preschools and community services to develop positive relationships as they support the transition of young children, including those with complex needs into school.

#### Best Start Literacy and Numeracy Assessment

In NSW government schools, every kindergarten child participates in the *Best Start* assessment process. This process provides the child's teacher with information about what the child knows and can do in literacy and numeracy when they start school. It helps to inform curriculum planning and programming to meet each child's individual needs. Best Start provides some consistent information about every child when they start school and supports the teacher in their discussion with parents.

While Best Start gathers information about two important aspects of the school curriculum, there may be other useful information for example about children's prior to school experiences, achievements and learning needs and not all schools take full advantage of the availability of this information.

### Modifications and Adjustments to Facilities

Children and young people with additional or complex needs, their families, and the settings they are moving to, are likely to benefit from longer periods of time for transition planning. This enables students, their families and the new setting to be prepared, which can help alleviate anxiety and enable support arrangements, including building modifications to be properly planned and put in place.

Some children with additional needs require modifications to be made to buildings and equipment to enable their access to school. Considerable time is generally required when significant building modifications are needed. Established planning processes in NSW government schools ensure that children and young people who need significant building modifications are identified at the earliest possible time. This enables works to be completed well in advance of the child or young person transitioning to their new environment.

### *Mudjari'elo* – Financial Literacy Pilot Project in Juvenile Justice Centres

The program aims to enhance teachers' understanding of mathematics and the processes required for young people to develop financial literacy. The program focuses on numeracy in the trades and financial mathematics. The program also encourages students to think about how they learn and what areas of mathematics they will need in the courses they are currently studying in Vocational Education and Life Skills through TAFE NSW. *Mudjari'elo* is aimed at supporting the students when transitioning back into school settings or further education or employment.

*Mudjari'elo* commenced in 2010 with initial consultation with the principals of the Education and Training Units within Juvenile Justice Centres. One Education and Training Unit commenced the program and the initial program included an action research project to develop a package to assist Education and Training Unit teachers in supporting Aboriginal students develop numeracy skills in order for them to re-engage and stay connected with their education.

The framework is transportable across sites, and as the construct of the program is targeting teacher professional development, all students in Education and Training Units benefit from the professional exchange.

The pilot will be evaluated in early 2012.

### TAFE and School Links Transition Programs

The Vocational Education and Training in Schools Program offers courses in a wide range of trades and industry areas including construction, metal and engineering, hospitality, information technology, business services, primary industries, tourism, retail and entertainment. These courses allow students to have a taste of what interests them and meets their aptitudes and develops industry-recognised skills while they are at school, so they can choose from a broad range of post-school options. It supports their transition into the study and work environment beyond school.

The Open Training and Education Network is partly funded to make available the Network's student online support services and student management systems to all

TAFE NSW Institutes in order to support their implementation of flexible and distance delivery, especially for students in rural and remote areas. This enables an increased range of courses, including entry level vocational courses, available through distance education in outer Sydney and regional areas.

These transition strategies and programs offer young people a choice between education, training and employment pathways that are responsive, flexible and varied.

#### School Learning Support Program

Since April 2010 the Department of Education and Communities has been trialling a model to support students with additional needs in regular schools. This model provides a specialist support teacher in every school together with funding for students with additional needs. Schools are able to use the resources flexibly to meet the needs of students in the school and their classroom teachers. This includes the capacity to use resources to support transition where this is identified as a priority for the school.

#### A Positive Start to School – A Victorian State Initiative

*A Positive Start to School* introduces a tool for families and educators to share information about a child's learning and development in the form of a transition learning and development statement for all children, including those with additional needs.

According to the Victorian Education Department website, "The [learning and development] statement supports consistent transfer of information, irrespective of the school a child is going to and provides an opportunity for children, their families and the professionals working with them to contribute and have their views reflected in it." Transition processes in New South Wales could be strengthened by adopting a consistent process for sharing information about young children entering school similar to the Victorian model.

## **REFERENCES**

Katz Spooner and Valentine (2007) cited in: Dockett S, Perry B,

Jahansson I (2007) as cited in: Dunlop A and Fabian H. *Informing transitions in the early years: research, policy and practice*

Dockett S Perry B, Kearney E, Hampshire A, Mason J, Schmied V (2011) *Facilitating children's transition to school from families with complex support needs*

*Best Start Kindergarten Assessment:*

<http://www.curriculumsupport.education.nsw.gov.au/beststart/index.htm> )

A Positive Start to School:

<http://www.education.vic.gov.au/earlylearning/transitionschool/default.htm> )

Better Start:

[http://www.fahcsia.gov.au/sa/disability/progserv/people/betterstart/Pages/better\\_start\\_early\\_intervention.aspx](http://www.fahcsia.gov.au/sa/disability/progserv/people/betterstart/Pages/better_start_early_intervention.aspx) )

Commonwealth Disability Standards for Education 2005:

<http://www.deewr.gov.au/schooling/programs/pages/disabilitystandardsforeducation.aspx>

# **NSW Government Submission**

to the

Legislative Council  
Standing Committee on Social Issues

**Inquiry into transition support for students with  
additional or complex needs and their families:  
*detailed information on government support  
services.***



**August 2011**

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## **1. Introduction**

Transitions in education are milestone events for students and their parents and carers as they enter preschool, start kindergarten, move from primary to high school and leave school for adult life. Each of these transitions often brings significant changes associated with moving from one education setting to another, building new networks of friends and supporters and adapting to expectations in a new education stage or setting.

For all students, transitions between stages of education need effective links between students' current and new settings, good planning, clear information and collaboration between schools and parents/carers. This is no less the case for students with additional or complex needs.

However, for some students who have additional or complex needs and their families, this process of planning for transition, sharing of information and collaboration needs to be adjusted to appropriately ensure that the specific needs of these students and their families are well supported at stages of transition.

## 2. Background

The context in which the NSW Government provides services for children with additional and/or complex needs and their parents and carers is itself complex and changing. This section briefly describes the key contextual factors surrounding the Government's provisions for children with additional and/or complex needs that are relevant to supporting transitions in stages of schooling.

### 2.1 Definitions

As noted in the Standing Committee's background paper to this Inquiry, there are no agreed definitions of the terms 'additional' or 'complex' needs. How these terms are used or defined by organisations providing services to children and families in New South Wales is likely to vary according to the service context or setting.

The literature also provides a range of definitions of additional or complex needs. For example, children with additional and/or complex needs could be defined '*...as those experiencing multiple challenges related to children, parents or the whole family. These could encompass poverty, unemployment, ill health, substance abuse, experiences of violence or trauma, poor educational outcomes, truancy, behavioural problems, isolation and/or responding to family members with disabilities or special education needs*' (Katz, Spooner, & Valentine, 2007).

Noting the Standing Committee's interest in issues affecting students with any kind of additional and/or complex need (background paper, p2), the terms additional and complex needs are used in this submission to refer to those children who may require additional support at some point in their education due to disability support needs, health issues, their family or living circumstances, social or cultural background, or any combination of these.

### 2.2 Legislative obligations around education

A wide range of legislation underpins how education is provided to all students in New South Wales, including students with additional and/or complex needs. These include the NSW *Education Act 1990*, State child protection legislation and occupational health and safety legislation and State and Commonwealth privacy legislation.

Additional legislation sets out the specific rights of certain groups of students with additional and/or complex needs. This includes State and Commonwealth legislation protecting people from certain kinds of discrimination in education on the basis of age, disability and race.

Details of this legislation and relevance for the education of students with additional or complex needs are summarised in Appendix 2.



In particular, the Commonwealth *Disability Discrimination Act 1992* and its associated *Disability Standards for Education 2005* require all education providers to ensure that students with disabilities are supported to access and participate in education activities on the same basis as all other students. This includes obligations for making 'reasonable adjustments' for this to occur and for consulting with students, or their parents and carers, about adjustments for the student.

This legislation defines disability in broad terms and includes physical, intellectual, psychiatric, sensory, neurological and learning disabilities as well as physical disfigurement and presence in the body of disease-causing organisms.

## **2.3 Context for the provision of NSW Government services and programs**

The NSW Government provides an extensive range of services and programs that support the transition of students with additional and/or complex needs at different stages of education. These services and programs are provided by a range of NSW Government agencies and support children with additional or complex needs and their families in government and non-government schools. Information about these programs and services is set out later in this submission.

### **Department of Education and Communities (DEC)**

Over recent years, there have been well documented dramatic changes in the profile of students being provided with additional support in NSW government schools (see for example, the 2010 *Inquiry into the provision of education for students with disabilities and special needs*). In particular over recent years there has been a significant increase in the numbers of students receiving additional specialist support who have confirmed mental health disorders and autism.

The reasons for the increasing numbers are complex and the literature provides a number of possible explanations. These include changes in medical practices and interventions, increased awareness of certain conditions leading to increased diagnosis of different types of disability and mental health disorders, increased incidence of autism and mental health disorders across the community. At any rate, the increasing incidence of mental health and autism disorders appears to be a world-wide phenomenon.

The profile of demand for special education services has also changed in recent years. In particular, the numbers of students with disabilities and additional learning needs supported in regular classes has increased significantly over recent years. More than 77% of students with disabilities and additional learning needs are enrolled and supported in regular classrooms in regular schools.

The Department is undertaking a range of interrelated activities to strengthen support in NSW Government schools for students with disabilities and additional learning needs. These reforms focus on the changing profile of student need and changes in enrolment patterns along with the provision of quality education services and educational outcomes.

Key elements of this work include the strategic development and implementation of:

- a functional assessment tool to improve information for teachers about the impact of disability on a students learning to inform curriculum programming to meet their specific needs,
- trial of a new model of learning support through the provision of a specialist education presence in every regular school as a strategy to improve access to extra help for many students with additional learning needs who require it, together with their classroom teachers,
- additional professional learning through online courses to support regular classroom teachers and other education personnel in responding to the diverse additional learning needs of students.

These activities are being undertaken within a context of a significant current reform agenda in education and in disability services. Those that are specific to education include the development of an Australian Curriculum, new National Teaching Standards, the Commonwealth review of schools funding and review of the *Disability Standards for Education 2005* along with the development of a national approach to consistently identifying students with disabilities.

#### **Department of Families and Community Services (FACS)**

The NSW Department of Families and Community Services encompasses Ageing, Disability and Home Care, Community Services and Housing NSW. At a whole-of-department level, FACS is currently working on a suite of reforms focusing on improving the experience of clients of FACS agencies by moving from a program focus to a person-centred approach. As part of this work, particular focus is being placed on improving the service delivery system to better meet the needs of FACS clients who have multiple and complex needs.

Australian and international studies concur that vulnerable children and young people are especially susceptible to poor educational and social outcomes when placed under greater stress. Educational transitions, such as when children enter school, make the transition into high school, or leave school to go into further education or into the paid work force, represent such a time. Multiple transitions, for example, many school changes and for some, many placements with different families, exacerbate the difficulties for these children and young people.

FACS' reform program proposes to deliver an integrated service system, with more efficient, flexible client-focused services, leveraging on stronger partnerships with NGO's and government agencies. It aims to improve long-term client outcomes for the most vulnerable people and communities in NSW and to enhance and meet our service delivery needs despite growing demand.

FACS' clients at the intensive end of the service spectrum usually have multiple interactions with Government agencies, including NSW Health and the Department of Education and Communities (DEC). For these reasons synergies with existing, relevant services across the service spectrum is critical to improving FACS' clients' experience of the system.

A recent review by the Boston Consulting Group (2010) found that there are a range of services and significant Government funds focused at the intensive end of the FACS' service spectrum, providing services to individuals and families with multiple and complex needs. Some of these services include:

- Intensive Family Based Services (Community Services)
- Intensive Family Preservation (Community Services)
- Start Safely (Housing NSW)
- Temporary Accommodation (Housing NSW)
- Extended Family Support (Ageing, Disability and Home Care)
- Intensive Family Support Options (Ageing, Disability and Home Care) and
- Keeping Them Safe – Family Case Management and Supporting Children/ Supporting Families (from July 2011).

FACS is currently undertaking a review of its programs and services across all of its agencies and divisions that provide services to individuals or families that may be defined as complex or requiring intensive case management. The range of programs span from universal programs to targeted programs for clients with multiple and complex needs.

FACS' program '*Clients with Multiple and Complex Needs*' was recently established to improve service delivery to FACS clients with multiple and complex needs through a client-centred integrated and collaborative service model. Clients referred to the program are accessing services from two or more FACS agencies and meeting one or more of the following criteria: have five or more 'contacts' across FACS agencies; be a client for whom there exists a 'public interest'; display significant risk taking behaviour or severe threatening behaviour to themselves or others; and/or have significant unmet need<sup>1</sup>.

The data below is derived from preliminary client information from the first phase of the program (May 2011) and includes 61 cases involving 121 clients. The majority of cases (43) are recorded as involving individual clients, while 18 involve families. The 18 families contribute an additional 78 clients. However, it is not known from the data how many of the family members are directly assisted by the program. Caution is advised against drawing strong conclusions from this relatively small data sample.

- There is a predominance of young people with the majority of clients (88 out of 121) aged 16 years and under, 23 clients aged 17 to 30, while only 12 are aged 31 years and over. It should be noted that a number of these young clients comprise the family members recorded in the data returns. Of the cases relating to individual clients, the number of children and young people is still high – 30 of the 43 individual clients are aged 16 years or less.
- There is significant over-representation of Aboriginal clients with more than one-third Aboriginal – of the 121 clients, 42 are Aboriginal, while 79 are non-Aboriginal.

- The top three client issues (by case) were: housing (in 40 cases of the 61), disability (in 30 cases), and criminal justice (in 24 cases). The range of assistance provided to clients reflects these identified needs, with a significant number of solutions requiring action by Housing NSW. The need for, and benefit of integrated case management solutions is also highlighted in the responses.

## NSW Health

NSW Health's approach to early childhood intervention, including the child health surveillance and screening program that is often the gateway into services for children with additional or complex needs, has been influenced by the range of State and National policies supporting the importance of early childhood intervention.

*"Child health surveillance programs aim to prevent disease, detect physical and developmental abnormalities, and promote optimum health and development. There is growing evidence over the past decade that early intervention, including early detection through child health screening and surveillance, can change the life course for disadvantaged children."*<sup>1</sup>

Over the last ten years or more, the emphasis has shifted from detecting developmental problems to preventing them and the terminology of health promotion has largely overtaken health surveillance. The evidence supports the need for a universal preschool service for all families and targeted intensive home visiting for high risk children. Preschool intervention and education benefit all children but particularly those at risk of educational failure.<sup>2</sup>

The focus of early childhood health has become health promoting, in line with the shifts in emphasis described above. Well-child health services, known as Early Childhood Health Services in NSW, provide the mechanism for delivery of child health promotion programs, prevention and early intervention activities.

Prevention and early intervention activities, delivered in a health promoting framework, are largely guided by the child health surveillance and screening program detailed in the child Personal Health Record (commonly known as the Blue Book) [http://www.health.nsw.gov.au/pubs/2008/child\\_health\\_record.html](http://www.health.nsw.gov.au/pubs/2008/child_health_record.html). The evidence has guided the priorities for child health surveillance and screening activities. Key reviews by the National Health and Medical Research Council (NHMRC) have been particularly influential in refocusing the emphasis of child health surveillance and screening programs.

Changes to the role and function of school health services were precipitated by the release of the NHMRC report *Child Health Screening and Surveillance: a Critical Review of the Evidence* in March 2002. This report built on the position delineated by an earlier NHMRC review in 1993.

<sup>1</sup> Blair, M and Hall, D 2006 *From health surveillance to health promotion: the changing focus in preventive children's services*. [www.archdischild.com](http://www.archdischild.com) or [www.adc.bmj.com](http://www.adc.bmj.com)

<sup>2</sup> Blair, M and Hall, D 2006 *From health surveillance to health promotion: the changing focus in preventive children's services*. [www.archdischild.com](http://www.archdischild.com) or [www.adc.bmj.com](http://www.adc.bmj.com)

The report features a range of recommendations regarding child health screening and surveillance for diverse health issues. In general, the report recommends a partnership approach between health professionals and parents with the greatest intensity of intervention in the first five years of a child's life in preference to universal screening programs for school age children. This partnership in the early years provides an environment in which screening activities which are supported by the evidence can be implemented with parental participation. The partnership approach allows the development of a relationship between parents and health professionals to support a pattern of health surveillance intended to identify potential problems and address them as early as possible.

In NSW, hearing screening is offered universally at birth through the State-wide Infant Screening – Hearing (SWISH) program. This is followed up through the voluntary schedule of child health checks listed in the NSW Child Personal Health Record (also known as the PHR or blue book) given to all NSW parents on the birth of their baby. During health checks, health surveillance activities monitor children's health and development across all domains. From 6 months of age, a validated parent completed assessment tool (the Parent Evaluation of Developmental Status or 'PEDS') is used to assist parents and health professionals identify any areas of concern. At 4 years, the Statewide Eyesight Preschooler Screening (StEPS) Program is available statewide to screen children's vision before they start school.

Many of the universal school screening activities that were previously widely accepted by the community and the education sector were not recommended by the review. However, continuing health surveillance in a partnership involving children, teachers, parents and health professionals was recommended.

Implementation of the report recommendations allowed for a new model of health surveillance and intervention with school age children. The model involved a move away from repetitive one-off screening, and promoted the development of a new relationship between health services, schools and families where concerns for children's wellbeing are addressed more holistically. Children with health, developmental or learning concerns should be referred for a health assessment considering all aspects of their health and wellbeing and involving their parents. Health services in schools have altered their focus. As hearing, vision, oral health and other physical health issues are progressively better addressed prior to school entry, services for school age children reorient to address issues and promote the development of healthy lifestyles more effectively.

For children with additional needs for health and medical services, a range of services are available based on their health needs. The health needs of children between 5 to 18 years are generally addressed through an initial assessment by a general practitioner with referral as appropriate to the range of more specialised services available in the public and private health system.

### 3. NSW Government services and programs

#### 3.1 NSW Department of Education and Communities

The Department of Education and Communities (DEC) provides an extensive range of programs and services for students with additional and/or complex needs and their families across the state that support transitions between stages of education. This includes universal education provisions for every student and targeted services that support groups of students with particular additional needs, including additional needs at stages of transition. These services and programs are outlined below.

##### Early childhood education

The Productivity Commission, in its draft report on the Early Childhood Development Workforce (June 2011), notes that many children, particularly those from culturally and linguistically diverse backgrounds and those with a disability, need additional support to access early childhood education and care services (p.116). The report also notes that the number of children with additional needs has been increasing over time, with particular increases in the diagnosed prevalence of childhood disability and severe disability (p.121).

The Commission's report includes draft recommendations on increasing the level of support provided through inclusion programs, increasing staff training, and delivering funding to early childhood development services that will sustain an appropriately skilled workforce of allied health and early intervention professionals (pp xlii-xliii).

##### ***Investment in early childhood education***

Investing in early childhood education, and ensuring access to affordable and quality early childhood services, is one of the best ways of improving life outcomes for children.

In 2010-11 DEC's Children's Services Program budget was \$176.6 million. The majority of this funding was allocated to some 760 not-for-profit preschools.

Over the past five years the NSW Government has increased funding to not-for-profit preschools to improve access to preschool program places, to increase participation rates for all children but especially those from disadvantaged backgrounds, and to improve the overall sustainability of this sector.

In June 2009 the Commonwealth Government and all States and Territories entered into the *National Partnership Agreement on Early Childhood Education*.

Through this Agreement the Commonwealth is investing \$278.6 million in New South Wales over a five year period. The objectives of this National Partnership which are now being implemented in NSW are:

- § to provide universal access to 15 hours a week of a quality early childhood education and care program, 40 weeks a year for all children in the year before school by 2013;

- § to increase early childhood education participation rates to 95 per cent particularly for Indigenous and disadvantaged children; and
- § to ensure that cost is not a barrier to access for families.

Government funding to not-for-profit preschools are administered through a resource allocation model to ensure fair and equitable distribution of funding.

The resource allocation model provides preschools with a higher rate of funding for children from Indigenous, low income, and culturally and linguistically diverse families, and for preschools located in acknowledged areas of socio-economic disadvantage.

A further loading is given to remote and mobile services per child enrolled to reflect the extra costs associated with providing these services.

Funding is also being provided for new preschool places, targeting areas in which preschool participation is low, and where there is a lack of places compared to the number of children in the area.

#### ***Extra assistance to children with additional needs***

Another way in which the DEC provides assistance for children to attend early childhood programs, including preschool, is through the Supporting Children with Additional Needs (SCAN) program.

SCAN provides funding through a brokerage model to State Government funded preschools, occasional care, and vacation care services to support the inclusion of children with additional needs in mainstream children's services.

Historically SCAN provided assistance to:

- children with disabilities;
- children with challenging behaviours;
- Aboriginal and Torres Strait Islander children; and
- children from culturally and linguistically diverse backgrounds.

Funding for children from culturally and linguistically diverse and Aboriginal and Torres Strait Islander backgrounds is now included in the preschool funding resource allocation model outlined above.

This allowed a review of the SCAN program during 2009 so it could be redeveloped as a program more tightly focused on support for children with disabilities and children with challenging behaviours.

In 2009-10, \$12.8 million was allocated to SCAN lead organisations. In 2010-11, a total of \$13 million was been allocated to this program.

#### ***Regulating early childhood education and care services***

DEC administers a strong system of regulation across early childhood education and care services in New South Wales. There are nearly 3,500 services within scope of the Children's Services Regulation 2004.

Each of the licensed providers of these services is required to deliver programs for children that have regard to their development and education, and specifically explain "*the ways in which children will be assisted in the transition to other early childhood programs or school.*" (Clause 64)

DEC is working with other State and Territory early childhood education and care regulatory agencies to introduce an applied laws national model of regulation to this sector from 2012.

This regulatory reform includes mandatory application of a nationally agreed, Early Years Learning Framework. Implementation of the Framework is being supported in 2011 through a raft of professional development and sector training initiatives. The formal recognition of the Framework from 2012 will bring an even stronger focus by providers on children's developmental needs and their successful transition from the early childhood care environment.

## Support for transition in NSW public schools

The NSW Board of Studies syllabuses provide a common curriculum for all students in New South Wales K-12, including those with additional and/or complex needs.

The Department of Education and Communities' policy, *Curriculum planning and programming, assessing and reporting to parents K – 12* sets out specific requirements for all students in NSW public schools. Curriculum options and planning are a platform for planning transition at the different stages of education.

The DEC provides a range of programs and services that support effective transitions. NSW public schools adopt a whole school approach to planning for the successful transition of children starting school, during the transition from primary to secondary school and for leaving school. In addition, targeted and specialist services and programs provide additional support for particular groups of students who are identified as having additional and/or complex needs. This includes services and programs that are relevant for supporting transitions. These services and programs are outlined below.

### Transition to school

Children who make a smooth transition to school are more likely to be successful in their life-long learning.

Around 60,000 children start Kindergarten in NSW Government schools each year. NSW schools and early childhood services understand that transition to school is important for all children.

Many schools provide programs and activities to assist children in making a smooth transition into Kindergarten. Effective programs for families are locally planned, implemented and evaluated. There is not a 'one program to suit all' approach as every community and family is different. The duration of an effective transition to school program may be for approximately 1-2 hours each week for up to several weeks, or in some communities several months.

DEC provides a range of materials to support effective transition to school planning. These include research information on transition to school, examples of current practice, ideas for staff to review, plan and implement transition to school programs and resources for families. These materials are available on the department's website at the following link:

<http://www.schools.nsw.edu.au/gotoschool/primary/transition/index.php>

DEC also provides a range of materials to support families with children starting school. This includes information about starting school and enrolment including



sources of advice and support for children with disabilities and special needs, orientation days, and practical guides for families preparing for kindergarten. These materials are available at the following link:

<http://www.schools.nsw.edu.au/gotoschool/primary/primaryindex.php>

Early Childhood consultants receive professional learning based on current research to support preschool teachers, principals and Kindergarten teachers to develop effective transition programs which meet the needs of their local contexts.

### ***Extended Transition to School programs***

In some communities an extended transition to school program may be provided in addition to the regular program specifically designed to support children with more complex needs and their families as they prepare for school. Feinstein and Bynner (2004) state that *transition to school is particularly challenging for vulnerable children* and Schulting (2005) states that *school-based transition practices produce more positive academic achievement outcomes and are particularly beneficial for children from disadvantaged backgrounds*.

DEC has developed an *Extended Transition to School program* particularly for schools participating in the Low SES School Communities National Partnership Program. There are five suggested models:

1. Increasing the number of transition sessions by providing more experiences for parents and their children to visit the school over a six month period
2. A playgroup based at the school which provides informal sessions for parents and children to attend together
3. Beginning School Well where parents and children participate in a supported playgroup with mentors to support refugee families
4. A weekly early literacy or numeracy program involving parents and children over two terms where parents and children attend a weekly session with a specific focus on literacy or numeracy
5. A weekly transition program providing support for children for a session, once or twice per week commencing in term two or three of the year before kindergarten.

The aim of all of these programs is to promote a positive start to school for young children with complex or special needs. Their success depends on effective consultation and true collaboration with a range of agencies, parents/carers and community groups.

### **Transition from primary to secondary school**

Transition to high school is important for all students. High school orientation programs involve year 6 students, including those with additional and/or complex needs, spending time at their local high school participating in a suite of lessons and “get to know you” sessions. This may also involve visits by high school students and staff to the local primary to answer questions and discuss student concerns.

Information on preparing for high school can be found on the DEC website at the following link:

[www.schools.nsw.edu.au/gotoschool/highschool/index.php](http://www.schools.nsw.edu.au/gotoschool/highschool/index.php)

Since 2008 the NSW Government has funded an initiative which supports all students and their families in public schools during the process of transitioning from primary school (Year 6) to secondary school (Year 7). *Transition to Year 7: A Helping Hand* funding is provided for schools to use flexibly to best meet the transition needs of students within their particular school contexts.

One goal of the program is for all schools to improve data and information transfer on each student's academic and social strengths and areas for development. This sharing of information enables secondary schools to plan for support of all students, including those with additional or complex needs as they transition to high school.

Another goal of the program was the establishment of a designated transition coordinator in every NSW secondary and central school to manage the pastoral care, induction, orientation and data exchange programs. This position provides a communication channel between primary and secondary schools and between the secondary school and families of students with additional or complex needs.

Secondary schools implement a variety of strategies at the local level to support students with additional or complex needs and their families, such as:

- close consultation with parents who have students at risk or students with special needs
- collaboration between primary teachers and regional consultants with principal, transition coordinator and prospective secondary teachers with regard to both continuity of care and continuity of learning
- developing an ongoing and often extended orientation process and opportunities on the secondary school site for the students to engage in activities to familiarise themselves with the physical environment such as classroom/s, other learning areas and the playground as well as routines such as timetables and
- building relationships during visits to the secondary school with staff who will support the student in the secondary context.

Schools have access to a comprehensive range of materials to support transition to secondary school via the Department's intranet. This includes guidance for enrolment transition, developing and implementing school transition programs and activities, research and professional literature. Specific support materials are also available to support the successful transition of students from primary to secondary school for vulnerable students who at risk of disengaging from education and training through *Transition for primary to high school: including strategies for vulnerable students* (2001).

## Leaving school

Transition to further education, training, employment and adult roles is an ongoing journey for a student that often starts in year 7. NSW government secondary schools are working towards providing greater education and training opportunities and choice so that all students are equipped to move successfully from school to post school destinations.

DEC provides a wide range of resources to support students in their transition to post school destinations. These includes materials for students, parents/carers and schools for career planning, study options and information about the range of personnel who can provide advice and assistance in planning for leaving schools including careers advisors and transition advisors available for all students.

More information about these provisions is available at the following links:

<http://www.schools.nsw.edu.au/leavingschool/index.php>

<https://www.det.nsw.edu.au/students/high-school/leaving-school>

<https://www.det.nsw.edu.au/vetinschools/schooltowork/index.html>

## Targeted education services, programs and support

### Students with disabilities

In addition to its programs and services available to all students, the DEC provides an extensive range of programs and services providing additional support for more than 90,000 students across the State who have disabilities or difficulties in learning and/or behaviour disorders.

These services and programs support:

- more than 35,000 students with a confirmed disability<sup>3</sup> in regular classes, specialist classes in regular schools and in special schools;
- more than 55,000 students with additional needs relating to learning difficulties and/or behaviour disorders.

A range of specialist education teachers with expertise in early intervention, integration, behaviour, autism, hearing and vision and transition also support students with disabilities and their classroom teachers.

The learning support team in each school plays a central role in facilitating the planning and supports needed for students with additional and/or complex needs, including support for transition between stages of education.

### ***Transition to school for children with disabilities and special education needs***

Children with additional and/or complex needs usually participate in their local school's transition to school program. However, some students may also participate in an individual transition program designed to meet their specific needs.

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<sup>3</sup> 'Confirmed disability' means that the student meets DEC formal disability criteria (intellectual, physical, hearing, vision, mental health and autism) as confirmed by the school counsellor service.

For NSW Government schools, transition to school for young children with special learning needs is supported by the establishment of a systematic, dependable, timely and coordinated process to guide these children and their family's transition to school. Through collaboration the family, together with a range of personnel from school and early childhood settings, plan for their child's smooth entry to school to maximise opportunities for continuity of programs and learning across settings.

DEC provides a small number of specialist early intervention classes for children who meet the Department's disability criteria. Across NSW there are approximately 1,050 families accessing a transition to school program through the Department's early intervention support classes. The Department's early intervention classes are a small component of the total provision of early intervention programs and services for children with disabilities under school age which in the main are provided and/or funded by other government and non-government organisations (see 'early childhood education' above).

A significant component of DEC's early intervention program is the development of a transition to school plan as described in the resource *Transition to School for young children with special learning needs*, available via the following link:

[https://www.det.nsw.edu.au/policies/student\\_admin/general/transition/pd02\\_29\\_transition\\_to\\_school.pdf](https://www.det.nsw.edu.au/policies/student_admin/general/transition/pd02_29_transition_to_school.pdf) .

Further support is provided for young children with a disability or significant difficulties in learning and/or behaviour by itinerant teachers with specialist expertise in early intervention, integration, behaviour, autism, hearing and vision. Regional student services staff also support the transition process for these children. Approximately 2,270 young children are receiving support in the transition process from these personnel.

Referral to these services can be made by parents, schools, early intervention services, early childhood settings and health care professionals.

### ***Intervention support program***

DEC also manages the *Intervention Support Program*. This program provides grants to non-government organisations to assist them in supporting the participation of children with disabilities in educational programs. It is a requirement of funding that organisations plan and document the transition to school process to assist the move to the next educational environment.

Organisations indicate that transition to school programs focus on recognising the strengths of the child's development, promoting positive engagement between families and schools and maintaining, where possible, collaborative networks of coordinated support. Each year around 6,000 children under school age with disabilities are supported through the Intervention Support Program.

In 2011, organisations funded by the Intervention Support Program will be participating in transition processes for approximately 2,500 children with disabilities entering school in 2012.

## ***Transition programs for students with disabilities moving to post school destinations***

As for all students, transition to post school destinations for students with disabilities can be an exciting, challenging time. A successful transition process is student centred and requires careful planning, sharing of information and close liaison between schools, students, families, education support personnel and a range of vocational, education, training and specialist service providers as required.

Transition planning to meet the needs of students with disabilities during their high school years begins for many students in year 7 and is overseen by the schools learning support team. Specialist teachers with expertise in transition (known as Support Teachers Transition) provide additional assistance to schools, students and their families in this process. There are currently 46 Support Teachers Transition in 30 full time equivalent positions across the state.

Support Teachers Transition assist with the development of individual transition plans for students with disabilities by advising schools, students and families on the following areas:

- Curriculum options including regular outcomes and Life Skills outcomes and content in the NSW Board of Studies curriculum;
- Vocational education and training options in school and TAFE;
- Employment and further education options;
- Associated issues including transportation and mobility, recreation and leisure;
- Specialist disability services provided by FACS' Ageing Disability and Home Care.

Support Teachers Transition play a central role in carrying out eligibility assessments on behalf of Ageing, Disability and Home Care for entry to specialist programs for young people with a disability, *Transition to Work* and *Community Participation* (see more below under Ageing, Disability and Home Care).

## ***TAFE NSW***

TAFE NSW provides specialist services for students with disability that support student transition from school to TAFE.

More than 100 Teacher Consultants for students with disability across NSW play a pivotal role in ensuring that students with a disability have equal access to education, training and pathways at TAFE NSW campuses.

Teacher Consultants have specialist expertise in a range of disability areas, including intellectual, physical, psychiatric and neurological disability, and vision and hearing impairment. They provide a range of services to assist students in the transition from school to TAFE. These include pre-course counselling and assistance with the enrolment process, as well as determining the most appropriate classroom support and assessment modifications to maximise student achievement.

TAFE NSW also has a memorandum of understanding (MOU) with FACS' Ageing, Disability and Home Care: *Young People Attending ADHC Post School Programs who Access Vocational Education and Training*. This MOU identifies how Ageing, Disability and Home Care, TAFE NSW and non-government providers of specialist disability post school programs funded by Ageing, Disability and Home Care will work together to support young people in the transition from school to TAFE NSW as part of their Transition to Work or Community Participation program (see below for more information about Ageing, Disability and Home Care).

### **Students with additional behaviour support needs**

Students with additional and/ or complex needs who require support with their behaviour may be referred via the school learning support team to the Support Teacher Behaviour team. Support Teachers Behaviour assist schools in planning and implementing appropriate educational, vocational and behaviour management programs for students through a case management model.

When working with students in primary schools Support Teachers Behaviour are available to assist with transition to high school and continue the support in the new school. Support Teachers Behaviour may also support the transition of vulnerable students from primary to high school, were required.

Students with additional support needs due to ongoing disruptive behaviour that interrupts their learning may be transitioned into a behaviour support program. Support Teachers Behaviour are also able to support these students when they transition back to their mainstream school.

### **Students in rural and remote areas**

Rural and distance education services provided by DEC include support for a range of students who have additional or complex needs. This includes preschools students, home isolated students and students with special education needs.

Distance education seeks to ameliorate the effects of isolation by facilitating connectedness and peer to peer interactions for their students by providing:

- field services, including mini schools, home visits, phone calls, email communications and video links,
- robust and flexible technologies to allow dynamic, synchronous teaching and learning, and
- transition from preschools to primary and primary to secondary within the distance education environment.

As a key transition process to primary school, children in isolated rural areas who plan to continue their primary education in a NSW government distance education school or centre may be eligible to enrol in distance education preschool.

The Department's distance education preschool provision is available at the Dubbo School of Distance Education and Broken Hill School of the Air.

Students who are unable to attend a regular school, due to geographic isolation from a NSW government school, may be eligible to enrol in a distance education school or centre.

Students with significant support needs which impact on their engagement and prevent them from attending school on a regular basis, may also be eligible for enrolment at a distance education school or centre.

The current Distance Education Guidelines (2008) can be accessed at [www.schools.nsw.edu.au/rde](http://www.schools.nsw.edu.au/rde). These guidelines are currently under revision with proposed changes reflecting needs identified through the Distance Education Review and aligning with the processes, structures and directions of other DEC areas of responsibility.

## **Refugee students**

Many refugee students have additional and/or complex needs which can make them particularly vulnerable during periods of transition between stages of education. These include periods when they enrol in kindergarten, enrol as new arrivals in primary or secondary school at any stage of schooling, transfer from intensive English settings into mainstream high schools and transition from high schools into further education or the workplace.

In general, students from refugee backgrounds have greater educational and support needs than most other newly arrived migrant students. Refugees have usually escaped from war or civil unrest, have often experienced trauma and in some cases torture, have lost family members and have often spent long periods in temporary refugee camps. Many children and young people from refugee or refugee-like backgrounds have had disrupted or no education prior to arrival in Australia, many have no literacy skills in their first language and in addition may have complex health problems, including mental health issues.

For many primary school aged refugee children, enrolling in a school in Australia is their first experience of schooling. They may need additional intensive support to help them to adjust and settle into school and to develop the English language and literacy skills they need to access stage appropriate educational outcomes.

Many high school aged refugee and humanitarian entrant students have experienced significant disruption to their education or have had little or no schooling prior to enrolment in an Australian high school. Some make a successful transition from their initial intensive English program to high school and complete their senior schooling. However many refugee students, particularly those with low levels of literacy in their first language, struggle to acquire the language, literacy, cultural knowledge and concepts required to succeed across the high school curriculum. These students need intensive English language, literacy and numeracy support during this transition.

In addition, many refugee students and their parents/carers have limited understanding of the range of education and employment options available during and after completing high school. These students may require personalised support to plan educational and vocational pathways.

DEC provides a range of programs and initiatives to support refugee students at times of transition between stages of education and assist their families to support them during these transitions. This includes programs that are available to all school with refugee students and targeted support for schools with high refugee enrolments.

### ***English as a second language support***

Under the ESL New Arrivals Program, newly arrived non-English speaking students, including refugees, receive short term intensive English language support when they first enrol in an Australian school. High school students may receive intensive English tuition in an Intensive English Centre while primary school students receive initial intensive support in their school, as part of the ESL program. Newly arrived refugee students are eligible to receive the intensive ESL support for a longer period than other students, in recognition of their generally limited previous education and greater need for support.

In rural and regional areas and in schools without an existing ESL program, on-arrival intensive English language support is provided for migrant and refugee students through additional teacher support. Rural and regional high schools with significant numbers of newly arrived refugee students may also establish a short term intensive English class.

Following the initial intensive English support, schools with sufficient numbers of students requiring on-going ESL support receive an ESL teacher allocation under the *ESL Targeted Support Program*. ESL teacher allocations are revised annually, based on data provided by schools in their *ESL Annual Survey*.

### ***Bilingual support***

School Learning Support Officers (Ethnic) are allocated to eligible schools to provide bilingual support for schools with high numbers of newly arrived refugee students. They provide bilingual support to students in the classroom and assist schools in working with parents and community members.

### ***Counselling support***

Specialist school counsellors are appointed to Intensive English Centres to provide diagnostic, counselling, welfare and settlement support to students. These specialist counsellors also assist other school counsellors dealing with refugee students and students from new and emerging communities.

The *Settling In* program is an early intervention program for newly arrived migrant and refugee students and is conducted by trained school counsellors and teachers, with interpreter assistance. The program assists students in the process of adjustment to life in a new country and covers issues such as talking about feelings, dealing with anger, anxiety and sadness, people and places that can help, goal setting, problem solving, personal strengths and socialisation.



### **Support for families/carers**

Interpreting and translation services are provided for parents and carers who do not speak or understand English well and for deaf parents and carers who use sign language. A large number of Departmental publications have been translated in up to 47 languages and are available at

[www.det.nsw.edu.au/languagesupport/index.htm](http://www.det.nsw.edu.au/languagesupport/index.htm)

*Families in Cultural Transition* (FICT) courses are conducted by schools to assist in the settlement process for recently arrived parents and carers, including refugees.

Community Information Officers (CIOs) assist in facilitating communication and interaction between schools and communities from culturally and linguistically diverse backgrounds. Schools are able to access the expertise of CIOs to assist in the development of relationships with new and emerging refugee communities. CIO positions are located across the state in every region.

The Refugee Student Assistance Scheme, a joint initiative of the DEC and NSW Teachers Federation, provides limited financial support to schools with significant enrolments of recently arrived refugee students. The funding may be used by the school to assist with educational expenses such as the cost of excursions, subject materials, exercise books and the purchase of uniforms.

### **Transition to primary school – Beginning School Well**

The *Beginning School Well* program is an early intervention initiative that targets refugee children at risk of not settling easily into kindergarten. It is part of a school's transition to school program and involves parents and children working with a mentor who speaks their home language. There have been 20 schools involved in the program since 2001. In 2011, the program will be expanded to a further eight schools with significant numbers of refugee children and families.

### **Intensive English Program for Refugee Students in Primary Schools**

This initiative focuses on providing additional intensive English language support to a number of targeted primary schools with high refugee student enrolments. In-school consultancy support and professional learning for teachers and executive staff is provided by regional Refugee Student Support Officers. The program is operating in 10 schools in Semester 1 2011. An additional 6 schools will participate in Semester 2 2011.

### **Refugee Transition Program**

This program operates in a number of targeted high schools with high refugee student enrolments to support refugee students in transition from intensive English programs into mainstream high school and to help them plan their transition from school to further education, training or employment. The program provides additional ESL teacher time to assist refugee students to develop English language and literacy skills, study and learning skills, curriculum concepts, understanding of available educational and vocational pathways and school and workplace cultures and expectations in the Australian context. The program also provides bilingual school for refugee students in the classroom and work readiness programs. In-school support and professional learning for teachers is provided by regional Refugee Student Support Officers. The program is operating in 13 schools in 2011.

An additional 10 schools will participate in Semester 2, 2011.

### ***After School Program for Refugee Students***

This program provides after school tuition, with bilingual support, for refugee students who have been in Australia for less than three years. The program supports students in their transition to high school and increases their understanding of the high school curriculum and its expectations.

The program is operating in 10 schools and Intensive English Centres in 2011.

### ***Refugee Action Support Partnership***

The Refugee Action Support program is a joint initiative of DEC, the Australian Literacy and Numeracy Foundation and a number of universities. University student tutors, usually as a component of their teaching practicum, provide after school tuition and in-school assistance to refugee students to develop their literacy skills and improve their participation and engagement in schooling. The program operated in 24 schools in Semester 1, 2011 with the support of students from Charles Sturt University, the University of Western Sydney and Sydney University.

### ***Macquarie Mentoring***

In 2011, DEC in partnership with Macquarie University is piloting a refugee mentoring program which provides university student mentors for high school students from refugee backgrounds. The program aims to help refugee students to engage in school life, progress well in their studies and plan their transition to further education by developing study and research skills, awareness of school and university cultures in Australia and better understanding of educational pathways available. The program is operating in 5 schools in 2011.

### **Aboriginal students**

DEC has developed programs to assist schools in providing targeted support for Aboriginal students who have additional and/or complex needs. These include the following programs:

The ***Wambinya early years program*** provides additional support for targeted Aboriginal students in kindergarten to ensure that students experience success in their first compulsory year of schooling. The focus of the program is to provide learning support in the areas of literacy and numeracy, in particular comprehension, which leads to improved educational outcomes for Aboriginal students.

The ***Galuwa program*** will provide support for Aboriginal students identified through the National Assessment Program Literacy and Numeracy. This program is a pathway program for Aboriginal youth and provides support for Aboriginal and Torres Strait Islander students in the form of scholarships to assist completion of secondary education and to plan and develop pathways for future career aspirations. The initiative focuses on transition to high school, career pathways and other curriculum activities including tutoring/mentoring, literacy and numeracy support and participation in learning hubs. Individual tutoring is a compulsory element of the

*Galuwa* scholarship to support students to improve their academic achievement in key learning areas and individual subjects.

The ***Mudjari'elo*** initiative focuses on financial mathematics and numeracy in the trades to support Aboriginal students within DEC's education and training units in Juvenile Justice Centres. The program aims to enhance teachers' understanding of mathematics and the thinking and learning process, focusing on numeracy in the trades and financial mathematics. It encourages students to think about how they learn and what areas of mathematics they will need in the courses they are currently studying in Vocational Education and Life Skills through TAFE NSW. The program is also aimed at supporting the students when transitioning back into school settings or further education or employment.

### **Supporting student welfare**

#### ***Home School Liaison Program***

The issues that are a barrier to a child's regular attendance at school are often complex and multi-faceted. The Home School Liaison Program provides a supportive service to government school students of compulsory school age, their parents and schools. Home school liaison officers and Aboriginal student liaison officers work as a part of regional student services teams and liaise with relevant community agencies to support families in overcoming a range of family and school related concerns which may prevent regular attendance.

In 2010, as part of the *Keep Them Safe Action Plan* in response to the Wood Inquiry into child protection, the DEC employed an additional 25 home school liaison officers and 15 Aboriginal student liaison officers across the State. This brings the total number of home school liaison officers to 110 and the number of Aboriginal student liaison officers to 26.

These new positions were allocated to areas of greatest need and focus on developing new solutions to issues of non-attendance. Home school liaison officers can carry a caseload of up to 30 students whilst it is recommended that Aboriginal student liaison officers have up to 15 students on their caseload at any one time.

At the end of term 4, the forwarding high school for students in year 6 who have had attendance issues are identified and support plans and programs are developed with the appropriate high school staff to support attendance in the context of their transition.

#### ***Mentoring Support***

Student mentoring refers to situations where teachers, other adults or older students work on a regular, one-to-one or small group basis with students to achieve planned outcomes. It includes activities such as tutoring or coaching.

Mentoring can be an effective strategy to support students who may be in a stage of transition, or who have been identified as likely to benefit from working with a mentor.

***Students enrolling in Year 7 to 12 outside of normal enrolment periods***

In a recent finding, the NSW Deputy State Coroner noted that some students who enrol in a new school outside the usual period of movement from primary school into high school or from Year 10 into senior school Year 11 may have additional support needs (both educational and welfare needs) that are not always captured through enrolment.

Existing procedures for application for enrolment in NSW public schools allow for the collection and consideration of information to identify student's needs and inform enrolment decisions. As a result of the Deputy Coroner's recommendations, in addition, Secondary Schools, Central Schools and Schools for Specific Purposes are now required to review their enrolment procedures for students applying outside of the normal enrolment periods to ensure the school's learning support or student welfare team consider all relevant information in relation to a student's educational and welfare needs and determines what if any action is required including whether the family should be referred to an external service. Changes are also in the process of being made to the school counsellors manual to reflect the role school counselors play in this process.

***Students in out of home care***

DEC in collaboration with FACS' Community Services has a range of measures in place to support students who are in out of home care. This includes policy and procedures to support the development of individual education plans for students in out of home care who are seeking enrolment in or are already attending government schools and preschools, and are new to care, within 30 days of entering out of home care. The education plan may include other plans such as a disability, transition, behavior or health care plan, the NSW Services Case Plan or the NSW Health assessment/health care plan for the student. Further details about DEC's services supporting students in out of home care is available at the following link:

<http://www.schools.nsw.edu.au/studentsupport/studentwellbeing/oohc/index.php>

More information about support for children and young people in out-of-home care is provided further below (see 'Community Services').

***Supporting student health***

NSW government schools require parents to provide information about their child's health both on enrolment and on an ongoing basis.

Schools assist students who have health support needs at school, including the administration of prescribed medication and the provision of health care procedures, through implementation of the *Student Health in NSW Public Schools: A summary and consolidation of policy*, available at:

[https://www.det.nsw.edu.au/policies/student\\_serv/student\\_health/student\\_health/PD20040034.shtml](https://www.det.nsw.edu.au/policies/student_serv/student_health/student_health/PD20040034.shtml) .

Parents are asked if their child has a health care need when completing an application to enrol in a government school.

When students need help with health issues at school, parents may need to consult with their medical practitioner about the implications of the child's health condition for

their schooling. Parents communicate and work with the school so that planning can occur to support the student's health care needs while at school.

Where student's health support needs are complex or sensitive, a written individual health care plan individual health care plan formalises the planning process. An individual health care plan must be developed for:

- severe asthma, type 1 diabetes, epilepsy and anaphylaxis
- any student who is diagnosed as being at risk of an emergency reaction
- any student who requires the administration of health care procedures.

Principals decide whether a written individual health care plan will be developed in other cases where it may assist (for example, where a number of staff have different roles that need to be coordinated).

In the event that a student changes schools, parents are asked to provide a copy of the individual health care plan to the new principal. This can assist the process of health care planning in the new school and can also assist the student's transition to that school.

## **Better Futures**

Better Futures is a state-wide program funded by the NSW Government and administered by the DEC with an annual budget of \$3.1 million. The aim of Better Futures is to contribute to building resilience in vulnerable children and young people aged between 9 and 18 years who are at risk of disengaging from community, school, family or friends. Better Futures provides grants to community-based not for profit organisations and local government for projects which support social inclusion strategies for the target group.

The Minister for Citizenship and Communities has initiated a comprehensive review the Better Futures program to ensure that the program aligns with the Government's social policy principles and that there is strong and genuine input from young people, youth organisations and other participants in the youth sector on the priorities and issues that it addresses.

## 3.2 NSW Department of Family and Community Services

The NSW Department of Families and Community Services encompasses Ageing, Disability and Home Care, Community Services and Housing NSW. Information relating to the services and programs provided by these agencies that support children with additional and/or complex needs including at stages of transition in education, are outlined below.

### Ageing Disability and Home Care

FACS Ageing, Disability and Home Care (ADHC) division is focused on providing effective integrated services to build resilience and minimise vulnerabilities for its target populations, including children and young people with a disability and additional or complex needs, and their families and communities. Young people often have difficulty making the transition to independence and this is especially so if they are unable to be supported by well functioning families or carers. Strong, resilient communities play an important role in supporting families and carers, and in sanctioning behavioural norms for young people.

The responsibility of all Government agencies to support people with disabilities is reinforced through the National Disability Agreement, the National Disability Strategy, and the UN Convention on the Rights of People with a Disability. Commonwealth and State legislation also make it unlawful to discriminate against people with a disability in the provision of certain services (see appendix 2).

Article 3 in the United Nations' Convention on the Rights of Persons with Disabilities includes that 'Respect for inherent dignity and individual autonomy, non-discrimination, full and effective participation and inclusion in society'.

The National Disability Strategy was endorsed by the Council of Australian Governments (COAG) in February 2011 and focuses on six broad policy areas:

- health and wellbeing.
- personal and community support.
- economic security.
- learning and skills.
- rights, protection, justice and legislation.
- inclusive and accessible communities.

The intent of the National Disability Strategy is in line with the requirement under the NSW *Disability Services Act 1993* for NSW Government departments to undertake disability action planning to improve access to services and facilities for people with a disability and their families and carers. ADHC supports this strategy by promoting access to services in mainstream inclusive environments and provides leadership and support to government departments in this process, for people with a disability. An inter-departmental Steering Committee is being established to develop a NSW implementation plan by February 2012 for the National Disability Strategy.

ADHC supports the establishment of clear long term pathways for people with a disability that will involve having the right supports at each point in their lives, in order

to build their strengths and enable them to participate in and contribute to their communities.

ADHC is focused on assisting mainstream services to provide inclusive environments for children with a disability, and on supporting children and young people at key life stages to enable successful transitions to preschools and school, work and community.

Early intervention and prevention is a key initiative; supports at every point in a person's life aim to build the capacity of the family and the community, including the educational and school environment.

Responding to the needs and aspirations of people with a disability and their families and carers at key life stage transitions in order to build the person's skills and independence, is a key objective of a life stage approach to early intervention and prevention.

Research supports a comprehensive approach to service provision for children and young people with a disability, and one that addresses the inclusion of specialist services within the universal service system, encompassing prevention and early intervention in approach<sup>4 5</sup>.

## **Stronger Together**

*Stronger Together (2006-2016)*, the NSW Government's 10 year plan to boost disability services, provided \$1.3 billion in growth funding over its first five years and was centred on three guiding principles of strengthening families, promoting community inclusion and improving the system's capacity and accountability. One of ADHC's key directions in this phase was making it easier for people to access the services they need and included a focus on children and young people with a disability. *Stronger Together* provided growth in therapy and case management positions across the disability sector, with a focus on the needs of each individual child, supported in a variety of settings, including preschools, schools, home and the community.

Key features of the second phase of *Stronger Together* (2011- 2016) are a focus on families as key determiners of how resources are used; increased availability of individualised and portable funding arrangements; and a lifespan approach to meeting people's needs. Trends in service delivery are towards families choosing services that respond to their individual needs and circumstances by supporting children and young people inclusively across environments, including preschools, school, home and community.

The second phase, *Stronger Together 2'* will deliver an additional \$2 billion of funding over the five-year period from 2011/12 to 2015/16. This is in addition to the

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<sup>4</sup> Department of Ageing, Disability and Home Care (2007). Initiative Description: *Extending Early Childhood Intervention Initiative* – DADHC 07.38 & DADHC 07.56

<sup>5</sup> Canchild Centre for Disability Research (2010). *Partnering for Change*. MacMaster University, Hamilton, Ontario.

on-going commitment of \$2.02 billion over five years needed to fund expansions established in the first phase.

The *Stronger Together 2* investment strategy is designed to:

1. Support people with a disability and their carers by investing in core services that are responsive to changing needs throughout their lives, especially at key life stages and stressful periods.
2. Maximise flexibility, choice and control for people with a disability and carers through:
  - expanding capacity in core flexible respite service infrastructure that client consultation and evidence base indicates is working best (including Aboriginal Flexible Respite, Leisure Link, Teen Time after school and vacation care for secondary students, Sport and Recreation Camps for teens, MDA camps and retreats for children and young people, Inclusive Community Education Program).
  - investing in new services that people with a disability and carers tell us they want and need, including funding a broad range of new recreation and respite options to maximise social inclusion opportunities for people with a disability, including challenging behaviours and complex needs, while giving carers a break.
3. Enable families to use funding to access services from a core service infrastructure, expand capacity of this infrastructure or fund something new that promotes social inclusion of people with a disability while giving their carer a break.

Under *Stronger Together 2* NSW will continue to develop programs of support for people with a disability and their families to ensure children and young people with a disability are appropriately supported, especially at key life transition points.

This includes:

- Preschools - promoting skills development for children from the point of concern and in the preschools years and extending into the early school years, by providing coordinated support to maximise children's social, emotional, physical and cognitive development and enhance capacity.
- Primary to secondary school – supporting children and young people through the provision of mentoring, coaching and building capacity of significant others, to support long-term participation in the educational environment. The early identification of children and young people with a disability who are at risk of suspension or expulsion, together with working with school staff to modify the school curriculum to be more outcome focused, will increase children and young people's access and participation during these school years.
- Secondary to post school – forward transition planning and a new transition support model being introduced in the final years of secondary school will increase the amount of time that a young person and their family has to plan for employment, vocational education or entry into a post school program, where



appropriate. Supporting young people's goals and aspirations at this time will ensure improved pathways from school to adulthood.

### **Provision of person centred and life span approaches**

The NSW Government is committed to expanding person centred supports and individualised funding arrangements under the second phase of *Stronger Together* to give people with a disability and their families and carers more control over their lives and futures. A person centred system places the person with a disability at the centre of decision making when it comes to the supports and services they use. The Government is implementing a 12-month consultation strategy to obtain input from people with a disability, families and carers, service providers and other stakeholders on system reforms and recently held a 2 day summit with 500 people attending to provide their input.

The second phase of *Stronger Together* further supports strategies to improve school participation for children with complex needs. For older children, there is an emphasis on reducing challenging behaviours in adolescence in order to maintain school participation and reduce risk of contact with the criminal justice system. Existing partnership arrangements in relation to therapy, behaviour support and school transitions will be further enhanced by the inclusion of people with a disability in mainstream education.

### **Specialist Disability Support Services**

Ageing, Disability and Home Care directly provides and funds more than 1,000 non-government and local government services to deliver an extensive range of specialist disability support services across New South Wales. Information about services supporting children with disabilities and their families are outlined below.

#### ***Disability Respite Services***

Respite is one of a range of services to support people with a disability, their carers and families. Respite services provide positive and meaningful experiences for the person with a disability at the same time as giving the carer a break from their usual caring role.

Respite is a key factor in minimising stress for families particularly at key life stages. They should also be age- appropriate with a focus on enabling the person with a disability to have similar opportunities and experiences as their peers. In 2010/11 a budget of \$126 million was allocated for disability respite services. This comprised \$33 million for ADHC operated centre-based services and \$93 million for services operated by the non-Government sector.

The current service system in NSW delivers a broad range of respite services for people with a disability, including those with complex needs, in three main settings:

- home-based
- community-based; and
- centre-based.

## ***Therapy and Case Management***

Therapy services in NSW are provided by a range of government and non-government organisations, including ADHC, NSW Health, funded non-government agencies and private providers. These agencies have different purposes, operating contexts and areas of focus.

Access to therapy services is important for maximising children's potential to achieve successful long term social, educational, vocational and economic outcomes. In 2008/09, growth in the first phase of *Stronger Together* resulted in therapy and case management services being provided to 2,618 school aged (5-17 years) children and young people. In 2010/11, \$40 million was allocated for 11,400 therapy places.

The *Therapy Services Memorandum of Understanding* (MoU) endorsed by FACS (Community Services and Ageing, Disability and Home Care), NSW Health and DEC in 2010, defines a set of agreed principles, roles and areas of focus that the participating agencies have identified to improve access to therapy services for people with a disability, including children and young people, their families and carers in NSW. The agencies have been working together in 2011 to progress an implementation plan and communicate the principles and areas of focus to NSW Government agency staff who have a role in the delivery of or provision of access to, therapy services in NSW.

ADHC works closely with DEC through a number of case management initiatives aimed at enhancing access to services, and providing greater engagement in society and opportunities for younger people with a disability to participate and contribute to their community. Services provided and funded by ADHC provide support directly in the school environment.

ADHC funded case management initiatives implemented over the past four years for children and young people with additional or complex needs include:

- \$1 million over two years (2009-2011) for Case Management for Young People with Challenging Behaviour Pilot Program.
- \$2 million over four years (2007-2011) for Case Management for young people at risk of early exit from school.
- \$4 million over four years (2007-2011) for Leisure Link for Young People with Challenging Behaviours.

The *Case Management for Young People with Challenging Behaviour* pilot program (2009 – 2011) in South West Sydney (Macarthur) and the Central Coast (Gosford) areas was specifically designed to meet the case management needs of young people with autism or intellectual disability and serious challenging behaviours in school. Implementation involved collaboration between regional ADHC, DEC personnel and a local non-government provider (Uniting Care Burnside) to facilitate the case management component.

An additional case management and brokerage service for adolescents aged 12-18 years diagnosed with autism spectrum disorder or autism related behaviours and are at high risk of early exit from school is operating in the Northern Sydney, Nepean and Cumberland / Prospect Local Planning Areas. Autism Spectrum Australia

(Aspect) was provided with funding by ADHC to address the needs of this group through the *Coordination Access to Services and Supports (CASS)* pilot program. This involved partnership with DEC, NSW Health, and non government agencies and families.

Through *Leisure Link for Young People with Challenging Behaviours*, access to age appropriate recreation, leisure and mentoring programs during out of school hours is provided for young people with challenging behaviours who are at risk of suspension or expulsion from school. The program focuses on supporting young people's positive behaviours, improving communication skills and expanding peer friendships through community based programs. This service model supplements school based supports, provides a 'respite effect' for families and emphasises the importance of consistency in curriculum approaches across settings for students with challenging behaviour. The program aims to build the capacity and confidence of individual young people to participate and interact with people in positive ways across different contexts, using individual plans that integrate school, home and community involvement.

### ***Behaviour Support Services***

Demand for behaviour support services for children in the 6 -17 year age group has increased across all ADHC Regions. This age group covers behaviours associated with a range of significant life transitions including beginning school, the onset of puberty, increased growth, changing schools, leaving school and transitioning to adult life. It is also the age range where the impact of an intellectual disability is most recognised in relation to a peer group and changing support structures. Improved referral pathways from the Department of Education and Communities (DEC) and initiatives such as *Keep Them Safe*, have also contributed to increased demand for behaviour support services.

To continue to enhance accessibility and support for families, ADHC will include the following:

- Making a difference: person-centred approaches
  - improving access to respite
  - developing and delivering quality specialist support and clinical practice by using contemporary, evidenced based strategies.
  - investing in flexible and innovative service models for rural areas, and people with a disability who are Aboriginal and Torres Strait Islanders (ATSI), Culturally and Linguistically Diverse (CALD) and/or have very complex needs.
- Managing behaviours over time: lifespan approaches
  - focussing on specialist support for children and adolescents and educating parents and carers to manage complex behaviours particularly through transitions.

Between 2007 and 2010, the Statewide Behaviour Intervention Support Service (SBIS) undertook a transition project to explore the support requirement of people with intellectual disability through periods of change. In particular, the impact of transition on the mental health and wellbeing of children and adolescents with intellectual disability was explored. Additionally, the ADHC *Western Region Transition Practice Improvement Project 2011*, is exploring current transition practice

through a small case study series, with the view to making practice improvement suggestions. In particular this work will focus on transitions that have occurred as a result of changes in accommodation for young people in Western Region.

## **Supporting transitions for children and young people with disabilities**

Research has shown that children and young people with disabilities have complex journeys, as they often have to navigate new environments with limited guidance and lack the resources and supports that make it difficult to prepare for transitions. A critical factor in successful transitions is having strong social support networks, including family, peers, community members and service providers, who provide guidance and support at these times.<sup>6</sup>

Feedback<sup>7</sup> and research<sup>8</sup> further identifies that people with a disability and their families have different needs for services and supports at different life stages:

- Preschools aged children are best supported by mainstream services that are likely to have a secondary respite effect and reduce social isolation of the child and their primary carer/family.
- Commencing school may give rise to the need for additional services such as before and after school care and vacation care.
- As children move into adolescence, school, peer support and recreational services that provide for individual interests preferably in mainstream environments, can provide an effective source of support for them as well as providing a break for their family. These include recreational, camps, after school vacation care, and centre-based respite, depending on their individual needs and circumstances.
- The transition from adolescence into young adulthood is a critical transition point as young people leave school. It is also a time of increased stress for the family. Depending on their needs and level of functioning ability, a range of new service requirements and options come into play. These include adult day programs, post school programs, peer support and mainstream recreational services.

A life course approach to transition support places the emphasis on the natural, developmental transitions that all people experience in life. Furthermore with this approach, there is less focus on individual skills of independence (for example, with dressing or cooking) and more on 'interdependence' among many people. This concept recognises that everyone relies on supports at different stages and transitions in their life. A supportive environment can provide the tools and resources that an individual needs as they prepare for their transition 'journey'.

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<sup>6</sup> Stewart, D., Law, M., Rosenbaum, P., & Willms, D. (2001). *A qualitative study of the transition to adulthood for youth with disabilities*. Physical and Occupational Therapy in Paediatrics, 21, 3-22.

<sup>7</sup> *Who Cares...?* Report on the inquiry into better support for carers House of Representatives Standing Committee on Family, Community, Housing and Youth April 2009

<sup>8</sup> Dr Kate Barnett: *Sustaining Relationships: the Role of Respite*. Discussion Paper January 2008

It has been identified that<sup>9</sup>:

- Collaborative initiatives and policies are necessary supports for the transition to adult life.
- Building capacity of people and communities will enhance the transition process.
- The role of the 'navigator' within communities facilitates capacity building.
- Information and resources are available to all involved in the transition process.
- Education is a critical component of any transition strategy.
- Ongoing research and evaluation provides the evidence needed for success.

ADHC promotes this best practice approach in transition through the lifespan approach and its flexible funding initiatives to support people with a disability in their mainstream community environments. For students with additional or complex needs, support is provided within the student's educational environment and within their everyday routines and learning support needs. Capacity is built through collaborating and coaching in context, to trial and demonstrate strategies that support children and young people's participation long term. Flexible individualised funding arrangements put families in control and allow them to choose the supports they require leading to better integrated learning and educational outcomes for children and young people with a disability.

### **Starting School**

Transition to school is recognised as a time of change for families, children and staff in early childhood and school settings. For children with a disability, this has been reported as stressful and confusing unless there is systematic and timely planning prior to school entry. It is a time when risk factors can increase or be triggered by the transition. This is the time to plan support or preventative strategies. Transition activities encompass a much wider span, starting well before school and continuing well afterwards.<sup>10</sup>

ADHC provides early childhood intervention services for young children with a disability through funded non-government and government organisations, and offer a range of therapy and behaviour intervention supports. When specialist early childhood intervention services are required, these should always complement and supplement those supports provided for children with a disability in mainstream settings, including preschool and long day care, during the significant early years before school entry. The evidence has supported providing services early, that are inclusive and family centred and in mainstream settings, and provide positive results for children and their families, enabling children to have the best foundation for lifelong wellbeing.

Services are a critical link in supporting families at the time their child with a disability commences school and play a key role in assisting families in sharing information

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<sup>9</sup> Debra Stewart, Matt Freeman, Mary Law, Helen Healy, Jan Burke-Gaffney, Mary Forhan, Nancy Young, & Susan Guenther (2009). *The Best Journey to Adult Life for Youth with Disabilities: An Evidence-based Model and Best Practice Guidelines for the Transition to Adulthood for Youth with Disabilities*. CanChild Centre for Childhood Disability Research, McMaster's University, Ontario.

<sup>10</sup> Policy Brief No 11 2008. Rethinking the transition to school: Linking schools and early years services. Melbourne.

about the strengths and needs of their children with school personnel, as they plan the environment and supports required in the next setting. However, not all children access these services and some children may not be identified as having a disability or special education needs prior to commencing formal school programs.

ADHC supports the transition to school period for young children with a disability and their families, through:

- Specific planning to support young children with autism and school personnel adjust to the transition period.
- Supporting the non verbal communication abilities of children with an intellectual disability.
- Promoting strategies to enhance socialisation and inclusion in mainstream school and community settings, including after school hours care.
- Working with NSW Health and FACS Community Services division to promote increased early detection, diagnosis and support programs for young children with a disability prior to school entry.
- Responding to the curriculum needs of young children with a disability prior to commencing school by building capacity in mainstream settings, which include home, preschools and day cares.

The Australian Government has a range of funding initiatives for children with a disability including *A Better Start for Children with a Disability* which provides flexible funding of up to \$12,000 for early intervention services for families with a child under six years old with a disability. These funding initiatives' should be considered in the review of supports available for children with a disability in transition.

### ***Transitioning to High School***

The *Helping Troubled Kids* initiative provided \$5 million over four years (2007-2011) for intensive support programs for families of young people with serious behaviour problems who were at risk of school suspension or expulsion, with an additional \$800,000 provided to the DEC. Through this initiative ADHC and DEC worked together to explore opportunities to improve case management and the coordination of curriculum for the target group.

Priority was given to young people in Year 6 and Year 7 who were transitioning from primary to high school. The purpose of the program was to:

- Support the identification and retention in the school and family / carer environment of young people in the target group, who are most at risk of school suspension or expulsion or premature exit from school.
- Support the implementation of a comprehensive behaviour support plan for the home, school and community environments, through case planning and case management.
- Promote increased collaboration across the disability services and education sectors for the benefit of the target group.

## ***Transitioning to Adulthood - Vocational Education, Community Participation and Life Skills***

The transition from school to adult life is a significant time for young people and in particular for school leavers with a disability and their families and carers. Evidence from school leavers entering ADHC funded post school programs suggests that early transition planning results in reduced stress for young people and their families/ carers, and more successful transitions to post school pathways. For this reason transition planning commences well before a student leaves school.

There are a number of pathways a young person with a disability may choose when leaving school. These include moving directly to university, TAFE or college; moving straight into employment; accessing a Commonwealth supported employment program such as a Disability Employment Services; or applying for an ADHC Post School Program (Transition to Work or Community Participation program).

One of the avenues for developing the skills of students with a disability is through opportunities to take part in vocational education, experience work placements, and make contact with employers. Strong linkages between schools, employers and employment agencies are required to facilitate this. The National Centre for Vocational Education Research (NCVER) report *Complex not simple: the vocational education and training pathway from welfare to work*<sup>11</sup> identifies a number of features of good practice for the vocational employment and training (VET) sector in dealing with disadvantaged students.

These include:

- Case management and coordination of support services;
- An individualised approach, including individual training plans;
- Collaboration and linkage across and within sectors;
- Links between VET staff and local employers;
- A systems-based structure for collaboration, rather than being ad hoc and relying on the goodwill of individuals;
- A range of learning and support services, integrated with studies; and
- Creative combinations of work, study and support – ‘one-stop shop’.

NSW schools currently offer Vocational Education Training (VET) to all students from years 9 to 12. VET plays a significant role within the suite of strategies available to address the complex range of factors that impact on engagement, retention and participation of students with a disability in education and training.

During a student's last years of high school, ADHC partners with the education sector to determine whether a young person is eligible for an ADHC funded Post School Program (either the Transition to Work program or the Community Participation program). Each year assessments are carried out by Support Teachers

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<sup>11</sup> K Barnett and J Spoehr, *Complex not simple: The Vocational education and training pathway from welfare to work*, Australian Institute for Social Research, University of Adelaide, 2008.

Transition in government schools and consultants in the non-government schools sectors who are trained by ADHC and the Australian Health Services Research Institute (AHSRI). The assessment determines a young person's eligibility by looking at the type and level of support that they will need after leaving school. Consultants and Support Teachers Transition who carry out the assessments also provide support and advice to young people and their carers about the assessment process and the pathways available post-school.

Assessments take place during the second term of a student's last year at school and outcomes are advised in September. Young people who are deemed eligible for a post school program choose a service provider to access their program through. To support young people in choosing a service provider who will best meet their needs and support their goals, young people are sent a booklet which lists information and contact details of all services in their area.

Throughout the year ADHC regional staff present at School Leaver events run by the National Disability Coordination Officers (NDCOs). These events run across the State and are aimed at informing young people and their families of the pathways available post school.

Under *Stronger Together 2* over the next five years the NSW Government has committed \$5.4 million to strengthen transition support for secondary students with disabilities. ADHC is working in partnership with DEC to introduce earlier assessments for students with a disability in Year 10. This approach will facilitate transition planning in the final years of secondary school and increase the amount of time that a young person and their family has to plan for employment, vocational education or entry into a specialist disability program where appropriate. This assessment process will be supported by a number of external stakeholders including ADHC Local Area Coordinators and Commonwealth Disability Employment services. It will primarily drive increased aspirational goals around employment and what skills need to be developed over the final years of school to support this outcome.

### ***Information kits to support families at transition points***

ADHC has developed a series of information kits for families of a child or young person with a disability to support families to access appropriate supports at critical transition points in the lives of their child or young person with a disability such as, transition to school, transition from primary to secondary school and transition from school to living in the community. These kits assist families to understand what it means to have a child or young person with a disability; to recognise the services that are available to them; to have information about how to access these services; and where to go in seeking support in raising and educating their son or daughter with a disability. The kits include:

- *Shoulder to shoulder*: information for Aboriginal families (with DVD).
- *Raising kids together*: information for families from Afghanistan, Iraq or Sudan (with DVD).
- *Starting School*: stories from parents of children with a disability.
- *Making the move*: information for families about children moving from primary to



high school.

- *Stepping out:* information for families about young people moving from secondary school to adult life.
- *Sibling support:* information to support the siblings of a child or young person with a disability.

## Community Services

### Programs and services

Community Services provides funding for services for children and young people with additional and complex needs and their families through community-based services, largely provided by non-government agencies, as part of a continuum of early intervention and placement prevention services. Service models that form this service continuum are:

1. Child and Family Support
2. Youth and Family Support
3. Brighter Futures
4. Intensive Family Support
5. Intensive Family Preservation

The Child, Youth and Family Support models and Intensive Family Support and Preservation models are funded under the recently established Early Intervention and Placement Prevention (EIPP) program.

The EIPP program builds upon services for children, young people and their families that were previously funded under the Community Services Grants Program. As part of *Keep Them Safe* initiatives, an additional \$4.3 million in ongoing annual funding was provided to expand existing early intervention services and an additional \$6.8 million to provide new intensive support services.

EIPP now receives annual funding of \$64.2 million and comprises of over 430 non-government services throughout the state, including 37 services that provide intensive family support and preservation packages.

The aim of EIPP is to provide support to vulnerable children, young people and families to stop problems escalating and to reduce the likelihood of children and young people entering or remaining in child protection and OOHC. The three EIPP sub programs are targeted towards different groups:

- Child, Youth and Family Support services assist families with children and/or young people aged 0-18 years, who are experiencing difficulties and need assistance but are assessed as below the threshold for risk of significant harm.
- Intensive Family Support services assist families with children and young people aged 0-15 years, who are assessed as being at risk of significant harm and are at risk of being placed in OOHC.
- Intensive Family Preservation services assist families with children and young people who are further up the scale and assessed as being at *imminent* risk of placement in OOHC.

Outcomes for Child, Youth and Family support services include a focus on educational transition points including school readiness, educational milestones, and maintaining or re-establishing links with school.

Services provided under the Child, Youth and Family support services include:

- Assessment, advice and referrals
- counselling
- practical assistance (eg programs to improve parenting skills and household/money management)
- facilitated support groups (eg for post natal depression);
- management of a case plan under which the child, young person and family is provided with a coordinated mix of services from a range of providers;

Services for young people may also include:

- advocacy (eg court support, mediation with parents and schools,)
- skills focussed groups and training (eg social skills and budgeting).

Under the Intensive Family Support and Intensive Family Preservation models, children, young people and their families are provided with intensive caseworker support that may initially involve caseworkers being available to families 24 hours a day, seven days a week. Brokerage is also available to purchase practical assistance (eg child care, basic household goods) and specialist supports (eg parenting skills, anger modification). These intensive support services may operate for up to two years with service delivery occurring primarily in the home or community. Case plans for children, young people and their families receiving intensive support services would, as a matter of course, include goals around school readiness and education transitional points where appropriate.

Performance indicators for both these models include a focus on education engagement in regard to:

- children accessing formal preschool/long daycare for 15 hours per week or more,
- school age children with poor attendance records attending school regularly.

### **Prevention and early intervention and transition support**

The **Brighter Futures** program delivers evidence-based services and support to vulnerable children and their families at risk of entering or escalating within the child protection system. Roll out of the Brighter Futures program by Community Services and lead agency partners commenced in 2003/04 and is available across NSW.

The program targets those families with children aged under 9 years or who are expecting a child and who meet the program's eligibility and suitability criteria. Families with a preschool aged child (under 3 years) are given priority because similar programs in the US have indicated that greater success is achieved by intervening early in life. An important principle of the Brighter Futures program is the delivery of child centred and family focused services. Families in this program are provided with sustained case management and program services for up to two years including quality children services, home visiting and parenting programs.

While the primary aims of this program are not about educational transitions but to reduce maltreatment and the entry into OOH, there is however good evidence to suggest that vulnerable children will make the initial transition to school more readily

if they have been involved in an early intervention and prevention program, and the gains made can last well into adulthood. Similarly, while older children transitioning between stages of education are not the target for the Brighter Futures Program, they may benefit from its delivery to their family.

In 2008, the Special Commission of Inquiry into Child Protection Services in NSW noted the lack of an integrated, evidence-based, state-wide, targeted early intervention program for 9-14 year olds. It recommended that Brighter Futures should be extended progressively to provide services to children aged 9-14 years with priority of access to services for Aboriginal children and their families (recommendation 10.5b).

Establishment of a service model for vulnerable 9-14 year olds with priority access for Aboriginal clients is a long term action of *Keep Them Safe* (KTS) in response to this recommendation.

Community Services has examined the current evidence base on early intervention programs for vulnerable 9-15 year olds and identified a possible service model under which eligible children and families would receive voluntary, strengths based, flexible early intervention services tailored to meet their individual needs. Implementation is currently being considered by the Government.

## **Families NSW**

Families NSW is the NSW Government's whole of government population based prevention and early intervention strategy targeted for children aged 0-8 years and their families. Families NSW is the shared responsibility of three departments – Family and Community Services (Community Services; Housing; and Ageing, Disability and Home Care), NSW Health and DEC. The overarching outcome of Families NSW is that children, families and communities are healthier, safer and more resilient.

Families NSW is a universal population based prevention and early intervention program. The provision of prevention and early intervention services is based on the local population and identified regional priorities in Families NSW area s.

Possible sub-groups that may be targeted include:

- Children from disadvantaged communities
- Parents from disadvantaged communities
- Children from rural and remote communities
- Parents from rural and remote communities
- Children with a disability/special needs
- Parents with a disability/special needs
- Children from an Aboriginal/Torres Strait Islander backgrounds
- Parents from an Aboriginal/Torres Strait Islander backgrounds
- Children from Culturally and Linguistically Diverse backgrounds
- Parents from Culturally and Linguistically Diverse backgrounds
- Parents less than 18 years of age
- Parents aged 18-25 years

- Grandparents caring for children 0-8 years
- Male parents caring for children 0-8 years
- First time parents

To achieve its key objectives and ultimately, outcomes for all children, Families NSW regions fund organisations and agencies to deliver a range of prevention and early intervention initiatives to support children's development and promote lifelong health and wellbeing outcomes.

These core evidence based service models are known to be beneficial for children and families and also contribute to regional priorities and state wide results and objectives. They include Universal Health Home Visiting, supported playgroups, family workers, Schools as Community Centres (SaCCs), volunteer home visiting, parenting programs and a range of community capacity building and partnership and network activities focused on early literacy, transition to school and research and development.

### **Children and young people in out of home care**

There are more than 15,000 children and young people in out of home care (OOHC) in New South Wales. Research demonstrates that children and young people in OOHC tend to have poorer educational outcomes compared to the general population of children and young people. Many children and young people living in OOHC face a range of emotional, developmental and learning issues resulting from trauma from their experiences of abuse and neglect. These issues may manifest in poor academic performance, poor engagement with the school environment and with peers, and behavioural problems resulting in educational difficulties and exclusion. Children and young people in care are also likely to experience more changes of school or other educational institution, more suspensions, and more disruption to their schooling than their non-care peers.

The management of transitions in education for children and young people in care occurs within a complex policy environment. There is a significant overlap of statutory responsibility for this area, and many separate initiatives from Commonwealth, State, and non-government sectors impact on how transitions for children and young people in care between educational settings can be managed. Discussions about support students who are in OOHC at transitions in education stages should consider how stakeholders might work together to deliver positive outcomes for this cohort of children and young people.

In general, funding and availability of aftercare support is an issue impacting on the support provided to young people transitioning from OOHC. There is often a lack of funding and services to provide support, which means young people leaving care may not be provided with the level of support required to make the important transition from the care system into adult life. More flexibility in the "purchasing" of the leaving care services would provide more options for this group.

## **Support for education for children and young people in OOHC**

Recognising the need to improve the educational outcomes of children and young people in care, Community Services has recently signed a Memorandum of Understanding with DEC to implement Individual Education Plans for all children and young people in statutory OOHC. These plans are developed by the child or young person's school in consultation with the child or young person, their carer and caseworker, and are revised on an annual basis or when a child or young person changes school. OOHC Coordinator positions have been established in Community Services and Regional OOHC Coordinator positions have been created within the DEC to facilitate the implementation of these plans.

### ***Young people in care with high needs***

Young people in care who have with high needs in residential placements may exhibit a range of challenging behaviours or complex support needs, for example, behavioural issues, trauma following abuse and/or neglect, mental health issues, or substance abuse issues. Often there is a lack of available services and supports for these young people with complex needs. When they exit care at age 18 they may not be well prepared for adult life and require ongoing casework support.

### ***Young people who are pregnant***

Research indicates the rate of pregnancy among young women in OOHC is higher than for those growing up with their natural family. In Australia, young women who become mothers during their school years rarely complete high school, and many of these young women will be dependent on welfare. Their chance to access post-school training and secure stable, well-paid employment becomes more unlikely the longer they are disconnected from education.

Community Services ensures that young women in OOHC who are pregnant, or have a child, are allocated a caseworker to assist them access evidence-based early intervention services, which help to support and develop them. These services may include home visits, parenting groups and quality children's services. In addition, under leaving care planning, young parents in care are given priority to Brighter Futures early intervention services. Community Services supports the DEC policy strategy to prevent discrimination against students based on pregnancy, and acknowledges the valuable and innovative nature of schools-based young mothers programs.

### ***Leaving care at 18 years***

Education, training and employment goals are a focus during the transition from care. The *NSW Out-of-Home Care Standards* require planning for leaving care to commence by the time a young person reaches 15 years of age, or two years earlier if the young person has special needs.

*Your Next Step*, a resource for care leavers developed by Community Services, is distributed at the commencement of leaving care planning when a young person in statutory OOHC turns 15 years old, or two years earlier for young people with special needs. *Your Next Step* includes a section providing contact details for information on a range of school, TAFE and university pathways.

Community Services acknowledges the critical role that carers play in helping young people develop the life skills that will take them into adulthood. *Leading the Way* is a new resource for carers to help them assist young people gain life skills and manage expectations about living independently. *Leading the Way* includes a information on how to promote study skills, motivation, and tackling possible barriers to engaging in education and training.

*Youth Connections* is an Australian Government program that aims to support young people aged 11-19 years who are at risk of long term disengagement from study or training. The program has case management approaches designed to directly meet the needs of young people. It provides group work or referral to specialist services, and a more individualised and flexible response to need through regular and ongoing support. The benefit of the *Youth Connections* service model is that it addresses the broader issues that prevent learning, such as mental health issues and homelessness. The program is of particular benefit for young people in OOHC or who are leaving care.

Community Services has worked to encourage the referral of eligible young people in OOHC to their local *Youth Connections* service in circumstances where the young person may be disengaging from school.

Since 2010, Community Services has encouraged referral networks to *Youth Connections* services at a local level using a range of strategies, including presentations by *Youth Connections* workers at regional meetings. Community Services has also promoted the value of *Youth Connections* for young people in care and transitioning from care in publications for staff and carers, including its *Fostering Our Future* magazine.

As the Commonwealth has identified *Youth Connections* as a key plank for linking early school leavers who are facing significant non-vocational barriers with the Youth Allowance, it is Community Services' position that the program should be sufficiently funded to assist the OOHC and care leaver cohort as priorities.

### **Current research in OOHC**

The Special Commission of Inquiry into Child Protection Services in NSW identified that little research has been conducted in Australia into the education of children and young people in OOHC. In response, Community Services has begun a large scale prospective longitudinal study of children and young people aged 0-17 years who are entering OOHC for the first time. The overall aim of this study is to collect detailed information about the life course development of children placed in OOHC in NSW and the factors that influence their development, including educational attainment.

Cashmore, Paxman and Townsend (2007), in their four to five year follow-up of 41 young people who had left care in NSW, reported those young people were less likely to have completed their secondary schooling than others their age in the general population, and much less likely than their peers to be in full-time work and/or education four to five years later.

Community Services also funded an exploratory study examining the various transitions and factors within the home, school, and care and protection contexts that facilitate and impede educational engagement and achievement by children in care (Townsend, 2011 unpublished PhD). Case studies of children making the transition to high school ( $n = 56$ ), together with individual and focus group interviews with relevant adults in their lives ( $n = 187$ ), provided a rich understanding of the complex issues involved in improving the educational engagement and achievement of children in care.

Consistent with international findings, this study revealed that educational outcomes for children and young people in care in NSW were significantly below their non-care peers. Indigenous children in care were achieving significantly below their non-Indigenous peers in care, as well as Indigenous children not in care. Numeracy was a particular issue for many children and young people in care throughout their primary and secondary schooling. The findings also suggested that children who are behind academically when they enter high school, are unlikely to catch up. The children in the case studies reflected these more general findings.

Despite this, those children reported overall that being in care has had a positive impact on their education. Children were clear that to be actively engaged and learning they need to be in a stable environment, living in a nice, safe home with people who care about them and who supported their education. Children also indicated they need to attend a good school with teachers who engaged with them and treated them respectfully; and they need to have a supportive peer group. Because they experienced many changes, children's participation in decisions about change was very important to them. Children placed with siblings saw this as an important contributor to their educational progress.

Across all contexts of children's lives, adults particularly emphasised the importance of stability in placements, schooling and relationships in supporting children's education. Yet for many children, transitions are an inherent aspect of their care experience. The case studies show that by the time the children were in their first two years of high school, they had attended an average of 4.6 schools, had 5.5 placements and 3.4 caseworkers.

There are also a small group of young people in OOHC with extremely challenging behaviours as a result of abuse and neglect, some of whom also face the challenge of disability. These young people are very difficult to place in care. Highly specialised staff in small group homes are needed to care for them. Community Services is currently funding research to examine the most effective services and educational approaches for these young people.



## Housing NSW

### Relevant programs and services

The **Housing NSW Youth Scholarship Program** helps eligible young people living in social housing to complete their Higher School Certificate (HSC) or TAFE equivalent by providing a one-off payment of \$2,000 to be spent on educational related items. The Housing NSW Youth Scholarship Program is delivered in partnership with DEC, local NSW high schools and TAFE colleges.

<http://www.housing.nsw.gov.au/About+Us/Events/Housing+NSW+Youth+Scholarships+2012.htm>

Housing NSW is a partner agency in *Families NSW*.

Housing NSW is also a partner in *Keep Them Safe* and is the host agency for one of the Family Case Management Co-ordinators

[http://www.keepthemsafe.nsw.gov.au/new\\_systems\\_and\\_services/family\\_case\\_management](http://www.keepthemsafe.nsw.gov.au/new_systems_and_services/family_case_management)

Projects funded under the **NSW Homelessness Action Plan 2009-14** target young people, including those aged under 18. These include:

- Juniperina Housing and Support Project – for young women leaving custody
- South West Sydney Youth Hub - facilitates access to long term accommodation for 45 young people with lower needs as well as young people exiting correctional facilities. The project provides on-site accommodation and support services including links to education, training and employment. Scatter site accommodation is available for young people with high needs.

More information is available at:

<http://www.housing.nsw.gov.au/NR/rdonlyres/070B5937-55E1-4948-A98F-ABB9774EB420/0/NSWHomelessnessActionPlan.pdf#xml=http://www.housing.nsw.gov.au/hoogle9/isysquery/655139d4-81d6-4617-a806-039a605c0f8f/1/hilite/>

### 3.3 NSW Health

NSW Health works collaboratively with DEC in relation to a range of services supporting student health. NSW Health does not provide in-school support services for children with additional and/or complex needs. It offers expertise on health issues and advice to assist in the development of DEC policies, informing the way health issues may be managed and health care needs of students supported within the school education environment. Examples of policies developed in this manner include health issue management guidelines on issues such as allergies, anaphylaxis, or management of medication in schools.

Information about NSW Health activities and services that are relevant to school aged children (5 to 18 years) and their families are outlined below.

#### **Health Services in schools for children aged 5-18**

There is evidence that approaches to prevention and early intervention which address single issues do not produce the same magnitude of positive outcomes as broader multi-component strategies. Multi-component approaches have demonstrated greater effectiveness in addressing complex issues including bullying, aggressiveness, and risk taking behaviours including the use of alcohol and other drugs and tobacco.

It is NSW Health's view that programs aiming to address health issues in schools will have greater success if they are incorporated into an integrated model comprising curriculum components, inclusion in school policy, practices and routines, is promoted in behaviours, modelled in school activities and communicated to parents and the wider school community.

#### ***Health Promoting Schools***

Once the child enters formal schooling at around 5 years old the evidence suggests that health promotion programs offer greatest benefit for their health and wellbeing. Through the Health Promoting Schools approach, developed by the World Health Organisation, and promulgated via NSW Health's *Health Promotion with Schools* policy [http://www.health.nsw.gov.au/pubs/2000/pdf/hp\\_schools.pdf](http://www.health.nsw.gov.au/pubs/2000/pdf/hp_schools.pdf), the health of school children and the school community is a focus of teachers, parents and health staff throughout the year. The aim is to establish good health messages and behaviours for a lifetime. This approach results in a health service presence in the school over the entire year.

The philosophy of Health Promoting Schools includes schools involving health services in changing the culture in school around health promoting behaviours. Some of the specific issues which have been addressed in this context are:

- Immunisation
- Healthy eating (School Canteen strategies such as Fresh Tastes)
- NSW School Link Initiative (mental health promotion strategy)

- Nitbusters - head lice initiative
- Hand washing – basic infectious disease control
- Oral Health
- Injury Prevention
- Sun Protection
- Asthma management
- Mental health and wellbeing

#### ***School Based Vaccination Programs in NSW***

NSW Health works in partnership with education authorities to offer the vaccines recommended for adolescents by the National Health and Medical Research Council (NHMRC) in a school-based vaccination program. Details are available at

[http://www.health.nsw.gov.au/PublicHealth/Immunisation/school\\_prog/index.asp](http://www.health.nsw.gov.au/PublicHealth/Immunisation/school_prog/index.asp)

### **Working with families and children in the mental health sector**

It is likely that a majority of mental, behavioural and developmental disorders begin in childhood and adolescence. About 250,000 children and young people in NSW could be expected to have a mental health problem at any one time. There are also particular groups of children and young people who are vulnerable, given that they are at higher risk for mental health problems, including Aboriginal children and adolescents, children and adolescents involved with Juvenile Justice, those who are in out of home care, those with a parent with mental illness, and those with disabilities or chronic physical health problems.

If mental health problems are recognised and treated early, this may increase the chances of a better long-term outcome. However, in practice, professional help is often not sought at all or only sought after a delay. Early recognition and appropriate help-seeking will only occur if young people and their supporters (for example, teachers and friends) know about the early changes produced by mental disorders, the best types of help available, and how to access this help. This is why schools are seen by NSW Health as a key setting in terms of promoting the development of mental health and psychological resilience in children and young people.

#### ***School-Link Initiative***

The School-Link Initiative is a collaborative partnership between NSW Health and the DEC. School-Link has been established to address mental health issues for children and adolescents in NSW. The School-Link Initiative provides funding for School-Link Coordinators employed across the Local Health Districts. School-Link has three main areas of focus:

- assisting in strengthening formal and informal links between school and TAFE counsellors and mental health services;
- providing training programs for mental health workers and school and TAFE counsellors; and
- supporting the implementation of programs in schools for the prevention of our early intervention in mental health problems.

A major component of the School-Link Initiative has been the School-Link Training Program which has increased the capacity of school and TAFE counsellors to support the mental health needs of children and young people in schools.

### ***Got It! - Getting on Track in Time***

NSW Health has funded a new school based mental health early intervention program called Got It! - Getting on Track in Time. This program supports children in Kindergarten to Year 2. It aims to reduce the frequency and severity of conduct problems and prevent the development of severe behaviour problems. Got It! is a pilot Program in three Local Health Districts: Western Sydney, Hunter New England and Western NSW.

### **Working with families and children with complex needs in the drug and alcohol sector**

In 2010, a national workforce development survey conducted by the National Centre for Education and Training on Addiction (NCETA) in the drug and alcohol sector highlighted the need for drug and alcohol workers to become more aware of the importance of working with families and children. One of the key recommendations provided by NCETA is to expand the provision of education and training aimed at building the capacity of the drug and alcohol workforce to undertake child and parent-sensitive practice.

### ***The NGO Mental Health and Drug and Alcohol Family and Carers Project***

The NGO Mental Health and Drug and Alcohol Family and Carers Project, funded by the Mental Health and Drug and Alcohol Office aims to support the involvement of family and carers of clients with mental health issues who are accessing non government drug and alcohol services. Co-occurring mental health and drug and alcohol problems presents particular complexities when considering the need for support for children and families.

The Project has three main components: a toolkit for workers, training opportunities and a seeding grants program. Twenty two non government drug and alcohol organisations have been funded to conduct projects for up to one year that will improve support for family and carers.

### ***Drug and Alcohol Consultation Liaison Services***

Consultation Liaison services are a sub-specialty of psychiatry, and intended to provide direct access to specialist drug and alcohol services for support, treatment advice and assistance with the management of drug and alcohol related conditions in patients presenting at Emergency Departments. Drug and alcohol morbidity is common amongst these presentations yet frequently unidentified. This increases the risk of inappropriate treatment and management of patients.

Evidence suggests that Drug and Alcohol Consultation Liaison services may alleviate Emergency Department, reduce re-admissions due to re-injury and improve long term health outcomes via the provision of appropriate clinical care; management of substance use disorders; and referral to treatment services. Ultimately Consultation Liaison services improve health outcomes, reduce re-

admissions to Emergency Departments, and decrease the length of stay in inpatient wards.

The Mental Health and Drug and Alcohol Office provided funding for four years to trial enhanced Alcohol and Other Drug Consultation Liaison services in three Local Health Districts (LHD) which include the Children's Hospital Westmead, as well as Sydney South West LHD and Hunter New England LHD.

One of the objectives of this enhanced funding is to improve the health outcomes and treatment pathways for patients with drug and alcohol problems including young people. Others include:

- Improve Emergency Department performance indicators (i.e. reduce bed block) and improve hospital throughput.
- Increase the early identification of Emergency Department presentations (including young people) with drug and alcohol problems.
- Improve generalist staff knowledge of Consultation Liaison services and their capacity to identify and refer patients and young people with drug and alcohol problems to Drug and Alcohol services.

### ***Keep Them Safe: Whole Family Teams***

Keep Them Safe (KTS) Whole Family Teams are tertiary specialist health services targeting families who have drug and alcohol and/or mental health problems and where child protection concerns have been identified. Priority is given to referrals from Community Services and concern children and young people at risk of significant harm. Four teams have been established in NSW: Lismore - Northern New South Wales LHD; Newcastle - Hunter New England LHD; Gosford - Central Coast LHD and Nowra – Illawarra Shoalhaven LHD.

Whole Family Teams aim to reduce parental mental health and drug and alcohol issues, which have a negative influence on parenting capacity to the extent that children's safety and well-being becomes a significant concern. Families involved with statutory child protection services are commonly found to be facing an array of complex and compounding problems that include financial disadvantage, social isolation, domestic violence, drug and alcohol abuse and mental illness and/or psychiatric disability.

### ***Co existing cognitive impairment and problematic drug and alcohol use***

Cognitive impairment is a broad term used to describe impaired brain function. Cognitive impairment can be the result of a variety of injuries and/or medical conditions that can be present at birth or acquired later in life. Common causes of cognitive impairment include acquired brain injury (ABI) and problematic alcohol use, often referred to as alcohol related brain injury (ARBI). NSW Health is increasingly aware of the need to ensure that drug and alcohol treatment in NSW is adequately meeting the needs of those with a co-occurring cognitive impairment and problematic substance use.

## **Other services provided by NSW Health that may be relevant to children with additional and/or complex needs and their families at transitions**

There are a number of services available to children and young people that may offer a degree of support to clients or patients who are in this group. They include the following:

### ***Youth Health Services***

Youth health services are specialist services providing multi-disciplinary, primary health care to young people. Focusing on engaging disadvantaged young people, they deliver flexible and unique services to young people in relaxed and comfortable youth-friendly environments. Youth health services work in partnership with other government and non-government services.

Youth health services provide a range of entry-points and non-threatening services (such as creative arts, basic services such as showers and laundries, a drop-in service, sports and recreational facilities), which encourage young people to connect with the service on their own terms. They also provide informal links to other support services and sectors including education, housing, Centrelink and legal services, offering support to young people who are dealing with complex issues.

Youth health services understand the need to respond immediately to young people's requests for support and assistance and they share a common operating philosophy, which values social justice, equity, and a holistic view of young people's health and wellbeing.

### ***Sexual Health Services***

Sexual Health Services across NSW provide young people with free and confidential screening for sexually transmitted infections, treatment, support, counselling and referral to specialist adolescent services. Some Sexual Health Services have youth specific outreach clinics operating in partnership with other specialist youth services to provide holistic sexual health care to at-risk young people.

### ***Sexual Assault Services***

NSW Health has 55 Sexual Assault Services which provide onsite and outreach crisis and ongoing counselling, medical and forensic services, and support including court support to adult and child victims of sexual assault and non-offending family members. NSW Health Sexual Assault Services also participate in, and conduct, a range of activities in response to sexual assault including advocacy; community development, education and awareness raising; prevention; and professional training and consultation.

### ***Child Protection Counselling Services (CPCS)***

There are 17 Child Protection Counselling Services state-wide providing a range of therapeutic, counselling and casework services to children, young people and their families when physical abuse, emotional abuse, neglect or exposure to domestic violence has occurred within the family. Referrals to CPCS services are made by the Department of Human Services - Community Services, Joint Investigation Response Teams and the Children's Court to ensure access to services for those assessed as being at the greatest risk of harm. The most complex, serious cases are referred,

where often multiple risk factors co-exist. Some Services are also known as Physical Abuse and Neglect of Children Services (PANOC).

### ***NSW Health New Street Adolescent Services (NSAS)***

NSAS provides integrated, holistic therapeutic services for young people aged 10-17 years who have sexually offended, with priority given to those aged 10-14 years. The service aims to prevent child sexual abuse by providing a specialised, early intervention program to address the sexually abusive behaviours of young people, and assist young people change their sexually abusive behaviours before they become an entrenched and possibly life-long pattern. A direct service is also provided to families / carers to assist caregivers to promote and support responsible, appropriate behaviours and lifestyles for the young person.

### ***Community Health Centres***

Young people can also access services through Community Health Centres, which provide primary health care services to the entire community. While the services are not specifically aimed at young people, they include services that young people might access such as counselling, health promotion and allied health care.

### ***Health clinics in community-based youth services***

Many youth services also have medical clinics. The clinics aim to improve young people's access to General Practitioners, with an emphasis on reaching disadvantaged young people who are more likely to access community-based youth services. General Practitioners bulk bill their sessions or are paid by their Division of General Practice which means the services are provided at no cost to the young person. Some innovative systems have been developed which provide vouchers for medication, free pathology and free services from other specialist groups. Other clinics that may operate in youth services include Sexual Health Clinics or counselling services developed in partnership with mainstream health services.

### ***Aboriginal Medical Services***

Aboriginal Community Controlled Health Services, also known as Aboriginal Medical Services, provide culturally appropriate primary health care and health services to young people within the communities they serve, in keeping with the Aboriginal holistic definition of health.

## Appendix 1 Contributing agencies

### NSW Department of Education and Communities (DEC)

The NSW Department of Education and Communities connects all stages of education, from early childhood through to tertiary education. It also incorporates agencies, facilities and programs that provide support to targeted groups in the community.

The department's main portfolios are:

- Office of Education
- Office of Communities
- public schools
- TAFE and community education
- strategic relations and communication
- workforce management and systems improvement
- finance and infrastructure.

#### Education

The education department delivers high quality, internationally competitive public education and training, under the NSW Minister for Education. We promote lifelong learning, and aim to provide students with a smooth transition from school to work or further study, and from post-compulsory education and training to work or further study.

Our education starts from early childhood (preschools), through to the compulsory years of schooling (Kindergarten to Year 10), and senior secondary education leading to the award of the NSW Higher School Certificate (in Years 11 and 12).

Through our partnerships with the Commonwealth government we are improving the infrastructure of our schools and making the most effective use of developments in information technology.

The department provides TAFE NSW courses, migrant English programs, post-secondary art courses and advice to the NSW Government on higher education. We are also focused on addressing the training needs of industry and meeting the challenge of skills shortages in certain trades. Grants are distributed to adult and community education providers for the delivery of vocational training.

The department's Children's Services licenses, registers or grants approval to operate services for children from birth through to school age. These services, also called child care services or early childhood services include preschools, long day care, occasional care, mobile services, family day care, home-based care and child-minding in retail shopping centres.

#### Communities

Aboriginal Affairs NSW works with Aboriginal people, government agencies, and the private and community sectors to promote the interests of Aboriginal people in NSW and reduce the inequity they continue to experience as a result of colonisation.

The NSW Government is working in partnership with the Commonwealth Government and with Aboriginal communities to close the gap in educational Aboriginal disadvantage. This



commitment is reflected in the NSW State Plan and in Aboriginal Affairs NSW's plan *Two Ways Together*.

### **DEC Organisational chart**

<http://www.teach.nsw.edu.au/documents/hr/orgchart.pdf>

## **NSW Department of Family and Community Services (FACS)**

### ***Ageing Disability and Home Care***

Ageing, Disability and Home Care (ADHC) provides support and services to more than 1 million older people, people with disabilities and their carers in NSW.

ADHC works to keep families and children with a disability together by providing services that increase family wellbeing and strengthen family capacity. These services include early intervention, therapy, respite and intensive family support. *Stronger Together: a new direction for disability services in NSW 2006-2016*, has allocated more than \$40 million in its first five years to expand and improve the range and volume of resources that are available to families.

ADHC's clients include older people, people with a disability, their families and carers, who require services and support in areas such as:

- early intervention, skill development, therapy, and community participation;
- respite and support for carers;
- advocacy and information;
- personal assistance, and intensive in-home support;
- supported accommodation in the community and in specialist facilities.

ADHC is committed to ensuring that older people, people with disabilities and their carers are valued, lead independent lives and have the opportunity to participate fully in community life.

### ***Community Services***

Community Services is the leading community services organisation in NSW and the largest child protection agency in Australia. We work to promote the safety and wellbeing of children and young people and to build stronger families and communities. In particular, we help those who are vulnerable and most in need.

Community Services works to protect children, young people from risk of harm and to provide care for children and young people who are not able to live with their families.

We provide services across three key program areas – prevention and early intervention, child protection and out-of-home care.

The majority of these services are provided through our community partners such as non-government organisations and other government agencies.

Our core activities are to:

- help protect and care for children and young people and support their families
- provide and fund accommodation and support services for children and young people who need to live away from their families (foster care)
- fund and regulate adoption services
- fund support services to assist people who are homeless or at risk of homelessness

- help people separated from their families to trace their records
- coordinate services to meet the basic welfare and recovery needs of people affected by natural and other disasters.

More information about our services is available at:

[http://www.community.nsw.gov.au/about\\_us/our\\_services.html](http://www.community.nsw.gov.au/about_us/our_services.html)

## ***Housing NSW***

Housing NSW provides a range of housing solutions to meet the needs of today's community. Housing NSW provides safe, decent and affordable housing opportunities for those most in need so that they can live with dignity, find support if needed and achieve sustainable futures.

Housing NSW provides housing assistance to families with children and to individual young people aged 16 and over. Types of housing assistance include:

- Long-term subsidised rental housing (public, community or Aboriginal housing)
- Emergency and temporary accommodation
- Crisis accommodation
- Housing with support
- Assistance to access in order to sustain a tenancy in the private rental market, including Rentstart (provides financial assistance to low-income households renting in the private sector) tenancy guarantees, tenancy facilitation and the Private Rental Brokerage Service.

Housing NSW does not define the group 'children with additional and/or complex needs and their families'.

When clients apply for housing assistance, the social housing provider conducts an initial eligibility assessment to determine:

- Whether the client meets the eligibility criteria;
- The complexity and urgency of the client's needs; and
- The range of products for which the client may be eligible.

Applicants who have an urgent and ongoing housing need, and are unable to resolve in the private rental market, may be assessed for priority assistance. Housing NSW makes every reasonable endeavour to interview all clients with indicators of complex or urgent needs and may consider them for emergency temporary accommodation or priority assistance.

For more information, please see the Housing Pathways website:

[www.housingpathways.nsw.gov.au](http://www.housingpathways.nsw.gov.au)

## **NSW Health**

NSW Health works to protect, promote, maintain and improve the health of the people of NSW. NSW Health is currently being restructured with the Department of Health to become a smaller Ministry of Health. At present, in addition to the Department of Health, NSW Health comprises Local Health Districts, statutory health corporations and affiliated health organisations.

There are 15 Local Health Districts that are responsible for providing health services in a wide range of settings, from primary care posts in the remote outback to metropolitan tertiary health centres. Eight LHDs cover the Sydney metropolitan region, and seven cover rural and regional NSW. In addition, two specialist networks will focus on Children's and Pediatric Services, and Forensic Mental Health. A third network operates across the public health services provided by three Sydney facilities operated by St Vincent's Health: these include St Vincent's Hospital and the Sacred Heart Hospice at Darlinghurst and St Joseph's at Auburn

The Ambulance Service of NSW is responsible for the delivery of front line pre-hospital care, medical retrieval and health related transport.

Other public health organisations provide statewide or specialist health services:

- Justice Health
- Sydney Children's Hospital Network
- Clinical Excellence Commission

The Cancer Institute is a statutory body charged with substantially improving cancer control in NSW.

NSW Health has introduced a range of initiatives to help provide people with access to the health care they need and to reduce the impact of chronic disease, avoid ill health and live healthier lives. Information about these initiatives can be accessed at <http://www.health.nsw.gov.au/initiatives/index.asp> .

Across NSW, health funding for services for children with a disability or special needs largely focuses on early intervention. Allied Health services such as speech pathology, occupational therapy, physiotherapy and counselling are provided through both multidisciplinary teams or on a discipline basis, depending on the child's needs. Location, quantum of services available and accessibility vary significantly across NSW Health sites

## Appendix 2 Legislative context for education

### **The NSW *Education Act 1990***

The *Education Act 1990* provides that every child (that is, under the age 18 years) has the right to receive an education and it is the duty of the State to see that that education is of the highest quality.

The *Education Act* also provides that:

- a parent may enrol a child at any government school if the child is eligible to attend the school and the school can accommodate the child
- a child is, in any case, entitled to be enrolled in the local government school he or she is eligible to attend
- the Director-General of the Department of Education and Communities is to arrange for all school-age children in New South Wales to be eligible to attend a government school.

While a child's eligibility to attend a particular school can be subject to their satisfying certain criteria (for example, gender if it is a single sex school) or an enrolment direction under section 26H of the *Education Act*, government schools in New South Wales are by their nature inclusive and cater to a diverse range of students of varying ages, cultures, life experiences and abilities.

The *Education Act* makes it clear that every person concerned with the education of children should as far as is practicable or appropriate have regard to:

- assisting each child to receive his or her educational potential, promoting a high standard of education in government schools which is provided without discrimination on the grounds of sex, race or religion and encouraging innovation and diversity within and among schools (s.6(1)(b) and (c)).
- mitigating educational disadvantages arising from the child's gender or from geographic, economic, social, cultural, lingual or other causes, providing an education for Aboriginal children that has regard to their special needs and providing special educational assistance to children with disabilities (s.6(1)(e), (f) and (k)).
- providing opportunities for parents to participate in the education of their children and for Aboriginal families, kinship groups, representative organisations and communities to participate in significant decisions relating to the education of their children (s.6(1)(m) and (m1)).

The *Education Act* gives the Minister for Education the discretion to provide or arrange special or additional assistance for government school children with special needs such as children with disabilities or children who live in isolated or remote areas, children from a non-English speaking background, Aboriginal children, children who are disadvantaged by their socio-economic background and children with significant learning difficulties (s. 20(1)).

### **Common Law Duty of Care**

The State of New South Wales, acting through DEC, has a common law duty to take reasonable steps to protect students enrolled in government schools from risks that are reasonably foreseeable. This duty extends to taking reasonable care to prevent students

from injuring themselves, injuring others or damaging property. While its content will vary in accordance with the age, maturity and abilities of the individual student it applies to all students enrolled in a government school.

It is necessary in order to meet this duty of care to be able to demonstrate that systems are in place to identify risks and that steps have been taken to eliminate or control those risks.

A breach of the duty of care may result in an injury to a person or property and has the potential to lead to legal action.

### **NSW Occupational Health and Safety Act 2000 (OHS Act) and Occupational Health and Safety Regulation 2001 (OHS Regulation)**

This legislation provides the legal framework for securing the health, safety and welfare of persons at work. This is additional to the common law duty of care.

Under the OHS Act and the OHS Regulation the Department of Education and Communities has a duty as an employer to:

- ensure the health, safety and welfare at work of all its employees (s. 8(1))
- ensure that students are not exposed to risks to their health and safety while at school (s.8(2))
- identify hazards, assess any risks arising from that hazard and eliminate or control any reasonably foreseeable risk to health or safety (clauses 9-11, OHS Reg)
- provide information, training and instruction and consult with its employees so that they can contribute to the making of decisions affecting their health, safety and welfare at work (s.8(1)(d) and s.13).

The behaviour or support needs of a student with a disability may create risks to staff, the student himself or herself and/or other students that needs to be assessed and managed in accordance with OHS legislation. The need to assess and then eliminate or control those risks could have a direct impact on the way that services are provided.

A breach of the OHS legislation could result in the Department of Education and Communities being prosecuted by Work Cover NSW or a union.

When considering an employer's duty in the context of one such prosecution the Court held *"an employer's primary obligations ...must come down on the side of the best interests of the employees in providing them with a safe place of work"*<sup>12</sup>

The OHS Act and OHS Regulation will be repealed and replaced with the Work Health and Safety Act 2011 on 1 January 2011 as part of the process of harmonising occupational health and safety laws across Australia.

### **The Work Health and Safety Act 2011**

Under this Act the DEC will be required to ensure, so far as it is reasonably practicable, the health and safety of workers while they are at work in its business or undertaking. The DEC will also be required to ensure, so far as is reasonably practicable, that the health and safety of other persons is not put at risk from work carried out as part of its business or undertaking.

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<sup>12</sup> Work Cover Authority of NSW (Inspector Stewart) v the Crown in the Right of NSW (2002) NSWIRComm 259 at paragraph [46]

What is reasonably practicable in relation to a duty to ensure health and safety means that which is, or was at a particular time, reasonably able to be done in relation to ensuring health and safety taking into account and weighing up all relevant matters including:

- the likelihood of the hazard or risk concerned occurring; and
- the degree of harm that might result from the hazard or the risk; and
- what the person concerned knows or ought reasonably to know about the hazard or risk and the ways of eliminating the risk; and
- the availability and suitability of ways of eliminating and minimizing the risk; and
- after assessing the extent of the risk and the available ways of eliminating or minimizing the risk, the cost associated with available ways of eliminating or minimizing the risk including whether the cost is grossly disproportionate to the risk.

### **NSW Anti-Discrimination Act 1977**

The NSW Anti-Discrimination Act 1977 (the ADA) prohibits unlawful discrimination on the grounds of race and disability amongst other things.

*It is acknowledged that 'non-discriminatory access to ... education is an important predictor of capacity to participate in other areas of public life, such as the world of work. Education perhaps more than any other area of public life covered by anti-discrimination statutes has the power to inculcate and reinforce social values of equality, tolerance and harmony. In this context, complaints of unlawful discrimination in the area of education have a particular importance, in part because... they are generally brought by and on behalf of children and young people, who are inherently vulnerable under the law'.<sup>13</sup>*

#### *Racial discrimination under the ADA*

A school would be found to have discriminated against a student on the grounds of the student's race if, because of his or her race, the school treats the student less favourably in the same circumstances or circumstances which are not materially different, than it would treat a student of a different race.

A school may also be found to have discriminated against a student on the grounds of his or her race if it requires:

- a student to comply with a requirement or condition with which a substantially higher proportion of students of a different race comply or are able to comply;
- where the condition or requirement is unreasonable having regard to the circumstances of the case; and
- the student can't comply with that condition or requirement (s.7(b)).

#### *Racial discrimination in the Education context*

It is unlawful for a school to discriminate against a student on the grounds of his or her race by refusing to enrol them, in the terms on which it is prepared to admit him or her as a student, by denying them access or limiting their access to a benefit provided by the school or expelling the student.

Nothing in the ADA applies to anything done to provide persons of a particular race with facilities or services or opportunities to meet their special needs or to promote equal or improved access for them to facilities (s.21).

#### *Disability Discrimination under the ADA*

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<sup>13</sup> Rees N, Lindsay K, Rice S *Australian Discrimination Law* p421 (Federation Press, Sydney, 2008)

The ADA prohibits unlawful discrimination against a person because of their own or their relatives or an associate's disability.

Disability is broadly defined in the ADA (s.4(1)) and includes a total or partial loss of a person's bodily or mental functions, the presence of organisms in the body capable of causing illness or disease, a disorder or malfunction that results in a person learning differently from a person without the disorder or malfunction, or a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour. It includes past, present, future and presumed disability (s.49A)

A school may be found to have discriminated against a student with a disability if on the grounds of the student's disability the school (s.49B):

- treats the student less favourably than in the same circumstances, or circumstances which are not materially different the school would treat a student without a disability; or
- requires the student to comply with a requirement or condition with which a substantially higher proportion of students who do not have that disability comply or are able to comply being a condition or requirement that is not reasonable having regard to the circumstances of the case and with which the student does not comply.

#### *Disability Discrimination in the Education context*

It is unlawful for a school to discriminate against a student on the grounds of disability by refusing or failing to accept his or her application for admission as a student or in the terms on which it is prepared to admit him or her as a student.

It is also unlawful for a school to discriminate against a student on the ground of disability by denying him or her access, or limiting his or her access, to any benefits provided by the school, expelling him or her or subjecting him or her to some detriment.

#### *Defences of unjustifiable hardship and acts taken in compliance with other legislation*

The ADA provides a defence of unjustifiable hardship to a complaint of disability discrimination in certain circumstances (s.49C).

In determining what constitutes an unjustifiable hardship all relevant circumstances of the particular case are taken into account including the nature of the benefit or detriment likely to accrue or be suffered by any persons concerned, the effect of the disability of the person concerned and the financial circumstances and estimated amount of expenditure required to be made by the person claiming unjustifiable hardship.

Section 54 of the ADA provides that something done by a person to comply with a requirement of any other legislation will not be unlawful.

### **Child Protection Legislation**

The Children and Young Persons (Care and Protection) Act 1998 (the Care and Protection Act) has been amended to facilitate the provision of services to children and young persons by agencies that have responsibilities relating to the safety, welfare or well-being of children or young persons.

Section 245A of the Care and Protection Act makes clear that such agencies:

- should be able to exchange information that is relevant to the provision of those services to children and young people;
- should take reasonable steps to coordinate the provision of those services with such other agencies and work collaboratively in a way that respects each other's functions and expertise;
- should communicate with each other so as to facilitate the provision of services to children and young persons and their families

Section 245 (2)(d) of the Care and Protection Act states that because the safety, welfare and well-being of children and young persons are paramount the need to provide services relating to the care and protection of children and young persons and the needs and interests of children and young persons take precedence over the protection of confidentiality or an individual's privacy.

### **Impact of State and Commonwealth Privacy Legislation on the education of students**

Government schools in NSW are not covered by the Commonwealth Privacy Act 1988 but are instead subject to the *Privacy and Personal Information Protection Act 1998* (the PIPPA) and the *Health Records and Information Privacy Act 2002* (HRIPA).

Both these Acts contain information protection principles that specify how a government school should collect, use, disclose and store information.

In government schools information is used when it is provided to another employee of DEC. It is disclosed when it is provided to someone outside of DEC.

A government school that holds personal information about a student must not use that information for a purpose other than that which it was collected unless:

- the student consents
- the use is for a purpose that is directly related to the reason the information was collected in the first place
- the use of the information is necessary to prevent or lessen a serious or imminent threat to the life or health of the student.

A government school that holds information must not disclose that information unless the disclosure is directly related to the reason the information was collected originally and the agency disclosing the information has no reason to believe the student would object, the student is aware that information is usually disclosed in those circumstances or the school believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to life or health of the individual concerned.

It is important to understand that the PIPPA and the HRIPA both provide that it is not necessary to comply with the restrictions on use or disclosure of information in circumstances where non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law. Information exchanged under the Children and Young Persons (Care and Protection) is an example of use or disclosure of information permitted under any other Act.

Both Acts also contain other exemptions (for example where information is disclosed for law enforcement purpose) and the PIPPA provides that action can be taken by a public sector agency where authorised under a Privacy Code of Practice. The Attorney-General has approved of a Privacy Code of Practice for the Office of Education.



A breach of the PIPPA or HRIPA can give rise to a complaint in the Administrative Decisions Tribunal or in limited circumstances to a prosecution in the Local Court.

## **Commonwealth Discrimination Legislation**

Commonwealth Discrimination legislation such as the *Racial Discrimination Act 1975* (the RDA) and the *Disability Discrimination Act 1992* (the DDA) impose legal obligations duties on schools.

### *Racial Discrimination Act 1975*

It is unlawful for a school to do any act involving a distinction, exclusion, restriction or preference based on a student's race, colour, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise on an equal footing, of any human right or fundamental freedom by that student.

It is also unlawful for a school to require a student to:

- comply with a term or condition which is not reasonable having regard to the circumstances of the case
- where the student does not or cannot comply with the condition and the requirement
- the requirement to comply has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise on an equal footing by persons of the same race, colour, descent or national or ethnic origin as the person of any human right or fundamental freedom (s.9 RDA)).

### *Definition of "disability" in the Disability Discrimination Act 1992*

The term disability is broadly defined in the DDA. It includes a total or partial loss of a person's bodily or mental functions, the presence in the body of organisms causing disease or illness, a malfunction, malformation or disfigurement of a part of the person's body, a disorder or malfunction that results in the person learning differently and a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour<sup>14</sup>.

A disability that is otherwise covered by this definition includes behaviour that is a symptom or manifestation of the disability (s.4 DDA).

### *Direct Discrimination (s.5 DDA)*

Under the DDA a school will directly discriminate against a student on the grounds of the student's disability if:

- because of the student's disability, the school treats, or proposes to treat, the student less favourably than a student without a disability in circumstances that are not materially different would be treated
- the school does not make or proposes not to make reasonable adjustments for the student and the failure to make the reasonable adjustments has, or would have, the effect that the student is, because of his or her disability, treated less favourably than a person without the disability would be treated in circumstances that were not materially different.

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<sup>14</sup> Section 4, DDA

### *Indirect Disability Discrimination (s.6 DDA)*

For the purposes of the DDA a school discriminates against a student on the grounds of the student's disability if:

- the school requires or proposes to require the student to comply with a requirement of condition that is not reasonable having regard to the circumstances of the case
- because of the disability the student does not or would not comply, or is not able to comply with the requirement and condition
- the requirement or condition has, or is likely to have, the effect of disadvantaging persons with the disability.

A school will also be found to have discriminated against a student on the grounds of his or her disability where:

- the school requires or proposes to require the student to comply with a requirement or condition that is not reasonable having regard to the circumstances of the case
- because of the disability the student would comply, or would be able to comply, with the requirement or condition only if the school made reasonable adjustments for the student but the school does not do so or propose to do so
- The failure to make reasonable adjustments has, or is likely to have, the effect of disadvantaging persons with the disability.

What constitutes a reasonable adjustment will be determined by the individual student's needs and the surrounding circumstances but it could include modifications to equipment, furniture or learning spaces, access to technology or alternative teaching and learning strategies.

### *Discrimination in Education under the DDA (s.22)*

It is unlawful for a school to discriminate against a student on the grounds of his or her disability by:

- refusing or failing to accept his or her application for admission as a student or in the terms or conditions on which it is prepared to admit him or her as a student
- denying him or her access or limiting his or her access to any benefit provided by the school or expelling the student or by subjecting the student to any other detriment
- developing curricula or training courses having content that will either exclude him or her from participation or subject him or her to any other detriment or by accrediting curricula or training courses having such content.

### *Unjustifiable Hardship in the DDA*

Section 29A of the DDA provides that it is not unlawful to discriminate against a student on the grounds of his or her disability if avoiding the discrimination would impose an unjustifiable hardship on the school. Under section 11 of the DDA the school will have to prove the unjustifiable hardship defence.

When determining whether or not something constitutes an unjustifiable hardship the court will determine all relevant circumstances of the case including<sup>15</sup>:

- the nature of the benefit or detriment likely to accrue to, or be suffered by the student;

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<sup>15</sup> Section 11(1), DDA

- the effect of the disability on any person concerned; and
- the financial circumstances and estimated amount of expenditure required to be made by the school and the availability of financial and other assistance to the school.

Unjustifiable hardship under the DDA can be claimed both at point of enrolment and after the student has started to attend school.

### **Disability Standards for Education (2005)**

The Commonwealth Attorney-General issued disability standards for education pursuant to section 31 of the DDA on 17 March 2005. Section 32 of the DDA makes it unlawful to contravene a disability standard.

The Disability Standards for Education (2005) (the Standards), which apply to all schools, cover enrolment, participation, curriculum development, accreditation and delivery, student support services and the elimination of harassment and victimisation. The Standards require a school, amongst other things, to take reasonable steps to ensure:

- the prospective student is able to enrol and participate in a school on the same basis as a prospective student without a disability and without experiencing discrimination
- a course or program is designed in such a way that the student is, or any student with a disability is, able to participate in the learning experiences (including the assessment and certification requirements) of the course or program
- the student is able to use existing support services or take reasonable steps to arrange for the support service to be provided by another agency.

The Standards also require consultation takes place with a student or an associate of a student about reasonable adjustments, for a decision to be made about whether or not reasonable adjustments are necessary to ensure that a student is able to enrol, participate or use services and for reasonable adjustments to be made.

The Standards also describe measures that if implemented will demonstrate compliance with a school's legal obligations.