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INQUIRY INTO CHILD PROTECTION

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SUBMISSION BY SOUTHERN YOUTH AND
FAMILY SERVICES TO NSW SENATE INQUIRY
INTO CHILD PROTECTION

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ABOUT SOUTHERN YOUTH AND FAMILY SERVICES

Southern Youth and Family Services (SYFS) is a not-for-profit medium-sized community based organisation that has developed over the past four decades in the Illawarra, Shoalhaven, and Southern Tablelands areas.

SYFS has the principal purpose of relieving the poverty, misfortune and distress of children and young people who are disadvantaged, and their families. This includes children and young people who are homeless or at risk of homelessness, abused and/or neglected, placed in the care of the State, and/or involved with the criminal justice system. SYFS is the largest provider for these cohorts in these areas.

The SYFS integrated service model combines almost \$17 million in mainstream and specialist funding annually from nine different NSW and Australian Government Departments, with its own philanthropic and self-funded services. This includes the SYFS Social Enterprise which operates a café, gym, cleaning / property maintenance business; and rents training rooms, offices, and conference facilities to local community and business groups. SYFS is also a registered Class 2 Community Housing Provider with over 180 properties, which compliment its range of crisis, transitional and long-term accommodation options, making it the largest specialist youth social housing company in Australia.

SYFS deliver more than 50 different services through six main program areas:

- Accommodation and Housing Services
- Out of Home Care Services
- Youth Outreach Support Services
- Family Support Services
- Youth Health Services
- Youth Employment, Education and Training Services

SYFS integrated service model provides a comprehensive “wrap around” response that values the developmental / cultural needs of children and young people and the importance of therapeutic interventions. SYFS aim to restore children and young people to their families (where safe to do so) or achieve a graduated move to independence (coupled with family reconciliation).

In 2015-16 SYFS received 7,628 referrals for support for children and young people. From these referrals SYFS provided substantial support to 3,752 children and young people. Additionally 1,675 children and young people received family relationship support and 13,340 instances of short term support were provided. Approximately 22% of all SYFS clients were Aboriginal and 13% were from Cultural and Linguistically Diverse (CALD) backgrounds.

SUMMARY OF PRIORITIES

- 1. More funding for models, which support the move to Semi-Independent and Independent Living up to the age of 24 years.** It's unreasonable to expect that young people in Out of Home Care (OoHC) – particularly those in Residential OoHC - should be discharged at the age of 16 or 18, with little or no financial / social support, and poor prospects for employment / stable accommodation upon exit. Indeed longer support and more services are currently available for homeless young people. SYFS recommend the development and funding of more models for Semi-Independent / Independent Living (coupled with family reconciliation). These models should be valued as a stable pathway for young people (as opposed to guardianship or adoption). This recommendation should be supported by a conscious blurring of the boundaries between models of Semi-Independent Living and After Care Support so that young people can be properly supported up to the age of 24 years if required until they develop the skills to become independent. New funding should be connected to the NGO that has been providing care as they would already have knowledge of the young person and relevant relationships. To maintain continuity the graduation through OoHC Residential Care to Semi-Independent and After Care Support must be connected and linked, not delivered through separate NGOs. Success of this recommendation would depend on a shift in legislation, which currently limits the provision support for Semi-Independent Living until the age of 18 years, and which separately defines the provision of After Care Support. Residential OoHC providers who have demonstrated success in this area should also be funded to pilot / expand services currently available.
- 2. Expand the definition of permanency to include 'placement stability' and 'semi-independent / independent living'.** A key difference between the OoHC reforms in NSW and other jurisdictions is that the concept of 'permanency' has been conflated with 'legal permanency' and quite narrowly defined to mean adoption or guardianship. NSW has only focused on creating and supporting new pathways to legal permanency (e.g. removing barriers to adoption and introducing a new long-term guardianship order). SYFS view is 'permanency' can be achieved through multiple types of care and should not exclusively refer to legally permanent arrangements. It can be achieved by supporting the birth family to achieve 'placement stability', or in OoHC, through models of Semi-Independent and Independent Living. The development of trusted long-term relationships by children and young people with staff and significant others (combined with family reconciliation) and stability in education, training, or some form of community engagement are also key determinants. Stability can be facilitated by better training, support, matching, and monitoring of staff in Foster / Residential OoHC and by involving young people in decision-making – irrespective of placement type or legal status of the child / young person. As a general comment SYFS view is that more investment should be targeted towards 'placement stability' in all forms of OoHC rather than just adoption / guardianship.
- 3. Reduce duplication between the NSW Department of Family and Community Services (FACS) and the Office of the Children's Guardian (OCG).** The sector has significant concerns about governance and the way in which risk, quality, and contract management of OoHC is managed in NSW. The current system is characterised by significant duplication and over-regulation and a distinct lack of clarity between the role of FACS as a contract manager and the role of the OCG as an accreditor of OoHC. SYFS clear view is that FACS

should concentrate on its role as contract manager and let the OCG focus on accreditation and the development of relevant quality systems and standards. SYFS therefore do not support the introduction of the Quality Assurance Framework (QAF) by FACS and believe any work on accreditation and the development of relevant quality systems and standards should be led by the OCG to reduce duplication and avoid more work red-tape for NGOs.

4. **FACS must better manage and resource the risk it has transferred to the Community / NGO sector.** Little work has been done to quantify the risk transferred by FACS to the Community / NGO sector when significant changes are made to policy and practice. Extra risk carries extra burden and requires more resources to manage/mitigate its impact. However, this is seldom recognised by FACS. Risk has shifted in two main ways (1) by increasing the threshold of 'Risk of Significant Harm' (ROSH) to limit the number of children entering OoHC; and (2) taking a risk-averse approach to intervention once ROSH has been confirmed (e.g. pursuing matters in the Children Court and placing children and young people in OoHC rather than working directly with the family to achieve restoration/placement with family/kin). Risk is shifted because FACS chooses not to intervene, or does intervene but then leaves the difficult task of restoration / reconciliation / permanent placement with NGOs once the child has been removed. SYFS do not believe it is reasonable to expect NGOs to achieve outcomes when FACS itself is reluctant to provide critical support to help manage/mitigate risk or has been unable to achieve an outcome managing the case itself. SYFS recommend the sector be properly resourced to manage/mitigate all risk and has evidence based practice in place which could be scaled up to this end. SYFS would welcome members of the Committee to visit its service to confirm what is required.
5. **Develop a separate strategy to address Aboriginal over-representation in reports of child abuse / neglect and OoHC.** The continued increase in the number of Aboriginal children and young people in OoHC in NSW indicates a systemic failing to support at-risk families and prevent Aboriginal children escalating within the NSW child protection system. In particular, the policy approach in NSW has not acknowledged the structural factors that predict Aboriginal children in OoHC such as social disadvantage, and the compounding effect of intergenerational trauma, and past poor practices of child removal. Victoria has invested in a complementary plan for Aboriginal children that identifies specific actions to address the over representation and improve outcomes in OoHC. It is recommended that a separate NSW strategy be developed with Aboriginal communities and the sector.
6. **SYFS believe that the groups aged 13-16 who are at risk and cannot go home are most vulnerable and require critical attention.** A greater allocation of funding and resources is required for intensive, targeted prevention and early intervention programs to prevent and reduce the number of children in this cohort from becoming homeless and living itinerant lifestyles characterised by service system neglect. Many children and young people in this cohort tend to experience repeated trauma whilst classified as 'at risk' until their situation escalates and they are classified as ROSH. They ultimately enter OoHC however by this point their health, well-being, relationships, behaviour, and engagement with community have broken down and significant long term support is required to make amends.

SUMMARY OF RECOMMENDATIONS

That the NSW Senate Inquiry into Child Protection:

1. (a) Review the level at which ROSH is set to ensure adolescents with high needs are properly identified / supported by the child protection system; (b) ensure the Community / NGO sector is properly resourced to manage/mitigate risks associated with children and young people classified as “at risk”; (c) ensure the Community / NGO sector is properly resourced to manage/mitigate the risk in determining / sustaining appropriate placements for children and young people in OoHC; and (d) recommend FACS Caseworkers increase their role managing/mitigating risk by shifting their focus away from legal responses to more direct work with families and the sector as per the ‘FACS Practice First’ initiative.
2. Examine the validity, reliability, and alignment of the CAT rating, vacancy management, and contract management systems. This should include a review of historic practices in each District, the transparency of transactions, and the impact on vacancies / flow of children between Foster and Residential OoHC. More generally SYFS would assert the aim to ensure that children’s safety, care and development needs are met is often compromised for the sake of demand pressures, enforced by the FACS Vacancy Management System.
3. Seek to understand why NSW has such a high proportion of children in OoHC compared to other jurisdictions. This is estimated at approximately 8,000 more children and young people in OoHC in NSW compared to Victoria. Analysis should identify which children in OoHC could be targeted for restoration with family/kin. Analysis should also inform the development of a risk assessment / process to facilitate restoration with family/kin.
4. (a) Consider how NSW achieved such a low proportion of children and young people in Residential OoHC (by national / international comparison) and determine what would be a reasonable level in future; (b) consider how the cost of living in NSW impacts Residential OoHC costs compared to other jurisdictions. This should factor advice from the Australian Productivity Commission to adjust for any differences in how OoHC is costed across jurisdictions; (c) streamline the approach to funding Residential OoHC by using one level for “General” and “Intensive” OoHC. This should be developed in consultation with the sector.
5. Recommend more funding for Residential OoHC to support the transition to Semi-Independent and Independent Living. This should be supported by a conscious blurring of the boundaries between models of Semi-Independent-Living and After Care Support so that young people are supported up to the age of 24 years if required until they develop the skills to become independent. New funding should be connected to the NGO that has been providing care as they would already have knowledge of the young person and relevant relationships. To maintain continuity the graduation through OoHC Residential Care to Semi-Independent and After Care Support must be connected and linked, not delivered through separate NGOs. This should also be supported by priority access to complementary services, which facilitate social/living skills, housing, health, education, training, employment, and community engagement.
6. Recommend the development of new models for Intensive Foster Care include (a) Semi Independent / Independent Living; (b) advice from the report titled “Housing for Youth Ageing Out of Foster Care” commissioned by the U.S. Department of Housing and Urban Development in 2014; (c) consideration of age, behavioural issues, and time in care.

7. Recommend (a) the concept of 'permanency' in NSW is expanded to include 'placement stability'; (b) more investment is targeted towards all models of OoHC (including Semi-Independent and Independent Living) that deliver 'placement stability'; (c) more resources, training and supports are provided to promote 'placement stability' across all forms of OoHC (including Residential OoHC); (d) a cost-benefit analysis is undertaken to assess the legal/administrative cost (including the time of FACS caseworkers) to achieve "legal permanency" as opposed to "placement stability".
8. Note (a) the failure to recruit and retain appropriately skilled Carers, as more complex children come into OoHC in NSW, has led to more placement instability and poor outcomes; and (b) the urgent and continuing need to recruit, train, and support more Foster Carers until the number of adoption / guardianship orders increase.
9. Recommend any work on accreditation and the development of relevant quality systems and standards for OoHC be led by the OCG to reduce duplication with FACS and avoid more work red-tape for NGOs. The QAF as put forward by FACS will not provide logic and coherence in the areas of risk, quality, and contract management. This will come from better clarifying the roles of FACS and the OCG. FACS should limit its role to contract manager.
10. Recommend the reform agenda for Aboriginal OoHC in NSW be considered separately from general OoHC and a completely new strategy developed in partnership with Aboriginal communities and the sector. This strategy should consider how generic youth services like SYFS that provide valuable support for a significant proportion of Aboriginal young people, continue to deliver and enhance such services.
11. Recommend a greater allocation of funding and resources is provided for intensive, targeted prevention and early intervention programs for children and young people aged 13-16 who are at risk and cannot go home. Many children in this cohort become homeless and live itinerant lifestyles characterised by service system neglect. They often experience repeated trauma whilst classified as 'at risk' until their situation escalates.
12. Recommend competitive tendering is not used as the preferred procurement option in Human Services and that the NSW Government broaden its approach to consider other forms of procurement (e.g. renewable funding based or direct negotiation).
13. Note a lot of energy is focused on initiating new reforms in Human Services in NSW, which are not properly justified or finished. No consideration is given to the waste in resources and the fatigue caused to NGOs through this overlap. It is recommended the NSW Department of Premier and Cabinet registers / closely monitors all major reforms in NSW Human Services and develops principles to streamline their occurrence, ensure consultation is fully inclusive, and ensure adequate time is given to planning and the implementation.
14. Seek more clarity from FACS to define what reforms are planned for Government-operated services within the next 5-10 years to ensure a two-tiered system does not evolve for children in NGO and Government-operated placements.

A) CAPACITY AND EFFECTIVENESS OF SYSTEMS, PROCEDURES AND PRACTICES TO NOTIFY, INVESTIGATE AND ASSESS REPORTS OF CHILDREN AND YOUNG PEOPLE AT RISK OF HARM

The transfer of risk by the NSW Department of Family and Community Services (FACS) to the Community and/or Non-Government Organisation (NGO) sector is a key issue that requires examination as part of this Inquiry. This risk is not recognised by FACS as a burden (nor funded appropriately) and has been shifted in two ways:

1. By increasing the threshold of 'Risk of Significant Harm' (ROSH) to limit the number of children entering OoHC (e.g. children who are homeless aged 13-16 years who are considered to be "almost 16"). Many end up in unsatisfactory / unstable situations or the small number of Specialist Homelessness Services (SHS) crisis services. Providers like SYFS can waste up to a year going back and forth to get involvement from FACS for a child at risk of harm, and when it eventually happens, their needs have typically escalated, because the child was exposed to more significant trauma.
2. By taking a risk-averse approach to intervention once ROSH has been confirmed (e.g. pursuing matters in the Children Court rather than working directly with the family to achieve restoration/placement with family/kin). Risk is shifted because the difficult task of restoration/reconciliation/permanent placement is left with NGOs.

SYFS do not believe it is reasonable to expect NGOs to achieve outcomes when FACS itself has declined to manage/mitigate risk or been unable to achieve a placement managing the case itself.

SYFS understand there is no easy solution to these issues and appreciate FACS has been heavily criticised in the past for decisions when this line was unclear. However SYFS do not believe the current approach to risk management properly acknowledges the risk borne by the Community / NGOs. SYFS would recommend the sector be properly resourced to deliver on these outcomes. SYFS have evidence based practice in place which could be scaled up to this end and would welcome members of the Committee to visit its service to confirm what is required.

Recommendation (1): That (a) the Inquiry review the level at which ROSH is set to ensure adolescents with high needs are properly identified and supported by the child protection system; (b) the Community and NGO sector is properly resourced to manage/mitigate the risks associated with children and young people currently classified as "at risk"; (c) the Community and NGO sector is properly resourced to manage/mitigate the risk in determining and sustaining appropriate placements for children and young people in OoHC; and (d) FACS caseworkers increase their role managing /mitigating risk by shifting their focus away from legal responses to more direct work with families and the sector as per the 'FACS Practice First' initiative.

B) THE ADEQUACY AND RELIABILITY OF THE SAFETY, RISK AND RISK ASSESSMENT TOOLS USED AT COMMUNITY SERVICE CENTRES

FACS has established an internal assessment and closed referral system for children and young people in OoHC. FACS assesses clients using the Client Assessment Tool (CAT) and makes referrals to relevant NGOs. FACS also decides when a CAT assessment can be re-categorised to provide more support (and more funding) and when an exception can be granted to a NGO.

SYFS have some good examples of where the CAT has been re-categorised through discussion and consultation with FACS. SYFS have also experienced issues with the system and would like to see greater consistency and transparency in its operation. In particular, SYFS have experienced situations where the CAT has been inappropriately applied because of funding / service type restrictions rather than the needs of the young person. For example, it is commonly assumed that a 13-year-old moving from Foster to Residential OoHC should be classified as "General" not "Intensive". This is not the case because of the younger age of the child and the concomitant need to provide 24-7 supervision. CAT assessments should have flexibility to rate all children under 16 years of age as "Intensive" Residential OoHC.

The use of 'over-ride' rather than re-categorisation is another issue for the CAT rating system. SYFS have supported children who were previously in Foster Care but this classification was "over-ridden" so they could be placed in Residential OoHC. However, 'over-ride' means the rating is never officially changed. After some time, if the child is proven to be "Intensive" FACS are reluctant to re-categorise the child because it equates to a step up in rating from "Foster Care to "Intensive Residential OoHC" - which is two rather than one step.

These issues are compounded by problems with the validity of the CAT tool, its relationship to pricing structures, the reliability of its application, and differences in the rationale used by Districts to re-categorise CAT ratings. SYFS appreciate this is a complicated issue and it should not be treated as an exact science. The main issue observed by SYFS is consistency, transparency, and maintaining flexibility to re-categorise quickly when children are moving between services.

These concerns do however cast doubt over two statistics commonly cited by FACS: (1) 22% of children in Residential OoHC should be in Foster Care; and (2) the Out of Home Care system carries up to 30% of vacancies at any point in time. To understand this better, two key points in the assessment, referral, matching process require examination:

Initial Placement: NGOs are contracted to accommodate and support a mix of clients with different needs. Many problems have arisen as part of the local bidding / matching process conducted by FACS when Districts are desperate to place a child. Typically, a child's assessed needs do not match the type of placements a NGO has available (and is contracted by FACS to provide). To ensure the child is placed, FACS and NGOs often come to an agreement about how to re-categorise the needs of the child (and the funding level) to facilitate placement. To ensure the NGOs contract requirements are not compromised the child's support needs are temporarily upgraded / downgraded to match a contracted placement. As a consequence, NGOs who choose to manage their placements transparently are disadvantaged and end up operating more vacancies.

Re-Placement: As noted above, the temporary re-categorisation of ratings has become commonplace at initial placement. It is also used commonly when a placement breaks down (this includes the classification of exceptions). Re-categorisation in this context has become an integral part of the FACS assessment and placement culture and is characterised by ad hoc decisions, made arbitrarily across Districts. These decisions are not subject to any form of review and have left the system open to manipulation. It is suggested that this practice has been partly responsible for the flow of children whose assessed needs have increased from Foster Care / Intensive Foster Care to Residential OoHC / Intensive Residential OoHC. The same can be said about some NGOs who claim to have stepped down the support needs of many children when the initial assessment was higher than it should have been. This culture extends to the approval of exception placements.

Below are other examples:

Example 1: There is no justification why a CAT rating of 5 or 6 means that a child should be placed in Residential OoHC. Urgent review of this assumption is required if more scope is to be given to the development of models for Intensive Foster Care. Children with this rating may be more suited to Foster Care however the rigidity of the assessment and matching processes and the paucity of alternate models prevent this from happening. For SYFS, the provision of intensive outreach responses outside a Residential OoHC model is currently delivered through its Specialist Homelessness Services (SHS). More flexibility is required to address this issue.

Example 2: There is no evidence to support the automatic requirement by FACS to step-down support over a given period of time. The re-categorisation of client need should be subject to clinical review - not a mandatory policy requirement. Perpetuating this policy creates another situation where Districts must re-categorise a child's needs for administrative purposes. Consideration should be given to whether the step down policy is in the best interest of children or simply a budget saving strategy.

More generally SYFS would assert the prevalence of a 'bed availability driven' system forces providers' to accept placements that may not be suitable for the child or young person, particularly in Residential OoHC. Residential OoHC providers are too often pressured into accepting placements that do not take appropriate account of a child or young person's stage of development, gender, mental health, behavioural tendencies and their overall potential to be a perpetrator and/or victim of harm in the mix of other children and young people in Residential OoHC. The need to ensure that children's safety, care and development needs are met is too often compromised for the sake of demand pressures, enforced by the vacancy management system.

Recommendation (2): That an examination of the validity, reliability, and alignment of the CAT rating, vacancy management, and contract management systems be undertaken. This should include a review of historic practices in each District, the transparency of transactions, and the impact on vacancies / flow of children between Foster and Residential OoHC. More generally SYFS would assert the aim to ensure that children's safety, care and development needs are met is too often compromised for the sake of demand pressures, enforced by the FACS Vacancy Management System.

(C) THE AMOUNT AND ALLOCATION OF FUNDING AND RESOURCES TO THE DEPARTMENT OF FAMILY AND COMMUNITY SERVICES FOR THE EMPLOYMENT OF CASEWORK SPECIALISTS, CASEWORKERS AND OTHER FRONTLINE PERSONNEL AND ALL OTHER ASSOCIATED COSTS FOR THE PROVISION OF SERVICES FOR CHILDREN AT RISK OF HARM, AND CHILDREN IN OUT OF HOME CARE

A cohort analysis should be undertaken to understand why NSW has such a high proportion of children in OoHC compared to comparable States like Victoria and Queensland, who in 2014-15 had 8,567 and 8,448 children and young people in OoHC, compared to 16,843 in NSW. Historic data from the AIHW indicates a significant increase in admissions began in NSW in the early 1990's and continued until 2011-12. Since that time, NSW appears to have achieved proportionally similar rates of admissions / discharges (see AIHW Child Protection in Australia 2014-15: Table 5.5: Trends in children admitted to out-of-home care, states and territories, 2010–11 to 2014–15). These statistics suggest a generation of children in NSW (approximately 8,000 based on comparable statistics in Victoria) that should not be in care, and who are yet to move through the system.

The problem in this context is retrospectively untangling a generation of unnecessary placements in OoHC. This is a massive problem for OoHC in NSW that cannot be resolved easily. It will also compound over time because children and young people are staying in care for longer periods of time. The strategies required to solve this problem must be addressed separately to those developed for 'Safe Home for Life' (which aims to stem the flow of new admittances). At the moment FACS has conflated both problems. As a consequence, the OoHC reforms do nothing to assist the sector identify which children and young people in OoHC should be targeted for restoration with family/kin and how to manage the risk associated with this task.

Recommendation (3): A cohort analysis should be undertaken to understand why NSW has such a high proportion of children in OoHC compared to other jurisdictions. It should identify which children in OoHC should be targeted for restoration with family/kin. It should also inform the development of a risk assessment and process to support placement.

D) THE AMOUNT AND ALLOCATION OF FUNDING AND RESOURCES TO NON-GOVERNMENT ORGANISATIONS FOR THE EMPLOYMENT OF CASEWORK SPECIALISTS, CASEWORKERS AND OTHER FRONTLINE PERSONNEL AND ALL OTHER ASSOCIATED COSTS FOR THE PROVISION OF SERVICES FOR CHILDREN AT RISK OF HARM, AND CHILDREN IN OUT OF HOME CARE

The SYFS Model

As noted above SYFS operate a highly integrated model of support and accommodation for disadvantaged children and young people. The model is characterised by a unique ability to provide multiple interventions via dispersed entry/exit points and pathways across a range of services. The model delivers a seamless, client centred approach, which uses common systems for assessment, referral, case-management, data-collection, documentation, feedback/complaints, irrespective of the client group.

An analysis of SYFS client exit data for 2015-16 indicates 38% of children and young people were restored to family and relatives and 51% moved to independent living situations. An independent evaluation of the SYFS model undertaken by the University of Wollongong in 2015 also found the model succeeded in reducing the likelihood of persistent homelessness following exit, with 68% of past clients expected to live in exit housing for more than three years.

SYFS attribute much of its success to the focus on "stable housing" supported by persistent relationships, combined with access to education, employment, health and well-being programs. The chief goal is stability, safety, and the development of trusted long-term relationships with staff and significant others (including reconciliation with family). Success is also explained by the focus on semi-independent and independent living programs which offer a graduated move to independence up until the age of 24 years – irrespective of the client group. SYFS range of accommodation options is possible because it has developed its asset base over time and is also a registered Class 2 National Community Housing Provider.

SYFS also strive to address the structural barriers that limit the ability of young people to move to independence, including low wages and living-subsidies, high competition for rental properties, high levels of youth employment, and high cost tertiary education by offering a holistic range of youth specific services to fill these gaps, coupled with youth specific employment, education, and training options.

Funding for Residential OoHC

FACS note three main reasons driving the reform of Residential OoHC in NSW: (1) that 3% of clients in Residential OoHC account for over one-third of all NGO funding; (2) NSW has a higher unit cost than any other Australian jurisdiction (\$193,560); and (3) one quarter of Residential OoHC cases could more appropriately be supported by Intensive Foster Care. SYFS refute these statistics for the following reasons:

1. The proportion of children in Residential OoHC (3%) in NSW is twice as low compared to any other Australian jurisdiction (6% average) and much lower than other developed countries like England (12% in 2012; Department for Education, 2012) and the United States (15% in 2011; US Children's Bureau, 2012). The latest Australian Senate Committee Report into OoHC completed in late 2015 also found the trajectory of this figure is stable and had risen at a rate similar to population growth. This rise was modest compared to other forms of OoHC. Based on all national and international standards this is a very low proportion. More analysis is required to understand how NSW has achieved such a low proportion and to determine a reasonable level of Residential OoHC for the future – given the larger, older, and more complex client group who are staying longer in OoHC in NSW.
2. The claim NSW has a higher unit cost is refuted by SYFS and requires close examination. Work undertaken by the NSW Parliamentary Research Service (November, 2014) quoting figures from the National Centre for Social and Economic Modelling (NATSEM) suggests the cost of living per household in Sydney (\$68,023) is almost 3.5% higher per household compared to Melbourne (\$65,884). At the same time wage growth slowed slightly in NSW compared to Victoria by -0.3%. This suggests the cost of living difference may be 5% higher in Sydney compared to Melbourne. This difference approximates the difference in OoHC unit costs across Australian jurisdictions. Further analysis is required into the cost of living and

how it impacts Residential OoHC costs in NSW. Analysis and advice should also be sought from the Australian Productivity Commission to understand whether different methodologies are used across jurisdictions to cost/count Residential OoHC as this also distorts the comparison of unit costs.

3. SYFS refute the claim that one quarter of Residential OoHC cases could more appropriately be supported by Intensive Foster Care. The first assumption to be challenged is the validity of CAT ratings behind this claim and their relationship to appropriate pricing structures (e.g. the CAT rating tool cannot distinguish between the cost of a 'high need' child in Foster Care and a 'general need' child in Residential OoHC). Other issues include the low reliability of CAT ratings across Districts and the use of the 'over-ride' mechanism (where a rating is never officially changed). To address this issue SYFS recommend the approach to funding OoHC is streamlined using one level for Residential OoHC, which is developed in consultation with the sector. Consideration should be given to applying this to Intensive Foster Care. The second assumption that needs to be challenged is how much it costs to achieve positive outcomes for client in Residential OoHC (and Intensive Foster Care). Research by Thomas (2013) suggests the challenge in achieving positive outcomes for these cohorts (e.g. placement stability) is much greater because these children and young people are typically older (i.e. adolescents/teenagers) and experience more emotional and behavioural issues. These challenges must be funded if NSW is to achieve positive results for all young people in OoHC.

Recommendation (4): That (a) analysis be undertaken to understand how NSW has achieved such a low proportion of children and young people in Residential OoHC and what is reasonable in future; (b) analysis be undertaken to understand how the cost of living in NSW impacts Residential OoHC costs compared to other jurisdictions. This should factor advice from the Australian Productivity Commission to adjust for any differences in how OoHC is costed across jurisdictions; (c) the approach to funding OoHC is streamlined using one level for Residential OoHC (developed in consultation with the sector).

Funding for Semi-Independent and Independent Living and After Care

It is well known that children in Residential OoHC are older than children in home-based care and characterised by challenging behaviour. In 2014-15 the AIHW reported that 82% of children in Residential OoHC nationally were aged 10 or older, with a median age of 14. Researchers (Cashmore, 2014; Clark, 1997; and Delfabbro & Osborn, 2005) characterise this cohort as exposed to multiple traumas (e.g. domestic/family violence, mental health problems, drug and alcohol misuse), known to child protection at an early age, having siblings in care, and typically entering Residential OoHC as a young adolescent following several placements breakdowns (which often end abruptly).

The challenges supporting these young people to access and maintain suitable placements and prepare them for independent living are too easily overlooked by funding bodies in their quest to reduce costs. A focus on therapeutic interventions is clearly needed but more funding and placement options are required to accommodate and support this cohort. One option that SYFS strongly recommends is the development of Semi-Independent Living coupled with family reconciliation as a valued pathway for young people (as opposed to restoration, guardianship, or adoption).

This option would be supported by a conscious blurring of the boundaries between models of Semi-Independent Living and After Care Support so that young people may be properly supported up to the age of 24 years if required until they developed the skills to become independent. This would see the development of living skills, engagement with education, training, and employment, and access to long-term housing become a primary performance measure for such services. Its success would depend on a corresponding shift in legislation, which currently limits the provision support for Semi-Independent Living until the age of 18 years, and which separately defines the provision of After Care Support.

This option would benefit young people because new relationships and trust would not have to be formed between Residential OoHC, Semi-Independent Living, and After Care Support providers. It would soften the step down in support which is currently too significant and provide much needed program continuity from Semi-Independent-Living to After Care Support – which is discouraged by the current service system. Providers are reluctant to extend Semi-Independent-Living because it has cost implications that are often not supported by FACS. SYFS consider the current step down unrealistic, particularly for young people in Residential OoHC who must graduate towards independence following significant trauma / disadvantage.

Whilst policy makers aim to limit the length of stay in Residential OoHC to reduce the number of children ‘aging-out’, SYFS believe the key objective should be achieving better outcomes for young people when they exit OoHC - irrespective of how much support for Semi-Independent-Living is required. Alternatively, After Care Support should be scaled up and Residential OoHC providers should be entitled to deliver this service. This issue is bigger than the OoHC system. If not properly addressed, it leads to other issues like homelessness and long term unemployment.

It’s unreasonable to expect that young people in OoHC - given the challenges outlined above - should be discharged from care at the age of 16 or 18, with little financial or social support, and poor prospects for employment or stable accommodation upon exit. Indeed, many young people in the general population, who experience more stable childhoods, remain at home until they are in their mid-20s. They may also leave and return home several times before living independently. This is not the case for young people in OoHC who receive minimal support from all levels of governments to make the transition to independence.

Recommendation (5): That more funding is provided for Residential OoHC providers to support the transition to Semi-Independent and Independent Living. This option should be supported by a conscious blurring of the boundaries between models of Semi-Independent-Living and After Care Support so that young people are supported up to the age of 24 years if required until they develop the skills to become independent. New funding should be connected to the NGO that has been providing care as they would already have knowledge of the young person and relevant relationships. To maintain continuity the graduation through OoHC Residential Care to Semi-Independent and After Care Support must be connected and linked, not delivered through separate NGOs. Such an initiative would be supported by priority access to complementary services, which facilitate social/living skills, housing, health, education, training, employment, and community engagement.

New Models of Intensive Foster Care

Significant work needs to be undertaken to create a range of innovative models for Intensive Foster Care. SYFS experience is that most referrals coming to Residential OoHC from Foster Care occur at placement breakdown when a child is 11-12 years (at the start of adolescence) or when a young person is 16-17 years (as they become more independent). Most children and young people have had several placements and been so traumatised that their complex behaviours and life histories mean the likelihood of placement with relatives/kin, guardianship, or adoption, is extremely low. In these cases, SYFS recommend strong consideration is given to alternate models (in addition to Intensive Foster Care) that prepare adolescents and young people to move towards independent living and value placement stability / reconciliation with family (irrespective of legal status).

The U.S. Department of Housing and Urban Development recently commissioned a report into this issue (Housing for Youth Ageing Out of Foster Care, 2014), which documents a series of research activities designed to address knowledge gaps related to the housing options available to youth who have aged out of Foster Care. The report documents the current inadequacy of housing supports for youth aging out of Foster Care, which is compounded by a lack of evidence regarding what kinds of housing settings are most appropriate for this population. The report concludes by charting a course to enhance understanding of the housing needs of youth who have aged out of Foster Care and to identify housing models that are most effective for preventing homelessness and other adverse consequences (e.g. contact with the criminal justice system etc.).

This evidence needs to be weighed up carefully against claims by the NSW Parenting Research Centre (NSW Statutory Out of Home Care: Quality Assurance Framework Section 3) that recent evaluations of the provision of training in independent living skills have not been effective. This assertion is based on dated research (Courtney et al., 2011b) and neglects proper analysis of the housing and support needs of youth who have aged out of Foster Care. It also neglects to consider that programs implemented by FACS such as the Semi-Independent-Living (SILS) Program have been poorly resourced and have not had proper attention or program development for a significant period of time.

In many cases, the use of SHS inadvertently becomes the long-term placement option for many children whose place in Foster Care breaks down. This practice is wide spread and suggests the creation of new intensive models should involve comprehensive input from the homelessness sector about the service system gaps being filled by SHS and what is needed to support this cohort. It would be lamentable however if aspects of the OoHC reforms (i.e. to ensure fewer children in Foster Care) were achieved by diverting more children and young people into homelessness services.

Recommendation (6): The development of new models for Intensive Foster Care should (a) include models of Semi Independent / Independent Living; (b) consider the report titled “Housing for Youth Ageing Out of Foster Care” commissioned by the U.S. Department of Housing and Urban Development in 2014; (c) consider age, behavioural issues, and time in care.

E) THE SUPPORT, TRAINING, SAFETY, MONITORING AND AUDITING OF CARERS INCLUDING FOSTER CARERS AND RELATIVE/KIN CARERS

Placement Stability and Legal Permanency

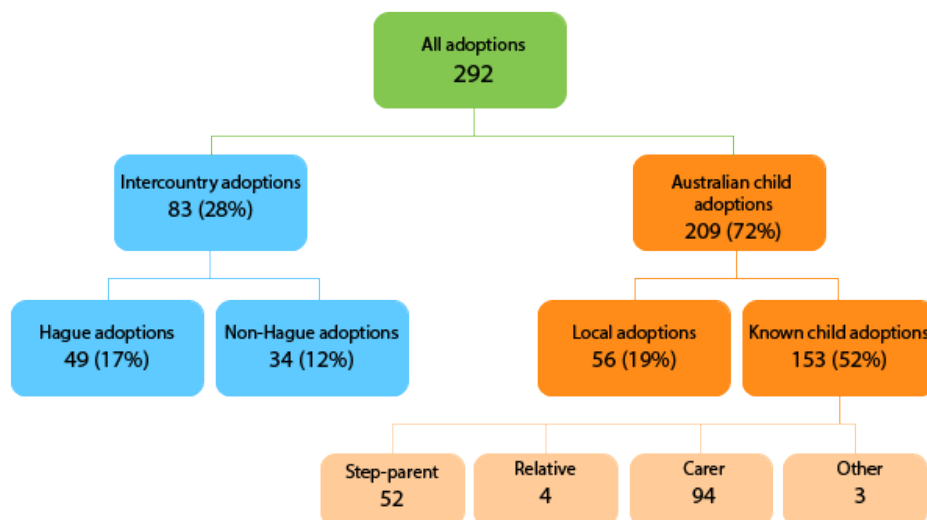
A key difference between the OoHC reforms in NSW and other jurisdictions is that the concept of 'permanency' has been conflated with 'legal permanency' and quite narrowly defined to mean adoption or guardianship. NSW has only focused on creating and supporting new pathways to legal permanency (e.g. removing barriers to adoption and introducing a new long-term guardianship order). SYFS view is that 'permanency' can be achieved through multiple types of care and should not exclusively refer to legally permanent arrangements. Permanency can also be achieved by supporting the birth family to achieve placement stability, or in OoHC, through models of semi-independent and independent living. It can also be achieved by better training, support, matching, and monitoring of staff in Foster/Residential OoHC and by involving young people in decision-making – irrespective of placement type or legal status of the child / young person.

The need to improve placement stability in NSW is reinforced by comparison with other jurisdictions. CREATE's 2013 Report Card indicated NSW clearly lags in the achievement of placement stability. On average across Australia CREATE found 57 per cent of children and young people reported had one or two placements prior to exiting care. However, in NSW, this proportion was as high as 70 per cent, indicating children experienced greater placement instability.

SYFS therefore believe more investment should be targeted towards the achievement of placement stability in all forms of OoHC rather adoption / guardianship, because the latter will take some time to expand. It's also less practical for older children and those with behavioural, psychological, disability issues. Legal permanency is also typically employed following the achievement of placement stability – making legal permanency a secondary objective. To achieve facilitate more placement stability in NSW there is also a need for investment in respite, recreation, and prevocational services to support Carers and young people to maintain their relationships. This includes more brokerage funding to support the achievement of essential community engagement activities such as learning to drive, which have become quite expensive for NGOs (e.g. \$7,000 / young person).

Another reason to expand the definition of permanency is because NSW cannot achieve this goal through adoption / guardianship. To illustrate the magnitude of this challenge, a Summary Report drafted by Ernst and Young for FACS indicated there were 13,114 NSW Government funded statutory OoHC placements as of May 2015. Of these 7,344 (56%) were NGO placements. NSW Government-operated services provided the remainder of placements (approximately 5,770). Of the whole OoHC population in NSW in 2013, 53% of placements were in relative/kinship care, 39% in foster care, and 3% in Residential OoHC. This suggests that 5,114 legally permanent placements (or some proportion of this total) would need to be created to reduce the need for Foster / Residential OoHC in NSW.

In contrast, figures from the Australian Institute of Health and Welfare (AIHW) indicated there were only 209 Australian Child Adoptions in NSW in 2014-15. Of these 73% (153) were 'known child' adoptions and 27% (56) were 'local' adoptions. Equally discouraging for adolescents and young people is the fact that 98% of local adoptions were for children 4 years and under.



Cashmore (2014, pp 146-147) cites several reasons for the low adoption rate for children in OoHC in Australia. These relate to the adoption process being quite complex and taking considerable time and skills to achieve in the Supreme Court (especially if the parents are not contactable or not willing or able to give consent) and Carers being anxious about the level of continuing financial and practical support following adoption of the child.

Given the small number of adoptions that occurred in 2014-15 in NSW and the large number of legally permanent placements required to make change, there is not much information available as to how NSW intend to facilitate a sizeable increase in the number of adoptions/guardianship orders and the timeframes considered feasible.

Some initiatives have been launched over the past 6-12 months however they do not take into account the true volume of adoptions/guardianship orders required and the difficulty implementing a legally based permanency planning policy. These initiatives include the announcement of \$2 million by the NSW Government in 2015 to progress existing adoption applications and the recent commitment for 2016-17 of \$6.4 million (\$11.8 million over four years) to improve the rate of adoptions. The NSW Government also announced the University of Sydney will establish the Institute of Open Adoption Studies, a research body that will advance adoption in NSW.

The research evidence is also not conclusive that adoption provides better outcomes for children compared to long-term stable care. As the review of adoption research by Thomas (2013, p-31) concluded: 'few differences were found between children's levels of emotional and behavioural difficulties, and participation and progress in school, for those in stable long-term foster care and those in adoptive placements'. 'The two main predictors of stability in both adoptive and foster placements were the child's age at placement and their level of emotional and behavioural disturbance'.

Some scope may exist for the 53% of placements in NSW with family/kin to pursue guardianship. However, considering the relative stability of many placements with family/kin, it is important to ensure that any quantifiable shift towards legal guardianship is not academic and genuinely impacts the life outcomes of this cohort. A cost-benefit analysis of the proposed safety / well-being outcomes for this cohort versus the legal/administrative cost and staff time that would be required by FACS caseworkers should be undertaken to identify whether this is worth the effort and which cohorts would be likely to genuinely benefit from guardianship.

There is also the question of inappropriate adoption practices and how to ensure failures of the past are not repeated. Most current adoption orders for children in OoHC in England are made without parental consent, and sometimes referred to as 'forced' adoption. With pressure mounting to speed up the adoption process, NSW runs the risk of creating a culture of rushed adoptions, despite serious concerns as to whether it is the best option for the children involved. In the year leading up to 31 March 2014, 5,050 children in England were adopted from care. Over 95% occurred without parental consent. The development of relevant safeguards should be given priority as part of the reforms to prevent adverse consequences.

The focus on legal permanency is also at odds with other issues acknowledged by the NSW Government about the time FACS caseworkers sit behind their desks undertaking procedural / administrative requirements, the escalating numbers of children in OoHC, the overly forensic approach to casework, and the apparent loss of skills and confidence by FACS caseworkers engaging in direct work with families. More needs to be done about this tension in light of 'Practice First', which details FACS plan to change the role of their caseworkers to support NGOs by going into families' homes, working as agents of change, and using relationship based practice.

Recommendation (7): That (a) the concept of 'permanency' in NSW is expanded to include 'placement stability'; (b) more investment is targeted towards all models of OoHC (including semi-independent and independent living) that deliver placement stability; (c) more resources, training and supports are provided to promote "placement stability" across all forms of OoHC (including Residential OoHC); (d) A cost-benefit analysis is undertaken to assess the legal/administrative cost (including the time of FACS caseworkers) to achieve "legal permanency" as opposed to "placement stability".

Maintaining the Existing Pool of Foster Carers

Although the intention of current reforms is to reduce the long term reliance on Foster Care, FACS must continue to pursue avenues to expand the number of Carers and develop their skills until adoption / guardianship orders increase. Recruiting enough Carers to cope with the increased demand for Foster Care in the short to medium term is a critical concern for most states and territories in Australia (Delfabbro et al., 2010; McHugh & Pell, 2013; Osborn, Panozzo, Richardson, & Bromfield, 2007).

This research also indicates the shrinking number of Foster Carers is causing more placement instability and disruption because of the difficulty making an appropriate match between the needs of the child and the capabilities of the Carer. The failure to recruit and retain appropriately skilled Carers, as more complex children come into care, has not been given sufficient weight in explaining poor Foster Care outcomes. Rather than question the efficacy of the Foster Care model, FACS

should consider earlier research by Thomas (2013), which indicates that stable Foster Care is as effective as other legal responses (e.g. guardianship / adoption).

Several factors contribute to the difficulties attracting Foster Carers including the increase over the last two decades in the labour force participation rate of women, especially mothers, traditionally the primary foster parent. It's now common for both parents in two couple households in Australia to work. This issue is absent from the current OoHC reforms and explains calls to professionalise Foster Care to aid recruitment and better manage the increasing number of older children with complex behaviours (Butcher, 2005; & McHugh & Pell, 2013).

Recommendation (8): The failure to recruit and retain appropriately skilled Carers, as more complex children come into OoHC in NSW, has led to more placement instability and poor outcomes. There is an urgent and continuing need to recruit, train, and support more Foster Carers until the number of adoption / guardianship orders increase.

F) THE STRUCTURE OF OVERSIGHT AND INTERACTION IN PLACE BETWEEN THE OFFICE OF THE CHILDREN'S GUARDIAN, DEPARTMENT OF FAMILY AND COMMUNITY SERVICES, AND NON-GOVERNMENT ORGANISATIONS REGARDING THE PROVISION OF SERVICES FOR CHILDREN AND YOUNG PEOPLE AT RISK OF HARM OR IN OUT OF HOME CARE.

The sector has significant concerns about governance and the way in which risk, quality, and contract management of OoHC is managed in NSW. The current system is characterised by significant duplication and over-regulation and a distinct lack of clarity between the role of FACS as a contract manager and the role of the Office of the Children's Guardian (OCG) as an accreditor of OoHC providers. SYFS clear view is that FACS should concentrate on its role as contract manager and let the OCG focus on accreditation and the development of relevant quality systems and standards to reduce duplication.

Many stakeholders raised these issues in consultations undertaken by Ernst and Young about the current reform in OoHC in NSW, with examples of reporting that lacked logic, meaning and coherence. These issues were also highlighted through the Royal Commission into Institutional Responses to Child Sexual Abuse in two of its 2014 public hearing case studies. There is also a lack of clarity about how other statutory bodies (e.g. Office of the Advocate for Children and Young People) and governance mechanisms (e.g. NSW Child Protection System Taskforce) inform policy and oversight reform in OoHC.

Unfortunately FACS has sought to simplify matters by introducing the Quality Assurance Framework (QAF). SYFS view this as yet another compliance based system, which will take more time away from the sector, add more cost, and not necessarily help providers deliver better outcomes.

SYFS do not support the introduction of the QAF by FACS and believe the much needed logic and coherence required should come from better clarifying the roles of FACS and the OCG. Any work on accreditation and the development of relevant quality systems and standards should be led by the OCG to reduce duplication and avoid more work red-tape for NGOs.

Beyond OoHC, the need to comply with more and more Government imposed quality standards across the human service / justice sector is placing a greater burden on NGOs in terms of time and

money. The sector has at different times led, and worked with Government to trial a common set of standards across the community services, disability, and child safety program areas, however these are commonly overlooked. The need for better alignment extends to the management of program performance and reporting. Both are disjointed across programs within NSW – but often funded by the same Department - and do not promote systems that streamline data collection or deliver reporting that is useful for Government or NGOs to analyse and compare their performance. Longer funding arrangements (such as a minimum of five years) must also be considered as part of this solution.

The concern about governance cannot be understated. In its 2012 Report on ‘Funding NGO Delivery of Human Services in NSW: A Period of Transition’ the Independent Commission Against Corruption (ICAC) noted ‘the overwhelming volume of often impracticable controls and material from central offices’ can often result in regional managers ‘filtering, interpreting and communicating what they consider key policy points to operational staff’. Central policy tools meant to ensure probity are replaced by the informal reliance on geographically isolated regional managers to maintain service delivery. This, in turn, creates regional silos and weakens the connection between policy formulation at head-office level and policy implementation at the local level. Probity controls that exist in policy are not implemented in practice. Sometimes decisions are exercised by single individuals with end-to-end control of funding decisions, with staff allegiances to community, clients and NGOs that lack basic governance capabilities. In these situations, mismanagement is certain to occur.

Recommendation (9): SYFS do not support the introduction of the QAF by FACS and believe the much needed logic and coherence required in the areas of risk, quality, and contract management should come from better clarifying the roles of FACS and the OCG. Any work on accreditation and the development of relevant quality systems and standards should be led by the OCG to reduce duplication and avoid more work red-tape for NGOs.

G) SPECIFIC INITIATIVES AND OUTCOMES FOR AT RISK ABORIGINAL AND TORRES STRAIT ISLANDER CHILDREN AND YOUNG PEOPLE

As of June 2014, Aboriginal children made up more than 35% of all children in OoHC in NSW. The Summary Report drafted by Ernst and Young for FACS in 2015 indicated there were 13,114 NSW Government funded statutory OoHC placements as of May 2015. This suggests that approximately 4,590 Aboriginal children are in OoHC in both government and NGO services in NSW.

Nationally, between 2004–05 and 2013–14, the rate of Aboriginal children in OoHC per 1000 children in the Aboriginal population aged 0–17 years more than doubled from 21.5 to 51.4 compared to 4.9 to 8.1 for non-Aboriginal children. Across jurisdictions, this rate was highest in NSW (71.3).

The continued increase in the number of Aboriginal children and young people in OoHC in NSW indicates systemic failings to support at-risk families and prevent Aboriginal children escalating within the NSW child protection system. In particular, the policy approach in NSW has not acknowledged the structural factors that predict Aboriginal children in OoHC such as social disadvantage, and the compounding effect of intergenerational trauma, and past poor practices of child removal.

It is recommended the reform agenda for Aboriginal OoHC is considered separately from general OoHC and a completely new strategy be developed in partnership with Aboriginal communities and the sector. The current OoHC reforms include no real plan to address the over representation of ATSI children in OoHC and the significantly different approach required to improve outcomes. Victoria has invested in a complementary plan for Aboriginal children that identifies specific actions to address the over representation and improve outcomes in OoHC. Issues that need to be addressed in NSW include the manner in which the child protection system continues to inadvertently disadvantage and discriminate against Aboriginal families through a lack of cultural understanding (e.g. definition of neglect) and the absence of avenues to facilitate restoration or alternate placement options.

There is also a fundamental difference in the type of providers that provide care for Aboriginal children. Some are Aboriginal providers, and others are generic providers that provide a significant proportion of care to Aboriginal children. Of the 53 NGOs providing statutory OoHC services in March 2015, 14 were Aboriginal providers (defined as those whose main objective is to provide services to the Aboriginal community, and who comprise of mainly Aboriginal Carers, staff and governance). Of all 6,993 children in NGO care (both Foster and Residential OoHC) 1,146 were cared for by Aboriginal service providers, leaving approximately 1,300 children cared for by generic NGOs (assuming 35% of children in OoHC are Aboriginal). This complexity has not been considered as part of the reforms, particularly the need to provide Aboriginal cultural competency training for generic NGOs. Any separate reform strategy for Aboriginal OoHC should consider how generic youth services like SYFS that provide valuable support for a significant proportion of Aboriginal young people in its services, continue to deliver such services.

A further complexity is the large number of Aboriginal children in Government-operated services yet to be transitioned to the NGO sector. Given the assumptions above, approximately 5,770 children remain in Government-operated services, of whom approximately 2,020 are Aboriginal (assuming 35% of children and young people in OoHC are Aboriginal) and yet to be transitioned to the NGO sector. Many providers like SYFS and advocates within the sector have raised this issue as part of the OoHC reforms however little has been proposed to address related risks.

Recommendation (10): The reform agenda for Aboriginal OoHC in NSW should be considered separately from general OoHC and a completely new strategy is developed in partnership with Aboriginal communities and the sector. This strategy should consider how generic youth services like SYFS that provide valuable support for a significant proportion of Aboriginal young people, continue to deliver and enhance such services.

H) THE AMOUNT AND ALLOCATION OF FUNDING AND RESOURCES TO UNIVERSAL SUPPORTS AND TO INTENSIVE, TARGETED PREVENTION AND EARLY INTERVENTION PROGRAMS TO PREVENT AND REDUCE RISK OF HARM TO CHILDREN AND YOUNG PEOPLE

Providers like SYFS can waste up to a year going back and forth to get involvement from FACS for a child at risk of harm, particularly those who are aged 13-16 years, and when it eventually happens, the child or young person's needs have escalated significantly. They are typically not eligible for income support and end up being some of the most disadvantaged children and young people in our community because they are not with family and not in OoHC. The Homelessness

Youth Accommodation Program (HYAP) may assist in this regard but will mainly help those with lower support needs who can be restored to family.

The Australian Government funded 'Reconnect' Program can also assist but both programs together are not enough to meet current demand and some geographic gaps exist where neither the Reconnect Program nor HYAP are in place. The Reconnect Program was also developed well before the changes to ROSH in NSW so a proper appraisal of service coverage should be undertaken in partnership with the Australian Government Department of Human Services to ensure adequacy. It should also be noted that the future of the Reconnect Program is unclear after June 2017 as it is a terminating which will compromise the NSW response.

Recommendation (11): SYFS believe groups aged 12-16 who are 'at risk' and cannot go home are most vulnerable and require critical attention. A greater allocation of funding and resources is required for intensive, targeted prevention and early intervention programs to prevent and reduce the number of children in this cohort becoming homeless and living itinerant lifestyles characterised by service system neglect. Many children and young people in this cohort tend to experience repeated trauma whilst classified as 'at risk' until their situation escalates and they are classified as ROSH. They may ultimately enter OoHC however by this point their health, well-being, relationships, behaviour, and engagement with community have broken down and significant long term support is required to make amends.

I) ANY OTHER RELATED MATTER.

Competitive Tendering

There are many other ways to do procurement outside competitive tendering. It is but one of many approaches to procure services yet has become increasingly common as the preferred option of NSW Government Human Service agencies. Other options include: renewable funding based on good performance; direct negotiation/allocation; individualised funding (where client choice shapes the sector); and one-off or time-limited project funding. The choice of method should always be informed by proper sector analysis. An analysis of sector strengths and weaknesses is however seldom undertaken by Government to gauge the existing strengths of the service system.

Factoring past performance should become more central to procurement because in many cases it would indicate there is no need to competitively tender. Slow and gradual reform through on-going contract / performance management and negotiation with the sector are more beneficial than one-off 'big bang' type reforms that involve tenders because they typically have unintended consequences, which are not properly taken into account, when determining the preferred method. Other issues which have emerged through competitive tendering include:

- High costs in staff time and resources for both the Sector and Government;
- Uncertainty which impacts a NGOs' capacity to retain staff, plan, budget etc. There should be specific recognition that long processes, especially those without clear timelines, or which experience delays, undermine a NGOs ability to deliver outcomes for people and communities.
- Disadvantage to small and medium NGOs, who unlike larger NGOs, do not have access to tender writing teams and are more compromised by tight timeframes (i.e. length of notice

and application time). They also disadvantage small to medium NGOs applying across multiple locations / programs and developing consortia based proposals, which need more time.

- Result in perverse outcomes such as forced partnership or inexperienced NGOs operating services in program areas without relevant expertise or in geographic areas without a legitimate service footprint. These issues are compounded after the fact by the absence of appeals processes and proper advice to NGOs about their rights to complain about such outcomes.

Recommendation (12): The NSW Government should ensure competitive tendering is not used as the preferred procurement option in Human Services and broaden its approach to consider other forms of procurement (e.g. renewable funding based or direct negotiation).

Reform Fatigue

A lot of energy is focused on initiating new reforms in Human Services in NSW, which are not properly justified, and when the last reform has not been finished. No consideration is given to the waste in resources and the fatigue caused to NGOs through this overlap in the relentless pursuit of new reforms.

Shortsighted catch phrases, buzz words, silver bullet solutions, and the endless pursuit of partnerships tend to characterise the newest reforms, without any true understanding of the structural and systemic barriers that must be overcome by NGOs to deliver meaningful results for children and young people.

Ultimately the reforms become yesterday's news and administrators move on to new roles, leaving a vacuum of information and an environment of distrust and confusion for NGOs. The mess that emerges is often masked by new funding to calm disquiet, disbursed in a hurry without sufficient consultation, causing more chaos, and projecting a failure by Government to listen to the Sector.

The balance between strategy and practice is also rarely achieved. Long-term visions for reform are articulated through high-level principles and theoretical objectives that sound quite reasonable but do not provide a tangible platform or end state from which to have meaningful discussion. For example, 'Outcomes Based Contracting' is now being put forward as the panacea to transform the OoHC service system. It has been used to conflate multiple reforms, which are extremely complex and share a range of interdependencies, into one basic proposition.

More work is needed to tease out the detail and identify the structural and system barriers NGOs face implementing reforms to facilitate the journey and avoid perverse consequences. More work is also needed to decouple 'Outcomes Based Contracting' from input driven processes based on service activity. For example, vacancy management systems are now linked to the claw back of costs; however the driving factor (as described in another part of the submission above) may be the poor match between the CAT rating system, pricing, contracting, and the process for matching clients to placements. The NSW Department of Premier and Cabinet should create a register of all major reforms in NSW Human Services and develop overarching principles to guide reform and the consultation process, to ensure it is fully inclusive and ensure adequate time is given to planning and the implementation of reform.

Recommendation (13): A lot of energy is focused on initiating new reforms in Human Services in NSW, which are not properly justified or finished. No consideration is given to the waste in resources and the fatigue caused to NGOs through this overlap. The NSW Department of Premier and Cabinet should register and closely monitor all major reforms in NSW Human Services and develop principles and processes to streamline their occurrence, ensure consultation processes are fully inclusive, and ensure adequate time is given to planning and the implementation.

Transition of OoHC to the NGO Sector

The NSW Government has committed that all FACS operated OoHC will be transitioned to the NGO sector within 10-years. That is in five-years for non-Aboriginal children and young people and 10-years for Aboriginal children and young people. Based on the figures provided by Ernst and Young, 5,770 placements would need to be transitioned over this period. It is presumed that permanent placement principles would apply to both NGO and Government-operated services.

Recommendation (14): More clarity is required to define what reforms are planned for Government-operated services within the next 5-10 years to ensure a two-tiered system does not evolve, for children in NGO and Government-operated placements.

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