



More than shelter

– outstanding actions to improve the response to children presenting alone to homelessness services

A special report under section 31 of the *Ombudsman Act 1974*

29 May 2023

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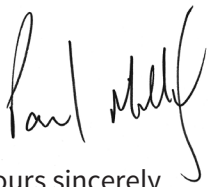
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Dear Mr President and Mr Speaker

Pursuant to section 31 of the *Ombudsman Act 1974*, I am providing you with a report titled *More than shelter - outstanding actions to improve the response to children presenting alone to homelessness services*.

I draw your attention to the provision of s 31AA of the *Ombudsman Act 1974* in relation to the tabling of this report and request that you make the report public forthwith.

A handwritten signature in black ink, appearing to read "Paul Miller".

Yours sincerely

Paul Miller
NSW Ombudsman

29 May 2023



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Foreword

Every year for the past 5 years in NSW, between 2,300 and 2,600 children aged 12 to 15 have sought services, without a parent or guardian, from Specialist Homelessness Services.

More than a quarter of the children are Aboriginal. More than 10% of the children who present to SHS alone are on care and protection orders – that is, they are children in out-of-home care (**OOHC**) whose responsible ‘parent’ is the Minister for Families and Communities.

The Department of Communities and Justice (**DCJ**) is the government department with ultimate responsibility for the welfare of, and outcomes for, these children. This is most obviously the case for children in OOHC. More generally, DCJ is the responsible agency for homeless children and adults, and the service system that responds to them. The fact that homelessness services are delivered by SHS providers funded by DCJ does not shift its ultimate responsibility for the system, the services and most importantly for the children to whom those services are delivered.

We first reported on this issue in 2018. Our second report was in 2020. In this report we set out to assess what DCJ has done to improve the response to children who present alone to homelessness services, and whether it had done what it said it would do in its response to our 2020 report.

Our 2020 report had made recommendations for the need for stronger policy, clearer decision-making arrangements, and proper monitoring to measure responses and report outcomes for unaccompanied homeless children.

The latter is particularly important. A consistent theme in all of our reports has been the paucity of available and reliable information about these children – who they are, why they are presenting alone to SHS, what services (if any) they are provided, and what outcomes are achieved.

A little over a year ago, DCJ reported to us the outcomes of its implementation of the recommendations made in our 2020 report. In our assessment there are outstanding actions needed to improve the response to children who present alone to homelessness services.

Pleasingly, DCJ did respond to our 2020 report by publishing a revised and stronger policy on its role and responsibilities, and those of youth homelessness services, in responding to children who present, alone, to the services. But DCJ is not collecting the necessary evidence to show whether the policy is working as intended.

This lack of outcomes evidence reflects a broader and longstanding gap in what is known about unaccompanied homeless children, about their needs and what happens to them. Five years after we first reported on this issue, DCJ is still not in a position to report on outcomes for the children.

What little we do know does not give us confidence that the improved policy documentation is achieving significant practical improvements.

We can see that the number of 12–15 year-olds presenting alone has not declined over the last 3 years. We can also see that more of those children have been seeking a bed, but that fewer of them have received a bed. We cannot see what has happened to those children who needed a bed but didn't get one, nor do we have the outcomes for those who were accommodated. For those who do obtain accommodation in SHS, the duration of stay has not materially changed over the last 5 years (about a quarter stay less than 5 nights, a half between 5 and 90 nights, and a quarter more than 90 nights). The data also indicates that an increasing proportion of unaccompanied children seeking SHS are repeat clients.

Another issue of concern identified in this report is that we have been unable to source, from DCJ or elsewhere, any reliable data on children under 12 who may have presented to SHS on their own. So, we don't know if that too is a problem, and if so how big of a problem – although DCJ's policy now expressly contemplates that unaccompanied children under 12 may be seeking homelessness services.

We provided DCJ with a draft of this report, and it referred us again to the information it has already provided on its work, including in particular the *Final Outcomes Report* of 2022.

Section 3 of this report contains a detailed assessment of DCJ's actions against our recommendations. There is clearly more to be done, and we urge DCJ to implement the outstanding recommendations we made in our 2020 report, which it has said it supports.

1. Executive summary

This is our third report since 2018 addressed to the Department of Communities and Justice (**DCJ**) and aimed at improving the response to children who present alone to Specialist Homelessness Services (**SHS**).

We first reported on problems affecting the response to unaccompanied homeless children in June 2018.¹ We tabled a second report – with further recommendations – in October 2020, because in our view DCJ had not made adequate progress in addressing our original recommendations.²

1.1. The number of unaccompanied children who are homeless, or at risk of homelessness, does not appear to be improving

The most recent available data shows that 2,379 children aged 12-15 presented alone, without a parent or guardian, to SHS across NSW in 2021–22. The number of such children was lower in 2019–20 than the previous year, but since then the annual number has remained steady over the past 3 years.

Of the 2,379 children who presented alone to SHS in 2021–22:

- 1,307 (55%) did not need accommodation
- 1,072 (45%) did need accommodation
- Of the children who needed a bed, less than half (483, 45%) received one.

DCJ does not know, and does not collect data that would enable it to know what the service outcomes were for children who needed accommodation but did not get it, or for children who needed services other than accommodation.

It appears that unaccompanied children under the age of 12 may also sometimes be presenting to SHS, but the available data is so flawed that DCJ cannot tell us anything about those children, including the number of them (see **section 2** below).

Aboriginal children are over-represented

Aboriginal children continue to be highly over-represented. Year after year they comprise around a quarter of the 12-15-year-olds presenting alone to SHS.

1. <https://www.ombo.nsw.gov.au/Find-a-publication/publications/reports/community-and-disability-services/more-than-shelter-addressing-legal-and-policy-gaps-in-supporting-homeless-children>
2. <https://www.ombo.nsw.gov.au/Find-a-publication/publications/reports-to-parliament/-community-services-reviews-and-monitoring-reports/more-than-shelter-addressing-legal-and-policy-gaps-in-supporting-homeless-children2>

Children in OOHC are presenting to homelessness shelters

It is also of great concern that children who are in the care of the Minister for Families and Communities (that is, in out-of-home care (OOHC)) comprise more than 10% of the total number of children who are presenting as homeless or at risk of homelessness to SHS.

1.2. DCJ's failure to gather, monitor and report information about these children is a key impediment to securing better outcomes

In our most recent report in 2020, we highlighted again how little is known about these children – the causes of their homelessness, what supports they needed and what they got, and what happened to them afterwards. This information is still not being collected and reported by DCJ.

Our recommendations in our previous report included that DCJ should:

- Collect and report outcomes for unaccompanied homeless children
- Conduct a systemic review of children in OOHC who are presenting as homeless to SHS.

Although DCJ said it supported these recommendations, they have not been implemented.

1.3. DCJ has implemented some, but not all, of our previous recommendations

Our 2020 report contained a number of other recommendations to address longstanding problems affecting the response to unaccompanied homeless children. As well as those noted above, we also recommended that DCJ:

- Clarify decision-making authority for homeless children (for things like school and dental decisions) where parental consent was unobtainable
- Revise and strengthen the policy for responding to all unaccompanied homeless children
- Improve monitoring of those children who are homeless while in OOHC
- Establish standards of care for all children who stay in SHS
- Measure DCJ's capacity to provide a child protection response to homeless children.

Last year, DCJ reported on its implementation of our recommendations.

For this report, we have taken account of the most recent information in a special data extract we commissioned from the Australian Institute of Health and Welfare (AIHW). This has assisted our assessment of DCJ's progress against our recommendations.

DCJ has made policy improvements

The department has made positive progress by:

- Clarifying decision-making authority for homeless children and introducing related policy guidance
- Developing a revised policy with new requirements and deadlines for responding to homeless children
- Clarifying DCJ's role and responsibilities in the policy.

DCJ has not implemented other recommendations, despite saying it supports them

In respect of our other recommendations (which DCJ supported or supported in principle):

- DCJ has not established mandatory arrangements to enable timely monitoring of children in OOHC who present to homelessness services
- DCJ has not provided evidence that new accreditation standards will govern quality of care for children staying in SHS
- DCJ is still unable to produce basic information about outcomes for the children and its capacity to respond to them.

DCJ is not monitoring or reporting the outcomes of the policy improvements – but early evidence is not promising

In summary, the department has responded to our recommendations by producing an improved policy to guide how it and its non-government SHS partners respond to children who are alone and homeless.

But DCJ has not established standards of care and monitoring. Nor has it established rigorous reporting arrangements to demonstrate the outcomes achieved for these children. The lack of such monitoring and reporting means that DCJ itself does not know, and the public is not informed about, whether the response to and outcomes for this very vulnerable cohort are actually improving.

DCJ's failure to gather meaningful data and report publicly on outcomes for unaccompanied homeless children is critical, particularly because there is evidence that an increasing number of homeless children are repeat clients of SHS, and many were known to DCJ's child protection workers before they became homeless. The evidence also indicates that the new policy arrangements are not resulting in the intended reductions in the time children stay in SHS.

2. What we know about the children since our previous report

To try to see what (if anything) has changed in terms of the number and demographics of unaccompanied children presenting to homelessness services since our last report, we obtained data from the AIHW. We commissioned a special data extract because the publicly available AIHW data is not sufficient to understand this cohort of children.

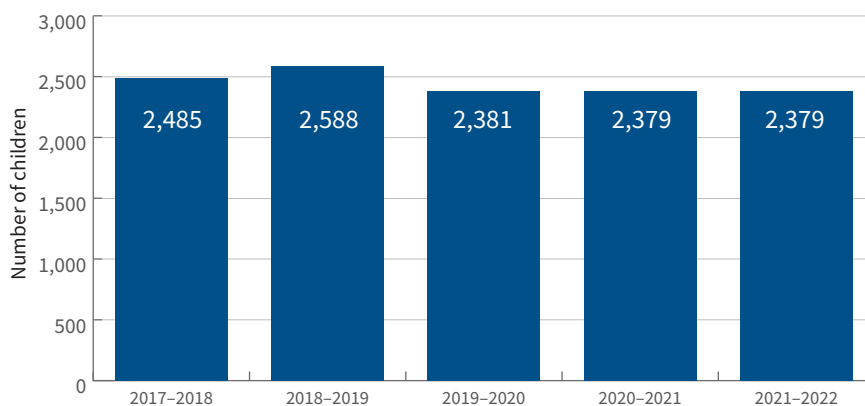
In this chapter, we outline what we have been able to tell from this special data extract. We have also taken account of evidence (see **section 4**) that many of these children have been involved with the child protection system before they presented to SHS.

Section 4 – additional information includes information about what it means when the data refers to unaccompanied children and/or children presenting alone to SHS.

2.1. Significant numbers of children aged 12-15 continue to present alone to SHS

The data we commissioned from AIHW showed a slight decrease (4.3%) over the five years from 2017–18 to 2021–22 in the total number of children aged 12 – 15 who presented alone to SHS.

As **figure 1** shows, this population increased in the second year of the period (by 4.1%), dropped in the third year (by 8%) and then remained stable in the 3 years from 2019–20.



Note: AIHW has confirmed that it is correct that the reported numbers for 2020–21 and 2021–22 are identical

2.2. Aboriginal children are highly over-represented

Over the past 5 years, Aboriginal children have been over-represented among the 12-15-year-olds who presented alone to SHS, consistently comprising about a quarter of these children. In 2017–18, Aboriginal children comprised 24% of the total; by the 5th year, their proportion had increased to 27%.⁸

Although the total number of children presenting to SHS decreased by 4.3% over 5 years, the number of Aboriginal children increased by 4.6%.³

Table 1. Children aged 12-15 presenting alone to SHS by Indigenous status 2017–18 to 2021–22

	2017–18	2018–19	2019–20	2020–21	2021–22	% change over 5 years
Indigenous	604	668	645	601	632	4.6
Non-Indigenous	1,752	1,815	1,633	1,695	1,672	-4.6
Status not stated	129	105	103	83	75	-41.9
Total	2,485	2,588	2,381	2,379	2,379	-4.3
Indigenous children as % of total	24	26	27	25	27	

Children on a care and protection order

The AIHW data extract included children aged 12-15 who were on a care and protection order when they presented alone to a homelessness service (**table 2**). The data shows that there has been a significant reduction (27.1%) in the number of these children presenting to SHS over the 5 years from 2017–18. There was a similar drop (28.2%) in the number of children in OOHC who are Aboriginal and presented alone to SHS from 2017–18 to 2021–22. Despite that reduction, Aboriginal children remained over-represented in the OOHC cohort, comprising around 30% annually and peaking at 36% in 2018–19. Aboriginal children are also over-represented in the OOHC population generally, comprising 43% of all children in OOHC in 2020–21.⁴

3. In this report, 'Aboriginal' refers to the First Nations peoples who reside on the land in New South Wales, and includes, where applicable, Torres Strait Islander peoples as well. We have used the term 'Indigenous' when it appears in data supplied by the Australian Institute of Health and Welfare.

4. Department of Communities and Justice Annual Statistical Report 2020–21 [TableA1B3C2D1N37-N45](#) | [Tableau Public](#)

Table 2. Children on a care and protection order presenting alone to SHS by Indigenous status - 2017–18 to 2021–22

	2017–18	2018–19	2019–20	2020–21	2021–22	% change over 5 years
Indigenous	110	104	95	92	79	-28.2
Non-Indigenous	240	176	199	215	184	-23.3
Status not stated	11	12	11	5	0	-100
All children	361	292	305	312	263	-27.1
Indigenous children as % of total	30.5	35.6	31.1	29.5	30.0	

2.3. There has been an increase in the number of children needing accommodation

Only some of the children aged 12–15 who arrive alone at homelessness services require a bed. The AIHW data that we commissioned shows that over the past 5 years, around 40% of the children on average needed accommodation. However, only half of these children got a bed. From 2017–18 to 2021–22, the proportion of children needing accommodation and receiving it fell from 51.6% to 45.1%.

The 5-year data also shows an increase in the number of children who needed accommodation and a decrease in the number who received it:

- children needing accommodation increased by 6.6% (1,006 to 1,072)
- children who received accommodation fell by 6.9% (519 to 483)
- children needing accommodation who did not receive it increased by 20.9% (487 to 589)

As we note above, there has been a significant decline in the number of children on care and protection orders who present alone to SHS. There has also been a significant decrease in the number of these children who needed accommodation:

- children needing accommodation decreased by 47.7% (241 to 126)
- children who received accommodation fell by 49.7% (from 167 to 84)
- children needing accommodation who did not receive it fell by 43% (from 74 to 42)

Table 3. Number of children accommodated in SHS 2017–18 to 2021–22

	2017–18		2018–19		2019–20		2020–21		2021–22		
	Number of children	% needing shelter	Number of children	% needing shelter	Number of children	% needing shelter	Number of children	% needing shelter	Number of children	% needing shelter	% change in 5 years
Accommodation needed	1,006		895		903		1,057		1,072		6.6
Accommodation provided	519	51.6	449	50.2	467	51.7	550	52.0	483	45.1	-6.9
Accommodation not provided	487	48.4	446	49.8	436	48.3	507	48.0	589	54.9	20.9

2.4. There has been no material change in the duration of stay for accommodated children

SHS providers report to AIHW on how long children stay in their services. There are 5 categories of duration, ranging from up to 5 nights to more than 180 nights.

For the most part, the proportion of accommodated children in each category has remained stable over the 5 years from 2017–18. For example, each year about a quarter of the children stay for up to 5 nights, around half stay up to 90 nights, and about 10% stay more than 180 nights.

We saw a very similar pattern across all the duration of stay categories for children on care and protection orders (see **table 8** in **section 3.3**).

Table 4. Duration of accommodation of children in SHS - 2017–18 to 2021–22

	2017–18		2018–19		2019–20		2020–21		2021–22	
	Number of children	% of total	Number of children	% of total	Number of children	% of total	Number of children	% of total	Number of children	% of total
Up to 5 nights	128	24.7	129	28.7	127	27.2	132	24.0	118	24.4
6–45 nights	165	31.8	140	31.2	152	32.5	197	35.8	152	31.5
46–90 nights	87	16.8	65	14.5	89	19.1	82	14.9	99	20.5
91–180 nights	95	18.3	69	15.4	59	12.6	86	15.6	61	12.6
Over 180 nights	44	8.5	46	10.2	40	8.6	53	9.6	53	11.0
Total children accommodated	519	100	449	100	467	100	550	100	483	100

2.5. The most common reason given for children seeking SHS assistance is ‘relationship/family breakdown’

In its Specialist Homelessness Services annual reports, AIHW includes data on the reasons people seek assistance from SHS providers. The published data is presented in 6 categories – financial, accommodation, interpersonal relationships, health, and other. SHS clients can specify more than one reason and they can choose a main reason for seeking assistance.

The data extract that we commissioned showed that for the children presenting alone, the most common reason was relationship/family breakdown; this was true for Aboriginal and non-Aboriginal children, and for those on a care and protection order and those not on an order.

However, the top reason was followed by variations among the sub-groups:

- for all Aboriginal children – both on a care and protection order and without an order, the second main reason to seek assistance was disengagement with school or other education and training
- for non-Aboriginal children on a care and protection order, the second main reason was family and domestic violence
- for non-Aboriginal children not on a care and protection order, the second main reason was ‘other’ (a category that includes transition from custodial arrangements, lack of family and/or community support, and discrimination).

2.6. The number of children who return to a homelessness service is increasing

When a child presents alone to SHS, the agency records whether the child is a new client or a returning client.⁵ The data we commissioned showed a consistent trend over the period 2017–18 to 2021–22 – the number of returning clients increased by 22.2% over the period, as the number of new clients decreased by 17%.

5. AIHW defines a new client as one who only has an open support period in the reference year; a returning client is one who has an open support period in the reference year and a support period in at least one other year (This includes clients with only 1 support period. Support periods can cross reference years).

Table 5. New and returning clients presenting alone to SHS 2017–18 to 2021–22

	2017–18	2018–19	2019–20	2020–21	2021–22	% change over five years
New clients	1,678	1,742	1,506	1,511	1,393	-17.0
% of total	67.5	67.3	63.3	63.5	58.6	
Returning clients	807	846	875	868	986	22.2
% of total	32.5	32.7	36.7	36.5	41.4	
Total number of clients	2,485	2,588	2,381	2,379	2,379	-4.3

The trend towards an increasing proportion of returning clients also held true for Aboriginal children, but at an even higher level (**table 6**). Over the 5-year period, this measure increased from 38.4% in 2017–18 to 53.3% in 2021–22, meaning 1 in 2 Aboriginal children who presented to SHS in that year had also done so in a previous year.

Table 6. New and returning Indigenous clients presenting alone to SHS 2017–18 to 2021–22

	2017–18	2018–19	2019–20	2020–21	2021–22	% change over five years
New clients	372	384	353	325	295	-20.7
% of total	61.6	57.5	54.7	54.1	46.7	
Returning clients	232	284	292	276	337	45.3
% of total	38.4	42.5	45.3	45.9	53.3	
Total number of clients	604	668	645	601	632	4.6

2.7. There is a total absence of any reliable data about unaccompanied children under 12 who present to homelessness services

Our 2020 report only used and reported on data about unaccompanied homeless children aged 12–15. The DCJ policy at the time only concerned them (there was a different policy for homeless young people aged 16 and over). The policy also said that children under 12 should not stay overnight in SHS.

For this report, we commissioned AIHW to provide us with an expanded data extract, to cover both children aged 12 to 15 and those under 12.

We did this because while the post-2020 revision to DCJ's policy still states that that no child under 12 should stay overnight in SHS, it has also added an escalation pathway for these services to follow if a child under 12 does stay longer than 24 hours (a tacit acknowledgement that this may sometimes be happening in practice).

As the policy now acknowledges that unaccompanied children under 12 *might* be presenting to or staying in SHS, we wanted to confirm whether any were doing so, and if so, how many.

AIHW provided us with data about the under 12 cohort, which we shared with DCJ. After seeking further information about this data, DCJ told us that it contained significant data entry errors and was unreliable. DCJ said this was because the majority of the identified children in the data set were aged 0-4 and 5-9, so it was unrealistic to suggest these children were presenting alone to SHS. DCJ also told us it was following up with the SHS agencies that were the source of the data errors.

We asked DCJ whether it considered the AIHW data for children aged 12-15 to be reliable, and if so, why it is appropriate to consider that information reliable if the information on the younger group is so unreliable.

DCJ told us it did not consider that the under 12s data collection errors were a significant feature of the available data for the 12–15 year-old cohort. DCJ provided 2 reasons to support its opinion.

First, it said the older cohort is more actively monitored because those children have been the subject of previous Ombudsman reports as well as a recent program evaluation and service design activities with Homeless Youth Assistance Program providers (**HYAP**) (see **Section 4 – additional Information**).

Second, DCJ said the 2020–21 data on children 12-15 years showed that the top 10 agencies reporting such children as having presented to them alone were mainly youth services or HYAP services. Close to 75% of this cohort were recorded as having presented to services that primarily target youth, to HYAP providers, or to SHS services with Youth Crisis Accommodation Enhancement funding. DCJ said this supports that this data is unlikely to be predominantly recorded in error (for example, in circumstances where children and young people are actually accompanied by a parent or guardian in an SHS that supports families or women and children escaping domestic and family violence).

As a result, as with our previous reports, in the remainder of this report we have again included only the data for unaccompanied homeless children aged 12-15 – that being the only data available that appears at least *prima facie* reliable.

Although we have excluded the unreliable data for the under 12s, we note that our initial question – how many children under 12 present alone to SHS – is one that DCJ cannot answer.⁶

6. There is a similar lack of information about situations where young children in OOHC may be presenting *with their carers to homelessness shelters* – see **section 3.5**.

3. DCJ has not implemented some of our previous recommendations, despite supporting them

A summary of DCJ's outcomes report and our assessment of progress follows.

Snapshot of DCJ's response to our 2020 report recommendations and our assessment of progress

Recommendations		DCJ's response (outcomes report 2021)	Assessment of progress
1	That DCJ:		
	(a) within three months of the tabling of this report in Parliament, publish a plan that outlines what DCJ will do, and by when, to implement each of our further recommendations below; the plan should extend no further than December 2021, and	Supported	Implemented
	b) provide the NSW Ombudsman with a final outcomes report on its implementation of the recommendations by no later than March 2022	Supported	Implemented
2	That DCJ:		
	determine what approach is to be taken to close the current legal gap in decision-making authority for unaccompanied homeless children, and take all necessary steps to close that gap by ensuring that legal authority is available and applied when required to meet the needs of such children	Not supported (DCJ did not accept there is a legal gap)	Alternative proposed and implemented
3	That DCJ:		
	Revise the policy on Unaccompanied Homeless Children and Young People aged 12-15, and:	Supported	Implemented
	a) specify in the revised policy the role and responsibilities of the 'nominated contacts'	Supported	Implemented
	b) include, in the revised policy, requirements for case reviews for unaccompanied homeless children who 'overstay' in youth SHS, and	Supported in Principle (DCJ proposed joint case reviews as alternative)	Implemented
	c) following revision of the policy, also finalise the district protocols	Supported in Principle (DCJ abandoned protocols and instead included relevant information in new policy)	Implemented

4	That DCJ:		
	in consultation with the Children's Guardian, establish mandatory reporting arrangements to ensure timely reporting to the Guardian of all children in statutory out-of-home (OOHC) who present to homelessness services	Supported	NOT implemented
5	That DCJ:		
	conduct and publish a review of children in statutory OOHC staying in youth refuges and publish the results, together with any action it intends to take in response	Partially Supported (DCJ agreed to conduct a review but not to publish results)	NOT Implemented
6	That DCJ either:		
	a) detail, in the plan referred to in Recommendation 1, how implementation of the Australian Service Excellence Standards fully addresses our previous recommendation relating to the establishment of regulatory standards to govern the quality of care provided by youth homelessness services, or	Supported a)	NOT implemented
	b) otherwise develop and adopt its own regulated standard for the quality of care required for homeless children.		
7	That DCJ:		
	(a) develop and commence reporting against appropriate performance measures to monitor outcomes for unaccompanied homeless children,	Supported	NOT implemented
	(b) commence regular reporting on DCJ's capacity to respond to risk of significant harm (ROSH) reports by youth homelessness services and the ROSH re-reporting of unaccompanied homeless children, and	Supported in Principle (DCJ said reporting would depend on data quality and consideration of client confidentiality)	NOT implemented
	(c) commence regular public reporting on outcomes for unaccompanied homeless children.	Supported	NOT implemented

3.1. DCJ has publicly reported on its response to our recommendations

We recommended that:

1. DCJ:

- (a) within three months of the tabling of this report in Parliament, publish a plan that outlines what DCJ will do, and by when, to implement each of our further recommendations below; the plan should extend no further than December 2021, and
- (b) provide the NSW Ombudsman with a final outcomes report on its implementation of the recommendations by no later than March 2022.

Why we made the recommendation

We asked DCJ to develop an implementation plan so that we could track its progress in addressing longstanding problems affecting the response to unaccompanied homeless children. We wanted the plan to be published because of the public interest in what happens to these children. For the same reasons, we asked DCJ to give us a final report on its work this year.

DCJ's response to the recommendation

The department supported this recommendation.

Assessment of progress: implemented

DCJ published its plan to address our recommendations on 3 February 2021. It gave us the final outcomes report on 31 March 2022.⁷ In doing so, it fully implemented this recommendation.

3.2. DCJ has committed to step in to provide parental authority for homeless children where needed

We recommended that:

- 2. DCJ determine what approach is to be taken to close the current legal gap in decision-making authority for unaccompanied homeless children and take all necessary steps to close that gap by ensuring that legal authority is available and applied when required to meet the needs of such children.

7. [More than Shelter - DCJ final outcomes report \(nsw.gov.au\)](https://www.nsw.gov.au/more-than-shelter-dcj-final-outcomes-report)

Why we made the recommendation

Since 2014, SHS youth providers had been concerned that they had no legal authority to make decisions for homeless children when parental consent was unavailable. In our first report in 2018, we recommended that the Government find ways to address this problem. In response, the then Department of Family and Community Services told us it was investigating options to amend legislation so the providers would have more clarity about their decision-making authority.

By the time of our second report in 2020, DCJ had considered giving the providers legal authority to make decisions for homeless children or using its own existing powers under the *Children and Young Persons (Care and Protection) Act 1998* (**the Care Act**). However, it had not settled on a solution, so we made a new recommendation; this emphasised the need for DCJ to ensure not only that legal authority was *available* to close the gap in decision-making, but also that it was *used* when required to meet the needs of children. We included this emphasis in the recommendation because, as we observed in our second report, DCJ had not demonstrated the practical capacity to respond to such children in all cases where a care and protection response was warranted.

DCJ's response to the recommendation

DCJ rejected the recommendation, saying that the current legislation – that is, powers available to DCJ in the Care Act – was appropriate. What DCJ said it would do was ensure that the SHS providers were given clear policy and practice guidance about these powers.

Assessment of progress: alternative proposed and implemented

In our 2020 report, we acknowledged that DCJ could use existing legal mechanisms to obtain and exercise the necessary decision-making authority for unaccompanied homeless children. We said if DCJ did so in every case, then there would be no problem for the homelessness services that accommodate and care for the children. However, because DCJ had not demonstrated that it had the capacity to act in all cases where a care and protection response was warranted, our view was that if that continued to be the case, the providers might still have to make decisions for children in the absence of parental consent.

DCJ's position on the existing legislation also seemed to us to be premised on the (implausible) assumption that other homeless children who were assessed as not in need of care and protection would in every case either return home, or have a parent who was willing to provide the necessary decision-making consent to SHS.

Against this background, we reviewed the guidance on decision-making in DCJ's revised policy - *Unaccompanied Children 12-15 Years accessing Specialist Homelessness Services* – which DCJ published in July 2021 after consulting with the SHS sector.

The revised policy includes a new and explicit commitment that where homeless children can't be restored to their families and other options are exhausted, DCJ will assume these children into OOHC. This means that in these cases, DCJ's position is that it will exercise the required decision-making authority.

For the providers, the revised policy emphasises that if lack of parental consent arises, they should report – and if necessary, re-report – this to DCJ, and escalate the issue as required. The policy also includes new information about when children may be able to make their own decisions. In summary, it says that:

- Children over 14 may be able to decide on their own medical care, subject to a doctor's assessment of their capacity to consent
- Children may be able to manage their own consents for schooling or nominate an alternative adult, including the SHS as a decision-maker.

Effectively, the policy indicates that unobtainable parental consent is not necessarily a problem for a youth homelessness service because a child may be able to provide such consent themselves. What the policy doesn't do is include guidance on whether or how the SHS is to determine a child's capacity to make such decisions.

As **table 7** shows, the majority of children who present alone each year to SHS do so while legally in the care of a parent or guardian, so the issue of obtaining parental consent may arise for many children who receive accommodation. The longer children stay, the more likely the question of consent may arise.

Table 7. Children who stayed in SHS by care and protection status 2017–18 to 2021–22

	2017–18	2018–19	2019–20	2020–21	2021–22
Number of children NOT on a care and protection order	352	352	385	462	399
% of total	67.8	78.4	82.4	84	82.6
Number of children ON a care and protection order	167	97	82	88	84
% of total	32.2	21.6	17.6	16.0	17.4
Total number of children	519	449	467	550	483

We will continue to monitor the effectiveness of the new policy's approach to dealing with decision-making issues for homeless children.

3.3. DCJ has made significant improvements to its policy on unaccompanied homeless children, but a lack of data means we cannot assess whether it is working

We recommended that:

3. DCJ revise the Unaccompanied Homeless Children and Young People 12-15 Years accessing Specialist Homelessness Services Policy, and:
 - (a) specify in the revised policy the role and responsibilities of DCJ's 'nominated contact' officers,
 - (b) include, in the revised policy, requirements for case reviews for unaccompanied homeless children who 'overstay' in youth SHS, and
 - (c) following revision of the policy, also finalise the district protocols.

Why we made the recommendation

In our 2020 report we explained that the existing policy needed to be clarified and strengthened. This was because the policy was unclear on DCJ's child protection role in responding to risk of significant harm (**ROSH**) reports about unaccompanied homeless children. The policy also stated that the department might not always respond because of operational limits, but provided no guidance to the services about how they should respond when DCJ did not. Nor was there any process in the policy to address the circumstances of children who 'overstayed' – sometimes for many months – in crisis accommodation.

Although DCJ had established a system of district-level contact officers for the SHS/HYAP services, there was no information about them in the policy. DCJ had also not settled district-level protocols that were intended to guide local service system responses to homeless children.

DCJ's response to the recommendation

From December 2020, DCJ conducted a policy review that included consultations with the youth homelessness sector. DCJ published the revised policy in July 2021.

The revised version includes information about the role of DCJ's nominated contact officers, and details a new process that requires DCJ and the services to do joint case reviews by certain times depending on whether a child in SHS/HYAP accommodation is assessed as being at ROSH or not.

As to the incomplete district protocols, DCJ reported that homelessness sector participants in the policy consultation process called for their removal because the protocols were unsuccessful in

integrating DCJ and SHS/HYAP local service responses. DCJ advised it had abandoned the protocols and replaced them with information in the policy on the principles, methods, and examples of collaboration.

Assessment of progress: implemented

The revised policy includes information about the roles and responsibilities of DCJ's contact officers for SHS/HYAP services and requirements to review children's circumstances in line with specified timeframes. DCJ has thus implemented these aspects of our recommendation.

DCJ told us that sector participants in the policy consultations agreed to the inclusion of principles, methods, and examples of collaboration to replace references to the incomplete district-level protocols.⁸

The principles are outlined in the policy in this way:

Local level collaboration between SHS/HYAP providers, government and non-government service providers should be seen as the cornerstone of good professional practice and central to achieving sustainable outcomes for unaccompanied children who are experiencing or who are at risk of homelessness. Awareness of local demand for services and the diversity of culturally relevant supports available, as well as the capability and capacity of the service system in responding to this demand, is critical in building sustainable solutions for vulnerable children.⁹

DCJ's final outcomes report pointed us to the single example in the policy of collaboration, relating to children who are assessed by DCJ as being not at ROSH while staying in a homelessness service. According to the policy:

- If the child is not found to be at ROSH then the SHS/HYAP provider should contact the Family Connect and Support Service and DCJ Nominated District Contact to discuss options for collaboration. Engagement and collaboration must take place at a local level to explore services and supports most suitable for each child on a case-by-case basis. Local collaboration and support may include:
 - o CSC Triage participation in case reviews, and any agreed actions arising from those reviews
 - o information exchange under Ch16A of the Care Act
 - o Family Connect and Support assistance for HYAP/SHS referrals of clients to appropriate services.¹⁰

Although this example says that collaboration is a requirement – it 'must take place at a local level' – the policy leaves it to providers and other agencies and services to make their own case by case arrangements to try to meet the needs of children.

8. Communities and Justice More than shelter final progress report March 2022

9. Communities and Justice Unaccompanied Children 12-15 Years Accessing Specialist Homelessness Services 2021 section 11 p25

10. Ibid section 5 p13

We acknowledge that this is the preferred approach of the SHS providers and DCJ. We also note that both SHS and HYAP providers have struggled over time to meet the needs of the children in their care.

The HYAP evaluation, described in **section 4**, found that limited availability of appropriate services to meet children's needs was a key systemic barrier to the delivery of HYAP. As for the SHS providers, we have also noted in **section 4** that the revised policy says they have limited capacity to meet children's needs.

We will consider how the new approach to collaboration works in practice in our future monitoring.

Given the vulnerabilities of unaccompanied homeless children, we said in both our previous reports that it was essential that DCJ clarify and strengthen its own child protection role in responding to these children and to give the providers clear guidance on this. To assess progress in this area, we considered other changes that DCJ has introduced in the new policy.

In summary, the policy contains new commitments from DCJ and new requirements for action by DCJ and providers.

The policy commits DCJ to supporting all unaccompanied homeless children, regardless of their ROSH status, and to taking them into OOHC when all other options have been exhausted.

For the SHS providers, the revised policy emphasises the importance of comprehensive reporting – and re-reporting – to DCJ's Helpline about an unaccompanied homeless child's risks and vulnerabilities. There is also strong emphasis on engagement with DCJ's district contact officers, and use of a standard escalation process when DCJ does not respond as required.

For the first time, the policy also imposes deadlines for responding to certain children – those already involved with DCJ and those aged under 12:

- For children who are under the Parental Responsibility of the Minister (**PRM**) who have self-placed with an HYAP/SHS, DCJ or the relevant non-government OOHC agency will have 48 hours to 'resolve the child's placement or establish an Interim Care¹¹ or Alternative Care Arrangement.'¹²

11. DCJ defines Interim Care placement as a 'short term placement (up to 3 months) for children in out-of-home care (OOHC) with low and medium needs currently placed in alternative care arrangements (ACA) or at risk of imminent entry into an ACA because a suitable kinship or relative, foster care placement or other permanency option is not available.' [Interim Care Model - Factsheet - November 2020 | Family & Community Services \(nsw.gov.au\)](#)

12. DCJ defines Alternative Care Arrangement as 'an emergency and temporary fee-for-service arrangement for a child in, or entering, statutory or supported out-of-home care (OOHC) after every effort has been made to place them with relatives/kin, a foster carer, or contracted OOHC placement' [Alternative Care Arrangements and Individual Placement Arrangements \(nsw.gov.au\)](#)

- The 48-hour deadline also applies to children under PRM who are temporarily placed in an SHS/HYAP service by DCJ or an OOHC agency, while interim care or alternative care arrangements are established. However, in this case the policy also states that these placements should last no longer than 48 hours unless an extension is negotiated between DCJ and the service provider.
- For children with an open and allocated DCJ case plan¹³, SHS/HYAP may provide interim accommodation for up to 72 hours. If the child stays longer, or if DCJ is not actively involved after 48 hours, the homelessness service should escalate the matter with DCJ.
- For children under 12, SHS/HYAP are to escalate with DCJ if the child remains in SHS/HYAP for longer than 24 hours.
- To summarise the deadlines, for children in OOHC there is one deadline for action – 48 hours – but several response options. For the children who *self-place*, the responsible OOHC agency may ‘resolve’ the placement or use one of two DCJ temporary placement models. For the children that OOHC agencies – including DCJ – *place* in SHS, there is an extra option of extending the child’s stay by negotiation. For children with an open DCJ plan or aged under 12, if their respective deadlines are exceeded, the option for the SHS is to escalate the case with DCJ.

These changes – commitments, case review processes, an escalation pathway, requirements and deadlines for action – are all significant improvements to the original policy.

DCJ has not published any information that would enable us to determine if the policy is operating as intended. However, the data we commissioned from AIHW does provide information from which we have drawn inferences about the impact of the new deadlines, but only for responses to children aged 12 – 15 in OOHC who stay in SHS. The SHS providers do not collect information about whether children not in OOHC have an open and allocated case plan. As we have discussed in **section 3**, the number of children under 12 who stay in SHS is unknown because of significant flaws in reported data.

For the children in OOHC who stay in SHS, we would have expected that if alternative accommodation was being secured within (or even within days of) the new 48-hour deadlines, then this would be reflected by changes in the AIHW data on duration of stay in SHS. That is, we would have expected that a larger proportion of children would be staying for fewer nights. To test this, we compared duration of stay data for 2021–22 – the first year of operation of the new policy – with the 4 previous years.

We found that no such change occurred. As **table 8** shows, the proportion of children in OOHC who stayed up to 5 nights in 2021–22 was only 22.6%, identical to the previous year and within the range of

13. DCJ’s responses to concerns about children include allocating risk of significant harm reports to child protection caseworkers for further assessment.

results for the 5-year period (about 20%-23%). The same consistency of results was evident in each of the other categories of duration of stay. This suggested to us that the new deadlines, if applied, did not affect the duration of stay across all categories or indeed the total number of children in OOHC who stayed in SHS accommodation.

Table 8. Duration of accommodation of children on a care and protection order 2017–18 to 2021–22

	2017–18		2018–19		2019–20		2020–21		2021–22	
	Number of children	% of total	Number of children	% of total	Number of children	% of total	Number of children	% of total	Number of children	% of total
Up to 5 nights	35	21.0	19	19.6	18	22.0	20	22.7	19	22.6
6–45 nights	52	31.1	28	28.9	26	31.7	30	34.1	29	34.5
46–90 nights	29	17.4	19	19.6	16	19.5	16	18.2	11	13.1
91–180 nights	31	18.6	19	19.6	14	17.1	14	15.9	14	16.7
Over 180 nights	20	12.0	12	12.4	8	9.8	8	9.1	11	13.1
Total number of children accommodated	167	100.0	97	100.0	82	100.0	88	100.0	84	100.0

3.4. DCJ has failed to implement a system to ensure mandatory and timely reporting to the Children’s Guardian when children in OOHC present to homelessness services

We recommended that

4. DCJ, in consultation with the Children’s Guardian, establish mandatory reporting arrangements to ensure timely reporting to the Guardian of all children in statutory out-of-home care (OOHC) who present to homelessness services.

Why we made the recommendation

In both our 2018 and 2020 reports we identified the need for the Government to establish a process that ensured that all children who use homelessness services while in statutory OOHC were accurately tracked and monitored. We noted that children in the care of the Minister who become homeless are still in that care, and DCJ or designated non-government agencies remain responsible for them.

As we reported, there were no requirements for DCJ or NGO OOHC agencies to notify the Children’s Guardian when children in statutory care stay in SHS. There was also no accurate information about the actual number of these children, so the Guardian could not fulfil their

responsibility to monitor them. Although DCJ was reporting some data to the Guardian, this counted only children in OOHC who were placed in SHS by DCJ, excluding those placed by NGOs, and it was done on a quarterly basis, so there could be no real time monitoring of individual children.

DCJ's response to the recommendation

DCJ supported this recommendation, but its final report did not explain what was done. Instead, DCJ noted several matters relating to its data on children in OOHC who are homeless. DCJ said it was aware that its count of such children who are placed in SHS is not accurate (we reported this in 2018 and again in 2020), that it has established new arrangements to capture this information and will continue to work to ensure the data is robust.

To understand how DCJ implemented the recommendation, we relied on correspondence to us that accompanied DCJ's implementation report. In the letter, DCJ's Secretary explained that DCJ consulted with the Office of the Children's Guardian (**OCG**) about the optimal frequency to report and agreed to continue with quarterly reporting of young people in SHS.¹⁴

Because DCJ has made no change to its practice of providing quarterly reports to OCG that cover only those children and young people that DCJ places in SHS – and not those from NGO placements – it has not established mandatory and timely reporting of *all* children in OOHC who present to homelessness services.

Assessment of progress: not implemented

The Children's Guardian regulates and oversees the statutory OOHC sector, which comprises placements provided for children by DCJ and by accredited non-government organisations. The Guardian's role includes accrediting these providers, including DCJ, and monitoring their compliance with the NSW Child Safe Standards for Permanent Care, including those relating to the safety and suitability of a child's care environment.

To include homeless children in his OOHC oversight, the Guardian would need accurate, comprehensive, and timely notifications about all such children who present to youth SHS.

DCJ's response to our recommendation delivers none of these things because its reports to the Guardian are based on data it acknowledges is still not accurate, excludes children in NGO placements and occurs only once a quarter.

Based on the most recent data available to us, there is still a significant discrepancy between the data DCJ reports to the Children's Guardian and that reported by SHS to the AIHW's annual homelessness collection.

14. Secretary, Department of Communities and Justice, letter to the Ombudsman 31 March 2022.

In 2020–21, DCJ reported to OCG and our office that it placed a total of 45 ‘young people’ in youth SHS.¹⁵ The AIHW data that we commissioned showed that 263 children aged 12–15 on a care and protection order presented to SHS in the same year. Of them, 84 stayed in SHS and another 42 needed accommodation but did not receive it.

As we note above, DCJ agreed with the Children’s Guardian that it would continue quarterly reporting on its SHS placements of children in OOHC. DCJ has been providing the same reports to us. The last quarterly update we received from DCJ was for the December quarter 2021–22. During preparation of this report we requested the outstanding updates from DCJ. We have not received them.

3.5. DCJ has still not conducted a review of children in OOHC who stay in youth SHS, despite saying (in 2018 and 2020) that it would do so

As we had in 2018, in our 2020 report we recommended that:

5. DCJ conduct and publish a review of children in statutory OOHC staying in youth refuges and publish the results, together with any action it intends to take in response.

Why we made the recommendation

In April 2017 – more than a year before our first report – the then Department of Family and Community Services advised us that a detailed review was needed to enable a better understanding of the circumstances in which children were leaving their OOHC placements and accessing homelessness services, and how to respond to their needs.

Because of uncertainty at the time about the actual numbers of such children, we recommended in our 2018 report that the department undertake the review urgently. That did not happen.

In our 2nd report in 2020, we repeated the recommendation after DCJ told us it needed to improve its data collection on homelessness of children in statutory OOHC before doing the review. We observed that the proposed review was well overdue because significant numbers of OOHC children were continuing to use youth SHS.

DCJ’s response to the recommendation

DCJ supported the recommendation for a review, but did not support publication of the results of such review.

15. The *Children and Young Persons (Care and Protection) Act 1998* defines a child as a person under 16 and a young person as aged over 16 but under 18 years. DCJ’s use of the term ‘young people’ in its reports to OCG makes it difficult to know whether children in OOHC are included in the data.

Assessment of progress: not implemented

DCJ said it would need to consider any publishing of results of a review of homelessness affecting children in OOHC, because relevant children would constitute a small cohort and public reporting should always be at a high enough level to ensure that data remains deidentified.

As to the proposed review itself, DCJ did not refer to it, either in its initial response in 2020 or in its final outcomes report of 2022. We can only assume that this is because no such review had been conducted.

Instead, DCJ pointed to its existing use of *individual* reviews of children in the care of the Minister who stay in SHS, and to its attempts to improve the quality of data on all unaccompanied children who present to SHS.

Individual reviews are, of course, essential for responding to each child in statutory OOHC who stays in a homelessness service; the reviews are aimed in part at addressing the factors that lead a child to leave a placement.¹⁶ However, individual reviews are not a substitute for a system-wide examination of homelessness affecting the statutory OOHC population.

As we noted above, DCJ told us that it needed to finalise improved data collection arrangements before commencing the wider review. DCJ implemented these arrangements in July 2020 by requiring SHS to report to DCJ's Helpline every unaccompanied homeless child who presented to SHS providers and adding a new recording field in DCJ's ChildStory database. DCJ explained the purpose of these requirements in a communique to the agencies:

The new mandatory field will enable real-time reporting and tracking of trends allowing DCJ to identify, monitor and effectively respond to practice issues, such as the placement of children in OOHC in homelessness services, and improve long-term outcomes for vulnerable children.

Collection of this data will create additional opportunities to track client journey trends (for both children in OOHC and children not in OOHC who present to homelessness services) across multiple DCJ interventions leading to a better understanding of client needs and opportunities to intervene earlier.¹⁷

Using data in this way (and incorporating the results of individual reviews of children in OOHC who use SHS/HYAP services) could be an effective substitute for the type of review we recommended.

However, although it is more than 2 years since DCJ established the new reporting arrangements, it has not explained what it is doing with the information it collects.

16. *Permanency Support Program Away From Placement Policy* (2022), 7.7 Review the case plan p20

17. Communities and Justice information sheet June 2020 Change to child protection Helpline reporting

In our view, there is still a case for a system-wide review to understand and publicly report on the reasons why children in the care of the Minister for Families and Communities are presenting to homelessness services.

The need for such a review is not diminished by the fact that there has been a significant reduction (27%) since 2017–18 in the number of OOHHC children aged 12-15 presenting to SHS providers. The reasons for this encouraging reduction are unknown. However it is notable that the most recent data – in **table 9** - shows that almost 44 per cent of those children were returning clients.¹⁸

Table 9. New and returning clients aged 12-15 on a care and protection order presenting alone to SHS 2017–18 to 2021–22

	2017–18	2018–19	2019–20	2020–21	2021–22
New clients	213	166	165	174	148
% of total	59.0	56.8	54.1	55.8	56.3
Returning clients	148	126	140	138	115
% of total	41.0	43.2	45.9	44.2	43.7
Total number of clients	361	292	305	312	263

There is also some evidence that homelessness or risk of homelessness among children in OOHHC is not confined to 12-15-year-olds who present unaccompanied to SHS. The flawed data on children aged under 12 (which we have excluded from this report) included some children in that age bracket reported by SHS as being in OOHHC.

In its latest SHS annual report, AIHW notes that:

pathways into homelessness for children on care and protection orders are complex. For example, children who present alone may have absconded from their home due to family violence, abuse or neglect (Noble-Carr & Trew 2018). **Children may also seek support from SHS agencies with their carers** *[our emphasis]*.¹⁹

If any authorised carers are themselves experiencing homelessness affecting children in the NSW OOHHC system, this only adds more weight to the need for DCJ to initiate a comprehensive review.

18. Refer to footnote 12

19. [Specialist homelessness services annual report 2021–22, Children on care and protection orders - Australian Institute of Health and Welfare \(aihw.gov.au\)](https://www.aihw.gov.au/reports/children-youth/specialist-homelessness-services-annual-report-2021-22)

3.6. DCJ is not introducing specific standards for the quality of care for youth homelessness services

We recommended that:

6. DCJ either:

- (a) detail, in the plan referred to in recommendation 1, how implementation of the Australian Service Excellence Standards fully addresses our previous recommendation relating to the establishment of regulatory standards to govern the quality of care provided by youth homelessness services, or
- (b) otherwise develop and adopt its own regulated standard for the quality of care required for homeless children.

Why we made the recommendation

We originally made the first part of this recommendation in 2018 because the homelessness sector was the only form of professional care provided to vulnerable children in NSW without regulatory standards to govern the quality of that care.

In its response, DCJ indicated that its plans to implement sector-wide accreditation to the Australian Service Excellence Standards (ASES) would address our recommendation.

Accordingly, in 2020 we recommended that DCJ either explain how those standards would address the quality of care to children, or develop its own regulated standards.

DCJ's response to the recommendation

DCJ did not support the second part of our recommendation, (to develop its own regulated standard for the quality of care required for homeless children). DCJ indicated that the ASES will be sufficient to address the intent of our recommendation.

In support of this position, DCJ told us:

- The ASES does not include specific standards for 'youth', but that DCJ would work with the intellectual property owners of ASES to incorporate additional information where relevant.
- The ASES requires youth SHS to provide evidence of policies and procedures that support 'consistent provision' [sic] and the safety of children, young and vulnerable people in accordance with organisational objectives, industry and legislative requirements. These include the Care Act.

- A policy framework posted on DCJ's website²⁰ provides information about how the ASES will address quality of care for homeless children.

To the extent that DCJ provided this information, we consider that it has implemented the first part of our recommendation. We discuss the information below.

Assessment of progress: not implemented

Although DCJ told us it would work to add additional information 'where relevant' to the ASES, it has not yet provided any evidence that it has done so or intends to, nor has it explained what extra information could be relevant in the ASES to standards for the quality of care for homeless children. However we acknowledge that full implementation of the ASES is not due to be completed until mid-2024.

DCJ also told us that under the ASES, homelessness services dealing with unaccompanied children would have to show they had policies and procedures that addressed the safety of children, consistent with their legislative, industry and organisation obligations and objectives. DCJ pointed to the Care Act as a source of legislative requirements applicable to those 'youth' providers.

However, the Care Act contains no *specific* provisions that govern the quality of care for homeless children and in its response, DCJ did not make clear what industry and organisational requirements would be relevant to the quality of care.

We reviewed the ASES Policy Framework on DCJ's website but found no information in it that related to our recommendation.

For all these reasons, DCJ's response to the recommendation does not adequately explain how use of the ASES will establish specific standards to govern the quality of care provided to unaccompanied homeless children.

20. ASES Policy Framework: Implementing a new quality framework for specialist homelessness services in NSW March 2021 [ASES Policy Framework for SHS providers | Family & Community Services \(nsw.gov.au\)](https://www.nsw.gov.au/ases-policy-framework-for-shs-providers)

3.7. DCJ still does not report on outcomes for unaccompanied homeless children

We recommended that:

7. DCJ:

- (a) develop and commence reporting against appropriate performance measures to monitor outcomes for unaccompanied homeless children,
- (b) commence regular reporting on DCJ's capacity to respond to risk of significant harm (ROSH) reports by youth homelessness services and the ROSH re-reporting of unaccompanied homeless children, and
- (c) commence regular public reporting on outcomes for unaccompanied homeless children.

Why we made the recommendation

During the inquiry that preceded our 2018 report, we were unable to obtain basic data on homeless children because it was either not being collected or was unreliable. Without the data, the department could not adequately monitor and report on outcomes, so we recommended that it promptly establish the necessary performance measures, as well as collecting data to measure its capacity to respond to these children.

Two years later, DCJ had not made adequate progress, so in our 2020 report we repeated our recommendation.

DCJ's response to the recommendation

DCJ supported parts (a) and (c) of our 2020 recommendation and gave in principle support to part (b).

DCJ's final outcomes report shows that it is developing homelessness outcome measures, but these apply to the broader homeless population. The report did not refer to development of specific performance measures for homeless children aged 12-15, or children under 12.

DCJ told us that it is implementing the Specialist Homelessness Services Outcomes framework. It said this will produce collated, program level outcomes data, published on an annual basis and capturing data for a range of key performance indicators, reportable by age group.

The indicators relate to the following outcomes for clients of homelessness services:

- Clients feel safer
- Clients feel supported to make progress in addressing their safety needs
- Clients make progress addressing their housing needs
- Clients sustain their tenancy

- Clients have improved personal wellbeing
- Clients have increased capacity to tackle future challenges.

DCJ told us that both HYAP providers and youth SHS are included in the implementation of the Outcomes framework, which is due to finish in July 2024.

DCJ supported our recommendation for regular reporting on its capacity to respond to risk of significant harm reports by youth SHS, and the re-reporting of unaccompanied homeless children. In its 2020 response, DCJ reported that it was examining the use of internal dashboards to monitor performance and that public release would depend on data quality and counts being sufficiently large enough to maintain client confidentiality.

However, in its final outcomes report DCJ did not address our recommendation to report regularly on its response capacity for ROSH reports and re-reports on homeless children. Instead, it referred to the steps it has taken since July 2020 – internally and in communication with youth SHS – to improve the quality of the data the providers report to DCJ about unaccompanied homeless children. DCJ indicated that it would continue to work on improving the data.

Assessment of progress: not implemented

The establishment of mandatory outcomes reporting across the homelessness sector may, over time, enable the providers, the Government, and the public to see how well the SHS program is meeting the needs of people experiencing homelessness.

However, at this stage, it is not clear whether the measures to be used in the outcomes framework will produce sufficient and relevant information about unaccompanied homeless children. This is because children are a distinctly different cohort from homeless adults, and because measures such as clients addressing their own housing needs or sustaining a tenancy are not relevant to children.

That said, a way to collect and report outcomes for unaccompanied homeless children is already in place. The new policy that DCJ published in July 2021 contains the following commitment:

Implementation will be regularly monitored to ensure that outcomes align with this policy's purpose and objectives. The Monitoring Framework, including key indicators of policy progress and outcomes, is at Appendix 3.

We reviewed the monitoring framework in the policy, noting that it is described as a draft document. The framework contains 15 service delivery indicators, including:

- Average length of stay
- Restored to family home
- Restored to OOHC
- Exited to OOHC

- Exited to medium/long-term accommodation
- Have an open DCJ child protection case file
- Assessed as at ROSH (risk of significant harm) by Helpline
- Assessed face to face
- Number who receive any HYAP service.

Whether DCJ has finalised and implemented the draft monitoring framework for unaccompanied homeless children is unknown because DCJ did not refer to it in its final implementation report.

On the separate measures of DCJ's capacity to respond to ROSH reports and re-reports about unaccompanied homeless children, DCJ has not committed to producing the necessary public reports as we recommended. Such reports could contribute to understanding the effectiveness of the response to these vulnerable children.

4. Additional information – Context

4.1. Data reporting and definitions

Public reports provide limited information about children who present alone to SHS in NSW

The AIHW produces national annual reports based on data collected by homelessness services in each of the states and territories.²¹ NSW data is sourced directly from the SHS that DCJ contracts.

These annual reports contain very limited information about children who present alone to SHS. The reports also use age groupings (0 – 9, 10 – 14 and 15 – 17) that do not align with the age groups in DCJ's policy for unaccompanied homeless children (under 12 and 12 – 15).

As noted in **section 2** of this report, we decided for these reasons to commission AIHW to provide special data extracts about the NSW age groups for this report (similar to what we had done for our 2020 report).

AIHW advice about defining children who present alone to SHS

During preparation of this report, AIHW gave us what it called additional context about the concept of children presenting alone to SHS:

Children may be reported as presenting alone to an SHS agency for several reasons:

- It is possible that a child physically presented with an adult to an agency, but only the child required and received SHSC [Specialist homelessness services collection] services. In this case, the child is reported as “presenting alone” as the accompanying adult does not have an SHSC support period that can be linked to the child client.

21. For example, Australian Institute of Health and Welfare Specialist homelessness services annual report 2021–22 [Specialist homelessness services annual report 2021–22, About - Australian Institute of Health and Welfare \(aihw.gov.au\)](https://www.aihw.gov.au/reports/homelessness/specialist-homelessness-services-annual-report-2021-22/about)

- Alternatively, a child may have presented with an adult to an SHS agency, and both received services, but the agency worker may not have properly linked the child to the accompanying parent/guardian when opening a support period for the child; hence the child is reported as presenting alone.
- Service was sought by and provided to the child only (without an accompanying adult) and therefore the child is the only client and is reported as presenting alone.

This issue is not specific to discrete jurisdictions. Caution should be used when comparing data between age groups for children presenting alone generally, and when comparing data between states and territories.

In this report, we have used the terms ‘present alone’ (used by the AIHW data) and ‘unaccompanied’ (used in the DCJ policy and reports) interchangeably to refer to a child aged 12-15 who seeks and/or receives support from a homeless service on their own (whether or not they arrived at the service with an accompanying adult).

4.2. Roles and responsibilities

The role and responsibilities of DCJ

DCJ is also responsible for children in OOHC. The Minister for Families and Communities (and DCJ through the Minister) has parental responsibility for children and young people in statutory OOHC. This means that DCJ undertakes all the legal duties, powers and responsibilities that a parent would normally hold. The parental responsibilities of DCJ cannot be delegated even when a child of young person is the care of a service provider in the sector.²²

Specialist Homelessness Services

DCJ is the NSW Government department with policy responsibility for homeless children and the service system that responds to them.

Under its current policy arrangements, DCJ shares operational responsibility for responding to children who are alone and homeless, or at risk of homelessness, with some Specialist Homelessness Services (SHS) and agencies funded under the Homeless Youth Assistance Program (HYAP).²³

SHS services are defined in the current policy as follows:

The SHS Program is a national program administered in NSW by DCJ. ‘Youth SHS’ are designed specifically to meet the needs of young people (16-25 years) who are homeless or at risk of homelessness. As children 12-15 years are outside the SHS service model and target client group, SHS have limited capacity to meet children’s supervision, support, and case management needs.

More detailed background about SHS is set out in our 2020 report.

22. Department of Communities and Justice [Permanency Support Program Description](#) p11

23. Unaccompanied Children 12-15 Accessing Specialist Homelessness Services Policy (July 2021)

The Homeless Youth Assistance Program

HYAP services provide a different service to SHS, explained in the policy as follows:

Under the HYAP, 19 service packages have been established across NSW. These services provide integrated support and accommodation with the aim of reunifying children aged 12-15 with their families and broader support networks, where appropriate, or enabling them to transition to appropriate longer-term supported accommodation. Each HYAP differs in the range of accommodation and support services it is funded to provide. Note that **most HYAP services do not provide accommodation**.²⁴ [emphasis added]

Based on these policy definitions for SHS and HYAP providers, while it appears that HYAP are likely to be better placed to provide support to address a longer term need for secure accommodation, unaccompanied homeless children are more likely to seek and find an emergency bed with SHS outlets than with HYAP services.

A DCJ-commissioned evaluation of the Homeless Youth Assistance Program has also raised concerns

Shortly after publication of our second report, DCJ released a report of an independent evaluation of HYAP.²⁵

Although the evaluators reported extensive difficulties in accessing good quality data for their work, they were able to identify a significant intersection between homelessness and the child protection system. Of 2,707 children aged 12-15 who received HYAP services from 2016-17 to 2018-19, the evaluators reported that a majority had child protection involvement before HYAP, including:

- Over half (51.4%) had at least one risk of significant harm report (ROSH)
- One quarter (25.1%) received a completed safety assessment and more than a fifth (22.1%) received a completed risk assessment [from DCJ caseworkers]
- 7.1% had been in OOHC on at least one occasion.²⁶

The evaluators observed that poor integration across the homelessness and child protection systems was a critical barrier to the ongoing viability of HYAP. They said:

The model of HYAP service delivery was driven in large part by the presentation of vulnerable CYP [children and young people] with child protection histories to HYAP services. Outcomes for vulnerable CYP seem to have more to do with whether there has been a child protection

24. Unaccompanied Children 12-15 Accessing Specialist Homelessness Services Policy (July 2021) 2 Definitions p5

25. [Evaluation of Homeless Youth Assistance Programs | Family & Community Services \(nsw.gov.au\)](#)

26. Evaluation of the Homeless Youth Assistance Program Final Report June 2020 p39

response before, indicating that CYP and potentially the child protection system itself are in a cycle of escalating issues that culminate in a pattern of homelessness that continues to young adulthood.²⁷

We consider these HYAP evaluation findings in **section 3.3**.

4.3. Response to this report from the Department of Communities and Justice

We gave the Department a draft version of this report for comment.

DCJ made no comment, other than to say that it has provided the NSW Ombudsman with substantial information and evidence on the actions completed in response to the previous *More Than Shelter* report recommendations, including in the *Final Outcomes Report* published on the DCJ website in March 2022.

27. Ibid p20

