

More than shelter – addressing legal and policy gaps in supporting homeless children

A special report to Parliament
under section 31 of the
Ombudsman Act 1974.

21 June 2018

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ISBN 978-1-925569-87-2

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21 June 2018

The Hon John Ajaka MLC
President
Legislative Council
Parliament House
SYDNEY NSW 2000

The Hon Shelley E Hancock MP
Speaker
Legislative Assembly
Parliament House
SYDNEY NSW 2000

Dear Mr President and Madam Speaker

Pursuant to section 31 of the *Ombudsman Act 1974* I am providing you with a report titled *More than shelter - addressing legal and policy gaps in supporting homeless children*.

I draw your attention to the provisions 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.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Michael Barnes". The signature is fluid and cursive, written on a light-colored background.

Michael Barnes
NSW Ombudsman

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Executive summary

In NSW, specialist homelessness services receive funding from the Department of Family and Community Services (FACS) to work with housing and other support services to help people who are homeless, or at risk of becoming homeless, to find and/or keep a home.¹

The vast majority of people who seek assistance from homelessness services are either adults, or children who present to a service with their parent(s). However, in 2016-17 just over 5,000 children and young people (aged 12 to 18 years) presented on their own to a homelessness service to seek support and/or a place to stay.² More than one third of these children were under 16, and around 700 of them were specifically seeking accommodation.³

Many children seeking support from homelessness services have suffered some form of trauma or abuse. They may have also disengaged from school and/or be caught up in the criminal justice system. These children are an extremely vulnerable group and require specialised responses from homelessness services.

For more than a decade, we have been raising concerns about the adequacy of supports provided to homeless children. In our 2014 report to Parliament on the health of the child protection system, we highlighted the absence of a finalised policy to guide the response to this very vulnerable group.⁴ The following year, FACS released its finalised policy – *Unaccompanied Children and Young People 12–15 Years Accessing Specialist Homelessness Services*.

To better support children aged 12-15 who are homeless or at risk of homelessness,⁵ FACS established the Homeless Youth Assistance Program (HYAP). This was a \$54 million, six year initiative to deliver targeted responses to this group as part of *Going Home Staying Home* – a two year reform program (which took place between 2012-14) that significantly restructured the specialist homelessness system in NSW.

As part of its commitment to addressing youth homelessness more broadly, the NSW Government has committed \$40 million over four years to the Premier's Youth Initiative and, more recently, an extra \$13.9 million to the youth homelessness sector to increase the availability of 24/7 crisis beds and support.⁶

Against the background of this investment, we believe it is critical to highlight a number of unresolved legal, policy and service gaps that continue to affect children staying in homelessness services.

Our inquiry was initially prompted by concerns raised with us by the youth homelessness sector about the extent of their legal authority to make critical decisions concerning children under 16. In response, we sought advice from senior counsel – and this confirmed our view that, in the absence of any care and protection order, key decision-making authority remains with the child's parents. This is despite these children commonly having no, or very minimal, contact with their parents. For example, unless consent is obtained from a parent to exercise 'parental responsibility' in making decisions about important matters such as certain forms of medical care and school enrolment, neither the service nor FACS has the legal authority to make these types of decisions. This applies even if consent has been given by a parent for the child to stay in a homelessness service. FACS has considered our legal advice and agrees that there is a lack of legislative clarity in this area.

-
1. The Commonwealth provides funding to states and territories for SHS under the National Affordable Housing Agreement (NAHA) and National Partnership Agreement on Homelessness (NPAH). This funding is administered by FACS.
 2. Homelessness services do not provide a response to children aged under 12 years who are on their own – if a child aged under 12 years presents on their own to a service, the service must make a report to the Child Protection Helpline, and FACS is responsible for providing an appropriate child protection response.
 3. Data provided by FACS on 12 March 2018, based on FACS's analysis of Australian Institute of Health and Welfare (AIHW) SHS Client Confidentialised Unit Record Files, NSW, 2016-17.
 4. NSW Ombudsman, *Review of the NSW Child Protection System: Are things improving?*, April 2014. <https://www.ombo.nsw.gov.au>.
 5. FACS, 'Funding certainty for homeless youth', Media release, 10 December 2015 <https://www.facs.nsw.gov.au>.
 6. FACS, 'NSW Government committed to reducing youth homelessness', media release, 18 April 2018.

Our inquiry has put a spotlight on the need for FACS to finally settle effective operational arrangements with homelessness services that clearly spell out the roles and responsibilities of FACS and services in supporting homeless children.

We have also highlighted that this is the only form of professional care provided to vulnerable children and young people in NSW where there are no regulatory standards in place that govern the quality of care provided. Given the high level of vulnerability of these children, there would appear to be a strong case for this gap to be addressed.

In addition, neither FACS nor the sector were able to provide answers to a number of critical questions that we asked during our inquiry about these children – because basic data is either not being captured or is unreliable.

FACS has recognised, through its ongoing processes to develop a new homelessness strategy for NSW, that ‘there are many young people who require high levels of support and assistance and who have complex needs that are not well-met by the system as it stands’.⁷

Overall, we have concluded that the current lack of rigour in the legal, policy and practice framework for children in homelessness services is in stark contrast to the work that FACS is doing to improve, and more closely monitor, the safety and wellbeing of children and young people in statutory out-of-home care (OOHC). This is via the *Their Futures Matter* reform⁸ agenda, and the investment made in redesigning the delivery of residential care by replacing it with an intensive therapeutic care model.⁹ FACS has indicated in its most recent advice to us that it agrees that the issues raised in this report need to be resolved.¹⁰

7. FACS, *What we Heard: A summary of feedback from the Foundations for Change – Homelessness in NSW*, July 2017. p3; p18. <https://www.facs.nsw.gov.au>, Accessed 15 October 2017.

8. In response to the findings of the 2015 ‘Tune review’ in March 2017, FACS announced – *Their Futures Matter* – a reform agenda for OOHC incorporating a dedicated commissioning entity within FACS responsible for holding all cross-agency expenditure on services for vulnerable children and families, and working with agencies to commission tailored service solutions across agency and program boundaries. The reforms involve, among other things, performance-based contracting of NGOs delivering OOHC; a move away from program and service models towards a new ‘needs based’ model providing tailored support packages to children in or at risk of entering OOHC; better use of data and evaluation to guide investment in evidence-based services; and a single outcomes framework for vulnerable children which will define wellbeing indicators and outcomes against which agencies will be required to report regularly.

9. In March 2017, FACS and ACWA released a jointly developed framework for therapeutic OOHC in NSW which informed the redesign of the existing residential care service system. Intensive Therapeutic Care will be introduced to replace residential care through a two stage tender process with the procurement process due for completion by 30 June 2018.

10. Advice provided by Mr Michael Coutts-Trotter, Secretary, FACS, 3 May 2018.

Summary of recommendations

1. The Department of Family and Community Services should provide advice to the NSW Government about a proposed framework to address the lack of decision-making authority relating to children staying in homelessness services that has been outlined in section 2 of this report.
2. The Department of Family and Community Services should work with youth homelessness services and other key partner agencies (e.g. Health, Education, Justice) to promptly finalise the remaining district-level *Protocols for responding to unaccompanied children and young people 12-15 years of age who are homeless or at risk of being homeless* and, where necessary, revise the existing district-level protocols to reflect the amended policy.
3. The Department of Family and Community Services should promptly revise the *Unaccompanied Children and Young People 12–15 Years Accessing Specialist Homelessness Services* policy to:
 - a) Include much greater clarity about, and a stronger commitment relating to, its role in supporting youth homelessness services (consistent with our observations in section 3.1 of this report).
 - b) Commit to providing a single nominated Department of Family and Community Services contact point for youth homelessness services in each district or community services centre, and outline their specific roles and responsibilities.
4. The Department of Family and Community Services should promptly revise the *Unaccompanied Children and Young People 12–15 Years Accessing Specialist Homelessness Services* policy to specify a mandated case review process for children who ‘over-stay’ in youth homelessness services (consistent with our observations in section 3.2 of this report).
5. The Department of Family and Community Services should promptly start a review of the use of homelessness services by children in out-of-home care to enable a better understanding of the circumstances in which children are leaving their placements and how to respond to their needs.
6. The Department of Family and Community Services should work with the youth homelessness sector and the Children’s Guardian to ensure there is a robust process in place which guarantees the accuracy of data relating to children in statutory OOHC who are staying in homelessness services, as well as the timely reporting of these children to both FACS and the Children’s Guardian when they enter homelessness services.
7. After consultation with the Children’s Guardian, the Advocate for Children and Young People and the youth homelessness sector, the Department of Family and Community Services should promptly provide advice to the NSW Government about establishing regulatory standards to govern the quality of care provided by youth specialist homelessness services (consistent with our observations in section 4 of this report).
8. In light of the observations in this report, and as part of finalising the Specialist Homelessness Services continuous improvement plan and the HYAP Evaluation Plan, the Department of Family and Community Services should:
 - a) Promptly settle the performance measures required to adequately monitor and report on service and client outcomes for children who access homelessness services, including identifying children in statutory OOHC as a specific cohort.

- b) Capture data to allow FACS to measure its capacity to respond to risk of significant harm reports made by homelessness services, and the re-reporting of children who have accessed homelessness services.**
- 9. The Department of Family and Community Services should regularly report publicly on the client and service outcomes referred to in recommendation 8 (and section 5 of this report).**

1. Background – recent reforms to the specialist homelessness sector

Although state and territory governments are responsible for providing services to the homeless or those at risk of homelessness, the Commonwealth supports them with funding through the National Affordable Housing Agreement (NAHA) and the National Partnership Agreement on Homelessness (NPAH).¹¹

Incorporating both the NSW Implementation Plan and the related regional homelessness action plans under the NPAH, the *NSW Homelessness Action Plan 2009–2014* was developed in response to a 2007 recommendation by the Auditor-General that a strategic framework for responding to homelessness be developed.¹² A key intended outcome of the plan was ‘the reform of the specialist homelessness, specialist and mainstream service systems to ensure that services identify people early who are homeless or at risk of homelessness, and provide them with joined-up and flexible services that meet their needs’.¹³

Consistent with this objective, the Going Home Staying Home reforms to the specialist homelessness services (SHS) sector were implemented during the life of the plan to ‘improve the structure, quality and contracting of services’.¹⁴ Central to these reforms was the introduction of a resource allocation model to inform a needs-based distribution of homelessness funds across NSW.¹⁵ As a result, tendering was used for the first time to allocate service contracts in the SHS sector. SHS contracts were significantly restructured and the overall number of contracts reduced.¹⁶ Under the current SHS program, FACS allocates funding to 159 services across NSW to help people who are homeless or at risk of homelessness by providing accommodation and other support.¹⁷

The *NSW Homelessness Action Plan 2009–2014* included a focus on providing accommodation and support to:

- young people leaving care
- reconciling homeless young people with their families, where possible
- supporting young people to maintain connections with education, training and employment.¹⁸

The plan recognised that young people can benefit from services that provide secure accommodation with support, and that more intensive support may be appropriate for young people with complex needs.¹⁹

In addition, in September 2015, the former Premier announced – as one of several Premier’s Priorities – a commitment to reducing youth homelessness by achieving a 10% increase in the proportion of young people aged 15-24 who successfully move from SHS to long-term accommodation.²⁰ The NSW Government has committed \$40 million (over four years) for the Premier’s Youth Initiative, in addition

11. As part of the 2017-18 Budget, the Commonwealth Government announced that it would work with the states and territories to reform the NAHA and the NPAH into the new National Housing and Homelessness Agreement (NHHA). <https://www.dss.gov.au>, Accessed 19 October 2017.

12. NSW Government, *A Way Home: Reducing Homelessness in NSW, NSW Homelessness Action Plan 2009-2014*, p11. <https://www.dss.gov.au>, Accessed 12 October 2017.

13. NSW Government, *A Way Home: Reducing Homelessness in NSW, NSW Homelessness Action Plan 2009-2014*, p10.

14. FACS, *Fact sheet: Going Home Staying Home*, July 2012, p1.

15. FACS, *Fact sheet: Going Home Staying Home, Resource Allocation*, November 2013, p1. <https://www.housing.nsw.gov.au>, Accessed 10 October 2017.

16. <https://www.shssectordev.org.au>, Accessed 18 October 2017.

17. <https://www.housing.nsw.gov.au>, Accessed 18 October 2017.

18. NSW Government, *A Way Home: Reducing Homelessness in NSW, NSW Homelessness Action Plan 2009-2014*, p15.

19. NSW Government, *A Way Home: Reducing Homelessness in NSW, NSW Homelessness Action Plan 2009-2014*, p16.

20. The priority has been retained by the current Premier, but with a new goal of ‘increasing the proportion of young people aged 15-24 who successfully move from SHS to long-term accommodation to more than 34% by June 2019’. <https://www.nsw.gov.au>, Accessed 31 January 2017.

to \$49 million which was committed in 2017-18 for specialist homelessness services for young people.²¹ In April this year, the NSW Government announced an extra \$13.9 million for the youth homelessness sector to increase the availability of 24/7 crisis beds and support.²²

There are currently 30 non-government organisations (NGOs) that are funded through 42 service packages to deliver youth-specific homelessness services that provide varying types of support for children and young people.²³ They include 15 NGOs funded under the HYAP through 19 service packages to deliver integrated support and accommodation models – with the aim of reconnecting children aged 12-15 who are homeless, or at risk of homelessness, with their families or wider support networks, or enabling them to transition to independence.

21. Advice provided by FACS, 3 May 2018.

22. FACS, 'NSW Government committed to reducing youth homelessness', media release, 18 April 2018.

23. Advice provided by FACS, 9 May 2017.

2. Who has decision-making authority for children who are homeless?

One of the objectives of the *Unaccompanied Children and Young People 12–15 Years Accessing Specialist Homelessness Services* policy (the SHS policy) is that youth homelessness services are ‘compliant with relevant legislation’.²⁴

Our inquiry was prompted by concerns about whether current legislation provides the requisite authority for homelessness services to make certain key decisions for children who are homeless²⁵ in the absence of court orders.²⁶ In particular, services wanted clarity regarding the legal basis for certain decisions that they may have to make relating to children who are living in their services. For example, decisions about medical or therapeutic care, school enrolment and attendance at education-related activities – both in circumstances where parental consent has, and has not, been obtained for the children to live at the service. These same concerns were raised with FACS during its statewide consultations informing the development of the HYAP.²⁷

In examining these issues, we identified a gap in the decision-making authority of homelessness services and sought independent legal advice from senior counsel to clarify the precise scope of the legal gap. Senior counsel’s advice confirmed our view about the limited decision-making authority of homelessness services.

Section 157(1) of the *Children and Young Persons (Care and Protection) Act 1998* (the Care Act) provides ‘authorised carers’ with the authority to make certain decisions for a child that a parent would otherwise make. However, as confirmed by senior counsel, because homelessness services fall outside the statutory out-of-home care (OOHC) system,²⁸ these services cannot rely on the provisions of section 157 of the Care Act to claim authority to exercise care and control for a child under the age of 16 years who is not under any care and protection order or temporary care arrangement, and who accesses a homelessness service without a parent’s consent.²⁹

Senior counsel also confirmed that – even when parental consent has been obtained for a child to live in a homelessness service – the legal basis on which a service can make decisions depends on the actual scope of any authority that the involved parent(s) has given to the service.³⁰

24. FACS, *Unaccompanied Children and Young People 12–15 Years Accessing Specialist Homelessness Services Policy*, 2015, p6.

25. Throughout this report, references to children who are homeless, or at risk of becoming homeless, relate to children aged 12-15 years who are not in the company of an adult, as distinct from children who may be experiencing homelessness with a parent or carer.

26. For example, by an order of the Children’s Court allocating parental responsibility to a specific person or persons other than the parent, such as children in statutory OOHC. Under section 79(1) of the Care Act, the Children’s Court may make an order allocating all aspects of parental responsibility, or one or more specific aspects of parental responsibility to various, specified persons. Under section 79(2) of the Care Act, specific aspects of parental responsibility that may be allocated, include but are not limited to: residence, contact, education and training, religious and cultural upbringing and medical and dental treatment.

27. FACS, *The Homeless Youth Assistance Program: Summary report of state-wide consultations*, p10 <https://www.housing.nsw.gov.au>. Accessed 17 October 2017.

28. A child in the care of the Minister who leaves a placement and takes up residence in an SHS continues to be in OOHC. Section 135(4) of the Care Act provides that a child who is in OOHC does not cease to be in OOHC merely because they become subject to any care and control referred to in section 135(3). The effect of subsection (3) and clause 28(1)(h) of the Care Regulation is that ‘out of home care’ does not include arrangements made under the Supported Accommodation Assistance Act 1994 (Cth). On 1 July 2011, the SHS program replaced the Supported Accommodation Assistance Program, but the Care Regulation has not been amended to reflect this change. In any event, SHS and HYAP providers are excluded from the statutory definition of ‘out of home care’.

29. We note that a ‘Gillick’ competent child can provide consent to their own medical treatment. In addition, section 49 of the *Minors (Property and Contracts) Act 1970* provides that if a minor aged 14 and above consents to their own medical treatment, the minor cannot make a claim against the medical practitioner for assault or battery. In general, a parent cannot override the consent of a Gillick competent child to medical treatment.

30. FACS noted that while it agreed with our position, it is worth noting that if a child has sufficient understanding and maturity they can lawfully make many decisions for themselves. The concept of the child’s ‘evolving capacity’ is where parental rights yield to a child’s rights to make decisions, where the child has sufficient understanding and intelligence. For example, a child with sufficient understanding can lawfully enter into a contract or engage in another civil act where that contract or civil act is for the child’s benefit (see ss18-19 of the *Minors (Property and Contracts) Act*), and children aged 12 are presumed capable to instruct solicitors in care proceedings (s.99 Care Act). Advice provided by FACS Legal, 5 March 2018.

FACS has advised us that:³¹

...it agrees that there are no statutory provisions that give a SHS authority to exercise care and control of or make decisions on behalf of an unaccompanied homeless child that is not under any care and protection order.

FACS notes that in some cases there may be an argument that an SHS stands in loco parentis (in the place of parents) in relation to a child in their care where there is no parent exercising parental responsibility for the child and that this could provide a legal basis for an SHS to make decisions on behalf of that child. However, this is by no means clear, and whether this common law concept applies would depend upon the particular facts and circumstances of each case. This therefore does not address the issue of a general lack of clarity about the basis on which an SHS can make decisions on behalf of an unaccompanied homeless child in their care.

In terms of the practical difficulties that can arise, homelessness services have expressed concern about:

... situations where parents are not contactable, do not communicate, provide partial consent, or explicitly withhold consent for services – even when they do not want the child to return home. Another dimension to the issue is where parents refuse consent, refuse to engage with service delivery and insist on the child returning home, but the service has reason to be concerned about safety in the home and is unable to engage [a] timely child protection response.³²

We have also found that, unsurprisingly, the SHS policy is silent on how services should even attempt to navigate their way through these types of difficulties. The policy does note that a parent ‘should continue to have access to information and involvement in key decision-making about their child’. However, it also cautions that ‘a child’s/young person’s concerns about parental involvement should be explored before any contact is made. There may be occasions where concerns about safety rule out any immediate contact, including the provision of information about the child’s/young person’s whereabouts. Contact may only be able to be established over time and through the provision of services to the child and/or their family’.³³

In relation to medical treatment, the policy notes that:

The competency of children to make decisions regarding their medical treatment is judged by the law on a case-by-case basis and considers the child’s ability to understand the issue, their maturity, age and the nature of the proposed treatment. However, medical practitioners can refuse treatment in the absence of parental consent except in emergencies, where they are able to act without consent. Where medical treatment is refused, the SHS should seek legal advice.³⁴

From our perspective, it is neither practical nor efficient to expect homelessness services to have to seek legal advice on every occasion – other than in emergency situations – where parental consent has not been given and/or the child has not been deemed capable of making decisions about their medical treatment. However, we accept that FACS is not in a position to provide more helpful guidance in this area until the legal gap has been addressed.

We therefore recommend that FACS pursues legislative amendments to resolve this critical issue.

Recommendation 1

The Department of Family and Community Services should provide advice to the NSW Government about a proposed framework to address the lack of decision-making authority relating to children staying in homelessness services that has been outlined in section 2 of this report.

31. Advice provided by FACS Legal, 5 April 2018.

32. FACS, *The Homeless Youth Assistance Program: Summary report of state-wide consultations*, p10.

33. FACS, *Unaccompanied Children and Young People 12–15 Years Accessing Specialist Homelessness Services Policy*, 2015, p9, 12.

34. FACS, *Unaccompanied Children and Young People 12–15 Years Accessing Specialist Homelessness Services Policy*, 2015, p14.

3. Strengthening the policy and practice framework for guiding responses to unaccompanied children accessing homelessness services

In May 2014, FACS released an interim policy, which was further revised and finalised in October 2015.³⁵ The purpose of the policy is to 'provide parameters and guidance to SHSs, HYAP services and FACS in responding to unaccompanied children and young people aged 12 to 15 years who are homeless or at risk of homelessness'.³⁶

Children who are homeless or at risk of homelessness interact with, and need support and assistance from, a wide range of government and non-government service providers. These include FACS, Education, Health and Juvenile Justice – as well as homelessness services and wider child, youth and family service providers.³⁷ Consistent with this, the SHS policy emphasises that:

*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 and young people who are experiencing or who are at risk of homelessness.*³⁸

The SHS policy was intended to be supported by district-level protocols providing guidance about a range of service issues, including:

- response time frames and agreed processes for protocol partners, including after-hours arrangements, for the different cohorts of children and young people accessing SHS/HYAP services
- duty of care responsibilities
- local service system capability and referral pathways
- avenues of financial support
- conflict resolution and escalation pathways.³⁹

In January 2016, a 'draft protocol' was released to assist FACS districts to develop individual protocols with services in their area. The draft protocol generally leaves the detail of implementing the SHS policy to each district. This approach is clearly appropriate for those issues that can best be resolved at the point of service delivery – for example, how transport to and from school will be arranged.

However, before the release of the draft protocol, we gave feedback to FACS that the document would benefit from the inclusion of more detailed practical guidance about important practice issues common to the sector as a whole. For example – how decisions will be made about which local agency/ service provider is best placed to take on lead case management responsibility, what information sharing arrangements are needed, and appropriate and realistic response time frames from FACS.⁴⁰

In April 2017, FACS told us that five of its 15 districts would be covered by two combined protocols. Of the 12 protocols that are intended to be developed, only three had been finalised – with another four expected to be finalised shortly.

35. FACS, *Unaccompanied Children and Young People 12–15 Years Accessing Specialist Homelessness Services Policy*, 2015.

36. FACS, *Unaccompanied Children and Young People 12–15 Years Accessing Specialist Homelessness Services Policy*, 2015, p4.

37. FACS, *Homelessness Youth Assistance Program, Stage Two Service Design Guidelines*, n.d, p10.

38. FACS, *Unaccompanied Children and Young People 12–15 Years Accessing Specialist Homelessness Services Policy*, 2015, p15.

39. FACS, *Unaccompanied Children and Young People 12–15 Years Accessing Specialist Homelessness Services Policy*, 2015, p15.

40. NSW Ombudsman, correspondence to FACS, 13 November 2015.

Almost a year later, FACS advised us that only six districts have finalised their protocols, with a further nine districts covered by an 'interim-only' protocol.⁴¹ The interim protocols detail certain aspects of the roles and responsibilities of both FACS and services that have been jointly agreed, but other aspects require further work to reach agreement with homelessness services.⁴²

In considering the status of the district protocols, it is important to note those districts that have the largest number of children accessing homelessness services. For example, 61% of the children who accessed homelessness services in 2016-17 were from districts covered by three protocols. The Hunter New England district, which covered 24% of all service use by children in 2016-17, has finalised its protocol. However Sydney, South Eastern Sydney and Northern Sydney (which covered 25% of all service use by children in 2016-17) and South Western Sydney (which covers a further 12%) are currently only covered by 'interim' protocols.

The development of final protocols is an important step towards ensuring that local services have guidance about their responsibilities and to minimise the likelihood of undesirable inconsistent practice within and across districts. It is critical that those districts with interim protocols finalise their governance arrangements as soon as possible. However, we also recommend that FACS urgently addresses in its overarching policy the critical issues discussed in the following sections – some of which have been impeding the finalisation of the district protocols.

We note that FACS has committed to finalising all protocols by 30 June this year.

Recommendation 2

The Department of Family and Community Services should work with youth homelessness services and other key partner agencies (e.g. Health, Education and Justice) to promptly finalise the remaining district-level *Protocols for responding to unaccompanied children and young people 12-15 years of age who are homeless or at risk of being homeless* and, where necessary, revise the existing district-level protocols to reflect the amended policy.

3.1. Clarifying lead case management responsibilities

Under the SHS policy, services are required to report all children under 12 who present alone to a homelessness service to the Child Protection Helpline. FACS will then take the lead in addressing the homelessness of these children under 12, including finding an emergency placement or returning them home if it is safe to do so.

The policy also states that services are required to report to FACS all children aged 12 to 15 who present alone to a homelessness service, and outlines the following roles and responsibilities for FACS and homelessness services:

- FACS or the relevant OOHC provider will have the lead case management responsibility for children who are in the parental responsibility of the Minister.⁴³
- If a child is assessed as being at risk of significant harm, and the assessment of their circumstances identifies safety concerns in relation to their return home, FACS will have lead case management responsibility.

41. Advice provided by FACS, 12 March and 3 May 2018. Protocols have been finalised in Hunter New England, Murrumbidgee, Central Coast, Northern NSW, Far West and Western NSW. Interim protocols are in place in Mid North Coast, Nepean Blue Mountains, Western Sydney, South West Sydney, Illawarra Shoalhaven/Southern NSW (combined) and Sydney/South East Sydney/Northern Sydney (combined).

42. Advice provided by FACS, 27 March 2018.

43. FACS, *Unaccompanied Children and Young People 12–15 Years Accessing Specialist Homelessness Services Policy*, 2015, p10.

- If a child is assessed as being at risk of significant harm but the assessment of their circumstances identifies no safety concerns with them returning home, FACS will still have lead case management responsibility. However, if a provider is better placed to take the lead, there will be flexibility to negotiate this locally.
- If a child is not assessed as being at risk of significant harm and no safety concerns are identified concerning their return home, SHS and HYAP providers will work with the child with the objective of reconnecting them with family or kin.

The SHS policy acknowledges that ‘not all reports made to the Child Protection Helpline are allocated for a response by FACS. Also, competing priorities – such as case complexity and vulnerability – may mean that a report ‘screened in’ [as meeting the risk of significant harm threshold] will not be allocated for a period of time, or be closed’.⁴⁴ Although FACS has made some progress in recent years in lifting the proportion of children – who are reported to be at significant risk of harm – receiving a face-to-face response, the response rate in 2017 was still only 32%.⁴⁵

Our consultations with the youth homelessness sector have revealed that they remain concerned that the policy lacks sufficient detail about how FACS envisages exercising its ‘lead case management responsibilities’ in circumstances where – due to other competing demands – it is unable to respond to children reported to be at risk of significant harm who present on their own to a homelessness service.

The practical impact of FACS’s capacity challenges is that, for a proportion of homeless children reported to be at risk of significant harm, FACS will not be in a position to exercise lead case management responsibility – effectively leaving this role to homelessness services. If a child presents to a homelessness service and the Helpline indicates that the child is not connected with a non-government service provider, and does or will not have an open and allocated child protection plan, the policy states that the homelessness service should ‘establish the child’s immediate needs, whether it is safe for them to return home or another place of safety (such as the home of a friend or relative), and how they can best be supported for the time they remain a client of the SHS/HYAP service’.⁴⁶

The policy also acknowledges that FACS ‘has a role to play in ensuring appropriate service responses for this client group’ and notes that ‘through the delivery of HYAP services, and those SHS services that target children and young people aged 12 to 15 years, FACS is funding appropriate service responses that are tailored specifically to client need.’ The policy goes on to state that, ‘where warranted, a FACS Child Protection Adolescent caseworker *may* [our emphasis] be available to work with the child, their family and other services’⁴⁷ and clarifies that if, during the course of supporting a homeless child, a service requires FACS assistance, this should be sought through the agreed district protocol.⁴⁸

However, as the draft district protocol acknowledges, unaccompanied homeless children experience a ‘range of interrelated and compounding risk factors’.⁴⁹ As a result, providing effective case management can be challenging – particularly if the child has been reported as being at risk of significant harm in their home environment and FACS has been unable to assess these risks due to competing priorities.

The SHS sector has indicated that they often encounter children with very complex needs, and accessing the necessary supports and delivering the case management response required – without receiving direct advice and assistance from FACS – can often be challenging. For example, many of

44. FACS *Unaccompanied Children and Young People 12–15 Years Accessing Specialist Homelessness Services Policy*, 2015, p7.

45. FACS Caseworker Dashboard, December 2017 quarter, <http://www.community.nsw.gov.au>. Accessed 23 March 2018.

46. FACS, *Unaccompanied Children and Young People 12–15 Years Accessing Specialist Homelessness Services Policy*, 2015

47. FACS, *Unaccompanied Children and Young People 12–15 Years Accessing Specialist Homelessness Services Policy*, 2015, p14.

48. Some FACS Districts have a Child Protection Adolescent Response Team (a small specialist team of child protection adolescent caseworkers who provide case management and other support to children and young people aged 12-17 years); however, these teams do not exist in all districts, and do not have capacity to handle all matters involving adolescents.

49. FACS, *Draft Template: Protocol for responding to unaccompanied children and young people 12-15 years of age who are homeless or at risk of homelessness*, January 2016.

these children require a well-coordinated case management response from a range of key agencies including Health and Education – and, without FACS’s active support, services will sometimes not be able to secure the necessary support from other key agencies that is so often required.

The sector has also advised us that – when it is unsafe for them to house a child – they will often need assistance from FACS with critical issues, such as securing urgent alternative accommodation for the child.

For these reasons, the sector has argued that:

- FACS needs to provide a clear commitment in the SHS policy about the nature of support it can provide to services when it is needed.
- Each district needs to ensure that services have a clear pathway for accessing support locally, rather than leaving it to each district to negotiate via individual protocols.

In our consultations with the sector, they have indicated that the lack of a guarantee of service of this type in the overarching policy has been a key contributing factor to the reluctance of services to sign off on final protocols with districts.

In our view, it is reasonable for the sector to want to have critical issues relating to the respective roles and responsibilities of FACS and homelessness services addressed in more detail in the policy, rather than in the various district protocols. This would promote statewide consistency, while still allowing for flexibility locally about how broad commitments should be executed. We raised this issue with FACS during our inquiry, and it accepts that the policy is the appropriate vehicle for spelling out the commitments.⁵⁰

During our inquiry, we also suggested to FACS that – to help with the practical implementation of policy commitments – it should ensure that each local community services centre (CSC) identifies a particular position responsible for acting as the contact point for homelessness services if a district does not have an adolescent response team or a district adolescent caseworker is not available. FACS has advised us that it is currently scoping the feasibility of having a nominated contact person in each district or local office to provide support or advice of this kind, and that it will update the policy based on the outcome of this scoping work.

Against this background, we recommend that the SHS policy be amended to include clearer guidance about the circumstances in which FACS is responsible for providing direct support to the service – either by assuming lead case management responsibility or having joint responsibility with the service – to ensure that the particular vulnerabilities and needs of the child are addressed. The policy should also commit to having a dedicated officer for services at the CSC/district level and outline the specific roles and responsibilities of these staff.

Recommendation 3

The Department of Family and Community Services should promptly revise the *Unaccompanied Children and Young People 12–15 Years Accessing Specialist Homelessness Services* policy to:

- a) Include much greater clarity about, and a stronger commitment relating to, its role in supporting youth homelessness services (consistent with our observations in section 3.1 of this report).**
- b) Commit to providing a single nominated Department of Family and Community Services contact point for youth homelessness services in each district or community services centre, and outline their specific roles and responsibilities.**

50. Advice provided by Deputy Secretary, FACS, Commissioning, 23 January 2018.

3.2. **Introducing mandated case reviews to prevent children ‘over-staying’**

Moving children as soon as possible out of homelessness services and into stable accommodation is consistent with the Premier’s Priority. However a ‘child-centred’ approach will seek to ensure that the goal of quickly moving children out of homelessness services is applied, in each and every case, with the best interests of the child in mind.

The SHS policy includes the following three objectives:⁵¹

1. *That a child who is homeless or at risk of homelessness [needs to be] safe.*
2. *That where possible and safe, the child should be returned home as soon as possible.*
3. *That where a return home is not possible in the short term, a coordinated case plan be developed as early as possible in the support period with the aim of achieving a sustainable transition for the child out of SHS/HYAP. A coordinated case plan may involve either the SHS/HYAP providing direct support or referrals to other youth services to ensure the child’s needs are met.*

Evidence obtained from the sector indicates that most children who stay in homelessness services do so for a short period of time – on average, for six weeks.⁵² However the sector has acknowledged that a number of children will remain in services beyond the short term, and that there is a need to ensure that the circumstances of these children are closely monitored.

There is also a need to ensure that children are kept informed, and that their views are taken into account in determining how their exit from a homelessness service is managed. In this regard, consultations conducted by the Advocate for Children and Young People indicate that, for some children and young people, staying in a homelessness service for a longer period of time may be their preferred option for a range of reasons, including that it provides certainty and stability; and the prospect of having to leave a refuge after a certain time period can be the source of significant anxiety.⁵³

From our perspective, there would appear to be merit in a mandated case review process being instituted for children who remain in homelessness services beyond a fixed period of time – except if FACS and the service have agreed that such a case review is not necessary. This would ensure that particular attention is paid to the needs and views of children who are ‘over-staying’ and who can often be very vulnerable. A mandated case review process would also be consistent with the Premier’s Priority to increase the number of homeless children and young people who move into stable, long-term accommodation.

The SHS policy should also reflect who has responsibility for taking the lead in arranging the mandated case review. For example, FACS should have lead responsibility for arranging mandated case reviews unless an agreement is reached with the service that this is not necessary.

Recommendation 4

The Department of Family and Community Services should promptly revise the *Unaccompanied Children and Young People 12–15 Years Accessing Specialist Homelessness Services* policy to specify a mandated case review process for children who ‘over-stay’ in youth homelessness services (consistent with our observations in section 3.2 of this report).

51. FACS, *Unaccompanied Children and Young People 12–15 Years Accessing Specialist Homelessness Services Policy*, 2015, p5.

52. At the time of our inquiry, FACS advised us that data about the length of time children are accommodated by specialist homelessness services was not able to be extracted.

53. Office of the Advocate for Children and Young People, *Consultation Report: What children and young people experiencing homelessness have to say*, March 2017.

3.3. Improving processes for identifying, reporting on, and responding to children staying in homelessness services who are in out-of-home care

Although children in statutory OOHC are not a target group of homelessness services, a number of these children present each year to specialist homelessness services to find accommodation and other supports – including some who stay in services for an extended period.

A child who is in the parental responsibility of the Minister does not stop ‘being in OOHC’ simply because they are living in a homelessness service.

When the parental responsibility for children has been allocated to the Minister for Family and Community Services, FACS is responsible for ensuring these children are cared for in a way that promotes their safety, permanency and wellbeing. For children staying in homelessness services, a focus of this care is on transitioning the child to a foster care placement, or other appropriate care arrangement, as soon as possible.

The sector expressed concern during our inquiry that, although the policy recognises that FACS (or the relevant NGO provider) has lead case management responsibility for homeless children in OOHC, there is no practical guarantee that these children will continue to receive the same level of case management support as they had when they were living in their OOHC placement.

To assess this issue, we tried to identify the number of children in OOHC who stay in specialist homelessness services each year – and found problems with the way this information is currently being collected that makes it impossible to know how many children in statutory OOHC are actually staying in homelessness services.

For example, there are currently two separate data sets that provide an indication of the number of children in OOHC accessing homelessness services. These are:

- Data that is reported by specialist homelessness services to the Australian Institute of Health and Welfare (AIHW).
- OOHC placement data that is drawn from the FACS child protection database as part of its OOHC commissioning functions.

We outline in the next section why neither data set can be considered definitive.

3.3.1. The AIHW SHS Data Collection

The AIHW is responsible for collecting homelessness services data at a national level. Homelessness services in each jurisdiction are required to provide the AIHW with client data, which includes the number of children and young people who present to their service who are subject to a ‘care and protection order’. The AIHW reports some of this data publicly, and it is used by FACS (along with additional client data that is reported by services directly to FACS) to monitor and manage homelessness service contracts and service provision.

For the AIHW data, care and protection orders include all legal orders or arrangements that place some responsibility for a child’s welfare with child protection departments. This includes children who are in statutory OOHC,⁵⁴ but also children who have other care and protection orders in place – such as those living with a relative who has parental responsibility, or living with their parents but subject to a supervision order.

54. Statutory out-of-home care is OOHC provided to children and young people for a period of more than 14 days either pursuant to an order of the Children’s Court, where parental responsibility is transferred, or by virtue of the child or young person being a protected person. Statutory out-of-home care can only be arranged or provided by a designated agency (section 135A of the Care Act).

In 2016-17, the AIHW data indicates that 343 children and young people who had a care and protection order – including 137 children aged 12-15 – were provided with accommodation by a specialist homelessness service in NSW.⁵⁵ Although it is not possible to tell how many of the 137 children aged 12-15 were in statutory OOHC, separate AIHW data for 2016-17 indicates that around 87% of all children and young people (up to age 18) in NSW subject to a care and protection order were in statutory care.⁵⁶

FACS has advised us that data reported to the AIHW by homelessness services is likely to underestimate the number of children subject to a care and protection order who present to homelessness services – as services rely on a child disclosing this information to them. We therefore sought confirmation from a number of homelessness services about how they determine a child's OOHC status when they present to their service. Most of the services we consulted stated that they will obtain this information from FACS if the child is referred to the service by FACS, but that they otherwise rely on information provided by the child or referring agency at the time that they enter the service.⁵⁷

3.3.2. FACS out-of-home care placement data

The Children's Guardian is responsible for auditing and monitoring the performance of OOHC agencies against the *NSW Child Safe Standards for Permanent Care*. Among other things, the standards require that children in OOHC are looked after in safe environments suited to their specific needs,⁵⁸ and that they are receiving case planning to support them to secure a stable placement.⁵⁹

To help the Children's Guardian monitor the circumstances of those children who are not living in foster or residential care placements, FACS provides details to the Guardian on a quarterly basis about the children in OOHC who are living in an emergency placement in motels with staff employed or contracted by designated agencies or who are staying in homelessness services. This information is drawn from placement information recorded on the FACS child protection database (KiDS now ChildStory). Since January 2017, FACS has also provided an overview of the number of children in these types of placements to our office to inform our child protection oversight functions.

The OOHC placement data that FACS provides to our office includes children and young people aged up to 18, but it is not broken down by age group.⁶⁰ However, the data suggests that the number of children and young people in OOHC staying in homelessness services is substantially lower than the 343 children and young people identified via the AIHW data. In fact, FACS's placement data for the 2017 calendar year indicates that only 54 children and young people in OOHC were reported to be living in a homelessness service.⁶¹

The Children's Guardian has advised us that it monitors the level of casework provided to children in OOHC who are living in motels or homelessness services, and this work indicates that – in the majority of cases – an appropriate level of casework support is being provided to these children.⁶² However because of the data problems discussed above, it is unclear whether all relevant children are being notified to the Guardian. If these children are not being notified to the Guardian, she will clearly not be in a position to monitor their circumstances.

55. Advice provided by FACS, 12 March 2018.

56. AIHW, *Child protection Australia 2016-17*, Child Welfare series no. 68. Cat no. CWS 63. Canberra, March 2018.

57. Data provided to us by FACS in December 2017 indicates that less than 15% of children aged 12-15 who access SHS are referred by FACS, with a further 20% being referred by schools. Around 20% either self-refer or are referred by friends and family.

58. Office of the Children's Guardian, *NSW Child Safe Standards for Permanent Care*, November 2015, Standard 2: Providing a Positive Care Environment.

59. Office of the Children's Guardian, *NSW Child Safe Standards for Permanent Care*, November 2015, Standard 14: Case planning and review.

60. Under the Care Act, 'child' means a person aged under 16 and 'young person' means a person aged between 16 and 18.

61. Even taking into account the differences in definitions for children on care and protection orders (used by the AIHW) and statutory care which FACS relies on for reporting its OOHC placement data, the discrepancy is still significant.

62. Advice provided by Office of the Children's Guardian, 21 November 2017.

In relation to the accuracy of its OOHC placement data, FACS has advised us that:

*The numbers advised from KiDS would be 'accurate' as a description of the information held in the system at the time. As previously advised, we don't have a 'fit for purpose' set of numbers, as we don't believe KiDS would have been well-maintained for this kind of information, and the AIHW data definition while broader may still result in some under-counting due to OOHC status being under reported.*⁶³

FACS advised us last year that a more detailed review of the use of homelessness services by children in OOHC is needed to enable a better understanding of the circumstances in which children are leaving their OOHC placements and accessing homelessness services – and how to respond to their needs.⁶⁴

In light of the uncertainty about the number of children in statutory OOHC staying in homelessness services, we recommend that FACS starts this review urgently. In doing so, it will be critical for FACS to:

- Settle a process with the homelessness sector to reliably identify, at an early stage, which children presenting to a homelessness service are in fact in statutory OOHC.
- Ensure that this information is accurately recorded and reported by homelessness services, both to FACS and, as part of their national reporting responsibilities, to the AIHW.

If FACS is given accurate information about the number of children in statutory OOHC staying in homelessness services, it should be well placed to advise the Children's Guardian who can then monitor their circumstances.

During our inquiry, we raised our concerns with FACS about the accuracy of data and the current methods used by services to determine whether or not a child presenting to a service is in fact in statutory care and/or the subject of a care and protection order. In response, FACS recently advised us that it is scoping a process whereby the Helpline will record instances where a child who is in OOHC is reported to have presented to a homelessness service. This information will now be used for reporting purposes, instead of the current process – which relies on data reported by services to the AIHW.⁶⁵

Once this scoping work is complete, FACS will need to identify and implement an appropriate process for providing confirmation of a child's OOHC status to the relevant homelessness service. FACS should therefore ensure that the SHS policy outlines a clear process for FACS to provide confirmation to homelessness services about the legal status of children and young people who present to such services on their own.

Recommendation 5

The Department of Family and Community Services should promptly start a review of the use of homelessness services by children in out-of-home care (OOHC) to enable a better understanding of the circumstances in which children are leaving their OOHC placements and how best to respond to their needs.

Recommendation 6

The Department of Family and Community Services should work with the youth homelessness sector and the Children's Guardian to ensure there is a robust process in place which guarantees the accuracy of data relating to children in statutory OOHC who are staying in homelessness services, as well as the timely reporting of these children to both FACS and the Children's Guardian when they enter homelessness services.

63. Advice provided by FACS, 27 March 2018.

64. Advice provided by FACS, 6 April 2017.

65. Advice provided by FACS, 3 May 2018.

4. Additional safeguards for other children and young people staying in homelessness services

Significant regulatory, funding and service delivery requirements apply to children and young people in statutory OOHC and to designated agencies that are accredited by the Children's Guardian to provide OOHC services.⁶⁶ These requirements are clearly in the interests of the children involved and are consistent with the Minister having parental responsibility for this group. However, despite the vulnerability of homeless children, similarly robust requirements are not in place to safeguard the rights and interests of children staying in youth homelessness services.

During our inquiry, FACS advised us that it had initiated discussions with the Children's Guardian about the possibility of including youth homelessness services in the Voluntary OOHC (VOOHC) scheme. VOOHC, which is OOHC arranged by a parent rather than FACS, is regulated by the Care Act.⁶⁷ Many children and young people in VOOHC have a disability. The placements are generally short term arrangements, such as overnight or weekend centre-based respite or host family care – although sometimes children may stay in VOOHC placements for several months.

The Children's Guardian is responsible for registering agencies that provide VOOHC and monitoring whether children and young people in longer term VOOHC receive care that is appropriately supervised and planned. Agencies that provide, arrange or supervise VOOHC are required to enter information about all placements for children using VOOHC onto the VOOHC Register.

This Register is administered by the Children's Guardian and includes information about:

- entry and exit dates for each placement
- total placement days for the last 12 months
- name of placement agencies
- name of designated agency supervising placements
- date of case plan or review
- name of agency developing case plan.⁶⁸

The Children's Guardian has the power to impose 'reasonable conditions' on the registration of an organisation as a registered agency, and may vary or revoke such conditions or cancel an agency's registration.⁶⁹

We understand that a majority of HYAP providers are part of entities or organisations that are already registered as VOOHC providers and/or accredited OOHC providers because they separately provide either VOOHC or OOHC. However, we note that the Care Act defines VOOHC as care that is 'arranged by a parent of the child or young person.'⁷⁰ As most children who stay in homelessness services do not live in the service as a result of arrangements made by their parents/carers, specialist homelessness services are not currently regarded as VOOHC providers. However, there is nothing to prevent the Act from being amended to require specialist homelessness services to meet a minimum set of standards that are at least comparable with the requirements of the VOOHC registration scheme. We understand that consideration is also currently being given to whether the VOOHC requirements should be strengthened.

66. Section 139 of the Care Act.

67. The principle provisions are sections 135, 135C and Part 3A of the Care Act and division 5 and schedule 4 of the Children and Young Persons (Care and Protection) Regulation 2012.

68. <https://www.onegov.nsw.gov.au/New/agencies/voohc> Accessed 20 October 2017.

69. Clauses 73-74 Children and Young Persons (Care and Protection) Regulation 2012.

70. Section 135(C) of the Care Act.

Whatever position is adopted to regulate the youth specialist homelessness sector it will need to be complemented by measures that enable funded providers to actually meet the regulatory standards. There will also need to be adequate monitoring arrangements in place to assess compliance with any new standards. The sector has stressed that any new regulatory requirements should be focused on quality service provision for children – and avoid creating unnecessary administrative burdens.

Recommendation 7

Following consultation with the Children’s Guardian, the Advocate for Children and Young People and the youth homelessness sector, the Department of Family and Community Services should promptly provide advice to the NSW Government about establishing regulatory standards to govern the quality of care provided by youth specialist homelessness services (consistent with our observations in section 4 of this report).

5. Measuring and monitoring outcomes for children who are homeless or at risk of homelessness

The homelessness sector is currently subject to monitoring via a number of different mechanisms – including the *SHS Monitoring and Evaluation Strategy*, the *HYAP Evaluation Plan*, and through the monitoring of the Premier’s Priority to reduce youth homelessness. Although this represents a significant increase in the level of monitoring and evaluation of services compared to the situation before the *Going Home Staying Home* and related reforms, the current processes for measuring and monitoring the outcomes for children who access homelessness services could be strengthened.

5.1. Relevant data enhancement initiatives

The *SHS Monitoring and Evaluation Strategy*, released in August 2015, is the framework developed by FACS for measuring the effectiveness of the entire specialist homelessness service system in meeting the needs of its users – including children and young people.

Overseen by an independently chaired Monitoring and Evaluation Advisory Group (MEAG), the framework establishes a set of headline indicators against which client outcomes will be measured.⁷¹ It specifies that – where the data allows and it is relevant to the analysis and interpretation of the evidence – indicator data will be disaggregated by ‘target client group’. Homeless children under 16 are specified as a key target client group,⁷² and reviewing/evaluating outcomes for this group is identified as a priority.

As part of its ongoing evaluation of specialist homelessness services, FACS commissioned a review of progress made to date which found that:

*Improved data on support provided and client outcomes is required to determine the capacity of the sector to meet client needs.... In addition to the need for better data to assess whether the immediate needs of key client groups are being met, agreed measures of successful outcomes are required for different groups, as well as the improved capacity of data systems to capture them.*⁷³

The review recommended improvements to the data collected by specialist homelessness services, and that this enhanced data be integrated with other FACS and external program data to provide a better understanding of:

- client pathways into and out of homelessness
- how clients of specialist homelessness services engage across the wider system
- what interventions or combinations of supports are successful in establishing permanent stable housing in the longer term.⁷⁴

FACS has advised us that it is working with members of the MEAG and the SHS sector to develop and implement a continuous improvement and data development plan informed by the findings of the review.⁷⁵

71. The framework provides a separate set of indicators for measuring service outcomes.

72. FACS, *Specialist Homelessness Services Monitoring and Evaluation Strategy*, August 2015 <https://www.housing.nsw.gov.au>. Accessed 10 September 2017.

73. Kylie Valentine, Fredrick Zmudzki, Michael Fotheringham, Ciara Smyth, Social Policy Research Centre (UNSW), *Early Review of the Specialist Homelessness Services Program: Final report*, March 2017, pp4-5.

74. Kylie Valentine, Fredrick Zmudzki, Michael Fotheringham, Ciara Smyth, Social Policy Research Centre (UNSW), *Early Review of the Specialist Homelessness Services Program: Final report*, March 2017, p7.

75. Advice provided by FACS, 12 March 2017. A draft continuous improvement plan was circulated to the MEAG in late 2017 and work is continuing to finalise this.

The HYAP is subject to a separate evaluation. While the HYAP Evaluation Plan is yet to be finalised, the evaluation will draw on data collected via the HYAP Client Outcomes Tool – which HYAP providers have been progressively implementing since December 2016.⁷⁶ It will also draw on relevant FACS data, including data about clients' history of, and current involvement with, the child protection system – as well as 'post-service data' about subsequent reports and placements after receiving HYAP services.

The Premier's Priority to reduce youth homelessness is being implemented by FACS in partnership with the Department of Premier and Cabinet. FACS recently advised us that, over the past year, it has been developing its SHS data capability – particularly to support reporting against the Premier's Priority to 'reduce youth homelessness'. This priority aims to increase the proportion of young people aged 15 to 24 years who successfully move from SHS to stable long-term accommodation by June 2019. Reports have been developed for use by districts and homelessness providers to monitor progress against the Premier's Priority, and these reports include 'the available SHS data on housing outcomes for clients with a child protection order in place'.⁷⁷

It is clearly important to enhance the availability of data to monitor progress against the Premier's Priority, but it is equally critical that accurate and reliable data is reported about younger children to enable ongoing reporting against service performance and client outcomes.

5.2. The need for additional monitoring and reporting

FACS has indicated that, as its capability to collect SHS data matures, it 'will look at options to report on other priority areas, including SHS services for unaccompanied children under 16'.⁷⁸

We recommend that, as part of finalising the SHS continuous improvement plan and the HYAP evaluation, FACS should promptly settle the performance measures required to adequately monitor and report on service and client outcomes for children who access homelessness services – including identifying children in statutory OOHC as a specific cohort. Data should also be captured to allow FACS to measure its capacity to respond to risk of significant harm reports made by homelessness services as well as the re-reporting of children who have accessed homelessness services.

Recommendation 8

In light of the observations in this report, and as part of finalising the Specialist Homelessness Services continuous improvement plan and the HYAP Evaluation Plan, the Department of Family and Community Services should:

- a) Promptly settle the performance measures required to adequately monitor and report on service and client outcomes for children who access homelessness services, including identifying children in statutory OOHC as a specific cohort.**
- b) Capture data to allow FACS to measure its capacity to respond to risk of significant harm reports made by homelessness services, and the re-reporting of children who have accessed homelessness services.**

Recommendation 9

The Department of Family and Community Services should regularly report publicly on the client and service outcomes referred to in recommendation 8 (and section 5 of this report).

76. The tool, designed to allow HYAP providers to report on outcomes to FACS in a way that is consistent and comparable, is structured to measure outcomes according to the seven outcome domains of the NSW Human Services Outcomes Framework – social and community, home, education and skills, health, safety, empowerment and economic. A simple five-point rating scale is used to systematically describe client circumstances.

77. Reporting of outcomes for clients with a child protection order in place is currently subject to a range of limitations in terms of its accuracy, and does not allow for a specific evaluation of the response to children in statutory OOHC.

78. Advice provided by FACS, 6 April 2017.

Glossary

ACWA	- Association of Children's Welfare Agencies
AIHW	- Australian Institute of Health and Welfare
Care Act	- <i>Children and Young Persons (Care and Protection) Act 1998</i>
Child	- Under the <i>Children and Young Persons (Care and Protection) Act 1998</i> , 'child' means a person aged under 16.
Children who are homeless or at risk of becoming homeless	- References to children who are homeless, or at risk of becoming homeless, relate to children aged 12-15 years who are not in the company of an adult, as distinct from children who may be experiencing homelessness with a parent or carer.
ChildStory	- The Department of Family and Community Services's new information technology system, which incorporates the child protection electronic records system (used since November 2017).
CSC	- Community Services Centre
FACS	- Department of Family and Community Services
HYAP	- Homeless Youth Assistance Program
KIDS	- The Department of Family and Community Services's <i>Key Information and Directory System</i> – the child protection electronic records system (used up until November 2017)
MEAG	- Monitoring, Evaluation and Advisory Group
NAHA	- National Affordable Housing Agreement
NGO	- Non-government organisation
NPAH	- National Partnership Agreement on Homelessness
OOHC	- Refers to statutory out-of-home care, which is OOHC provided to children and young people for a period of more than 14 days either under an order of the Children's Court, where parental responsibility is transferred, or by virtue of the child or young person being a protected person. Statutory out-of-home care can only be arranged or provided by a designated agency under section 135A of the <i>Children and Young Persons (Care and Protection) Act 1998</i> .
SHS	- Specialist homelessness services
SHS policy	- The Department of Family and Community Services's <i>Unaccompanied Children and Young People 12-15 Years Accessing Specialist Homelessness Services</i> policy
VOOHC	- Voluntary out-of-home care
Young person	- Under the <i>Children and Young Persons (Care and Protection) Act 1998</i> , 'young person' means a person aged between 16 and 18.

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