Protecting children at risk: an assessment of whether the Department of Communities and Justice is meeting its core responsibilities

A special report under section 31 of the Ombudsman Act 1974

Pursuing fairness for the people of NSW.

Ombudsman
New South Wales

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The Hon. Ben Franklin, MLC
President
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The Hon. Greg Piper, MP
Speaker
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SYDNEY NSW 2000

Dear Mr President and Mr Speaker

Pursuant to section 31 of the *Ombudsman Act 1974*, I am providing you with: a report titled *Protecting children at risk: an assessment of whether the Department of Communities and Justice is meeting its core responsibilities* together with a separate summary report.

I draw your attention to the provision of s 31AA of the *Ombudsman Act 1974* and request that you make the reports public forthwith.

Yours sincerely

Paul Miller
NSW Ombudsman
5 July 2024

Executive summary

The objects of the *Children and Young Persons (Care and Protection) Act 1998* (Care Act) reflect the overarching goal of statutory child protection, which is that children:

> receive such care and protection as is necessary for their safety, welfare, and well-being, having regard to the capacity of their parents or other persons responsible for them…[1]

The Department of Communities and Justice (DCJ) is the lead agency for child protection in NSW. DCJ describes 3 core elements of its child protection responsibilities:

- Element 1: statutory assessment and response to children reported at risk
- Element 2: supporting children in out-of-home care (OOHC) and exiting them to a permanent home
- Element 3: prevention, early intervention and family preservation.

Over the years, the NSW child protection system has seen the introduction of significant legal and policy reform and rapid expansion of service provision by the non-government sector. This added to the complexity of the system and the need across the system for strong governance arrangements, including effective monitoring of compliance and performance.

However, the system currently operates in a disconnected, fragmented way. There is limited tracking of the outcomes achieved for children, and DCJ does not assess the contribution of each part of the system to the broader goal of ensuring the safety, welfare, and wellbeing of children.

DCJ does not collect and report reliable, timely and comprehensive performance information at a service, program or system level. These data collection systems have been in development for many years.

Based on the available evidence, our assessment is that the child protection system is not adequately protecting and supporting children and families and this situation is not improving. The report concludes that in respect of DCJ's core child protection responsibilities, DCJ cannot demonstrate that it is:

- Responding to all children reported at risk of significant harm (ROSH) who require statutory investigation in accordance with the Care Act. (Element 1)
- Achieving the safety, wellbeing and permanency objectives for children in OOHC, and these outcomes are not improving, especially for Aboriginal children.

  In 2017-18, DCJ introduced the Permanency Support Program (PSP) with the goals of: fewer entries into care, shorter time in care, a better care experience, and reducing the over-representation of Aboriginal children in care.

  Our assessment is that none of these goals are being met. (Element 2)
- Intervening early to prevent escalation of risk of harm to children and keep families together (Element 3).

[1] Care Act s 8(a).

Key findings

Element 1: Statutory assessment and response to children reported at risk

The goal of DCJ's statutory child protection service is to protect children from harm using the least intrusive intervention.[2]

Government and non-government agencies have legal and policy obligations to respond to children at risk of harm, but only DCJ has a statutory responsibility to determine whether a child or young person is at ROSH and needs care and protection.

Section 30 of the Care Act requires DCJ upon receiving a report that a child is suspected of being at ROSH, to make such assessment and investigations as necessary to determine whether the child is at ROSH. Consequently, under s 34(1) of the Care Act:

> If the Secretary forms the opinion, on reasonable grounds, that a child or young person is in need of care and protection, the Secretary is to take whatever action is necessary to safeguard or promote the safety, welfare and well-being of the child or young person. [3]

DCJ does not record, collect, or report sufficient information about its response to all children who are reported at ROSH to determine what child protection services or support (if any) they receive, whether they are safe or at risk, and whether DCJ complies with its statutory obligations to assess and respond to children reported at ROSH.

Over the past six years, DCJ's caseworkers have seen more children reported at ROSH but the proportion of children seen face-to-face by a caseworker has dropped from 29% (26,196 of 92,007 in 2017-18) to 25% (27,782 of 112,592 in 2022-23) with significant variation in performance across DCJ's districts. The number of children reported at ROSH who do not receive a face-to-face response has also increased by 29% (from 65,811 to 84,810).

Despite data that three quarters of the children reported at ROSH did not receive a face-to-face response, DCJ was unable to provide other information showing whether (or the extent to which) this was based on a view that a child was not at ROSH or its limited operational capacity to provide face-to-face responses to every child at ROSH.

DCJ was unable to provide data to show that the most urgent and/or serious cases receive the most immediate and appropriate response. Nor could it provide data showing what (if any) support was provided to each of the 84,810 (in 2022-23) children reported at ROSH who were not provided a face-to-face caseworker response.

On average, where children are seen face-to-face by a caseworker, less than half are substantiated at harm or risk of significant harm.

Compared with non-Aboriginal children, in 2022-23 Aboriginal children were:

- 4 times more likely to be involved in a ROSH report
- 7 times more likely to be seen by a caseworker
- more than 7 times more likely to be substantiated at harm or risk of significant harm.

2 Care Act s 9(2)(c).

3 Care Act s 34.

Stakeholders have raised questions about the validity, efficacy and presence of cultural biases[4] in the Structured Decision Making (SDM) tools DCJ's caseworkers use to assess and respond to risk for children. Any flaws or biases in the tools would clearly undermine DCJ's ability to accurately target and respond to children at risk of significant harm. These tools have been under review since 2021.[5]

For the children that it has assessed as needing care and protection, DCJ is required to attempt to reduce entries to the OOHC system, including by offering alternative dispute resolution (ADR) to eligible families. However, the impact of its ADR program is unclear.

Element 2: Supporting children in OOHC and exiting them to a permanent home

One of the key objects of the Care Act recognises that:

> …the primary means of providing for the safety, welfare and well-being of children and young persons is by providing them with long-term, safe, nurturing, stable and secure environments through permanent placement in accordance with the permanent placement principles.[6]

The Care Act requires that a child who is removed from the care of their parents be placed in accordance with the permanent placement principles which outline the order of placement preference: restoration to parents, guardianship, adoption (placement of last resort for Aboriginal children), and long-term care of the Minister.[7]

DCJ does not have a system to comprehensively track and report on outcomes for children in OOHC. DCJ has been developing the Quality Assurance Framework (QAF) to collect and report on outcomes for children in OOHC, including their safety, permanency[8] and wellbeing since 2014, but the QAF is yet to be implemented across NSW.

In 2017-18, DCJ introduced the Permanency Support Program (PSP), which covers all children in OOHC, whether case managed by DCJ or non-government organisations (NGOs), and had the following goals:

- Fewer entries into care – by keeping families together
- Shorter time in care – by returning children home or finding other permanent homes for more children
- A better care experience – by supporting children's individual needs and their recovery from trauma
- Reducing the over-representation of Aboriginal children in care – by keeping Aboriginal families together, returning children home to family/kin or placing them with a permanent legal guardian.[9]

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[4] Family is Culture, 2019. p219. Independent review (nsw.gov.au); Jenkins, B. Q., Tilbury, C., Hayes, H., & Mazerolle, P. (2018). Factors associated with child protection recurrence in Australia. Child Abuse & Neglect, 81, 1. https://doi.org/ 10.1016/j.chiabu.2018.05.002.

[5] For details about use and validity of SDM in the NSW child protection system, see our 2021 special report The new machinery of government: using machine technology in administrative decision-making (nsw.gov.au); For international research see: McHellan, C., Gibbs,D., Knobel, A., Putnam-Hornstein, E. (2022) The evidence base for risk assessment tools used in the U.S child protection investigations: A systematic scoping review. Child Abuse & Neglect. 134

[6] Care Act s 8 (a1).

[7] Care Act ss 10A and 13 for the Aboriginal and Torres Strait Islander Children and Young Persons Principles.

[8] 'Permanency' means a safe, secure, stable and nurturing home for each child, preferably but not necessarily with their birth family. DCJ describes 4 dimensions of permanency to be considered when assessing the best permanency option for a child: relational, physical, legal and cultural. 1. Relational permanency – The experience of having positive loving, trusting and nurturing relationships with significant others. 2. Physical permanency – Stable living arrangements and the connections a child or young person has with their community. 3. Legal permanency – The legal arrangement for the child. 4. Cultural permanency – Children maintaining an ongoing connection to culture taking part in cultural practices, remaining in community and learning and understanding beliefs, values and stories. What is the Permanency Support Program? | Communities and Justice (nsw.gov.au)

[9] What is the Permanency Support Program? (nsw.gov.au)

DCJ does not have a system to collect, track and report specifically on the achievement of, or progress toward, the PSP goals. We have assessed that there has been no substantive progress towards any of the 4 goals of the PSP. Since the start of the PSP, the number of children in OOHC has declined by 15% overall. However, the decline:

- was largely a result of children leaving OOHC at age 18 ("ageing out"), with the number of entries to OOHC remaining steady (rising by a little under 1%) and the number of exits to permanency declining (by 19%), and
- was disproportionate with a decline of only 3% for Aboriginal children compared to 23% for non-Aboriginal children.

We also found that, since the start of the PSP (from 2017-18 to 2022-23):

- The number and proportion of Aboriginal children entering OOHC has increased significantly - the number increased by 26% (compared to a drop of 14% for non-Aboriginal children), and the proportion increased from 38% to 47%.
- The proportion of children entering OOHC *not* for the first time who were Aboriginal rose from 27% to 35% with a smaller rise in the proportion for non-Aboriginal children (from 22% to 28%).
- Aboriginal children make up an increasing proportion of children entering OOHC *not* for the first time (from 43% to 53%).
- Fewer children in statutory OOHC had a permanency goal to exit from OOHC such as restoration, guardianship and adoption - at 30 June 2020, 17% of children had a permanency goal of restoration, guardianship or adoption, by 30 June 2023 that number dropped to 13% of all children in statutory OOHC.
- Fewer children exited to permanency - exits to permanency as a proportion of all exits from OOHC dropped from 37% to 30%.
- There has been no improvement in the educational outcomes for children in statutory OOHC - retention rates, participation in NAPLAN and NAPLAN results.
- There has been a 21% decline in the number of health plans completed for children in statutory OOHC (from 2,060 to 1,626), and in 2023 only 17% of children in statutory care had their health plan reviewed.
- Since June 2020, around 31% of children aged 15 to 17 who required a leaving care plan did not have one, and of those that did, it was not clear whether their plans were implemented at exit from OOHC so they can access aftercare support.
- The total number of children in residential OOHC increased by 10% (from 658 to 722) since 2018-19 and the number of Aboriginal children by 17% (from 224 to 262), accounting for 59% of the total increase.
- There was a sharp increase in the number (142%) and proportions (from 23% to 35%) of children in residential OOHC with a substantiated allegation that they had been abused while in care.
- There has been increasing use of emergency and temporary placements for children in OOHC under 12 years of age and Aboriginal children.
- The proportion of children on guardianship orders subsequently reported at ROSH rose from 18% to 22%.
- The proportion of children on guardianship orders seen by a caseworker and substantiated for harm or risk of significant harm increased in the last 3 years (from 32% in 2020-21 to 41% in 2022-23).

As well as the concerning disparities in outcomes for Aboriginal children, other evidence points to worsening trends for Aboriginal children compared with non-Aboriginal children in OOHC. In 2022-23:

- Aboriginal children were nearly 12 times more likely to be in OOHC than non-Aboriginal children (up from 9.5 times in 2017-18)
- Aboriginal children were 12 times more likely to enter OOHC than non-Aboriginal children (up from 9 times in 2017-18)
- Aboriginal children were increasingly over-represented in Alternative Care Arrangements (ACAs) - a type of emergency and temporary arrangement for children in OOHC (from 49% of all children in ACAs in 2020-21 to 56% in 2022-23).

The proportion of Aboriginal children living with a relative or Aboriginal carer declined from 74% at 30 June 2018 to 69% at 30 June 2023.

Element 3: Prevention, early intervention and family preservation

DCJ funds hundreds of non-government organisations (NGO) to provide a spectrum of services through 3 streams of programs:

- Family Preservation
- Targeted Earlier Intervention
- Family Connect and Support.

Despite the critical role that these programs should play in preventing harm to children and strengthening families to reduce entries into care, insufficient information is reported on the outcomes of these programs to assess and understand their individual and collective contribution to prevention of abuse and neglect.

Without such information DCJ cannot know whether these programs are effective or working as intended.

Recommendations

We acknowledge that various reform initiatives within DCJ are underway or announced. For that reason, in this report our new recommendations focus on issues that have not been clearly identified as being addressed by the current reform agenda, and that will either be integral to reform or are key responsibilities for DCJ. These targeted recommendations seek to enhance and strengthen future reforms to the child protection system.

This report does not include specific recommendations about the issues identified about DCJ's response to children reported at ROSH or its implementation of the Intensive Therapeutic Care model, because the NSW Ombudsman is currently undertaking a more detailed examination of those matters, and in particular has commenced:

- an investigation under the *Ombudsman Act 1974* into DCJ's response to children reported at ROSH and
- an inquiry under the *Community Services (Complaints, Reviews and Monitoring Act) 1993* into whether the Intensive Therapeutic Care model for children in residential OOHC is achieving its objectives.

Relevant recommendations about those matters will be considered following the making of any findings in reports of that investigation and inquiry.

The recommendations in this report are as follows:

1. DCJ is currently undertaking a review with AbSec and the Aboriginal Legal Service (ALS) of the safety and risk assessment tools and methods used in exercising DCJ's statutory child protection responsibilities. On completion of that review, DCJ should publicly report on how any ensuing changes to the SDM tools (or replacement tools) and assessment processes will improve decision-making and the efficacy of risk assessment.
2. DCJ is currently developing new targets to measure re-reporting. For any such new targets, DCJ should measure both:
    a) the number of children who are re-reported at ROSH, and
    b) what happens to children re-reported at ROSH, including whether they were seen by a caseworker, substantiated at harm or risk of significant harm, referred to other services or entered OOHC.
3. To comply with the requirements of ss 9A and 63 of the Care Act, DCJ should collect information on all offers of ADR by type of ADR and Aboriginal status, broken down by:
    a) how many families are eligible
    b) offers made and not made to families and the reasons
    c) offers accepted, ADR sessions convened/not convened and the reasons
    d) number of families participating in ADR sessions
    e) outcomes of ADR sessions in relation to entry to OOHC.
4. In the context of foreshadowed reforms of OOHC and in consultation with NGOs and stakeholders, DCJ should:
    a) In accordance with the permanent placement principles in s 10A of the Care Act, review the factors contributing to the decline in all types of exits to permanency since the start of the PSP and include remedial action in its reforms.
    b) Monitor and report on:
        i. the number and proportion of children in statutory OOHC who have a permanency goal, broken down by type of goal (guardianship, restoration, adoption and long-term care), by Aboriginal status, by age of children, and by OOHC provider (NGOs/DCJ)
        ii. the number and the proportion of children who exit statutory OOHC to permanency, broken down by length of time from the setting of their permanency goal to exit, by type of exit, by Aboriginal status, by age of children, and by OOHC provider (NGOs/DCJ).
5. To ensure that the educational support needs of children in OOHC are met, DCJ should report publicly on the number of school aged children who are in OOHC, how many have an educational plan and how often the plans are reviewed.

6. To ensure the health care needs of children in OOHC are met, DCJ and Ministry of Health should by 1 December 2024 review and report to the NSW Ombudsman on:
    a) Progress with the implementation of the 2022 OOHC Health Pathways Program evaluation recommendations
    b) How this is impacting on trends
    c) Any proposed actions to address any identified issues.
7. As part of implementing Recommendation 4, DCJ should in respect of each of the different permanency options:
    a) Review the adequacy of the permanency planning and post-permanency support for children and their families
    b) Identify and propose actions to address issues contributing to poorer permanency outcomes for children.

DCJ should provide the NSW Ombudsman with a final outcomes report on its implementation of recommendations 1 to 5 and 7 by **no later than 1 December 2025.**

1. Introduction

The 'child protection system' is a complex interaction of government and non-government services delivering support and assistance to children and families, directed toward both identifying and responding to children who are at risk of serious harm, and preventing or reducing the likelihood of children becoming at risk of serious harm in the future.[10]

This report is focused on the child protection functions of the Department of Communities and Justice (DCJ), the lead agency for child protection in NSW. We also examine components of the child protection system which are administered, directly or indirectly through NGOs and the support provided by NSW Health and Education authorities to children in care. However, we are not seeking to assess the performance of all elements or agencies that play a role in ensuring the safety of children, in what might be described in a broader sense as the state's child protection system.

DCJ exercises its primary functions under the *Children and Young Persons (Care and Protection) Act 1998* (**Care Act**). One of the key principles of the Care Act is 'that in any action or decision concerning a particular child or young person, the safety, welfare and well-being of the child or young person are paramount'.[11]

DCJ describes 3 core elements of its child protection responsibilities:[12]

Element 1: Statutory assessment and response to children reported at risk.
DCJ assesses and determines whether a child is at risk of significant harm and determines whether a child or young person needs care and protection and if so, is required to take whatever action is necessary for their safety, welfare and wellbeing.

Element 2: Out-of-home care (OOHC).
DCJ can remove a child from their parents and can exercise parental responsibility for children in OOHC. Some OOHC services are managed directly by DCJ, but some are managed by NGOs under contract with DCJ.

Element 3: Prevention, early intervention and family preservation services.
DCJ develops and delivers supports and services to families and children to prevent and reduce escalation of risk to children.

This report considers the data that is available to DCJ (whether published or unpublished) about how well it is performing these elements, as well as high level population performance data. For each element we:

- identify the core programs and how they relate to DCJ's child protection responsibilities and legislative requirements
- identify any related program specific goals and how these are intended to support and protect children
- consider actual program outcomes, and any available measures (or proxy measures) to assess whether or not the program or service is working well.

[10] Collaborative Practice in Child Wellbeing and Protection: NSW Interagency Guidelines for Practitioners 2021

[11] Care Act s9 (1).

[12] DCJ describes these 'elements' on its website as the 3 'key areas' of prevention and early intervention, child protection and out-of-home care: see FACS services that keep children safe | Family & Community Services (nsw.gov.au); Annual_Statistical_Report_2021-22_measure_list | Tableau Public

To consider these program outcomes, we have collected and considered a range of relevant performance information including:

- DCJ's publicly reported key child protection performance data[13] (**Appendix A** lists the publicly available reports and dashboards we examined)
- unpublished performance information we requested from DCJ
- publicly reported information and unpublished performance information we requested from other NSW government agencies – such as NSW Health and the Department of Education
- national reporting measures.[14,15,16]

Wherever possible, we have used data up to 30 June 2023. The information in the report is correct as at 2 May 2024.

For children at risk, DCJ continues to report on the NSW State Outcome established by the previous government, which is:

> Children and families thrive - ensuring the safety and wellbeing of vulnerable children, young people and families, and protecting them from the risk of harm, abuse and neglect.[17]

Related to this State Outcome are 2 Premier's Priorities, also established by the previous government, with targets expected to have been achieved by June 2023:

- "protect our most vulnerable children" by decreasing by 20% the proportion of children and young people re-reported at risk of significant harm within 12 months of closure of their case plan and,
- increase permanency for children in out-of-home care by doubling the number of children in safe and permanent homes for children in, or at risk of entering, out-of-home care.

DCJ advised in February 2024 that the Premier's Priorities were retired in June 2023 and new targets against the measure of re-reporting are currently under development.

DCJ's Strategic Direction 2020-2024 is based on these Outcomes and Priorities.[18]

We have assessed progress towards these Outcomes and Priorities because they fall within the period covered in this report.

This report provides information about the performance of core elements of the child protection service delivery in NSW which can be tracked and monitored over time. Where appropriate we have flagged data limitations and impending program and sector changes, focusing on the role of DCJ as the key agency responsible for child protection in NSW.

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[13] DCJ says this performance data 'shows the services we provide, clients we serve, and outcomes we deliver' Statistics | Family & Community Services (nsw.gov.au)

[14] Since 1993, the states and territories have been providing child protection data to the Australian Institute of Health and Welfare (AIHW). This data was aggregated until 2012-13, when most jurisdictions began to provide unit record data – that is, more detailed 'child-level' information – for the new Child Protection National Minimum Dataset; the exception is NSW, which has continued to provide aggregate data.

[15] For discussion about the benefits of unit record child protection data, see Australian Institute of Health and Welfare, A New approach to national child protection data: Implementation of the Child Protection National Minimum Data Set (2014) pp 4-5 A new approach to national child protection data: implementation of the Child Protection National Minimum Data Set (full publication; 9 Sep 2014 edition) (AIHW)

[16] Child Protection National Minimum Dataset, 2021–22 Data Quality Statement (aihw.gov.au); Report on Government Services 2023 Part F Section 16 Child Protection Services Indicator Results.

[17] Statistical Report 2021-22 | Family & Community Services (nsw.gov.au)

[18] "DCJ is accountable for seven of the NSW State Outcomes and five of the Premier's Priorities. We take this responsibility seriously and use these as our framework to both demonstrate our achievements to the citizens of NSW and to report back to government on our performance and progress"; DCJ Strategic Direction 2020-2024 (nsw.gov.au)

As this report is primarily based on DCJ information and data, we use the term ‘Aboriginal children’ to refer to First Nations and Aboriginal and Torres Strait Islander children and young people, consistent with the way DCJ reports. Also, we use the word ‘children’ to refer to children and young people.

Part A - Element 1 - Statutory assessment and response to children reported at risk

Overview of Part A

DCJ does not record, collect or report sufficient information about its response to all children who are reported at ROSH to determine what child protection services or support (if any) they receive, whether they are safe or at risk, and whether DCJ complies with its statutory obligations to assess and respond to children reported at ROSH.

Over the past six years, DCJ's caseworkers have seen more children reported at ROSH but the proportion of children seen face-to-face by a caseworker has dropped from 29% (26,196 of 92,007 in 2017-18) to 25% (27,782 of 112,592 in 2022-23) with significant variation in performance across DCJ's districts. The number of children reported at ROSH who do not receive a face-to-face response has also increased by 29% (from 65,811 to 84,810).

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DCJ was also unable to provide data to show that the most urgent and/or serious cases receive the most immediate and appropriate response. Nor could it provide data showing what (if any) support was provided to each of the 84,810 (in 2022-23) children reported at ROSH who were not provided a face-to-face caseworker response.

On average, where children are seen face-to-face by a caseworker, less than half are substantiated at harm or risk of significant harm.

Compared with non-Aboriginal children, in 2022-23 Aboriginal children were:

- 4 times more likely to be involved in a ROSH report
- 7 times more likely to be seen by a caseworker
- 7.6 times more likely to be substantiated at harm or risk of significant harm.

Stakeholders have raised questions about the validity, efficacy and presence of cultural biases[19] in the Structured Decision Making (SDM) tools DCJ's caseworkers use to assess and respond to risk for children. Any flaws or biases in the tools would clearly undermine DCJ's ability to accurately target and respond to children at risk of significant harm. These tools have been under review since 2021.[20]

For the children that it has assessed as needing care and protection, DCJ is required to attempt to reduce entries to the OOHC system, including by offering alternative dispute resolution (ADR) to eligible families. However, the impact of its ADR program is unclear.

[19] Family is Culture, 2019. p219. Independent review (nsw.gov.au); Jenkins, B. Q., Tilbury, C., Hayes, H., & Mazerolle, P. (2018). Factors associated with child protection recurrence in Australia. Child Abuse & Neglect, 81, 1. https://doi.org/ 10.1016/j.chiabu.2018.05.002.

[20] For details about use and validity of SDM in the NSW child protection system, see our 2021 special report The new machinery of government: using machine technology in administrative decision-making (nsw.gov.au); For international research see: McHellan, C., Gibbs,D., Knobel, A., Putnam-Hornstein, E. (2022) The evidence base for risk assessment tools used in the U.S child protection investigations: A systematic scoping review. *Child Abuse & Neglect.* 134

Structure of Part A

Part A covers:

- DCJ's statutory requirements for its response to children reported at ROSH
- Overview of DCJ's process for responding to ROSH reports
- Receiving, assessing and triaging ROSH reports
- Investigating children at ROSH

2. DCJ's statutory requirements for its response to children reported at ROSH

The goal of statutory child protection is to protect children from harm using the least intrusive intervention.[21] Government and non-government agencies have legal and policy obligations to respond to children at risk of harm, but only DCJ has a statutory responsibility to determine whether a child or young person is at risk of significant harm (ROSH) and needs care and protection and to take action if it does. According to s 23 of the Care Act, a child is at risk of significant harm if current concerns exist to a significant extent for the safety, welfare or well-being of the child or young person as follows:

> (a) the child's or young person's basic physical or psychological needs are not being met or are at risk of not being met,
> (b) the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive necessary medical care,
> (b1) in the case of a child or young person who is required to attend school in accordance with the Education Act 1990—the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive an education in accordance with that Act,
> (c) the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated,
> (d) the child or young person is living in a household where there have been incidents of domestic violence and, as a consequence, the child or young person is at risk of serious physical or psychological harm,
> (e) a parent or other caregiver has behaved in such a way towards the child or young person that the child or young person has suffered or is at risk of suffering serious psychological harm,
> (f) the child was the subject of a pre-natal report under section 25 and the birth mother of the child did not engage successfully with support services to eliminate, or minimise to the lowest level reasonably practical, the risk factors that gave rise to the report.

Under s 24 of the Care Act, anyone who reasonably suspects that a child is at ROSH can make a notification to the DCJ's Child Protection Helpline (Helpline). Under s 27 of the Care Act, certain professionals such as police, health workers and teachers are mandatory reporters and, as such, *must* make a report to the Helpline if they suspect a child under the age of 16 years is at ROSH.

Section 30(a) of the Care Act requires DCJ to respond to such notification by conducting whatever investigation or assessment it considers necessary to determine whether the child is at ROSH. Under s 30(b), DCJ may decide to take no further action if, on the basis of the information provided, it considers there is insufficient reason to believe that a child is at ROSH.

Section 34(1) of the Care Act states:

> If the Secretary forms the opinion, on reasonable grounds, that a child or young person is in need of care and protection, the Secretary is to take whatever action is necessary to safeguard or promote the safety, welfare and well-being of the child or young person.

In response to children reported at ROSH, DCJ first assesses the information in the notification to decide if it meets the ROSH threshold and, if so, whether to investigate and/or refer children and families to services provided by other government or non-government agencies or to the Joint Child Protection Response Program (JCPRP). The JCPRP run by DCJ, Health and Police provides co-ordinated, multi-disciplinary responses to reports of sexual abuse, serious physical abuse and serious neglect.

[21] Care Act s 9(2)(c)

3. Overview of DCJ's process for responding to ROSH reports

DCJ's first assessment of a ROSH report occurs at the Helpline.

Since 2011, DCJ policy has required its caseworkers to use a set of US-developed tools known as Structured Decision Making (SDM)[22] and professional judgment to make decisions about assessing and responding to risks for children. DCJ caseworkers at the Helpline apply the SDM Screening Response and Priority Tool (SCRPT) to help assess which *reports* meet the ROSH threshold and should be referred to Community Service Centres (CSCs) or the JCPRP (if a criminal offence is involved) for further investigation.[23] The Helpline assigns priority response times to reports that meet the ROSH threshold. The Helpline also identifies whether other policies or mandates may apply to children reported at risk, requiring a specific response.[24]

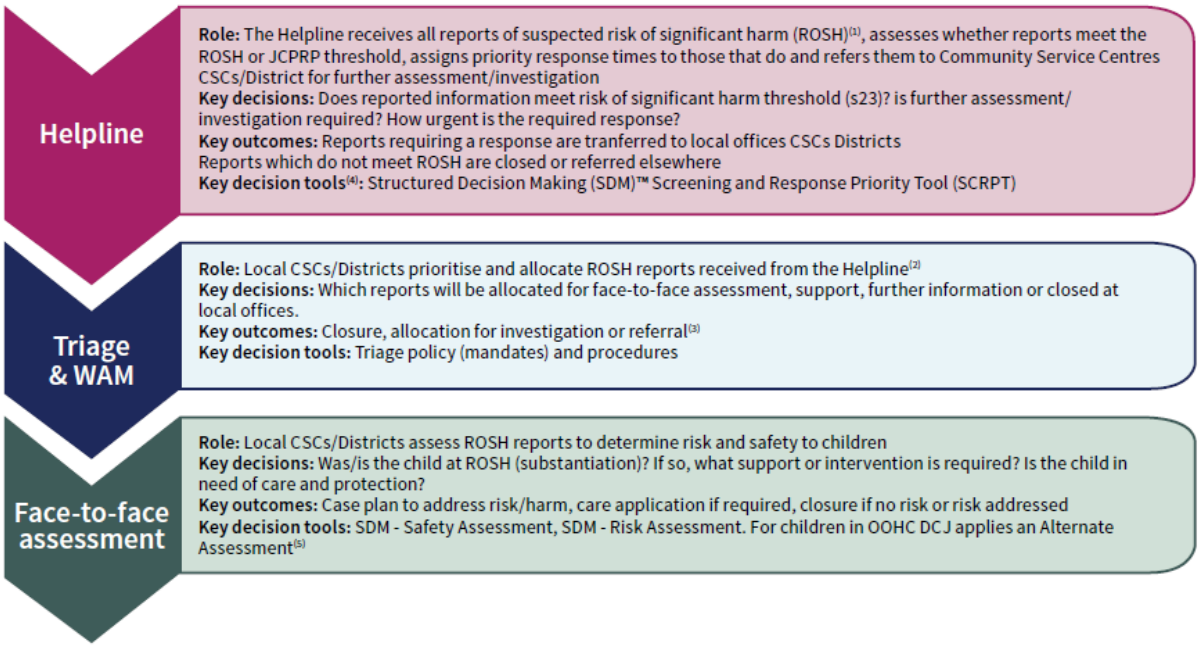
At the relevant CSC/district, caseworkers consider these reports in a triage process and/or at weekly allocation meetings (WAMs); neither of these steps involve use of SDM tools. The tools are, however, later applied to those reports which are allocated to caseworkers for a face-to-face safety and risk assessment investigation.

[22] Structured Decision Making is a registered trademark of Evident Change. Structured Decision Making® (SDM) Model - Evident Change

[23] Reports assessed as non-ROSH may also be referred to the CSC for information or for action. See also The NSW Structured Decision Making Framework - Assessing wellbeing, safety and risk | Family & Community Services

[24] For ROSH reports relating to children in OOHC, caseworkers have, since 2021 applied a Safety in Care mandate which outlines requirements for responding to this cohort. There are also specific policy overrides which may apply to other cohorts of children reported at risk of harm such as Unaccompanied Humanitarian Minors.

Diagram 1: High-level overview of response to ROSH reports



Source: NSW Ombudsman based on DCJ legislative and policy framework

Diagram 1 Notes:

(1) The Helpline receives other reports and requests for assistance that are outside the scope of this report. ROSH reports of suspected criminality are referred to a specialist unit JCPRP. ROSH reports for children in statutory care are subject to specific guidance and processes under the Safety in Care Mandate.

(2) Reports referred to triage can be allocated for investigation, referred to a Weekly Allocation Meeting for further prioritisation or closed for reasons including 'current competing priorities', insufficient reasons to believe a child is at risk or referral to another service. Reports referred by triage to a WAM can also be allocated for investigation, referred for support, further information, for review at the next WAM or closed on the basis of capacity if unable to be unallocated within 28 days.

(3) Referral may include to support services, interagency case discussions or alternative dispute resolution.

(4) In addition to the SDM tool, caseworkers may use other resources to support decisions at each stage such as research, professional judgement, consultation, group supervision etc.

(5) Alternate Assessment is also used in other circumstances, including where children remain in parental responsibility of their parent. These include the following exceptions to SDM:

- perpetrator out of the home
- 16-17 year olds living away from home, but parent retain PR
- historical abuse
- Unaccompanied Humanitarian Minors.

Stakeholders have raised questions about the validity, efficacy and presence of cultural biases[25] in the SDM tools.[26] The SDM tools have constituted a significant element in the statutory response to children at risk for more than a decade. Any flaws or biases in the tools would clearly undermine DCJ's ability to accurately target and respond to children at risk of significant harm.

[25] Family is Culture, 2019. p219. Independent review (nsw.gov.au); Jenkins, B. Q., Tilbury, C., Hayes, H., & Mazerolle, P. (2018). Factors associated with child protection recurrence in Australia. Child Abuse & Neglect, 81, 1. https://doi.org/ 10.1016/j.chiabu.2018.05.002.

[26] For details about use and validity of SDM in the NSW child protection system, see our 2021 special report The new machinery of government: using machine technology in administrative decision-making (nsw.gov.au); For international research see: McHellan, C., Gibbs,D., Knobel, A., Putnam-Hornstein, E. (2022) The evidence base for risk assessment tools used in the U.S child protection investigations: A systematic scoping review. *Child Abuse & Neglect.* 134.

We asked DCJ for information about its efforts to validate and quality assure use of SDM over time. In December 2021 DCJ advised that efforts from 2015 - 2020 "focused on reviewing application of the tools, rather than testing their efficacy."[27] At the time, DCJ said its SDM risk assessment tool was a Californian risk assessment model based on Californian actuarial data; it would be calibrated to NSW actuarial data as part of a validation study and implemented in the final quarter of 2022.

DCJ advised that since 2021, its 'Better Decisions for Children' project had been refining, testing and consulting on the SDM tools with the aim to validate and implement revised versions. However, DCJ has since told us that the project was paused in January 2024 in response to growing concerns raised by Aboriginal stakeholders about DCJ's use of SDM, particularly the actuarial Risk Assessment Tool. DCJ said:

> A new project is being developed with AbSec that will scope the broader review of policy, practice, procedures that govern how families are supported in statutory child protection. An element of this work will involve partnering with AbSec and Aboriginal communities to design an assessment approach that will support caseworkers to make culturally safe and equitable statutory decisions for children in NSW.
> …Work has commenced in early 2024 to establish the terms of reference for this work, including what assessment tools will be included.[28]

Pending this work, DCJ advised that some interim changes to the face-to-face component of the SDM tools will be introduced in the first half of 2024.

At a recent Budget Estimate hearing, the Minister for Families and Communities stated:

> The structured decision-making tool and the review of it was one of the immediate action items that came out of the Aboriginal reform forum that we held in August last year. We are now working closely in collaboration with AbSec and ALS [Aboriginal Legal Service] on a review of the risk assessment tool and all of the—there is a suite of tools that are part of this. There is one element of it that we will be replacing with an interim approach very soon.[29]

Effective safety and risk assessment tools and methods are critically important to DCJ's statutory child protection responsibilities. As the timeframes and scope of the new project are currently being established, it is unclear whether and how it will impact on the 'Better Decisions for Children' project, and whether SDM will continue to be used in child protection risk assessment.

Recommendation 1

On completion of the review with AbSec and the Aboriginal Legal Service (ALS) of the safety and risk assessment tools and methods used in exercising DCJ 's statutory child protection responsibilities, DCJ should publicly report on how any ensuing changes to the SDM tools (or replacement tools) and assessment processes will improve decision-making and the efficacy of risk assessment.

[27] DCJ response to our request for information received December 2021.

[28] DCJ's response to our request for information received 16 February 2024.

[29] Minister for Families and Communities. Budget Estimates. Portfolio Committee No. 5. Justice and Communities. 4 March 2024. p29 Transcript - CORRECTED - PC5 - Budget Estimates (Washington) - 4 March 2024.pdf (nsw.gov.au)

4. Receiving, assessing and triaging ROSH reports

4.1 Reports of children at risk

We reviewed all publicly available data[30] (summarised in **Appendix B**) and unpublished data we obtained from DCJ to assess DCJ's statutory child protection response and the impact on safety, welfare and wellbeing outcomes for children.

Number of children requiring a statutory response

DCJ reports the number of unique children and young people aged 0-17 'involved in' (which DCJ defines as subject of) ROSH reports in a financial year. According to DCJ's metadata definitions:

> A child or young person is at ROSH if the circumstances that are causing concern for their safety, welfare or wellbeing are present to a significant extent. This means it is sufficiently serious to warrant a response by a statutory authority irrespective of a family's consent.[31]

[30] As of March 2024, DCJ's Statistics web page featured hyperlinks to 5 of 6 annual statistical reports from 2017-18 to 2021-22; there was no link to the 2018-19 report. Statistics | Family & Community Services (nsw.gov.au)

[31] Number of children and young people involved in risk of significant harm reports (Indicator) - NSW Dept. Communities and Justice Metadata Registry (aristotlecloud.io)

As **Table 1** shows, in the 8 years since 2015-16:

- the total number of children involved in ROSH reports increased by 42%
- the number of Aboriginal children involved in ROSH reports grew by 47% compared to 40% for non-Aboriginal children.

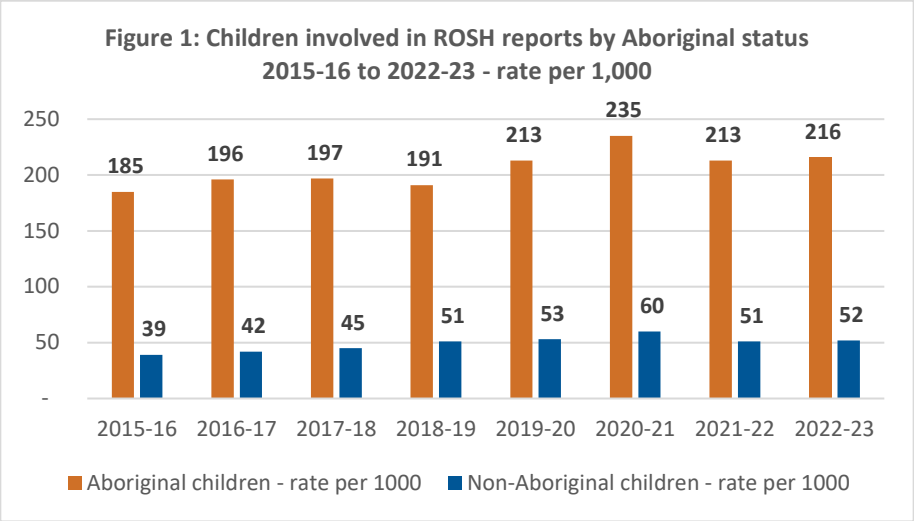
Table 1: Number of children involved in ROSH reports by Aboriginal status 2015-16 to 2022-23

	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	% increase since 2015-16
Aboriginal children	17,052	18,200	18,454	21,268	23,937	26,657	24,483	25,130	**47%**
% of total	**21%**	**21%**	**20%**	**20%**	**21%**	**21%**	**23%**	**22%**	
Non-Aboriginal children	62,435	68,226	73,553	84,504	88,580	100,161	84,214	87,462	**40%**
% of total	**79%**	**79%**	**80%**	**80%**	**79%**	**79%**	**77%**	**78%**	
Total	79,487	86,426	92,007	105,772	112,517	126,818	108,697	112,592	**42%**

Source: NSW Ombudsman based on DCJ data (Annual Statistical Reports)

Note: The Productivity Commission's Report on Government Services 2023 indicated that COVID-19 may have affected service delivery and data collection and processes.[32]

Also, **Figure 1** shows that in the period between 2015-16 and 2022-23, the rate of children involved in ROSH reports per 1,000 children aged 0-17 in NSW increased for both Aboriginal and non-Aboriginal children. However, the rate ratio between Aboriginal and non-Aboriginal children improved marginally. In 2015-16, Aboriginal children were 4.7 times more likely to be involved in ROSH reports; by 2022-23, Aboriginal children were 4.2 times more likely to be involved in ROSH reports than non-Aboriginal children.



Source: NSW Ombudsman based on DCJ data[33]

[32] 16 Child protection services - Report on Government Services 2023 - Productivity Commission (pc.gov.au)

[33] Department of Communities and Justice. Aboriginal-led data sharing Aboriginal-led Data Sharing Child Protection and Out-of-home Care Statistics | Tableau Public.

4.2 How DCJ prioritises reports

As we have noted in **Section 3**, the Helpline determines whether the information in a report meets the ROSH threshold and refers those that do to CSCs or the JCPRP for further investigation.

The Helpline assigns a response priority to all reports– less than 24 hours, 72 hours, or less than 10 days.

The response priority assigned to a ROSH report is "an indication of how quickly an investigation should be initiated. The more immediate the associated risk to the safety and wellbeing of a child, the quicker the recommended response priority."[34]

Each year, DCJ counts the number of all ROSH reports in each of the three priority categories – less than 24 hours, less than 72 hours and less than 10 days.

In the context of increasing numbers of children involved in ROSH reports as identified in **Section 4.1**, DCJ's data about ROSH reports by Helpline response priority (**Table 2**) raises questions about the reasons for the changes over time in both the numbers and the relative proportions of ROSH reports in all response priority categories (less than 24 hours, less than 72 hours, less than 10 days) – which resulted in declining proportions of reports being assigned as both most urgent and least urgent. For reports assigned a priority of:

- less than 24 hours, the number increased from 34,473 to 34,550 but the proportion declined from 25% to 15%
- less than 72 hours, the number increased from 46,365 to 101,530 and the proportion from 33% to 44%
- less than 10 days, the number increased from 59,161 to 79,708 but the proportion declined from 42% to 35%

DCJ advised that the significant increase in the last 2 years (2021-22 and 2022-23) in the number of ROSH reports where a response priority is 'not entered' was due to the implementation of the Helpline Advanced Screening Program in 3 districts - a new way of undertaking intake and assessment within the Helpline.

[34] Department of Communities and Justice, Annual Statistical Report 2021-22. Accessed at: ASR 2021-22 Children and Families Thrive - CP | Tableau Public

Table 2: Number of ROSH reports by response priority assigned by the Helpline 2015-16 to 2022-23						
	Less than 24 hours	Less than 72 hours	Less than 10 days	Not entered	Not applicable	Total ROSH reports
			2015-16			
Number	34,473	46,365	59,161	0	0	139,999
% of total	25%	33%	42%	0.0%	0.0%	100%
			2016-17			
Number	37,959	57,722	63,274	1	5	158,961
% of total	24%	36%	40%	0.0%	0.0%	100%
			2017-18			
Number	37,426	62,394	65,022	238	2,356	167,436
% of total	22%	37%	39%	0%	1%	100%
			2018-19			
Number	42,944	82,521	79,681	1,721	1,262	208,129
% of total	21%	40%	38%	1%	1%	100%
			2019-20			
Number	44,129	96,487	89,694	4,703	1,514	236,527
% of total	19%	41%	38%	2%	1%	100%
			2020-21			
Number	52,163	120,530	97,501	4,955	1,783	276,932
% of total	19%	44%	35%	2%	1%	100%
			2021-22			
Number	36,847	97,982	72,473	10, 867	1,574	219,743
% of total	17%	45%	33%	5%	1%	100%
			2022-23			
Number	34,550	101,530	79,708	10,863	1,696	228,347
% of total	15%	44%	35%	5%	1%	100%

Source: NSW Ombudsman based on DCJ data.

Note: For 2017-18 onwards, final response priority is not applicable to the category 'not applicable'

DCJ said that "all reports with a recommended response priority level of < 24 hours, or reports otherwise requiring an urgent response, are brought to the attention of the MCW [Manager Casework] to be considered for a priority face to face child protection assessment." DCJ also said that most reports "...will be considered at a Weekly Allocation Meeting (WAM) or equivalent peer review process, where the business unit management will prioritise reports for a child protection assessment, against available resources."[35]

DCJ also said that it does not collect and cannot provide data that would link the Helpline assigned response timeframe with the actual response timeframe for ROSH reports. This means that DCJ cannot demonstrate whether children assessed as needing the most immediate response are actually receiving it.

[35] DCJ Response, 23 May 2023.

4.3 Children reported at ROSH more than once

40% of children involved in **more than 1 report** in 2022-23

1 in 12 children involved in **5 or more** ROSH reports in 2022-23

DCJ reports the number of children reported at ROSH by number of reports each year.

Table 3 shows that in the 8 years since 2015-16 the number of children involved in 5 or more ROSH reports each year more than doubled (from 4,193 in 2015-16 to 9,401 in 2022-23). In 2022-23 alone:

- 40% of children (45,058 of 112,592) were involved in more than 1 ROSH report
- 1 in 12 children were involved in 5 or more ROSH reports.

Table 3: Number of children involved in one or more ROSH reports each year 2015-16 to 2022-23

	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23
1 report	51,141	54,619	58,118	64,020	65,634	72,821	64,611	67,534
% of total	64%	63%	63%	61%	58%	57%	59%	60%
2 reports	14,661	16,030	17,006	19,692	21,314	23,358	20,590	20,691
% of total	18%	19%	18%	19%	19%	18%	19%	18%
3 reports	6,266	6,723	7,564	9,073	9,808	11,494	9,481	9,578
% of total	8%	8%	8%	9%	9%	9%	9%	9%
4 reports	3,226	3,662	3,779	4,927	5,440	6,564	5,060	5,388
% of total	4%	4%	4%	5%	5%	5%	5%	5%
5 or more reports	4,193	5,392	5,540	8,060	10,321	12,581	8,955	9,401
% of total	5%	6%	6%	8%	9%	10%	8%	8%
All children	79,487	86,426	92,007	105,772	112,517	126,818	108,697	112,592

Source: NSW Ombudsman based on DCJ data

There is a need for further analysis to better understand or interpret the significance of these trends and their impact on families and children, including:

- the number of *families* involved in reports and how often they were reported over time
- the ages of the children reported
- demographic information (such as Aboriginal identity, culturally and linguistically diverse background) and the legal status of these children (whether already in statutory care)
- the number of these children that have/have not received an early intervention response from DCJ or from an NGO.

4.4 Type of risk reported for children

DCJ publishes information on the number of children and young people involved in ROSH reports by type of reported risk as assessed by the Helpline. In the 8 years since 2015-16, **Table 4** shows:

- the ratio of the number of children to the number of reported issues indicates that on average children are reported for more than one risk factor
- an increase in the proportion of reported emotional abuse from 14% to 23%
- a decline in the proportion of reported physical abuse (from 27% to 22%), sexual abuse (from 18% to 16%) and neglect (from 24% to 22%)
- no change in the proportion of reported domestic violence (around 17%).

Table 4: Number of children involved in ROSH reports by selected reported issue 2015-16 to 2022-23

Reported Issue	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23
Domestic violence	19,770	20,935	22,110	30,220	35,454	40,424	35,379	35,082
% of total	17%	17%	15%	16%	16%	16%	17%	17%
Emotional abuse	16,327	18,787	26,241	41,196	49,402	57,894	48,810	48,893
% of total	14%	15%	18%	22%	23%	24%	24%	23%
Neglect	27,162	29,411	33,665	45,101	49,411	55,228	46,969	46,565
% of total	24%	23%	24%	24%	23%	22%	23%	22%
Physical abuse	30,771	33,778	34,979	43,950	48,668	54,597	44,141	45,556
% of total	27%	27%	24%	23%	23%	22%	21%	22%
Sexual abuse	20,495	22,967	26,016	30,471	32,341	37,850	30,433	32,721
% of total	18%	18%	18%	16%	15%	15%	15%	16%
Total number of reported issues*	114,525	125,878	143,011	190,938	215,276	245,993	205,732	208,817
Children involved in ROSH reports	79,487	86,426	92,007	105,772	112,517	126,818	108,697	112,592
Ratio of reports to number of children involved in ROSH reports	**1.4**	**1.5**	**1.6**	**1.8**	**1.9**	**1.9**	**1.9**	**1.9**

Source: NSW Ombudsman based on DCJ data

***** A child may be the subject of a ROSH report that involves more than one issue

Overall, the data in **Tables 3 and 4** shows that an increasing number of children are reported multiple times to DCJ and for multiple risk factors. This points to increasing complexity and accumulation of risk but could also reflect an improved understanding of risk and the requirements to report it.

It is critically important that screening and later prioritisation and allocation decisions take account of this increasing complexity and accumulation of risk for children.

Examining the relationship between repeat reports and reported issues is essential not only to identify trends and severity of reported issues, but also to identify the combination of risk factors that, if not addressed, would most likely lead to entry into OOHC and cumulative harm to children.[36]

The recent Australian Child Maltreatment Study highlighted the prevalence and impacts of multi-type maltreatment and the need for better data:

> Data about the prevalence of multi-type maltreatment is important because it highlights patterns of risk and vulnerability. Knowledge about the co-occurrence of harm types has important prevention and intervention relevance. Multi-type maltreatment is also associated with poorer outcomes than single type maltreatment….Our data shows that for those who experience any maltreatment multi-type maltreatment is the norm.[37]

Such information would enable DCJ to better target its responses, particularly triage decisions, prioritisation and allocation of cases, and ultimately, better gauge the effectiveness of its intervention.

4.5 Triaging children screened at ROSH by the Helpline

The Ombudsman's 2014 review of the child protection system recommended that the then Department of Family and Community Services publish comprehensive information that would allow the public to know the actual response to *all* children reported at ROSH, not just those who received a face-to-face assessment.[38] This has not occurred.

Since 2014, the absence of information about the actual response to all children at ROSH has been raised repeatedly[39] and DCJ continues to be unable to provide it.

We asked DCJ for data on the reasons that children's ROSH reports were closed.[40] Instead, DCJ supplied triage assessment decisions for children at ROSH which does not reflect all the children whose reports were closed. DCJ described triage as:

> the process of determining the allocation of reports in response to operational capacity. Under the triage mandate, CSCs can allocate reports directly to a caseworker or bring them to a Weekly Allocation Meeting to discuss their allocation. Interagency Case Discussions (and other forms of referral to interagency partners) are also utilised. If there is no operational capacity to allocate the report it can be left unallocated for up to 28 days, with the potential to be allocated in that time; or closed due to competing priorities with a peer closure process carried out (two managers must agree to the closure without further assessment).[41]

Based on this advice, the triage data **(Table 5**) reflects only the *initial* decisions which according to DCJ's triage process, might change over the next 28 days if capacity at the CSC changes.

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[36] Cumulative harm involves 'a series of events and circumstances which individually may not constitute grounds for child protection intervention but contribute to chronic child maltreatment causing cumulative harm.' From Sheehan, R. (2019). Cumulative harm in the child protection system: The Australian context. *Child & Family Social Work*, *24*(4), 421–429.p1 https://doi.org/10.1111/cfs.12621

[37] Higgins DJ, Mathews B, Pacella R, Scott JG, Finkelhor D, Meinck F, Erskine HE, Thomas HJ, Lawrence DM, Haslam DM, Malacova E, Dunne MP. The prevalence and nature of multi-type child maltreatment in Australia. Med J Aust 2023; 218 (6 Suppl): S19-S25; Haslam D, Mathews B, Pacella R, Scott JG, Finkelhor D, Higgins DJ, Meinck F, Erskine HE, Thomas HJ, Lawrence D, Malacova E. (2023). The prevalence and impact of child maltreatment in Australia: Findings from the Australian Child Maltreatment Study: Brief Report. Australian Child Maltreatment Study, Queensland University of Technology.p24 3846.1_ACMS_A4Report_C1_Digital-Near-final.pdf

[38] Review of the NSW child protection system - Are things improving Special report to Parliament April 2014 - NSW Ombudsman

[39] For example, at the 2021 NSW Budget Estimates inquiry into the Families, Communities and Disability Services portfolio, MPs wanted to know the number of children whose cases were closed because of competing priorities in 2019-20, meaning they were not seen by a caseworker. Also, NSW Ombudsman, Biennial report of the deaths of children in New South Wales: 2018 and 2019 (nsw.gov.au); Tune, D. (2018) Independent Review of Out-of-Home Care. KMBT_C554-20180608192718 (acwa.asn.au)

[40] DCJ's ChildStory Case Closure Reasons Guide states cases can be closed for the following reasons: plan goal achieved, DCJ no longer providing a service, referral to external agency, competing priorities, child unable to be located. Last updated 27 October 2021.

[41] DCJ response 7 December 2021.

What the *unpublished* data presented in **Table 5** suggests is that for most children screened at ROSH, the initial response of closure without any further action is based on a triage decision to close because of 'no capacity to allocate, competing priorities'.

In 2022-23, the cases of 64% of all children screened at ROSH were subject to an *initial* triage decision to close due to 'no capacity to allocate, competing priorities', and 32% (35,819) to allocate.

Table 5: Number of unique children in ROSH reports by triage decision 2018-19 to 2022-23

Triage Decision	2018-19	2019-20	2020-21	2021-22	2022-23
Total children involved in ROSH reports	105,772	112,517	126,818	108,697	112,592
Triage decision to allocate	38,505	41,442	42,056	37,509	35,819
Triage decision to allocate as % of all children assessed at ROSH	36%	37%	33%	35%	32%
Triage decision pending (with a transfer record)*	1,536	826	914	1,615	4,046
Triage decision to close - no capacity to allocate competing priorities	60,387	66,746	81,935	68,545	71,837
Triage decision to close - Unable to locate subject* not located	189	120	121	86	65
Triage decision to close - Other	4,965	3,233	1,698	834	715
No triage	60	91	35	71	75
Triage decision pending (without a transfer record)	130	59	59	37	35
Triage decision to close due to competing priorities as % of children involved in ROSH reports	**57%**	**59%**	**65%**	**63%**	**64%**

Source: NSW Ombudsman based on DCJ data

Notes from DCJ:

1. DCJ advised that data for previous years was not comparable as a result of the introduction of the ChildStory database in 2017-18.

2. The data above represents a unique count of children and young people. A child may be reported multiple times during the period. If the child was allocated to a caseworker, he/she will only be counted once, and all other ROSH reports related to the child will not be counted in other triage decisions.

3. 'The triage decision to close – Other' include all other reasons for closing ROSH reports, such as triage decision to close as the matter has been dealt with other means, or it has not been dealt with by other case or other means.

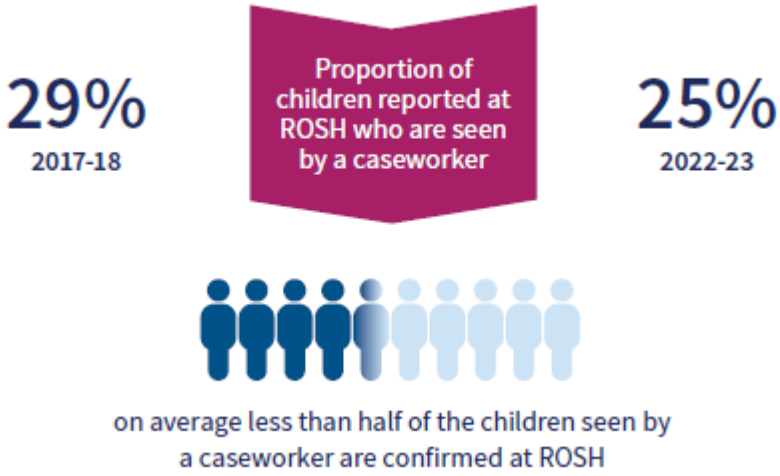
***** 'Triage record pending with a transfer record' refers to the electronic transfer record used to move a ROSH report between CSCs, the Helpline and other DCJ units (e.g. JCPRP). 'Subject' means the child reported at ROSH.

As we note in the next section, the proportion of children who were triaged for allocation and subsequently *seen* by a caseworker was 25% (27,782), that is 8,037 (22%) fewer children seen than originally triaged to be seen.

Children who were recommended for allocation at triage but not seen by a caseworker may have received other responses. However, the available data does not show those responses, nor does it explain why those 8,037 children were not seen.

5. Investigating children at ROSH

5.1 Children involved in ROSH and seen by a DCJ caseworker



Only children seen by a caseworker receive both a face-to-face safety and a risk assessment that determines what, if any, action is required to address the reported risks.[42]

In 2011, we noted in a review of statutory child protection that the proportion of children seen by a caseworker, in 2010-11, was 20%.[43] This data related to the period which saw the 'risk of harm' threshold for statutory intervention replaced with the current 'risk of significant harm'. By the time of our second review in 2014, the proportion of children seen had increased to 28% (in 2012-13).[44] Since then, DCJ's annual statistical reports and quarterly caseworker dashboards show virtually no improvement in the proportion of children reported and seen.

For the 6 years from 2017-18,[45] **Table 6** shows:

- a decrease in the proportion of children reported at ROSH and seen by a caseworker from 29% in 2017-18, to 25% of children in 2022-23
- for nearly the same number of children involved in ROSH reports in 2019-20 and 2022-23, a significant decrease in the proportion of children seen from 31% to 25%.

[42] For most children seen the SDM tools known as the Safety Assessment and the Safety and Risk Assessment (SARA) are used to make these decisions, however for children in OOHC an Alternate Assessment is used. Refer to notes in Figure 1.

[43] NSW Ombudsman, Keep Them Safe?, August 2011 SR-to-Parliament-keep-them-safe.pdf (nsw.gov.au)

[44] NSW Ombudsman, Review of the NSW Child Protection System – Are Things Improving?, April 2014 Review-of-the-NSW-child-protection-system-Are-things-improving-SRP-April-2014.pdf

[45] DCJ said data prior to 2017-18 is not comparable.

Table 6: Children involved in ROSH reports and seen by a DCJ caseworker by Aboriginal status 2017-18 to 2022-23

	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	% change since 2017-18
Aboriginal children involved in ROSH reports and seen by a caseworker	7,004	8,705	11,059	11,536	10,259	8,678	24%
Aboriginal children seen by a caseworker as % of all children seen	27%	28%	31%	32%	32%	31%	
Non-Aboriginal children involved in ROSH reports and seen by a caseworker	19,192	22,244	24,182	24,988	21,308	19,104	0%
Non-Aboriginal children seen by a caseworker as % of all children seen	73%	72%	69%	68%	68%	69%	
Number of children with a triage decision to allocate	n/a	38,505	41,442	42,056	37,509	35,819	
All children involved in ROSH reports and seen by a caseworker	26,196	30,949	35,241	36,524	31,567	27,782	6%
Children seen as a % of children triaged to be seen	n/a	80%	85%	87%	84%	78%	
All children involved in ROSH reports	92,007	105,772	112,517	126,818	108,697	112,592	22%
All children seen by a caseworker as % of all children involved in ROSH reports	**29%**	**29%**	**31%**	**29%**	**29%**	**25%**	

Source: NSW Ombudsman based on DCJ data (annual statistical reports. DCJ has not published data for previous years).

Note: As children can have more than one ROSH report in a year, counting rules are applied when providing child level counts. Prior to 2022-23, the details of the child's first ROSH report during the year are provided. For 2022-23, counting was updated to align with the published 'children seen' measure, where the first safety assessment or alternative assessment for the child was reported for children seen, and for children not seen, outcome is based on their first ROSH report during the year.

The annual figure for children seen is a statewide average but actual face-to-face performance in each of DCJ's districts varies from that state level. District data is published in the quarterly caseworker dashboards. The September quarter 2023 dashboard shows the proportion of children seen in districts[46] ranged from 16% to 26%.

The state average (of 24%) is higher than it would otherwise be because of the contribution of "Statewide Services"[47] which includes the JCPRP. The JCPRP responds to suspected criminal abuse and conducts face-to-face assessments of a much higher proportion of children than any of the districts, resulting in a higher proportion of children seen - 83% of children.

Excluding JCPRP, the state-wide district average for children seen was just 21% in the September quarter 2023.[48]

The dashboard also shows an increase in the annual caseworker vacancy rate[49] from 3% in 2017-18 to 6% in 2022-23. There is, however, no clear correlation between the vacancy rate and the number of

[46] Since the June quarter 2021-22 DCJ has changed from reporting results for 16 districts to reporting for 7 combined districts.

[47] Statewide Services also includes Intensive Support Services which provide casework services to children in statutory care with high and complex needs who have experienced placement instability and other operational support services. Districts and Statewide Services contacts | Communities and Justice (nsw.gov.au)

[48] Department of Communities and Justice. Caseworker dashboard, September 2023 quarter. DCJ Caseworker Dashboard Public | Tableau Public

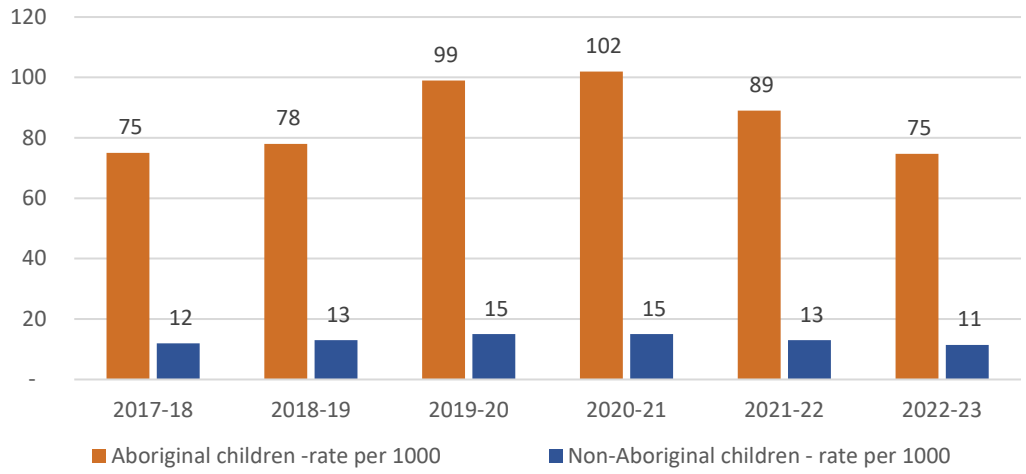
[49] The number of vacancies represents the difference between the funded Full Time Equivalent (FTE) positions and actual FTE during the reference period in percentage. Metadata for DCJ Caseworker Dashboard | Family & Community Services (nsw.gov.au)

children seen across districts. In some districts with high vacancy rates the proportion of children seen is above the state average and for others below.[50]

The data in **Table 6** tells a different story for Aboriginal children. It shows that, although there has been a decline in the proportion of children seen by a caseworker, this was not the case for Aboriginal children. Between 2017-18 and 2022-23, the number and proportion of Aboriginal children seen by a caseworker increased significantly – 24% increase in numbers and from 27% to 31% increase in proportion.

Also, **Figure 2** shows a sharper rise in the rate of Aboriginal children seen by a caseworker between 2017-18 and 2020-21 (from 75 to 102 per 1000 Aboriginal children aged 0-17 in NSW) compared with the rate for non-Aboriginal children (from 12 to 15 per 1000 non-Aboriginal children aged 0-17 in NSW), and a sharp decline in the rate between 2020-21 and 2022-23 (from 102 to 75 per 1000 children) compared with that for non-Aboriginal children (from 15 to 11 per 1000 children).

Figure 2: Children involved in ROSH reports and seen by a DCJ caseworker by Aboriginal status
2017-18 to 2022-23 - rate per 1,000 children



Source: NSW Ombudsman based on DCJ data

Despite the changes in the rate of Aboriginal children seen by a caseworker, in 2022-23 Aboriginal children were nearly 7 times more likely to be seen by a caseworker than non-Aboriginal children, but only around 4 times more likely to be involved in a ROSH report than non-Aboriginal children (**Section 4.1**).

[50] It is important to note there have also been changes over time in the categories of caseworkers captured in the district caseworker vacancy rate. For example, in 2022-23 casework specialists were removed from district counts and some statewide service caseworkers are now counted in the districts in which they are located. Caseworker statistics dashboard | Family & Community Services (nsw.gov.au)

5.2 Substantiation of harm for children seen by a caseworker

on average less than half of the children seen by a caseworker are confirmed at ROSH.

For the children who were seen by a caseworker, DCJ reports 'substantiation of harm' by counting the number of children:

> …where 'actual harm' or 'risk of harm' was substantiated (calculated by checking that the reported concern meets the ROSH threshold, the related case was allocated to a Caseworker, and subsequently 'actual harm or risk of harm' was identified, a Field Assessment was completed and approved), in the reporting period.[51]

According to the Productivity Commission,

> 'Substantiation rate' is an indicator of governments' objective that child protection services are targeted to children and young people who are at greatest risk.
> 'Substantiation rate' is defined as the proportion of finalised investigations where abuse or neglect, or risk of abuse or neglect, was confirmed.
> It is difficult to determine a target substantiation rate. A very low substantiation rate might indicate that investigations are not directed to appropriate cases. A very high substantiation rate might indicate that the criteria for substantiation are unnecessarily bringing 'lower risk' families into the statutory system. Substantiation rates should be monitored over time to observe and respond to trends. [52]

Table 7 shows that in the period 2018-19 to 2022-23:

- The number of Aboriginal children who were seen by a DCJ caseworker where actual harm, or risk of harm was substantiated increased by 9% compared with an 11% decline for non-Aboriginal children.
- Of all the children seen and substantiated for harm or risk of harm, the proportion who were Aboriginal increased from 29% to 33% compared with a drop from 71% to 67% for non-Aboriginal children.
- On average, less than half of the children seen by a caseworker were substantiated at harm or risk of harm.

It is worth noting that in 2023, Aboriginal children comprised 31% of all children seen by a caseworker (**Section 5.1**).

[51] Number of children and young people involved in risk of significant harm reports where actual harm or risk of harm was substantiated from finalised field assessments (Indicator) - NSW Dept. Communities and Justice Metadata Registry (aristotlecloud.io)

[52] Productivity Commission, Report on Government Services 2023, Part F Section 16 Child Protection Services, Australian Government, 2023. Accessed at: 16 Child protection services - Report on Government Services 2023 - Productivity Commission (pc.gov.au)

Table 7: Children involved in ROSH reports where actual harm or risk of harm was substantiated from finalised field work, by Aboriginal status 2018-19- 2022-23

	2018-19	2019-20	2020-21	2021-22	2022-23	% change since 2018-19
Aboriginal children seen and substantiated	4,047	5,622	5,938	5,209	4,425	9%
Aboriginal children substantiated as % of all substantiations	29%	33%	33%	33%	33%	
Non-Aboriginal children seen and substantiated	10,084	11,234	12,166	10,373	9,019	-11%
Non-Aboriginal children substantiated as % of all substantiations	71%	67%	67%	67%	67%	
Total number of children seen and substantiated	14,131	16,856	18,104	15,582	13,444	-5%
Total number of children seen	30,949	35,241	36,524	31,567	27,782	-10%
Children substantiated as % of all children seen	46%	48%	50%	49%	48%	

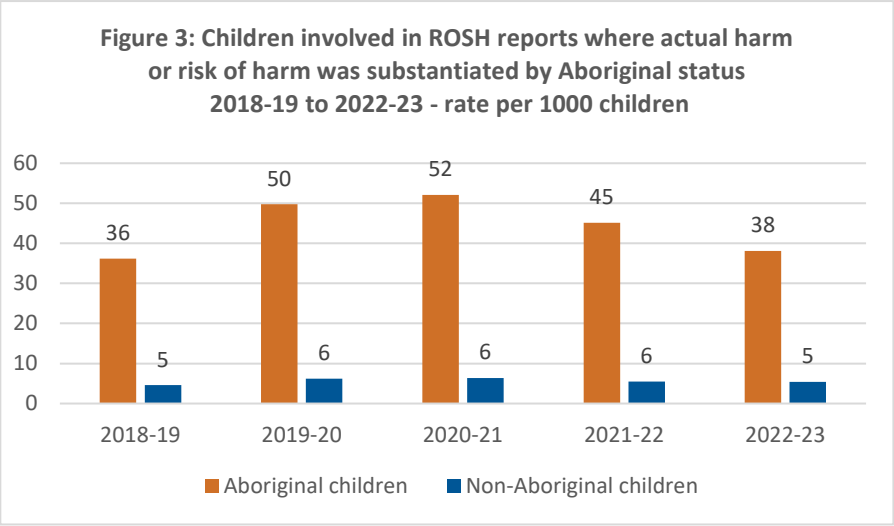
Source: NSW Ombudsman based on DCJ data

Note: Data for 2017-18 is not available in any source

Note: As children can have more than one ROSH reports in a year, counting rules are applied when providing child level counts. Prior to 2022-23, the details of the child's first ROSH report during the year are provided. For 2022-23, counting was updated to align with the published 'children seen' measure, where the first safety assessment or alternative assessment for the child was reported for children seen, and for children not seen, outcome is based on their first ROSH report during the year.

Figure 3 also shows:

- the rate of substantiation of harm or risk of harm for Aboriginal children increased between 2018-19 and 2020-21 from 36 to 52 per 1,000 Aboriginal children aged 0-17 in NSW, followed by a drop to 38 per 1,000 children in 2022-23
- in 2020-21, Aboriginal children were 9 times more likely to be substantiated for harm or risk of harm than non-Aboriginal children; by 2022-23 they were 7.6 times more likely to be substantiated than non-Aboriginal children (similar to the rate ratio in 2018-19 of 7.2).



Source: NSW Ombudsman based on DCJ data

Although the reasons for the consistently higher substantiation rates for Aboriginal children are not known, the Family is Culture Review found:

> The Review's findings into the issue of SARA [Safety and Risk Assessment Tool] highlight considerable deficiencies in the way SDM [Structured Decision-Making tools] in safety and risk assessment is being utilised for Aboriginal children and families. For example, systemic non-compliance with safety assessment was evident from the case review sample, raising concerns about the ability of these tools to discharge requirements under ss 33 and 34 of the Care Act. Further, the types of non-compliance suggest both that caseworkers are not utilising SARA tools properly and that caseworkers may be (intentionally or otherwise) taking punitive approaches to assessing Aboriginal families.[53]

DCJ advised that:

> The triage assessment aims to ensure that the finite resources of the statutory child protection system are directed to the children, young people and families in greatest need. The role of the triage assessment is to ensure that, for example, the 31,567 children and young people at ROSH that were seen by a DCJ caseworker in FY 2021-22, represent the children and young people at greatest risk and they are therefore prioritised for allocation for a field assessment.[54]

However, **Table 7** shows that less than half of those children who were triaged as being at greatest risk and who were subsequently seen by a caseworker, had harm or risk of harm substantiated.

5.3 Children not seen by a caseworker

DCJ advised us that reports about children who are not allocated for a child protection assessment at triage may be transferred or referred to other DCJ business units, or other agencies or service providers. However, DCJ did not provide any information to show what happened for these children screened at ROSH and not allocated for child protection assessment.

In response to questions about the actual response to those children not seen by a caseworker at NSW Budget Estimates Committee hearing on 30 August 2022,[55] DCJ advised that it does not hold reliable linked data regarding the number of children reported at ROSH and seen by another organisation or agency, other than DCJ.

Since 2014, we have repeatedly raised concerns about a significant gap in information about what happens to children and young people reported at ROSH who are referred to other services, rather than being allocated for a child protection assessment.[56] It is unacceptable that DCJ still cannot provide data on referrals to other agencies that it funds and commissions to deliver services, especially those services for which it determines eligibility and is the primary referrer.

[53] Family is Culture, 2019. p219. Independent review (nsw.gov.au)

[54] DCJ Letter dated September 2023 in response to Ombudsman (reviewable child deaths) Recommendations.

[55] NSW Parliament Budget Estimates 2022-23, Portfolio Committee No.5. Thursday 9 November 2023. Transcript - PC 5 - Families and Communities Disability Services - 30 August 2022 - CORRECTED.pdf (nsw.gov.au)

[56] Biennial report of the deaths of children in New South Wales: 2020 and 2021 (nsw.gov.au), p 187-188.

In September 2023 DCJ said:

> Through a number of current and planned projects, DCJ is improving data capture which will provide increased visibility of the service response provided to children and young people reported at ROSH.[57]

On 27 November 2023, the Ombudsman tabled its report *Reviews of deaths of children in care and certain other children – reviewable deaths in 2020 and 2021* which recommended that*:*

> The NSW Department of Communities and Justice require that a CSC which has referred a child to an agency in response to a ROSH report:
> (a) follow up with the agency if it does not receive notification that the referral has been accepted or declined, and
> (b) where the agency declines the referral, review and re-assess its response to the child/ren reported at ROSH. [58]

DCJ accepted this recommendation in principle and advised that its intent is currently being considered as part of DCJ's review of the *Prioritisation, Triage and Allocation Policy*. DCJ committed to providing advice about progress of the review's findings, recommendations, and outcomes by December 2024.[59]

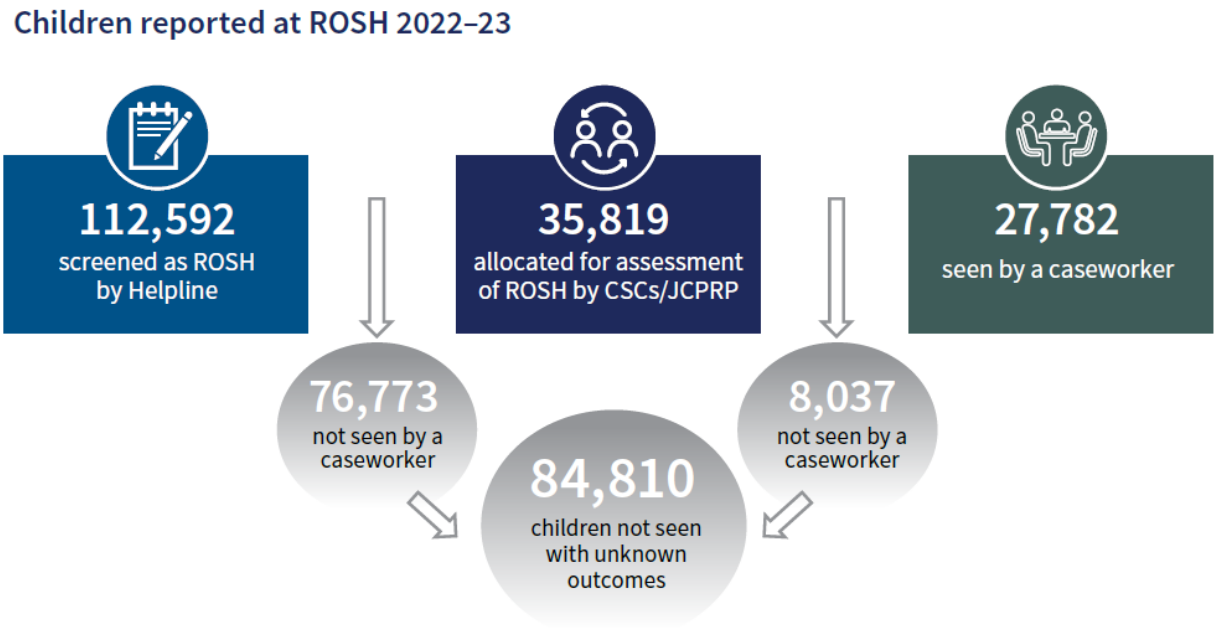
The underlying issue is there is no information to show what decision DCJ actually made or what action DCJ did or did not take about the child protection needs of a substantial number of children who were not seen by a caseworker. That is, whether in line with s 30 of the Care Act, DCJ had either determined that the children were at ROSH (s 30(a)) or decided to take no further action because it considered, on the basis of the information provided, that there was insufficient reason to believe they were at ROSH (s 30(b)). In 2022-23, this question applied to at least all the children either allocated but not seen, closed due to competing priorities, closed for other reasons or pending a triage decision.[60] That number was 84,810 – or 75% of all children screened by the Helpline at ROSH.

[57] DCJ response in Biennial report of the deaths of children in New South Wales: 2020 and 2021 (nsw.gov.au), p 210.

[58] Ibid. p 189

[59] Ibid. p 189

[60] For these children, triage decisions may be recorded in the following year. In 2022-23, 4,046 children were recorded as 'Triage decision pending (with a transfer record).'



The NSW Ombudsman has commenced an investigation into the adequacy of DCJ's response to children reported at ROSH.

5.4 Children seen by a caseworker and re-reported at risk

Counting the number of children who are re-reported to be at ROSH *after* they have previously received a completed child protection service (i.e. seen by a caseworker who completed a safety assessment and a risk assessment and provided the required intervention) is one way to examine the effectiveness of the intervention.

In 2015, the NSW Government introduced a child protection re-reporting measure as part of a set of social and economic goals known as the Premier's Priorities. The child protection goal aimed to reduce the proportion of children re-reported at risk of significant harm by 15% by 2020-21 from a baseline of 40.4%, but the way of measuring progress towards this goal changed several times:

- Initially, the goal of the Premier's Priority applied to only those children who were reported at ROSH within 12 months of being seen by a caseworker and then having their case closed because the case plan goal had been achieved.
- In 2019-20, DCJ expanded the measure to include 2 additional closure reasons – 'assessment of risk indicates no further intervention required' and 'family action plan achieved' – and set a higher reduction target of 20% by 2022-23 from a baseline of 40.4%.
- In 2020-21, DCJ added a fourth case closure reason – case closed because 'assessment indicates the child is not in need of care and protection'.

Expanding the measure means that the cohort size changed considerably, as it applies to nearly 6 times more children – 2,141 children had the original measure applied, compared to 15,270 children for the expanded measure. Unpublished data from DCJ in **Appendix C** shows at 30 June 2021:

- The re-reporting rate (initial and expanded) provides a narrow view of effectiveness as it does not capture *all* closure reasons where fieldwork has occurred and a case plan was closed, and whether harm or risk of harm was substantiated for those children re-reported[61]at ROSH.
- The changes over time in the Premier's Priority measure produce different results in relation to the re-reporting rate.

In effect, changes in the measure mean that it is difficult to assess progress towards the target because the results are not comparable over time, and because the original 2014-15 baseline of 40.4% applied only to the original measure ('case plan goal achieved'). That difficulty is compounded because DCJ has not explained in its public reporting why the original measure was selected and then changed several times, nor has it said whether it has adjusted the original baseline to take account of the extra closure reasons, and if so, what the adjusted baseline is.

At June 2023, the expanded re-reporting rate was 32.8%.

DCJ advised in February 2024 that the Premier's Priorities were retired in June 2023 and new targets against the measure of re-reporting are currently under development.

Recommendation 2

DCJ is currently developing new targets to measure re-reporting. For any such new targets, DCJ should measure both:

a) the number of children who are re-reported at ROSH, and

b) what happens to children re-reported at ROSH, including whether they were seen by a caseworker, substantiated at risk of harm, referred to other services or entered OOHC.

5.5 Offers of Alternative Dispute Resolution to prevent entry to care

The Care Act requires DCJ to offer Alternative Dispute Resolution (ADR) to children, young people and families where a child has been determined to be at ROSH, before seeking care orders.62

Under s 37 of the Care Act, 'the Secretary must consider the appropriateness of using alternative dispute resolution processes that are designed:

(a) to ensure intervention so as to resolve problems at an early stage, and

(b) to reduce the likelihood that a care application will need to be made, and

(c) to reduce the incidence of breakdown in adolescent-parent relationships.'

Since 15 November 2023, DCJ has had to comply with the requirements of 'active efforts' in ss 9A and 63 of the Care Act[63]. These require DCJ to provide evidence to the Court of the efforts made to actively

[61] Jenkins, B. Q., Tilbury, C., Hayes, H., & Mazerolle, P. (2019). Do measures of child protection recurrence obscure the differences between reporting and substantiation? Children & Youth Services Review, 104, 104391. https://doi.org/10.1016/j.childyouth.2019.104391

[62] Care Act s 37(1A). See also ss 9(2)(c), 34(2)(a1).

[63] Active efforts set a higher standard of evidence in legislation than the former principle of 'prior alternative action' requiring DCJ to provide supports or assistance to access supports rather than expecting families to locate supports themselves and to show this evidence to satisfy the Court prior to the making of care orders.

support children and families to prevent children from entering care, the reasons these efforts were unsuccessful and what legal alternatives to a care order, including ADR, were considered.[64]

We asked DCJ to provide data for 2016-2023 on the number of families who were offered and participated in ADR and their outcomes. DCJ told us Family Group Conferencing (FGC) is their preferred form of ADR but there are multiple other ADR types that may also be appropriate including Pregnancy Family Conferencing[65] and Aboriginal Care Circles.[66]

DCJ provided for 2022-23 data on the number of FGCs 'service requests approved' (1,215), referrals accepted (1,190), FGCs convened (935) and FGCs cancelled (117).[67]

However, this data does not help to explain whether DCJ offered ADR to *all* eligible families in line with the provisions of the Care Act nor to determine whether FGC reduced the number of applications for care proceedings and entries into OOHC.

A recent evaluation of FGC commissioned by DCJ was not conclusive about the overall or long-term effectiveness of FGC due to various limitations, including data quality issues.[68]

DCJ also does not publish, and nor was it able to provide to us on request, information about the contribution of other services that provide, for example, supports to parents to help them make any changes required so that their children can come home.

DCJ advised us that "Pregnancy Family Conferencing (PFC) and Pregnancy Family Meeting programs (PFM) have been operational in a number of DCJ and Sydney Local Health Districts, including South Eastern Sydney, Northern Sydney, South Western Sydney and Nepean Blue mountains for a number of years." DCJ also advised that the "state-wide implementation of the PFC program is currently underway. Consequently, whole of program standardised data is not yet available".

At the 2024 Budget Estimates hearings, DCJ advised that it has expanded Pregnancy Family Conferencing statewide, reporting "promising results".[69]

DCJ previously told us that it had been working to "construct reports on ADR offers" that would be available in November 2021. In February 2024, DCJ advised that consultation was underway for "a streamlined reporting process and dashboards in relation to other forms of ADR offered to families" to allow reports to be generated from mid-2024.

These data enhancements are not only critical for DCJ to comply with the provisions of 'active efforts' (ss 9A and 63) and s 37 of the Care Act but also to monitor the impact of these interventions on entries to OOHC covered in the next section.

[64] The evidentiary requirements do not apply to applications for emergency care and protection orders (s 63(3)). Other legal alternative options include Parent Responsibility Contracts, Parenting Capacity Orders and Temporary Care Arrangements.

[65] Pregnancy Family Conferencing is a form of ADR for expectant parents delivered by DCJ in partnership with NSW Health. In 2022 DCJ announced the expansion of PFC across the State. A brighter beginning for all NSW children.

[66] Aboriginal Care Circles are a form of ADR which can be used during care proceedings to enhance court processes for care matters involving Aboriginal children. Alternative Dispute Resolution (ADR) (nsw.gov.au)

[67] DCJ also provided limited data about 3 Pregnancy Family Conferencing pilot sites - some of the data was for 2021-2022 and some for 2022. Again, this data was not captured on a consistent basis across the sites, and it is not clear whether and for how long DCJ tracks the outcomes for these families. Overall, across the 3 sites, the number of families referred totalled 121 families, and of these 78 families participated in the program and 55 families retained the care of their babies.

[68] Research Centre for Children and Families. November 2022. Family Group Conferencing Evaluation. Final Report. University of Sydney. Family Group Conferencing Evaluation - Final Report Nov 2022 | Family & Community Services (nsw.gov.au). p 15.

[69] Deputy Secretary, DCJ. NSW Parliament. Budget Estimates. Portfolio Committee No.5 – Justice and Communities. 4 March 2024. Transcript - CORRECTED - PC5 - Budget Estimates (Washington) - 4 March 2024.pdf (nsw.gov.au)p 63.

Recommendation 3

To comply with the requirements of ss 9A and 63 of the Care Act, DCJ should collect information on all ADR offers by type of ADR and Aboriginal status, broken down by:

a) how many families are eligible

b) offers made and not made to families and the reasons

c) offers accepted, ADR sessions convened/not convened and the reasons

d) number of families participating in ADR sessions

e) outcomes of ADR sessions in relation to entry to OOHC.

Part B: Element 2 - supporting children in OOHC and exiting them to a permanent home

Overview of Part B

DCJ does not have a system to comprehensively track and report on outcomes for children in OOHC. DCJ has been developing the Quality Assurance Framework (QAF) to collect and report on outcomes for children in OOHC, including their safety, permanency and wellbeing since 2014, but the QAF is yet to be implemented across NSW.

In 2017-18, DCJ introduced the Permanency Support Program (PSP), which covers all children in OOHC, whether case managed by DCJ or non-government organisations (NGOs), and had the following goals:

- Fewer entries into care – by keeping families together
- Shorter time in care - by returning children home or finding other permanent homes for more children
- A better care experience - by supporting children's individual needs and their recovery from trauma
- Reducing the over-representation of Aboriginal children in care - by keeping Aboriginal families together, returning children home to family/kin or placing them with a permanent legal guardian.[70]

DCJ does not have a system to collect, track and report specifically on the achievement of, or progress toward, the PSP goals. We have assessed that there has been no substantive progress towards any of the 4 goals of the PSP.

Since the start of the PSP, the number of children in OOHC has declined by 15% overall. However, the decline:

- was largely a result of children leaving OOHC at age 18 ("ageing out"), with the number of entries to OOHC remaining steady (rising by a little under 1%) and the number of exits to permanency declining (by 19%), and
- was disproportionate with a decline of only 3% for Aboriginal children compared to 23% for non-Aboriginal children.

We also found that, since the start of the PSP (from 2017-18 to 2022-23):

- The number and proportion of Aboriginal children entering OOHC has increased significantly - the number increased by 26% (compared to a drop of 14% for non-Aboriginal children), and the proportion increased from 38% to 47%.
- The proportion of children entering OOHC *not* for the first time who were Aboriginal rose from 27% to 35% with a smaller rise in the proportion for non-Aboriginal children (from 22% to 28%).
- Aboriginal children make up an increasing proportion of children entering OOHC *not* for the first time (from 43% to 53%).
- Fewer children in statutory OOHC had a permanency goal to exit from OOHC such as restoration, guardianship and adoption - at 30 June 2020, 17% of children had a permanency goal of restoration, guardianship or adoption, by 30 June 2023 that number dropped to 13% of all children in statutory OOHC.

- Fewer children exited to permanency - exits to permanency as a proportion of all exits from OOHC dropped from 37% to 30%.
- There has been no improvement in the educational outcomes for children in statutory OOHC -– retention rates, participation in NAPLAN and NAPLAN results.
- There has been a 21% decline in the number of health plans completed for children in statutory OOHC (from 2,060 to 1,626), and in 2023 only 17% of children in statutory care had their health plan reviewed.
- Since June 2020, around 31% of children aged 15 to 17 who required a leaving care plan did not have one, and of those that did, it was not clear whether their plans were implemented at exit from OOHC so they can access aftercare support.
- The total number of children in residential OOHC increased by 10% (from 658 to 722) since 2018-19 and the number of Aboriginal children by 17% (from 224 to 262), accounting for 59% of the total increase.
- There was a sharp increase in the number (142%) and proportions (from 23% to 35%) of children in residential OOHC with a substantiated allegation that they had been abused while care.
- There has been increasing use of emergency and temporary placements for children in OOHC under 12 years of age and Aboriginal children.
- The proportion of children on guardianship orders subsequently reported at ROSH rose from 18% to 22%.
- The proportion of children on guardianship orders seen by a caseworker and substantiated for harm or risk of significant harm increased in the last 3 years (from 32% in 2020-21 to 41% in 2022-23).

As well as the concerning disparities in outcomes for Aboriginal children, other evidence points to worsening trends for Aboriginal children compared with non-Aboriginal children in OOHC. In 2022-23:

- Aboriginal children were nearly 12 times more likely to be in OOHC than non-Aboriginal children (up from 9.5 times in 2017-18)
- Aboriginal children were 12 times more likely to enter OOHC than non-Aboriginal children (up from 9 times in 2017-18)
- Aboriginal children were increasingly over-represented in Alternative Care Arrangements (ACAs) - a type of emergency and temporary arrangement for children in OOHC - (from 49% of all children in ACAs in 2020-21 to 56% in 2022-23).

The proportion of Aboriginal children living with a relative or Aboriginal carer declined from 74% at 30 June 2018 to 69% at 30 June 2023.

[70] What is the Permanency Support Program? (nsw.gov.au)

Structure of Part B

Part B considers:

- Entry into care and exit from care to permanency
- The welfare and well-being of children in OOHC
- The safety of children in residential OOHC
- The stability of living arrangements for children in OOHC
- The overrepresentation of Aboriginal children in OOHC
- Progress towards the PSP goals
- Children who exited OOHC.

6. Entry into care and exit from care to permanency

6.1 Entry into OOHC

For those children found to be in need of care and protection (s 71 of the Care Act), who cannot remain at home, the Children's Court can issue care orders for them to enter OOHC.

Section 135 of the Care Act defines OOHC as follows:

> out-of-home care means residential care and control of a child or young person that is provided—
> (a) by a person other than a parent of the child or young person, and
> (b) at a place other than the usual home of the child or young person, whether or not for fee, gain or reward.

The Care Act provides for 2 types[71] of OOHC – statutory OOHC, which requires a care order from the Children's Court, and supported OOHC, which provides either temporary or longer-term support for a range of other care arrangements made, provided or supported by DCJ without the need for a care order.[72] A prerequisite common to both types is that a child must be considered to be in need of care and protection.

In its annual statistical series, DCJ reports the number of all children in OOHC on 30 June; meaning children in statutory OOHC and supported OOHC. The reports also include demographic and other information about children in statutory OOHC but none for those in supported OOHC.

Published data presented in **Table 8** shows that the total number of children entering OOHC (both statutory and supported) has remained steady, increasing by a little less than 1% since 2017-18.

The only significant decrease in entries to care occurred between 2020-21 and 2021-22 when 361 fewer children entered care.

However, **Table 8** also shows a significant increase in Aboriginal children in OOHC. Over the 6 years since 2017-18:

- the number of Aboriginal children entering OOHC increased by 26% compared to a drop of 14% for non-Aboriginal children
- the proportion of children entering care who were Aboriginal increased from 38% to 47%.

[71] Substitute Residential Care (SRC) and Specialised Substitute Residential Care (SSRC) (formerly known as voluntary OOHC or VOOHC) are no longer provided for under the Care Act. These arrangements now fall under the *Children's Guardian Act 2019* - time limits and notification of deaths (ss 8ZA-8ZD); SRC and SSRC are relevant entities for the purposes of the reportable conduct scheme (Part 4); code of practice and self-assessment of compliance with Child Safe Standards (ss 8DA(2)(c) and (4)); register to be kept by the Children's Guardian (s 85); visits by Official Community Visitors (Part 9); transitional arrangements (Schedule 4, Part 4).

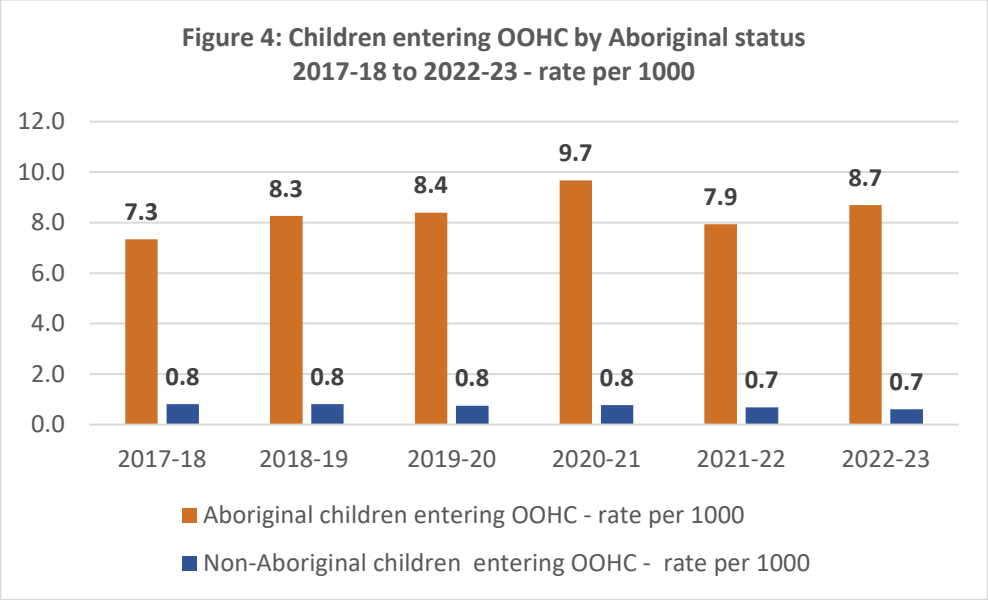
[72] Care Act, ss 135, 135A and 135B. Section 135. DCJ website notes supported OOHC applies to Family Court orders 'only when DCJ has been involved in the court process', to arrangements of less than 21 days without a care order and for temporary care arrangements (s 151) made with parental consent. It also notes, 'Some children and young people are in supported out-of-home care with no Court order. These care arrangements are historic and is no longer possible for children to enter supported OOHC without a Court Order.' Types of care - Permanency Support Program | Caring for Children (nsw.gov.au)

Table 8: Number of children entering OOHC each year by Aboriginal status 2017-18 to 2022-23							
	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	% change since 2017-18
Total number of children entering OOHC	2,157	2,265	2,206	2,406	2,045	2,175	1%
Aboriginal children entering OOHC	817	928	952	1,111	923	1,027	26%
Non-Aboriginal children entering OOHC	1,340	1,337	1,254	1,295	1,122	1,148	-14%
Aboriginal children as % of all entries	38%	41%	43%	46%	45%	47%	
Non-Aboriginal children as % of all entries	62%	59%	57%	54%	55%	53%	

Source: NSW Ombudsman based on DCJ data and Aboriginal Outcomes Strategy report[73]

Figure 4 also shows:

- an increase in the rate of Aboriginal children entering OOHC (from 7.3 to 8.7 per 1000 Aboriginal children aged 0-17 in NSW) compared with a reduction in the rate of non-Aboriginal children entering OOHC (from 0.8 to 0.7 per 1000 non-Aboriginal children aged 0-17 in NSW), and a widening gap between those rates (from 6.5 in 2017-18 to 8 in 2022-23)
- an increasing rate ratio – in 2017-18, Aboriginal children were 9 times more likely to enter OOHC than non-Aboriginal children; by 2023, Aboriginal children were over 12 times more likely to enter OOHC than non-Aboriginal children.



Source: Rates for 2017-18 to 2021-22 are based on DCJ data reported in the Ombudsman's report Aboriginal Outcomes Strategy focus area 2 (Out-of-home care) - were the targets achieved (nsw.gov.au), rates for 2022-23 are based on Ombudsman calculation.

[73] In February 2023, we tabled a report, Aboriginal Outcomes Strategy focus area 2 (Out-of-home care) - were the targets achieved (nsw.gov.au) that assessed DCJ's progress towards the 4 targets set in the Strategy, against a baseline of 2016-17.

6.2 Exit from care to permanency

6.2.1 Permanent placement principles

One of the key objects of the Care Act recognises that:

> …the primary means of providing for the safety, welfare and well-being of children and young persons is by providing them with long-term, safe, nurturing, stable and secure environments through permanent placement in accordance with the permanent placement principles.[74]

The Care Act requires that a child who is removed from the care of their parents be placed in accordance with the permanent placement principles which outline the order of placement preference:

1. restoration to parents
2. guardianship
3. adoption (placement of last resort for Aboriginal children)[75]
4. where the above options are not viable, the child remains in the long-term care of the Minister.[76]

Under the Care Act, the Aboriginal and Torres Strait Islander Children and Young Persons Principles outline the general order for the placement of Aboriginal children in OOHC – with Aboriginal relatives or kin, extended Aboriginal family or community or an Aboriginal carer, and if this is not possible, to ensure the child maintains connection to family, community and culture.[77]

Transitioning a child to permanency – restoration to family, guardianship and adoption - is a complex and lengthy process that includes a safety and suitability assessment of the prospective carer, the long-term suitability of the placement for the child, preserving the cultural identity of the child, and maintaining connection with significant people.

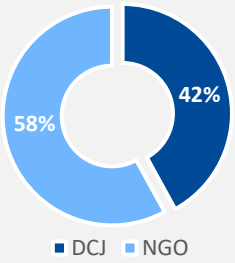
[74] Care Act s 8 (a1).
[75] Care Act s 10A
[76] Care Act s 10A(3)(d).
[77] Care Act s 13

6.2.2 The Permanency Support Program (PSP)

DCJ both funds NGOs to provide statutory OOHC placements and case management services for children in those placements[78] and is itself an OOHC provider. As OOHC providers, both DCJ and NGOs are required to meet the NSW Child Safe Standards for Permanent Care.[79] In addition, DCJ has delegated parental responsibility for *all* children in statutory OOHC irrespective of where they are placed.[80] This requires DCJ, among other things, to approve care plans, permanency goals, leaving care plans and respond to particular consent issues for children in OOHC irrespective of whether DCJ or an NGO is responsible for the daily care for the child.

The latest published data[81] shows that in 2022-23, 7,435 (58%) children in statutory OOHC were case managed by non-government OOHC providers and 5,386 children (42%) by DCJ as shown in **Figure 5**.

Figure 5: Proportion of children in statutory OOHC by case management responsibility at 30 June 2023



Source: NSW Ombudsman based on DCJ data

In 2017 the NSW Government introduced the Permanency Support Program (PSP) which requires OOHC providers, including DCJ, to achieve permanency for children – either in OOHC or at risk of entry to it – and to do so within 2 years of a child entering OOHC, or changing the permanency goal.[82]

According to DCJ:

> The Permanency Support Program supports safety, wellbeing and positive life outcomes for children and young people in the child protection and OOHC systems in NSW. It does this by providing tailored services to vulnerable children so that they can grow up in stable, secure and loving homes. The program brings together government and non-government partners to work together in the best interests of children.[83]

[78] For some children placed with NGOs DCJ may retain case management responsibility.

[79] NSW Child Safe Standards for Permanent Care

[80] The Minister for Family and Community Services holds parental responsibility and DCJ acts as the Minister's delegate. According to s 3 of the Care Act, 'parental responsibility' means 'all the duties, powers, responsibilities and authority which, by law, parents have in relation to their children'. The Children's Court must not make an order allocating any aspect of parental responsibility to an organisation or to the principal officer of a designated agency (other than the Secretary of DCJ): Care Act s 79(4A). DCJ's *Permanency Support Program Out of Home Care Program Description* (2017) also state: "The Minister for Family and Community Services (and FACS through the Minister) has parental responsibility for children and young people in statutory OOHC. This means that FACS undertakes all the legal duties, powers and responsibilities that a parent would normally hold. The parental responsibilities of FACS cannot be delegated even when a child or young person is in the care of a Service Provider in the sector." (p.11) Permanency Support Program Out of Home Care program description (nsw.gov.au)

[81] DCJ Quarterly dashboard, April – June 2023. DCJ Quarterly Statistical Report on Services for Children and Young People | Tableau Public.

[82] What is the Permanency Support Program? | Communities and Justice (nsw.gov.au)

[83] What is the Permanency Support Program? | Communities and Justice (nsw.gov.au)

DCJ said that the PSP builds on previous initiatives including[84]:

- *Safe Home for Life* (2014) reforms – which aimed to strengthen the focus on providing stability for children in care through amendments to the Care Act including the permanent placement principles and hierarchy.
- *Their Futures Matter* (2016)[85]– which aimed to deliver whole-of-system changes by moving away from a placement-based system to one that addresses needs and positions children at the centre of all decisions and introduced new models of child and family support packages and funding.

The goals of the PSP:

> Goal 1: fewer entries into care - by keeping families (discussed in **Section 6.1**)
>
> Goal 2: shorter time in care - by returning children home or finding other permanent homes for more children (discussed in **Section 6.2**)
>
> Goal 3: a better care experience - by supporting children's individual needs and their recovery from trauma (discussed in **Sections 7, 8 and 9**)
>
> Goal 4: reducing the over-representation of Aboriginal children in care - by keeping Aboriginal families together, returning children home to family/kin or placing them with a permanent legal guardian (discussed in **Sections 10 and 11**).[86]

In August 2023, DCJ released the findings of an evaluation of the PSP.[87] The evaluation focused on service provision of OOHC by the non-government sector and covered the period 2018 to 2021. The evaluation did *not* cover:

- children in statutory OOHC case managed by DCJ (who comprise 42% of the statutory OOHC population)
- children in residential OOHC (the majority of whom are case managed by non-government OOHC providers)
- children in emergency and temporary placements (some case managed by non-government OOHC providers and some by DCJ).[88]

DCJ has released an interim response to the evaluation:

> The evaluation found that the PSP did not demonstrate the larger positive impact on children intended at the beginning of the reform. The evaluation recommends that the PSP be overhauled, and specific components of the reform discontinued. The NSW Government broadly supports these findings.
> Findings from the evaluation will inform the future direction of the program and the broader out-of-home care reform agenda.[89]

[84] Ibid.

[85] Their Futures Matter reforms were introduced following the independent review into OOHC by the NSW Government, undertaken by David Tune AO PSM in 2015.

[86] What is the Permanency Support Program? (nsw.gov.au)

[87] Rose V, Jacob C, Roberts J, Hodgkin L, Shlonsky A, Kalb G, Meekes J, Etuk L & Braaf R. 2023. Evaluation of the Permanency Support Program: Final Report, Centre for Evidence and Implementation, Sydney. Evaluation of the Permanency Support Program (nsw.gov.au)

[88] The PSP evaluation did not include children in residential care in its effectiveness or cost-benefit analyses. "Only children receiving non-DCJ services at the time of entry or on 1st October 2014 or 2018 (if time of entry was before 1st October 2014 or 2018) are included. Children in residential care at this point in time are also excluded" p293. The evaluation also notes that the out of scope components include: "the delivery of Intensive Therapeutic Care funded through PSP packages" and "the reach, effectiveness and economic evaluation of services classified as PSP but not PSP funded (i.e not funded as part of PSP service provider contracts). This includes Temporary Care Arrangements and Alternative Care Arrangements" p83.

[89] Evaluation of the Permanency Support Program | Communities and Justice (nsw.gov.au)

6.2.3 Exits to restoration, guardianship or adoption

One of the main goals of the PSP is to reduce the time children spend in OOHC by returning children home or finding other permanent homes for more children.

There are 2 main ways that children and young people can leave OOHC, either when they turn 18 and care orders expire, or via any of the permanency options outlined in s 10A of the Care Act – restoration, guardianship or adoption. It is only through these permanency options that DCJ can seek to increase the number of exits from OOHC.

Length of stay

Each year, DCJ reports on the total number of exits from OOHC, broken down by the number of these exits due to restoration, entry to guardianship, or adoption. There is currently no way to assess performance on the related goal of reducing the time children stay in OOHC because while DCJ publishes some information about duration of stay, this is not linked to published data on exits to determine whether children exit OOHC within the stipulated 2-year timeframe. In this report, while we have received data on many children who have a goal of restoration and who were restored to their families, we do not know how long it took to achieve this. Through conducting file reviews to establish timeframes for children with permanency goals to exit care, the PSP evaluation found that there was no change in the numbers of children achieving permanency goals within the stipulated 2-year timeframe.[90]

[90] Rose V, Jacob C, Roberts J, Hodgkin L, Shlonsky A, Kalb G, Meekes J, Etuk L & Braaf R. 2023. Evaluation of the Permanency Support Program: Final Report, Centre for Evidence and Implementation, Sydney. Evaluation of the Permanency Support Program (nsw.gov.au), p136.

6.2.4 Permanency goals

Under the PSP, every child in statutory OOHC is expected to have a permanency goal to either exit OOHC through restoration, guardianship or adoption, or to remain in the long -term care of the Minister. [91]

We asked DCJ for data for the 6 years from 2017-18 to 2022-23 that showed the permanency goals of all children in statutory OOHC, broken down by Aboriginal status.

DCJ provided data from June 2020 to June 2023 only. As **Table 9** shows, at June 2020, 17% of children had a permanency goal of restoration, guardianship or adoption. By June 2023 that number dropped to 13% of all children in statutory OOHC. The Care Act specifies that the only other available permanency option for children is to remain in long-term OOHC.[92]

Because DCJ provided no information about the children who did not have a permanency goal of restoration, guardianship or adoption, it is not clear whether those children do not have an approved permanency goal (and in that case, whether any permanency option is being considered for them at all) or whether they have a permanency goal of long-term OOHC.

Table 9: Children in statutory OOHC with a permanency goal at 30 June 2020 - 30 June 2023

Number and % of children in statutory OOHC with a permanency goal	30-Jun-20	30-Jun-21	30-Jun-22	30-Jun-23	% change since 30 June 20
Restoration	1,015	1,055	798	705	**-31%**
Guardianship	1,036	988	888	784	**-24%**
Adoption	295	284	215	214	**-27%**
Total children in statutory OOHC with permanency goal	2,346	2,327	1,901	1,703	**-27%**
Total children in statutory OOHC	13,556	13,572	13,151	12,821	**-5%**
% of children in statutory care with a permanency goal	**17%**	**17%**	**14%**	**13%**	

Source: NSW Ombudsman based on DCJ data

DCJ does not publish and was not able to provide to us on request, information that would show the proportions of children with a goal for whom the goal is achieved, or the relative performance of the government and non-government OOHC sectors.

[91] PSP Factsheet (psplearninghub.com.au)

[92] Care Act s 10A(3)(d).

6.2.5 Number and type of exits to permanency

There has been an overall decline in all types of permanency exits in the 6 years since the commencement of the PSP.

As **Table 10** shows, there has been a steady decline over the 6 years in exits through adoptions (by 57%) and restorations (by 22%). Initially, exits to guardianship increased each year since the PSP commenced in 2017-18 until 2021-22 when the number fell rapidly – a trend which has continued in 2022-23 when guardianships fell by a further 20% from the previous year.

The reasons for the drop in all types of exits, particularly the disproportionate decline in restorations (22% drop) compared to guardianships (4% drop) are not known.

In 2017-18 exits to permanency constituted over a third of all exits from OOHC. By 2022-23, this dropped to just over a quarter of all exits.

Table 10: Number and proportion of children exiting OOHC through guardianship, restoration and adoption in a given year 2017-18 to 2022-23

	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	% change since 2017-18
Restoration	533	569	553	488	422	417	-22%
Guardianship	287	349	419	451	375	299	-4%
Adoption	140	134	162	91	89	60	-57%
Total exits to permanency	960	1,052	1,134	1,030	886	776	-19%
Total exits	2,572	2,661	2,838	2,688	2,654	2,596	
Exits to permanency as % of all exits	37%	40%	40%	38%	33%	30%	

Source: NSW Ombudsman based on DCJ data

Table 11 shows similar trends in exits to guardianship and restoration for both Aboriginal and non-Aboriginal children since 2018-19, with a sharper decline in exits for non-Aboriginal children.

Table 11: Number and proportion of children who exited OOHC through restoration, guardianship by Aboriginal status 2018-19 to 2022-23

	2018-19	2019-20	2020-21	2021-22	2022-23	% change since 2018-19
Exit to guardianship	349	419	451	375	299	
Aboriginal	127	172	179	142	114	**-10%**
Non-Aboriginal	222	247	272	233	185	**-17%**
Aboriginal children as % of all guardianship	**36%**	**41%**	**40%**	**38%**	**38%**	
Exit to restoration	569	553	488	422	417	
Aboriginal	202	244	181	157	164	**-19%**
Non-Aboriginal	367	309	307	265	253	**-31%**
Aboriginal children as % of all restoration	**36%**	**44%**	**37%**	**37%**	**39%**	
Total exits to guardianship and restoration**	918	972	939	797	716	
Aboriginal children exits as % of total exits	**36%**	**43%**	**38%**	**38%**	**39%**	

Source: NSW Ombudsman based on DCJ data

*Restoration data for 2017-18 is not published in the DCJ Annual Statistical report, which states that the data is not available.
**This table excludes adoptions because the breakdown by Aboriginal status is not available for adoptions.

It is concerning that since the start of the PSP there has been no progress towards more exits from OOHC through permanency. Furthermore, in that time:

- there is still no available information about the length of time it is taking to achieve permanency for those children who do exit to permanency
- fewer children have a permanency goal
- the proportion of Aboriginal children living with a relative or Aboriginal carer declined from 74% at 30 June 2018 to 69% at 30 June 2023[93]
- all types of exits to permanency, for both Aboriginal and non-Aboriginal children, showed overall declines
- children leaving OOHC at age 18 form an increasingly high proportion of exits from care and ultimately have the greatest impact on reported changes to the overall number of children in OOHC.

[93] ASR 2022-23 Children and Families Thrive - OOHC | Tableau Public

Although the goal of the PSP is to increase exits, little is known about the operation of the guardianship and restoration models, what support is provided to children post-exit under these models, particularly for Aboriginal children and the application of the Aboriginal placement principles.[94]

Recommendation 4

In the context of foreshadowed reforms of OOHC and in consultation with NGOs and stakeholders, DCJ should:

a) In accordance with the permanent placement principles in section 10A of the Care Act, review the factors contributing to the decline in all types of exits to permanency since the start of the PSP and include remedial action in its reforms.

b) Monitor and report on:

   i. the number and proportion of children in statutory OOHC who have a permanency goal, broken down by type of goal (guardianship, restoration, adoption and long-term care), by Aboriginal status, by age of children, and by OOHC provider (NGOs/DCJ)

   ii. the number and the proportion of children who exit statutory OOHC to permanency, broken down by length of time from the setting of their permanency goal to exit, by type of exit, by Aboriginal status, by age of children, and by OOHC provider (NGOs/DCJ).

[94] Care Act s 13

7. The welfare and wellbeing of children in OOHC

One of the PSP goals is to provide better care experiences by supporting the individual needs of children in OOHC and their recovery from trauma (Goal 3). However, there is little available information about children's safety, welfare and wellbeing outcomes.

The recent evaluation of the PSP commissioned by DCJ attempted to explore program level health and wellbeing outcomes for a sample of children covered by the PSP and case managed by non-government OOHC providers, but it pointed to the absence of systematic data capture, noting:

> …casework (i.e., data on what type of casework is carried out to review permanency goals) and service-level data (i.e., data on what type of services were delivered, for how long and how much) was not available in ChildStory, nor held electronically in a consistent and usable database format….by PSP service providers.[95]

Nevertheless, based on file reviews and linked data (eg. the Department of Education and the Bureau of Crime Statistics and Research (BoCSAR)), the PSP evaluation found that 'the PSP did not demonstrate a sizeable positive impact on children'.[96]

Since 2014, DCJ has been developing a Quality Assurance Framework (QAF), which is proposed to involve the systematic collection by OOHC providers of key information on how children are "going in OOHC, to ensure we give every child in care the best possible experience". At the time of writing the QAF was yet to be implemented. In February 2024 DCJ advised that:

> The expansion of the Quality Assurance Framework (QAF) is being considered as a part of the broader child protection reforms in NSW. The reforms recognise early support services are pivotal to providing better outcomes for children and families. In practice, this requires additional funding proposals for evidenced-based prevention and early support services and is currently pending a decision from NSW Government as part of the 2024-25 budget process.
>
> Planning the statewide implementation of the QAF for 2024-25 and beyond will be in this context.[97]

In the absence of systematic data capture and robust quality assurance systems, it is not possible for DCJ and PSP service providers to adequately monitor the performance of OOHC services for children.

There is a significant body of research that relates to the outcomes for a *select* cohort of children who are (or have been) in OOHC and are the subject of a longitudinal research program launched by DCJ well over a decade ago.[98] Clearly, this study does not replace the need to monitor and report on the outcomes for *all* children in OOHC.

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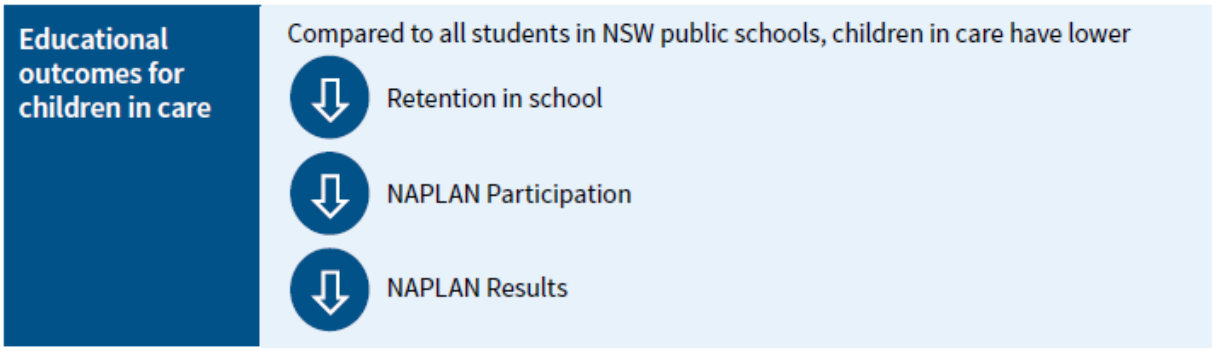
[95] Rose V, Jacob C, Roberts J, Hodgkin L, Shlonsky A, Kalb G, Meekes J, Etuk L & Braaf R. 2023. Evaluation of the Permanency Support Program: Final Report, Centre for Evidence and Implementation, Sydney. Evaluation of the Permanency Support Program (nsw.gov.au) , p114.

[96] Evaluation of the PSP (nsw.gov.au)

[97] DCJ's response, 16 February 2024.

[98] The Pathways of Care Longitudinal Study commenced in 2011 and continues to track the OOHC experiences and permanency outcomes of a cohort of children who received final care orders after entering care for the first time between May 2010 and October 2011. The study links data on children's child protection backgrounds, OOHC placements, health, education and offending held by multiple government agencies; and match it to first-hand accounts from children, caregivers, caseworkers and teachers. Pathways of Care Longitudinal Study (POCLS) | Family & Community Services (nsw.gov.au). There have been over 30 publications relating to this study covering issues such as, educational outcomes, birth family contact, early learning and childcare experiences, the importance of casework in establishing and supporting OOHC placements, Aboriginal cultural and family connections, communication between caseworkers, carers and children in OOHC, developmental outcomes and placement stability.

7.1 Educational planning and outcomes for children in statutory care



This section considers the educational outcomes for students in public schools who are in statutory care, focusing on:

- how the Department of Education (DoE) identifies students who are in OOHC
- education planning
- retention rates
- NAPLAN participation and results.

It covers only the last 3 years of schooling from 2021 (noting the significant disruption to attendance and testing during prior years due to the COVID-19 pandemic).

Students in OOHC enrolled in public schools

Both DoE and DCJ have statutory responsibilities to support the education of children in OOHC.[99] To meet these responsibilities, they first need accurate information about the number and identity of school students in statutory OOHC.

In 2017 we reviewed and reported on aspects of schooling for children and young people in residential OOHC. We identified high rates of support needs, suspension and chronic non-attendance at school. We also found that the OOHC status of more than 200 children in our review was not recorded in the DoE's Education's data systems.[100]

In response to our 2017 report, DCJ told us it was finalising a data exchange with DoE to identify children in statutory OOHC and their involvement on the Education Pathway.[101]

DoE relies on DCJ to provide it with the necessary information to identify children in statutory OOHC who are enrolled in public schools. DoE matches the information they receive from DCJ to school enrolment records.

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99 For example, see Education Act 1990 s 6(e), where one object seeks to mitigate educational disadvantages arising from the child's gender or from geographic, economic, social, cultural, lingual, or other causes. See also NSW Child Safe Standards for Permanent Care Standard 10: Education.

100 NSW Ombudsman Inquiry into behaviour management in schools (August 2017) NSW Ombudsman Inquiry into behaviour management in schools. A Special Report to parliament under s31 of the Ombudsman Act 1974.

101 The Education Pathway is an agreement between DCJ and the public, Catholic and Independent schools sectors about how children in statutory OOHC will be supported at school https://dcj.nsw.gov.au/service-providers/oohc-and-permanency-support-services/oohc-education-pathway/oohc-education-pathway-guide-for-caseworkers.ht

In September 2020 DCJ and DoE established a data exchange process to ensure that DoE is advised about children who are in statutory OOHC on a monthly basis. DoE confirmed that the data exchange has been ongoing since August 2021.

Information on the numbers and identities of children in statutory OOHC is essential for DoE to develop and monitor education plans for these children.

It is equally important that DCJ has information to monitor whether all school aged children in statutory OOHC who should be enrolled are actually enrolled and are receiving the necessary educational planning, support and reviews. On 3 April 2024, the Minister for Families and Communities said in Parliament in response to questions on notice:

> children are required by law to be enrolled in and attend school. School attendance information is stored in individual case files, DCJ is unable to extract this information on a state-wide level.
>
> In mid-2023, an existing Memorandum of Understanding (MOU) between DCJ and the Department of Education (DoE) for information sharing with respect to children and young people under the parental responsibility of the Minister (PRM) who are enrolled in NSW public schools, was amended to allow for more information to be shared by DoE with DCJ.
>
> Raw attendance data for the 2023 school year is currently being cleansed and analysed by DCJ.[102]

DCJ has since advised that it has analysed the raw attendance data for the 2023 school year.[103]

Without accurate and timely information on enrolment both DoE and DCJ cannot support the educational needs of school aged students who are in public schools and meet their responsibilities. Any gap in enrolment information will also impact on the adequacy and accuracy of reported educational outcomes for children in OOHC.

Education planning for students in OOHC

Educational planning and reviews form a central element of case planning for all school aged children in OOHC.[104] This requirement applies to all children in OOHC including those who are not in public schools.

It is ultimately DCJ's responsibility to ensure that every child in OOHC has a case plan and that these case plans are reviewed regularly. A case plan outlines steps and responsibilities to help meet children and young people's day-to-day and longer-term placement and support needs. This includes ways to keep a child or young person connected with their family and community and respond to their needs in relation to their health and wellbeing, education, emotional and social development.[105]

As a starting point towards addressing any individual educational disadvantage, schools are required to collaborate with caseworkers, carers and children themselves to develop personalised learning plans for all children in OOHC that identify and respond to academic and other support needs. According to DoE's procedures, every plan should be reviewed at least annually.[106]

We asked DoE and DCJ how many OOHC students have the required plan. Neither was able to tell us.

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[102] Questions on notice - Hon Kate Washington MP - Families and Communities, Disability Inclusion.pdf (nsw.gov.au) p 4.

[103] DCJ advice of 4 June 2024.

[104] DCJ case planning policy provides that the minimum review period for education plans is once per year but recommends that the child's needs be reviewed once per semester. The annual review should be timed with the case plan review, wherever possible. Case planning and review | Communities and Justice (nsw.gov.au)

[105] Case planning and review | Communities and Justice (nsw.gov.au)

[106] Out of Home Care in Government Schools - Education Plan Procedures (nsw.gov.au). See also, DCJ OOHC Education pathway: guide for caseworkers. OOHC Education Pathway process – Flow Charts (nsw.gov.au)

DoE said because education plans are held locally at public preschools, primary schools and high schools, staff would have to manually collect and collate the information, which would be a significant administrative burden.[107]

DCJ told us that non-government OOHC providers might collect information on children's education plans, but they were not required to share it with DCJ and so DCJ could not provide it to us. As for the children in DCJ placements, DCJ also gave us no data but did not explain why.

It is apparent from these responses that neither DoE nor DCJ can or do monitor compliance with the requirement that every child in care has an education plan in accordance with Standard 10 of the NSW Child Safe Standards for Permanent Care.

Recommendation 5

To ensure that the educational support needs of children in OOHC are met, DCJ should report publicly on the number of school aged children who are in OOHC, how many have an educational plan and how often the plans are reviewed.

Student retention rates

DoE measures retention rates for each school year (kindergarten to year 11) by tracking the proportion of students who remained enrolled one year and two years later. For example, DoE tracks the proportion of students from year 7 who are still enrolled in year 8 and year 9.

DoE provided data on retention rates for the 2021, 2022 and 2023 school years for students in statutory OOHC compared to all students. DoE noted that overall retention rates for students in statutory OOHC are lower in comparison to all students in public schools.

> In general, overall retention rates for students in statutory OOHC are lower in comparison to the wider cohort of all students in public schools. The disparity in retention rates for students in OOHC, compared to the general cohort, is observed to increase in the later years of high school. However, it is observed that students in OOHC are more likely to remain in the NSW public school system for Year 6 compared to all students.

The data DoE provided confirmed the positive trend in retention rates for students in statutory OOHC in primary schools. For students in statutory OOHC enrolled in year 4 in 2021:

- by 2022, 97% of children in OOHC remained enrolled in a NSW Government school compared to 94% of all students
- by 2023, 94% of children in OOHC remained enrolled in a NSW Government school compared to 91% of all students.

However, the trend reverses in high school - the retention of students in statutory OOHC declines sharply compared to all students. For example, for students in statutory OOHC enrolled in year 9 in 2021:

- by 2022, 89% of children in OOHC were still enrolled in a NSW Government school compared to 94% of all students

[107] DoE's response dated 25 November 2021. According to DoE policy (2023) Central OOHC mailboxes exist in each DoE district for DCJ to notify that children are in OOHC or have changed schools. The development and monitoring of plans are the responsibility of Principals and school learning support teams. Plans are held locally on a child's file but may be requested by OOHC. Personalised Learning and Support Planning Procedures. Implementation documents for the Out of Home Care in Government Schools policy. Accessed at: Out of Home Care in Government Schools - Education Plan Procedures (nsw.gov.au). See also, DCJ OOHC Education pathway: guide for caseworkers. OOHC Education Pathway process – Flow Charts (nsw.gov.au)

- by 2023, 55% of children in OOHC were still enrolled in a NSW Government school compared to 75% of all students.

Similarly, the data shows that for students in statutory OOHC enrolled in year 10 in 2021:

- by 2022, 65% of children in OOHC were still enrolled in a NSW Government school compared to 79% of all students
- by 2023, 38% of children in OOHC were still enrolled in a NSW Government school compared to 65% of all students

Student NAPLAN results

It is recognised that children in OOHC are one of the most educationally disadvantaged groups.[108] DoE noted that:

> In general, the overall performance of students in statutory OOHC is lower across all NAPLAN literacy and numeracy scores in comparison to the wider cohort of all students in public schools. The disparity in performance is generally observed to increase as students progress through the years of schooling.[109]

NAPLAN data that we obtained from DoE for 2021 to 2022 school years in **Table 12** shows that students in statutory OOHC performed worse than all children in all tests across years 3, 5, 7 and 9.

Table 12: NAPLAN Results: student performance At and Above National Minimum Standards – 2021 and 2022

		Students in statutory OOHC				All NSW DoE			
Domain	**Year**	**3**	**5**	**7**	**9**	**3**	**5**	**7**	**9**
Reading	2021	84.80%	80.40%	69.20%	56.70%	95.00%	93.60%	90.40%	85.10%
	2022	84.10%	78.40%	69.90%	55.10%	94.70%	93.00%	90.50%	85.00%
Numeracy	2021	82.90%	79.70%	67.20%	70.70%	94.90%	94.30%	90.40%	92.90%
	2022	79.40%	79.00%	62.90%	71.00%	93.90%	94.20%	88.80%	93.80%
Spelling	2021	79.00%	78.10%	74.30%	63.70%	92.80%	92.50%	90.70%	87.90%
	2022	73.00%	77.90%	72.80%	60.60%	90.70%	93.00%	90.40%	88.70%
Grammar & Punctuation	2021	79.00%	73.40%	61.30%	54.50%	92.90%	91.70%	85.80%	83.60%
	2022	78.60%	79.10%	62.80%	51.20%	93.10%	93.70%	87.90%	82.80%
Writing	2021	86.70%	76.00%	62.70%	41.80%	95.90%	92.20%	87.60%	79.50%
	2022	85.80%	72.50%	67.40%	51.40%	95.80%	91.40%	89.10%	81.90%

Source: NSW Ombudsman based on DoE data

Note: DoE did not provide data for 2023 advising that NAPLAN results for 2023 are not comparable to previous years.[110]

[108] Department of Communities and Justice Pathways of Care Longitudinal Study: Educational Outcomes of Children and Young People in Out-of-Home Care in NSW Townsend,-M.L.,-Robinson,-L.,-Lewis,-K.,-Wright,-I.,-Cashmore,-J.-and-Grenyer,-B.-2020.-Educational-Outcomes-of-Children-and-Young-People-in-Out-of-Home-Care.pdf

[109] DoE response dated 12 February 2024.

[110] DoE advised that 'The proportion of students at or above national minimum standard is calculated as the proportion of students in the top five NAPLAN bands. For NAPLAN 2023 this is not applicable as NAPLAN results are reported by proficiency bands.'

Student NAPLAN participation

As **Table 13** shows, students in statutory OOHC had lower rates of participation in NAPLAN across all years 3, 5, 7 and 9 and all test domains for all the three years, 2021, 2022 and 2023 compared to all students.

Table 13 also shows a sharper decline in the participation rate in NAPLAN of students in statutory OOHC between year 3 and year 9 compared to all students. By year 9, NAPLAN participation rates for students in statutory OOHC are around 60% across all domains (reading, numeracy, spelling, grammar and punctuation, and writing), compared to around 85% for all students. This is consistent with DoE's advice that:

> The disparity in participation rates is generally observed to increase as students progress through the years of schooling.

Table 13: NAPLAN Participation rates 2021, 2022 and 2023 for students in statutory OOHC compared to all students

		Students in statutory OOHC				All students			
Domain	**Year**	**3**	**5**	**7**	**9**	**3**	**5**	**7**	**9**
Reading	2021	86.2%	86.0%	76.2%	63.1%	95.6%	95.9%	92.5%	87.9%
	2022	86.3%	85.5%	77.7%	60.3%	94.5%	95.1%	91.4%	86.2%
	2023	85.4%	86.5%	77.6%	59.3%	95.1%	95.7%	92.8%	87.1%
	2022	84.8%	83.7%	74.2%	56.5%	92.4%	92.9%	88.2%	82.7%
	2023	84.5%	85.7%	73.7%	57.0%	94.5%	95.0%	91.6%	85.6%
Spelling	2021	86.7%	86.0%	74.9%	62.0%	95.4%	95.6%	92.0%	87.4%
	2022	85.3%	84.5%	74.7%	56.6%	93.4%	94.1%	89.5%	84.0%
	2023	84.3%	85.7%	75.2%	58.9%	94.6%	95.2%	92.1%	86.5%
Grammar & Punctuation	2021	86.7%	86.0%	74.9%	62.0%	95.4%	95.6%	92.0%	87.4%
	2022	85.3%	84.5%	74.7%	56.6%	93.4%	94.1%	89.5%	84.0%
	2023	84.3%	85.7%	75.2%	58.9%	94.6%	95.2%	92.1%	86.5%
Writing	2021	86.2%	86.3%	76.5%	64.5%	95.0%	95.6%	92.5%	88.1%
	2022	82.1%	85.1%	75.8%	59.2%	91.5%	94.0%	90.5%	85.5%
	2023	82.4%	86.2%	78.4%	60.9%	94.1%	95.1%	93.1%	87.8%

Source: NSW Ombudsman based on DoE data

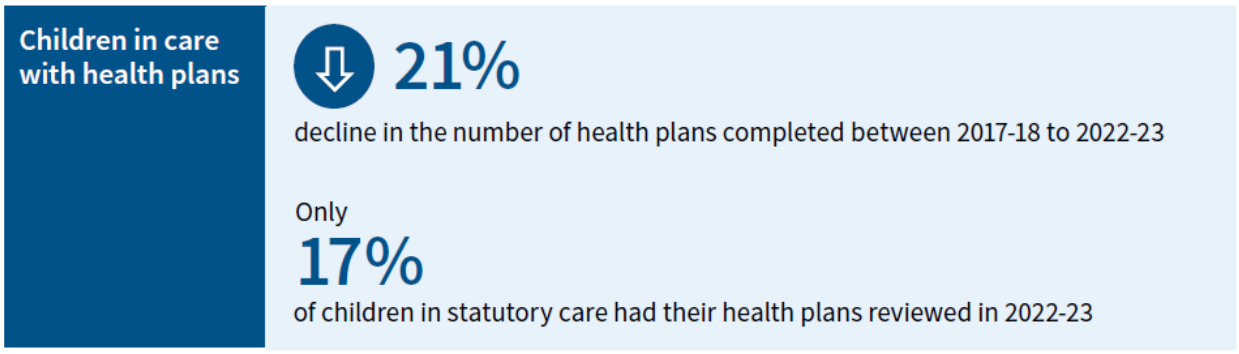
The Pathways of Care Longitudinal Study also found that between 2008 and 2014:

> …about one third of the children…. have lower achievement on reading and numeracy (NAPLAN) across years 3,5,7 and 9.
> Participation rates in NAPLAN were lower than for all NSW students and by Year 9 only 68% of the children in this study participated in NAPLAN.[111]

These findings are consistent with the more recent NAPLAN results in **Tables 12 and 13** above, suggesting little to no improvement in these indicators.

The available information does not allow us to determine whether students who are in statutory OOHC are receiving the necessary support, nor whether the support is making a difference to their educational outcomes. However, it is apparent from the NAPLAN results that there has been no improvement in the educational outcomes for students who are in OOHC compared to all students in NSW public schools.

7.2 Health planning for children in statutory care



As with education planning and support, it is a policy requirement that children receive an initial health assessment when they enter statutory OOHC, and a health plan is developed for them that is subject to regular review. These requirements are based on a recognition that children and young people in OOHC often have high and unmet health needs and are more "disadvantaged and vulnerable" than other children.[112]

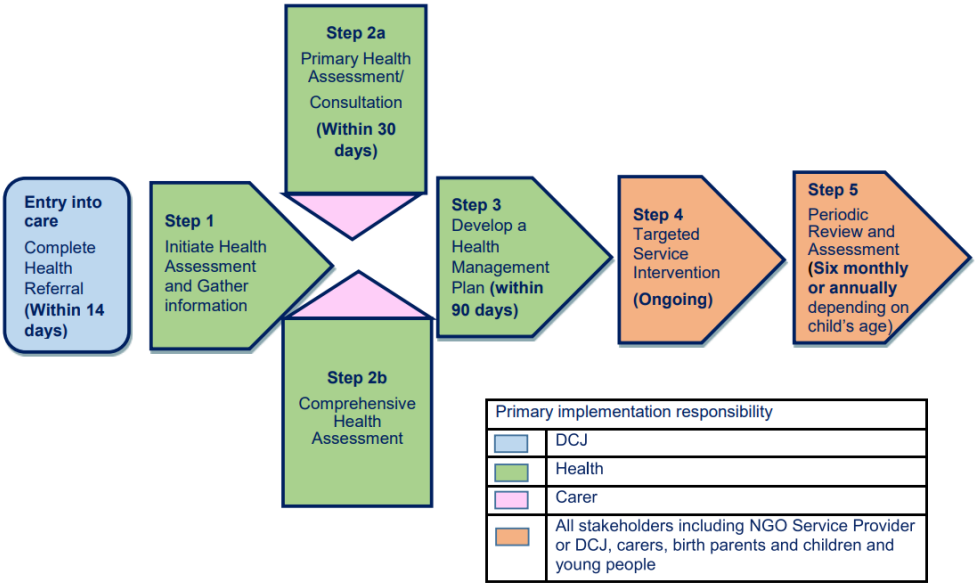
DCJ, non-government OOHC providers and NSW Health are required to collaborate to ensure that the children in their care receive the necessary health services and support, via what is known as the OOHC Health Pathway Program (HPP). This has been operating since 2010 and is underpinned by a Memorandum of Understanding (MOU) between Ministry of Health and DCJ, which is currently under review by DCJ and the Ministry of Health.[113]

[111] Pathways of Longitudinal Care. POCLS Newsletter 2021 | Family & Community Services (nsw.gov.au)

[112] NSW Health Out of Home Care Health Pathway program - Programs (nsw.gov.au); NSW Child Safe Standards for Permanent Care, Standard 9: Health

[113] OOHC Health Pathway – a guide for caseworkers | Communities and Justice (nsw.gov.au)

Diagram 2: Overview of OOHC Health Pathway steps



Source: DCJ OOHC Health Pathway: A guide for caseworkers – June 2022

DCJ was unable to provide data showing the number of children in statutory OOHC who have a health plan, whether they were case managed by DCJ or an NGO.

Nor could it provide data showing the relative proportion of Aboriginal children in OOHC with a health plan.

This means that DCJ does not know whether children in statutory OOHC have the required health plan, and does not monitor compliance with this requirement.

For those children with NGOs, DCJ told us that while NGOs may capture this data in their systems, there is no mechanism for NGOs to report their information to DCJ.

For children case managed by DCJ, the department said that because of resource issues, sometimes children's health plans were not reviewed in line with required timeframes. DCJ also said that plan reviews could be recorded "elsewhere in the system" and therefore were not captured in the reporting statistics.

We also asked NSW Health for annual data from 2015-16, about OOHC health assessments, plans and reviews, broken down by:

- Aboriginal status
- number of children who received a primary (or initial) health screening and had a plan
- number of children whose health plans were reviewed in line with age-related requirements (6-monthly for children under 5 and annually for older children). [114]

NSW Health said it could not identify Aboriginal and non-Aboriginal status, and it did not collect data on the age of the child when the health plan was reviewed or the timeframe in which the review was conducted.

[114] DCJ. OOHC Health Pathway Guide - for caseworkers (nsw.gov.au).[Fact Sheet], 2022.

The NSW Health data presented in **Table 14** highlights that the annual number of completed reviews is significantly lower than the total number of children in statutory OOHC.

In 2022-23 there were 12,821 children in statutory care. The 2,219 health reviews indicates that, at best, 17% of the children in statutory OOHC that year had a review at least once, noting that children under 5 should have a review every 6 months. We understand that the timing of each child's entry to OOHC is a factor but even so, the significant shortfall in the number of reviews suggests that either required reviews are not occurring or, if they are occurring, they are not being recorded.

Also, since the start of the PSP in 2017-18, the number of health plans completed decreased by 21% (from 2,060 to 1,626).

Table 14: OOHC Health Pathway screenings, plans and reviews 2015-16 to 2022-23

OOHC Health Pathway Data Item	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23
Total number of primary health screenings/ consultations completed	1,844	1,823	1,625	1,649	1,680	1,878	1,426	1,478
Total number of health plans completed	2,353	2,808	2,060	2,062	1,663	1,971	1,507	1,626
Total number of health plans reviewed	581	1,090	940	817	1,474	2,460	2,148	2,219

Source: NSW Ombudsman based on NSW Health data

Note 1: NSW Health also told us that some data was missing for 2019-20 and 2020-21 but did not indicate how this affected the information provided for those years.

Note 2: NSW Health said the definition of "health management plan" had changed over the reporting period, so the trend of plans reviewed needed to be interpreted with caution.

Note 3: NSW Health noted the impact of the COVID-19 pandemic on health services between 2019-20 and 2021-22.

These requirements for planning and reviewing health plans are meant to ensure that children's health and medical needs are supported, their medical history is recorded, and their health outcomes improve in accordance with Standard 9 of the NSW Child Safe Standards for Permanent Care.

Between 2019 and 2022, the Stronger Communities Investment (SCI) Pool invested an additional $3.034 million per year for 3 years to increase health planning, coordination, reviews and Leaving Care Assessments and extend eligibility for the HPP to those who entered care prior to the commencement of the program in 2010.[115] There has been a significant decline in health reviews, plans and assessments, particularly in the last 2 years.

A 2022 evaluation of the impact of funding enhancements to the HPP stated that:

> .. while a reasonable proportion of assessments are being conducted, fundamental elements of the HPP are not being delivered. Reviews are only provided for 19% of children and young people on the HPP and only 17% of care leavers receive a Leaving Care Assessment.[116]

[115] NSW Health advised that the enhancement funding has been extended to 30 June 2025.

[116] Evaluation Report Executive Summary: OOHC Health Pathway Program enhancement funding (nsw.gov.au), p6.

We have been advised that DCJ and the Ministry of Health accepted the 16 recommendations of the HPP evaluation including advocating for increased funding to operationalise the recommendations.[117] We have been also advised that DCJ in partnership with OOHC Health Pathway Coordinators, rolled out a series of presentations and training sessions to carers in 2023 to better meet children's health needs.[118]

It is extremely concerning that despite these recommendations being accepted, the number of health plans completed and reviewed has continued to decline.

Recommendation 6

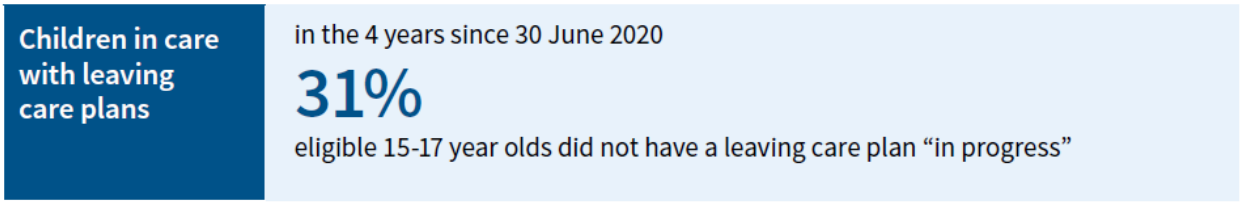
To ensure the health care needs of children in OOHC are met, DCJ and Ministry of Health should by 1 December 2024 review and report to the NSW Ombudsman on:

a) Progress with the implementation of the 2022 OOHC Health Pathways Program evaluation recommendations

b) How this is impacting on trends

c) Any proposed actions to address any identified issues.

7.3 Leaving care planning for children in statutory care



Under the Care Act, OOHC agencies – both DCJ and NGOs – must in consultation with the child or young person prepare a plan for the child or young person for when they leave statutory OOHC. [119] The planning must include "reasonable steps" to prepare the young person (or any other person) for leaving care[120] and the designated agency is required to *implement* the plan[121]. OOHC agencies are also required to meet Standard 12 of the NSW Child Safe Standards for Permanent Care.[122]

Leaving Care plans are important tools to ensure young people who have been in statutory care have the necessary independent living skills and support when leaving care. The plans generally address a range of supports that a young person may need when they leave care and after care[123] including housing, financial, legal, education, employment and therapeutic supports.

[117] Recommendation 7. Evaluation Report Executive Summary: OOHC Health Pathway Program enhancement funding (nsw.gov.au). p8.

[118] Biennial report of the deaths of children in New South Wales: 2020 and 2021 (nsw.gov.au) Response to recommendations from the Biennial Report 2018 and 2019. Letter from Secretary of DCJ. 12 September 2023.

[119] Care Act ss 165A and 166.

[120] This is usually when the young person turns 18 and care orders expire, but also applies when a child leaves care for any other reason, such as being restored to their family.

[121] Care Act s 166(3.).

[122] NSW Child Safe Standards for Permanent Care

[123] Under s 165 of the Care Act, eligible care leavers may receive assistance from ages 15 to 25, if it supports their safety, welfare and wellbeing. This assistance may have been included in their After Care plan prior to turning 18 or can be added later via a review and amendment of the plan.

DCJ policy requires leaving care planning to *start* when a child in statutory OOHC turns 15 and the finalised plan must be implemented[124] when the child or young person leaves out-of-home care (to enable access to any necessary aftercare support).[125]

We wanted to know the proportion of young people who *left* OOHC with an approved leaving care plan ready for implementation for each year from 2015-16 to 2022-23 and whether they were with DCJ or non-government OOHC providers. Without leaving care plans, it may be more difficult for young people to access all the aftercare support they need.[126]

DCJ could not provide evidence that plans are completed and implemented on exit from OOHC as required by law.

Instead, DCJ provided data for all children and young people aged 15-17 years in statutory OOHC *recorded* on 30 June each year as having a leaving care plan.

Table 15 shows in the 4 years since 30 June 2020:

- around two thirds of children and young people aged 15-17 years had a leaving care plan "in progress", meaning still subject to review before a child exits OOHC
- children and young people case managed by DCJ were consistently more likely to have a leaving care plan in progress.

The data does not help explain whether the two thirds of children aged 15-17 who have a leaving care plan in progress have their plans implemented at exit from OOHC. In the absence of information on the implementation of *finalised* leaving care plans, it is not possible to know whether DCJ and NGO OOHC providers are fulfilling their legal obligations to prepare all eligible young people to exit OOHC and receive after-care support.

Table 15: Leaving care plans 30 June 2020 to 30 June 2023

	30 June 2020			30 June 2021			30 June 2022			30 June 2023		
	DCJ	NGO	Total	DCJ	NGO	Total	DCJ	NGO	Total	DCJ	NGO	Total
Has leaving care plan	772	818	1,590	719	1,138	1,857	800	1,095	1,895	822	1,404	2,226
No leaving care plan	252	746	999	222	609	831	263	687	950	208	460	668
Total who required leaving care plan	1,024	1,564	**2,589**	941	1,747	**2,688**	1,063	1,782	**2,845**	1,030	1,864	**2,894**
% with leaving care plan	75%	52%	**61%**	76%	65%	**69%**	75%	61.%	**67%**	80%	75%	**77%**

Source: NSW Ombudsman based on DCJ data

[124] Section 166(3) of the Care Act requires designated agencies to implement the leaving care plan when the young person leaves care and to offer follow up at regular intervals if required to ensure implementation. The plan and any revisions require DCJ approval for after-care financial support and should outline who is responsible for the support.

[125] From 1 February 2023, DCJ expanded the financial allowances and after care support for young people exiting care until 21 years through the 'Your Choice, Your Future' reforms. This includes the provision of a 'Staying on Allowance' for those remaining with carers and the 'Independent Living Allowance' for other young people Your Choice, Your Future – new aftercare supports for carers | Communities and Justice (nsw.gov.au)

[126] For any young person who requests after care support who does not have a plan, a leaving care plan must be developed for them by an after-care agency and approval sought and provided by DCJ for any after-care support. Guidelines for the provision of assistance after leaving out-of-home care (nsw.gov.au)

We looked for explanations about why around one third of children who require a leaving care plan do not have one.

Various other studies in NSW have commented on the adequacy of leaving care planning such as POCLS[127], the OOHC survey and Residential Care survey[128], the OCG leaving care monitoring project[129] and the Create Foundation[130]. Issues and barriers identified include delays in commencing leaving care planning, caseworker turnover or inexperience, lack of understanding of the importance of leaving care planning, difficulty accessing appropriate services, lack of opportunity for young people to participate in decision-making and planning and/or lack of responsive casework particularly for those young people in unstable or residential OOHC placements.

More recently, the Official Community Visitors (OCVs)[131] Annual Report 2022-23 commented on the inadequacy of leaving care planning as a significant systemic issue affecting children and young people in statutory residential OOHC. The biggest leaving care issue raised by OCVs was the lack of leaving care plans for a young person. OCVs also raised issues about: delays in DCJ and NDIS approval and funding for accommodation and services; young people not engaging in leaving care planning, refusing to participate in leaving care planning or being frequently absent from their placements; and variable implementation of plans by providers. The report commented on the impact of these issues, including resultant anxiety and uncertainty for young people as they approached leaving care age.[132]

[127] POCLS. (2019) Research Report No 5 Leaving Care Statistical Report (apo.org.au)

[128] FACSIAR. Evidence to Action Note (March 2021) Leaving care planning: What are the views of young people in out-of-home care? (nsw.gov.au)

[129] Research Report No 5 Leaving Care Statistical Report (apo.org.au)

[130] CREATE-Post-Care-Report-2021-LR.pdf

[131] The Official Community Visitors Scheme is administered by the NSW Ageing and Disability Commission under the *Ageing and Disability Commissioner Act 2019* and the *Children's Guardian Act 2019* and by way of agreement with the Children's Guardian. Official Community Visitors visit people in supported residential accommodation including residential OOHC and may provide information and advice to the Minister, the Ageing and Disability Commissioner, the Office of the Children's Guardian and the NSW Ombudsman on the conduct of the services.

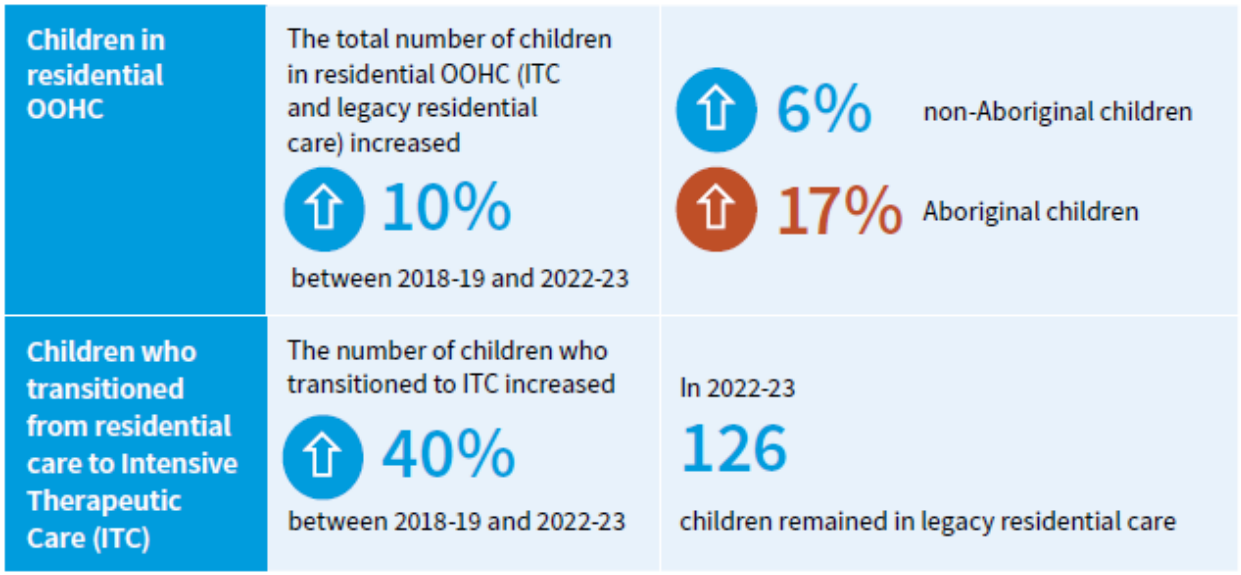
[132] Official Community Visitor 2022 2023 Annual Report (nsw.gov.au). p 35.

8. The safety of children in residential OOHC

Most children in OOHC live with relative or kinship carers, or with authorised foster carers. However, some children with high or complex needs are placed in what has traditionally been known as residential care, provided and staffed by mostly designated NGOs, but also DCJ.[133]

DCJ does not report on measures of safety for children in OOHC placements, ie foster care, relative/kinship care or residential care. In looking at the safety of children in OOHC (**Sections 8.1 and 8.2** below), we have focused on children in residential care not only because they have high or complex needs, but also to test the impact on goals established by a key initiative, the Intensive Therapeutic Care (ITC) model. ITC was implemented in 2018-19 as a new model of care for children in residential care[134] – to "progressively replace residential OOHC in NSW by transitioning all children in residential OOHC to ITC over a 2-year period"[135] and improve the safety and stability of their care.

8.1 Children in residential care transitioning to ITC



DCJ described the new ITC model as:

> a service system that helps children and young people who are recovering from the most severe forms of trauma, neglect, abuse or adversity [and is] for children and young people over 12 years with complex needs who are either unable to be supported in foster care or require specialised and intensive supports to maintain stability in their care arrangements.[136]

Although ITC has been in place for well over 5 years, DCJ does not report publicly on the transition of children from 'legacy' residential care to ITC or the operations and achievements of the ITC program. DCJ only reports on the total number of children in "residential care" which includes ITC, i.e. does not differentiate between those *in* ITC and those *not* in ITC residential care.

[133] DCJ is accredited for one residential care service –The Sherwood Program. See, DCJ Sherwood Program conditions of accreditation.

[134] There are various types of intensive therapeutic care within the ITC program that target different cohorts of children. Fact sheet explaining ITC service system and types - June 2019 (squiz.cloud)

[135] Residential care placements | Communities and Justice (nsw.gov.au)

[136] About permanency in casework | Communities and Justice (nsw.gov.au)

This report therefore also uses the term "residential care" to include both children who have transitioned to ITC and children who are in residential OOHC but have not transitioned to ITC. We refer to the former as "children in ITC" and those who have not transitioned as "children in legacy residential care".

DCJ's unpublished data provided to us and presented in **Table 16** shows the breakdown of the number of children in residential care by children in ITC and those in legacy residential care.

In the 5 years since 2018-19, the total number of children in residential care has increased by 10% (from 658 to 722). Over the same period, the number of children in ITC increased by 40% and the number of children who remain in legacy residential care dropped by 45%.

Table 16: Children in residential care - legacy and ITC 2018-19 to 2022-23

	2018-19	2019-20	2020-21	2021-22	2022-23	% change since 2018-19
Children in ITC	427	460	552	592	596	**40%**
Children in legacy residential care	231	193	155	142	126	**-45%**
All children in residential OOHC	658	653	707	734	722	**10%**
% of children in ITC	**65%**	**70%**	**78%**	**81%**	**83%**	

In the same period, **Table 17** shows the number of Aboriginal children:

- in ITC increased by 43% (146 to 209) compared to 38% (281 to 387) for non-Aboriginal children, accounting for 37% of the increase in the total number of children in ITC (63 of 169)
- in all residential care (ITC and legacy) increased by 17% (224 to 262) compared to 6% for non-Aboriginal children (434 to 460), accounting for 59% of the total increase.

Table 17: Children in legacy residential care and ITC by Aboriginal status 2018-19 to 2022-23

Type of Residential Care	Aboriginal Status	2018-19	2019-20	2020-21	2021-22	2022-23	% change since 2018-19
Children in ITC*	Aboriginal	146	161	202	217	209	43%
	Not Aboriginal	281	299	350	375	387	38%
	Total	**427**	**460**	**552**	**592**	**596**	40%
Aboriginal children in ITC as % of all children in ITC		**34%**	**35%**	**37%**	**37%**	**35%**	
All children in residential care (ITC and legacy residential care)	Aboriginal	224	239	276	284	262	17%
	Not Aboriginal	434	414	431	450	460	6%
	Total	**658**	**653**	**707**	**734**	**722**	10%
Aboriginal children in residential care as % of all children in residential care		**34%**	**37%**	**39%**	**39%**	**36%**	

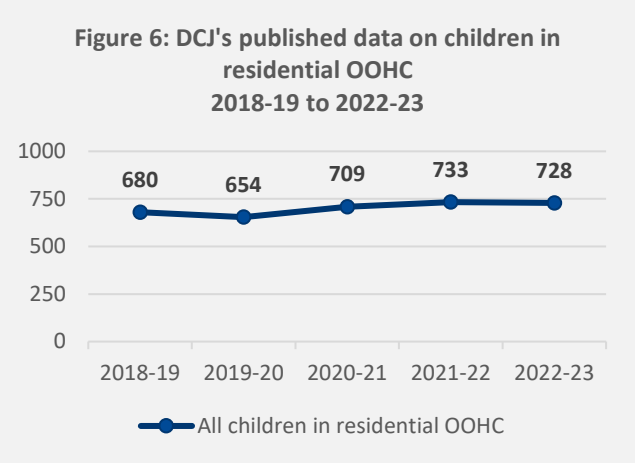
*Children in ITC (includes ITC Homes, ITC Significant Disability and Intensive Therapeutic Transitional Care)

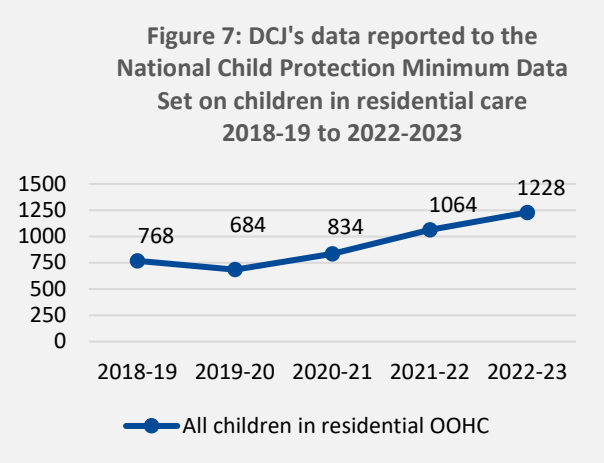
Evidently the transition of all children from legacy residential care to ITC was not achieved within the 2-year period envisaged when ITC was announced in 2019. That some children remain in legacy residential care means some children in residential care are still not receiving the intensive therapeutic support under the ITC model to recover from trauma and promote permanency. DCJ now anticipates the transition from legacy residential care to ITC will be completed by the end of 2024.[137]

Beyond observing that there has been a much slower than expected transition overall, assessing how well the transition has taken place is problematic because DCJ does not publish data that tracks the transition of particular children.

A note regarding a variation in published data on children in residential care

DCJ reports on the number of children in residential care in 2 distinct ways that produce significantly different results, as shown in **Figure 6** and **Figure 7**.





Source Figure 6: DCJ data based on RESI/ITC dataset.

Source Figure 7: DCJ data as reported to the Productivity Commission on non-home-based residential care which includes legacy residential, ITC and other emergency and temporary care arrangements, except Alternative Care Arrangements (ACAs) and other non-home-based placements. Data based on ChildStory.

Figure 6 is the data DCJ provided to us. It excludes children placed in High-Cost Emergency Arrangements (HCEAs) who may be eligible for ITC[138] – DCJ informed us that 290 children in HCEAs were eligible for ITC in 2022-23.[139]

Figure 7 is the data DCJ has reported to the Child Protection National Minimum Dataset. As well as including all children in ITC and legacy residential care, it also *includes* most children in HCEAs.

Our inquiry currently underway into the ITC model (see Executive Summary) will address the intersection of ITC with other forms of residential care and the impact of these 2 different methods of reporting.

[137] DCJ advice of 24 June 2024.

[138] DCJ uses this method for their Annual Statistical Report and public dashboards

[139] DCJ advice of 24 June 2024.

8.2 Substantiation of risk to children in residential care

DCJ does not report on any measure of safety for children in OOHC generally, or in any type of OOHC placement specifically.

However, since 2016-17 it has provided information about the substantiated abuse of children in residential care to the Child Protection National Minimum Dataset. Both the Australian Institute of Health and Welfare (AIHW) and the Productivity Commission draw on the Dataset for their reporting on child protection services.

In its annual Report on Government Services (ROGS), the Productivity Commission presents two safety performance indicators.[140] However, ROGS note that some of the data related to these indicators is incomplete, because some of it is 'experimental'. Also, the ROGS data does not show the nature of substantiated abuse – whether sexual, physical, emotional or neglect – nor anything about the children or their OOHC placements.

Table 18 presents unpublished data DCJ provided to us for 2018-19 to 2022-23 on the same basis as the data they provide to the Child Protection National Minimum Dataset (as per **Figure 7** above). It shows a sharp increase in the number and proportion of children in residential OOHC who were subject of substantiation of abuse – 142% rise in numbers and increase in proportion from 23% to 35%.

Table 18: Children in residential based care who were subject of substantiation of abuse while in care 2018-19 to 2022-23

	2018-19	2019-20	2020-21	2021-22	2022-23	% change since 2018-19
All children in residential based care	768	684	834	1,064	1,228	**60%**
Children in residential based care reported at ROSH while in residential care during the year and seen by a caseworker	211	256	308	393	334	**58%**
Children in residential based care who were the subject of substantiation of abuse	48	78	88	118	116	**142%**
% of children seen by a caseworker and substantiated for abuse	**23%**	**30%**	**29%**	**30%**	**35%**	
Children seen and substantiated for abuse as % of all children in residential care	**6%**	**11%**	**11%**	**11%**	**9%**	

Source: NSW Ombudsman based on data provided by DCJ

Note: It is not clear if the data DCJ provided captures children who were subject to substantiation of abuse multiple times and for multiple reasons in the one year while in care.

Other unpublished DCJ data provided to us shows that over the last 5 years, physical and sexual abuse were the predominant type of abuse substantiated for children in residential care. In 2022-23 physical and sexual abuse comprised 79% of all primary type of abuse in substantiations.

Although children in ITC are a subset of all children in residential care, data on substantiated abuse is not comparable across the two cohorts because it is collected on a different basis. Still, the unpublished data DCJ provided for children in ITC, in **Table 19**, shows for the 5 years since 2018-19:

- The increases in the number of children who had a ROSH report[141] and were seen by a caseworker (80%) and the number of children subject of substantiation of abuse (91%) were disproportionate to the 40% increase in the ITC population.
- A steady rise in the proportion of children who were seen by a caseworker and substantiated for abuse during their ITC placement (from 33% to 45%).

Although these trends are concerning, they may reflect an increased emphasis by DCJ on identifying and responding to harm to children in care over that time.

Table 19: Number of children* in ITC who had a ROSH report with a substantiated field assessment during their ITC placement 2018-19 to 2022-23

	2018-19	2019-20	2020-21	2021-22	2022-23	% change Since 2018-19
Total number of children in residential based care	768	684	834	1,064	1,228	**60%**
Total number of children in ITC	427	460	552	592	596	**40%**
Number of children in ITC who had a ROSH report with a completed field assessment during their ITC placement (seen)	157	238	335	336	283	**80%**
Total number of children seen and substantiated	142	230	313	327	271	**91%**
Children seen and substantiated as % of all children in ITC	**33%**	**50%**	**57%**	**55%**	**45%**	

Source: NSW Ombudsman based on DCJ data

***Children and young people can have multiple substantiated primary field assessment issues during year, unique number of children for each issue are shown (e.g. if a child has both emotional and physical abuse in a year, they will be counted once against each category)

Note: It is not clear whether the data captures children substantiated at ROSH multiple times during the year and/or for the same issue.

[141] DCJ advised that data on risk of harm reports should be interpreted with caution as it may not always relate to the current placement. For example, they could be historical or be non-placement related

9. The stability of living arrangements for children in OOHC

9.1 Use of emergency and temporary placements for children in care

DCJ aims to secure stable living arrangements for children in statutory OOHC as required by the Care Act.[142] However, when foster, relative and kinship or residential placements are not available or have broken down, DCJ has established high-cost emergency arrangements (HCEAs) for children.

Of the commonly used HCEA arrangements, we examined the Alternative Care Arrangements (ACAs) and the Interim Care Model (ICM). **Table 20** below summarises key features of these arrangements.[143]

Table 20: Emergency and temporary accommodation

	Alternative Care Arrangements	Interim Care Model
Duration of stay	• Temporary • Requires DCJ approval for extension of arrangement	• Temporary • Requires DCJ approval for children staying beyond 12 weeks
Funding arrangements	• Emergency and temporary fee-for-service arrangement.	• Short-term group home placement for up to 4 children. Subject to PSP contractual arrangements.
Ages	• Generally, for children 12-17 years	• Generally, for children 9-14 years
Eligibility	• No specific eligibility criteria – after every effort has been made to place them [children] with relatives/kin, a foster carer, or contracted OOHC provider	• Low or medium needs, children 'at risk' of entering an ACA – after every effort has been made to place them [children] with relatives/kin, a foster carer, or contracted OOHC
Accommodation	• Temporary accommodation - caravan parks, hotels, motels	• Home like accommodation - house, unit, serviced apartment
Care workers	• Care workers may be provided by subcontracted staff from a non-designated agency (third party)	• Care workers must be employed by a residential care accredited agency
Notification to the Office of the Children's Guardian (OCG)	• Within 24 hours for all children entering and exiting an ACA. • Notification is required for any child under 12 years entering an ACA.[144]	• Within 24 hours for only children under 12 years entering an ICM placement.

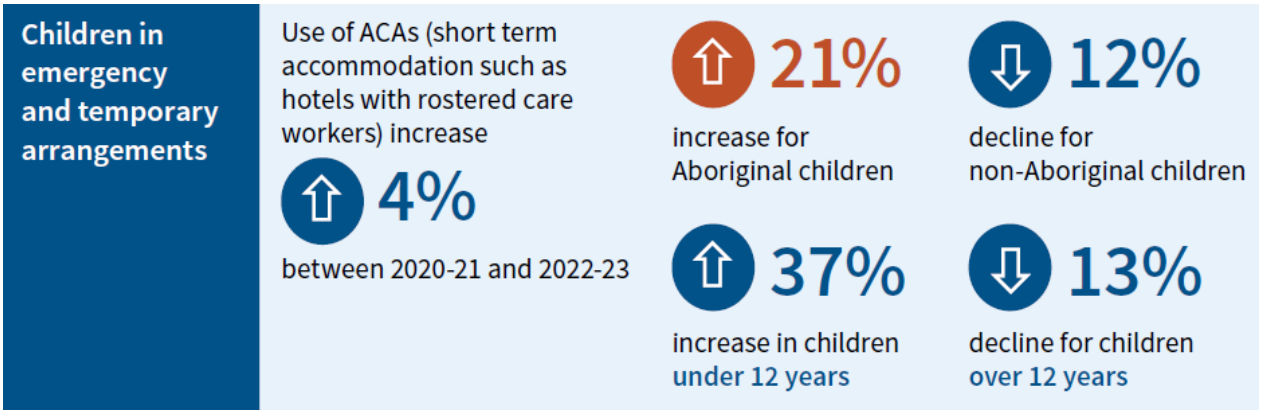
In early 2024, DCJ commenced reporting on the number of high-cost emergency arrangements (including temporary and emergency placements) in their quarterly dashboards.

[142] Care Act s 9(2)(e).

[144] Department of Communities and Justice [Factsheet] OOHC Terminology - Emergency and Temporary Arrangements (nsw.gov.au)

[144] *Children's Guardian Regulation 2022* (NSW) Sch 3, pt 2, s 7.

9.1.1 Alternative Care Arrangements (ACA)



Since 2018, the Office of the Children's Guardian (OCG) has required designated OOHC providers including DCJ to notify it when they place a child in what the OCG calls 'non-home-based emergency care'.[145] Every year up to 2021-22, the OCG reported on this type of emergency placements in its Annual Reports although the type and extent of data varies from year to year. The OCG did not report on ACAs in its 2022-23 Annual Report.[146]

We obtained unpublished data from DCJ on numbers of children in ACAs for each year from 2020-21 to 2022-23 only.

The data in **Table 21** shows:

- a 4% overall increase in the number of children in ACAs
- a 21% increase in the number of Aboriginal children in ACAs compared to a 12% decline for non-Aboriginal children
- an increase in the proportion of children in ACAs who were Aboriginal - from 49% to 56%
- a 37% increase in the number of children under 12 years in ACAs compared to a 13% drop in children over 12 years of age (children under 12 years are below the 'target age' for ACAs)
- over two thirds of children in ACAs were in serviced apartments or rental properties and close to a third in hotels, motels, caravan parks or other types of accommodation
- a significant drop in the longest stay in ACAs from 859 days (2.4 years) in 2020-2021 to 535 days (1.5 years) in 2022-2023, but almost no change in the average length of stay (11 weeks)
- each year about two-thirds of children in ACAs were case managed by DCJ itself (with the remainder case managed by NGOs)
- in 2022-23, 63% of all entries into ACAs were due to OOHC placement breakdowns, 13% new entries into care, 10% emergency care, 9% unsuitable placement/no carer available, 3% exit from youth justice, 3% missing or other
- the number of children whose first placement into care was in an ACA declined from 117 in 2020-21 (21% of all children in ACAs) to 72 in 2022-23 (13% of all children in ACAs).

[145] See, OCG Statutory OOHC and adoption notifications.

[146] The notification requirements to the OCG for some temporary and emergency care placements have changed since July 2023. Accreditation and monitoring e-newsletter – May 2023 | Office of the Children's Guardian (nsw.gov.au)

It is not clear what the reasons are for the rise in the number of Aboriginal children and children under 12 years in ACAs. It is also not clear to what extent key drivers such as carer and placement shortages, and the placement of sibling groups, are impacting on the use and length of stay in these placements. [147]

Table 21: Number of children in ACAs 2020-21 to 2022-23

	2020-21	2021-22	2022-23
Aboriginal	267	269	323
Non-Aboriginal	283	290	249
Total	**550**	**559**	**572**
Age at entry			
0-11 years	185	217	253
12-17 years	365	342	319
Case management			
DCJ	348	343	358
NGO	202	216	214
Entry Reason			
Emergency care required		9	59
Exit from youth justice/Youth justice	40	12	16
New Entry into Care	117	119	72
Unsuitable placement*/ No available carers	73	7	50
OOHC Placement breakdown	307	379	359
Other	13	10	4
Missing		23	12
Type of accommodation			
Caravan park / Cabin	35	24	12
Disability service		1	2
Hotel / Motel	129	142	132
Other	2	2	22
Rental Property	132	224	234
Serviced Apartment	238	156	146
Missing	14	10	24
Length of stay (days)			
Median	41	33	45
Average	76.4	64.7	79.5
Longest	859	745	535

Source: NSW Ombudsman based on DCJ data
***** this category was only used in 2020-21 for 73 children and not used afterwards.

[147] Minister for Families and Communities. Budget Estimates. Portfolio Committee No. 5.9 November 2023 Transcript - PC5 - Washington - 9 November 2023 - CORRECTED.pdf (nsw.gov.au)

9.1.2 Interim Care Model (ICM)

For the ICM, DCJ provided more limited data[148] for 2020-21 to 2022-23. **Table 22** shows:

- a 37% increase in the ICM population over the 3 years
- on average around 11% of the ICM population were children under 9 years of age – below the target age for ICMs[149] (see **Table 20**).
- over a third of children in the ICM population were Aboriginal
- a drop in the proportion of children in ICM who were case managed by DCJ itself, from 82% in 2020-21 to 66% in 2022-23.

Table 22: Number of children and young people in ICMs 2020-21 and 2022-23

	2020-21	2021-22	2022-23
Aboriginality			
Aboriginal	51	70	76
Non-Aboriginal	97	108	127
Total	148	178	203
Age at entry			
4-8 years	16	19	24
9-16 years	132	159	179
Total	148	178	203
Case management			
DCJ	122	126	133
NGO	26	52	70
Total	148	178	203

Source: NSW Ombudsman based on DCJ data

The data provided to us by DCJ on ACAs and ICMs (presented in **Tables 21 and 22**) gives an incomplete picture of the use of high-cost emergency placements across NSW. Although it does show:

- increasing reliance on temporary and emergency placements, especially for children under 12 years
- over-representation of Aboriginal children in emergency and temporary placements
- some children are staying for many months in ACAs.

Following an independent review into the circumstances of two siblings in ICM and ACA placements in June 2023,[150] DCJ acknowledged the siblings' care did 'not reflect the standard of care the community expects' and committed to address the report's 24 recommendations and to consult more broadly on reforms to improve the OOHC system.

[148] Although we asked for it, DCJ's response to us did not include reasons for entry into ICM, and placement prior to ICM was provided for 2020-21 only.

[149] DCJ advised that although the model is targeted for children aged between 9 and 14, children outside of this age range will be considered on a case-by-case basis, particularly if they are part of a sibling group.

[150] Independent Review of two children in OOHC - Summary Report (nsw.gov.au)

The Minister has also expressed concerns about these placements and a shortage of foster carers:

> The increasing number of children in high-cost emergency arrangements is shocking, and it is costing the State and taxpayers an enormous amount of money. Worse still, it's the outcome for children and young people in these types of services that is of great concern to me as Minister. There are a number of factors that are leading to this….
> The lack of foster carers in the system—foster carer numbers have plummeted, so children that would otherwise have gone to foster carers, if they have nowhere else to go, as a very last resort are being placed in these high-cost emergency arrangements….
> …these [high-cost emergency placements] are an absolute last resort. They are a symptom of a system that is spiralling out of control.[151]

The use of high-cost emergency placements for extended periods of time is not congruent with one of the fundamental objects of the Care Act - to provide children with 'long-term', 'stable' environments through permanent placement (s 8(a1)). Section 9(2)(e) of the Care Act also says:

> If a child or young person is placed in out-of-home care, arrangements should be made, in a timely manner, to ensure the provision of a safe, nurturing, stable and secure environment, recognising the child's or young person's circumstances and that, the younger the age of the child, the greater the need for early decisions to be made in relation to a permanent placement.

Emergency and temporary placements raise significant issues of concern because the processes for establishing these placements and monitoring and safeguards surrounding children in these placements are highly complex and inconsistent. Different types of placements have different contractual, oversight, accreditation, reporting and monitoring arrangements. The system is becoming increasingly complex and opaque, with new types of emergency and temporary care being introduced (including Individual Placement Agreements[152] and since 2021 - Short-Term Emergency Placements[153]), with little to no information about their operation, the children involved, the reasons they enter such placements and how many of them achieve permanency.

High-cost emergency arrangements place children in non-family-based environments where they are cared for by staff on rosters. It is questionable whether such environments provide the necessary nurturing and therapeutic settings for children to recover from trauma.

The Minister expressed her intention to release data about high-cost emergency arrangements[154] and announced the establishment of a unit within the department to focus on these arrangements:

> …what I have done is stood up a high-cost emergency arrangement unit within the department. It is now centralising those decisions that were once made across different districts so that we've got some starting to try to take back some control of a system that is largely run, especially when we're talking about alternative care arrangements, by private providers…[155]

[151] Microsoft Word - Transcript - PC5 - Budget Estimates (Washington) - 9 November 2023 - for corrections (nsw.gov.au), p.12,19. Transcript - PC5 - Washington - 9 November 2023 - CORRECTED.pdf (nsw.gov.au)

[152] The Minister reported in Budget Estimates that there were 178 children in Individual Placement Agreements (formerly known as "Out of Guidelines" arrangements) at August 2023. Transcript - PC5 - Washington - 9 November 2023 - CORRECTED.pdf (nsw.gov.au) p12.

[153] STEP placements are 1:1 emergency accommodation arrangements for children aged 12-17 years with high or complex needs that are in, or at risk of, imminent entry into ACA or IPA. The Minister advised there were 65 children in these placements at August 2023. Transcript - PC5 - Washington - 9 November 2023 - CORRECTED.pdf (nsw.gov.au) p12.

[154] Portfolio committee no. 5 – Justice and Communities. 4 March 2024.p12 Transcript - CORRECTED - PC5 - Budget Estimates (Washington) - 4 March 2024.pdf (nsw.gov.au)

[155] Ibid, p.20.

The NSW Premier recently commissioned the Independent Pricing and Regulatory Tribunal (IPART) to investigate and report on the cost and pricing of OOHC in NSW, including high-cost emergency and temporary placements.[156]

The Advocate for Children and Young People is conducting a special inquiry into the experiences of children and young people in ACAs in NSW. It released an interim report in May 2024 and plans to deliver a final report to the Minister later in 2024.[157] In response to the interim report the NSW government announced an OOHC system review.

[156] Review of Out-of-Home Care costs and pricing | IPART (nsw.gov.au)

[157] Office for the Advocate for Children and Young People. ACYP | Special Inquiry (nsw.gov.au)

10. The over representation of Aboriginal children in OOHC

The PSP evaluation found that overall, the PSP did not affect Aboriginal children differently than non-Aboriginal children.[158]

In our assessment, there is significant evidence that the over-representation of Aboriginal children has generally worsened over the period of the PSP.

Table 23 shows that while the number of children in OOHC has declined by 15% since the commencement of the PSP:

- The reduction in the number of Aboriginal children in OOHC was significantly lower than the decrease in the number of non-Aboriginal children in OOHC (3% compared to 23%).
- Aboriginal children remain over-represented in OOHC, their proportion increasing from 39% to 45%.

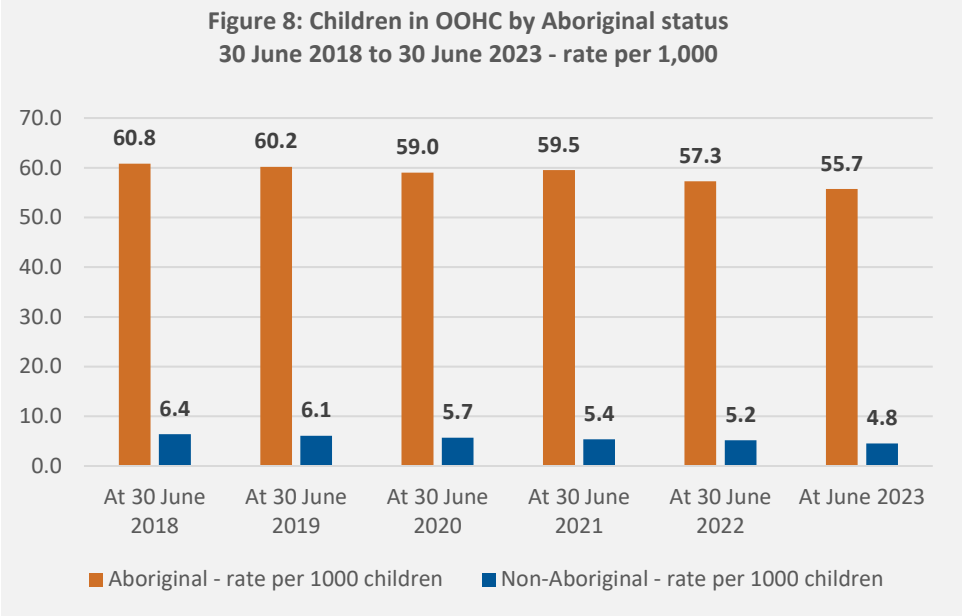
Table 23: Number of children in OOHC by Aboriginal status 30 June 2018 to 30 June 2022-23

	30 June 2018	30 June 2019	30 June 2020	30 June 2021	30 June 2022	30 June 2023	% change since 30 June 2018
Aboriginal children	6,766	6,754	6,688	6,829	6,661	6,563	-3%
Aboriginal children as % of all children in OOHC	39%	40%	41%	43%	44%	45%	
non-Aboriginal children	10,621	10,130	9,469	9,066	8,562	8,160	-23%
non-Aboriginal children OOHC as % of all children in OOHC	61%	60%	59%	57%	56%	55%	
Total children in OOHC	17,387	16,884	16,157	15,895	15,223	14,723	-15%

Source: NSW Ombudsman based on DCJ data used in the NSW Ombudsman report Aboriginal Outcomes Strategy focus area 2 (out-of-home care) – were the targets achieved?

[158] Evaluation for the Permanency Support Program: Final Report (nsw.gov.au), p 32.

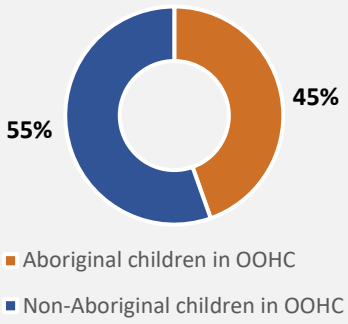
Figure 8 shows the rate of Aboriginal children in OOHC reduced from 60.8 to 55.7 per 1,000 Aboriginal children aged 0-17 in NSW. However, in terms of over-representation, there was a proportionately greater reduction in the rate of non-Aboriginal children in OOHC (from 6.4 to 4.8 per 1,000 non-Aboriginal children aged 0-17 in NSW). Despite the decline since 2017-18, the rate of Aboriginal children in OOHC is nearly 12 times higher than the rate for non-Aboriginal children.



Source: rates for 2017-18 to 2021-22 are based on DCJ data reported in the Ombudsman's report Aboriginal Outcomes Strategy focus area 2 (Out-of-home care) - were the targets achieved (nsw.gov.au), rates for 2022-23 are based on Ombudsman calculation

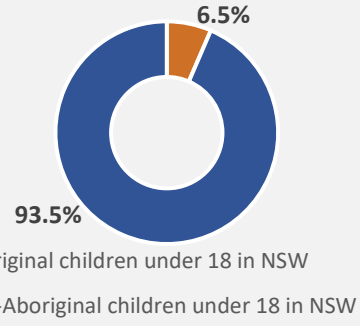
Figure 9 and 10 shows that in 2022-23 Aboriginal children aged 0-17 years comprised only 6.5% of the population of children aged 0-17 years in NSW but 45% of the OOHC population of children.

Figure 9: Proportion of children in OOHC by Aboriginal status, at 30 June 2023



Source: NSW Ombudsman based on DCJ data

Figure 10: Proportion of children aged under 18 in NSW by Aboriginal status, at 30 June 2023



Source: ABS population projections

Effective early intervention and prevention is critically important to prevent escalation of risk and reduce entries of Aboriginal children into OOHC. The evidence in **Section 6.1** shows:

- the rate of Aboriginal children entering OOHC increased from 7.3 to 8.7 per 1000 Aboriginal children aged 0-17 in NSW compared with a reduction in the rate of non-Aboriginal children entering OOHC, from 0.8 to 0.7 per 1000 non-Aboriginal children aged 0-17 in NSW, and a widening gap between those rates, from 6.5 in 2017-18 to 8 in 2022-23
- in 2017-18, Aboriginal children were 9 times more likely to enter OOHC than non-Aboriginal children; by 2023, Aboriginal children were over 12 times more likely to enter OOHC than non-Aboriginal children.

There is also evidence of growing disparity (as shown in **Section 12.2**) between the pattern of re-entries into OOHC for Aboriginal and non-Aboriginal children. Between 2017-18 and 2022-23:

- The number of Aboriginal children entering OOHC *not* for the first time increased by 62% - nearly seven times higher than the increase for non-Aboriginal children of 9% – accounting for 84% (or 136 of 162) of the increase in all *not* first-time.
- The proportion of Aboriginal children entering OOHC *not* for the first time rose from 27% to 35% and the proportion for non-Aboriginal children in the same period rose from 22% to 28% (**Section 12.2**).
- Aboriginal children formed an increasing proportion of children entering OOHC *not* for the first time (from 43% to 53%).

Other ways to reduce over-representation of Aboriginal children in care is through exits to restoration and guardianship.[159] However, the pace of exits to permanency has slowed despite various targeted initiatives to reduce the numbers of children in the child protection system and particularly in OOHC (**Section 6.2**).

[159] Adoption is not referenced here as it is the least preferred option for Aboriginal children.

DCJ has other initiatives to reduce over-representation of Aboriginal children, including actions under the National Agreement on Closing the Gap[160] and recommendations from the Family is Culture Report.[161] Most recently, DCJ established a Ministerial Aboriginal Partnership Group and a restoration taskforce to advise on ways to improve the outcomes for Aboriginal children and their families.[162]

In 2023, we reported on a previous initiative - DCJ's 5-year Aboriginal Outcomes Strategy (2017-2021). We found that the Strategy did not meet its targets, failed to reduce the over representation of Aboriginal children and was effectively abandoned by DCJ.[163]

[160] History of Closing the Gap | Closing the Gap.

[161] op.cit. 2019. Family is Culture | Communities and Justice (nsw.gov.au)

[162] NSW Government and Aboriginal communities working to improve safety and wellbeing for children | Communities and Justice

[163] Aboriginal Outcomes Strategy focus area 2 (Out-of-home care) - were the targets achieved (nsw.gov.au)

11. Progress towards the PSP goals

Table 24 below shows how DCJ is tracking against each of the PSP goals since it started in 2017-18 to 2022-23. Data includes all children in OOHC (irrespective of whether they are case managed by DCJ or non-government OOHC providers).

Table 24: Progress against the 4 PSP goals since 2017-18	
PSP goal 1: fewer entries to OOHC	• Total entries into OOHC increased by a little under 1%. • Total entries for Aboriginal children increased by 26%. • Total entries for non-Aboriginal children decreased by 14%.
PSP goal 2: shorter time in care by returning children home or finding other permanent homes	• There is insufficient data on length of time taken to achieve permanency. • Exits to permanency declined by 19%. • Fewer children in statutory OOHC had a permanency goal (drop from 17% to 13%). • Fewer exited to restoration (22% drop), adoption (57% drop) or guardianship (4% drop).
PSP goal 3: a better care experience - by supporting children's individual needs and their recovery from trauma	• DCJ is yet to implement a system to collect and report on outcomes for children in OOHC. • There has been no improvement in the educational outcomes for children in statutory OOHC – retention rates, participation in NAPLAN and NAPLAN results. • There has been a 21% decline in the number of health plans completed for children in statutory OOHC (from 2,060 in 2017-18 to 1,626 in 2022-23) and only 17% of children had their health plan reviewed in 2022-23. • Around 31% (since June 2020) of children aged 15 to 17 who required a leaving care did not have one, and of those that did, it is not clear whether their plans were implemented at exit from OOHC so they can access aftercare support. • The number of children in residential OOHC increased 10% (from 658 to 722) with a 17% increase for Aboriginal children (from 224 to 262), accounting for 59% of the total increase. • There was a sharp increase in the number (142%) and proportion (from 23% to 35%) of children in residential OOHC with a substantiated allegation that they had been abused while in care. • There was increasing reliance on emergency and temporary placements, particularly for children under 12 years of age.
PSP goal 4: reducing the over representation of Aboriginal children in OOHC	• Despite a 3% decline in the number of Aboriginal children in OOHC, they remain 12 times more likely to be in OOHC than non-Aboriginal children. • In 2017-18, Aboriginal children were 9 times more likely to enter OOHC than non-Aboriginal children; by 2023, Aboriginal children were over 12 times more likely to enter OOHC than non-Aboriginal children. • The number of Aboriginal children entering OOHC *not* for the first time increased by 62% compared to only 9% for non- Aboriginal children. • The number of Aboriginal children in residential OOHC increased by 17% compared to 6% increase for non-Aboriginal children, accounting for 59% of the total increase.

Source: NSW Ombudsman

12. Children who have exited OOHC

Once children exit care to guardianship, they are no longer entitled to support (although some can receive it) nor are they visible to the system unless they are reported to DCJ again. As a proxy measure of safety for these children, we looked at whether children under guardianship orders have had further contact with the child protection system.

Every year since the start of the PSP, around 1 in 5 children on guardianship orders has been reported at ROSH and an increasing proportion of those seen by a caseworker had the allegation substantiated. Whether guardianship as a permanency option is working well for these children and whether these concerning trends vary across different guardianship arrangements (relative, kinship, foster carer or known person) and for different permanency options warrants further investigation.

The aim of permanency is that children exiting OOHC do not return to it. However, since the start of the PSP, the number of children entering OOHC not for the first-time increased by 32%. Aboriginal children are significantly overrepresented in this, with the number of Aboriginal children entering OOHC not for the first time increasing by 62%, accounting for 84% of the total increase in entries not for the first time.

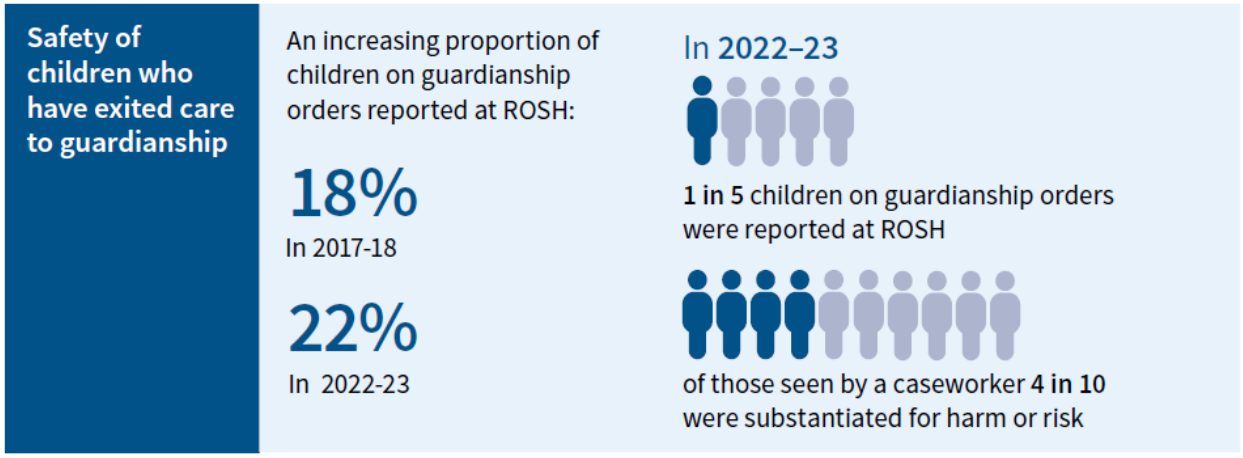
A permanent placement for children who exit OOHC should provide a safe, stable, secure and nurturing environment.[164]

We examined data relating to the safety of children who exited OOHC and whether they had further contact with the child protection system. We focused on:

- those children who exited to guardianship and were reported at ROSH
- children who have returned to OOHC after exiting to permanency - as these children must have again been determined to be at risk of significant harm and in need of care and protection.

[164] Care Act Ss 10A(1) and 78(A).

12.1 Children on guardianship orders reported at ROSH



In 2014, DCJ exited 2,400 children from statutory OOHC to guardianship. This was the largest number of children to ever exit OOHC in a year and since then, more children have exited to guardianship. Once these children exit care, they do not receive casework support except in rare and unforeseen circumstances.[165]

Children on guardianship orders are not counted as being in OOHC – they are considered to have exited OOHC to permanency, as they would if they had been restored (exited to return to their families) or adopted (exited to adoption). These children do not receive the leaving care and after care services available to other children in OOHC who exit when they turn 18.[166] Guardians can be relative or kinship carers, or other 'suitable persons'[167]. Guardians may receive a guardianship allowance and other financial support (such as support for education, medical expenses as per their case plan) subject to DCJ approval and annual review.[168]

As with the rest of the OOHC placement hierarchy in s 10A of the Care Act, guardianship is intended to provide permanency for children who have been removed from their birth family for their own care and protection.

To consider safety and risk for children on guardianship orders, we examined DCJ data on outcomes and responses for ROSH reports. We asked DCJ for unpublished data for children on guardianship orders together with the outcomes of ROSH reports and DCJ's response to them.

[165] "…guardianship post permanency casework support may be provided in rare, unforeseen circumstances when the Department and the PSP provider agree this support is required". Exiting OOHC | Communities and Justice (nsw.gov.au) See also Footnote 140.

[166] Department of Communities and Justice Factsheet for Guardians. April 2021. Guardian-fact-sheet-financial-guidelines-April-2021-FINAL.pdf (nsw.gov.au).

[167] Care Act s 79A(2).

[168] 'The payments that a guardian may be able to access will depend on how they came to be a guardian and the documentation that was prepared prior to the guardianship order being made.' For children who were transitioned to guardianship orders before 2014, financial support is provided only if it is in the 'care plan' or case plan at the time the order was made. For children who transitioned to guardianship after 2014, a financial plan is required at the time the Children's Court order is made. Once a guardianship order is made a financial plan cannot be amended. Guardian-fact-sheet-financial-guidelines-April-2021-FINAL.pdf (nsw.gov.au). The Aboriginal Guardianship Support Model co-designed with AbSec for Aboriginal children on guardianship orders was trialled in the Hunter and South-West Sydney between January 2022 and December 2023. An evaluation is pending. Guardianship - AbSec | NSW Child, Family and Community Peak Aboriginal Corporation.

Table 25 shows that:

- In the 6 years since 2017-18, the proportion of children on guardianship orders subsequently reported at ROSH rose from 18% to 22%.
- Aboriginal children accounted for an increasing proportion of children on guardianship orders - from 33% in 2017-18 to 36% in 2022-23.

The ROSH data suggests a clear need for more information and analysis about the reasons why an increasing number of children on guardianship are reported at ROSH after they enter guardianship. It is also important to understand the reason for the disproportionate increase in the number of Aboriginal children on guardianship orders.

Table 25: Number of children on Guardianship Orders at 30 June who are subjects of one or more ROSH reports during the year - 2017-18 to 2022-23

	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	% change since 2017-18
Number of children on guardianship orders	2,849	3,050	3,267	3,415	3,470	3,442	21%
Number of Aboriginal children on guardianship orders	944	1,036	1,144	1,210	1,235	1,253	33%
Aboriginal children on guardianship orders as % of all children on guardianship orders	33%	34%	35%	35%	36%	36%	
Number of children subject to ROSH reports	500	623	772	846	734	774	55%
% of children who were subject to one or more ROSH reports	18%	20%	24%	25%	21%	22%	

Source: NSW Ombudsman based on DCJ data

DCJ provided data on substantiations of harm or risk of harm for children on guardianship orders for 2018-19 to 2022-23 only.

Table 26 shows:

- a sharp rise in the proportion of children on guardianship orders reported at ROSH who have been triaged for allocation to be seen by a caseworker from 53% in 2019-20 to 91% in 2022-23
- a sharp decline in the proportion of children on guardianship orders triaged for allocation to be seen and actually seen by a caseworker - from 81% in 2019-20 to 35% in 2022-23.

This means in 2022-23 of the 91% of children on guardianship orders reported at ROSH who were triaged at the CSC for allocation to be seen by a caseworker (706 children), two thirds (459 children) were *not* seen by a caseworker.

The trend is different for *all* children reported at ROSH. In 2022-23, 32% of children reported at ROSH (**Table 5**) were triaged for allocation to be seen by a caseworker, and 78% of them (**Table 6**) were seen by a caseworker.

Overall, this suggests that, although children on guardianship orders are more often given higher priority at triage to be seen by a caseworker this does not translate to actually being seen by a caseworker. Again, DCJ could not tell us if any of those not seen by a caseworker received any other response or service.

Table 26: Number of children on Guardianship Orders as at 30 June who are subjects of one or more ROSH reports and seen by a DCJ caseworker 2019-20 to 2022-23				
	2019-20	2020-21	2021-22	2022-23
Children on guardianship orders subject to one or more ROSH report during the year	772	846	734	774
Children with a triage decision to allocate for a field assessment*	407	381	435	706
Children triaged for field assessment as % of children reported at ROSH	53%	45%	59%	91%
Children reported at ROSH and seen by a DCJ caseworker	328	288	239	247
Children seen by a DCJ caseworker as % of those triaged for field assessment	81%	76%	55%	35%
Children seen by a DCJ caseworker and substantiated	126	92	86	101
Children substantiated as % of children seen by a DCJ caseworker	38%	32%	36%	41%

Source: NSW Ombudsman based on DCJ data

Note: field response means to be seen by a DCJ caseworker

Table 26 also shows that the proportion of children on guardianship orders who were seen by a caseworker and substantiated for harm or risk of harm increased in the last 3 years – from 32% in 2020-21 to 41% in 2022-23.

Overall, in 2022-23, nearly 1 in 5 children on guardianship orders were reported at ROSH and, of those who were actually seen by a caseworker (less than 1 in 3), 4 in 10 were substantiated for harm or risk of harm.

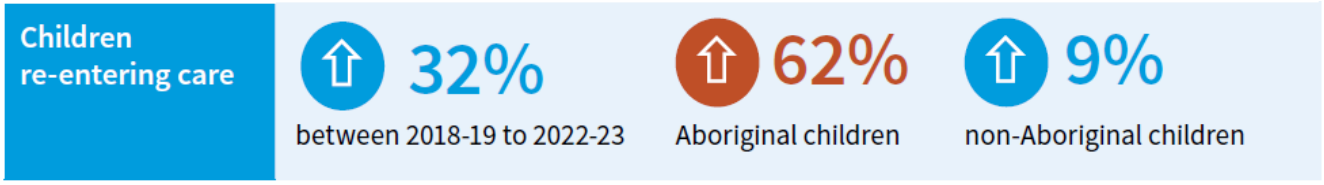
These concerning trends warrant analysis of whether guardianship is working well as a permanency option for some children in OOHC, and whether trends are similar for different guardianship arrangements (relative, foster carer or known person) and for children exiting to other permanency options. This is important because once these children leave care, they are no longer entitled to support[169] and they become invisible to the system.[170]

As set out below, we have recommended a review to consider these issues further.

[169] Exiting OOHC | Communities and Justice (nsw.gov.au)

[170] For more on this refer to SNAICC Family Matters Report Card (2023). p.21 For Aboriginal children they note - 'Arguably, children are most at risk of losing family and cultural connections on these orders as governments no longer take any responsibility for ensuring the maintenance of those connections and the protection of children's cultural rights. This is particularly worrying given the above analysis suggesting that Aboriginal and Torres Strait Islander children are increasingly placed with non-Indigenous carers, further compounding the risk of long-term disconnection.' pp 36-37 Family-Matters-Report-2023.pdf (snaicc.org.au)Family-Matters-Report-2023.pdf (snaicc.org.au)

12.2 Children returning to OOHC after exit



DCJ statistical series includes an annual count of the number of children who enter OOHC and the number of entries for the first time ever (each number also broken down by Aboriginal status). The difference between the 2 numbers reveals that some children enter OOHC more than once.

The aim of permanency is that children exiting OOHC do not return to it. However, this is not the case for many children. Unpublished data we obtained from DCJ for 2017-18 to 2022-23 in **Table 27** shows that the number of all children entering OOHC *not* for the first time increased by 32% since the start of the PSP. In 2022-23, *not* first-time entries to OOHC accounted for nearly one third of all entries to OOHC.

The table also shows an increasing disparity between the pattern of re-entries into OOHC for Aboriginal and non-Aboriginal children, in that:

- The number of Aboriginal children entering OOHC *not* for the first time increased by 62% - nearly seven times higher than the increase for non-Aboriginal children of 9% – accounting for 84% (or 136 of 162 increase) of the increase in all *not* first-time entries.
- Aboriginal children entering OOHC *not* for the first time as a proportion of all Aboriginal children entering care rose from 27% in 2017-18 to 35% in 2022-23 compared to a smaller increase for non-Aboriginal children from 22% to 28%.
- Aboriginal children make up an increasing proportion of children entering OOHC *not* for the first time (from 43% to 53%).

Table 27: Children entering OOHC for the first time and *not* the first time by Aboriginal status 2017-18 to 2022-23							
	2017-18	**2018-19**	**2019-20**	**2020-21**	**2021-22**	**2022-23**	**% change since 2017-18**
1st time entries							
Aboriginal children - first time entry to OOHC	596	660	668	822	646	670	12 %
Non-Aboriginal children - first time entry to OOHC	1,048	1,005	956	985	850	830	-21%
Total first-time entries to OOHC	1,644	1,665	1,624	1,807	1,496	1,500	-9%
Aboriginal children as % of all first-time entries	**36%**	**40%**	**41%**	**45%**	**43%**	**45%**	
Not 1st time entries							
Aboriginal children - *not* first-time entry to OOHC	221	268	284	289	277	357	62%
Non- Aboriginal children - *not* first-time entry to OOHC	292	332	298	310	272	318	9%
Total *not* first-time entries to OOHC	513	600	582	599	549	675	32%
Aboriginal children as % of all not first-time entries	**43%**	**45%**	**49%**	**48%**	**50%**	**53%**	
Total entries							
Total Aboriginal children entering OOHC	817	928	952	1,111	923	1,027	26%
Total non-Aboriginal children entering OOHC	1,340	1,337	1,254	1,295	1,122	1,148	-14%
Total all entries	2,157	2,265	2,206	2,406	2,045	2,175	1%
Aboriginal children *not* first-time entries as % of all Aboriginal entries into care	**27%**	**29%**	**30%**	**26%**	**30%**	**35%**	
Non-Aboriginal children *not* first-time entries as % of all non-Aboriginal entries into care	**22%**	**25%**	**24%**	**24%**	**24%**	**28%**	
***Not* first-time entries as % of all entries**	**24%**	**26%**	**26%**	**25%**	**27%**	**31%**	

Source: NSW Ombudsman based on DCJ data

Entry to OOHC is a traumatic experience for any child. This is also the case for children re-entering OOHC. It is important to understand the number of times a child re-enters OOHC, the type of permanency placement prior to re-entry (restoration, guardianship, adoption) the ages of these children and the nature of supports provided to the placement.

It is critical to understand and address the reasons why so many children are returning to OOHC, particularly Aboriginal children. This will help inform service improvement initiatives, collaboration and consultation with relevant stakeholders, including Aboriginal communities.

Recommendation 7

As part of implementing Recommendation 4, DCJ should in respect of each of the different permanency options:

a) Review the adequacy of the permanency planning and post-permanency support for children and their families

b) Identify and propose actions to address issues contributing to poorer permanency outcomes for children.

Part C - Element 3 - Prevention, early intervention and family preservation

Overview of Part C

DCJ funds hundreds of NGOs to provide a spectrum of services through 3 streams of programs:

- Family Preservation
- Targeted Earlier Intervention
- Family Connect and Support.

Despite the critical role that these programs should play in preventing harm to children and strengthening families to reduce entries into care, insufficient information is reported on the outcomes of these programs to assess and understand their individual and collective contribution to prevention of abuse and neglect.

Without such information DCJ cannot know whether these programs are effective or working as intended.

Structure of Part C

Part C considers:

- Family Preservation Services
- Targeted Earlier Intervention Program
- Family Connect and Support.

DCJ is required by the Care Act and the *Community Welfare Act 1987* to work with families and the wider community to minimise the risk of significant harm to children and young people, prevent entries into OOHC and, where relevant, facilitate restoration. [171]

DCJ funds NGOs to deliver a variety of voluntary early intervention and family preservation services that aim to keep children reported at ROSH at home with their families.

Families can self-refer or be referred by other services to prevention and early intervention services within the Family Connect Support and Targeted Earlier Intervention Programs. However, for Family Preservation Services DCJ is the primary referrer and determines whether families are eligible and what child protection risks are to be addressed by the family preservation provider.

[171] The Care Act imposes obligations on DCJ to work with families - eg the object in s 8(1)(c), the principle in 9(2)(c) and the requirement to undertake active efforts to prevent entry into OOHC and facilitate restoration (s 9A(4)(a)). Families, children and NGOs can also request assistance from DCJ (ss 20-22). The Children's Court can make orders requiring DCJ to provide support services (s 74) and services to facilitate restoration (s 85). Alternative parenting plans may also provide for the provision of services (s 115(1)(b)(vii). Family and Community Services Annual Report 2015-16, p8 FACS Annual Report 2015–16 – Vol 1 (nsw.gov.au).

13. Family preservation services

There are at least 8 separate family preservation programs operating around the State,[172] but not all programs operate in each of DCJ's districts.[173] Some of these programs are long standing and their eligibility criteria have changed over time. For example, the Brighter Futures program that started in 2003 was offered to families *not* reported at ROSH but currently also offers services to families with children reported *at* ROSH. Other programs are more recent. For example, both Multisystemic Therapy for Child Abuse and Neglect (MST-CAN) and Functional Family Therapy-Child Welfare (FFT-CW) started in 2017.

Appendix D provides details of these programs and relevant eligibility criteria.

13.1 The goals and requirements of family preservation services

The goal of family preservation services is to keep at-risk families together, where possible, and prevent entries of children into OOHC.[174] DCJ's website says:

> Whilst services vary in level of intensity, each provides a range of supports to promote parenting skills, family functioning, and child development.[175]

DCJ says it is introducing changes to these programs as part of the Family Preservation recommissioning process,[176]- "…to consolidate disparate services into an integrated service model design, which has the flexibility to support clients."[177]

13.2 Outcomes of family preservation

DCJ's annual and quarterly statistical reports and caseworker dashboard provide information on some of these programs. However, it is not possible to track individual programs because, as examples in **Appendix E** show, published client data for family preservation services is not reported for each program nor for each year, is counted inconsistently for different programs, and is limited to volumes. In some cases, information is expressed as number of families and in others as number of children.

DCJ was unable to provide comprehensive data on all family preservation programs to allow us to assess results achieved in terms of the number of children who were re-reported at ROSH or entered OOHC *after* receiving family preservation services for 2015-16 to 2022-23. DCJ provided limited data for only 3 of the 8 programs and for only one year (2019-20). The information, presented in **Appendix E**, shows that a significant minority of the children in three programs are re-reported at ROSH within 90 days of exiting the programs, ranging from 17% to 36%.

[172] DCJ also funds 380 family preservation packages under the PSP program to restore children in OOHC to their families or support placements at risk of breaking down. Working with families | Family & Community Services (nsw.gov.au); Evaluation for the Permanency Support Program: Final Report (nsw.gov.au).p 24

[173] Family Preservation recommissioning co-design (nsw.gov.au)

[174] Link to this has been withdrawn from DCJ website.

[175] Family Preservation Programs | Communities and Justice (nsw.gov.au)

[176] Department of Communities and Justice. (website) Family preservation recommissioning.

[177] Family Preservation recommissioning co-design (nsw.gov.au)

DCJ said that:

> Data for the Family Preservation program is now being collected by a purpose-built data collection system, infoShare, which has incorporated the new Minimum Data Set (MDS). Service Providers only commenced using the new MDS in July 2022, for data relating to the 2022-23 year. For most service providers, the new MDS is far more comprehensive than information they were previously asked to provide on Family Preservation, as a result there has been an implementation phase and data quality issues are still being worked through with some providers. Once these issues are resolved, DCJ will commence analysis and reporting on the 2022-23 year.[178]

In the absence of consistent and reliable performance information and clear targets or benchmarks it is not possible to determine whether and to what extent these programs individually and collectively are contributing to the broader goals of family preservation services. Most family preservation programs have been operating for at least 6 years. DCJ expanded these services and has now extended their contracts to 2025.[179] DCJ advised that the ongoing redesign of the Family Preservation service system includes "developing a Performance Framework for Family Preservation Services that will outline how DCJ will monitor, assess, and response to performance and will lead to improved accuracy of data."[180]

[178] DCJ's response, 16 February 2024.

[179] The Fams website reported in July 2023 that DCJ extended current family preservation service contracts for an additional 12 months to June 2025 which would allow for additional research, planning and testing of the future Family Preservation program, 'DCJ confirms Family Preservation contract extension - Fams

[180] DCJ advice, 4 June 2024.

14. Targeted Earlier Intervention

The Targeted Earlier Intervention Program (TEI) commenced on 1 July 2020, bringing together 5 existing separate programs. Under this program, DCJ funds numerous NGOs to deliver voluntary services across NSW under two streams of services - Community Strengthening and Wellbeing and Safety. **Appendix F** provides further details about TEI.

14.1 Targeted Earlier Intervention goals and requirements

The goal of TEI is to minimise harm through preventing risks associated with child abuse and neglect from escalating and ensure issues are addressed early.[181]

14.2 Outcomes of Targeted Earlier Intervention Services

In a break with past practice, in 2021 DCJ required TEI providers to collect and report a range of information including performance information about their clients, activities and outcomes.[182] DCJ has published some of this data in two annual reports[183] on TEI and in a web-based dashboard.[184]

Using the program's 2 Annual Reports and DCJ's unpublished data, we examined the program's achievement towards 3 of the 9 outcomes specifically relevant for children. These are:

- safety – reduced risk of entry into the child protection system
- health – improved health of children and young people/improved parental health
- education & skills – increased school attendance and achievement.

We focused on the Wellbeing and Safety stream of TEI services because these 'are designed to build on the strengths of families and support them to address key risk factors which may result in children and young people being unsafe.'[185] However, the annual report shows that less than 1 in 4 (23% or 16,530 of 73,160) clients that participated in the Safety and Wellbeing stream had all 3 outcomes measures recorded - circumstances, goals and satisfaction- to allow for full assessment of their progress and outcomes. Of those fully assessed, 74% recorded positive shifts in outcomes.

DCJ advised that TEI clients may still receive a needs assessment without these measures being recorded but, 'The degree to which clients have, or have not had a needs assessment, is not able to be determined by reviewing the program data'. [186]

Clearly not all clients who participate in TEI, particularly the Community Strengthening stream, would require a full needs assessment (e.g. those attending a community event). However, it is important to identify those families in the Safety and Wellbeing stream who require a needs assessment and track their outcomes given that the purpose of this stream is to reduce risks and improve safety for children.

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[181] Targeted Earlier Intervention Program, 2020-21 NSW Annual Report, p14, Targeted Earlier Intervention Program 2020-21 NSW Annual Report | Family & Community Services

[182] TEI defines client outcomes as "the changes that occur for clients and communities as a result of service delivery. These can be changes in skills, knowledge, attitude, values, behaviours or circumstances." There are 9 "high level outcomes [aligned to the NSW Human Services Outcomes Framework] that capture what [TEI] aims to achieve". Targeted Earlier Intervention Program Outcomes Framework. November 2019. DCJ TEI Program Outcomes Framework | Family & Community Services (nsw.gov.au).p3

[183] Although the TEI program began on 1 July 2020, mandatory data collection began from 1 January 2021, mainly because of effects of COVID-19. Targeted Earlier Intervention Program 2020-21 NSW Annual Report | Family & Community Services p9

[184] TEI Interactive Dashboard 2021-22 | Tableau Public

[185] TAB-A-TEI-Program-NSW-Annual-Report-2021-2022_MARCH-2023-UPDATE.pdf. p22

[186] DCJ's advice of 4 June 2024.

The TEI Program Annual Report for 2021-22 also noted limitations of some of the outcomes recorded,

> …another area of concern in interpreting the outcome data is when some service types have SCOREs recorded in all seventeen outcome domains. This is problematic as TEI service types are not designed to improve every outcome domain. For example, it is highly unlikely that supported playgroup services are improving clients' employment and housing outcomes. Caution should be exercised when interpreting these results.[187]

The TEI report also acknowledged that:

> Data quality remains an area for improvement, to enable robust conclusions about the impact of the program to be drawn from the data.[188]

DCJ said a data linkage project was underway to allow reporting that shows whether TEI clients access child protection services and will be available by mid-2024.

DCJ advised that it has commissioned an evaluation of TEI, with an interim report due in July 2024 and a final report by October 2024. [189] Its purpose is:

> to assess the overall impact of the TEI program and build the evidence base to inform the evolution of the TEI program and the commissioning process planned for 2025. The evaluation is to also provide evidence of the efficacy of programs under each stream of TEI to support funding decisions, as well as identify areas and strategies for program improvement.[190]

[187] TAB-A-TEI-Program-NSW-Annual-Report-2021-2022_MARCH-2023-UPDATE.pdf. p 12

[188] Department of Communities and Justice, Targeted Earlier Intervention Program NSW Annual Report 2021-22 TEI 2021-22 NSW Annual Report | Family & Community Services. p22

[189] DCJ has engaged Taylor Fry in partnership with Social Ventures Australia (SVA) and Gamarada Universal Indigenous Resources (G.U.I.R) to evaluate the Targeted Early Intervention (TEI) program. Department of Communities and Justice. [Factsheet] May 2023. Targeted Earlier Intervention – Sector Engagement. (Accessed 6 Sept. 2023), DCJ advice of 4 June 2024.

[190] Department of Communities and Justice. [Factsheet] May 2023. Targeted Earlier Intervention – Sector Engagement. (Accessed 6 Sept. 2023)

15. Family Connect and Support

Between April 2013 and December 2020, the Ministry of Health funded and managed the Family Referral Service in NSW. As of 1 January 2021, this program was transferred to DCJ and is now funded by them and known as 'Family Connect and Support'(FCS). FCS is a statewide voluntary service that builds on the features of the previous Family Referral Service, 'offering supports and services to families as early as possible to keep children and young people safe and well. It provides a 'soft' entry point and connection to the service system for families experiencing vulnerabilities or who require some level of support.'[191]

The goal of FCS is to avert the need for statutory intervention by providing an earlier assessment of needs and supporting families to remain safe and well in their family.[192]

DCJ's published data for 2022-23, the first full year since DCJ took over the delivery of FCS from NSW Health, shows 8,167 families attended FCS (20,465 individual clients). Two thirds of them were referred by Educational agencies (24%), Health agencies (16%), Community Services agencies (14%), Self (13%) and Legal agencies (6%).[193]

DCJ's data shows that FCS is helping connect and refer some families to support services but provides no information on the outcomes of referrals nor how this program is helping 'keep children and young people safe and well'.

DCJ commissioned an evaluation of FCS to be completed by June 2024.[194] The interim report was released in July 2023 and found that the FCS model is perceived by providers as being flexible and accessible for diverse clients and communities. Some challenges for FCS services include a lack of support services to refer families to and increased complexity in the issues facing families. The next stage of the evaluation is expected to focus on client outcomes including '…reducing risks and avoiding entry into the statutory care system for children and young people.' [195]

In January 2024, DCJ published for the first time an interactive dashboard that presents quantitative data reported by the programs' service providers on different aspects of the FCS program by Aboriginal status, by district and by type of supported client.[196] DCJ is working with providers to ensure greater accuracy and consistency of FCS reporting for the future.

[191] Family Connect and Support | Family & Community Services (nsw.gov.au)

[192] Family Conned and Support, Program Specifications 2020, 17 July 2020, p5 Family Connect and Support Program Specifications July 2020 (nsw.gov.au)

[193] https://public.tableau.com/app/profile/dcj.statistics/viz/FCSInteractiveDashboard/ServiceDelivery-Referral

[194] Research Centre for Children and Families, University of Sydney and Curijo are completing this evaluation.

[195] Family Connect and Support (FCS) Evaluation Interim Report Executive Summary July 2023 (nsw.gov.au)

[196] FCS Interactive Dashboard Interactive Map View | Tableau Public

Appendices

Appendix A Measures used in New South Wales

NSW Human Services Outcomes Framework and the DCJ Core Client Outcome and Indicator Bank

Under the previous government, DCJ and partner government and non-government organisations (NGO) developed a set of 7 goals and related measures, some applicable to the entire state population and some specific to children. These goals and measures are set out in the NSW Human Services Outcomes Framework (the Outcomes Framework)[197] and the DCJ Core Client Outcome and Indicator Bank (the Indicator Bank).[198]

Use of the Framework and any reporting of outcomes is not mandatory. Instead, government and NGOs are "encouraged to use the framework to support the design, delivery and evaluation of the services they deliver."[199]

For its part, DCJ says it is applying the framework across its work[200] and developed the Indicator Bank – a catalogue of outcomes which are defined as changes that occur in the lives of people after they receive a service. DCJ created the Indicator Bank because:

> The NSW Government wants to know if the programs and services we provide improve client outcomes. To do this, we need to collect data on client outcomes, and measure and report on these outcomes.[201]

The Indicator Bank is modelled on and expands the 7 broad outcomes of the framework by listing 37 'core client outcomes' and 116 indicators to measure these outcomes. The developers stated that the indicators identify standardised information that "will need to be collected" to be able to report on these outcomes over time.

However, not all of the necessary data is being collected or reported. For example, in the area of safety, there are 6 core outcomes and 21 indicators that could be used to measure them – but not all of the 21 indicators are linked to existing or current data bases and others are described as under development.[202]

DCJ child protection performance data

DCJ reports publicly on key child protection performance data which, according to DCJ "shows the services we provide, clients we serve, and outcomes we deliver".[203]

These reports include:

- Annual Statistical Reports that present data under 3 headings:
  (1) supporting children and families through intervening early
  (2) supporting children in statutory protection
  (3) supporting children in out-of-home care.

[197] The NSW Human Services Outcomes Framework | Family & Community Services

[198] Communities and Justice Core Client Outcomes and Indicators | Family & Community Services (nsw.gov.au)

[199] NSW Human Services Outcomes Framework Guide – July 2017

[200] Communities and Justice Core Client Outcomes and Indicators | Family & Community Services (nsw.gov.au)

[201] Developing Core Client Outcomes and Indicators for Communities and Justice – December 2020 – Snapshot | Family & Community Services (nsw.gov.au)

[202] The most recent publicly available version of the bank that we have identified is dated December 2020.

[203] Statistics | Family & Community Services (nsw.gov.au)

- Annual 'Aboriginal-led Data Sharing' dashboard presents data under 5 core elements of the Aboriginal and Torres Strait Islander Child Placement Principle: prevention, partnership, participation, placement and connection.[204]
- Quarterly reports that present data under 5 headings:
  (1) Targeted Early Intervention (TEI) services
  (2) child and young person concern reports
  (3) children and young people involved in concern reports
  (4) keeping children and young people safe
  (5) stable and nurturing environments for children and young people.
- Quarterly dashboards that present district-level data on:
  (1) number of children assessed at risk of significant harm
  (2) number and proportion of children seen by a DCJ caseworker
  (3) caseworker numbers and vacancy rates.

[204] Aboriginal-led Data Sharing: Child Protection and Out-of-home Care Statistics | Family & Community Services (nsw.gov.au). The dashboard includes key performance indicators covering each of the five core elements. Some of the indicators are also reported nationally by the AIHW. The dashboard is in line with the National Agreement on Closing the Gap and Family is Culture Review recommendations.

Appendix B Publicly available data about child protection

In relation to statutory child protection, DCJ's published data tallies volume of demand on the child protection system over time in terms of reports, children involved in ROSH reports, assessments conducted, and children seen by a caseworker. Some of the reported measures can be disaggregated in various ways, including by Aboriginal status and types of reported concerns. The counting rules and format of reported information have also changed over time.[205]

DCJ continues to use 3 measures that tally volumes of demand, including what the reports present as (the number of):

- child and young person concern reports
- risk of significant harm (ROSH) reports
- children and young people in ROSH.

The reports present 3 other measures that demonstrate an outcome, including the number of:

- children assessed at ROSH who are seen by a DCJ caseworker
- children for whom actual harm or risk of harm was substantiated after finalised field assessments
- children who are re-reported at ROSH within 12 months of having a case plan closed (for specified reasons).

The data also shows how the numbers of reports and children have changed over time, in most cases dating back to 2011-12. As well, the measures can be disaggregated in various ways, to show numbers of:

- children who are Aboriginal
- reports made by different types of mandatory reporters
- reports in each DCJ district
- reports by primary Helpline assessed risk issue, and
- assigned response priority.

DCJ's annual dashboard 'Aboriginal-led Data Sharing' includes measures of ROSH reports, children at ROSH seen by a caseworker and children and young people entering OOHC, which can be filtered by district and Aboriginality.

[205] Annual_Statistical_Report_2022-23_measure_list | Tableau Public

Appendix C Effect of changes to the re-reporting measure

In 2015, the NSW Government introduced a child protection re-reporting measure as part of a set of social and economic goals known as the Premier's Priorities. The child protection goal aimed to reduce the proportion of children re-reported at risk of significant harm by 15% by 2020-21 from a baseline of 40.4%, but the way of measuring progress towards this goal changed several times:

- Initially, the goal of the Premier's Priority applied to only those children who were reported at ROSH within 12 months of being seen by a caseworker and then having their case closed because the case plan goal had been achieved.
- In 2019-20, DCJ expanded the measure to include 2 additional closure reasons – 'assessment of risk indicates no further intervention required' and 'family action plan achieved' – and set a higher reduction target of 20% by 2022-23 from a baseline of 40.4%.
- In 2020-21, DCJ added a fourth case closure reason – case closed because 'assessment indicates the child is not in need of care and protection'.

At June 2021, the expanded re-reporting rate was 41%. As set out in **Table 28** below, unpublished DCJ data showed a higher re-reporting rate for Aboriginal children compared to non-Aboriginal children (55% compared to 37%).

The unpublished data also showed:

- The current re-reporting rate provides a narrow view of effectiveness as it does not capture all closure reasons where fieldwork has occurred and case plan was closed, and whether harm or risk of harm was substantiated for those children re-reported[206]at ROSH.
- The changes over time in the Premier's Priority measure produce different results in relation to the re-reporting rate. To illustrate this, we have presented DCJ's data against different case closure scenarios but confined to just one time period and using the original 2014-15 baseline, as shown in the table below.
- The re-reporting rate is significantly higher for Aboriginal children compared to non-Aboriginal children across the three scenarios.

[206] Jenkins, B. Q., Tilbury, C., Hayes, H., & Mazerolle, P. (2019). Do measures of child protection recurrence obscure the differences between reporting and substantiation? *Children & Youth Services Review*, *104*, 104391. https://doi.org/10.1016/j.childyouth.2019.104391.

Table 28: Breakdown by case closure reason and Aboriginal status for children re-reported at ROSH in 12 months as of 30 June 2021 (case closure between 1 July 2019 and 30 June 2020)			
	Initial Premier's priority re-reports	Expanded Premier's priority re-reports*	Re-reports for *all* closure reasons **
Aboriginal			
Not re-reported	237	1,534	3,090
Re-reported	385	1,879	5,033
Total	622	3,413	8,123
% Re-reported	**62%**	**55%**	**62%**
Non-Aboriginal			
Not re-reported	790	7,418	11,311
Re-reported	729	4,439	9,164
Total	1,519	11,857	20,475
% Re-reported	**48%**	**37%**	**45%**
Total			
Not re-reported	1,027	8,952	14,401
Re-reported	1,114	6,318	14,197
Total	2,141	15,270	28,598
% Re-reported	**52%**	**41%**	**50%**

Source: NSW Ombudsman based on DCJ data

* Includes 3 case closure reasons - Case Plan Goal Achieved, assessment of risk indicates no further intervention required and Family Action Plan goal achieved.

**Include a 4th closure reason, 'assessment indicates the child is not in need of care and protection'.

Appendix D Family Preservation Services

There are 8 separate family preservation services. The table below summarises the key characteristics of 6 of these. It does not include 2 programs, Nabu and Resilient Families which currently have different service specifications and contractual arrangements. Details of these are below.

	Brighter Futures	Youth Hope	Intensive Family Preservation	MST-CAN **	FFT-CW **	Intensive Family Based Services **
Target group	Families with at least one child aged 0-9 years	Families with focus child aged 9–15 years	Families with at least one child aged 0-17 years	Families with at least one child aged 6-17 years	Families with at least one child aged 0-17 years	Families with at least one child aged 0-17 years
Referral process	90% DCJ 10% community	90% DCJ 10% community	100% DCJ – after assessment	100% DCJ – after assessment	DCJ, community or self-referral	DCJ, community or self-referral
DCJ's eligibility criteria	Less than 3 ROSH reports in last 12 months	At least 1 ROSH report in past month OR after DCJ assessment	Imminent risk of entering OOHC after ROSH assessment	At least one ROSH report in last 180 days and DCJ assessment	Current ROSH report for one child	Aboriginal children and families at risk of entering OOHC, risk of placement breakdown or restoration
Duration of service provision	12 months*	12 months*	6 months*	6-9 months	6 or 9 months (2 streams: low and high)	6-9 months*

Source: NSW Ombudsman based on DCJ data Family Preservation Programs | Communities and Justice (nsw.gov.au)

***** May be extended with DCJ approval

****** Intensive Family Based Services are provided by Aboriginal Community Controlled Organisations in 7 locations in 4 DCJ districts only. MST-CAN operates in 6 locations only. FFT-CW operates in 11 locations only.

Note: This table is based on current information available, noting these services are part of current Family Preservation Service recommissioning.

Resilient Families commenced as a social impact bond initiative and continued as a payment-by result contract. It is an Intensive Family Preservation Service with a more limited age group (0-6 years) which operates in 4 metro districts only provided by The Benevolent Society.

Nabu family preservation and restoration services commenced as a FFT-CW funded service. It was then redesigned by the provider (Waminda – South Coast Women's Health and Welfare Aboriginal Corporations) and the community and funded by DCJ as a pilot program. Nabu supports Aboriginal and Torres Strait Islander children (0-18 years) and their families in the Illawarra and Shoalhaven areas only.207

[207] Case Study: NABU - The Centre for Healthcare, Knowledge & Innovation (thecentrehki.com.au)

Appendix E Examples of published data on Family Preservation Services

For Family Preservation, DCJ's Annual Statistical Reports[208] provide:

- cumulative number of families accepting MST-CAN and FFT-CW services since 2017
- annual number of children commencing "intensive family support services" and an estimate for the number of children receiving those services from 2017-18 onward
- breakdown by whether client families or children were Aboriginal.

DCJ's Quarterly Caseworker Dashboards for the June 2022 quarter[209] provide:

- the number of contracted places for families for only 7 family preservation services in 2021-22 – Youth Hope (406), Nabu (64), Intensive Family Based Services (110), Intensive Family Preservation Services (320), Brighter Futures (2775), MST-CAN and FFT-CW (900)
- the number of 'actual families' that accepted services, but only for MST-CAN and FFT-CW – and this data is presented as a cumulative number that appears to date from when these programs started in 2017
- the total number of children receiving intensive family support services[210] at June 2022 as 17,000[211] (the number reported in the annual statistical report for 2021-22 is 16,465).

DCJ provided limited data for only 4 programs and for a single year – 2019-20. We excluded data for one program - Intensive Family Program - because the data DCJ provided was not clear. [212]

As **Table 28** below shows, a significant minority of the children in three programs are re-reported at ROSH within 90 days of exiting the programs, ranging from 17% for Brighter Futures to 36% for MST-CAN. Although the table below is not intended to make comparisons between the programs given their different target groups and activities, it does provide an overview of results.[213]

[208] Annual_Statistical_Report_2022-23_measure_list | Tableau Public

[209] Since September 2022 DCJ quarterly caseworker dashboards no longer include data on family preservation services.

[210] According to DCJ's counting rules, Intensive Family Support Services "includes Intensive Family Services, Intensive Family Preservation, Brighter Futures, Strengthening Families, Intensive Family Based Services and NGO Intensive Family Based Services." ASR 2021-22 Children and Families Thrive - EI | Tableau Public

[211] ASR 2021-22 Children and Families Thrive - EI | Tableau Public

[212] The data indicated 3 times more children were reported at ROSH within 90 days than actually exited the program. This is only possible if children were reported multiple times within 90 days. Some of the data also referred to families for some measures and to children for other measures.

[213] For example, families referred to MST-CAN and FFT-CW continue to have an open case with DCJ and are subject to risk review by them due to imminent risk of removal. The majority of families receiving Brighter Futures services are at risk of escalation to child protection investigation but do not have ongoing DCJ involvement after referral to a Brighter Futures provider - their case is usually closed by DCJ at referral and only reviewed if new concerns are reported. See Appendix D for further details

Table 29: Children exiting family preservation programs and reported at ROSH within 90 days of exit – 2019-20			
Program	**Children exiting program**	**Children reported at ROSH 90 days after exit**	**% of children reported at ROSH**
Brighter Futures *	2, 164	375	17%
FFT-CW	548	139	25%
MST-CAN	55	20	36%

Note: data relates to children who exited with a case plan goal achieved.

The unpublished data from DCJ for 2019-20 also showed:

- nearly half of the children (48% - 1960 out of 4,124) who exited the Brighter Futures program did so without achieving a case plan goal
- 7% of children in MST-CAN (4 out of 55) and less than 1% of children in FFT-CW program (5 out of 548 children) entered OOHC within 90 days of exiting the program.

Appendix F Targeted Earlier Intervention

Under the Targeted Earlier Intervention Program (TEI), DCJ funds numerous NGOs to deliver voluntary services such as case management, family support and youth services across NSW. TEI offers two streams of services, the second of which is most relevant to children and families:

- Community Strengthening – supports clients to improve their knowledge of services in their local community and their ability to engage with these services including relevant education and skills training.
- Wellbeing and Safety – supports parents and families to improve their knowledge, skills through supported playgroups, parenting programs, family capacity building and counselling services. Counselling services support clients to improve their mental health, empower clients and build their capacity to deal with challenges they face.

When it commenced on 1 July 2020, TEI brought together 5 existing separate programs. In a break with past practice, DCJ required TEI providers to collect and report demographic and performance information about their clients, activities and outcomes. DCJ has published some of this data in two annual reports[214] on TEI and in a web-based dashboard.[215]

As TEI's first annual report (2020-21) makes clear, the program is not solely for children but "delivers flexible support to them and "young people, families and communities experiencing, or at risk of, vulnerability." Nonetheless, TEI has a particular emphasis on children because "it seeks to minimise harm through preventing risks associated with child abuse and neglect from escalating and ensure issues are addressed early."[216]

TEI defines client outcomes as "the changes that occur for clients and communities as a result of service delivery. These can be changes in skills, knowledge, attitude, values, behaviours or circumstances". There are 9 "high level outcomes [aligned to the NSW Human Services Outcomes Framework] that capture what [TEI] aims to achieve".[217]

[214] Although the TEI program began on 1 July 2020, mandatory data collection began from 1 January 2021, mainly because of effects of COVID-19. Targeted Earlier Intervention Program 2020-21 NSW Annual Report | Family & Community Services p9

[215] TEI Interactive Dashboard 2021-22 | Tableau Public

[216] Department of Communities and Justice, Targeted Earlier Intervention Program NSW Annual Report 2021-22 TEI 2021-22 NSW Annual Report | Family & Community Services

[217] Department of Communities and Justice. Targeted Earlier Intervention Program Outcomes Framework. November 2019. DCJ TEI Program Outcomes Framework | Family & Community Services (nsw.gov.au) p3

Appendix G Glossary of terms

Term	Definition
Abuse	Abuse can refer to different types of maltreatment, including physical and sexual assault.
AbSec	The NSW Child, Family and Community Peak Aboriginal Corporation known as AbSec is the peak organisation for Aboriginal children and families in NSW. AbSec is a not-for-profit organisation which aims to empower Aboriginal children and families impacted by the child protection system and support Aboriginal community-controlled organisations in the child and family sector.[218]
Aboriginal Legal Service (ALS)	The Aboriginal Legal Service delivers culturally appropriate community legal services for Aboriginal and Torres Strait Islander people throughout NSW and the ACT.[219]
Alternative Care Arrangement	Emergency and temporary fee for service arrangements for children in OOHC when no alternative placement can be made. ACAs are usually in hotels, motels or temporary accommodation. The government's position is that ACAs are the least preferred High-Cost Emergency Arrangements (HCEAs).
Australian Institute for Health and Welfare (AIHW)	An independent statutory Australian Government agency working with health and welfare data. The role of the AIHW is to provide meaningful information and statistics for the benefit of the Australian people.[220]
Australian Bureau of Statistics (ABS)	The central statistical authority for the Australian Government and, by legal arrangements, provider of statistical services to Australian State and Territory Governments.[221]
Care Act	*Children and Young Persons (Care and Protection) Act 1998*
Care responsibility	Under section 3 of the Care Act, care responsibility means the authority to exercise the functions specified in section 157 of the Care Act.
Child/children	Section 3 of the Care Act defines a child as a person who is under the age of 16 years and a young person as a person who is aged 16 years or above but who is under the age of 18 years. In this report, unless otherwise stated, the terms 'child' and 'children' includes young people.
Child Protection Helpline	Operated by DCJ, the Helpline provides a centralised system for receiving reports about children who may be a risk of significant harm.
Community Services Centre (CSC)	DCJ locally based community services offices. There are approximately 80 CSCs across NSW.

[218] Who we are - AbSec | NSW Child, Family and Community Peak Aboriginal Corporation

[219] Aboriginal Legal Service (NSW/ACT) Limited (alsnswact.org.au)

[220] Australian Institute of Health and Welfare website accessed 7 September 2023 at Our role & strategic goals – Australian Institute of Health and Welfare (aihw.gov.au)

[221] Australian Bureau of Statistics. See Australian Bureau of Statistics (abs.gov.au)

CS CRAMA	*Community Services (Complaints, Reviews and Monitoring) Act 1993* (NSW).
Department of Communities and Justice NSW (DCJ)	The lead agency in the NSW Government Communities and Justice portfolio, which aims to create safe, just, inclusive and resilient communities through its services.[222] DCJ is the statutory child protection agency in NSW.
District	A geographical area defined by FACS (now referred to as the Department of Communities and Justice (DCJ) to administer and enable more localised planning and decision-making and improve links between senior service delivery management and frontline staff. Each district is designed to better reflect local needs. FACS districts are led by seven Executive District Directors who are responsible for the delivery of FACS services across Community Services and Housing. The district boundaries are aligned to the 15 Local Health Districts.
Department of Education NSW (DoE)	The department responsible for the delivery and co-ordination of early childhood, primary school, secondary school, vocational education, adult, migrant and higher education in New South Wales.
Department of Family and Community Services NSW (FACS)	A former department which, together with the former Department of Justice, now constitutes DCJ.
Intensive Therapeutic Care (ITC)	ITC is for children and young people over 12 years with complex needs who are either unable to be supported in foster care or require specialised and intensive supports to maintain stability in their care arrangements. ITC was designed to replace residential care in NSW and to help children recover from abuse and trauma. Accommodation is in a home like environment provided by PSP funded providers. There are several types of ITC – Intensive Therapeutic Transitional Care (ITTC), Intensive Therapeutic Care Home (ITCH), Intensive Therapeutic Care – Significant Disability (ITC- SD).
Interim Care Model (ICM)	A short-term group home accommodation placement for children with low or medium needs at risk of entry into other forms of emergency care (Alternative Care Arrangement or Individual Placement Agreements). Provided and staffed by accredited OOHC and PSP providers.

[222] NSW Government, Communities and Justice (Web page) https://www.dcj.nsw.gov.au/about-us/who-we-are-and-what-we-do/about-dcj.html

Joint Child Protection Response Program (JCPRP)	The JCPRP is a tri-agency program delivered by DCJ, the NSW Police Force (NSWPF) and NSW Health. The program operates statewide and provides a comprehensive and coordinated safety, criminal justice and health response to children and young people alleged to have experienced sexual abuse, serious physical abuse and serious neglect. Reports are transferred from the Helpline to the single-entry point for the JCPRP – the Joint Referral Unit (JRU) which determines eligibility.[223]
Ministry of Health NSW (Ministry)	The Ministry supports the Secretary, the NSW Minister for Health and Minister for Regional Health, Minister for Mental Health and Minister for Medical Research to perform their executive government and statutory functions. The Ministry is also the system manager for the NSW public health system and consists of ministry branches, centres and offices.[224]
NAPLAN	The National Assessment Program – Literacy and Numeracy (NAPLAN) is an annual assessment for students in Years 3, 5, 7 and 9. It is a nationwide measure.
NGO	Non-Government Organisation
Out-of-home care (OOHC)	The Care Act provides for 2 types[225] of out-of-home care: Statutory out-of-home care (statutory OOHC), which requires a Children's Court care order Supported out-of-home care (supported OOHC) which provides either temporary or longer-term support for a range of other care arrangements made, provided or supported by DCJ without the need for a care order.[226] A prerequisite common to both types is that a child must be considered to be in need of care and protection.
OOHC Education Pathway	The OOHC Education Pathway[227] is an agreement between DCJ and the three major education sectors in NSW (Government, Catholic and Independent) on how pre-school and school aged children and young people in statutory OOHC will be supported at school. This pathway is designed to support children and young people regardless of who they are case managed by (Funded Service Provider or DCJ) and school they attend (Government or Private).

[223] The Joint Child Protection Response Program (JCPRP) | Communities and Justice (nsw.gov.au)

[224] NSW Health website, accessed 7 September 2023 at Our structure - Ministry of Health (nsw.gov.au)

[225] Specialised substitute residential care (formerly known as voluntary OOHC) is not included here.

[226] Care Act s 135. DCJ website notes supported OOHC applies to Family Court orders 'only when DCJ has been involved in the court process', to arrangements of less than 21 days without a care order and for temporary care arrangements (s 151) made with parental consent. It also notes, 'Some children and young people are in supported out-of-home care with no Court order. These care arrangements are historic and is no longer possible for children to enter supported OOHC without a Court Order.' Types of care - Permanency Support Program | Caring for Children (nsw.gov.au)

[227] OOHC Education Pathway - A guide for caseworkers | Communities and Justice (nsw.gov.au)

OOHC Health Pathway	The OOHC Health Pathway[228] is a joint initiative of the Department of Communities and Justice (DCJ) and NSW Health aimed at ensuring that every child or young person entering statutory out-of-home care (OOHC) receives timely and appropriate health, assessment, planning, services and ongoing review of their health needs.
Parental responsibility	Section 3 of the Care Act defines parental responsibility in relation to a child or young person to mean all the duties, powers, responsibilities and authority which, by law, parents have in relation to their children.[229]
Permanency goal	Every child in statutory OOHC is expected to have a permanency goal to either exit OOHC through restoration, guardianship or adoption, or to remain in the long-term care of the Minister.[230] [231]
Permanency Support Program (PSP)	DCJ funds OOHC providers to provide tailored placement and support to children in OOHC under the Permanency Support Program.[232] The PSP brings together government and non-government out-of-home care providers to support safety, wellbeing and positive life outcomes for children and young people in the child protection and OOHC systems in NSW.
Population rates	Incidence expressed as a proportion per 1,000 children in the population of children 0-17 years in NSW for a year or specified period.
Residential care	Residential care is a group home-based form of OOHC for children. Under the PSP, the Intensive Therapeutic Care model was designed to replace "legacy" residential care across NSW.
ROSH (and non-ROSH)	A ROSH report refers to a report made for a child that is assessed as meeting the statutory threshold for 'risk of significant harm'. A non-ROSH report refers to a report made for a child that is not assessed as meeting the 'risk of significant harm' threshold. Section 23 of the Care Act defines the circumstances in which a child may be considered to be at risk of significant harm.
Safety in Care mandate	DCJ policy which applies to the allocation, assessment, review and monitoring of safety issues for a child under Parental Responsibility (PR) of the Minister or Care Responsibility of the Secretary, including those children case managed by a Non-Government Organisation (NGO).

[228] OOHC Health Pathway – a guide for caseworkers | Communities and Justice (nsw.gov.au)

[229] Care Act

[230] TAB-D-Appendix-3-Service-Overview-Foster-Care.PDF (squiz.cloud)

[231] Paths to Permanency Overview | Communities and Justice (nsw.gov.au)

[232] What is the Permanency Support Program? | Communities and Justice (nsw.gov.au)

Structured Decision Making	The Structured Decision Making® (SDM) model is a suite of decision-support tools that promote safety and well-being for children.[233]
Substantiation of risk or harm	As defined by the AIHW, substantiations are notifications where an investigation has concluded there was reasonable cause to believe the child had been, was being, or was likely to be, abused, neglected or otherwise harmed. Substantiations might also include cases where there is no suitable caregiver, such as children who have been abandoned or whose parents are deceased.[234]
Triage and Assessment	Once ROSH reports are transferred from the Helpline to local DCJ offices (CSCs), the triaging process aims to prioritise and decide which families receive assessment and support. Reports are reviewed regularly over a 28-day period to allocate, transfer, refer or close. After 28 days, if a report cannot be allocated or referred it is closed.

[233] Structured Decision Making® (SDM) Model - Evident Change

[234] AIHW 2019a, Australia's children, Child abuse and neglect - Australian Institute of Health and Welfare (aihw.gov.au)