

Report under Section 13  
of the *Community Services  
(Complaints, Reviews and  
Monitoring) Act 1993*

Review of children on statutory care orders with a view to restoration

April 2011

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# Executive Summary

## Introduction

Under section 13 of the *Community Services (Complaints, Reviews and Monitoring) Act 1993*, the Ombudsman may review the circumstances of a child or group of children in care. In doing so, we look at the welfare, progress and the circumstances of the child the subject of review.

This report details the observations, findings and recommendations arising from our review of a group of children on statutory care orders with a view to restoration.

## Background to the review

The NSW *Children and Young Persons (Care and Protection) Act 1998* places emphasis on permanency planning for children who are removed from their family of origin and placed in out of home care because of child protection concerns.

Research shows that multiple placements, including failed restorations to family of origin, may harm children's emotional, psychological and social development.<sup>1</sup> The aim of permanency planning is to minimise the risk of multiple placements for children who have been placed in care.

Permanency planning requires timely decisions to be made about how the need for a permanent and stable home will be met for each child placed in care. Decisions must be made about whether it is realistically possible to restore the child to the care of their parent(s) or whether alternative long term care arrangements need to be found.

In 2005, as part of its reform agenda, Community Services commenced a permanency planning project with the objective of achieving a consistent approach to permanency planning across New South Wales. In 2008, the agency released its permanency planning guidelines. For children under two years of age the decision about whether restoration is a realistic possibility must not take longer than six months. For all other children it should not take longer than 12 months.

In most instances where the permanency plan for a child is restoration, the Children's Court will make a short term order, generally of two years duration. Data published by the Australian Institute of Health and Welfare indicates that in 2008/09, 1406 children in NSW were discharged from orders that were of two years or less duration. However, there is no readily available information on the outcome of these orders. For example, data on the number of applications for variation of orders following failure to successfully restore children is not published.

The issue of restoration was canvassed by the Special Commission of Inquiry into Child Protection Services in NSW.<sup>2</sup> The Inquiry identified some concerns about the adequacy of the assessments undertaken by Community Services before returning children to the parents from whom they were removed. The Inquiry also raised questions about whether restoration plans were being adequately supported by caseworkers. Separately, questions about the adequacy of support provided to families before and after children are restored have been raised by research.<sup>3</sup>

More recently, given the substantial increase in the number of children entering care,<sup>4</sup> the Government commissioned the Boston Consulting Group (BCG) to identify the causes of expenditure increases in the out of home care program in NSW and to identify measures to address these. To reduce the number of children entering and remaining in long term care, the BCG report recommended a number of strategies including a

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<sup>1</sup> Defabro and Jeffreys (2007) *Certainty for Children in Care: Children with multiple care and protection orders*. South Australian Department of Families and Communities Research Report, July 2007

<sup>2</sup> Special Commission of Inquiry into Child Protection Services in NSW (2008), p 290

<sup>3</sup> Defabro and Fernandez "Family Reunification or Restoration in Australian Out of Home Care: Conceptual and methodological issues" presented at *Building a Child Friendly Australia: Responding to Vulnerable Families*, Association of Children's Welfare Agencies Conference 2-4 August 2010

<sup>4</sup> At 30 June 2010 there were 17 400 children in out-of-home care in NSW (Department of Human Services- Community Services (2010), *Community Services Quarterly Data June 2009- June 2010*, accessed [http://www.community.nsw.gov.au/docswr/\\_assets/main/documents/docs\\_data/quarterlyjun09\\_jun10.pdf](http://www.community.nsw.gov.au/docswr/_assets/main/documents/docs_data/quarterlyjun09_jun10.pdf), p 11)

greater focus on restoration and family preservation when children first enter care.<sup>5</sup> This recommendation has been accepted by government.

A focus on restoration is consistent with the principles of the NSW care and protection legislation. However, to ensure good outcomes for children, restoration casework must not only be informed by a good understanding of permanency planning principles. A child focus, effective assessment, provision of appropriate services before and after restoration, regular review, maintenance of significant relationships and open and honest communication must also be in place.

Against this background, in 2010 we determined that it was timely to initiate a review of a group of children on short term care orders. The purpose of the review was to examine the adequacy of restoration planning and support being provided to children and their families.

## Methodology

The scope of our individual reviews included children in out of home care who, as a result of final orders made in the Children's Court, had short term care orders with a view to restoration to their parent(s).

In March 2010, we advised Community Services of our decision to initiate the review. Pursuant to section 18(1) of the *Ombudsman Act 1974*, we requested Community Services provide us with a list of children the subject of final care orders allocating all or aspects of parental responsibility to the Minister for Community Services where:

- the care order was dated between 1 September 2008 and 31 March 2009;
- the order was of approximately two years duration; and
- the child was aged 13 years of age or less when the care order was made.

In April 2010, Community Services provided data available from the agency's Corporate Information Warehouse for 203 children subject to final care orders and meeting the above criteria, together with information identifying the Community Services Centre (CSC) with case management responsibility for each child and, where Community Services was not the designated agency, the name of the designated agency supervising the placement of each child.

From the original sample group of 203 children, we selected a group of children for review. Where a child had entered care at a similar time to their sibling(s) and shared the same care orders, we also reviewed the sibling(s) circumstances. Altogether, we reviewed the circumstances of 63 children. The children were case managed by 29 CSCs across the state. At the time of review, the children were placed in either foster or relative/kinship care or had been restored to their parent(s).

Individual reviews of each of the 63 children were conducted approximately three to five months before the child's care order was due to expire. This timeframe provided a reasonable measure for the evaluation of the adequacy of restoration planning and support. The individual reviews were informed by an examination of the child's Community Services file and interviews with caseworkers and/or casework managers, carers, and other relevant service providers.

We informed Community Services and, where relevant, non government designated agencies, of the results of each individual review. Where the review identified concerns about restoration planning and support or other relevant issues for the child, we required Community Services to provide, pursuant to section 18(1) of the *Ombudsman Act*, additional information and/or advice on any action proposed or taken to address our concerns. We requested additional information and/or advice for 29 children.

In addition to the individual reviews, we consulted managers at the 29 CSCs that had case management responsibility for the children. We asked managers about the arrangements in place at the CSCs to manage restoration cases before and after children return home; the range of services available to support restoration; the involvement of other agencies in the restoration process; and the challenges Community Services staff face in performing this area of work.

We also consulted with the NSW Children's Court and the NSW Children's Guardian about the reviews.

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<sup>5</sup> The Boston Consulting Group (2009), *NSW Government Out of Home Care Review*, accessed [http://www.community.nsw.gov.au/docswr/\\_assets/main/documents/bcg\\_report.pdf](http://www.community.nsw.gov.au/docswr/_assets/main/documents/bcg_report.pdf)

## Key findings and observations

The following key findings and observations are based on the results of our review of 63 children who were the subject of a care order with a restoration care plan and consultations with the managers of the 29 Community Service Centres (CSCs) with case management responsibility for those children.

### Care proceedings and care planning

Mostly, Community Services actions to commence care proceedings were timely and final orders were made within, or close to, the time standards set by the Children's Court. However, final Children's Court orders for almost one-third of the children were not consistent with Community Services' proposed permanency plan and/or with other professional assessments and recommendations about the realistic possibility of restoration.

All care plans that we reviewed outlined what was required of parents before restoration could occur, although the level of detail about what parents needed to achieve varied significantly between cases. Some care plans did not address important issues such as how implementation of the case plan would resolve safety issues for the child, how the child's needs would be addressed or what services and supports would be required to support restoration.

Care plans rarely detailed how improvement to parenting capacity or to the safety for a child as a result of the parent(s) completing the requirements for restoration would be assessed, or who would make the assessment. Few care plans required the parent(s) to undergo an assessment of their parenting capacity once they had completed the required tasks, or to provide a report from a relevant service provider on the changes they had made. Few care plans outlined what supports should be in place after the child had gone home.

For the majority of children, the requirements for restoration were reinforced through Children's Court orders accepting undertakings from a parent. In contrast, less than a third were subject to orders for supervision on expiry of the care order. In our consultation with the Children's Court in relation to our review, Judge Marien commented that most short term care orders involving restoration are for a period of two years or less and that under section 76 of the Act, the maximum period of a supervision order is 12 months. He also noted that the order may be extended for a further 12 months; however, this can only occur while the case is still before the court and prior to the court making final orders. Judge Marien suggested that the Minister should consider amending section 76 of the Act to provide for longer supervision orders.

### Case management and casework arrangements

Various arrangements were in place across CSCs to manage restoration cases including management by child protection teams; quarantining one or more caseworkers within the child protection team to take carriage of restoration cases; having stand alone restoration teams in place; management by out of home care teams; and sharing restoration cases between out of home care and child protection teams.

Managers of CSCs with restoration teams or quarantined restoration caseworkers were generally positive about their CSC's capacity to undertake an appropriate level of casework to support restoration.

Managers of child protection and out of home care teams without quarantined restorations caseworkers identified some challenges managing restoration cases, including that it is difficult to keep restoration cases allocated and ensure that, while allocated, they receive the level of casework required.

The majority of managers we interviewed (69%) told us that they thought the training provided to caseworkers to undertake restoration casework was inadequate and observed that many caseworkers do not possess the necessary skills nor have the experience to undertake effective restoration casework.

The majority of children (56; 89%) had a Community Services caseworker at the time of review. For most of these children, their file had been allocated continuously since final care orders. Most children had also experienced caseworker consistency.

For 27 of the 63 children (43%), we found that casework was on the whole effective to support the goal of restoration and monitor parent(s) progress to achieve restoration requirements. In some cases, this meant that restoration did not proceed.

However, for more than half of the children (36; 57%) we identified various issues with the adequacy of casework:

- Restoration casework was inconsistent for 26 children. For some of these children, we found that certain areas of case practice were adequate and other areas were inadequate to address the needs of the child and family. For others, casework was adequate at some times and not at other times.

- For ten children, restoration casework was inadequate overall.<sup>6</sup>
- Casework for 14 of the 16 Aboriginal children in the group was either inconsistent (10 children) or inadequate overall (4 children).

Community Services had not held regular case reviews for 19 children and had not conducted placement reviews required by legislation and policy for 18 children. Inadequate case review meant that for some children, case plans were not current, court undertakings and other requirements for restoration were poorly monitored and parent(s) progress was inadequately assessed.

Inadequate arrangements to transfer cases between CSCs when children or families moved impacted on the adequacy of casework for ten children (16%). These children had moved out of the supervising CSC's area between three months and two years prior to our review. Managing out-of-area cases created difficulties for the children, their parents and carers, and the supervising CSCs.

### Sibling safety

We reviewed children from 35 families. For six of these families, a child was born either during or after the finalisation of the court proceedings relating to their sibling(s).

In three of these cases, we assessed the casework that was provided to siblings born while care proceedings were underway, or when a short term order was in place, to be adequate. In two of these cases, Community Services made effective use of section 106 A of the *Children and Young Persons (Care and Protection) Act*, which allows for a care application for a child on the basis of evidence about prior orders in relation to a sibling. In three of the six cases, we assessed the casework to address sibling safety issues to be inadequate.

### Providing appropriate services and supports to achieve restoration

The majority of managers told us that there are adequate/good services available in their area to support restoration. Generally, those CSCs that had access to Intensive Family Based Services (IFBS), family preservation services, specialist child protection services or specialist health services, were most positive about the service arrangements.

One third of the managers said that in cases involving a plan for restoration, more and/or better services are needed. They said that services available in their area are either inadequate or there are some good services but a lack of others.

- Service gaps identified by managers included that parents may be excluded from parenting programs while their child is not in their care; drug and alcohol services could be more child-focussed; and more 'in-home' services are required.
- A number said that there needs to be more services available that are less intensive than IFBS services but more intensive than family support services.
- Some managers' comments echo research findings about the effectiveness of parenting programs where child protection concerns exist and attendance is not voluntary. Much of the research around the effectiveness of parenting programs has centred on outcomes for parents who attend voluntarily. The dynamics are different, however, for parents who are required to attend as a condition of a restoration plan or court order.

The care plans for all of the children we reviewed outlined the requirements of parents for restoration to proceed. For a little more than half of the children we reviewed (35; 56%), we found that the services needed for parents to complete the requirements for restoration, were arranged and provided. The care plans for most of these children identified the particular services that were required, how they would be arranged and who would provide them.

However, for 28 children (44%), the services needed for parents to complete the requirements for restoration were either not provided or were not fully provided. For some of the children, the care plan did not outline the particular services that would be required or who would arrange and provide them.

- The reasons that services were not provided included the child's parent(s) not accepting a referral or not engaging with the service; Community Services not making a referral or not making alternate arrangements where the service was not available; and the service being unavailable.
- Restoration proceeded for 14 children even though the required services had either not been provided or were not fully provided. For two siblings, the restoration subsequently failed.

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<sup>6</sup> See page 17 for a list of the benchmarks used to assess adequacy of casework

## Monitoring the minimum outcomes for restoration to proceed

At the time of our review, over half of the children in the group (35; 56%) had been restored. This included three children who Community Services had left in the care of parent(s) during and following care proceedings. We found that most of the children were restored once their parents had met the minimum requirements for restoration to proceed. These children and their families generally received adequate casework prior to restoration.

However, 13 of the 35 children were restored to their parent(s) before the conditions for restoration were fully met. Casework to inform the restoration decision for these children was variable. Poor casework included inadequate case review, inadequate documentation of the decision to restore the child and inadequate or no parenting capacity assessment to inform the restoration decision.

The majority of the managers we spoke to said that they provide ongoing support to families once a child is restored. Nine managers said that competing priorities and caseworker availability may result in a failure to provide the level of support required by a family who has a child restored to their care.

We found that more than half of the 35 children who were restored at the time of our reviews received adequate monitoring and review of their circumstances following restoration.

In contrast, 15 of the 35 children had not received adequate monitoring.<sup>7</sup> This included eight children who were restored before the conditions for restoration were fully met. Eleven of the 15 children did not have a current case plan at the time of our review.

- Eleven CSCs were responsible for supervision of the children who were not adequately monitored following their restoration. Three of these CSCs told us that children who are restored do not automatically have a caseworker allocated to monitor their circumstances following restoration. Another two said staffing issues often prevented restoration cases being allocated. In some instances, we were told monitoring visits had occurred but had not been recorded.
- Failure to transfer the files of children who moved to another area, failure to provide a casework service even when files were allocated, and failure to reallocate files when caseworkers moved were also factors that impacted on the adequacy of review and support of children who had been restored.

Supports identified in case plans were in place for 18 of the children who were restored. For the other 17 children, some or all of the services necessary to support restoration were not in place. In some instances, this was because services were not available or there were waiting lists for the required services. In others, it was because the family was not receiving active casework.

## Children for whom restoration was no longer the case plan

Twenty eight of the 63 children (44%) had not been returned to the care of a parent at the time of our review.

Restoration was no longer the case plan goal for 18 of these 28 children. Community Services had applied to vary or rescind the orders for 12 of the 18 children and intended to do so for another six.

Community Services' decisions and actions to return the matters to the Children's Court to vary the nature of the orders were not timely for seven of the 18 children. Various factors contributed to delayed decision making, including differing views within a CSC about whether parents had been given sufficient time to meet the conditions for restoration; competing casework priorities; inadequate case supervision; and delayed case review.

Community Services was still working towards restoration for three children. For the remaining seven children, Community Services was either reviewing the possibility of restoration or was yet to consider permanency options.

## Attention to the needs of the child

Contrary to Community Services' policy that requires all children and young people entering out of home care to undergo a comprehensive health assessment shortly after they enter care more than one third of the children we reviewed (22; 35%) had either not undergone a health assessment since entering care (18; 29%) or we were unable to establish whether an assessment had been conducted (4; 6%).

This is particularly concerning given that all of the children we reviewed had been in statutory care for at least 18 months.

As with past reviews, we experienced some difficulties establishing whether children had received appropriate health screening on their entry into care. Although 41 children (65%) had reportedly received a comprehensive health assessment since entering care, there was no record of a health assessment for a quarter of these children.

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<sup>7</sup> See page 29 for the benchmarks used to assess the adequacy of monitoring

We found that health assessments were less likely to occur in regional areas. Despite current policy, some managers told us that health assessments are arranged only where a need is identified. Lack of services and competing priorities were identified as reasons for some of the children we reviewed not receiving a health assessment.

Twenty eight of the 41 children who received a health assessment after entering care were identified with health and/or developmental issues that required attention. At the time of our review, only 18 of the 28 children had or were receiving recommended services.

Thirty one of the children we reviewed were school aged. Consistent with research findings, over two thirds (22; 70%) of these children were identified with current or previous needs in relation to their educational progress, mostly learning difficulties.

- We found that half (11) of the school aged children with identified needs in relation to their educational progress had received, or were receiving, support to address their needs.
- Four children were not receiving the support they required; the caseworkers for another three children said the children did not have a current need for support.
- Due to a lack of casework, we could not establish whether the other four children had received the support they required.

## Conclusions

Our review has highlighted inconsistencies in the level and quality of casework support provided by Community Services to children on short term orders for whom family reunification is considered a realistic possibility.

While we found that many children on short term orders are benefiting from effective casework and the application of the permanency planning principles, many are not.

Our reviews of individual children have highlighted that some children are being returned to parents from whom they were removed without adequate assessment, and that for others, there have been significant delays in returning children's matters to the Children's Court where restoration is clearly no longer a viable option. Furthermore, the level of support provided to some families before and after restoration was inadequate.

For just under a sixth of the children in our sample group, we found that the overall level of casework they received was inadequate.<sup>8</sup> Given the known importance of permanency planning and support for children's long term well being, this level of inadequate casework is of concern.

The review highlights practice areas that, in our view, warrant improvement.

Many of these areas are similar to the areas identified as warranting improvement through our previous reviews of children and young people in out of home care.<sup>9</sup> For many children, placement reviews, case transfer, completion of case reviews, record keeping, and identification of their health and developmental needs when they entered care, did not occur in accordance with the agency's practice requirements.

In our consultation with the Children's Guardian, she advised us that her office's work in relation to Community Services' and its accreditation and audit processes has a focus on the practice issues identified in our review. The Guardian will keep this office informed regarding Community Services' out-of-home care practice improvement insofar as it relates to:

- case reviews;
- placement reviews;
- case transfer;
- record keeping; and
- identifying and responding to health and developmental needs.

## Community services' response to the draft report

In response to a draft report we issued on this matter, Community Services provided information on two projects it has underway that are relevant to its provision of services to children and families where the case plan is restoration.

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<sup>8</sup> Ibid footnotes 6 and 7

<sup>9</sup> Review of very young children in out of home care (2007); Group Review Report: Children aged 10-14 (2008); Review of the planning and support provided by Community Services to a group of young people leaving statutory care (2009)



The first project involves a pilot project running out of five Community Service Centres.<sup>10</sup> According to the agency, the project 'originated from the Boston Consulting Group out of home care review'. The aim of the project is to enhance the agency's focus 'on more timely work with families, including collaboration with relevant non government and community partners to keep children, where it is safe and appropriate, with their families or restore them to their immediate or extended families after a period of intensive intervention' through the use of dedicated and trained family preservation and restoration teams.

The pilot provides for the provision of monies to allow staff in the pilot CSCs to purchase 'non government services in each of the five pilot sites to conduct preservation and restoration casework based on a similar model to the Homebuilders model of intensive casework to families.' Staff involved in the pilot will have access to structured decision making tools to assist them 'develop competencies in preservation/restoration casework practice and the preparation of care plans'.

The project will be subject to an external evaluation over two years.

In response to our draft report, Community Services also provided an overview of its general accreditation project which is aimed at improving its practice and obtaining certification from the Children's Guardian that it is meeting the out of home care standards.

In responding to a recommendation in our draft report that Community Services should ensure that its staff have key competencies to undertake restoration work, Community Services said that it agrees that 'a review of all relevant policy, procedure and guidance is needed, to support sound restoration practice'. The agency advised that it intends to update its out of home care policies and procedures 'in line with' the outcomes of its general accreditation project and the restoration/preservation project.

In our draft report we also recommended that in light of the comments made by Judge Marien (page iv), Community Services should refer His Honour's comments to the relevant Minister to consider whether an amendment to section 76 of the *Children and Young Persons (Care and Protection) Act 1998* is warranted.

In response to this recommendation, Community Services advised that its Legislative Review Unit is currently considering the matter.

## Recommendations

Taking into account Community Services' response to our draft report, I now recommend:

1. Community Services' review of its restoration practice should ensure the advice/guidelines and training available to caseworkers ensures that relevant staff have key competencies to:
  - a. Prepare care plans where the goal is restoration that:
    - i. include minimum outcomes that are appropriate to the child's circumstances and needs and address the issues that led to the child entering care;
    - ii. detail the services and supports required to support restoration;
    - iii. specify how the changes required of parents will be assessed.
  - b. Adequately present to the Children's Court the rationale for the permanency plan.
  - c. Know when it is appropriate to seek supervision orders following care orders.
  - d. Know when it is appropriate to include what supports are required, not just to facilitate the child going home but also after the child has gone home.
2. By 30 June 2012, Community Services should:
  - a. Provide this office with a progress report on its Restoration/Preservation and Family Supervision project.
  - b. Advise this office of the agency's progress to review the restoration advice/guidelines and training available to caseworkers and other relevant staff.
3. By 30 July 2011, Community Services should advise this office of the outcome of the agency's Legislative Review Unit's consideration of whether an amendment to section 76 of the *Children and Young Persons (Care and Protection) Act 1998* is warranted.

Steve Kinmond

**Deputy Ombudsman**

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<sup>10</sup> The agency referred to this as the Short Term Court Order, Restoration/Preservation and Family Supervision project'.

# 1. LEGISLATION, POLICY AND PRACTICE

Under the *Children and Young Persons (Care and Protection) Act 1998*, Community Services is required to develop a care plan for any child removed from the care of their parents.<sup>11</sup>

The plan must aim to provide a child with a stable placement that offers long term security. At the outset, Community Services is required to make an assessment about whether there is a realistic possibility of the child or young person being restored to their parent(s).

If the Director General of Community Services assesses that there is a realistic possibility of restoration, the agency is to prepare a permanency plan involving restoration and submit the plan to the Children's Court for consideration. The plan must include a description of the minimum outcomes that the parent(s) must achieve before it would be safe for the child to return to the care of their parent(s). The plan must also detail the services to be provided to the child and their family in order to facilitate restoration; other services the Children's Court could request agencies to provide in order to facilitate restoration; and the length of time which restoration should be actively pursued.

Section 85A of the Act provides for timeframes for review of permanency plans involving restoration. Under section 90, the Act also provides for an application for the rescission or variation of a care order to be made with the leave of the Children's Court in the event of Community Services assessing that restoration is no longer a viable option for a child.

The *NSW Standards for Statutory Out of Home Care* is used by the NSW Children's Guardian for the assessment and quality improvement of statutory out of home care services in NSW. The standards provide minimum requirements for the care and wellbeing of children and young people in statutory care and for the casework practice and support they are to receive.

Community Services' permanency planning policy includes a restoration decision-making guide to assist caseworkers in their assessment of whether restoration is a possibility, and in the development of a permanency plan. More recently, the agency has developed a parental drug testing policy. This requires abstinence over a period of three months for restoration to proceed.

In 2009, Community Services developed best practice standards. These require case planning to achieve safe, appropriate and permanent outcomes for children and young people. The standards require that the provision of support and progress towards achieving goals for children be monitored through communication with stakeholders and ongoing case review.

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<sup>11</sup> Excluding circumstances where Community Services has applied for an emergency protection order.

## 2. THE CIRCUMSTANCES OF THE CHILDREN WE REVIEWED

The following provides a brief overview of the characteristics and circumstances of the 63 children we reviewed.

### Age and gender

At the time of review, the children were aged between one and fifteen years. Thirty four children (54%) were aged five years or under; 26 children (41%) were aged six to 12 years; and three children (5%) were more than 12 years of age.

Thirty four (54%) of the children were male and 29 (46%) were female.

### Cultural background

Sixteen (26%) of the children were Aboriginal. Four children (6%) were from culturally and linguistically diverse backgrounds.

### Location

We reviewed children living in both metropolitan and regional NSW. At the time of review, 24 children (38%) were living in the Sydney metropolitan area and 38 children (60%) were living in regional areas. One child had moved interstate but was still case managed by Community Services.

### Family characteristics

Some of the children we reviewed were siblings who had entered care at or around the same time. Altogether, we reviewed children from 35 families.

Domestic violence, parental substance misuse and parental mental health/emotional problems were common features in many of the families. Frequently, these issues existed in combination with each other and alongside other problems.

- In 32 of the 35 families (91%) at least one parent/carer had a substance misuse problem, including ten mothers who had misused substances during pregnancy. In 15 families, both the mother and father had problems with substance misuse.
- In 25 families (71%) at least one parent had a mental health/emotional problem. In five families, both the mother and father had mental health/emotional problems.
- In most families (31; 86%) parents had multiple problems. There was a co-occurrence of parental substance misuse and mental health/emotional problems in 23 families (64%).
- Eleven families (31%) had financial difficulties, almost always in combination with substance misuse and/or mental health/emotional problems.
- Four families (11%) experienced accommodation instability or homelessness.
- One parent had cognitive impairment; this parent also had a history of substance misuse.

The primary reported issue that led to the children entering care included:

- Domestic violence (19; 30%)
- Neglect (18; 28%)
- Physical abuse/ risk of physical abuse (9; 14%)
- Maternal drug use (8; 13%)
- Other issues such serious psychological harm; requests from parents; prior child protection history for siblings; the child's behaviour; and the mother failing to engage with services following prenatal reports (9; 14%).

Nineteen of the 63 children (30%) had been in care at least once in the past. In the main, prior care episodes involved temporary or voluntary care placements. Two children (siblings) had been previously in care subject to final orders allocating parental responsibility to the Minister.

## Placement at the time of review

### Children restored

At the time of review, 35 children (56%) were restored, including three children who Community Services had left in the care of parent(s) during and following care proceedings. Mostly, restoration was carried out in accordance with the child's care plan; however, four children returned to the care of a parent prematurely and in an unplanned way, either because the child self-restored or because their out-of-home care placement had broken down.

Of the 35 children who were living with a parent at the time of review, 14 were living with their mother; 10 were living with their father; four were living with their mother and father; six were living with their mother and her partner; and one child was living with their father and his partner.

### Length of time taken to restore children

The majority of the 35 children who were restored (22; 63%), had returned home within six months of final care orders being issued.

- Three children were never removed from their parent(s) care.
- Two children were returned to their parent(s) before final care orders were issued.
- Seventeen children were restored within six months of final care orders.
- Six children were restored 6 to 12 months after final care orders.
- Seven children were restored more than 12 months after final care orders.

The earliest restoration occurred six months before care proceedings were completed. The longest time taken to restore a child was almost 20 months after final care orders.

### Children still in out-of-home care placements

Twenty eight of the 63 children (44%) had not been returned to the care of a parent at the time we reviewed their circumstances. These children were placed either with relative carers or in foster care. For three of the children, restoration had been attempted but failed.

Twenty of the 28 children were placed with relative carers, including grandparents, aunts and uncles. All relative placements were supervised by Community Services.

Eight children were placed in foster care; three of these children were in high cost placements supervised by a non-government agency and five children were in placements supervised by Community Services.

Community Services was still working towards restoration for three of the 28 children who had not returned home at the time of review.

The case plan had changed for 18 children and restoration was no longer the goal. Community Services had applied to the Children's Court to vary the orders for 12 of the 18 children and had plans to apply to vary the orders for the other six children.

For seven children, Community Services was either reviewing the possibility of restoration or was yet to consider permanency options. The future care plan for these seven children was therefore unclear at the time of review.

## Placement stability

Most of the children (54; 86%) had stable placements while they were in care.

Nine children had experienced placement disruption. For four children, the disruption was associated with their challenging behaviour. The carer's personal circumstances were relevant to placement breakdown for one child. Placement disruption for three children involved failed attempts at restoration. Two siblings were removed from relative carers due to risk of harm in the placement.

## Placement of siblings

Where children had siblings who were also in care, for most families the siblings were all placed together (35 of 49; 71%). Six children were placed with some of their siblings while other siblings were in different placements. Eight children were not placed with any of their siblings who were in care.

Nine children had siblings who were not in care; five children had no siblings.

## 3. WHAT WE FOUND

For each child we reviewed, we examined casework and case management from the commencement of care proceedings until the present time.

Specifically, we examined the care planning undertaken while children's cases were before the Children's Court; case management after final care orders, including the provision of supports and services to achieve restoration and assessment and monitoring of progress towards restoration; support and monitoring after restoration; permanency planning for children whose case plan changed from restoration to long term care; and how each child's needs were addressed during the care period.

### 3.1 Care proceedings and care planning

#### 3.1.1 Practice requirements

Part 2 of chapter 5 of the *Children and Young Persons (Care and Protection) Act 1998* outlines requirements in relation to the development of care plans and permanency planning. The Act requires that case planning must assess whether there is a realistic possibility of restoration. Community Services' permanency planning policy requires that decisions regarding the possibility of restoration '*must not take longer than six months for children under two years of age, and not longer than 12 months for all other children and young persons*'.

Where restoration is considered a realistic possibility, a permanency plan involving restoration must be prepared. The Children's Court may direct Community Services to prepare a different permanency plan if it does not agree with their assessment.

Section 84 of the Act provides that permanency plans involving restoration must include minimum outcomes to be achieved prior to restoration; details of services Community Services will provide or arrange to be provided to facilitate restoration; details of other services the Children's Court could request to facilitate restoration; and the length of time during which restoration should be pursued.

The Children's Court may request a Children's Court Clinic assessment to provide an independent and expert opinion to assist with decision making.

Recognising the need for timely decision making, the Children's Court has set time standards in relation to care proceedings. Ninety percent of care cases are to be concluded with the making of final orders within nine months from commencement in the court and 100 per cent are to be concluded by final orders within 12 months.<sup>12</sup>

When making final orders, the Children's Court may also make an order requiring that the person responsible for the care of the child or young person sign undertakings which address requirements that are to be met to achieve restoration. In some cases, a final care order may be followed by an order for supervision for a period of up to 12 months to facilitate ongoing monitoring.

The Children's Court may also make an order under section 74 directing a person or organisation to provide support for a child or young person. A government agency or funded non-government agency requested by the Children's Court to provide services to the child or family is required under section 85 to use its best endeavours to provide those services.

#### 3.1.2 Findings and observations

##### Commencing care proceedings

For most of the children we reviewed, Community Services' actions to commence care proceedings were timely. In the main, the children we reviewed had been removed from their parent(s) care shortly before Community Services commenced care proceedings. Mostly, the agency lodged care applications within one week of the child being removed.

Only three children had been in care for extended periods prior to the care application. One infant had been in care under temporary care agreements for six months prior to Community Services initiating care proceedings. Two siblings were subject to previous care orders that were due to expire before restoration had been fully achieved.

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<sup>12</sup> Children's Court NSW, *Time Standards for Care Applications*.

[http://www.lawlink.nsw.gov.au/lawlink/local\\_courts/ll\\_localcourts.nsf/pages/lc\\_practice\\_collections](http://www.lawlink.nsw.gov.au/lawlink/local_courts/ll_localcourts.nsf/pages/lc_practice_collections)

## Time taken to finalise care proceedings

Mostly, care proceedings were finalised within, or close to, the time standards set by the Children's Court.

The duration of care proceedings, from the lodging of care application to the making of final orders, ranged from 44 to 560 days. The average duration was 187 days and the median was 142 days.

Care proceedings were finalised within nine months for 48 children (76%) and between nine and 12 months for 11 children (17%).

For four children, proceedings were underway for more than 12 months. Court proceedings for one of these children were prolonged for more than 18 months due to family conflict over permanent placement options for the child, which resulted in the care plan being amended several times.

## Nature of care orders

All but one of the 63 children had care orders of two years duration. One child was born after care proceedings for his siblings had concluded and was subject to a final order timed to coincide with existing orders for his siblings.

For most children (60; 95%), parental responsibility was allocated solely to the Minister. For three children, aspects of parental responsibility were shared between the Minister and others or exercised jointly.

In addition to the final care orders, the Children's Court made additional orders for 60 children (95%). These orders included:

- orders accepting undertakings (39; 62%)
- orders for supervision on expiry of the care order (18; 29%)
- contact orders (19; 30%)
- orders prohibiting certain action (7; 11%)
- orders for a report/s on the suitability of arrangements concerning parental responsibility (38; 60%).

No orders for provision of support services, available under section 74 of the Act, were made by magistrates for any of the children we reviewed.

## Deciding the direction of the permanency plan

The majority of the 63 children we reviewed had final Children's Court care orders which were consistent with professional assessments and with the permanency plan proposed by Community Services.

However, for almost one third of the 63 children (20; 32%), there was some discrepancy between final care orders and either Community Services' or other professional assessments/recommendations about the realistic possibility of restoration.

In care matters involving children from three families, the Children's Court magistrate directed Community Services to prepare a restoration plan after the agency initially presented a care plan for long term placement of the children in out-of-home care. Some managers told us that working towards achieving restoration in this situation can be challenging, as the goals may be unrealistic and permanency difficult to achieve.

In two of the three families, restoration had not been achieved at the time of our review. Community Services had applied to vary the orders for one sibling group, with the intention of seeking long term orders. For the other sibling group, Community Services was reassessing the viability of restoration.

In both families, the parent(s) had not met the requirements for restoration, despite ongoing casework and a range of services being provided to the families to support the care plan.

### Case example

The Children's Court made two year care orders for five siblings even though Community Services sought long term care orders. The agency argued that there had not been adequate improvement in the parents' lifestyle despite extensive intervention and support from various services following a critical incident in the family. However, a Children's Court Clinic assessment supported restoration on the basis of the children's strong attachment to the parents, and the magistrate accepted this recommendation. Restoration had not proceeded at the time of our review and Community Services was in the process of deciding whether to apply for an extension of the orders.

For four families, Community Services prepared a restoration plan for the children, even though in each case professional assessments did not support the children returning to the care of their parent(s).

### Case example

Community Services proposed a restoration plan for two Aboriginal brothers. The proposal was made even though a psychologist for the Children's Court Clinic recommended the children be placed in long term foster care so that permanency and stability could be achieved for them. The magistrate accepted Community Services' view that restoration was a realistic possibility. At the time of our review, restoration had not proceeded as the mother had not complied with the requirements of the restoration plan. Community Services lodged an application to vary the court orders.

### Case example

A psychological and parenting assessment was arranged by Community Services to assist permanency planning for a child whose mother was thought to have cognitive impairment. The assessment found the child's mother had clear parenting capacity deficits and was struggling to provide for her own needs and security. The psychologist noted it was difficult to recommend the child be restored. Despite this assessment, Community Services agreed at a dispute resolution conference (s65) to the making of final orders for two years allocating parental responsibility to the Minister, with a plan to restore the child to the mother.

The mother did not attain the restoration requirements. A further psychological assessment concluded that restoration was not a realistic possibility and that the mother did not demonstrate she could keep the child safe. Nine months after final orders, Community Services applied to vary the child's care orders; however, the magistrate dismissed the application on the grounds that there had not been significant change to warrant granting leave to vary the order. At the time of review, the mother's circumstances had not changed. The child was three years old and had been in care since he was ten months of age. Community Services had applied again to vary the care orders and a court hearing date had been set.

### Case example

Prior to the CSC commencing care proceedings, Community Services' Montrose in-home family assessment team assessed an Aboriginal child and his family. The team recommended the CSC seek a long term care order for the child due to the mother's lack of insight into his needs and because considerable service involvement over a number of years had not improved her parenting skills or capacity. Notwithstanding the Montrose recommendation, the CSC developed a care plan proposing the child be restored to the mother. The Children's Court accepted the care plan.

In one case, it was unclear from the child's file, and the current child's caseworker could not clarify, why Community Services amended a child's care plan to include restoration, when the agency's own assessment and the initial care plan did not support placement with the parent.

### Case example

Records we reviewed show that the Children's Court magistrate expressed concern about Community Services' apparent failure to investigate several risk of harm reports about a child and her siblings. The magistrate recommended that the siblings' circumstances be assessed and an urgent interim placement assessment be conducted of the mother and her partner. An Aboriginal permanency planning officer subsequently conducted an assessment and concluded that placement with the mother was not a suitable option for the child at that time. In view of this assessment, Community Services developed a care plan proposing the child be placed in out-of-home care until the age of 18. Five months later, the agency filed an amended care plan and proposed that the child be restored. The child was restored earlier than planned, when her foster care placement broke down.

## **Adequacy of care plans**

Most caseworkers said that they rely on the child's care plan to guide restoration casework. In this context, it is important that the child's care plan be clear and comprehensive.

Some managers identified problems with the development of care plans and said more training and guidance is needed for caseworkers about how to write an effective restoration plan and to how to develop minimum outcomes that are realistic, achievable and measureable.

Several managers said that care plans are sometimes not well-enough written. They said the plans need to be explicit and written in a way that makes clear not just what parents need to do, but also what changes they need to demonstrate to show that they are able to meet their child's needs. As an example, one manager said that if a parent is required to attend a parenting course, showing proof that they have attended does not on its own indicate that they have learnt anything from it.

Some managers said that the care plan requirements or 'minimum outcomes' for restoration can set parents up to fail if the services and supports required to achieve the goals are not available, or if the parent is unable to fulfil the requirement because of other obligations, such as attending work or caring for other children.

The care plans for all of the 63 children outlined what was required of parents before restoration could occur. The level of detail about what parents needed to achieve varied significantly between cases, with some being quite simplistic and others very detailed. Commonly, care plans included requirements such as completing drug or alcohol rehabilitation, undertaking drug testing, attending counselling or completing parenting courses.

Most care plans (53; 84%) also detailed the services that were in place or would be arranged to assist families address the care plan goals. In the main, care plans also included a statement of the timeframe in which restoration was expected to occur (54; 86%).

For 39 (62%) children, the requirements for restoration were reinforced through Children's Court orders accepting undertakings from a parent.

While the care plans we reviewed all outlined certain tasks or actions that parent(s) were required to complete prior to restoration, the care plans rarely detailed how any resulting improvement to parenting capacity or to the safety for the child would be assessed, or who would make the assessment.

Few care plans required the parent(s) to undergo an assessment of their parenting capacity once they had completed the required tasks, or to provide a report from the service provider on the changes they had made. For example, some parents were required to attend parenting and domestic violence programs; however, they did not need to demonstrate how their parenting capacity had improved by attending these courses or what insight they had developed into their child's needs.

For some of the families, the minimum outcomes for restoration that were outlined in the child's care plan did not adequately address the reasons the child was in out-of-home care. In one family, for example, the mother had a history of substance misuse; however, neither the undertakings the mother gave to the court nor the minimum outcomes for restoration outlined in the care plan addressed this issue. In another case, the minimum requirements appeared to have limited regard for the child's needs.

### Case example

Community Services assumed the care of an Aboriginal child when he was almost two years old. The child had a history of serious neglect and had had numerous primary carers. Community Services proposed restoration to the father, who had no recent contact with the child and had provided minimal care to him prior to his assumption into care. This proposal was made without an assessment of the child's attachment to his father, no observation of the child in his father's care and only a very basic assessment of the father. Our review found the minimum requirements for restoration – basically for the father to attend a parenting course, accept guidance from a family support service, ensure the proper supervision of the child and allow Community Services to visit – were inadequate given the child's history of care within the family and his very limited relationship with his father.

For other children, care plans did not adequately describe the services and supports required to support the restoration, or they required parents to complete unrealistic tasks, or attend services that were not available. The following case studies are illustrative.

### Case example

We found that the supports and services identified in the care plan for a five year old Aboriginal child were insufficient given that the child has autism and complex daily care needs. She was restored to her (non-Aboriginal) father and his partner, who were caring for other young children and had little prior involvement with the child. No specific supports to assist the family care for the child were arranged or identified and casework was minimal after final orders. While a range of services have recently been identified, the father has decided that he wants the child, now aged seven, to be placed in foster care.

### Case example

The minimum outcomes for restoration specified in a child's care plan required the father to engage in counselling services, even though a parenting assessment had identified that he was more likely to respond to practical support, such as respite care or assistance with child care. At the time the care plan was developed, the recommended counselling service was not available in the area where the father lived.



## 3.2 Case management and casework support to achieve restoration

### 3.2.1 Practice requirements

Section 8 of the Act requires that appropriate support be provided to persons responsible for the care of children and young people. Community Services' permanency planning policy states that where restoration is determined as the case plan goal, supports must be provided to achieve restoration.

Section 85 of the Act requires that an agency that is requested by the court to provide services to facilitate restoration is to use its best endeavours to provide those services.

The NSW out of home care standards outline casework requirements to support permanency. These include the provision of casework support and services to support the restoration process and the development of strategies to facilitate the transition process and the provision of ongoing support for a period of time once restoration has occurred.

Section 150 of the Act outlines minimum statutory requirements in relation to placement reviews. Placement reviews are to be conducted by the designated agency with case management responsibility for the child or young person in out of home care. Timeframes for placement reviews for children subject to final orders are as follows:

- for children less than two years of age, reviews must be conducted within two months of the final order and then annually;
- for a child or young person over two years of age, reviews must be conducted within four months of the final order and then annually
- reviews must also be conducted after an unplanned placement change.

Section 85A of the Act outlines the requirements for the review of permanency plans involving restoration. It states that the plan must be reviewed by the designated agency at the end of the length of time during which restoration should be pursued, if a review is directed by the Children's Guardian, or within 12 months. NSW out of home care standards require that designated agencies have policies and procedures in place to provide for the monitoring of placements and the review of care or restoration plans.

### 3.2.2 Findings and observations

#### Casework arrangements

All of the 63 children we reviewed were case managed by Community Services. Twenty nine CSCs were involved in supervising the children's care orders. Various arrangements were in place across the CSCs to manage restoration cases:

- Nineteen CSCs (66%) had arrangements in place for child protection teams to manage restoration cases. Three of these CSCs had quarantined one or more caseworker(s) within the child protection team to take carriage of restoration cases.
- Four CSCs had dedicated restoration teams in place.
- At three CSCs, an out-of-home care team managed restoration cases.
- One CSC shared restoration cases between the child protection and out-of-home care teams, depending on the length of the child's care order.
- One CSC appeared not to have any specific arrangement in place for managing restoration cases and another said a nearby CSC usually has responsibility for managing the area's restoration cases.

Where CSCs had restoration teams or had quarantined restoration caseworkers, managers were generally positive about the CSC's capacity to undertake an appropriate level of casework to support the child's restoration.

Managers of both child protection and out-of-home care teams identified some challenges that restoration cases bring to their teams. In particular, managers from both teams reported difficulty keeping restoration cases allocated and ensuring that while a case is allocated it receives the level of casework it requires.

- Most child protection team managers (16 of 19) said they aim to keep restoration cases allocated. However, we found that in practice, this was not always the case. For example, one manager told us that all restoration cases are allocated; however, we found that the file for a child case managed by that CSC had been unallocated for a period of eight months.

- Some child protection managers said that it is difficult to keep restoration cases allocated for the duration of care orders; several said cases are allocated on a priority basis and generally child protection cases and court work takes priority over restoration cases.
- One out of home care manager said that restoration cases mostly end up in the 'resubmit' system. Another said that although restoration cases remain allocated, they may not receive the level of support they actually require.

Managers had differing views about which team can best manage restoration cases where no restoration team exists. Some thought that keeping restoration cases allocated to the child protection team is advantageous as the caseworker already knows the family and are better trained than out of home care caseworkers to maintain a focus on safety and welfare issues for children. Others said that the caseworker or team who managed the care application may not be best placed to develop a good working relationship with the family and engage them in the restoration process if there has been conflict during care proceedings about the care plan.

The majority of the 63 children (56; 89%) had a Community Services caseworker at the time of review. For most of these children (52; 83%), their file had been allocated continuously since final care orders. The three children who were placed with an NGO each had an NGO caseworker as well as a Community Services caseworker.

Most children had also experienced caseworker consistency. Some children were still supervised by the caseworker who had managed the care application. Forty-six children (73%) had had no change or only one change of caseworker. Seventeen children (27%) had had three or four caseworkers. No child had had more than four caseworkers since final care orders were issued.

However, consistent with the challenges that managers spoke of, we found that having a caseworker allocated did not guarantee that the case received an appropriate level of casework. Some of the children we reviewed had received insufficient casework, even though they had an allocated caseworker. This issue is discussed in the following section - *Casework and case management of restoration cases*.

Eleven children (17%) had not had an allocated Community Services caseworker for at least some time since final orders. The main reason managers gave for cases not being allocated was competing casework priorities.

- The eleven children whose cases had been or were unallocated were case managed by either an out of home care or a child protection team.
- The length of time that the children's files had remained unallocated ranged from three to 12 months.
- Seven of the 11 children did not have an allocated caseworker at the time of review. Six of the seven children were restored.

Our reviews of ten children identified issues about case transfer arrangements between CSCs. The children were case managed by CSCs located in areas where the children, and in most cases their parent(s), no longer lived. The length of time since the children had moved out of the supervising CSC's area ranged from three months to two years. Managing out of area cases created understandable difficulties for the children, their parents and carers and the supervising CSCs.

### Case example

The care plan for five siblings provided for all to be cared for by their father. For two of the siblings who were placed in foster care, Community Services proposed a '*relatively accelerated restoration plan*' commencing with unsupervised overnight contact within two months, moving to restoration '*as soon as possible*' but no later than May/June 2009.

The CSC was timely in commencing the restoration plan for the two siblings. However, following an incident of domestic violence in early 2009, the CSC assisted the father to obtain a housing transfer to another region. Casework to implement the restoration plan stalled following the father's move and the siblings remained in foster care until May 2010. Records show that the delay in restoration created significant stress and anxiety for the father and the other children in his care.

At the time of our review in September 2010, case transfer of the siblings to the appropriate CSC was yet to be completed.

Some of the reasons CSCs provided for not transferring the children's files were that the receiving CSC had refused to accept the case; caseworkers did not have time to adequately prepare the file for transfer; or that court action was underway to vary orders for the children. For several children, the only reason appeared to be inadequate case management.

### Case example

Following final orders, two siblings were placed separately, one with their mother and one with a relative who lived in a town approximately 400 kilometres away. The supervising CSC assisted the mother to move to a refuge in the town where her other child was placed.

When we reviewed the children's circumstances 17 months after the mother had moved, the case had not been transferred to the appropriate CSC. There had been minimal casework, the case had remained unallocated for six months after a caseworker left the agency and the children did not have current case plans. One child was still placed with the relative carer, who had received very little support from Community Services to meet the child's needs. There had been scant monitoring of the mother's progress and the circumstances of the child in her care.

The manager told us that the CSC had been attempting to transfer the file for the past nine months; however could not explain why the CSC had taken so long to commence the transfer process. The receiving CSC had reportedly refused to accept the file until certain casework tasks were completed; however, these tasks had been attended to some months prior to our review.

For one child, interstate transfer issues were evident. The child had lived interstate with relative carers for approximately two years. Although the child was still in out of home care, her care order had not been transferred from NSW. At the time of our review, restoration had failed. The CSC had provided very limited support to the child, the mother, or to the child's carers because of distance. The caseworker told us that Community Services' Interstate Liaison Unit had told her that the care order could not be transferred to another state because the case plan goal was for restoration. However, in response to our subsequent inquiries, Community Services told us that the relevant protocol for the transfer of care and protection orders did, in fact, provide for the child's order to be transferred interstate.

### **Casework and case management of restoration cases**

We asked managers about the type of support and training that is available to caseworkers to assist them to carry out restoration casework.

While a number of managers said that the permanency planning principles, policy and guidelines provide a relevant framework for restoration cases, some said that more specific direction, guidance and practice tools are needed for caseworkers undertaking restoration casework. Some said there is a need for a document or tool which describes the type of casework restoration cases require, including, for example, how to establish and document the stages and timeframes for restoration; how to monitor progress via home visits, supervised contact and feedback from other services; and how to know when intervention has been effective in reducing risk to the child.

Two managers said their CSCs had developed their own practice tools for restoration casework and several managers said their CSCs had initiated or requested training for caseworkers on restoration practice.

The majority of managers (18; 62%) told us that they thought the training provided to caseworkers to undertake restoration casework was inadequate. Many said that the specific skills required for restoration casework are different to those needed for either child protection or out-of-home care casework. For example, some said caseworkers undertaking restoration work need to be able to focus on the safety and wellbeing of the child while at the same time be able to engage with parents and support them to address the requirements for restoration.

Managers identified that caseworkers responsible for restoration cases need to possess particular skills for restoration casework. They said caseworkers must be able to effectively engage, negotiate and resolve conflict with families; assess parenting capacity; monitor complex care plans, court undertakings and parents' progress to meet the outcomes required for restoration; and effectively assess and respond to children's needs. Some managers said that many caseworkers do not possess the necessary skills nor have enough experience to undertake effective restoration casework.

Throughout our reviews we found some good examples of restoration casework undertaken by child protection, out-of-home care and restoration teams. Effective restoration casework was characterised by:

- the case being allocated
- case plans supporting the child's needs
- regular review of the child's case plan
- case plans clearly identifying services and supports for restoration
- services and supports being in place

- effective contact and engagement by the caseworker with parents and children
- regular consultation with services working with the family
- regular monitoring and review of parent(s) progress to achieve the outcomes for restoration and parent(s) compliance with undertakings
- assessment of parenting capacity and risk for children at appropriate times following final orders
- transition plans and timeframes for restoration being in place
- placement reviews occurring in accordance with statutory requirements
- casework decisions, the child's circumstances and the parent(s) progress being satisfactorily recorded/documentated.

For 27 of the 63 children (43%), we found that casework was on the whole effective to support the goal of restoration and monitor the parent(s) progress to achieve restoration requirements. In some cases, this meant that restoration did not proceed.

The following case studies are illustrative.

#### Case example

A child protection team managed the restoration of three siblings who entered care following reports of carer substance misuse and poor mental health. The case remained allocated to a caseworker who managed the care proceedings. The mother and her partner received comprehensive support from the caseworker and other services to work towards restoration. There was good interagency communication and the CSC obtained reports from the services which were assisting the parents to meet the minimum outcomes for restoration. A detailed transition and contact plan was in place which allowed the children to return home gradually. The plan was monitored, reviewed and amended with careful regard to the parents' progress and the children's safety and wellbeing.

#### Case example

Before care proceedings were commenced the child protection team worked extensively with the mother to address her drug misuse and to minimise the risks this created for her children. Following a critical incident, Community Services removed the children with police assistance. The children were placed with a relative and care proceedings were initiated. The care plan provided for the mother to enter a rehabilitation program to address other issues impacting on the care of her children.

At the time of our review, Community Services was preparing to apply for an order to vary the care orders to enable the children to remain in out of home care long term. We found that prior to making this decision Community Services had met regularly with the mother and the carer, and had liaised extensively with the services working with the mother. The decision not to proceed with the restoration was timely and took into account the children's needs and ages.

Notwithstanding the examples of effective restoration casework, for more than half of the 63 children (36 children; 57%) we identified issues or problems with the adequacy of casework undertaken by Community Services to support the goal of restoration and/or to monitor parent(s) progress to achieve the requirements for restoration.

For 26 children (41%), restoration casework was inconsistent. For some of these children, we found that certain areas of case practice were adequate and other areas were inadequate to address the needs of the child and family. For others, we found that casework was adequate at certain times and not at other times: for example, some cases received significantly reduced casework when the original caseworker left or when the case was transferred to another CSC or when the children were placed out-of-area.

#### Case example

By the time care proceedings were completed for three siblings, the CSC had arranged various support services to assist a mother attain the requirements for restoration. These included mental health counselling, drug and alcohol counselling and a parenting program. However, after care orders were finalised, the CSC ceased liaising with the service providers about the mother's progress. We found there had been inadequate case review and monitoring. Case reviews had occurred, however they did not evaluate the mother's progress to meet the minimum outcomes for restoration. It was unclear from the records, and the caseworker could not advise us, if the mother had remained engaged with services after care orders were made.

For 10 children (16%) restoration casework was inadequate overall.

#### Case example

Following final orders for a child, the CSC conducted no case review or home visits and had no contact with the child. Minimal assistance was provided to the child's mother to arrange the supports necessary to complete the requirements for restoration. The child was restored earlier than planned and before the mother had completed the undertakings she made to the Children's Court, which included completing a residential drug rehabilitation program, attending counselling and engaging with a family support service.

Although the Children's Court Clinician who assessed the family recommended the mother undergo psychological or psychiatric assessment, the CSC did not arrange this.

Following restoration, the mother told the caseworker that she *'felt like [Community Services] had returned her child and then provided her with no assistance'*.

#### Case example

A 12 year old child was restored within days of the final care order even though there were undertakings and a care plan in place which required the mother to fulfil certain tasks for restoration to occur. These included attending counselling and an adolescent parenting course and completing urinalysis if requested. The mother was not required to do any of these. The file was very poorly documented. At the time of review, there was no case plan for the child.

As noted previously, having a caseworker allocated did not ensure that families received adequate casework to achieve restoration, or that the case was appropriately reviewed and monitored following final orders. We found that 15 children who had an allocated caseworker did not receive a level of casework that was appropriate to their circumstances. For some of these children, there had been very little casework at all since final care orders.

#### Case example

Two siblings were placed with their grandparents some distance away from the supervising CSC. Although the case remained allocated to a child protection caseworker and support services had been put in place, we found that there was scant information on the children's files about the mother's circumstances or her progress to meet the restoration requirements. The CSC did not transfer the children's files to the relevant CSC after final orders were made, even though the mother had also moved out of area and lived close to the children.

After final orders, the CSC did not see the mother, the children or the carers for eight months. Apart from one telephone case meeting held after five months, the CSC did not liaise with services supporting the mother. During this case meeting, the CSC gave approval for the children to return to the care of their mother, six months earlier than scheduled in the care plan. The children were restored one week later and before the mother had completed some of the requirements for restoration, including attending family therapy and undertaking urinalysis. This restoration later broke down.

For 19 children (30%), Community Services had not held regular case reviews. Consequently, some children (13; 20%) did not have current case plans. Placement reviews consistent with legislation and policy had also not been conducted for 18 children (29%). Under these circumstances, it is not surprising that for some children court undertakings and other requirements for restoration were poorly monitored and parent(s) progress inadequately assessed.

#### Case example

The plan for a two year old child involved restoration to her father. The child has a history of neglect and exposure to domestic violence and both parents have a history of substance abuse. JIRT substantiated allegations that the child's father indecently assaulted her sister. The CSC initially recommended long term care orders for the child; however, the case direction changed following advice from a care legal officer.

We found that the CSC's casework during the restoration period was inadequate. No case reviews occurred and there was limited communication between the CSC and other services involved with the family. During the transition period, the father breached an undertaking he gave to the court by allowing the mother unauthorised contact. The CSC determined that there was insufficient information to constitute a breach of undertakings and so did not return the matter to court.

The father did not comply with a requirement that he attend a playgroup/early intervention service with the child to develop an understanding of her needs; the caseworker advised us they were unaware of the requirement.

The father complied with some requirements by completing a parenting course and an anger management course (which he did over the phone); however, the effect of these programs on his parenting capacity and skills was not assessed. Apart from supervision of contact, there was minimal

monitoring of the father's progress. Available records indicate that over the 12 months before the child was restored, Community Services conducted only two home visits. No case reviews or case meetings were held during that time.

### **Aboriginal children**

Sixteen (26%) of the 63 children were Aboriginal. At the time of our review, 14 of the 16 children had been restored; however, restoration had failed for four and was being reconsidered for one child. Restoration was no longer the case plan goal for two.

We assessed that casework overall was effective to support the goal of restoration for two of the children. It was inconsistent for 10 and for four it was inadequate overall.

### **Sibling safety**

Pursuant to Section 106A of the *Children and Young Persons (Care and Protection) Act*, Community Services can file a care application for a child on the basis of evidence about prior orders in relation to a sibling previously removed and not restored.

We reviewed children from 35 families. For six of these families, a child was born either during, or after the finalisation of, court proceedings relating to their sibling(s).

Two of the six children were removed from their parent(s) care shortly after their birth. In both instances, Community Services relied on section 106A when submitting evidence to the Children's Court.

Community Services determined that care proceedings were not warranted in another instance because the mother was engaged with services and the restoration plan was on track.

In three instances, we judged the casework provided to infants born while care proceedings were underway, or when a short term order was in place for their sibling, to be inadequate. In one instance, an infant was born five months after final care orders were issued for a sibling and at about the same time that Community Services decided it was unsafe to restore the older child. The younger child remained in the parents' care for a further 12 months before Community Services removed her.

### Case example

A child aged five months was removed from her mother's care. Consistent with a Children's Court Clinician's recommendation, Community Services supported restoration. Final orders were issued before the child turned one. Six months later, the mother had another child.

Despite comprehensive restoration planning and support, Community Services decided that the restoration would not proceed. It was another 10 months before an application to vary the child's order was made. Asked why the delay, the caseworker told us that she struggled with the affidavit; in particular, how she could justify recommending long term care for one child while another child remained in the mother's care. Shortly after the commencement of our review, the younger child was also removed. A manager casework identified deficiencies in Community Services' handling of the case – particularly the decision not to pursue restoration for the older child while leaving the younger sibling with the mother.

In a second case, Community Services undertook no risk assessment in relation to a newborn. This was despite a Children's Court Clinician observing that the mother had long standing mental health and drug misuse issues which would impact on her capacity to care for her (then) unborn child.

In the third case, the mother gave birth to a child while care proceedings were underway for an older sibling. While Community Services recommended that the older child be restored to the father and have supervised contact with her mother, the younger child has remained with the mother and is the subject of ongoing risk of harm reports.

### **Providing appropriate services and supports to achieve restoration**

We asked managers about the arrangements in place with other agencies to support families through the restoration process.

The majority of managers told us that there are adequate/good services available in their area to support restoration (18 of 29; 62%). Generally, those CSCs that had access to Intensive Family Based Services (IFBS), family preservation services, specialist child protection services (such as Scarba) or specialist health services were happiest with service arrangements.

Eleven managers (38%) said that in cases involving a plan for restoration, more and/or better services are needed in their area to support families. They said that services are either inadequate or there are some good services but a lack of others.

Service gaps identified by managers included parents being excluded from parenting programs while their child is not in their care; drug and alcohol services needing to be more child-focussed; and the need for more 'in-home' services. Some managers said that there is a need for additional capacity in relation to IFBS and a number said there needs to be more services available which are less intensive than IFBS services but more intensive than family support services.

Some managers' comments echo research findings about the adequacy of parenting programs where child protection concerns exist and attendance is not voluntary. Much of the research around the effectiveness of parenting programs has centred on outcomes for parents who attend voluntarily.<sup>13</sup> The dynamics are different, however, for parents who are required to attend as a condition of a restoration plan or court order.<sup>14</sup>

Some research in relation to parenting programs for parents whose children are in out of home care has identified specific barriers for parents attending such programs. These barriers include not being able to attend with their child; stigma or feelings of shame associated with having a child in care; and post removal issues such as isolation, low self esteem and a sense of powerlessness.<sup>15</sup>

The recent evaluation of Brighter Futures found that for many families group based parenting programs were inappropriate for reasons such as the high literacy content of some programs, isolation experienced by some families and issues related to parental self esteem.<sup>16</sup>

For all of the 63 children we reviewed, the care plan outlined certain requirements of parents for restoration to proceed. These requirements included:

- Undertaking drug testing: e.g. urinalysis (43; 68%)
- Engaging with family support/family preservation services (35; 56%)
- Completing parenting courses or attending supported playgroups (35; 56%)
- Acquiring suitable/stable accommodation (35; 56%)
- Completing drug and alcohol rehabilitation and/or drug and alcohol counselling (25; 40%)
- Completing other types of counselling: e.g. domestic violence, anger management, attending mental health, family or relationships therapy, child protection counselling (41; 66%)
- Undergoing professional assessments: e.g. parenting capacity, family functioning (3; 5%)

For a little more than half of the children we reviewed (35; 56%), we found that the services needed for parents to complete the requirements for restoration were arranged and provided. The care plans for most of these children identified the particular services that were required, how they would be arranged and who would provide them.

### Case example

During and after care proceedings for two siblings, the caseworker assisted the parents with referrals to a range of services to help them meet the requirements for restoration. Drug testing was arranged and the results monitored. An Aboriginal IFBS provided support to the family prior to restoration by making weekly home visits, organising referrals to other services, providing parenting education and financial support, as well as organising child care.

For the remaining children (28; 44%), the services needed for parents to complete the requirements for restoration were either not provided (10 children) or were not fully provided (18 children). For some of the children, the care plan did not outline the particular services that would be required or who would arrange and provide them. The reasons that services were not provided included:

- The child's parent(s) did not accept a referral or did not engage with the service (19 children).
- Community Services did not make a referral or did not make alternate arrangements where the service was not available (8 children).
- The service could not be provided due to waiting lists or the service was not available where the child/family lived (3 children).

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<sup>13</sup> Amanda Holt (2009) "Managing 'Spoiled Identities': Parents' Experiences of Compulsory Parenting Support Programmes" in *Children and Society*, Vol 24, pp 413-422, p 413.

<sup>14</sup> Ibid, p 421

<sup>15</sup> Mary Salveron, Kerry Lewig, Fiona Arney (2009) "Parenting Groups for Parents Whose Children are in Care", in *Child Abuse Review*, Vol 18, pp 267-288, p 268

<sup>16</sup> Fiona Hilferty et al (2010) *The Evaluation of Brighter Futures, NSW Community Services' Early Intervention Program- Final Report*, Social Policy Research Centre, UNSW, Sydney p, 73

### Case example

An infant's care plan recommended that his 16 year old mother complete a supported residential program where the child could be placed with her. The caseworker made an appropriate referral; however, due to waiting lists the mother was not accepted into the program. In lieu of this, the infant's parents were referred to a family support service. The service would only work with the parents for three months because the child was not in their care. The service was prepared to work with the family again after restoration; however, the referral was closed when the child's restoration was delayed.

At the time of our review, no support service was engaged with the family. The child had been restored for one month and the caseworker had made a referral to a specialist family support service; however, the service had placed the family on a waiting list.

Restoration proceeded for 14 children even though the required services had either not been provided or were not fully provided. For two siblings, the restoration subsequently failed.

## **3.3 Monitoring and support after the child is restored**

### **3.3.1 Practice requirements**

The NSW out of home care standards require that ongoing support is provided to the child, young person and their family for a period of time once restoration has occurred.

Community Services' casework practice guidelines state that review of a permanency plan involving restoration must determine ongoing support needed for the child and family after restoration. Case plans for children who are restored should be monitored and reviewed.

In order to monitor the suitability of the arrangements made for a child or a young person, the Children's Court may make an order under section 82 of the Act, requiring a report to be provided within a specified period, addressing progress in implementing the care plan. In the event that the Children's Court is not satisfied, it may re-list the matter and review the care orders.

### **3.3.2 Findings and observations**

Over half of the 63 children we reviewed were the subject of an order for report(s) on the suitability of arrangements concerning parental responsibility (38; 60%). In the main, Community Services submitted the reports requested by the court.

#### **Monitoring of the minimum outcomes for restoration to occur**

At the time of review, 35 (56%) of the 63 children we reviewed had been restored. This included three children who Community Services had left in the care of parent(s) during and following care proceedings.

Most of these 35 children (22; 63%) were restored once their parents had met the minimum requirements for restoration to proceed. These 22 children and their families generally received adequate casework prior to restoration.

### Case example

Shortly after her birth, a baby was removed from her mother's care and placed with relatives. Consistent with a Children's Court Clinician's assessment, the initial care plan provided for the child's eventual placement with her father on the proviso that he met certain conditions. Court proceedings were protracted and the care plan was amended because of the father's resistance to engage with Community Services and support services. A two year order was finally made when it became apparent the father would cooperate with services.

A restoration team provided comprehensive support to the father to assist him meet the requirements for restoration. The father was linked to numerous support services, including a family support play group, child care and a counselling service. The minimum outcomes for restoration and the undertakings the father gave to the Children's Court were well monitored through monthly case reviews, case conferences and regular liaison with other services. The CSC developed a transition plan in consultation with the carers and the father and this was adhered to. Although the case was managed by several different caseworkers, a good level of rapport and trust was established with the father. The caseworkers provided excellent follow up and were available to the father as needed.



### Case example

Prior to his removal, Community Services provided comprehensive casework to a child's parents in relation to their drug and alcohol misuse and domestic violence. However, following a domestic violence incident witnessed by the child, Community Services removed him, placed him with relatives and initiated care proceedings.

The child's care plan provided for him to be restored to his mother's care. The minimum requirements for restoration to proceed included that the mother develop her parenting skills and knowledge, maintain a safe environment for the child, manage his daily routines and meet his needs, and address her drug and alcohol issues. With the assistance of Community Services and an intensive family based support service, the mother was provided with a range of supports, including extensive counselling, assistance to locate housing, and regular contact with the child. The minimum outcomes were closely monitored through regular case review and case conferencing at key points.

We found that prior to restoration, the caseworker maintained regular contact with the agencies working with the mother, conducted planned and unplanned home visits, quickly addressed the mother's non compliance with urinalysis and made effective use of Community Services' Clinical Issues Unit. The file was in good order and had been well documented. The caseworker told us that because she had worked with the mother for over a year she was able to confront her when there had been issues and she had been able to achieve a level of cooperation which may not have been otherwise possible.

At the time of our review the child had been restored. Services remained in place and monitoring of the child was ongoing.

In contrast, 13 of the 35 children (37%) were restored to their parent(s) before the conditions for restoration were fully met. This included four children who had returned to the care of a parent prematurely in an unplanned way, either because the child self restored or because their out-of-home care placement had broken down. The other nine were restored for reasons including:

- the child being unsettled while in out of home care,
- caseworker assessment that a parent's circumstances were good enough,
- assessment that the mother was cooperative with the department.

Casework to inform the restoration decision for the 13 children was variable. For seven of the children, Community Services had not held regular case reviews and at the time of our review, they did not have up to date case plans. In three cases, it was unclear from the file because of inadequate record keeping – and the current caseworker or case casework manager could not explain – why restoration had proceeded given the restoration conditions had not been fully met.

### Case example

An Aboriginal child was placed in care following the death of his mother. Community Services arranged a carer assessment of the child's father. The assessment recommended placement with the father with appropriate support. The father made various undertakings to the court, with a view to the child being gradually transitioned to his fulltime care over a period of six months. Minimum outcomes for restoration required the father undertake drug testing; engage with a child protection counselling service or equivalent parenting/family support service and an early childhood service; enrol the child in child care; and undergo psychological/parenting capacity assessment as arranged by the department.

There is no record that scheduled reviews, outlined in the care plan, occurred. The child was placed with the father without him having completed the undertakings, other than undertaking drug testing and arranging child care. In a monitoring report to the court, the department stated that it was unclear why the child had been placed with his father in the circumstances. Later in the same report, it was stated that restoration proceeded despite the minimum outcomes not being met because '*Contact between father and child was progressing well with evidence of positive interactions and Community Services had not received any notifications regarding currency of risk of harm issues present at the time of writing the care plan*'.

Parenting capacity assessments are necessary if informed decisions are to be made about whether to restore a child to their parent(s). Good quality parenting capacity assessments include observation of the parent/child interaction.<sup>17</sup> We found parenting capacity assessments had not occurred in relation to six of the 13 children

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<sup>17</sup> Harnett (2007) "A procedure for assessing parents' capacity for change in child protection cases" in Children and Youth Services Review, 29, p 1181 and Assessment of Parenting Capacity Pursuant to s 54 (1), Children and Young Persons (Care and Protection) Act 1998: A view from the Children's Court, Children's Law News 2002 Vol 9, p 1

who were restored before the conditions for restoration were fully met. Significantly, eight of the 13 children received no monitoring of their circumstances once restored.

In some matters, casework was inconsistent. For example, in one case where a comprehensive parenting capacity assessment had occurred, it had limited bearing on the decisions that were subsequently made and on the level of casework provided following restoration.

### Case example

An Aboriginal child and his four younger siblings were placed in care following a protracted child protection history related to domestic violence, poor parenting, neglect, parental substance abuse and parental mental health issues.

A Montrose home based assessment recommended all five children be placed in long term out of home care. The assessment identified particular concerns for the older child including severe emotional abuse and aggressive behaviours which placed his siblings at risk, and recommended that he receive psychiatric assessment.

Despite the Montrose assessment, the CSC informed the Children's Court that there was a realistic possibility of the older child being restored to his mother's care if she accepted certain undertakings. These included that the mother accept direction from the department, refrain from drug use and undertake urinalysis, engage in counselling, complete an adolescent parenting course, ensure the child attend school, and ensure that he attend regular counselling.

The child was restored to his mother's care four days after final orders were issued. There is nothing on file in relation to the mother's undertakings. Our review established that since the child's restoration, there has been little casework. There is no record of any placement or case review and while the case has been allocated for over a year, the caseworker told us that she was allocated only as a contact person for the family and not to undertake casework.

The 13 children, who were restored before the conditions for restoration were fully met, were supervised by either a child protection or out-of-home care caseworker. None received casework support from a worker identified to work specifically with restoration matters.

### **Adequacy of monitoring and review following restoration**

Of the 29 CSC casework managers we spoke with, 20 said that they provide ongoing support to families once a child is restored. Reportedly, these cases remain allocated and are subject to regular review. In some instances our reviews did not support these assertions.

Nine managers qualified their responses, noting that competing priorities and caseworker availability may result in a failure to provide the level of support required by a family who has had a child restored to their care. One manager said that monitoring of children who have been restored will only occur in response to an incident or risk of harm report. Another manager said that distance makes monitoring children who have been restored difficult. A number said that child protection casework takes priority over monitoring children who have been returned to the care of a parent.

As noted previously, less than one third of the children reviewed were subject to orders for supervision on expiry of the care order. In our consultation with the Children's Court President, Judge Marien, His Honour observed that most short term care orders involving restoration are for a period of two years or less and that under section 76 of the Act, the maximum period of a supervision order is 12 months. His Honour also noted that the order may be extended for a further 12 months; however, this can only occur while the case is still before the court and prior to the court making final orders. Judge Marien suggested that the Minister should consider amending section 76 of the Act to provide for longer supervision orders.

When determining the adequacy of monitoring and support of the 35 children in our sample group who were restored at the time of review, we took into account:

- the issues that had led to the child being placed in out of home care
- whether the requirements for restoration to proceed had been met and the circumstances of the parent(s) at the time of restoration
- the child's circumstances at the time of restoration
- what supports were in place to support the restoration
- communication between Community Services casework staff and other services involved with the family
- whether review and planning occurred and was documented
- communication between Community Services and the family.

More than half the 35 children who were restored at the time of our reviews received adequate monitoring and review of their circumstances following restoration (20; 57%).

#### Case example

Records show that the mother of three children had a history of mental health problems and involvement with the police. The father had a history of alcohol misuse. Both parents had been convicted for assault against each other. Risk of harm reports for their children included exposure to domestic violence and neglect. After a series of temporary care placements, Community Services initiated care proceedings and filed a care plan proposing that the children be placed in long term care. This was amended when the magistrate noted that restoration to the father was a realistic possibility. At the time of our review, the children had been restored to their father's care. We found that casework since restoration had been comprehensive and included regular ongoing contact with and support to, both parents, liaison with services, and referral of the children for support as required. Case reviews and/or case conferences had been held regularly and the file remained allocated. The caseworker said the father is managing reasonably well and the children are doing well in his care.

#### Case example

A child was removed at nine weeks of age due to concerns about his parents' capacity to care for him. The care plan for the child provided for his restoration pending his mother attending a residential parenting support service; both parents completing parenting programs; and both undergoing urinalysis. Comprehensive restoration and contact plans were documented and provided to the parents. When the parents failed to comply with urinalysis requirements; the restoration plan was amended and the caseworker met with them to stress the importance of compliance. Following the child's restoration, the case has received active casework, including home visits, liaison with other services and regular case review.

In contrast, 15 of the 35 children (37%) had not received adequate monitoring and review of their circumstances following restoration. This included eight of the 13 children who were restored before the conditions for restoration were fully met. Eleven of these 15 children did not have a current/up to date case plan at the time of our review.

Eleven CSCs were responsible for supervision of the children who were not adequately monitored following their restoration. Three of these CSCs told us that children who are restored do not automatically have a caseworker allocated to monitor their circumstances following restoration. Another two said staffing issues prevented restoration cases being allocated. In some instances, we were told monitoring visits had occurred but had not been recorded.

Failure to transfer the files of children who moved to another area; failure to provide a casework service even when files were allocated; and failure to reallocate files when caseworkers moved were also factors that impacted on the adequacy of review and support of children who had been restored.

#### Case example

A child was removed from her mother's care when she was five. The previous year, the child had been diagnosed with mild developmental delay and autism. Her father was located and he and his new partner were assessed as able to provide the child with long term care. The Children's Court issued a two year order. When care proceedings were finalised in early 2009, the case was transferred to the CSC's out of home care team and the father was advised that a caseworker would not be allocated. In the absence of a caseworker, supports and services were not provided. A caseworker was allocated only after the father told Community Services that he wanted the child placed in out of home care.

#### Case example

Prior to restoration, a child's mother received very good support to achieve the minimum outcomes for restoration and the supervising CSC had closely reviewed and monitored the case. Upon restoration, the family moved to another area to live closer to their extended family.

At the time of our review, the family had been living out of the CSC's area for approximately eight months; however, the CSC had not transferred the child's files to the local CSC. Although a caseworker was still allocated, there had been minimal casework since restoration. The caseworker had telephoned the mother on one occasion to enquire about her progress. The caseworker had not contacted the service providing mental health support to the mother.

## Adequacy of support services following restoration

For the 35 children who had been restored at the time of our review, supports identified in their case plans were in place for 18. For the other 17 children, some or all of the services necessary to support restoration were not in place. In some instances, this was because services were not available or there were waiting lists for the required services. In others, it was because the case was not receiving active casework.

### Case example

A child with a long history of exhibiting inappropriate and challenging behaviours was restored to his mother's care in April 2009. His file provides no rationale for this decision. At the time of our review in October 2010, there had been no case review since finalisation of child's care order (February 2009) and the case plan had not been updated since that time.

An outreach worker currently involved with the child and his family told us that the child is missing school and engaging in delinquent behaviour. She also said that contact between the child and his siblings, who are in the care of a relative, is erratic and needs to be better planned and supported if it is going to be a constructive and positive experience for the family. Our review established that although contact support provided by Community Services was part of the child's care plan, this support has been inconsistent and not well planned.

## 3.4 When restoration does not proceed

### 3.4.1 Practice requirements

Community Services' permanency planning policy states that regular case reviews are vital to minimise drift in care and to reduce delays in permanency planning for children and young people. Case and placement reviews are to occur within the context of case planning. Case plan progress must be closely monitored, and the circumstances and needs of children should be documented in children's case plans on KiDS.

If it is determined that restoration will not proceed as the parent(s) of a child or young person have not met their responsibilities according to the care plan, or undertakings have been breached, Community Services may notify the Children's Court of the breach of undertakings, or an application may be made to vary or rescind the care order under section 90 of the Act. In either case, the result might include a reallocation of parental responsibility.

In circumstances where there is a decision to change the care plan goal, Community Services' permanency planning policy requires that the Children's Court be informed about how the child or young person's needs, welfare and well-being are going to be met in the foreseeable future through the permanency plan. Where a permanent placement has not been located, the policy requires that the court should be advised of the processes that will be followed and the agencies which will be consulted to achieve a permanent placement.

### 3.4.2 Findings and observations

Twenty eight children (44%) had not been returned to the care of a parent at the time we reviewed their circumstances. For three of the children, restoration had been attempted but failed.

Twenty of the 28 children were placed with relative carers, including grandparents, aunts and uncles. All relative placements were supervised by Community Services.

Eight children were placed in foster care: three of these children were in high cost placements supervised by a non-government agency and five children were in placements supervised by Community Services.

### Timeliness of returning matters to court to vary the orders

At the time of our reviews, restoration was no longer the case plan goal for 18 children (29%). Community Services had applied to vary or rescind the orders for 12 children and intended to do so for another six.

Taking into account the permanency planning requirements for timely decisions to be made about how the need for a permanent and stable home will be met for each child, we found Community Services' decisions to change the case plan goal and return the matters to the Children's Court to vary the orders was timely for 11 of the 18 children, and not timely for the remaining seven.

For these seven children, the reasons for the delay in returning their matters to court once it became apparent that restoration would not proceed, included differing views within the CSC about whether parents had been given sufficient time to meet the conditions for restoration; competing priorities; inadequate case supervision; and delayed case review.

### Case example

Two Aboriginal brothers came into care in March 2008 due to neglect and concerns about their mother's mental health and substance misuse. Although neither child had high needs, they were placed with Aboriginal foster carers under an Individual Client Agreement. The placement is well supported and has been stable.

Our review established that there was a significant delay returning the matter to court when it became evident that restoration was not a viable option. Six months after the orders were issued, the caseworker and casework specialist recommended the matter be returned to court; however, the casework manager did not agree and requested that the mother be given more time to meet the restoration conditions. At a case review seven months later, it was apparent that restoration would not proceed. However, although the case remained allocated, returning the matter to the Children's Court was not a priority, and it was a further nine months before an application was made to the court to vary the children's orders.

The carer told us that she was frustrated with the time it took to commence court action to vary the orders. She said there was a 12 month period from when she was told that restoration would not proceed, to when the matter was returned to court. She said during this time she felt uninformed.

At the time of our review, the carers of the children referred to in the above case example had asked to be assessed as their long term carers. The caseworker said she was supportive of this. However, the delay in returning matters to court meant that the children had developed attachments to their carer at a critical time in their development while there was no certainty that their placement would be long term.

### Case example

A child was five months old when she was removed from her parents' care. She was placed in foster care. A Children's Court Clinic assessment supported restoration. The care plan provided for her restoration to her parents within six months on the proviso that the parents met certain conditions.

Casework to support the parents was extensive. Following a critical incident in June 2009, Community Services decided that restoration would not proceed; however, an application to vary the order was not made until a year later. In the interim, the mother had another child.

When asked why there was such a delay, the caseworker told us the child was in a good placement and that child protection cases took priority. She also said that she had difficulties completing the affidavit as it was complex. Another difficulty identified by the caseworker involved acting on a decision not to pursue restoration for one child, while the other child remained with his mother. This was because the risk factors for both children were the same.

For the 18 children for whom restoration was no longer the case plan goal, we found that eight received consistently good casework; casework for nine children was inconsistent; and it was inadequate for one.

### **Timeliness of case planning for the remaining children**

Community Services was still working towards restoration for three of the 28 children who had not returned home at the time of our review. Despite intensive casework provided by Community Services, the planned staged restoration had not proceeded for one child for various and complex reasons. For another, the case had not received the casework that was planned. For the third, we found that despite comprehensive casework, permanency planning had not been addressed in a timely manner.

### Case example

A brother and sister first entered care in mid 2006 and were placed with a relative where they remained for five months. In October 2006, the children were restored to their parents, and final orders were issued placing them in the parental responsibility of the Minister for two years, with an order for the mother to accept undertakings. In October 2008, Community Services returned the matter to court on the basis of the mother breaching her undertakings. A further two year order was issued at the commencement of 2009 and the mother was again required to sign a range of undertakings.

In April 2009, the mother requested respite care and the boy was placed in foster care where he has remained. In June 2009, Community Services held a meeting with service providers, and it was decided that the boy would not be restored to his mother. However, from the file it appears that there was no action taken to seek a permanent placement for him.

By February 2010, file notes indicate that Community Services was by then *'looking at the prospect of restoring'* the boy. A Montrose assessment completed in May, supported his restoration on the condition that the mother meets certain conditions.

At the time of our review (November 2010), the boy remained in out of home care and a restoration plan had not yet been developed. His out-of-home care provider described him as a sad little boy who wants to go home.

For the remaining seven children, Community Services was either reviewing the possibility of restoration or was yet to consider permanency options for the child. The future care plan for these seven children was therefore unclear at the time of review. We found that casework for five of these children (siblings) had been comprehensive. For the other two, casework had been poor.

## **3.5 Attention to the needs of the child**

### **3.5.1 Practice requirements**

Children in out of home care represent a disadvantaged group, many having experienced abuse and/or neglect, and family breakdown, often resulting in poor health and developmental outcomes. Child abuse and neglect have been identified as headline indicators for children's health, development and wellbeing.<sup>18</sup> For children and young people in out of home care on short-term orders, there is an opportunity to identify needs of this kind, and arrange necessary services before the children return to their families.<sup>19</sup>

Community Services' practice guidelines state that the agency with case management responsibility is to begin arranging for a multidisciplinary health and development assessment within 30 days of a child or young person entering out of home care. Additional requirements include obtaining a comprehensive health background; considering the child or young person's health, medical and dental needs when determining placement options; obtaining specialist assessment and services when required; and the development of wraparound services to ensure the child or young person's developmental, emotional and physical well-being, and placement stability.

Community Services has developed an information tool to assist staff to identify and respond to the health, medical and dental needs of children and young people in out-of-home care.

NSW Health and Community Services have recently developed a Health Screening and Assessment Pathway model that provides for the development of health management plans and access to services and review, to ensure that children and young people entering out of home care receive necessary assessments and ongoing care.

### **3.5.2 Findings and observations**

#### **Attention to health and developmental needs**

Over half (41; 65%) of the 63 children we reviewed had undergone a health assessment since entering care. Eighteen (28%) children had not had a health assessment. We were unable to establish whether an assessment had been conducted for four children.

Health assessments were less likely to occur in regional areas. The majority of managers (20; 69%) told us that health assessments are arranged for children on short term orders. However, at six of these 20 CSCs the children we reviewed had not had a health assessment. Some managers said that health assessments are arranged only where a need is identified. Lack of services and competing priorities were identified as reasons for some of the children we reviewed not receiving a health assessment.

For the 41 children who had health assessments, most addressed developmental (38; 92%), and immunisation (32; 78%) status. A significant number included vision (24; 58%) and hearing tests (29; 70%). Assessments were less likely to include a dental check (14; 34%). Approximately one third (14; 34%) of the 41 children underwent additional specialist assessments for issues such as speech, behaviour and disability.

More than half of the 41 children (28; 68%) who received a health assessment after entering care were identified with health and/or developmental issues that required attention.

Most of the 28 children with identified health needs (19; 67%) were receiving, or had received, services to address their needs. Another six children had received services to address some of their needs, but at the time of our review required further assessment and/or support.

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<sup>18</sup> Australian Institute of Health and Welfare 2008. Making progress: the health, development and wellbeing of Australia's children and young people. Cat. no. PHE 104. Canberra: AIHW

<sup>19</sup> Ibid

### Case example

A child was diagnosed with a range of health and developmental problems both prior to and after his entry into care. These included obstructive sleep apnoea, frequent respiratory infections, asthma, global developmental delay and difficult behaviours. Community Services arranged for the child to undergo further assessment by a psychologist and paediatrician, and developed a behaviour management plan to address his behavioural problems in his placement and at school. However, at the time of our review, a speech and language assessment which had been recommended six months previously, had not been arranged for the child.

Three children with identified health and developmental needs had either not received services to address their health needs or the caseworker did not know whether services had been provided.

### Case example

On entering care, a child was identified as malnourished and had an ear infection, a rash, and had not been immunised. A paediatric assessment was arranged 15 months after the child's entry into care. This assessment identified that the child had developmental and speech delay, and oppositional defiant disorder. It was subsequently identified that the child also required glasses. At the time of our review, 12 months after the paediatric assessment, the caseworker did not know whether the child had received services to address his identified needs.

Thirty one of the 41 children who underwent a health assessment had a record of the assessment on their file. There was no record of a health assessment for 10 children.

At the time of our review, the health and developmental needs of the eighteen children who had not received a health assessment were not known.

### Case example

A child was restored to her mother's care significantly earlier than planned without any case review and despite the mother's lack of compliance with undertakings. Whilst in care, the child's preschool teacher informed the caseworker that the child was displaying aggressive behaviours and possibly had a hearing problem. No paediatric assessment was arranged either before or after the child's restoration. At the time of our review the caseworker did not know if the child's health and development had been assessed.

## **Education**

Thirty one of the 63 children we reviewed were school aged. Consistent with research findings, over two thirds (22; 71%) of these children were identified with current or previous needs in relation to their educational progress, mostly learning difficulties (19; 86%).

A small number of children were identified with a range of other educational problems associated with behavioural or mental health issues, speech problems, truancy or suspension, or changes in school.

Of the 22 children who were identified with educational needs: nine were receiving support to address their needs at the time of our review; three were identified by their caseworkers as not having a current need for additional support; two had received limited support; and four were identified as requiring support; however, this was not being provided.

### Case example

Three siblings were identified with significant developmental and behavioural problems prior to their entry into care. Their parents had not followed up recommended support. The two school aged children had learning difficulties and were performing below the expected level in all key learning areas. The youngest child was identified as requiring early intervention support.

The children's issues were exacerbated by an extended period in out of home care due to complicated court proceedings, and a return to care following a failed restoration. At the time of our review, the older two children were not receiving support at school for their learning difficulties and the youngest child was not receiving early intervention support.

Due to lack of casework, it was not possible to establish whether four of the children who were identified with educational needs were receiving any support at the time of our review.

Twenty one of the 63 children we reviewed were attending preschool or long day care.

Five of the children attending preschool were identified with learning problems –developmental delay (3), autism (1) and foetal alcohol syndrome (1).

Three of the five children were receiving specific services to address their needs.

A fourth child had previously been enrolled in treatment programs for children with autism. However, at the time of our review, that child was on a waiting list for services in a different area due to a placement change. For the remaining child, due to a lack of casework support, it was not known whether that child was receiving any support for the identified learning problems.

### **Attention to other needs**

Twenty five of the 63 children we reviewed were identified with a range of other needs, mostly associated with emotional, social or behavioural issues. A smaller number of these 25 children had needs arising from mental health issues or a disability. Some of the supports these children required included speech therapy, counselling, behavioural support, disability support and further specialised assessment.

At the time of our review, 10 of these 25 children were receiving services to address their needs. Nine of the 25 children had received limited support only. We were unable to establish whether one of the children with additional needs was receiving any support because of a lack of casework. A small number of children had complex needs, only some of which had been addressed.

#### Case example

The care plan for two siblings was for them to be placed in the parental responsibility of the Minister while remaining in the care of the mother. In early 2009, the mother requested both children be placed in care because she could not manage their behaviour. Following a short term residential placement, a relative agreed to care for one of the children while a long term placement was located for him. At the time of his placement, the child had a diagnosis of autism and a history of suffering from anxiety, behavioural problems and bedwetting. Shortly after being placed with his relative, his file was unallocated.

At the time of our review in October 2010, the child remained with his relative. His order is due to expire in early 2011. Despite the relative's requests for assistance and complaints about lack of casework support, minimal casework support had been provided.

Five children with additional identified needs were not receiving any support at the time of our review. For one of these children, the lack of support was due to a delay in transferring the file, which prevented effective casework. In a complex case, the support needs of one child were not met as this had not been prioritised at the time of our review. Three of these children were not receiving necessary support due to a lack of casework.

#### Case example

An Aboriginal child entered care at the age of 11 after an extensive history of abuse and neglect. She had health, developmental and behavioural issues and was assessed with an anxiety disorder, mild intellectual disability, violent and sexualised behaviours and attention deficit hyperactivity disorder. The child was restored to her mother after repeated placement breakdowns. While an intensive family based service was in place to support the restoration, this service ceased after three months.

We reviewed the child's circumstances 15 months after she had been restored to her mother's care. Many of the recommendations outlined in her care plan to address her health and developmental issues had not been implemented. These included ongoing counselling and referral to the alternative care clinic at the Westmead Children's hospital.