

The continuing need to better support young people leaving care

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

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Executive Summary

All young people who are placed in out-of-home care have a statutory right to assistance when they leave care.

Designated agencies are required to develop and implement plans to assist those leaving care in their transition to independent living. The extent of this assistance will vary according to the young person's assessed needs.

In 2009, our office conducted a review of leaving care arrangements and found poor compliance with the statutory scheme. Our review showed many young people were leaving care without plans or with plans that did not meet their needs.

In response, Community Services advised us of new practices and procedures designed to improve leaving care planning. However, they also reported that they were unable to provide evidence of improved compliance with their statutory responsibilities due to the limitations of their information system.

In light of this lack of accountability, we decided to conduct a follow up review to see if the situation for young people leaving care had improved.

We have now reviewed the situation of 90 young people who left care during the second half of 2011. We found no improvement since the 2009 review in the proportion of young people who left care with a completed leaving care plan, whether or not endorsed.

However, we did find a relatively substantial improvement in the proportion of plans that had been formally endorsed prior to the exit from care.

Notwithstanding this improvement, in 2011 – as in 2009 – a large majority of our review group left care without an endorsed leaving care plan. Without this endorsement, a young person is unable to access financial support to assist them in their transition to independence at the time they leave care. In 2011, this was the case for 80 per cent of the young people whose situations we reviewed.

Where leaving care planning did exist, close to half of the plans were inadequate and the majority were significantly delayed. For 16 of the 86 care leavers who were eligible for leaving care assistance, there was still no plan in place five months after they exited care.

We also identified particular concerns about timely identification of victim's compensation claims for young people in care during our 2011 review. We first brought these matters to the attention of Community Services in 2009. It is positive that since then the agency has increased the number of claims lodged for children and young people in care. However – and notwithstanding changes to the statutory scheme for victims compensation in 2013 – it is also clear that there remain outstanding issues in relation to the prompt settlement of victim's compensation matters well before young people leave care.

Over the next five to 10 years, responsibility for thousands of children and young people in care will transfer from Community Services to non-government agencies. Our review included 10 young people who, at the time that they left care, were in non-government out-of-home-care. None of this group left with an endorsed leaving care plan.

Irrespective of which agency has direct responsibility for a young person exiting care, it is vital that Community Services and the non-government sector establish systems (and related policy) that will ensure compliance with statutory obligations.

Equally, it is critical that Community Services and its partner agencies develop the capacity to demonstrate their compliance, by collating and reporting data on the preparation and implementation of plans in accordance with policy and practice.

1. Introduction

Part 13 of the *Community Services (Complaints, Reviews and Monitoring) Act 1998* empowers the Ombudsman to review the situation of a person, or group of people in care.

This report details the observations, findings and recommendations arising from our review of a group of young people who left statutory care in 2011.

2. Background to the review

Designated agencies have responsibilities under the *Children and Young Persons (Care and Protection) Act 1998* to prepare and support the young people in their care in leaving out-of-home care for independent living. The Act requires designated agencies to develop and implement a plan which identifies the assistance to be provided to each young person leaving care.

In 2009, against the background of concerns about the adequacy of leaving care planning,¹ we reviewed the circumstances of a group of young people who were due to leave statutory care. Our purpose was to examine whether Community Services and other agencies were meeting their obligations to assist care leavers in their transition to independence.

In mid-2010, we reported that most of the review group left care without an endorsed plan in place. Where plans were developed, they often lacked an adequate assessment of the young people's needs. We also identified a range of other problems, including inadequate after-care support.

In response, Community Services told us about action it was implementing or planning to implement to improve service delivery to young people leaving care.

We requested that Community Services inform us about the results of this work. In particular, we asked Community Services to report on whether it was meeting its obligations under the Ministerial Guidelines on the provision of assistance to young people after their exit from care. We asked for evidence in relation to this advice.

In the second half of 2011, Community Services advised us about the implementation of new case planning guidelines, a new case plan template, revised procedures and related training to improve service to care leavers. However, the agency could not tell us whether leaving care practice had improved.

Community Services told us that limitations in its information system made it difficult to report on the degree to which it was meeting its obligations to assist young people who have left care. In December 2011, the agency said it would be addressing these limitations in a computer upgrade due to take place in 2012.

We were concerned that – 18 months after we published our leaving care review findings – Community Services was unable to report on the number of young people leaving statutory care with an endorsed leaving care plan. We therefore decided to initiate a

¹ The 2007/08 annual report of the Office of the Children's Guardian noted that leaving care planning was inadequate for a significant number of young people. The Report of the Special Commission of Inquiry into Child Protection Services in NSW (2008) said that more needed to be done to ensure care leavers are given adequate assistance.

further review of young people leaving care, with a specific focus on establishing whether there has been a discernible improvement in practice in relation to young people having a leaving care plan at the time of their exit from care.

3. Legislation, policy and practice

Part 6 of Chapter 8 of the *Children and Young Persons (Care and Protection) Act 1998* describes the types of assistance that may be provided to a young person leaving care and requires designated agencies to prepare a leaving care plan in advance and implement it when exit occurs.

The legislation also provides for the Minister for Family and Community Services to publish guidelines outlining the circumstances in which assistance may be granted to care leavers. Published in 2008, the Guidelines for the provision of assistance after leaving out-of-home care (the Ministerial Guidelines) describe eligibility for assistance, leaving care planning processes, types and levels of assistance and follow up support.

According to the Guidelines, planning should occur at least 12 months before leaving care and the young person should be involved in the planning process. For young people with disabilities in care, a referral should be made to Ageing, Disability and Home Care's Leaving Care Program when they turn 15, or two years before expiry of their care order.

However, both the NSW Standards for Statutory Out-Of-Home Care (2010) and Community Services' practice guidelines (2011), specify that leaving care planning should commence for all young people in care when the young person reaches 15 years of age.

4. Methodology

4.1 Review groups in 2009 and 2011

Our 2009 review was based on scrutiny of arrangements for two separate samples of young people who exited statutory care within a five-month period in that year.

We looked at the situation of 51 young people three to four months before they left care. This review involved detailed examination of their agency files and was informed by interviews with caseworkers, managers, carers, other service providers, and in some cases, young people themselves.

We also looked at the situation of 73 young people who had left care in the three months prior to the commencement of our review. For this group our methodology was limited to a request to Community Services to provide a copy of each young person's leaving care plan and planning minutes, or where their exit occurred without a plan, the reasons why this was the case.

In 2011, our focus has been to identify whether leaving care practice has improved so that more young people are adequately prepared and supported to exit care with an endorsed plan in place. Given this focus, we have used the more limited methodology described above, involving a request for copies of leaving care plans and an explanation for any cases where no plan was developed.

4.2 Young people who left care between October and December 2011

On 2 February 2012, we advised Community Services of our decision to initiate a review of young people leaving statutory care.

Pursuant to section 18 of the *Ombudsman Act 1974*, we asked the agency to provide a list of all young people who exited statutory care between 1 October and 31 December 2011, and the designated agency supervising each young person before and after leaving care.

We requested a copy of the leaving care plan and minutes of planning meetings for each young person, and their reference number on Community Services' KiDS database.

We also asked Community Services for advice about whether each leaving care plan had been endorsed and, if not, why not. If any of the review group did not have a leaving care plan, we sought advice about why a plan was not developed before the young person turned 18.

On 9 March 2012, Community Services provided a list of 90 young people who exited care in the relevant period. For 80 of these young people, Community Services was the placement provider and for the other 10 care leavers, non-government agencies were the placement providers. The other requested information – including copies of leaving care plans – was provided in 10 instalments over a nine-week period ending on 29 May 2012.

For each of the 90 young people in the review group, we examined care plans and records of planning meetings where these were provided. We also accessed KiDS records for all 90 young people and identified basic demographic information, as well as information relating to their history in care.

We gave Community Services a draft of our report on 18 December 2012. We received the agency's response to the draft on 7 May 2013. The response foreshadowed separate advice about Community Services' handling of victims' compensation claims; we received that advice in two instalments – on 9 May and 20 June 2013.

4.3 Additional information relevant to our review

Through the child death review and child protection work undertaken by our office, we became aware of a number of cases where the adequacy of leaving care planning was an issue. The relevance of these cases is outlined in section 10 of this report.

We also conducted consultations on leaving care issues with the Association of Children's Welfare Agencies and their leaving care group, the CREATE Foundation and the Aboriginal Child, Family and Community Care State Secretariat (AbSec).

On 20 November 2012, we requested the Department of Attorney General and Justice to provide information relating to claims for victims' compensation for children and young people in out-of-home-care. The Department provided information on 7 December 2012.

5. Circumstances of the care leavers we reviewed

Our examination of information for the 90 care leavers provided the following limited profile of their circumstances and characteristics:

- All but two turned 18 in the review period 1 October – 31 December 2011²
- 46 (51 per cent) were male
- 25 (28 per cent) were Indigenous
- 12 (13 per cent) were from culturally and linguistically diverse backgrounds
- 15 (17 per cent) had been in high needs placements
- At least 19 (21 per cent) had a disability and a further three had mental health problems
- At least 20 (22 per cent) had involvement with Juvenile Justice
- Seven (16 per cent) of the 44 young women in the review group had given birth while in care.

We did not seek to establish comprehensive profiles of the young people we reviewed.

However, as indicated by the information outlined above and by comparison to the general population of young people in NSW, our review group comprised disproportionate numbers of young people who were Indigenous, had a disability, were parents or had been involved with Juvenile Justice.

² One young person turned 18 on 1 January 2012 and one left care on her 16th birthday.

6. Key findings and observations

Based on information provided by Community Services, four of the 90 young people who left care during the review period were ineligible for leaving care planning; the circumstances of these four young people are discussed in section 7. Our findings and observations therefore relate to the 86 young people who should have left care with a plan in place.

In 2011, Community Services prepared leaving care plans for 70 (81 per cent) of the 86 eligible care leavers. However, only 19 (22 per cent) of these young people exited care with an endorsed care plan. Endorsed plans allow the young person access to financial and other support. Thirty-one (36 per cent) exited care with a plan that had not been endorsed; and 20 (23 per cent) had a care plan completed only after they had already exited care.

By way of comparison with the findings from our earlier review in 2009, Community Services had prepared leaving care plans for 73 per cent of the young people we reviewed and only eight per cent exited care with an endorsed leaving care plan. Forty-nine per cent exited care with a plan that had not been endorsed; and 16 per cent had a care plan completed only after they had already exited care.

From these figures, it would appear that Community Services has improved in relation to the percentage of leaving care plans which are endorsed at the time of the young person's exit from care; from 8 per cent in 2009 to 22 per cent in 2011. However it is of significant concern that in the vast majority of cases – 78 per cent of the cases we reviewed – Community Services is not meeting its legislative responsibilities to provide an endorsed leaving care plan to young people exiting care.

Moreover, in 2011, the percentage of young people exiting care with a completed plan (endorsed or otherwise) appears to be no better than in 2009; from 57 per cent in our 2009 review to 58 per cent in 2011. A greater percentage of plans appear now to be completed only after the young person has already exited care. This figure has risen from 16 per cent in 2009 to 23 per cent in 2011.

It is disappointing to report that, overall, there appears to be no significant improvement in leaving care practice since we examined arrangements for care leavers in 2009.

Table 6.1 Comparative data from the leaving care reviews for 2009 and 2011

Young people who left care	2009	%	2011	%
With endorsed plan	6	8	19	22
With plan not endorsed	36	49	31	36
Plan completed after exit	12	16	20	23
No plan provided ³	17	23	16	19

³ While 20 of the 90 young people we reviewed did not have a plan, four were considered ineligible for leaving care assistance.

Plan development dates unclear	2	3		
Total	73	100%	86	100%

Among our key findings, we noted that:

1. Five months after the last of the 86 eligible young people exited care, 16 (19 per cent) still did not have a leaving care plan.
2. Of the 70 care leavers for whom a leaving care plan was provided, planning commenced in a timely manner for only 12 (17 per cent)⁴.
3. Most care leavers with a disability were appropriately referred to ADHC's Leaving Care Program, but many of these referrals were significantly delayed.
4. Of the 70 care leavers with a leaving care plan, we considered that overall leaving care planning and support was inadequate for 32 young people.
5. Leaving care planning and support was inadequate for six of the seven care leavers who were in Juvenile Justice detention in the 12 months prior to their exit from care.
6. Identification and lodgement of victim's compensation claims before young people leave care continues to be a significant concern.⁵

Against the background of the ongoing transfer of out-of-home care services to the non-government sector, it is notable that none of the 10 young people in NGO placements left care with an endorsed leaving care plan. In addition, apart from not having endorsed plans, leaving care planning was considered inadequate for six of the 10 young people in NGO placements.

⁴ We assessed timeliness of leaving care planning by noting the age of the young person when planning commenced and whether commencement occurred by their 17th birthday. For young people with a disability, we considered whether planning commenced at 15 years of age.

⁵ As identified in our Special Report to Parliament: *The need to support children and young people in statutory care who have been victims of crime*. June 2010.

7. Young people for whom no leaving care plan was developed

For 20 of the 90 care leavers in our review, Community Services provided reasons why leaving care plans were not developed.

As we have previously noted, in four cases the young people were ineligible under the Ministerial Guidelines, either because their time in care was less than the stipulated minimum of 12 months, or they were restored to family before the care order expired. We consider these to be reasonable explanations for the lack of development of a care plan.

In relation to the other 16 young people, notwithstanding the reasons provided by Community Services for the lack of a plan, we considered that leaving care planning should have occurred. We reached this conclusion on the basis of our assessment of KiDS records and after carefully considering Community Services' explanation as to why the plans had not been developed. Our observations are set out below.

7.1 Profile of 16 young people not subject to leaving care planning

Of these 16 young people not subject to leaving care planning:

- 11 were male
- Four were Indigenous
- Two were from a culturally and linguistically diverse background
- Two were funded for high needs placements.

Of the 16 placements:

- 14 were case managed by Community Services
- Eight were kinship care
- Five were foster care
- One was residential care
- Two young people had self placed before turning 18.

Based on our review of care histories in KiDS, we assessed nine of the 16 placements as stable and seven as unstable. (We considered placements to be unstable if the young people had experienced multiple moves or periods of homelessness or transience).

7.2 Explanation provided by Community Services for lack of a plan

Community Services provided the following reasons for why all 16 young people left care without a plan.

Incarceration (1 case)

Community Services said one young person had no leaving care plan because of his periodic incarceration since 2009. The agency said a caseworker would 'endeavour to involve [the young person] in the development of a plan following his release from custody.'

This young man turned 18 in December 2011. Our review of his KiDS records showed that there were contacts between Juvenile Justice and Community Services from at least December 2008 until November 2011. In the main, these contacts appear to have been

initiated by Juvenile Justice and related to the young man's court appearances and release from custody.

During the young man's final 12 months in care, Community Services' records document a meeting with him and a Juvenile Justice worker in February 2011; a contact report by the same worker in May 2011, resulting in an outcome of 'non-ROSH forward' [to a CSC]; and a phone call between the worker and Community Services in November 2011, during the young man's last few weeks in care.

Given these contacts and Community Services' awareness of the young man's situation, we could find no satisfactory reason why joint development of a leaving care plan with Juvenile Justice did not occur.

Current competing priorities and agency error (7 cases)

In four cases, Community Services attributed a lack of leaving care planning to current competing priorities.

Given that leaving care planning is a statutory priority that should be initiated from one to three years in advance of exit from care, it is unclear how a failure to develop a plan could be ascribed to current competing priorities.

In another three cases, the agency said plans were 'mistakenly' not developed or not completed. Community Services provided no information about the nature or cause of the errors.

Care leavers' failure to engage (4 cases)

Community Services said it was unable to engage four young people in leaving care planning.

The agency said one young person had minimal contact with the CSC for the final two years of her time in care, as well as a history of not attending scheduled meetings.

In another case, Community Services advised that a plan 'has not been completed due to [the young person's] unwillingness to participate in the process. [The young person] has been advised that she is able to participate in the preparation of a [plan] when she so chooses.'

In response to separate inquiries we made in relation to a reviewable child death, Community Services told us that the Ministerial Guidelines do not specifically address circumstances where young people do not engage in leaving care planning and/or have complex needs.⁶

We note however that sections 165(1) and (2) of the Act stipulate respectively that the young person should be consulted in the preparation of the leaving care plan and that the plan:

'is to include reasonable steps that will prepare the child or young person and, if necessary, his or her parents, the authorised carer and others who are significant to the child or young person for [their] leaving out-of-home care.'

⁶ See section 10 for further discussion about Community Services' advice about young people not engaging in leaving care planning.

In addition, the Guidelines explicitly envisage a role in planning for other people – including parents and significant others – and provide for authorised carers, in particular, to play a valuable role in this regard.

It is acknowledged that agencies may find some young care leavers difficult or even impossible to engage in planning their exit from statutory care.

However, given the scope to develop plans with contributions from a range of people, it appears to be inconsistent with the relevant legislative provisions (and related guidelines) to base a failure to prepare a plan solely on a young person's failure to engage in the planning.

Furthermore, we found matters where CSCs persisted in the preparation of a leaving care plan despite their inability to persuade young people to participate in the process. In one such case the care leaver was a young man who came into Community Services' care as an Unaccompanied Humanitarian Minor shortly before his 17th birthday. His leaving care plan included a summary of the circumstances of its preparation:

'Many attempts to engage [the young man] to develop his leaving care plan, however, he was in Adelaide and he told caseworker that he's not interested. CW [caseworker] had tried to convince him and [he] said that he will contact CW once he comes back to Sydney. Many attempts were made with no success. It had been agreed with ARC [Aftercare Resource Centre] that [Community Services] will develop the leaving care plan in consultation with ARC in case [he] needs any services after he turns 18 years of age.'

Agency difficulties in communication or contact (2 cases)

For one young person, Community Services said a leaving care plan was not developed before his 18th birthday in November 2011, because of 'communication difficulties'. The agency did not detail the difficulties but said it would attempt to schedule a meeting as soon as possible.

Although we noted that KiDS records for the young man included a 'case meeting/case review' that 'proceeded as planned' in January 2011, and a referral for victim's compensation review in September 2011, we did not identify records relating to leaving care planning in 2011.

In another matter, Community Services indicated that a young person's work commitments had prevented leaving care planning. According to KiDS records, a case meeting had been scheduled for the day before the young person's exit from care but was cancelled 'by other party'.

Ongoing delay in provision of plan (1 case)

A young person left care in late November 2011. More than four months later, Community Services told us that the designated agency – an NGO – had not provided the completed plan but would forward it as soon as possible.

Young person's departure from NSW (1 case)

Community Services reported that a young woman left Australia three months before turning 18; the agency was later advised that she would not be returning.

We found a note on the young woman's KiDS file indicating that Community Services planned to develop a 'generic' leaving care plan and close the file. However, we found no evidence that any planning had taken place. In our view, given that planning should have

commenced well before the young woman's last few months in care, her departure overseas did not justify the failure to develop a plan.

7.3 Assessment for victim's compensation

Eight of the 16 young people without a plan appear to have been referred for assessment of eligibility to claim victim's compensation. In four of these cases, the assessment identified grounds to lodge a claim; in two cases no grounds for a claim were identified; and in the remaining two cases the assessment outcome was unknown.

In relation to the four cases assessed as having grounds to claim victim's compensation, we identified a variety of responses by Community Services to this assessment.

In one case, a Community Services legal officer identified a potential claim two weeks before the young person was due to exit statutory care; on the same day the agency requested the legal officer to pursue the claim but the records available to us did not indicate whether this was done.

In another matter, a Community Services legal officer informed the CSC by email that a claim for a young man could proceed if he was willing to discuss his experience as a victim of assault with a psychologist. The legal officer observed that the young man was due to leave care in about two weeks, so an application for counselling could be lodged concurrently with the compensation claim.

A week after the legal officer's email, a manager casework instructed staff to document it electronically and noted that Community Services would not be acting on the claim because the young man

'is disengaged from [the agency] and does not want us further involved so [the agency] would not be following up this claim at this time. He is [about to turn] 18 so realistically there is no real timeframe to engage him in counselling and a psychologist.'

The records available to us did not indicate whether Community Services made the young man aware of his potential claim, either before or after his exit from care.

8. Young people for whom a leaving care plan was developed

In line with our goal of determining whether leaving care practice has improved in recent years, we also identified the number of young people who left care with a plan.

For all these young people where a plan was developed – regardless of whether it was endorsed or completed at the time they left care – we also assessed the timeliness of planning; agency engagement with the young person in planning; adequacy of assessment of their needs; and adequacy of overall planning and support.

8.1 Timeliness – commencement of planning

As noted in section 3, policy and practice guidelines recommend that leaving care planning commences at least 12 months before leaving care occurs and significantly earlier in the case of young people with disabilities who may require ongoing support.

Our previous review found significantly delayed planning for most young people who exited care in 2009 with a plan in place. Of those plans that were documented before the young people turned 18, just under half were developed in the two months before that birthday.

Of the 70 care leavers in 2011 for whom a leaving care plan was developed by the time of our review, we found that planning commenced in a timely manner for only 12 (17 per cent) young people.⁷

For 58 care leavers (83 per cent) planning had not commenced within the appropriate timeframe. Among this group were 12 of the 13 young people in high needs placements. Of particular concern were significant delays in referral of some young people with a disability to ADHC's leaving care program. We discuss this further in section 8.3.4.

As noted previously, 19 young people left care with an endorsed plan in place. Of the remaining 51 young people, planning commenced:

- within two months of exit from statutory care for five young people
- within six months of exit for 13 young people
- between six and 12 months before exit for 18 young people.

For the remaining 15, planning was underway more than a year in advance of exit.

Case study: Nicole⁸

Nicole contacted Community Services six weeks before her 18th birthday to express concern about leaving care. According to the agency's records, she was worried that leaving care planning had not started 'because she needs to put supports in place'. Nicole had lived in a total of 16 placements since entering care as a five-year-old; few of the placements lasted longer than several months. In her last year in care, she lived with her child and partner in the home of one of his relatives. Three weeks before the exit from care, Community Services completed a leaving care plan that included financial support. The plan was endorsed nearly five months later.

⁷ Timeliness is defined in footnote 4.

⁸ Assumed names have been used in the case studies.

Case study: Steven

Steven, a young man with intellectual disability and autism spectrum disorder, had been in care since the age of 13. He had three relatively stable foster placements. Although there was evidence of active casework by the CSC in the 12 month period prior to leaving care, leaving care planning was significantly delayed. Steven was not referred to ADHC until nine months prior to leaving care and the leaving care plan was only commenced 18 days before exit from care.

8.2 Engagement – of the young person, carer and others

The legislation requires the designated agency to prepare a leaving care plan in consultation with the care leaver. Furthermore, the Ministerial Guidelines provide for consideration of the involvement in planning of the young person's parents, carers and significant others.

Community Services has provided advice that the Ministerial Guidelines do not specifically address those circumstances where a young person does not engage in leaving care planning. This advice is further discussed in section 10.

Our 2009 leaving care review did not focus on the adequacy of agency attempts to engage young people leaving care in the planning process. However, we did note Community Services' advice that a small number of plans were developed after the exit from care, for reasons including that the agency had been unable to engage the care leavers previously.

In relation to our 2011 review, records indicate that of the 70 young people for whom a plan was developed during our review, 61 of them attended a meeting to discuss plans for leaving care. In four cases the relevant records do not document that the young person attended a meeting for this purpose.

In the remaining five cases, we have direct evidence that shows the young people did not participate in a planning meeting. Community Services was the designated agency for all of these young people. One young person was unable to communicate verbally as a result of a disability.

Case study: Kelvin

Community Services' records note that it was unable to contact or locate Kelvin in the 12 months prior to him leaving care; however the agency's records also indicate that he was in custody for most of this period and that Juvenile Justice reported in July 2011 that Kelvin had been released and had entered a residential rehabilitation program as part of his parole conditions for the three months before he turned 18. We were unable to find any evidence that Community Services had attempted to engage Kelvin in leaving care planning in the period of his detention or rehabilitation, although it appears that caseworkers tried to make telephone contact with him in the weeks before his care order expired. It also appears that Juvenile Justice initiated contact with Community Services around this time, to advise that Kelvin had exited rehabilitation and to enquire about aftercare supports. Community Services subsequently documented plans for a meeting in relation to leaving care but it is unclear if this took place.

Case study: Tim

Tim had multiple placements during care and lived at times in youth refuges, motels and on the street. His history also included violent behaviour, school suspensions and drug and alcohol abuse. Available records indicated that Tim's most recent case meeting occurred when he was 16. We found no evidence of a leaving care planning meeting or any attempts by Community Services to facilitate discussions with Tim about leaving care planning and the financial supports available to him after his 18th birthday. However we did note records indicating that Tim had made requests for accommodation and financial support during his final 12 months in statutory care. In the same period, Community Services received two risk of significant harm reports raising concerns about Tim's homelessness and risk of sexual harm. Although the agency did develop a leaving care plan, it was unclear whether Tim was aware of it.

We identified cases where carers or relatives participated in leaving care planning. For example, Steven, who has a mild intellectual disability and autism, was accompanied by his mother to a leaving care planning meeting. This initial meeting took place two months before the scheduled exit from care and followed a referral to ADHC's Leaving Care Program in August 2011, more than two-and-a-half years later than required. Given the young man's disabilities and the significantly delayed referral, it does not appear that Community Services made reasonable efforts to engage him in leaving care planning.

Gareth was a father with a history of multiple kin and foster placements. He attended the initial leaving care planning meeting shortly after his release from custody and four months after exiting care. Representatives of Juvenile Justice, Police and an NGO agency also attended the meeting. It was unclear to us why no attempts were made to engage Gareth in planning his exit from care until after his release from custody.

8.3 Developing and approving the leaving care plan

The Ministerial Guidelines state that a leaving care plan should be informed by a needs assessment; also, that beyond the provision of support in relation to planning, information, referral and follow up, further assistance – including financial assistance – is to be based on assessment of a care leaver's needs and consideration of whether care leavers are at risk of not making a successful transition to independent living. Such consideration is to be based on a combination of indicators including the duration of care, number of placements, education, stability of accommodation, whether a young person has health problems such as drug addiction or mental illness, has dependents, or has criminal convictions.

These indicators are consistent with Community Services' case planning framework – published in August 2011 – which includes a plan template featuring 'well-being measures' that guide case planning, including leaving care planning. Caseworkers are required to document relevant information against measures including 'health', 'personal identity', 'living skills' and 'legal issues'.

8.3.1 Assessing the adequacy of leaving care planning

Our criteria for assessing the adequacy of planning were that:

- It focused on seeking to address the young person's assessed needs
- Planning included consultation with other agencies, particularly where needs assessment identified this as necessary

- The plan clearly identified roles and responsibilities for implementing the plan.

Although Community Services' case planning framework requires documentation on KiDS of an After Care Needs Assessment record, we found that few plans included a formal needs assessment. In order to assess whether the plan addressed the care leaver's needs, we therefore considered what records told us about each young person's circumstances – for example, whether they were still undergoing education at the time of exit from care, or had been in Juvenile Justice detention in the months before leaving care – and then considered whether, and if so how, the plans identified and sought to address their individual circumstances.⁹

Of the 70 young people with a leaving care plan, we considered that leaving care planning and support was inadequate for 32 young people.

Those young people with adequate plans included two who were subject to case management by NGOs and a further 36 care leavers in placements case managed by Community Services. Of those with inadequate plans, six young people were placed with NGOs and 26 were case managed by Community Services.

The following case study illustrates a number of common problems relating to the adequacy of planning generally:

Case study: Emma

Emma entered care as a child aged nine, after exposure to domestic violence, educational neglect, poor supervision from carers and sexual assault. During her time in care Emma had multiple kinship and foster placements and was reportedly a regular user of drugs and alcohol. Community Services' records indicate that Emma was at risk of sexual harm: a contact report to the Helpline raised concerns that she was engaging in prostitution in exchange for drugs at age 12. The records also indicate that Emma had a mild intellectual disability and mental health problems. She had her first child aged 15 and was pregnant with her second child in the 12 months prior to her exit from care. During this second pregnancy, Community Services received two Risk of Significant Harm reports and concerns for the child and unborn sibling, given Emma's ongoing drug use and transient living.

Despite Emma's significant vulnerabilities and the associated risks to her own children, the leaving care plan did not specifically address her needs in relation to parenting and childcare, or her capacity for independent living. The plan did not include a referral to parenting support services, despite the impending birth of her second child.

At the time of leaving care, Community Services had not completed the Leaving Care Plan. We found no evidence that Emma had attended a leaving care meeting. However, she did engage with Community Services one month prior to leaving care when she and her child were at risk of homelessness. Community Services provided assistance to secure accommodation but in our view did not use this opportunity to effectively engage Emma in leaving care planning and refer her to after care services or local support services. Emma abandoned the property shortly after exiting care and ceased contact with Community Services. At the time of our review, records indicated she was engaged in transient living and heavy drug use and Community Services was initiating proceedings to assume the care of both children.

⁹ It is noted that timeliness was considered separately, and therefore, was not considered as a factor in assessing adequacy.

We noted that inadequate plans were produced for:

- Six of the seven care leavers who were in Juvenile Justice detention in the 12 months before exit from care
- 11 of the 21 Indigenous care leavers
- Four of the seven care leavers who were young mothers
- Nine of the 13 care leavers who were completing the HSC
- Six of the 15 care leavers for whom ADHC participated in leaving care planning.

8.3.2 Addressing assessed needs

We found that the overwhelming majority of plans addressed (to some extent) the young person's need for accommodation, education and training, access to health services and financial support.

However, one quarter (25.7%) of the plans did not address provision of information about services and support or legal advice, notwithstanding that the Ministerial Guidelines stipulate that 'written information about available mainstream and specialist resources, services and referral points should be provided to all' care leavers.

Accommodation

Having access to stable accommodation is a critical factor in achieving a successful transition to independent living. Records indicated that of the 70 young people for whom a leaving care plan was developed:

- 18 (26 per cent) remained in their placement on an unfunded basis
- 10 (14 per cent) remained in their placement with ongoing support
- 13 (19 per cent) moved to rental accommodation
- 12 (17 per cent) moved to live with relatives
- Two young people were living in refuge accommodation
- For 15 (21 per cent) young people, post-care accommodation was unknown.

In several cases, plans addressed the young person's need for accommodation but planning in this regard was still inadequate.

Case study: Terry

During his five years in out-of-home-care, Terry, a young Indigenous man, had experienced periods of homelessness, stayed with family and friends, was briefly detained in a Juvenile Justice facility, and from age 16, lived independently. A leaving care plan was developed four months before Terry turned 18 and exited care. Although the plan provided for establishment costs for accommodation, it also noted that he should be registered with Housing NSW and identified youth workers as being responsible for completing this task. From available records, it was unclear to us whether this was done. Given his history of homelessness and transience, the plan did not adequately address Terry's need for stable accommodation, including by means of a timely and completed referral to Housing NSW before exit from care.

Education

Care leavers may be eligible under the Ministerial Guidelines for further assistance with education and training via a payment of up to \$500 per year for three years. Separately, where Community Services was providing financial assistance immediately before a young person turned 18, section 161(3) of the Act states that assistance may be continued if the care leaver is in fulltime study and remains in the placement.

In our 2009 leaving care review, we found significant variation in the arrangements made to provide ongoing financial support when a young person was staying in their placement and continuing schooling after turning 18. We identified similar variation in relation to our 2011 review, ranging from significant support to no support.

In one case, a student remained enrolled in a boarding college after turning 18 and Community Services committed to paying full time boarding fees. For another student, the agency approved the extension of care arrangements in the young man's existing placement until he completed the HSC in 2012, around a year after his scheduled exit from care.

We also identified 10 cases where leaving care plans either did not address the issue of support for ongoing school education, or arrangements to implement support were unclear.

Case study: Victoria

Victoria chose to continue to live with her carer after turning 18. The leaving care plan documented a recommendation that the carer should continue to receive the care allowance while Victoria finished high school. However, six months after exiting care, we found no evidence in Community Services' database that the recommendation had been implemented. The records showed that carer payments ceased on the day Victoria left statutory care.

Case study: David

David had been living independently in shared accommodation in the months before his departure from care; during this period he was continuing secondary studies – apparently at year 10 level – via distance education. Community Services made regular payments to support the studies during 2011 and the leaving care plan noted that David wanted to complete the HSC. However the payments ceased in December 2011; we found no evidence of education assistance after that time.

Financial support

Under the Ministerial Guidelines, after care financial support must be based on assessed need, consistent with the leaving care plan and approved by a Regional Director of Community Services.

In our 2009 review of leaving care, we found significant problems with Community Services' processes for approving financial assistance to care leavers in a timely fashion.

In response, Community Services told us it would review its procedures and consider lowering the threshold of delegation for approval of financial assistance for care leavers. Subsequently, the agency's review determined that there should be no change to the existing level of delegations. However, Community Services advised us that our concerns about approval of financial assistance for care leavers would be addressed through revised leaving care procedures – published in September 2010 – and a new case planning framework.¹⁰

In relation to our 2011 review, we identified that 63 of the 70 plans addressed financial support. Of these, 17 were endorsed at the time the young person left care. Another 46 were either incomplete or not endorsed at exit, meaning that any funding specified in the plan could not be released to the young person.

We also considered whether the care leavers under review had an approved source of income at exit from care. Seven young people had no source of income and for 17 others, this was not documented.

The Ministerial Guidelines state that leaving care planning should include a particular focus on helping the young person to access appropriate income support 'for which the young person may be eligible and the Australian Government's Transition to Independent Living Allowance' (TILA) .

Records indicated that a TILA application had been made in only nine of the 70 cases. Of these nine, the allowance was paid in three cases. In 20 cases, we were unable to determine from records whether an application was made. In one further case, records indicate that the young person had exhausted the TILA payment before leaving care but was in receipt of a Centrelink Youth Allowance and Community Services' Aftercare payment.

8.3.3 Consultation with other agencies

Where records indicated that interagency liaison or collaboration might be warranted in planning the transition from care to independence, we looked for evidence that this occurred. In a number of cases where we expected to see evidence of joint agency planning, we did not find it, most notably in relation to cases where young people were involved with Juvenile Justice.

Of seven young people who spent time in Juvenile Justice detention during the final 12 months in care, we considered that interagency consultation was not adequate in four cases; Community Services either made no attempt to engage Juvenile Justice in the leaving care process; or attempts were inadequate.

Case study: Mark

Community Services did not commence leaving care planning for Mark until he was released from incarceration – five months before he left care. Mark had been in custody 12 months prior to leaving care however there is no evidence of any contact with Juvenile Justice or Mark during this period and no evidence that either party was included in the leaving care process when it finally commenced.

¹⁰ Community Services correspondence to the Ombudsman dated 9 September 2011

8.3.4 Referrals to ADHC's Leaving Care Program

Under the Ministerial Guidelines, specific provision is made for young people with a disability who are likely to have significant support needs on leaving care. In these cases, planning to address leaving care should commence between Community Services and ADHC at least two years before the exit from care. ADHC's Leaving Care Program Guidelines state that all eligible young people should be referred on turning 15, in line with the NSW Children's Guardian's Out-Of-Home-Care standards, or two years prior to expiry of their care order.

Of the 70 young people who left care with at least a partial plan in place, 19 care leavers had an identified disability. Twelve of these young people had an intellectual disability, (one severe, 11 mild or moderate) another had global intellectual delay and another developmental delay.

Fifteen of the young people with disabilities were referred to and accepted into ADHC's Leaving Care Program; however, of the 15 referrals, six were significantly delayed.

ADHC was involved in leaving care planning for each of the 15; as we did not have access to ADHC's records we did not assess the adequacy of the agency's role in planning. However, for reasons including delayed referrals and failures to complete or endorse plans before the young people left care, we considered that overall leaving care planning and support was inadequate for six of these 15 care leavers including four of those in high needs placements. All six, however, were referred to aftercare agencies.

ADHC's Leaving Care Program Overview (July 2011) notes that the program eligibility criteria are more inclusive than the eligibility criteria for other ADHC specialist disability services. Eligible young people must have a disability as defined by the Disability Services Act (DSA), and be considered by Community Services to be unable to restore to family or to continue in care without ongoing support.

Four young people with an identified disability were not referred to ADHC's Leaving Care Program. Two of these young people had an intellectual disability; one had Aspergers syndrome and one had Aspergers and ongoing mental health problems. Records did not document why these young people were not referred for assessment.

We noted that records for one young person did not identify any disability but did document chronic mental health problems; leaving care planning records for this person included a reference to an application to Centrelink for disability support, although whether an application was lodged or approved is unknown. We considered that this young person may also have warranted referral to ADHC's Leaving Care Program¹¹.

8.3.5 Referrals to the Public Guardian

Young people who are eligible for ADHC's Leaving Care Program may also require referral to the Public Guardian. Eligibility criteria – including a young person's impaired decision making capacity as a result of disability – are outlined in an interagency protocol applicable to young people who are transitioning from the care of Community Services to that of ADHC.¹²

The protocol's purpose is to assist in the early involvement of the Public Guardian in the transition planning process; the document states that where possible, Community

¹¹ People who have a disability caused by psychiatric impairment are included in the target group for services under the DSA.

¹² Protocol between Community Services, ADHC and the NSW Public Guardian – June 2011

Services should make relevant applications to the Guardianship Tribunal two years before exit from statutory care; in most cases, this will be when the young person turns 16.

Among the 15 young people who were accepted by ADHC's Leaving Care Program, 10 were also referred to the Public Guardian. Of the 10 referrals, seven were significantly delayed and occurred within the final nine months in care or, in two cases after exit from care. In at least four cases, Guardianship Tribunal processes were incomplete several months or more after the young person's exit from care.

In one separate case, a young woman with intellectual disability was not referred to ADHC but was subject to a Community Services' referral to the Guardianship Tribunal on the basis of her disability, transient living and drug use. This application – for financial management of the young woman's affairs – was significantly delayed, occurring five months after exit from care.

8.4 Assistance with victim's compensation

During our 2009 leaving care review, we identified significant shortcomings in Community Services' handling of victim's compensation claims for children and young people in statutory care.

In a subsequent investigation, we found major deficiencies in the agency's systems for identifying and processing claims for children and young people who may be eligible for victim's compensation. In some cases, extensive delays meant that claims were not lodged before young people turned 18, so responsibility for lodging a claim was then transferred from Community Services to the young people.

In response, Community Services told us it was taking a range of actions to address the problems we identified, including the use of a new case plan template with provision for a 'measure of wellbeing – legal issues' field that included victim's compensation.

In our 2011 leaving care review, we looked for evidence in leaving care plans and other available records that young people's case files had been assessed to determine eligibility for victim's compensation and, where this was identified, a claim had been lodged.

In relation to those 70 young people for whom a leaving care plan was developed during the course of our review, we found that in 55 (79 per cent) cases, files had been referred for an audit of eligibility for a victim's compensation claim; for 14 (20 per cent) young people, we found no evidence of a referral and in one case, we were unable to determine whether or not a referral was made.

In 24 cases, young people were identified as eligible to seek compensation and of these, we found evidence in 14 cases that an application had been lodged.

Of the remaining 10 cases, we found that Community Services wrote to five young people after they left care – and in a sixth case to the carer of a young person with significant disabilities – to advise them they were responsible for pursuing the claim. The agency warned in its correspondence that delay in proceeding might compromise a claim, as indicated in the examples below.

Case study: Tom

For Tom, who was incarcerated for part of his final 12 months in care, leaving care planning did not commence until after he turned 18. The plan documented victim's compensation as an objective, noted that an audit had been done and that the matter would 'need follow up by s/c' [the subject child]. Under the heading of 'tasks' the plan noted that Tom was to contact Legal Aid to make a claim and that a caseworker would give him a solicitor's letter. We found this letter and associated correspondence from Community Services in the file. The agency's letter advised Tom that he had been identified – just before leaving care – as eligible to make a victim's compensation claim, that he should contact lawyers, and that any 'delay in obtaining legal advice and assistance might compromise your prospects of success in a future claim.' Given that the leaving care plan and KiDS records also noted that Tom was not in contact with Community Services and his postal address was unknown, it is unclear whether he ever received the correspondence about victim's compensation.

Case study: Chris

Chris, a young man with significant intellectual and physical disabilities, continued to live with his long-term foster carer once he left care, with support from ADHC; several weeks after he turned 18, the Guardianship Tribunal upheld an application by Community Services to appoint the carer as Chris's guardian. Almost three months later, the agency wrote to the carer to advise that 'some time ago we asked a solicitor [...] to conduct a [victim's compensation] review [which] identified 2 sets of circumstances that indicated [Chris] may be eligible for compensation as a result of injuries he has suffered'. The letter also noted that at the time of the review, the agency shared parental responsibility for Chris, but since he was over 18, Community Services no longer had power to act in relation to a victim's compensation claim. Further, the letter noted that if the carer wished to proceed with a claim, this should be done 'without delay as the law presently provides that a Victims Compensation claim must be lodged within 2 years of an act of violence occurring.' According to the records available to us, Chris had lived in his placement for 13 years; the injuries noted in the Community Services' letter appear to have occurred in the period before his entry into care.

In another case, a leaving care plan for a young mother noted that she was sent a letter about victim's compensation four days after her departure from care; the plan also noted that she had been 'made aware of the possibility of having a Victims of Crime claim and the impact this would have on her receiving financial support from NSW Community Services if her claim/s were successful and she were to receive compensation.'

Another two cases related to young people in NGO placements in the same Community Services region. KiDS' records indicate that files for the two were referred for legal audit on the same day in April 2011. One file was sent to a Community Services legal officer and the other was sent to a private solicitor. Both lawyers later identified grounds for a claim for victim's compensation, however one leaving care plan failed to reflect this and the other did so with scant detail.

Case study: Bruce

Bruce's files show that the day before his exit from care, Community Services instructed the private solicitor to pursue a claim on his behalf; on the same day, the agency wrote to Bruce about the claim and how to contact the solicitor. The 'legal issues' section of the leaving care plan stated that Bruce was currently paying off a fine of \$700 and that he had been able to access 'Aboriginal Legal Aid'. In relation to 'actions required' the plan listed 'Victims Compensation Claim' and identified Community Services as responsible but provided no other information.

Case study: Michael

Michael's records show that a Community Services legal officer identified grounds for a potential victim's compensation claim in July 2011. This advice was documented in KiDS on 5 August 2011 but we found no evidence of any further action after that date. Michael left care on 20 October 2011. His leaving care plan was developed by two NGO agency workers in consultation with the young man and his carers. Although the plan noted that a relative had been convicted in 2008 of assaulting Michael, it made no reference to the legal advice about victim's compensation, noting instead that there were no pending legal issues and 'nil' actions required. It was unclear whether the NGO as designated agency was aware of the results of the legal audit on Michael's case.

8.4.1 Data provided by Victims Services

In order to inform our assessment of the victims' compensation aspect of leaving care planning, we sought certain data from Victims Services within the Department of Attorney General and Justice.

Victims Services provided data by financial year for the period 2008/2009 to 2011/2012 on the success rate of applications for children and young people in care, compared to the success rate for all applicants for victim's compensation.

This data shows a significantly higher success rate for applicants in care; their success rate between 2008 and 2012 ranged between 73 per cent and 83 per cent of applications, compared to a success rate of 58 per cent to 61 per cent for all applicants.

Victims Services also provided data for the average age of children at the start and end of the period when they were subjected to violence, and their average age when a claim was lodged; the data covered the same four-year period, as indicated in the table below:

Financial year	Average age (in years) at start of act of violence	Average age at end of act of violence	Average age at lodgement	Number of claims lodged
2008/2009	4.5	7.9	13.1	105
2009/2010	6.0	7.9	13.9	284
2010/2011	5.7	8.4	13.4	296
2011/2012	5.6	8.3	13.8	395
2008-2012	5.5	8.1	13.6	1,330

The data shows that children were on average just over eight years old at the cessation of violence that was later the subject of a claim for victim's compensation; claims were lodged, on average, five and-a-half years after the cessation of the violence.

The tabulated data also shows that the total number of claims for children and young people in care has increased from year to year since the 2008/2009 financial year.

As noted previously, we alerted Community Services in 2009 to the significant problems we found in systems and practice for the timely identification and lodgement of victim's compensation claims for children and young people in care. In 2010, Community Services advised us of action it was taking to improve its performance in this area (including ensuring that children with potential claims for victim's compensation are identified during care proceedings).

It is encouraging to note that since we first brought these matters to Community Services' attention, the agency has significantly increased the number of victim's compensation applications for children and young people in care.

However, the data provided by Victims Services also indicates that there has been little change in the average age of young people in care when an application is lodged. Clearly, this is an issue that warrants attention and we will be keen to see further improvements by Community Service in dealing with victim's compensation for children and young people in care, both generally and as an aspect of leaving care practice.

8.5 Care leavers at risk

Section 165 of the Act, provides the Minister with discretion to arrange or provide for such assistance to care leavers as is considered necessary, having regard to their safety, welfare and wellbeing. There is scope under the Ministerial Guidelines for provision of further assistance based on needs assessment for young people who are considered to be at risk of not making a successful transition to independent living.

Against this background, we noted correlations between various vulnerabilities for a significant minority of the 90 young people under review. These vulnerabilities included involvement in Juvenile Justice, parenthood, disability or chronic mental health problems,

and high needs. We also noted the prevalence of Indigenous young people among those with various vulnerabilities.

For example, of the 19 young people involved with Juvenile Justice, five also had a disability and two others had chronic mental health problems. Of the seven young women who delivered a baby while in care, four had been involved with Juvenile Justice. More than half (10) of those involved with the Juvenile Justice system were Indigenous.

We assessed leaving care planning and support as not adequate for 13 of the 19 care leavers who had been involved with Juvenile Justice.

In relation to young people who become parents while in care, Community Services' practice guidelines state that they are likely to require additional supports including links to supports for vulnerable families. Those with parenting responsibilities who are looking for employment, should be assisted to find suitable child care and access relevant Commonwealth subsidies and rebates. In addition, Community Services may provide financial assistance by paying security deposits required to secure a child care placement for care leavers looking for work.

Of the seven young mothers in our review group, three had their children removed from their care before their own care order expired.

We found that in only one of the seven cases did the leaving care plan adequately consider childcare and additional supports.

Case study: Alice

Alice, a young Indigenous woman, entered kinship care at the age of 16 years and gave birth to a child 11 months later. A leaving care plan was commenced in the final six months of statutory care: during this period Alice and her baby moved into independent housing assisted by Community Services and Housing NSW and the plan noted the provision of financial support for the bond and household furniture. The plan also acknowledged that parenting assistance was required and referrals to local support services were made. Further, the plan noted that assistance would be provided to Alice to secure childcare so that she could return to TAFE and complete her education.

8.6 Indigenous care leavers

That our review sample included 25 (28 per cent) Indigenous young people is consistent with the disproportionate number of Indigenous children and young people in out-of-home care across New South Wales.

When we considered our findings in relation to Indigenous care leavers as a group, we noted the following:

- Of the 19 young people who left care with an endorsed plan, five were Indigenous
- Of the 70 young people for whom a plan was developed during our review, 21 were Indigenous
- Of the 16 young people who were eligible for a plan but for whom none was developed, four were Indigenous
- Of the 21 Indigenous care leavers with a plan, planning and support was inadequate for 11 of them.

The data detailed above shows that 20 per cent of Indigenous young people exited with an endorsed plan, compared with 22 per cent of the entire sample.

However, of the 25 Indigenous young people, 15 (60 per cent) either left care with inadequate planning or were not provided with a plan; this is higher than the 52 per cent of all care leavers who had either no plan or inadequate planning.

For those 21 Indigenous young people for whom a plan was developed, we also took account of whether the plans addressed requirements relating to their cultural identity.

The Ministerial Guidelines emphasise that the establishment and maintenance of cultural links are often important to the long term development and wellbeing of Indigenous care leavers. This focus on Indigenous community and culture is reflected in a requirement in Community Services' casework practice that Indigenous care leavers be encouraged through leaving care plans to establish and maintain links to their cultural identity.

In 18 of the 21 plans for Indigenous care leavers, their Indigenous background was acknowledged. Eleven of these 18 indicated that referrals to aftercare services were proposed or had been implemented. Of these referrals, four appeared to be intended to address the care leavers' cultural needs; two young people were referred to Marungbai Aboriginal Aftercare Service, one young person was referred to 'Aboriginal aftercare' and another referral was to 'Aboriginal link up'.

A number of other plans had insufficient information about the referral to allow us to assess whether it was intended to address, inter alia, cultural needs. In two cases, care leavers were referred respectively to the Indigenous Parenting Support Program and the Helping Hands Indigenous Housing Support Service.

During our leaving care consultation with the Aboriginal Child, Family and Community Care State Secretariat (AbSec), we were advised that it is AbSec's understanding that, as with all other out-of-home-care services, Aboriginal services are not funded to provide caseworker support after young people have left care.

AbSec also told us that the Marungbai Aboriginal Aftercare Service – noted above – is funded to provide brokerage and advocacy services to Aboriginal and mainstream OOHC providers; the service is not funded to provide direct aftercare services and operates with one caseworker across the State.

Given the emphasis on encouraging Indigenous care leavers to maintain cultural connections, it is noteworthy that there is no funded specialist aftercare service operating in the State's Western region, where there are disproportionate numbers of Indigenous people.

8.7 Use of plan templates

In early 2011, Community Services developed a new leaving care plan template for the purpose of documenting case plan goals, including leaving care. The agency subsequently advised us that use of the template would contribute to improved leaving care practice.¹³

However, our review indicates that the leaving care plan template has not necessarily ensured better compliance with the Ministerial Guidelines. While most Community Services Centres (CSCs) used the current leaving care plan template, the level of detail recorded in leaving care plans varies significantly.

¹³ We also refer to and quote this advice in section 10 of this report

In some instances, our review found that Community Service's assessment of the young person's aftercare needs was thorough and well-documented and addressed legislative requirements.

In a number of cases, the leaving care plans broadly addressed the types of assistance required, but provided insufficient detail around the key areas of financial assistance, setting up house, education, training, finding employment, legal advice, access to health services, counselling and support. For example:

Case study: Oscar

Oscar had been in care since two years of age and experienced a number of placements including foster and kinship care. In the 12 months prior to leaving care he became involved with Juvenile Justice and was detained for a period. During this time there was some communication between Community Services and Juvenile Justice about leaving care, though planning was significantly delayed. Oscar was then placed in Community Services' foster care. Oscar had informed Community Services he was anxious about exiting care and about the possibility of being charged again at 18. His leaving care plan did not adequately address how he would establish accommodation, or find employment, counselling and support; nor did the plan provide information about key services or legal advice. The leaving care plan also failed to take account of some significant recent changes in Oscar's circumstances, including his decision to cease TAFE coursework, leave his carer's home and reside with peers.

The current Community Services leaving care plan template also includes a field for planned review dates. We discuss the scheduling of reviews in the following section.

8.8 Planned reviews of aftercare support

Under the Ministerial guidelines, designated agencies should offer follow up support to care leavers at regular intervals 'in the years' after their exit from care; this may include reviewing aspects of the leaving care plan and ongoing advice, support, advocacy and assistance.

Community Services' current leaving care plan template includes a field for three 'Planned Review Dates'.

As noted at section 8.7, not all Community Services' plans used the current template. NGOs used their own formats. Overall, we found that of the 70 plans developed during our review, only 21 (30 per cent) included planned reviews scheduled to take place after exit from care.

Of the 49 (70 per cent) plans that included no planned aftercare reviews, we noted a small number that documented review dates that preceded the young person's exit from care.

The Ministerial Guidelines also state that beyond general follow up and support, specific forms of assistance may be provided on the basis of assessed need. The guidelines state that where practicable, the young person should be referred to an existing service, which may include a funded specialist after care service.

Information provided by Community Services indicates that funded after care services are delivered by non-government organisations in six of the seven Community Services

regions; as noted previously, the exception is the Western Region, where ADHC provides the only funded after care service.

Of those 70 care leavers for whom a plan was developed, 33 (47 per cent) young people had been referred to an aftercare service – 28 of these were to a funded service, including 15 referrals to ADHC.

Of the 37 care leavers who were not referred to an after care service, we identified some who declined a referral and others who planned to remain with their carer in stable long term placements; in some of the latter cases, information was given to the young person about support services they could contact in future.

In relation to Community Services' Western Region – where no funded non-government after care service is available – we reviewed the leaving care plans for 11 young people. We found that a number of them had been referred to or were engaged with support services for a range of issues including psychological services, independent living skills, financial management and parent support.

We acknowledge that referral to an aftercare service is not required or necessary for all care leavers. However, among those care leavers not referred to an after care service were a number with significant needs. In our view, in these cases, an after care service could have provided assistance with the transition to independent living. The following example illustrates this issue:

Case study: Tim

Tim had been in care since the age of 13. He had a history of behavioural and psychological issues and drug and alcohol misuse, and had experienced chronic placement instability. In the 12 month period prior to his exit from care, he had lived with various family members, friends and at youth refuges. He had also contacted Community Services to report he was homeless having spent a few nights sleeping on a train. Community Services secured an overnight refuge placement. At the time of our review it appeared that stable long term accommodation had not been arranged. We identified a number of issues that needed to be addressed including a referral to an aftercare service to support Tim's transition to independence.

9. Leaving care and non-government agencies

In March 2012, the NSW Government started a long term program to transfer children and young people in statutory foster care or relative/kinship care to accredited non-government organisations. The transfer is expected to take up to five years for non-Indigenous children and young people, and up to 10 years for Indigenous children and young people.

Contracts for NGO providers of out-of-home care include performance requirements relating to leaving care.

The 90 care leavers in our review included 10 in non-government organisation placements: of these, two young people left care without a plan. We reported on their cases in section 7.2 where we noted Community Services' advice that the NGO had yet to provide a plan four months after one young person's exit; in the other case, a plan was not developed because of unspecified agency error.

The remaining eight young people in NGO placements left care with a plan but none were endorsed. Of the eight plans which were not endorsed:

- Five plans were complete but not endorsed at exit
- Two plans were incomplete at exit
- One plan contained insufficient information for us to determine its status at exit
- Six plans were commenced when the young person was 17
- One plan was commenced before the young person's 17th birthday
- One plan was commenced after the young person turned 18.

As noted at section 8.3.1, we assessed planning and support as inadequate for six care leavers in NGO placements, including a case where liaison and information exchange between the NGO, Community Services and Juvenile Justice appeared to be inadequate:

Case study: George

The leaving care plan for George noted that he had a long history of chronic drug and alcohol use, trauma and placement disruption, and significant involvement with Juvenile Justice, including several periods in custody prior to leaving care. However, the plan contained no information about the implications of chronic drug abuse for George's future or how this might be addressed, other than noting that he could approach Community Health for counselling and rehabilitation 'if he chooses to overcome his current addiction'. There was no indication that Juvenile Justice had been involved in the leaving care planning process, including by contributing to a needs assessment. Additionally, the plan did not address George's educational needs, identify current or future sources of income, or develop firm plans for aftercare accommodation. The NGO completed the plan two months before George turned 18: one week after he left care, his file was referred for a victim's compensation audit but the plan made no reference to victim's compensation. The plan was endorsed nearly three months after his exit from care.

10. Ensuring that agencies meet their obligations on leaving care

As noted previously, Community Services has taken steps since 2010 to improve its handling of leaving care, including staff training in the use of a revised case plan template. In late 2011 Community Services advised us that the revised template would help the agency to:

... monitor and address its obligations to support young people during their transition to independence. The template is attached to a young person as a 'case meeting' record in KiDS. Once a young person turns 15 years of age, the case plan goal becomes 'leaving care' and the objectives and tasks in the case planning template are increasingly focussed on preparing the young person for independence at 18 years of age.

Community Services also told us that it provides its regions with regular 'out-of-home care baseline data' reports on children and young people in the parental responsibility of the Minister. The reports support regions' 'monitoring of progress and improves Out-of-home-care casework practice, including appropriate recording of the case planning template on KiDS.'¹⁴

In subsequent advice, Community Services told us the reports are provided on a fortnightly basis and that they include data for individual CSCs for categories such as the number of all children and young people in care, and the number who are aged over 15 and who have a disability.¹⁵

We then sought clarification from Community Services about its capacity to use out-of-home care data to identify whether young people have reached the age for commencement of leaving care planning. The agency informally confirmed that the data could be used in this way.

During the course of our 2011 leaving care review, in addition to the group under review, we took account of particular cases known to our office where a young person had left care either before or after the period of our review. This information was obtained under the Ombudsman's child death review and reportable allegations functions.

Case study: Paul and Edward

Two young people, Paul and Edward, were charged with a serious criminal offence in late 2010. Paul was in care and Edward had left care three weeks before the incident. Each had an allocated caseworker at the same CSC but we found no evidence of leaving care planning in either case.

We asked Community Services why leaving care planning had not commenced for Paul, prior to the alleged offence, when he was aged 17 years and six months. Community Services told us that for both young men, periods of incarceration and transience affected development of a leaving care plan; both were also difficult to engage. However, the agency also told us that best practice is to liaise with interagency partners to determine the needs of the young person and this appeared not to have occurred in either case.

¹⁴ Community Services correspondence 25 November 2011

¹⁵ Community Services email communication 24 September 2012

We asked Community Services for information about its practice in relation to leaving care planning for young people who do not engage and/or have complex needs. Community Services told us that the Ministerial Guidelines do not specifically address circumstances where young people do not engage and/or have complex needs; however it said the guidelines do state that where a young person leaves care without a plan and later requests assistance, a leaving care plan should be prepared at that time. The Guidelines also allow provision of assistance beyond the age of 25, where formal leaving care planning has not been undertaken due to periods of detention for criminal behaviour.

Further, the agency advised that:

‘In January 2012, [the] CSC identified that leaving care plans were not being prioritised at the CSC, particularly for unallocated cases. A system was then developed and implemented to address this. The system identifies young people in out-of-home-care over the age of 15 years (including over the age of 18 years) where leaving care plans have not been commenced or completed or where cases are unallocated. While this process was occurring, the CSC discovered that [Paul] did not have a leaving care plan and on 20 March 2012 commenced action to develop one with him.’¹⁶

Case study: Sophia

Sophia made disclosures in September 2010 of longstanding sexual abuse by a male carer. At the time she was aged 16 and living in a kinship placement. Her disclosures were reported to Community Services and she participated in an interview with JIRT. Subsequently, Sophia said she did not want to proceed with investigation of the allegations. The matter was then accepted for investigation by Community Services’ Reportable Conduct Unit (RCU) and finalised in September 2012. Allegations of sexual misconduct against the carer were sustained.

In its investigation report, the RCU noted that it found no evidence of a leaving care plan for Sophia, who turned 18 in March 2012. The RCU recommended that a leaving care plan be prepared for her and that her case be assessed for victim’s compensation. At the same time, however, the RCU wrote to Sophia to inform her that it had concluded its investigation but was unable to disclose the outcome.

It was unclear to us how Community Services proposed to engage Sophia in leaving care planning without disclosing to her basic information that appears to have implications for both a potential victim’s compensation claim that she might have to pursue and issues of aftercare support.

¹⁶ Community Services correspondence 21 June 2012

11. Community Services' response to our draft report

In May 2013 Community Services provided its response to our draft report.

In summary, the agency told us that its limited casework capacity affected the quality of leaving care planning and resulted in some young people remaining unsupported when they left care. Community Services said measures to address this problem were being focused on capacity building in non-government organisations as part of the transition of out-of-home care to the NGO sector: in particular, that the transfer of OOHC would increase the number of young people in placements with providers with enhanced capacity to meet the Children's Guardian's standards for leaving care planning.

Further, Community Services advised that young people who are already 15 will not be transferred to ensure continuity of care and case management by Community Services.

Separately, Community Services said continuing challenges for its Regions in ensuring that young people exit care with a plan in place include consistency of approach to planning for young people who are hard to engage, and local barriers to collaboration with partner agencies such as Juvenile Justice.

Community Services outlined what it called promising practices to improve leaving care planning and support, including:

- Monitoring the number and proportion of young people with leaving care plans through the fortnightly OOHC Quality Baseline Report
- Group supervision under Practice First in trial Community Services Centres
- Discussion and review at regular meetings of the Community Services-ADHC Memorandum of Understanding Senior Officers Group

The agency said it acknowledged our draft conclusion that improved monitoring and reporting is required in order to sustain and demonstrate substantial improvement in leaving care practice.

Further, Community Services said it had identified a number of immediate and longer-term actions to improve leaving care support. These are summarised below.

Immediate actions

Community Services told us it would amend the Ministerial Guidelines to: reflect an OOHC Standards requirement that leaving care planning commences when a young person turns 15; specify that plans should be prepared for young people who are hard to engage; and update information on the Commonwealth TILA payment.

The agency said it would consider lowering the delegation for approval of plans requesting aftercare spending of less than \$3,000; and it would revise its Memorandum of Understanding with Housing NSW and Juvenile Justice on shared clients, to address issues raised by our review.

Community Services also advised that the OOHC Transition Program Office would establish a steering group to facilitate and coordinate training and development for issues including leaving care; and that the Association of Children's Welfare Agencies would be engaged in activities to support sector development on leaving care.

The agency said each of these immediate actions would be completed by the end of June 2013.

Separately, Community Services reiterated advice to us that its common case plan template, and case planning and review procedure, ensure consistency in leaving care planning. Further, the agency said the template and procedure had been in use for only eight weeks for the cohort in our review, so this might explain the problems we identified in relation to consistency.

Longer-term actions

Community Services outlined actions to occur within two years, including use of annual case plan reviews to 'populate' information about the number of young people with leaving care plans on file. The agency said that case plans had been established as stand-alone records on KiDS since November 2012, so information about leaving care planning would be easier to obtain and improvements to the quality of planning would be easier to track.

Community Services also told us that it has strategies to improve leaving care planning for vulnerable care leavers; these strategies involve the use of MOUs with other government agencies and non-government OOHC providers, and related health and education referral arrangements. Community Services said it is providing information to NGOs to progress implementation of the interagency protocols and will hold related regional workshops in 2014.

Aftercare

Community Services told us it is considering more innovative models for care leavers to get aftercare support, given what the agency described as its 'need to reduce [its] role in providing aftercare financial assistance in the context of the OOHC transfer to NGOs. It is also to ensure that the funding available provides an effective service to as many young people as possible during the years they are eligible for after care assistance.'

Community Services said it was consulting about future arrangements for aftercare support with aftercare services and peak bodies.

Victims' compensation

Community Services told us that improved timeliness of leaving care planning would also assist with early lodgement of victims' compensation claims for young people in care; it also said it would provide more detailed advice in this regard by way of a separate response to the Ombudsman's investigation into Community Services' handling of victims' compensation claims.

As noted in section 4.2, we have received this separate advice.

In summary, Community Services told us it conducted an audit in February 2012 of the effectiveness of a new procedure published in October 2011 for handling victims' compensation claims for children and young people in care.

The audit found that the new procedure was not operating effectively because of reliance on other casework procedures – such as leaving care and case planning – that are not consistently complied with. As a result, some children and young people who were eligible for victims' compensation were not being considered.

Further, the audit found that 'referral pathways' for identification of victims' compensation claims [did not] 'sufficiently capture' children and young people case managed by NGOs; there was inadequate monitoring of performance in processing claims; and accountability for delays was not defined. Additionally, although training was delivered at each CSC, some staff were not 'clear' on the victims compensation process and did not view victims compensation as a priority.

In response to the audit findings, Community Services said it had intended to develop reporting and monitoring arrangements to ensure compliance with victims compensation processes, but it did not progress this work because of the introduction of a new victims support scheme in NSW. However, the agency said it would develop new practice to support its responsibilities under the *Victims Rights and Support Act 2013*. It did not indicate how it would handle eligible victims compensation cases in the meantime.

12. Conclusion

In our draft report, we observed that, for young people who left statutory care in the last quarter of 2011, the delivery of leaving care planning had not improved substantially since our review in 2009.

Although we found an improvement in the proportion of young people who exited care with an endorsed plan in place, four in every five care leavers did not have an endorsed plan in place on exit from care.

We found leaving care planning was characterised by delays in commencement and referrals, and extensive variations in the level of consultation with young people, and on the degree of detail in the plans. For a significant minority of care leavers, there was no planning whatsoever.

Among the particular concerns about adequacy of planning, we noted:

- Delays in assessing victim's compensation, leaving young people to navigate the application process without assistance.
- Lack of consultation with other key agencies, in particular a failure to work with Juvenile Justice to develop plans for young people in custody.
- A high proportion of Indigenous young people leaving care without adequate planning, including in relation to cultural identity.
- A failure to provide ongoing support for young people completing their HSC – this is of particular concern given the disproportionate number of young people in OOHC who do not complete schooling.
- A failure to address the specific circumstances and needs of high risk young people. We reviewed plans for young parents which did not consider their need for support in parenting; plans for care leavers with a history of drug and alcohol abuse that did not address their need for referral to drug and alcohol programs; and plans for transient care leavers that did not include assistance with accessing appropriate housing.

From the time of our previous leaving care review in 2009, Community Services has acted to improve its practice on leaving care. However, as we observed in our draft report, the findings of our follow up review demonstrate that the return on this investment has been insufficient.

As noted, in its response to our draft report, Community Services acknowledged that improved monitoring and reporting is required to sustain and demonstrate substantial improvement in leaving care practice.

The agency has outlined a number of short term and longer term actions to address the shortcomings we identified; these include fortnightly reporting on the number of young people with leaving care plans, changes to the KiDS system, revision of interagency agreements and protocols, and training on leaving care for non-government OOHC providers.

However, in its separate responses to our draft report and our work on victims compensation for children and young people in OOHC, Community Services also provided two distinct explanations for its performance on leaving care; these explanations concern capacity and compliance.

First, the agency said its limited casework capacity has affected the quality of some leaving care planning and, in some cases, left young care leavers with no support.

Second, an internal audit of new procedures for victims compensation claims found that these were not operating effectively, in part because Community Services workers do not consistently comply with associated procedures including those for leaving care planning.

These separate explanations for poor performance on leaving care planning warrant some discussion.

In relation to the capacity issue, it is notable that of our review group, Community Services identified current competing priorities as the reason that plans were not developed for only four of the 16 young people for whom no plan was developed. In other words, based on the agency's advice to us, limited capacity to develop a plan prevented this from occurring for less than five per cent of our review group of 86 care leavers. Moreover, as we noted in our draft report, given that planning should occur up to three years before exit from care, it is unclear how failure to develop a plan can be attributed to current competing priorities.

More broadly, the issue of Community Services' capacity to meet its statutory obligations on child protection – including in relation to OOHC – is one we have identified and raised repeatedly, including in our 2011 report *Keep Them Safe?* We discussed then the need for improved data collection, monitoring and reporting as one element of measures to address capacity; we also noted Community Services' advice that a key element of its plan to improve capacity related to the involvement of the non-government sector in the provision of OOHC.

Of itself, however, improved capacity will not lead automatically to improved compliance. It is concerning that Community Services' audit in 2012 of a new procedure on victims compensation identified that the agency's staff are not consistently complying with the procedures that govern their work on leaving care planning and case planning.

Considered together with the findings of our review, Community Services' audit findings clearly demonstrate the critical importance of monitoring to ensure that both Community Services and its partner agencies in the OOHC sector comply with the leaving care provisions of the Care Act.

Community Services has outlined a range of measures to address the shortcomings in leaving care planning which we have identified. However, it appears that it has yet to establish a comprehensive plan for sector-wide reform. In particular, while the agency has said that the transfer of OOHC to the non-government sector will lead to enhanced capacity to meet the leaving care standards of the Children's Guardian, it has not outlined how the sector's performance will be monitored and reported.

For this reason, it is vital that Community Services closely involves both the non-government sector and the Children's Guardian in the development of a systematic plan designed to achieve substantial and consistent improvements in leaving care practice, and to collect and report the evidence to demonstrate this.

13. Recommendations

Taking into account Community Services' response to our draft report, I make the following recommendation.

Within three months of the date of receipt of this report, Community Services should provide a statement of information that:

1. **Addresses the need for a uniform system across the OOHC sector to be developed which alerts caseworkers to the need to commence leaving care planning when a young person turns 15; allows for monitoring of key milestones including commencement, completion and endorsement of leaving care plans; and provides for ongoing collection of relevant local, regional and state-wide aggregated data on commencement and completion of leaving care plans for the purpose of compliance monitoring and for driving practice improvement.**
2. **Provides a copy of the revised MOUs between Community Services and Housing NSW and Juvenile Justice, and copies of all other MOUs and protocols between Community Services, other government agencies and NGOs that relate to strategies to improve leaving care planning for vulnerable care leavers.**
3. **Describes how the MOUs and protocols identified at recommendation 2, address the aftercare cultural needs of Indigenous young people.**
4. **Outlines the results of Community Services' consideration of lowering the delegation for endorsement of plans where less than \$3,000 in aftercare financial support is proposed.**
5. **Provides detailed advice about the nature, timing and intended outcomes of Community Services' proposed reduction of its role in providing aftercare financial assistance (including the extent to which the agency intends to reduce its role as currently outlined in sections 4 and 5 of the Ministerial Guidelines).**
6. **Outlines the proposed new reporting and monitoring arrangements for ensuring competent and efficient practice in relation to the identification and processing of victims compensation claims.**
7. **Reports on Community Services consultations with the Children's Guardian and the non-government OOHC sector in developing and implementing initiatives relating to recommendations 1, 4, 5 and 6 above.**



Steve Kinmond

Deputy Ombudsman

Community and Disability Services Commissioner