

## Special Inquiry into the experiences of children and young people in NSW in alternative care arrangements

### PRACTICE GUIDELINE 2: Conduct of Private Hearings with Children and Young People

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#### PART A - Introductory matters

- 1 This Practice Guideline relates to the process through which the Advocate for Children and Young People (the **Advocate**) will conduct private hearings with children and young people, as part of the Special Inquiry (the **Inquiry**) into the experiences of children and young people living in alternative care arrangements (**ACAs**).
- 2 This Practice Guideline should be read in conjunction with the *Advocate for Children and Young People Act 2014* (NSW) (**the Act**), the *Children and Young Persons (Care and Protection) Act 1998* (NSW) (**the CYP Act**), the [Terms of Reference](#) and General Practice Guideline 1.
- 3 Where the Advocate thinks it appropriate, this Practice Guideline may be varied, changed or replaced at any time.
- 4 Unless otherwise specified, contact with the Inquiry should be made by email to [specialinquiry@acyp.nsw.gov.au](mailto:specialinquiry@acyp.nsw.gov.au). If you do not have access to email, please call 0461 252 921 for assistance.

#### PART B – Conduct of private hearings

- 5 Any child or young person giving evidence to the Inquiry will be assisted by a person from the Inquiry witness support team and given information about the Inquiry and their appearance prior to giving evidence.
- 6 The Inquiry will only receive evidence from children or young people who have given informed consent to participate in a private hearing.
- 7 The Inquiry will not compel a child or young person to participate in a private hearing.
- 8 Usually, a private hearing will involve two members of the Inquiry team (including the Advocate or their delegate) meeting with a child or young person. However, on occasion, it might involve additional members of the Inquiry team. Children and young people can choose to have a support person attend the private hearing with them.
- 9 Prior to commencing the private hearing, the Inquiry team will seek children and young people's consent to audio record session and will also prepare a transcript to help the Inquiry in its work.
- 10 Any Confidential Information will be redacted or anonymised prior to publication to the extent necessary to maintain confidentiality.
- 11 A child or young person giving evidence before a private hearing may request the Inquiry to treat any part of their evidence (in addition to identifying information) as Confidential Information.
- 12 A social worker will be available to provide support to children and young people prior, during and after the private hearing.

## **PART C – Adjustments and supports**

- 13 The Advocate will, as far as practicable, support children and young people to share their experiences in private hearings in the way that best suits them.
- 14 Prior to a child or young people appearing at a private hearing the Inquiry witness support team will discuss any relevant adjustments and supports that might be needed. For example:
- (a) if the child or young person will need longer than one hour to tell the Inquiry about their experience, how long they think you might need and if they think they will need to take breaks;
  - (b) if there is a particular time of day that suits them best;
  - (c) if the child or young person would like the private hearing to be in person or via telephone or video link;
  - (d) if the child or young people needs us to travel to them because they cannot travel to attend a private session;
  - (e) if the child is part of a family group, they can elect to attend a private hearing with their family group, or as an individual;
  - (f) if the child or young person would like to have a relative, friend or other support person attend the private hearing with them;
  - (g) if the child or young person would like to share their experience with the help of an interpreter or someone else who may communicate on their behalf or help with communication;
  - (h) if the child or young person needs any aids or equipment to help them share their experience; or
  - (i) if the child or young person has any other requests for adjustments to enable them to participate in a private hearing.

## **PART D – Scheduling or requesting a private hearing**

- 15 The Advocate intends to communicate with ACA service providers, to ensure that children and young people in ACAs are able to participate in the Inquiry.
- 16 The Advocate will also communicate with broader stakeholders to ensure that children and young people who have experience of being in an ACA in the past 10 years are able to participate in the Inquiry.
- 17 Please tell us if you are a child or young person, or know a child or young person, that would like to share information with the Special Inquiry in a private hearing that is relevant to any of the matters contained in the terms of reference.
- 18 You can contact us to request a private hearing by emailing [specialinquiry@acyp.nsw.gov.au](mailto:specialinquiry@acyp.nsw.gov.au) or calling 0461 252 921.

## Definitions

- 19 **ACA** means alternative care arrangements or “high-cost emergency placements”, which includes the use of hotels, motels, caravan parks, serviced apartments and other similar settings as emergency accommodation.
- 20 **Child** means a person under the age of 12 years.
- 21 **Confidential Information** means any information provided to the Inquiry that the Inquiry has determined is confidential, including but not limited to any information which discloses the identity of or is likely to lead to the identification of a child or young person who is in, or who has been in, an ACA or OOHC who is under the age of 25 years.
- 22 **Out-of-home care (OOHC)** means:
- (a) residential care and control of a child or young person that is provided under the CYP Act:
    - (i) by a person other than a parent of the child or young person, and
    - (ii) at a place other than the usual home of the child or young person, whether or not for fee, gain or reward.
  - (b) There are two types of OOHC:
    - (i) statutory OOHC:
      - (A) OOHC that is provided in respect of a child or young person for a period of more than 14 days, or
      - (B) pursuant to a care order of the Children’s Court, or
      - (C) by virtue of the child or young person being a protected person.
    - (ii) supported OOHC:
      - (A) OOHC in respect of a child or young person that is, as a result of the Secretary forming the opinion that the child or young person is in need of care and protection, arranged, provided or otherwise supported by the Secretary.
- 23 **Young person** means a person who is 12 years of age or above but under 25 years of age.