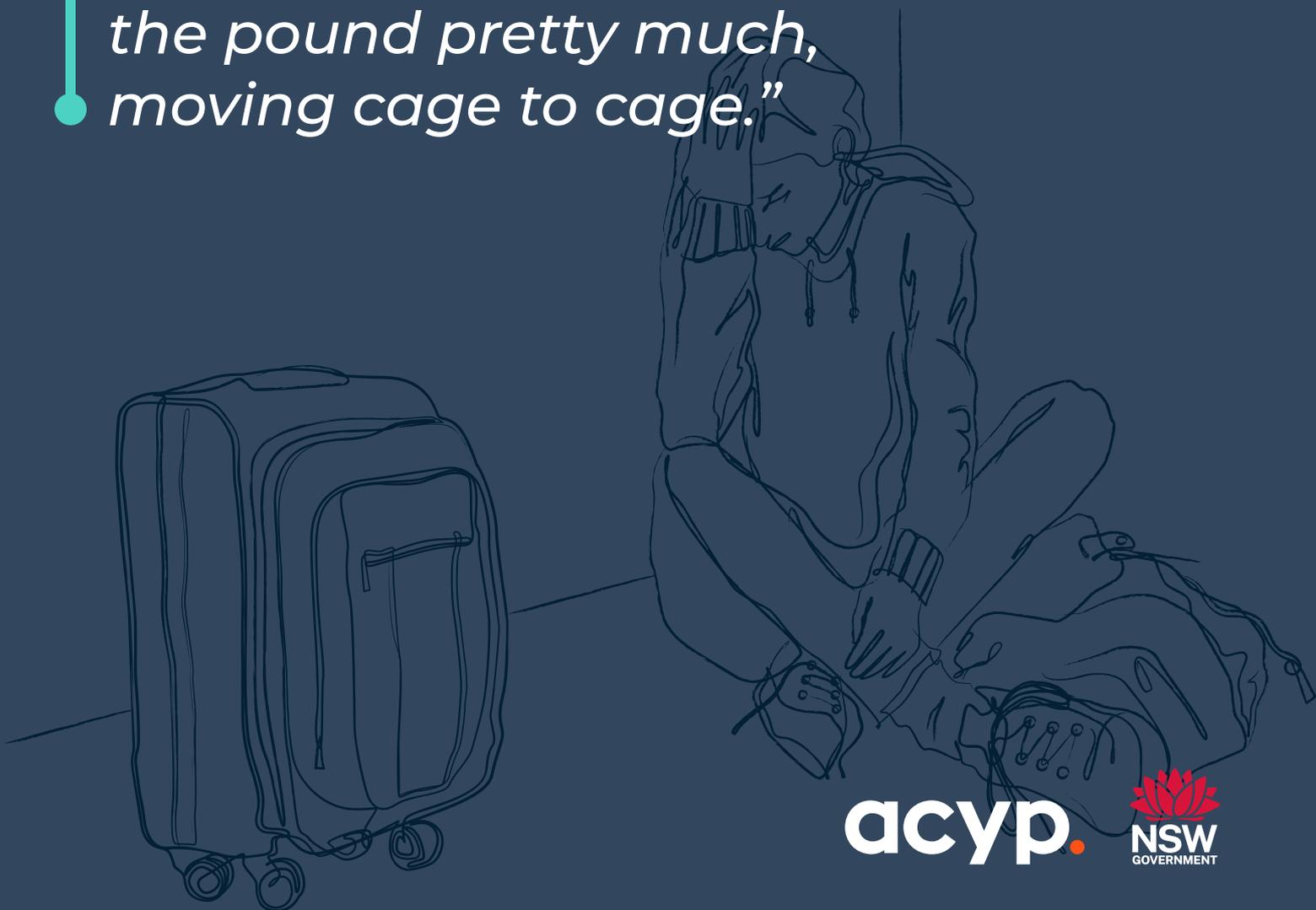
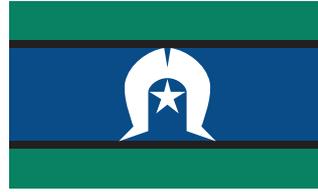


Moving cage to cage:

An interim report of the
Special Inquiry into children
and young people in alternative
care arrangements.

*“They just move me
around like a doggy in
the pound pretty much,
moving cage to cage.”*





We acknowledge the Traditional Owners of Country throughout Australia and recognise their continuing connection to lands, waters and cultures.

We pay our respects to their Elders past and present. We would also like to acknowledge the important role of Aboriginal and Torres Strait Islander people and culture within the NSW community.



Content Warning

This report contains information about the direct experiences of children and young people in alternative care arrangements in NSW. You may find that reading the report, or thinking about matters related to the work of the Special Inquiry, leads to the experience of distress.

If you or someone you know requires support, there is always hope and there is always help available.

For support, contact Lifeline on **13 11 14** (at any time, 24/7) or visit lifeline.org.au and Kids Helpline on **1800 55 1800** (at any time, 24/7).

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About the Advocate for Children and Young People (ACYP)

Ms Zoë Robinson is the NSW Advocate for Children and Young People.

The Advocate for Children and Young People (ACYP) is an independent statutory appointment overseen by the Parliamentary Joint Committee on Children and Young People.

ACYP advocates for and promotes the safety, welfare, wellbeing and voice of all children and young people aged 0-24 years, with a focus on the needs of those who are vulnerable or disadvantaged.

Under the *Advocate for Children and Young People Act 2014 (NSW)* (Act), the core functions of ACYP include:



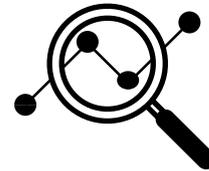
01

Making recommendations to Parliament, and government and non-government agencies on legislation, policies, practices and services that affect children and young people.



02

Promoting children and young people's participation in activities and decision-making about issues that affect their lives.



03

Conducting research into children's issues and monitoring children's wellbeing.



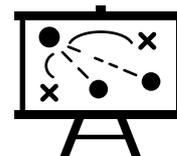
04

Holding inquiries into important issues relating to children and young people.



05

Providing information to help children and young people.



06

Preparing, in consultation with the Minister, a three-year whole of government Strategic Plan for Children and Young People.

Further information about ACYP's work can be found at: www.acyp.nsw.gov.au.

Acknowledgements



As Advocate, I want to acknowledge the children and young people who participated in private hearings as part of the Special Inquiry for bravely sharing their experiences. I extend my gratitude and thanks to those children and young people. The children and young people shared their stories knowing that in that moment I couldn't necessarily change their situation. But with courage and honesty they shared.

I also want to acknowledge Shannon Longhurst from the outset for writing this report with me. She is a Senior Policy Advisor at ACYP and has led this work. She has made sure that children and young people's emotions, words and experience are front and centre. Thank you also to the ACYP team for all their work around this interim report and for being so patient in this process. Everything from reaching out to services, working with government departments and ensuring the young people could attend hearings, the ACYP team has led the way, always focussed on lifting up the voices of these children and young people.

To Tyrah Chan-Hampton, as Co-Chair, for sitting in this space with us and guiding us. To Deb Merhi, the incredible social worker and her team at Ability to Achieve, for saying yes to being part of this process and continuing to support the young people throughout this work.

I also want to thank Gilbert + Tobin for providing advice at the beginning of this work and having given us thoughtful advice to ensure it was set up well. I am grateful to Ross Glover and Jon Whealing of Counsel who brought their experience and guidance to support the work of the Special Inquiry, as well as Johnson Winter Slattery, for their assistance in the conduct of the inquiry. Finally, Deloitte who have provided Pro Bono support across the needs of this Special Inquiry and continue to work with us.

Every member of this Special Inquiry team sees the importance of this work and that the children and young people are heard.

Overview

The title of this interim report are the words of a young man that I have heard evidence from as part of this Special Inquiry. He has now spent more than 500 days in an alternative care arrangement (ACA). For a 16-year-old to feel like that is deeply concerning, and it suggests that the current system has failed him.

In September 2023, in accordance with Part 5 of the Act, I established a Special Inquiry into children and young people in ACAs (which includes the use of hotels, motels and other settings for emergency Out-Of-Home Care (OOHC) placements) to understand the experiences of those children and young people in their own words.

This is the first Special Inquiry undertaken under the Act.

The Special Inquiry has heard evidence from some of the State's most vulnerable children and young people, who are often marginalised and face challenges that many in our society would find difficult to comprehend. The subject matter with which the Special Inquiry is concerned and the evidence that has been received is necessarily personal, raw, and, at times, very confronting. That is the reality of the experiences of many children and young people in ACAs.

The Special Inquiry team has been alive to the potential impact that exposure to issues and evidence of that kind may have. Appropriate strategies have been employed to ensure that members of the Special Inquiry team are appropriately supported in their work. Not only was that approach important for their own wellbeing, but it has also been critical to ensure that the important work of this Special Inquiry has been able to be completed in an efficient and objective way.

I acknowledge that there has been a multitude of inquiries and reports into the OOHC system in NSW.¹ However, what has been missing from many of these reports is the direct voices of children and young people with lived experience of ACAs and the OOHC system. As Advocate, my role is to raise the voices of children and young people to government, business, and community. In doing so, I seek to ensure that their voices remain central and at the core of any work to drive fundamental reform of the OOHC system.

The purpose of this interim report is to set out a summary of what I have heard to date through private hearings in relation to the experiences of children and young people in ACAs, as well as to outline themes, trends, and common issues that have emerged. A final report drawing together all the evidence provided to the Special Inquiry – including through private hearings, workshops, submissions, and desktop research – and setting out my final conclusions will be tabled in the Parliament of New South Wales in mid-2024.

The preliminary observations made in this report are subject to further consideration as the work of the Special Inquiry continues. The issues and themes that are set out in this interim report have largely been drawn from evidence given by young people in a number of private hearings.² This interim report also makes reference to themes emerging from submissions received following a public call for submissions on the terms of reference and workshops with academics and caseworkers.

¹ See for example: [The Wood Report 2008](#); [The Tune Review 2016](#); [General Purpose Standing Committee No. 2 - Inquiry into the role of the Department of Family and Community Services in relation to child protection](#); [Family Is Culture Report 2019](#); [Committee on Children and Young People – Inquiry into the child protection and social services system 2020](#).

² This includes evidence received to the Special Inquiry through private hearings held up until 31st March 2024.

The evidence given, and the submissions made, to the Special Inquiry do not, thus far, suggest that there is a significant body of evidence or opinion that would contradict the matters set out in this interim report.

The work of the Special Inquiry will continue over the coming months, and efforts will be made to obtain further evidence from children and young people about their experiences of ACAs.

As part of the ongoing work of the Special Inquiry, I strongly encourage and would welcome any interested party (including government agencies, care providers or workers, researchers, or any other person involved in, interested in, or connected with ACAs) who may wish to come forward and give evidence or make submissions to the Special Inquiry about the matters raised by the Terms of Reference to do so. In particular, if any interested party wishes to give evidence or make a submission that would support a contrary conclusion to any matter expressed in this report, I would be greatly assisted by them doing so. All further evidence obtained and any additional submissions received will be the subject of careful consideration by me in reaching my final conclusions prior to the final report of the Special Inquiry being presented.

From the outset, it is important to call out that the ACA space has evolved. It is not just hotels and motels; it is also caravan parks, Airbnb properties and long-term rentals. In that context, the Special Inquiry has heard evidence that suggests there can be a concerning difference in the standard of accommodation used, the stability of the arrangements, and thus the overall quality and level of “care” that is provided.

The importance of language, and terminology, has also been highlighted in the work of the Special Inquiry to date. ACAs were designed to be an emergency short term solution because a child or young person was at risk of harm, the carer was at risk of harm or there were no other appropriate placement options available. The formal discourse reflects this intended use.

However, what has developed is a practice of using ACAs for prolonged placements. Throughout the work of the Special Inquiry, I have heard that these types of ‘placements’ are often longer than three months. Children and young people in these placements may not always be aware of the formal terminology or the language used, but they can describe the kind of care they receive and the things that impact them.

In providing evidence to the Special Inquiry, children and young people tended to focus on a number of key concepts when talking about their hopes and experiences: safety, stability, community and normality.

To date, the overwhelming weight of the evidence provided to the Special Inquiry has suggested that ACAs have a detrimental impact on children and young people. While all submissions received in response to the Terms of Reference acknowledge that ACAs are not a positive placement option, there are a small number that identify circumstances in which ACAs or other emergency placements may be a useful option with appropriate guardrails. For instance, some submissions have suggested that ACAs may have a role as a circuit breaker for placements at risk of breaking down, coupled with a focus on working on targeted goals to support re-entry to a foster care placement, or in instances where the child or young person would otherwise remain in custody.

Outside of these very limited contexts, the majority of the submissions and evidence received to date support the proposition that the use of ACAs should cease. Paramount to that view is the importance of:

- providing stability and security for any child or young person who may not be able to live with biological parents;
- an increased focus on prevention and an emphasis on early intervention and family support to prevent removal in the first place; and
- supporting the primary principle of restoration.

Those submissions suggest there is support for the views of a young person who participated in a private hearing that:

“ *It's better to stay in a family home environment, not in motels. Motels are supposed to be for a holiday.* ”

Whatever form it takes, if a child or young person must be placed in OOH, the NSW Government and OOH sector have a responsibility to ensure that the care provided to those children and young people meets certain standards. The concepts of care and shared obligations and responsibilities are outlined in Appendix 3 and should be kept front of mind when considering the issues raised by the Special Inquiry and the lived experience evidence of children and young people in ACA placements. There is a duty to provide a high standard of care to any child or young person who is removed from their home and to ensure children and young people have an understanding of that standard and their rights. Matters of that kind should not be compromised.

A common observation I made throughout private hearings was that children and young people who have had experience of ACAs often did not have high expectations or knowledge of the standard of care they had or will receive. Throughout private hearings, children and young people were asked whether they had the opportunity to have a say in the decisions that impacted their lives. In the words of one of the young people that the Special Inquiry has heard from:

“ *I wish I could have been asked.* ”

Similar sentiments were expressed by other children and young people who have given evidence to the Special Inquiry.

Since commencing this Special Inquiry, the number of children and young people who are in ACAs has reduced.

Work has been done by the NSW Government to actively seek different placement options for these children and young people, and I welcome the ongoing work of the NSW Department of Communities and Justice (DCJ) in acting with urgency in relation to this issue.

Despite this, based on recent data that has been provided to the Special Inquiry by DCJ, I continue to have significant concerns about where a number of these children and young people have since been placed and the standard of care provided. I look forward to receiving more information about what these placements look like in practice. Having regard to what the Special Inquiry has heard thus far, work needs to continue to better support the children and young people who have spent any time in ACAs to ensure they receive the physical, mental and social supports they need.

In addressing its Terms of Reference, it has been of critical importance to ensure that the children and young people who have been placed in ACAs have an opportunity to be heard. The next step is to carefully consider their experiences and views in undertaking an assessment of the current system, and then identifying whether changes are necessary to ensure that all children and young people in OOH can thrive and have access to the supports they need.

Q. “ *Why do you think it's important they [children and young people] are heard?* ”

YP. *Because they are only little. They should have a say no matter what age you are. If you are 4 years old and you come to me to tell you [sic] something I am going to listen because that's common courtesy. If you expect us to listen to you, you should be able to listen to us. That's just straight up respect.* ”

Background context

Background to OOHC and use of ACAs in NSW

ACAs are one of several emergency care arrangements currently utilised in NSW, and which are often referred to as high-cost emergency arrangements (HCEAs).³ As observed above, ACAs involve arrangements where the child or young person is cared for in temporary accommodation, such as hotels, motels, caravan parks, serviced apartments or short-term rental accommodation. Whilst in ACAs children and young people are generally supervised by sub-contracted workers from non-accredited agencies or labour hire companies. They are fee-for-service arrangements and are ostensibly set up as a “last resort” and “short-term” measures where no other appropriate placements with an authorised carer or intensive therapeutic support is available. Outside of ACAs, other HCEAs in NSW are provided by accredited care providers, in a mixture of both not-for-profit and for-profit arrangements.⁴

As of 30 June 2023, there were approximately 500 children and young people in HCEAs across NSW.⁵ Of those, there were 118 children and young people in ACAs, including 26 children in hotels and motels, 37 in serviced apartments and 55 in short-term rentals including caravan parks.⁶ It is important to note that whilst there has consistently been over 100 children and young people in ACAs on an average day over the past five years, the number of unique children and young people who have spent any time in an ACA in the last 12 months is likely higher.⁷ It is reported that in the 2022-23 financial year, ACAs cost NSW taxpayers approximately \$100 million⁸, with DCJ data indicating that the average cost of an ACA is \$965,000 per child, per annum.⁹

Whilst ACAs are intended to be utilised as a short-term emergency care placement for children and young people, recent data highlights that most children and young people are staying in ACAs for extended periods of time. Data provided by the DCJ has indicated that the majority of children and young people placed in ACAs are there for more than three months. At 30 June 2023, the average length of stay in ACAs was 120 days. However, there have also been clear instances where children and young people have been placed in ACAs for more than 600 days.¹⁰

Based on more recent data provided by DCJ over the course of the Special Inquiry, of those in ACAs, Aboriginal and/or Torres Strait Islander children and young people are vastly over-represented, accounting for more than 50% of children and young people currently in ACAs.¹¹ In addition, close to 50% of children and young people in ACAs have a disability.¹²

³ [Permanency Support Program: Emergency and Temporary OOHC Arrangements](#) | NSW Department of Communities and Justice (www.dcj.nsw.gov.au); Summary table included at *Appendix 2*.

⁴ A definition of these different types of arrangements can be found at: [Permanency Support Program: Emergency and Temporary OOHC Arrangements](#) | NSW Department of Communities and Justice (www.dcj.nsw.gov.au) and summary table included at *Appendix 2*.

⁵ See [Question on Notice responses](#) - 471 at 31 August 2023.

⁶ Data provided to ACYP by NSW Department of Communities and Justice

⁷ Data provided to ACYP by NSW Department of Communities and Justice: 30 June 2019 – 160 CYP; 30 June 2020 – 106 CYP; 30 June 2021 – 101 CYP; 30 June 2022 – 119 CYP; 30 June 2023 – 118 CYP; See for example [NSW Parliament Question and Answer Tracking \(450 – Alternative Care Arrangements\)](#). “In total, 358 children have been in an ACA for at least one night between 1 October 2022 to 31 March 2023”.

⁸ Gavin Coote and Housnia Shams, “[NSW inquiry to hear from children forced into motels, hotels due to shortage of foster carers](#)”, ABC News, September 24 2023.

⁹ Data provided to ACYP by NSW Department of Communities and Justice. Average cost per year per child in an ACA (based on January – June 2023 data).

¹⁰ NSW Department of Communities and Justice data provided to ACYP.

¹¹ Analysis of NSW Department of Communities and Justice data provided to ACYP – October 2023 to April 2024.

¹² *Ibid.*

Rationale for Special Inquiry

Part of the impetus for the Special Inquiry was the consultations with children and young people that informed ACYP's Voices of Children and Young People in Out-of-Home Care report (published in August 2022).¹³ Throughout those consultations in 2021 and 2022, several children and young people explained their experiences of living in hotels for extended periods of time. They recounted feeling unsafe as they had to move to many different hotels, keep packing and unpacking:

“ I was sent back to hotels until they could find me another placement. Hotels specifically are something I have a gripe with, with regards to safety, because you're getting up and you're moving every two weeks. You're never in the same place, so it's never stable...I was in hotels for six months.¹⁴ ”

Another young person who had lived in hotels for almost two years reported:

“ So we would pack and we would stay at one hotel and then we would have to pack up and then end up going to the exact same hotel and the exact same room.¹⁵ ”

Others said that some of the hotels were an hour's drive away from their school.¹⁶

Feeling unsafe in placements was also frequently raised by children and young people, with several reporting to have been mistreated and abused in ACA placements:

“ I was sexually assaulted in a hotel that I was staying in, not by a worker but just by a person, another person. I was 12.¹⁷ ”

Since ACYP's OOHHC Report was published in 2022, there have been further public reports about ongoing systemic issues regarding the use of ACAs in NSW. Those reports have raised concerns about the safety, welfare and wellbeing of children and young people in these types of placements.¹⁸

For instance, there have been recurrent public reports about authorities receiving multiple “risk of significant harm” reports about children in ACAs, including suggestions that, in one month alone, 16 reports related to sexual abuse and 13 to physical abuse.¹⁹

In addition, in late 2022, an interim judgement in the NSW Children's Court concerning siblings in OOHHC, who had spent time in ACAs, raised concerns about NSW's OOHHC systems, policy and procedures. Following this interim judgement, DCJ commissioned an independent review of the care of those two children, undertaken by Megan Mitchell, former National Children's Commissioner and NSW Commissioner for Children and Young People (the Mitchell Review).²⁰ The *Summary report – Independent Review of two children in OOHHC* noted that “While it is widely acknowledged that these care arrangements [ACAs] do not provide children and young people with the stability and permanency they require, placement of children in these arrangements has steadily risen over time.”²¹

In the words of one of the young people that the Special Inquiry has heard from:

“ I feel like they sort of gave up looking for a family and they were like ACAs is easiest, quickest option so that's what they did then. ”

¹³ *The Voices of Children and Young People in Out-of-Home Care (2021)* | ACYP (www.acyp.nsw.gov.au).

¹⁴ *Ibid*, p.32.

¹⁵ *Ibid*, p.32.

¹⁶ *Ibid*, p.32.

¹⁷ *Ibid*, p.33.

¹⁸ See for example: Linda Silmalis, “*Dozens of at-risk kids living alone in hotels and motels as foster care sports dry up*”, Daily Telegraph, May 7 2023. Michael Evans, “*Left hungry and too cold to go to school: Urgent review of children in care*”, Sydney Morning Herald, November 28 2022. Emily Kowal, “*Secrets from a hotel room: this is what it is like caring for NSW's most troubled kids*”, Daily Telegraph, May 25 2023.

¹⁹ Gavin Coote and Housnia Shams, “*NSW inquiry to hear from children forced into motels, hotels due to shortage of foster carers*”, ABC News, September 24 2023.

²⁰ *Summary Report – Independent Review of two children in OOHHC (June 2023)* | NSW Department of Communities and Justice (www.dcj.nsw.gov.au)

²¹ *Ibid*, p.16.

Methodology

Process of the Special Inquiry

In accordance with Part 5 of the Act, I made a request as Advocate to establish a Special Inquiry on 19 September 2023. That request was approved by the NSW Minister for Youth, the Hon Rose Jackson, MLC.

The Terms of Reference²² for the Special Inquiry were published on 12 October 2023, and a public call for submissions to the Inquiry from all interested parties was made in that same day.

The full Terms of Reference can be found at *Appendix 1* and cover a range of topics such as:

- *The pathways, trajectories, factors and decision-making processes that lead children and young people to be placed in an ACA;*
- *The treatment of children and young people whilst in an ACA – including the suitability of the placement, the standard of care provided, access to services and supports, and appropriateness of the location;*
- *The short, medium and long-term impacts of ACAs on the safety, welfare and wellbeing of children and young people;*
- *The cost effectiveness of ACAs; and*
- *Alternative approaches and solutions.*

To guide the approach taken to this work, the Special Inquiry also developed and published formal practice guidelines on 28 November 2023.²³

From the outset, the Special Inquiry has sought to speak directly with children and young people to hear about their experiences in ACAs and to explore what changes could be made to better support them and others in the future.

To date, I have conducted private hearings with 19 children and young people. The evidence given in those private hearings is the primary focus of this interim report.

At the time of writing, the Special Inquiry has also received 20 submissions from interested parties, including submissions from NGOs, individuals and young people. In addition, the Special Inquiry team has also undertaken desktop research and recently hosted two workshops, one with researchers and academic stakeholders on 26 February 2024 and another with caseworkers on 4 March 2024. The focus of these workshops was to gather further insights on issues raised by the Terms of Reference, and to explore key issues and opportunities for reform.

On 8 March 2024, I held an online public hearing to provide an update on the progress of the Special Inquiry.

²² See Appendix 1.

²³ [ACYP Special Inquiry - General Practice Guideline](http://www.acyp.nsw.gov.au) | ACYP (www.acyp.nsw.gov.au); [ACYP Special Inquiry - General Practice Guideline 2: Conduct of private hearings with children and young people](http://www.acyp.nsw.gov.au) | ACYP (www.acyp.nsw.gov.au).

Private hearings with children and young people

The conduct of the Special Inquiry has been informed by a trauma-informed approach and an awareness of the sensitivity of the topics being explored. This approach included a particular focus on the wellbeing of children and young people who might choose to participate in private hearings.

Process for conducting private hearings with children and young people

The process for the Special Inquiry team to speak with children and young people about their experiences has included:

- **Initial contact with providers and other stakeholders**
The ACYP Special Inquiry team reached out to DCJ, NGOs, and ACA providers and caseworkers to discuss arranging for children and young people to participate in private hearings. In addition, there was also extensive communication with other stakeholders to promote the Special Inquiry to children and young people in their networks. The Special Inquiry team also sought to have discussions with caseworkers with a view to identifying children and young people who may wish to participate in an initial meeting to find out more about the purpose and process of the Special Inquiry.
- **Pre-hearing meeting between child or young person and social worker:**
Where the child or young person was aged under 18 years, a pre-hearing meeting was then arranged between them and an independent social worker. During this meeting, the social worker sought to:
 - to explain the purpose of the Special Inquiry and private hearings;
 - assess the young person's willingness and ability to be involved;

- seek their informed consent to be involved; and
- discuss any special adjustments to ensure that children and young people are supported to share their experiences in a way that best suits them.

- **Private hearings**

After the initial assessment had been conducted, and if informed consent from the young person had been obtained, the Special Inquiry sought to arrange a private hearing with the child or young person of approximately one hour.

I presided over all private hearings and involved another member of the Special Inquiry Team. The private hearings were conducted in an informal manner and were held in a location that was suitable having regard to the nature of the Special Inquiry's work. All children and young people who agreed to participate in a private hearing were able to choose to have a support person attend with them. An independent social worker was also available at each private hearing to provide support to the child or young person if needed.

- **Follow-up by a social worker to check in on the child or young person post-hearing:**
At the conclusion of a private hearing, the child or young person was provided with information about relevant supports. The social worker also undertook a follow-up check-in with them following the hearing to provide referrals to any supports if needed.

The approach to questioning children and young people during private hearings

The Special Inquiry team has taken great care to ensure the raw perspective of the children and young people who came forward to give evidence in private hearings has been captured.

In particular, the evidence of children and young people was gathered by permitting them to relay their experiences in their own words. As part of that approach, open questions were used to the maximum extent possible.

The questions asked during private hearings focused on the issues raised by the Special Inquiry's Terms of Reference, in particular, the process that led the child or young person to enter an ACA, their treatment and experience whilst in an ACA placement, and any impact that their placement in an ACA had on their safety, welfare and wellbeing.

Questions asked during the private hearings were formulated around the NSW Child Safe Standards for Permanent Care²⁴, including the issues of:

- *Safety;*
- *Quality of care;*
- *Children and young people's involvement in decision-making;*
- *Health and wellbeing;*
- *Education;*
- *Identity, family and people who are important in their lives;*
- *Support from caseworkers, workers and other services; and*
- *Complaints processes.*

Demographics

The demographic profile of the 19 children and young people who have participated in private hearings of the Special Inquiry to date are as follows:

- Aged 10-23 years;
- Nine females, nine males, and one young person who identifies as gender-diverse;
- 15 live in regional NSW, and 4 live in metropolitan Sydney;
- 12 identify as having a disability;
- 11 identify as Aboriginal or Torres Strait Islander;

- Two are a parent;
- Two identify as LGBTQIA+;
- Three have experienced homelessness; and
- Two speak a language other than English at home.

It should be noted that, whilst the independent social worker met in person with 27 children and young people for a pre-hearing meeting, eight did not progress to a private hearing due to a range of factors.

Challenges in engaging children and young people to participate

DCJ provided ACYP with information and data in relation to children and young people currently in ACAs. However, this data was not available for every placement that had occurred, and in some cases, it was not accurate or current. For example, some of the data received included incorrect living location information and other inaccuracies. The experience of the Special Inquiry team in obtaining accurate and up-to-date information about the children and young people in ACAs demonstrates that there is a clear opportunity to improve data collection and information-sharing between DCJ, NGO and ACA providers. Subject to anything that DCJ may wish to submit to the contrary, I would propose recommending that this become a priority focus of DCJ.²⁵

Despite those difficulties, ACYP has engaged in extensive stakeholder communication with DCJ, Permanency Support Program (PSP) providers and ACA providers/agencies, including meeting with Directors and Executives from across these agencies, and undertaking outreach to key NGO and sector organisations. Throughout this process, the Special Inquiry team has attempted to contact 65 individual children and young people. All initial contact with children and young people was made through a caseworker and an organisation.

²⁴ *NSW Child Safe Standards for Permanent Care* | Office of the Children's Guardian (2015) (www.oCG.org.au).

²⁵ I will consider any submissions from DCJ, ACA or other OOHC care providers on these issues before reaching final conclusions and making any recommendations, which will be set out in the final report.

Analysis

All private hearings conducted with children and young people to date have been recorded, transcribed, and analysed thematically for the purpose of this interim report.

It should be noted that the Special Inquiry team continues to actively seek further opportunities to hear directly from children and young people who have experienced ACAs, as well as providers and other interested parties, and will continue to do so until the final report is prepared and tabled in Parliament. However, to date, there is strong continuity in themes across the private hearings, as well as other evidence received by the Special Inquiry.²⁶

■ A child rights approach

It is critically important that the work of the Special Inquiry and any ongoing work in this space is centred around our collective obligations and responsibilities to provide a high standard of care for children and young people in OOHC. It is the duty of all stakeholders involved in OOHC to ensure not simply that minimum conditions and treatment are met but that the rights of children and young people are upheld and that they are being provided with the support they need to thrive. Collectively, as a community, we all need to strive for a high standard of care for any child or young person in OOHC, and this should not be compromised.

Appendix 3 provides an overview of the various legal frameworks and instruments that outline the rights of children and young people. These frameworks inform the ethical obligations and responsibilities governments hold to provide a high standard of care to all children and young people in the OOHC system at the international, Commonwealth, and state levels.

²⁶ A systemic review undertaken by Hennick and Kaiser (2022) of empirically-based studies of sample sizes for saturation in qualitative research found that most studies reach saturation point at between 9-17 interviews. This is particularly evident when the study has a relatively homogenous study population and narrowly defined objectives. See: Hennick, M. & Kaiser, B. (2022). "[Sample sizes for saturation in qualitative research: A systematic review of empirical tests](https://doi.org/10.1016/j.socscimed.2021.114523)", *Soc Sci Med.* 2022 Jan;292:114523. doi: 10.1016/j.socscimed.2021.114523.

Lived experience evidence from children and young people – emerging themes

As outlined above, the Special Inquiry has sought to hear directly from children and young people about their experiences in ACAs. What follows is a summary of the key themes that have been provided as evidence to the Special Inquiry through the private hearings with children and young people to date.

Emerging themes from children and young people's lived experience evidence include:

- *Safety and quality of care;*
- *Stability and communication;*
- *Access to supports; and*
- *Connection to family, friends, community and culture.*

Whilst this interim report does not intend to outline in detail what the Special Inquiry has heard to date through other evidence-gathering mechanisms - such as submissions, workshops and other research – the key themes from private hearings broadly align with other evidence and information that has been provided to the Special Inquiry.

Safety and quality of care

Throughout private hearings, young people regularly highlighted issues relating to the safety and quality of care provided to them whilst in ACAs. For instance, the Special Inquiry has been told, on more than one occasion, that ACAs, particularly placements in hotels and motels, are inappropriate locations for children and young people.

“ *I don't think anyone should live in a motel. Especially a kid. Especially the little 9-year-olds that you see...I was 10, but I've heard of like younger kids than 10 going into them and like, I just wouldn't be able to see it.* ”

Standard of accommodation

The Special Inquiry has heard from young people who highlighted concern at the standard and location of the accommodation that they were being placed in and said that they did not always feel that it was a safe place to be.

“ *I was in ACA from 10 to 12, just in motels, caravan parks, whatever they can find... it's pretty bad. I was put in like \$99 night rooms, and I'd be like in one room and then the workers would be like 10 rooms down.*

...look into where you're putting them, in a safe environment, for instance. Like, don't just be putting them in the cheapest place you can get because it's cheap and it's easy.

The Special Inquiry has also heard evidence from young people about feeling worried about the presence of other people, who they viewed as being unsafe, near their ACA accommodation. For instance, one young person said:

“ *It was just me on my own around like full grown adults on drugs, homeless people, people with mental illnesses, like it was disgusting.* ”

Another young person spoke about how they felt unsafe because the caravan park that they lived in whilst in an ACA was located right next door to a youth justice centre.

In addition, there were also young people who raised concerns about hygiene in ACAs, including pest issues and basic bathroom facilities not working. For instance, in a written submission provided to the Special Inquiry, a young person said:

“ *In some experiences I had cockroaches, but I had friends in ACA and all had really dodgy experiences. Hotel utilities such as showers didn't work so they had to go somewhere and find random places to shower.* ”

These reflections align with other evidence that has been provided in submissions to the Special Inquiry – including numerous reports of substandard ACA accommodation featuring poor and dirty facilities, a lack of appropriate amenities and unsafe physical settings. The latter was reported as being due to factors such as the geographical location of hotels and motels, the presence of other people in these places, as well as loud and noisy environments.

Quality of care

Throughout private hearings, the Special Inquiry has been told, on numerous occasions, about issues relating to both the quality and continuity of care provided by 24/7 shift workers whilst in ACA placements. For instance, a 10-year-old child who had been placed in an ACA in hotels for approximately five months spoke about having to move between hotels every few weeks. They said:

“ *[I lived] with like all these different types of people and would come every week and stay in the apartment hotel.* ”

Young people also highlighted the continuous cycle of workers whilst they were living in an ACA.

“ *It was different every day. I never had the same one until the last four months of me being in there. So, it was just random people every day. Different people. Rarely ever got to see the same person twice.*

They generally keep regular workers going but if not, then they just try to chuck on a worker that I have worked with. In the worst-case scenario, they just chuck on a new worker. ”

Children and young people in a number of private hearings referred to “workers” or “carers”. In their own language, workers were not seen to be the same as carers. When asked about what the workers in ACA placements were like and how they supported young people in ACAs, views from children and young people were mixed. One young person who was aged 12 years and has been living in hotels for two years referred to the person living with them as “mum”. However, they also noted that they had around 17 different workers and only two or three they would regard as “good”.

Several young people said that whilst there were workers present 24/7, they often did not feel like they knew the workers very well as they changed so often. For example, one young person said:

“ *Most of them were very distant. I'd get very little interaction by them. Most interaction I got was them taking me to places so I that could do something...* ”

Others highlighted significant gaps in the quality of care that they were receiving from workers whilst in an ACA. For instance, one young person reported that:

“ They wouldn't really [look after me]. They'd just be doing their own thing. They'd let me just roam off. They wouldn't care. I'd go missing, they wouldn't report me missing for sometimes two weeks, three weeks. ”

The same young person went on to state that there were occasions when their workers were not present on-site at their ACA accommodation overnight.

In the process of undertaking private hearings, the Special Inquiry team observed that there appeared to be a lack of consistency around what supervision and care for children and young people in ACAs looked like. For example, in some instances, the evidence given by young people to the Special Inquiry suggested that workers were absent or staying in hotel rooms or caravans on the opposite side of properties from where the child or young person was located. In other occasions, workers were located closer by – such as in a hotel room next door to the child or young person or in another room in the same rental property.

There were also examples where young people spoke about not feeling as though their privacy was being respected. For instance, one young person highlighted an incident where they felt as though a worker was violating their privacy by looking through their bedroom window. The young person later made a complaint about the worker.

Another young person highlighted the importance of supervision and having someone present whilst also providing respect for privacy.

“ Having someone there frequently... not staying in the same room as you because I understand like privacy depending on an age, you know what I mean. Obviously, if they are like under 12, you know. If they're over 12, give them privacy, especially girls like girls, you know, they want, they want to be left alone, especially when they're going through that hormonal change and stuff like that. But like get a room at the same place, you know? So there is support there or they're not alone, you know what I mean. ”

This lived experience evidence echoes key themes raised in submissions and other evidence to the Special Inquiry regarding continuity of care being a key issue. This includes a significant concern about children and young people in ACAs being supervised by workers who might have been engaged through non-accredited agencies and labour hire companies.

Issues of that kind highlight the importance of there being clear requirements relating to the experience and qualifications of those workers given responsibility for caring for vulnerable children and young people, and compliance with those requirements being regularly monitored. In circumstances where there is so little stability, consistency in the qualifications and experience of those charged with the responsibility of caring for those vulnerable children and young people is critical.

Making a complaint

During private hearings, children and young people were asked if they had ever made a complaint about the care provided to them whilst in an ACA. Most had little awareness about the complaints processes and mechanisms available to them.

However, when asked what they would have complained about if they knew that they were able to make a complaint, one young person said:

“ Everything, every bit of it. ”

Of those young people who had made a complaint or had an awareness of their rights whilst in care, one said their ACA worker had been removed after they made a complaint, but they didn't know what further steps had been taken. Another young person said:

“ I had one carer who handed me a laminate sheet of children's rights and I went through, and I read all of them and I noted down on a piece of paper every single right that I had broken. ”

Safety

Across private hearings, it was clear that children and young people who have experience being in ACAs often had very low expectations in terms of what a 'good' or 'adequate' standard of care was. When asked what “are the good things” about being in an ACA, a number of young people spoke about having a place to sleep and a roof over their heads.

“ Probably the fact that I've actually got somewhere to live.

I slept in a car park at 14 in the middle of winter, so I guess like having the option there as well like is good as well.

Um, just having a place to stay and not living out on the streets. ”

During the private hearings, the young people were asked what “safety” meant to them:

“ [When] I've got people who look after me, that I know they will protect me. ”

“ Safety means when you can have someone open up to you, someone you're comfortable with, someone that... has your back and that protects you from anything.

All the staff is always here for you if you need them. ”

When asked, “And when you were in the hotels, did you feel safe?”, one young person said:

“ To be honest, I am not really sure. After what I had been through emotions kind of just faded. I still struggle to feel a lot of things. So, I am not 100% sure what I felt. All I know is that I didn't want to be there. ”

Stability and communication

Stability

Throughout private hearings, children and young people regularly spoke about the stress that comes from the instability of ACA placements – often reporting that they had been told to keep their bags packed so that they could move at short notice. This was coupled with them generally not having been provided with any information about how long they will stay in an ACA or where they will go next.

“ Um, its pretty s*** when you can only get a motel for a week and then have to move to another motel, and it's just the same cycle. Just keeps happening.

I hate living out of a suitcase.

Moving constantly.

It feels frustrating, angry and it just upsets me. ”

“ [It was] kind of stressful because we had to move a lot.

[T]hey just move me around like a doggy in the pound pretty much, moving cage to cage. ”

When asked if there was anything that would make being in an ACA a better experience, a young person said:

“ Just to go back home. ”

Another young person said that they would feel more settled and secure:

“ If this was a permanent place. And I knew I wasn't going to move again. ”

Evidence provided to the Special Inquiry to date indicates that the instability of coming into an ACA can often destabilise a child or young person who is already experiencing a higher-than-normal level of emotional distress and can also often cause a disruption to the child or young person accessing vital therapeutic supports.

Communication

Throughout private hearings, children and young people also spoke about the need for greater communication by adults, including foster carers, caseworkers and ACA workers. Many spoke about wanting to be provided with a greater explanation of why they needed to move and why a placement may have broken down.

“ I didn't really know what was going on at first. All I knew was that I got moved away from my parents, I was self-placed there. Then I got taken away, like two weeks later and then I didn't know what was gone[sic] on, after that. ”

“ Oh, no one really knows. They just keep saying 'we'll take her away' and then they keep extending it. I was only supposed to be here for the school holidays, like weeks and weeks ago but they just extended it and extended it and extended it that many times.

When I was moving, I was at school and then I just they told me to pack the bags up to go.

Not really, no. They just say... um when I had to come to New South Wales, they just came up to my school and said they're going to pack up everything and I'm going. They didn't really give me an explanation why.

I went to school and then they told me to bring my bag and they said I was moving to New South Wales...and then they called [redacted] and she dropped my bags off at the office and then they drove me to where my sister lived and then a couple of days after I caught a plane by myself. ”

Evidence of that kind is consistent with other evidence that has been provided to the Special Inquiry, by way of submissions, to the effect that children and young people are often not consulted in the process of being placed in an ACA. When they are consulted, the child or young people usually have few practical alternatives available to them (e.g. remaining in custody).

In addition, children and young people also spoke about wanting to be provided with more information regarding where they were living and how long they might be staying there, as well as basic information about schedules, rules and routines.

“ I’m not entirely sure why they put me in a hotel because I was sort of just on my own. There wasn’t really much for me to do. I didn’t know what I could do or what I couldn’t do. It wasn’t sort of explained to me very well.

Like, staff communicating more because there’s been instances like one staff will finish and the other one comes on and they’ll have no idea what’s going on like I can’t do that or I’m not allowed to have that. Just stuff like that. ”

When asked if they were involved in or able to participate in decision-making, the majority of children and young people said they were not asked for their opinion about issues that were important to them.

When asked how workers could show that they have been listened to, one young person said:

“ [If] they write down notes and ask me questions about what I want to happen and how I feel about the choices, how things are doing on around me. ”

These themes have been echoed in other evidence that has been provided to the Special Inquiry to date. Submissions, workshop feedback and desktop research all highlight that a lack of stability, unpredictable living arrangements and inconsistent interactions and communication with workers and caseworkers can have a negative impact on the wellbeing of children and young people in ACAs.

In addition, in the process of arranging private hearings, the Special Inquiry team also observed significant issues in relation to communication, data and information sharing between DCJ, PSP providers and ACA agencies/providers.

■ Impacts on access to essential supports and services

Throughout private hearings, children and young people were asked about their access to education, healthcare and other basic services and supports.

Education

Children and young people’s experiences in relation to access to education whilst in an ACA were mixed. Whilst some were still engaged in education, the Special Inquiry was provided with answers, on more than one occasion, that indicated children and young people had not attended school for a significant period of time or that being in an ACA had caused a substantial disturbance to their education and schooling.

“ I was out of school for about a year...

Barely [went to school], because I had to keep changing schools because I was moving.

My school pretty much dropped off the face of the earth after that. Um, I was pretty far away from where I was going to school. ”

A common cause of disruption from school was the instability of being in an ACA, including regularly having to move or being placed in ACA accommodation that was located far away from the young person’s school. This often resulted in children and young people having to change schools multiple times or travel unsustainable distances to stay engaged in education.

A significant number of the children and young people who I spoke with throughout the private hearings should have been engaged in school but were not. For instance, one young person, who was 14 years of age, spoke about not having attended school for one to two years.

They spoke about wanting to re-engage with school and that the reason that they liked school was because:

“ ... I can make friends my age and... learning and education. ”

Many young people said that the disruption and disconnection from education due to being in an ACA meant that they were often behind in their schoolwork and that catching up and re-engagement was difficult.

“ I moved a lot of primary schools. And so basically high school is really hard because I've moved to a lot of homes, so I had to keep of moving primary schools. So like high school work is so hard for me.

It was just like all my hard work that I had put in for when I was in primary school like from like year 3 no yeah like year 4 to year 5. I had to gain all that stuff back, all my knowledge and that was like really hard... I could hardly learn to spell, read.

I do have the choice to go, I just don't. I just haven't been in so long I just can't bring myself to go.

Q. “ You've been to three schools this year, OK. And did you change because you wanted to change?

YP. | No, I just got moved over and over. ”

In addition, young people also spoke about placement in an ACA being a factor in suspensions and their subsequent disengagement from school. For instance, one young person said they had never been suspended before they went into ACA placements in hotels, however that in the seven months they have been moving between hotels:

“ I've been suspended quite a lot. ”

This aligns with other evidence provided to the Special Inquiry through submissions, which have highlighted examples of significant declines in school attendance by children and young people during their time in ACAs.

Health and wellbeing

During private hearings, children and young people were asked about access to support for health and wellbeing whilst in an ACA. Some young people gave evidence that they were able to see a GP or a psychologist if they wanted to and had regular health appointments, which they found helpful. However, others indicated their ACA workers did not take them to medical appointments, or that these appointments were very infrequent.

Q. “ When you were in the alternative care arrangements or temporary accommodations, do you feel like your health and wellbeing was being cared for when you were there?

YP. | Definitely don't. ”

A common theme that has emerged throughout private hearings to date, was the feeling of isolation, boredom and disconnection experienced by children and young people in ACAs. When asked what they didn't like about staying in hotel, one young person said:

“ Because you don't get to see your friends or you don't get to do stuff. I just sit in my room being antisocial all the time on my phone. Just depressed and in my room. ”

Similarly, when asked what a typical day looks like in an ACA placement in a hotel, another young person said:

“ ... I'd wake up, go downstairs, eat some cereal um and then kind of just go back and sit on a bed. And I sat there for most of the day. After a little while I started to play with my Lego again but that took about maybe a month and a half before I started to do anything other than just sit there and cry. ”

Another common issue emerging from the evidence given to the Special Inquiry to date is that many young people who experienced isolation and boredom in ACAs often also felt that existing issues were exacerbated and that their mental health had significantly deteriorated.

“ Since I've been in care, I'd notice my mental health gotten a lot worse...

...it just messes up your mental health sometimes. If you're not used to living by yourself then your mental health just goes to s*** .

It's good just to get time to yourself, you know, just. But you know there's always that downside like I was saying, it just, some kids aren't built for place like this. And it just messes them up in the head. Everything goes to s*** .

Because it was very sudden that I was taken away we didn't have much time before we were told and being taken. So, um it was a fair bit of a shock. And I didn't have time to adjust. And my behaviour started to slope, my mental health got worse and before I left that care I was suffering from extreme depression and suicidal tendencies. ”

Those experiences indicate there is likely a need for an increased focus on providing wrap-around therapeutic support to children and young people.

Throughout private hearings, children and young people often raised the role of animals and pets as a means by which to reduce feelings of isolation and increase connection. For instance, one young person who had been given an opportunity to train a dog spoke about how important that was to them:

“ It's just that I wanted that bond with an animal... Because it's like having a best friend that won't turn their back on you. ”

Another young person spoke about wanting to have a pet to help give them a sense of stability and routine but not being allowed to have one whilst in an ACA.

“ I want to live in the city, but live with a pet because I can rely on a pet so I can stay home and look after it and take it for a walk. ”

Other supports and basic essentials

During hearings, children and young people were also asked about what other supports they had access to whilst in ACAs. The Special Inquiry team was provided with answers to this question on more than one occasion, which indicated many children and young people had low expectations as to the supports and basic essentials they had access to while in ACAs. Many viewed the relationship that they had with workers in ACAs as an exchange focused on gaining access to basic necessities, such as purchasing food, phone credit or transport, rather than a kind, caring and supportive relationship.

For instance, when asked what good support looks like, one young person said:

“ I don't really need much, just food and phone credit. ”

Similarly, a 10-year-old said that ACA workers showed that they were kind and caring if:

“ They like, say good night and they would like, make me breakfast and stuff. ”

Some young people also spoke about, at times, experiencing challenges in accessing funds to purchase necessities.

In hotel environments without cooking facilities, it was common for young people to heavily rely on takeaway foods and snacks for meals which indicates they are likely to experience poor diets with very little access to healthy food.

■ Connection to family, friends, community and culture

Throughout private hearings, young people were asked about their connection to family, friends, community and culture whilst in an ACA.

Friends

It was common for the Special Inquiry to be told that children and young people in ACAs feel isolated and disconnected from their peers. Many young people spoke about losing touch with friends due to instability and having to move all the time. The evidence provided to date suggests this was compounded by not regularly being in spaces and places, such as school, where they could easily interact with people their own age.

“ You need to be very resilient because you're not always going to get what you want. And you know, you don't. There are certain days that you know, if for example I go to the park. I am not always going to see my mates there. So, I need to find some other way to either contact them, or even if I was to give them the address so they could pop around and see how I was. When you're doing that if you were to move out you wouldn't be able to contact them. So, there's that downside of losing those friends that you make. ”

Because kids in care don't have phones until a certain age. Like I lost probably at least 35, 40 friends.

...I do have freedom, unlike a lot of other kids. A lot of other kids are stuck in the house. Hard if they are trying to make new friends. Once those kids find out they are in care they get picked on. ”

Some young people also spoke about their frustration of not being able to hang out and visit friends outside of school and engage in other social activities and opportunities that other children and young people have.

Q. “ Can you have friends over here? ”

YP. “ No. Sadly, that's what I hate about this place. ”

When asked what they would like to change about where they lived, young people referenced wanting to be able to have friends come around and have sleepovers like other children and young people and the barriers that they experienced around this.

“ Being able to sleep over with friends more. ”

Approval, like approval you need from your caseworker to go to this place and this place.

... other kids out of foster care don't need approval or stuff. So why can't foster care be the same as a normal house? That's just like the same thing. Every human being should be treated the same instead of giving different curfews like foster care. ”

Family

Views in relation to children and young people's contact with their birth family whilst in ACAs were mixed. Some children and young people reported having good contact experiences with family members and being supported to have this contact. Others recounted only having limited or irregular contact. For many children and young people, speaking about connection and contact with their birth family was a particularly sensitive topic. Accordingly, if the young people did not want to speak about this it was not discussed in detail.

Community and culture

When asked about support in accessing information and learning about their culture whilst in an ACA, many young people said this was an area where they wanted more support.

I'm Aboriginal. I had no assistance in finding my mob – still don't know it.

I would deeply like to [know more about my culture].

Oh, I don't know anything about it.

Not really, because my dad doesn't really talk about it, but all I know is that I am Aboriginal.

I don't feel like I get to express it [culture or language] that much.

Hopes for the future

At the end of each of the private hearings, children and young people were asked what their hopes are for the future.

“

Eventually be in my own house. Get a job...

Just everything for my son. Everything. Everything.

To get a house and just move on with my life.

I hope for a successful career and woodworking skills...

[A place somewhere] with good parents. With good people. That's it.

My hopes for the future are that my kids are healthy and safe. That's all I care about.

[To be a] professional dirt bike rider.

Get a hands-on job... I mean, like working at [unnamed organisation] or helping out other kids that are there. Or being like a diesel mechanic.

I get a job. I have a family... that's really it hey. Just looked after everyone pretty much. I want to have it so they can actually turn to me if they need because I went through a stage because I didn't have anyone to turn to and no one should be going through that.

That I have my own house, and a job, and a pet, and married with kids.

I want to be a model or start a brand... a makeup brand.

Being a plumber... because you earn lots of money... and it sounds fun.

I want to be zoologist field researcher.

”

Preliminary observations and next steps

Standards of care, responsibilities and obligations are clearly outlined in various global, Commonwealth and state-based legal instruments and standards, including the *Children and Young Persons (Care and Protection) Act 1998* (NSW) (Care and Protection Act).²⁷ The themes emerging in the evidence gathered to date, including that provided by children and young people, suggest the objects of the Care and Protection Act have not been met with respect to these children and young people.

Q. “ Did you always feel safe in your foster placements?

YP. No.

Q. What would make you feel settled?

YP. If it was a permanent place. And I know I wasn't going to move again. ”

Q. “ What's it like when you have to move?

YP. It feels frustrating, angry and it just upsets me.

Q. Do you feel safe when you're in the hotels?

YP. No, not really. ”

“ Since I've been in care, I'd notice my mental health gotten a lot worse... ”

.....

A review of the evidence gathered thus far indicates that no two ACA placements look the same, and there does not appear to be a clear standard or expectation of what an ACA placement should look like. The evidence suggests that, as a result, children and young people in ACAs may experience a lack of consistency in the level and nature of care being provided to them.

Further, the evidence given to the Special Inquiry to date suggests that:

- ACAs are detrimental and harmful to children and young people's wellbeing;
- There are systemic issues around the quality and consistency of care being provided to children and young people in ACAs, as well as concerns in relation to conditions, treatment and supervision;
- There is currently a lack of communication with children and young people by workers and caseworkers, as well as a lack of communication, data and information sharing between workers, caseworkers, agencies and DCJ;
- Children and young people in ACAs face barriers in accessing basic essentials and supports, including transport, family, education, friends, culture, healthcare and healthy food; and
- Children and young people in ACAs can experience a lack of access to critical therapeutic supports and child-focused approaches.

²⁷ See Appendix 3.

Whilst ACAs are intended to be utilised as short-term emergency placements of “last resort”, this is very different from the picture of ACAs that has emerged in evidence to date. The data shows that children and young people of all ages, with varying levels of needs, are being placed in ACAs for substantial periods of time – often for longer than three months and, at times, for periods as long as 500-600 days.

The evidence received to date also suggests that there is an urgent need to:

- Ensure that children’s and young people’s voices are embedded into processes relating to their care; and
- Provide a clear communication platform for children and young people to voice any concerns, complaints, or feedback on their experiences.

Some of the reasons that the Special Inquiry has heard that ACAs are being used include placement breakdowns, but also respite or a step before homelessness. However, the evidence heard to date suggests there is an urgent need for a shift away from the use of ACAs, as well as a need to safeguard the experience of children and young people in all emergency placements across NSW.

Whilst I will continue to consider all evidence provided to the Special Inquiry in preparation of the Final Report’s key findings and recommendations, it is evident that there must be a focus on redesigning the system to better support children and young people, as well as the people that support them – including family, carers and workers. Any system reform should be done with outcomes at the centre, and with children and young people front of mind.

Children and young people’s recommendations for change

Throughout private hearings, we asked children and young people what they would change about the OOHC system. Here are some of the things they have told us to date:

Greater early intervention and prevention to prevent removal in the first place

“ Everything about it. Kids not being with family. ”

Children and young people should have a voice and be supported with education

“ Kids to have more of their voices out in the world so [it’s] not just the older people have their say, kids can have their say in their choices – so kids matter, kids get to have stuff they want, are able to go to school and get an education.

Where some kid’s parents might not have such an amount of money to go to school..... I think we should help them out with that stuff.

More support for carers and foster parents at an early point

“ ... foster parents shouldn't be able just to give up their kid over one little argument or disagreement. There should be a thing in place that something majorly has to happen. You can't just go give up your kid, like your own daughter and say, 'I don't want you'. They shouldn't be able to do it to foster kids either.

More caseworker involvement coming around to the house is more regular – even just taking the kids out to do something with them, giving the foster parents a break.

Funding after school care so the foster parents, you know, have a bit more of a break. Just stuff like that.

The training of not just caseworkers, but the actual carers, because the young people and the kids have to live there so they're not living with their caseworker, you know. Like the caseworkers and people that work in the office, they have all the training in the world. They have to do that training to get that job. But the carers... like obviously they do background checks and some base, you know, of studies, but they're not educated to a trauma child... like that's probably the biggest thing, they need a better understanding of the backgrounds of traumas and just how to relate with the child that has trauma backgrounds and trauma responses and block things out because of trauma or has behavioural issues because of trauma. ”

Mentoring and peer support

“ For younger kids to have a mentor, but it not be an adult, like another kid in foster care. Like if there was a 7-year-old that's just entered, that they could speak to a kid that has been through similar stuff. Because in the long run you can say you know how something feels, but in reality, you don't. That's what a lot of people get incorrect. They can say yeah, I know what it's like to be separated from your mum and dad, but in reality, you can always go back to them. In foster care, you can't. That's the government's choice. Like okay, it's not the best place for you to be. Boom, you're in foster care. I know kids that went back to their families and they ended up putting them up for adoption. ”

Appendix 1: Terms of Reference

Special Inquiry into the experiences of children and young people in alternative care arrangements (ACAs) in New South Wales.

Terms of Reference

In accordance with Part 5 of the Advocate for Children and Young People Act 2014 (NSW) the Advocate for Children and Young People (ACYP) made a request to establish a Special Inquiry (Inquiry) on 19 September 2023, which was approved by the NSW Minister for Youth, the Hon Rose Jackson MLC.

ACYP is conducting an Inquiry into the experiences of children and young people in NSW in alternative care arrangements (often referred to as ACAs or “high-cost emergency placements”), which includes the use of hotels, motels, caravan parks, serviced apartments and other similar settings as emergency accommodation.

The Inquiry will have a particular focus on hearing from children and young people about their experiences.

The Inquiry will be examining and seeking views from interested parties on the issues and areas of focus set out below:

- a) *The pathways, trajectory and factors relating to:*
 - *children or young people being placed in an ACA, including factors such as complex needs, disability, neurodivergence, psycho-social behaviour and experiences of trauma; and*
 - *transitions between placements, including different types of emergency care arrangements.*
- b) *The decision-making process through which a child or young person is placed in an ACA, including:*
 - *the participation of the child or young person in the placement process and their ongoing case and placement plan;*
 - *the information given to the child or young person;*
 - *measures to ensure that the safety, welfare and wellbeing of the child or young person is maintained through the transfer of responsibility; and*
 - *the decision-making process under which a child or young person is removed from an ACA.*
- c) *The treatment of children and young people whilst in an ACA, including:*
 - *the suitability of the placement, including its facilities and condition, and the standard of care provided;*
 - *the availability, access to and adequacy of provision of education, recreation, health, psychological supports, and other services;*
 - *the appropriateness of the location for the child or young person; and*
 - *follow-up support and care after being placed in an ACA.*

- d) *The short, medium and long-term impacts of ACAs on the safety, welfare and wellbeing of children and young people, including:*
- *the social, emotional, psycho-social and physical health impacts;*
 - *connection to family, friends, community, culture and supports; and*
 - *other impacts experienced by children and young people.*
- e) *The cost effectiveness of ACAs.*
- f) *Alternative approaches to the use of ACAs, including any local or global examples, and the social or economic benefits of such alternatives.*
- g) *Any other related matter.*

The Advocate intends to deliver the report from the Inquiry to the Minister in early 2024.

Submissions

ACYP will be calling for submissions to the Inquiry from interested parties. ACYP will particularly seek to hear the views and experiences of children and young people who are currently in an ACA in NSW, and anyone who has been in an ACA in NSW in the last 10 years.

For more information see: <https://www.acyp.nsw.gov.au/special-inquiry>

Ms Zoë Robinson



Advocate for Children and Young People

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Appendix 2: Emergency and Temporary OOHC Arrangements in NSW²⁸

	Short-term Emergency Placement (STEP)	Interim Care Model (ICM)	Alternative Care Arrangements (ACAs)	Individual Placement Arrangements (IPA)
Accommodation style	Home-like accommodation (e.g. house, unit, serviced apartment)	Group, 4 bed model shared with other children in Home-like accommodation (e.g. house, unit, serviced apartment)	Temporary accommodation (e.g. hotel, motel)	Home-like accommodation (e.g. house, unit, serviced apartment)
Child/young person age and need requirement	Support model for children (aged 12-17) with high and complex needs	Support model for children (aged 9-14) with low-medium needs	Interim fee-for-service aiding children in or entering, statutory or supported OOHC	A temporary fee-for-service emergency accommodation arrangement based on the individual needs of the child
Steps taken prior to this placement	For children that at imminent risk of entry into ACA or IPA, and every effort has been made to place them with relatives/kin, a foster carer, or contracted OOHC	For children that at imminent risk of entry into ACA or IPA, and every effort has been made to place them with relatives/kin, a foster carer, or contracted OOHC	For when every effort has been made to place them with relatives/kin, a foster carer, or contracted OOHC	For when every effort has been made to place the in a contracted OOHC placement
Carer type	1:1 (child to care worker) placement, predominately provided by staff from a residential care accredited agency	House manager and direct care staff provided by staff from a residential care accredited agency	Direct care provided by staff from a non-designated agency (not accredited for residential care by the Office of the Children's Guardian)	Direct care is predominately provided by staff from a residential care accredited agency
Timeframe of support	Up to 12 weeks duration (extension possible in exceptional circumstances)	Up to 3 months duration (extension possible if required)	Very short-term	Very short-term

● *Focus of the Special Inquiry*

²⁸ Summary table drawn from: NSW Department of Communities and Justice – *OOHC Terminology – Permanency Support Program: Emergency and Temporary Arrangements*

Appendix 3: Obligations and responsibilities to children and young people in OOHC

United Nations Convention on the Rights of the Child

As with all the work of ACYP, the Special Inquiry takes as its starting point the United Nations Convention on the Rights of the Child (UNCRC).²⁹

Four of the key principles that encompass the UNCRC, and that Australia has a duty to uphold for all children in Australia, are:

- *Every decision or policy that affects children or young people must prioritise their best interests, always (Article 3).*
- *All children and young people are to be treated equally and have equal access to services, supports and programs (Article 2).*
- *All children and young people have the right to life, survival and to reach their fullest potential (Article 6).*
- *All children and young people have the right to be heard and participate in decisions that affect them (Article 12).*

In addition, of particular relevance to the Special Inquiry are the following articles:

- *Article 9: Children should not be separated from their parents unless it is for their own good. For example, if a parent is mistreating or neglecting their child. Children whose parents have separated have the right to stay in contact with both parents, unless this might harm the child.*
- *Article 13: Children have the right to get and to share information, as long as the information is not damaging to them or to others.*
- *Article 19: Governments should ensure that children are properly cared for and protect them from violence, abuse and neglect by their parents or anyone else who looks after them.*
- *Article 20: Children who cannot be looked after by their own family must be looked after properly by people who respect their religion, culture and language.*

Global standards for care arrangements

The global standards for OOHC are set out in the United Nations Guidelines for the *Alternative Care of Children*³⁰, a seminal paper on which most universal OOHC practices are developed. The guidelines emphasise a comprehensive approach to providing suitable forms of OOHC for children, with a primary focus on promoting the child's full and harmonious development. The guidelines suggest decisions should be made on a case-by-case basis, prioritising the child's safety, security, and best interests, while respecting the child's right to be consulted.

²⁹ [United Nations Convention on the Rights of the Child](#) | UN General Assembly

³⁰ [United Nations Guidelines for the Alternative Care of Children](#) | Save the Children's Resource Centre

The guidelines stress the importance of maintaining geographical proximity to the family, ensuring a safe and stable environment, and protecting children from abuse. Removal is seen as a last resort, subject to constant review. Rights and responsibilities, including education, health, and identity, must be maintained, and siblings should only be separated in cases of clear risk or conflict. There is also a strong emphasis on the importance of a culturally sensitive approach, which takes into account structural discrimination.

Countries and states are also urged to develop and measure quality standards and address root causes of child separation. The importance of adopting prevention policies, such as social support before administrative care is highlighted. The guidelines emphasise that decision-making processes should adhere to legal safeguards, with sustainable, long-term care prioritised over temporary solutions.

Overall, the guidelines underscore a child-centric, culturally sensitive, and rights-based approach to OOHC, emphasising the importance of family preservation and well-defined standards.

Australian Guidelines

The Australian National Standards for OOHC were established as part of the former Council of Australian Government (COAG)'s *National Framework for Protecting Australia's Children 2009-2020*.³¹

They aim to ensure a consistent and high-quality care framework for children and young people in OOHC across the country.

The standards cover key areas, including:

- *Need for stability;*
- *Parental and child participation in decisions;*
- *Specific Aboriginal and Torres Strait Islander community involvement and approaches;*
- *Need for individualised care plans;*
- *Ability to effectively meet health needs;*
- *Access to equal education, recreational activities access and support for employment;*
- *Maintenance and fostering of family connections;*
- *Access to fulfilling identity development;*
- *Access to supportive relationships, stringent carer training and standards; and*
- *A clear process for the long-term transition out of care, with a process around development of a transition from care plan commencing at 15 years old.*

In more recent years, the new *Safe and Supported: The National Framework for Protecting Australia's Children 2021-2023* has emphasised that the protection of children is not simply a matter for the statutory child protection systems.³² ACYP agrees with the sentiment that "Protecting children is everyone's business."

In addition to the National Framework, the Aboriginal and Torres Strait Islander Child Placement Principle (ATSICPP) recognises the importance of connections to family, community, culture and country in child and family welfare legislation, policy and practice. It asserts that Aboriginal and Torres Strait Islander communities are central to supporting and maintaining those connections.³³

³¹ *An outline of National Standards for out-of-home care (2011)* | Department of Social Services, Australian Government (www.dss.gov.au); *National framework for protecting Australia's children indicators*, National Standards indicators - Australian Institute of Health and Welfare (www.aihw.gov.au); *National Standards for Out-of-Home Care (2022)* | Australian Institute of Health and Welfare (www.aihw.gov.au).

³² *National Framework for Protecting Australia's Children 2021-2023* | Department of Social Services, Australian Government (www.dss.gov.au).

³³ *The Aboriginal and Torres Strait Islander Child Placement Principle: A Guide to Support Implementation* | SNAICC (www.snaicc.org.au).

■ NSW Standards and Legislation

Children and Young Persons (Care and Protection) Act 1998

In NSW, the legislation that outlines the operation of the OOHC system is the Care and Protection Act.³⁴ Within this Act, the following objectives and core principles are outlined:

- a. *that children and young persons receive such care and protection as is necessary for their safety, welfare and well-being, having regard to the capacity of their parents or other persons responsible for them, and*
- b. *recognition that the primary means of providing for the safety, welfare and well-being of children and young persons is by providing them with long-term, safe, nurturing, stable and secure environments through permanent placement in accordance with the permanent placement principles, and*
- c. *that all institutions, services and facilities responsible for the care and protection of children and young persons provide an environment for them that is free of violence and exploitation and provide services that foster their health, developmental needs, spirituality, self-respect and dignity; and*
- d. *that appropriate assistance is rendered to parents and other persons responsible for children and young persons in the performance of their child-rearing responsibilities in order to promote a safe and nurturing environment.*

NSW Child Safe Standards for Permanent Care

The NSW Child Safe Standards for Permanent Care establish the minimum requirements for the accreditation of OOHC service providers in NSW and are based on the statutory responsibilities of OOHC service providers.³⁵

The standards outline 12 principles that are fundamental to children and young people's care and wellbeing:

1. *The rights of children and young people are the primary focus for their care.*
2. *Children and young people receive appropriate care relevant to their circumstances, in a safe environment.*
3. *Children and young people are safe and protected from harm.*
4. *Children and young people have a positive sense of identity.*
5. *Children and young people remain connected to significant people and places in their lives.*
6. *Children and young people contribute to decisions relating to their lives.*
7. *The organisation's practices are underpinned by rights to privacy and confidentiality.*
8. *Children and young people are emotionally healthy and are supported to achieve their developmental potential.*
9. *Children and young people are healthy and have access to appropriate health and support services.*
10. *Children and young people's educational outcomes match those of their peers in the general population.*
11. *Children and young people are supported to manage their own behaviour.*
12. *Young people successfully transition to independent living.*

There are also 11 further standards which cover casework practice to support care, people who work in care and child safe organisations.

³⁴ *Children and Young Persons (Care and Protection) Act 1998 No 157* | NSW Legislation (www.legislation.nsw.gov.au)

³⁵ *NSW Child Safe Standards for Permanent Care* | Office of the Children's Guardian (www.ocg.nsw.gov.au)



acyp.



**Office of the Advocate for
Children and Young People**

Report:

*Moving cage to cage –
An interim report of the
Special Inquiry into children
and young people in alternative
care arrangements.*

Date:

May 2024

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