

## DCJ submission – ACYP Special Inquiry: Children and Young People in Alternative Care Arrangements (ACA)

### 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.

The Department of Communities and Justice (**DCJ**) is committed to ensuring all children and young people in out of home care (**OOHC**) live in a safe and caring home in line with the NSW Child Safe Standards for Permanent Care.

For children and young people in parental responsibility to the Minister, placing a child or young person with their relative or kin is the first placement preference. If this is not possible, the next considerations include placement with foster carers or for children and young people who require more intensive support, a residential placement within the contracted OOHC system.

In circumstances where a permanency option or preferred placement within the contracted OOHC system is unable to be immediately sourced, DCJ attempts to source a placement with an existing, experienced and accredited residential care provider to deliver emergency care arrangements. In order of preference, the below list highlights the high-cost emergency arrangement pathways where the first three options are with service providers accredited to deliver residential OOHC.

1. Interim Care Model (**ICM**)
2. Short Term Emergency Placement (**STEP**)
3. Individual Placement Arrangement (**IPA**)
4. Alternative Care Arrangement (**ACA**)

ACAs remain the least preferred type of high-cost emergency arrangement and can only be considered when all other accredited, contracted and home-like placement options have been exhausted.

### *Systemic issues*

There are a number of systemic issues that impact the availability of suitable placement options for children entering, or in, OOHC. The key drivers within the OOHC system increasing reliance on ACA and other high-cost emergency arrangements include:

- Shortage of available carers appropriately skilled to meet the individual needs of children and sibling groups. This places additional pressure on foster and kinship care settings and provides limited carer-based placement options available for children entering OOHC or who's existing OOHC placement breaks down;
- Shortage of residential care workers and clinicians who can facilitate the provision of high-quality residential care; and
- A lack of available, affordable housing suitable to meet children's needs in communities they are familiar with.

Recent data indicates that on average children and young people spend less time in ACA compared to other high-cost emergency arrangements, in line with DCJ policy to act with urgency to exit children and young people to more preferred placement options. Of the 37 children and young people that exited an ACA during Sept 2023, 76 percent (28 children) successfully exited to a more preferred placement. The remaining nine children (24%) exited to another form of high-cost emergency arrangement such as STEP, ICM or IPA. These are preferred arrangements to an ACA as they provide a higher quality of care by accredited OOHC providers in a more stable and home-like environment.

### *Children and Young People with various needs*

A large proportion of children and young people in an ACA have a child assessment tool score of low or medium (61% of children and young people in ACAs as at 31 August 2023). A low or medium child assessment tool score suggests these children and young people are suitable for foster care and lack of suitable carers is likely the barrier to exiting high-cost emergency arrangements. In 2022, DCJ analysed barriers to children and young people exiting an ACA. It found that children and young people with significant disability, children and young people with high needs under 12 years who are not suitable for long-term residential OOHC and children and young people who have restoration case plan goals tend to be in ACAs for the longest (more than 100 days). This suggests that the greater the care and support needs of the child and young person, the more difficult it may be to find a destination placement for them.

Youth Justice NSW has found that young people in ACAs are often on very strict bail conditions (including for example, that they may not leave their home without a youth worker with them at all times). This often results in non-compliance by the young person who is compelled to reside in sometimes small or unsuitable hotel rooms with workers with whom they have no connection and who may not have the skills or experience to work effectively with complex young people.

Under certain ACA when the only accommodation that is available is accommodation that is part of a motel, hotel or serviced apartment complex, it is not uncommon for the property owner or their agent to require the child or young person and carer to vacate the premises when the child or young person exhibits behaviour which causes a nuisance to other occupants, or results in damage to the property. In some cases the involvement of the police is requested. All this has a further destabilising effect on children when it is necessary to move the child or young person from one premise to another.

DCJ is embarking on reform to the OOHC system to build system capacity to provide better alternatives to ACAs and improve system performance. Further information on OOHC reform is provided in this submission.

**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.

As outlined above, ACAs are only considered as an option of last resort after all other possible placement options have been considered. Placement in an ACA must be approved by the Principal Officer and additional financial approvals from the High Cost Emergency Arrangement Executive Lead. Approval of the arrangement and financials by senior executives enables greater oversight of the decision for a child or young person to enter an ACA. The voice of the child or young person is important and while their opinion is sought and their agreement is ideal, where they want to go and where they can go are not always aligned.

The new resource, the Permanency and Placement Hierarchy, uses a red / amber / green status to categorise non-home-based care service types from least to most preferred. ACAs are the least preferred, followed by IPA, then STEP and then ICM as they are short term placements for less than 12 weeks only.

When placing a child or young person in an ACA, caseworkers are required to talk to the child or young person about their placements taking into consideration the child or young person's safety, wellbeing and development. Caseworkers should talk to the child or young person about where they will be staying, names of the people caring for them, when they will see their family and when their caseworker will next visit them.

Caseworkers are required to visit a child or young person in an ACA frequently. For DCJ case managed ACAs, this occurs on a weekly basis. These visits provide a caseworker with the opportunity to check in with the child and any follow up required. Weekly visits also give the child the opportunity to participate in decisions made about them and advocate for their needs. This includes participation in case planning which include actions to support the child or young person to step-down to a less intensive or more preferred type of care arrangement.

There are requirements regarding a home like environment and visiting the property to check suitability, outlined below in response to term of reference C.

**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.

There are minimum requirements set out in the Care Regulations and the NSW OOHC accreditation framework guiding all agencies delivering residential OOHC placements, including ACA.

The designated agency with case management responsibility for a child or young person in an ACA is responsible for ensuring the placement adheres to the NSW Child Safe Standards for Permanent Care. This includes a safe and suitable care environment, suitability of care and frequent visiting by the casework practitioner.

All staff (including subcontracted agency staff) used to provide care to children and young people in ACAs are required to have mandatory probity checks, be authorised by the designated agency with primary case responsibility and added to the Residential Care Workers Register.

The staff are considered 'employees' of the designated agency and fall within the scope of the designated agency's reportable conduct scheme.

The Office of the Children's Guardian also requires a service agreement to be in place between the designated agency and the subcontracted agency (ACA provider).

DCJ has centralised oversight of all high cost emergency arrangements including ACA's. DCJ approves non-government organisation (**NGO**) and DCJ case managed ACAs for limited short periods of time and requires the NGO or DCJ District to demonstrate active casework effort to identify and move the child to a more preferred placement at review points prior to any extension.

*ACAs for children case managed by DCJ*

Where DCJ holds case management for a child or young person needing an ACA, accommodation options that most closely resemble a home-like environment, including rental properties or serviced apartments are preferred. Accommodation for an ACA allows the child or young person to have a separate bedroom with a door for privacy (siblings can share a room where appropriate) and ideally a kitchen or kitchenette where meals can be prepared, a separate living space and be close in proximity to the child's school, family and networks. Once accommodation has been sourced, DCJ practitioners are required to inspect the ACA and ensure it is safe and meets the child or young person's needs.

When a child or young person is in an ACA, they are supported to attend school, access health care, remain connected to their networks, family and culture and access other services as required. DCJ practitioners visit the child or young person weekly to ensure their care needs are met and support the child or young person to achieve all measures of wellbeing, including those outlined in their case plan.

DCJ caseworkers have access to DCJ Psychological and Specialist Services (**P&SS**) to provide extensive consultation, assessment, behaviour support, and therapeutic intervention for children or young people residing in DCJ case managed ACAs. This includes consultation to casework teams regarding the appropriateness of the ACA residence/location and advising on the child or young person's needs for therapeutic supports (i.e., psychological support, speech and occupational therapy, psychiatry, paediatrician review and educational support).

P&SS can also provide trauma-informed training and support to ACA providers and work closely with the system around the child/young person to ensure safety and to promote therapeutic caregiving so that the placement meets the child's needs and to support an ACA exit.

ACA providers can be inconsistent in their delivery of trauma-informed care. Barriers to trauma-informed care include a lack of knowledge regarding trauma and its impacts on children/young people, a lack of resourcing around the child (e.g., previous medical and psychological assessment/intervention), a lack of resourcing/training for these inexperienced providers, and financial restraints.

To ensure children and young people in ACA are cared for safely, DCJ has introduced enhanced authorisation requirements for all Residential Care Workers supporting children and young people in ACA. These requirements exceed the minimum authorisation conditions outlined in the legislation and Office of the Children's Guardian (**OCG**) guidance materials and enable a comprehensive assessment of the Residential Care Worker and their suitability to support children in ACA.

DCJ is also in the process of updating the ACA casework practice mandate and implementing a new ACA Service Agreement and operational guidelines to ensure consistency of care and service delivery in ACA. The forthcoming ACA Service Agreement and guidelines provide clear guidance to both ACA Service Providers and their Residential Care Workers by outlining roles and responsibilities, minimum service expectations, and essential information necessary for the delivery of high-quality care. The objective is to enhance overall service quality and ensure a unified understanding of expectations within the caregiving framework.

**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.**

ACA is considered the least preferred placement option for a child or young person, due to its inability to provide a child or young person with a sense of stability, belonging or permanency. Because of this, ACAs are only used when all other placement options are exhausted. When a child or young person is placed in an ACA, DCJ works with urgency to identify and secure more suitable placement alternatives that better align with the child's well-being and long-term needs.

The impact of placement in an ACA on children and young people is complex. For some children and young people, placement in an ACA has offered more stability than the child or young person's previous experiences, providing them with a platform to engage in psychological support and education.

For other children, an ACA is destabilising, causing attachment difficulties, perpetuating problematic behaviours and mental health issues, and hindering educational performance. The nature of ACA placements can have negative outcomes for children and young people's self-

esteem and self-concept and can contribute to poor therapeutic progress. In general terms, children and young people in ACAs often experience loneliness and disconnection, which can be further compounded by being cared for by rotating shift workers, who they know are paid to care for them. Children and young people in ACAs often experience pain-based behaviour which may be as a result of previous trauma or linked to the loneliness and isolation of their environment.

Casework practitioners make every effort to support the child or young person to remain connected to their family, friends, community, culture, activities or hobbies and any other necessary supports. However, children and young people in ACAs are living in circumstances that are very different to their peers, which may make it difficult to continue with these routines. For some children and young people in these arrangements, their time is dominated by appointments, whereas for children living at home or with carers, their time is more likely to be taken up with social and family events.

#### **E. The cost effectiveness of ACAs.**

ACAs are a significant driver of OOHC budget pressure. These arrangements are usually very costly and due to the nature of these arrangements their value for money is considered low. Until recently there has not been a consistent price point, there are variations in price and service delivery, as pricing is negotiated on a case by case basis.

DCJ is committed to pursuing placement options that prioritise the child's best interests, while also managing resources effectively for the benefit of both the child and the overall OOHC system.

DCJ has a significant program of work to build placement capacity to avoid the need for ACAs (for further details, please see response to F).

#### **F. Alternative approaches to the use of ACAs, including any local or global examples, and the social or economic benefits of such alternatives.**

To support DCJs commitment to ending the use of ACA and enabling children and young people to be placed in arrangements that meet their needs within the accredited OOHC system, DCJ is implementing a number of strategies and alternative approaches which are more cost effective and will provide better outcomes for children and young people:

##### *Intensive Therapeutic Care (ITC) expansion tender*

Intensive Therapeutic Care provides contracted residential OOHC placements for children 12 years and over with high and complex needs.

Procurement is underway to build service system capacity to respond to placement needs for children and young people with high and complex needs, including:

- a Select tender that is near finalisation to expand ITC placements in response to market gaps. This is planned to deliver additional placements to support children with high needs to transition to ITC and receive the benefits of therapeutic care.
- planned introduction of a new emergency model in Orange and Wollongong to be delivered by an NGO in collaboration with DCJ Psychological and Specialist Services. This is in the design phase and planning for procurement is underway.

##### *DCJ recruitment of emergency foster carers*

A 2023 interjurisdictional review into OOHC, undertaken by The NSW Cabinet Office, found that the recruitment and retention of foster carers is a key issue across all jurisdictions included in the review. The lack of available foster carers is the key driver for the use of ACAs.

DCJ commenced emergency foster care recruitment from 1 July 2022 and has developed an Emergency Foster Care Framework and will also develop a carer support and retention strategy to effectively support our carer community once onboard.

#### *Reform of the OOHC system*

DCJ has established a reform unit to develop options for Government to improve OOHC system performance and financial sustainability, including building capacity to meet the needs of children in OOHC and reducing reliance on ACA and other emergency arrangements.

In addition to longer-term reform options, this new unit is also responsible for monitoring short-term strategies to increase the numbers of placements available.

#### *Expansion of the Central Access Unit (CAU)*

DCJ has consolidated resourcing into an expanded CAU bringing together into the one unit the operational functions of ITC, residential care and high-cost emergency arrangements. This will allow greater consistency in assessing all residential placement options for children referred to the CAU, enabling effective tracking, grouping considerations and system navigation so children receive the right support as quickly as possible.

#### *Increase the pool of available authorised Foster Carers*

In addition to recommencing recruitment of DCJ emergency foster carers, DCJ has been working with the sector to increase the pool of available foster carers. This work includes:

- releasing carer authorisation dashboards which provide benchmarking for NGOs, to encourage more timely authorisations of new carer applicants.
- To reduce the use of ACAs specific recruitment campaigns are being run to highlight the need for carers of older children
- DCJ and AbSec are working with Aboriginal Community Controlled Agencies to engage Aboriginal people to consider fostering and caring.
- DCJ is also expanding Professional Individualized Care (**PIC**) and other innovative carer models to provide carer led placements for children who would otherwise be in an ACA.
- DCJ has invested in trauma treatment services, including Treatment Foster Care Oregon, OurSPACE outreach therapeutic trauma support and LINKS Trauma Healing Service, to support children in their foster care placements and prevent entries to high-cost emergency arrangements due to placement breakdown.

#### **G. Any other related matter.**

DCJ, Legal Aid NSW, NSW Police Force and all contracted ITC providers have entered into a Joint Protocol with the intention of reducing the contact of young people under the age of 18 in residential OOHC with the criminal justice system. This approach could be strengthened and expanded to ACA arrangements.

**Youth Justice NSW Community Offices have shared both positive and negative experiences of ACAs.**

While there are positive and negative examples of children and young people's wellbeing and outcomes as a result of placement in an ACA, on balance, the children and young people in this cohort are often disconnected from family, social network and community, and are not achieving outcomes to their full potential. More must be done to offer systemic reform to avoid such arrangements. It is also important to note that the number of children and young people in the ACA cohort currently represents a tiny proportion of the OOHC population.