

IPART - Review Of Out-Of-Home Care Costs And Pricing

November 2024

About the 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*, my functions include:

- (a) to advocate for and promote the safety, welfare and wellbeing of children and young people.,
- (b) to promote the participation of children and young people in the making of decisions that affect their lives and to encourage government and non-government agencies to seek the participation of children and young people appropriate to their age and maturity.
- (c) to conduct special inquiries under Part 5 into issues affecting children and young people.
- (d) to make recommendations to government and non-government agencies on legislation, reports, policies, practices, procedures and services affecting children and young people.
- (e) to conduct, promote and monitor research into issues affecting children and young people.
- (f) to promote the provision of information and advice to assist children and young people.
- (g) to prepare, in consultation with the Minister, a 3-year strategic plan for children and young people in the State.
- (h) such other functions as are conferred or imposed on the Advocate by or under this or any other Act.

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

Introduction

I welcome the opportunity to contribute to the NSW Independent Pricing and Regulatory Tribunal Review of Out-of-Home Care Costs and Pricing in response to their Interim Report. In September 2023, I launched a Special Inquiry into the experiences of children and young people in Alternative Care Arrangements (ACAs). The Special Inquiry did not seek to provide a detailed cost analysis of alternative care arrangements compared to other types of care. However, the cost and pricing of out-of-home care provision was raised in a number of aspects. Importantly, investment and funding

decisions must focus on the needs and wellbeing supports of the child, young person and their family, appropriate support for caseworkers and carers and housing needs. It also needs to look at systems reform that will better support the children and young people. These aspects broadly align with the preliminary findings of the Interim Report and are explored further below. For the benefit of the Tribunal I have attached a copy of the Special Inquiry Final Report to this submission.

I acknowledge that since the release of the Special Inquiry Interim Report in March 2024, the NSW Government has announced a Systemic Review into out-of-home care¹ and have subsequently announced that they will end unaccredited alternative care arrangements.² I understand that the findings of this Systemic Review is currently under consideration by the Minister.

Recommendation

In making recommendations, the Special Inquiry recommends adopting in full the recommendations of previous inquiries into the OOHC sector, including the Families Is Culture Review³, the 2024 reports by the NSW Auditor General into the child protection system⁴ and the ACYP Voices of Children and Young People in Out-of-Home Care Report⁵.

In addition, the Special Inquiry makes four recommendations of most relevant to the Review's Terms of Reference is as follows:

Immediately invest in appropriate supports, and services, for the wellbeing of children and young people who are, or who have been in, alternative care arrangements. These should include:

- facilitate early access to therapeutic support for children who must be removed, even within "therapeutic placements".
- prioritise therapeutic resources for children and young people with complex needs to prevent placement breakdowns.
- enhance remuneration, training, and support for volunteer foster carers to attract more individuals to the sector.
- supplement volunteer-based foster care with professional care models and therapeutic care models.

¹ NSW Department of Communities and Justice (DCJ). (2024, May). Systemic review into out-of-home care (OOHC).

² NSW Government (2024, September) NSW Government to ban the use of Alternative Care Arrangements for vulnerable children. (Media Release). <https://www.nsw.gov.au/media-releases/nsw-government-to-ban-use-of-alternative-care-arrangements-for-vulnerable-children>

³ Megan Davis (2019, October) Family is Culture: Independent Review into Aboriginal Out-of-Home care in NSW Final Report.

⁴ NSW Auditor General (2024, June) Oversight of the child protection system.
NSW Auditor General (2024, June) Safeguarding the rights of Aboriginal children in the child protection system.

⁵ ACYP (2021, August) The Voices of Children and Young People in Out-of-Home Care.

- improve support and training for foster carers to enhance the quality of care provided, including every carer having mental health first aid training and trauma support training.

What additional support is provided to carers to ensure they are prepared to care for a child in OOHC?

A core issue raised in the Special Inquiry was the current critical shortage of foster carers, with a nation-wide trend of foster carers resigning and exiting the system. In Adopt Change's submission to the Special Inquiry, they noted that data from the NSW Office of the Children's Guardian (OCG) highlights that there were 2,684 Carer Household exits in the year prior to 30 June 2023, compared to only 1,581 Carer Household authorisations in the four quarters reported from 31 December 2022 to 30 September 2023.⁶ This data, when compared with the number of carer households that DCJ reports they need, also highlights a significant shortfall within the system.⁷

The Special Inquiry heard that there are numerous factors for this, including a lack of focus on retention and support for foster carers, exacerbated by the increasing cost of living and low carer payments.⁸ Information provided through submissions and workshops has suggested that there is a need for foster carers to be provided with ongoing support and training around how to support children and young people with trauma, complex needs and behaviours, as well as more consideration around a role for professional carers in the system or a higher allowance payment for carers.

One young person in private hearings highlighted:

"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."

Children and young people spoke about the importance of there being more support provided for carers and foster parents at an early point, to prevent placement breakdowns from occurring in the first place.

⁶ OCG Data cited by Adopt Change. (2023, December 8). Submission to ACYP's Special Inquiry into Children and Young People in ACAs.

⁷ Adopt Change. (2023, December 8). Submission to the ACYP's Special Inquiry into Children and Young People in ACAs.

⁸ ACYP's Special Inquiry into ACAs Caseworker Workshop, 4 March 2024; Adopt Change. (2023, December 8). Submission to ACYP's Special Inquiry into Children and Young People in ACAs.

Another core reason identified for why children and young people enter an ACA is 'placement breakdown', including foster carers feeling ill-prepared to respond to 'challenging behaviours'. This aligns with data from the Office of the Children's Guardian Annual Report 2020-21, which noted that of the 530 children and young people in HCEAs, 32% were placed in emergency care as a result of high-needs behaviours, 28% were the result of a placement breakdown and 14% were because there were no available carers.⁹

What examples of wrap around services does your organisation/District provide to children in your care that have contributed to their improved wellbeing?

It was not the purpose of the Special Inquiry to promote a particular model or service nor does my office provide direct service provision.

However, there was evidence in submissions to the Special Inquiry that the significant funds that have been spent on ACAs could be better invested in providing alternative models and placement options for children and young people which have a stronger focus on therapeutic support.

For instance, YFoundations noted in their submission that:

"Government is spending a staggering amount of money on an option which seems to do more harm than good."¹⁰

The Department of Communities and Justice noted in their submission that:

"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."¹¹

Numerous other submissions to the Special Inquiry have highlighted how alternative models that provide more therapeutic focused responses for children and young people not only come at a lower cost but are also much more likely to have a positive impact on outcomes for children and young people.

It was noted in the evidence provided to the Special Inquiry that many of the challenges relating to responding to children and young people with complex needs in OOHC are being exacerbated and compounded by a current lack of therapeutic service provision options for children and young people.

⁹ Office of the Children's Guardian (OCG). (2022). Annual Report 2021-22.

¹⁰ YFoundations. (2023, November). Submission to ACYP's Special Inquiry into Children and Young People in ACAs.

¹¹ NSW Department of Communities and Justice (DCJ). (2023, November). Submission to ACYP's Special Inquiry into Children and Young People in ACAs.

There was also a strong theme across the evidence received that there needs to be a greater focus on prioritisation of therapeutic supports for children and young people at an early point, to prevent placement breakdowns from occurring.¹² For Aboriginal and culturally diverse children and young people, this should include consideration of access to healing programs and culturally safe mental health supports.¹³

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.

“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?”

“Definitely don’t.”

A common theme that emerged throughout private hearings, was the feeling of isolation, boredom and disconnection experienced by children and young people in ACAs. When asked what they did not like about staying in hotels, 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 that emerged in the evidence was that many children and 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...”

¹² Aboriginal Legal Service NSW/ACT (ALS NSW/ACT). (2023, December 12). Submission to ACYP’s Special Inquiry into Children and Young People in ACAs.

¹³ Aboriginal Legal Service NSW/ACT (ALS NSW/ACT). (2023, December 12). Submission to ACYP’s Special Inquiry into Children and Young People in ACAs.

*“...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 places 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 dependencies.”

Case studies provided in submissions to the Special Inquiry also highlighted the significant decline of children and young people’s mental health whilst in ACA placements and the lack of appropriate therapeutic supports and interventions.

Other evidence provided to the Special Inquiry highlighted that ACAs can be very impersonal, stark and isolating environments for children and young people, where young people are detached from making connections, and this can have significant impacts on mental health.¹⁴ Being placed in an ACA can lead to a feeling of rejection or a feeling of being unwanted, impacting the self-worth of the child or young person.¹⁵

When asked during private hearings, “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 struggled 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.”

In giving evidence, 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.

¹⁴ ACYP’s Special Inquiry into ACAs Caseworker Workshop, 4 March 2024.

¹⁵ ACYP’s Special Inquiry into ACAs Caseworker Workshop, 4 March 2024.

"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."

Experiences of this kind indicate there is a critical need for an increased focus on providing wrap-around therapeutic support to children and young people, as well as highlighting the inappropriate nature of unstable and isolating ACA environments for children and young people experiencing such levels of distress.

What activities and costs are involved in ensuring a smooth transition of Aboriginal children to ACCOs?

Of those in Alternative Care Arrangements at the time of the Special Inquiry, there was an over-representation of Aboriginal and Torres Strait Islander children and young people accounting for over 50% of those in ACAs.¹⁶

Feedback provided through submissions and workshops highlighted that there is currently a lack of suitable family or kinship placements being identified by the Department of Communities and Justice and the non-government organisation providers. Aboriginal communities are currently underrepresented among foster carers, and it was noted that there is a need for more time to be devoted to both recruiting foster carers in these demographics and undertaking family-finding work.¹⁷

The Aboriginal Legal Service (NSW/ACT) noted in their submission to the Special Inquiry that addressing the current shortage of foster carers and kinship carers will also "necessarily require a complete overhaul of the way that Aboriginal and Torres Strait Islander families are assessed to be kinship carers, including the impacts that Working with Children Check (WWCC) requirements have on Aboriginal households seeking authorisation".¹⁸

For many Aboriginal children and young people, and those from culturally and linguistically diverse backgrounds, the instability, location and disruption caused by ACA placements can cause a loss of connection to community, elders, values, and traditions that they are unable to practice.

Ongoing connection to community, culture and country are key principles outlined under NSW care legislation and other relevant legislative frameworks and standards. A number of children and young people who participated in private hearings did not feel they had a strong connection to their culture or community.

¹⁶ Analysis of NSW Department of Communities and Justice (DCJ) data provided to ACYP.

¹⁷ Law Society of NSW. (2023, November 30). Submission to ACYP's Special Inquiry into Children and Young People in ACAs.

¹⁸ Aboriginal Legal Service NSW/ACT (ALS NSW/ACT). (2023, December). Submission to ACYP's Special Inquiry into Children and Young People in ACAs.

When asked during private hearings about whether they were provided 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."

In addition, evidence given to the Special Inquiry highlighted that this disconnection from community and culture can have both short and long-term impacts on children and young people, eroding their sense of identity and belonging and leading to feelings of cultural alienation and loss.¹⁹

A submission to the Special Inquiry also noted that whilst questions around specific cultural considerations for Aboriginal children and young people are included in the forms and documentation related to ACAs (Permanency Support Form A), there is no mandatory requirement to adhere to s13 of the Aboriginal and Torres Strait Islander Placement Principles nor the preparation of a Cultural Support Plan for children in ACAs.²⁰ I am informed by DCJ that the Permanency Support Form A is no longer in use. It stopped being used on 21 December 2023.

Given that in June 2023, Aboriginal children represented 67% of children and young people in ACAs, and over the course of the Special Inquiry they have consistently accounted for more than 50% of those in ACAs, the lack of focus and enforcement around maintaining cultural connection is a significant concern.²¹

With these observations in mind, feedback from peak Aboriginal organisations indicated strong support for the establishment of an Independent Child Protection Commission and the appointment of an independent Aboriginal and Torres Strait Islander Child and Family Commissioner to take on an oversight role. I note this aligns with recommendation nine of the Family Is Culture Final Report.

Conclusion

I thank the Tribunal for the opportunity to provide a submission to this important review and congratulate them on bringing the issues canvassed above to the forefront of legislation, policy and

¹⁹ The Benevolent Society. (2024, February 15). Submission to ACYP's Special Inquiry into Children and Young People in ACAs.

²⁰ Aboriginal Legal Service NSW/ACT (ALS NSW/ACT). (2023, December 12). Submission to ACYP's Special Inquiry into Children and Young People in ACAs.

²¹ NSW Department of Communities and Justice (DCJ) data provided to ACYP.

program reform. I welcome any follow up questions from the Committee directed to my Office at acyp@acyp.nsw.gov.au

Reference List

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