



**SPECIAL COMMISSION OF INQUIRY INTO
CHILD PROTECTION SERVICES IN NEW SOUTH WALES**

**PUBLIC FORUM
HEALTH AND DISABILITY
11 APRIL 2008
FACTS SHEET**

Relevant legislation

1. The *Children and Young Persons (Care and Protection) Act 1998* recognises that responsibility for child welfare and well-being is shared across government and non-government agencies, families and the community. Sections of the legislation relevant to health and disability issues and services include:
 - a. Prenatal reports (s 25)
 - b. Mandatory reporting (s 27)
 - c. Making of assessment orders (s 53)
 - d. Order for provision of support services (s 74)
 - e. Order to attend therapeutic or treatment program (s 75)
 - f. Compulsory assistance (ss 123-125 - not proclaimed)
 - g. Voluntary out-of-home care, (s 155 Monitoring of children and young persons in voluntary out-of-home-care, and s 156 Review of voluntary out-of-home-care arrangements - not proclaimed)
 - h. Medical examination of children in need of care and protection (s 173)
 - i. Emergency medical treatment (s 174)
 - j. Special medical treatment (s 175)

- k. Ordinary medical and dental treatment (s 177).
2. There are other pieces of legislation which affect the provision of health and disability services to children and their families including the following:
- a. *Disability Services Act 1993*
 - b. *Health Services Act 1997*
 - c. *Mental Health Act 2007*
 - d. *Education Act 1990.*

Service Provision

3. Health and disability services for children and their families in NSW are delivered by a number of service providers.
- a. NSW Health is the largest mainstream public provider of health services. In 2006/07 NSW Health had a total budget of \$12.5 billion¹, and employed almost 91,000 full time equivalent staff². Health services are provided statewide.
 - b. Health services are also provided through the private system, subsidised by the Commonwealth Medicare program. This includes services provided by General Practitioners and other private medical practitioners, some private allied health practitioners, through Private Hospitals, and in some cases through alternative providers such as Catholic Health Services.
 - c. The Department of Ageing, Disability and Home Care (DADHC) coordinates disability services provided outside the public health system. DADHC is both a service provider and funder of services for children with disabilities and their families.
 - d. The Department of Education and Training (DET) provides additional assistance for students with disabilities depending on the assessed needs of the individual student.

¹ NSW Department of Health Annual Report 2006/07 p. ii

² Ibid, p. 232

Mechanisms to support the participation of health and disability services in the child protection system

4. The *NSW Interagency Guidelines for Child Protection Intervention* (2006) outlines the roles and responsibilities of government and non-government agencies in relation to child protection.
 - a. DADHC has responsibility for:
 - i. *promoting a safe environment for children and young people who receive services*
 - ii. *reporting children and young people suspected of being at risk of harm to DoCS*
 - iii. *providing support services to families including case management, behaviour support and therapy, as well as early childhood services for 0 to six-year olds*
 - iv. *assisting families to access mainstream and specialist services that enhance the development of the child or young person with a disability and promote the well-being of the family as a whole.*³
 - b. NSW Health has responsibility for:
 - i. *providing required medical examinations and treatment and interventions, including developmental, psychosocial and psychiatric assessments for children and young people who have been or are suspected of having been physically, sexually or emotionally abused or neglected*
 - ii. *providing crisis and ongoing counselling and advocacy services for children and young people who have been sexually abused, their non-offending caregivers and siblings through Sexual Assault Services*
 - iii. *providing counselling for eligible (intra-familial) child sex offenders through the Pre-Trial Diversion of Offenders Program*
 - iv. *providing counselling for young people who have sexually abused and are not eligible for programs provided by the Department of Juvenile Justice, and for children under 10 years who exhibit sexualised behaviours or*

³ *NSW Interagency Guidelines for Child protection Intervention* 2006, Appendix 2, p.2.

sexually abusive behaviour if they have been sexually abused and referral received to provide this service

- v. *providing counselling for children and young people and their families through Physical Abuse and Neglect of Children (PANOC) Services*
 - vi. *providing court preparation and support to children and young people whose abuse is the subject of criminal proceedings and also to their non-offending caregivers*
 - vii. *maintaining a Victims register with the Mental Health Review Tribunal*
 - viii. *providing a range of health responses to children and young people, including mental health services, health screening and community health services*
 - ix. *providing mental health and drug and alcohol services to adults with children*
 - x. *providing preventative programs, including early intervention services that aim to protect children and young people.*⁴
5. The following Memoranda of Understanding also support the participation of agencies delivering health and disability services in the child protection system:
- a. NSW Health and DoCS on co-funding and delivering antenatal care, early postnatal care and early intervention services to Aboriginal women and their children through the Aboriginal Maternal and Infant Health Strategy (2007)
 - b. NSW Health and DoCS on prioritising access to health services for children and young people for whom the Minister for Community Services has parental responsibility or the Director-General of DoCS has parental or care responsibility relating to residence and/or medical issues (2006)
 - c. NSW Police, DoCS and NSW Health concerning provision of a coordinated joint response to the investigation of serious child abuse cases through Joint Investigation Response Teams (2006)

⁴ Ibid, Appendix 2, pp.8-9.

- d. DADHC and DoCS on care of children and young persons with a disability, providing guidance to staff of each Department on how to work together to provide services to children and young people with a disability (2003)
- e. NSW Health, DoCS, Juvenile Justice and NSW Police regarding NSW Health funded programs for children aged 10 years or over and young people who sexually assault other children – refers to 1987 Care and Protection Act (1998)
- f. Information sharing protocol between NSW Health and DoCS in relation to persons participating in opioid treatment (methadone or buprenorphine) who have care responsibility for children under 16 years of age in order to assess potential risk of harm under the *Children and Young Persons (Care and Protection) Act 1998* – (2006).

What health and disability services are available?

- 6. Health and disability services are delivered across the continuum of care and support, from universally available, population level services and secondary services targeting families who may be considered to be at potential risk of harm without appropriate support, to tertiary, specialist treatment and support services.
- 7. Universal level services include:
 - a. Pregnancy care, which incorporates physical antenatal care, psychosocial screening and assessment for a range of issues under the NSW Health Safestart initiative. Psychosocial issues screened for include ante or postnatal depression and exposure to domestic violence.
 - b. Universally available early childhood health services providing early parenting education and advice, parenting support, parenting groups, child health and development checks, and assistance with a range of issues faced by new parents. These services also provide the universal offer of a health home visit for all families with a new baby.

8. Secondary or targeted services include the following:
- a. Family care cottages and child health teams, which provide a range of targeted support and early intervention services to families referred with specific health and development issues. These services provide more intensive intervention than the early childhood health services, and aim to assist parents to overcome specific difficulties with parenting their child. Some parents are referred to more intensive residential services provided by Tresillian and Karitane.
 - b. The trial of Sustained Health Home Visiting currently being undertaken in Miller, in South Western Sydney. This trial is investigating the applicability of the professional health home visiting model.⁵
 - c. Para-professional or volunteer home visiting that encourages mothers to come up with their own solutions through the supportive 'friendship' of a home visitor.⁶ This partnership model of home visiting is currently implemented through the Families NSW Strategy.
 - d. Services targeted to specific populations with identified needs, such as the NSW Aboriginal Maternal and Infant Health Strategy, which has been reported to improve pregnancy and birth outcomes on a number of key indicators for Aboriginal mothers and babies.⁷
 - e. The *Strengthening Families Framework*⁸ is designed to support children and young people with a disability and their families. Under this framework, DADHC has developed a range of service models to support families where there is a risk of out of home placement or family breakdown. Support

⁵ NSW Department of Health *Submission to the Special Commission of Inquiry into Child Protection Services in NSW and NSW Health: Universal and Sustained Health Home Visiting*- information provided to the Inquiry 14 January 2008.

⁶ *Effective Components of home visiting programs*. DoCS Research to Practice Notes, November 2005.

⁷ NSW Department of Health (2005) *Evaluation of the NSW Maternal and Infant Health Strategy 2003* (accessed at http://www.health.nsw.gov.au/pubs/2006/pdf/evaluation_report_maternal.pdf)

⁸ DADHC *Supporting children and young people with a disability and their families*, July 2004

- services include intensive family support, support networks, parenting support, in-home support and respite care.⁹
- f. DADHC's Early Childhood Intervention Services provide support to families with children up to six years of age with developmental delay or disability. Specific services include early childhood education, therapy services, and information and referral services.
 - g. DET delivers the Support Class (Early Intervention) service for children with disabilities from the age of three years to school age¹⁰ and the Learning Assistance Program which supports students experiencing difficulties in learning in regular classes, regardless of the cause. It includes support for students with significant learning difficulties, mild intellectual disabilities and language disorders.¹¹
9. Tertiary or specialist services to assist children and their families where they may be at risk of entering the child protection system, or where abuse or neglect has occurred, include:
- a. adult, child and adolescent mental health services (statewide)
 - b. alcohol and other drug services (statewide)
 - c. NSW Service for the Treatment and Rehabilitation of Torture and Trauma Survivors (STARTTS)
 - d. Sexual Assault Services (46 services that see children statewide)
 - e. Physical Abuse and Neglect of Children (child protection counselling) services (17 services statewide)
 - f. Child Protection Units (based at the three NSW specialist children's hospitals in Randwick, Westmead and Newcastle, offering highly specialised assessment and consultation statewide)
 - g. Forensic Medical Examinations

⁹DADHC has informed the Inquiry that in 2006/07, 2307 children and young people with disabilities accessed respite services in NSW. Correspondence from the Director-General, DADHC to the Inquiry dated 26 March 2008

¹⁰ Department of Education and Training 2000 *Early Intervention Operational Guidelines*.

¹¹ Department of Education and Training Policy 2007 *Assisting Students with Learning Difficulties*.

- h. Program For Children Under the Age of 10 Who Exhibit Sexualised or Sexually Abusive Behaviours (available across NSW through Sexual Assault Services, PANOC Services, Child and Adolescent Mental Health Teams and Child and Family Health Teams where trained staff are available).¹²
 - i. New Street Adolescent Service for children and young people aged 10-17 years who have sexually abused and are not eligible for Department of Juvenile Justice services (based in Sydney West area with a similar service to be established in the Hunter/New England area)
 - j. NSW Pre-Trial Diversion of Offenders Program providing treatment for adults who have sexually assaulted their own or their partner's children contingent on specific requirements and undertakings (based in Sydney West).¹³
 - k. Long term out-of-home care for children and young people with a disability who cannot live at home.
 - l. Specialised health assessments for children entering out-of-home care offered at the three NSW specialist children's hospitals in Randwick, Westmead and Newcastle.
10. While services within these categories have been established they are not available to all children and young people, or available in a timely way, and in other cases they are not available at all (either on a fee for service basis or through Medicare or other government funding). Further, where services are present, there are often waiting lists and strict eligibility criteria that limits access.

Particular populations of interest

11. Children and young people in out-of-home-care
- a. Multiple international studies indicate that children and young people in out-of-home care are a vulnerable and at-risk group in the population and can exhibit a range of health and developmental difficulties¹⁴, including:

¹² NSW Department of Health 2005 *Issues Paper: Responding to children under ten who display problematic sexualised behaviour or sexually abusive behaviour*, p. 11.

¹³ Information on health service locations and statewide availability from the *NSW Department of Health Submission to the Special Commission of Inquiry into Child Protection Services in NSW*, section 2.2

¹⁴ Royal Australasian College of Physicians (RACP) *Health Of Children In Out-Of-Home Care Paediatric Policy* 2006 p. 5. Available at <http://www.racp.edu.au/index.cfm?objectid=A4254F55-2A57-5487-DFE129631BCB4C59>

- i. Paediatric health problems – children entering out-of-home care have a high prevalence of acute and chronic health care problems such as vision and hearing difficulties, poor growth and acute health care problems such as vision and hearing difficulties and incomplete immunisation histories.¹⁵
 - ii. Speech and language difficulties – there is a high incidence of speech and language difficulties in the out-of-home care population, particularly for young children who enter care with a history of neglect and social understimulation, or undetected hearing loss. A US study of the speech and language development of a cohort of children aged 31 months or younger involved in the child welfare system showed that more than half (57 per cent) were assessed with language delays. This contrasted with estimates of 2-3 per cent of the general population of US preschoolers having a language disorder and 10-15 per cent having speech disorders.¹⁶
- b. Recently published research from the Sydney Children’s Hospital in NSW has found similar problems in Australia¹⁷. Key findings of the study are set out below:

Health issue	Incidence in general population	Incidence in children entering/in out-of-home care seen at the clinic
Full immunisation status (target is 100%)	1 year 90% 2 years 91.6% 6 years 84.1%	62%
Abnormal vision	7.4%	30%
Hearing loss	3.4%	26%
Speech difficulty	16.6%	45% of children under 5, and 33% of cohort
Emotional or behavioural problems	31.4%	54%

¹⁵ Ibid, p.13-14.

¹⁶ Silver, Amster & Haecker, eds (1999) *Young Children and Foster Care*. Paul H Brookes Publishing Co. Inc. pp117-118. Cited in *Out of Home Care Wraparound Services for Children and Young People*, NSW Department of Community Services, 2007.

¹⁷ Nathanson & Tzioumi (2007) “Health needs of Australian children living in out-of-home care.” *Journal of Paediatrics and Child Health* Sydney Australia Vol 43 p. 695-699.

- c. The study also notes that the incidence of behavioural and emotional problems and oral health problems in the out-of-home care cohort in the study are likely to be underestimated.
- d. The Children in Care Study¹⁸, an epidemiological study of NSW children aged 4-9 years in court ordered foster care and kinship care found that these children had a high risk level for mental health problems (53 per cent of girls and 57 per cent of boys). The children in this study were described as exhibiting attachment difficulties, relationship insecurity, sexual behaviour, trauma-related anxiety, inattention/hyperactivity, conduct problems and defiance, and uncommon problems such as self-injury and food maintenance problems.
- e. The Royal Australasian College of Physicians (RACP) Paediatric Policy on the health of children in out-of-home care¹⁹, released in 2006, acknowledges the high level of vulnerability and risk of this population of children and makes a number of recommendations. The key proposals involve:
 - i. ensuring that physical, developmental and mental health assessments are performed on all children who enter into out-of-home care
 - ii. encouraging ongoing monitoring of needs by identified health care co-ordinators
 - iii. ensuring appropriate timely access to therapeutic services
 - iv. developing a transferable health record system
 - v. improving training and support for foster carers
 - vi. coordinating a health care centred approach between all agencies involved with this group of children, including community services and education

¹⁸ Tarren-Sweeney M & Hazell P. (2006) *Mental health of children in foster care* Journal of Paediatrics and Child Health vol 42.

¹⁹ RACP, above n14, p. 4.

- vii. encouraging governments to adequately fund the implementation of the suggested recommendations
 - viii. collecting aggregated data and ensuring evaluation of programs.
- f. Arrangements that have been established in some locations to improve the health outcomes for children and young people in out-of-home care including health screening offered at the three specialist children's hospitals in NSW.
12. Children and young people with a disability
- a. There are issues associated with defining "disability", particularly in childhood. In the data quoted below, disability refers to "*the presence of any limitation, restriction or impairment which has lasted, or is likely to last, for at least six months and restricts everyday activities [also referred to as core activities]*".²⁰ In *Health of Children in Australia: A Snapshot, 2004-05* the Australian Bureau of Statistics²¹ reported the following:
- i. In Australia in 2003, 319,900 children aged under 15 years (8 per cent) reported a disability.
 - ii. Among children with a disability, 62 per cent were boys and 38 per cent were girls.
 - iii. In 2003, 4 per cent of children aged under five years and 10 per cent of children aged 5-14 years had a disability.
 - iv. Of those with a disability, 67 per cent of children aged under five years and 49 per cent of those aged 5-14 years had a profound or severe core activity limitation. A core activity limitation comprises mobility, communication and self-care. A person with a profound core activity limitation is unable to perform or always needs help with a core activity task and a person with a severe core activity limitation sometimes needs help with a core activity task²².

²⁰ ABS 2007 4829.0.55.001 - *Health of Children in Australia: A Snapshot, 2004-05* (accessed at <http://www.abs.gov.au> 19 March 2008)

²¹ Ibid.

²² Ibid.

- b. The Australian Bureau of Statistics 2006 Census found that there were 26,031 children and young people from 0-19 years in NSW that needed assistance with core activities. DADHC has provided the following statistics showing the geographic location and age of these children and young people²³:

DADHC Region	0-4 years	5-14 years	15-19 years	Total
Hunter	541	2748	1048	4337
Metro North	1010	4045	1545	6600
Metro South	1052	3978	1447	6477
Northern	459	2258	835	3552
Southern	311	1499	616	2426
Western	356	1656	627	2639
Total	3729	16184	6118	26031

- c. In 2005/06, 7,092 children and young people with an intellectual disability accessed DADHC direct disability services.²⁴
- d. The table below provides details of the “*number of children and young people by age group in DADHC operated voluntary out-of-home care 2006/07 by age as at 1 July 2006*”.²⁵

Placement	10-12 years	13-15 years	16-17 years	Total
Group Home	0	9	17	26
Placed in respite	6	8	8	22
Total	6	17	25	48

13. Aboriginal children and young people

- a. The Aboriginal population has a much higher proportion of children and young people, and a lower proportion of older people compared with the rest of the population. Aboriginal people comprise approximately 2.2 per cent of the

²³ Correspondence from the Director-General DADHC to the Inquiry dated 26 March 2008.

²⁴ DADHC submission to the Inquiry

²⁵ Director-General, DADHC, above n23.

NSW population.²⁶ However, Aboriginal children account for approximately 4.2 per cent²⁷ of the total NSW child population.

b. Aboriginal children have poorer health and a higher mortality rate than non-Aboriginal children. For example:

- i. Since 2001, over 10 per cent of Aboriginal and Torres Strait Islander babies have had low birth weight (less than 2,500 grams) and prematurity (less than 37 weeks gestation). These rates are one and a half times to two times higher than the rates for NSW babies overall.²⁸
- ii. The perinatal mortality rate among babies born to Aboriginal and Torres Strait Islander mothers was 15.2 per 1,000 in 2005, higher than the rate of 8.6 per 1,000 experienced by babies born to non-Aboriginal or Torres Strait Islander mothers.²⁹
- iii. In 2006, the NSW Child Death Review Team³⁰ reported that 84 of the children who died in the reporting period identified as Aboriginal. This was 13.4 per cent of the deaths in that period, and represents a death rate of 150.1 deaths per 100,000 for Aboriginal children, compared to 39.4 deaths per 100,000 for the overall population for 2006.
- iv. 13 of the 54 children (24.1 per cent) who died suddenly and unexpectedly in NSW in 2006 were Aboriginal³¹. Aboriginal infants in Australia are up to 6 times more likely to die from SIDS than other children (Between 1991-2000, the Aboriginal SIDS rate was 4.49 per 1000 live births compared to the non-Aboriginal rate of 0.73³²).

²⁶ Calculated from Estimated Resident Population data in ABS 2007 *Australian Demographic Statistics vol 3101 June 2007*

²⁷ Ibid, p. 30-33

²⁸ NSW Health 2007 *Mothers and Babies Report 2005* p.10 (retrieved February 2008 from <http://www.health.nsw.gov.au/pubs/2007/pdf/mdc05.pdf>)

²⁹ Ibid, p.10.

³⁰ *Child Death Review Team Annual Report 2006*

³¹ Ibid.

³² SIDS and Kids 2004 Report on *First Australian SIDS Pathology Workshop* p.8 (retrieved February 2008 from http://www.sidsandkids.org/documents/REPORT16thAugust2004_000.doc).

- v. Suicide by Aboriginal people is concentrated in the younger age groups for both males and females. The suicide risk for Aboriginal males aged 15–19 years has been identified as four times that of the general population.³³
 - vi. Aboriginal children are more likely to be overweight and obese.³⁴ This leads to a higher childhood risk of type 2 diabetes (historically hardly ever seen in children), and increased risk of heart disease, high blood pressure, kidney failure and stroke as adults. Being overweight also increases risk for psychological problems and eating disorders³⁵.
 - vii. Aboriginal children have higher rates of infections that are common in all children, such as middle ear infections, and these tend to be more serious and more likely to recur. They also have infections that other Australian children do not get any more, such as rheumatic fever.³⁶
- c. Aboriginal children are more likely to be in out-of-home care
- i. In 2006/07 30 per cent of children and young people in out-of-home care were identified as Aboriginal.
 - ii. The rate of children in care is 61 per 1,000 for Aboriginal children compared to 6 per 1,000 for other children.
 - iii. 64 per cent of Aboriginal children in care at 30 June 2007 were in relative and kinship care.
 - iv. Aboriginal children were less likely, however, to have multiple placements.³⁷

³³ Nielsen, Katrakis and Raphael (2001) *Males And Mental Health: A Public Health Approach*, NSW Public Health Bulletin 2001; 12(12): 330–332 (retrieved February 2008 from <http://www.health.nsw.gov.au/public-health/phb/dec01html/mentalhlthdec01.html>).

³⁴ FaHCSIA 2006 Longitudinal Study of Australian Children Fact Sheet No. 5 *Indigenous Families are Different . . .* (retrieved 20 February 2008 from http://www.facsia.gov.au/internet/facsinternet.nsf/research/ldi-lsic_factsheet5.htm).

³⁵ Stanley, Richardson & Prior (2005) *Children of the Lucky Country? How Australian society has turned its back on children and why children matter* Macmillan, Sydney, Australia p. 51.

³⁶ Ibid, p.47.

³⁷ Department of Community Services, Economics and Statistics Branch, December 2007 material provided to the Special Commission of Inquiry *What DoCS data tells us about Aboriginal clients* p. 14

- d. Aboriginal children live with parents who are more than twice as likely to be admitted to hospital than other Australians, and experience the death of their parents at an earlier age than other children, on average.³⁸

14. Regional and remote communities

- a. The difficulties accessing services for people living in regional and remote areas have been reported to include longer travel times and longer waiting times for some services. Access to some services is influenced by factors such as documented difficulties with maintaining the rural health workforce³⁹. Programs such as the Transport for Health: Isolated Patients Travel Accommodation and Assistance Scheme have been developed in response to the additional expense and difficulty associated with this situation.⁴⁰
- b. The Inquiry's experience of travelling to regional and remote NSW is that in each region it has been reported to the Inquiry that services in key areas are either not available or limited, and that in many instances access would be conditional on travelling for lengthy distances.

³⁸ Daly & Smith 2005 *Indicators of risk to the wellbeing of Australian Indigenous children* Australian Review of Public Affairs Vol 6 no.1 Nov 2005 39-57 p 52.

³⁹ NSW Department of Health Annual Report 2006/07 p. 63-64

⁴⁰ <http://www.health.nsw.gov.au/living/transport/iptaas.html> accessed 19 March 2008.