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**Report of the  
Special Commission of Inquiry into  
Child Protection Services in NSW**

**Executive Summary and  
Recommendations**

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## Executive Summary

The child protection system in New South Wales consists of much more than the Department of Community Services (DoCS). NSW Health through its Area Health Services and The Children's Hospital at Westmead fund and deliver many services for children, young people and their families, including prenatal care, home visiting and counselling, with the aim of preventing or minimising harm. Similarly, the Departments of Education and Training, Juvenile Justice and Ageing, Disability and Home Care, Housing NSW and the NSW Police Force offer programs, funding and services, ranging from breakfast programs, diversionary sentencing options for young people, respite for parents of children with disabilities, and housing and youth support activities.

They also have a role in reporting suspicions of abuse or neglect of children and young people, and within their available resources or facilities, responding. The role of the NSW Police Force in investigating criminal offences directed at children, and in responding to family and domestic violence forms a significant part of the child protection system.

Non-government organisations are also key players in the system and provide universal, secondary and targeted and tertiary services to children, young people and their families aimed at minimising the risk of abuse and neglect as well as supporting those children and young people who have been harmed, some of whom will have been removed from their families and placed in out-of-home-care.

The contemporary challenge facing all child protection systems in Australia, and in particular NSW as the largest, is sufficiently resourcing flexible prevention and early intervention services so as to reduce the numbers of children and young people who require the state to step in to keep them safe.

Once children and young people are the subject of reports of being at risk of harm, the challenge is to have adequate skills and tools with which to assess and identify those who need the full attention of the state including removal from their families, and those who can be assisted to remain in their homes with the necessary support being provided. Children and young people who cannot live at home require carers who are financially, emotionally and practically supported by the system, and who have been well matched to them. They also need state assistance to access medical, dental and allied treatment when it is needed.

Importantly, children and young people need to be listened to and participate in decisions which affect them.

A range of complex and often chronic factors characterise many of the families coming into contact with the child protection system such as low income, unemployment, substance abuse, limited social supports, imprisonment,

domestic violence, and mental health issues. Many of these factors are inter-related. The elimination or reduction of each of these factors would significantly lower the number of children and young people reported as being at risk of harm.

DoCS has undergone a period of significant reform since 2002 when it received a substantial injection of funds which took the annual budget in 2007/08 to more than \$1.2 billion. While, in 2008, many of those reforms have been implemented or are underway, insufficient time has passed for the benefits to be fully evident.

In 2008, there are a number of challenges both old and new facing DoCS, some of which are unique to it, but many of which are experienced by most child protection systems within Australia.

### **Reports**

- a. Reports to DoCS of children and young people suspected to be at risk of harm are increasing annually, although the extent of the increase seems to be slowing and those reports which are made are being assessed as less urgent.
- b. A large number of children, young people and families are repeatedly reported, often within short periods, with the result that reports to DoCS are more likely to be about a child or young person already known to it. Thus, in 2006/07 about the top 20 per cent of the children and young people who were frequently reported accounted for more than half the total number of reports.
- c. Most reports to DoCS concern domestic violence, psychological abuse, neglect, carer substance abuse, carer mental health and/or sexual abuse. There is little reliable research to guide effective interventions for children and young people who are neglected, although a report of neglect is more likely to receive greater DoCS attention than one concerning domestic violence.
- d. A detailed examination of what happened to reports to DoCS in 2007/08 reveals that:
  - i. about 13 per cent of the reports were not 'risk of harm' reports as defined in the *Children and Young Persons (Care and Protection) Act 1998* and thus, while the family may have needed assistance, they should have been referred to, and met with a suitable response from, an agency other than DoCS
  - ii. another 21 per cent of reports were assessed by the Helpline as requiring further assessment, but received none from the Community Services Centre to which they were referred
  - iii. 33 per cent received some attention which fell short of a face to face visit

- iv. only 13 per cent of reports resulted in a home visit from a DoCS caseworker, as part of a secondary assessment process
- v. the remaining reports mainly concerned children and young people who were already being assessed by DoCS.
- e. Too many reports are being made to DoCS which do not warrant the exercise of its considerable statutory powers. As a result, much effort and cost is expended in managing these reports, as a result of which the children and young people the subject of them receive little in the way of subsequent assistance, while others who do require attention from DoCS may have their cases closed because of competing demands on the system (that is, insufficient resources).
- f. Those who are required to report when they reasonably suspect a child or young person to be at risk of harm, known as mandatory reporters, receive insufficient information from DoCS about its response to their reports. As a result, they keep reporting, often to little effect and it is less likely that they will work in partnership with DoCS to assist the child or young person. If informed that DoCS was not in a position to take up the case, they may well provide more assistance themselves.

### ***Infrastructure***

- a. DoCS information management technology is not adequately suited for the purpose of supporting workers to assess and intervene in the lives of children and young people, and its complexities and shortcomings continue to be a source of frustration and delay to its staff.

### ***Workforce***

- a. While, in the main, DoCS has developed sound, comprehensive and evidence based policies and procedures, they are not consistently implemented, with the result that quality practice in each CSC within its several regions remains challenging.
- b. Recruiting and retaining a skilled, diverse workforce to provide services in all parts of the State is an issue for DoCS, as it is for all other justice and human services agencies in NSW and for non-government organisations working in the welfare sector.

### ***Availability of services***

- a. There are not sufficient prevention, early intervention and targeted services provided by state agencies or by the non-government organisations for children and young people at risk and their families.
- b. Currently, the capacity in some non-government organisations and Aboriginal organisations is not sufficiently developed to enable them to properly partner DoCS and other state agencies in working towards the safety, welfare and well-being of the children and young people who need assistance.

- c. There are barriers to non-government organisations and other state agencies working together in the interests of the safety, welfare and well-being of children and young people. Some can be cured by legislation, such as information exchange, but generally a change in attitude and approach including greater acceptance of working in collaboration, is needed.
- d. Aboriginal communities remain over represented in the child protection system and culturally appropriate interventions for Aboriginal children, young people and their families are not widespread in any of the agencies that are expected to work with them.

### ***The legal system***

- a. Data collection is generally good at DoCS, but in areas such as the Courts, there is an absence of sufficient data of the kind that is required for an understanding, assessment and monitoring of the operation of the child protection system.
- b. Too many Children's Court decisions are made by non-specialist Magistrates, the Children's Court does not facilitate alternative dispute resolution as was originally intended and its processes are unduly technical.
- c. DoCS does not always present its evidence to the Children's Court in a fair and balanced manner and legal practitioners who appear in the care jurisdiction are not subject to uniform standards or accreditation.

### ***Out-of-home care***

- a. There are increasing numbers of children and young people in out-of-home care for longer periods of time and with increasingly complex needs at a cost per child which continues to rise.
- b. There is a decreasing pool of foster carers.
- c. There is a need for a greater number and range of different placement options for children and young people for whom it is not safe to live at home.
- d. Children and young people entering, and in, out-of-home care generally do not receive, as a matter of priority, the medical, dental and allied health assessments and treatments they should receive. Neither do they receive the degree of assistance that is needed when leaving care.

### ***Other matters***

- a. The arrangements by which DoCS is scrutinised by other agencies are complex.
- b. There is a duplicative, unduly complex and administratively burdensome funding system.

## **The principles and goal underpinning the Inquiry's proposed reforms**

The key principles which underpin the Inquiry's reforms are as follows. Child protection is the collective responsibility of the whole of government and of the community. Primary responsibility for rearing and supporting children and young people should rest with families and communities, and with government providing support where it is needed, either directly or through the funded non-government sector.

The outcomes sought from the service system should be to ensure children and young people are able to grow up at the very least unharmed by their social, economic and emotional circumstances and are supported to do so by their parents. Where their parents are unable to do this, the state needs to be in a position where it can step in and fill the gap in a humane and responsive way that will preserve the safety of those children and young people.

The participation of children and young people is critical to guiding the delivery of services.

The child protection system should comprise integrated universal, secondary and tertiary services, with universal services comprising the greater proportion. They should be delivered by a mixture of the non-government sector and state agencies, with DoCS being a provider of last resort.

DoCS, and where necessary, the NSW Police should remain responsible for interventions mandated under the *Children and Young Persons (Care and Protection) Act 1998*, and for the investigation and prosecution, in a timely and efficient manner of criminal offences committed against children and young people.

All services should be integrated and, where possible, co-located or operated in 'hubs', with outreach capacity.

Early decision making about permanency planning, including restoration to family, results in better outcomes for children and young people, both in immediate terms and for life after care.

All Aboriginal children and young people in out-of-home care should be connected to their family and their community, while addressing their social, emotional and cultural needs.

Greater in-depth assessment of children and young people coming into care through more comprehensive assessment and interventions in the crucial early stages of placements should be part of agency placement and planning processes.

Carers should be provided with timely information about those in their care, their needs, and the type of support they need to flourish in their care, and given

ongoing support by DoCS or by designated agencies in fulfilling their care responsibilities.

Children and young people where possible should be placed with relatives and/or with siblings, and generally should be placed as close as possible to where their family/kinship and support networks are located.

There should be sufficient health and specialist services including dental, psychological, counselling, speech therapy, mental health and drug and alcohol services available to meet the needs of children and young people in out-of-home care.

Foster, kinship and relative carers should be supported in caring for children and young people, including assistance to work with those with challenging behaviours, to improve the stability of placements. This should include access to regular and planned respite care, behavioural management support, and other evidence based specialist services.

Young people should be assisted when leaving care to transition effectively to stable accommodation and to receive further education and/or training and/or employment, so as to maximise their potential for independent living.

Non-government organisations in partnership with other relevant government agencies such as DoCS, NSW Health, the Department of Education and Training and the Department of Ageing Disability and Home Care should deliver out-of-home care services.

## **The Key Reforms**

Amendment of the *Children and Young Persons (Care and Protection) Act 1998* is proposed so as to require that only children and young people who are suspected, on reasonable grounds, to be at risk of significant harm should be reported to DoCS.

Each of the Area Health Services, The Children's Hospital at Westmead, the Department of Education and Training, NSW Police Force, the Department of Ageing Disability and Home Care and the Department of Juvenile Justice should create a Unit which advises staff on whether a report should be made to DoCS and, if the proposed report does not disclose a risk of significant harm, the Unit should assist the child or young person by, among other matters:

- a. referring them to a newly created Regional Intake and Referral Service. That service is to be located within a non-government organisation and it will determine the nature of the services required and refer the family to the appropriate non-government organisation or other state or Commonwealth agency for services such as case management, home visiting, intensive family support brokerage, quality child care, housing and/or parenting education
- b. referring them to the early intervention program Brighter Futures



- c. working with the child or young person, alone or in combination with another appropriate agency or non-government organisation, to address their need for assistance or specialised services.

Reports made to DoCS, which are assessed as being a report that a child or young person is at risk of significant harm should be investigated by DoCS if the matter is urgent or the risk is high or the child is young. Otherwise, if eligible, the family should be referred to Brighter Futures. If not eligible, the family should be referred to a Regional Intake and Referral Service which should be able to link families with the most appropriate local service to meet their needs.

The Regional Intake and Referral Service should be operated and staffed by a non-government organisation with one or more child protection caseworkers, seconded from DoCS, the number of staff will depend on anticipated demand for that region.

Integrated, multi-disciplinary and co-located child and family services should be established in locations of greatest need to deliver services to children, young people and their families.

Non-government organisations and state agencies should be funded to deliver services that should cover the continuum of universal, secondary and tertiary services and should target key developmental stages and transition points in the lives of children and young people. Such services should include:

- a. home visiting, preferably by professionals, high quality child care, preferably centre based, primary health care, school readiness programs, routine screening for domestic violence, preschool services, school counsellors, breakfast programs and early learning programs
- b. sustained home visiting for at risk families, parent education, supported playgroups, counselling services, the Home School Liaison Program and accommodation and rental assistance
- c. drug and alcohol counselling and rehabilitation services, sexual assault counselling, forensic services for sexual assault victims, Physical Abuse and Neglect of Children services, services for 10-17 year olds who display sexually abusive behaviours and allied health services such as speech pathology and mental health services.

Secondary and tertiary services that include intensive, short term, in-home and crisis interventions and that also provide links to other services following intensive support should also be available and able to respond where needed.

In addition, work should be undertaken to extend current programs including, Brighter Futures, family preservation services provided by non-government organisations, free early childhood education before commencing school for low income families, family and domestic violence programs and the Safe Families Program – Orana Far West.

The capacity of non-government organisations, Aboriginal and non-Aboriginal, to staff and deliver these services to children, young people and families, particularly those who present with a range of needs including those which are complex and chronic, should be developed.

DoCS, Area Health Services, The Children's Hospital at Westmead, NSW Police Force, the Department of Juvenile Justice, the Department of Ageing, Disability and Home Care, the Department of Education and Training and non-government organisations should use a common assessment framework to identify and respond to the needs of children, young people and their families, particularly in the areas of serious and chronic neglect, parental substance abuse, risk taking adolescents, serious mental health issues and high risk domestic violence cases.

Each key agency should identify their most frequent clients, referred to by DoCS as frequently reported families and who, for DoCS are estimated to number between 2,500 and 7,500 families. An integrated case management response to these families, which includes participation by relevant non-government organisations should be provided, together with mechanisms for identifying new families and for enabling existing families to exit with suitable supports in place.

Specialists in substance abuse, mental health, domestic violence and other similar areas should assist DoCS caseworkers in case allocation, planning, assessments and interventions by attending CSCs on a regular basis.

Agencies, including non-government organisations should be free to exchange information for the purpose of the safety, welfare and well-being of a child or young person, and for that to occur, amendment is required in relation to the existing privacy legislation. In addition, enhanced interagency collaboration and acceptance of responsibility for child protection is recommended.

Within three years, case management of families in Brighter Futures should be transferred to Lead Agencies. The responsibility for out-of-home care should similarly be progressively transferred to the non-government sector. The Inquiry supports a revised scheme for voluntary out-of-home care.

A workforce strategy should be established which takes into account the need of non-government organisations to employ additional skilled staff and to accommodate the transition of early intervention and out-of-home care casework to the non-government organisations.

Caseworkers should be employed on a temporary basis, or reassigned from Brighter Futures or out-of-home care work as case management is transferred to the non-government sector, to manage those children and young people who will require DoCS services in relation to statutory intervention.

## Other reforms

In relation to reporting, the Inquiry has made recommendations to encourage more and better feedback to mandatory reporters, to provide them with targeted training and access to aggregated data. Its recommendations directed to the NSW Police Force are designed to ensure that victims of domestic violence are better served, and that the system is not overburdened by reports that do not justify DoCS intervention.

The Inquiry has also made recommendations to enhance the information management technology available to DoCS and to ensure consistent, quality casework through supervision and professional development, audits and reviews, clarifying policies and procedures.

Significant amendment of the *Children and Young Persons (Care and Protection) Act 1998* is recommended in relation to the principles which underpin it by giving greater emphasis to the best interests of the child principle, extending the grounds on which a care order may be made, restricting the allocation of parental responsibility by the Children's Court to DoCS, limiting the power of the Children's Court to make contact orders, while confining enhanced powers in the Children's Court in relation to restoration.

In relation to the processes followed by the Children's Court, various recommendations are made designed to simplify the practice and procedure of that Court and to reduce technicality. In addition, the Inquiry urges the greater use of alternative dispute resolution and the development of a code of conduct for all legal representatives practising in the care jurisdiction. The status of the Court should be enhanced by a District Court Judge being appointed as its senior judicial officer.

Building capacity in Aboriginal organisations is a focus of the report, as is the need for the adoption of other methods of reducing Aboriginal representation in the child protection system, and of securing greater participation of Aboriginal agencies in that system.

The review of deaths of children is considered and recommendations are made for a change in the current arrangements, including a reconstitution of the Child Death Review Team to be led by the NSW Ombudsman.

The report concludes with a suggested framework for implementation of the 111 recommendations which have been ranked by degree of priority, and likely cost.



## Recommendations

- R.1 In the recommendations which follow, the Inquiry has assigned a priority ranking and a cost ranking to each. In relation to priority, the term 'immediate' means that the implementation of the recommendation should be substantially commenced within six months, 'short term' means that implementation of the recommendation should be substantially commenced within 12 to 18 months and 'long term' means that the implementation of the recommendation should be substantially commenced within two to three years.
- R.2 In respect of some recommendations, specific timeframes have been allocated.
- R.3 Whether the cost of implementing the recommendation is low, medium or high is generally based on information provided by DoCS. As a guide, recommendation 1 is estimated to cost \$17.8 million over three years, and is assigned the category of 'medium'.
- R.4 Many of the recommendations are dependant upon or integrated with other recommendations. The recommendations contained in Chapter 10 are integral to the key reforms contained in this report. The timing of the introduction of the following reforms will be affected by amendments to the Care Act in that, generally they should follow those amendments: recommendations 2.1, 6.1, 6.5, 9.2, 9.3, 9.5, 10.1, 10.2, 10.3, 10.4, 10.7 and 17.2.
- R.5 If the testing of the Structured Decision Making tools proves effective, there will need to be a revision of many of the policies and procedures currently in place, including a number of those about which recommendations have been made.

	<i>Priority</i>	<i>Cost</i>
<b>Chapter 2    Structure and Reform</b>		
<b>Recommendation 2.1</b>	<i>Immediate</i>	<i>Medium</i>
The KiDS Core Redesign Project should be funded and implemented.		
<b>Recommendation 2.2</b>	<i>Immediate</i>	<i>Medium</i>
DoCS Information Management and Technology Strategic Plan should be funded and implemented.		
<b>Recommendation 2.3</b>	<i>Immediate</i>	<i>Low</i>
The trial of the quality review tools should proceed immediately and the approved tools should be then applied in a timely manner. Each CSC should then be audited. Funds should be provided to permit the audits to commence within the 2008/09 year.		
<b>Recommendation 2.4</b>	<i>Immediate</i>	<i>Low</i>
The decision consequent upon the SINC Report to relocate the bulk of the Complaints Unit functions to the Helpline and to revise the complaints handling system, should be implemented.		
<b>Recommendation 2.5</b>	<i>Short term</i>	<i>Low</i>
Carer Support teams should be responsible for liaising with DoCS foster carers and kinship/relative carers in relation to their complaints and to ensure they have the assistance they require.		
<b>Chapter 3    DoCS Workforce Capacity</b>		
<b>Recommendation 3.1</b>	<i>From 1 July 2009</i>	<i>Low</i>
From 1 July 2009 all appointed Managers Casework should be required to possess a relevant tertiary qualification, in addition to experience in child protection work.		
<b>Recommendation 3.2</b>	<i>Short term</i>	<i>Medium</i>
A review should be undertaken to identify tasks that could be appropriately delegated by caseworkers.		
<b>Recommendation 3.3</b>	<i>Short term</i>	<i>Low</i>
A review of financial delegations should be undertaken.		

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**Priority**      **Cost**

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## **Chapter 6 Risk of harm reports to DoCS**

**Recommendation 6.1** *Short term*      *Low*

DoCS should revise its case practice procedures to develop clear guidelines for classifying risk of harm reports made and information given to the Helpline. Information which does not meet the statutory test for a report should be classified as a contact and not as a report. Information which meets that test should be classified as a report. The circumstances in which reports are referred for further assessment or forwarded as information only should be clarified and consistently applied.

**Recommendation 6.2** *Immediate*      *Low*

In relation to *the Children and Young Persons (Care and Protection) Act 1998*:

- a. Sections 23, 24 and 25 should be amended to insert 'significant' before the word 'harm' where it first occurs; and s.27 amended to insert 'significant' before the word 'harm' wherever it occurs.
- b. Section 23 should be amended to insert as paragraph (g) "the child or young person habitually does not attend school."
- c. A provision should be inserted defining that (with the exception of s.23(d)) harm may be constituted by a single act, omission, or circumstance or accumulate through a series of acts, omissions or circumstances.
- d. The penalty provision in s.27 should be deleted.

**Recommendation 6.3** *Immediate*      *Medium*

Reporters should be advised, preferably electronically in relation to mandatory reporters, of the receipt of their report, the outcome of the initial assessment, and, if referred or forwarded to a CSC, contact details for that CSC should be provided. Caseworkers and their managers should be required to respond promptly and fully to requests for information about the report from mandatory reporters, subject to ensuring the integrity of any ongoing investigation.

**Recommendation 6.4** *Short term*      *Low*

DoCS should provide the key agencies employing mandatory reporters, namely NSW Police Force, NSW Health, each Area Health Service, The Children's Hospital at Westmead and the Department of Education and Training with quarterly aggregated data about the reports made by the agency and its staff. These data should be made public.

	<i>Priority</i>	<i>Cost</i>
<p><b>Recommendation 6.5</b></p> <p>Targeted training strategies for each of the key mandatory reporters, namely the NSW Police Force, NSW Health, each Area Health Service, The Children’s Hospital at Westmead and the Department of Education and Training in relation to the circumstance in which reports need to be made and in relation to the information required, so as to ensure its relevance and quality, should be developed and implemented by each agency in collaboration.</p>	<i>Short term</i>	<i>Low</i>
<p><b>Recommendation 6.6</b></p> <p>The trial of e-reporting should be extended to NSW Health, each Area Health Service, The Children’s Hospital at Westmead, the Department of Juvenile Justice and the NSW Police Force.</p>	<i>Short term</i>	<i>Low</i>
<p><b>Chapter 7 Early intervention</b></p>		
<p><b>Recommendation 7.1</b></p> <p>DoCS should revise its Brighter Futures Guidelines to clarify the account to be taken of child protection history in determining eligibility.</p>	<i>Short term</i>	<i>Low</i>
<p><b>Chapter 8 Assessment and response</b></p>		
<p><b>Recommendation 8.1</b></p> <p>The JIRT Reform Program, as set out in the Implementation Plan should be completed.</p>	<i>Short term</i>	<i>Medium</i>
<p><b>Recommendation 8.2</b></p> <p>JIRT should be regularly audited.</p>	<i>Long term</i>	<i>Low</i>
<p><b>Recommendation 8.3</b></p> <p>Pending amendment of the privacy laws as recommended in Chapter 24, a Privacy Direction should be issued in relation to the JIRT process so as to facilitate the free exchange of information between the NSW Police Force, NSW Health, each Area Health Service, The Children’s Hospital at Westmead and DoCS.</p>	<i>Immediate</i>	<i>Low</i>
<p><b>Recommendation 8.4</b></p> <p>NSW Health should provide an appropriately trained workforce to provide</p>	<i>Short term</i>	<i>Medium</i>



	<i>Priority</i>	<i>Cost</i>
forensic medical services where needed for children and young persons who have suffered sexual assault and physical injury.		

<b>Recommendation 8.5</b>	<i>Long term</i>	<i>High</i>
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The NSW Government should develop a strategy to build capacity in Aboriginal organisations to enable one or more to take on a role similar to that of the Lakidjeka Aboriginal Child Specialist Advice and Support Service, that is, to act as advisers to DoCS in all facets of child protection work including assessment, case planning, case meetings, home visits, attending court, placing Aboriginal children and young persons in OOHC and making restoration decisions.

## **Chapter 9 Assessment and response: issues arising**

<b>Recommendation 9.1</b>	<i>Short term</i>	<i>Medium</i>
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DoCS should test the use of Structured Decision Making tools at the Helpline and at CSCs in relation to assessments and interventions including restoration.

<b>Recommendation 9.2</b>	<i>Short term</i>	<i>Low</i>
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A common assessment framework should be developed for use by DoCS and other agencies in child protection work which encompasses all risk factors.

<b>Recommendation 9.3</b>	<i>Short term</i>	<i>High</i>
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DoCS should develop a strategy to move to electronic record keeping and abolish the use of paper records.

<b>Recommendation 9.4</b>	<i>Short term</i>	<i>Low</i>
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DoCS should revise its case practice procedures to provide Helpline caseworkers with greater guidance as to determining response times for reports of risk of harm.

<b>Recommendation 9.5</b>	<i>Short term</i>	<i>Low</i>
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For all caseworkers and casework managers there should be a structured program for ongoing professional development which is incorporated into annual Personal Planning and Review agreements.

<b>Recommendation 9.6</b>	<i>Short term</i>	<i>Low</i>
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In addition to individual supervision, there should be a facilitated monthly

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**Priority**      **Cost**

group case practice review of selected cases within each CSC and at the Helpline, in which all caseworkers and managers participate and which may include specialists from other agencies, if the cases require it.

**Recommendation 9.7***Long term**Low*

DoCS should develop models of professional support for novice caseworkers, such as those offered in other disciplines like medicine, which involve safety and risk factors in decision making.

**Recommendation 9.8***Short term**Medium*

The work of the Drug and Alcohol Expertise Unit should be expanded to include mental health and domestic violence.

**Chapter 10 Directions for the way forward*****The creation of different pathways*****Recommendation 10.1***Short term**High*

Members of the community and mandatory reporters who are not those described below, who suspect that a child or young person is at risk of significant harm (“the statutory threshold”) should report their concerns to the Helpline. Reports should be as comprehensive as the knowledge and professional or expert experience of the reporter permits.

Mandatory reporters from each Area Health Service, The Children’s Hospital at Westmead, the NSW Police Force, the Department of Education and Training, the Department of Juvenile Justice and the Department of Ageing, Disability and Home Care who suspect that a child is at risk of significant harm, which is imminent, should report directly to the Helpline.

Mandatory reporters from each Area Health Service, The Children’s Hospital at Westmead, the NSW Police Force, the Department of Education and Training, the Department of Juvenile Justice and the Department of Ageing, Disability and Home Care who suspect that a child is otherwise at risk of significant harm should report their concerns to a newly created position or Unit within their own agency (“the Unit”). That Unit should be staffed by specialists with knowledge of the work of the agency and knowledge of child protection work (see below).

That Unit should determine whether the report meets the statutory threshold, by use of a common assessment framework, and if so, make the report promptly to the Helpline.

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**Priority**      **Cost**

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If the report does not meet the statutory threshold, and the Unit considers that the child or young person is in need of assistance, one or more of the following should occur:

- a. The child or young person or family is referred by the Unit or the initial reporter to a newly created Regional Intake and Referral Service. That service should be located within an NGO and should determine the nature of the services required and refer the family to the appropriate NGO or other state or Commonwealth agency for services such as case management, home visiting, intensive family support brokerage, quality child care, housing and/or parenting education.
- b. Families who are assessed by the Unit as meeting the criteria for Brighter Futures should be referred directly to the Lead Agency contracted in the relevant area.
- c. A referral to the Domestic Violence Line should be made by the Unit or the initial reporter if the concern arises primarily from the presence of domestic and family violence and the non-offending parent (usually the mother) requires assistance.
- d. The agency works with the child or young person, alone or in combination with another appropriate agency or NGO.

**Recommendation 10.2**

*Short term*      *High*

Reports made to DoCS should be assessed at the Helpline with the use of Structured Decision Making tools (after being tested and applied). If a report is assessed as meeting the statutory threshold, the report should be dealt with in one of the following ways:

- a. Families who are assessed by the Helpline as meeting the criteria for Brighter Futures should be referred directly to the Lead Agency contracted in the relevant area.
- b. Where a child or young person is:
  - i. assessed as in need of a response within 24 hours, or
  - ii. assessed as in need of a response within 72 hours and the risk is assessed as high, or
  - iii. under five years and the primary care-giver's functioning or ability to parent is impaired due to current substance abuse, unmanaged mental illness or intellectual disability, and:
    - the child has high support needs, or
    - the primary reported issue is neglect or actual injury, or
    - the child or a sibling has been previously removed from the family by reason of care and protection concerns

then such child or young person should be referred to a CSC that will apply the Structured Decision Making tools in assessing,

	<i>Priority</i>	<i>Cost</i>
<p>intervening and, if ultimately found to be appropriate, removing the child or young person from his or her family.</p> <p>c. Children and young persons who are assessed as in need of a response within 72 hours with a risk assessed as less than high, or as in need of a response within less than 10 days and who do not meet the criteria for Brighter Futures, should be referred to the Regional Intake and Referral Service which should determine the nature of the services required and refer the family to the appropriate NGO or other state or Commonwealth agency for such assistance as may be reasonably available and likely to meet the relevant need.</p>		

The Regional Intake and Referral Service described above should be operated and staffed by an NGO, with one or more child protection caseworkers seconded from DoCS. Where the child protection caseworker forms the view that the child or young person may be at risk of significant harm, the caseworker should perform a history check on KiDS and, if in the caseworker's view, the statutory test is met, the caseworker should refer to the matter to the Helpline. There should be at least one Regional Intake and Referral Service in each DoCS Region.

### ***DoCS structure***

#### **Recommendation 10.3**

*Long term      Medium*

DoCS should remain as a single department with a centralised Helpline, it should be divided into regions which are aligned with other key agencies and each region should contain such number of CSCs (see Chapter 23) as are appropriate for the level of demand within the region.

### ***Service availability***

#### **Recommendation 10.4**

*Long term      High*

Services should be integrated, multi-disciplinary and co-located, wherever practicable and child and family services should be established in locations of greatest need, by outreach if necessary.

NGOs and state agencies should be funded to deliver services to the children, young persons and families who fall within the groups listed in recommendations 10.1 a and b and 10.2 a and c above. These services should cover the continuum of universal, secondary and tertiary services and should target transition points for children and young persons. Such services should include:

- a. home visiting, preferably by nurses, high quality child care, preferably centre based, primary health care, school readiness programs, routine screening for domestic violence, preschool services, school counsellors, breakfast programs and early learning

	<i>Priority</i>	<i>Cost</i>
programs		
b. sustained home visiting, parenting education, supported playgroups, counselling services, the Home School Liaison Program and accommodation and rental assistance		
c. drug and alcohol counselling and rehabilitation services, sexual assault counselling, forensic services for sexual assault victims, PANOC services, services for adolescents aged 10-17 years who display sexually abusive behaviours, allied health services such as speech pathology and mental health services		
d. secondary and tertiary services that include intensive, short term, in house and crisis interventions and that provide links to other services following intensive support, where needed		
e. the availability of counselling or other similar services from other agencies should not be dependent upon a risk of significant harm report being made to DoCS, or DoCS having allocated the report/case.		

### Recommendation 10.5

a. Brighter Futures should be extended to provide services to more children aged 0-8 years and integrated into the service system (DoCS estimates that this should assist an additional 1,200 families).	<i>Short term</i>	<i>High</i>
b. Brighter Futures should be extended progressively to provide services to children aged 9-14 years with priority of access to services for Aboriginal children and their families (DoCS estimates that this should assist an additional 3,400 families).	<i>Long term</i>	<i>High</i>
c. The number and range of family preservation services provided by NGOs should be extended. This should include extending Intensive Family Based Services to Aboriginal and non-Aboriginal families (DoCS estimates that this should assist an additional 3,000 families).	<i>Short term</i>	<i>High</i>
d. The Aboriginal Maternal and Infant Health Strategy should be delivered statewide (funds have been allocated for this service).	<i>Long term</i>	<i>High</i>
e. Young, first time, isolated mothers with low educational attainment should receive secondary services, particularly sustained home visiting where the focus should be on positive maternal and child outcomes.		

	<b>Priority</b>	<b>Cost</b>
	<i>Short term</i>	<i>High</i>
f. One year of free early childhood education before school should be provided to low income families.		
	<i>Short term</i>	<i>High</i>
g. Co-located child and family centres servicing Aboriginal communities, involving health and education services should be developed.		
	<i>Short term</i>	<i>High</i>
h. In relation to domestic violence, the commitment to the Domestic Violence Court Intervention Model, Integrated Case Management, Non-government sector grants, Staying Home Leaving Violence, the Court Assistance Scheme, Indigenous Programs and police equipment should be implemented.		
	<i>Short term</i>	<i>Medium</i>
i. The commitment to establish the Safe Families Program – Orana Far West should be implemented.		
	<i>Short term</i>	
j. The commitment to fund the Preschool Investment and Reform Plan should be implemented.		
	<i>Short term</i>	
k. The implementation plans for the delivery of the Commonwealth Government's election commitments relating to early childhood education and care, including providing universal access to early learning programs for all Australian four year olds for 15 hours per week and establishing an additional 260 child care centres on primary school grounds and other community land in areas where there are service gaps, should be progressed.		

**Recommendation 10.6**

*Five years      High*

The capacity of NGOs, Aboriginal and non-Aboriginal, to staff and deliver the services detailed in Recommendations 10.4 and 10.5 a, b, c, e, f and g to children, young persons and families, particularly those who present with a range of needs including those which are complex and chronic, should be developed. The principles underpinning performance based contracting should apply.

**Working collaboratively****Recommendation 10.7**

*Short term      High*

DoCS, each Area Health Service, The Children's Hospital at Westmead, the NSW Police Force, the Department of Juvenile Justice, the Department of Ageing, Disability and Home Care, the Department of

	<i>Priority</i>	<i>Cost</i>
Education and Training and NGOs should use a common assessment framework to identify and respond to the needs of children, young persons and their families, particularly in the areas of serious and chronic neglect, parental substance abuse, high risk adolescents, serious mental health issues and high risk domestic violence cases.		

Each key agency, namely DoCS, each Area Health Service, The Children's Hospital at Westmead, the NSW Police Force, Housing NSW, the Department of Juvenile Justice and the Department of Education and Training should identify their high end users, referred to by DoCS as Frequently Reported Families and who, for DoCS are estimated to number between 2,500 and 7,500 families. An integrated case management response to these families, which includes participation by relevant NGOs should be provided including the adoption of mechanisms for identifying new families and for enabling existing families to exit with suitable supports in place.

Specialists in substance abuse, mental health, domestic violence and other similar areas should assist DoCS caseworkers in case allocation, planning, assessments and interventions by attending CSCs on a regular basis.

Agencies, including NGOs should be free to exchange information for the purpose of the safety, welfare and well-being of a child or young person (see Chapter 24).

A multi-agency systems approach to case review should be established (see Chapter 9).

### ***Workforce needs***

#### **Recommendation 10.8**

*Short term*

*Low*

A workforce strategy should be established which takes into account the needs of NGOs to employ additional staff and to accommodate the progressive transition of early intervention and OOHC (see Chapter 16) casework to the NGOs.

NGOs should receive sufficient funding to develop the infrastructure needed to attract experienced staff, and be assisted in providing uniform training for caseworkers and carers.

#### **Recommendation 10.9**

*Short term*

*High*

A Unit of one or more positions, depending on the size of the agency, should be created in each Area Health Service, The Children's Hospital at Westmead, the Department of Education and Training, the NSW Police Force, the Department of Ageing, Disability and Home Care and

	<i>Priority</i>	<i>Cost</i>
the Department of Juvenile Justice to receive reports of risk of significant harm from staff of the agency and to take appropriate action for the protection of children and young persons, including reporting to DoCS. In addition, the Unit should ensure communication with other agencies, primarily the human services agencies and relevant NGOs, and provide advice to the Human Services and Justice CEOs Cluster about any problems or emerging trends concerning interagency collaboration.		

The Unit in each agency should:

- a. report to the agency's CEO or a defined and consistent second tier within the agency
- b. use data systems and processes that are common across agencies
- c. meet regularly with the positions created in the same agency and with those in other agencies
- d. keep relevant data which is then shared across agencies
- e. be child protection trained
- f. be positively named.

**Recommendation 10.10**

*Immediate*

*High*

Caseworkers should be employed on a temporary basis or re-assigned from Brighter Futures or OOHC work as case management is transferred to the NGO sector, to manage those reports meeting the criteria set out in 10.2 b above until Recommendations 6.2, 10.1 and 10.2 are implemented (DoCS estimates that 300 temporary caseworkers are required).

***Brighter Futures***

**Recommendation 10.11**

*Three to five years*

*High*

Within three to five years, case management of all families in Brighter Futures should be by Lead Agencies.

***Chapter 11 Statutory basis of child protection***

**Recommendation 11.1**

*Immediate*

*Low*

With respect to the *Children and Young Persons (Care and Protection) Act 1998*:

- i. Section 8(a) should be amended to provide as follows:
  - 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.



	<i>Priority</i>	<i>Cost</i>
ii.	Section 9 should be amended to provide: The principles to be applied in the administration of this Act are as follows: In all actions and decisions concerning a particular child or young person that are made under this Act the safety, welfare and well-being of the child or young person must be the paramount consideration. Paragraphs (b) to (g) should then be renumbered commencing with (a).	
iii.	Section 18 should be amended to insert the words “or a non-government agency in receipt of government funding for the requested services” after “or agency”.	
iv.	Section 21 should be amended to permit an NGO in receipt of government funding for the requested services to apply on behalf of a child or young person for assistance.	
v.	Section 28 should be proclaimed.	
vi.	Section 29(1)(f) should be amended to reflect the changed reporting structure as set out in Chapter 10.	
vii.	Section 29(1)(f) should be amended to permit the disclosure of the reporter’s details to a law enforcement agency pursuant to the investigation of a serious crime committed upon a child or young person, where that might impact on the child’s safety, welfare or well-being.	
viii.	Section 71 should be amended so that the grounds are not limited to those enumerated, while still retaining each sub-section.	
ix.	The Act should be amended to make clear that, other than emergency care and protection orders made under s.46(2) of the Care Act, the Children’s Court can not allocate parental responsibility to a designated agency or a principal thereof.	
x.	The Act should be amended to limit the power of the Children’s Court to make contact orders to those matters where the Court has accepted the assessment of the Director-General that there is a realistic possibility of restoration.	
xi.	Section 90(3) should be amended to permit the child or young person to make an application pursuant to that section.	
xii.	Part 3 of Chapter 7 should be repealed.	
xiii.	Section 58 (1) (a) should be amended to delete “or unwilling.”	
xiv.	Pursuant to s.82, the Children’s Court should have the power to order that a written report be made to it and, if after receiving that report, it is not satisfied that proper arrangements have been made, it should have the power to re-list the matter with notice to the parties to the original proceedings in order to give any of them an opportunity to make an application pursuant to s.90 or for any other ancillary or incidental order. However, if no party wishes to apply	

	<i>Priority</i>	<i>Cost</i>
<p>for an order varying any of the orders made, the matter should be taken no further. In the absence of a moving party, the Children's Court should not be empowered to make orders of its own motion.</p> <p>In addition, the Children's Court should develop rules concerning timing, notice, confidentiality and procedures to ensure that reports are made to it in a timely fashion, that all parties are provided with a copy of the report and that the process by which a date is set for hearing is also clear.</p> <p>xv. The Children's Court should have the power to order that expert evidence be provided to it, in the form of reports provided by the Children's Court Clinic or otherwise.</p> <p>xvi. Relevant amendments should be made to ensure that <i>Re Rhett</i> [2008] CLN 1 is followed.</p> <p>xvii. The Act should be amended to provide that a decision to restore a child or young person to the care of the parents from whom he or she had previously been removed by an order of the Children's Court, in circumstances where the Children's Court had accepted the assessment of the Director-General that there was not a realistic possibility of restoration, must be made by the Children's Court upon application by the person with parental responsibility.</p>		

**Recommendation 11.2***Short term**Low*

There should be a feasibility study into the transfer of the Children's Court Clinic to Justice Health that should also investigate its expansion to provide the services of the kind currently offered by Justice Health in the criminal jurisdiction, as well as an extension of the matters dealt with in the current assessments so as to provide greater assistance in case management decisions.

**Recommendation 11.3***Short term**Low*

Data in relation to all aspects of proceedings pursuant to the *Children and Young Persons (Care and Protection) Act 1998* should be kept by DoCS and the Children's Court and made public.

**Recommendation 11.4***Immediate**Low*

DoCS should review its Casework Practice Policy, Taking Action in the Children's Court, to ensure it is consistent with the *Children and Young Persons (Care and Protection) Act 1998*, in particular, the principles set out in ss.9, 10 and 36.

**Recommendation 11.5***Short term**Low*

DoCS should develop Guidelines for staff in order to ensure adherence

	<b>Priority</b>	<b>Cost</b>
to the Aboriginal and Torres Strait Islander Child and Young Person Placement Principles in s.13 of the <i>Children and Young Persons (Care and Protection) Act 1998</i> .		

<b>Recommendation 11.6</b>	<i>Short term</i>	<i>Low</i>
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Evidence based guidelines for Magistrates should be prepared in relation to orders about contact made under s.86 of the *Children and Young Persons (Care and Protection) Act 1998*.

## **Chapter 12 Other models of decision making**

<b>Recommendation 12.1</b>	<i>Immediate</i>	<i>Medium</i>
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Adequate funding should be provided so that alternative dispute resolution is used prior to and in care proceedings in order to give meaning to s.37 of the *Children and Young Persons (Care and Protection) Act 1998*, in relation to:

- a. placement plans
- b. contact arrangements
- c. treatment interventions
- d. long term care issues
- e. determination of the timing/readiness for returning a child to the home
- f. determination of when to discontinue protective supervision
- g. the nature and extent of a parent's involvement
- h. parent/child conflict
- i. lack of, or poor, communication between a worker and parents due to hostility
- j. negotiation of length of care and conditions of return
- k. foster carer/agency/parent issues.

<b>Recommendation 12.2</b>	<i>Not applicable</i>	<i>Medium</i>
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The Nowra Care Circle Pilot should be monitored and evaluated. If successful, consideration should be given to its extension to other parts of the State with significant Aboriginal communities.

## **Chapter 13 Court Processes in statutory child protection**

<b>Recommendation 13.1</b>	<i>Immediate</i>	<i>Low</i>
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The *Children's Court Act 1987* should be amended to insert a provision similar to s.27 of the *Local Court Act 2007* and the *Children's Court Rules*

	<i>Priority</i>	<i>Cost</i>
<p>2000 should be reviewed to ensure that the Rules are consistent with the <i>Children's Court Act 1987</i> and the Care Act, and any practice directions or notes that are issued after amendment of the Act should similarly accord with the legislation.</p>		
<p><b>Recommendation 13.2</b></p> <p>There should be no requirement, by way of legislation or practice, that DoCS is to file all material relied upon in care proceedings at the beginning of the proceedings.</p>	<i>Immediate</i>	<i>Low</i>
<p><b>Recommendation 13.3</b></p> <p>Care applications by DoCS under ss.45 and 61 should be made by way of an application filed in the Court supported by a written report which succinctly and fairly summarises the information available to DoCS and contains sufficient information to support a determination that a child is in need of care and protection and any interim orders sought, without any requirement for the filing of any affidavit, unless ordered by the Court in circumstances where establishment is contested. The DoCS file or relevant portion of it should be made available to the parties.</p>	<i>Immediate</i>	<i>Low</i>
<p><b>Recommendation 13.4</b></p> <p>Section 45 of the <i>Children and Young Persons (Care and Protection) Act 1998</i> should be amended to require DoCS to apply to the Children's Court no later than 72 hours after the child or young person has been removed or care assumed.</p>	<i>Immediate</i>	<i>Low</i>
<p><b>Recommendation 13.5</b></p> <p>The Children's Court should revise its practices in relation to changing hearing dates and moving proceedings between courts, as well as its listing practices for callovers and mentions.</p>	<i>Immediate</i>	<i>Low</i>
<p><b>Recommendation 13.6</b></p> <p>DoCS caseworkers should be given more specific training and guidance in relation to the nature of care proceedings and in relation to the evidence to be placed before the Court, to ensure its relevance, accuracy and fair balance.</p>	<i>Immediate</i>	<i>Low</i>
<p><b>Recommendation 13.7</b></p> <p>Guidelines should be developed for DoCS caseworkers based on the Code of Conduct applicable to the Office of the Director of Public Prosecutions.</p>	<i>Short term</i>	<i>Low</i>

	<i>Priority</i>	<i>Cost</i>
<p><b>Recommendation 13.8</b></p> <p>A code of conduct should be developed applicable to all legal representatives in care proceedings. Specialist accreditation should be regularly available. Any necessary training or assessment mechanisms should be available on an ongoing or regular basis. A similar regime should also be established for Guardians ad Litem.</p>	<i>Short term</i>	<i>Low</i>
<p><b>Recommendation 13.9</b></p> <p>A District Court Judge should be appointed as the senior judicial officer in the Children’s Court.</p>	<i>Immediate</i>	<i>Low</i>
<p><b>Recommendation 13.10</b></p> <p>There should be sufficient specialist Children’s Magistrates appointed to permit rural and regional circuits to be held to ensure that the proportion of matters in the care and protection jurisdiction presided over by non-specialist Magistrates is reduced to fewer than 10 per cent.</p>	<i>Short term</i>	<i>Medium</i>
<p><b>Recommendation 13.11</b></p> <p>A trial of a ‘docket system’ in the Parramatta Children’s Court for matters in the care and protection jurisdiction should be undertaken.</p>	<i>Short term</i>	<i>Low</i>
<p><b>Recommendation 13.12</b></p> <p>Registrars of the Children’s Court should be legally qualified and alternative dispute resolution trained and sufficient in number to perform alternative dispute resolution and to undertake procedural and consent functions.</p>	<i>Immediate</i>	<i>Medium</i>
<p><b>Chapter 15 Child protection and the criminal justice system</b></p>		
<p><b>Recommendation 15.1</b></p> <p>An after hours bail placement service should be established by the Department of Juvenile Justice similar to the Victorian Central After Hours and Bail Placement Service, that is available to young people aged between 10 and 18 years, who are at risk of being remanded in custody, or who require bail accommodation; or similar to the Queensland Conditional Bail and Youth Program Accommodation Support Service.</p>	<i>Long term</i>	<i>Medium</i>

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**Priority**      **Cost**

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**Chapter 16 Out-of-home care**

**Recommendation 16.1**

*Short term*      *Medium*

DoCS OOHC/NGO OOHC caseworkers should become involved with children and young persons in OOHC at an earlier stage than final orders and have a responsibility to identify and support the placement of the children or young people, where it has been determined that there is not a realistic possibility of restoration.

**Recommendation 16.2**

*Three to five years*      *High*

Over the next three to five years, there should be a gradual transition in the provision of OOHC for children and young persons as follows:

- a. Most children and young persons in OOHC should be supported by one of the two following models:
  - i DoCS retains parental responsibility and a non-government organisation is responsible for case management, placement and casework services. The agency has responsibility for assessment, case planning, implementation, review, transition and case closure as well as the placement of a child or young person with an authorised carer, and for any decision to remove a child or young person from a carer. DoCS retains the key decision making role in restoration decisions, developing and approving the initial care plan and has a role in implementation. DoCS and the agency have joint responsibility for decisions to apply to change Court orders and for providing after care assistance.
  - ii DoCS delegates parental responsibility and transfers case management, placement and casework services to a non-government organisation (while retaining residual powers) subject to consultation with the Children's Guardian (see Recommendation 16.15).
  - iii Children and young persons with significantly complex needs or who are assessed as at high risk of immediate or serious harm or whose case management requires high level collaboration with other government agencies will remain case managed by DoCS.
- b. At an early stage, DoCS should progressively commence the transfer of long term kinship/relative carers to NGOs so as to allow the NGOs to carry out any necessary training and to provide ongoing support for these carers.
- c. At an early stage, DoCS should progressively reduce its role in the recruitment of foster carers and transfer current long term foster carers to NGOs.

	<b>Priority</b>	<b>Cost</b>
<p><b>Recommendation 16.3</b></p> <p>Within 30 days of entering OOHC, all children and young persons should receive a comprehensive multi-disciplinary health and developmental assessment. For children under the age of five years at the time of entering OOHC, that assessment should be repeated at six monthly intervals. For older children and young persons, assessments should be undertaken annually. A mechanism for monitoring, evaluating and reviewing access and achievement of outcomes should be developed by NSW Health and DoCS.</p>	<i>Short term</i>	<i>Medium</i>
<p><b>Recommendation 16.4</b></p> <p>NSW Health should appoint an OOHC coordinator in each Area Health Service and at The Children's Hospital at Westmead.</p>	<i>Immediate</i>	<i>Low</i>
<p><b>Recommendation 16.5.</b></p> <p>The Department of Education and Training should appoint an OOHC coordinator in each Region.</p>	<i>Immediate</i>	<i>Low</i>
<p><b>Recommendation 16.6</b></p> <p>The NSW Government has a responsibility to ensure that all children and young persons removed from their parents and placed in its care receive adequate health treatment. Thus, there should be sufficient health services including speech therapy, mental health and dental services available to treat, as a matter of priority, children and young persons in OOHC.</p>	<i>Long term</i>	<i>High</i>
<p><b>Recommendation 16.7</b></p> <p>The introduction of centralised electronic health records should be a priority for NSW Health. Given that this is likely to take some time, an interim strategy should be developed to examine a comprehensive medical record or a transferable record for children and young persons in OOHC, which should be accessible to those who require it in order to promote or ensure the safety, welfare and well-being of the child or young person.</p>	<i>Short term (interim strategy)</i>	<i>High</i>
<p><b>Recommendation 16.8</b></p> <p>Within 30 days of entering OOHC, all preschool and school aged children and young persons should have an individual education plan prepared for them which is reviewed annually by the Department of Education and Training and by the responsible caseworker. A mechanism for monitoring, evaluating and reviewing access and achievement of</p>	<i>Short term</i>	<i>Medium</i>

	<i>Priority</i>	<i>Cost</i>
outcomes should be developed by the Department of Education and Training and DoCS.		
<b>Recommendation 16.9</b>	<i>Long term</i>	<i>Medium</i>
Carer allowances should be reviewed periodically by an independent body and should more closely reflect the actual costs to the carer of providing care, according to the varying categories of need.		
<b>Recommendation 16.10</b>	<i>Immediate</i>	<i>Low</i>
The Memoranda of Understanding between DoCS and respectively, the Department of Ageing, Disability and Home Care, NSW Health and the Department of Education and Training should be revised to reflect the increasing responsibilities of NGOs for the provision of OOHC.		
<b>Recommendation 16.11</b>	<i>Long term</i>	<i>Medium</i>
A common case management framework for children and young people in OOHC across all OOHC providers, should be developed, following a feasibility study on potential models including the Looking After Children system.		
<b>Recommendation 16.12</b>	<i>Long term</i>	<i>Medium</i>
Due to the large numbers of Aboriginal children and young persons in OOHC, priority should be given to strengthening the capacity for Aboriginal families to undertake foster and kinship caring roles.		
<b>Recommendation 16.13</b>	<i>Short term</i>	<i>Medium</i>
There should be sufficient numbers of care options for children and young persons with challenging behaviours that include specialised models of therapeutic foster care.		
<b>Recommendation 16.14</b>	<i>Long term</i>	<i>High</i>
DoCS and/or relevant NGOs should receive sufficient funding to service the actual and projected OOHC population to enable an average ratio of one caseworker to 12 children and young persons.		
<b>Recommendation 16.15</b>	<i>Short term</i>	<i>Low</i>
DoCS should consult with the Children's Guardian before delegating parental responsibility to any person, except in circumstances where DoCS has shared parental responsibility and is delegating to the person with whom it shares parental responsibility. In the event that a		



	<i>Priority</i>	<i>Cost</i>
mechanism for that to occur has not been introduced to the satisfaction of DoCS and the Children's Guardian within 12 months of the publication of this report, the <i>Children and Young Persons (Care and Protection) Act 1998</i> should be amended to require that consultation.		

**Recommendation 16.16***Immediate**Medium*

With respect to the *Children and Young Persons (Care and Protection) Act 1998*:

- i. the proposal set out in the draft Cabinet Minute to introduce a revised scheme for voluntary care should be implemented and the Children's Guardian should receive the additional resources necessary to perform the functions of that office that would apply to those within that scheme
- ii. section 183 should be repealed
- iii. section 181(1)(d) should be repealed
- iv. section 181(1)(a) should be repealed
- v. section 186 should be repealed
- vi. section 105(3)(b)(iii) should be amended to delete reference to the Children's Guardian and to replace it with the Director-General of DoCS
- vii. section 90(3)(b) should be repealed
- viii. section 159 should be proclaimed

**Chapter 17 Domestic and family violence in child protection****Recommendation 17.1***Immediate**Low*

The NSW Police Force should amend its policies in respect of reporting domestic violence incidents to DoCS to align with the requirements of s.23(d) of the *Children and Young Persons (Care and Protection) Act 1998* and should provide the necessary training to its officers to enable them to comply with the amended legislation.

**Recommendation 17.2***Short term**Low*

DoCS and NSW Police should agree on the process and content of information to be exchanged when reporting children or young persons at risk to ensure that information received by DoCS enables an appropriate and timely risk of harm assessment to be made.

**Recommendation 17.3***Short term**Medium*

DoCS caseworkers should receive domestic violence specific training, jointly with other relevant agencies and NGO workers.

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**Priority**      **Cost**

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## **Chapter 18 Aboriginal over representation in child protection**

### **Recommendation 18.1**

*Immediate*      *Low*

The NSW Ombudsman should be given authority to audit the implementation of the Aboriginal Child Sexual Assault Taskforce recommendations as described in Recommendation 21 of the Taskforce's report.

### **Recommendation 18.2**

The NSW Government should consider the following:

*Short term*      *Medium*

- a. Assisting Aboriginal communities to consider and develop procedures for the reduction of the sale, delivery and use of alcohol to Aboriginal communities.

*Short term*      *Medium*

- b. Working with the Commonwealth to income manage Commonwealth and State payments to all families, not only Aboriginal families, in circumstances where serious and persistent child protection concerns are held and there is reliable information available that income is not being spent in the interests of the safety, welfare and well-being of the relevant child or young person.

*Short term*      *Medium*

- c. Introducing measures to ensure greater attendance at school, preferably by means other than incarceration, including the provision of transport and of meals.

*Immediate*      *Medium*

- d. In smaller and more remote communities, introducing the greater use of night patrols to ensure that children are not wandering the streets at night in circumstances where they might be at risk of assault, or alternatively of involvement in criminal activities.

*Short term*      *Medium*

- e. Providing accommodation to Aboriginal children and young people at risk of harm of a boarding nature type where the children are cared for and educated.

### **Recommendation 18.3**

*Short term*      *Medium*

The NSW Government should take steps to ensure that the recommendations of the Aboriginal Child Sexual Assault Taskforce

	<i>Priority</i>	<i>Cost</i>
report, and the actions in the Interagency Plan, which relate to provision of direct services to Aboriginal children, young persons, families and perpetrators, are carried into effect within the lifetime of the plan.		

**Recommendation 18.4** *Short term*      *Low*

The NSW Government should work actively with the Commonwealth in securing the delivery, in NSW, of the services identified in the New Directions Policy and in the 2008/09 Commonwealth Budget that were earmarked for the benefit of Aboriginal people.

## ***Chapter 20 Young people, leaving care and homelessness***

**Recommendation 20.1** *Short term*      *Medium*

DoCS should train and appoint to each DoCS Region, specialist caseworkers to assist in the case management of young people.

**Recommendation 20.2** *Short term*      *Low*

DoCS should fund a training package to assist foster carers and kinship and relative carers in preparing young people for leaving care.

**Recommendation 20.3** *Short term*      *Low*

DoCS should fund the provision of detailed information to care leavers as to the assistance which is available to them through State and Commonwealth sources after they leave care, and as to the means by which they can access that assistance.

## ***Chapter 21 Children and young persons and parents with a disability***

**Recommendation 21.1** *Short term*      *Medium*

A data management system should be developed in DoCS and the Department of Ageing, Disability and Home Care to identify joint clients.

**Recommendation 21.2** *Immediate*      *Low*

The Memorandum of Understanding between DoCS and the Department of Ageing, Disability and Home Care should be revised to provide the operational definitions set out in the 2008 Memorandum of Understanding evaluation and to specify the manner in which joint assessment and planning will occur.

	<b>Priority</b>	<b>Cost</b>
<p><b>Recommendation 21.3</b></p> <p>Joint training should be carried out for DoCS and Department of Ageing, Disability and Home Care staff, in relation to the care and protection of children and young persons with a disability, and in relation to the individual and mutual responsibilities of the two agencies.</p>	<i>Short term</i>	<i>Low</i>
<p><b>Recommendation 21.4</b></p> <p>The recruitment and training of foster carers who care for children and young persons with a disability in voluntary and statutory OOHC should occur jointly by DoCS and the Department of Ageing, Disability and Home Care.</p>	<i>Short term</i>	<i>Low</i>
<p><b>Recommendation 21.5</b></p> <p>The Department of Ageing, Disability and Home Care and DoCS should develop additional models of accommodation and care for children and young persons with a disability who are subject to the parental responsibility of the Minister for Community Services, or for those whose disabilities are such that they are unable to continue to reside in their homes.</p>	<i>Short term</i>	<i>Medium</i>
<p><b>Recommendation 21.6</b></p> <p>Consideration should be given to the establishment of a suitable mediation process for those cases where the Department of Ageing, Disability and Home Care considers that services are needed for a child or young person with a disability and the parents or carers of such child or young person are not acting in their best interests in relation to the provision, or non-acceptance, of those services.</p>	<i>Long term</i>	<i>Low</i>

## **Chapter 22 Disaster recovery**

<p><b>Recommendation 22.1</b></p> <p>DoCS responsibilities under the <i>Community Welfare Act 1987</i> should be transferred to the Department of Premier and Cabinet or to such other government department as is entrusted with the principal responsibilities for planning for and responding to disasters or emergencies, with DoCS staff being available to be called upon to provide, under the coordination and direction of the Department of Premier and Cabinet or of such other department, assistance appropriate to the event.</p>	<i>Short term</i>	<i>Medium</i>
<p><b>Recommendation 22.2</b></p> <p>In the event that DoCS retains responsibility under the <i>Community</i></p>	<i>Short term</i>	<i>Medium</i>

	<i>Priority</i>	<i>Cost</i>
<i>Welfare Act 1987</i> , it should be resourced sufficiently to adequately perform that role, without frontline child protection caseworkers being deployed.		

**Recommendation 22.3** *Short term*      *Low*

The NSW Government should assign responsibility for distributing drought relief to an agency other than DoCS, and such relief as is provided should not be a cost to the DoCS budget.

### **Chapter 23 Oversight**

**Recommendation 23.1** *Immediate*      *Low*

The relevant legislation including Part 7A of the *Commission for Children and Young People Act 1998* should be amended to make the NSW Ombudsman the convenor of the Child Death Review Team and the Commissioner for Children and Young People, a member of that Team rather than its convenor. The secretariat and research functions associated with the Team should also be transferred from the Commission for Children and Young People to the NSW Ombudsman.

**Recommendation 23.2** *Immediate*      *Low*

DoCS should review the death of any child or young person about whom a report was made within three years of that death, or where such a report was made about a sibling of such a person, within six months of becoming aware of the death.

**Recommendation 23.3** *Immediate*      *Low*

The *Community Services (Complaints, Reviews and Monitoring) Act 1993* should be amended by:

- i. repealing s.35(1)(b) and (c)
- ii. replacing the requirement for an annual report, in s.43 with a requirement that a report be made every two years.

**Recommendation 23.4** *Short term*      *Low*

Information obtained by persons appointed by the Minister as official visitors should be available to the regulator/accreditor of OOHC with appropriate procedural fairness safeguards and s.8 of *Community Services (Complaints, Reviews and Monitoring) Act 1993* and clause 4 of *Community Services (Complaints, Reviews and Monitoring) Regulation 2004* should be amended to achieve this outcome.

	<i>Priority</i>	<i>Cost</i>
<p><b>Recommendation 23.5</b></p> <p>The class or kind agreement between the NSW Ombudsman and DoCS should be revised to require DoCS to notify only serious allegations of reportable conduct and to impose timeframes within which DoCS will investigate those allegations.</p>	<i>Short term</i>	<i>Low</i>
<p><b>Recommendation 23.6</b></p> <p>DoCS should centralise its Allegations Against Employees Unit and receive sufficient funding to enable this restructure, and to resource it to enable it to respond to allegations in a timely fashion.</p>	<i>Immediate</i>	<i>Low</i>
<p><b>Recommendation 23.7</b></p> <p>DoCS should revise the findings available following an investigation into an allegation against an employee so as to and permit one of the following findings to be made but no other: sustained, not sustained, not reportable conduct. Adequate reasons should be recorded, and kept on file, which should note not only why an allegation was sustained, but also the reasons why an allegation was not reportable or not sustained.</p>	<i>Immediate</i>	<i>Low</i>
<p><b>Recommendation 23.8</b></p> <p>The <i>Commission for Children and Young People Act 1998</i> should be amended to require background checks as follows:</p> <ol style="list-style-type: none"> <li>a. in respect of DoCS and other key human service agencies all new appointments to staff positions that work directly or have regular contact with children and young persons (that is, permanent, temporary, casual and contract staff held against positions including temporary agency staff)</li> <li>b. any contractors engaged by those agencies to undertake work which involves direct unsupervised contact to children and young persons, and, in the case of DoCS, access to the KiDS system or file records on DoCS clients</li> <li>c. students working with DoCS officers</li> <li>d. children's services licensees</li> <li>e. authorised supervisors of children's services</li> <li>f. principal officers of designated agencies providing OOHC or adoption agencies</li> <li>g. adult household members, aged 16 years and above of foster carers, family day carers and licensed home based carers</li> <li>h. volunteers in high risk groups, namely those having extended unsupervised contact with children and young persons.</li> </ol>	<i>Short term</i>	<i>Medium</i>

	<i>Priority</i>	<i>Cost</i>
<b>Chapter 24 Interagency cooperation</b>		
<b>Recommendation 24.1</b>	<i>Immediate</i>	<i>Low</i>
<p>The legislation governing each human services and justice agency should be amended by the insertion of a provision obliging that agency to take reasonable steps to coordinate with other agencies any necessary decision making or delivery of services to children, young persons and families, in order to appropriately and effectively meet the protection and care needs of children and young persons.</p>		
<b>Recommendation 24.2</b>	<i>Immediate</i>	<i>Low</i>
<p>Each human services and justice agency CEO should have, as part of his or her performance agreement, a provision obliging performance in ensuring interagency collaboration in child protection matters and providing for measurement of that performance.</p>		
<b>Recommendation 24.3</b>	<i>Immediate</i>	<i>Low</i>
<p>The Director-General, each Deputy Director-General and each Regional Director of DoCS should have, as part of his or her performance agreement, a provision obliging performance in ensuring interagency collaboration in child protection matters and providing for measurement of that performance.</p>		
<b>Recommendation 24.4</b>	<i>Long term</i>	<i>Medium</i>
<p>The boundaries of key human services and justice agencies should be aligned.</p>		
<b>Recommendation 24.5</b>	<i>Short term</i>	<i>Low</i>
<p>Cross agency training should be delivered in relation to interagency collaboration and cooperation in delivering services to children and young persons.</p>		
<b>Recommendation 24.6</b>	<i>Immediate</i>	<i>Low</i>
<p>The <i>Children and Young Persons (Care and Protection) Act 1998</i> should be amended to permit the exchange of information between human services and justice agencies, and between such agencies and the non-government sector, where that exchange is for the purpose of making a decision, assessment, plan or investigation relating to the safety, welfare and well-being of a child or young person in accordance with the principles set out in Chapter 24. The amendments should provide, that to the extent inconsistent, the provisions of the <i>Privacy and Personal</i></p>		

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	<i><b>Priority</b></i>	<i><b>Cost</b></i>
<p><i>Information Protection Act 1998 and Health Records and Information Privacy Act 2002 should not apply. Where agencies have Codes of Practice in accordance with privacy legislation their terms should be consistent with this legislative provision and consistent with each other in relation to the discharge of the functions of those agencies in the area of child protection.</i></p>		

**Recommendation 24.7**

*Short term*

*Low*

An improved structure should be established for regular regional meetings between the key human services agencies and NGOs to facilitate collaborative cross agency work, and to be accountable to the Human Services and Justice CEOs Cluster.

***Chapter 25 DoCS funded non-government service system***

**Recommendation 25.1**

*Long term*

*Medium*

All NSW Government funding to NGOs delivering universal, secondary and tertiary services to children, young persons and their families to prevent or otherwise address child protection concerns should be reviewed, so as to establish a coordinated system for the allocation of their funded resources that will eliminate unnecessary overlap and provide for the delivery of service where most needed.