

ACT Auditor-General's Office

Performance Audit Report

Care and Protection System

REPORT NO. 01/2013

Community Services Directorate

Public Advocate

Human Rights Commission

**(Justice and Community Safety Directorate as host agency for the
Public Advocate and the Human Rights Commission)**

**(Chief Minister and Treasury Directorate for whole-of-
government policy)**

March 2013



ACT AUDITOR-GENERAL'S OFFICE



PA12/01

The Speaker
ACT Legislative Assembly
Civic Square, London Circuit
CANBERRA ACT 2601

Dear Madam Speaker

I am pleased to forward to you a Performance Audit Report titled 'Care and Protection System' for tabling in the Legislative Assembly pursuant to Section 17(5) of the *Auditor-General Act 1996*.

Yours sincerely

Dr Maxine Cooper
Auditor-General
7 March 2013

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1. REPORT SUMMARY AND CONCLUSIONS

INTRODUCTION

- 1.1 This report presents the results of a performance audit that reviewed the ACT Government's care and protection services for children and young people who are considered to be at high risk and vulnerable.

BACKGROUND

- 1.2 All children and young people have a right to protection including adequate care in a secure, safe and nurturing environment. Providing this is the responsibility of the whole community, not just government. While there is likely to be general agreement on this right to protection, there are divergent views on how care and protection can best be achieved. This, coupled with the diversity of situations likely to be encountered, makes providing care and protection services challenging and contestable.
- 1.3 Care and protection services for children and young people in the ACT is primarily guided by the *Children and Young People Act 2008*. These services are provided by the Care and Protection Services Branch (within Office for Children Youth and Family Support Division, in the Community Services Directorate).
- 1.4 Importantly, the *Children and Young People Act 2008* makes the best interests of the child or young person the paramount consideration for decision making.

Care and Protection Services Branch

- 1.5 The Care and Protection Services Branch provides care and protection services that can be classified as being in one of the following categories:
- early intervention;
 - family support programs;
 - intake, response and intervention; and
 - out-of-home care.
- 1.6 This audit examined the intake, response and intervention processes associated with the Government's care and protection services and mainly considered activities and decision making that occurred prior to a decision being made regarding the type of out-of-home care best suited to a child or young person. It did consider some aspects of out-of-home care related to quality assurance and monitoring of out-of-home care and the accuracy of information held by the Care and Protection Services Branch on children and young people in out-of-home placements.
- 1.7 This audit did not examine early intervention and family support programs.

- 1.8 The key terms used in care and protection of children and young people, which are defined in the *Children and Young People Act 2008*, are listed in Appendix B.
- 1.9 The Children and Young Persons' System (CHYPS), is an electronic data management system which is used by the Care and Protection Services Branch. CHYPS is abbreviated throughout this report.
- 1.10 While it is acknowledged that the scale and complexity of the issues being considered would mean that considerable time would be needed for this audit, the time taken has been exacerbated by other factors, including the Community Services Directorate's management of information and records being poor, which meant that accessing information and then checking its validity was time consuming. In addition, on occasion, information supplied was inaccurate or out-dated. These are matters although affecting this audit, are outside its scope but have been raised with executives in the Directorate.

Statutory office holders

- 1.11 The Public Advocate and the Children and Young People Commissioner (in the Human Rights Commission) have important statutory roles with respect to children and young people who are at risk of harm. This audit considered the roles of these statutory office holders.

AUDIT OBJECTIVES

- 1.12 The objective of the audit is to provide an independent opinion to the Legislative Assembly on whether the Community Services Directorate is providing adequate and immediate support to children and young people deemed to be at high risk and vulnerable, and if these services are being monitored and overseen by relevant statutory office holders.

AUDIT CONCLUSIONS

- 1.13 The audit conclusions are set out below.

Whether the Community Services Directorate is providing 'adequate and immediate support to children and young people deemed to be at high risk and vulnerable' was not able to be determined due to issues reported on in this audit. However, it is recognised that the Directorate has invested considerable resources since early 2012 into a change agenda, *Refreshing the Service Culture*, and has been successful in recruiting caseworkers from overseas to address local staff shortages. While having these caseworkers is fundamental for providing 'adequate and immediate support', given the issues identified, the Directorate's ability to provide 'adequate and immediate support' is at risk. The Public Advocate and the Children and Young People Commissioner (in the Human Rights Commission) are monitoring and overseeing the support services provided by the Community Services Directorate. However, their effectiveness and efficiency is restricted due particularly to a lack of clarity of terms in the legislation.

Chapter 2 – Best interests of a child or young person

The Director General, Community Services Directorate, has statutory parental responsibility for children and young people in out-of-home care. There were 573 children and young people in care on the 18 November 2012. The Director General cannot rely on the Directorate's own system to provide accurate information to be able to answer the question for all those in care; *Where are they (including during school hours)?*

Although the Directorate had accurate information on the location of children and young people in kinship care, which it directly manages, information on which schools some of these children and young people attended was inaccurate. For children and young people in residential placements managed by community service providers, information on their location and schooling was accurate on the Directorate's system. However, and more importantly, for some children or young people in foster care, information on their location in the Community Services Directorate's system was inaccurate and has to be gained through contacting community service providers who manage the out-of-home care placements on behalf of the Director General. This indirect access and having inaccurate information on the Directorate's system, is not satisfactory. Inaccurate information in the Directorate's system on foster care placements could be reduced by the community service providers being able to update their information directly into the Directorate's electronic data management system.

While this Audit did not address the issue of *How are they?* it did find that while the Care and Protection Services Branch receives reports on the welfare of those children and young people in foster and residential care, from community service providers, that some children and young people, after being placed on long term orders, may never be visited by staff from this Branch. Furthermore, there is no policy to guide visitations for monitoring the welfare of children and young people in out-of-home care.

Care and Protection Service Branch's risk based approach to guide its intake, response and intervention processes for managing children and young people, needs to be improved. Including and importantly by ensuring that the views and wishes of a child or young person is captured early in its processes, providing comprehensive reasons for transferring a child or young person from a parent or carer to the Director General and having an electronic data management system that allows information on children and young people to be readily accessed.

The adoption of a 'single caseworker' model in Protection Services in April 2012 is a significant improvement and once fully implemented should reduce the number of caseworkers who work with an individual child or young person thereby providing a greater sense of stability.

Strategies are needed for reducing the over representation of Aboriginal and Torres Strait Islander children and young people, particularly males, in the care of the Director General. Information on the culture and language/s spoken by children and young people who are subject of care and protection processes needs to be recorded and reported numerically to enable better service planning to support people from culturally and

linguistically diverse backgrounds.

Chapter 3 – Knowledge management and governance

Care and protection services are critically important and considerable Government funds are spent on these services. Therefore, these services it should be supported by a robust electronic system which provides accurate, timely and comprehensive information. The Community Services Directorate's electronic system, CHYPS, is not doing this. Given its failings, age and importance, it raises the question of whether CHYPS can be adequately modified to address its shortcomings or if it should be replaced.

Owing to the shortcomings in CHYPS, the Community Service Directorate's management of information and records on care and protection is poor. However, other factors also contribute, including having two record systems; CHYPS and paper files, CHYPS functions not being optimised and a lack of staff training in the use of CHYPS. CHYPS or its replacement should comply with Government recordkeeping standards so that it can be the primary records system for the Care and Protection Services Branch.

Governance arrangements that affect the Care and Protection Service Branch are poor as key policies, procedures and supporting tools are outdated or not available and electronic links to key reference materials do not always work. The Community Services Directorate is aware of these issues and has commenced addressing them.

There are no scheduled or regular quality assurance activities on case files, yet these are part of team leaders', managers' and practice leaders' duty statements. While the Care and Protection Services Branch acknowledges that this is the case, it is yet to develop a forward program and commence these reviews.

Owing to external reviews, the Community Services Directorate's Internal Audit Program for 2012-13 does not include any specific audits on the Care and Protection Services Branch practice management or specific administrative practices and processes. However, in forward years such matters need to be on the Internal Audit Program and should form part of the Directorate's internal control environment.

The Community Services Directorate is in the process of progressing some major change projects and initiatives, notably its Integrated Management System and a *Refreshing the Service Culture*. These, if fully implemented, should address issues identified in this Audit as well as those from other external reviews. However, the benefits of many of the change projects and initiatives are at risk of not being fully realised due to the limitations of CHYPS.

Greater use of the Directorate's Audit and Review Committee should be made to assist in independently monitoring risk and the progress in implementing the major change projects and initiatives.

Chapter 4 – The working environment

The Community Services Directorate has been very successful in recruiting caseworkers for the Care and Protection Services Branch. However, achieving this has required three

overseas recruitment drives because of the shortage of caseworkers locally and nationally.

While demands on the services provided by the Care and Protection Services Branch have fluctuated, overall there has been an increase. This has occurred at a time when the workforce capacity was not at its current level.

There are opportunities for improving workforce planning, capacity, capability and support, for example, implementing the Directorate's learning management software, maximising participation in training through providing flexible learning options, assessing reasons why the Employee Assistance Program is not widely used and ensuring that staff gain targeted support.

Chapter 5 – Working together

Concern Reports have increased since 2004-05 by 70 percent, from 7 275 in that year to 12 419 in 2011-12, this is greater than the 3.6 percent change in the ACT population of children and young people in the same period. An analysis of concern reports is needed to determine the proportion of reports that are care and protection issues and those reports that could have been referred to other Government agencies. Training for mandatory reporters on where to refer matters that are not care and protection issues may also be needed.

ACT Government directorates and entities need to improve their coordination and sharing of information so that greater support is given to children and young people who may need care and protection services. There are many ACT Government collaborative programs and initiatives being progressed that can assist children and young people. However, information on these and how they relate to each other is not readily available. Furthermore, there is a need for a system to be developed to facilitate the sharing of information on vulnerable children, young people and their families between ACT Government directorates and entities while taking into account privacy issues.

Priority needs to be given to ensuring that the Directors-General Strengthening Families Committee's Improving Services with Families project is implemented, as proposed, by the end of 2013. In addition, as all memoranda of understanding between the Community Services Directorate and other ACT Government directorates and entities are out-dated, the Community Services Directorate should develop a protocol or use some other mechanism to guide how it cooperatively works with other agencies.

Monitoring the provision of out-of-home care by community service providers is poor. In 2012, a 2009 set of Out-of-Home Care (pilot) Standards are being used and have not been finalised. Monitoring compliance with these standards occurs through self-assessment with no audits being routinely undertaken. Self-assessments do not guarantee that all the required standards are being met. In recognising a number of similar risks in September 2012, the Office for Children, Youth and Family Support commenced outsourcing audits on community service providers. At the conclusion of this audit one was completed and three others were being progressed.

Care and Protection Services Branch advises that they are in the process of beginning to

consult with the community services sector and are replacing the 2009 ACT Out-of-Home-Care Standards with, the 2011 National Standards during 2013. The Standards are to be notified under the *Children and Young People Act 2008*.

The recommendation by the Public Advocate to establish a statutory position of a Children's Guardian for accrediting out-of-home care community service providers, amongst other things, in the office of the Public Advocate, could potentially create a conflict of interest within that office. Accreditation should be undertaken by the Community Services Directorate allowing the Public Advocate and the Children and Young People Commissioner to independently monitor and oversee out-of-home care services thereby holding the Directorate to account.

Chapter 6 – Statutory office holders

The Public Advocate and the Children and Young People Commissioner (in the Human Rights Commission) are monitoring and overseeing the support services provided by the Community Services Directorate to children and young people in care and protection. However, the effectiveness and efficiency of this is restricted because of a lack of definition in the legislation, particularly in relation to what are 'systemic matters' and what are the obligations of the Human Rights Commission in its 'consideration' of such matters. Assuming that some 'systemic matters' may warrant a major inquiry/investigation by the Human Rights Commission, a mechanism for it to secure additional funding when warranted, needs to be identified.

It is a concern that some information reported by the Public Advocate and the Community Service Directorate contradicts. The Public Advocate has a critical role in monitoring care and protection services, aspects of this includes 507 reports, section 497 annual review reports, section 879 requests and attendance at Children's Court proceedings. A misalignment in reporting numbers of section 507 and annual review reports presents the risk that some children and young people may not be monitored and offered advocacy support.

A triage system is used to manage the risks associated with the decline in the percentage of section 497 annual review reports reviewed by the Public Advocate. The triaging needs to be assessed and if found inadequate, options for addressing shortcomings developed for consideration by the Minister for Disability, Children and Young People.

The Public Advocate and Human Rights Commission had shortcomings in their governance arrangements, some of which they can address. However, other shortcomings require the cooperation of Government directorates. The outdated protocols, with their host agency, the Justice and Community Safety Directorate, need to be updated.

Budgets of the Public Advocate and Human Rights Commission should be separately identified in budget papers and these statutory office holders held accountable for their budgets and reporting thereon. Their reporting on these issues should be independently verified.

At present, the Director General, Justice and Community Safety Directorate is held accountable for reporting on the Public Advocate and Human Rights Commission performance indicators and this Directorate's statement of performance may be given an

adverse finding, if there are shortcomings. This occurred for the 2011-12 financial year in relation to a Human Rights Commission performance indicator.

Both the Public Advocate and the Human Rights Commission need to review their performance indicators to better reflect their key activities that can be delivered within their allocated budgets. These officers should be held accountable for reporting on these and ensuring that all claims on performance are able to be independently verified.

KEY FINDINGS

1.14 The audit conclusions are supported by the following findings:

Chapter 2 – Best interests of the child or young person

The reader may wish to refer to Figure 2.1 – Overview of Care and Protection Services Branch's intake, response and intervention processes, when reading the key findings to understand which parts of these processes are being considered.

- On average there were 7 per 1 000 ACT children and young people in the care of the Director General at 30 June 2009-10, 2010-11 and 2011-12. While these numbers align with the Australian average of children living in out-of-home care, overall there has been a significant increase in out-of-home care in Australia; in 1990 there were 3 per 1 000 children and young people in out-of-home care. By 2010 this had increased to 7 per 1 000.
- The ACT had 573 children and young people in the care of the Director General, in out-of-home care as at 18 November 2012. Audit in examining if the Director General had ready access to information on their placements examined a selection of 341 (59 percent) placements of children and young people who were with 220 carers that information for:
 - 143 kinship carers who are managed by the Care and Protection Services Branch and five residential placement managers who are managed by community service providers, was available and accurate. While this was able to be established it took considerable effort and time to secure information because of the way it is stored in CHYPS and the Client Information Sheet (word document) used by the Care and Protection Services Branch; and
 - 9 of the 72 foster carers, who are managed through community service providers, did not have their correct contact details in either CHYPS or the Client Information Sheet. An additional foster carer had their information recorded correctly in CHYPS but incorrectly on the Client Information Sheet supplied to Audit. This is of concern and demonstrates that the records that are maintained by Care and Protection Services Branch are not kept up-to-date for those children and young people in foster care.
- Care and Protection Services Branch did not have accurate information on where 33 (9 percent) of the selected 341 children and young people, considered by Audit, who are in the care of the Director General, went to school. These details for these

children and young people were incorrectly recorded in both CHYPS and on the Client Information Sheet.

- Inaccurate information in the systems used by the Care and Protection Branch for managing children and young people in care does not allow the Director General to readily and accurately answer the important question of *Where are they (during non-school and school hours)?* Community service providers need to be contacted to secure this information for all children and young people in care. As the statutory parent, the Director General's own systems should provide accurate information to answer this question.
- While the Care and Protection Services Branch receives reports on the welfare of foster care children and young people from community service providers, some children and young people in foster care may never be visited, after being placed on long term orders, by staff in the Care and Protection Services Branch. There is also no formal policy to guide visitations for monitoring the welfare of children and young people in out-of-home care placements.
- The ACT, like other Australian jurisdictions, has an increasing number of Concern Reports. Concern Reports have increased by 70 percent from 7 275 in 2004-05 to 12 419 in 2011-12, yet the number of children and young people placed in the care of the Director General did not increase proportionally and the ACT population of children and young people only increased by 3.7 percent over the same period. An analysis of the increase in Concern Reports is needed to identify which reports were care and protection matters and which reports could have been referred to other Government agencies or the Community Services Sector.
- The Concern Report that can be generated using CHYPS only includes dates and the decided course of action. It does not include any historical information. However, comprehensive information is needed in order to undertake a accumulative risk assessment to determine what is in the best interests of a child or young person.
- In the 30 case studies Audit examined, the highest number of Concern Reports and/or Child Protection Reports in any one year for a child or young person was 19. Seventeen of the children and young people had between 11 and 30 Concern Reports and/or Child Protection Reports. Seven children and young people had more than 31 Concern Reports and/or Child Protection Reports. Only six children and young people had less than ten Concern Reports and/or Child Protection Reports. The lowest number of Concern Reports and/or Child Protection Reports was six, in contrast, one young person had 58 Concern Reports and/or Child Protection Reports.
- Children and young people who are the subject of multiple Concern Reports and/or Child Protection Reports need to be identified for further consideration. This would allow early intervention assistance to be provided.
- All options for commencing an Appraisal Outcome Report are less than seven days therefore it is expected that all appraisals are commenced within seven days.

However, this is not the case as in 2010-11, 129 (8 percent) of Appraisal Outcome Reports were not completed and in 2009-10, 212 (12 percent) were not commenced in less than seven days.

- There may be legitimate reasons for some Appraisal Outcome Reports not being completed in the 28 day timeframe. For example awaiting information from third parties such as ACT Policing and ACT Health.
- Templates for Child Protection Reports and Appraisal Outcome Reports do not have a section to record the views and wishes of a child or young person. Appraisal Outcome Reports examined, provided evidence of interviews with a child or young person. Accordingly, the templates used for Child Protection Reports and Appraisals Outcome Reports should be modified to include a section for recording the views and wishes of children and young people.
- It is important that for all cases where parental responsibility is transferred from a parent or carer to the Director General, under an emergency action, that all reasons for removal are detailed.
- There is limited access to electronic information for children or young people or parents. The Community Services Directorate website does not have a portal for children and young people or parents to obtain information on care and protection processes or fact sheets regarding their rights.
- The majority of children and young people in the care of the Director General are in kinship care or foster care; 78 percent for 2012, 76 percent for 2011 and 77 percent for 2010. Therefore, Care and Protection Services Branch has achieved its placement preferences.
- Care and Protection Services Branch informed Audit that monitoring the placements for each child and young person, including the number and length of time at each placement, is done on a case by case basis through case management. Placement trajectories for children and young people including whether they were successfully or unsuccessfully restored or lengths of placements are not being collected or analysed, other than at a high level for reporting for the *Report on Government Services* and ACT Government performance reporting.
- A total of 200 caseworkers and 156 team leaders were involved with 29 of the 30 children or young people Audit considered as case studies. The average number of caseworkers per case was seven. The lowest number was two and the highest number was fourteen. The numbers of caseworkers extracted would include every Care and Protection Services Branch staff member who made an entry in relation to the child or young person.
- A new 'single caseworker' model in Protection Services was implemented in April 2012 therefore it has not had time to take full effect. However, over time it should reduce the number of caseworkers who work with children and young people,

which should result in a greater sense of stability for the child or young person. This is a significant improvement.

- Although caseworkers and team leaders advised that the current requirements to explain decisions are taking staff as much time as that spent with the child or young person, there was a lack of records that supported the various decisions that were made.
- There is limited guidance provided to caseworkers and team leaders on what decisions are to be recorded and where to centrally record decisions.
- Of the 594 children in the care of the Director General, as at 30 June 2012, in an out-of-home care placement, 138 children and young people (23 percent) are Aboriginal or Torres Strait Islander children, of which there are 90 (65 percent) males and 48 (35 percent) females. This contrasts with the 456 non Aboriginal and Torres Strait Islander children and young people (with 50 percent males and 50 percent females).
- The number of Aboriginal and Torres Strait Islander children and young people and in particular males, placed in the care of the Director General, is significantly over represented.
- Due to the lack of data captured on cultural identity and religion of non Aboriginal and Torres Strait Islander children and young people, it would be difficult for Care and Protection Services Branch to analyse trends to determine if specialised support was needed for culturally and linguistically diverse families.
- Care and Protection Services used interpreting services on 103 occasions during 2011-2012.
- Despite the ACT Multicultural Strategy 2010-13 'targeting 100 percent of ACT Government publications to include accessibility block information', only 13 percent of government pamphlets gathered by Audit that may assist children and young people and their families or carers, contain multicultural references.

Chapter 3 – Knowledge management and governance

- The Care and Protection Services Branch staff are required to maintain both paper and electronic (CHYPS) files. The Community Services Directorate's Records Management Program does not define which file is the 'official record'. Usually the paper based file is the 'official record' for ACT Government Directorates. However, in practice, Care and Protection Services staff source the majority of information from CHYPS.
- CHYPS is not compliant with certain attributes needed for it to satisfy the Australian Government Recordkeeping Metadata Standard, it is therefore deficient from a recordkeeping perspective.

- For 30 case studies of children and young people, Audit compared information contained in paper files with that entered in CHYPS. There were inconsistencies in many cases examined.
- To obtain a basic understanding of a child's or young person's circumstances requires reading many documents in CHYPS as well as the paper files. In Audit's review of 30 cases of children and young people it took two to three hours to become familiar with a new case and even then important issues and actions may have been missed.
- CHYPS has more functions built into it than are currently used by staff in the Care and Protection Services Branch. Predominantly CHYPS is being used as a document storage system.
- The CHYPS 'client information sheet' needs to be modified to provide more comprehensive information about a child or young person to better inform decision making by Care and Protection Services Branch staff and to reduce the time taken to generate reports, such as those required by the ACT Children's Court and data for the national annual *Report on Government Services*.
- Section 497 of the *Children and Young People Act 2008* requires an annual summary of a child or young person's circumstances, an annual review report. If a caseworker has worked with the child or young person for all or the most part of the 12 months this takes around 2 to 3 hours to prepare. If not, then this preparation can take several days. An enhanced 'client information sheet' designed to incorporate such annual report data would significantly decrease the time taken to extract the information from individual documents and provide a useful summary for future use.
- Training is fundamental in ensuring staff have the needed skills to optimise their use of CHYPS. Some staff members accept a training session but are diverted from attending due to casework demands.
- At the time of this Audit, 80 (59 percent) of the 136 entries in the Community Services Directorate's internal register of care and protection policies and procedures were not available.
- The majority of care and protection policies and procedures available to staff are out-dated and electronic links to key reference materials do not always work
- Since the Demand Management Report was introduced in early 2007 it has not been formally reviewed.
- There are no scheduled or regular quality assurance activities conducted on case files by experienced and qualified care and protection staff. Peer reviews, team leader reviews or reviews conducted on a practice or clinical leadership basis are not being routinely conducted.

- In 2012, the Office of Children, Youth and Family Support developed and commenced implementing its Integrated Management System. This, if fully implemented, provides a framework for addressing issues identified in this audit and other external reviews. While this is the case, the deputy Chairperson of the Community Services Directorate's Audit and Review Committee has raised concerns about the Directorate's capacity to achieve the multiplicity of projects.
- Audit requested in July 2012 the current Care and Protection Services Branch Risk Register and Treatment Plan and in error was provided with a 2010 version, which had a number of shortcomings. The 2012 Risk Register and Treatment Plan was provided four months later. Audit acknowledges that there has been considerable effort invested by the Office of Children Youth and Family Support in 2011 and 2012 in developing the 2012 Care and Protection Services Branch Risk Register and Treatment Plan.
- The 2012-13 Community Services Directorate's Internal Audit Plan, identifies administrative processes for auditing such as grants administration, financial delegations and credit cards and petty cash. It does not include auditing programs such as those which affect the delivery of care and protection services. Audit has been advised that this is because there has been, and currently still are, external reviews underway, for example, this audit. While this is the case, forward internal audit programs should include high risk programs.
- The Community Services Directorate's *Refreshing the Service Culture* change agenda, introduced in April 2012, aims to meet the challenge of integrating actions to address internal and external reviews on care and protection services. All care and protection continuous improvement actions are also being integrated into this change agenda.

Chapter 4 – The working environment

- Staff in the Care and Protection Services Branch, work in a challenging environment, especially as 70 to 80 percent of children or young people who are in the care of the Director General are likely to come from a family with a parent or carer with a drug or alcohol problem, mental health concern and/or are the subject of, or a perpetrator of domestic violence.
- Since 2004-05 the number of Concern Reports has increased by 70 percent. Over the last three financial years Concern Reports have increased by 9 percent from 10 780 in 2009-10 to 11 712 in 2010-11 and further increased by 6 percent to 12 419 in 2011-12. Child Protection reports have increased by 17 percent from 2 903 in 2009-10 to 2 414 in 2010-11 and further increased by 30 percent to 3 147 in 2011-12.
- Appraisal Outcome Reports have decreased by 5 percent from 1 780 in 2009-10 to 1 672 in 2010-11 and then increased by 32 percent to 2 203 in 2011-12. The number of children and young people in the care of the Director General has increased by 3 percent from 555 as at 30 June 2010 to 572 as at 30 June 2012 and also increased by 4 percent to 594 as at 30 June 2012.

- During each of the last three years, there has been an increase in the number of court appearances by staff from the Care and Protection Services Branch in the Children's and Supreme Courts. There has been an increase from 809 in 2009-10 to 853 in 2011-12 for appearances in the Children's Court; and an increase from 14 in 2009-10 to 15 in 2011-12 for appearances in the Supreme Court. However, there has been a decrease of 47 percent from 55 in 2009-10 to 29 in 2011-12 for appearances in the Family Court.
- There has been an increase in workforce capacity of approximately 10 positions (5 percent) from 2009-10 to 2011-12.
- One hundred and six international caseworkers have been recruited as a result of recruitment drives in 2004, 2008 and 2011. Of the 32 recruited in 2004, and of the 36 recruited in 2008, 14 (44 percent) and 15 (42 percent), respectively are still employed as caseworkers and team leaders.
- In 2011-12, 11 (10 percent) staff left the Care and Protection Services Branch. This is a reduction in numbers from previous years of 24 (22 percent) in 2010-11, and 20 (18 percent) in 2009-10.
- The 28 June 2012 Care and Protection Services Branch Demand Management Report showed a steady increase in workforce capacity. The variation between funded positions and actual full time staff is at a low of 4.6 percent, being five positions. The initiative of the Community Service Directorate in recruiting and retaining staff for its Care and Protection Services Branch appears to be very successful.
- To produce the *Weekly Demand Management Report*, Care and Protection Services Branch conducts a head count rather than relying on the numbers produced by the Finance and Budget Branch from cost centre reports. Audit had to request validation of the full time equivalent funded positions and the actual staff numbers from Care and Protection Services several times. This was due to different numbers being reported by Care and Protection Services Branch and their clustering of positions under the title of 'front line care and protection staff' changing over the three financial years 2009-12 reported.
- Duty statements for caseworkers and team leaders were provided to Audit by the Community Services Directorate's Organisational Services Branch. These were last updated in 2007. The Care and Protection Services Branch advised that the five year old out-of-date duty statements for caseworkers and team leaders had been incorrectly provided to Audit and had been updated in 2011. Audit was later advised that the Directorate's Organisational Services Branch does not centrally hold duty statements for Directorate staff as Shared Services hold the most current duty statements.
- Learning management software was purchased in July 2010 and was customised and tested to ensure comparability with the ACT government network in 2011, however, in 2012 it is still not fully implemented.
- While the Community Services Directorate does have a training calendar and delivers many training courses, there is a need for training delivery to be designed

to maximise participation. This may mean that a different type of training delivery is needed, such as on-line training which has the advantages of flexible delivery times and places.

- There were only 19 incidents of threat to frontline staff in the Care and Protection Services Branch reported during the three years, 2009-12. This seems a small number given the working environment and the Care and Protection Services Branch staffing numbers (full time equivalent) of 153.9, 156.8 and 163.8 respectively for the three years 2009-12.
- Staff in the Care and Protection Service Branch who need assistance following an incident can seek internal assistance from their colleagues, peers, supervisors and the Directorate's Respect Equity and Diversity Officers.
- There were only 28 requests for Employee Assistance Program support by the Office of Children and Young People Division during 2011-12. The total staff number of the Division is 446.5 staff (full time equivalent) at 30 June 2012, therefore only 6 percent of this workforce has used the Employee Assistance Program.
- While staff are made aware of how to report incidents with respect to themselves, it appears that they are reluctant to do so. This suggests that there is a culture of not reporting incidents.
- There seems to be a reasonable level of regular operational supervision. However, having external specialist clinicians supervise or mentor caseworkers would assist in reducing the risk that the requirements in the Care and Protection Branch's supervision Policy/Framework were not met.
- Although a better practice initiative was the establishment of the positions of Practice Leaders, only one of the two of these positions was filled permanently at the time of this audit. This was mainly due to a shortage in caseworkers and team leaders and an increase in workloads.
- With the frontline Care and Protection Services Branch caseworkers workforce almost at full capacity, it is important that the two Practice Leaders positions are filled permanently to improve professional practice, service quality and statutory compliance.

Chapter 5 – Working together

- In 2009-10 and 2010-11, 39 and 37 percent, of the mandatory reports that progressed to an Appraisal Outcome Report were made by school personnel and police, respectively. Mandatory reports made by directorate officers, including Care and Protection Services Branch staff, accounted for 9 percent in 2010-11. School and police personnel have an important role in protecting and caring for children and young people.
- An analysis of concern reports is needed to determine the proportion of reports that are care and protection issues and those reports that could have been referred to other Government agencies. Training for mandatory reporters on where to refer matters that are not care and protection issues may also be needed.

- The existing memoranda of understanding are dated and require a refresh or replacement, particularly given the Hawke review (February 2011) 'One ACT Government – One ACT Public Service'. All new documents will need to incorporate new ACT Government initiatives, for example the Directors General's Strengthening Families Committee.
- Collecting information for this Audit on the many ACT Government collaborative programs and initiatives and gaining an understanding of their relationship to each other, involved a significant amount of time. Given the importance of this information, it needs to be readily available. Unless this occurs there is a risk that issues may not be addressed or effort to address an issue is duplicated. Accordingly, the Community Services Directorate, as lead agency, needs to document all ACT Government initiatives for vulnerable children, young people and their families, and make this information readily available to relevant Government agencies and their staff, the community and the community services sector.
- Information on children, young people and vulnerable families is collected and stored differently in each ACT Government Directorate. The importance of information sharing is highlighted in the following example:

A reporter raised concerns over several years regarding children not attending school, these were recorded in Concern Reports spanning five years. The reporter was concerned, amongst other things, that the children had not been given the opportunity to have an education. Six years after the initial report, Care and Protection Services Branch under section 862 of the *Children and Young People Act 2008* obtained information from the ACT Education and Training Directorate showing that the children had never attended school.

One of the children when starting school had missed up to 9 years education and the children involved started their schooling as teenagers.
- The Directors-General Strengthening Families Committee and its Improving Services with Families Project is an important initiative that needs to be progressed in a timely manner.
- There were 594 children and young people in the care of the Director General on 30 June 2012, 572 on 30 June 2011 and 555 on 30 June 2010. The shortfall in number of placements forecasted to the actual placements was 98 in 2010, 111 placements for 2011 and 133 placements in 2012.
- The 2012-13 is the first year forecasting has been realistic. Forecasted numbers for 2012-13 are 578, resulting in a shortfall of 16 places assuming the number of children and young people in out-of-home care remains much the same as in 2012. There is a risk that having forecast numbers that are significantly smaller than that which is likely to occur will result in an inadequate budget allocation. It is important to reflect realistic numbers of children and young people in the care of the Director General in a out-of-home care placement for budgeting purposes.
- In 2012-13 the budget for out-of-home care placements totalled \$26 462 935, without contingencies. This is an average of \$45 783 per child or young person, however, some forms of care are significantly lower in costs while others are

significantly higher. For example kinship care costs an average of \$19 267 per child or young person whereas residential care (intensive) costs an average of \$273 317. Around 50 percent of all children and young people in out-of-home care are in kinship care, which accounts for only around 15 percent of the total costs. While foster care and residential care each account for around 35 percent of total costs, foster care accommodates a significantly larger number of children and young people, around 43 percent while residential care only supports around 8 percent of all placements. Individual Support Placement costs are exceptionally high with approximately 3 percent of placements costing 5 percent of the total out-of-home care costs.

- A self-assessment is required twice yearly for community services providers of out-of-home care. A community service provider selects and reports against one section of the *2009 Out-of-home Care Standards* and Care and Protection Services Branch selects another section for the community service provider to report against.
- This method of reporting on out-of-home care community service providers does not allow a comprehensive analysis of compliance with the *Out-of-Home Care Standards*. This presents a significant risk that community service providers may not actually be complying with all 50 ACT Out-of-Home Care Standards and this is not known to the Care and Protection Services Branch.
- There is a lack of adequate controls surrounding compliance with standards and the quality of care of children and young people in the care of the Director General. Also the number of section 507 reports made to the Community Services Directorate and information from these provided to the Public Advocate have increased by 53 percent from 2009-10 to 2011-12 for children and young people who are in the care of the Director General and in an out-of-home care placement.
- The Community Services Directorate needs to develop a comprehensive overall quality control system for out-of-home care. Quality accreditation of out-of-home care community service providers should be undertaken by the ACT Community Services Directorate allowing the Public Advocate and the Children and Young People Commissioner to independently monitor services. However, this function should not be in the Care and Protection Services Branch.

Chapter 6 – Statutory office holders

- Under subsection 11(2) of the *Public Advocate Act 2005* 'The public advocate must refer systemic matters relating to children and young people to the human rights commission for consideration.'
- The Public Advocate undertakes 'systemic advocacy'. This has no legislative basis and the definition used by the Public Advocate appears equally applicable to 'systemic matters'.
- Only two 'systemic matters' have been formally referred to the Human Rights Commission since 2008. It appears that there are some historical matters that have

affected the Public Advocate's approach to referring 'systemic matters' to the Commission. As a consequence, the Public Advocate Office (on 30 January 2013) advised that 'In light of the experience with this matter and what we considered the lack of a positive and collaborative response, all future referrals were to be well considered by this office, ensuring that first we had exhausted all our advocacy efforts with individual clients'.

- In 2012, after the commencement of this audit, the Public Advocate formally referred a placement of indigenous children to the Commission as a 'systemic matter'. The Children and Young People Commissioner advised that 'Unfortunately at the current time I do not have the resources to undertake this activity. However I will look for opportunity for further discussions on this subject in the future'.
- While the legislation covering the Public Advocate and Human Rights Commission has been developed so that these statutory officers have complementary roles, there is some uncertainty because key terms, such as 'systemic matters' and 'consideration' have not been defined. Furthermore, there is a need for the obligations of the Human Rights Commission in its 'consideration' of 'systemic matters' to be defined. There is also a need to ensure that a mechanism exists for the Public Advocate to be required to release all relevant information to the Human Rights Commission, when 'systemic matters' are referred to the Commission.
- In 2011-12 there was a discrepancy of 93 percent between the numbers reported with respect to information from section 507 reports (which are generated in response to an issue concerning a child or young person who is in the care of the Director General) that the Public Advocate claims to have received compared with the number the Community Services Directorate claims to have supplied. Such inconsistencies have been occurring for at least the past three years. It is a concern that these bodies do not have the same understanding of the numbers, particularly with the risk that children and young people could be missed.
- The reduction from 82 percent in 2009-10 to 60 percent in 2011-12 of examinations by the Public Advocate of section 497 annual review reports (for each child or young person in the care of the Director General in out-of-home care) presents the risk that the Public Advocate's monitoring function is reduced and limits the certainty that advocacy is being provided to all those in need.
- The Public Advocate has implemented a triage system to manage the risks associated with the decrease in the percentage of annual review reports being examined and advised that resourcing limitations constrain the number of annual review reports it can examine in detail. The effectiveness of triaging needs to be assessed, taking into consideration the implementation of the proposed quality control process (Recommendation 1(m)) and if shortcomings are identified, options

for addressing this need should be developed and the Minister for Disability, Children and Young People be briefed.

- Monitoring by the Public Advocate, through section 879 requests has increased by 90 percent, from 14 requests in 2009-10 to 153 in 2011-12.
- In 2011-12 the Public Advocate advised that its staff attended 128 Children's Court Case Management Conferences.
- Audit was advised by the Commission that during 2010-11 it managed 571 complaints, and of the 71 complaints handled by the Children and Young People Commissioner, 'just under 58 percent' of complaints related to the care and protection services delivered by the Community Services Directorate.
- The Commission advised that it is 'responding to a significantly increased workload of individual complaints in all jurisdictions, including in the Children and Young People team where complaints have increased from 8 in 2007-08 to 83 in 2011-12'.
- The Children and Young People Commissioner's complaints management process is strategic and practical.
- The 2003 FEMAG, *Review of Community Advocacy and Statutory Oversight Agencies* report¹ highlighted that 'Unless we look at the underlying causes of complaints and address the system that generates them, the only certainty is that the number of complaints will increase beyond the capacity of ... external bodies to handle them'.
- The Children and Young People Commissioner has addressed 'systemic matters' in a number of ways. However, only one major inquiry/investigation has been undertaken and that was not specifically on care and protection matters. There is likely to be an occasion when major inquiries/investigations are warranted.
- The Public Advocate's all-of-office strategic plan expired in 2010, but its strategic plan for the Advocacy Section of the Office is current. The Public Advocate Office advised that it reviewed its all-of-office strategic plan in 2010 for a further three years. However, this was not evident to Audit when the plan was considered. The Office does have operational/annual work plans.
- The Human Rights Commission's strategic and operational plan expired in 2011.
- While both the Human Rights Commission and the Public Advocate have publically raised needing additional funding, it was not possible for Audit to form an opinion

¹ The Report of the Review of Statutory Oversight Agencies and Community Advocacy (a report by the Foundation for Effective Markets and Governance commissioned by the ACT Government in 2003 - the FEMAG Report);

on this issue as their reporting on budget expenditure was not detailed enough and sufficiently aligned with their reporting on accountability indicators.

- Since 2010 there has not been a protocol outlining responsibilities and administrative arrangements between the Justice and Community Safety Directorate and/or the Minister, with either the Public Advocate or the Human Rights Commission. New protocols are being drafted. Without protocols in place there is the risk that these independent statutory officers may not be adequately supported or know the process to apply in seeking additional support, if needed.
- The Human Rights Commission's accountability indicators have not always been independently verifiable. For example, in 2011-12 the Commission reported a result of 5 881 participants for the 'Number of participants in community education or engagement activities'. The Commission provided information such as emails and head counts to support the reported result. Audit could not verify the Commission's claim.
- The Public Advocate's indicators present information that is not readily understood and could be improved.

RECOMMENDATIONS AND RESPONSES

- 1.15 The audit made 11 recommendations to address the audit findings detailed in this report. High priority should be given to the implementation of the recommendations or parts thereof, in **bold**.
- 1.16 In accordance with section 18 of the *Auditor-General Act 1996*, a final draft of this report was provided to the Directors General of the Community Services Directorate, Justice and Community Safety Directorate, Chief Minister and Treasury Directorate for consideration and response. The Commissioners within the ACT Human Rights Commission and the ACT Public Advocate were also provided with a final draft for consideration and response.

Community Services Directorate overall response

The Community Services Directorate continually strives to obtain better outcomes for, and ensure the safety and wellbeing of those children, young people and their families who come into contact with the Directorate's services. The Auditor General's report and recommendations support the Directorate's commitment to improve engagement with children, young people and their families and improve service delivery and practice. Many of the issues of concern identified by the Auditor-General highlight the need for improvement in systems that support frontline workers to exercise their professional judgement in acting to safe guard children and young people from the worst excesses of abuse or neglect; while maximising the welfare of the child, young person and their family.

The Community Services Directorate commenced a program of change in the Office for Children, Youth and Family Support under the banner of the Refreshing the Service Culture in early 2012. This program is designed to enhance child protection outcomes and support front line workers.

The objective of the Refreshing the Service Culture is to achieve sustained quality in service delivery and practice. The recommendations made by the Auditor-General will strengthen and further focus this quality agenda.

Progress on key elements of this program of change are monitored by the Community Services Directorate Board of Management, the Community Services Directorate Project Management Office, the Audit and Review Committee and the independent Quarterly Milestone Review Committee which will conclude in 2013. These governance mechanisms will also be utilised to monitor the actioning of recommendations made by the Auditor-General.

Public Advocate overall response

Overall, the Public Advocate of the ACT (PA ACT) is supportive of findings and recommendations made in the Performance Audit Report (the Report) and looks forward to working collaboratively with the Community Services Directorate (CSD) and Children and Young People Commission (C&YPC) to improve service provision for children and young people in the care and protection system.

The Public Advocate supports, either in general or specifically, all recommendations except Recommendation 6 (f).

Audit Office comment on Public Advocate's response to Recommendation 6 (f)

Audit has carefully considered the Public Advocate's view and has recommended that the Public Advocate and the Children and Young People Commissioner be consulted in the development of the recommended overall quality control system for out-of-home care services (Recommendation 6 (d)). Furthermore, it is recommended that the Children and Young People Commissioner consider the effectiveness of this system when fully implemented (Recommendation 6 (g)).

Human Rights Commission overall response

The Commission did not provide an overall response. Comments were provided that need to be considered in implementing recommendations, including those that are the responsibility of the Community Services Directorate. The Commission has stated that it will share this information with the Directorate. Furthermore, the Commission stated that:

... there is common misunderstanding that the Human Rights Commissioner is the administrative head of the Human Rights Commission. This is incorrect, and impacts on how Directorates, the Assembly, and the media perceive and interact with the Commission and individual Commissioners. The Commission operates from a model of collegiality, with each of the three Commissioners having equal

standing within the Commission. The Commission does not have an administrative head, with all three Commissioners having equal seniority and decision making authority.

Justice and Community Safety Directorate overall response

This Directorate's response related to Chapter 6 – Statutory office holders:

In a small jurisdiction there are efficiencies in allowing statutory office holders to benefit from the services and resources that can be provided at a Directorate level. Examples include financial services and involvement in risk pooling arrangements such as the establishment of a maternity leave pool and involvement in broader Directorate initiatives such as the provision of a breast feeding room.

Recommendation 1 (Chapter 2 – Best interests of a child or young person)

The Community Services Directorate should improve its ability to give paramount consideration to the best interests of a child or young person, by:

- (a) **modifying CHYPS to facilitate quick access to all Concern Reports for a particular child or young person so that comprehensive information is available for a risk assessment (High Priority);**
- (b) **monitoring children and young people who are the subject of multiple Concern Reports and/or Child Protection Reports for further consideration, when warranted (High Priority);**
- (c) a Team Leader's approval being required for not completing Appraisal Outcome Reports within the 28 day target;
- (d) **including sections for recording the views and wishes of a child or young person in templates for Child Protection Reports and Appraisal Outcome Reports (High Priority);**
- (e) **providing detailed information in statements for removal, in addition to using wording from the *Children and Young People Act 2008*, when parental responsibility is transferred from a parent or carer to the Director General, under emergency action (High Priority);**
- (f) requiring caseworkers to succinctly document on the 'consultation with operations manager' form alternatives they considered before recommending emergency action;
- (g) placing all 'consultation with operations manager' documents in CHYPS;
- (h) making information about the care and protection processes available online/electronically for children and young people, parents and carers;
- (i) advising parents and carers that they can make a complaint to the Human Rights Commission (Children and Young People Commissioner) regarding the activities of the Care and Protection Services Branch;
- (j) monitoring the stability of placements for each child and young person including

- the number of placements and the length of time at each placement;
- (k) reducing the level of placement instability for children and young people in the care of the Director General in out-of-home care;
- (l) **the Director General and delegates, at all times, having ready access to accurate information on each child or young people in out-of-home care, that answers the questions of:**
- **How many children and young people are in care?**
 - **Who are they?**
 - **Where are they (during non-school and school hours)?**
 - **How are they?**
- (High Priority);**
- (m) **developing a quality control process to check that qualitative information for each child and young person is available and annually considered so that the questions in Recommendation 1 (l) can be readily answered (High Priority);**
- (n) **developing and implementing a policy for visitations for monitoring the welfare of children and young people in out-of-home care (High Priority);**
- (o) monitoring the implementation of its 'single caseworker' model;
- (p) modifying CHYPS to allow the number of caseworkers working with a child or young person to be extracted;
- (q) **developing guidelines on what decisions should be recorded, and where these decisions should be recorded in CHYPS (High Priority);**
- (r) **securing the support of the Strengthening Families Committee for it to identify ACT specific strategies for reducing the over representation of Aboriginal and Torres Strait Islander children and young people, particularly males, in the care of the Director General, and advise the Minister for Disability, Children and Young People on how best to progress actions to implement strategies (High Priority); and**
- (s) **securing the support of the Strengthening Families Committee, to develop and foster the implementation of strategies to increase access to information for people from non-English speaking and culturally diverse backgrounds (High Priority).**

Community Services Directorate response to:

Recommendation 1 (a)

Agreed

Improvements will be made to facilitate quick access to Concern Reports so that comprehensive information can be used for assessment.

Recommendation 1 (b)

Agreed

A monitoring process for children and young people subject to multiple Child Concern Reports has been enhanced and incorporated into the new Intake and Appraisal module for the Integrated Management System.

Recommendation 1 (c)

Agreed in principle

Consideration will be given to the most suitable method to approve/monitor the extension of time to complete Appraisal Outcome Reports. It should be noted that the Report on Government Services 2013 indicated that the ACT when compared to other jurisdictions continues to have the highest proportion of investigations which have commenced within 7 days (91.9%) and completed within 28 days (58.1%) (Tables 15A.14 and 15A.15)

Recommendation 1 (d)

Agreed

The recording of the views and wishes of a children or young person in templates for Children Protection Reports and Appraisal Outcome Reports has been incorporated into the new Intake and Appraisal module for the Integrated Management System.

Recommendation 1 (e)

Agreed

Recommendation 1 (f)

Agreed

Recording consultations between operations managers and caseworkers where significant decisions about children and young people are made including Emergency Action processes will be clearly recorded. The consultation with operations manager form will be taken to the Application Review Committee as a quality checking process.

Recommendation 1 (g)

Agreed

Recommendation 1 (h)

Agreed

Recommendation 1 (i)

Agreed

Recommendation 1 (j)

Agreed

Recommendation 1 (k)

Agreed

Care and Protection Services is always focused on reducing the level of placement instability for children in Out of Home Care, however decisions about stability do not override decisions about a child or young persons' safety and well being.

Recommendation 1 (l)

- **How many children and young people are in care?**

Agreed

The Community Services Directorate is already able to identify the number of children and young people in the care of the Director-General on any given day.

- **Who are they?**

Agreed

The Community Services Directorate is already able to give the names and dates of birth for every child or young person in the care of the Director-General.

- **Where are they (during non-school and school hours)?**

Agreed

The Community Services Directorate note that where contact details for a carer were out of date the child was in the care of a community agency who were able to provide accurate information about the child or young person's whereabouts.

- **How are they?**

Agreed

Care and Protection Services undertake a number of review mechanisms including Annual Reviews and Review of Arrangements to consider the individual circumstances of every child and young person in the care of the Director-General who are in out of home care. A suitable officer will be selected to identify ways to strengthen the current system.

Recommendation 1 (m)

Agreed

Recommendation 1 (n)

Agreed

A policy for visitations for monitoring the wellbeing of children and young people in out of home care will be incorporated into the Placement module of the Integrated Management System.

Recommendation 1 (o)

Agreed

Recommendation 1 (p)

Agreed

Improvements will be made to allow the extraction of the number of caseworkers working with a child or young person.

Recommendation 1 (q)

Agreed

Guidelines and training for significant decision making is currently being developed and rolled out.

Recommendation 1 (r)

Agreed

The Community Services Directorate agrees it will continue to identify ACT specific strategies for reducing the over representation of Aboriginal and Torres Strait Islander children and will refer any specific strategies to the Cabinet Aboriginal and Torres Strait Islander subcommittee.

Recommendation 1 (s)

Agreed

The Community Services Directorate agrees it will continue to develop and foster the implementation of strategies to increase access to information for people from non-English speaking and culturally diverse backgrounds and will refer any specific strategies to the ACT Government Policy Council for review.

Recommendation 2 (Chapter 3 –Knowledge management and governance)

The Community Services Directorate should improve its knowledge management and decision making, by:

- (a) the CHYPS 'client information sheet' template being modified to facilitate the collection of comprehensive information;
- (b) defining terms used in CHYPS;
- (c) optimising CHYPS functions so that its use extends beyond being a document storage system;
- (d) monitoring attendance of Care and Protection Services Branch staff at mandatory training for optimising their use of CHYPS and taking action to enforce attendance when necessary;
- (e) **evaluating if CHYPS can be modified to better support the Care and Protection Services Branch or whether it should be replaced (High Priority); and**
- (f) CHYPS, or its replacement, being compliant with record keeping standards so that it is the main file record system thereby significantly reducing the use of paper files.

Community Services Directorate response to:

Recommendation 2 (a)

Agreed

Recommendation 2 (b)

Agreed

Recommendation 2 (c)

Agreed

The Community Services Directorate has a project underway to maximise the full functionality of CHYPS and scope further enhancements. Any identified additional improvements to CHYPS will be subject to budget funding.

Recommendation 2 (d)

Agreed

Recommendation 2 (e)*Agreed**The Community Services Directorate has a project underway to maximise the full functionality of CHYPS and scope further enhancements. Any identified additional improvements to CHYPS will be subject to budget funding.***Recommendation 2 (f)***Agreed**Subject to funding.***Recommendation 3 (Chapter 3 –Knowledge management and governance)**

The Community Services Directorate should improve its governance, by:

- (a) **continuing to update care and protection policies and procedures by December 2013 (High Priority);**
- (b) having all electronic links to key reference materials functioning;
- (c) continuing to develop supporting tools for implementing policies and procedures;
- (d) the Quality Practice and Compliance Unit developing a forward review program and commence reviews, including on Care and Protection Services Branch practice management;
- (e) **the Project Management Office closely monitoring the delivery of the Integrated Management System to assist achieving the identified milestones within specified target dates and routinely advising the Community Services Directorate's Audit and Review Committee on progress (High Priority);**
- (f) routinely monitoring the Care and Protection Services Branch Risk Register and Treatment Plan and updating these documents accordingly, with a review occurring annually;
- (g) the Directorate's Audit and Review Committee independently and routinely monitoring Care and Protection Services Branch's implementation of controls and additional treatments for its high and very high risks;
- (h) formally reviewing the Demand Management Report on a regular basis;
- (i) major Care and Protection Services Branch programs being included in its forward Internal Audit Programs; and
- (j) **the Project Management Office continuing to monitor the implementation of recommendations from internal and external reviews on care and protection services and internal continuous improvement initiatives, and routinely**

advising the Community Service Directorates' Audit and Review Committee on progress (High Priority).

Community Services Directorate response to:

Recommendation 3 (a)

Agreed

Care and Protection Services, through the development of the Integrated Management System, will progressively implement policies and procedures as they are developed. The program and schedule of policy and procedure development is monitored by the Community Services Directorate Project Management Office.

Recommendation 3 (b)

Agreed

The Integrated Management System will include electronic linking facilities.

Recommendation 3 (c)

Agreed

The Integrated Management System is developing support tools to assist with implementing policies and procedures.

Recommendation 3 (d)

Agreed

The Quality Practice and Compliance Unit has commenced a forward review and audit program.

Recommendation 3 (e)

Agreed

The report from the Project Management Office will become a standing item on the Audit and Review Committee agenda

Recommendation 3 (f)

Agreed

Recommendation 3 (g)

Agreed

While the Audit and Review Committee already monitors risk, in future it will standardise this process by routinely monitoring the two highest risks in each unit of the Community Services Directorate.

Recommendation 3 (h)

Agreed

A review of the Demand Management Report has commenced for 2013.

Recommendation 3 (i)

Agreed

The audit priorities will be determined by the Director-General on advice from the Audit and Review Committee.

Recommendation 3 (j)

Agreed in principle

The Audit and Review Committee will continue to monitor implementation of internal and external reviews, as per its Charter.

Recommendation 4 (Chapter 4 – The working environment)

The Community Services Directorate should improve its workforce planning, capacity, capability and support, by:

- (a) developing a system to report its staff numbers accurately and in a consistent manner by its various Branches;
- (b) developing and implementing a process whereby when Duty Statements are updated internally and provided to the Directorate's Organisational Services Branch;
- (c) **fully implementing its learning management software, centrally recording learning and development plans of all staff and requiring all staff to have a learning and development plan to comply with the Community Services Directorate's Enterprise Agreement 2011-13 (High Priority);**
- (d) assessing whether specific care and protection training courses are needed for new team leaders and managers;
- (e) maximising participation in training through providing flexible learning options, such as online courses;
- (f) encouraging the reporting of incidents so that it becomes part of the culture in the Care and Protection Services Branch;
- (g) assessing the reasons why the Employee Assistance Program is not widely used by Care and Protection Service's staff and to provide staff with an opportunity to gain targeted support;

- (h) integrating staff supervision agreements with professional learning and development plans;
- (i) undertaking regular quality assurance reviews on supervision requirements and related documents;
- (j) **continuing to implement supervision projects and providing staff in the Care and Protection Services Branch with external supervision and/or mentoring opportunities (High Priority); and**
- (k) **filling permanently both the Practice Leaders positions and ensure that the roles and responsibilities of the duty statements are fulfilled (High Priority).**

Community Services Directorate response to:

Recommendation 4 (a)

Agreed

Recommendation 4 (b)

Agreed

Recommendation 4 (c)

Agreed

Recommendation 4 (d)

Agreed

A project under the Refreshing the Service Culture program is already underway to identify any gaps in training or if there is any new training required to deliver new policy and procedures. This project will address whether there needs to be any further training courses for team leaders and managers.

Recommendation 4 (e)

Agreed

Recommendation 4 (f)

Agreed

Recommendation 4 (g)

Agreed

Recommendation 4 (h)

Agreed

Recommendation 4 (i)*Agreed***Recommendation 4 (j)***Agreed*

A Strengthening Supervision Project was conducted from February 2012-February 2013 and lifted the quality of supervision given to staff. The project is now embedded in caseworker and supervisors practice and supported by ongoing Practice Groups for team leaders and operations managers.

Recommendation 4 (k)*Agreed*

The Practice Leader position will be advertised shortly.

Recommendation 5 (Chapter 5 – Working together)

The Community Services Directorate should lead the improvement of across Government collaboration for children, young people and their families, by:

- (a) **analysing concern reports to identify which reports are care and protection matters and which could have been referred to other government agencies or the community sector and presenting these results to the Directors General Strengthening Vulnerable Families Committee (High Priority);**
- (b) continuing to support the Directors-General Strengthening Families Committee in implementing its Improving Services with Families Project (by the end of 2013);
- (c) developing a protocol or some other mechanism for:
 - cooperatively continuing to work with the Health Directorate, Australian Federal Police (ACT Policing), Education and Training Directorate, Youth Supported Accommodation Assistance Program; and
 - Care and Protection Services Branch and Housing ACT; and Care and Protection Services Branch and Aboriginal and Torres Strait Islander Services Unit, to better integrate services internally;
- (d) **documenting all ACT Government collaborative programs and initiatives for vulnerable children, young people and their families, and making this information available to relevant Government agencies and their staff, the community and the community services sector (High Priority); and**
- (e) **developing an information system for sharing information on vulnerable children, young people and their families between ACT Government**

directorates and entities while taking into account privacy issues (High Priority).

Community Services Directorate response to:

Recommendation 5 (a)

Agreed

However, the results of the analysis of Child Concern reports will be presented to the executive bilateral forums with the Health Directorate, the Education and Training Directorate, the Australian Federal Police and the community sector.

Recommendation 5 (b)

Agreed

Recommendation 5 (c)

Agreed

Recommendation 5 (d)

Agreed

Consultation with other ACT Government Directorates will be required.

Recommendation 5 (e)

Agreed in principle

The Community Services Directorate agrees to improve information sharing between directorates however the development of an information sharing database would be subject to budget funding and legislated privacy principles through the Children and Young People Act 2008, Privacy Act 1988 and the Human Rights Act 2004.

Recommendation 6 (Chapter 5 – Working together)

The Community Services Directorate should improve its management and quality control over out-of-home care community service providers, by;

- (a) all future forecast numbers for out-of-home care should reflect probable realistic numbers to facilitate the allocation of an adequate budget, as was done in 2012-13;
- (b) continuing to replace the 2009 ACT Out-of-Home-Care standards with the 2011 National Standards during 2013 and having these notified under the *Children and Young People ACT 2008*;
- (c) **continuing to give priority to conducting audits of ACT out-of-home care providers against the 2009 Standards by the end of 2013 (High Priority);**
- (d) **developing an overall quality control system that includes accreditation and**

monitoring of community service providers providing out-of-home care services, the Public Advocate and Children and Young People Commission should be consulted in the development of the system (High Priority);

- (e) updating the 3 year funding agreements to reflect the 2011 National Standards and the revised quality control system and assurance activities;
- (f) **accreditation and monitoring of out-of-home care providers being undertaken in the Directorate but independently of Care and Protection Services Branch and the executive head of the unit responsible for accreditation reporting directly to the Director General (High Priority); and**
- (g) requesting that the Children and Young People Commissioner give consideration to the effectiveness of the overall quality control system once fully implemented.

Community Services Directorate response to:

Recommendation 6 (a)

Agreed

As the Auditor-General noted the Community Services Directorate was able to obtain adequate budget in 2012-2013. The Community Services Directorate will continue to forecast the needs of children and young people in out of home care.

Recommendation 6 (b)

Agreed

The pilot ACT Out of Home Care Standards are currently being reviewed against the national Out of Home Care Standards and the national Standards will be notified under the Children and Young People Act 2008 by mid 2013.

Recommendation 6 (c)

Agreed

In May 2012, the Community Services Directorate commenced an independent external audit program. This initiative is well advanced and will be completed by mid 2013.

Recommendation 6 (d)

Agreed

Recommendation 6 (e)

Agreed

Recommendation 6 (f)

Agreed

Recommendation 6 (g)

Agreed

ACT Human Rights Commission response to:

Recommendation 6 (d) & (g)

Agreed

Recommendation 7 (Chapter 6 – Statutory office holders)

The Community Services Directorate and the Public Advocate should:

- (a) develop a system to ensure that information they share and publically report is accurate and comprehensive, particularly regarding section 507 reports and annual review reports; and
- (b) assess whether the risks associated with the Public Advocate's reduction in percentage of annual review reports being examined is adequately addressed through triaging and the implementation of a quality control process (Recommendation 1(m)), and if not, options for addressing this should be developed. Findings of the assessment and options for addressing any shortcomings, if needed, should be reported to the Minister for Disability, Children and Young People.

Community Services Directorate response to:

Recommendation 7 (a)

Agreed

The Community Services Directorate agrees to develop a system to ensure that information between the Directorate and the Public Advocate is accurate and comprehensive.

Recommendation 7 (b)

Agreed

With the implementation of an accreditation system for out of home care providers and developing a policy on visitation for children and young people in out of home care any risks associated with the Public Advocates triaging of annual review reports is mitigated by the Directorates internal processes.

ACT Public Advocate response to:**Recommendation 7 (a)**

Agreed

The PA ACT is committed to reviewing current compliance monitoring and reporting processes with the CSD to ensure the best system is in place. The PA ACT will also advise the CSD on data to be published by the PA ACT, which will allow for discrepancies in reporting to be alleviated where possible.

With regard to the discrepancy in reporting section 507 (abuse in Care) reports, in 2011-12 the PA ACT reported that it received 95 reports (ie there were 95 records of children and young people listed on the database where the PA ACT met with the CSD in reviewing the case, this includes children and young people listed more than once if they were subject to different abuse in care incidents). As the PA ACT monitors individual children and young people for each report, the PA ACT, reports and counts each separate listing on the database where the PA ACT also has met with the CSD about the case. On the other hand, CSD reports may include a number of children in one report, which is given an identifying report number on the database. As discrepancies in reporting of figures with the CSD have been identified by audit, the PA ACT will review current systems and make improvements where indicated.

Audit has also identified discrepancies in reporting regarding Annual Review Reports provided by the CSD to the PA ACT and those reports the PA ACT claims to have received and returned to them. Whilst strategies are in place to ensure accurate reporting, the PA ACT will revisit this issue with the CSD.

Recommendation 7 (b)

Agreed

As a result of compliance monitoring by the PA ACT and the efforts of the CSD, for 2011-12 the PA ACT received 599 Annual Review reports which presented a workload capacity issue for the PA ACT, as only one officer of the PA ACT is responsible for all advocacy functions for children and young people in care and protection services and in youth detention. It is beyond the capacity of that one staff member to comprehensively audit all Annual Review reports and attend to other critical advocacy issues in this program area. In response to this resourcing issue, the PA ACT implemented a triaging system for the initial review of these reports. Audit has raised possible risks regarding the adequacy of this triaging process. The PA ACT will thoroughly review the current system and engage in discussions with the CSD on this issue to alleviate potential risks.

The PA ACT also considers that the CSD can implement quality control strategies to reduce risk in this area. For example, the PA ACT understands that Annual Review

Reports are not necessary completed by the child or young person's caseworker. The child or young person's caseworker however is best placed to have information and detailed knowledge on the child or young person's current situation and could more suitably report on the views and wishes of the child or young person. The PA ACT will engage in further discussions with the CSD on implementing quality control processes for Annual Review Reports.

Recommendation 8 (Chapter 6 – Statutory office holders)

The Justice and Community Safety Directorate should facilitate a process to assist the Public Advocate and Human Rights Commission better undertake their roles, by:

- (a) identifying any legislative amendments that may be required to define 'systemic matters' and processes for referral of these from the Public Advocate to the Human Rights Commission;
- (b) clarifying whether 'consideration', as per section 11(2) of the *Public Advocate Act 2005* is to be construed as having the same meaning as the consideration provisions in the *Human Rights Act 2005*;
- (c) clarifying, and if needed, identifying legislative amendments to facilitate the releasing of information by the Public Advocate to the Human Rights Commission, when 'systemic matters' are referred; and
- (d) **identifying how funding, when needed, is to be provided to the Human Rights Commission to undertake major inquiries/investigations on 'systemic matters' (High Priority).**

Public Advocate response to:

Recommendation 8 (a), (b) & (c)

Agreed

Recommendation 8 (d)

The Public Advocate has also raised issues regarding funding and has advised that:

Agreed

The PA ACT has only three Senior Advocates in the five staff in the Advocacy Unit, one of whom has responsibility for the entire children and young people program area. This resource constraint impacts on the PA ACT's ability to adequately monitor services for the protection of children and young people. The PA ACT accepts Audit's recommendation regarding seeking additional funding, both supplementary and 'one-off' funding and will be progressing this with the JACS and CSD.

Audit Office comment on Public Advocate's response to Recommendation 8 (d)

Audit notes the ACT Public Advocate's response, however Audit was not able to determine how much of the ACT Public Advocate's Office budget was specifically allocated to care and protection matters, as this is not separately reported. Recommendations have been made to increase the transparency of financial information and better tailor performance indicators.

Human Rights Commission response to:**Recommendation 8 (a), (b) & (c)**

Agreed

Recommendation 8 (d)

Agreed

However, legislative reform itself will be insufficient to allow the Children and Young People Commissioner to effectively monitor and oversee services provided by the Community Services Directorate. The Children and Young People Commissioner is currently struggling to meet his statutory obligations, and without additional resources, the capacity of the Commission to undertake any substantial investigations or reviews is severely compromised.

Audit Office comment on Human Rights Commission's response to Recommendation 8 (d)

Audit notes the Commission's response, however Audit was not able to determine how much of the Human Rights Commission's budget was specifically allocated to care and protection matters, as this is not separately reported. Recommendations have been made to increase the transparency of financial information and better tailor performance indicators.

Justice and Community Safety Directorate response to:**Recommendation 8 (a)**

Agreed

The Directorate agrees that clarity in the roles and functions of statutory office holder under legislation is important and notes the link with recommendation 9 (a). The Directorate will facilitate the development of protocols under that recommendation.

Recommendation 8 (b)

Agreed

The Directorate agrees that clarity in the roles and functions of statutory office holders under legislation is important.

Recommendation 8 (c)

Agreed

The Directorate will explore whether legislative amendments should be prepared to address this issue.

Recommendation 8 (d)

Not Agreed

The Financial Management Act 1996 provides a clear framework for the appropriation of funds through the budget process and the making of provision for unexpected events (through the Treasurer's Advance). There are clear guidelines about how funding is bid for, and there are clear guidelines and criteria in relation to Treasurer's Advances.

Recommendation 9 (Chapter 6 – Statutory office holders)

The Public Advocate and Human Rights Commission should enhance their ability to meet legislative requirements and improve their governance arrangements by:

- (a) developing a protocol to define the process whereby the Public Advocate refers 'systemic matters' to the Human Rights Commission for consideration, and the Commission advises the Public Advocate of any actions taken as a consequence.
- (b) keeping their strategic plans up-to-date and documenting on the plans when they are reviewed.
- (c) reviewing their performance indicators to better reflect their key activities that can be delivered within their allocated budget; and
- (d) collecting information that can be independently verified when reporting on their performance against their performance indicators.

Public Advocate to:

Recommendation 9 (a), (b), (c) & (d)

Agreed

Human Rights Commission response to:

Recommendation 9 (a), (b), (c) & (d)

Agreed

Recommendation 10 (Chapter 6 – Statutory office holders)

The Public Advocate and Human Rights Commission and the Justice and Community Safety Directorate should finalise their protocols and include information on the process these independent statutory office holders should use to seek additional funding, both supplementary funding and 'one-off' funding.

Public Advocate response to:

Recommendation 10

Agreed

Human Rights Commission response to:

Recommendation 10

Agreed

The Commission does, however, note that it has oversight of JACSD, and that conflicts of interest may apply with respect to the Commission seeking funding from JACSD for particular activities.

Justice and Community Safety response to:

Recommendation 10

Agreed

A memorandum of understanding between the Directorate and the Public Advocate had been settled as ready for signing. A memorandum of understanding between the Directorate and the Human Rights Commission is close to finalisation. The Directorate and office holders have been operating as if the previous MOUs are still operating.

Recommendation 11 (Chapter 6 – Statutory office holders)

The Chief Minister and Treasury Directorate should provide a mechanism to:

- (a) increase the transparency of financial information on the Public Advocate and Human Rights Commission presented in budget papers;
- (b) increase the accountability of the Public Advocate and Human Rights Commission by requiring that financial information reported in their Annual Reports is audited. (The protocols between the Public Advocate and Human Rights Commission and the Justice and Community Safety Directorate (Recommendation 10) could state how this is to be achieved);
- (c) increase the quality of performance indicators, used by the Public Advocate and Human Rights Commission, so that these are aligned with funded outputs; and
- (d) hold the Public Advocate and Human Rights Commission accountable for reporting on their performance indicators with these being assessed by the Audit Office before being included in their Annual Reports. (Their protocol with the Justice and Community Safety Directorate (Recommendation 10) could state how this is to be achieved).

Public Advocate response to:

Recommendation 11 (a), (b), (c) & (d)

Agreed

Human Rights Commission response to:

Recommendation 11 (a), (b), (c) & (d)

Agreed

Chief Minister and Treasury Directorate response to:

Recommendation 11 (a), (b), (c) & (d)

Agreed

Chief Minister and Treasury Directorate will work with the statutory office holders and the Justice and Community Safety Directorate to increase transparency of the funded outputs.

2. BEST INTERESTS OF A CHILD OR YOUNG PERSON

- 2.1 This chapter examines how the Care and Protection Services Branch manages its intake, response and intervention services to ensure that the best interests of a child and young person is its paramount consideration.
- 2.2 Intake, response and intervention processes are focused on activities and decision making that occurs prior to a child or young person being placed in out-of-home care. Out-of-home care is considered to a limited degree in this chapter and in Chapter 5.
- 2.3 This audit did not examine early intervention and prevention or family support programs.

SUMMARY

Conclusion

The Director General, Community Services Directorate, has statutory parental responsibility for children and young people in out-of-home care. There were 573 children and young people in care on the 18 November 2012. The Director General cannot rely on the Directorate's own system to provide accurate information to be able to answer the question for all those in care; *Where are they (including during school hours)?*

Although the Directorate had accurate information on the location of children and young people in kinship care, which it directly manages, information on which schools some of these children and young people attended was inaccurate. For children and young people in residential placements managed by community service providers, information on their location and schooling was accurate on the Directorate's system. However, and more importantly, for some children or young people in foster care, information on their location in the Community Services Directorate's system was inaccurate and has to be gained through contacting community service providers who manage the out-of-home care placements on behalf of the Director General. This indirect access and having inaccurate information on the Directorate's system, is not satisfactory. Inaccurate information in the Directorate's system on foster care placements could be reduced by the community service providers being able to update their information directly into the Directorate's electronic data management system.

While this Audit did not address the issue of How are they? it did find that while the Care and Protection Services Branch receives reports on the welfare of those children and young people in foster and residential care, from community service providers, that some children and young people, after being placed on long term orders, may never be visited by staff from this Branch. Furthermore, there is no policy to guide visitations for monitoring the welfare of children and young people in out-of-home care.

Care and Protection Service Branch's risk based approach to guide its intake, response

and intervention processes for managing children and young people, needs to be improved. Including and importantly by ensuring that the views and wishes of a child or young person is captured early in its processes, providing comprehensive reasons for transferring a child or young person from a parent or carer to the Director General and having an electronic data management system that allows information on children and young people to be readily accessed.

The adoption of a 'single caseworker' model in Protection Services in April 2012 is a significant improvement and once fully implemented should reduce the number of caseworkers who work with an individual child or young person thereby providing a greater sense of stability.

Strategies are needed for reducing the over representation of Aboriginal and Torres Strait Islander children and young people, particularly males, in the care of the Director General. Information on the culture and language/s spoken by children and young people who are subject of care and protection processes needs to be recorded and reported numerically to enable better service planning to support people from culturally and linguistically diverse backgrounds.

Key Findings

The reader may wish to refer to Figure 2.1 – Overview of Care and Protection Services Branch's intake, response and intervention processes, when reading the key findings to understand which parts of these processes are being considered.

- On average there were 7 per 1 000 ACT children and young people in the care of the Director General at 30 June 2009-10, 2010-11 and 2011-12. While these numbers align with the Australian average of children living in out-of-home care, overall there has been a significant increase in out-of-home care in Australia; in 1990 there were 3 per 1 000 children and young people in out-of-home care. By 2010 this had increased to 7 per 1 000.
- The ACT had 573 children and young people in the care of the Director General, in out-of-home care as at 18 November 2012. Audit in examining if the Director General had ready access to information on their placements examined a selection of 341 (59 percent) placements of children and young people who were with 220 carers that information for:
 - 143 kinship carers who are managed by the Care and Protection Services Branch and five residential placement managers who are managed by community service providers, was available and accurate. While this was able to be established it took considerable effort and time to secure information because of the way it is stored in CHYPS and the Client Information Sheet (word document) used by the Care and Protection Services Branch; and
 - 9 of the 72 foster carers, who are managed through community service providers, did not have their correct contact details in either CHYPS or the Client Information Sheet. An additional foster carer had their information

recorded correctly in CHYPS but incorrectly on the Client Information Sheet supplied to Audit. This is of concern and demonstrates that the records that are maintained by Care and Protection Services Branch are not kept up-to-date for those children and young people in foster care.

- Care and Protection Services Branch did not have accurate information on where 33 (9 percent) of the selected 341 children and young people, considered by Audit, who are in the care of the Director General, went to school. These details for these children and young people were incorrectly recorded in both CHYPS and on the Client Information Sheet.
- Inaccurate information in the systems used by the Care and Protection Branch for managing children and young people in care does not allow the Director General to readily and accurately answer the important question of *Where are they (during non-school and school hours)?* Community service providers need to be contacted to secure this information for all children and young people in care. As the statutory parent, the Director General's own systems should provide accurate information to answer this question.
- While the Care and Protection Services Branch receives reports on the welfare of foster care children and young people from community service providers, some children and young people in foster care may never be visited, after being placed on long term orders, by staff in the Care and Protection Services Branch. There is also no formal policy to guide visitations for monitoring the welfare of children and young people in out-of-home care placements.
- The ACT, like other Australian jurisdictions, has an increasing number of Concern Reports. Concern Reports have increased by 70 percent from 7 275 in 2004-05 to 12 419 in 2011-12, yet the number of children and young people placed in the care of the Director General did not increase proportionally and the ACT population of children and young people only increased by 3.7 percent over the same period. An analysis of the increase in Concern Reports is needed to identify which reports were care and protection matters and which reports could have been referred to other Government agencies or the Community Services Sector.
- The Concern Report that can be generated using CHYPS only includes dates and the decided course of action. It does not include any historical information. However, comprehensive information is needed in order to undertake a accumulative risk assessment to determine what is in the best interests of a child or young person.
- In the 30 case studies Audit examined, the highest number of Concern Reports and/or Child Protection Reports in any one year for a child or young person was 19. Seventeen of the children and young people had between 11 and 30 Concern Reports and/or Child Protection Reports. Seven children and young people had more than 31 Concern Reports and/or Child Protection Reports. Only six children and young people had less than ten Concern Reports and/or Child Protection Reports. The lowest number of Concern Reports and/or Child Protection Reports

was six, in contrast, one young person had 58 Concern Reports and/or Child Protection Reports.

- Children and young people who are the subject of multiple Concern Reports and/or Child Protection Reports need to be identified for further consideration. This would allow early intervention assistance to be provided.
- All options for commencing an Appraisal Outcome Report are less than seven days therefore it is expected that all appraisals are commenced within seven days. However, this is not the case as in 2010-11, 129 (8 percent) of Appraisal Outcome Reports were not completed and in 2009-10, 212 (12 percent) were not commenced in less than seven days.
- There may be legitimate reasons for some Appraisal Outcome Reports not being completed in the 28 day timeframe. For example awaiting information from third parties such as ACT Policing and ACT Health.
- Templates for Child Protection Reports and Appraisal Outcome Reports do not have a section to record the views and wishes of a child or young person. Appraisal Outcome Reports examined, provided evidence of interviews with a child or young person. Accordingly, the templates used for Child Protection Reports and Appraisals Outcome Reports should be modified to include a section for recording the views and wishes of children and young people.
- It is important that for all cases where parental responsibility is transferred from a parent or carer to the Director General, under an emergency action, that all reasons for removal are detailed.
- There is limited access to electronic information for children or young people or parents. The Community Services Directorate website does not have a portal for children and young people or parents to obtain information on care and protection processes or fact sheets regarding their rights.
- The majority of children and young people in the care of the Director General are in kinship care and foster care; 78 percent for 2012, 76 percent for 2011 and 77 percent for 2010. Therefore, Care and Protection Services Branch has achieved its placement preferences.
- Care and Protection Services Branch informed Audit that monitoring the placements for each child and young person, including the number and length of time at each placement, is done on a case by case basis through case management. Placement trajectories for children and young people including whether they were successfully or unsuccessfully restored or lengths of placements are not being collected or analysed, other than at a high level for reporting for the Report on Government Services and ACT Government performance reporting.
- A total of 200 caseworkers and 156 team leaders were involved with 29 of the

30 children or young people Audit considered as case studies. The average number of caseworkers per case was seven. The lowest number was two and the highest number was fourteen. The numbers of caseworkers extracted would include every Care and Protection Services Branch staff member who made an entry in relation to the child or young person.

- A new 'single caseworker' model in Protection Services was implemented in April 2012 therefore it has not had time to take full effect. However, over time it should reduce the number of caseworkers who work with children and young people, which should result in a greater sense of stability for the child or young person. This is a significant improvement.
- Although caseworkers and team leaders advised that the current requirements to explain decisions are taking staff as much time as that spent with the child or young person, there was a lack of records that supported the various decision that were made.
- There is limited guidance provided to caseworkers and team leaders on what decisions are to be recorded and where to centrally record decisions.
- Of the 594 children in the care of the Director General as at 30 June 2012, in an out-of-home care placement, 138 children and young people (43 percent) are Aboriginal or Torres Strait Islander children, of which there are 90 (65 percent) males and 48 (35 percent) females. This contrasts with the 456 non Aboriginal and Torres Strait Islander children and young people (with 50 percent males and 50 percent females).
- The number of Aboriginal and Torres Strait Islander children and young people and in particular males, placed in the care of the Director General, is significantly over represented.
- Due to the lack of data captured on cultural identity and religion of non Aboriginal and Torres Strait Islander children and young people, it would be difficult for Care and Protection Services Branch to analyse trends to determine if specialised support was needed for culturally and linguistically diverse families.
- Care and Protection Services used interpreting services on 103 occasions during 2011-2012.
- Despite the ACT Multicultural Strategy 2010-13 'targeting 100 percent of ACT Government publications to include accessibility block information', only 13 percent of government pamphlets gathered by Audit that may assist children and young people and their families or carers, contain multicultural references.

ASSESSING THE BEST INTERESTS OF A CHILD OR YOUNG PERSON

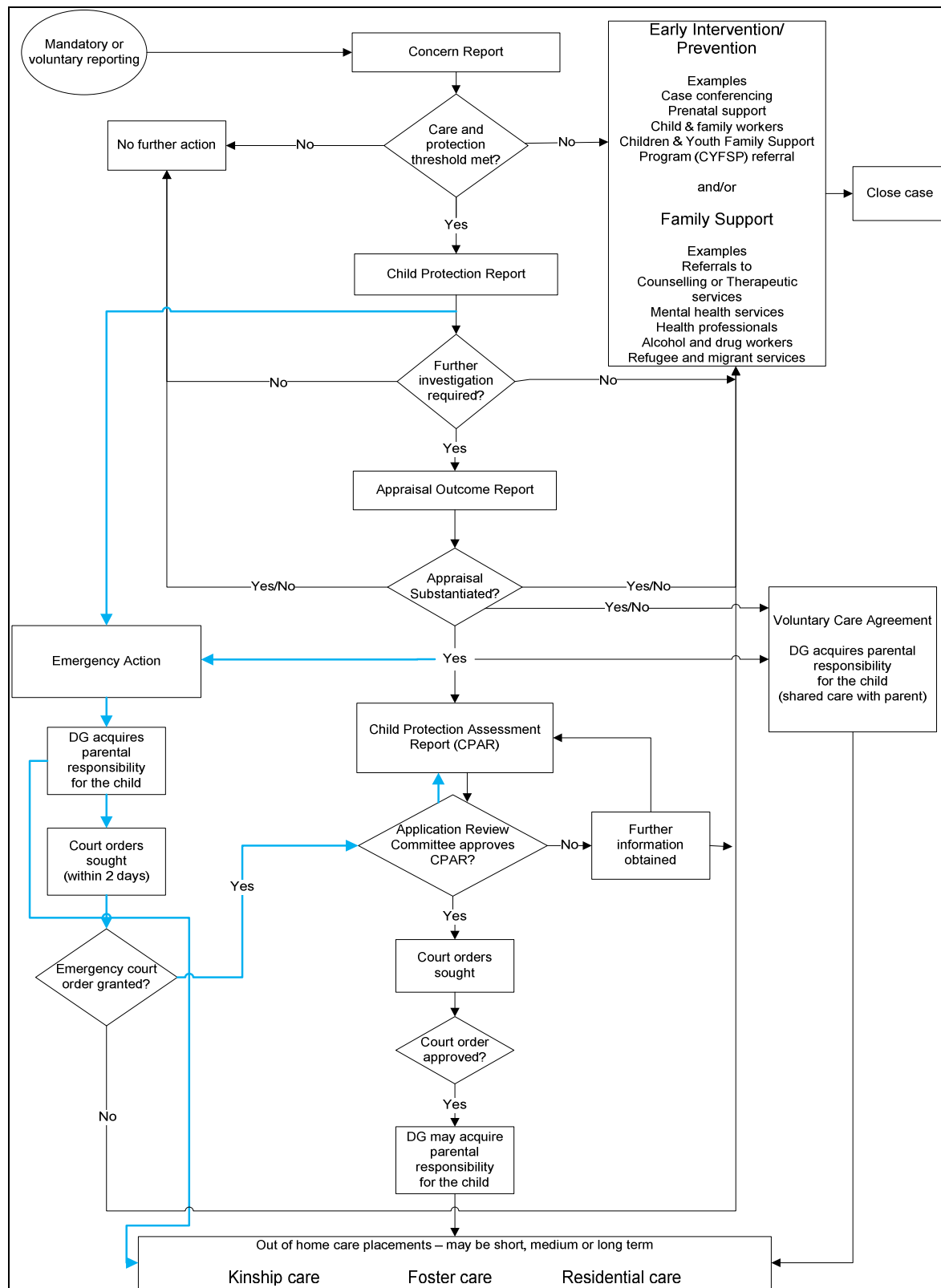
- 2.4 Intake, response and intervention processes are provided by the Care and Protection Services Branch when there are concerns that abuse or neglect has occurred or there is a high risk and/or likelihood that it will occur.
- 2.5 Care and Protection Services Branch's decision making must have the best interests of the child or young person as its paramount consideration. In deciding what is in the best interests of a child or young person, decision-makers must consider each of the following matters, as per section 349 of the *Children and Young People Act 2008*:
- (1)...
- (a) the need to ensure that the child or young person is not at risk of abuse or neglect;
 - (b) any views or wishes expressed by the child or young person;
 - (c) the nature of the child's or young person's relationship with each parent and anyone else;
 - (d) the likely effect on the child or young person of changes to the child's or young person's circumstances, including separation from a parent or anyone else with whom the child or young person has been living;
 - (e) the practicalities of the child or young person maintaining contact with each parent or anyone else with whom the child or young person has been living or with whom the child or young person has been having substantial contact;
 - (f) the capacity of the child's or young person's parents, or anyone else, to provide for the child's or young person's needs including emotional and intellectual needs;
 - (g) for an aboriginal or Torres Strait Islander child or young person that it is a high priority to protect and promote the child's or young person's cultural and spiritual identity and development by, wherever possible, maintaining and building the child's or young person's connections to family, community and culture;
 - (h) that it is important for the child or young person to have settled, stable and permanent living arrangements;
 - (i) for decisions about placement of a child or young person-the need to ensure that the earliest possible decisions are made about a safe, supportive and stable placement;
 - (j) the attitude to the child or young person, and to the parental responsibilities, demonstrated by each of the child's or young person's parents or anyone else;
 - (k) any abuse or neglect of the child or young person, or a family member of the child or young person; and

- (l) any court order that applies to the child or young person, or a family member of the child or young person.
- (2) In deciding what is in the best interests of a child or young person, a decision maker may also consider any other fact or circumstances they considers relevant.

Intake, response and intervention

- 2.6 An overview of Care and Protection Services Branch's intake, response and intervention processes is shown in Figure 2.1. These processes have been designed by Community Services Directorate to implement legislation to ensure that actions taken are in the best interests of a child and young person.
- 2.7 The intake, response and intervention processes are risk based and used to determine if a child or young person is being abused or neglected or is at risk of being abused or neglected. For those children and young people who are regarded as being a low risk, Care and Protection Services Branch assist their families through early intervention and prevention and/or family support with the intention of keeping these children and young people safe, with their families, and out of the care of the Director General.
- 2.8 Audit selected 30 case studies of children and young people to examine aspects of the intake, response and intervention services to consider how the best interests of the child or young person were being given paramount consideration by the Care and Protection Services Branch.
- 2.9 The case studies were selected to provide coverage of different aged children and young people, diversity in their cultural backgrounds and to include the range of processes shown in Figure 2.1.
- 2.10 Appendix B contains key definitions for the terms used in this report.

Figure 2.1: Overview of Care and Protection Services Branch's intake, response and intervention processes



Key: → Emergency Action pathway

Source: Audit Office

2.11 Changes in the demand for intake, response and intervention processes, provided by the Care and Protection Services Branch are shown in Table 2.1.

Table 2.1: Changes in demand for intake, response and intervention services from 2009-10 to 2011-12

Processes	Totals 2009-10	Avg. per week	Totals 2010-11	Avg. per week	% change	Totals 2011-12	Avg. per week	% change
Concern Reports	10 780	207	11 712	225	8	12 419	238	5
Child Protection Reports	2 903	55	2 414	46	17	3 147	60	30
Appraisal Outcome Reports	1 780	34	1 672	32	(5)	2 203	42	32
Substantiations	741	14	636	12	(14)	861	16	33
Emergency action	106	2	111	2	5	125	2	14
Children and young people in the care of the Director General	555	/	572	/	2	594	/	3

Source: Community Services Directorate data and Commonwealth Reports on Government Services

INTAKE, RESPONSE AND INTERVENTION PROCESSES

Voluntary and mandatory reporting

2.12 The intake, response and intervention processes are initiated by concerns being voluntarily reported by neighbours, friends, family members and sporting coaches or mandatorily reported by health professionals, teachers, counsellors or police. Mandatory reporting is discussed further in paragraphs 5.7 to 5.24.

Concern Report

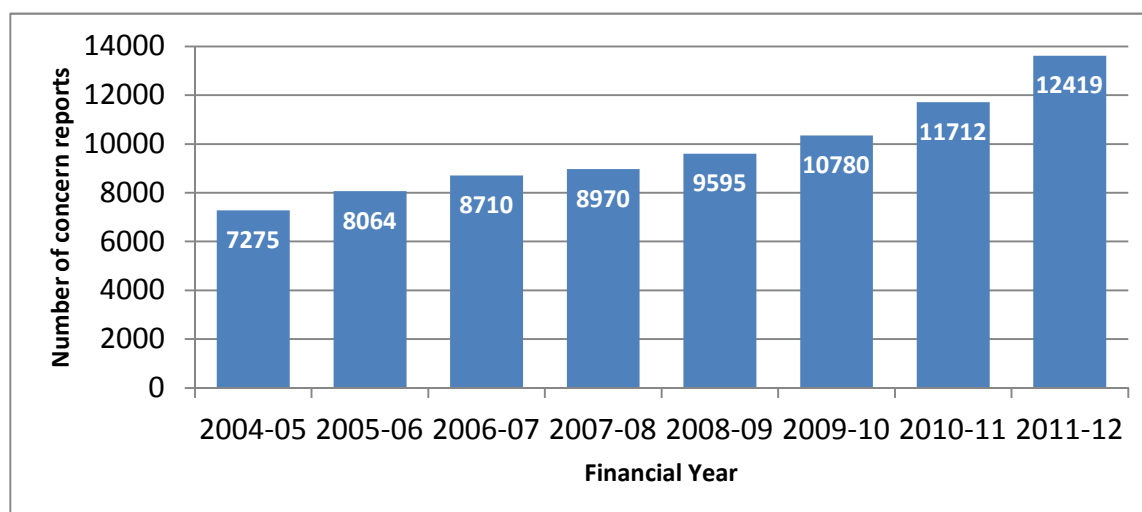
2.13 Based on information collected from a voluntary or mandatory reporter, staff in the Care and Protection Services Branch complete a standard template that is called a Concern Report, refer to Figure 2.1.

2.14 A Concern Report can be related to a child or young person's family and may include reports on parents and siblings, not just incidents that directly involve the child or young person.

2.15 The Concern Report documents concerns and the risk of abuse and neglect. Based on this information, a risk assessment is undertaken to determine if further action is needed, such as caseworkers undertaking an initial safety visit to the child's or young person's place of residence. If a safety visit is considered necessary, usually two caseworkers attend and discuss the concerns with the parents or carers, talk to the child or young person and assess if abuse or neglect is occurring or whether there is a risk of it occurring.

- 2.16 Care and Protection Services Branch's caseworkers attempt to work in a voluntary capacity with the parents or carers to assess the safety risk. However, if a caseworker's requests for information are refused then information can be compulsorily secured through a court order to allow an assessment to be undertaken on the safety risk to a child or young person.
- 2.17 The ACT, like other Australian jurisdictions, has an increasing number of Concern Reports, refer to Figure 2.2. Concern Reports have increased in the ACT by 70 percent, from 7 275 in 2004-05 to 12 419 in 2011-12, yet the ACT population of children and young people only increased by 3.7 percent over this period.
- 2.18 For 2011-12, there was an average of 238 Concern Reports per week, refer to Table 2.1.
- 2.19 The number of Concern Reports, while increasing by 70 percent from 2004-05 to 2011-12, in the last three years the rate of increase has reduced 13 percent, refer to Figure 2.2. However, this 13 percent increase, is double the percentage increase of the number of children and young people placed in the care of the Director General which has increased by 5 percent.

Figure 2.2: Number of Concern Reports in the ACT



Source: Audit Office, based AIHW child protection Australia 2009-10 and Community Services Directorate data for national reporting. ACT combines Concern and Child Protection reports.

- 2.20 The Concern Report template includes a section for a summary of prior Concern Reports which is used to undertake a risk assessment of a child or young person. However, to develop a comprehensive summary, a staff member needs to open each prior Concern Report in CHYPS and either manually summarise these or copy them into the latest Concern Report. Creating a comprehensive summary is very time consuming. For the 30 case studies Audit examined, Concern Report summaries were not always completed or comprehensive. This presents the risk that only recent and therefore incomplete information may be used to assess risks to a child or young person.

- 2.21 The Concern Report that can be generated using CHYPS only includes dates and the decided course of action. It does not include any historical information. However, comprehensive information is needed in order to undertake a accumulative risk assessment to determine what is in the best interests of a child or young person.

Recommendation 1 (Chapter 2 – Best interests of a child or young person)

The Community Services Directorate should improve its ability to give paramount consideration to the best interests of a child or young person, by:

- (a) **modifying CHYPS to facilitate quick access to all Concern Reports for a particular child or young person so that comprehensive information is available for a risk assessment (High Priority);**

- 2.22 The publication *O'Donnell, M., Scott, D. and Stanley, F. (2008) Child Abuse and Neglect: is it time for a public health approach?, Australian and New Zealand Journal of Public Health, 32:325-330* states:

... although there were similar levels of children in care and protection in Australia and the UK the levels of reporting varied considerably.

- 2.23 In 2008 the United Kingdom had similar levels of children in State care (5.0 per 1 000 children) to Australia (5.3 per 1 000 children). The Australian Institute of Health and Welfare showed that for 2005-06 Australia had 52.4 notifications per 1 000 children compared to 6.2 notifications per 1 000 children in the United Kingdom. Recommendation 5 (a) has been made to foster an analysis of the increase in Concern Reports to identify which reports were care and protection matters and which should have been referred to other Government agencies or the Community Services Sector.

Child Protection Report

- 2.24 If after considering a Concern Report, Care and Protection Services Branch consider that a child or young person is in need of care and protection, then a Child Protection Report is created by completing a standard template.

- 2.25 The Care and Protection Services Branch *Intake Policy* explains the difference between a Concern Report and a Child Protection Report as:

The division of Child Concern Reports and Child Protection Reports seeks to create a differential response to reports received by the Director-General about abuse and neglect of children and young people. It differentiates between all reports received (Child Concern Reports) and those reports where the Director-General suspects the child or young person may be in immediate need of care and protection (Child Protection Reports).

- 2.26 One of the legislated requirements for deciding what is in the best interest of the child or young person (section 349 (1a) of the *Children and Young People Act 2008*) is for the decision maker to consider:

The need to ensure that the child or young person is not at risk of abuse or neglect.

- 2.27 The threshold to meet a child protection report (section 360 (5) of the *Children and Young People Act 2008*) is:

... If the director-general suspects on reasonable grounds that the child or young person may be in need of care and protection the director-general must decide that the child concern report is a child protection report.

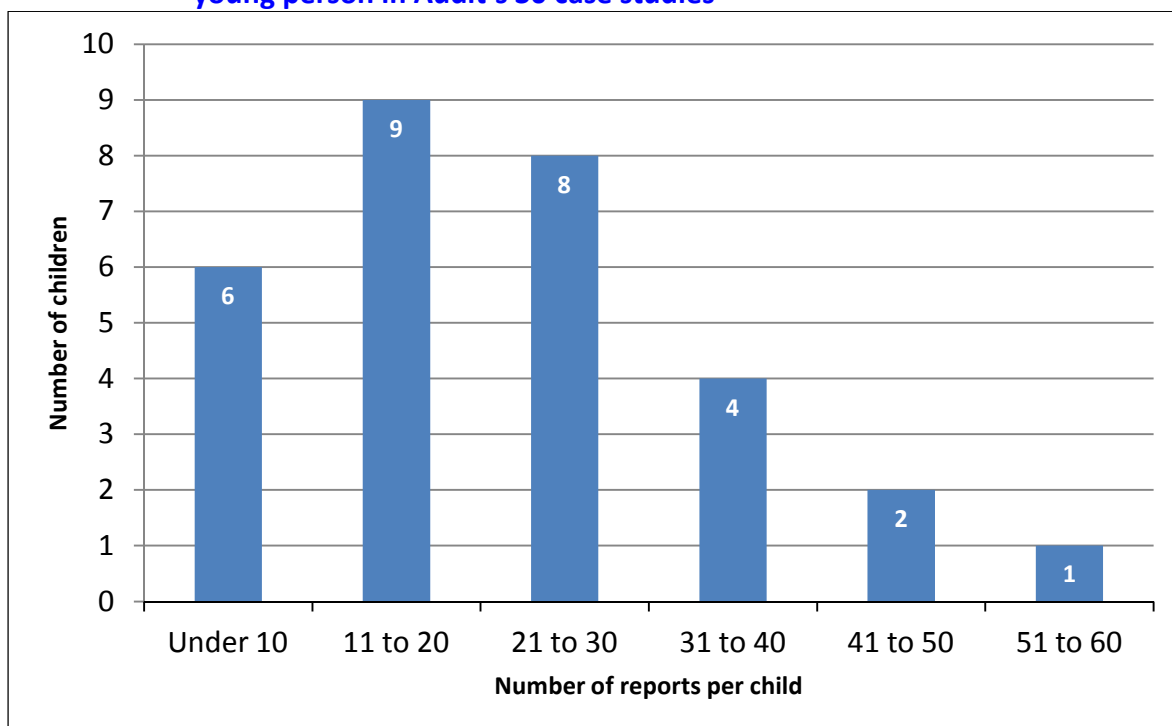
- 2.28 The process for completing a Child Protection Report is a way whereby Care and Protection Services Branch can demonstrate that it is meeting the legislative requirement for deciding what is in the best interest of a child or young person.

Multiple Concern Reports an/ or Child Protection Reports per child and young person

- 2.29 The children and young people that are the subject of the 30 case studies examined by Audit had a total of 677 Concern Reports and/or Child Protection Reports. The Concern Reports and/or Child Protection Reports examined, spanned the time a child's or young person's family were known to the Care and Protection Services Branch. In the 30 case studies Audit examined, the highest number of Concern Reports and/or Child Protection Reports in any one year for a child or young person was 19.

- 2.30 Seventeen of the children and young people had between 11 and 30 Concern Reports and/or Child Protection Reports, refer to Figure 2.3. Seven children and young people had more than 31 Concern Reports and/or Child Protection Reports. Only six children and young people had less than ten Concern Reports and/or Child Protection Reports. The lowest number of Concern Reports and/or Child Protection Reports was six, in contrast, one young person had 58 Concern Reports and/or Child Protection Reports.

Figure 2.3: Number of Concern Reports and/or Child Protection Reports per child or young person in Audit's 30 case studies



Source: Audit Office review of 30 case studies using Community Services Directorate's CHYPS database.

- 2.31 Children and young people who are the subject of multiple Concern Reports and/or Child Protection Reports need to be identified for further consideration. This would allow early intervention assistance to be provided.

Recommendation 1 (Chapter 2 – Best interests of a child or young person)

The Community Services Directorate should improve its ability to give paramount consideration to the best interests of a child or young person, by:

- (b) **monitoring children and young people who are the subject of multiple Concern Reports and/or Child Protection Reports for further consideration, when warranted (High Priority);**

Appraisal Outcome Report

- 2.32 An Appraisal Outcome Report is required when information provided in Concern Reports and/or the Child Protection Report warrants further investigation. It identifies the accumulative risk of a child or young person being abused and/or neglected or the potential for it to occur and facilitates an appraisal which is either substantiated or not.

- 2.33 An appraisal threshold is legislated under section 368(2) of the *Children and Young People Act 2008*:
- ... if the Director General suspects on reasonable grounds that the child or young person may be in need of care and protection.
- 2.34 The number of Appraisal Outcome Reports is comparatively small compared to Concern Reports. There were 2 203 Appraisal Outcome Reports produced in 2011-12, this is 18 percent of the 12 419 Concern Reports. The number of Appraisal Outcome Reports represents 70 percent of the 3 147 Child Protection Reports received in the same year, refer to Table 2.1.
- 2.35 Of the 2 203 Appraisal Outcome Reports, 861 (39 percent), were substantiated. Substantiated meaning it is considered that the abuse or neglect has occurred or is likely to occur in the future.
- 2.36 In 2011-12 there was an average of 42 Appraisal Outcome Reports generated each week. This is an increase on the previous year of 32 percent, refer to Table 2.1.
- 2.37 According to caseworkers it is the appraisal process that enables Care and Protection Services Branch to build awareness about a family's circumstances.

Time taken to commence appraisals

- 2.38 The Community Services Directorate provides ACT data to contribute to the national, *Report on Government Services*. The report presents data which shows the time taken to complete and commence Appraisal Outcome Reports for each jurisdiction.
- 2.39 The Care and Protection Services Branch's Centralised Intake and Appraisal Team nominate a time for an appraisal to commence. Options for this are 24 hours, 72 hours, or within seven days. The Intake and Appraisal Team member nominates the appropriate time based on their assessment of the risk to the child or young person of abuse or neglect.
- 2.40 The *Intake Policy* provides guidance on selecting the appraisal commencement timeframes. The *Intake Policy* has urgency rating standards with three levels:
- immediate risk (where child or young person must be seen within 24 hours of the decision to appraise and the Child Protection Report may take no longer than 6 hours);
 - vulnerable children (where the child or siblings under two must be assigned a 72 hour urgency rating from the decision to appraise, the children must be seen within 72 hours and the Child Protection Report must not take longer than two days); and
 - unborn babies (assign the urgency rating 'upon birth of the baby').

2.41 The *Intake Policy* states:

Use of either the 72 hour or 7 day urgency rating for all other matters, will be based on the professional judgment of a Team Leader, in consultation with the case manager who completed the assessment process.

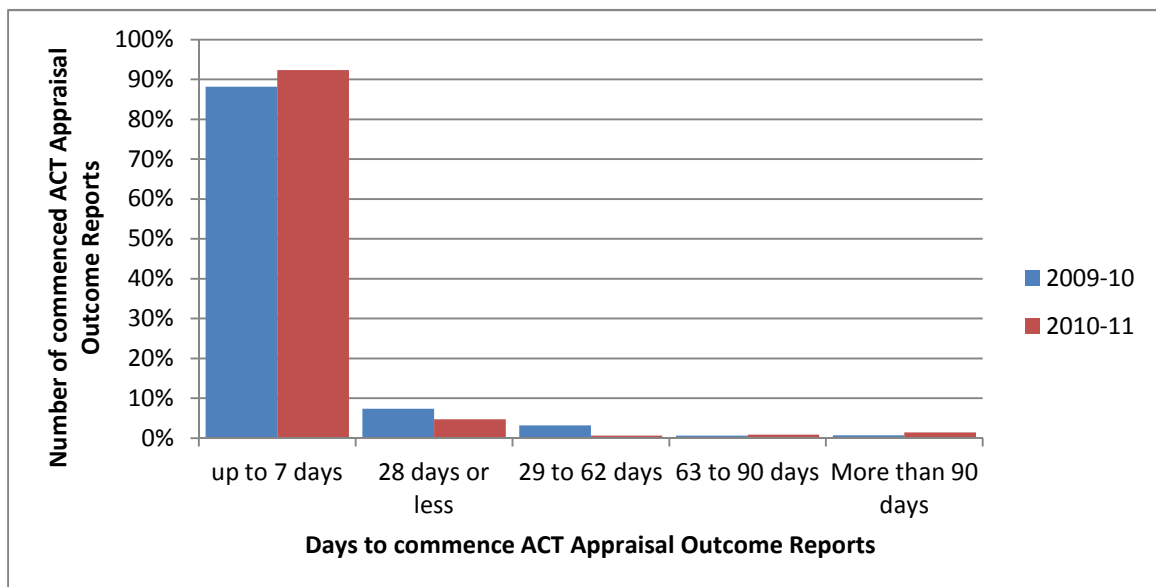
2.42 The *Appraisal Policy* states that an appraisal commences when:

... [a] start date ...[is] entered on CHYPS following the first contact made by the Care and Protection case manager who has been allocated the matter for appraisal (or the appraising Team Leader). First contact includes any activity related to the appraisal process including; supervision, phone calls, faxes etc.

2.43 Although each set of circumstances are different, without criteria on the selection of appraisal timeframes for all other matters, there is a risk that timeframes will not be allocated in a consistent manner, refer to paragraph 2.40. However, while this is a risk, Care and Protection Services Branch staff have advised that such timeframes were previously stated and caused significant administrative burden and removed professional judgement. The tool led to conclusions that were not consistent with the best treatment of the individual families' circumstances.

2.44 Figure 2.4 shows the timeframes when appraisals, documented in an Appraisal Outcome Report for 2009-10 and 2010-11, were commenced.

Figure 2.4: Time taken to commence ACT Appraisal Outcome Reports



Source: Audit Office, based on Report of Government Services for 2009-10 and 2010-11.

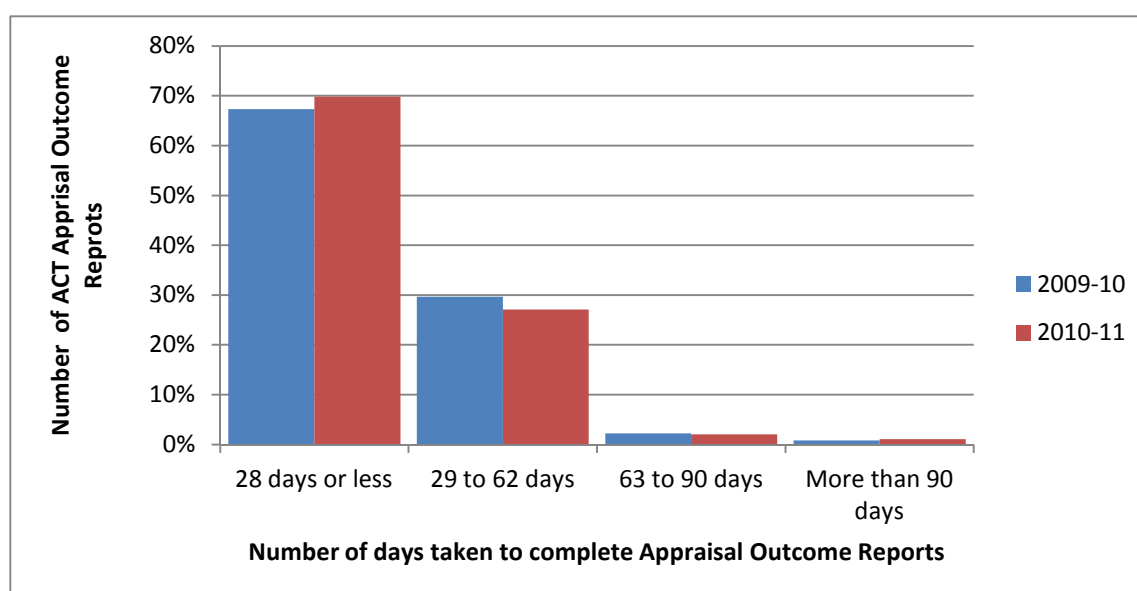
2.45 As mentioned in paragraph 2.39 all appraisals are to commence within seven days. As shown by Figure 2.4, in 2010-11, 129 (8 percent) of appraisals had not commenced within seven days and in 2009-10, this figure was slightly higher at 212 (12 percent).

- 2.46 While the seven day commencement date was not achieved for 100 percent of cases, it was for the majority. Demanding the achievement of a 100 percent may present risks that assessments are superficial and cases could be closed prematurely, both of which have been found to be contributing factors in inquiries into some child protection deaths and serious injury.

Time taken to complete appraisals

- 2.47 Care and Protection Services Branch has a target of completing Appraisal Outcome Reports in 28 days. Appraisal Outcome Reports are monitored weekly using information from the CHYPS database and this information is reported in the 'Weekly Demand Management Report'.
- 2.48 In 2010-11 and 2009-10, 30 percent and 33 percent, respectively, of Appraisal Outcome Reports were not completed in the required 28 day time frame, refer to Figure 2.5.

Figure 2.5: Time taken to complete ACT Appraisal Outcome Reports



Source: Audit Office based on Community Services Data

- 2.49 There were 40 Appraisal Outcome Reports for the 30 case studies examined by Audit. This is because some children and young people had more than one appraisal. The time taken to conduct 40 Appraisal Outcome Reports was assessed. Only nineteen (48 percent) were completed in the target time of 28 days, refer to Table 2.2.

Table 2.2: Time taken to complete appraisals for 30 case studies

Appraisal time range (days)	Number of appraisals completed in time range
Less than 15 days	13
15-28 days	6
28-40 days	2
40-60 days	8
More than 61 days	11
Total	40

Source: Audit Office review of case study sample using CSD file review

- 2.50 There may be legitimate reasons for some Appraisal Outcome Reports not being completed in the 28 day timeframe. For example awaiting information from third parties such as ACT Policing and ACT Health and in 2009-10 and 2010-11 the Care and Protection Services Branch had low staffing levels. Audit considers that when a caseworker decides that the time taken for an Appraisal Outcome Report is going to exceed the 28 day target, a Team Leader's approval should be obtained.

Recommendation 1 (Chapter 2 – Best interests of a child or young person)

The Community Services Directorate should improve its ability to give paramount consideration to the best interests of a child or young person, by:

- (c) a Team Leader's approval being required for not completing Appraisal Outcome Reports within the 28 day target;

CHILDREN AND YOUNG PEOPLE IN THE CARE OF THE DIRECTOR GENERAL

- 2.51 There were 594 children and young people in the care of the Director General as of 30 June 2012, there were 572 as of 30 June 2011 and 555 as of 30 June 2010.
- 2.52 On average 7 per 1 000 of ACT children and young people have been in the care of the Director General over the last three years, refer to Table 2.3.

Table 2.3: Comparisons of ACT children and young people population and children and young people in the care of the Director General

Category	At 30 June 2010	At 30 June 2011	At 30 June 2012
Total population of children and young people in the ACT at 30 June 2010	80 575*		
Children in care of the Director-General	555^	572^	594^
Number of ACT children per 1 000 in the care of the Director General	6.9	7	7

Source: * ABS statistics 30 June 2010. Data for 2011 and 2012 is not available.

^ Children in care of the Director General as at 30 June for each financial year

2.53 There has been a significant increase in the number of Australian children and young people in out-of-home care. In 1990 there were 3 per 1 000 children and young people in out-of-home care. By 2010 this had increased to 7 per 1 000, refer to Table 2.4.

Table 2.4: Number of Australian children on care and protection orders living in out-of-home care on 30 June 1990, 2000 and 2010

Year	Children in out-of-home care	Total population of children	Rate per 1 000
1990	12 406	4 188 795	3.0
2000	16 923	4 766 920	3.6
2010	35 895	5 092 806	7.0

Source: Higgins D. *Protecting children: Evolving systems; Family Matters 2011*; 5-10 Original data sources: AIHW (2001,2011); WELSTAT (1992).

2.54 According to *Protecting children: Evolving systems; Family Matters 2011*, the reasons for the increasing rate of Australian children living in out-of-home care includes:

- progressive introduction of mandatory reporting in all states/territories from the 1980s onwards;
- development of risk-averse cultures and the expectation/capacity to quantify risk and mitigate it;
- professionalisation of child protection work and the increased capacity of systems to be able to respond;
- expansion of the types of harm and severity of harm/risk of harm to which systems are expected to respond, particularly in relation to emotional

abuse, neglect and exposure to domestic violence (together, these categories account for 63.8% of all substantiations; AIHW, 2011); and

- the expectations and responsibility for supporting vulnerable families and keeping children safe shifting from communities to governments (see Bromfield & Holzer, 2008; Higgins, 2010; Higgins & Katz, 2008).

Transferring the care of a child or young person to the Director General

2.55 A child or young person is transferred to the Director General, by:

- Court Orders following approval by Care and Protection's Application Review Committee (refer to paragraphs 2.56 to 2.61 and 2.67 to 2.69);
- Emergency action (refer to paragraphs 2.70 to 2.98); or
- Voluntary Care Agreement between a parent or carer and the Director General (refer to paragraphs 2.99 to 2.101).

Seeking Court Orders

The Application Review Committee and Child Protection Assessment Report

- 2.56 When a court order is required caseworkers present their case to the Application Review Committee who assess whether the case should go to court. In cases where emergency action is taken this occurs the week after the action.
- 2.57 The Application Review Committee acts as an internal quality assurance and decision making body for applications for children and young people to be placed on Orders. The Application Review Committee is made up of senior managers in the Care and Protection Services Branch.
- 2.58 The Application Review Committee reviews the practice and legal issues, which form the basis of a proposed application to Court. It also reviews and/or endorses the recommendations of the casework team.
- 2.59 Caseworkers are required to prepare a Child Protection Assessment Report, refer to Figure 2.1. After approval by the Application and Review Committee the Child Protection Assessment Report becomes part of the supporting evidence for the Court.

2.60 Preparation of Child Protection Assessment Reports is time consuming as it is a comprehensive assessment process. The written Child Protection Assessment Report comprises six parts:

- Purpose of the Assessment;
- Child Young Person/s Development;
- Assessment of Parenting Capacity;
- Extended Family and Environmental Factors;
- Case Analysis; and
- Services to be provided.

2.61 Some caseworkers use Child Protection Assessment Reports as a primary source of information when searching for case management information on CHYPS.

Views and wishes of the child or young person

2.62 Section 352, *Children and Young People Act 2008*, states:

A decision-maker making a decision in relation to a child or young person under the care and protection chapters must give the child or young person a reasonable opportunity to express his or her views and wishes personally to the decision-maker, unless the decision-maker is satisfied that the child or young person does not have sufficient developmental capacity to express his or her views or wishes.

2.63 Section 349, states:

...In deciding what is in the best interest of the child or young person, a decision-maker must consider each of the following matters that are relevant to the child or young person:

...b) any views and wishes expressed by the child or young person.

2.64 As decision makers must give children or young people the opportunity to express their views and wishes, it would be expected that templates used through all parts of the intake, response and intervention processes would have the facility for capturing the views and wishes of children and young people. This is not the case as the first template document for capturing and recording the views and wishes of children and young people is the Child Protection Assessment Report, refer to Figure 2.1.

2.65 Templates for Child Protection Reports and Appraisal Outcome Reports do not have a section to record the views and wishes of a child or young person. Appraisal Outcome Reports examined, provided evidence of interviews with the child or young person. Accordingly, the templates used for Child Protection Reports and Appraisals Outcome Reports should be modified to include a section for recording the views and wishes of a child or young person.

- 2.66 In the 30 case studies examined by Audit, there were 14 Child Protection Assessment Reports. Statements by a child or young person in these 14 reports varied. Although a child or young person's views were expressed none exceeded two short paragraphs and some were very limited, this needs to be significantly improved. In order to determine what is in the best interests of the child or young person, their views and wishes need to be captured as comprehensively as is possible.

Recommendation 1 (Chapter 2 – Best interests of a child or young person)

The Community Services Directorate should improve its ability to give paramount consideration to the best interests of a child or young person, by:

- (d) **including sections for recording the views and wishes of a child or young person in templates for Child Protection Reports and Appraisal Outcome Reports (High Priority);**

Court Orders

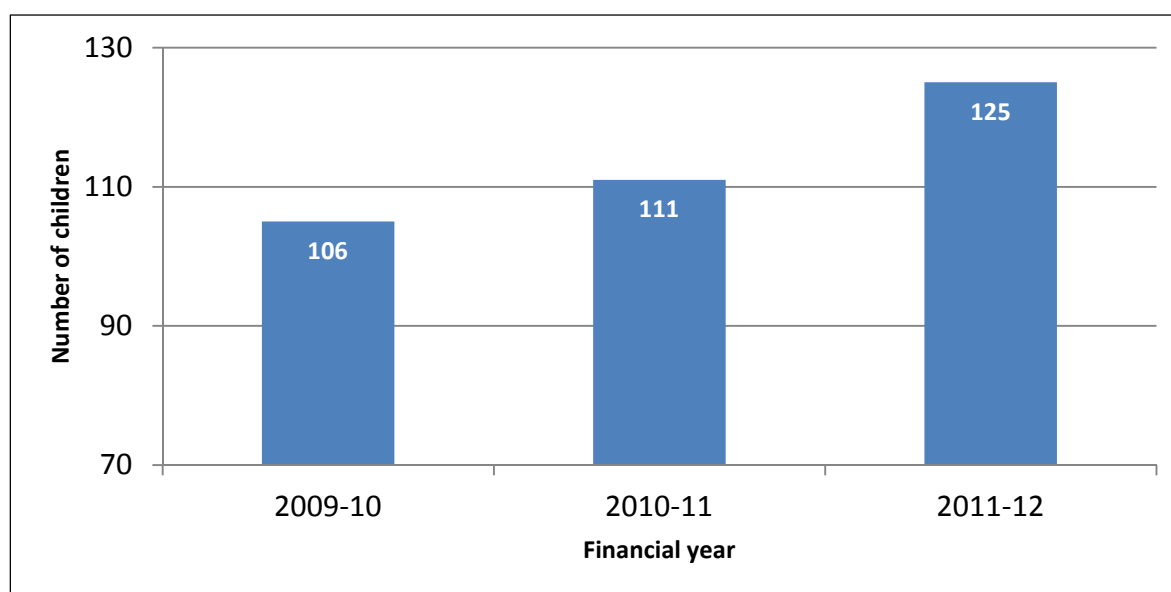
- 2.67 Care and Protection Court Orders which can, amongst other things, provide the Director General with the authority to find alternative care arrangements for a child or young person. Orders are generally not longer than two years or are to the age of 18 years.
- 2.68 If the child or young person cannot be returned to the care of the family at the end of a two year order the Care and Protection Services Branch may apply for an extension to the two year order or apply for an order to 18 years of age. It is acknowledged that on occasions a child or young person would be placed on orders to 18 years without first having been on orders for 2 years.
- 2.69 Care and Protection Services Branch advised that the Court has never issued a two year order when an order to 18 years was recommended. However, the Court has not supported Care and Protections Service's recommendations for orders to 18 years and issued orders not longer than two years for approximately two children or young people each year from 2009 to 2012.

Emergency Action

- 2.70 Emergency Action is available to Care and Protection Services Branch for removing one or more children or young people from their parents or carers if there is a immediate need, or likely to be in immediate need of care and protection. Emergency action sometimes occurs with the assistance of the police.
- 2.71 When emergency action is taken the responsibility for a child or young person is transferred to the Director General, Community Services Directorate, as indicated in Figure 2.1.

- 2.72 The Director General has the responsibility for arranging accommodation and may need to move a child or young person from one residence to another.
- 2.73 One hundred and twenty five children and young people were removed by emergency action in 2011-12 which is an increase of 14 (13 percent) on the previous year (2010-11) of 111, it is also an increase of 18 percent (19 children or young people) since 2009-10, refer to Figure 2.6. In 2011-12, there was an average of one emergency action every three days.

Figure 2.6: Number of ACT children and young people removed by emergency action in 2009-10, 2010-11 and 2011-12.



Source: Audit Office using Community Services Directorate data

- 2.74 The *Children and Young People Act 2008*, section 410 establishes the timeframe for Care and Protection Services Branch to obtain court orders for a child or young person who is removed from their parent or carer under an emergency action. The case must be presented to the Court within two days after the emergency action is taken or on the next Court sitting day if the working day is interrupted by the weekend or a public holiday.
- 2.75 Children or young people removed under an emergency action do not all remain in the care of the Director General. In some cases after investigation during the two days prior to Court proceedings the child or young person may be returned to his/her parents or carers. The Public Advocate provides an additional quality assurance mechanism as she is notified of every emergency action, and is provided with the necessary reports and is able to intervene and provide advocacy.
- 2.76 During 2009-10, 2010-11 and 2011-12 there were five children or young people removed by emergency action who were returned home within two days. Therefore in these cases the children or young people and their families did not proceed to Court.

Communication with parents/carers and children and young people during emergency action

- 2.77 The paperwork provided to parents, carers and the child or young person regarding emergency action explains the processes that will be used and information on contact details for legal assistance.
- 2.78 Of the 30 case studies Audit examined, six children and young people were removed under emergency action.
- 2.79 There are a number of documents needed to be completed for an emergency action. These are:
- Emergency Action - Parental Responsibility;
 - Consultation with operations manager;
 - Emergency Action information for parents; and
 - Emergency Action information for child or young person.
- 2.80 Each of these documents are discussed in the following paragraphs.

Emergency Action - Parental Responsibility

- 2.81 Section 408 *Children and Young People Act 2008* requires that in transferring parental responsibility from a parent or carer to the Director General that the grounds for concern for the removal of a child or young person under an emergency action be documented.
- 2.82 Of the six case studies examined, two individuals were removed by emergency action twice. Documentation of the reasons for emergency action, for example, stated that:
- ‘under section 156 of ...the *Children and Young People Act 1999* no one with parental responsibility other than the Chief Executive is willing and able to provide him or her with adequate care and protection. In this case due to the person with parental responsibility was under the influence of alcohol and in a highly intoxicated state’. (2007);
 - ‘mother not willing or able to protect her children in her care. Failing to protect children from a registered sex offender.’, (2011);
 - ‘no person with parental responsibility willing and able to protect’ (2011);
 - ‘serious/persistent conflict and future concern risks’ (2011);
 - ‘child in need of care and protection and parent not willing nor able to act protectively due to neglect, emotional and physical abuse and abandonment’ (2010); and
 - ‘mother has been arrested and taken to watch house. There is no one willing and able to care for child’ (2011).

- 2.83 Statements for removal although respecting the *Children and Young People Act 2008* were very limited and it may assist the case manager of a child or young person if the reasons were expanded.
- 2.84 It is important that in all cases where parental responsibility is transferred from a parent or carer to the Director General, under an emergency action, that reasons for removal are detailed. Accordingly, reasons for removal should be more comprehensive and specific to the child or young person's circumstances.

Recommendation 1 (Chapter 2 – Best interests of a child or young person)

The Community Services Directorate should improve its ability to give paramount consideration to the best interests of a child or young person, by:

- (e) **providing detailed information in statements for removal, in addition to using wording from the *Children and Young People Act 2008*, when parental responsibility is transferred from a parent or carer to the Director General, under emergency action (High Priority);**

Consultation with operations manager

- 2.85 Guidance on emergency action is provided in the Community Services Directorate's *Emergency Action Policy*. This Policy states that only a caseworker trained in emergency action should take emergency action and in so doing should consider if:
- ... the child or young person is in immediate need of care and protection or is likely to be if emergency action is not taken or no one with parental responsibility is both willing and able to protect the child or young person from the abuse or neglect or the risk of abuse or neglect.... All alternatives to emergency action are to be considered in making the decision to take emergency action. Discussion with the parents about alternative support options is to be case noted. During this discussion, and when considering emergency action, the caseworker will strive to work collaboratively with the family to find a 'best interest' solution to the child protection issues for the child or young person.
- 2.86 The caseworker must only take emergency action after consultation with the Director General's delegate who typically is the operations manager. An operations manager is available 24 hours a day. The consultation must be recorded on the 'consultation with operations manager' template by the caseworker and signed off by the operations manager.
- 2.87 This template requires that the operations manager sign the statement:
- I endorse the decision of the Delegate to take action in this instance.
- 2.88 The template makes provision for including the name of a child or young person and the caseworker, the date and time of the emergency action and the signature of the operations manager. There is space to show when the

Integrated Court Service, the Senior Manager of Care and the Senior Manager of Protection were advised.

- 2.89 There is a requirement for alternatives to be considered but there is no requirement for this to be documented. This however, is important information that ensures that the significant decision of removing a child or young person is in their best interests. Accordingly, the 'consultation with operations manager' form needs to be modified to facilitate a succinct record of alternatives considered prior to that of removing a child or young person.
- 2.90 In 2011-12, 125 children or young people were removed from their parent or carer under an emergency action. Given that this is a very significant decision, Audit attempted to examine if decision making was being made in a consistent manner.
- 2.91 Only 89 (72 percent) of the 'consultation with operations manager' documents for the 125 children and young people were recorded in CHYPS. This means that 36 (28 percent) of 2011-12 emergency actions are not recorded in CHYPS. Furthermore, of the 89 'consultation with operations manager' documents that were in CHYPS, 12 (9 percent) did not have an operations manager signature and 6 (4 percent) were blank templates.
- 2.92 For the 125 children or young people removed from their parent or carer in 2011-12, only 71 (57 percent) of the 'consultation with operations manager' documents were signed and recorded in CHYPS. This is a concern as CHYPS is Care and Protection Services Branch's main information management source, and emergency action is one of the most significant decisions that can affect a child or young person and their family or carers. Audit acknowledges that CHYPS is not the official record system however, case workers, team leaders and managers use CHYPS primarily for recording and seeking information.

Recommendation 1 (Chapter 2 – Best interests of a child or young person)

The Community Services Directorate should improve its ability to give paramount consideration to the best interests of a child or young person, by:

- (f) requiring caseworkers to succinctly document on the 'consultation with operations manager' form alternatives they considered before recommending emergency action;
- (g) placing all 'consultation with operations manager' documents in CHYPS;

Emergency Action information for parents

- 2.93 Care and Protection Services Branch provides information to parents or carers of children and young people at the time they are removed from their care. This material lists the names of the children or young person being removed. It

succinctly explains what has happened, outlines the parents or carers rights and states what will happen next in the care and protection process.

- 2.94 Contact details for Legal Aid and the Children's Court Registrar are provided in the supplied information.
- 2.95 The information acknowledges that the Public Advocate must be notified by the Community Services Directorate of the emergency action that has taken place. The information does not include any reference to the Children and Young People Commissioner to whom parents can make complaints, regarding care and protection matters.
- 2.96 There is no access to electronic information for parents. The Community Services Directorate website does not have a portal for families to obtain further information on care and protection processes or fact sheets regarding their rights.

Emergency Action information for children and young people

- 2.97 After an emergency action has occurred Care and Protection Services Branch provides a child or young person with information which explains:
- What are Care and Protection Services?
 - What happens when someone is worried about you?
 - What will happen now and what will happen next?
 - What can the Magistrate decide?
- 2.98 The *ACT Charter of Rights for Children and Young People in Out of Home Care* is available electronically. However, the Community Services Directorate website does not have a portal for children and young people to obtain further information on care and protection processes or fact sheets regarding their rights.

Recommendation 1 (Chapter 2 – Best interests of a child or young person)

The Community Services Directorate should improve its ability to give paramount consideration to the best interests of a child or young person, by:

- (h) making information about the care and protection processes available online/electronically for children and young people, parents and carers;
- (i) advising parents and carers that they can make a complaint to the Human Rights Commission (Children and Young People Commissioner) regarding the activities of the Care and Protection Services Branch;

Voluntary Care Agreement

- 2.99 Voluntary Care Agreements, refer to Figure 2.1, are a way to transfer care to the Director General. These documents are a means of sharing care between the Director General and the person who has daily care responsibility or long-term care responsibility for a child or young person. This approach is used when the Director General is satisfied that it is necessary to protect a child or young person's wellbeing.
- 2.100 The length of a Voluntary Care Agreement for any young person under 15 years old must not be longer than 6 months. In the case of a person 15 years or older it can be longer than six months if the young person agrees. When the Voluntary Care Agreement ends it can be extended or the child or young person is returned to their parent or carer.
- 2.101 There were 12 children and young people on Voluntary Care Agreements at 30 June in 2010, 2011, and seventeen at 30 June 2012. Given the number of children in the care of the Director General this represents two, two and three percent, respectively. This small percentage shows that Voluntary Care Agreements are not used extensively.

Ways to cease being in the care of the Director General

- 2.102 A child or young person can cease being in the care of the Director General if:
- a young person becomes an adult;
 - Enduring Parental Responsibility is granted;
 - a parent appeals an order and it is revoked;
 - an order lapses;
 - adoption occurs; or
 - they die.
- 2.103 Of the individuals on orders to 18 in 2009-12 some would have turned eighteen years of age. A transition team commenced in 2012 to assist young people leaving the care of the Director General on turning 18 years of age.
- 2.104 Enduring Parental Responsibility may be transferred to eligible carers who can provide stable long term relationships. To obtain Enduring Parental Responsibility the carer has to seek permission of the Court.
- 2.105 One of the indicators in the Community Services Directorate Statement of Performance is the number of adoptions. While there were 11 adoptions in 2011-12, these were primarily international adoptions not children in an out-of-home care placement. The Care and Protection Services Branch prefer to

use Enduring Parental Responsibility because the child or young person retains his or her original identity. Therefore, adoptions do not significantly reduce the number of children and young people in the care of the Director General.

OUT-OF-HOME CARE PLACEMENTS

2.106 Out-of-home care placements provide accommodation and care for children and young people removed from their parents or carers, as part of the intake, response and intervention processes, refer to Figure 2.1. As the numbers of children and young people can vary on any given day, the following totals of children and young people in the care of the Director General were taken as at 30 June.

Table 2.5: Total numbers of children in out-of-home care placements for 2010, 2011 and 2012

	2010	2011	2012
Children and young people in the care of the Director General at 30 June	555	572	594

Source: Audit Office, based on Community Services Directorate data

2.107 The three main categories of placements are:

- kinship care, care by a known relative or friend;
- foster care, managed via contract between Care and Protection Services Branch and community service providers; or
- residential care, managed via contract between Care and Protection Services Branch and community service providers which includes a small number of residential places that accommodate children and young people who are not able to reside at their parent's or carer's home .

2.108 *The Report on Government Services* measures jurisdictional performance against appropriate placement of children and young people. In 2011-12 the ACT performed first, second and third best on three measures. These measures, as follows, have not been validated as part of this audit:

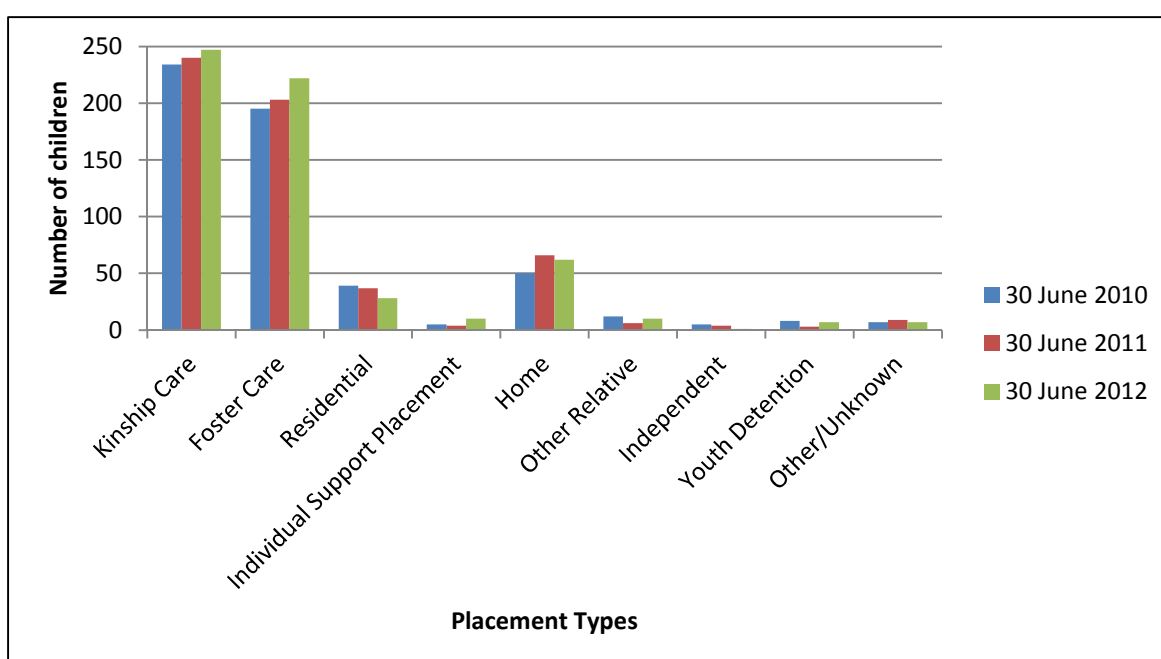
- The proportion of all children in out-of-home care placed with relatives or kin was second highest at 51.6 percent, above the national average of 46.7 percent (refer to paragraphs 2.110 to 2.114);
- The proportion of all children under 12 years old in out-of-home care and in home-based placement was second highest at 99.2 percent, above the national average of 97.5 percent (refer to paragraphs 2.110 to 2.114); and
- The proportion of Aboriginal and Torres Straight Islander children and young people in out-of-home care with kin was third highest at 55.6 percent. This is above the national rate of 52.4 percent (refer to Figure 2.9).

Out-of-home care placement preference

2.109 Care and Protection Services Branch's order of preference for placing children and young people in out-of-home care is:

- kinship care;
- foster care; and
- residential care.

Figure 2.7: Placements of children and young people in the care of the Director General at 30 June 2010, 2011 and 2012



Source: Audit Office, based on Community Services Directorate data.

2.110 As at 30 June 2012, 247 (41 percent) of all children and young people in the Director General's care were in kinship care. In 2011 there were 240 (41 percent) and in 2010 there were 234 (42 percent).

2.111 As at 30 June 2012, 222 (37 percent) of all children and young people in the Director General's care were in foster care. In 2011 there were 203 (35 percent) and in 2010 they were 195 (35 percent).

2.112 As at 30 June 2012, 28 (4 percent) of children and young people in the Director General's care were in residential care. In 2011 there were 37 (6 percent) and in 2010 there were 39 (7 percent).

2.113 A small number of young people are in Individual Support Placements which is provided under contract for individual cases and can be foster care or residential care.

- 2.114 The majority of children and young people in the care of the Director General are in kinship care and foster care, 78 percent for 2012, 76 percent for 2011 and 77 percent for 2010. Therefore, Care and Protection Services Branch has achieved its placement preferences.

Knowing the location of the child or young person

- 2.115 In 2004 the Vardon Report was published on ACT children in out-of home care placements. This report asked three questions about the children and young people in the Director General's care:
- How many are there?
 - Where are they?
 - How are they?
- 2.116 Information in CHYPS from the 'substitute care cases' should enable Care and Protection Services Branch to answer the first two questions. 'Substitute care case' information is used to make payments to out-of-home care service providers and to produce a weekly report given to the Director General titled *Weekly Report on Children in Care*.
- 2.117 The input of data for 'substitute care cases' use to be performed by caseworkers. As caseworkers were not able to keep the information up-to-date a team of three data staff, are now maintaining the 'substitute care cases'. This has resulted in some caseworkers, when using CHYPS, not being familiar with using the 'substitute care case' to inform them of the current location of the child or young person. Training of caseworkers would address this issue.

Placement history –both out-of-home care and returning home

- 2.118 Data recorded in 'substitute care cases' in CHYPS was collected for Audit's 30 case studies to cover the entire time when the subject children and young people were known to Care and Protection Services Branch. There were placements recorded in the 'substitute care cases' for 20 (66 percent) of the 30 case studies. The ten cases without a 'substitute care case' did not require one because the child or young person was not placed in out-of-home care.
- 2.119 Recording information in 'substitute care cases' is being completed with the intention of making correct payments to carers and to report at a national level. While the placement history for children and young people in the care of the Director General is recorded, Care and Protection Services Branch are not monitoring or reporting on placement lengths for each child and young person.

- 2.120 A 2012-13 strategic objective for the Community Service Directorate is to 'Improve Stability of Children in Care through Case Management and Appropriate Services and Programs'. One of the strategic indicators being measured to achieve the objective is:
- Proportion of Children Exiting Care Having Experienced No More than Two Placements in Care.
- 2.121 The estimated target for this strategic indicator is to achieve 70 percent for all years from 2012-13 to 2015-16. At a national level the 'Proportion of children on a care and protection order exiting care after less than twelve months, who had one or two placements' is reported in the *Reports on Government Services*.
- 2.122 *The Report on Government Services 2012* defines stability of placement as:
- ... the proportion of children who had 1 or 2 placements during a period of continuous out-of-home care.
- 2.123 *The Report on Government Services 2012* states a low number of placements (one or two) is desirable but must be balanced against other placement quality indicators, such as placements in compliance with the Aboriginal Child Placement Principle, local placements and placements with siblings. Multiple short term placements may occur for appropriate reasons like compatibility or to remove a child or young person from an unsatisfactory or unsupportive placement. Older children and young people are also likely to have multiple placements as they move towards independence.
- 2.124 In relation to measuring placements, *The Report on Government Services 2012*, states:
- Data is collected only for children who are on orders and who exit care during the reporting period. There are limitations to counting placement stability using a cohort of children exiting from care rather than longitudinally tracking a cohort of children on their entry into care: An exit cohort is biased to children who stayed a relatively short time in care and thus were more likely to have experienced fewer placements.
- 2.125 Care and Protection Services Branch informed Audit that monitoring the placements for each child and young person, including the number and length of time at each placement, is done on a case by case basis through case management. Placement trajectories for children and young people including whether they were successfully or unsuccessfully restored or lengths of placements are not being collected or analysed, other than at a high level for reporting in the *Report on Government Services* and ACT Government performance reporting.
- 2.126 According to Emeritus Professor Dorothy Scott, who is an expert on care and protection services:
- Placement instability is now known to be the major cause of serious psychological harm inflicted on children [and young people] in care.

Recommendation 1 (Chapter 2 – Best interests of a child or young person)

The Community Services Directorate should improve its ability to give paramount consideration to the best interests of a child or young person, by:

- (j) monitoring the stability of placements for each child and young person including the number of placements and the length of time at each placement;
- (k) reducing the level of placement instability for children and young people in the care of the Director General in out-of-home care;

Information on the placement and welfare of children and young people

2.127 Audit examined if the Director General had ready access to information on the placement of children and young people in care by considering a selection of children and young people and their placements. The placement of 341 (59 percent) of the 573 children and young people in care was examined. The number of children or young people was taken as at 18 November 2012. For these 341 children there were 220 carers (which means that one carer may have several children and young people).

2.128 To examine this issue, Care and Protection Services Branch were asked to provide the following to Audit:

- the names of all children and young people in the care of the Director General at 18 November 2012;
- the name of carers for each child and young person, contact details (phone numbers) and the address where the child or young person resides when in out-of-home care;
- the name of the school the child or young person attends; and
- the time the child or young person was last contacted by either staff from the Care and Protection Services Branch or the community service provider.

2.129 The Care and Protection Services Branch were able to provide the names, addresses and the types of placements of children and young people in the care of the Director General in a timely manner. However, it took significant resources for the Care and Protection Services Branch to provide details on when a child or young person was last visited.

2.130 For example, in order to generate the information on when a child or young person was last visited by Care and Protection Services Branch or by the community service provider, Care and Protection Services Branch needed to undertake a convoluted process that involved:

- generating a report on the most recent face-to-face visits recorded against each child and young person;

- identifying all the children and young people who had been contacted between 15 October 2012 and 26 November 2012;
- identifying all the children and young people that did not have a contact event recorded on or after 15 October 2012;
- caseworkers checking their records on contact made with a child or young person or this person's contact visitor, carer, health professional, or agency worker; and
- collecting information from the Kinship Care Team caseworkers as to when they last visited the home or spoke to a carer.

- 2.131 To validate the accuracy of the information provided to Audit, Care and Protection Services Branch staff in the presence of Audit staff made telephone contact with 220 kinship, foster and residential carers who care for 341 children or young people in the care of the Director General. The carers were asked five questions; to confirm their name, the children and/or young people in their care, the address where the children and/or young people reside, which school the children and/or young people attend and the last time that they had contact with a staff member of the Care and Protection Services Branch or the community service provider. Information was given on how the carer could validate that the contact was being made for audit purposes.
- 2.132 Contact was made with 143 kinship carers who are managed by Care and Protection Services Branch and five residential placement managers from three community service providers. As discussed later in Chapter 3, it is practice for information to be stored in individual documents, which are then attached to CHYPS, rather than the information being embedded in the CHYPS system itself as a 'service event'. This practice resulted in the first set of data provided to Audit being incomplete and inaccurate.
- 2.133 Care and Protection Services then provided each individual Client Information Sheet (word document) to Audit and in so doing advised that the information on these was, from their perspective, up-to-date. The Client Information Sheet is where the important information including the location of a child or young person is recorded. While this is generated in CHYPS a copy is required, under Care and Protection Services Branch business rules, to be placed on paper files. Accordingly, the same Client Information Sheet should be stored in two places; electronically on CHYPS and in paper files.
- 2.134 Contact was also made with 72 foster cares that are managed through community service providers. Care and Protection Services did not have the correct contact details for 9 (13 percent) of the 72 foster carers. Nine either were not correct in CHYPS or recorded accurately on the Client Information Sheet. A further one had correct details in CHYPS and not on the Client Information Sheet provided.

- 2.135 In summary Audit found that 341 children and young people who were placed with 220 carers that information for:
- 143 kinship carers who are managed by the Care and Protection Services Branch and five residential placement managers who are managed by community service providers, was available and accurate. While this was able to be established it took considerable effort and time to secure information because of the way it is stored in CHYPS and the Client Information Sheet (word document) used by the Care and Protection Services Branch; and
 - 9 of the 72 foster carers, who are managed through community service providers, did not have their correct contact details in either CHYPS or the Client Information Sheet. An additional foster carer had their information recorded correctly in CHYPS but incorrectly on the Client Information Sheet supplied to Audit. This is of concern and demonstrates that the records that are maintained by Care and Protection Services Branch are not kept up-to-date for those children and young people in foster care.
- 2.136 Care and Protection Services Branch did not have accurate information on where 33 (9 percent) of the selected 341 children and young people, considered by Audit, who are in the care of the Director General, went to school. These details for these children and young people were incorrectly recorded in both CHYPS and on the Client Information Sheet provided by the Care and Protection Services Branch.
- 2.137 Inaccurate information in the systems used by the Care and Protection Branch for managing children and young people in out-of-home care does not allow the Director General to readily and accurately answer the important question of *Where are they (during non-school and school hours)?* Community service providers need to be contacted to secure this information for all children and young people in care. As the statutory parent, the Director General's own systems should provide accurate information to answer this question.
- 2.138 This issue could be overcome if the community service providers could update their information directly into the Directorate's electronic data management system.
- 2.139 The Director General receives a *Weekly Report on Children in Care* which is a numeric summary. While it provides information on the number of children and young people in care and their placement type, it does not answer the fundamental question for individual children and young people of *where* and *how are they?*
- 2.140 To ensure that the questions of *where* and *how are the children in the care of the Director General?* is being considered for all children and young people in care, a quality control process is needed. This could consist of an 'annual qualitative summary report' or its equivalent which summarises qualitative information for each child and young person. This report could be reviewed by executives in the

Community Services Directorate who advise the Director General of any concerns and areas where practices might be improved.

- 2.141 An 'annual qualitative summary report' or its equivalent, could provide information on each individual child and young person by name and provide information that assures the Director General that the answers to the questions of *Who are they?*, *Where are they?* and *How are they?* are being monitored by the Community Services Directorate. For example, to answer *How are they?*, information would be needed on when a child or young person or their carer was last visited by a staff member of the Care and Protection Services Branch or community service provider to assess the child or young person's welfare.
- 2.142 This approach would complement the work of the Public Advocate in its consideration of annual review reports, refer to paragraphs 6.25 to 6.27 and 6.36 to 6.40. Such an arrangement may mean that the risks associated with the decrease in the percentage of annual review reports considered by the Public Advocate is further mitigated, noting that the Public advocate already uses a triage system to address risks.
- 2.143 There are three models for monitoring the welfare of children and young people in out-of-home care. Foster carers and residential carers are either visited by the community services provider who manages them, or by both the community service provider and the Care and Protections Services Branch to monitor their well being. Kinship carers are visited by the Care and Protection Services Branch to monitor their well-being.
- 2.144 While the Care and Protection Services Branch receives reports on the welfare of foster care children and young people from community service providers, some children and young people in foster care may never be visited, after being placed on long term orders, by staff in the Care and Protection Services Branch. There is also no formal policy to guide visitations for monitoring the welfare of children and young people in out-of-home care placements.

Recommendation 1 (Chapter 2 – Best interests of a child or young person)

The Community Services Directorate should improve its ability to give paramount consideration to the best interests of a child or young person, by:

- (l) **the Director General and delegates, at all times, having ready access to accurate information on each child or young people in out-of-home care, that answers the questions of:**
 - **How many children and young people are in care?**
 - **Who are they?**
 - **Where are they (during non-school and school hours)?**
 - **How are they?****(High Priority);**
- (m) **developing a quality control process to check that qualitative information for each child and young person is available and annually considered so that the questions in Recommendation 1 (l) can be readily answered (High Priority);**
- (n) **developing and implementing a policy for visitations for monitoring the welfare of children and young people in out-of-home care (High Priority);**

Numbers of caseworkers

- 2.145 Audit's 30 case studies were used to examine the number of caseworkers a child or young person might have during their time in the care and protection system. CHYPS has a function which can be used to record the caseworker and team leader (supervisor) for each 'open case'. To identify all caseworkers and team leaders for an individual involved opening each case file. The CHYPS database does not contain an enquiry function, or report, that can extract this information.
- 2.146 The numbers of caseworkers extracted would include every Care and Protection Services Branch staff member who made an entry in relation to the child or young person. Therefore it may include clerical workers, Court workers, caseworkers relieving while the primary caseworker was away. From the information extracted from CHYPS Care and Protection Services Branch have no way of knowing which staff made a minor change to a child or young person's record compared to caseworker who made more changes.
- 2.147 A total of 200 caseworkers and 156 team leaders were involved with 29 of the 30 children or young people the subject of case studies. In one instance CHYPS had no record of any caseworkers or team leaders working with a child or young person.
- 2.148 The average number of caseworkers per case was seven. The lowest number was two and the highest number was fourteen.

- 2.149 In 2012 the Care and Protection Service realigned their organisational structure with the aim of providing a 'single caseworker' model in Protection Services for children and young people. Prior to this staff from various teams would work with a child or young person through the intake and response processes, refer to Figure 2.1.
- 2.150 The data reported in paragraph 2.148 reflects the structure prior to the change to a 'single caseworker' model. The length of time a child is known to Care and Protection Services Branch as well as the age of the child or young person would contribute to the expected number of caseworkers. A further complication is the turnover of caseworkers.
- 2.151 In a restructure in 2012 the responsibilities in the Care and Protection Services Branch were divided. Care is a separate unit from Protection, refer to Figure 4.3. The protection unit is responsible for the intake, response and intervention processes outlined in Figure 2.1. A new 'single caseworker' model for protection was implemented in April 2012, therefore it has not had time to take full effect. However, over time it should reduce the number of case workers who work with children and young people, which should result in a greater sense of stability for the child or young person.
- 2.152 There is a risk that if the implementation of the 'single caseworker' model is not regularly monitored it will be difficult for management and the Executive to determine its affect. CHYPS would require a modification to allow this information to be easily extracted via a management report.

Recommendation 1 (Chapter 2 – Best interests of a child or young person)

The Community Services Directorate should improve its ability to give paramount consideration to the best interests of a child or young person, by:

- (o) monitoring the implementation of its 'single caseworker' model;
- (p) modifying CHYPS to allow the number of caseworkers working with a child or young person to be extracted;

OTHER ISSUES CONSIDERED IN THE BEST INTERESTS OF A CHILD OR YOUNG PERSON

Making and Recording Decisions

- 2.153 A review of the selected 30 case studies of children and young people's files and the client management database CHYPS, found that, decisions and the reasons for making a decision were often not recorded, despite it being obvious by the recorded actions that decisions must have been made.
- 2.154 Decisions when recorded were contained in many reports with correspondence individually attached to the file, making it difficult to quickly gain an understanding of the current decisions which affect the child or young person

and the history of decisions made while that person has been known to care and protection.

2.155 A lack of good record keeping on decisions made and actions undertaken for children and young people, has the potential to significantly affect:

- future decisions;
- the accuracy of information shared across Government, community service providers and with families and carers.
- statutory compliance;
- new caseworkers' understanding of the child or young person's circumstances;
- legal staff being able to quickly obtain relevant information from case files;
- the accuracy and timing of internal and national reporting;
- later requests for information from children and young people or families carers; and
- the accuracy and completeness of information provided to statutory office holders, Courts and the Executive on a child's or young person's circumstances.

2.156 Although caseworkers and team leaders advised that the current requirements to explain decisions are taking staff as much time as that spent with the child or young person, there was a lack of records that supported the various decision that were made. Moreover, there were a series of documents that showed the outcomes of decisions, requiring the reader to go through each document to gain an understanding of the decisions and actions that were made for the child or young person.

2.157 There is limited guidance provided to caseworkers and team leaders on what decisions are to be recorded and where to centrally record this information. Decision making responsibilities and record keeping requirements should be brought to the attention of all care and protection staff, especially new recruits, ideally occurring as part of an induction process.

Recommendation 1 (Chapter 2 – Best interests of a child or young person)

The Community Services Directorate should improve its ability to give paramount consideration to the best interests of a child or young person, by:

- (q) **developing guidelines on what decisions should be recorded, and where these decisions should be recorded in CHYPS (High Priority);**

Cultural principles

2.158 Care and Protection Services Branch's stated cultural principles are:

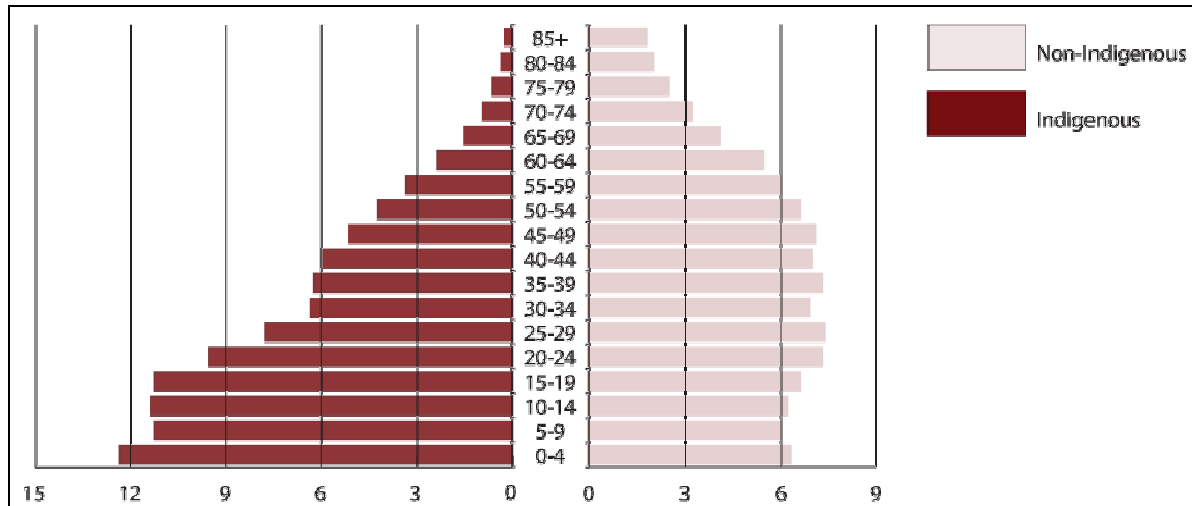
We recognise the significance of racial, ethnic, religious, individual or cultural identity issues in providing services to children, young people and their families.

Aboriginal and Torres Strait Islander People

2.159 In 2011 the Indigenous population of the ACT was 4 825 which represents 1.3 percent of the total population of the ACT and 0.8 percent of the Australian Indigenous population.

2.160 The Australian Indigenous Health Info Net reports that the Indigenous population is much younger overall than the non-Indigenous population. Based on information collected in the 2006 Australian census which is the most current detailed information available, about 40 out of 100 Indigenous people are under 15 years, compared with 20 out of 100 non-Indigenous people. About 3 out of 100 Indigenous people are 65 years or older, compared with 10 out of 100 non-Indigenous people, refer to Figure 2.8. The younger age structure of the Indigenous population is due to high levels of fertility and the older age structure is due to higher mortality compared with the non-Indigenous population.

Figure 2.8: Population pyramid of Indigenous and non-Indigenous populations 2011



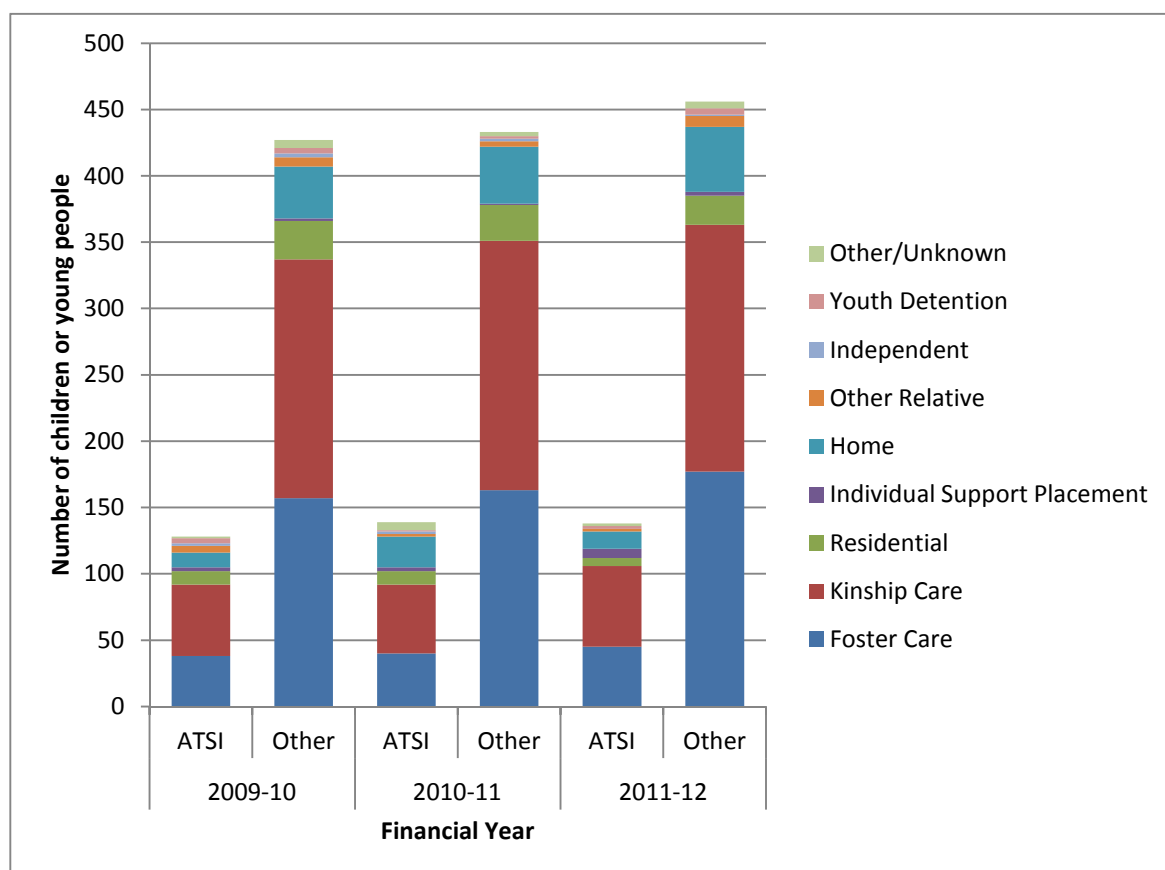
Source: The Australian Indigenous Health Info Net

2.161 Care and Protection Services Branch's Case Management Plans need to respect the racial and cultural identity of the child or young person. Information on the cultural identity of a child or young person is gathered when it is provided by families, on either paper files or in CHYPS.

2.162 On 30 June 2010, 555 children and young people were in the care of the Director General, on 30 June 2011 there were 572 and on 30 June 2012 there were 594, refer to Table 2.5.

2.163 On 30 June in 2012, 2011 and 2010 the total number of children and young people in the care of the Director General who identified as Aboriginal or Torres Strait Islander was 138 (23 percent) of all those in care and protection, 139 (24 percent) and 128 (23 percent), respectively.

Figure 2.9: ACT Aboriginal or Torres Strait Islanders (ATSI) children and young people in the care of the Director General



Source: Audit Office working with CSD data

2.164 Of the 594 children in the care of the Director General, as at 30 June 2012, in an out-of-home care placements, 138 children and young people (23 percent) are Aboriginal or Torres Strait Islander children or young people, of which there are 90 (65 percent) males and 48 (35 percent) females. This contrasts with the 456 non Aboriginal and Torres Strait Islander children and young people with 50 percent males and 50 percent females.

2.165 The number of Aboriginal and Torres Strait Islander children or young people placed in the care of the Director General is significantly over represented compared to the non Aboriginal and Torres Strait Islander population of the ACT. Furthermore, there is significantly more Aboriginal or Torres Strait Islander males in the care of the Director General.

- 2.166 Over representation of Aboriginal or Torres Strait Islander children and young people is also reflected in section 507 reports which are generated when a Concern Report and/or Child Protection Report is lodged while children and young people are in the care of the Director General. These reports are appraised and substantiated or unsubstantiated. In 2010-11 and 2011-12, 10 (52 percent) and 7 (25 percent) Aboriginal and Torres Strait Islander children and young people, respectively, have had Concern Reports and or Child Protection Reports substantiated while in the care of the Director General refer to Table 2.6.

Table 2.6: Section 507 Reports that were substantiated and numbers for Aboriginal and Torres Strait Islander children and young people

	2009-10	2010-11	2011-12
No. of 507 Reports	62	74	104
No. of 507 substantiations	17	19	28
- Appraisals not finished	5*	0	0
- Appraisals incomplete	9*	4#	0
No. of Aboriginal and Torres Strait Islander cases substantiated	0	10 (53%)	7 (25%)

Source: Audit Office, based on Community Services Directorate data.

Note: * As 7 of these unfinished appraisals involve Aboriginal and Torres Strait Islander children and young people, Audit is not able to determine the consequential percentage for 2009-10.

As 3 of these incomplete appraisals involve Aboriginal and Torres Strait Islander children and young people, Audit is not able to conclude how much above 53% is the consequential percentage for 2010-11.

Recommendation 1 (Chapter 2 – Best interests of a child or young person)

The Community Services Directorate should improve its ability to give paramount consideration to the best interests of a child or young person, by:

- (r) **securing the support of the Strengthening Families Committee for it to identify ACT specific strategies for reducing the over representation of Aboriginal and Torres Strait Islander children and young people, particularly males, in the care of the Director General, and advise the Minister for Disability, Children and Young People on how best to progress actions to implement strategies (High Priority); and**

Cultural Care Planning

- 2.167 The *Indigenous Cultural Care Plan* used by Care and Protection Services Branch has sections on maintaining cultural identity; maintaining cultural connections and maintaining spiritual connections. There is a section to indicate if the carer has been provided with Aboriginal and Torres Strait Islander services in the community and a calendar of local events.

- 2.168 Of Audit's 30 case studies, eight (24 percent) children and young people identified as Aboriginal or Torres Strait Islander. An examination of the files for these children and young people showed that Care and Protection Services Branch staff endeavoured to match the placement of a child in accordance with the cultural needs of that person. Typically the preference for Aboriginal and Torres Strait Islander children and young people is to be placed in kinship care.
- 2.169 A young person in Audit's 30 case studies with a placement in residential care had a tailored Cultural Care Plan. The Cultural Care Plan detailed how the care provided would ensure that the young person maintains cultural connection for instance by planned visits by family, participation in cultural events and visits to culturally important locations.

Culturally and Linguistically Diverse

- 2.170 Cultural issues with respect to child protection increases the complexity in determining what is in the best interest of the child or young person. A survey² involving 72 countries showed a strong agreement that sexual or physical abuse of a child, children living on the street, child prostitution and abandonment by parents or care givers are considered forms of child abuse and neglect. Most observed differences revolved around the use of physical discipline, as many cultures traditionally accept physical punishment of children.
- 2.171 In summarising the ACT population, the ACT Multicultural Strategy 2010-13 states:
- around 7 300 (two percent of the population) people do not speak English well, or at all;
 - the main languages spoken at home for older people in aged care are: Italian (900 people), German (680 people) and Croatian (510 people) due to these peoples' place of birth; and
 - the ten foremost places of birth for humanitarian arrivals are: Sudan, Former Yugoslavia, Bosnia and Herzegovina, Afghanistan, Iraq, Vietnam, China, Burma, Croatia and Myanmar.
- 2.172 Care and Protection Services Branch caseworkers and team leaders acknowledged that they are increasingly managing a changing cultural cohort in the ACT. There is an increased number of refugee families in the ACT, who often are more complex to case manage because of the grief and trauma they have experienced before arriving in Australia.
- 2.173 Caseworkers and team leaders also acknowledged the difficulty in interviewing families that speak no or very little English. Audit notes that the timing required to obtain translation services would be difficult to manage in relation to the immediate need to assess the risk to the child or young person. However, the

² World Perspectives on Child Abuse: Seventh Edition, West Chicago, 2006

importance of explaining to the family the implications of a Concern Report allegations and the actions and processes that may follow, coupled with being able to accurately assess the relationships and the risks to the child or young person could be severely hindered without the assistance of a translation service. Over the last 12 months, translation services have been used by the Care and Protection Services Branch on 103 occasions.

- 2.174 The culture and religion of a child or young person other than Aboriginal or Torres Strait Islander, is not collected centrally in, CHYPS. Audit requested data on all cultural identities of children and young people and was advised by the Care and Protection Service's Branch that this information is not collected centrally and therefore not available.
- 2.175 The Concern Report, Child Protection Report and the Appraisal Outcome Report templates, records 'indigenous status' only.
- 2.176 CHYPS has a section for 'cultural details'. The details requested are 'date of birth', 'sex', 'country of origin' and 'preferred language'. Under the preferred language section there is a box to tick if an interpreter is required.
- 2.177 The review of Audit's 30 children and young people's files showed that only one religion and one country of origin of a mother was recorded in CHYPS.
- 2.178 Due to the lack of data captured on cultural identity and religion of non Aboriginal and Torres Strait Islander children and young people, it would be difficult for Care and Protection Services Branch to analyse trends if specialised support was needed for culturally and linguistically diverse families.
- 2.179 ACT Government information related to care and protection matters that is available for culturally diverse groups was collected from four major community outlets:
- Child Health Clinic;
 - Companion House;
 - A Child and Family Centre; and
 - the Migrant Settlement Services.
- 2.180 From a collection of 100 pamphlets, only 13 had content either in languages other than English or listed the interpreter telephone service number of 131 450.
- 2.181 The thirteen pamphlets had varied ways of providing information:
- the Human Rights Commission pamphlet was the only one that described its role in 12 languages;
 - one had Aboriginal and Torres Strait Islander telephone contact details;

- one had the telephone contact for its Indigenous Community Liaison Officer;
- one had the telephone interpreter service number 131 450; and
- two pamphlets had what looked like the 'accessibility block'; and
- six described their services in either Serbian, Greek, Polish, Vietnamese or Arabic.

2.182 Despite the ACT Multicultural Strategy 2010-13 targeting '100 percent of ACT Government publications [to] include accessibility block information', only 13 percent of government pamphlets gathered by Audit that may assist children and young people and their families or cares, contained multicultural references.

2.183 Care and Protection Services Branch's cultural stated principles are:

We recognise the significance of racial, ethnic, religious, individual or cultural identity issues in providing services to children, young people and their families.

Recommendation 1 (Chapter 2 – Best interests of a child or young person)

The Community Services Directorate should improve its ability to give paramount consideration to the best interests of a child or young person, by:

- (s) **securing the support of the Strengthening Families Committee for it to develop and foster the implementation of strategies to increase access to information for people from non-English speaking and culturally diverse backgrounds (High Priority).**

3. KNOWLEDGE MANAGEMENT AND GOVERNANCE

- 3.1 This chapter examines knowledge management and governance of care and protection services provided by the Community Services Directorate and in so doing considers the management of information and records, policies, procedures and supporting tools, the integrated management system, risk management, management reporting and quality assurance and continuous improvement.

SUMMARY

Conclusion

Care and protection services are critically important and considerable Government funds are spent on these services. Therefore, these services it should be supported by a robust electronic system which provides accurate, timely and comprehensive information. The Community Services Directorate's electronic system, CHYPS, is not doing this. Given its failings, age and importance, it raises the question of whether CHYPS can be adequately modified to address its shortcomings or if it should be replaced.

Owing to the shortcomings in CHYPS, the Community Service Directorate's management of information and records on care and protection is poor. However, other factors also contribute, including having two record systems; CHYPS and paper files, CHYPS functions not being optimised and a lack of staff training in the use of CHYPS. CHYPS or its replacement should comply with Government recordkeeping standards so that it can be the primary records system for the Care and Protection Services Branch.

Governance arrangements that affect the Care and Protection Service Branch are poor as key policies, procedures and supporting tools are outdated or not available and electronic links to key reference materials do not always work. The Community Services Directorate is aware of these issues and has commenced addressing them.

There are no scheduled or regular quality assurance activities on case files, yet these are part of team leaders', managers' and practice leaders' duty statements. While the Care and Protection Services Branch acknowledges that this is the case, it is yet to develop a forward program and commence these reviews.

Owing to external reviews, the Community Services Directorate's Internal Audit Program for 2012-13 does not include any specific audits on the Care and Protection Services Branch practice management or specific administrative practices and processes. However, in forward years such matters need to be on the Internal Audit Program and should form part of the Directorate's internal control environment.

The Community Services Directorate is in the process of progressing some major change projects and initiatives, notably its Integrated Management System and a

Refreshing the Service Culture. These, if fully implemented, should address issues identified in this Audit as well as those from other external reviews. However, the benefits of many of the change projects and initiatives are at risk of not being fully realised due to the limitations of CHYPS.

Greater use of the Directorate's Audit and Review Committee should be made to assist in independently monitoring risk and the progress in implementing the major change projects and initiatives.

Key Findings

- The Care and Protection Services Branch staff are required to maintain both paper and electronic (CHYPS) files. The Community Services Directorate's Records Management Program does not define which file is the 'official record'. Usually the paper based file is the 'official record' for ACT Government Directorates. However, in practice, Care and Protection Services staff source the majority of information from CHYPS.
- CHYPS is not compliant with certain attributes needed for it to satisfy the Australian Government Recordkeeping Metadata Standard, it is therefore deficient from a recordkeeping perspective.
- For 30 case studies of children and young people, Audit compared information contained in paper files with that entered in CHYPS. There were inconsistencies in many cases examined.
- To obtain a basic understanding of a child's or young person's circumstances requires reading many documents in CHYPS as well as the paper files. In Audit's review of 30 cases of children and young people it took two to three hours to become familiar with a new case and even then important issues and actions may have been missed.
- CHYPS has more functions built into it than are currently used by staff in the Care and Protection Services Branch. Predominantly CHYPS is being used as a document storage system.
- The CHYPS 'client information sheet' needs to be modified to provide more comprehensive information about a child or young person to better inform decision making by Care and Protection Services Branch staff and to reduce the time taken to generate reports, such as those required by the ACT Children's Court and data for the national annual *Report on Government Services*.
- Section 497 of the *Children and Young People Act 2008* requires an annual summary of a child or young person's circumstances, an annual review report. If a caseworker has worked with the child or young person for all or the most part of the 12 months this takes around 2 to 3 hours to prepare. If not, then this preparation can take several days. An enhanced 'client information sheet' designed to incorporate such annual report data would significantly decrease

the time taken to extract the information from individual documents and provide a useful summary for future use.

- Training is fundamental in ensuring staff have the needed skills to optimise their use of CHYPS. Some staff members accept a training session but are diverted from attending due to casework demands.
- At the time of this Audit, 80 (59 percent) of the 136 entries in the Community Services Directorate's internal register of care and protection policies and procedures were not available.
- The majority of care and protection policies and procedures available to staff are out-dated and electronic links to key reference materials do not always work.
- Since the Demand Management Report was introduced in early 2007 it has not been formally reviewed
- There are no scheduled or regular quality assurance activities conducted on case files by experienced and qualified care and protection staff. Peer reviews, team leader reviews or reviews conducted on a practice or clinical leadership basis are not being routinely conducted.
- In 2012, the Office of Children, Youth and Family Support developed and commenced implementing its Integrated Management System. This, if fully implemented, provides a framework for addressing issues identified in this audit and other external reviews. While this is the case, the deputy Chairperson of the Community Services Directorate's Audit and Review Committee has raised concerns about the Directorate's capacity to achieve the multiplicity of projects.
- Audit requested in July 2012 the current Care and Protection Services Branch Risk Register and Treatment Plan and in error was provided with a 2010 version, which had a number of shortcomings. The 2012 Risk Register and Treatment Plan was provided four months later. Audit acknowledges that there has been considerable effort invested by the Office of Children Youth and Family Support in 2011 and 2012 in developing the 2012 Care and Protection Services Branch Risk Register and Treatment Plan.
- The 2012-13 Community Services Directorate's Internal Audit Plan, identifies administrative processes for auditing such as grants administration, financial delegations and credit cards and petty cash. It does not include auditing programs such as those which affect the delivery of care and protection services. Audit has been advised that this is because there has been, and currently still are, external reviews underway, for example, this audit. While this is the case, forward internal audit programs should include high risk programs.

- The Community Services Directorate's *Refreshing the Service Culture* change agenda, introduced in April 2012, aims to meet the challenge of integrating actions to address internal and external reviews on care and protection services. All care and protection continuous improvement actions are also being integrated into this change agenda.

MANAGEMENT OF INFORMATION AND RECORDS

- 3.2 Audit examined the record keeping and information management associated with 30 children and young people selected as case studies. This examination focused on the intake, response and intervention processes, discussed in Chapter 2, refer to Figure 2.1.
- 3.3 Files located on the Community Services Directorate's information management system, the Children and Young People System (CHYPS) were considered. CHYPS was implemented in 1999 with additional functions added, for example, to implement findings from the 2004 Vardon investigation, refer to paragraph 3.102.
- 3.4 CHYPS is a record, data collection and information system that is used to support the processes discussed in Chapter 2, as well as for case management and internal and external reporting purposes. It is also used to initiate payments for out-of-home care placements.

Creating records

- 3.5 Care and Protection Service Branch staff, are required to maintain both paper and CHYPS files. Each child or young person has a unique client identification number which is used to create and locate information in paper and CHYPS files.
- 3.6 The Community Services Directorate's Records Management Program does not define which file is the 'official record'. Usually the paper based file is the 'official record' for ACT Government Directorates. However, in practice, Care and Protection Services staff source the majority of information from CHYPS.
- 3.7 For the 30 case studies of children and young people, there were 612 paper files. Of these, 181 are current files and 431 are closed or archived, refer to Table 3.1.

Table 3.1: Number of paper files

	Current paper files	All paper files
For Audit's case study of 30 children and young people	181	612
Average per child or young person	6	20

Source: Audit Office review of CHYPS

- 3.8 Audit acknowledges that some of the selected children and young people have been known to care and protection for several years and therefore the number of paper files created is likely to be large. The large number of paper files is likely to present risks in terms of information loss, increased staff costs when accessing information and additional retrieval and storage costs.
- 3.9 There are many paper files created for each child or young person. Files are populated by staff who all might manage a different aspect of a child or young person's interaction with the Care and Protection Services Branch.
- 3.10 The large number of paper files makes it difficult to readily gain a comprehensive understanding of a child or young person's 'interaction' with the Care and Protection Services Branch.

Mismatch of records

- 3.11 For the 30 case studies of children and young people, Audit compared information contained in paper files with that entered in CHYPS. There were inconsistencies for many of the cases examined. For example in some cases substantial client history was not placed on the paper file or a document version in CHYPS was not the same as in the paper file.
- 3.12 Case aids provide support for caseworkers by undertaking administrative tasks such as sourcing documents from CHYPS and placing documents on paper files when time permits. There are 11 case aids supporting 152.8 care and protection staff.

Comprehensively recording children and young people's circumstances

- 3.13 The CHYPS user guide states:
- Different areas of CSD use CHYPS to record different types of data. For care and protection staff some examples are:
- current contact and personal details on each child and his/her sibling;
 - current contact and personal details of a child's parents (if known);
 - every notification/report of suspected abuse to a child;
 - any actions you take regarding such notification/report;
 - all documents pertaining to a child/family;
 - notes relating to gathering information and working with a child/family;
 - any orders a child is on; and
 - where a child is placed.
- 3.14 CHYPS has mandatory and non-mandatory fields which are used to collect information aimed at meeting reporting requirements.
- 3.15 Information that has been captured in CHYPS during the intake, response and intervention processes, refer to Chapter 2, Figure 2.1 is stored using a variety of

templates and word documents. Although these templates and documents are linked to a particular child or young person, retrieving comprehensive information from them is challenging as the templates and documents need to be opened individually. This method presents the risk that information might be accessed that is out-dated.

- 3.16 To obtain a basic understanding of a child's or young person's circumstances requires reading many documents in CHYPS as well as the paper files. In Audit's review of 30 cases of children and young people it took two to three hours to become familiar with a new case and even then important issues and actions may have been missed.
- 3.17 Although there is a location in CHYPS for a 'client information sheet' template, this is not always added to a child or young person's file, nor is the information that is presented in it sufficient to answer basic questions about a specific case as it does not include information such as:
- current care arrangement (a space for an address is included, but not the type of care e.g. kinship, foster or residential);
 - a genealogical diagram (to show the child's family at a glance);
 - history of family and/or carers (for example domestic violence, drug/alcohol dependencies, parenting skill assessments and if parent is deceased);
 - history of care arrangements; and
 - current action plans.
- 3.18 The information listed in paragraph 3.17 is embedded in documents in paper files or within CHYPS and may involve a considerable amount of time to search. This presents a risk that caseworkers may need to reduce their time in managing a child or young person because of the time spent searching for information.
- 3.19 The consistent use of an improved 'client information sheet' which is regularly updated would reduce the time new caseworkers, the care orders team and data and reporting teams take in establishing the circumstances of a child or young person.
- 3.20 It would also assist in providing more comprehensive and timely annual reporting information for the Public Advocate and improve response times for complaints sent by the Children and Young People Commissioner.
- 3.21 The information required to be extracted from CHYPS to undertake statutory reporting under section 497 of the *Children and Young People Act 2008*, would not be an easy activity or necessarily accurate, given the way data is entered into the system. Table 3.2 provides a summary of reporting to the Public Advocate by the Care and Protection Services Branch.

Table 3.2: Care and Protection Services Branch reporting to the Public Advocate

Year	Action following appraisals of reported abuse in out-of-home care section 507	Annual review reports for children and young people in out-of-home care section 497	Requests for information and documents section 879	Emergency action section 408
2009-10	62	546	14	109
2010-11	72	572	59	116
2011-12	95	599	152	129

Source: The Public Advocate

- 3.22 The Public Advocate examines the annual review report, of a child or young person's circumstances, refer to section 497 of the *Children and Young People Act 2008*. If a case worker has worked with the child or young person for all or the most part of the previous 12 months this is a relatively easy process which takes around 2 to 3 hours per annual report depending on the complexities of the case. If a case worker has not for the most part worked with the child or young person over the previous 12 months then this is a very time consuming exercise to extract the information from CHYPS, which in some cases requires days of work to complete one annual report. A 'client information sheet' template designed to incorporate this information would significantly decrease the time to produce the annual report.
- 3.23 The ACT care and protection statistics that are reported in the national annual *Report on Government Services* requires significant data extraction and 'cleansing' of the CHYPS data. Due to the way that data is entered into CHYPS, this would be a challenging and time consuming exercise for the data management and finance teams to produce.
- 3.24 The CHYPS 'client information sheet' needs to be modified to provide more comprehensive information about a child or young person to better inform decision making by Care and Protection Services Branch staff and to reduce the time taken to generate reports, such as those required by the ACT Children's Court, annual review reports and data for the national annual *Report on Government Services*.

Recommendation 2 (Chapter 3 –Knowledge management and governance)

The Community Services Directorate should improve its knowledge management and decision making, by:

- (a) the CHYPS 'client information sheet' template being modified to facilitate the collection of comprehensive information;

Interpretation and terminology

- 3.25 Caseworkers record case management information 'in the field' manually by taking notes and later entering the information into CHYPS and on the paper files. These notes can be recorded as Microsoft Word documents and saved into CHYPS as an attachment or entered directly into CHYPS as progress notes or as a 'service event'.
- 3.26 Care and protection have a small number of case aids who assist caseworkers by entering their notes into CHYPS. This process presents the risk that, although time saving for caseworkers, it may result in the loss of information and misinterpretations may occur.
- 3.27 Terms used in CHYPS are not defined. For example, 'event', 'action' and 'incident' are used as headings for collecting information. Similar information could be recorded under each of these headings. Without defining terms used in CHYPS there is a risk that caseworkers understanding of them will vary and therefore there is likely to be inconsistencies in the type of information recorded or no recording made.

Service event

- 3.28 In CHYPS a 'service event' is intended to be used to enter sightings or meetings with a child or young person. However, case workers are not often entering information on visits with a child or young person into CHYPS as a 'service event' and therefore there is no readily accessible record of when the child or young person was last visited or a means to generate an accurate report on the number of visits involving a child or young person. Caseworkers are often entering this type of information into 'progress notes', rather than in the 'service event'. By entering this information into 'service event' it would be possible for a summary of visits to be obtained from CHYPS, thereby providing a means to monitor visits to children and young people in the care of the Director General.
- 3.29 Audit requested information on when a child or young person in the care of the Director General was last visited and was provided with a list seven days later. This is another example of how difficult it is to quickly source reports from the CHYPS system.

Substitute care cases

- 3.30 Another example of a shortcoming in CHYPS relates to maintaining 'substitute care cases'. All children on Care and Protection Orders have a 'substitute care case' which is kept to show where a child is currently placed. Reports from the 'substitute care cases' are used by the finance team to pay kinship, foster or residential care payments. Audit was advised that reports can also be run to show where all the children and young people in the care of the Director General are at any time.
- 3.31 Placements can change frequently. Updates from caseworkers and community service providers about the location of the child or young person is one of the ways the 'substitute care case' data is maintained. To have this information as accurate as possible, information is entered from documents such as court orders. Keeping this data current also assists accurate payments of allowances to carers and community service providers for out-of-home care placements.
- 3.32 Care and Protection Services staff informed Audit that 'substitute care case' information has not been regularly updated by caseworkers. Therefore, the Care and Protection Services Branch has established a team of three staff in 2007 to maintain the 'substitute care case' data. New caseworkers have not always been aware that they should access the 'substitute care case' in CHYPS to determine the location of a child or young person. Training caseworkers should address this issue.

Maximising existing CHYPS capabilities and reporting benefits

- 3.33 The examples regarding 'service events' and 'substitute care cases' demonstrates a lack of training and knowledge by caseworkers about CHYPS capabilities and reporting benefits. Some caseworkers perceive CHYPS requirements as 'just another step' in making additional work for them.
- 3.34 CHYPS has more functions built into it than are currently used by staff in the Care and Protection Services Branch. Predominantly, CHYPS is being used as a document storage system.

Recommendation 2 (Chapter 3 –Knowledge management and governance)

The Community Services Directorate should improve its knowledge management and decision making, by:

- (b) defining terms used in CHYPS;
- (c) optimising CHYPS functions so that its use extends beyond being a document storage system;

CHYPS training and attendance

- 3.35 There are seven CHYPS prerequisite training courses provided for Care and Protection Services Branch staff, these include:
- Introduction (5 ½ hours duration);
 - Case Work 1 (3 ½ hours duration);
 - Case Work 2 (3 ½ hours duration);
 - Child Protection Report and Appraisals (5 ½ hours duration);
 - Review Care and Protection (30 mins);
 - Refresher Care and Protection (30 mins duration); and
 - New Team Leader Care and Protection (3 hours duration).
- 3.36 The Case Work 1 module incorporates training on 'service events' and notes and the Case Work 2 module incorporates training on 'substitute care cases'.

Table 3.3: CHYPS courses and staff attendance

Year	CHYPS courses	No. of attendees
2009-10	CHYPS Case Work 2 Care & Protection	2
	CHYPS Introduction	7
	CHYPS New Team Leader Care & Protection	2
	CHYPS Refresher Care & Protection	7
	CHYPS Researching Data	1
	Intro to CHYPS	4
2010-11	CHYPS Case Work 1	4
	CHYPS Case Work Child & Family Centre	1
	CHYPS Child Protection Reports & Appraisals	3
	CHYPS Introduction	10
	CHYPS New Team Leader Care & Protection	4
	CHYPS Team Leader Refresher Care & Protection	1
2011-12	CHYPS Case Work 1	52
	CHYPS Case Work 2 Care & Protection	35
	CHYPS Child Protection Reports & Appraisals	42
	CHYPS Introduction	61
	CHYPS New Team Leader Care & Protection	5
	CHYPS Refresher Care & Protection	4
	CHYPS Team Leader Refresher Care & Protection	1

Source: Community Services Directorate Learning and Community Education

Note: Only the training records for existing Care and Protection Staff were included in the totals in Table 3.3 and not the records of staff that have left Care and Protection Services.

- 3.37 Attendance at CHYPS training sessions has increased, as shown in Table 3.3. However, there are 163.8 (full-time equivalent) Care and Protection Service Branch staff, all of whom would have a need to use the CHYPS system with varying dependency, not to mention the other areas within the Community Services Directorate, such as data and reporting and the Consumer Advocacy and Quality Service Unit requiring a high level of training on CHYPS. From 2009-10 to 2011-12, only 45 staff undertook training on the CHYPS topic of Child Protection Reports and Appraisals. However, this may reflect that there were only a small number of new Care and Protection Services Branch staff.
- 3.38 Training is fundamental in ensuring staff have the needed skills to optimise their use of CHYPS. Some staff members accept a training session but are diverted from attending due to casework demands.

Recommendation 2 (Chapter 3 –Knowledge management and governance)

The Community Services Directorate should improve its knowledge management and decision making, by:

- (d) monitoring attendance of Care and Protection Services Branch staff at mandatory training for optimising their use of CHYPS and taking action to enforce attendance when necessary;

Inadequate quality of record keeping

3.39 The management of children and young people's care and protection records is poor due to:

- the duplication of records on both paper and CHYPS files;
- CHYPS 'client information sheet' template not being designed to collect comprehensive information;
- a lack of definitions for terms used in templates in CHYPS; and
- a lack of training and knowledge by Care and Protection staff on CHYPS capabilities and reporting benefits.

CHYPS inadequacies

3.40 CHYPS, and paper files, create the information management system that underpins the protection of 594 children in the care of the Director General as at 30 June 2012.

3.41 CHYPS is fundamentally important in the functioning of the Care and Protection Services Branch activities and should be facilitating accurate and timely information. It is not doing this adequately.

3.42 CHYPS does not facilitate information being accessed in a timely and accurate manner. It does not provide for the integration of information across directorates or with community service providers. It therefore significantly reduces the ability of the Community Service Directorate to exercise its many functions related to protecting children and young people. It is also likely to be a contributing factor, although certainly not the only one, in being a reason why there have been so many adverse findings in reviews of care and protection services.

3.43 CHYPS is not compliant with attributes needed for it to satisfy the Australian Government Recordkeeping Metadata Standard, as endorsed by the Territory Records Office. It is therefore deficient from a recordkeeping perspective and to bring it up to recordkeeping standards:

... there would need to be some redesign of the system to encapsulate all the necessary recordkeeping attributes.

- 3.44 Given the current reliance on CHYPS by staff, particularly those in the Care and Protection Services Branch, and the efficiencies of using an electronic system, CHYPS needs to be updated to make it complaint with recordkeeping standards, if this is not possible it would seem to warrant replacement.
- 3.45 This Audit has recommended many changes to improve CHYPS. However, given the characteristics of this system which requires that a significant amount of time be invested to access information, information is unreliable, needs to be verified and the fact that CHYPS is at least 13 years old and has never been the subject of an overall evaluation, it is timely to ask the fundamental question; Should CHYPS be replaced?

Recommendation 2 (Chapter 3 –Knowledge management and governance)

The Community Services Directorate should improve its knowledge management and decision making, by:

- (e) **evaluating if CHYPS can be modified to better support the Care and Protection Services Branch or whether it should be replaced (High Priority);** and
- (f) CHYPS, or its replacement, being compliant with record keeping standards so that it is the main file record system thereby significantly reducing the use of paper files.

POLICY, PROCEDURES AND SUPPORTING TOOLS

- 3.46 The Community Services Directorate has an internal register of care and protection policies and procedures. This register contains 136 entries, using the major headings of:
- General Procedures;
 - Care and Protection Services General;
 - Intake;
 - Care; and
 - Practice Framework.
- 3.47 Such an index is vital for staff to navigate through the large quantity of care and protection policies and procedures.

Availability and currency

- 3.48 At the time of this Audit, 80 (59 percent) of the 136 entries in the Community Services Directorate's internal register of care and protection policies and procedures were not available as:
- 35 (26 percent) of 'active' documents were not accessible in either the index or in the staff policies and procedure folder;
 - 8 (6 percent) were not accessible in the index, but were found in the staff policies and procedure folder;
 - 25 (18 percent) in 'grey' in the index were not 'active' for accessing; and
 - 12 (9 percent) were listed as 'under consultation' (or similar words) and therefore not made accessible.
- 3.49 For each of the entries, the index provides columns for the date published and the current status. A simple analysis of information on the dates and status of these policies and procedures shows a considerable mismatch between the index and the actual policies and procedure documents themselves. The actual documents are not always what the index says they are. For example, the dates of documents do not always relate to the index date, and at times, dates do not exist on documents.
- 3.50 Of 25 documents dated between 2003 and 2007:
- only 3 were still current;
 - 5 were considered outdated;
 - 9 said that an 'Updated policy was being drafted';
 - 6 had 'draft for consultation';
 - 1 had 'next review due 2012'; and
 - 1 had no status recorded.
- 3.51 Another example of problems with the index is in relation to the Supervision Framework entry. The index shows this as being published on 3 July 2009, although no status is recorded. At the time of audit testing in October 2012, clicking on this entry revealed a list of related documents as:
- 'DHCS Collective Agreement' – 2007-10;
 - Flex sheets – how to set-up and use - 'coming soon';
 - Staff supervision – exit survey and interview;
 - Supervision – framework and resource kit; and
 - Training – Office of Children, Youth and Community Services competencies and how to apply 'coming soon'.

- 3.52 Clicking on these sources then provided either:
- a document;
 - another index to related documents; or
 - a need to provide a password before being able to access some documents.
- 3.53 The documents accessed showed that:
- the Community Services Directorate's Collective Agreement expired three years previously (although the Collective Agreement had been updated in 2011, it has not been linked in the index);
 - there was no correlation between the index date and those dates on actual documents – some documents did not have dates;
 - review dates (e.g. to be reviewed in 2010) are well overdue; and
 - simple but important instructions for actions like completing a flextime sheet or applying for training were still 'coming soon'.
- 3.54 Of the 136 entries in the index, 36 (26 percent) were not accessible either via the index or in the Care and Protection Services staff 'policies and procedures folder' and 8 (6 percent) were not accessible via the index, but were found in the staff policies and procedures folder.
- 3.55 When not accessible in the index, a simple alert pop-up appears, saying 'The address of this site is not valid. Check the address and try again'. It would be more useful if such an alert directed staff to where the documents can be located, although 35 (26 percent) were not readily available anyway.
- 3.56 A further 25 (18 percent) were 'grey' in the index and therefore not available to access. Important titles for such entries included:
- out-of-home care framework;
 - record keeping policy;
 - family violence;
 - supporting placements; and
 - enduring parental responsibility.
- 3.57 There may be other documents that have not been listed in the index, which could be equally as important to have in the index as a guide for staff.
- 3.58 The limitations in accessing material through using the index and its lack of consistency in terminology presents a significant risk that the index will be of limited value to staff and restrict them in undertaking their duties.

- 3.59 In some circumstances, policy and associated procedures are an exact copy of the *Children and Young People Act 2008*, with no or little reflection of policy intent or procedural guidance for staff in the Care and Protection Services Branch.
- 3.60 The majority of care and protection policies and procedures available to staff are out-dated and electronic links to key reference materials do not always work in circumstances. A lack of robust policy and procedural guidance presents the risk that:
- care and protection staff will solely reference and interpret for themselves the *Children and Young People Act 2008*;
 - there will be inconsistency in decision making and approaches;
 - practices will be inefficient; and
 - statutory obligations may not be met.
- 3.61 The Office of Children, Youth and Community Services is undertaking a review of policies and procedures as part of its Integrated Management System Project, discussed later in this section, which is scheduled for completion by December 2013.
- 3.62 As part of a re-alignment in May 2012, responsibility for care and protection policy has been removed from the operational area to a policy unit within the Office of Children, Youth and Family Support. A working party approach between the policy and operational units is being developed to collaboratively review and update future care and protection policy, procedures and practice tools post the current Integrated Management System project activities.
- 3.63 The Care and Protection Services Branch advised that in 2012 there had been a conscious decision to not update policies and procedures singularly but to take an approach of updating all policies and procedures through the Integrated Management System Project. Updates to the policies and procedures are to be completed as a milestone of this project and are scheduled for completion by December 2013.

Recommendation 3 (Chapter 3 –Knowledge management and governance)

The Community Services Directorate should improve its governance, by:

- (a) **continuing to update care and protection policies and procedures by December 2013 (High Priority);**
- (b) having all electronic links to key reference materials functioning;

Caseworker manuals, toolkits and process flow charts

- 3.64 There is no current comprehensive caseworker manual or toolkit available for staff.
- 3.65 A 2005 Orientation Manual for Centralised Intake, which could be considered a manual or toolkit, contains information for caseworkers on the care and protection environment, care and protection processes and operations and the administrative practices of the Directorate. This document has not been maintained.
- 3.66 Care and Protection Service's processes are complicated due to their regulatory nature, multitude of decisions and options available to Care and Protection Services Branch staff. Process flowcharts could assist in rapidly understanding care and protection processes.
- 3.67 There were no process flow charts developed at the time of audit fieldwork for any of the core care and protection statutory processes. Therefore, Audit developed the flowchart in Figure 2.1.
- 3.68 The Office of Children, Youth and Family Support has invested significant resources to develop an Integrated Management System which is currently being implemented. As part of this system, supporting tools for implementing policies and procedures are to be developed, such as process flow charts and a knowledge portal.

Recommendation 3 (Chapter 3 –Knowledge management and governance)

The Community Services Directorate should improve its governance, by:

- (c) continuing to develop supporting tools for implementing policies and procedures;

INTERNAL CARE AND PROTECTION SERVICES BRANCH QUALITY ASSURANCE REVIEWS

- 3.69 There are no scheduled or regular quality assurance activities conducted on case files by experienced and qualified care and protection staff. Peer reviews, team leader reviews or reviews conducted on a practice or clinical leadership basis are not being routinely conducted.
- 3.70 Team leaders, managers and practice leaders are required to perform quality assurance reviews as part of the duties listed on their individual duty statements. Care and Protection Services Branch acknowledges the absence of these types of quality assurance reviews as a direct result of an increase in demand for services and frequent workforce shortages. In such circumstances team leaders and managers focus on the case management of vulnerable children and young people.

- 3.71 Without a suitable level of quality assurance there is a risk that not all decisions are being made in the best interests of a child or young person and compliance with statutory obligations may be compromised. Recognising caseworker's better practice methods or the opportunities for process improvements can also be compromised.
- 3.72 In recognising this high risk, the Office of Children, Youth and Family Support, established a Quality Practice and Compliance Unit, refer to Figure 4.3, in 2012 to undertake care and protection quality assurance reviews on Care and Protection Services Branch practice management. However, there is no forward program to guide future reviews. It is understood that there is an intention for such a program to be developed in the near future.

Recommendation 3 (Chapter 3 –Knowledge management and governance)

The Community Services Directorate should improve its governance, by:

- (d) the Quality Practice and Compliance Unit developing a forward review program and commence reviews, including on Care and Protection Services Branch practice management;

INTEGRATED MANAGEMENT SYSTEM

- 3.73 In 2012, the Office of Children, Youth and Family Support, developed and commenced implementing its Integrated Management System to:
- ... support Care and Protection Services in its work so that children and young people in the ACT are safe from abuse and neglect and ...[to promote] the best possible outcome for them.
- 3.74 The Integrated Management System aims to provide:
- an overall architecture linking and harmonising the strategic and operational business components and initiatives used to deliver services;
 - the ability to continually review and improve the strategic framework in which services are delivered;
 - a system to enable Care and Protection Services to manage risk and achieve compliance; and
 - support to staff in the delivery of good practice and continued quality improvement in service delivery.
- 3.75 The scope of the Integrated Management System includes:
- reviewing and updating policies and procedures including practical tools (e.g. deployment flowcharts);
 - developing a Strategic Framework for care and protection services;
 - reviewing and updating the Compliance Plan and Register for Care and Protection Services Branch;

- reviewing and updating the Risk Register for the Care and Protection Services Branch;
- developing an online Care and Protection Services Branch 'Knowledge Portal';
- training for Care and Protection Services Branch staff;
- undertaking a system audit; and
- reporting on the effectiveness of the Care and Protection Services Branch Integrated Management System.

3.76 Table 3.4 outlines target milestone dates for the Integrated Management System. The standardisation of policies and procedures is the first priority.

Table 3.4: Integrated Management System milestones

Milestone deliverables	Status	Target date
Standardised policies and procedures	Commenced	December 2013
Deployment process flowcharts for all procedures	Commenced	December 2013
Accountability package	Commenced	December 2013
An Integrated Management System for Care and Protection Services Branch	Commenced	December 2013
Online Care and Protection Services Branch 'Knowledge Portal'	Commenced	December 2013
Implementation and Review of Integrated Management System	-	December 2014

Source: Office of Children, Youth and Family Support

- 3.77 The Integrated Management System, if fully implemented, provides a framework for addressing many of the issues identified in this Audit and other external reviews.
- 3.78 While this is the case, the Chairperson of the Community Services Directorate's Audit and Review Committee, on 30 October 2012, raised concerns about the Directorate's capacity to achieve the multiplicity of projects.
- 3.79 Reporting on progress in delivering the Integrated Management System to the Community Services Directorates' Audit and Review Committee would provide additional monitoring by people independent of the Directorate.

Recommendation 3 (Chapter 3 –Knowledge management and governance)

The Community Services Directorate should improve its governance, by:

- (e) **the Project Management Office closely monitoring the delivery of the Integrated Management System to assist achieving the identified milestones within specified target dates and routinely advising the Community Services Directorate’s Audit and Review Committee on progress (High Priority);**

RISK MANAGEMENT

Recording and managing risk in the Care and Protection Services Branch

- 3.80 The Care and Protection Services Branch manages a very complex, often interdependent and sometimes competing array of risks, involving a continuous weighing of risk and the exercise of judgment, often within constrained timelines. Some of these risks can be managed through routine, standard organisational and operational process, while others require additional treatment³.
- 3.81 All ACT Government directorates are required to establish, maintain and manage a risk register, as well as the related ‘treatment schedule’. The risk register includes a description of the risk, potential impacts, existing controls, risk owner, likelihood, consequence, risk level and if further treatment is required.
- 3.82 Audit requested in July 2012 the current Care and Protection Services Branch Risk Register and Treatment Plan and in error was provided with a 2010 version, which had a number of shortcomings. The 2012 Risk Register and Treatment Plan was provided four months later. Audit acknowledges that there has been considerable effort invested by the Office of Children Youth and Family Support in 2011 and 2012 in developing the 2012 Care and Protection Services Branch Risk Register and Treatment Plan.
- 3.83 In 2011, KPMG were commissioned to undertake a desktop review of Care and Protection Services Branch’s risk mitigation measures, to respond to workforce shortages. Albeit a strategic approach to commission this review, there was no update of the Care and Protection Services Branch Risk Register and Treatment Plan in 2011 and therefore the outcomes of this review were not reflected possibly for another twelve months in the development of the 2012 Care and Protection Services Branch’s Risk Register and Treatment Plan.

³ Office of Children, Youth and Family Support Risk Management Framework

Recommendation 3 (Chapter 3 –Knowledge management and governance)

The Community Services Directorate should improve its governance, by:

- (f) routinely monitoring the Care and Protection Services Branch Risk Register and Treatment Plan and updating these documents accordingly, with a review occurring annually;

Monitoring and escalating risk

- 3.84 It is often the role of a directorate's Audit and Review Committee to independently monitor its key risks, including the status on implementing controls and further treatments as a regular agenda item for each meeting.
- 3.85 The Community Services Directorate's Audit and Review Committee monitors four Directorate systemic risks:
1. Procedural Compliance;
 2. Workplace Safety Culture;
 3. Medium-to-large Procurement and Transition to Contract Management; and
 4. Workforce Capability and Capacity.
- 3.86 Compliance to legislative obligations by the Care and Protection Services Branch is monitored as part of the strategic risk titled 'Procedural Compliance'. In 2013 Audit requested a copy of the Procedural Compliance Risk Analysis Plan and was provided with a Plan dated July 2011 with proposed additional controls/strategies and timings that were to be implemented in 2011 and 2012.
- 3.87 The Office of Children Youth and Family Support's Risk Management Policy Statement states:
- The Executive Director, OCYFS will report to the Deputy Director-General of Community Services at least quarterly and similarly escalate any OCYFS level unacceptable risks as soon as they are identified. This process will allow assurance to be given to government that risk management is built into OCYFS activities.
- 3.88 Branch level plans are not necessarily considered by the Community Services Directorate's Audit and Review Committee. The Audit and Review Committee receive updates from the Deputy Director General on emerging risks and papers are presented on occasion by representatives of relevant Branches on request of the Audit and Review Committee. However, the Audit and Review Committee does not routinely monitor the high and very high risks identified in the Care and Protection Services Branch's Risk Register and Treatment Plan.

- 3.89 Audit in consulting with the Audit and Review Committee Chairperson on this issue, was advised that the Committee would request the 2012 Care and Protection Services Branch Risk Register and Treatment Plan be presented to the Audit and Review Committee at its March 2013 meeting.

Recommendation 3 (Chapter 3 –Knowledge management and governance)

The Community Services Directorate should improve its governance, by:

- (g) the Directorate's Audit and Review Committee independently and routinely monitoring Care and Protection Services Branch's implementation of controls and additional treatments for its high and very high risks;

DEMAND MANAGEMENT REPORTS

- 3.90 Care and Protection Services reports on its workflow and workforce using a Demand Management Report. This report is circulated on a weekly basis and routinely provides information on:
- funded operational staff numbers against actual numbers for each functional area with a six week display and variance; and
 - workloads, including graphs and tables, covering:
 - Child Concern Report totals, with: no decision; not to proceed; proceeding to support; support not commenced; substantiations; and no support outcome recorded in CHYPS;
 - Child Protection Reports, with: not proceeding; requiring appraisal; proceeding to appraisal; appraisal commenced; appraisals closed; and no appraisal outcome recorded in CHYPS;
 - totals for teams providing services;
 - leaving care plans for: overdue; due; completed; and completed during that week;
 - activities for the care orders team;
 - annual reviews lodged and overdue; and
 - cases with current court involvement.
- 3.91 The Demand Management Report is a means of raising awareness of the capacity and progress on workflow across the various Care and Protection Services Branch teams.

- 3.92 Since the Demand Management Report was introduced in early 2007 it has not been formally reviewed. The Care and Protection Services Branch advised Audit that the Demand Management Report format has changed in response to verbal requests by the Director General, Executive Director and Director. To ensure that it reports on all key aspects it needs to be formally reviewed on a regular basis, possibly annually.

Recommendation 3 (Chapter 3 –Knowledge management and governance)

The Community Services Directorate should improve its governance, by:

- (h) formally reviewing the Demand Management Report on a regular basis;

INTERNAL AND EXTERNAL SCRUTINY

Internal scrutiny

- 3.93 The Consumer Advocacy and Quality Service Unit, a central area of the Community Services Directorate, manages complaints regarding the Care and Protection Services Branch. It coordinates and works with Care and Protection Services Branch staff to respond to external complaints made against the service. The Consumer Advocacy and Quality Service Unit also undertake reviews and contribute to reviews of systemic matters resulting from complaints. On occasion it will contract out internal reviews to external providers to manage a conflict or perceived conflict of interest.
- 3.94 Reviews undertaken by the Consumer Advocacy and Quality Service Unit or ones it contracted out from September 2011 to October 2012 includes:
- communication;
 - decision making;
 - staff bias;
 - government systems and partnerships; and
 - a service audit on intensive residential care services.
- 3.95 The Community Services Directorate's internal audit program for 2012-13 does not include any specific audits on Care and Protection Services Branch practice management or specific administrative practices or processes. Audit acknowledges that there has been two reviews relevant to the Care and Protection Services Branch over the past 2 years relating to:
- Drug Provisions Compliance with Mandatory and Internal Controls (2010);
 - Review of Kinship Care Policies and Procedures (2011);
- 3.96 In addition, external reviews have also been conducted during 2011 and 2012, refer to paragraph 3.102.

- 3.97 The 2012-13 Community Services Directorate's internal audit plan identifies administrative processes for auditing such as grants administration, financial delegations and credit cards and petty cash. It does not include auditing programs such as those which affect the delivery of care and protection services. Audit has been advised that this is because there has been, and currently still are, external reviews, for example, this audit, underway. While this is the case, forward internal audit programs should include high risk programs.
- 3.98 Including major Care and Protection Services Branch programs on the Community Services Directorate's Internal Audit Program is likely to assist in enhancing service delivery to children and young people and the administrative effectiveness of the Care and Protection Services Branch.

Recommendation 3 (Chapter 3 –Knowledge management and governance)

The Community Services Directorate should improve its governance, by:

- (i) major Care and Protection Services Branch programs being included in its forward Internal Audit Programs; and

External scrutiny

- 3.99 Care and Protection Services Branch's direct external scrutiny oversight bodies, include:
- Children and Young People Commissioner;
 - Human Rights Commissioner;
 - Public Advocate;
 - Ombudsman; and
 - The Office Visitor (declared places of care)

The roles of the Children and Young People Commissioner, Human Rights Commissioner and the Public Advocate have been examined as part of this audit, refer to Chapter 6.

- 3.100 The Community Services Directorate has been the subject of five major reviews over the last eight years. During this time a significant change has occurred in legislation with the passing of the *Children and Young People Act 2008*.

Previous reviews

3.101 Major reviews conducted on the ACT Government's care and protection services programs in the past eight years are:

- Vardon (2004);
- Murray (2005);
- Murray-Mackie (2006);
- Public Advocate (2011); and
- Public Advocate (2012).

Vardon Report 2004

3.102 On 14 May 2004, the Commissioner for Public Administration (Cheryl Vardon) forwarded her *The Territory as a Parent* report to the Chief Minister. The terms of reference required the review to:

- conduct a comprehensive investigation into the Department's failure to fulfil statutory obligations under s162 of the then *Children's and Young People's Act 1999* including considering departmental action, and to conduct an audit of files relating to children in care;
- consider departmental policies and resource allocations; and
- recommend a way forward for the Government to improve safety outcomes for vulnerable children and young people.

3.103 The report concluded that 'it would seem that the safety of children and young people has been compromised' and posed that there are three questions that, as a conscientious parent, the Territory Parent should be able to answer immediately:

- How many children do you have?
- Where are they?
- How are they?

Murray Report 2005

3.104 The Murray Report formed a separate and companion report to the *Territory as a Parent*. Its recommendations mainly focus on practice, policy, procedures and training within a child-centred framework. In her response to this report, the then Minister for Children Youth and Family Support said in February 2005:

The areas identified for reform in the Murray Report are consistent with recommendations in the Territory as Parent Report and require:

- better support for children and young people who are Aboriginal and Torres Strait Islanders;
- improved training, recruitment and support for workers and carers in the care and protection sector;
- development of best practice policy and professional practices;

- improved administration and record-keeping; and
- development of new family support services and placement options.

Murray Mackie Report 2005

3.105 A study was conducted on five young children who had either died, or nearly died, while in the care of their natural parents. In her response to this report, the then Minister for Disability and Community Services said in September 2006:

The parental responsibility for these five young children lay with their natural parents. None of these children were in the care of the Territory, nor had they ever been ... They were however, in one way or another, known to care and protection.

Progress against Vardon, Murray and Murray Mackie Report recommendations

3.106 The Care and Protection Services Branch advises that significant change has occurred in services, programs and initiatives as a direct result from the Vardon, Murray and Murray Mackie Reports.

3.107 While large changes have occurred some continuing governance deficiencies remain to be addressed as indicated by findings of the recent Public Advocate reviews and those of this audit.

The Public Advocate 2011

3.108 The review, *Emergency Response Strategy for Children in Crisis in the ACT* by the ACT's Public Advocate was completed as an interim report in 2011. A review was requested by the Minister for Community Services and the then Director General of the Community Services Directorate requested the Public Advocate undertake the review. The report outlines five specific actions for immediate implementation:

- Resource the Public Advocate to undertake stage 2 of the review which would focus on the operations and management of care and protection services and the authorities and arrangements for children and young people currently in out-of-home care;
- That the Director General establishes a reception centre/facility as part of their emergency response and an operations policy and procedure manual for case workers and direct care staff to be finalised and implemented;
- The position of Children's Guardian be resourced and formalised under the auspices of the Public Advocate's Act;
- That the Director General authorises the Response and Intervention Teams to be relocated out in the ACT regions; and
- Specifically relating to Northern Bridging Support Services that an independent mediator be engaged to conduct mediation between this party and care and protection and payment of outstanding monies must be arranged.

The Public Advocate 2012

3.109 In May 2012, the Public Advocate concluded her two part review of the *Emergency Response Strategy for Children in Crisis in the ACT*. The Public Advocate recommended seven areas in need of improvement, including:

- Developing a strategic framework encompassing evidence based practice, case supervision, mentoring mechanisms, case management, planning and review, risk management and assessment processes and forensic investigation;
- Implementing the strategic framework through a change management process that will address the current reactive culture;
- Review the current staff training and development regime;
- Development and formalisation of on-going review mechanisms;
- Review all kinship care placements;
- Identify cultural awareness; and
- Improve record keeping.

3.110 Audit has identified some similar information management and governance issues that were identified by the Public Advocate.

Progress against the Public Advocate's report recommendations

3.111 The Project Management Office, refer to Figure 4.1, has been established by the Community Services Directorate Board of Management to provide oversight of all strategic projects, approved by the Board of Management to achieve either:

- The implementation of the Community Services Directorate Strategic plan;
- The mitigation of identified Community Services Directorate strategic risks; or
- Deliver specific ACT Government priorities.

3.112 The Project Management Office monitors the implementation, of the recommendations agreed by the Government, to parts one and two of the Public Advocate's reviews conducted in 2011 and 2012.

3.113 In addition a Milestone Review Panel comprising three members external to the Community Services Directorate including the Public Advocate, is responsible for monitoring the progress made in implementing the Government's commitments to improve services for vulnerable children and young people. The Panel meets at three, six, nine and twelve month intervals.

CHANGE MANAGEMENT AGENDA

- 3.114 The Office of Children, Youth and Family Support, refer to Figure 4.1, in April 2012, initiated its *Refreshing the Service Culture* change agenda which, like the Integrated Management System, refer to paragraphs 3.73 to 3.79, is being monitored by the Community Services Directorate's Project Management Office, to meet the challenge of integrating actions to also address internal and external reviews on care and protection services.
- 3.115 The *Refreshing the Service Culture* change agenda, contains five pillars of improvement:
- Practice improvements;
 - Planning for the future;
 - Stakeholder Engagement and Feedback;
 - Growing our Staff; and
 - Legislative review.
- 3.116 As part of the change management agenda, the primary legislation covering care and protection services, *Children and Young People Act 2008*, is being reviewed.
- 3.117 All care and protection continuous improvement actions are currently being aligned under each of the five pillars of improvement.
- 3.118 Care and Protection Services Branch has already undertaken a significant number of continuous improvement projects and initiatives through implementing its annual priorities, which are captured in Table 3.5.

Table 3.5: Care and Protection Services Branch Priorities listed in the Community Service Directorate's Annual Reports

2009-10 (pages 80-81)	2010-11 (pages 102-105)	2011-12 (pages 73-74)
<ul style="list-style-type: none"> • Tender for therapeutic services • Therapeutic foster care service • New funding agreements of OoHC providers • ETD Collaboration for children in care • Kinship care collaboration • Child Protection Case Conferencing cross-agency pilot extension • Under 2s project across sectors • HP1 pathway for staff development 	<ul style="list-style-type: none"> • ETD Collaboration for children in care • Kinship carer training • Kinship care support program • Transitioning from care case management • Overseas recruitment • Death Review committee • Narrabundah House Indigenous Supported Accommodation • Support for ATSI • Development of Trauma Recovery and Research Centre • Implementation of Service Delivery Framework 	<ul style="list-style-type: none"> • Review of CYP Act 2008 • Staff retention bonus scheme • Enhanced emphasis on Cultural Care Plan • Delivery of OoHC five year Strategy • Integrated Management System development • Review ATSI service delivery • Improve Narrabundah House Indigenous Supported Accommodation • Work with agencies to embed new CYP Family Services Program

Source: Community Services Directorate Annual Reports

Continuous improvements

Reactive approach

3.119 The Public Advocate in its 2012 review stated that there was a 'reactive culture' in relation to care and protection management:

... the Interim Report exposed other problems, such as those within the structure and systems that have resulted in a reactive culture. This has possibly developed over time as a defensive response to on-going criticisms of C&PS practice, even since 2004 when Cheryl Vardon produced her Report – "The Territory's Children", ensuring safety and quality of care for children/young people. There were indications in the investigations for the Interim Report that these broader problems might be endemic within C&PS.

A pervasive reactive culture. The current environment tends to mirror the chaotic and complex nature of the clientele. A strategic, planned approach should result in a more measured and considered response to events.

3.120 An examination of planning, consultation and implementation documentation relating to practices prior to the use of the Community Services Directorate's Project Management Office (refer to Figure 4.1) for managing care and protection matters, showed that there was inadequate implementation and

transitional planning. This could be considered to be the reactive approach observed by the Public Advocate.

- 3.121 When this Audit began the internal organisational structure separated Centralised Intake Service, and the Response and Intervention Team. Concern Reports, refer to Chapter 2, Figure 2.1, were received from the Centralised Intake Service. Once the initial risk assessment was conducted and it reached the risk threshold for considering intervention, it was referred to the Response and Intervention Team. Accordingly, a child or young person by the very nature of this arrangement would have several caseworkers.
- 3.122 An organisational realignment has been implemented so that a child or young person and their family are managed by one caseworker in Protection Services, refer to Figure 4.3. This is a significant improvement.

Project management approach

- 3.123 Monitoring through the Project Management Office of external recommendations and significant internal continuous improvement projects and initiatives, related to care and protection activities, should provide a better governance arrangement. It is likely to also foster continual improvements rather than the reactive approach to addressing issues that was commented on by the Public Advocate, refer to paragraph 3.119. Reporting on progress on these to the Community Services Directorates' Audit and Review Committee would provide additional monitoring by people independent of the Directorate.

Recommendation 3 (Chapter 3 –Knowledge management and governance)

The Community Services Directorate should improve its governance, by:

- (j) **the Project Management Office continuing to monitor the implementation of recommendations from internal and external reviews on care and protection services and internal continuous improvement initiatives, and routinely advising the Community Service Directorates' Audit and Review Committee on progress (High Priority).**

4. THE WORKING ENVIRONMENT

- 4.1 This chapter examines Care and Protection Service's Branch working environment, including workforce capacity and capability, learning and development opportunities and support services for staff.

SUMMARY

Conclusion

The Community Services Directorate has been very successful in recruiting caseworkers for the Care and Protection Services Branch. However, achieving this has required three overseas recruitment drives because of the shortage of caseworkers locally and nationally.

While demands on the services provided by the Care and Protection Services Branch have fluctuated, overall there has been an increase. This has occurred at a time when the workforce capacity was not at its current level.

There are opportunities for improving workforce planning, capacity, capability and support, for example, implementing the Directorate's learning management software, maximising participation in training through providing flexible learning options, assessing reasons why the Employee Assistance Program is not widely used and ensuring that staff gain targeted support.

Key Findings

- Staff in the Care and Protection Services Branch, work in a challenging environment, especially as 70 to 80 percent of children or young people who are in the care of the Director General are likely to come from a family with a parent or carer with a drug or alcohol problem, mental health concern and/or are the subject of, or a perpetrator of domestic violence.
- Since 2004-05 the number of Concern Reports has increased by 70 percent. Over the last three financial years Concern Reports have increased by 9 percent from 10 780 in 2009-10 to 11 712 in 2010-11 and further increased by 6 percent to 12 419 in 2011-12. Child Protection reports have increased by 17 percent from 2 903 in 2009-10 to 2 414 in 2010-11 and further increased by 30 percent to 3 147 in 2011-12.
- Appraisal Outcome Reports have decreased by 5 percent from 1 780 in 2009-10 to 1 672 in 2010-11 and then increased by 32 percent to 2 203 in 2011-12. The number of children and young people in the care of the Director General has increased by 3 percent from 555 as at 30 June 2010 to 572 as at 30 June 2011 and also increased by 4 percent to 594 as at 30 June 2012.
- During each of the last three years, there has been an increase in the number of court appearances by staff from the Care and Protection Services Branch in the Children's and Supreme Courts. There has been an increase from 809 in 2009-10 to 853 in 2011-12 for appearances in the Children's Court; and an increase from 14

in 2009-10 to 15 in 2011-12 for appearances in the Supreme Court. However, there has been a decrease of 47 percent from 55 in 2009-10 to 29 in 2011-12 for appearances in the Family Court.

- There has been an increase in workforce capacity of approximately 10 positions (5 percent) from 2009-10 to 2011-12.
- One hundred and six international caseworkers have been recruited as a result of recruitment drives in 2004, 2008 and 2011. Of the 32 recruited in 2004, and of the 36 recruited in 2008, 14 (44 percent) and 15 (42 percent), respectively are still employed as caseworkers and team leaders.
- In 2011-12, 11 (10 percent) staff left the Care and Protection Services Branch. This is a reduction in numbers from previous years of 24 (22 percent) in 2010-11, and 20 (18 percent) in 2009-10.
- The 28 June 2012 Care and Protection Services Branch Demand Management Report showed a steady increase in workforce capacity. The variation between funded positions and actual full time staff is at a low of 4.6 percent, being five positions. The initiative of the Community Service Directorate in recruiting and retaining staff for its Care and Protection Services Branch appears to be very successful.
- To produce the *Weekly Demand Management Report*, Care and Protection Services Branch conducts a head count rather than relying on the numbers produced by the Finance and Budget Branch from cost centre reports. Audit had to request validation of the full time equivalent funded positions and the actual staff numbers from Care and Protection Services several times. This was due to different numbers being reported by Care and Protection Services Branch and their clustering of positions under the title of 'front line care and protection staff' changing over the three financial years 2009-12 reported.
- Duty statements for caseworkers and team leaders were provided to Audit by the Community Services Directorate's Organisational Services Branch. These were last updated in 2007. The Care and Protection Services Branch advised that the five year old out-of-date duty statements for caseworkers and team leaders had been incorrectly provided to Audit and had been updated in 2011. Audit was later advised that the Directorate's Organisational Services Branch does not centrally hold duty statements for Directorate staff as Shared Services hold the most current duty statements.
- Learning management software was purchased in July 2010 and was customised and tested to ensure comparability with the ACT government network in 2011, however, in 2012 it is still not fully implemented.
- While the Community Services Directorate does have a training calendar and delivers many training courses, there is a need for training delivery to be designed to maximise participation. This may mean that a different type of training delivery is needed, such as on-line training which has the advantages of flexible delivery times and places.
- There were only 19 incidents of threat to frontline staff in the Care and Protection

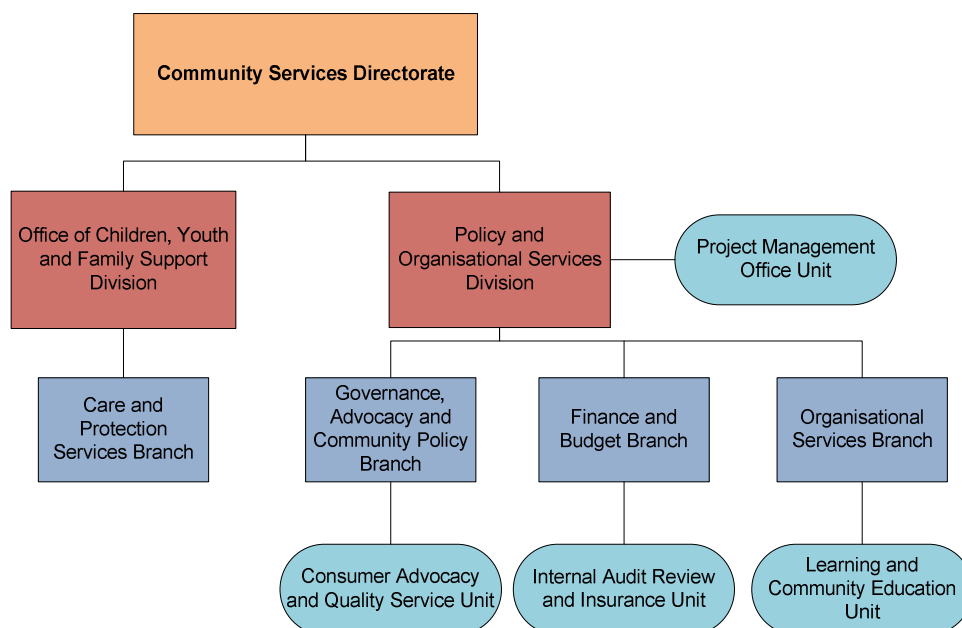
Services Branch reported during the three years, 2009-12. This seems a small number given the working environment and the Care and Protection Services Branch staffing numbers (full time equivalent) of 153.9, 156.8 and 163.8 respectively for the three years 2009-12.

- Staff in the Care and Protection Service Branch who need assistance following an incident can seek internal assistance from their colleagues, peers, supervisors and the Directorate's Respect Equity and Diversity Officers.
- There were only 28 requests for Employee Assistance Program support by the Office of Children and Young People Division during 2011-12. The total staff number of the Division is 446.5 staff (full time equivalent) at 30 June 2012, therefore only 6 percent of this workforce has used the Employee Assistance Program.
- While staff are made aware of how to report incidents with respect to themselves, it appears that they are reluctant to do so. This suggests that there is a culture of not reporting incidents.
- There seems to be a reasonable level of regular operational supervision. However, having external specialist clinicians supervise or mentor caseworkers would assist in reducing the risk that the requirements in the Care and Protection Branch's supervision Policy/Framework were not met.
- Although a better practice initiative was the establishment of the positions of Practice Leaders, only one of the two of these positions was filled permanently at the time of this audit. This was mainly due to a shortage in caseworkers and team leaders and an increase in workloads.
- With the frontline Care and Protection Services Branch caseworkers workforce almost at full capacity, it is important that the two Practice Leaders positions are filled permanently to improve professional practice, service quality and statutory compliance.

CARE AND PROTECTION SERVICES BRANCH DELIVERY OF SERVICES

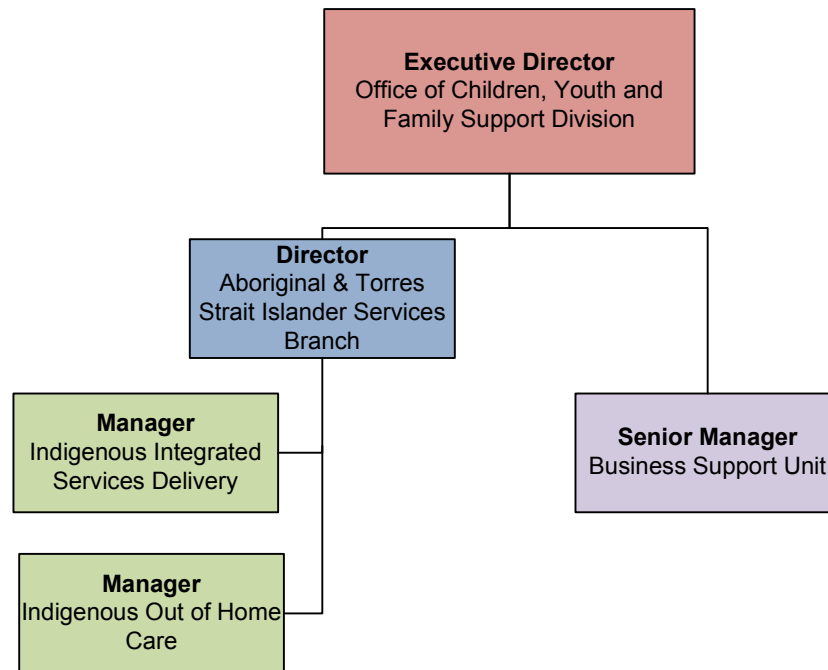
- 4.2 In the Community Services Directorate, there are many areas that support the Care and Protection Services Branch in delivering care and protection services, refer to Figure 4.1. For example the Policy and Organisational Services Division through its Consumer Advocacy conducts quality assurance and systemic reviews on care and protection matters. The Organisational Services Branch provides human resource services for Care and Protection Services Branch and the Learning and Community Education Unit conducts training for care and protection staff and mandated reporters, the Finance and Budget Branch assists with financial management and the Project Management Office is monitoring the implementation of a significant change agenda for improving the work of the Care and Protection Services Branch.

Figure 4.1: Areas in the Community Services Directorate that deliver or support Care and Protection Services Branch



Source: ACT Auditor-General's Office

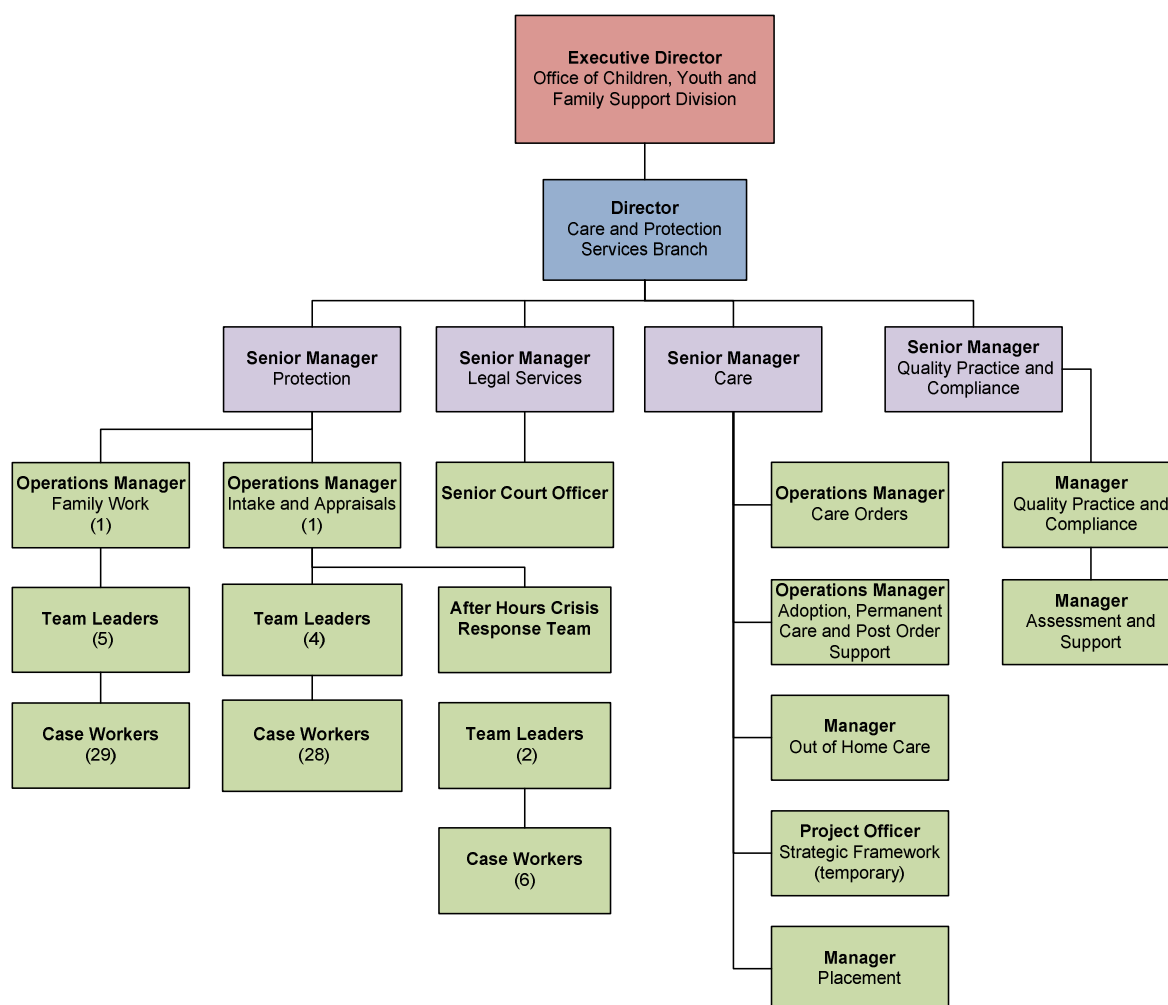
4.3 Within the Office of Children, Youth and Family Support Division, the Business Support Unit provides content related oversight of CHYPS which is the electronic data management system which the Care and Protection Services Branch use. Also within this Division is the Aboriginal and Torres Strait Islander Services Branch which assist with cultural advice and is responsible for managing indigenous out-of-home care, refer to Figure 4.2.

Figure 4.2: Office of Children, Youth and Family Support Division

Source: Office of Children, Youth and Family Support

- 4.4 In 2011-12 there are a total of 163.8 funded positions in Care and Protection Services Branch. In a restructure in 2012 the responsibilities in the Care and Protection Services Branch were divided.
- 4.5 Within the Care and Protection Services Branch, there are four units, refer to Figure 4.3. The protection unit is responsible for the intake, response and intervention processes outlined in Figure 2.1. The care unit is responsible for care orders, adoptions, permanent care, post order support, placement management and out-of-home care. The quality practice and compliance unit is responsible for conducting quality assurance and compliance reviews of Care and Protection Services Branch and the Legal Services Unit is responsible to represent care and protection matters before the Children's Court, Supreme Court and the Family Court.

Figure 4.3: Care and Protection Services Branch



Source: ACT Auditor-General's Office

Environment

- 4.6 Staff in the Care and Protection Services Branch, work in a challenging environment. The Branch's caseworkers and team leaders are the front line staff who are exposed, at times, to confronting circumstances associated with the abuse and neglect of a child or young person. In managing such circumstances, family members, and/or a child or young person may abuse and threaten a caseworker and team leader.
- 4.7 Between 70 and 80 percent of children or young people who are in the care of the Director General are likely to come from a family with a parent or carer with a drug or alcohol problem, mental health concern and/or are the subject of, or a perpetrator of domestic violence. Accordingly, caseworkers have to frequently work with these families.
- 4.8 Audit staff interviewed caseworkers, team leaders and administrative staff. Staff of the Care and Protection Branch consistently displayed energy, tenacity, determination, care and commitment.

- 4.9 Managers and the executive work in a constantly demanding and reactive environment. Exercising legislated delegation to remove children and young people from their family and/or carers affects everyone involved in the decision including the delegate.
- 4.10 The Director General, Community Services Directorate, has parental responsibility for children and young people in out-of-home care, section 15 of the *Children and Young People Act 2008*, defines parental responsibility for a child or young person, as:
- ... all the duties, powers, responsibilities and authority parents have by law in relation to their children.
- 4.11 At 30 June 2012, there were 594 ACT children and young people in the care of the Director General in an out-of-home care placement.

WORKFORCE CAPACITY

Workload

- 4.12 While the demand for care and protection services in the ACT has been variable over the last three years, overall there has been an increase, refer to Table 2.1.
- 4.13 Since 2004-05 the number of Concern Reports has increased by 70 percent. Over the last three financial years Concern Reports (refer to Figure 2.2) have increased by 9 percent from 10 780 in 2009-10 to 11 712 in 2010-11 and further increased by 6 percent to 12 419 in 2011-12. Child Protection reports have increased by 17 percent from 2 903 in 2009-10 to 2 414 in 2010-11 and further increased by 30 percent to 3 147 in 2011-12. Appraisal Outcome Reports have decreased by 5 percent from 1 780 in 2009-10 to 1 672 in 2010-11 and then increased by 32 percent to 2 203 in 2011-12. The number of children and young people in the care of the Director General has increased by 3 percent from 555 as at 30 June 2010 to 572 as at 30 June 2011 and also increased by 4 percent to 594 as at 30 June 2012.
- 4.14 In 2011-12, an average of 238 Concern Reports were received per week, this is an average of 34 child protection reports per day. In this same year there was an average of 42 Appraisal Outcome Reports per week, or an average of 6 per day.
- 4.15 During each of the last three years, there has been an increase in the number of court appearances by staff from the Care and Protection Services Branch in the Children's and Supreme Courts. There has been an increase from 809 in 2009-10 to 853 in 2011-12 for appearances in the Children's Court; and an increase from 14 in 2009-10 to 15 in 2011-12 for appearances in the Supreme Court. However, there has been a decrease of 47 percent from 55 in 2009-10 to 29 in 2011-12 for appearances in the Family Court, refer to Table 4.1.

4.16 During 2011-12, staff also attended 409 Child Protection Case Conferences (along with Family Group Conferences) which aim to:

- support the appraisal process and the ongoing assessment of safety and needs;
- devise a multi agency protection plan promoting the best interests of the child or young person;
- construct (with families where possible) a united view of the issues and proposed solutions;
- create a shared record between the agencies and the family of the issues and the plans;
- provide a mechanism for monitoring progress in relation to a multi agency protection plan; and
- make recommendations to agencies about their respective responses to the individual case.

Table 4.1: Number of court appearances

Court	2009-10	2010-11	2011-12	% change 2009-10 to 2011-12
Children's Court	809	763	853	5
Supreme Court	14	15	15	7
Family Court	55	19	29	(47)

Source: Community Service Directorate Annual Reports

4.17 An overall increase in the demand for services coupled with a nationally recognised deficiency in attracting and retaining care and protection staff provides a significant challenge for the Community Services Directorate in workforce capacity planning and management.

Workforce

4.18 The 163.8 staff in the Care and Protection Services Branch can be grouped into two categories; frontline care and protection staff and operational services and support staff, refer to Table 4.2.

Table 4.2: Care and Protection Services Branch Staffing

Full Time Equivalents	2009-10	2010-11	2011-12	% change 2009-10 to 2011-12
Frontline Care and Protection Staff	71.8	71.8	76.0	5
Operational Services and Support Staff	82.1	85.0	87.8	6
Total	153.9	156.8	163.8	6

Source: Care and Protection Services Branch

- 4.19 For the purposes of Table 4.2 frontline care and protection staff includes caseworkers. Operational services and support staff includes the Director and two senior managers, operations managers, team leaders, and positions in care orders, legal services, quality practice and compliance unit, out-of-home care placements, youth support transitions, adoptions and permanent care, legal services, kinship support and administrative support positions, refer to Figure 4.3.
- 4.20 There has been an increase in workforce capacity of approximately 10 positions (5 percent) from 2009-10 to 2011-12.
- 4.21 The figures provided by the Finance and Budget Branch are different to those reported by the Care and Protection Services Branch. To produce the *Weekly Demand Management Report*, Care and Protection Services Branch conducts a head count rather than relying on the numbers produced by the Finance and Budget Branch from cost centre reports. Audit had to request validation of the full time equivalent funded positions and the actual staff numbers from Care and Protection Services several times. This was due to different numbers being reported by Care and Protection Services Branch and their clustering of positions under the title of 'front line care and protection staff' changing over the three financial years 2009-12 reported. Refer to Table 4.2 and Table 4.3.

Recommendation 4 (Chapter 4 – The working environment)

The Community Services Directorate should improve its workforce planning, capacity, capability and support, by:

- (a) developing a system to report its staff numbers accurately and in a consistent manner by its various Branches;

- 4.22 The Community Services Directorate has not been able to fill all positions in the Care and Protection Branch during 2009-10, 2010-11 and 2011-12. The workforce shortages have limited Care and Protection Service Branch's capacity.
- 4.23 As December is one of the peak periods for the Care and Protection Services Branch, workforce capacity is most important at this time. Demand Management Reports in December 2009 show a shortfall of seven (6 percent) of

funded positions to actual positions. In 2010, 30 (27 percent) of funded positions were not filled. By December 2011, the situation had improved with 11 (10 percent) not being filled, refer to Table 4.3.

Table 4.3: Funded positions to actual staff

Reporting Period	Funded positions	Actual staff	% difference
December 2009	111.4	104.5	(6)
December 2010	111.4	81.5	(27)
December 2011	111.4	100.1	(10)

Source: Care and Protection Services Branch data

- 4.24 Funded positions include case workers, team leaders, operations managers, care orders team, adoptions and permanent care team and some senior managers, refer to Table 4.3.
- 4.25 During times of significant workforce shortages, the investment in voluntary and non critical services needs to significantly decrease, activities encompassing intervention/prevention strategies and complex long term case management activities may be minimised or deferred until the workforce capacity has increased.

Managing workforce shortages

- 4.26 Community Services Directorate's Workforce Development Strategy states that:
- ... current workforce demographics and sector growth skill shortages are a current concern in health, community services and education sectors. Recruitment of skilled workers is notably difficult in the ACT which records the lowest number of suitable applicants per vacancy and the lowest proportions of vacancies filled after the Northern Territory.
- 4.27 Community Services Directorate acknowledges that:
- ... over the past five years, it has had considerable difficulty attracting suitable qualified applicants and as a consequence, has experienced a reduced capacity to deliver high quality government services and is at increased risk of not being able to fulfil statutory obligations.
- 4.28 Recognising workforce shortages in frontline staff in the Care and Protection Services Branch and the difficulty in attracting local and national frontline Care and Protection Services' staff, Community Services Directorate, in 2004, undertook an international recruitment drive in the United Kingdom and Northern Ireland. Since the successful inaugural recruitment drive, two further recruitment activities have been undertaken in 2008 and 2011.
- 4.29 A total of 106 international caseworkers have been recruited as a result of recruitment drives in 2004, 2008 and 2011. Of the 32 recruited in 2004,

14 (44 percent) remain in the Care and Protection Services Branch, of the 36 recruited in 2008, 15 (42 percent) and of the 38 recruited in 2011 (97 percent), are still employed as caseworkers and team leaders, refer to Table 4.4.

Table 4.4: Retention of international caseworkers in Care and Protection Services Branch

Recruitment drive	International recruits	Retention number in 2012	Retention %
2004	32	14	44
2008	36	15	42
2011	38	37	97

Source: Care and Protection staff data

4.30 In 2012, a further initiative of a retention allowance was introduced by the Community Services Directorate. A retention allowance of \$4,000 per annum paid to eligible front line Care and Protection Services professional staff as an addition to fortnightly pay, backdated to 1 July 2012.

4.31 The Community Services Directorate stated that:

The Retention Allowance has a deliberate and targeted focus on the areas within Care and Protection Services which have had the most difficulty in recruiting and retaining staff. Historically, the frontline casework positions experience the most significant turnover of staff and are the most difficult to recruit.

4.32 In 2011-12, 11 (10 percent) of staff left the Care and Protection Services Branch. This is a reduction in numbers from previous years of 24 (22 percent) in 2010-11, and 20 (18 percent) in 2009-10, refer to Table 4.5.

Table 4.5: Care and Protection Services Branch staff turnover

Reporting period	Permanent staff no.	Turnover %
2009-10	20	18
2010-11	24	22
2011-12	11	10

Source: Care and protection staff data

4.33 The 28 June 2012 Care and Protection Services Branch Demand Management Report showed a steady increase in workforce capacity occurring. The variation between funded positions and actual full time staff is at a low of 4.6 percent, being five positions. The initiative of the Community Service Directorate in recruiting and retaining staff for its Care and Protection Services Branch appears to be very successful.

WORKFORCE CAPABILITY

Caseworker and team leader capabilities

- 4.34 Caseworkers and team leaders in the Care and Protection Services Branch must hold a tertiary qualification in social work, psychology, social welfare, social science or a related discipline.
- 4.35 Caseworkers are typically Health Professionals 1, 2 or 3 and team leaders and practice leaders are typically a Health Professional 4. The years of experience required working with children, young people and/or families in a social work/case management role differs depending on the Health Professional's classification, for example:
- Health Professional 1 – up to one year service;
 - Health Professional 2 – one to two years service;
 - Health Professional 3 – two to four years service; and
 - Health Professional 4 – five years service and over.

Roles and responsibilities

- 4.36 The level of responsibility and complexity of a role determines which Health Professional classification level is applied. The general duties of Care and Protection Services Branch caseworkers are to⁴:
- deliver quality services to children and families in accordance with the objectives and statutory responsibilities of the *Children and Young People Act 2008*;
 - provide culturally appropriate casework, intervention and referral services to children, and families using a range of techniques including crisis intervention, family support, consultation, counselling, conflict resolution, liaison, advocacy and negotiation;
 - provide information and advice on casework matters to assist decision making by courts and in matters where medical, police services and other agencies are involved;
 - maintain case records consistent with the Branch's case management requirements, prepare high standard reports and undertake appraisals and assessments within specified timeframes;
 - participate effectively as a team member to achieve the Branch's objectives and provide a mentoring role within the regional team framework; and

⁴ HEALTH PROFESSIONAL 1 and 3 Duty Statements

- prepare for and participate in regular supervision and relevant staff development to maintain professional knowledge and ensure that service delivery is consistent with best practice.
- 4.37 Duty statements for caseworkers and team leaders were provided to Audit by the Community Services Directorate's Organisational Services Branch. The duty statements provided were last updated in 2007 and as such reflect the previous name of the Directorate (Department of Housing and Community Services).
- 4.38 The Care and Protection Services Branch has advised that the five year old out-of-date duty statements for caseworkers and team leaders had been incorrectly provided to Audit and had been updated in 2011. Audit was later advised that the Directorate's Organisational Services Branch does not centrally hold duty statements for Directorate staff as Shared Services hold the most current duty statements.

Recommendation 4 (Chapter 4 – The working environment)

The Community Services Directorate should improve its workforce planning, capacity, capability and support, by:

- (b) developing and implementing a process whereby when Duty Statements are updated internally and provided to the Directorate's Organisational Services Branch;

Learning and development

- 4.39 Community Services Directorate Enterprise Agreement 2011-13 has a section on "Developing our staff" which states that the Community Services Directorate:
- ... will consult and agree with union(s) on the development and finalisation of Learning and Development Plans and on the annual key Directorate learning and development priorities.
- 4.40 Learning and Development Plans form part of a Performance Agreement that all Community Services Directorate staff must complete. Training needs are jointly identified by staff and supervisors when discussing learning and development plans.
- 4.41 Duty statements for staff in the Care and Protection Services Branch specify the need for professional development. Managers are required to manage the professional education of staff.
- 4.42 Compliance with the requirement in the Community Services Directorate's Enterprise Agreement 2011-13 for each staff member to have a learning and development plan, was not able to be assessed as data on this was not centrally collected at the time of the Audit. The Care and Protection Services Branch advises that at January 2012, 102 of the 163.8 staff had a learning and development plan. This is not comprehensive compliance. Furthermore, it is

acknowledged by the Learning and Community Education Unit that there is a low compliance in developing, monitoring and assessing learning and development plans across the Care and Protection Services Branch.

- 4.43 Learning management software was purchased in July 2010 and was customised and tested to ensure comparability with the ACT government network in 2011, however, in 2012 it is still not fully implemented. The software could automate record keeping of training delivery and compliance with performance agreements containing the staff member's training and development plans and could create an e-learning environment. The reason given for it not being fully implemented was due to a lack of resources.

Recommendation 4 (Chapter 4 – The working environment)

The Community Services Directorate should improve its workforce planning, capacity, capability and support, by:

- (c) **fully implementing its learning management software, centrally recording learning and development plans of all staff and requiring all staff to have a learning and development plan to comply with the Community Services Directorate's Enterprise Agreement 2011-13 (High Priority);**

- 4.44 Staff in the Care and Protection Services Branch who were interviewed by Audit staff, state that their qualifications in social work are the best preparation for the job. The central Community Services Directorate's Learning and Community Education Unit and Care and Protection Services Branch provide training to supplement the professional qualifications held by staff.
- 4.45 Training is planned in two components. The first component is designed for new caseworkers, who undertake priority 1 and 2 training, within one year of appointment. The second training priorities are for ongoing development.
- 4.46 Core training topics for new caseworkers are:
- *Priority 1* – Community Services Directorate orientation, Care and Protection Services Branch and Office of Children, Youth and Family Services Division, *Children and Young People Act 2008* overview, reporting child abuse and neglect, Case Management, Risk Assessment, Effective practice with involuntary clients, Emergency Action, Record Keeping and Case Noting, CHYPS Training, Working with Aboriginal and Torres Strait Islander People, Dealing with Aggressive and Potentially Violent Behaviour.
 - *Priority 2* - Cultural Plans, Working with Children in Out-of-Home Care, Care Teams, Charter of Rights, What is Child Abuse and Neglect Identifying non-accidental physical injury and the physical effects of neglect, Other Legislation Impacting on Children and Young People in the ACT, Annual Reviews, Giving Evidence, Child Protection Assessment Reports (CPARs), Domestic Violence: Supporting Children, Young People and Families.

- 4.47 In addition to targeted training for staff in the Care and Protection Services Branch, all Community Services Directorate staff are offered training in eight competencies. These are work safety, human resources, customer service, records management, respect equity and diversity, writing for Government, working with Aboriginal and Torres Strait Islander people and legislative compliance. Training in these competencies is designed at 3 levels: entry, frontline and management.
- 4.48 Care and Protection Services Branch caseworkers are also given on-the-job training in reflective listening, information gathering from contacted families, frontline leadership and management training, and recognising burnout.
- 4.49 Staff in the Care and Protection Services Branch who were interviewed by Audit identified that they need additional training in the use of CHYPS, working with ACT Policing and in Aboriginal and Torres Strait Islander cultural awareness.
- 4.50 Although there is no specific care and protection training courses for new team leaders and managers on the training calendar, there are generic Community Services Directorate and whole-of-government management related courses. These are in addition to peer learning programs for team leaders. One such example is the 2012-2013 Supervision Project which is aimed at developing team leaders and improving the confidence and competence of team leaders in providing supervision to their staff.
- 4.51 Due to demands on caseworkers in the Care and Protection Services Branch, they are often not able to attend training and are at risk of not fulfilling the core training requirements and/or the requirements set out in their individual learning and development plans. Low participation numbers has resulted in courses being postponed, for example the low attendance rates for CHYPS training courses, identified in Chapter 3 paragraph 3.38.
- 4.52 The after-hours and crisis response team in the Care and Protection Services Branch, refer to Figure 4.3 work in shifts. Shifts start at 4.30pm and finish at 11.30pm, caseworkers are stood down for seven days after a seven day shift. At present, staff on these shifts must attend training during the day. The after-hours and crisis response team are paid an additional 2 hours per fortnight to support their attendance at training and staff meetings. Although applications for courses have been lodged by after-hours team members and approved by the Community Services Directorate, less than half of the necessary courses have been attended by after-hours team members according to the Directorate. Due to a lack of centrally recording staff's attendance at training, Audit was unable to verify attendance numbers.
- 4.53 While the Community Services Directorate does have a training calendar and delivers many training courses, there is a need for training delivery to be designed to maximise participation. This may mean that a different type of training delivery is needed, such as on-line training which has the advantages of flexible delivery times and places.

Recommendation 4 (Chapter 4 – The working environment)

The Community Services Directorate should improve its workforce planning, capacity, capability and support, by:

- (d) assessing whether specific care and protection training courses are needed for new team leaders and managers;
- (e) maximising participation in training through providing flexible learning options, such as online courses;

INCIDENTS AND SUPPORT SERVICES

Incident reporting and management

4.54 The Community Services Directorate defines an 'incident' as:

A situation faced by employees at work that may cause them to experience unusually strong reactions that have the potential to interfere with their ability to function adequately either in their working or personal environment.

4.55 Examples of incidents which can or have occurred, include:

- threat to the safety of personnel while on duty;
- serious injury or death of a colleague while on duty;
- unexpected death of a client;
- undue and/or critical media attention;
- unusual or sights, sounds and smells that are so distressing as to produce a high level of immediate or delayed emotional or physical reaction; and
- verbal or physical abuse.

4.56 Community Services Directorate has the following policy and procedural documents to assist in managing incidents:

- critical incidents; and
- occupational violence and worker safety.

4.57 These policies and procedures cover risk management, procedures for client contact in a variety of settings, telephone based contact and follow up after an incident.

4.58 A core training course in dealing with aggressive and potentially violent behaviour is offered twice a year. The course has an element of risk management which is a key tool for staff in the Care and Protection Services Branch. It teaches staff how to manage difficult incidents.

- 4.59 There were only 19 recorded incidents of threat to front line staff in the Care and Protection Services Branch reported during three years, 2009-12, this seems a small number given the working environment and the Care and Protection Services Branch staffing numbers (full time equivalent) of 153.9, 156.8 and 163.8 respectively for three years 2009-12.
- 4.60 Care and Protections Services Branch caseworkers acknowledged that incidents 'go with the territory', that is, they are resigned to expecting negative and aggressive behaviours by families and/or carers as part of their job.
- 4.61 Such situations are a workplace health and safety concern for the Community Services Directorate, a fact recognised by policy documents. Consequently staff, are required to report incidents and may need to attend post incident treatments and debriefings.
- 4.62 While staff are made aware of how to report incidents, it appears that they are reluctant to do so. This suggests that there is a culture of not reporting incidents. Such a culture presents the risk that:
- the health and welfare of staff may not being adequately managed;
 - factors leading to, and management of, a critical incident may not be identified and may be perpetuated;
 - the effectiveness of critical incident procedures may not be able to be effectively evaluated and therefore changed, if needed; and
 - lessons for future improvements in systems, procedures and training may not be realised.

Recommendation 4 (Chapter 4 – The working environment)

The Community Services Directorate should improve its workforce planning, capacity, capability and support, by:

- (f) encouraging the reporting of incidents so that it becomes part of the culture in the Care and Protection Services Branch;

Support services

- 4.63 Staff in the Care and Protection Service Branch who need assistance following an incident can seek internal assistance from their colleagues, peers, supervisors and the Directorate's Respect Equity and Diversity Officers.
- 4.64 Assistance is also externally available through the ACT Government's Employee Assistance Program, which provides independent, free and confidential support at anytime to all ACT public servants.

- 4.65 Caseworkers and team leaders acknowledged that they do not generally use the Employee Assistance Program. They are social workers by profession and typically summarise support needs as having a close cohesive and encouraging team environment giving comfort to share experiences and emotions with colleagues.
- 4.66 Instances of using the Employee Assistance Program are very low. There were only 28 new requests for Employee Assistance Program support by the Office for Children, Youth and Family Support Division during 2011-12. The total staff number of the Division is 446.5 (full time equivalent) staff at 30 June 2012, therefore only 6 percent of this workforce has used the Employee Assistance Program. This is an accumulative total for all staff in Care and Protection Services Branch, Youth Justice, Aboriginal and Torres Strait Islander Services, Policy Data and Research and Early Intervention and Prevention Services.
- 4.67 Across the Community Service Directorate, the Office for Children, Youth and Family Support is the second highest user of the Employee Assistance Program at 6 percent, with Housing the highest at 11 percent of its workforce having used the Program in 2011-12.
- 4.68 The Employee Assistance Program being a general Government program for all ACT public servants is not specifically tailored to the staff in the Care and Protection Services Branch workforce.
- 4.69 Given the very low usage of the Employee Assistance Program, an assessment is needed to determine why this is occurring and provision made for Care and Protection Services Branch staff to be able to gain support services they need.

Recommendation 4 (Chapter 4 – The working environment)

The Community Services Directorate should improve its workforce planning, capacity, capability and support, by:

- (g) assessing the reasons why the Employee Assistance Program is not widely used by Care and Protection Service's staff and to provide staff with an opportunity to gain targeted support;

SUPERVISION

- 4.70 The Office for Children, Youth and Family Support Division's Supervision Framework is described as a:
- Key component of the organisation's learning culture in which its activities contribute towards continuous improvement and where learning through reflection is encouraged.
- 4.71 The Supervision Framework is designed to complement and improve the Department's Performance Management Program and its Quality Assurance Framework. The Supervision Framework has a focus on staff development,

extending professional skills, assessing practice skills and providing support to staff to ensure all relevant staff in crucial decision making processes are supported by their supervisors in their important responsibilities⁵.

- 4.72 The Supervision Framework supports the practice of 1.5 to 2 hours of internal supervision per fortnight for Care and Protection Services Branch caseworkers and team leaders, and 1.5 hours per fortnight for operational managers. Caseworkers, team leaders and operational managers participate in this initiative. Supervision meetings are open to discuss any elements of practice that a staff member and supervisor wish to discuss.
- 4.73 During the first 3 months of employment new staff, are to be at a minimum, provided with scheduled supervision on a weekly basis. At least 2 hours once per week renegotiated to 2-3 hours per fortnight once a staff members has completed the induction period of 3 months.
- 4.74 The Supervision Framework requires a Supervision Agreement to be established between the supervisor and the supervisee. The purpose of the Supervision Agreement is to establish the basis upon which the supervisor and supervisee will work together during scheduled supervision sessions. The establishment of 'ground rules' should be through negotiation and should clarify the rights, responsibilities and expectations of supervision to create a safe, secure and effective supervisory setting.
- 4.75 The Supervision Framework also has a Supervision Record Template which records the supervision functions, issues identified, actions to be taken by a due date and the review date of those identified actions.
- 4.76 Supervision agreements are not fully integrated into the learning and development plans for staff. Thereby relying on staff and managers to be aware of the two singular concurrent processes when discussing individual learning and development needs.
- 4.77 Supervision in practice is undertaken on a daily basis when caseworkers and team leaders discuss cases and decisions. Through these discussions and the case status information entered into CHYPS the caseworkers and team leaders are expected to be aware of the risks and actions undertaken by caseworkers for each child and young person.

⁵ OCYFS Supervision Framework

- 4.78 The Supervision Framework has a requirement for quality assurance methods to be adopted, including:
- the auditing of a random selection of supervision records and files on a six monthly basis by managers and senior managers; and
 - review of supervision records between team leaders and managers; and managers and senior managers about supervisors' practice.
- 4.79 Audit was advised that team leaders and managers have not been auditing supervision records due to a lack of capacity and that the recently established Quality Practice and Compliance Unit has not currently extended its efforts to auditing supervision records.
- 4.80 Over the past several years there has been an opportunity for staff of the Care and Protection Services Branch to attend external clinical supervision at the senior level. There have been two opportunities provided to staff, one program operated from 2004 to 2009 offering clinical supervision three days per month to Health Professional 4 staff and Operations Managers. The second program was offered to Health Professional 4 staff from August 2011 to February 2012. Both programs included activities to improve supervision across the Care and Protection Services Branch.
- 4.81 In recognising the importance of supervision practices, the Care and Protection Services Branch are currently implementing a supervision project. The reasoning for the supervision project provided by the Care and Protection Services Branch is:
- Care and Protection Services (CPS) has had a Supervision Policy/Framework since 1997. This is currently the OCYFS Supervision Framework (2009). Successive reviews and evaluations (1997 to 2010) have shown that CPS consistently falls short of the Policy/Framework standards regarding: frequency, duration, addressing all functions of supervision, completion of supervision agreements, reviews of supervision, performance appraisals, completion of Individual Performance Plans (IPPs), participation in live supervision and recording of supervision.
- A further indication that the standards are not being met are the number of matters referred to OCYFS Human Resources Business Partner that have not been appropriately addressed by Managers and Team Leaders.
- 4.82 There seems to be a reasonable level of regular operational supervision. However, having external specialist clinicians supervise or mentor caseworkers would assist in reducing the risk that the requirements in the Care and Protection Branch's supervision Policy/Framework were not met.

Recommendation 4 (Chapter 4 – The working environment)

The Community Services Directorate should improve its workforce planning, capacity, capability and support, by:

- (h) integrating staff supervision agreements with professional learning and development plans;
- (i) undertaking regular quality assurance reviews on supervision requirements and related documents;
- (j) **continuing to implement supervision projects and providing staff in the Care and Protection Services Branch with external supervision and/or mentoring opportunities (High Priority); and**

Practice Leaders

4.83 There are two full time positions within the Care and Protection Services Branch at the Health Professional 4 level who are practice leaders. The position statement states that:

Practice leaders work closely with managers and team leaders to provide professional leadership influence and provide advice in the development of the organisations professional practice. The position of practice leader is integral in the ongoing improvement and commitment to practice excellence to ensure quality outcomes for children and families, in accordance with government policy and departmental practice standards and procedures.

4.84 The duties of the Practice Leaders are⁶:

- work with Managers and Team Leaders to ensure caseworkers receive high quality professional supervision, mentoring and support to achieve quality outcomes for children and families, in accordance with the objectives and statutory responsibilities of the *Children and Young People Act 2008*;
- support caseworkers, and provide advice to managers and team leaders, to achieve compliance with practice policy and tools;
- lead child centred and collaborative best practice and facilitate the implementation of practice initiatives, including the CPS Practice Framework, tools and systems;
- provide leadership in the development of models of best practice and in the ongoing quality improvement of service delivery and professional practice;
- assist in the development, implementation and evaluation of policies and procedures, and provide high level advice to management on the implications of policies and programs;

⁶ Practice Leader Duty Statement

- build capability by ensuring that casework skill sets are developed and improved through use of evidence, research and areas of development needs identified through staff professional development plans;
 - prepare for, and participate in, regular supervision and relevant staff development to maintain professional knowledge and ensure that service delivery is consistent with best practice and delivers successful client outcomes; and
 - provide advice on best practice training for Care and Protection Services and assist in the delivery of training where required.
- 4.85 Although a better practice initiative was the establishment of the positions of Practice Leaders, only one of the two positions is filled permanently at the time of this audit. This was mainly due to a shortage in caseworkers and team leaders and an increase in the workloads.
- 4.86 With the frontline Care and Protection Services Branch caseworkers workforce almost at full capacity (refer to paragraph 4.23), it is important that the two Practice Leaders positions are filled permanently to improve, professional practice, service quality and statutory compliance in the Care and Protection Services Branch.

Recommendation 4 (Chapter 4 – The working environment)

The Community Services Directorate should improve its workforce planning, capacity, capability and support, by:

- (k) **filling permanently both the Practice Leaders positions and ensure that the roles and responsibilities of the duty statements are fulfilled (High Priority).**

5. WORKING TOGETHER

- 5.1 This chapter examines how ACT Government agencies and the community services sector are working together in caring and protecting ACT children and young people. Specific aspects considered include mandatory reporting, information exchange, collaborative programs and initiatives, out-of-home care standards and quality assurance of out-of-home care placements.

SUMMARY

Conclusion

Concern Reports have increased since 2004-05 by 70 percent, from 7 275 in that year to 12 419 in 2011-12, this is greater than the 3.6 percent change in the ACT population of children and young people in the same period. An analysis of concern reports is needed to determine the proportion of reports that are care and protection issues and those reports that could have been referred to other Government agencies. Training for mandatory reporters on where to refer matters that are not care and protection issues may also be needed.

ACT Government directorates and entities need to improve their coordination and sharing of information so that greater support is given to children and young people who may need care and protection services. There are many ACT Government collaborative programs and initiatives being progressed that can assist children and young people. However, information on these and how they relate to each other is not readily available. Furthermore, there is a need for a system to be developed to facilitate the sharing of information on vulnerable children, young people and their families between ACT Government directorates and entities while taking into account privacy issues.

Priority needs to be given to ensuring that the Directors-General Strengthening Families Committee's Improving Services with Families project is implemented, as proposed, by the end of 2013. In addition, as all memoranda of understanding between the Community Services Directorate and other ACT Government directorates and entities are out-dated, the Community Services Directorate should develop a protocol or use some other mechanism to guide how it cooperatively works with other agencies.

Monitoring the provision of out-of-home care by community service providers is poor. In 2012, a 2009 set of Out-of-Home Care (pilot) Standards are being used and have not been finalised. Monitoring compliance with these standards occurs through self-assessment with no audits being routinely undertaken. Self-assessments do not guarantee that all the required standards are being met. In recognising a number of similar risks in September 2012, the Office for Children, Youth and Family Support commenced outsourcing audits on community service providers. At the conclusion of this audit one was completed and three others were being progressed.

Care and Protection Services Branch advises that they are in the process of beginning to consult with the community services sector and are replacing the 2009

ACT Out-of-Home-Care Standards with, the 2011 National Standards during 2013. The Standards are to be notified under the *Children and Young People Act 2008*.

The recommendation by the Public Advocate to establish a statutory position of a Children's Guardian for accrediting out-of-home care community service providers, amongst other things, in the office of the Public Advocate, could potentially create a conflict of interest within that office. Accreditation should be undertaken by the Community Services Directorate allowing the Public Advocate and the Children and Young People Commissioner to independently monitor and over see out-of-home care services thereby holding the Directorate to account.

Key Findings

- In 2009-10 and 2010-11, 39 and 37 percent, of the mandatory reports that progressed to an Appraisal Outcome Report were made by school personnel and police, respectively. Mandatory reports made by directorate officers, including Care and Protection Services Branch staff, accounted for 9 percent in 2010-11. School and police personnel have an important role in protecting and caring for children and young people.
- An analysis of concern reports is needed to determine the proportion of reports that are care and protection issues and those reports that could have been referred to other Government agencies. Training for mandatory reporters on where to refer matters that are not care and protection issues may also be needed.
- The existing memoranda of understanding are dated and require a refresh or replacement, particularly given the Hawke review (February 2011) 'One ACT Government – One ACT Public Service'. All new documents will need to incorporate new ACT Government initiatives, for example the Directors General's Strengthening Families Committee.
- Collecting information for this Audit on the many ACT Government collaborative programs and initiatives and gaining an understanding of their relationship to each other, involved a significant amount of time. Given the importance of this information, it needs to be readily available. Unless this occurs there is a risk that issues may not be addressed or effort to address an issue is duplicated. Accordingly, the Community Services Directorate, as lead agency, needs to document all ACT Government initiatives for vulnerable children, young people and their families, and make this information readily available to relevant Government agencies and their staff, the community and the community services sector.
- The Directors-General Strengthening Families Committee and its Improving Services with Families Project is an important initiative that needs to be progressed in a timely manner.
- Information on children, young people and vulnerable families is collected and stored differently in each ACT Government Directorate. The importance of information sharing is highlighted in the following example:

A reporter raised concerns over several years regarding children not attending school, these were recorded in Concern Reports spanning five years. The reporter was concerned, amongst other things, that the children had not been given the opportunity to have an education. Six years after the initial report, Care and Protection Services Branch under section 862 of the *Children and Young People Act 2008* obtained information from the ACT Education and Training Directorate showing that the children had never attended school.

One of the children when starting school had missed up to 9 years education and the children involved started their schooling as teenagers.

- There were 594 children and young people in the care of the Director General on 30 June 2012, 572 on 30 June 2011 and 555 on 30 June 2010. The shortfall in number of placements forecasted to the actual placements was 98 in 2010, 111 placements for 2011 and 133 placements in 2012.
- The 2012-13 is the first year forecasting has been realistic. Forecasted numbers for 2012-13 are 578, resulting in a shortfall of 16 places assuming the number of children and young people in out-of-home care remains much the same as in 2012. There is a risk that having forecast numbers that are significantly smaller than that which is likely to occur will result in an inadequate budget allocation. It is important to reflect realistic numbers of children and young people in the care of the Director General in an out-of-home care placement for budgeting purposes.
- In 2012-13 the budget for out-of-home care placements totalled \$26 462 935, without contingencies. This is an average of \$45 783 per child or young person, however, some forms of care are significantly lower in costs while others are significantly higher. For example kinship care costs an average of \$19 267 per child or young person whereas residential care (intensive) costs an average of \$273 317. Around 50 percent of all children and young people in out-of-home care are in kinship care, which accounts for only around 15 percent of the total costs. While foster care and residential care each account for around 35 percent of total costs, foster care accommodates a significantly larger number of children and young people, around 43 percent while residential care only supports around 8 percent of all placements. Individual Support Placement costs are exceptionally high with approximately 3 percent of placements costing 5 percent of the total out-of-home care costs.
- A self-assessment is required twice yearly for community services providers of out-of-home care. A community service provider selects and reports against one section of the *2009 Out-of-home Care Standards* and Care and Protection Services Branch selects another section for the community service provider to report against.
- This method of reporting on out-of-home care community service providers does not allow a comprehensive analysis of compliance with the *Out-of-Home Care Standards*. This presents a significant risk that community service providers may not actually be complying with all 50 ACT Out-of-Home Care Standards and this is not known to the Care and Protection Services Branch.
- There is a lack of adequate controls surrounding compliance with standards and

the quality of care of children and young people in the care of the Director General. Also the number of section 507 reports made to the Community Services Directorate and information from these provided to the Public Advocate have increased by 53 percent from 2009-10 to 2011-12 for children and young people who are in the care of the Director General and in an out-of-home care placement.

- The Community Services Directorate needs to develop a comprehensive overall quality control system for out-of-home care. Quality accreditation of out-of-home care community service providers should be undertaken by the ACT Community Services Directorate allowing the Public Advocate and the Children and Young People Commissioner to independently monitor services. However, this function should not be in the Care and Protection Services Branch.

EVERYONE NEEDS TO WORK TOGETHER

5.2 The National Framework for Protecting Australia's Children 2009-2020 recognises that the protection of children and young people is everyone's business. It states:

... that at the Government level it is not only child protection and community services portfolios that have a role to play in improved outcomes for children in out-of-home care but also other portfolio areas such as health, education, justice, housing and employment. Families, communities, business and services all have a role. Everyone needs to work together.

5.3 The Care and Protection Services Branch primarily collaborates with the following agencies in delivering its care and protection services:

- ACT Policing;
- ACT Health Directorate;
- Housing ACT (which is part of the Community Services Directorate); and
- Education and Training Directorate.

5.4 ACT community service providers partner with Care and Protection Services Branch to provide children, young people and their families with a wide range of support and therapeutic services.

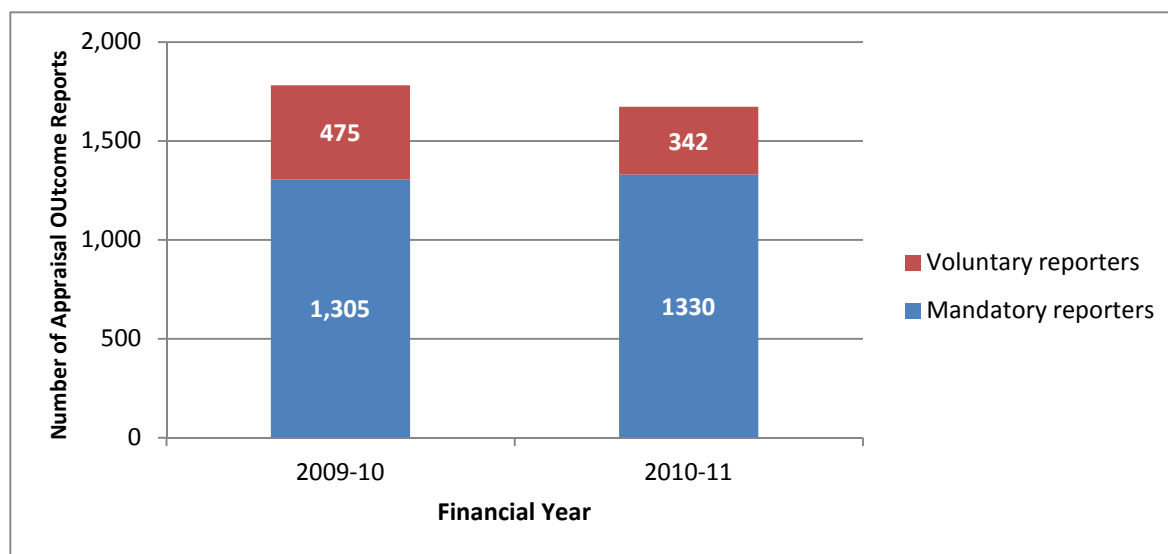
5.5 Care and Protection Services Branch works with the Public Advocate, who independently advocates for children and young people and monitors the delivery of services. This is further discussed in Chapter 6.

5.6 The Children and Young People Commissioner can investigate complaints made against the care and protection service and has the legislative authority to undertake systemic reviews of the care and protection system. This is also further discussed in this Chapter and in Chapter 6.

MANDATORY AND VOLUNTARY REPORTING

- 5.7 The Community Service Directorate publishes on the internet and in hard copy a booklet 'Keeping Children and Young People Safe a shared responsibility' This is a guide to reporting child abuse and neglect in the ACT.
- 5.8 If a mandated reporter believes or suspects that a child or young person is being abused, neglected or is at risk of abuse or neglect, they must lodge a concern report with Care and Protection Services.
- 5.9 A mandated reporter is defined in section 356 of the *Children and Young People Act 2008*, and includes a doctor, dentist, nurse, enrolled nurse, midwife, teacher at a school, a person authorised to inspect education programs, materials or other records used for home education of a child or young person under the *Education Act 2004*, police officer, person employed to counsel children or young people at a school, person caring for a child at a childcare centre, person coordinating or monitoring home-based care, family day care scheme proprietor, public servant who, in the course of employment as a public servant, works with, or provides services personally to, children and young people or families, the public advocate, official visitor and a person who, in the course of the person's employment, has contact with or provides services to children, young people and their families and is prescribed by regulation.
- 5.10 Voluntary reports are made by people such as relatives, neighbours, sporting coaches, friends and other relatives.
- 5.11 Currently CHYPS is not capable of generating information on how many concern reports were made by mandatory reporters. Currently to gain this information it would need to be extracted individually from each individual Concern Report. However, data is readily available in CHYPS on how many voluntary and mandatory reports became the subject of an Appraisal Outcome Report.
- 5.12 An Appraisal Outcome Report is an important milestone in the intake, response and intervention processes, refer to Figure 2.1, as it provides information to determine if a child or young person is in need of care and protection.
- 5.13 From a total of 11 712 Concern Reports and/or Child Protection Reports made in 2010-11, there were 1 672 Appraisal Outcome Reports. Of the total 1 672 Appraisal Outcome Reports, 1 330 (80 percent) reports originated from mandatory reporters and 342 (20 percent) originated from voluntary reporters. In 2009-10 there were 1 780 Appraisal Outcome Reports of which 1 305 (73 percent) originated from mandatory reporters and 475 (27 percent) originated from voluntary reporters, refer to Figure 5.1.

Figure 5.1: ACT Voluntary and Mandatory Reporting that became the subject of an Appraisal Outcome Report 2009-10 and 2010-11



Source: Audit Office from CSD data for Report on Government Services and Community Services Directorate data.

- 5.14 In 2009-10 and 2010-11, 39 percent and 37 percent of the mandatory reports that progressed to a Care and Protection Services Appraisal Outcome Report were, respectively, made by school personnel and police. Mandatory reports made by directorate officers, including Care and Protection Services staff accounted for 9 percent in 2010-11. Mandatory reporting has remained reasonably stable. School and police personnel have an important role in protecting and caring for children and young people.
- 5.15 Voluntary reports can be made direct to Care and Protection Services or via the Public Advocate. Under section 359 of the *Children and Young People Act 2008*. The Public Advocate must give the Director General a copy of the report and it is taken to be a voluntary report. Table 5.1 shows the number of reports made to the Public Advocate under section 359 of the *Children and Young People Act 2008* in 2009-12.

Table 5.1: Voluntary reports made to the Public Advocate in 2009-12

Year	Reports under s359(a) of the <i>Children and Young People Act 2008</i>
2009-10	4
2010-11	14
2011-12	5
Total	23

Source: The Public Advocate

Training mandated reporters

5.16 Mandatory Reporting training is provided by the Learning & Community Education unit of the Community Service Directorate. The training course that specifically addresses mandatory reporting is called 'Reporting Child Abuse and Neglect'. CSD schedules approximately 12 courses per year and they are open to any community member who may have responsibilities related to the care of children and young people. This training covers:

- Providing information on relevant legislation;
- Building on participants understandings of child abuse and neglect;
- Providing the opportunity to discuss responses to a disclosure of abuse;
- An opportunity to identify and reflect on dilemmas in making a report; and
- Information on making and receiving.

5.17 Courses are also provided on request for specific services including ACT police, Child Care Centres, the AMC, students completing qualifications such as teaching, social work and other community services.

5.18 In addition the Health and Education and Training Directorates have been provided support from the Community Service Directorate to train their trainers so they in turn can provide training to their staff.

5.19 The Health Directorate and Care and Protection Services have developed a comprehensive approach for training Health staff:

- ACT Health provides child protection training for all employees there are different levels of training for Health staff depending on their responsibilities and the areas in which they work;
- training is provided for new doctors; and
- a quarterly Child Protection Trainers and Liaison Network meeting exists to provide a forum for interagency and cross-discipline discussion and

information sharing related to the ACT Health Directorate's Child Protection Training. The Committee membership includes the Health Directorate training team members, Health Directorate Child Protection liaison Officer, Community Services Directorate's training and development staff and a Health Liaison Officer.

- 5.20 The Community Services Directorate offers monthly training to Housing ACT staff on reporting child abuse and neglect.
- 5.21 Basic training is provided for new teachers and police officers and monthly training is made available to Housing ACT, which outlines the roles and responsibilities of mandated reporters and broadly the physical and emotional signs of abuse and neglect.
- 5.22 However as stated in paragraph 2.19, Concern Reports have increased since 2004-05 by 70 percent, from 7 275 in that year to 12 419 in 2011-12. Although increases in the last few years have been smaller, this overall increase is far greater than the 3.6 percent change in the ACT population of children and young people in the same period.
- 5.23 As shown in Table 2.1, Child Protection Reports, Appraisal Outcome Reports and substantiations are significantly fewer in number than Concern Reports. The number of children in the Care of the Director General has remained reasonably stable, refer to Table 2.3. Given that Concern Reports since 2004-05 have increased by 70 percent, refer to 5.22 and that the majority of these are generated from mandatory reporters, this raises the issue of whether or not reporting by these people is appropriate or not. Some matters for example, may best be addressed to agencies other than the Care and Protection Services Branch.
- 5.24 An analysis of concern reports is needed to determine the proportion of reports that are care and protection issues and those reports that could have been referred to other Government agencies. Training for mandatory reporters on where to refer matters that are not care and protection issues may also be needed.

Recommendation 5 (Chapter 5 – Working together)

The Community Services Directorate should lead the improvement of across Government collaboration for children, young people and their families, by:

- (a) **analysing concern reports to identify which reports are care and protection matters and which could have been referred to other government agencies or the community sector and presenting these results to the Directors General Strengthening Vulnerable Families Committee (High Priority);**

COLLABORATIVE PROGRAMS AND INITIATIVES

- 5.26 The ACT Government has a collaboration framework, called *Sharing Responsibility: A framework for service collaboration for the care, protection and well-being of Children and Young People in the ACT 2006*. The following Directorates have committed to the principles of the framework:
- Community Services Directorate (the Office for Children, Youth and Family Support Division, Care and Protection Services Branch);
 - Education and Training Directorate;
 - Health Directorate;
 - Justice and Community Safety Directorate; and
 - Chief Minister and Treasury Directorate.
- 5.27 This framework sets out the role of the various Directorates and their responsibilities as an employer, service provider, funding or regulatory body and an inter-departmental partner perspective.
- 5.28 This framework is out-of-date, particular in light of the Hawke review (February 2011) which sets out new directions for the ACT Government under its 'One ACT Government – One ACT Public Service'.
- 5.29 There are various whole-of-Government projects that are current and focus on various aspects of service provision to vulnerable children, young people and their families, some of which include:
- Directors-General Strengthening Families Committee;
 - The ACT Children and Young People's Taskforce; and
 - Health Directorate Project on the development of a 'flagging' system to identify children at risk across multiple service delivery access points.

An example of cross Government Collaboration

- 5.30 A current example of the 'One ACT Government – One ACT Public Service' initiatives, is the Directors General Strengthening Families Committee. The ACT Public Service Strategic Board established the committee to develop and authorise a 'one service' culture of service delivery which focuses on a person centred approach to the needs of families with multiple needs.
- 5.31 The Directors General Strengthening Families Committee membership includes representatives from the Chief Minister and Treasury, Community Services, Health, Education and Training, and Justice and Community Safety Directorates. ACT Policing and the Commonwealth Department of Human Services are also represented.

- 5.32 The Director General' Strengthening Families Committee has commenced the implementation of the Improving Services with Families Co-design project. The Community Services Directorate states this project will:

undertake an action research process involving families, community and Government agencies in the trialling of potential new ways of working with families accessing multiple services. A Lead Worker will be established for each family participating in the project, with the primary responsibility of engaging all relevant Government and community service providers.

- 5.33 A comprehensive project plan has been established under the direction of the Directors-General Strengthening Families Committee:

It is intended that family outcomes will be reviewed in June 2013, with a road map outlining potential options for systemic wide implementation to be delivered by the end of 2013.

This project will be independently assessed with an aim to ensure that supports have been targeted appropriately to individual family needs and to assess the scalability of the approach for cross Government collaboration.

- 5.34 The Directors-General Strengthening Families Committee and its Improving Services with Families Project is an important initiative that needs to be progressed in a timely manner.

Recommendation 5 (Chapter 5 – Working together)

The Community Services Directorate should lead the improvement of across Government collaboration for children, young people and their families, by:

- (b) continuing to support the Directors-General Strengthening Families Committee in implementing its Improving Services with Families Project (by the end of 2013);

ACT Government agency agreements

- 5.35 The Community Services Directorate (Office for Children Youth and Family Support) has a memorandum of understanding with the following ACT Government agencies:

- the Australian Federal Police (ACT Policing) dated June 2010. The purpose of the memorandum of understanding is to outline the working relationship between Care and Protection Services and the Sexual Assault and Child Abuse Team (ACT Policing) to enable children and young people to feel safe and supported and to have their rights respected;
- the Health Directorate (2009-2011), dated 21 January 2009. The purpose of the memorandum of understanding is to outline a joint approach to the investigation of adverse events that involve care managed by ACT Health and Office for Children Youth and Family Support;

- the Health Directorate's Child and Adolescent Mental Health Service, dated 1 March 2007 to 1 March 2012. The purpose of the memorandum of understanding is to identify opportunities to work in collaboration and cooperation to improve community outcomes and improve the planning and delivery of services to shared client populations; and
 - the Youth Supported Accommodation Assistance Program, dated 18 June 2008 to 18 June 2011. The purpose of the memorandum of understanding is to support young people who are homeless or at risk of being homeless with a range of supported accommodation services.
- 5.36 There is no memorandum of understanding or other agreement between the Community Services Directorate and the Education and Training Directorate regarding care and protection matters that are within the scope of this audit.
- 5.37 There are no protocols or similar agreements between Community Services Directorate's Care and Protection Services Branch and Housing ACT that identify vulnerable families as shared client groups except in relation to detainees.
- 5.38 There is a protocol between Care and Protection Services Branch and the Aboriginal and Torres Strait Islander Services Unit (2010-2011). It was to be reviewed in 2011.
- 5.39 The existing memoranda of understanding are dated and require a refresh or replacement, particularly given the Hawke review (February 2011) 'One ACT Government – One ACT Public Service'. All new documents will need to incorporate new ACT Government initiatives, for example the Directors General's Strengthening Families Committee.

Recommendation 5 (Chapter 5 – Working together)

The Community Services Directorate should lead the improvement of across Government collaboration for children, young people and their families, by:

- (c) developing a protocol or some other mechanism for:
- cooperatively continuing to work with the Health Directorate, Australian Federal Police (ACT Policing), Education and Training Directorate, Youth Supported Accommodation Assistance Program; and
 - Care and Protection Services Branch and Housing ACT; and Care and Protection Services Branch and Aboriginal and Torres Strait Islander Services Unit, to better integrate services internally;

Health policy

- 5.40 ACT Health has an ACT Health and Child Protection Policy. The policy document provides staff with, amongst other things, a comprehensive guide on the role and responsibilities of ACT Health staff as mandatory and voluntary reporters. It also gives the legislative context for services provided to children as requested by Care and Protection Services.
- 5.41 ACT Health has established the ACT Health Child Protection Advisory Committee whose membership has a representative from each of:
- Acute Health Services;
 - Community Health;
 - Mental Health;
 - Health Policy;
 - Australian Federal Police (ACT Policing); and
 - the Office for Children, Youth and Family Support.
- 5.42 This Committee supports and monitors the implementation, review and evaluation of the ACT Health Child Protection Policy and its underpinning protocols, oversees the ACT Health's training program and supports the cross-agency collaboration between ACT Health and the Community Services Directorate's Office for Children, Youth and Family Support.

An Integrated and considered approach to collaboration

- 5.43 Collecting information for this Audit on the many ACT Government collaborative programs and initiatives and gaining an understanding of their relationship to each other, involved a significant amount of time. Given the importance of this information, it needs to be readily available. Unless this occurs there is a risk that issues may not be addressed or effort to address an issue is duplicated. Accordingly, the Community Services Directorate, as lead agency, needs to document all ACT Government initiatives for vulnerable children, young people and their families, and make this information readily available to relevant Government agencies and their staff, the community and the community services sector.

Recommendation 5 (Chapter 5 – Working together)

The Community Services Directorate should lead the improvement of across Government collaboration for children, young people and their families, by:

- (d) **documenting all ACT Government collaborative programs and initiatives for vulnerable children, young people and their families, and making this information available to relevant Government agencies and their staff, the community and the community services sector (High Priority); and**

INFORMATION EXCHANGE

- 5.44 The Director General, Community Services Directorate through the *Children and Young People Act 2008*, may seek to obtain from Territory authorities or statutory office holders information, advice, guidance, assistance, documents, facilities or services relevant to the physical or emotional welfare of children and young people. Territory authorities or statutory office holders are required to promptly respond to such requests. Section 862 of the Act states:

Director General—asking information sharing entity for safety and wellbeing information

- (1) The director general may ask an information sharing entity for a child or young person to give the director general safety and wellbeing information in relation to the child or young person.
- (2) An information sharing entity must comply with a request under subsection (1)—
 - (a) promptly; and
 - (b) if the director general tells the entity that the situation is an emergency—not later than 24 hours after the entity receives the request.
- (3) This section is additional to section 25 (Director general may ask for assistance).

Requests for information by Care and Protection Services

- 5.45 Care and Protection Services routinely request information from ACT Policing and the Health Directorate to assist in appraising the risk of abuse and/or neglect to a child or young person. Information sought may cover criminal histories of parents and health information on the child or young person and their parents.
- 5.46 Information is also sought from the Education and Training Directorate generally on absenteeism and how the child engages in the school environment.
- 5.47 Referrals to ACT Housing are made by Care and Protection Services Branch staff to avoid families being homeless.
- 5.48 In the 30 case studies of children and young people considered by Audit, in the files examined it was evident that information from ACT Policing and the Health Directorate were provided, in most cases within two days of the request being made. However, responses from Housing ACT were not documented on the child or young person's file. This is not to say action was not undertaken by ACT Housing, however without the necessary documentation it becomes unclear what actions were taken within what time frames.
- 5.49 This is a matter that could be addressed by training housing and care and protection services staff to ensure the relevant referral outcomes are recorded on the file.

Information sharing to benefit children and young people

- 5.50 Information on children, young people and vulnerable families is collected and stored differently in each ACT Government Directorates. Separate identification methods, records and information management systems are being used across ACT Government and by community service providers.
- 5.51 The following examples from children and young people's files are provided to show the importance of information sharing across ACT Government directorates and entities, and with families and community service providers. The examples highlight the importance of having a single shared information system on vulnerable families.

Education Example

A reporter raised concerns over several years regarding children not attending school, these were recorded in Concern Reports spanning five years. The reporter was concerned, amongst other things, that the children had not been given the opportunity to have an education. Six years after the initial report, Care and Protection Services Branch under section 862 of the *Children and Young People Act 2008* obtained information from the ACT Education and Training Directorate showing that the children had never attended school.

One of the children when starting school had missed up to 9 years education and the children involved started their schooling as teenagers.

- 5.52 A Concern Report relating to issues of education alone does not necessarily meet Care and Protection Service's threshold for neglect and abuse.

Health Example

A health assessment was requested for a child who just that same day had been placed in foster care. The assessment concluded that 'this assessment was limited by the lack of information and at best the examination can be considered as a fitness for care examination rather than a complete medical examination'.

- 5.53 The Health Example illustrates that health caseworkers need information on a child's or young person's medical history to perform a full and adequate assessment. In most cases, the best source for this information is the child's or young person's parents, but in reality many assessments are performed for care and protection purposes without a parent present. It should also be noted that a Health Assessment is completed shortly after a child or young person is placed in the care of the Director General.
- 5.54 Implementing one information system for vulnerable families across ACT Government directorates and entities would improve shared knowledge and the

level of information captured on vulnerable families between agencies and entities.

- 5.55 In the United Kingdom and New Zealand a shared database is used by multiple organisations. Care and Protection Services and other ACT Government directorates and entities would benefit from this same approach. This would aid timely information sharing on the support and intervention needs of vulnerable children or young people and their families and reduce administrative inefficiencies.
- 5.56 Privacy issues with respect to information sharing will need careful consideration, however, in other jurisdictions and internationally this has been able to be achieved.

Recommendation 5 (Chapter 5 – Working together)

The Community Services Directorate should lead the improvement of cross Government collaboration for children, young people and their families, by:

- (e) **developing an information system for sharing information on vulnerable children, young people and their families between ACT Government directorates and entities while taking into account privacy issues (High Priority).**

OUT-OF-HOME CARE PLACEMENTS

- 5.57 During the course of this audit, the ACT Auditor General's Office was approached by a foster carer, the Foster Carer's Association and the Family Inclusions Network. All stakeholders raised concerns regarding information exchange processes or lack thereof, provided to carers from Care and Protection Services, particularly relating to children and young people's health and behaviours. These stakeholders have raised their issues with the Community Services Directorate. Audit has suggested that they also raise their issues with the Children and Young People Commissioner who has the statutory mandate to consider systemic matters. The Audit Office will also consider these issues in designing its forward audit program.
- 5.58 The Auditor General was requested by the Director General, Community Services Directorate, to consider if the Public Advocate's 2012 recommendation for the creation of an additional Statutory Officer position of an ACT Children's Guardian is warranted:

In order for Government to meet its stated obligation to consider these [Public Advocate's] recommendations, I would like to formally refer to you a request that you examine the issue of whether the addition of a children's guardian would strengthen the existing system of child protection and how it would augment the roles of existing oversight bodies.

- 5.59 In considering the need to establish the position of Children's Guardian to, amongst other things, accredit and monitor out-of-home care placements, the current provisions of monitoring and quality assurance and pre-qualification requirements for out-of-home care service provision were considered within the context of arrangements that already exist in the ACT.

Types of placement

- 5.60 There are predominantly three types of out-of-home care placements available to children and young people when they are removed from their parents/carers and placed in the care of the Director General:
- kinship care;
 - foster care; and
 - residential care.
- 5.61 The services are described broadly 'to provide temporary, short term, medium and long term out-of-home care services to children and young people who are unable to live with their families due to issues of abuse and neglect'.
- 5.62 A kinship carer may be a family member, for example, a step-parent, grandparent, sibling, aunt, cousin or a person who has culturally prescribed responsibilities for the child or young person, or a significant person, for example, long term friend or a person who resides with the child.
- 5.63 Foster carers provide children and young people a family safe environment in their homes. Children and young people that come into their care typically have complex behavioural disorders as a consequence of suffering some form of abuse and or neglect.
- 5.64 There is an unfortunate trend nationally in declining numbers of new foster carers registering to provide care and declining numbers of carer's remaining to provide care to these most vulnerable children and young people.
- 5.65 Residential care placements are traditionally for young people and can be described as services for young people aged 12 years and older who are unable to be placed in home based care.
- 5.66 Foster care and residential care placements are categorised into general, intensive, respite and therapeutic care:
- **General Foster Care** - The general foster care category refers to a care placement with a family in their own home for a child or young person without significant levels of emotional and/or behavioural disorders who cannot be placed within their extended family or kinship networks (in accordance with their care plan).
 - **Intensive Foster Care** - The intensive foster care category is designed to meet the needs of children and young people assessed as having high

support needs who have significant levels of emotional and/or behavioural disorders. Carers providing this level of support will be expected to have specialist and ongoing training, a high level of service provider support and receive a higher subsidy level.

- **Therapeutic Foster Care** - The therapeutic foster care category is intended for a small number of children and young people with very high and complex needs.
- **General Residential Care** - The general residential care category, are services provided to young people whose needs cannot be met within a foster care placement. Large sibling groups may be placed in a residential care. Placement length is dependent on the needs of the young person and may include short term, medium and longer term placements.'
- **Intensive Residential Care** - The intensive residential care category provides accommodation services to young people with complex and high needs and intensive support services to address challenging behaviours with the goal to move to a less intensive placement.

Staff have specialist training, particularly in relation to managing challenging behaviours, and are provided with on the job training, regular supervision and clinical consultation. This service must extend beyond the provision of an accommodation option for these young people and include therapeutic interventions/program to deal with the behaviour being demonstrated. Intensive residential care includes crisis/emergency placements.'

- **Therapeutic Facility Care** - The therapeutic facility care category provides secure accommodation and intensive therapeutic assessment and support for young people at a time when they present with substantial and immediate risk of harm to themselves and have been placed on a Therapeutic Protection Order. These young people would generally present a level of dysfunctionality and conduct disorders such that they are unable to function in other residential or community settings.'
- **Individual Support Placement** - 'There will always be a small number of children and young people whose care needs will need to be met through individual arrangements. Individual Support Placement is only a last resort when all other placement options are exhausted.
- **Community Respite Care** - Respite care, up to 36 days, per child per annum can be provided.

The numbers of children and young people in the different categories of care

5.67 The Care and Protection Services Branch forecasted numbers of children and young people by placement type for 2012-13 are shown in Table 5.2.

Table 5.2: Forecasted numbers of children or young people by placement type for 2009-13

Type of out-of-home care	No. of placements 2009-10	No. of placements 2010-11 & 2011-12	No. of placements 2012-13
Kinship Care	210	219	296
Foster Care - General	172	176	206
Foster Care - Intensive	29	27	35
Therapeutic Specialist Foster Care Support	12	0	2
Residential Care - General	11	14	14
Residential Care - Intensive	23	25	25
Total	457	461	578

Source: Community Services Directorate

Note: Therapeutic facility care, individual support placements or community respite care numbers are not shown.

5.68 There were 594 children and young people in the care of the Director General on 30 June 2012, 572 on 30 June 2011 and 555 on 30 June 2010. Therefore the shortfall in number of placements forecasted to the actual placements was 98 in 2010, 111 placements for 2011 and 133 placements in 2012.

5.69 The 2012-13 is the first year forecasting has been realistic. Forecasted numbers for 2012-13 are 578, resulting in a shortfall of 16 places assuming the number of children and young people in care remains much the same as in 2012, although the numbers of children and young people in care generally increase, refer to Chapter 2, paragraph 2.51 and Table 2.3.

5.70 An average of 240 children and young people have been placed in Kinship Care over the previous three financial years (2009-12) and a combined average of 210 children and young people have also been placed in foster care in this same period.

5.71 There is a risk that having forecast numbers that are significantly smaller than that which is likely to occur will result in an inadequate budget allocation. Therefore, it is important to reflect realistic numbers of children in the care of the Director General for budgeting purposes.

Recommendation 6 (Chapter 5 – Working together)

The Community Services Directorate should improve its management and quality control over out-of-home care community service providers, by;

- (a) all future forecast numbers for out-of-home care should reflect probable realistic numbers to facilitate the allocation of an adequate budget, as was done in 2012-13;

Management arrangements

5.72 Out-of-home care placements are managed in different ways:

- Care and Protection Services usually manages Kinship placements and is responsible for ensuring that placements are adequately assessed, supported and reviewed; and
- The Community Service Directorate usually contracts community service providers to manage foster care and residential placements. The funding and provision of services are for a three year period and are set out in a Service Funding Agreement. The funding agreement can be varied through a deed of variation.

5.73 The management of foster care placements is undertaken by:

- Galilee Foster Care;
- Barnardos Australia;
- Marymead Child and Family Centre; and
- Aboriginal and Torres Strait Islander Out of Home Care.

5.74 The management of residential care placements is undertaken by:

- Marymead Child and Family Centre;
- Narrabundah House;
- Reception House;
- Premier Youthworks; and
- Richmond Fellowship.

Budgeted costs of care placements

5.75 Audit was provided budgetary information on two separate occasions and out-of-home care costs on three separate occasions from the Community Services Directorate. The costs and totals varied significantly with each version provided to Audit.

5.76 In 2012-13 the budget for out-of-home care placements totalled \$26 462 935, without contingencies. This is an average of \$45 783 per child or young person for that year, however, some forms of care are significantly lower in costs while others are significantly higher, for example kinship care costs an average of \$19 267 per child or young person whereas residential care (intensive) costs, an average of \$273 317, as shown in Table 5.3.

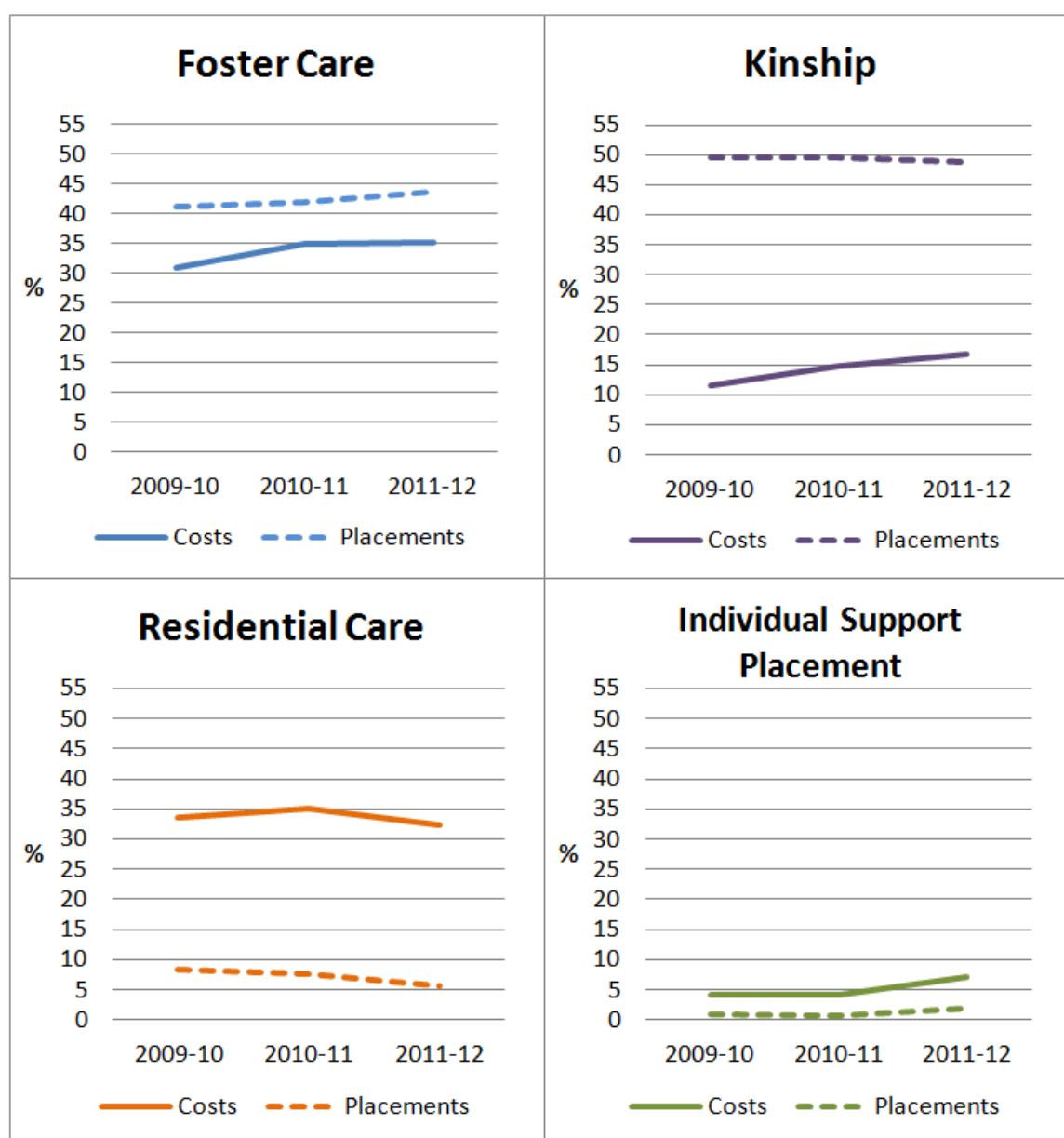
Table 5.3: Budget for out-of-home care excluding new funding for 2012-13.

Care type	Places	Costs	Average cost per place
Kinship Care	296	\$5 703 032	\$19 267
Foster Care - General	206	\$8 393 264	\$40 744
Foster Care - Intensive	35	\$2 694 370	\$76 982
Therapeutic Specialist Foster Care Support	2	\$546 634	\$273 317
Residential Care - General	14	\$2 292 710	\$163 765
Residential Care - Intensive	25	\$6 832 925	\$273 317
Total	578	\$26 462 935	

Source: Community Services Directorate

Actual out-of-home care costs

5.77 Actual costs and numbers for the different types of ACT out-of-care placements are shown in Figure 5.2. For comparison purposes, figures have been represented as a percentage of the total cost and number of placements. However, these figures do not include contingencies, which support placements and require additional funding.

Figure 5.2: Out-of-home care costs and number of placements by care type

Source: Audit Office, based on Community Services Directorate data

- 5.78 Around 50 percent of all children and young people in out-of-home care are in kinship care which accounts for only around 15 percent of the total costs, refer to Figure 5.2.
- 5.79 While foster care and residential care each account for around 35 percent of total costs, foster care accommodates a significantly larger number of children and young people, around 43 percent while residential care only supports around 8 percent of all placements, refer to Figure 5.2.
- 5.80 Individual Support Placement costs are exceptionally high with approximately 3 percent of placements costing 5 percent of the total out-of-home care costs, refer to Figure 5.2.

- 5.81 As stated in Chapter 2, paragraph 2.109, Care and Protection Services, preferred placements are kinship care and foster care.

STANDARDS FOR OUT-OF-HOME CARE

- 5.82 The ACT has agreed to adhere to the 2011 National Standards for out-of-home care and in so doing has agreed to report on its 13 standards, which include a wide range of issues from health, education, care planning to training and support for carers. Reporting is to occur progressively; commencing in July 2011 with all 13 standards being reported on by 2015.
- 5.83 The ACT Out-of-Home Care Framework 2009-12 details the legislative, policy context and principles that guide the provision of out-of-home care in the ACT. It provides for, amongst other things, a three year funding cycle.
- 5.84 The Out-of-Home Care (pilot) Standards which underpin the ACT Out-of-Home Care Framework 2009-12 are presented in the 2009 ACT Office for Children, Youth and Family Support – Achieving Excellence – Promoting Standards – OoHC Services – Pilot standards – Collaboration Co-operation Co-ordination document. There are currently 50 pilot standards clustered under 10 section headings in this document:
- Casework Practice - 8 Standards;
 - Management of authorised (Foster) carers -5 Standards;
 - Meeting needs while in care – 7 Standards;
 - Rights, confidentiality and complaints - 3 Standards;
 - Care records – 3 Standards;
 - Leaving care – 2 Standards;
 - Working together with other agencies and liaison with the community – 3 Standards;
 - Organisational management – 6 Standards;
 - Planning, evaluation and service development – 2 Standards; and
 - Human resource management – 11 Standards.
- 5.85 Of the 50 pilot standards, specific topics related to the care of children and young people total 17, those relating to management, record keeping and human resource activities total 33 standards.
- 5.86 The currently applied 2009 ACT Out-of-Home Care Standards are still a pilot standard in 2012.

- 5.87 Care and Protection Services Branch advises that they are in the process of beginning to consult with the community services sector and are replacing the 2009 ACT Out-of-Home-Care Standards with, the 2011 National Standards during 2013. The Standards are to be notified under the *Children and Young People Act 2008*.

Recommendation 6 (Chapter 5 – Working together)

The Community Services Directorate should improve its management and quality control over out-of-home care community service providers, by:

- (b) continuing to replace the 2009 ACT Out-of-Home-Care standards with the 2011 National Standards during 2013 and having these notified under the *Children and Young People ACT 2008*;

Compliance with the ACT Out-of-Home Care Standards

- 5.88 The out-of-home care funding agreements with community service providers contain specific provisions requiring adherence to the ACT Out-of-Home Care Standards and for assessing their performance and service delivery. The Agreement between the ACT, represented by the Community Services Directorate, and the Providers states:

The Organisation will comply with the ACT Out-of-Home Care Standards and National Out-of-Home Care Standards.

The Organisation is required to comply with and participate in assessment against the ACT Out-of-Home Care Standards in working towards quality improvement and is expected to review practice against the standards twice yearly.

The Organisation is required to actively use the ACT Out-of-Home Care Standards Self Assessment Tool for Out-of-Home Care Providers in working towards quality improvement. Specific evidence will be required in relation to the claim that the standard is met by the Organisation.

- 5.89 The Community Services Directorate has developed a self-assessment tool, to be applied twice yearly for ensuring compliance with out-of-home care standards.
- 5.90 The self-assessment tool guides how the community service provider and the Office for Children Youth and Family Support assess the community service provider's performance and service delivery. The majority of assessments required are listed as being the responsibility of both the Office for Children Youth and Family Support (Care and Protection Services Branch) and the community service provider's responsibility. Accordingly, there is no clear delineation of the roles and responsibilities of each party for each Standard. This presents the risk that duplication in assessment may occur or that an assessment is not undertaken.
- 5.91 A self-assessment is required twice yearly with the community service provider choosing a section to report against and Care and Protection Services selects

another section for the service provider to report on. Depending which sections are selected, they can cover two to 11 standards. Accordingly, only four sections of the 10 sections are covered each year. The number of standards will vary according to which sections are selected and could be as few as 10, covering only 20 percent of the total of 50 standards.

- 5.92 This method of reporting from out-of-home care community service providers does not allow a comprehensive analysis of compliance with the Out-of-Home Care Standards. This presents a significant risk that the community service providers may not actually be complying with all 50 ACT Out-of-Home Care Standards and this is not known to the Care and Protection Services Branch.

Out-of-home care quality assurance practices

- 5.93 The Community Services Directorate relies on the self-assessment, discussed in paragraph 5.91, to assure itself that adequate levels of compliance to standards are being met and therefore the best outcomes for ACT children and young people in out-of-home care are being achieved.
- 5.94 Furthermore, there are no Territory-based requirements for accrediting the services provided to children and young people in an out-of-home care placement. There is a pre-qualification activity being undertaken by the Community Services Directorate of all community service providers, which includes providers of out-of-home care. It is likely to take one to two years to complete.
- 5.95 The Community Services Directorate has terminated arrangements with some out-of-home care providers as safety, wellbeing, hygiene and behaviours of staff and management were problematic.
- 5.96 There is a lack of adequate controls surrounding compliance with standards and the quality of care of children and young people in the care of the Director General. Also the number of section 507 reports made to the Community Services Directorate and copied to the Public Advocate have increased by 53 percent from 2009-10 to 2011-12 for children and young people in the care of the Director General and in an out-of-home care placement, refer to Table 5.4.

Table 5.4: 507 Reports regarding children and young people in out-of-home care

Reporting Period	Number
2009-10	62
2010-11	63
2011-12	95

Source: Public Advocate

- 5.97 There is no independent evaluation or audits undertaken on the assessments made by the community service providers or those made by the Care and Protection Services Branch. This presents the risk that assessments may be inaccurate.

Office for Children, Youth and Family Support proposed audits

- 5.98 In recognising a number of similar risks in September 2012, the Office for Children, Youth and Family Support commenced outsourcing audits on community service providers. At the conclusion of this audit one was completed and 3 others were being progressed.
- 5.99 While this action is appropriate, it has been the result of reacting to a situation rather than being completed as part of a planned approach aimed at preventing risks for children and young people in out-of-home care.
- 5.100 Given the lack of quality controls, for example, independent evaluation or audit, related to ACT out-of-home care service provision, there is the risk that each community service provider is not meeting the stated principles for out-of-home care contained in the *Children and Young People Act 2008* or the 50 Out-of-Home Care Standards. This is a significant concern as the welfare of vulnerable children and young people is at stake, not to mention ACT Government expenditure of around \$26 million per year (without contingencies).
- 5.101 Accordingly, audits need to be progressed in a timely manner. Given the importance of this issue, and the increase in the number of section 507 reports sent to the Public Advocate, completing all audits within the next twelve months would seem appropriate.
- 5.102 As mentioned in paragraph 0 and reflected in Recommendation 6 (b), the standards are being replaced in 2013. Within this context audits need to be finalised against the 2009 Standards by the end of 2013.

Recommendation 6 (Chapter 5 – Working together)

The Community Services Directorate should improve its management and quality control over out-of-home care community service providers, by

- (c) **continuing to give priority to conducting audits of ACT out-of-home care providers against the 2009 Standards by the end of 2013 (High Priority);**

Other Jurisdictions quality assurance practices

- 5.103 Australian jurisdictions have a mix of quality assurance systems for out-of-home care service provision. New South Wales has a best practice model that requires a community service provider to hold accreditation or to be going through an accreditation process called the Quality Improvement Program before being

contracted and funded to provide services to NSW vulnerable children and young people in out-of-home care placements.

5.104 In NSW there is a Children's Guardian, which is:

... responsible for promoting the best interests and rights of children and young people in out-of-home care....the Children's Guardian's functions are to ... accredit designated agencies and to monitor their responsibilities under the Act and regulations..

5.105 The NSW Out-of-Home Care Standards underpin its out-of-home care accreditation and quality improvement program. The Standards establish the minimum requirements for accreditation as a designated agency, but also provides a framework for driving continuous improvement in the quality of out-of-home care services.

5.106 The Standards have been developed in partnership with the out-of-home care sector and trialled by a number of agencies. Most importantly, children and young people in residential care have worked with the NSW Children's Guardian in arriving at the Standards.

5.107 An external review conducted in 2012 of the Victorian out-of-home care provisions has recommended that:

The Department of Human Services should retain responsibility for regulating out-of-home care services and family services. This function should be independent and structurally separated from those parts of the department responsible for child protection and family services policy and funding of community service organisations. The director of the unit should report separately to the Secretary.

5.108 This arrangement allows Victoria's independent statutory office holders the ability to independently monitor the quality accreditation framework managed by the Victorian Government's child protection authority and to independently review services being provided by the community service providers to children and young people against the accreditation framework.

ACT quality assurance options

5.109 As mentioned in paragraph 5.58 of this chapter, the Public Advocate's 2012 recommendation for the creation of an additional statutory officer position of an ACT Children's Guardian is considered in this Audit.

5.110 The Public Advocate's recommendation is:

The position of Children's Guardian be resourced and formalised under the auspices of the Public Advocate of the ACT. It is essential that this position urgently undertake monitoring of Out-of-Home Care placements ... increased resourcing is required for this position so that it can include accreditation and monitoring of Out-of-Home Care agencies to ensure that future placements and support staff are authorised and reflect standards.

- 5.111 The ACT Government's response to the Public Advocate's recommendations was:
Recommendation 3 – Monitoring of Provision of Placements. The position of Children's Guardian be resourced and formalised under the auspice of the Public Advocate of the ACT [to monitor out of home care placements].
Government Response - Agreed for consideration in Stage 2 by the Auditor-General.
- 5.112 The Public Advocate has advised that:
Underlying the recommendation to formalise and resource a Children's Guardian position, was the finding that the ACT Care and Protection system was performing poorly and needed more monitoring and oversight than could be provided by one person in the PA ACT. The lack of assessments (particularly of kin) and poor placement choices clearly showed that monitoring functions were needed, and the use of agencies that were not approved entities, demonstrated the need for more stringent accreditation of services who provided Out of Home Care. This creation of a formal position of Children's Guardian would combine all of these function, not limited to the NSW model, concentration solely on accrediting and monitoring out of home care services.
- 5.113 This Audit has considered the accreditation and quality control issues associated with the Children's Guardian. The Public Advocate, from the above, envisages a broader role. It is beyond the scope of this Audit to examine all of these aspects.
- 5.114 The Public Advocate's comments may be addressed by increasing the capacity of the Public Advocate's Office for undertaking monitoring, if the accreditation and quality control is undertaken by the Community Services Directorate. Resourcing considerations were not able to be considered in this audit.
- 5.115 Given the issues identified in this chapter, Audit agrees with the Public Advocate that there is an urgent need for accreditation and monitoring to occur for out-of-home care services. However, this should be completed as part of an overall quality control system for out-of-home care community service providers taking into account existing roles of the independent statutory office holders.
- 5.116 As the Public Advocate is likely to advocate for children or young people in out-of-home care, if the Children's Guardian were located in its office and was responsible for accreditation there potentially could be a conflict of interest. For example, the Public Advocate may have to advocate for a person who may be adversely affected because of an inappropriate accreditation.
- 5.117 The Community Services Directorate needs to develop a comprehensive overall quality control system for out-of-home care. Quality accreditation of out-of-home care community service providers should be undertaken by the ACT Community Services Directorate allowing the Public Advocate and the Children and Young People Commissioner to independently monitor services. However, this function should not be in the Care and Protection Services Branch.
- 5.118 The Public Advocate agrees 'that accreditation should be undertaken by a Unit independent of Care and Protection, but disagrees that this is possible within the

same Directorate'. However, Audit considers that it should be possible to have the Directorate undertake this function if appropriate governance arrangements are implemented. For example, a Community Services Directorate executive who is independent of the Care and Protection Services Branch, should be responsible for accreditation and report directly to the Director General.

- 5.119 Given this important issue, the Children and Young People Commissioner and the Public Advocate should be consulted on the associated governance arrangements and the Commissioner requested to give consideration to the effectiveness of the overall quality control system twelve months after it has been fully implemented.
- 5.120 The Funding Agreements currently in place between the Community Services Directorate and the out-of-home care service providers need to be updated to reflect the National Out-of-Home Care Standards and the Directorate's quality control system and assurance practices.
- 5.121 It is beyond the scope of the Audit to consider the content of the 2011 National Standards. Those standards may need to be supported with practice standards.

Recommendation 6 (Chapter 5 – Working together)

The Community Services Directorate should improve its management and quality control over out-of-home care community service providers, by:

- (d) **developing an overall quality control system that includes accreditation and monitoring of community service providers providing out-of-home care services, the Public Advocate and Children and Young People Commission should be consulted in the development of the system (High Priority);**
- (e) updating the 3 year funding agreements to reflect the 2011 National Standards and the revised quality control system and assurance activities;
- (f) **accreditation and monitoring of out-of-home care providers being undertaken in the Directorate but independently of Care and Protection Services Branch and the executive head of the unit responsible for accreditation reporting directly to the Director General (High Priority); and**
- (g) requesting that the Children and Young People Commissioner give consideration to the effectiveness of the overall quality control system once fully implemented.

6. STATUTORY OFFICE HOLDERS

- 6.1 This chapter examines the independent roles of the Public Advocate and the Human Rights Commission, in particular the Children and Young People Commissioner, who have statutory responsibilities that are directly related to the care and protection of children and young people.

SUMMARY

Conclusion

The Public Advocate and the Children and Young People Commissioner (in the Human Rights Commission) are monitoring and overseeing the support services provided by the Community Services Directorate to children and young people in care and protection. However, the effectiveness and efficiency of this is restricted because of a lack of definition in the legislation, particularly in relation to what are 'systemic matters' and what are the obligations of the Human Rights Commission in its 'consideration' of such matters. Assuming that some 'systemic matters' may warrant a major inquiry/investigation by the Human Rights Commission, a mechanism for it to secure additional funding when warranted, needs to be identified.

It is a concern that some information reported by the Public Advocate and the Community Service Directorate contradicts. The Public Advocate has a critical role in monitoring care and protection services, aspects of this includes 507 Reports, section 497 annual review reports, section 879 requests and attendance at Children's Court proceedings. A misalignment in reporting numbers of section 507 and annual review reports presents the risk that some children and young people may not be monitored and offered advocacy support.

A triage system used to manage the risks associated with the decline in the percentage of section 497 annual review reports reviewed by the Public Advocate. The triaging needs to be assessed and if found inadequate, options for addressing shortcomings developed for consideration by the Minister for Disability, Children and Young People.

The Public Advocate and Human Rights Commission had shortcomings in their governance arrangements, some of which they can address. However, other shortcomings require the cooperation of Government directorates. The outdated protocols, with their host agency, the Justice and Community Safety Directorate, need to be updated.

Budgets of the Public Advocate and Human Rights Commission should be separately identified in budget papers and these statutory office holders held accountable for their budgets and reporting thereon. Their reporting on these issues should be independently verified.

At present, the Director General, Justice and Community Safety Directorate is held accountable for reporting on the Public Advocate and Human Rights Commission performance indicators and this Directorate's statement of performance may be given an adverse finding, if there are shortcomings. This occurred for the 2011-12 financial year in relation to a Human Rights Commission performance indicator.

Both the Public Advocate and the Human Rights Commission need to review their

performance indicators to better reflect their key activities that can be delivered within their allocated budgets. These officers should be held accountable for reporting on these and ensuring that all claims on performance are able to be independently verified.

Key Findings

- Under subsection 11(2) of the *Public Advocate Act 2005* 'The public advocate must refer systemic matters relating to children and young people to the human rights commission for consideration.'
- The Public Advocate undertakes 'systemic advocacy'. This has no legislative basis and the definition used by the Public Advocate appears equally applicable to 'systemic matters'.
- Only two 'systemic matters' have been formally referred to the Human Rights Commission since 2008. It appears that there are some historical matters that have affected the Public Advocate's approach to referring 'systemic matters' to the Commission. As a consequence, the Public Advocate Office (on 30 January 2013) advised that 'In light of the experience with this matter and what we considered the lack of a positive and collaborative response, all future referrals were to be well considered by this office, ensuring that first we had exhausted all our advocacy efforts with individual clients'.
- In 2012, after the commencement of this audit, the Public Advocate formally referred a placement of indigenous children to the Commission as a 'systemic matter'. The Children and Young People Commissioner advised that 'Unfortunately at the current time I do not have the resources to undertake this activity. However I will look for opportunity for further discussions on this subject in the future'.
- While the legislation covering the Public Advocate and Human Rights Commission has been developed so that these statutory officers have complementary roles, there is some uncertainty because key terms, such as 'systemic matters' and 'consideration' have not been defined. Furthermore, there is a need for the obligations of the Human Rights Commission in its 'consideration' of 'systemic matters' to be defined. There is also a need to ensure that a mechanism exists for the Public Advocate to be required to release all relevant information to the Human Rights Commission, when 'systemic matters' are referred to the Commission.
- In 2011-12 there was a discrepancy of 93 percent between the numbers reported with respect to information from section 507 reports (which are generated in response to an issue concerning a child or young person who is in the care of the Director General) that the Public Advocate claims to have received compared with

the number the Community Services Directorate claims to have supplied. Such inconsistencies have been occurring for at least the past three years. It is a concern that these bodies do not have the same understanding of the numbers, particularly with the risk that children and young people could be missed.

- The reduction from 82 percent in 2009-10 to 60 percent in 2011-12 of examinations by the Public Advocate of section 497 annual review reports (for each child or young person in the care of the Director General in out-of-home care) presents the risk that the Public Advocate's monitoring function is reduced and limits the certainty that advocacy is being provided to all those in need.
- The Public Advocate has implemented a triage system to manage the risks associated with the decrease in the percentage of annual review reports being examined and advised that resourcing limitations constrain the number of annual review reports it can examine in detail. The effectiveness of triaging needs to be assessed, taking into consideration the implementation of the proposed quality control process (Recommendation 1(m)) and if shortcomings are identified, options for addressing this need should be developed and the Minister for Disability, Children and Young People be briefed.
- Monitoring by the Public Advocate, through section 879 requests has increased by 90 percent, from 14 requests in 2009-10 to 153 in 2011-12.
- In 2011-12 the Public Advocate advised that its staff attended 128 Children's Court Case Management Conferences.
- Audit was advised by the Commission that during 2010-11 it managed 571 complaints, and of the 71 complaints handled by the Children and Young People Commissioner, 'just under 58 percent' of complaints related to the care and protection services delivered by the Community Services Directorate.
- The Commission advised that it is 'responding to a significantly increased workload of individual complaints in all jurisdictions, including in the Children and Young People team where complaints have increased from 8 in 2007-08 to 83 in 2011-12'.
- The Children and Young People Commissioner's complaints management process is strategic and practical.

- The 2003 FEMAG, *Review of Community Advocacy and Statutory Oversight Agencies* report⁷ highlighted that ‘Unless we look at the underlying causes of complaints and address the system that generates them, the only certainty is that the number of complaints will increase beyond the capacity of ... external bodies to handle them’.
- The Children and Young People Commissioner has addressed ‘systemic matters’ in a number of ways. However, only one major inquiry/investigation has been undertaken and that was not specifically on care and protection matters. There is likely to be an occasion when major inquiries/investigations are warranted.
- The Public Advocate’s all-of-office strategic plan expired in 2010, but its strategic plan for the Advocacy Section of the Office is current. The Public Advocate Office advised that it reviewed its all-of-office strategic plan in 2010 for a further three years. However, this was not evident to Audit when the plan was considered. The Office does have operational/annual work plans.
- The Human Rights Commission’s strategic and operational plan expired in 2011.
- While both the Human Rights Commission and the Public Advocate have publically raised needing additional funding, it was not possible for Audit to form an opinion on this issue as their reporting on budget expenditure was not detailed enough and sufficiently aligned with their reporting on accountability indicators.
- Since 2010 there has not been a protocol outlining responsibilities and administrative arrangements between the Justice and Community Safety Directorate and/or the Minister, with either the Public Advocate or the Human Rights Commission. New protocols are being drafted. Without protocols in place there is the risk that these independent statutory officers may not be adequately supported or know the process to apply in seeking additional support, if needed.
- The Human Rights Commission’s accountability indicators have not always been independently verifiable. For example, in 2011-12 the Commission reported a result of 5 881 participants for the ‘Number of participants in community education or engagement activities’. The Commission provided information such as emails and head counts to support the reported result. Audit could not verify the Commission’s claim.
- The Public Advocate’s indicators present information that is not readily

⁷ The Report of the Review of Statutory Oversight Agencies and Community Advocacy (a report by the Foundation for Effective Markets and Governance commissioned by the ACT Government in 2003 - the FEMAG Report);

understood and could be improved.

STATUTORY OFFICE HOLDERS WITH RESPONSIBILITIES RELATED TO CARE AND PROTECTION

- 6.2 The Public Advocate focuses on an individual child or young person who needs advocacy in the Government's care and protection and youth justice systems, and although the Children and Young People Commissioner has a broader remit which encompasses all children, the Commissioner does have a role in overseeing those in the care and protection system. Given this, these statutory office holders' roles and activities are the main focus of this chapter.
- 6.3 Although Official Visitors have a statutory role with respect to children and young people, their focus is on those people who are in the youth justice system. This audit is not considering this system and therefore Official Visitors are not examined.
- 6.4 The Ombudsman is prevented under subsection 5(2) of the *Ombudsman Act 1989* from considering complaints about how agencies deliver services relating to children and young people. This function resides with the Human Rights Commission and thereby the Children and Young People Commissioner. Accordingly, the Ombudsman role is not considered in this audit.
- 6.5 There are four Acts which are particularly pertinent to the activities of the Public Advocate and the Children and Young People Commissioner, with respect to vulnerable children and young people:
- *Children and Young People Act 2008* (relates to the Community Services Directorate, the Public Advocate and the Human Rights Commission – including the Children and Young People Commissioner);
 - *Public Advocate Act 2005*;
 - *Human Rights Commission Act 2005*; and
 - *Human Rights Act 2004* (defines human rights).
- 6.6 In considering the legislation that affects the Public Advocate and the Children and Young People Commissioner (in the Human Rights Commission) the issue of whether there is any overlap in roles was explored. This is not an easy task to assess as they each have a large number of functions which are covered by various Acts, and these are described in broad terms which make a precise interpretation problematic. Accordingly, advice from the Australian Government Solicitor was sought.
- 6.7 The Australian Government Solicitor advised that:
- ... the roles of the Public Advocate and the Human Rights Commission are, for the most part separate and distinct ... complementary rather than in conflict

6.8 In examining the roles of the Public Advocate and the Children and Young People Commissioner the Australian Government Solicitor considered three 'types' of functions:

- 1) advocacy;
- 2) the carrying out of inquiries or investigations; and
- 3) complaints handling and resolution.

6.9 The Australian Government Solicitor advised that:

... the focus of the Public Advocate is on functions (1) and (2) (and not on (3)), whereas the focus of the Human Rights Commission is on functions (2) and (3) (and not on (1)). The area of ostensible overlap (function(2)) is, in fact, not an area of any significant overlap because the Public Advocate's focus is on inquiries or investigations that do not raise 'systemic matters', whereas the converse is true of the Human Rights Commission.

THE PUBLIC ADVOCATE

6.10 The Public Advocate is created under the *Public Advocate Act 2005*, and has 13.5 (full-time equivalent) staff with a 2011-12 expenditure budget of \$1.866 million for all its activities. Only one full-time staff member provides advocacy for children and young people, with oversight by the Public Advocate who also has responsibility for Mental Health and Complex Disability advocacy. It was not possible to determine how much of the Public Advocate's budget was specifically allocated to care and protection matters.

6.11 The Public Advocate, as its title indicates, has an important role in advocating. An advocate is someone who 'defends, vindicates, or espouses a cause ...; an upholder; a defender'; someone who 'pleads for or on behalf of [its clients]; [an] intercessor'.⁸ This is particularly significant for vulnerable children and young people who due to their age, experiences and circumstances are unlikely to be able to advocate for themselves.

⁸ *The Macquarie Dictionary* (online ed).

Functions under the *Public Advocate Act 2005* and the *Children and Young People Act 2008*

6.12 The functions of the Public Advocate are set out in sections 10 and 11 of the *Public Advocate Act 2005*, and in various sections of the *Children and Young People Act 2008*. Relevant sections are referenced when discussed in relation to a specific issue in this chapter. The *Public Advocate Act 2005* includes:

- s10(d): acting as advocate for the rights of children and young people and, as part of acting as advocate for those rights, doing the following:
 - i.fostering the provision of services and facilities ...;
 - ii.supporting the establishment of organisations ...;
 - iii.promoting the protection ... from abuse and exploitation;
- s10(e): monitoring the provision of services for the protection ... ;
- s10(f): dealing ... with entities providing services;
- s10(g): investigating, reporting and making recommendations to the Minister ... referred by the Minister.

6.13 The Public Advocate, in May 2011, described their role as⁹:

The Public Advocate ... has a statutory role to monitor and foster the provision of services for the protection of children and young people and to advocate for and protect their rights, specifically for those children and young people who are in need of protection from abuse, exploitation or neglect. ... The legislative framework in the ACT allows for the Public Advocate to be present and be heard at hearings and proceedings before the ACT Children's Court.¹⁰

6.14 The Australian Government Solicitor considers that:

[the] Public Advocate's role ... is an unusual one. As an officer with functions focused on advocacy ... it is quiet unlike other statutory oversight officers or bodies.

6.15 Although the Public Advocate is independent of the Community Services Directorate which is the Government's care and protection services provider, given its functions it needs to work within the care and protection system. This is in contrast to the Human Rights Commission and Children and Young People Commissioner, as articulated by the Australian Government Solicitor:

⁹ AusIJA Child Protection in Australia and New Zealand conference, Brisbane May 2011

¹⁰ Sections 72 and 74C of the *Court Procedures Act 2004*

... the Public Advocate's inquisitive or investigative and monitoring functions are intended to be performed **in the context of** its primary function; namely, its advocacy function. It thus does not inquire into, investigate or monitor in the same way (i.e., with the same 'independence' and 'disinterestedness') as does a more typical statutory oversight body..., and more significantly, the Public Advocate is not actually a complaints handling and resolution body. It does not deal conclusively with or solve complaints in the interests of both the complainant and the person complained about ... The Public Advocate is more an advocate than an oversight body.

- 6.16 The Public Advocate in the course of performing its advocacy function could, according to the Australian Government Solicitor:

... assist a child or young person to make a complaint to the Human Rights Commission (e.g. by assessing whether the complaint is one that may be made under the HRC Act, by preparing a complaint in accordance with section 44, by ensuring that the complainant complies with his or her obligations under the Act, etc.).

- 6.17 The Public Advocate has referred children and young people to the Human Rights Commission, for example, cases involving Bimberi (the ACT's youth detention centre) and mental health.

Monitoring

- 6.18 Workloads stemming from the Public Advocate's monitoring function relating to the *Children and Young People Act 2008* are shown in Table 3.2. Although Audit examined two of these functions in detail, the Public Advocate has other functions, including section 408 emergency action reports, leaving care plans, section 879 requests for information, attending ACT Children's Court, case management conferences and court orders.

Section 507 Report reviews

- 6.19 An important function of the Public Advocate is the review of the management of cases by Care and Protection Services in the Community Service Directorate, under section 507 of the *Children and Young People Act 2008*. Section 507 reports are given a unique number as is usual for any such report. These section 507 reports relate to children in the care of the Director General and are required if there is a Concern Report on a child or young person already in the care of the Director General. There can be several reports about the same incident and several reports can relate to the same child or young person.
- 6.20 Importantly, under section 507 the Director General must give the Public Advocate a copy of the 507 Reports. Under section 507 of the *Child and Young Person Act 2008* the Director General must give the public advocate a report about:
- a) the incident; and b) what action (if any) the director general has taken because of the appraisal.

6.21 Care and Protection Services electronically share summaries of section 507 reports with the Public Advocate and meetings are held approximately every two months to discuss details. Caseworkers from Care and Protection Services address concerns raised by the Public Advocate. The Public Advocate can be an advocate for those children and young people who are the subject of section 507 reports. For example, actions taken by the Community Service Directorate as a result of Public Advocate case reviews have resulted in:

- counsellors being provided to a child or young person;
- ongoing monitoring of a child's or young person's behaviour in school;
- removal of a child's or young person's care provider; and
- care plans being developed before a child or young person is placed with a care provider.

6.22 As mentioned in paragraph 6.21, section 507 reports are shared electronically. The reporting of section 507 numbers in the Public Advocate's Annual Reports, however, is different from the Community Services Directorate numbers it claims to have provided to the Public Advocate, refer to Table 6.1.

Table 6.1: Comparison of Community Services Directorate and Public Advocate section 507 numbers

	Community Services Directorate s507 reports	Community Services Directorate Children and young people in s507 reports	Public Advocate s507 reports	Public Advocate Children and young people in s507 Reports
2009-10	48	62	62 (29%)	51 (-7%)
2010-11	42	74	72 (71%)	63 (-15%)
2011-12	49	104	95 (93%)	57 (-49%)

Source: Public Advocate Annual Reports and Community Services Directorate data

Note: Percentages in brackets are the variations between reports and children involved.

6.23 In 2011-12 there was a 93 percent discrepancy between the number of section 507 reports the Public Advocate claims to have received compared with the number the Community Services Directorate claims to have supplied. Such inconsistencies have been occurring for at least the past three years. It is unclear which figures are correct as, for example, the Community Services Directorate has advised of some inconsistencies in how its system produces the data for its children and young people in care and protection.

6.24 The Community Services Directorate and the Public Advocate should develop a system to ensure that they have the same section 507 reports. It is a concern that these bodies do not have the same understanding of the numbers, particularly with the risk that children and young people could be missed. Also,

the Public Advocate is drawing conclusions in its Annual Reports when there is no certainty about the basis of the numbers.

Section 497 annual review reports

6.25 Under section 497 of the *Children and Young People Act 2008*, ‘the Director General must give an annual review report for a child or young person with a care and protection order to the Public Advocate [and others]’. This report has a standard structure, including:

- personal details of subject and family;
- background to the case, including living arrangements, health, education and any cultural plan;
- a signed confirmation form about provision of the report to the subject, parent or carer;
- a copy of the signed care plan for the subject, which includes:
 - a signed ‘Stability proposal’ for where a return to the natural parent(s) is suggested;
 - a signed statement about contact with the natural parent(s);
 - a signed statement about financial considerations; and
 - a signed statement about the ‘Child’s Wishes’.

6.26 The Public Advocate reviews these reports and, if needed, offers advocacy for the child or young person.

6.27 The Public Advocate and the Community Services Directorate are reporting different numbers with respect to annual review reports supplied each year, refer to Table 6.2.

Table 6.2: Comparison of Community Services Directorate and Public Advocate Annual Review Report numbers

Year	Community Services Directorate Annual review reports Sent	Public Advocate Annual review reports Received	Public Advocate Annual review reports Examined
2009-10	612	546 (-10%)	425 (78%)
2010-11	590	572 (-3%)	371 (64%)
2011-12	608	599 (-1%)	361 (60%)

Source: Public Advocate Annual Reports and Community Services Directorate data

6.28 It is a concern that the Public Advocate and the Community Services Directorate have up to a 10 percent discrepancy in their numbers.

- 6.29 The discrepancies in numbers may be contributed to when the Public Advocate returns annual review reports it considers inaccurate. In *the Public Advocate's 2011-12 Annual Report* it is stated that six annual review reports 'were returned to OCYFS'. Initially, Care and Protection Services, when requested by Audit staff, only identified two annual review reports as being returned. However, on further questioning agreed that it was six.
- 6.30 Better tracking of annual review reports is needed so that accurate information is presented in Annual Reports. Audit was advised that Care and Protection Services Branch implemented a process that requires the Public Advocate to sign a cover letter when receiving annual review reports.
- 6.31 Another issue identified relates to the Public Advocate publishing data which, when supplying the Audit Office with what should be the same data, is different to published numbers, albeit only slightly different.

Section 879 requests

- 6.32 Under section 879 of the *Children and Young People Act 2008*:
- (2) If the public advocate makes a request of an ACT child welfare service under subsection (1), the service must comply with the request promptly.
- 6.33 While Audit has not examined section 879 requests in detail, they are an important way for the Public Advocate to monitor the Community Services Directorate's provision of care and protection services. The Public Advocate has advised that such requests have been increasing in recent years, refer to Table 6.3.

Table 6.3: Public Advocate requests for section 879 information

	Requests	Children involved
2009-10	14	13
2010-11	59	48
2011-12	152	103

Source: Public Advocate Office

- 6.34 Monitoring by the Public Advocate, through section 879 requests has increased by 90 percent, from 14 requests in 2009-10 to 152 in 2011-12.

Discrepancies in numbers

- 6.35 Given the discrepancies in understanding between the Community Services Directorate and the Public Advocate on the numbers, a system needs to be developed that ensures each has the same number of section 507 reports and annual review reports; and that the number of these reported in Annual Reports correlates.

Recommendation 7 (Chapter 6 – Statutory office holders)

The Community Services Directorate and the Public Advocate should:

- (a) develop a system to ensure that information they share and publically report is accurate and comprehensive, particularly regarding section 507 reports and annual review reports; and

Declining percentages of Public Advocate reviews of Annual Review Reports

- 6.36 In examining annual review reports, the Public Advocate uses an audit tool and records its findings for each report reviewed. While the number of annual review reports provided by the Community Services Directorate to the Public Advocate has increased, the percentage examined by the Public Advocate has declined, from a high of 82 percent in 2009-10 to 60 percent in 2011-1211.
- 6.37 It would be expected that such examinations would have increased, not reduced, particularly as they are a means of monitoring services being delivered to children and young people in care.
- 6.38 The Public Advocate has implemented a triage system to manage the risks associated with the decrease in the percentage of annual review reports being examined and advised that resourcing limitations constrain the number of annual review reports it can examine.
- 6.39 The reduction in the percentage of examinations of annual review reports presents risks, for example, it reduces the Public Advocate's monitoring function and limits the certainty that advocacy is being provided to all those in need.
- 6.40 It is beyond the scope of this audit to determine if the triaging satisfactorily manages the risks associated with the Public Advocate being unable to examine a larger percentage of annual review reports. This is a matter that needs to be further considered by the Community Services Directorate and the Public Advocate, with advice on their views being conveyed to the Minister for Disability, Children and Young People. However, it may be that the implementation of a quality control process, refer to paragraphs 5.93 to 5.96 and Recommendation 1 (m), may also reduce the risk associated with the reduction in the percentage of annual review reports being examined by the Public Advocate. The Public Advocate advised that risks might also be reduced if the caseworker who has the contact with the child or young person prepared the annual review reports.

¹¹ See Table 3.1 at page 21 of *Public Advocate Annual Report 2010-11*

Recommendation 7 (Chapter 6 – Statutory office holders)

The Community Services Directorate and the Public Advocate should:

- (b) assess whether the risks associated with the Public Advocate's reduction in percentage of annual review reports being examined is adequately addressed through triaging and the implementation of a quality control process (Recommendation 1(m)), and if not, options for addressing this should be developed. Findings of the assessment and options for addressing any shortcomings, if needed, should be reported to the Minister for Disability, Children and Young People.

Provision of Annual Review Reports to the child or young person

- 6.41 The Public Advocate Office advised that nearly all annual review reports over the last three years do not have information regarding the provision of the report to the child or young person. Even though the Community Services Directorate advised Audit that there is a misunderstanding and that this report need not be provided, section 497 of the *Children and Young People Act 2008* states that the:

‘... director general must give such reports to the child or young person, each person with daily care, the Public Advocate and the Children's Court.’

- 6.42 Furthermore, Attachment B of the annual review reports template states:

This form should be in the letterhead of the agency who has provided (or been unable to provide) the Annual Review Report to a child, young person, parent, carer or Public Advocate.

- 6.43 The provision of annual review reports to the child or young person is further commented on in Chapter 3, refer to paragraph 3.22.

Evidence of visits to the child or young person in care

- 6.44 This Audit confirms what the Public Advocate has been highlighting in Annual Reports about a lack of evidence of visits to those in care. Annual review reports are a means to summarise such visits and their outcomes. This matter is further considered in Chapter 2, refer to paragraphs 2.142 and 2.144.

HUMAN RIGHTS COMMISSION AND CHILDREN AND YOUNG PEOPLE COMMISSIONER

- 6.45 The Human Rights Commission has 21.4 (full-time equivalent) staff with an expenditure budget during 2011-12 of \$3.150 million for all its activities. Of this, the Children and Young People Commissioner has one (full-time equivalent) staff supporting it on children and young people matters, and also manages three (full-time equivalent) corporate staff ‘who work across the Commission’. These corporate tasks account for approximately 30 percent of the Commissioner's workload and prevent ‘capacity to focus on the ... statutory functions with

respect to children and young people'¹². The Commission advised that at times the Children and Young People Commissioner's staff resources have been supplemented by up to 0.4 (full-time equivalent) from across the Commission, however as of March 2013 onwards the Children and Young People Commissioner will have 1 (full-time equivalent) due to resource constraints across the Commission.

6.46 The budget for the Children and Young People Commissioner's activities was unable to be obtained as the Commission does not allocate each Commissioner a budget. While this provides flexibility and fosters a cooperative working arrangement it limits an understanding of what is spent on the functions of each Commissioner.

6.47 The Human Rights Commission is established under the *Human Rights Commission Act 2005*. The object of this Act is 'to promote the human rights and welfare of people living in the ACT'¹³.

6.48 The Children and Young People Commissioner has functions under the *Human Rights Commission Act 2005*¹⁴, as well as the *Children and Young People Act 2008*. These functions are broad ranging, for example, under the *Human Rights Commission Act 2005*, this includes:

- assisting with resolution of complaints (s14(1)(a));
- assisting services to conduct reviews of service quality (s14(1)(b));
- assisting services to improve complaint handling procedures (s14(1)(c));
- providing community discussion and education (s14(1)(d));
- identifying, inquiring into and reviewing issues relating to matters that may be complained about (s14(1)(e));
- reporting to the Minister and other entities about inquiries and reviews (s14(1)(f));
- advising the Minister (s14(1)(h));
- consulting with children and young people (s19B(3));
- making recommendations to government and non-government agencies on legislation, policies, practices and services that affect vulnerable groups in the community (s6(2)(c)); and
- conducting a commission initiated consideration of matters that may or may not have been complained about (s48)

6.49 The Commission advised that:

¹² Page 53 of ACT Human Rights Commission Annual Report 2011-12

¹³ Section 6, *Human Rights Commission Act 2005*

¹⁴ Paragraph 14.1.j of the *Human Rights Commission Act 2005*

... while the Commission devotes significant time and resources to resolving complaints about CPS [Care and Protection Services] ... we also have wider statutory responsibilities ... and [are faced with] competing priorities ... every day in relation to vulnerable people in a range of settings.

Functions under the *Human Rights Commission Act 2005* and the *Children and Young People Act 2008*

6.50 Under the *Human Rights Commission Act 2005* in relation to children and young people who are in care, the Children and Young People Commissioner, can:

- encourage the resolution of complaints and assist users and providers of services for children and young people to make improvements in the provision of services, particularly by encouraging and assisting service users and providers to contribute to the review and improvement of service quality (sections 6 and 14); and
- refer to the Public Advocate, advocacy matters about individual children or young people for whom the Director General under the *Children and Young People Act 2008* has parental responsibility (section 51A).¹⁵

6.51 Functions bestowed on the Human Rights Commission, under the *Children and Young People Act 2008*, in general, are also bestowed on the Public Advocate. While this is the case, the Australian Government Solicitor stated that:

... the fact that there is substantial overlap ... does not ... suggest any particular problem (or 'conflict'). As we read the CYP Act, it essentially does three things:

First, ensures that both the Public Advocate and the Human Rights Commission (or, more specifically, one of its Commissioners) have certain visitation rights in relation to children and young people.

Secondly, it ensures that both ... have certain inspection rights ...

Thirdly, it ensures that certain communications between a child or young person and either the Public Advocate or the Human Rights Commission ... are largely exempt from monitoring, etc.

Complaints

6.52 Audit was advised by the Commission that during 2010-11 it managed 571 complaints, and of the 71 complaints handled by the Children and Young People Commissioner, 'just under 58 percent' of complaints related to the care and protection services delivered by the Community Services Directorate.

6.53 The Children and Young People Commissioner and the Community Services Directorate have agreed to three categories of complaints; and developed guidelines on how these are to be managed.

¹⁵ Section 14, *Human Rights Commission Act 2005*

6.54 These categories are:

- Category 1 – If a complainant has not previously approached the Community Services Directorate to make a complaint directly, the Children and Young People Commissioner will refer the complaint to the Directorate for internal resolution in the first instance. Community Services Directorate will contact the complainant within three days to discuss their concerns. If the complainant is not satisfied with the outcome, they may contact the Children and Young People Commissioner to seek further action.
- Category 2 – If a complainant:
 - (a) previously tried to resolve a complaint on their own with the Community Services Directorate, but were unsuccessful, or
 - (b) did not receive a satisfactory response to their complaint at Category 1 level, the Children and Young People Commissioner may contact Consumer Advocacy and Quality Service (in the Community Services Directorate, refer to Figure 4.1) to request a written response to the complaint. The Commissioner will examine the material provided by both parties, and assess the information against the legislative and policy standards applying to Care and Protection Services (in the Community Services Directorate). The Children and Young People Commissioner may seek further information, or facilitate a meeting between the parties. The Commissioner will write a final report, in which formal recommendations may be made for change to legislation, policy or procedure.
- Category 3 – If a complaint raises serious allegations, the Children and Young People Commissioner will contact the office of the Director General, Community Services Directorate, to request a written response to the complaint. The Commissioner will examine the material provided by both parties, and assess the information against the legislative and policy standards applying to Care and Protection Services. The Commissioner may seek further information, or facilitate a meeting between the parties. The Commissioner will write a final report, in which formal recommendations may be made for change to legislation, policy or procedure.

6.55 Of the 83 children and young people complaints in 2011-12 (including those about the Care and Protection Services Branch):

- 23 are in Category One;
- 49 in Category Two; and
- 11 in Category Three.¹⁶

6.56 The Commission advised that it is:

¹⁶ See page 55 of the Human Rights Commission Annual Report for 2011-12

... responding to a significantly increased workload of individual complaints in all jurisdictions, including in the Children and Young People team where complaints have increased from 8 in 2007-08 to 83 in 2011-12.

- 6.57 The Children and Young People Commissioner regularly discusses with the Community Services Directorate the progress of complaints.
- 6.58 The complaints management process is strategic and practical.
- 6.59 The Children and Young People Commissioner may manage a complaint from a child or young person about the Public Advocate, although has not had to do so. The Australian Government Solicitor stated that:

This follows from sections 8A, 40A and 42 of the HRC Act, which together permit a child or young person to make a complaint about a 'service for children and young people', including an 'advocacy' service.'

- 6.60 This reinforces the broader overseeing role which the Commission has, compared with the Public Advocate.

'SYSTEMIC ADVOCACY' AND 'SYSTEMIC MATTERS'

- 6.61 The Public Advocate has stated that it undertakes 'systemic advocacy' and on its website this is defined as:¹⁷

... where the [Public Advocate] advocates on behalf of a number, or group, of children and young people to achieve an outcome, usually by changing the way an agency provides services, so that many children and young people will benefit now and into the future.

- 6.62 'Systemic advocacy' has no legislative basis and the definition as used by the Public Advocate appears equally applicable to 'systemic matters', which must be referred to the Human Rights Commission.

- 6.63 Subsection 10(g) of the *Public Advocate Act 2005*, specifically bestows upon the Public Advocate the function of 'investigating, reporting and making recommendations to the Minister on anything relating to the operation of [the *Public Advocate Act 2005*]'.¹⁸ Section 11 authorises the Public Advocate to investigate concerns:

... from children and young people about the provision of services for the protection of children and young people¹⁹ ... and ... investigate complaints and allegations about ... matters in relation to which the Public Advocate has a function²⁰

¹⁷ www.publicadvocate.act.gov.au/page/view/951

¹⁸ See s 10(g) of the *Public Advocate Act 2005*. See also s 10(e), which bestows upon the Public Advocate the function of 'monitoring the provision of services for the protection of children and young people'.

¹⁹ See s 11(1)(b) of the *Public Advocate Act 2005*, read with s 11(1)(a).

²⁰ See s 11(1)(c) of the *Public Advocate Act 2005*.

- 6.64 However, under subsection 11(2) of the *Public Advocate Act 2005*:
- The public advocate must refer systemic matters relating to ... children and young people to the human rights commission for consideration.
- 6.65 The Australian Government Solicitor advised that 'The effect of the subsection is thus to impose an obligation or duty on the Public Advocate, rather than a discretion'.
- 6.66 The Explanatory Statement for the *Public Advocate Bill 2005* says that this provision achieves:²¹
- ... the government's policy of separating advocacy on behalf of individuals from promotion of systemic improvement in service provision ... and ... to clarify that the focus of the Public Advocate will be on advocating for individuals while the broader statutory oversight functions will be the responsibility of the Human Rights Commission.
- 6.67 'Systemic' is not defined in the *Public Advocate Act 2005* or the *Human Rights Commission Act 2005*. Accordingly, the Australian Government Solicitor sourced its meaning from *The Macquarie Dictionary*, which defines 'systemic' as 'affecting an organisation, network, economy as a whole, rather than just individual members or units'. A 'matter' is 'a thing, affair, or business'; and includes an 'issue'.
- 6.68 A 'systemic matter', according to the Australian Government Solicitor, can therefore be summarised as:
- ... any issue or thing which affects the system for the care and protection of children and young people as a whole, rather than an issue or thing which affects an individual child or young person alone.
- 6.69 If the Public Advocate were to refer a 'systemic matter' to the Human Rights Commission, then the Children and Young People Commissioner may consider this and decide what it should do while the Public Advocate could continue to advocate for the person or persons that gave rise to the 'systemic matter' in the first instance.
- 6.70 It appears that there are some historical matters that have affected the Public Advocate's approach to referring 'systemic matters' to the Commission.
- 6.71 In 2008, the Public Advocate referred a case to the Commission as a means of highlighting the need to conduct an inquiry about therapeutic services provided for children and young people in care and protection. The Commission decided the matter deserved 'commission-initiated consideration' and sought information from the Public Advocate. The Public Advocate advised that 'for privacy reasons, the PA ACT was not able to provide ... any information other

²¹ See p. 2 of the Explanatory Statement for the *Public Advocate Bill 2005*.

than the copy of the report that was made available to the Ombudsman'. The Commissioner stated in correspondence to the Public Advocate that:

We have come across a number of provisions in our Act that are impractical or that make it difficult to discharge our functions efficiently. Amendments in the current JACS Legislation Amendment Bills that will address some of these issues ...

- 6.72 As a consequence of the above, the Public Advocate Office (on 30 January 2013) advised that:

In light of the experience with this matter and what we considered the lack of a positive and collaborative response, all future referrals were to be well considered by this office, ensuring that first we had exhausted all our advocacy efforts with individual clients.

- 6.73 This issue suggests that there is a need to clarify the release of information by the Public Advocate to the Human Rights Commission, when 'systemic matters' are referred.

- 6.74 In 2012, after the commencement of this audit, the Public Advocate formally referred a placement of indigenous children to the Commission as a 'systemic matter'. The Children and Young People Commissioner advised:

Unfortunately at the current time I do not have the resources to undertake this activity. However I will look for opportunity for further discussions on this subject in the future.

- 6.75 The above formal referral was the first one since the 2008 referral, mentioned in paragraph 6.71.

- 6.76 The Public Advocate Office advised that it considered that it had referred a matter to the Children and Young People Commissioner via the publication of its June 2010, *Management of Young People in the ACT Magistrate's Court Cells*, report which made the following recommendation :

4.4 That the concerns raised by the young people in regards to feeling unsafe in the cells be further considered by the PA ACT in collaboration with the ACT Children's Commissioner; whose role it is to investigate complaints and systemic issues on behalf of children and young people.

- 6.77 In the Human Rights Commission's 2009-10 Annual Report it is stated:

In June 2010, the PAACT provided a copy of its Management of Young People in the ACT Magistrate Court Cells report to the CYPC. Recommendation 4.4 of the report notes that 'the concerns raised by young people in regards to feeling unsafe in the cells be further considered by the PAACT in collaboration with the ACT Children's Commissioner'.

The CYPC is concerned about a number of issues raised in the report, however, due to resource constraints, the CYPC is unable to assist the PAACT with this matter.

- 6.78 While the report was provided, the matter was not formally referred to the Children and Young People Commissioner by the Public Advocate. There is ambiguity between the two offices regarding the status of this matter. Given this, Audit has not considered this a matter as being formally referred. However, it is obvious that the Children and Young People Commissioner was aware of it. This highlights the need for a referral system to be clearly articulated.
- 6.79 As mentioned in paragraph 6.64 the Public Advocate must refer 'systemic matters' to the Human Rights Commission for 'consideration'. However, 'systemic matters', and the process for referral of 'systemic matters' from the Public Advocate to the Commission are not described in legislation. Furthermore, it is unclear whether 'consideration', as per section 11(2) of the *Public Advocate Act 2005* should be construed as having the same meaning as the considerations provisions in the *Human Rights Act 2005*. This is discussed further from paragraph 6.88.

'SYSTEMIC MATTERS' AND MAJOR INQUIRIES/INVESTIGATIONS

- 6.80 'Major' inquiries/investigations, for the purpose of this audit, can be considered to be those requiring significant resources and/or are likely to be presented to the Minister and/or the Government and made public.

Major inquiries/investigations on 'systemic matters' by the Public Advocate

- 6.81 The Public Advocate advised that its office, operates in a similar manner to that of the Children and Young People Commissioner, as outlined in paragraph 6.90, in influencing how the child protection system operates in addition to changes made as a result of its advocacy functions. It provides:
- Advice to government through the draft cabinet submission circulation process
 - Submissions to government in response to discussion papers, and draft policies/procedures
 - Submissions to Legislative Assembly Standing Committees
 - Membership on a range of groups or forums, including the Turnaround Steering Committee, the Review Advisory Committee for the review of the Mental Health Act, Women with Mental Health working Participation, Respite Advisory Committee.
- 6.82 In 2011, the then Minister for Community Services requested that the Community Services Directorate engage an independent reviewer to examine out-of-home care services, after concerns were expressed about a particular provider. The Public Advocate was engaged by the Community Services Directorate on 20 September 2011 to undertake the first of its two major investigations:
- I am requesting that the Public Advocate investigate the circumstances surrounding the following matters in accordance with the investigation provisions (s11) and the monitoring provision of services protecting children and young people section (s10e) of the *Public Advocate Act 2005*.

- 6.83 Audit was unable to secure information that demonstrated whether the Community Services Directorate had considered whether the issues it was requesting were 'systemic matters' or not. Information was not available on whether the Children and Young People Commissioner had been considered as an alternative to the Public Advocate for undertaking the investigation. The Community Services Directorate did not seek legal advice regarding its request of the Public Advocate to undertake the investigation.
- 6.84 The Public Advocate conducted an investigation in two parts, one was reported in October 2011. Resources from within the Public Advocate's office were used for this investigation. Following this, the Community Services Directorate engaged the Public Advocate to undertake the second part to the investigation, and provided funding of \$133 000. This investigation report was tabled in the Legislative Assembly in May 2012.
- 6.85 The Public Advocate has advised that the October 2011 investigation was in the nature of a section 879 request and that the emphasis was on certain individual children and young people. The May 2012 report, is an expansion of the October 2011 report as it considers if the situation confronting those people the subject of the first report also confronted other children and young people, according to the Public Advocate. The Public Advocate further advises that following the investigations '...the PA ACT had then come to the conclusion that there was a systemic matter that needed reviewing'..
- 6.86 The October 2011 and May 2012 investigations were referred to by the Public Advocate as addressing 'systemic matters' as reported in the Executive Summary of the May 2012 *Emergency Response Strategy for Children in Crisis in the ACT*, the Public Advocate stated:
- It is disappointing to have to report that this Review of the authorities and arrangements for children coming into the Care and Protection Service (C&PS) over the past three years, has revealed that the systemic problems identified in the *Interim Report* were not an aberration.
- 6.87 Having come to the conclusion that there were 'systemic matters' the Public Advocate did not formally refer these matters to the Human Rights Commission but directly made recommendations on how they should be addressed.

Inquiries/investigations on 'systemic matters' by the Children and Young People Commissioner

- 6.88 Although the Public Advocate has investigative powers relating to individual advocacies, the Human Rights Commission has broader related reporting functions.²² Section 14 of the *Human Rights Commission Act 2005*, for example, tasks the Commission with:

²² In addition to the provisions noted in this paragraph, the Human Rights Commission also has inquisitive or investigative functions under the *Children and Young People Act 2008*.

... identifying, inquiring into and reviewing issues relating to the matters that may be complained about under this Act ... and ... reporting to the Minister, and other appropriate entities, about each inquiry and review ... or advising the Minister and other appropriate entities about the inquiry and review.²³

6.89 Similarly, section 6 provides that the Human Rights Commission:

... will ... identify and examine issues that affect the human rights and welfare of vulnerable groups in the community ... and ... make recommendations to government and non-government agencies on legislation, policies, practices and services that affect vulnerable groups in the community.²⁴

6.90 The Children and Young People Commissioner advised that:

... investigations are not the only way to influence how the child protection system operates, and the Commission performs a range of other systemic work. For example, the Children and Young People Commissioner provides systemic advice to government and non-government agencies through a range of processes and forums, including:

- Advice to government through the draft cabinet submission circulation process
- Submissions to government in response to discussion papers, and draft policies/procedures
- Submissions to Legislative Assembly Standing Committees
- Membership of a range of groups or forums, including the Child & Young People Death Review Committee, the Children & Young People Taskforce, and the Working with Vulnerable People External Implementation Advisory Group. In fact, the long-term advocacy work undertaken by the CYPC was an instrumental factor in the establishment of the Child & Young People Death Review Committee.

6.91 The Children and Young People Commissioner also advised that:

While not undertaking a specific investigation into care and protection matters, since 2008 the Children and Young People Commissioner has investigated 92 complaints about Care and Protection Services, with 15 (16%) of those resulting in systemic recommendations or suggestions being made by the CYPC about CPS policy and/or practice.

6.92 While the Children and Young People Commissioner can address 'systemic matters' in a number of ways, there are likely to be occasions when a major review, inquiry/investigation may be needed.

6.93 In 2011, following a direction by the Attorney-General, pursuant to section 17 of the *Human Rights Act 2005*, the Human Rights Commission undertook a major investigation into the ACT youth justice system; the *Bimberi Review*. The final

²³ See section 14(1)(e) and (f) of the *Human Rights Commission Act 2005*.

²⁴ See section 6(1)(b) and (c) of the *Human Rights Commission Act 2005*.

cost of this investigation and accompanying human rights audit was \$331,000. These funds were provided to the Commission's host agency, Justice and Community Safety Directorate by the Community Services Directorate.

- 6.94 Such reviews are important as they can address systemic matters that improve a service delivery. The 2003 FEMAG, *Review of Community Advocacy and Statutory Oversight Agencies* report²⁵ highlighted that:

... Unless we look at the underlying causes of complaints and address the system that generates them, the only certainty is that the number of complaints will increase beyond the capacity of ... external bodies to handle them. Thus oversight bodies have two very good reasons to place increased attention and resources on systemic issues arising from complaints or their own perceptions:

1. The desire to prevent the complained about actions re-occurring and affecting more and more people; and
2. To prevent themselves [from] being submerged by an ever-increasing number of complaints and thus maintain their capacity to undertake all their functions.

- 6.95 The Children and Young People Commissioner, in the Commission's 2011-12 Annual Report stated:²⁶:

As noted in previous Annual Reports, the CYPC would welcome the opportunity to undertake systemic reviews, or audits, of certain areas of service delivery, yet on-going resource constraints prevent the CYPC from doing so. As a result, the capacity of the CYPC to 'fix the system', rather than simply resolve individual complaints, remains compromised.

While some government and non-government agencies evaluate and review their services, it is also helpful for an external oversight agency to undertake systemic reviews. The CYPC is well placed to review service delivery systems, and to identify early warning signs of potential problems areas before a serious incident occurs or a chronic problem is discussed in the media. The CYPC has the legislative framework to undertake such reviews, but not the resource capacity.

- 6.96 While the Public Advocate, under the *Public Advocate Act 2005* must refer a 'systemic matter' to the Commission for 'consideration', there is no obligation on the Commission to act in any particular way. This includes identifying if an inquiry/investigation is needed and, if it is, who should undertake it or to whom should the Commission refer such a need. For example, should the Commissioner refer the issue to the Director General, Community Services Directorate or to the Minister for Disability, Children and Young People?

- 6.97 While the legislation covering the Public Advocate and Human Rights Commission has been developed so that these statutory officers have

²⁵ The Report of the Review of Statutory Oversight Agencies and Community Advocacy (a report by the Foundation for Effective Markets and Governance commissioned by the ACT Government in 2003 - the FEMAG Report);

²⁶ See page 57 of the Human Rights Commission 2011-12 Annual Report

complementary roles, there is some uncertainty because key terms, such as 'systemic matters' and 'consideration' have not been defined. Furthermore, there is a need for the obligations of the Human Rights Commission in its 'consideration' of 'systemic matters' to be defined.

6.98 The Justice and Community Safety Directorate, as host agency for the Public Advocate and Human Rights Commission, in consultation with these statutory office holders and relevant directorates, needs to facilitate a process to:

- identify legislative amendments that may be required to define 'systemic matters' and processes for referral of these from the Public Advocate to the Human Rights Commission;
- clarify whether 'consideration', as per section 11(2) of the *Public Advocate Act 2005* is to be construed as having the same meaning as the consideration provisions in the *Human Rights Act 2005*;
- clarify, and if needed, identify legislative amendments to facilitate the releasing of information by the Public Advocate to the Human Rights Commission, when 'systemic matters' are referred; and,
- identify how funding, when needed, is to be provided to the Human Rights Commission to undertake major inquiries/investigations on 'systemic matters'.

6.99 The process for providing funding, when needed, could be part of the recommended protocols between the Justice and Community Services Directorate and the Public Advocate, and Human Rights Commission, refer to paragraphs 6.109 and Recommendation 10.

6.100 The Public Advocate and Children and Young People Commissioner need to develop a protocol to define the process whereby the Public Advocate refers 'systemic matters' to the Human Rights Commission for consideration and the Commission advises the Public Advocate of any actions taken as a consequence.

6.101 Some 'systemic matters' that need to be the subject of an inquiry/investigation could be referred to the Audit Office for consideration in its annual performance audit program.

Recommendation 8 (Chapter 6 – Statutory office holders)

The Justice and Community Safety Directorate should facilitate a process to assist the Public Advocate and Human Rights Commission better undertake their roles, by:

- (a) identifying any legislative amendments that may be required to define ‘systemic matters’ and processes for referral of these from the Public Advocate to the Human Rights Commission;
- (b) clarifying whether ‘consideration’, as per section 11(2) of the *Public Advocate Act 2005* is to be construed as having the same meaning as the consideration provisions in the *Human Rights Act 2005*;
- (c) clarifying, and if needed, identifying legislative amendments to facilitate the releasing of information by the Public Advocate to the Human Rights Commission, when ‘systemic matters’ are referred; and
- (d) **identifying how funding, when needed, is to be provided to the Human Rights Commission to undertake major inquiries/investigations on ‘systemic matters’ (High Priority).**

Recommendation 9 (Chapter 6 – Statutory office holders)

The Public Advocate and Human Rights Commission should enhance their ability to meet legislative requirements and improve their governance arrangements by:

- (a) developing a protocol to define the process whereby the Public Advocate refers ‘systemic matters’ to the Human Rights Commission for consideration, and the Commission advises the Public Advocate of any actions taken as a consequence;

GOVERNANCE FOR PUBLIC ADVOCATE AND HUMAN RIGHTS COMMISSION (CHILDREN AND YOUNG PEOPLE COMMISSIONER)

6.102 The Public Advocate and Human Rights Commission have some common governance issues that are examined in this section.

Strategic Plan and Operational/Annual Work Plan

6.103 The Public Advocate’s all-of-office strategic plan expired in 2010, but its strategic plan for the Advocacy Section of the Office is current. The Public Advocate Office advised that it reviewed its all-of-office strategic plan in 2010 for a further three years. However, this was not evident to Audit when the plan was considered. The Office does have operational/annual work plans.

6.104 The Human Rights Commission's strategic and operational plan expired in 2011.

Recommendation 9 (Chapter 6 – Statutory office holders)

The Public Advocate and Human Rights Commission should enhance their ability to meet legislative requirements and improve their governance arrangements by:

- (b) keeping their strategic plans up-to-date and documenting on the plans when they are reviewed;

Protocols

6.105 The Justice and Community Safety Directorate 2012-17 Strategic Plan states that:

Statutory Office Holders generally have protocols with the Minister and/or the Director General describing roles, rights, responsibilities, communications and referrals.

6.106 Since 2010 there has not been a protocol outlining responsibilities and administrative arrangements between the Justice and Community Safety Directorate and/or the Minister, with either the Public Advocate or the Human Rights Commission. New protocols are being drafted. Without protocols in place there is the risk that these independent statutory officers may not be adequately supported or know the process to apply in seeking additional support, if needed.

6.107 The Public Advocate and all three Commissioners within the Human Rights Commission have expressed concerns regarding their lack of funding in allocated budgets.

6.108 The Commission has sought additional funding through the Justice and Community Safety Directorate and the budget process, and the Commission advises that 'to date, it has been unsuccessful. Individual Commissioners have, however, been successful in securing ad-hoc funding from CSD, Health and ETD for one-off projects or temporary supplementation of resources ...'.

6.109 However, on occasion the Commission has also not been successful in securing funding directly from directorates which it holds to account on occasion. Regardless, this approach could present a risk of a conflict of interest and may not always allow the Commission to undertake the tasks it considers a priority. An alternate method for seeking funding is needed. A protocol with the Justice and Community Safety Directorate could incorporate the process for seeking additional funding.

Recommendation 10 (Chapter 6 – Statutory office holders)

The Public Advocate and Human Rights Commission and the Justice and Community Safety Directorate should finalise their protocols and include information on the process these independent statutory office holders should use to seek additional funding, both supplementary funding and 'one-off' funding.

Budget

- 6.110 The Public Advocate and the Commission operate within the Justice and Community Safety Directorate output 1.5 'Protection of Rights'. Protection of Rights is shown as 'one line' in the budget papers and in 2011-12 included funding for the services provided by the ACT Human Rights Commission, Public Advocate, and Victims of Crime ACT, the Privacy Commissioner and, (until 28 November 2011), the Ombudsman as well as an allocation of the Directorate's corporate overheads. It is therefore not possible for the ACT community to readily determine how much funding the Public Advocate or the Human Rights Commission receives.
- 6.111 Overall, the budget funding for output 1.5 'Protection of Rights' has increased annually by the consumer price index with the base funding remaining largely unchanged since 2009-10.

Table 6.4: Justice and Community Safety Directorate budgets for output 1.5 'Protection of Rights'

Year	Budgeted GPO \$m	Actual GPO \$m	Budgeted cost \$m	Actual cost \$m
2011-12	8.727	8.219	9.175	8.674
2010-11	8.367	8.553	8.749	9.531
2009-10	8.171	8.112	8.747	8.448

Source: Extract from 2009-13 ACT Budget Papers No. 4 for the Justice and Community Safety Directorate

- 6.112 The budgets for the Public Advocate and the Commission should be available to the Legislative Assembly and the public for scrutiny. To achieve this, each budget should be reported separately in the Directorate's budget.
- 6.113 As the Directorate controls the distribution of funding for each statutory function, there is a risk that monies appropriated for the purposes of the 'Protection of Rights' may be reallocated to other areas of the Directorate in times of financial constraint. By having separate budgets for each statutory function this would improve the transparency of transactions made by the Directorate should funds be reallocated to other areas of the Directorate.

- 6.114 As neither the Public Advocate nor the Commission are entities established under the *Financial Management Act 1996*, there is no requirement for their financial information to be separately audited.
- 6.115 The financial information presented in the annual reports of the Public Advocate and the Commission should be audited to ensure that they are held accountable for the way they manage their funding.
- 6.116 The cost of the Public Advocate's operations shown in Table 6.5 does not include Directorate overheads. This is in contrast to how the Human Rights Commission presented its costs in its Annual Report, which does include Directorate overheads.

Table 6.5: Public Advocate budget and actual – 2011-12 direct costs

Item	Budget \$m	Actual \$m
Total Revenue	1.771	1.914
Total Expenditure	1.866	1.971
Net Operating Deficit	(0.095)	(0.057)

Source: Justice and Community Services Directorate

- 6.117 Total actual revenue was higher than the budget by \$143 000 or 8 percent mainly due to the recovery of \$133 000 expenditure from the Community Services Directorate who funded the 2012 review of *Emergency Response Strategy for Children in Crisis in the ACT*. After adding Directorate overheads, the Public Advocate's operating budget [revenue] was \$2.143 million compared to expenditure of \$2.215 million. The operating deficit of \$72 000 is consistent with budget.
- 6.118 The Justice and Community Safety Directorate provided information from its financial records which relates to the direct costs of the Human Rights Commission (i.e. expenditure without Directorate overheads being added), refer to Table 6.6.

Table 6.6: Human Rights Commission budget and actual - 2011-12 direct costs

Item	Budget \$m	Actual \$m
Total Revenue	2.998	3.129
Total Expenditure	3.150	3.186
Net Operating Deficit	(0.152)	(0.057)

Source: Justice and Community Services Directorate 16 October 2012

- 6.119 The Commission's total actual expenditure was in line with the budget.

- 6.120 Total actual revenue was higher than the budget by \$131 000 or 4 percent mainly due to the recovery of \$331 000 expenditure from the Community Services Directorate that funded the 2011 ACT Youth Justice Inquiry.
- 6.121 The Commission's 2011-12 Annual Report includes the financial data which is the direct costs referred to in Table 6.6 above, plus a share of the Directorate overheads added:
- ... the Commission's total operating budget [revenue] was \$3.590 million, with the actual total cost being \$3.576 million. This compares to last reporting period, when the Commission's total operating budget [revenue] was \$3.294 million, with the actual total cost being \$3.587 million.
- 6.122 Given that the Public Advocate and the Commission did not both include direct costs, the information in their annual reports is not readily comparable, particularly with an \$18 000 discrepancy between the Justice and Community Services Directorate's expenditure figure and that published by the Public Advocate at page 39 of its 2011-12 Annual Report.
- 6.123 As mentioned in paragraph 6.127, the Children and Young People Commissioner reported an inability to fund its functions effectively.
- 6.124 Audit was informed by the Commission that the 'allocation' of Commission funds to each of the Commissioners is set by historical precedent, and is not based on an analysis of current 'need', 'amount of work' or 'overall priority of work'. The Commission advises that it will be 'releasing its updated strategic plan shortly' and this will identify its key priorities.
- 6.125 The issue of having separate budgets for each Commissioner was canvassed with the Commission who considered that this would reduce its flexibility in responding to issues. While an allocation of a budget to each Commissioner may be inappropriate, nonetheless, the Commission should annually record an estimate of funding per Commissioner. This would allow funding allocations to be monitored and likely assist the Commissioners in seeking additional funding for specific functions.
- 6.126 Recommendations have been made to increase the transparency in how the Public Advocate and Human Rights Commission budgets are reported and how they report their performance in their Annual Reports. Accordingly, any changes to budgets should be published and readily apparent.
- 6.127 While both the Human Rights Commission and the Public Advocate have publically raised needing additional funding, it was not possible for this audit to form an opinion on this issue as their reporting on budget expenditure was not detailed enough and sufficiently aligned with their reporting on their accountability indicators. Accountability indicators are discussed in paragraphs 6.128 to 6.136.

Recommendation 11 (Chapter 6 – Statutory office holders)

The Chief Minister and Treasury Directorate should provide a mechanism to:

- (a) increase the transparency of financial information on the Public Advocate and Human Rights Commission presented in budget papers;
- (b) increase the accountability of the Public Advocate and Human Rights Commission by requiring that financial information reported in their Annual Reports is audited. (The protocols between the Public Advocate and Human Rights Commission and the Justice and Community Safety Directorate (Recommendation 10) could state how this is to be achieved);

Accountability indicators

6.128 The 2012-13 Justice and Community Safety Directorate Budget Paper No. 4 records the accountability indicators for the Public Advocate and the Commission under output 1.5 'Protection of Rights', refer to paragraph 6.111 and 6.112. As each indicator shows funding class, the performance measure to some degree can be used to consider their efficiency and effectiveness in the delivery of their accountabilities.

Table 6.7: Selected Public Advocate Accountability Indicator in the Justice and Community Safety Directorate output 1.5 'Protection of Rights'

Accountability Indicator	2010-11 Target	2010-11 Actual	2011-12 Target	2011-12 Actual	2012-13 Target
Individuals, excluding guardianship clients, brought to the attention of the Public Advocate:					
Total number	2 500	2 074	2 500	2 004	2 200
Percentage for whom individual or systemic advocacy was provided	20%	77%	50%	31%	55%

Source: Justice and Community Safety Directorate Budget Paper No. 4, 2012-13

6.129 The Public Advocate's Office advised that it is attempting in this indicator to reflect its workloads. For some years it has been trying to upgrade the way its database captures information, to improve how data can be reported. The 2011-12 target of 2 500 individuals included both those that needed advocacy and those that did not. While the attempt is to provide all of those with advocacy that need it, the target of 50 percent is actually an attempt to reflect achieving advocacy for 100 percent of those that need it. In this sense, therefore, the figure of 2 500 is not a true measure of all those who should receive advocacy, but rather that they could potentially require it.

- 6.130 The Public Advocate's Office also advised that they are making assessments of all 2 500 individuals that are referred to it and then a judgement is made about those that need advocacy. Many of the 2 500 individuals are 'brought to the attention of the Public Advocate' because of a monitoring role or obligations that the agency has to notify the Public Advocate of all cases in a particular category, for example, cases involving section 497 of the *Children and Young People Act 2008* that undergo annual review reports which are provided by the Community Services Directorate. In 2011-12, while the Public Advocate stated that such annual review reports involved 599 children and young people, only 60 percent were examined and only some of these were assessed as needing advocacy. In addition to percentages, it would assist readers if the numbers of people who were provided with advocacy was stated.
- 6.131 The Public Advocate's indicators present information that is not readily understood and could be improved by the numbers of people receiving advocacy being stated. Furthermore, the term 'systemic advocacy' may (as discussed in paragraphs 6.61 to 6.79), be problematic.
- 6.132 An accountability indicator specific to the referral of 'systemic matters' to the Human Rights Commission would reflect one of the Public Advocate's responsibilities.
- 6.133 Furthermore, the Public Advocate should develop and publicly report definitions of its accountability indicators, and ensure that figures reported can be reliably measured and independently verified.
- 6.134 The Human Rights Commission's accountability indicators are shown in Table 6.8. Their indicators have not always been independently verifiable. For example, in 2011-12 the Commission reported a result of 5 881 participants for the 'Number of participants in community education or engagement activities'. The Commission provided information such as emails and head counts to support the reported result.

Table 6.8: Selected Human Rights Commission Accountability Indicators, in the Justice and Community Safety Directorate Output 1.5 'Protection of Rights'

Accountability Indicators	2010-11 Target	2010-11 Actual	2011-12 Target	2011-12 Actual	2012-13 Target
(b) Human Rights Commission is respected as an agent of rights protection and service:					
Number of projects which progressed one or more of the Commission's statutory functions	n/a	7	12	8	12
Number of participants in community education or engagement activities	4 000	6 953	5 000	5 881	5 000

Source: Justice and Community Safety Directorate Budget Paper No. 4, 2012-13

- 6.135 As most records were based on estimates or approximations, the Audit Office was only able to independently verify 327 or 6 percent of participants. It is likely that the reported result should have been higher than 327 participants however, based on the supporting documentation, this was unable to be determined. As a result, the Auditor-General issued a negative finding in the Report of Factual Findings for the Justice and Community Safety Directorate's Statement of Performance where achievement on performance measures is recorded.
- 6.136 The Commission advised that its targets shown in Table 6.8 related to projects that were not necessarily funded but were progressed if an opportunity occurred i.e. a staff member found they had time outside of delivering other activities. Audit recommends that accountability indicators reflect what an agency should reasonably be expected to achieve within its allocated budget. Accordingly, the Commission needs to select accountability indicators other than those shown in Table 6.8.

Recommendation 9 (Chapter 6 – Statutory office holders)

The Public Advocate and Human Rights Commission should enhance their ability to meet legislative requirements and improve their governance arrangements by:

- (c) reviewing their performance indicators to better reflect their key activities that can be delivered within their allocated budget; and
- (d) collecting information that can be independently verified when reporting on their performance against their performance indicators.

6.137 The *Financial Management Act 1996* (section 30B(2)) requires that Directors General make representations that:

... the statement of performance fairly reflects the performance of the directorate in providing each class of outputs during the financial year.

6.138 Under the current arrangements, the Director General of the Justice and Community Safety Directorate is accountable for the reported results of the Public Advocate and the Human Rights Commission. The Public Advocate and the Commission should themselves be held accountable for their performance.

6.139 The Auditor-General is required to form an opinion on whether the reported results included in the Justice and Community Safety Directorate's Statement of Performance are a true and fair reflection of the Directorate's performance. While both the Public Advocate and the Human Rights Commission report their accountability indicators in their annual reports, unless these are involved in the Justice and Community Safety Directorate's Statement of Performance the material reported cannot be subjected to assessment by the Audit Office.

6.140 The Public Advocate's and Human Rights Commission's claims with respect to their accountability indicators that are reported in their annual reports should be independently assessed by the Audit Office. This would provide an independent view on their reporting of performance.

6.141 To do this, reporting in their annual reports and in the budget processes are likely to need to be concurrently considered. Accordingly, this is a matter for the Chief Minister and Treasury Directorate that guides the content of annual reports for directorates and public authorities, including statutory office holders, as well as providing directorates with budgetary guidance to meet requirements of the *Financial Management Act 1996*.

Recommendation 11 (Chapter 6 – Statutory office holders)

The Chief Minister and Treasury Directorate should provide a mechanism to:

- (c) increase the quality of performance indicators, used by the Public Advocate and Human Rights Commission, so that these are aligned with funded outputs; and
- (d) hold the Public Advocate and Human Rights Commission accountable for reporting on their performance indicators with these being assessed by the Audit Office before being included in their Annual Reports. (Their protocol with the Justice and Community Safety Directorate (Recommendation 10) could state how this is to be achieved).

CHILDREN'S GUARDIAN

- 6.142 In the Public Advocate's review of the Care and Protection Services (Community Services Directorate) in October 2011 and May 2012, a new position of Children's Guardian was recommended, amongst other things, to accredit out-of-home care service providers. This is reported on in Chapter 5.

APPENDIX A: AUDIT OBJECTIVE, CRITERIA, APPROACH AND METHOD

AUDIT OBJECTIVE

The objective of the audit is to provide an independent opinion to the Legislative Assembly on whether the Community Services Directorate is providing adequate and immediate support to children and young people deemed to be at high risk and vulnerable, and if these services are being monitored and overseen by relevant statutory office holders.

AUDIT CRITERIA

In determining whether the Community Services Directorate is providing adequate and immediate support services to children and young people deemed as high risk and vulnerable and if relevant statutory office holders are monitoring and overseeing the support services provided by the Community Services Directorate. Key considerations and criteria used to guide the audit were:

- care and protection reporting was responsive;
- risk management was timely and systematic;
- appraisals were conducted in the best interest of the child or young person;
- Child Protection Assessment Reports and decisions for court orders were considered, timely and in the best interest of the child or young person;
- decision making was responsive, consistent and considered;
- case management was effective, regular and consistent;
- evaluation and business improvement was undertaken systematically;
- governance arrangements and human resource practices supported operational requirements; and
- statutory office holders were independently monitoring children and young persons' at risk.

Both the Public Advocate and the Human Rights Commission have highlighted with audit how they have functions that extend well-beyond the scope of this. As such, audit has examined only the workloads of statutory office holders in relation to high risk children and young people in the care and protection system.

AUDIT APPROACH AND METHOD

The performance audit was conducted under the authority of the *Auditor-General Act 1996*, and in accordance with the principles, procedures, and guidance contained in Australian Auditing Standards relevant to performance auditing. These standards prescribe the minimum standards of professional audit work expected of performance auditors. Of particular relevance is the professional standard on assurance engagements - *ASAE 3500 Performance Engagements*.

The audit approach and method consisted of:

- reviewing relevant literature and work undertaken on this subject by other jurisdictions;
- reviewing relevant information and documentation, including identifying those documents that set out the policies and procedures to be followed when assessing operations and processes. This involved identifying the governance and accountability framework and related policy and procedures and published accountability indicators;
- visits to selected areas where services were delivered;
- identifying procedures and controls used to give effect to the policies and guidelines and to ensure compliance;
- determining whether all the relevant administrative requirements, policies and guidelines had been adequately followed;
- selection of 30 children and young people as case studies to follow through the intake, response and intervention processes;
- analysis of information and records contained in CHYPS and paper files;
- analysis of CHYPS reporting capabilities;
- analysis of the Report on Government Services information;
- a telephone survey was conducted, which targeted carer's of 341 children and young people in kinship, foster and residential out-of-home care. Carer's were asked:
 - the names of all children and young people in their care;
 - to validate their name and contact details (phone numbers) and the address where the child or young person resides whilst in the care of the Director General;
 - the name of the school the child or young person attends; and
 - the date the carer was last contacted by either staff members from the Care and Protection Services Branch or the community service provider regarding the child or young person.
- consultation including briefings, interviews, and correspondence with:
 - Care and Protection Services' caseworkers, team leaders, operations managers, administrative and operational support staff, senior managers and Executives.
 - Office of Children Youth and Family Services' data management and reporting, policy and project officers and senior executive.
 - other relevant areas of the Community Services Directorate in relation to governance matters.
 - staff in Public Advocate and the Human Rights Commission's offices; and

- a range of stakeholders from other ACT Government agencies, community service providers and the community were consulted, including the engagement of “experts” to assist with analysis and reporting.

APPENDIX B: DEFINITIONS OF KEY CARE AND PROTECTION TERMS

The following are definitions from the *Children and Young People Act 2008* (the Act):

Who is a child - a child as per section 11 of the Act is:

a person who is under 12 years old.

Who is a young person - a young person as per section 12 of the Act is:

a person who is 12 years old or older, but not yet an adult.

What is Abuse - abuse, as per section 342 of the Act of a child or young person, is:

- (a) physical abuse; or
- (b) sexual abuse; or
- (c) emotional abuse (including psychological abuse) if the child or young person has experienced the abuse or is experiencing the abuse in a way that has caused or is causing significant harm to his or her wellbeing or development; or
- (d) emotional abuse (including psychological abuse) if—
 - (i) the child or young person has seen or heard the physical, sexual or psychological abuse of a person with whom the child or young person has a domestic relationship, the exposure to which has caused or is causing significant harm to the wellbeing or development of the child or young person; or
 - (ii) if the child or young person has been put at risk of seeing or hearing abuse mentioned in subparagraph (i), the exposure to which would cause significant harm to the wellbeing or development of the child or young person.

What is Neglect - neglect, of a child or a young person, as per section 343 of the Act is:

a failure to provide the child or young person with a necessity of life if the failure has caused or is causing significant harm to the wellbeing or development of the child or young person. Examples - necessities of life; food; shelter; clothing; and health care treatment.

When are children and young people at risk of abuse or neglect – risk of abuse or neglect as per section 344 of the Act is:

a child or young person is at risk of abuse or neglect if, on the balance of probabilities, there is a significant risk of the child or young person being abused or neglected.

What is parenting responsibility - parental responsibility, for a child or young person, as per section 15 of the Act means:

all the duties, powers, responsibilities and authority parents have by law in relation to their children, including the following aspects of parental responsibility:

- (a) daily care responsibility for the child or young person; and
- (b) long-term care responsibility for the child or young person.

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