

## More progress needed to support homeless children

19 October 2020

Children who present, alone, to homelessness services are extremely vulnerable. They should receive the highest level of care and support – shelter, certainly, but more than just shelter.

Data obtained by the NSW Ombudsman shows that 2,588 children aged between 12 and 15 presented on their own to a refuge somewhere in NSW in 2018-19, without a parent or guardian. (More of the data is provided below).

Whether these unaccompanied homeless children are receiving the necessary supports remains unclear, because the Department of Communities and Justice (DCJ) is still working to implement recommendations for reform that it accepted more than two years ago.

In a new report, the NSW Ombudsman has assessed the Department's progress in dealing with the problems previously identified in the Ombudsman's June 2018 report, *More than shelter – addressing legal and policy gaps in supporting homeless children*.

The Ombudsman finds that the recommendations of its previous report have not been implemented, and more progress is needed.

In particular, the NSW Ombudsman has found that:

- DCJ has not yet clarified decision-making authority for these children when they stay in a refuge and consent from a parent is unobtainable
- The policy – *Unaccompanied Children and Young People 12-15 Years Accessing Specialist Homelessness Services* – is unchanged after five years and still provides insufficient guidance to homelessness services
- DCJ has taken significant steps towards better tracking of the children but there is still no routine collection and public reporting of data about them
- There are no requirements to monitor homeless children who are already in the care of the Minister for Families, Communities and Disability Services, and
- New accreditation standards for homelessness services may not effectively measure the quality of care provided to homeless children.

In this new report, the Ombudsman makes seven further recommendations to the Department. The first of these is for the Department to publish a plan within three months that outlines how and when it will work to deal with the outstanding issues that are the subject of the other recommendations.

The Department has said it will accept most of the new recommendations.

However, it has not supported one recommendation relating to what the NSW Ombudsman has said is a legal gap in decision-making authority for homeless children.

The NSW Ombudsman has raised concerns that there is insufficient clarity about who can, in a practical sense, exercise decision-making authority for an unaccompanied homeless child, if a parent is unavailable to do so, does not provide explicit consent to someone else doing so, and where the child is not otherwise under the formal care and protection of the department.

The Ombudsman has recommended that:

DCJ determine what approach is to be taken to close the current legal gap in decision-making authority for unaccompanied homeless children, and take all necessary steps to close that gap by ensuring that legal authority is available and applied when required to meet the needs of such children.

Although the Department accepted a similar recommendation made in the Ombudsman's report two years ago, it now says it does not support this recommendation. The Department has said that it views the current legislative framework relating to decision-making authority for homeless children to be appropriate.

In his report, the Acting NSW Ombudsman, Paul Miller has said:

"[The Department (DCJ)] has not demonstrated that it has the practical capacity to respond in all cases where a care and protection response is warranted. Assuming that continues to be the case, it will continue to fall to SHS providers to meet the needs of children in their care, and this may necessitate making decisions for them in the absence of parental consent."

The Ombudsman's report states further that:

"[The Department's (DCJ's)] view as to the adequacy of the current legal framework also appears to be premised on the view that any unaccompanied child that DCJ determines is not "in need of care and protection" will either be able to be returned to reside with a parent or else a parent will willingly provide necessary decision-making consent to the SHS. As a practical matter, that premise is open to doubt and needs to be tested."

The full report can be downloaded from the NSW Ombudsman website.

## DATA

The NSW Ombudsman commissioned a special extract from the Australian Institute of Health and Welfare Specialist Homelessness Services collection 2018-19. We did this because there is no publicly available information about unaccompanied homeless children aged 12-15. Included in the extract for 2018-19 is data showing that 2,588 children aged 12-15 presented alone to a homelessness service in NSW without a parent or guardian. Of the 2,588 children:

- 292 were on a care or protection order
- 2,296 were not on a care or protection order
- 846 were repeat clients
- 449 stayed in a refuge, with
  - a quarter staying more than three months
  - one in 10 occupying a bed for more than six months
  - 97 being on a care or protection order.

We have included data tables in the Ombudsman's report, *More than shelter – addressing legal and policy gaps in supporting homeless children: A progress report*.